

Agenda item	5.2
Report no	PLN/062/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 16 October 2018

Report Title: 18/03106/PIP Field 4, Artafallie, North Kessock

Report By: Area Planning Manager – North

1. Purpose/Executive Summary

1.1 **Applicant:** Mr Dietrich Pannwitz

Proposal: Erection of house

Ward: 09 Black Isle

Category: Local Development

Reasons Referred to Committee: Local Member Referral

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

2. Recommendation

2.1 Members are asked to agree the recommendation to refuse as set out in section 11 of the report.

3. PROPOSED DEVELOPMENT

- 3.1 The application, in principle, is for the erection of a house and associated access and services.
- 3.2 The application proposes use of an existing access onto the minor road to Tore, which joins the B9161 public road close by its junction with the A9 trunk road to the south. It is proposed to connect to the public water network and install a private waste water system, by way of septic tank and soakaway.
- 3.3 Pre-application advice (16/04372/PREAPP) was offered to the same applicant in November, 2016, concluding that it would be unlikely that any formal application for planning permission would receive officer support.
- 3.4 Supporting Information Received: Operational Needs Assessment; Supporting Planning Statement; Seven letters of support; Visualisations.
- 3.5 Variations: None

4. SITE DESCRIPTION

- 4.1 The site is located to the eastern side of the A9 trunk road and to the immediate north of the Munloch junction. The land holding extends to just over 2ha and currently contains a plantation of Christmas trees within the southern section of the site bounded by the A9 and the B9161, with a large shed and some grassed land to the north and east. A belt of mature trees lies along the north-west boundary, separating the land from a group of four houses and access road at Artafallie. The proposed house site is located close to this belt of trees, set back approximately 20m from the A9 trunk road to the south. It is proposed to extend the existing access track for around 100m through the site, including through the plantation, to serve the site.

5. PLANNING HISTORY

- 5.1 06.09.2010 10/02647/AGR Erection of agricultural building - Approval of Prior Notification.
- 5.2 09.11.2016 16/04372/PREAPP Erection of house – Pre-application advice issued
- 5.3 15.01.2018 17/04756/PIP Erection of house – Application Withdrawn
- 5.4 15.01.2018 18/00170/FUL Change of use of land for mixed use, comprising agriculture, forestry, firewood production, storage and sales (retrospective) – Planning Permission Granted.

6. PUBLIC PARTICIPATION

- 6.1 Advertised : Ross-shire Journal – Potential Departure and Unknown Neighbour Representation deadline : 03.08.2018

Timeous representations : Two – One in support and one objection. Note: The applicant also submitted seven letters of support along with the application.

Late representations : Five in support

- 6.2 Material considerations raised in objection are summarised as follows:
- a) The visualisation document appears misleading and it is considered that the visual impact of the house will be greater than shown;
 - b) Development will involve excavation as there is a slope across the site and this will affect the corner of the field and the access road, losing a lot of trees;
 - c) Lack of details of position/design/height of house;
 - d) A site closer to the B9161 would involve less loss of trees and as it would be further from the mature trees would be less disturbing to established wildlife within this corridor.
- 6.3 Material considerations raised in support are summarised as follows:
- a) The rural business should be run from the site and not from Inverness, to improve the service and cut out the added expense and time of travel costs;
 - b) Maintaining locally run rural employment in the Highlands is important and support should be given to ensure the business remains a steady employer;
 - c) Rural farming and forestry businesses are facing an uncertain future with tightening margins and living on site will improve the efficiency of the business;
 - d) A house on site is essential to look after the livestock and to allow the business to have supervision at calving time and more flexibility to have breeding stock;
 - e) By supporting the application it is an indirect support on the secondary, tertiary and other industries associated with agriculture;
 - f) A house on site would be better for the environment as it would reduce the applicant's carbon footprint in reduced fuel consumption, emissions etc;
 - g) A house will enhance site security and will reduce the risk of theft and crime.
- 6.4 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.

