

Agenda Item	6.11
Report No	PLS 014/18

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 30 January 2018

Report Title: 17/02345/S42: Mrs Ann Edwards
Angelshare, Abriachan, Inverness

Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Application for the erection of 10 camping wooden shelters, camp kitchen, toilets and shower block without compliance with Condition 6 of planning permission 14/04549/FUL in order to retain the temporary toilet/shower block for a further 1 year period

Ward: 12: Aird and Loch Ness

Development category: Local

Reason referred to Committee: more than 4 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 This application has been submitted under Section 42 of the Planning Act to extend the time limit for the completion of the proposed toilet block as part of the overall development for the camping shelters/pods on this site.

1.2 Condition 6 of permission 14/04549/FUL states:

“Planning permission for the two portable cabins is hereby granted for a temporary period only and shall cease to have effect on 30 June 2017 (the 'cessation date'). Prior to the cessation date, the portable cabins shall be removed from the site together with all associated infrastructure and the parking spaces formed to serve the development as granted per consent 10/03513/FUL. For the avoidance of doubt, the use of the camping pods shall cease on 30 June 2017 unless the alternative toilet facilities as granted under planning permission 10/03513/FUL have been erected and completed prior to the cessation date.

Reason: *In recognition of the temporary nature of this aspect of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time, and to secure removal and restoration.”*

1.3 Work has started on the new toilet block. However, it was not completed by 30 June 2017 as required. As a consequence the applicant has submitted this application to allow for the retention of the temporary toilet/shower block for a further 1 year period i.e. until 30 June 2018. The reason given for this is that the applicant's husband, who would be undertaking the works, works abroad and is therefore unable to work on this on a permanent basis. The applicant believes that the 1 year further period requested will give the applicant the flexibility to finish the works. The submitted drawings represent the existing temporary toilet/shower block on site located on the south side of the entrance to the site.

1.4 Supporting Information: None

1.5 Variations: None

2. SITE DESCRIPTION

2.1 The site lies to the south of the applicant's House, Angelshare, with coniferous woodland surrounding the site and also within the site on the west, south and east boundaries. The majority of the development has been completed with the siting of the camping shelters and the formation of the car park. The nearest properties are Angelshare (north), Tigh Grianach (east) and the School House (southwest)

3. PLANNING HISTORY

3.1 11.11.2011 10/03513/FUL To erect 10 timber camping shelters/pods, camp kitchen, toilets and shower block PERMISSION GRANTED

3.2 29.10.2014 14/00288/ENF Enforcement notice served as a result of breach of planning control involving unauthorised works on site. NOTICE

- | | | | |
|-----|-------------|---|--------------------|
| 3.3 | 29.06.2015 | 14/04549/FUL Amend layout and erect 2 temporary toilet/shower blocks for 2 years (amendment to 10/03513/FUL) | PERMISSION GRANTED |
| 3.4 | 09.11..2015 | Appeal Against Enforcement Notice for non-compliance with Conditions 1, 2, 3, 4, 7, 9, 10 And 11 of planning permission 14/04549/FUL (ENA-270-2016) | DISMISSED |

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 02.06.2017

Representation deadline: 16.06.2017

Timeous representations: 5

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- Time period – Sufficient time has been given to the applicant to complete the work. 2 year period was requested by the applicant and work is sporadic
- Visual amenity – Adverse impact on neighbours and members of the public who use the track for walking and cycling.
- Junction of access track with C1072 - concern at the state as a result of the work by the applicant's husband and it is crumbling away. Owner of the track has requested the applicant complete it to a standard acceptable to the Area Roads & Community Works Office but without success to date.
- Outflow pipe next to the road - the outflow exits into the culvert adjacent to C1072 above the junction with the Reindoul road and this has been without the permission of the Area Roads & Community Works Office.

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.

