

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE  
11 April 2017**

Agenda Item	6.3
Report No	PLS/024/17

**16/00912/FUL: Mr James Colston  
Land 120M SW of Fair-Na-Scuir, Arisaig**

**Report by Area Planning Manager – South/Major Developments**

**SUMMARY**

**Description:** Erection of house

**Recommendation:** REFUSE

**Ward:** 12 Caol and Mallaig

**Development category:** Local

**Reason referred to Committee:** Member referral

**1. PROPOSAL**

- 1.1 Planning permission is sought for a 3 bedroom house on a 0.1Ha woodland site. The proposed house will be 1½ storeys high on land adjacent to a track that serves 3 houses south of Arisaig, off the road to Rhu. Materials will be vertical timber cladding and full height glazing on the principal west elevation with white rendered gables, and a slate roof. Two pairs of rooflights are proposed on the west and south roof planes. There will also be a detached single storey store between the proposed house and track, housing a biomass boiler, with solar panels and a flue on the roof of the store.
- 1.2 No pre-application discussions.
- 1.3 Access would be off a private track offset by about 20m from the end of the drive to Faire na Scuir (spelt Fair na Sgurr on the OS map). Water supply would be public; foul drainage to a septic tank and soakaway to the west of the proposed house.
- 1.4 Submitted documents: Tree Survey, Arboricultural Method Statement, Tree Constraints Plan, Tree Protection Plan.
- 1.5 No variations since submission.

**2. SITE DESCRIPTION**

- 2.1 The site is western acidic oak woodland, designated as Ancient Woodland of semi natural origin, with oak, birch, alder, hazel and some beech. The site is fairly level

and drops away to the public road to the west beyond the proposed house site. The house would be opposite the bottom of the driveway to Faire na Scur, which is listed category B. There is a pair of fine stone gateposts at the foot of the drive to Faire na Scur.

The site is within Loch Quoich – Loch Morar Area of Great Landscape Value (now called Special Landscape Areas). The track is also a Core Path.

### **3. PLANNING HISTORY**

3.1 None

### **4. PUBLIC PARTICIPATION**

4.1 Advertised : Unknown Neighbour

Representation deadline : 15 February 2017 (further consultations following receipt of Tree Survey)

Timeous representations : 0

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- N/A

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

### **5. CONSULTATIONS**

5.1 **Forestry Officer:** Objects:

The site is within an area of mature oak and birch woodland with mature oak around the western side and juvenile to semi-mature birch throughout, apart from a very small clearing in the centre.

Policy 51 (Trees and Development) of the Highland wide Local Development Plan (HwLDP) notes that 'Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site is influenced by tree impact, and adequate separation distances will be required between established trees and any new development. Where appropriate a woodland management plan will be required to secure management of an existing resource.'

Policy 52 (Principle of Development in Woodland) of the HwLDP notes that 'The applicant is expected to demonstrate the need to develop a wooded site and to show that the site has capacity to accommodate the development. The Council will maintain a strong presumption in favour of protecting woodland resources. Development proposals will only be supported where they offer clear and significant public benefit. Where this involves woodland removal, compensatory planting will usually be required.'

The site is within an area of woodland which is listed in the Ancient Woodland Inventory as Ancient semi-natural origin woodland (ASNO1750). This is listed as a feature of national importance in Policy 57 of the HwLDP where it is noted that

Highland Council 'will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource.'

Section 194 (Policy Principles) of Scottish Planning Policy (June 2014) states that the planning system should....'protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value.'

The applicant has provided a tree survey schedule, tree constraints plan, tree protection plan and arboricultural method statement. The proposal is to remove three trees for the development (2817, 2818 & 2821) and one tree (2830) on the basis of poor condition. While the level of proposed tree removals is relatively small, the Forestry Officer has noted the following concerns: -

1. The low level of tree removals leaves the developable area very restricted and as a result the proposed house would be just 1.5m to 3m from the crowns of large trees which are proposed to be retained.
2. There are certain pinch points where there is less than 1m of construction space between the tree protection barrier and the proposed house/ garage. This does not leave sufficient space for contractor access or construction. There is also a serious lack of space within the construction zone for the storage of materials and for construction activity. There are concerns that there would be pressure to move the tree protection barriers back to gain more room and as a consequence there would be an adverse impact on retained trees. This also represents inadequate separation between existing trees and proposed residential development.
3. There are several places where the crown spread of retained trees is not to be protected by tree protection barriers and again there are concerns that construction activity on such a tight site would result in damage to crowns.
4. There is no space given over to amenity garden ground and it is likely that further trees would be felled if consent is granted.
5. The proposed septic tank is not the required 5m from the house and there is no soakaway, which would also need to be 5m from the septic tank. In order to accommodate the septic tank and soakaway there would be additional impact on trees proposed for retention.
6. Should consent be granted for a house on this site, there are concerns that there would be significant pressure to remove further trees around the proposed house in order to reduce shading, to reduce leaf and possibly branch fall and to gain views.

While the proposed level of tree removals noted by the applicant is small, this is considered an unrealistically low tree removal proposal and concerns are expressed that there would be pressure on retained trees during construction and once the house was built and inhabited. Moreover, the proposals do not comply with HwLDP policy 51 (lack of significant protection to existing trees and woodlands and lack of adequate separation distances between established trees and any new development), policy 52 (no demonstration of the need to develop a wooded site and they have not shown that the site has capacity to accommodate the development) and policy 57 (it has not been demonstrated that the proposals

would not compromise the natural environment, amenity and heritage resource.)

For these reasons, the Forestry Officer is not in a position to support this application.

- 5.2 **Historic Environment Team:** Impact on the setting of the listed house at Fair-Na-Scuir is unlikely to be significant. Nonetheless, if permission were to be granted, it would be preferable for the material on the gable facing the house to have minimal visual impact with the use of timber cladding or similar on this elevation.
- 5.3 **Access Officer:** Development would be adjacent to Core Path LO04.02, which runs along the private track past the proposed site. Access should be maintained during and after construction, and any damage to the surface of the path due to construction work should be made good.

