

Agenda item	<b>5.9</b>
Report no	<b>PLN/010/19</b>

## THE HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 22 January 2019

**Report Title:** 18/05203/PIP Land 60M SE of Shellcroft, Munloch

**Report By:** Area Planning Manager – North

### 1. Purpose/Executive Summary

1.1 **Applicant :** Mrs Robyn Myers

**Description:** Erection of house

**Ward:** 09 – Black Isle

**Development Category:** Local

**Reasons Referred to Committee:** 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 13 of the report.

### **3. PROPOSED DEVELOPMENT**

- 3.1 The application seeks permission in principle for the erection of a house and associated access and site services.
- 3.2 Pre Application Consultation: The proposed development was subject to Pre Application Advice in 2017 (17/03712/PREAPP). The response stated it was unlikely that a formal planning application would gain support as there was no justification for the siting of a house within the hinterland which met with any of the exceptions outlined in Policy 35 - Housing in the Countryside (Hinterland Areas).
- 3.3 There is no existing infrastructure on site.
- 3.4 Supporting Information: Private Access Checklist; Topographical survey and sections; Photographic Report; Design Statement.
- 3.5 Variations: None

### **4. SITE DESCRIPTION**

- 4.1 The site is located approximately 350m to the south-west of the village of Munloch. It is bounded to the north side by a single track public road and to the eastern side by the Little Burn watercourse. There is an overhead line running down the eastern side of the site. An existing private access track serving two properties around 180m to the south defines the south-west site boundary. There are two houses on the opposite side of the public road to the north and north-west. Undulating fields surround the site on the south side of the public road and the site itself is grassed and used for grazing, sloping down from the public road to the burn.

### **5. PLANNING HISTORY**

- 5.1 22.09.2017 17/03712/PREAPP – Erection of house - Pre-application advice non supportive  
20.02.2018 17/05270/PIP – Erection of house - Refused under Delegated Powers  
09.05.2018 18/00019/RBREF – Notice of Review - Dismissed

### **6. PUBLIC PARTICIPATION**

- 6.1 Advertised : Potential Departure and Unknown Neighbour  
Representation deadline : 07.12.2018  
Timeous representations : One objection  
Late representations : None
- 6.2 Material considerations raised are summarised as follows:
- a) Site not derelict as described. It is used for grazing sheep with well maintained stock proof fencing including a new gate;
  - b) Development would not constitute a wider environmental benefit as suggested in the Design Statement. Currently it retains its original use as grazing land and therefore has a productive current use;

- c) The definition of a housing group within the Council's policy is clearly defined as a minimum of three houses. There are currently only two houses and those do not have an immediately perceptible relationship. Mardaville sits to the north of the original croft some distance from Shellcroft with a field and burn between the two properties. The houses are also different in character. The proposal does not meet the Council's criteria for expansion of a housing group because there is no existing group present;
- d) It would be impossible to complete the proposed house development without forming inappropriate intrusion on the site as the Design Statement suggests could be achieved. The Council's Flood Risk Management (FRM) team previously withdrew its objection subject to a number of conditions, one of which was that no development or ground raising takes place on land below 7.00m AOD. As the proposed finished ground level for the proposed house site is shown as 8.15m AOD where the contour passing through the centre of the site is 7.00m AOD, this proves that the condition cannot be met and also contradicts the statement that the development would respect and acknowledge the existing topography;
- e) A further condition set out by the FRM team relates to site drainage. No percolation testing has been carried out. The field is regularly waterlogged at lower level where a natural spring is located. Any proposed drainage system would result in further intrusive work to facilitate a suitable installation;
- f) Concern that the assessed vehicle speed of 30MPH is inaccurate and underestimated, conveniently requiring a splay of 90m to be feasible, where it would be impossible to achieve to comply with higher and more realistic road speeds.

6.3 The letter of representation is 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). Access to computers can be made available via Planning and Development Service offices.

## 7. CONSULTATIONS

7.1 Scottish Water: No objection. Public water network available. No public waste water network.

## 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 29 Design Quality and Place-making

Policy 35 Housing in the Countryside (Hinterland Areas)

Policy 56	Travel
Policy 64	Flood Risk
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

## 8.2 **Inner Moray Firth Local Development Plan 2015**

Outwith 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)

### 9.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy 2014 – Paragraph 81

## 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 **Development Plan Policy Assessment**

The key considerations in this case are:

- a) compliance with the development plan and other planning policy;
- b) site servicing and flood risk; and
- c) planning history.