7. CONSULTATIONS

- 7.1 **Forestry Officer:** Concludes that whilst there are many benefits and added convenience to living on site, with reference to Policy 35 of the HwLDP, it is not essential for the management of the woodland.
- 7.2 If supported, in terms of impact on existing trees and reference to Policy 51 of the HwLDP, the detailed position and layout of any development will need to be supported by an Arboricultural Impact Assessment and Tree Protection Plan. A condition can be attached requiring this information as part of any Matters Specified in Conditions application. Consideration needs to be given to protection of existing trees to the north and west, which will provide an important backdrop to any development. With reference to the Scottish Government's policy on the Control of Woodland Removal, it is considered that an actively managed Christmas tree plantation, such as this to be exempt from any requirement for compensatory planting.

7.3 Agricultural Consultant: Concludes whilst desirable, it is not essential for the applicant to live on site to manage the agricultural enterprise.

7.4 It is noted that the shed was built for the principal requirement of the firewood operation and that the historic wintering of three cows was an ancillary use based on lifestyle choice. The shed is of a construction that it could be used for a variety of purposes and this is enhanced by its close proximity to the A9. Given that there is little or no grazing land on the land holding and the increased stocking of cattle proposed is for the store/finishing market specifically, the agricultural enterprise alone does not appear tenable.

7.5 Although there is limited agricultural labour requirement to justify the need to live on site, reference is made to paragraph 6.45 of the Council's 'Housing in the Countryside and Siting and Design' guidance as perhaps applicable as the applicant is trying to build a diversification business in a rural area. The security of the logs and ability to fully capitalise on passing trade for gate sales, are factors which could be more efficiently protected and exploited if he were to live on site. The applicant has a proven track record of running a diverse rural business.

7.6 Transport Planning: No objections

7.7 Transport Scotland: No objections

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 35	Housing in the Countryside (Hinterland Areas)
Policy 51	Trees and Development
Policy 52	Principle of Development in Woodland
Policy 56	Travel
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

8.2 Inner Moray Firth Local Development Plan 2015

Outwith any Settlement Development Area (Within Hinterland)

9. OTHER MATERIAL CONSIDERATIONS

9.1 Draft Development Plan

Not applicable

9.2 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)

Housing in the Countryside and Siting and Design (March 2013)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

9.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (2014)

National Planning Framework (2014)

Planning Advice Note (PAN) 72 – Housing in the Countryside (2005)

PAN 73 – Rural Diversification (2005)

10. PLANNING APPRAISAL

10.1 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.

10.2 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.

10.3 Scottish Government and Development Plan Policy Assessment

The site is located within one of the areas of Highland which fall within the "hinterland of towns," which are areas of countryside under greatest pressure for housing development. Hinterland areas are identified within the Highland-wide Local Development Plan and the Inner Moray Firth Local Development Plan. These areas are identified in order to safeguard against the impact that housing development within pressurised areas can have, such as landscape impacts, unsustainable growth in car based commuting and erosion of land for traditional agricultural uses.

10.4 SPP is the Scottish Government's policy on nationally important land use planning matters. The part of SPP relevant to housing in the Hinterland areas is:

"81. In accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:

- guide most new development to locations within or adjacent to settlements; and
- set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions."

This application for a house within the designated hinterland has been submitted with a supporting statement. This outlines that the house is essential in relation to management of a mix of established and proposed uses – agricultural; Christmas tree plantation; production and onward sale of firewood; and land use consultancy.

Policy 35 - Housing in the Countryside (Hinterland Areas) and the Housing in the Countryside and Siting and Design Supplementary Guidance is the main policy of relevance in determining the application.

10.5 Policy 35 - Housing in the Countryside (Hinterland Areas) states that there is a presumption against development within areas of open countryside 'hinterland' unless one of a number of exceptions can be met, and where the house complies with all other relevant policies of the development plan. The applicant's statement supporting the application outlines that the relevant exceptions include:

- A house is essential for land management or family purposes related to the management of the land;
- Housing is essential in association with an existing or new rural business.

10.6 The supporting statement notes that the applicant and his wife established a consultancy business as a limited company in 2004, which specialises in forestry grant scheme applications, forest planting, landscape appraisals, co-ordination of contractors, harvesting and marketing. However in order to sustain and develop this business, a number of other income streams have been pursued in recent years. In this regard, the application has been supported by an Operational Needs Assessment which highlights the other three prongs of the business as Christmas tree production, firewood and beef.