## 6. DEVELOPMENT PLAN

The following policies are relevant to the assessment of the application

### 6.1 Highland-wide Local Development Plan (April 2012)

28	Sustainable Design
29	Design Quality and Place-Making
36	Wider Countryside
51	Trees and Development
52	Principle of development in Woodland
57	Natural, Built and Cultural Heritage
58	Protected Species
59	Other Important Species
60	Other Important Habitats
61	Landscape
77	Public Access

### 6.2 West Highland and Islands Local Plan (2010) as continued in force

### 6.3 Highland Council Supplementary Guidance

Access to Single Houses and Small Housing Developments	May 2011
Highland Historic Environment Strategy	Jan 2013
Highland's Statutorily Protected Species	March 2013
Housing in the Countryside and Siting and Design	

Special Landscape Area Citations	March 2013
Sustainable Design Guide	June 2011
Trees, Woodlands and Development	Jan 2013
	Jan 2013

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 West Highland and Islands Local Development Plan (2010)**

N/A

### **7.2 Scottish Government Planning Policy and Guidance (June 2014)**

Para 218 “The Scottish Government’s Control of Woodland Removal Policy includes a presumption in favour of protecting woodland resources. Removal should only be permitted where it would achieve significant and clearly defined additional public benefits”. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting.

### **7.3 Other**

The Scottish Government’s Policy on Control of Woodland Removal 2009

## **8. PLANNING APPRAISAL**

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Furthermore, Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires the Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### **8.3 Development Plan Policy Assessment**

Principle

The site is not within Arisaig Settlement Development Area. Development therefore falls to be assessed in terms of the criteria set out in Policy 36 of the HwLDP and the Housing in the Countryside SPG, as to the extent that it is :

- acceptable in terms of siting and design;
- sympathetic to existing patterns of development in the area;
- compatible with landscape character and capacity;
- avoids incremental expansion of one particular development type within a

landscape whose distinct character relies on an intrinsic mix/distribution of a range of characteristics;

- avoids, where possible, the loss of locally important croft land; and
- can be adequately serviced

The existing settlement pattern comprises a group of houses at Camusantallen Cottages, on a headland at the north side of the bay, including a couple of larger houses on the roadside. At the back of the bay and set back from the public road off a private track are Faire na Scur and a couple of other houses which are over 650m further up the private track. There are no houses along the road to Rhu for over a mile until Millburn Cottage, and then a small number of isolated houses at the end of the road. The proposed site would not form part of the group at Camusantallen, it would not relate in visual or in locational terms to Faire na Scur, nor the other houses off the private track. Faire na Scur is a large listed property set in extensive grounds, and in a woodland setting. The proposed house would be very much carved out of the native woodland which extends around the bay and separates Faire na Scur from the shore. The proposed development would not be sympathetic to existing patterns of development in the area, and it would not be compatible with the landscape character or capacity. It would therefore conflict with Policy 36, and with guidance in the Housing in the Countryside SPG.

The site is not croft land, and power and water are available nearby.

## 8.4 Material Considerations

### Siting and design

The proposed residential curtilage is not defined on the ground; it would be entirely within an extensive area of native woodland between the public road and private track. This woodland extends along the road to Rhu at the back of the bay. The proposed house design is similar to other recently built houses in the area; it would be of a modest size and conventional form, in materials that would fit in to the woodland setting. The proposed design is not in itself an issue.

### Impact on Ancient Woodland and AGLV/SLA

Three trees would be lost as a direct result of the development: one mature oak in fair condition – retention category C, and 2 semi mature birches in good condition, retention categories B and C (see Tree Protection Plan nos. 2817, 2818, and 2821); one has no obvious defects and the other has a poor form due to light competition. However there are 19 further trees, the canopies of which fall within 10m of the proposed house, and it is reasonable to expect that whilst it is proposed to retain and protect these trees, it is likely that most of these would be removed either during construction or afterwards to facilitate construction and to provide a reasonable standard of amenity for the occupants of the dwelling. 8 of the 19 trees have canopies that fall within 5m of the proposed house and store, and another 3 are immediately adjacent to the proposed site of the septic tank and soakaway. It is not practical to have trees so close to a dwelling because of the risk they would pose to the building as they grow (most are semi mature at present). In addition, should they fall, shed branches or due to roots affecting the building, septic tank and drainage in future; the added maintenance they would incur to the building due to leaf fall and growth of moss on the building, and due to

the shading they would pose especially to the principal west elevation and loss of light particularly from the south and west, will result in added pressure for further removal of trees all in conflict with policy. Of the 19 trees within 10m of the proposed development, 5 are oaks, 1 is an alder and the remainder are birches; and all except one birch display good vigour. This one birch shows advanced decay and is recommended for removal. The oaks and 4 birches are mature trees, the alder and remaining birches are semi mature.

The oak that is proposed to be removed because it is within the proposed footprint of the building has the potential for bats to be present. 4 oaks and 1 birch, which are among the 19 trees immediately surrounding the property, also have potential for bats to be present. 10 of the 19 trees surrounding the proposed house are in retention category B, 8 are in category C and the decayed birch is category U. Beyond the 19 trees that encircle the proposed house, there is another large mature oak in good condition with a 10m canopy spread. This tree stands to the south west of the proposed house and would be likely to significantly reduce the amount of light to the main living areas, in addition to the oak in front of it.

The submitted plans suggest that only 3 trees would be lost as a consequence of the proposed development, however it is considered that at least a dozen of the 19 further trees that encircle the proposed house and store would be likely to be removed either during or after construction, in order to create a reasonable amount of light and space around the property for a garden and for light to, and an outlook from the principal rooms (nos. 2822, 2823, 2824, 2825, 2826, 2829, 2830, 2831, 2832, 2833, 2810, and 2816). 4 of these are mature oaks in good condition. The site appears to make use of a natural clearing in the woodland for the proposed development, however the clearing is not totally devoid of trees and it is not big enough for a house together with access, driveway, hard standing, a store and a reasonable amount of garden immediately around the property, without a significant amount of tree felling. Also, there is only a narrow strip of woodland – approx. 50m - to the road and the shore, and there would be an understandable desire longer term to open up views to the shore and out into the bay south of Arisaig. This would threaten the integrity of the Woodland, which is designated as Ancient Woodland of Semi Natural Origin (ASNO1750), which otherwise forms a continuous strip around the back of the bay at this point.

