

Agenda Item	6.9
Report No	PLS 012/18

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 30 January 2018

**Report Title:** 16/00592/FUL: Brian MacGregor & Sons Ltd  
Land 970M NE of Gloonan, Daviot, Inverness

**Report By:** Area Planning Manager – South/Major Developments

### **Purpose/Executive Summary**

**Description:** Extraction of peat on approx 13.3ha from existing area including use of an existing storage building and vehicle accessed operational area

**Ward:** 19 - Inverness South

**Development category:** Major

**Reason referred to Committee:** Major Development

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 application is for planning permission to continue the extraction of deep-dug peat from an area originally granted permission in 1982 for a 10 year period. The site has operated without planning permission since 1992. This application also seeks retrospective planning permission for the use of an existing storage building and operations area and the restoration of phases of extraction which had been undertaken without planning permission. The extraction area is approximately 13.3ha in an area of land known as Moy Moss. It is part of a wider area for which a lease for peat extraction has been secured by the applicant. The quarry will require to be restored on a progressive basis, with the previous phase being restored from material stripped from the working phase.
- 1.2 The works and operations at the quarry are described in part A of the Environmental Statement (ES) and comprise the extraction of part of the estimated 560,000m<sup>3</sup> of peat, from the site over a 10 year period. The extraction rates set out in the Environmental Statement are between 10,000-20,000 tonnes per year. The level of extraction undertaken each year is dependant on market demand.
- 1.3 The site is accessed via a private track which joins the B9154 at the Moy Hall junction. There are some minor modifications proposed to improve the site access.
- 1.4 The applicant has undertaken public consultation which included an exhibition at the site on 10 and 11 April 2015.
- 1.5 The application was supported by an Environmental Statement covering the following matters:
- Project Description
  - Ecology;
  - Hydrology;
  - Water Environment;
  - Waste Management
  - Mitigation;
  - Drainage.

Further to this the applicant submitted an Access and Traffic Report; Junction Survey; Drainage Assessment; Drainage Plan; Draft Environmental Management Plan; and Public Access Statement.

- 1.6 Variations: None, however further supporting information has been requested in relation to drainage, access and impact on infrastructure.

## **2. SITE DESCRIPTION**

- 2.1 The application site is located approximately 3.3km to the south-east of Daviot and comprises bare peatland and the existing workings of the peat extraction facility. The Inverness - Perth railway line is located to the west of the site. The Dalriach Burn is to the south of the site with a number of other waterbodies within the site itself as well as drainage ditches created in the development of the peat workings.

- 2.2 The nearest properties are some 600m to the west, across the railway line. Due to the nature of the extraction, it is not anticipated that noise will be an issue due to the extraction methods at the workings.
- 2.3 The site is 3km from the Carn nan Tri-tighearnan Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). The SSSI/SAC is designated within the Torvean Landforms Site of Special Scientific Interest (SSSI). The SSSI is designated for blanket bog and dry heath. The SAC is designated for blanket bog. The blanket bog features of the designation are considered to be in "favourable" condition by SNH. The area covered by the application is not designated for any ecological features.
- 2.4 The site is not within any site designated for built or cultural heritage.

### 3. PLANNING HISTORY

- 3.1 04.10.1982                      Extraction of deep-dug peat for a period of 10 years (IN/1982/534)                      Planning Permission Granted

### 4. PUBLIC PARTICIPATION

- 4.1 Advertised: EIA Development

Date Advertised: 18.03.2016

Representation deadline: 15.04.2016

Timeous representations:        6

Late representations:                2

- 4.2 Material considerations raised are summarised as follows:

- a) Economic Benefits (mushroom and whisky industries);
- b) Conflict with Scottish Planning Policy (para 241);
- c) Impact on neighbouring peatland due to de-watering;
- d) Impact on carbon emissions;
- e) Use of the access to the site by vehicles and need to secure improved access for non-motorised users.

- 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 **Strathdearn Community Council** do not object to the application. It seeks improvements to the general appearance of the site; and improvements to access for non-motorised users.

- 5.2 **THC Access Officer** does not object to the application. The Access Officer seeks a condition to ensure continued public access along the access track via installation of combined field and pass gates.

- 5.3 **THC Transport Planning** do not object to the application. It is satisfied with the information provided and seek conditions to secure provision and maintenance of visibility splays; surfacing of the access road for 6m from the edge of the public road; and a scheme to ensure surface water does not flow onto the public road.
- 5.4 **Historic Environment Scotland** do not object to the application.
- 5.5 **Network Rail** do not object to the application following the submission of further information. It seeks conditions to secure: all mitigation set out in the Drainage Report being implemented; no storm or surface water to be discharged onto Network Rail property; location of soakaways/lagoons in a manner which would not adversely impact the stability of Network Rail infrastructure; avoidance of impact on existing drainage infrastructure; no increase in flow rates into any culvert which passes under the railway; positioning of machinery/plant and cranes away from railway property; and location of trees away from railway property.
- 5.6 **Scottish Environment Protection Agency (SEPA)** do not object to the application subject to the following conditions: a time limit of 10 years on any permission granted; a total of no more than 100,000 tonnes being extracted over the period of the permission and details of how this will be monitored; submission of an environmental management plan; submission of a restoration plan; a financial guarantee for the restoration of the application site to peatland habitat and aftercare; a scheme to restore Area 3 of the site; a scheme to identify measures to protect the carbon store and habitat interests of the areas surrounding the application site.
- 5.7 **Scottish Natural Heritage (SNH)** do not object to the application. It advises that the site is significantly damaged due to previous extraction and that full restoration of the original blanket bog is unlikely. SNH consider the site has low conservation value. It requests conditions seeking: a buffer zone of no less than 10m to create a stable edge at the edge of the surrounding areas; and Environment Management Plan. SNH also advise that the submitted Environmental Management Plan is not fit for purpose.