5. CONSULTATIONS

5.1 Environmental Health: No response to the consultation.

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

36 – Development in the Wider Countryside

43 - Tourism

44 - Tourist Accommodation

6.2 **Inner Moray Firth Local Plan (2015)**

No specific policies apply

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance**

Not applicable

7.2 **Scottish Government Planning Policy and Guidance**

Not applicable

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 principle of the development has been established through the previous permissions. The development has commenced and is substantially complete. This is an application to modify a particular condition that remains to be satisfied. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

Development plan/other planning policy

8.4 Development Plan Policy has changed since the time of the determination of the original application. The Highland Structure Plan (2001) is no longer in force and the Inverness Local Plan (2006) in relation to this site and the policy provisions have been superseded by the Highland-wide Local Development Plan (2012). The Inner Moray Firth Local Development Plan (2015) has also since been adopted. This was however the relevant Development Plan policy in respect of the most recent decision for the amendment to layout and the erection of the temporary toilet/shower blocks.

8.5 The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan. The remainder of this report will consider the modification proposed and assess its compatibility with the Development Plan.

Modification of Condition 6

- 8.6 The applicant has sought to modify the wording of the condition to allow for further time to implement the new toilet block. The applicant is working on the toilet block but is working away from home on a regular basis and is therefore unable to complete it within the timescale set out in the condition.
- 8.7 The development is substantially complete, with the erection of a new toilet block the only outstanding matter to be resolved. The issue is therefore whether the continued use of the temporary facilities is appropriate for a further period of one year.
- 8.8 The temporary arrangement is not considered ideal, being constructed of temporary modular units, but given the limited visibility from neighbouring properties it is not considered that they have an unacceptable impact on individual and/or community residential amenity; albeit it is recognised that residents will have visibility of the modular units when travelling around the area. Accordingly it is important that the permanent solution, which is more sympathetic to the locality and use of the site, is implemented. Having said that, given that work has commenced on this but is slow due to the applicant's work commitments, a further year is not considered inappropriate.
- 8.9 It is not considered that an additional year would be incompatible with the development plan.

Other material considerations

- 8.10 The history with regard to the site is complex and the development has created conflict with local residents. The fact that development commenced in breach of its planning conditions and was subject to an enforcement notice has not helped. The more significant issues related to disposal of surface and foul water and access. The vehicular access is taken from the existing access track which joins the public road to the west. The disposal of foul water drainage consists of a treatment tank within the application site with an overflow over ground for which the applicant asserts that it has the legal right to take the pipe before it meets the outlet at the side of the public road leading through Abriachan. Surface water drainage is managed within the site. Details for these have been resolved under planning permission 14/04549/FUL.
- 8.11 Concern has been raised that the outflow pipe to serve the foul water effluent discharges into the culvert adjacent to the C1072 above its junction with the Reindoul road. This arrangement has been put in place without the permission of the Area Roads & Community Works. It is an issue more appropriately resolved through the Roads legislation, than Planning.
- 8.12 Neighbours, and the landowner, have also raised concern about the junction of the access track with C1072 in terms of the deterioration surface of the bellmouth formed at this junction. It is considered that the applicant has complied with the requirements of the original planning permission in that the bellmouth has been formed but it is the quality of workmanship that is contested. Site meetings have been held with the applicants and Area Roads & Community Works to resolve this

matter. Discussion is ongoing. While the issue is being progressed under the Roads legislation, given the need to ensure that an appropriate standard is reached for what is a new commercial activity, it would not be unreasonable to impose a condition on the permission requiring this.

- 8.13 It is worth highlighting that an application submitted under S42 of the Planning Act provides a planning authority with an opportunity as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed.
- 8.14 Following consideration of the conditions attached to the extant planning permission, it is considered appropriate to revisit all the conditions attached to the original permission to ensure the conditions are suitable to regulate the development as now built and operated.