10.7 As outlined above, there is provision within the policy which may allow for a house within the designated hinterland where it can be demonstrated that it is essential for land management purposes or in association with an existing or new business. The Housing in the Countryside and Siting and Design Guidance provides further information on what is required in order to demonstrate this. This includes the submission of an independent statement prepared by a suitably qualified professional to support the need for a house. Information which has been submitted within the Operational Needs Assessment (ONA) supporting this application includes:

- Confirmation that the applicant diversified into the production of seasoned firewood from the management of local woodlands and the shed constructed in 2011 is used to store the firewood for onward sale;
- Confirmation that the business owns three Highland cows, which were based on site until the main field was planted with Christmas trees in 2010 and are now grazed through the summer on 30ha at Abriachan and return to the shed for wintering and calving in Spring. The submission proposes expanding the livestock to up to 40 (20 finishing cattle and 20 store cattle);
- Confirmation that 9000 Christmas trees were planted in 2010 on over 1.5ha of the land holding;

Confirmation that the applicant lives in Inverness and wishes a house on site to manage the business more sustainably and efficiently.

- 10.8 The supporting statement and ONA conclude that the three different elements of the business (as proposed to be expanded with gate sales of firewood, direct beef sales from site and seasonal Christmas tree preparation and sales) would combine to equate to 3,459 hours or 1.82 labour units. Almost half of those hours relate to the firewood side of the business.
- 10.9 The ONA indicates 1,753 hours per annum for the firewood operation (equating to 0.92 labour units) however this is based on the choice of the labour intensive proposal of around 1,200 hours for gate sales of netted bags and kindling. In this regard, it is not accepted that this element of the business requires a house to be on site, remote from the source of the firewood and the customer.
- 10.10 As the need for a house is also being justified as necessary for land management purposes for a Christmas tree plantation, the Forestry Officer assessed the ONA to ascertain whether the extent of operations would justify the essential construction of a manager's house on site. The Forestry Officer's conclusions are summarised in Paragraph 5.1 above. The Christmas tree operation is listed in the ONA at 1,346 hours (equating to 0.7 labour units). Unsurprisingly the bulk of this labour requirement (almost 1000 hours) falls during the two months of November and December and involves additional staff for this period of harvesting, netting and sales. As concluded by the Forestry Officer, it is not accepted that a house on site is essential for the management of the Christmas trees.
- 10.11 An Independent Agricultural Consultant was consulted in order to ascertain whether the agricultural element of the business would justify a house on site. It was concluded that, given that there is little or no grazing land on site and that the increased stocking of cattle proposed is for the store/finishing market specifically, the cattle business on its own appears untenable. Although not specifically stated within the ONA, it is assumed that summer grazing at Abriachan would continue.
- 10.12 From the ONA submitted, and based on a labour unit being defined as requiring 1,900 hours per annum, the agricultural element, as proposed to be expanded, comprises only 360 hours (equating to 0.19 labour units). As concluded by the Agricultural Consultant, it is not accepted that a house on site is essential for the management of the cattle operation.
- 10.13 The ONA and Supporting Planning Statement point to the diversification of the business from consultancy into tree production, firewood and beef. It is submitted by the applicant that these enterprises are stifled by a lack of customer interface and an opportunity to capitalise on the passing trade with added value 'cash and carry' products being missed. It is submitted that currently 30% of enquiries would like to collect and it is anticipated that there would be an uplift in customers for this type of collection following the retirement of a local firewood merchant in Muir of Ord within the next two years.
- 10.14 The applicant notes that the combined labour calculations indicate there is sufficient requirement before the addition of consultancy work and contractor management to employ almost two labour units. He acknowledges that some of this is peak seasonal work in November and December when additional labour will be employed. Nonetheless he considers that being on site will enable flexibility to

continue consultancy, processing, livestock management or tree management while awaiting customers. Allowing the passing customer to collect firewood, kindling, a Christmas tree or beef reduces the need to deliver and adds significant value to the products, particularly the firewood while reducing the business' overall carbon footprint, fuel and labour costs.