## 6. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### 6.1 **Highland Wide Local Development Plan 2012**

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 42 - Previously Used Land
- 53 - Minerals
- 54 - Mineral Wastes
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species

60 - Other Importance Habitats  
61 - Landscape  
63 - Water Environment  
66 - Surface Water Drainage  
72 - Pollution  
73 - Air Quality  
77 - Public Access

**6.2 Inverness Local Plan 2006 (as continued in force 2012)**

No specific policies remain in force.

**6.3 Inner Moray Firth Local Development Plan 2015**

No specific policies apply

**7. OTHER MATERIAL POLICY CONSIDERATIONS**

**7.1 Highland Council Supplementary Planning Policy Guidance**

Construction Environmental Management Process for Large Scale Projects  
(August 2010)

Flood Risk & Drainage Impact Assessment (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Physical Constraints (March 2013)

Sustainable Design Guide (Jan 2013)

**7.2 Scottish Government Planning Policy and Guidance**

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

PAN 50 - Controlling the Effects of Surface Mineral Workings (1996)

PAN 51 - Planning, Environmental Protection and Regulation (2006)

PAN 60 - Planning for Natural Heritage (2000)

PAN 63 - Waste Management Planning (2002)

PAN 64 - Reclamation of Surface Mineral Workings (2002)

PAN 79 - Water and Drainage (2006)

PAN 1/2011 - Planning and Noise (2011)

PAN 2/2011 - Planning and Archaeology (2011)

**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) Design, phasing and restoration;
  - c) Roads, Traffic and Wider Access;
  - d) Operational Impacts;
  - e) any other material considerations.

### Development plan/other planning policy

- 8.4 The primary Development Plan Policy against which this proposal requires to be assessed is Policy 55 (Peats and Soils) of the Highland-wide Local Development Plan. This sets out that the Council will only support new areas of commercial peat extraction where it can be shown that *it is an area of degraded peatland which is clearly demonstrated to have been significantly damaged by human activity and has low conservation value and as a result restoration is not possible*. This is similar to Scottish Planning Policy (para 214) which required development plans to contain policies which would *only permit commercial extraction in areas suffering historic, significant damage through human activity and where the conservation value is low and restoration is impossible*.
- 8.5 Peat is a valuable resource as a carbon store and the extraction of peat will lead to that carbon store no longer being available. Restoration of peat bogs wherever possible should be used to mitigate any impacts. Areas of the wider site which are degraded can be secured for restoration of peat bogs to offset the impact of the continued working of the resource in this location. This can be secured by condition.
- 8.6 SNH acknowledge that this site has been significantly damaged due to previous extraction and that full restoration of the original blanket bog is unlikely. As this is the case it meets with elements of the test in Policy 55 as the site is degraded peatland and it is clear that the site has been significantly damaged. The matter of restoration is considered further elsewhere in this report, however it is acknowledged that it is unlikely but not impossible that the site will be fully restored to blanket bog. There is however some evidence from restoration practices on the site that sphagnum moss has been restored to areas where extraction of peat has previously taken place.
- 8.7 It should be noted that this is not a new area of commercial peat extraction. The application site and the wider area have been worked since the early 1980's when it was first granted permission. That permission was time-limited (to 10 years) and the site has been operating without planning permission since 1992. This became

apparent following the review of old mineral permissions process and the lack of an application being brought forward by the applicant. Officers then worked with the applicant to secure the submission of an application so that the historic, current and future impacts of peat extraction in this area could be assessed. It was not possible to grant a certificate of lawful use due to the scale of the ongoing and future operations on the site.

- 8.8 The Council will expect all minerals developments to avoid or satisfactorily mitigate any impacts on natural, built and cultural heritage, and infrastructure. After uses should result in environmental improvement rather than just restoring a site to its original state. After-uses should add to the cultural, recreational or environmental assets of an area. A restoration plan for the area covered by the application and other areas in control of the applicant accompanied by a financial guarantee will be required to secure such matters. If the Council is satisfied on these matters the application will accord with the Development Plan.

#### Design, phasing and restoration

- 8.9 The site is relatively flat and is worked from the bedrock to allow a stable base for the machinery which extracts the deep-dug peat. This method is used due to the significantly greater weight of wet peat rather than the extraction of dry peat which can generally be extracted from a machine on top of the drained peat. SEPA has requested that 1m of peat is left above the bedrock. This is a matter which can be secured via an Environmental Management Plan.
- 8.10 The wider site subject to the applicant's lease contains 6 compartments. This application only seeks permission for the extraction from Area 6. Area 1 acts as a buffer between the workings and the Dalriach Burn; Area 2 will not be subject to peat extraction; Area 3 has previously been worked and will be restored; Area 4 will not be subject to peat extraction; Area 5 is proposed as an extension to the peat extraction area but would require a separate planning permission; and Area 6 is currently being worked and is subject to this application.
- 8.11 The extraction of peat from the site is driven by market demands. The Environmental Statement states that the extraction rates are likely to be between 10,000 and 20,000 tonnes per annum. SEPA has requested that the permission is time limited and that no more than 100,000 tonnes are extracted within those 10 years. The applicant considers that this is overly restrictive. It is considered that given the anticipated extraction rates and the environmental sensitivities around the extraction of peat, limiting both the length of time for which the peat can be extracted for and the overall extraction level is reasonable as it delivers a level of flexibility rather than a yearly limit on extraction. A scheme for monitoring of this can be secured by condition, with an annual report being required.
- 8.12 SNH has suggested that the restoration of the site to full blanket bog is unlikely. It is not however considered impossible. It is considered that the previously worked area (Area 3) can be restored, with some restoration already having been undertaken. This has been done by spreading a mix of gravel, peat and heather roots across the site and then creating water bodies. A detailed scheme for restoration of this area will be secured by condition as an offset for the carbon release from the working of the area subject to this application. Further the site

