

Agenda Item	5.7
Report No	PLN/008/19

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 22 January 2019

Report Title: 18/04082/PIP, 18/04084/PIP and 18/04085/PIP
Muir of Allangrange Ltd
Land south-east of Allandown, Allangrange Muir, Muir of Ord

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Formation of house sites
18/04082/PIP – house plot 1
18/04084/PIP – house plot 2
18/04085/PIP – house plot 3

Ward: 09 – Black Isle

Development category: Local Development

Reason referred to Committee: Community Council objection

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 Planning permission in principle is sought for three house plots. An application has been submitted for each; references 18/04082/PIP (plot 1), 18/04084/PIP (plot 2) and 18/04085/PIP (plot 3). This report considers all three house plots.

2. SITE DESCRIPTION

- 2.1 The house plots are located approx. 230m east of the Hector Macdonald War Memorial and Mulbuie Primary School, and are positioned on the southern side of the single track public road linking the B9169 Leanaig Road and the A835 (Tore-Maryburgh roundabout). The site for the three house plots consists of a relatively flat area of agricultural land that has been used in recent years mainly to store a variety of redundant agricultural equipment and other items associated with its agricultural use. There are also three agricultural sheds in a poor state of repair within and at the edges of the site. The applicant is currently in the process of demolishing and clearing the disused buildings and items from the site.

3. PLANNING HISTORY

None found for this site

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour

Date Advertised: 03.10.2018

Representation deadline: 17.10.2018

Timeous representations: 1

Late representations:

- 4.2 Material considerations raised are summarised as follows:

- a) The area needs affordable housing and if granted should be subject to a stipulation that one or two of the houses be affordable.
- b) The junction at the monument is dangerous.

- 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 Ferintosh Community Council: **Object**

- Junctions and single track road network in the area not suitable for the extent of development proposed across all three phases shown in the planning application, in particular, the "glamping area". Concern also expressed regarding suitability of the junction with the war memorial for the extra traffic generated by the three house plots.
- Development not appropriate for the hinterland and Mulbuie settlement.
- The site is contaminated.

- The full extent of the proposal should have been mentioned in the advertisement of the application.

5.2 Development Plans: **No objection**

- The development accords with the re-development of brownfield land policy exception of policy 35 – Housing in the hinterland – of the Highland-wide Local Development Plan. The policy also accords with policy 3 – Other Settlements – of the Inner Moray Firth Local Development Plan.

5.3 Transport Planning: **No objection**

- As the three houses are replacing existing, albeit derelict facilities, Transport Planning does not foresee a significant intensification in the use of the road junction which serves several other farms and properties and is a through route. Owing to the status of the war memorial, which partially obscures visibility, we would not request that the application should be a lever for remedial works.

5.4 Contaminated Land: **No objection**

- Recommend condition requiring a contamination assessment of the site.

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
 35 - Housing in the Countryside (Hinterland Areas)
 42 - Previously Used Land
 65 - Waste Water Treatment
 66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan (as continued in force)**

Policy 3 – Other Settlements

6.4 **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)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

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 principal determining Development Plan policies of the Highland-wide Local Development Plan
 - b) compliance with policy 3 (Other Settlements) of the Inner Moray Firth Local Development Plan

Highland-wide Local Development Plan

- 8.4 The principal determining planning policies of the Highland-wide Local Development plan (HwLDP) include policy 28 (Sustainable Design), policy 35 (Housing in the Countryside – Hinterland areas) and policy 42 (Previously Used Land).
- 8.5 The site is located within the designated hinterland and so must be assessed against **policy 35 (Housing in the Countryside – Hinterland areas)** of the HwLDP and the associated Housing in the Countryside supplementary Guidance. The hinterland is an area of countryside close to main settlements subject to significant pressure for housing development. Within these areas there is a presumption against new housing development subject to certain exceptions. These exceptions are listed in the policy and further detailed within the Housing in the Countryside Supplementary Guidance. One exception is the re-development of derelict or brownfield land where a wider environmental benefit can be achieved through development.
- 8.6 The Housing in the Countryside Supplementary Guidance provides further detail in relation to meeting this exception and states that there is a presumption in favour of the redevelopment of previously used land which is now vacant or derelict. The guidance also states that development of derelict land is supported where the site is no longer used for its original purpose and where conversion to residential use would bring about an environmental benefit. The land subject to development must be significantly degraded by a former activity to the point where it can no longer be used productively without significant investment and remediation.
- 8.7 The three house plots are located on part of a land holding (Logie Farm) which has been covered in a variety of debris for a number of years. The remains of an older croft house and agricultural buildings in poor condition are also sited to the west/south-west of the proposed house plots. At present the site appears as having been significantly degraded by former activity, and as a result the site has an unattractive appearance and negative visual impact upon the environment. Furthermore, items such as machinery parts and barrels have been stored at the site, which may have resulted in land contamination. Whilst the applicant has been taking steps to remove some derelict items from the site which is welcomed the site