10.15 The applicant therefore considers that It is essential for a house to be built on site. In terms of the policy requirements, he advises that there is no potential to use existing accommodation at this location, utilise any existing planning consents or develop a site within a defined settlement development area.

10.16 In terms of compliance with Policy 35, it is clear that individually and cumulatively there is no essential requirement for a house on site to manage the three elements of the business. The majority of the land holding is planted with Christmas trees with a seasonal crop. This area will be dissected and part removed from production by the proposed house and garden, access track, foul drainage system and other service connections. As concluded by the independent Agricultural consultant there is no essential requirement for a house on site to manage the relatively small cattle finishing business, where the cows graze on land at Abriachan, over 15 miles away. With regard to the firewood business, whilst it is acknowledged that this has now been regularised by a recent retrospective permission, it involves a production, storage and distribution operation remote from both source of raw material and customers and there is therefore no specific requirement for it to be located in a rural location. Furthermore, there is no essential requirement for a house to be built on site to manage this existing business.

10.17 Material Considerations – Site History

Prior Approval for an agricultural shed on this landholding was granted in 2010 (10/02647/AGR). In 2017, while an application for a house was being considered (17/04756/PIP) it came to light that the shed and adjoining land was being used for the production, storage and onward sale of firewood. This commercial use had been operating without the benefit of planning permission and a retrospective application was requested to regularise such use of the site, with an area of the shed being retained for agricultural purposes.

10.18 This current application represents a renewed proposal for the house application made in 2017 (17/04756/PIP) which was withdrawn whilst the retrospective application for mixed use of the shed and hardstanding area to include firewood production, storage and sales (18/00170/FUL) was considered and determined.

10.19 Material considerations – Siting and Design

Policy 28 - Sustainable Design includes a list of criteria against which all applications are assessed. Criteria of relevance to this proposal include the demonstration of sensitive siting and a high quality design which is in keeping with local character. The application is for Permission in Principle only and therefore house design is not a consideration as part of this application. However, the development should demonstrate sensitive siting, reflective of the established pattern of development in the area.

- 10.20 In this regard, the proposed site is located on more elevated land towards the A9 trunk road, within the Christmas tree plantation, approximately 40m away from the existing shed and access onto the public road. This is not typical of the pattern of development within the immediate surrounding area where existing properties are generally close to the minor public roadsides, set well back from the A9 trunk road. Furthermore, the plantation is temporary and notwithstanding the applicant's reference to the roadside planting which he advises is to remain, felling of the crop will regularly expose the isolated house in views from the trunk road. It is therefore not considered that the siting of a house in this location complies with the pattern of development in the area and therefore the application does not comply with policy 28 of the HwLDP. It was recommended to the applicant at pre-application stage and during consideration of this current application, that a site closer to the shed at the site entrance would provide better supervision for the business and remove the need for such a lengthy access road, as well as relate better to existing built development.
- 10.21 In response, the applicant advised that there should be little visual impact from the A9 because the land is falling away from the road, and the site is screened by new birch trees and the Christmas trees. In addition, he noted that there is no space to site the house to the east of the shed as these are the cattle holding areas and contain the best grazing areas. He added that there is more space for the SuDS and sewage system at the site as currently proposed, utilising the existing SuDS pond for the shed. The preference would be to stay just west of the shed, linked via a path, to avoid living downwind from the cattle pen.

10.22 Other Material Considerations

A number of letters of support have been received, some submitted as supporting information with the application and some received individually. Many of the submissions have been made by other businesses with connections (suppliers or customers) to the applicant, however nonetheless they comment on the desirability of having a house on site to manage the various business operations.

- 10.23 One letter of objection has been received expressing concerns over the proposed siting of the house, impact on the landscape and wider environment.

11. CONCLUSION

- 11.1 As detailed above, it is not considered that there is an essential requirement for a house on site as defined within Policy 35 and the associated supplementary guidance. For information, as part of the Prior Notification process for the agricultural shed in 2010, the applicant advised that he bought the field from the owner of Artafallie Farm in 2009. It was a small pocket of land divorced from the rest of the farm holding by public roads. Although the land is called 'Nordman Croft' it does not appear to be registered croft land.