subject to this application will be subject to restoration proposals to restore the site to moorland bog. This can be secured by condition. As a matter of good practice, the Council would require a financial guarantee for final site restoration works via legal agreement.

- 8.14 The site infrastructure (sheds and offices) are of a size commensurate with the workings. Their design is agricultural in style and acceptable in this location/setting.

#### Roads, Traffic and Wider Access

- 8.15 There is a mix of light commercial vehicles and HGV movements from the site throughout the working day. The development will utilise the existing access into the site but will be upgraded in line with the requirements of the Council's Transport Planning Team. This includes provision of surfacing at the access, drainage works at the access and maintaining visibility splats. Transport Planning has not objected to the development.
- 8.16 The Council's Access Officer has sought the improvement of access along the site access track for non-motorised users. This has also been sought by Strathdearn Community Council. This is a matter which can be secured by condition and would form part of an Access Management Plan for the site and surrounds in control of the applicant.

#### Operational Impacts

- 8.17 A key concern of any development involving peat is the impact it will have on the surrounding peatland, both in terms of its ecological value and its stability. SNH has requested a minimum 10m buffer between the edge of the workings and any area not being worked. This will seek to ensure that the adjacent peatland is not adversely affected in ecological value or stability and can be secured by condition.
- 8.18 The drainage of the site as a whole is a matter which has required significant consideration by Network Rail to ensure that due to the proximity of the workings to the railway that the railway would not be adversely affected. This has led to Network Rail requesting a number of conditions to be applied to any permission which may be granted in terms of flow rates from drainage infrastructure, location of any water bodies, type of restoration proposals and working in proximity to the railway. These are considered reasonable in the interests of the freeflow and safety on the railway line. For the avoidance of doubt Network Rail is satisfied with the information presented to it and do not object to the application.
- 8.19 The pollution prevention plans for the area can be encompassed in a site specific Environmental Management Plan. This can be secured by condition as per the request from SEPA.
- 8.20 The applicant has considered ecology in Part B of the ES. This sets out that there is limited potential for the site to return to blanket mire due to the top layers of peat becoming aerated over time due to drainage works. The short term aim of restoration of the site is therefore to reintroduce and establish peat bog species and to restore a water regime characteristic of a peatland ecosystem. The detail of how this can be achieved can be secured by condition.



8.21 Scottish Government advice, contained within PAN 50, requires consideration of the cumulative impact of the development with similar developments in the vicinity / general area. The nearest active workings are some distance from the site. Given the separation from other mineral workings, it is unlikely that there will be any significant cumulative impact on local residents on account of this quarry and workings of a similar nature in the area.

Other material considerations

8.22 The applicant has set out some information in relation to the economic benefits associated with the development and the demand for the product by mushroom growers and the whisky industry. This has been further set out by letters of support submitted from users of the product. The applicant has also stated that the operations lead to five full time workers on the site with further jobs in the transport of the peat from the site.

8.23 There are no other material considerations.

Matters to be secured by Section 75 Agreement

8.24 Following the completion of the works, there is a need to ensure that all disturbed ground is satisfactorily restored. This will include removal of equipment and temporary buildings. The Council needs to secure financial provision for final site restoration through legal agreement. This will provide for a financial guarantee in the event of the operator failing to restore the application site. The applicant is working with the Council on this matter, which can only be concluded following a decision of the committee.

8.25 The legal agreement will comprise:

Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under condition 3 of this permission.

Thereafter, the Quarry Operator will be required to:

- i. Ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
- ii. Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the quarry is decommissioned and the site is fully restored.

**9. CONCLUSION**

9.1 The Development Plan is generally supportive of mineral extraction which comprises the further working of an existing quarry. However, this is qualified for commercial peat extraction. The potential concerns around this development raised by consultees, particularly in relation to extraction rates and restoration can be controlled with appropriate mitigation and by planning conditions. It is considered that granting permission provides an opportunity to regularise the development;

ensure that the development moves forward in a manner which allows the site to continue to meet market demands; protects the environment and restores a degraded peat bog within the applicant's control. There are no significant concerns regarding the impacts of the proposed development and there are no technical or statutory objections outstanding.

- 9.2 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.

## 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

<b>Action required before decision issued</b>	Y
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	Y
Revocation of previous permission	N

**Subject to the above**, it is recommended that planning permission be **Granted**, subject to the prior conclusion of a legal agreement as set out in paragraph 8.25 of this report and the following conditions and reasons:

### **Conditions and Reasons / Reasons for Refusal**

1. The permission hereby granted shall endure until 30 January 2028 by which time all workings shall have ceased, all plant and equipment removed and the site restored in accordance with the plan to be agreed under condition 3 of this permission.