has been in a degraded condition for a considerable period and it is clear that financial investment is required to improve the condition and appearance of this site and undertake remedial work. The house plots proposed will act as a stimulus for the improvement of this area of land. In this case the house plots proposed would result in a net benefit to the environment at this location and the proposal is considered to accord with policy 35 of The Highland-wide Local Development Plan.

- 8.8 As well as according with policy 35, the development is also required to accord with **policy 28 (Sustainable Design)** of the Highland-wide Local Development Plan. Relevant to these cases, the policy states that all developments will be assessed as to the extent to which they are compatible with service provision, including roads, make use of brownfield land, impact on individual and community residential amenity and demonstrate sensitive siting in keeping with local character.
- 8.9 The application for three house plots is not considered to represent a significant intensification in the use of the single track road serving the site. The site when in agricultural use would have generated a level of traffic and at present is used by several properties plus farm vehicles. An existing access point from the public road is to be utilised and upgraded to SDB2 standard in order to serve the development. Visibility splays onto this straight section of road are in excess of 120m looking east and west. The upgrade of the access in order to provide a lay-by will also have the benefit of providing an additional passing place. The single track public road links to the B9169 to the west and the A835 to the east. While the geometry and visibility at the junction with the A835 raises no concern, visibility looking north with the B9169 junction to the west is obscured by the Hector MacDonald war memorial. Any improvements to visibility at this junction would involve works to remove part of this scheduled monument. This level of intervention is not considered justified by the three house plots proposed and Transport Planning has raised no objections on this basis. It is considered that this addresses the concerns raised by the Community Council and the representation lodged regarding the capacity of the road and in particular the junction with the B9161.
- 8.10 The settlement pattern in the area comprises of predominantly scattered individual properties and small groupings of properties. The three plots will create a small grouping close to the road, which is considered to be in keeping with the local character of the area. Screen planting is proposed at the east and south-west boundary of the plots to provide containment and a setting for the development. Although properties on the stretch of road serving the development generally sit separated from neighbours, the cluster of three properties is not an intensive level of development and presents no significant risk to visual amenity or the area's landscape character. The sites have ample separation from neighbouring residential properties and are not considered to result in adverse impact upon individual amenity.
- 8.11 The development is considered to present no significant technical or neighbour amenity issues and as such accords with the provisions of policy 28 of the HwLDP.

- 8.12 The development is considered to accord with **policy 42 of the HwLDP** Previously Used Land which is supportive of the re-development of brownfield sites subject to proper contamination assessment. The application acknowledges that the land requires contamination assessment and a condition shall be attached to any consent ensuring that this is carried out prior to the commencement of any works.
- 8.13 **Policy 3 (Other Settlements) of the Inner Moray Firth Local Development Plan**
- 8.14 **Policy 3 (Other Settlements)** of the Inner Moray Firth Local Development Plan (IMFLDP) identifies smaller settlements within the plan area where further housing development may help sustain a local facility such as a school or hall. Mulbuie is one of the settlements identified by this policy as being capable of expansion in order to support a local facility. In this instance the local facilities that could benefit from further housing development include Mulbuie Primary School and Mulbuie village hall. The policy demands that proposals meet a handful of criteria including being within active travel range of a community facility and respecting existing settlement patterns and character.
- 8.15 The house plots are located approx. 230m east of the school and hall, which is considered to be within active travel distance i.e. easily accessible via walking or cycling. Consistent with other recent permissions within active travel distance of Mulbuie Primary/Hall, a 1.2m wide rural style footpath shall be required along the public road frontage of the land within the applicants control. This is along the frontage of plots 1 and 2 together with a small area to the west. This will secure an enhancement to the public road at this location enabling pedestrians to keep outwith the public road and the path of oncoming traffic, and will encourage active travel in accordance with policy 3. There is no such footpath available to the west of the sites to the south of the road but areas of footpath will be provided as other approved plots to the west are developed which will provide a refuge for pedestrians and encourage active travel. As discussed above the site raises no significant concerns regarding fit with the existing pattern of development in the area or the existing infrastructure network in the area. The house plots have the potential to help sustain the school and hall and are considered to accord with the provisions of policy 3 of the IMFLDP.