Policy 52 and the Council's Trees, Woodlands and Development Supplementary Guidance (adopted Sept 2011) states that 'The Highland Council has a strong presumption in favour of protecting its woodland resource. This policy reflects SPP (para 218) and the Scottish Government's Control of Woodland removal Policy. Development proposals involving woodland removal will only be supported where they offer a clear and significant public benefit.' The proposal to construct a residential dwelling is not considered to provide a significant and clearly defined additional public benefit. The development would erode this woodland, which is ancient woodland of semi natural origin, to a significant extent.

Policy 52 also states that for housing proposals within existing woodland, applicants must pay due regard to its integrity and longer term management. No wider woodland management plan has been proposed for this site.

Policy 57 states that the Highland Council will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. This has not been

satisfactorily demonstrated. The limited extent of tree loss suggested by the Tree Retention and Protection Plans is not considered to be realistic. The proposal would therefore conflict with policies 51, 52 and 57 of the HwLDP together with the Trees Woodland and Development SPG, and Scottish Planning Policy guidance, and the Scottish Government's Control of Woodland Removal Policy.

The woodland also contributes to the character and quality of the Loch Quoich – Loch Morar AGLV/SLA. In eroding the woodland around this bay the development would have a detrimental effect on the quality of the AGLV/SLA, contrary to policies 57 and 61 of the HwLDP.

Such Western acidic oak woodlands are also listed in the Habitats Directive as features of the landscape which are Important Habitats and likely to contain protected species. Bats, which are a European protected species, would be affected, as 6 of the trees that are likely to be lost have the potential for bats to be present (nos.2829, 2830, 2820, 2821, 2822 and 2824), and this number includes one oak that would definitely be lost (no.2821). No information has been provided regarding protected species on the site. The development would therefore also be contrary to Policies 58, 59 and 60 of the HwLDP.

#### Impact on setting of Listed Faire na Scur house

The development would be opposite the end of the driveway to this imposing grey stone category B listed house. The house itself is set back off the driveway by approx. 65m, and it would be approx. 100m from the proposed house. The large informal gardens and trees in the front garden of the big house, and the separation distance are such that the proposed development would not significantly affect the setting of the listed house.

#### Access and services

The access would be taken off a privately owned lane and it would be possible to form a safe driveway entrance to serve the property. However this would impinge on another large mature oak which is in good condition. The proposed protective fencing to protect trees during construction would actually cross the proposed driveway. It may be possible to construct the driveway without causing the loss of the tree, however no details have been submitted of a construction method to take account of and protect the roots, nor to identify any necessary lopping of branches that may be necessary to accommodate the proposed driveway. Similarly no specific details have been submitted to show how services would be provided without affecting the trees. The proposed development would conflict with policies 28, 51 and 52 and the SPG on trees in this respect.

#### Impact on Core Path

The private driveway is also a Core Path. Once constructed the development would not affect the right of way. Should the Council be minded to grant planning permission it is recommended that an informative note be attached to the decision notice to ensure the developer keeps the route accessible before, during and after construction. As the track also provides access to houses further up the track, this is unlikely to be an issue. No conflict with policy 77.



## 8.5 Other

A meeting was held with the applicant and agent on 11<sup>th</sup> August 2016 to discuss the issues with the current application, and it was brought to the applicant's attention that there may be more appropriate alternative sites nearby which would avoid tree loss. No further discussion on alternative sites has however been forthcoming.

## 8.6 Matters to be secured by Planning Obligation

Not applicable

## 9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

It is recommended that the application be refused.

## 10. RECOMMENDATION

### Action required before decision issued

Notification to Scottish Ministers	N	
Referral to Ward Members	Y	<b>Reason</b> : Delegated refusal
Notification to Historic Scotland	N	
Conclusion of Planning Obligation	N	
Revocation of previous permission	N	