- 11.2 The holding of just over 2ha has been developed over the past eight years with a Christmas tree plantation and more recently a firewood business has been established which brings in timber from woodlands throughout the Highlands for processing on site, with deliveries to various locations, largely in Inverness-shire and Ross and Cromarty. The applicant has also submitted information advising that he intends to expand the cattle finishing business on site, using part of the shed and the adjacent small paddocks for wintering and calving.
- 11.3 As noted by both the Council's forestry officer and independent agricultural advisor, the erection of a house on site may be desirable and convenient for the applicant it is not essential. However after considering all submitted information, both consultees have determined that a house is not essential for the management of the land, as defined within the policy.
- 11.4 With regard to the exception to Policy 35 relating to a house being required in association with an existing or new rural business, again it is acknowledged that a house on site would be convenient in managing such activity. However, given the proximity of the site to the applicant's existing house in Inverness and the nature and scale of the business activities carried out, it is not deemed essential for a house to be on site to manage such activities.
- 11.5 In addition, it is considered that development of a house site, as proposed, would not be in keeping with the established pattern of development in the area whereby houses are generally close to the public road network. The site is remote from the access and working area around the shed and therefore does not relate well to this established development on site, or to the pattern of established development in the immediate area.
- 11.6 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

12. IMPLICATIONS

- 12.1 Resource – Not applicable
- 12.2 Legal –Not applicable
- 12.3 Community (Equality, Poverty and Rural) –Not applicable
- 12.4 Climate Change/Carbon Clever –Not applicable
- 12.5 Risk – Not applicable
- 12.6 Gaelic – Not applicable