Matters to be secured by Section 75 Agreement

- 8.14 None

9. CONCLUSION

- 9.1 The application seeks to extend the period of compliance for the erection of the toilet block until June 2018. Given the work commitments of the applicant's husband it would seem unreasonable to deny such a request. While the development of the site has been protracted the proposal is substantially complete, with many of the conditions otherwise satisfied.
- 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

Action required before decision issued	N
Notification to Scottish Ministers	N

Conclusion of Section 75 Obligation 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. Planning permission for the two portable cabins is hereby granted for a temporary period only and shall cease to have effect on 30 June 2018 (the 'cessation date'). Prior to the cessation date, the portable cabins shall be removed from the site together with all associated infrastructure and the parking spaces formed to serve the development as granted per planning permission 10/03513/FUL. For the avoidance of doubt, the use of the camping pods shall cease on 30 June 2018 unless the alternative toilet facilities, as granted under planning permission 10/03513/FUL, have been completed and occupied prior to the cessation date.

Reason: In recognition of the temporary nature of this aspect of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time, and to secure removal and restoration.

2. The development for which planning permission is hereby granted shall ensure the approved surface water drainage associated with the development including areas of hardstanding and the parking facilities, is maintained to the satisfaction of the Planning Authority, in accordance with the approved site layout drawing 000003 of permission 14/04549/FUL, and also in accordance with SEPA's guidelines on SUDS.

Reason: In order to ensure that the site is properly and adequately drained.

3. The development for which planning permission is hereby granted shall ensure the approved foulwater drainage to be accommodated on and off the site is maintained to the satisfaction of the Planning Authority in accordance with the approved site layout drawing 000003 of permission 14/04549/FUL and the supporting technical information dated 30 July 2015.

Reason: In the interests of public health

4. Construction work associated with the development hereby granted, for which noise is audible at the boundary of the site, shall only be carried out between 08:00 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays, and at no time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Reason: To minimise the risk of noise nuisance

5. Delivery of construction materials to the site shall be between the hours of 8:00 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays, and at no time on a Sunday or Bank Holiday in Scotland, as prescribed in

Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Reason: To minimise the risk of noise nuisance

6. The proposed tree planting shown on approved drawing number 000004 in permission 14/04549/FUL shall be undertaken in the first planting season following the issue of this planning permission. Any plants which, within a period of five years from the completion/occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: in the interests of the amenity of the area.

7. The planning permission hereby granted is for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year.

Reason: For the avoidance of doubt and to clarify the terms of the permission.

8. The existing visibility splay to the south on exit from the access junction onto the C1072 public road shall be maintained at 2.4m by 90m at all times to the satisfaction of the Planning Authority.

Reason: In the interests of road traffic safety.

9. Within 6 months of the date of this permission, the bellmouth and section of access track, from its junction with the public road leading to the entrance to the application site, shall be finished in a bitumen surface to the satisfaction of the Planning Authority.

Reason: In the interests of road traffic safety.

10. Secure cycle parking at the rate of 2 cycles per camping unit shall be provided and maintained within the site using Sheffield stands or similar design unless otherwise agreed with the Planning Authority.

Reason: To comply with Council Policy on the provision of cycling within developments.

11. The existing area identified for the storage and collection of refuse shall be retained in perpetuity and to the satisfaction of the Planning Authority.

Reason: In the interests of public health and to meet the Guidance for Managing Waste In New Developments, March 2013

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

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).