## 10.4 **Planning History**

The same applicant submitted a similar planning application for the same site last year which was refused as contrary to policy under delegated powers in February 2018. A Notice of Review was subsequently lodged which was dismissed by the Council's Planning Review Body on 9 May, 2018. There has been no material change in policy or Supplementary Guidance since that date.

## 10.5 **Development Plan Policy Assessment**

- 10.5.1 The site lies outwith any Settlement Development Area and is located within the designated hinterland as defined in the adopted Highland-wide Local Development Plan and Inner Moray Firth Local Development Plan. Therefore Policy 35 - Housing in the Countryside (Hinterland Areas) is the main policy of relevance in assessing this application. This states that there is a presumption against development within the designated hinterland area unless one of a number of named exceptions can be demonstrated.
- 10.5.2 The Design Statement submitted with the application argues that the proposal would comprise redevelopment of derelict land where a return to a natural state is not readily achievable and where environmental benefit can be achieved through development. It is argued that the original use was agricultural croft land as part of the former Shell Croft. Subsequently, it was used in association with the property of Shellcroft until 2009 when the house was sold and the application site retained and de-crofted. It is further submitted that although the land is used by a neighbouring farmer occasionally for grazing sheep this arrangement is informal and as the site is confined by two roads, a burn and an overhead line it could never be returned to productive agricultural use and has no identifiable current use, being degraded by the gradual reduction in ownership size.
- 10.5.3 In response, it is clear that the site is a small field in grazing use. There is no evidence that there have ever been any buildings or other uses on this land. It is evident from a site inspection that the site does not comprise or contain any derelict land. Furthermore, the development of the site for a house would not bring about a net environmental benefit. The development as proposed would introduce a new access and associated traffic; re-engineering of the topography of the site; and private waste water and surface water drainage systems. This will create net environmental detriment in a rural location outwith the village of Munlochy and run contrary to HwLDP policy 35 and SPP Paragraph 81 designed to protect pressurised rural areas, where there is a danger of unsustainable growth in car-based commuting and suburbanisation of the countryside.
- 10.5.4 Secondly, the Design Statement argues that the site is within an existing housing group but acknowledges that the 'group' referred to does not comply with the Council's definition. The Statement argues that together with the two existing houses, there is a perceptible relationship to the former croft as a whole and the proposed house could round off of a cohesive Housing Group within this clearly identified and contained area.

10.5.5 In response, there is provision within the Development Plan for the rounding off of existing housing groups as being an exception to the hinterland policy, which is further detailed in the adopted Housing in the Countryside and Siting and Design Supplementary Guidance. For this exception to apply:

- There must be at least 3 houses that are physically detached from one another;
- The houses must all have a perceptible relationship with one another and share a well-defined cohesive character;
- The development must be small-scale infill or rounding-off;
- The development must reflect the character, cohesiveness, spacing and amenity of the group;
- The development must not constitute ribbon or linear development along a public road or result in the coalescence of the housing group with another housing group;
- The development must not create an inappropriate intrusion into a previously undeveloped field or open land; and

The development must take account of the topography of the area.

10.5.6 As noted in this case, the proposal falls at the first and fundamental requirement as there are only two houses adjacent and therefore this does not constitute a group. In addition, those two houses are located on the other (north) side of the public road on more elevated land, situated approximately 75m apart and separated by a field and burn. It is therefore argued that they do not share a perceptible relationship with one another. Furthermore the development would create an inappropriate intrusion into a previously undeveloped field and in view of the requirements relating to flood risk the house would require to be sited close to the public road and the site engineered to modify its topography.

10.5.7 Other exceptions detailed in the Housing in the Countryside and Siting and Design Supplementary Guidance (again subject to complying with stipulated criteria) relate to the conversion of redundant traditional buildings; the replacement of an existing house which does not meet the requirements for modern living; the provision of a house where it is essential for land management purposes; the provision of affordable housing by a social housing provider to meet a demonstrable affordable housing need. The proposal clearly fails to comply with any of those exceptions.

