

Agenda Item	6.6
Report No	PLS 059/17

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 24 October 2017

Report Title: 17/00125/FUL: Kincardine Estate Lodges
Land 470m south west of Kincardine Lodge, Street of Kincardine, Boat of Garten

Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Development of a single timber holiday chalet

Ward: 20: Badenoch And Strathspey

Development category: Local

Reason referred to Committee: 5 or more objections

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is a detailed application for holiday accommodation within mature birch woodland in Kincardine Estate set back from the B970 public road. The single storey log cabin will be finished with pine timber and sedum turf roof. There are a number of existing tracks throughout the site and surrounding area in association with Kincardine Lodge. The proposal has undergone changes since the previous application was withdrawn (15/04657/FUL and 15/04659/FUL). The current application has scaled back the number of chalets, will minimise the impact on trees and no new access is required as the existing track from the B970 public road will be utilised and the impact on woodland has been minimised.
- 1.2 An existing access track from the B970 public road serves the site with a number of internal routes passing through the woodland. Parking spaces and turning provision will be provided within the site. Service provision will be through the private estate water supply, mains electricity and private drainage comprising a hydroclear aerated biological system as access to a public sewer is unavailable in the locality.
- 1.3 An Ecological Appraisal, Design Statement, Species Survey, Tree Survey, Arboricultural Method Statement and Tree Protection Plan have been submitted in support of the application.
- 1.4 **Variations:** No variations have been made to the application since it was lodged.

2. SITE DESCRIPTION

- 2.1 The site is located west of the B970 public road, approximately 1.6km south of Boat of Garten and approximately 650m south west of the small linear settlement of Street of Kincardine lining the road. It is set within an area designated as Ancient Woodland containing mature birch with some Scots pine and rowan. The raised, flat site is relatively free of mature trees. Access is from the public road via an existing track across a field and through woodland. The location is south of the River Spey Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and the associated flood plain.

3. PLANNING HISTORY

- 3.1 14/03327/S75D Discharge planning obligation. Granted 27.10.2014.
- 3.2 15/04657/FUL Erection of 1no. holiday chalet and formation of access road. Application withdrawn on 01.04.2016 following CNPA call in.

15/04659/FUL Erection of 2no. holiday chalets. Application withdrawn on 01.04.2016 following CNPA call in.

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour:

Representation deadline: 23.02.2017

Timeous representations: 7 timeous representations

Late representations: 1 non timeous representation

4.2 Material considerations raised are summarised as follows:

- Does not accord with the Development Plan;
- Inappropriate location;
- Impact on natural heritage interests and protected species;
- Inappropriate access arrangements;

Non-material considerations raised are summarised as follows:

- Should have been called in;
- Behaviour of guests and type of groups using the facility;
- Will set a precedent for future applications.

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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Boat of Garten Community Council:** Object. The Community Council raised a number of concerns regarding the application. As they were not a statutory consultee and did not request a consultation their comments have been considered as a timeous representation.

5.2 **Forestry Officer:** No objections subject to conditions.

5.3 **Transport Planning:** No objections subject to conditions.

5.4 **Cairngorms National Park Authority:** No objection.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Cairngorms National Park Local Development Plan (March 2015)**

- Policy 2 - Supporting Economic Growth
- Policy 3 - Sustainable Design
- Policy 4 - Natural Heritage
- Policy 10 - Resources

6.2 **Local Development Plan Policy Guidance**

- 2 - Supporting Economic Growth (non-statutory guidance)

- 3 - Sustainable Design (non-statutory guidance)
- 4 - Natural Heritage (supplementary guidance)
- 10 - Resources (non-statutory guidance)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Highland Council Supplementary Planning Policy Guidance – Access to Single Houses and Small Housing Developments (May 2011)

7.2 Scottish Government Planning Policy and Guidance

SPP Scottish Planning Policy (June 2014)

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.

Determining Issues

- 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.