In the event that working ceases for a period of more than 6 months prior to the expiry of this permission then the site shall be restored to the satisfaction of the Council within 6 months from the cessation of working, or in any case before the expiry of this permission.

**Reason:** to clarify the terms of the permission and ensure the site is fully restored to an appropriate use.

2. The development shall be undertaken entirely in accordance with the submitted application, the mitigation highlighted within the supporting Environmental Statement, and the approved plans as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority.

For the avoidance of doubt, the maximum output of the quarry shall not exceed 100,000 tonnes over the lifetime of the permission.

**Reason:** In order to ensure the production capacity of this quarry does not exceed levels considered through Environmental Statement.

3. Within 3 months of the grant of this planning permission, a detailed scheme to ensure the decommissioning and restoration of the site showing details of how all accesses/egresses and area of extraction restored to moorland heath, has been submitted to and subsequently approved in writing by the Planning Authority. The scheme be known as the Decommissioning and Restoration Plan and shall ensure:

- a. The grading of all ground to stable slope angles and the shaping and contouring of the ground such as to be sympathetic to adjacent geological features;
- b. The any interim restorations works to ensure early restoration of Area 3 and any other excavated phase;
- c. The full detail of proposed methods for restoration of the site including details of any proposals to establish suitable vegetative cover (including tree and scrub planting);
- d. The location of any trees are set back at a distance in excess of the mature height from the railway property;
- e. Removal of all buildings, structures, plant, stockpiles and residual materials;
- f. A programme of aftercare and maintenance for a minimum of 36 months following the last working of the site;
- g. Timescales for the implementation of the Decommissioning and Restoration Plan. This shall show the restoration of Area 3 commencing within 6 months of the date of this planning permission and works set out in the restoration plan for Area 3 completed within 18 months of the date of this permission.

Thereafter the approved Decommissioning and Restoration Plan shall be implemented.

**Reason:** To ensure an appropriate scheme is in place for the interim and final restoration of the site.

4. The operator of Moy Moss Peat Extraction Facility shall submit an annual statement and illustrative drawings to the Planning Authority by 28 February each year following the commencement of this permission. The annual

statement will present an audit of the workings undertaken in the preceding calendar year, illustrating: -

1. The rates of extraction against the projected operations;
2. The total level of extraction against the permitted figure as set out in Condition 2 of this permission;
3. Any time when the extraction facility was closed for a period in excess of 4 weeks;
4. The results of monitoring from the mitigation actions as presented in the application, in compliance with the conditions attached to this planning permission;
5. The results of ongoing groundwater monitoring;
6. The progress against the implementation of the restoration plan for each phase.

**Reason:** In order to ensure the planning authority can monitor the workings undertaken and retain effective control over the mining operations.

5. Within 3 months of the grant of this planning permission a site Environmental Management Plan (EMP) shall be submitted to, and approved in writing by, the Planning Authority. The EMP shall include, but will not necessarily be limited to:
  - a. Maintenance of a 10m buffer between the extraction area and any watercourse or waterbody;
  - b. Maintenance of a 10m buffer between the extraction area and any area of peat which is to be left undisturbed;
  - c. A scheme for the retention of 1m depth of peat above the bedrock
  - d. A site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage and vehicle washing areas;
  - e. A site log sheet detailing how often the pollution prevention and drainage measures will be checked and maintained which will be kept on site ready for inspection at any time;
  - f. An updated site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how soils will be kept fit for restoration purposes;
  - g. Sections and plans detailing how restoration will be progressed including the phasing, profiles, depths and types of material to be used;
  - h. Details of cut of drains, ensuring that these direct water away

from the railway line;

- i. A scheme for monitoring excavations for signs of groundwater ingress and outlining the mitigation which will be undertaken if such an even occurs;
- j. Location of any processing plant;
- k. A Silt Management Plan, identifying locations and details of silt management devices and settlement lagoons;
- l. Dust management, monitoring and suppression plans for the site and access road (including wheel washing facilities);
- m. Noise management and control plans;
- n. Details of any and all lighting on the site;
- o. Details of the person(s) who will oversee the implementation and adherence to the Environmental Management Plan;
- p. A detailed plan identify all proposed nature conservation mitigation measures.

The Environmental Management Plan shall be implemented as approved, ensuring all on site staff are familiar with and adhere to its terms.

The EMP shall be reviewed every 5 years from the date of the approval of the permission to ensure that it remains in line with good practice. The reviewed and updated documents shall be submitted and approved in writing to the Planning Authority by 01 March of any review year.

**Reason:** In order to enable the Planning Authority to adequately control the development below the water table and to minimise its impact on the nature conservation and amenities of the local area.

6. From the date of any commencement of this development until completion of the final restoration, a copy of this planning permission, all approved plans and associated documentation together with any approved amendments shall be made available for inspection at the site offices during approved working hours.

**Reason:** In order to ensure the site operator and visiting officials are aware of the details of the planning permission and any approved amendments.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (As Amended), no structures or plant shall be erected in the yard area outwith the mine workings, other than those specifically approved through this consent, without the express written permission of the Planning Authority..

**Reason:** To clarify the terms of the permission and to ensure the amenity impacts of any additional structures or plant is appropriately assessed. .