## 10.6 **Access and Servicing**

10.6.1 The application proposes a new access point to be formed with the public road. Transport Planning responded to the previous application advising that they have no objection to this subject to demonstration that visibility splays of 2.4m x 90m in each direction can be achieved. The Site Plan submitted shows such visibility splays can be achieved over land within the applicant's control, or within the defined road verge.

10.6.2 The proposed site is to be served by a septic tank with outfall to the adjacent drain. This would require to be separately authorised through a SEPA CAR Licence and Building Warrant.

## 10.7 **Flood Risk**

10.7.1 At the time of the previous application, the developer addressed issues in relation to flood risk and drainage to the satisfaction of the Flood Risk Management Team, subject to conditions being attached to any permission in principle issued. The conditions require any development on site to be carried out at or above 7.00m AOD and that there should be no development or ground raising below this level. In addition a 6m buffer zone is required between the top of the bank of the watercourse and any development. No percolation testing has been carried out and therefore more detail on drainage design would be required.

10.7.2 It should be noted that on this basis, the indicative site layout submitted could not be achieved in compliance with the condition requiring no development or land raising below 7.00m AOD as the proposed house position as shown straddles the 7.00m AOD contour and the proposed house finished ground level is noted as 8.15m AOD. This would necessitate land raising of land below 7.00m AOD. In order to comply with the condition required by the FRM team, this requirement would push any proposed house higher up the slope and therefore closer to the public road.

## 11. **CONCLUSION**

11.1 The site is located within the designated hinterland where there is a presumption against development unless one of a number of listed exceptions can be demonstrated. As outlined above and as determined in relation to the previous application and Notice of Review earlier this year, it is not considered that the land is redundant or that its redevelopment would bring about a net environmental improvement to the wider area. Therefore this justification is not accepted. It is also not considered that the development would comply with the criteria set out within the adopted Housing in the Countryside and Siting and Design Guidance to be considered as rounding off or infilling an existing housing group. It is therefore considered that the principle of development cannot be supported as the application is clearly contrary to policies 28 and 35 of the Highland-wide Local Development Plan; and contrary to SPP policy 81.

11.2 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 No issued**

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

1. The proposal is contrary to Policies 28 and 35 of the adopted Highland-wide Local Development Plan; Paragraph 81 of Scottish Planning Policy; the adopted Inner Moray Firth Local Development Plan; and the Council's adopted Supplementary Guidance: Housing in the Countryside and Siting and Design; as the site is not located within or adjacent to an existing housing group as there are only two properties within close proximity to the site and those properties do not meet the criteria to constitute an existing housing group under the Supplementary Guidance definition. The site does not comprise brownfield land which has been significantly degraded whereby the development of the site would bring about a net environmental benefit to the area and therefore does not comply with the provisions of the adopted Housing in Countryside and Siting and Design Supplementary Guidance. In addition the proposal does not meet any other stipulated policy exceptions.