**Subject to the above**, it is recommended the application be **REFUSED** subject to the following reasons for refusal:

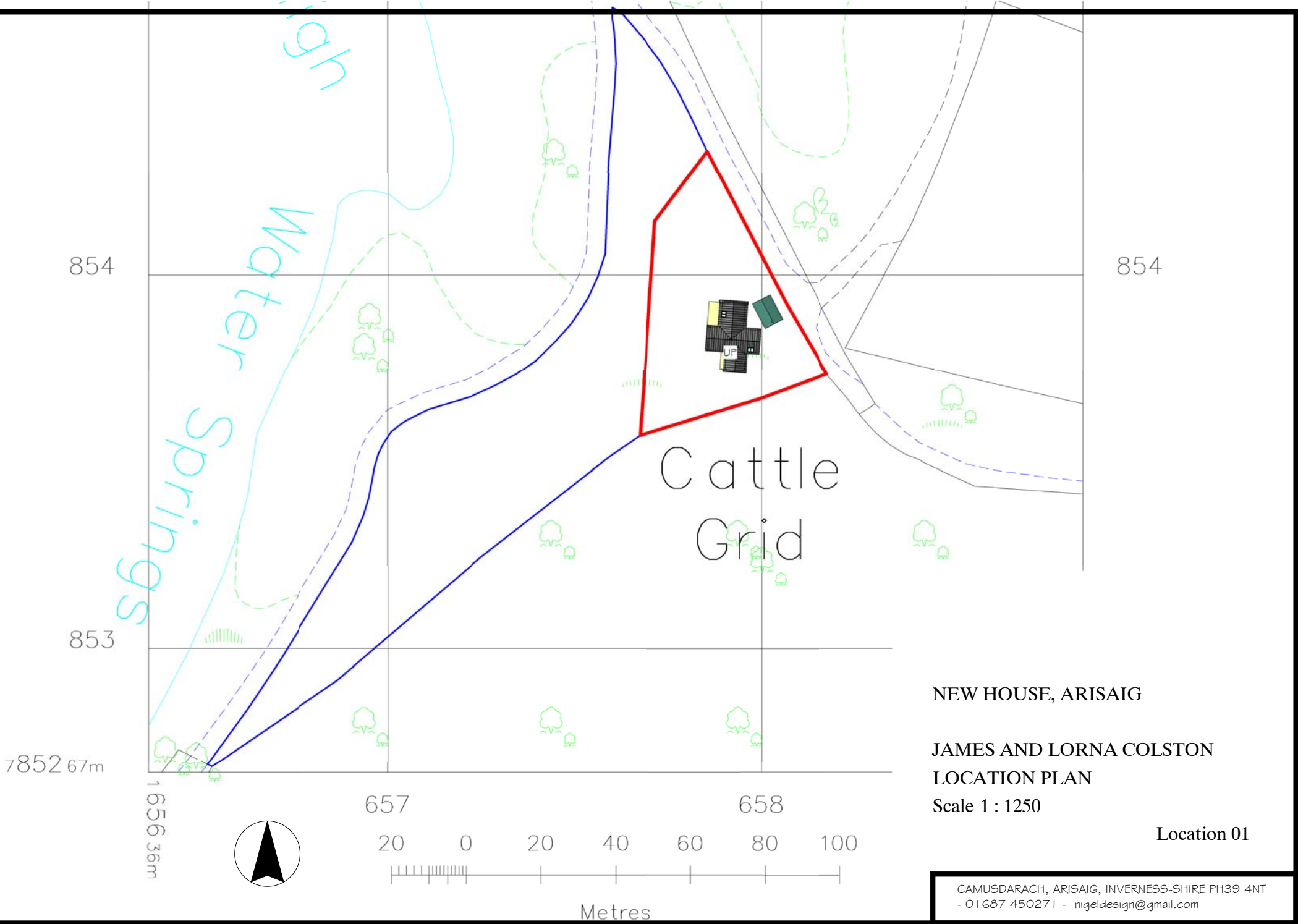
1. The development would result in the unacceptable loss of a significant number of trees including mature and semi mature oak within woodland designated as Ancient Woodland of Semi natural origin at the back of the bay south of Camusantallen near Arisaig, which would be significantly detrimental to this important habitat, the landscape and nature conservation value of the area contrary to Policies 28, 51, 52, 57, 58, 59 and 60 of the Highland wide Local Development Plan and the Council's Trees, Woodlands and Development Supplementary Planning Guidance and Scottish Planning Policy which reflects Scottish Government's Control of Woodland Removal Policy.
2. The site would neither round off nor infill the group of houses at Camusantallen, nor would it fit in with the settlement pattern of isolated individual houses comprising Faire na Scur and two other houses further along the private track, in that it would be carved out of the native woodland that forms an otherwise

continuous strip around the back of the bay and along the public road at this point. The development would therefore not be sympathetic to existing patterns of development in the area, and it would not be compatible with the landscape's character or capacity. It would therefore be in conflict with Policies 28 and 36 of the Highland wide Local Development Plan, and with guidance in the Housing in the Countryside Siting and Design Supplementary Planning Guidance.

3. In eroding the native woodland at a point close to the shore at the back of a bay, the development would have an unacceptable impact on the quality and character of the landscape of Loch Quoich – Loch Morar Area of Great Landscape Value (now called Special Landscape Areas), contrary to Policies 28, 36, 57 and 61 of the Highland wide Local Development Plan.

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: Lucy Prins 01397 707030  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Location Plan  
Site Layout Plan  
General Plan – proposed house plans and elevations  
Tree Protection Plan