Planning Considerations

- 8.3 The key considerations in this case are:

- a) Compliance with the Development Plan and other planning policy;
- b) Site location;
- c) Natural heritage interests;
- d) Access arrangements;
- d) Resources, and
- e) Any other material considerations.

Development Plan/other planning policy

- 8.4 Development Plan Policy 2: Tourism and Leisure Development offers strong support for the principle of this type of development subject to satisfying other relevant planning policies on sustainable design, natural heritage and servicing. The proposal generally complies with Policy 3: Sustainable Development, Policy 4: Natural Heritage and Policy 10: Resources as the proposal is considered appropriate, will not have a detrimental impact on wider natural heritage interests and there is capacity for connection to services.
- 8.5 The principle of development is therefore generally supported by policy. The application has attracted representations which require further detailed consideration.

Location and design

- 8.6 The chalet will comprise a single storey, four bedroom, L-shaped timber log chalet with turf roof. The design approach has minimised the impact of the log cabin within the woodland and will be blended into the existing landscape. Given the woodland location the holiday accommodation will be hidden from view of the public road. The construction method will use posts and a ring beam connection removing the requirement for foundations minimising the development footprint. No boundary fences, physical demarcation or external lighting is proposed between the chalet and wider countryside in order to minimise visual and environmental impact and to ensure the chalet reads as an integral part of the landscape.

Natural heritage interests

- 8.7 Representations raised concerns regarding the potential impact on protected species within the site, in particular otters. As the location is outwith the River Spey SSSI and SAC designations the site is considered a wider countryside case and under the casework agreement with the CNPA and SNH they do not comment on such applications. The Park has not called in this case but would have requested any further otter surveys if considered necessary.
- 8.8 Following further discussion with SNH, they consider the proposal is unlikely to affect either directly or indirectly the otter qualifying interest of the River Spey SSSI and SAC.
- 8.9 The location of the chalet has been informed through the Ecological Appraisal. The impact of the log cabin on the flora and fauna of the area has been minimised through considered site selection and construction processes. Only a minimal number of trees would need to be felled and none are of high quality as defined in the BS5837 guidance. The Forestry Officer has no objection subject to conditions.
- 8.10 Construction work practices contained within the Ecological Appraisal relating to badgers, roosting birds, breeding bird check and fungi are controlled by condition.

Access and parking arrangements

- 8.11 Following concerns raised to the previous application which was withdrawn after being called in by the Park (15/04657/FUL) the applicant has reassessed the access requirements. The proposal utilises an existing access track and junction with the B970 avoiding the requirement for a new access. Transport Planning have no objections subject to conditions upgrading the junction with the public road and creating sufficient parking/turning space within the site.
- 8.12 No works are proposed to the existing track other than repair and maintenance, as such, this will read as an agricultural/forest track comprising granular base with grass verges. Conditions are attached regarding the visibility at the junction with the public road and parking/turning provision adjacent to the accommodation. Parking areas will also be constructed from granular materials to facilitate surface water drainage through natural drainage.

- 8.13 Car usage will be restricted to access and egress only with no wider driving possibilities within the estate.

Resources

- 8.14 In terms of surface water drainage, a condition is recommended that full details of SUDS compliant surface water drainage systems be supplied which take account of not only the roof and hard surface run-off within the site, but also surface water originating from outwith the site.
- 8.15 Drainage arrangements and private water supply will be controlled by condition.

Waste management

- 8.16 Concerns have been expressed in relation to waste storage and management. A condition has been attached requiring a scheme for the storage of refuse and recycling at the site.

Non-material considerations

- 8.17 Whether the Cairngorms National Park Authority call-in planning applications or not is a matter for that Authority. It chose not to in this case.
- 8.18 The behaviour of guests and type of groups using the facility is not a material planning consideration and is a matter for the owner to manage appropriately.
- 8.19 RSPB Scotland raised concerns regarding the potential cumulative impact of future applications at the site. This application has been assessed on its own merits. Any future applications will be assessed against the relevant criteria within the Development Plan.