Signature: Dafydd Jones

Designation: Area Planning Manager - North

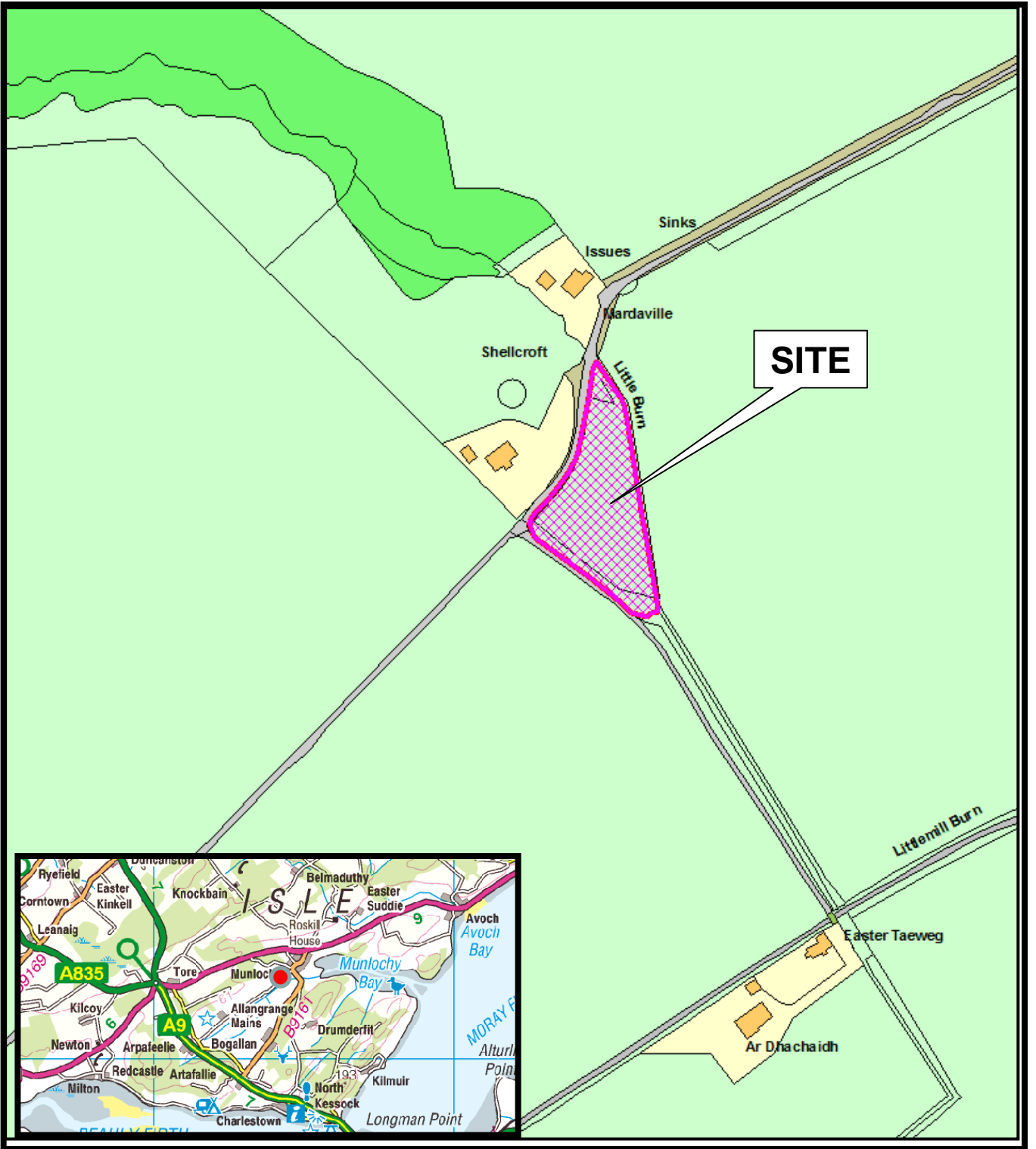
Author: Dorothy Stott

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

Relevant Plans: Plan 1 – Location Plan

Plan 2 – Indicative Site Layout Plan





**SITE**

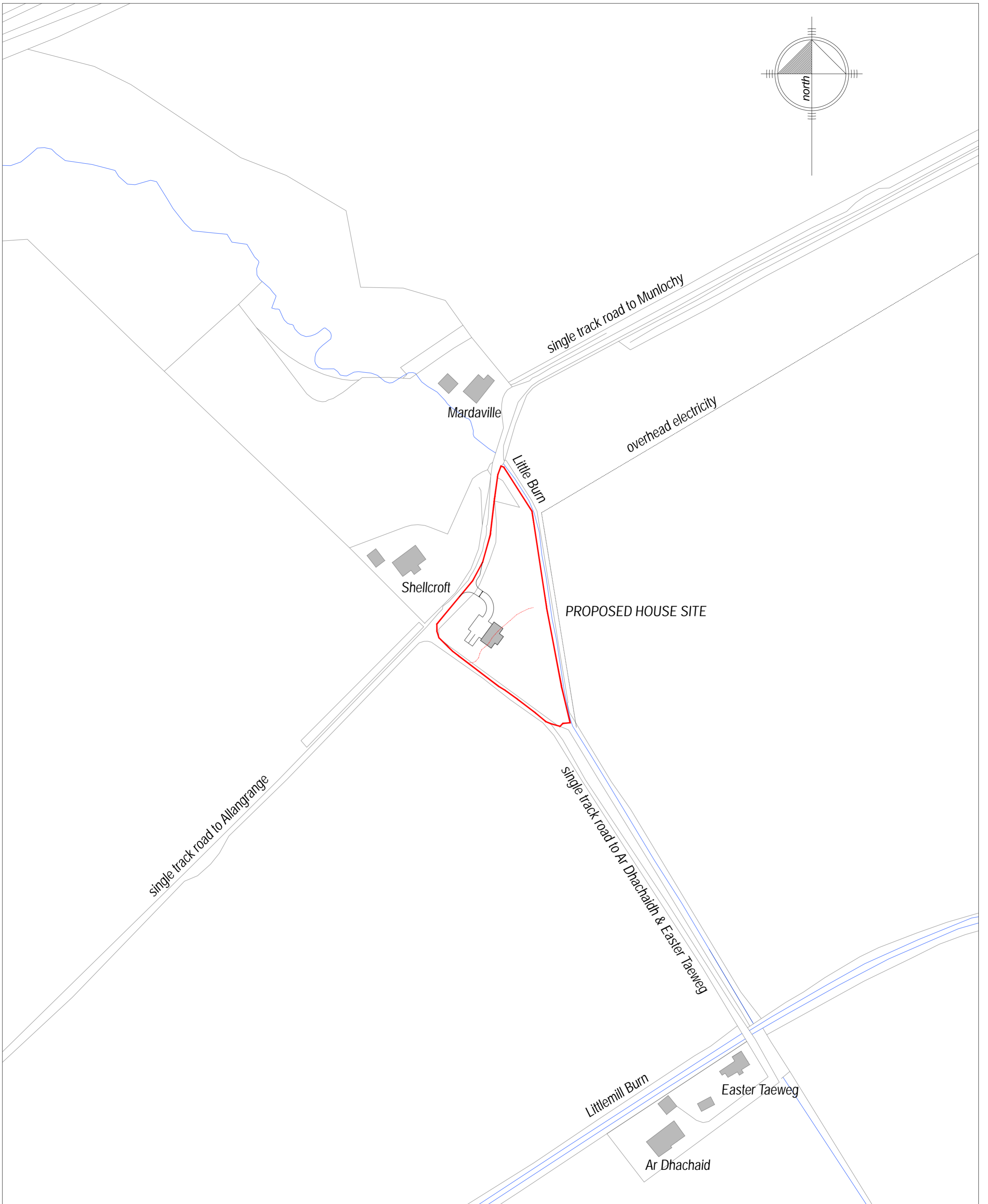