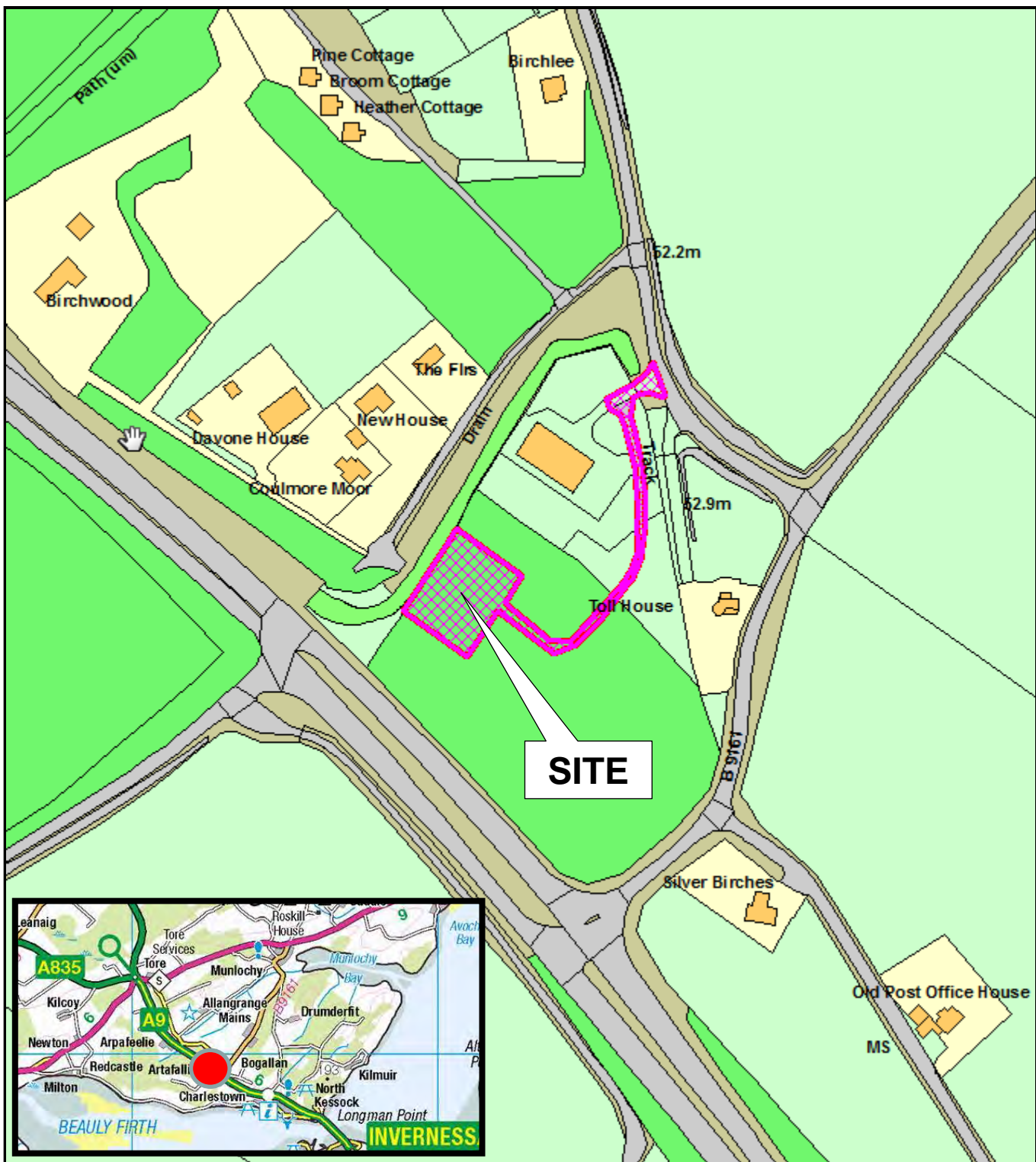
13. RECOMMENDATION

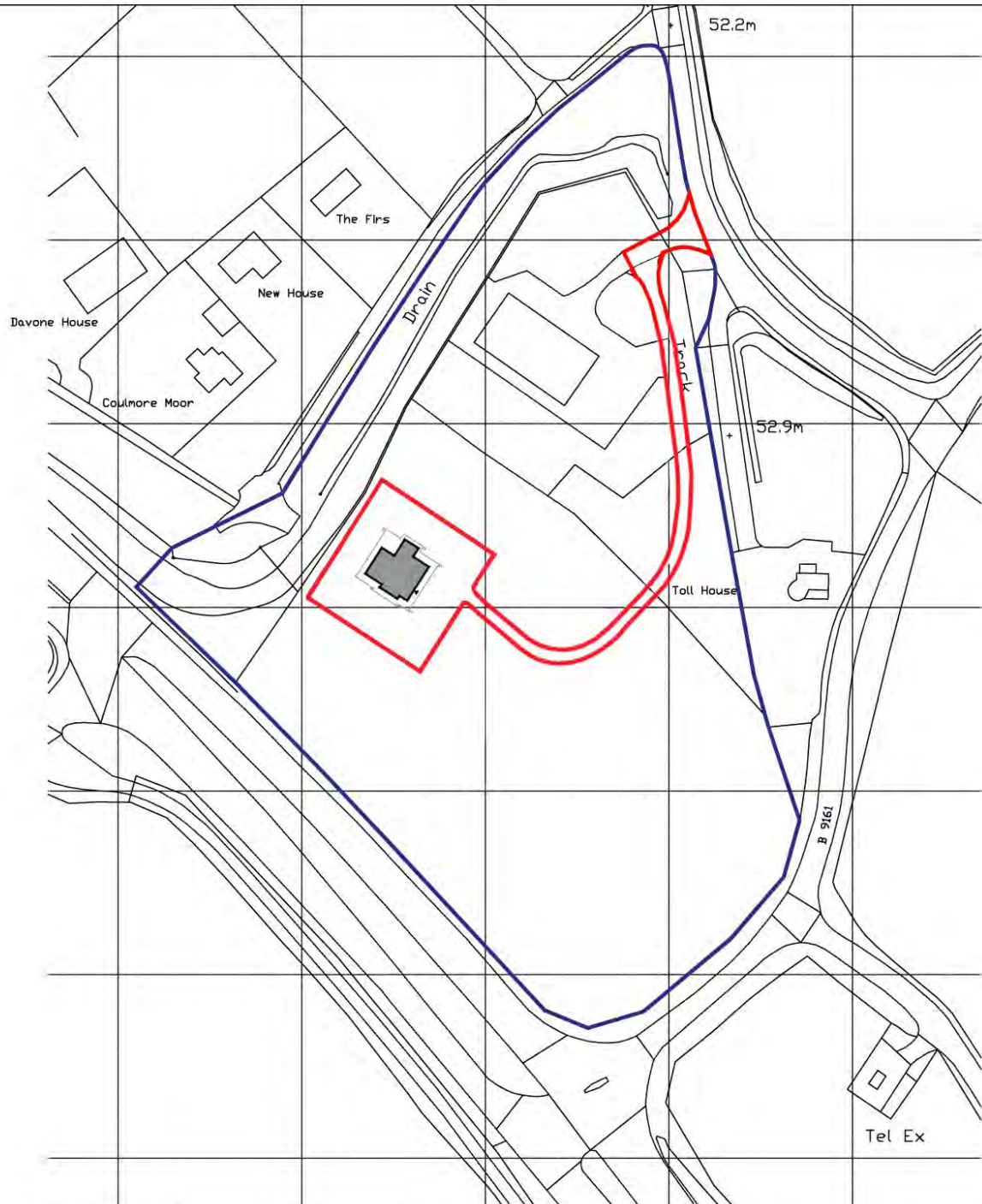
Action required before decision issued N