Matters to be secured by Section 75 Agreement

- 8.20 None

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations. Concerns raised by the Community Council and representations received can be mitigated by conditions. By imposing conditions, it is considered that the proposal accords with the Development Plan.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Subject to the above, it is recommended that planning permission be **GRANTED** subject to the following conditions and reasons:

1. No other development on site shall commence unless the access to the site has been constructed and completed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines:
 - i. the junction formed to comply with drawing ref. SDB1; and
 - ii. visibility splays of 2.4m x 140m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

2. Prior to the first occupation of the property hereby granted planning permission, parking spaces (excluding garages) for a minimum of 3 cars shall be provided within the site boundary and thereafter be maintained for this use in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars.

3. No development shall commence unless details of a vehicle turning area within the application site, formed in accordance with The Highland Council's Road Guidelines for New Developments, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the turning area shall be provided in accordance with these approved details, prior to the first use of the development, and thereafter maintained as a turning area in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for

the parking (and, where necessary, turning) of cars.

4. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

5. No development shall commence until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

Reason: To ensure that waste on the site is managed in a sustainable manner.

6. The Works Practices outlined within the supporting and approved document *Proposed Chalet Development – Kincardine Lodge Estate Ecological Appraisal* shall be adhered to throughout the site preparation and construction period and details shall be submitted prior to commencement of development on site to indicate compliance with the approved terms.

Reason: To minimise disturbance to nature conservation interests within the application site and ensure the protection of protected species and habitats.

7. Prior to any site excavation or groundworks, all retained trees are to be protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction) and as per the AMS and Tree Protection Plan. Barriers are to remain in place throughout the construction period and must not be moved or removed without the prior written approval of the Planning Authority.

Reason: To ensure the protection of retained trees throughout the construction period.

8. No development shall commence until full details of the Compensatory Planting Plan (by natural regeneration) and maintenance programme has been submitted to and approved by the planning authority. The Compensatory Planting Plan shall be implemented in full during the first planting season following commencement of development or as otherwise agreed in writing by the planning authority.

Reason: In the interests of amenity.

9. No development shall commence until full details of all foul drainage infrastructure (including treatment plant, connecting pipework and soakaway locations) have been submitted, to, and approved in writing by, the Planning Authority. Thereafter,

development shall progress in accordance with the approved details.

Reason: In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

10. No development shall commence on site until an appraisal to demonstrate that a sufficient private water supply can serve the development has been submitted to, and approved in writing by, the Planning Authority. This appraisal shall be carried out by an appropriately qualified person(s) and shall specify the means by which a water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, will not be compromised by the proposed development. The development itself shall not be occupied until the supply has been installed in accordance with the approved specification.

Reason: In order to ensure that water infrastructure is carefully managed and provided timeously, in the interests of public health and environmental protection.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your

convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place

a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at Building.Standards@highland.gov.uk or on 01349 886606.