**The Highland Council**  
 Comhairle na Gàidhealtachd  
 Planning & Development Service

**18/05203/PIP**

**Erection of house  
at Land South East of Shellcroft, Munloch**





**PLANNING IN PRINCIPLE**

**Project:**  
 Proposed House Plot at  
 Land at Shellcroft, Munloch  
 IV8 8NY

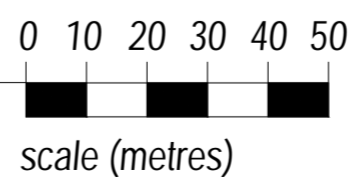
**Client:**  
 Robyn Myers

**Drawing:**  
 Location Plan

**Drawing No.:** 1812/002  
**Date:** 06/11/18

**Scale:**  
 1:1250 @ A2

01  
 002 Location Plan  
 scale 1:1250

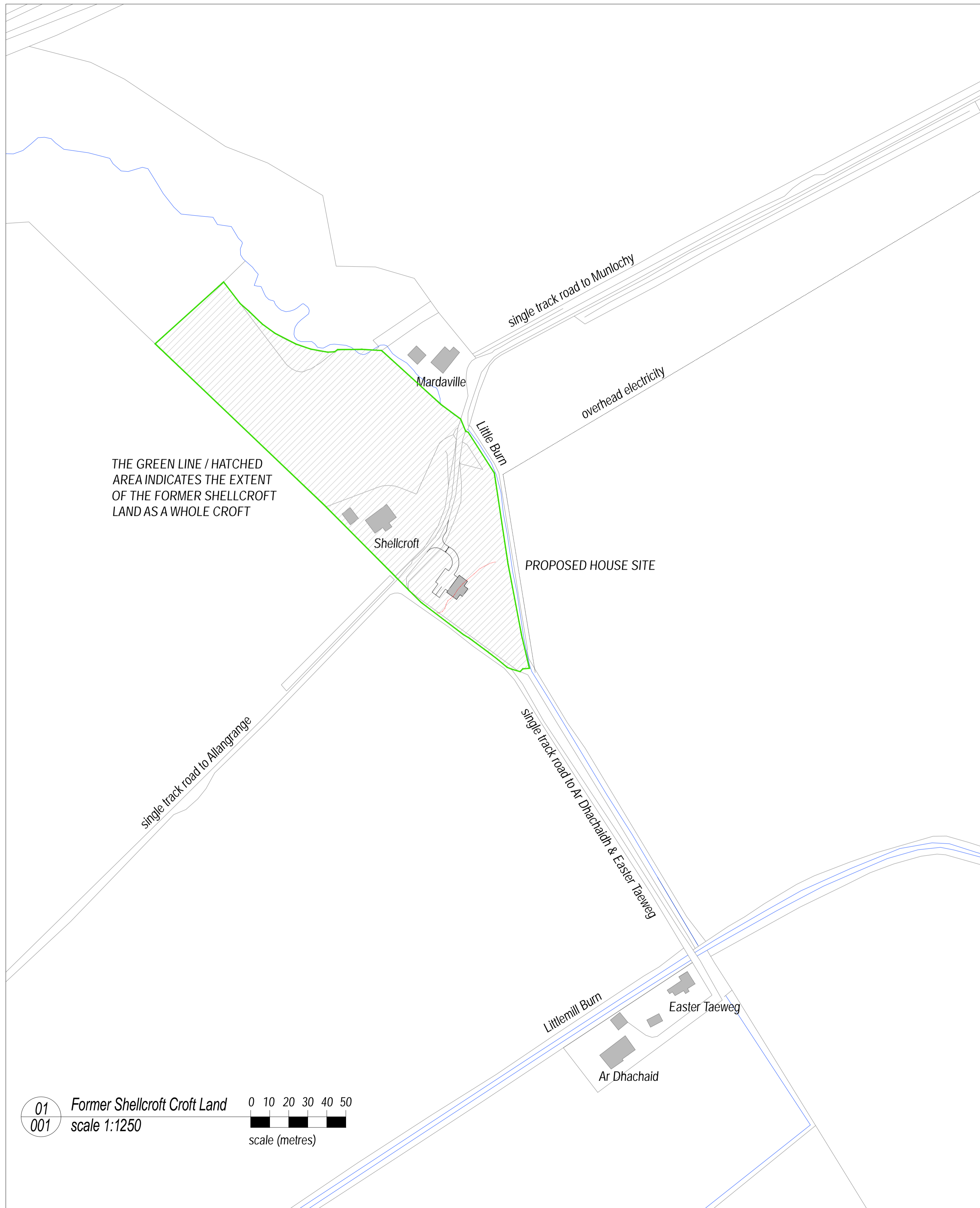
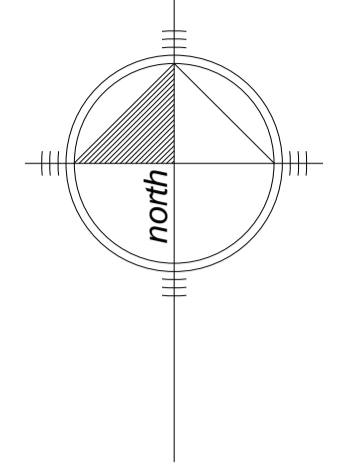