Other material considerations

- 8.16 The location plan submitted with the application makes reference to a masterplan for Logie Farm and refers to three phases of development. The house plots comprise phase 1. Phase 2 consists of the conversion of the derelict farmhouse to accommodation and office space and construction of an agricultural building. Phase 3 refers to the investigation of a “glamping” area with associated offices and workers accommodation within the converted farmhouse.

The three applications under consideration are for house plots only and the assessment of these cases must relate solely to the housing development proposed. The “glamping” pods and the conversion of the existing derelict farmhouse require to be subject to separate planning applications where their Development Plan compliance will be assessed. The house plots under consideration do not award planning consent to the phase 2 and phase 3

development shown on the Location Plan. The concern raised in the Community Council response regarding future development of a glamping site cannot be taken into consideration in the assessment of these applications for house plots.

- 8.17 The representation lodged suggests that one or two of the houses should be affordable housing units. Affordable Housing policy requires that developments of 4 or more houses make an affordable housing contribution. Therefore, as these applications are for three houses in total, such a contribution is not applicable for this case. Furthermore, as this application was validated prior to 2nd November 2018, and the formal adoption of the Developer Contributions Supplementary Guidance November 2018, no education or community facility contributions can be sought.

9. CONCLUSION

- 9.1 The proposed house plots are located on brownfield land which has been significantly degraded by its former use and which currently has a negative impact upon the amenity of the area. The development proposed will result in a net benefit to the environment and is considered to accord with policies 28, 35 and 42 of the Highland-wide Local Development Plan. Furthermore, the site is located within close proximity to Mulbuie School and Mulbuie Hall and is therefore considered to accord with Policy 3 of the Inner Moray Firth Local Development Plan, which includes Mulbuie as a small rural settlement capable of expansion in order to sustain local facilities. No other significant technical or amenity issues are presented by the application and the proposal is considered acceptable in terms of all other applicable material planning 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

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

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development;
 - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
 - iv. details of access and parking arrangements; and
 - v. details of the proposed water supply and drainage arrangements.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Any details pursuant to Condition 1 above shall show a development featuring the following elements:
 - i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;
 - ii. a roof covering of natural slate;
 - iii. single storey or 1½ storeys in height;
 - iv. windows with a strong vertical emphasis;
 - v. a roof symmetrically pitched of not less than 35° and not greater than 45°; and
 - vi. predominantly rectangular in shape with traditional gable ends.

Reason: In order to respect the vernacular building traditions of the area and integrate the proposal into its landscape setting; in the interests of visual amenity.

3. No other development shall commence until the site access has been constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 09/01/2019), with:
 - i. the junction formed to comply with drawing ref. SDB2; and
 - ii. visibility splays of 2.4m x 120m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

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

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

4. Any details pursuant to condition 1 above shall show car parking spaces provided within the curtilage of the dwellinghouse and formed in accordance with The Highland Council's Access to Single Houses and Small Developments prior to first occupation, thereafter being maintained for this use in perpetuity. Provision, which shall exclude garages, shall be as follows:

- i. Two spaces per 1 to 3 bedrooms;
- ii. Three spaces per 4 to 5 bedrooms; and
- iii. Four spaces per 6 or more bedrooms.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

5. No development shall commence until a scheme to deal with potential contamination on site has been submitted to and agreed in writing by the Planning Authority. The scheme shall include:
 - i. the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A2:2017 Investigation of Potentially Contaminated Sites - Code of Practice;
 - ii. the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;
 - iii. measures to deal with contamination during construction works;
 - iv. in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;
 - v. in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

Thereafter, no development shall commence until written confirmation has been received that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority.

Reason: In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes on the site.

6. Any details pursuant to condition 1 above shall include a detailed Landscape Plan and Maintenance Programme, including details of the screen planting to be provided adjacent to the eastern field boundary and adjacent to the existing derelict farmhouse. The Landscape Plan shall be implemented in full during the first planting season following commencement of development, with maintenance thereafter being carried out in accordance with the Maintenance Programme. For the avoidance of doubt, any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

7. Any details pursuant to condition 1 above shall include details of a rural style footway, 1.2m in width, to be provided along the entirety of the land owned by the applicant adjacent to the public road serving the development hereby approved.

Reason: To enable pedestrians to keep outwith the public road and the path of oncoming traffic; in the interests of road safety, and to encourage active travel in accordance with policy 3 of the Inner Moray Firth Local Development Plan.

REASON FOR DECISION

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle 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 and 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 and 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 and 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.