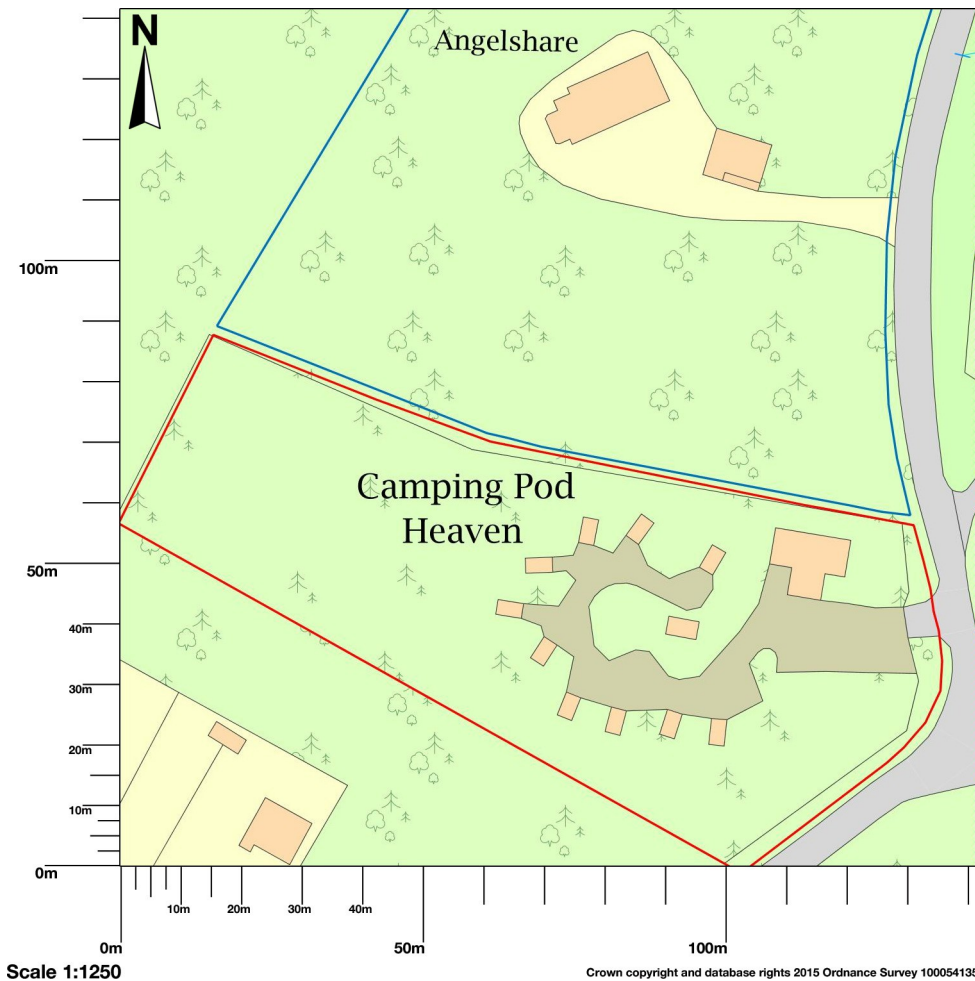
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to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

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Keith Gibson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - 000001 Location Plan
Plan 2 - BW1 Site Layout Plan
Plan 3 - BW2 Floor Plan

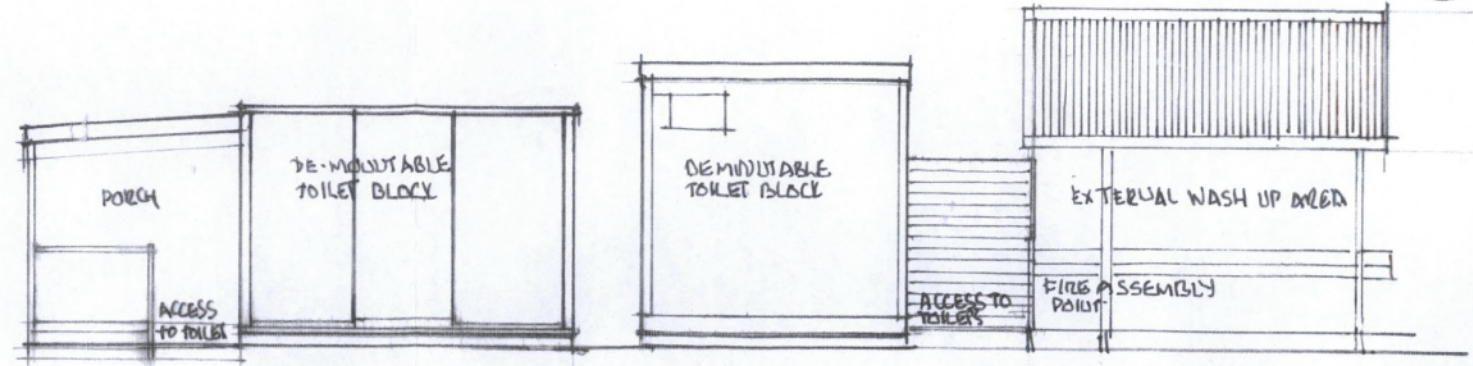
Temporary Toilet Block, Camping Pod Heaven, Abriachan, Inverness, IV3 8LB