**Kenneth Cameron  
 Chartered Architect**

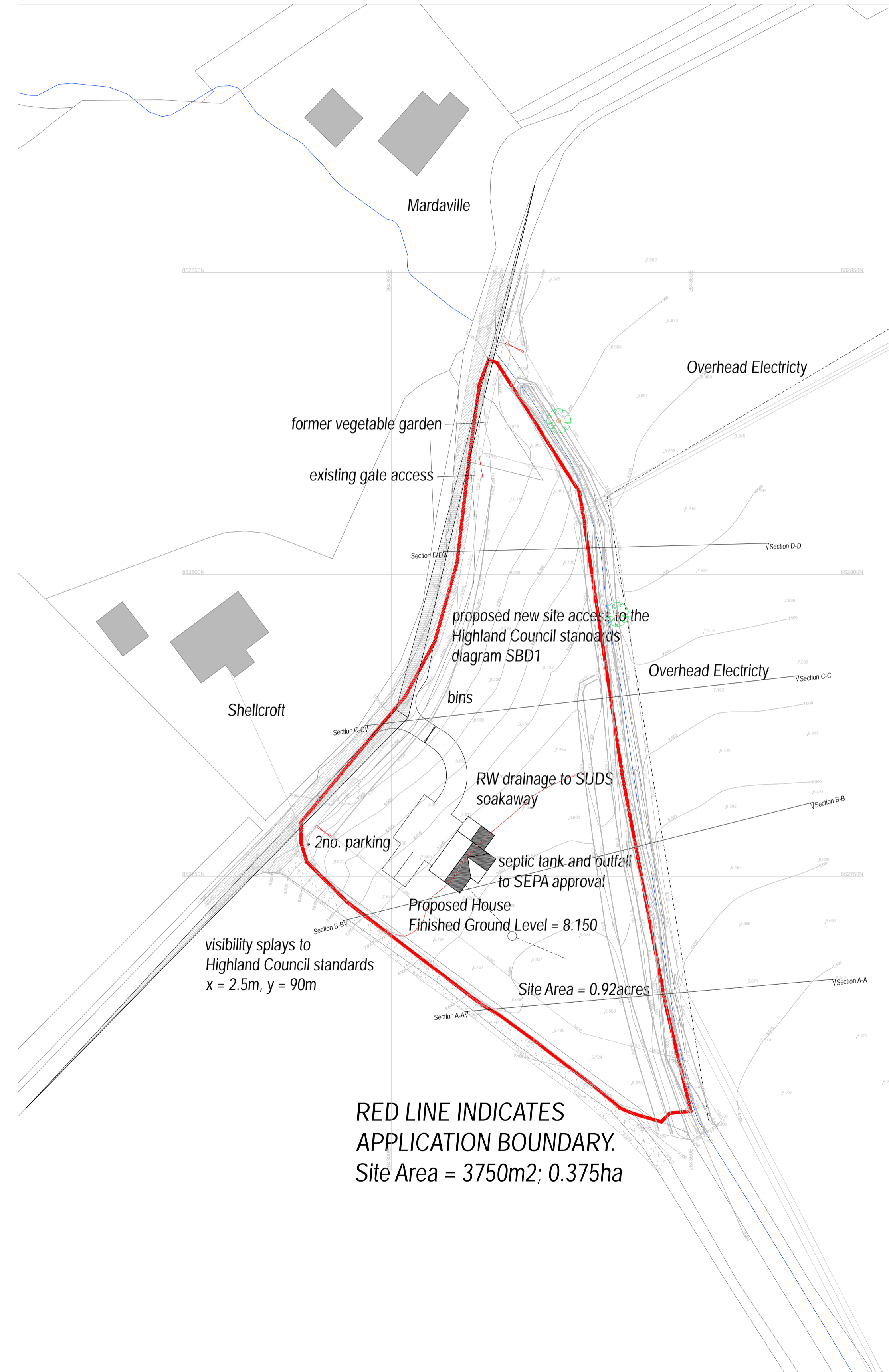
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 www.kcameronarchitect.co.uk

this is a  
**PLANNING IN PRINCIPLE**  
 drawing only and refers only  
 to land at Shellcroft, Munloch  
 IV8 8NY



01 Former Shellcroft Croft Land  
 scale 1:1250  
 0 10 20 30 40 50  
 scale (metres)



02 Block Plan  
 scale 1:500  
 0 10 20 30 40 50  
 scale (metres)

RED LINE INDICATES  
 APPLICATION BOUNDARY.  
 Site Area = 3750m<sup>2</sup>; 0.375ha

rev	desc	date



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**PLANNING IN PRINCIPLE**

Project:  
 Proposed House Plot at  
 Land at Shellcroft, Munloch  
 IV8 8NY

Client:  
 Robyn Myers  
 Drawing:  
 Proposed Plans

Drawing No.: 1812/001  
 Date: 06/11/18  
 Scale: 1:500 / 1:1250 @ A1