8. Within 6 months of the date of this planning permission an Environmental Clerk of Works (ECoW) shall be appointed by the developer. Their appointment and remit shall first be approved in writing by the Planning Authority (in consultation with SEPA and SNH). For the avoidance of doubt, the ECoW shall be appointed as a minimum for the period from the commencement of development to the restoration of the site and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:
  - i. Providing training to the developer and contractors on their responsibilities to ensure that the extraction of peat is carried out in strict accordance with environmental protection requirements;
  - ii. Oversee the implementation of the Decommissioning and Restoration Plan as approved under Condition 2 of this permission.
  - iii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
  - iv. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
  - v. The power to call a halt to development on site where environmental considerations warrant such action.

**Reason:** To ensure that an Environmental Clerk of Works, with sufficient remit, is appointed for the duration of development in order to monitor, advise and direct the developer; in the interests of nature conservation.

9. Within 6 months of the date of this planning permission a Habitat Management Plan (HMP) shall be submitted to the Planning Authority for approval, in consultation with SNH and SEPA, providing for measures to protect and manage habitat and species within and adjoining the application site. Specifically, this should ensure that the carbon store and habitat interests of the area are protected. The approved HMP, which shall be implemented in full unless otherwise agreed in writing, shall include the identification of management methods and opportunities to mitigate for any adverse impacts on sensitive habitats as identified in any Environmental Statement or other documentation approved under this permission.

**Reason:** To protect and enhance the nature conservation interests of the area, including the management of peatland on and around the site and avoid adverse effects on species and habitats of nature conservation interest.

10. Within 6 months of the date of this planning permission a detailed Outdoor Access Plan of public access across the site (as existing and during

operation) and its access track shall be submitted to the Planning Authority for approval approved in writing by, the Planning Authority. The plan shall include details showing:

- i. All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- ii. Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures;
- iii. All proposed paths, tracks and other routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);
- iv. Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures inclusive of the installation of gates which allow the free movement of non-motorised users, diversion works, duration and signage).

The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

**Reason:** In order to safeguard public access both during and after the construction phase of the development.

11. Within 6 months of the grant of this planning permission all of the recommendations set out in Section 5.3 of the submitted Fairhurst Drainage Report, Dated November 2017, shall be implemented by an appropriately qualified and skilled drainage engineer to the satisfaction of the Planning Authority in consultation with Network Rail.

Thereafter the Water Management Plan shall be reviewed bi-annually and any recommendations contained within any revised plan shall be implemented in accordance with the timescales set out in approved document.

**Reason:** In order to ensure the delivery of adequate drainage for the site which will not adversely impact the operation of the rail network.

12. For the avoidance of doubt, no storm or surface water shall be discharged onto or towards Network Rail property or the public road. Further there shall be no reduction in the effectiveness, or increase in flow rates, of any culvert

or drain or watercourse belonging to Network Rail or modifications made to Network Rail drainage infrastructure.

**Reason:** In order to ensure the drainage for the site will not adversely impact the operation of the rail network.

13. For the avoidance of doubt, no soakaways or lagoons shall be constructed for the storage and/ or disposal of storm or surface water in a manner which could adversely affect the stability of Network Rail infrastructure.

**Reason:** In order to ensure the drainage for the site will not adversely impact the operation of the rail network.

14. All cranes, machinery and construction plant must be positioned and used in a manner which will ensure that it, or any loads to which it carries, does not enter Network Rail property either accidentally or intentionally.

**Reason:** In order to ensure the construction and / or operation of the site will not adversely impact the operation of the rail network.

15. Within 6 months of the granting of this planning permission the site access must be upgraded and constructed in accordance with The Highland Council's Roads and Transportation guidelines, with:

- i. the junction formed to comply with drawing ref. SC85/65/B; and
- ii. visibility splays of 2.4m x 200m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction;
- iii. Be surfaced in tarmac for a minimum of 6m from the edge of the public road;
- iv. Provide a drainage scheme to ensure no water flows from the development or access track onto the

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.

## **REASON FOR DECISION**

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.