Protected Species – Halting of Work

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

Signature:

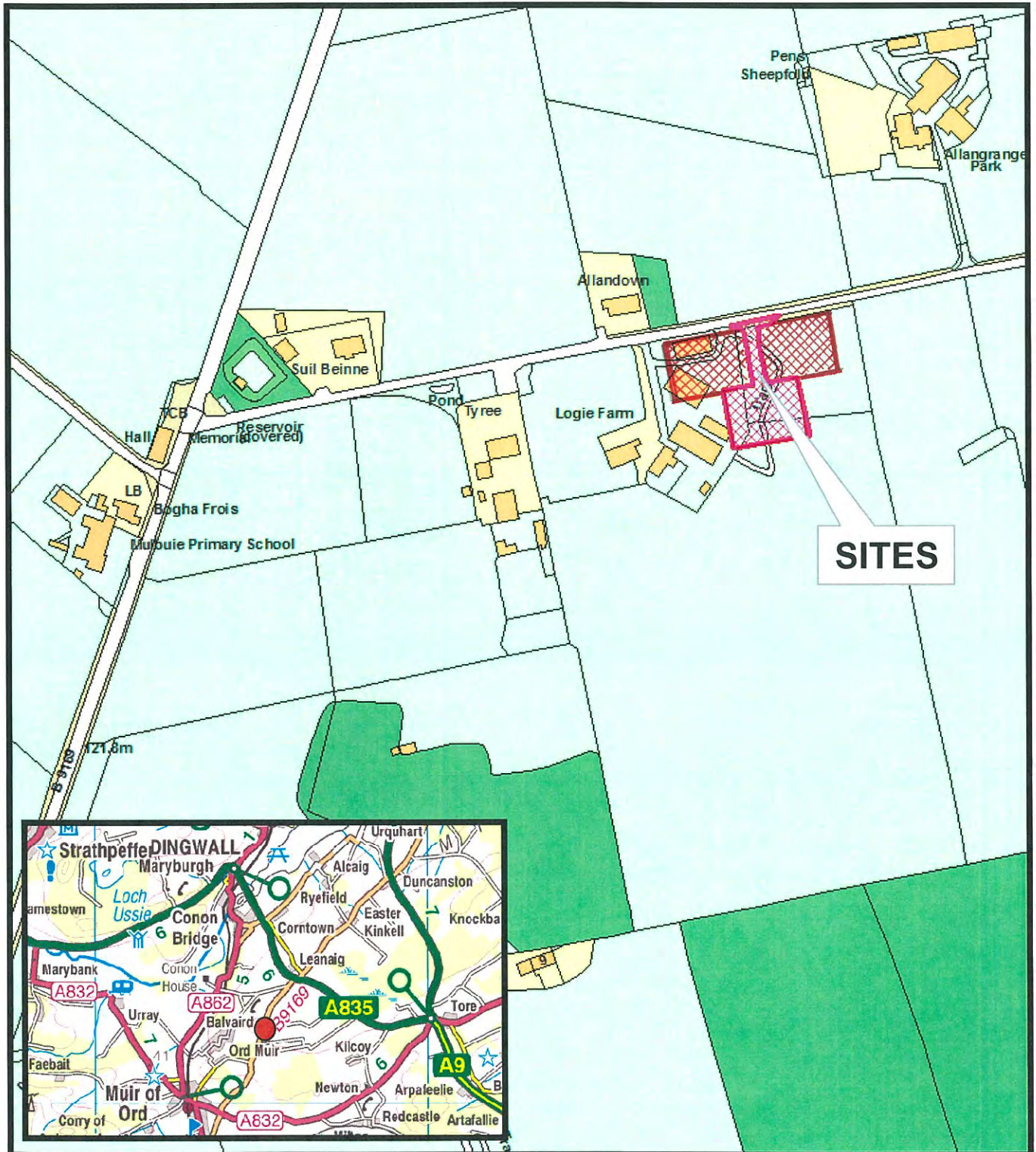
Designation: Area Planning Manager – North

Author: Rebecca Hindson

Background Papers: Documents referred to in report and in case file.

Relevant Plans:

- Plan 1 - Location Plan
- Plan 2 - Site Layout Plan 2018 125-003 (plot 1)
- Plan 3 - Site Layout Plan 2018 025- 004 (plot 2)
- Plan 4 - Site Layout Plan 2018 025- 005 (plot 3)



SITES



The Highland Council
Comhairle na Gàidhealtachd

Planning & Development Service

18/04082/PIP, 18/04084 & 18/04085

**Formation of three house sites (Plots 1, 2 & 3)
 at Land South East of Allandown,
 Allangrange Muir, Muir of Ord**

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