Appendix – Letters of Representation – N/A



7852 67m

854

853

854

Water Springs

Cattle Grid

16556 36m

657

658

20

0

20

40

60

80

100

Metres

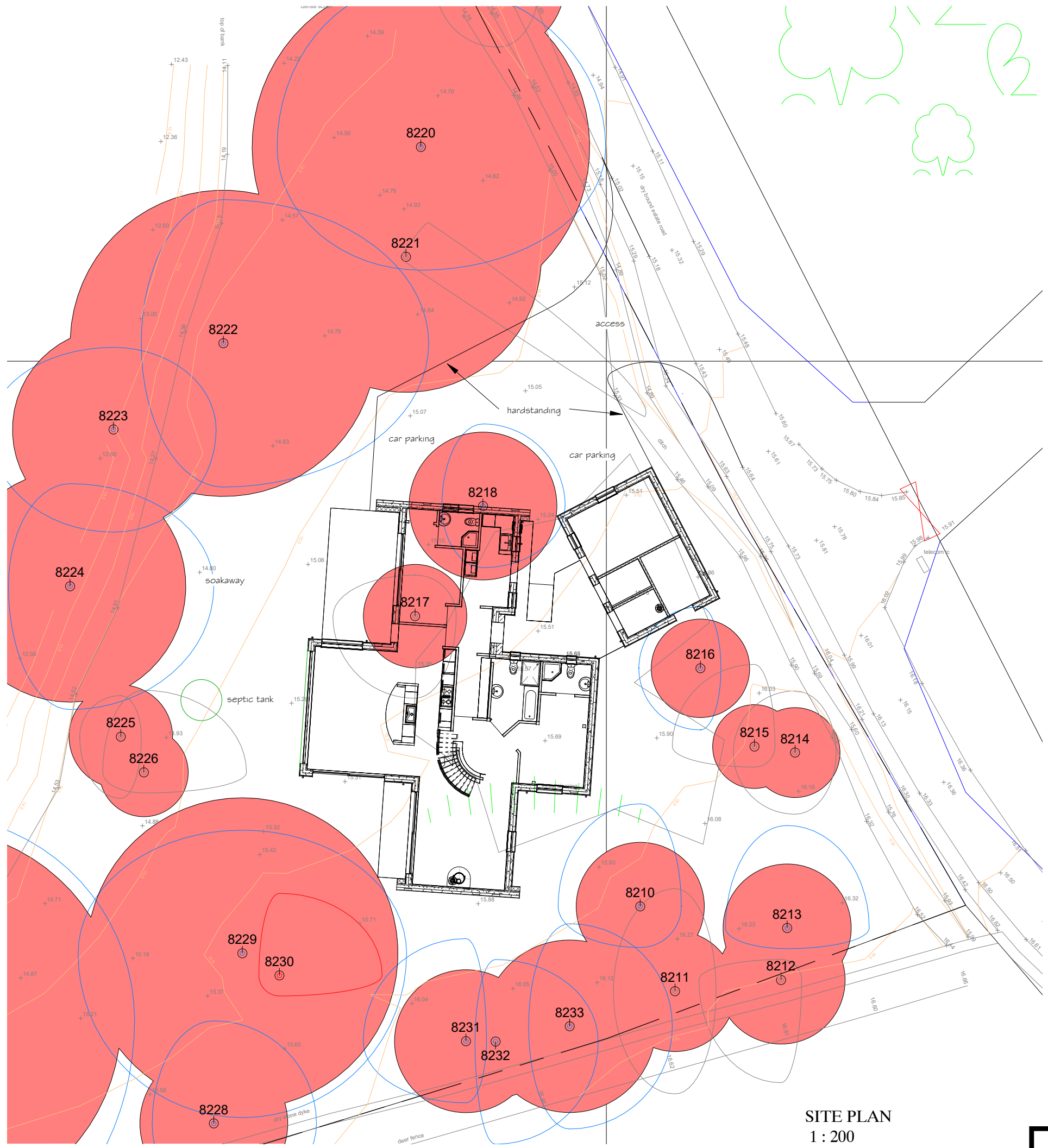
NEW HOUSE, ARISAIG

JAMES AND LORNA COLSTON  
LOCATION PLAN

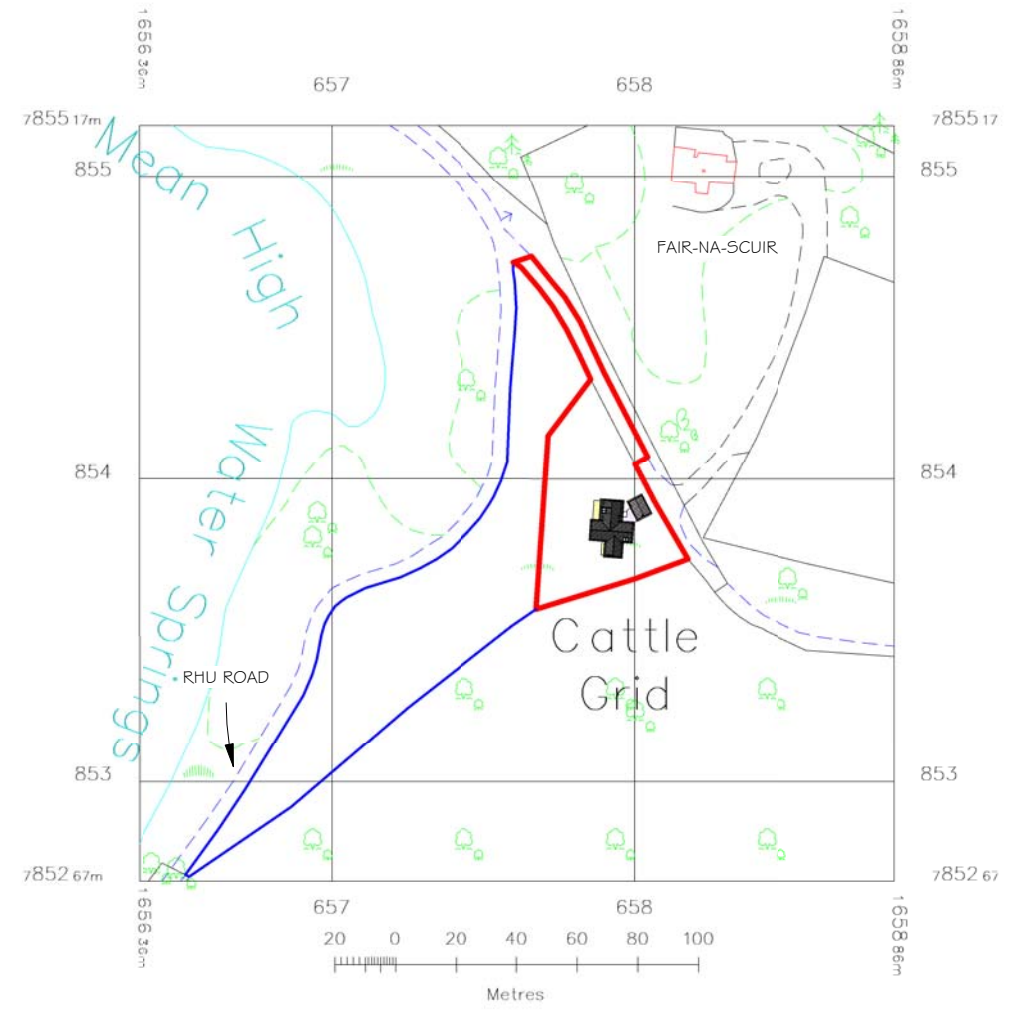
Scale 1 : 1250

Location 01

CAMUSDARACH, ARISAIG, INVERNESS-SHIRE PH39 4NT  
- 01687 450271 - nigeldesign@gmail.com



**SITE PLAN**  
1 : 200



**LOCATION PLAN**  
1 : 2500



No.	Description	Date
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**NEW HOUSE, ARISAIG**  
**JAMES AND LORNA COLSTON**  
**SITE PLAN**