## **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

### **Flood Risk**

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

## **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](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).

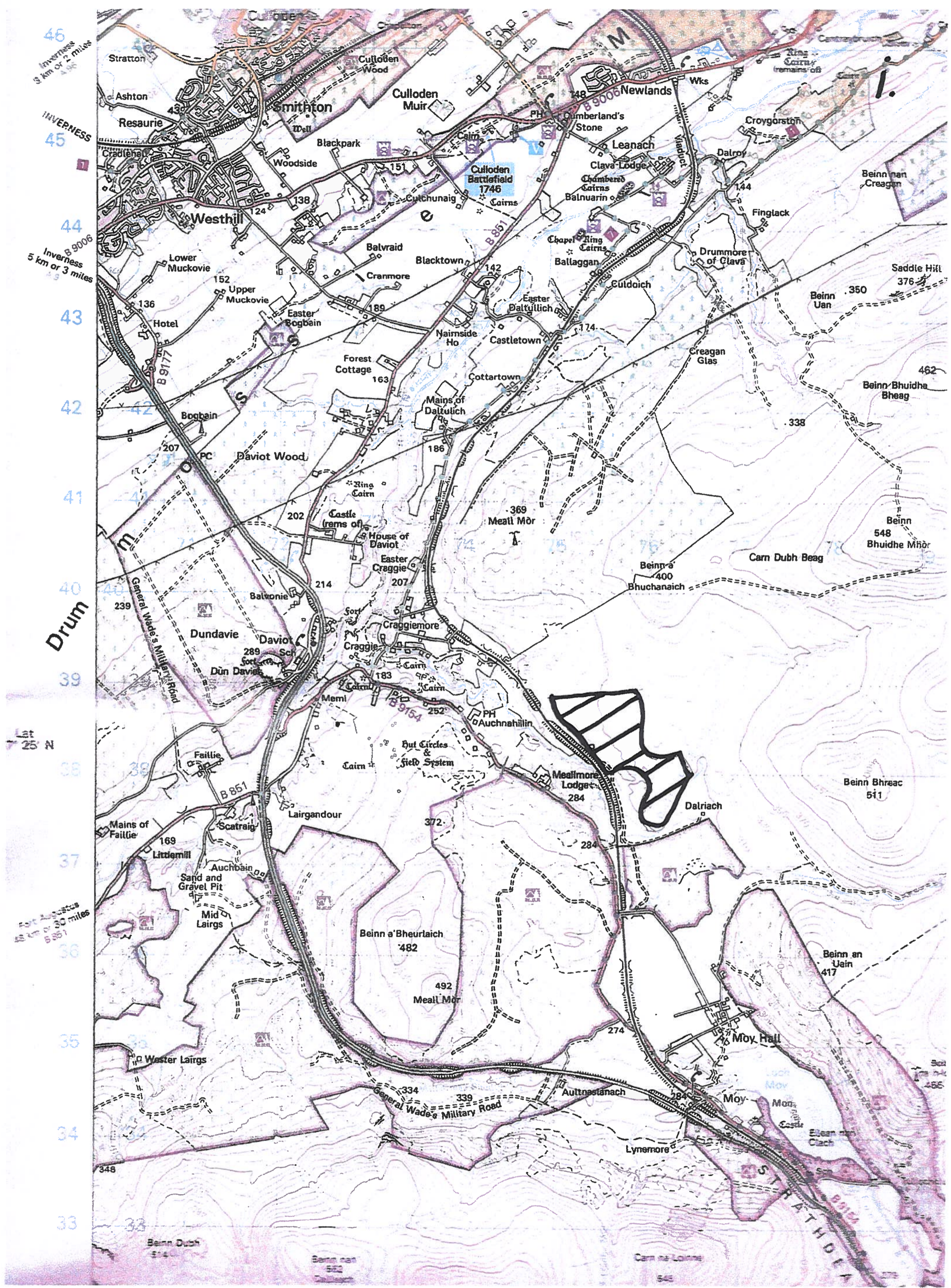
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to 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](mailto:env.health@highland.gov.uk) for more information.

### **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](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: Simon Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan (00001)  
Plan 2 - Site Layout Plan (00003 Rev A)  
Plan 3 - Site Layout Plan (00004 Rev B)  
Plan 4 - Site Layout Plan (00006)