Subject to the above, it is recommended the application be **Refused** for the following reasons:

1. The proposal is situated within the Hinterland of Inverness where there is a presumption against single houses in the open countryside unless it can be demonstrated that they meet one of the exceptions to the policy as set out in the Housing in the Countryside Siting and Design Supplementary Guidance (March 2013). This proposal does not meet any of the exceptions listed within this policy guidance, specifically, it fails to demonstrate that the house is essential for land management purposes or that it is essential for the management of an existing or new business. Therefore the proposal is contrary to the provisions of the approved Highland wide Local Development Plan in general and policy 35 (Housing in the Countryside) in particular.
2. The development is contrary to policies 28 and 35 of the Highland-wide Local Development Plan and the Council's adopted Supplementary Guidance: Housing in the Countryside and Siting and Design (March 2013), as the proposal fails to demonstrate sensitive siting due to being prominently located on rising land close to the A9 trunk road. The development is set back and detached from the established agricultural shed at the site access to the land holding and does not respect the established settlement pattern where houses generally have frontages onto the network of minor roads. Therefore, the proposal is contrary to policies 28 and 35 of the Highland-wide Local Development Plan, which require proposals to demonstrate sensitive siting in keeping with local character.

Designation: Area Planning Manager - North
Author: Dorothy Stott
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Indicative Site Layout Plan





red line indicates extent of application site
 blue line indicates extent of other land in ownership of applicant

03.07.18 House/Access/Red Line location Amended	B	AG
26.10.17 Red Line Amended	A	KM

Date	Description	Rev	By
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Revision Description



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Client:
 Dietrich Pannwitz

Project:
 Erection of Dwelling House
 (Planning Permission in Principle)
 at Nordmann Croft, Artfallowie, North Kessock, IV1 3ZD