Protected Species - Contractors' Guidance

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

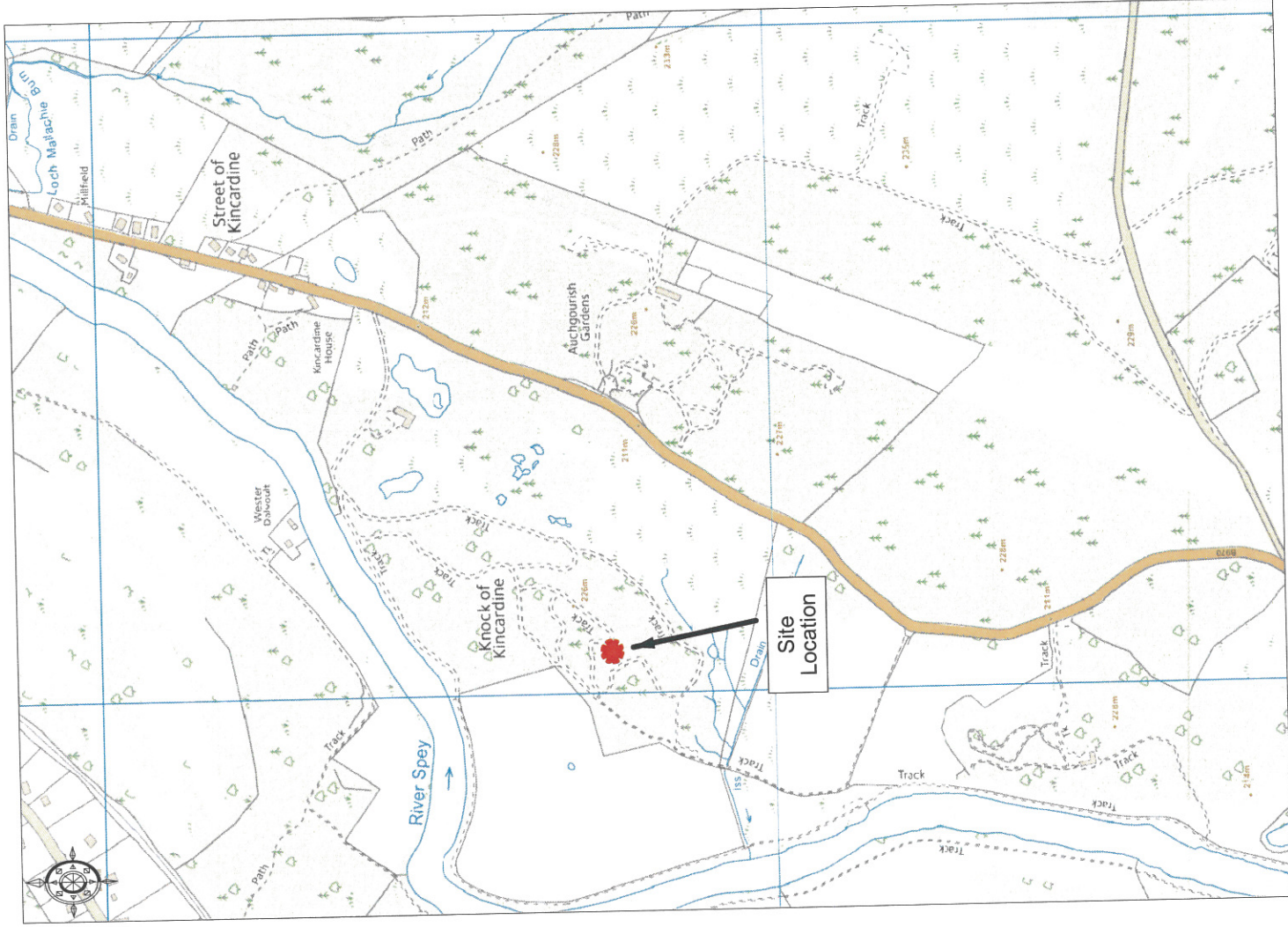
Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from:

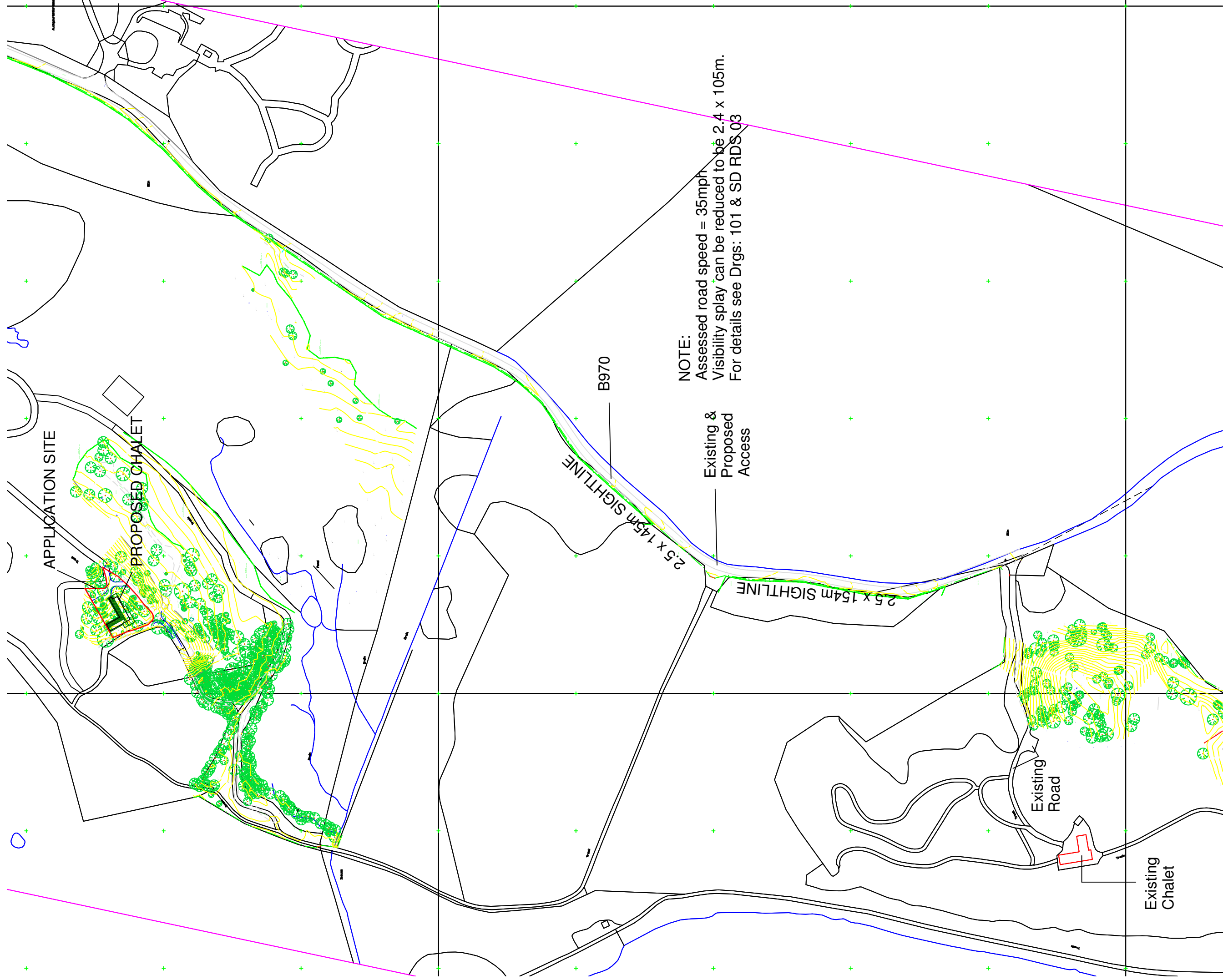
SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Roddy Dowell (01463 255 183)
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – 000001 Location Plan
Plan 2 – 07 Rev A Location Plan
Plan 3 – 03 Rev C Elevation Plan
Plan 4 – 101 Access Layout Plan

Holiday Chalet at Kincardine Estate Lodges Site Location Plan



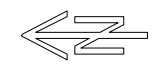
Ordnance Survey © Crown Copyright 2017. All rights reserved.
Licence number 10002432. Plotted Scale - 1:10000



NOTE:
 Assessed road speed = 35mph
 Visibility splay can be reduced to be 2.4 x 105m.
 For details see Drgs: 101 & SD RDS.03

DEVELOPMENT AT:
**Kincardine Lodge
 Boat of Garten**

Job No.: 15/136
 Drg .No.: 07 A
 Drg. Title: Site Layout Units 1
 Scale: 1:2500 @ A3