46  
Inverness  
3/4 mile or 2 miles

INVERNESS  
45

44  
B 9006  
Inverness  
5 km or 3 miles

43

42

41

40

39

Lat 56° 25' N

38

37

36  
Fort Augustus  
1/2 mile or 3/4 miles  
B 9061

35

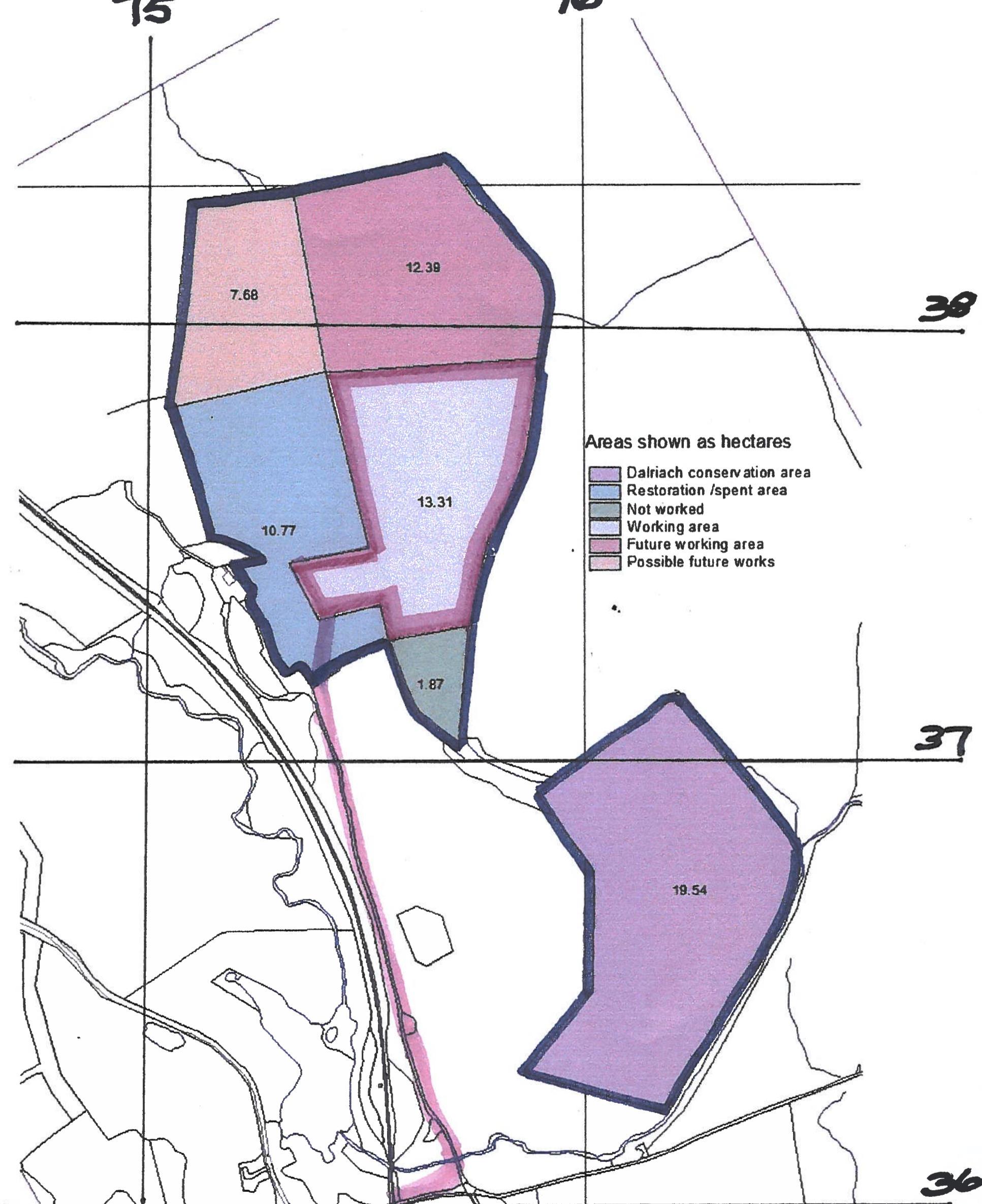
34

33

Drum

75

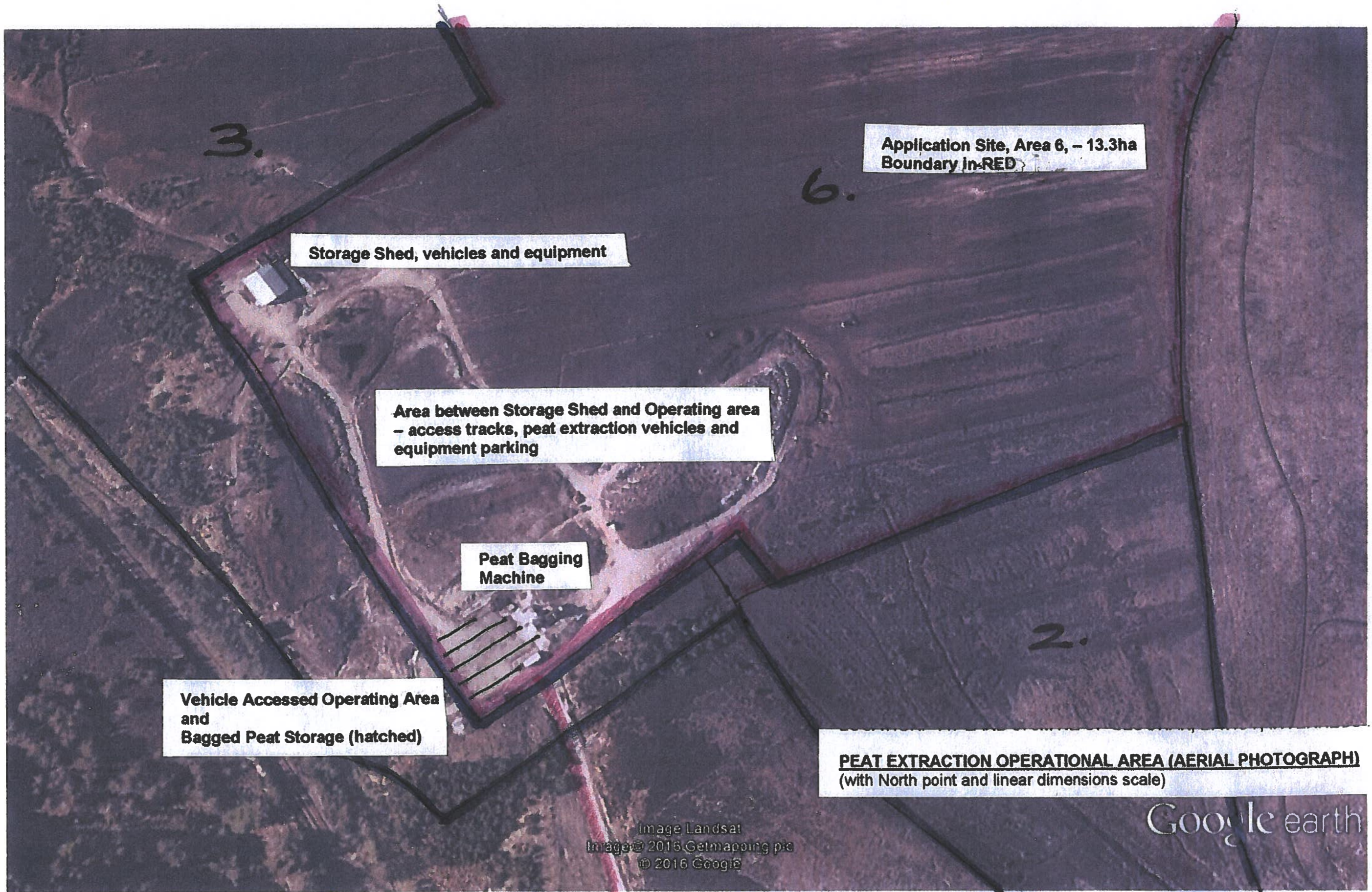
76



- Areas shown as hectares
- Dalriach conservation area
  - Restoration /spent area
  - Not worked
  - Working area
  - Future working area
  - Possible future works

