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| Agenda Item | 6.6        |
| Report No   | PLS/083/19 |

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 29 October 2019

**Report Title:** 19/03116/PIP: Mr John Birrell  
Delmore Bungalow, Inverness

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

### Purpose/Executive Summary

**Description:** Erection of house

**Ward:** 13 - Inverness West

**Development category:** Local

**Reason referred to Committee:** Objections from more than 5 households

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

### Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 The proposal seeks planning permission in principle for the replacement of a house, Delmore Bungalow, which used to be located on the site. It was a 1½ storey house erected about 1958 and was located on the northwest boundary of the site, close to the steep embankment which adjoins the railway line. A flooding event occurred in 2011 which affected the stability of the embankment and resulted in Network Rail taking measures to stabilise the embankment. The property suffered structural damage due the landslip on the embankment and was demolished.
- 1.2 Due to the flooding event the applicant wishes to relocate the proposed house back from the top edge of the embankment and the indicative site plan shows a footprint of a house approximately 20m south of the original house. A cross-section has been submitted to show the indicative ground level of the proposed house as well as the former house.
- 1.3 Supporting Information: Design and Planning Statement, and Title Information

## **2. SITE DESCRIPTION**

- 2.1 The site is located at Delmore, west of Inverness, and is to the south side of the A862 and the railway line. The site is positioned above the road and railway, sloping from south to north. It is edged by trees to the north and east, and is more open to the south. Access is from a private track to the west. Delmore Bungalow was positioned in the northwestern part of the site, and its foundations and the driveway still remain along with the garden on the northeast side of the house. The remainder of the site to the southeast is a field which rises gradually to the south.

## **3. PLANNING HISTORY**

- |     |            |  |                             |
|-----|------------|--|-----------------------------|
| 3.1 |            | 19/00036/PIP Erection of replacement house           | Application Withdrawn       |
| 3.2 |            | 19/01802/PIP Erection of house                       | Application Withdrawn       |
| 3.3 | 02.02.2018 | 17/05809/FUL - Slope stability works by Network Rail | Planning Permission Granted |

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: Schedule 3 development (14 days)  
Date Advertised: 02.08.2019  
Representation deadline: 16.08.2019
- Timeous representations: 9  
Late representations: 9

- 4.2 Material considerations raised are summarised as follows:
- a) Contrary to the development plan as site within the Hinterland and aims to avoid suburbanisation of countryside
  - b) Vehicular access to the site – the existing access leads onto a private road in poor condition and may give rise to a temporary road entrance onto the public road further to the south (subject of withdrawn application 19/01802/PIP) which is not suitable for construction phase.
  - c) Increase in traffic along road via Woodside Crescent or private road with access over railway crossing onto A862. Concern about impact of construction traffic on road surface.
  - d) Delmore been empty for years and curtilage much smaller than 9.5 acres quoted. New house site was never in the curtilage of the house.
  - e) Precedence for further housing on land within the ownership of the applicant
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam).

## 5. CONSULTATIONS

- 5.1 **Transport Planning Team:** No objections in terms of use of existing access.
- 5.2 **Forestry Officer:** No objections
- 5.3 **Development Plans Team:** Do not consider that Developer Contributions will be required for this proposal. The proposal presents a replacement of an existing dwelling; it is not going to place net additional pressure on infrastructure that would normally be subject to Developer Contributions.
- 5.4 **Network Rail:** No objections
- 5.5 **Scottish Water:** No objections and public water supply from Glenconvinth Water Treatment Works. There is Scottish Water infrastructure within the site and need to liaise with them.

## 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
  - 31 - Developer Contributions
  - 35 - Housing in the Countryside (Hinterland Areas)
  - 65 - Waste Water Treatment
  - 66 - Surface Water Drainage
- 6.2 **Inner Moray Firth Local Development Plan 2015**
- No specific policies apply

### 6.3 **Highland Council Supplementary Planning Policy Guidance**

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

Developer Contributions (March 2013)

Flood Risk and Drainage Impact Assessment (Jan 2013)

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

## 7. **OTHER MATERIAL POLICY CONSIDERATIONS**

### 7.1 **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 key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) siting and design
- c) infrastructure
- d) access
- e) any other material considerations.

### **Development plan/other planning policy**

8.4 The site lies within the Hinterland as defined in the Inner Moray Firth Local Development Plan. Policy 35 of Highland-wide Local Development Plan (HwLDP) is relevant and presumes against housing in the open countryside unless it meets one or more of the relevant criteria mentioned in that policy. Policy 35 links to the Supplementary Guidance on Housing in the Countryside and Siting and Design, which provides further guidance on the criteria and exceptions to this presumption.

8.5 The Supplementary Guidance recognises there are opportunities for the replacement of an existing house which does not meet the requirements for modern living. A case should normally be made why the existing house is not reasonably or economically capable of being reinstated / renovated to a habitable condition for occupation. In this instance the house was demolished in 2011 due to structural damage following a landslide in July 2011.