Drawing Title:
 Location Plan

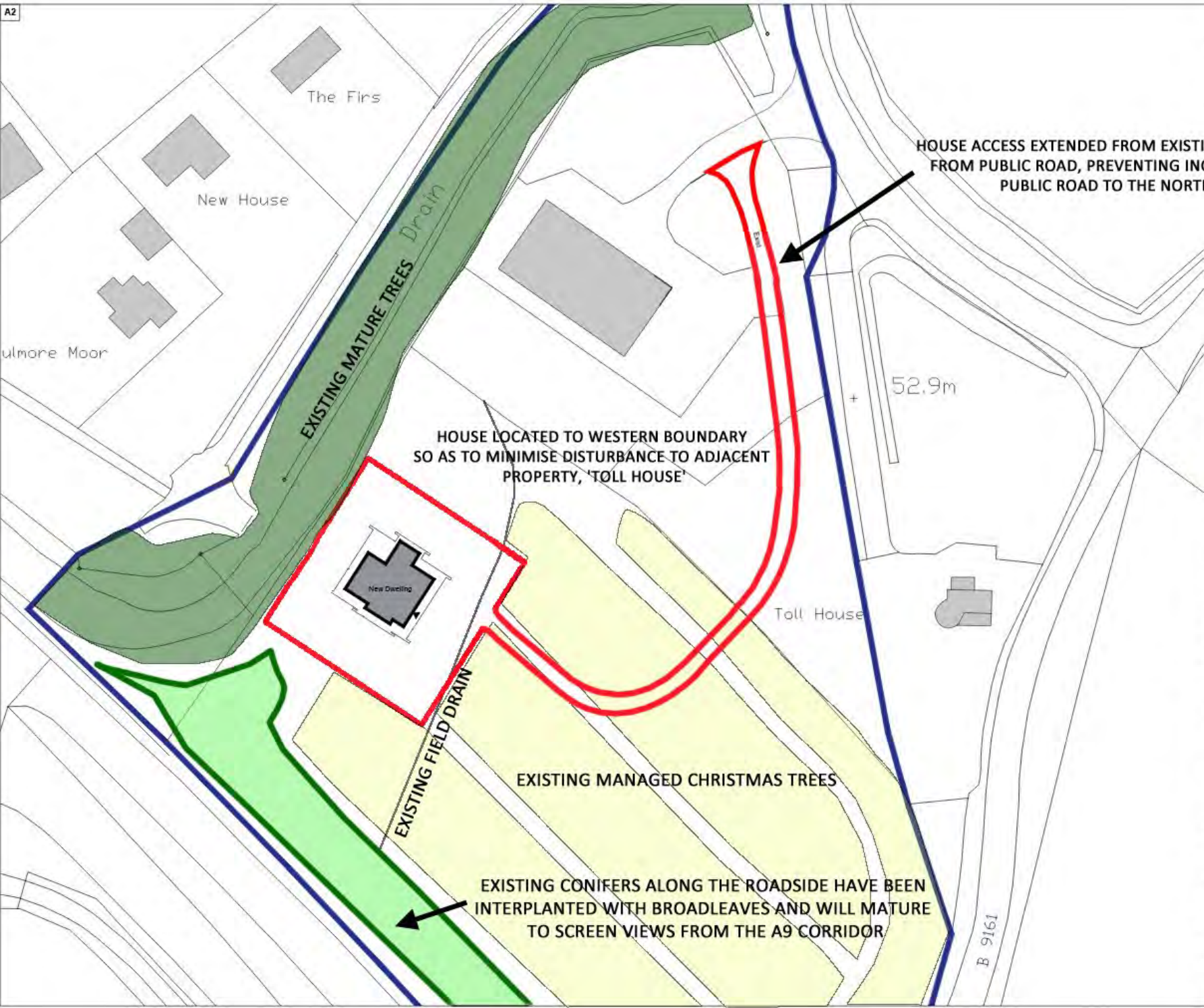
Drawing Number:
2017_0019-00

Revision: B
 Date: September 2017
 Scale: 1:1250 @ A3
 Drawn By: KM

Issue Status:
Planning



red line indicates extent of application site
blue line indicates extent of other land in ownership of applicant



The Firs

New House

ulmore Moor

EXISTING MATURE TREES
Drain

HOUSE LOCATED TO WESTERN BOUNDARY
SO AS TO MINIMISE DISTURBANCE TO ADJACENT
PROPERTY, 'TOLL HOUSE'

+ 52.9m



Toll House

EXISTING FIELD DRAIN

EXISTING MANAGED CHRISTMAS TREES

EXISTING CONIFERS ALONG THE ROADSIDE HAVE BEEN
INTERPLANTED WITH BROADLEAVES AND WILL MATURE
TO SCREEN VIEWS FROM THE A9 CORRIDOR

B 9161

25.10.17 Red Line Amended A KM

Date	Description	Rev	By
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Revision Description



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Client:
Dietrich Pannwitz

Project:
Erection of Dwelling House
(Planning Permission in Principle)
at Nordmann Croft, Artfalie, North Kessock, IV1 3ZD

Drawing Title:
**RE-DESIGN SHOWING
MITIGATION MEASURES**

Drawing Number:

Revision: **B**
Date: **June 2018**
Scale: 1:500 @ A2
Drawn By: KM / AG

Issue Status:
Planning