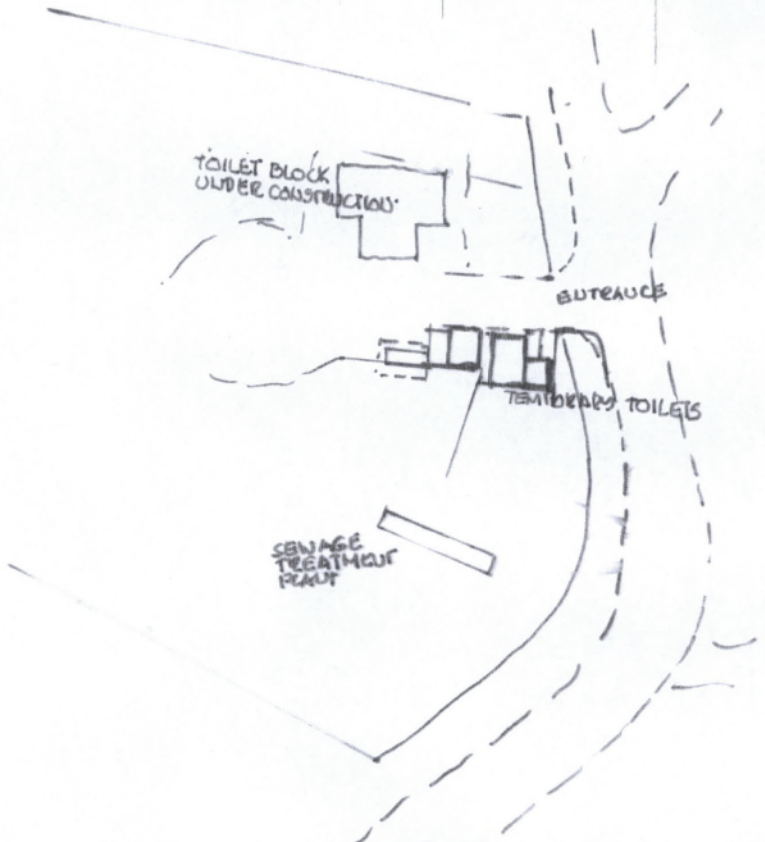
Map shows area bounded by: 255794.3,835265.3,255935.7,835406.7 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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ELEVATION TO DRIVEWAY. Scale 1:50 (A3)