NIGEL JOHNSTON  
SCALE: As indicated

A-05



EAST ELEVATION



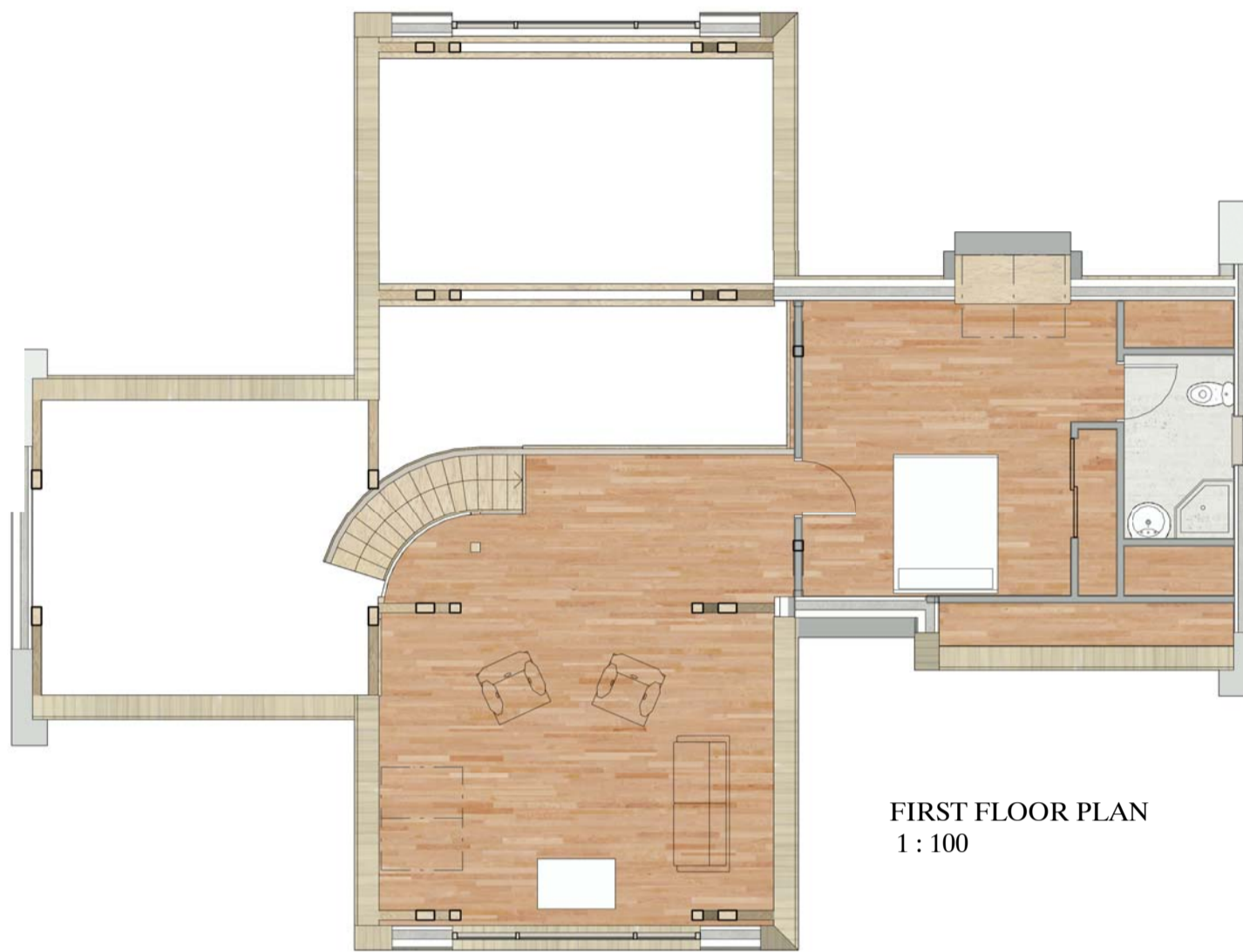
WEST ELEVATION



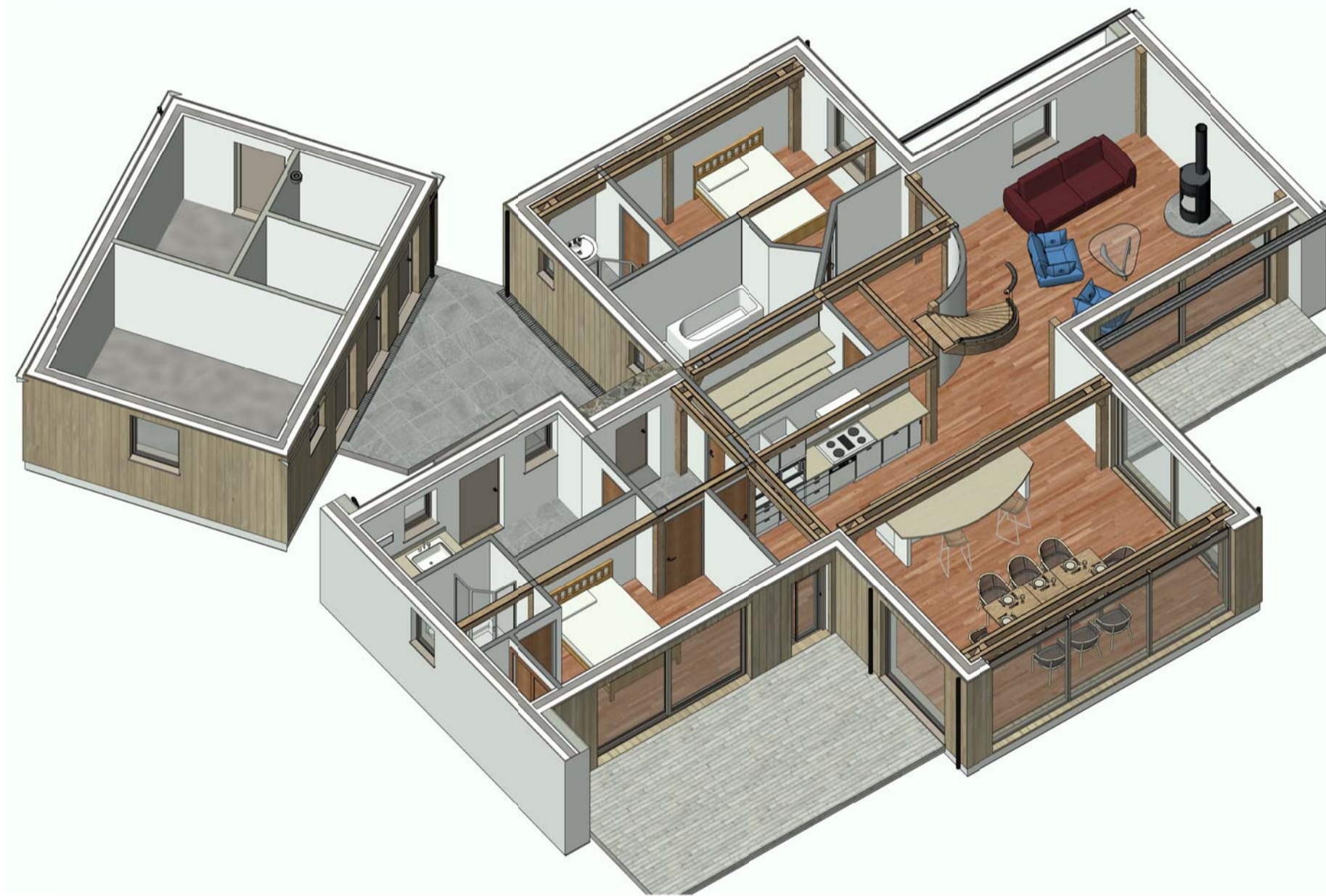
SOUTH ELEVATION



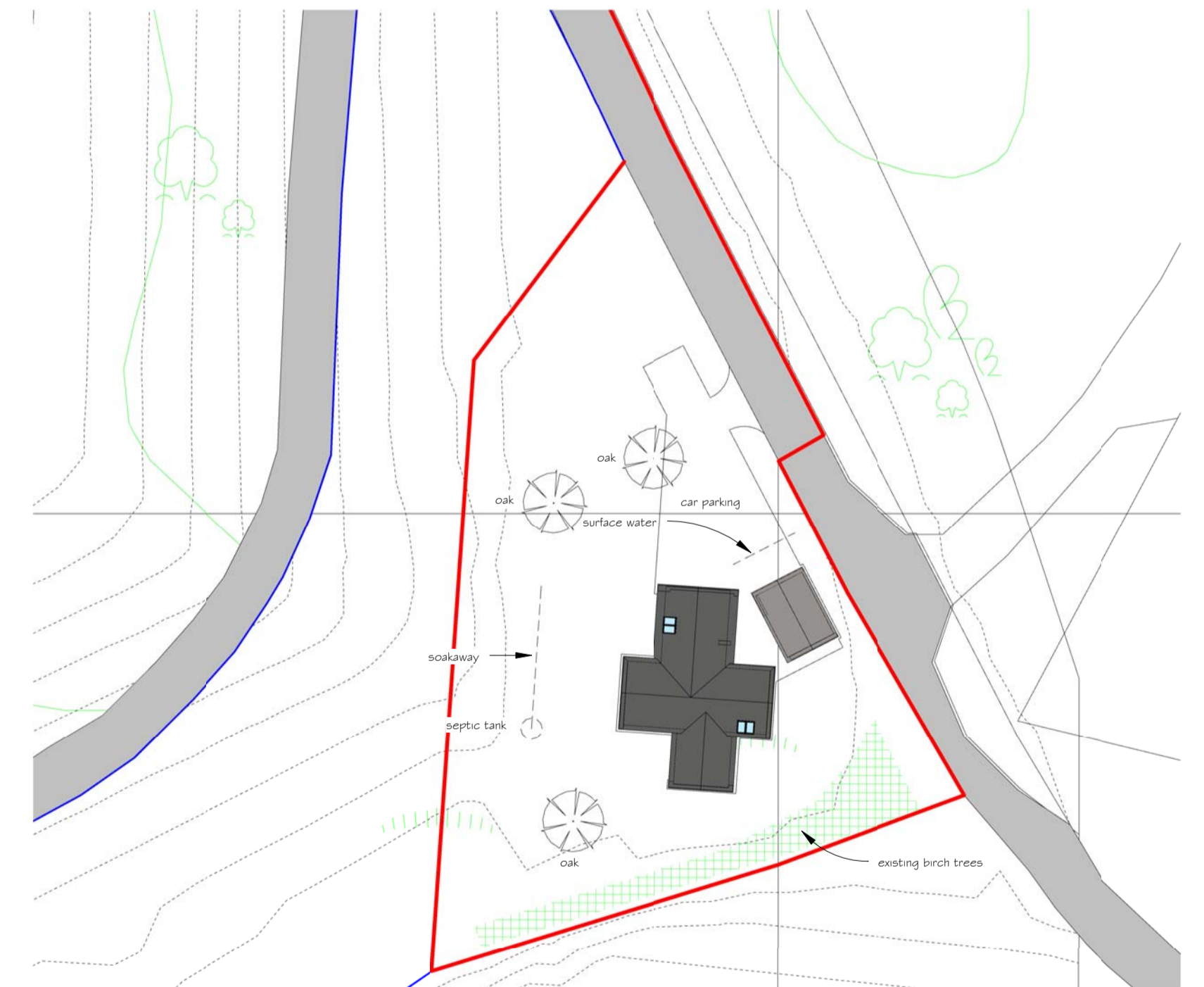
NORTH ELEVATION



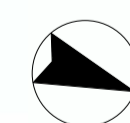
FIRST FLOOR PLAN  
1 : 100



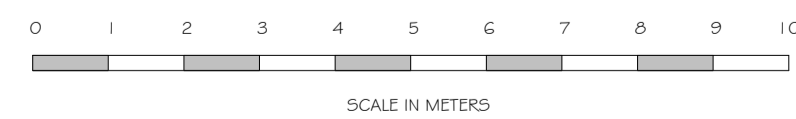
GROUND FLOOR PLAN  
1 : 100



SITE PLAN  
1 : 500



MATERIALS:  
WALLS: VERTICAL BOARDING  
WHITE RENDER  
ROOF: SLATE  
WINDOWS AND DOORS: PROFILED METAL, GREY  
RAL POWDER COAT