**PLANNING REFERENCE: 16/00592/FUL**  
**DEVELOPMENT: EXTRACTION OF PEAT ON APPROX. 13.3HA FROM EXISTING AREA INCLUDING USE OF AN EXISTING STORAGE BUILDING & VEHICLE ACCESSED OPERATIONAL AREA.**  
**LOCATION: AT LAND 970M NE OF GLOONAN, DAVIOT, INVERNESS IV2 5XQ**  
**APPLICATION SITE BOUNDARY RED, APPLICANT CONTROL BLUE**  
 (with North point, OS grid references marked, linear dimensions scale)





Application Site, Area 6, - 13.3ha  
Boundary in RED

Storage Shed, vehicles and equipment

Area between Storage Shed and Operating area  
- access tracks, peat extraction vehicles and  
equipment parking

Peat Bagging  
Machine

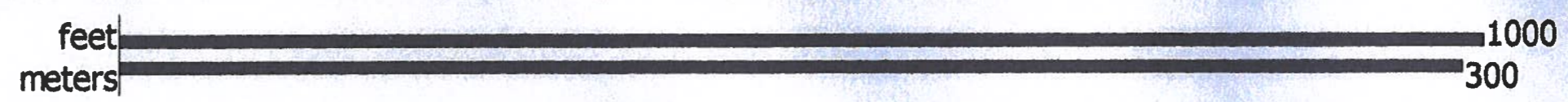
Vehicle Accessed Operating Area  
and  
Bagged Peat Storage (hatched)

**PEAT EXTRACTION OPERATIONAL AREA (AERIAL PHOTOGRAPH)**  
(with North point and linear dimensions scale)

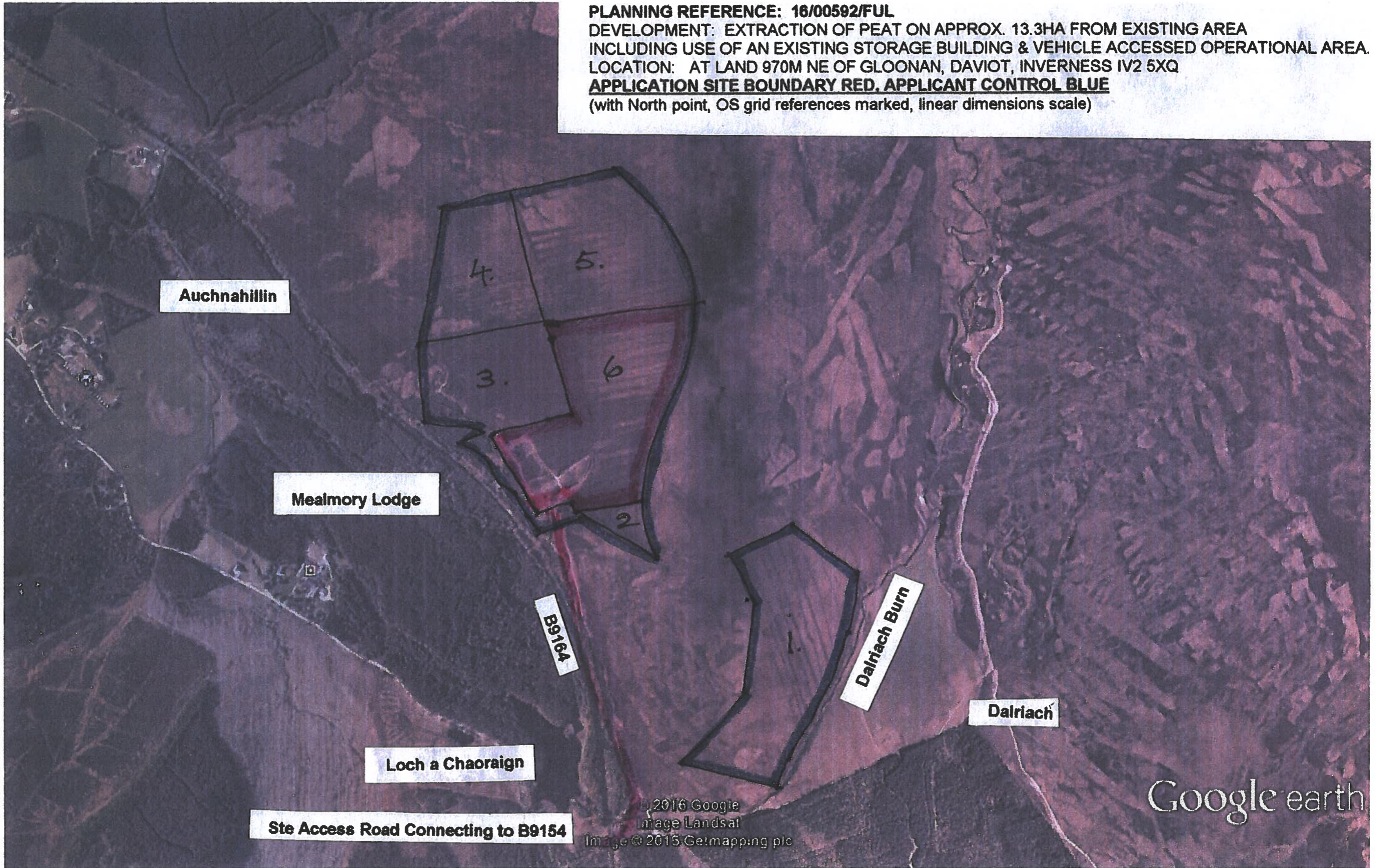
Image Landsat  
Image © 2015 Getmapping plc  
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Google earth

Google earth



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Google earth

miles  
km