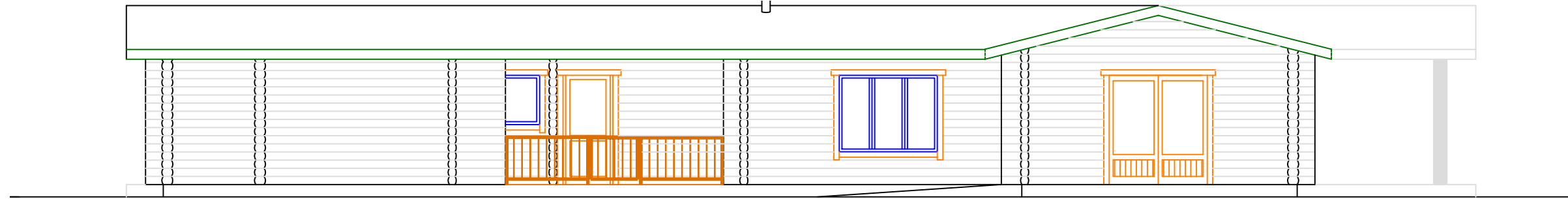
Drawings prepared by
Hareshaw Properties Limited

Mobile: 07931 833 128
 E-Mail: hareshaw.properties@sky.com

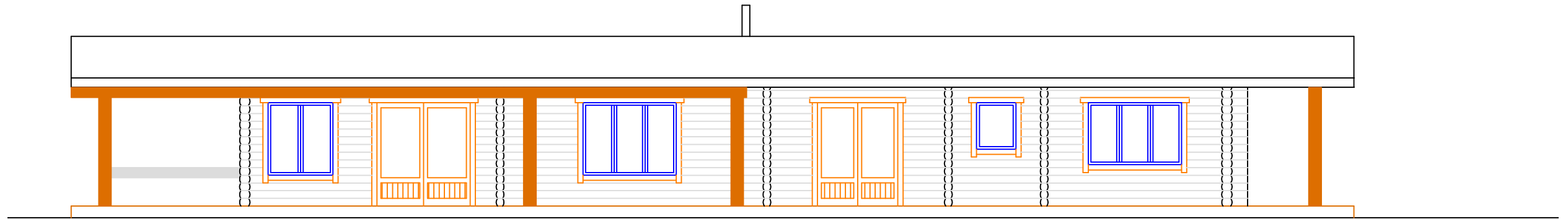
Client: **Mr P Birkbeck**



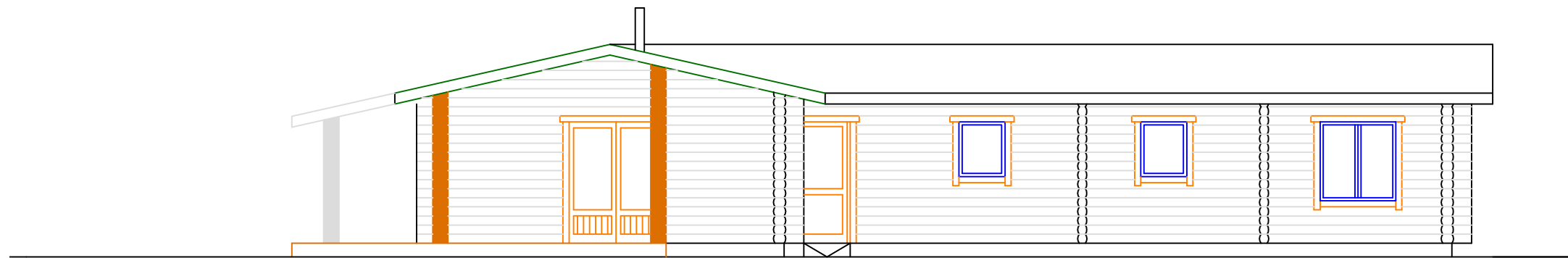
Metres



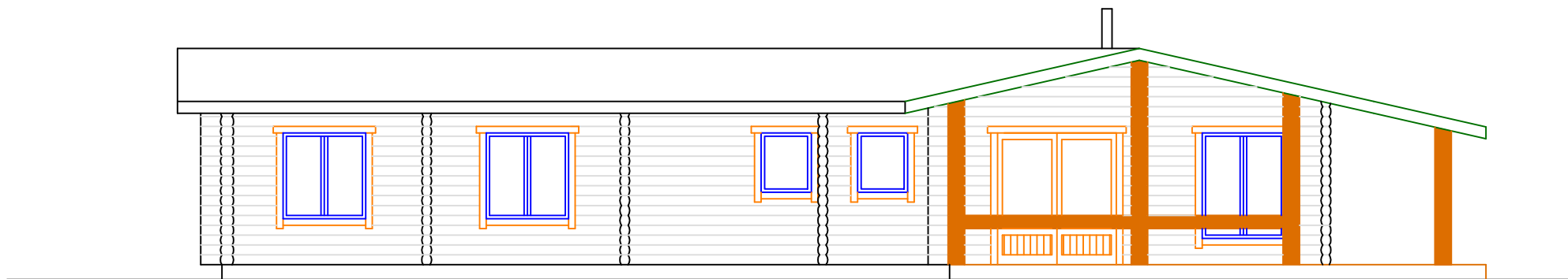
NORTH WEST ELEVATION



SOUTH EAST ELEVATION



NORTH EAST ELEVATION



SOUTH WEST ELEVATION