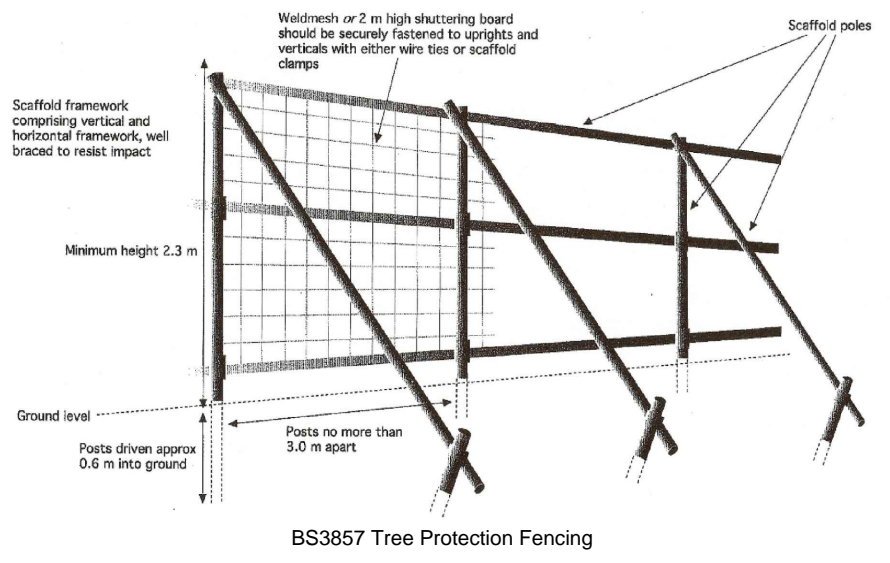


# NEW HOUSE, ARISAIG

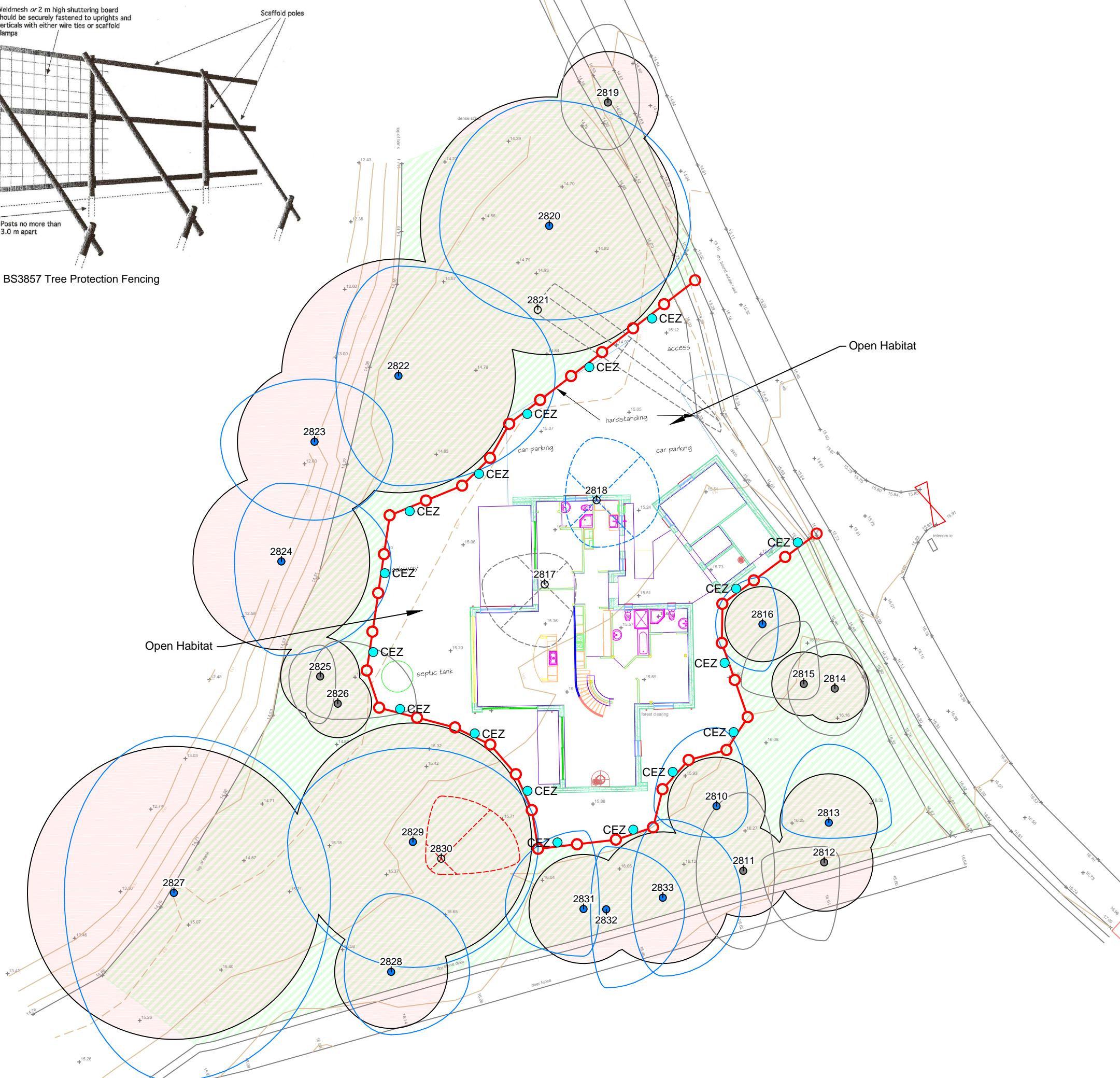
JAMES AND LORNA COLSTON

FLOOR PLANS AND ELEVATIONS  
NIGEL JOHNSTON  
SCALE: As indicated  
MARCH 2016

Initial 01

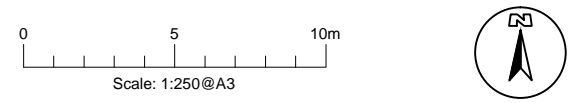


BS3857 Tree Protection Fencing



- Key**
- Tree Location
  - BS5837 Protective Fence to be Erected Prior to Commencement of Works
  - Construction Exclusion Zone Sign
  - Other Small Trees and Scrub

- BS Category of Condition Crown Spread**
- BS Condition A - High Quality Tree
  - BS Condition B - Medium Quality Tree
  - BS Condition C - Low Quality Tree
  - BS Condition B - Tree to be removed
  - BS Condition C - Tree to be removed
  - BS Condition U - Tree to be removed due to poor quality
  - BS Calculated Root Protection Area Forming the Construction Exclusion Zone



Title: Tree Protection Plan  
 Location: Arisaig  
 Ref Code: Appendix 3  
 Date: 06/10/16 Scale: 1:250 Original Paper Size: A3  
 Drawn by: MG Checked: MR

Tel: 01471 822432  
 Mob: 07702 276355  
 Email: info@arborteeding.co.uk  
 Web: www.arborteeding.co.uk

The original of this drawing was produced in colour – a monochrome copy should not be relied upon