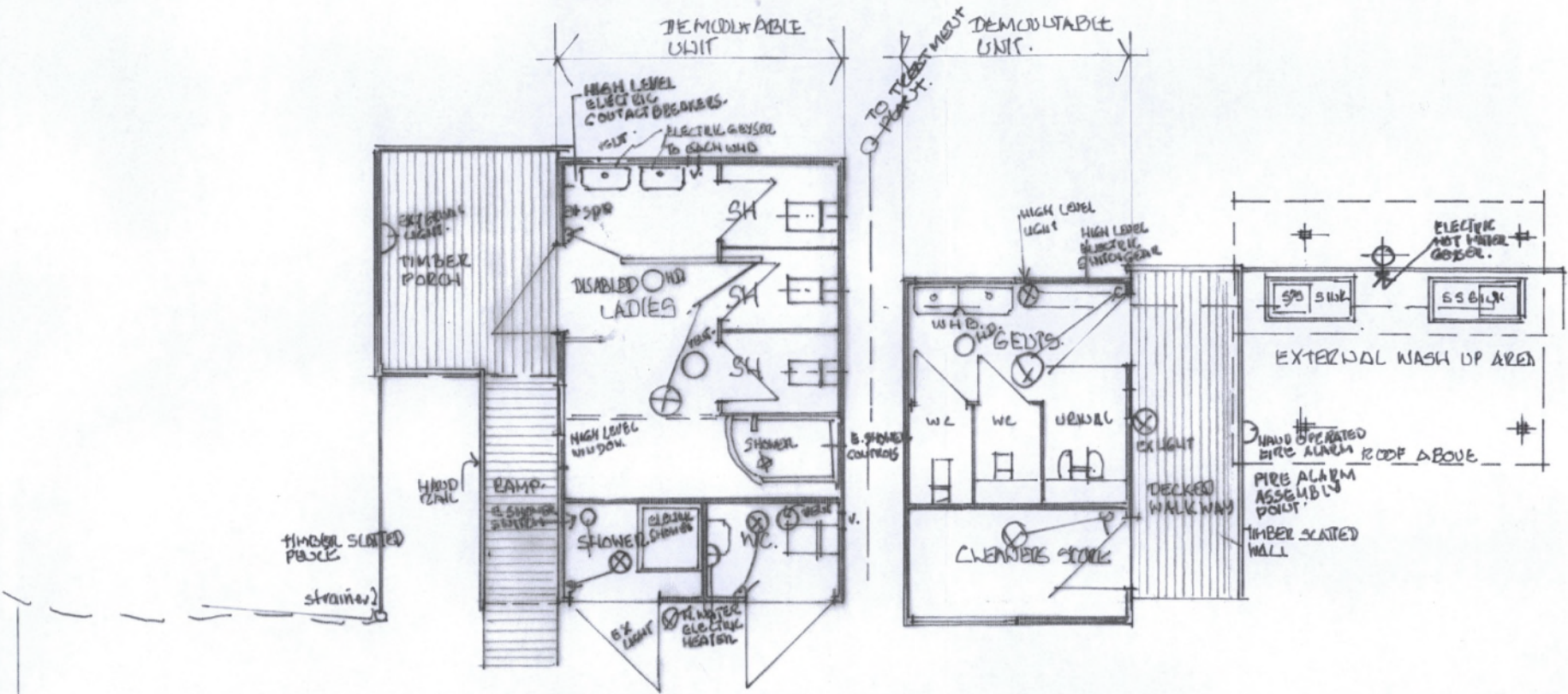
SITE LAYOUT PLAN
Scale 1:500 (A3).

eProcessing Centre
Date Received:
18 MAY 2017

ANGLESHARE, ABRAICHAN, INVERNESS-SHIRE,
ERECTOR OF TOILET BLOCK AND SITE
FOR SLEEPING PODS
FOR MR & MRS COLIN EDWARDS.

TEMPORARY TOILETS.

Hamish D. MacLennan MCIAT Architectural Technologist,
Balgate House, Kiltarlity, By Beauly, Inverness-shire. IV4 7HH.
Tels. 01463 741 312. Email ham656@hotmail.com.



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18 MAY 2017

ENTRANCE DRIVE

LAYOUT PLAN SCALE 1-50 (A3).

ANGLESHARE, ABRAICHAN, INVERNESS-SHIRE,
ERECTION OF TOILET BLOCK AND SITE
FOR SLEEPING PODS
FOR MR & MRS COLIN EDWARDS.

'TEMPORARY TOILETS.'

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