- Log style cabin with material finish to match existing:
- Roof ~ Turf / Sedum finish
 - Walls ~ Log style timber
 - Doors ~ Double glazed pine timber
 - Windows ~ Double glazed pine timber
 - Columns ~ Log Style

DEVELOPMENT AT:
 Kincardine Lodge
 Street of Kincardine

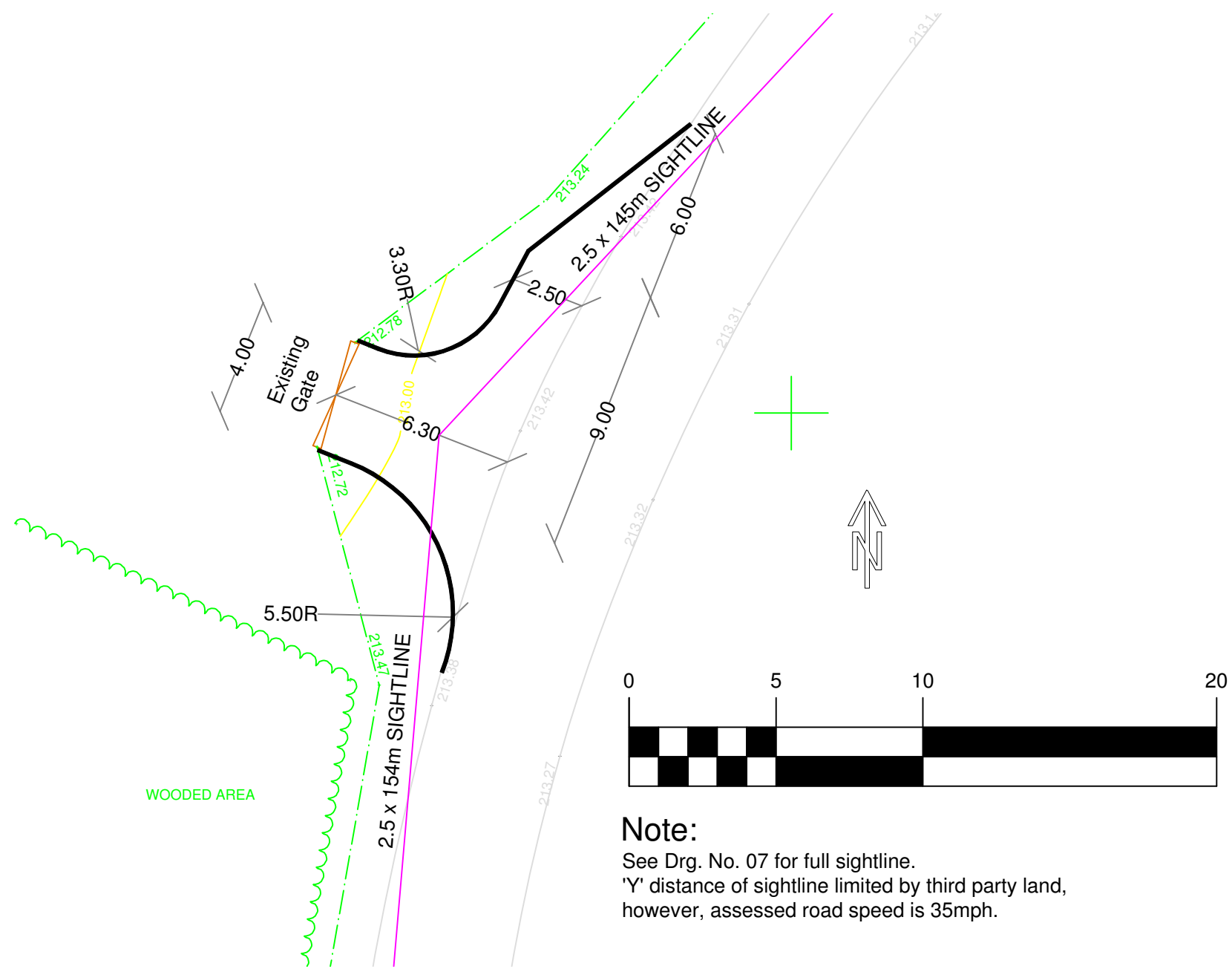
Job No.: 15/136
 Drg .No.: 03 C
 Drg. Title: Lodge Elevations
 Scale: 1:100 @ A3



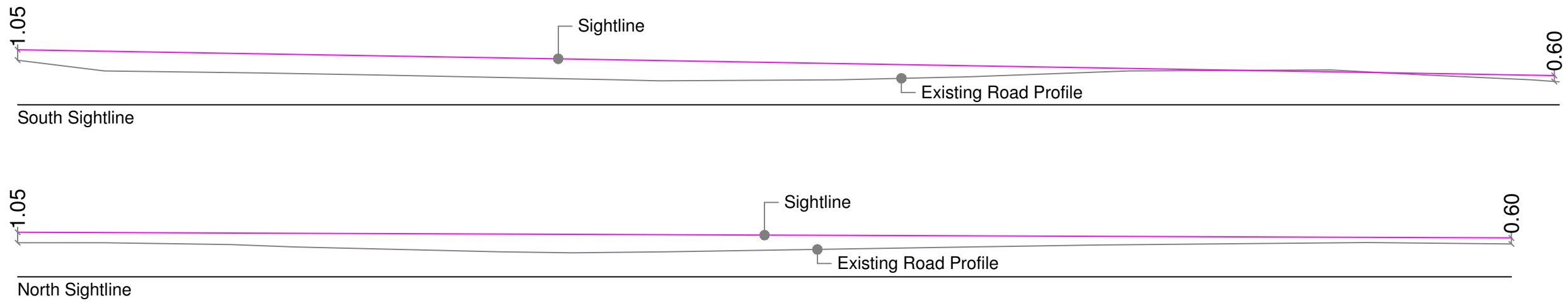
Drawings prepared by
Hareshaw Properties Limited

Mobile: 07931 833 128
 E-Mail: hareshaw.properties@sky.com

Client: Mr Birkbeck

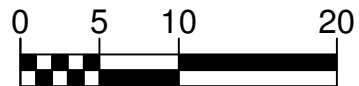


Note:
 See Drg. No. 07 for full sightline.
 'Y' distance of sightline limited by third party land,
 however, assessed road speed is 35mph.



DEVELOPMENT AT:
Kincardine Lodge

Job No.: 15/136
 Drg .No.: 101
 Drg. Title: North Access Service Bay & Sightline Profile
 Scale: 1:200 & 1:500 @ A3



Drawings prepared by
Hareshaw Properties Limited

Mobile: 07931 833 128
 E-Mail: hareshaw.properties@sky.com

Client: **Mr Birkbeck**