- 8.6 Normally, the siting of the new house should be within the same immediate curtilage of the original house. In this instance, it is considered that the proposed new house is outwith the curtilage of the original house, but very close to it. Therefore, it is not a straight replacement house which would normally be considered to accord with the exceptions – such as the rehabilitation or replacement of redundant buildings - as set out in the Supplementary Guidance to Policy 35. The proposal is accordingly not one which at its initial assessment complies with Policy 35. However, given the close spatial relationship between the original house and the proposed house site, it is considered that the proposal would be a small and acceptable exception to the normal criteria used for assessing housing in the countryside in the hinterland around Inverness.
- 8.7 The Supplementary Guidance does allow for the provision of a replacement house, noting that where a recently inhabited or habitable house is destroyed by fire or a similar accident, planning permission may be granted for a replacement in situ; that the resultant footprint should not result in an excessive increase on that of the original building; and that the siting of the new house must be within the same curtilage of the original house, and only sited within the curtilage, where benefit to the landscape setting can be achieved.
- 8.8 In this instance, it is assessed that the land instability at the railway embankment on the northern side of the original house, with the resultant removal of the house, the close proximity of the proposed house to the original house (around 20m), and this position very close to the original house curtilage, are appropriate and acceptable reasons to allow for a small variation to the exceptions set out in the Supplementary Guidance to Policy 35.
- 8.9 It is considered that it would be unreasonable to recommend the construction of a replacement house for refusal (albeit on an indicative footprint in the current application), particularly when this re-positioned building has been set back from an embankment which Network Rail has undertaken stabilisation works to in order to safeguard the railway. The siting of the new house around 20m to the south of the original house is considered to be in reasonably close proximity to the original house and would represent a better location in terms of setting and the landscape. As a result the proposal is viewed as complying with policy.
- 8.10 It is not considered that allowing for a replacement house in this location would pre-judge further housing in the immediate area; while any additional housing proposals would have to be assessed on their merits, it is not assessed that there are likely to be opportunities here for additional infill, or rounding off, of an existing housing group, the development of housing in a garden, or the conversion of traditional building to a house, which would meet the exceptions to Policy 35.

### **Siting and Design**

- 8.11 Although the application is for planning permission in principle, the location of the house site is a consideration in terms of Policy 28, which takes into account the impact on individual and community residential amenity and the siting of the development. The indicative house position is approximately 20m to the south of

the original building position. This adjustment in position is not considered to have an impact on the amenity of surrounding properties, the closest of which is located around 100m to the southwest.

### **Infrastructure**

- 8.12 As an application for planning permission in principle there are no details of the drainage of foulwater, or surface water drainage from the site. The applicant owns the site and the surrounding land, and given this and the original house having foul and surface water drainage solutions, it is considered that appropriate foul and surface water drainage solutions can be achieved within the site. These technical details can be addressed by conditions.

### **Access**

- 8.13 The proposed location of the vehicular access will be the existing access serving the former Delmore Bungalow. The road leading to the site is a private road, which leads from the end of public road to the southwest (at the property Brenham) northeast down towards the railway at Delmore. The applicant has a legal right of access across this road and the applicant intends to use this private road and the public road for access to the house, including the construction phase. The public road stretches from the property Brenham east past the properties of Wyvis View and Blackpark Farm House and towards Woodside Crescent. The Representations have suggested that the construction phase may give rise to an application for the construction of a temporary access leading east from the site and then up the field and exiting close to Croit lain to the east, which formed part of application 19/01802/PIP. This does not form part of the current proposal and any application for this would be assessed on its own merits.

### **Other material considerations**

- 8.14 There are no other material considerations.

### **Non-material considerations**

- 8.15
- Size of house curtilage

### **Developer Contributions**

- 8.16 As this proposal is for a replacement house it would be unreasonable to request the payment of any Developer's Contributions.

## **9. CONCLUSION**

- 9.1 The proposal is for the development of a house on land immediately adjacent and to the south of a former house which was removed following land subsidence to the north. It is not considered that this strictly complies with the requirements of the Supplementary Guidance associated with Policy 35 Housing in the Countryside (Hinterland areas), as it is not a straight replacement. However, in assessing the circumstances of the removal of the original house as a result of natural land slippage; the siting of the replacement house close to the original house curtilage; and the resultant sensitive siting and setting in the landscape; the provision of a

house on the site is assessed as being a small variation to the exceptions set out in the Supplementary Guidance to Policy 35, and the proposal is therefore consistent with and appropriate and acceptable to, the Development Plan.

- 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 when taken in the round and taking into account all other applicable material considerations.

## 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

|   |   |
|---|---|
| <b>Action required before decision issued</b> | 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. 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.
  - vi. cross-sections through the site to minimise the underbuild to the house

For the avoidance of doubt, whilst the permission is in principle and the design, including its footprint is hereby not approved, the house shall be located using the indicative building position as shown on the approved Site Plan No. PL09 Rev A submitted on 19th July, 2019, and Site Section Plan No. PL07 docquetted hereto.

**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, 1½ or 1¾ storeys in height;
  - iv. windows with a strong vertical emphasis;
  - v. a roof symmetrically pitched of not less than 40° 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 development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
  - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
  - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.



Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

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 the approved landscaping works are properly undertaken on site.

4. No development shall commence until full details of all foul drainage infrastructure (including treatment plant and soakaway locations) have been submitted, to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with the approved details.

**Reason:** In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

5. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

6. No development shall commence on site until a written specification for the removal of any remaining structures, foundations, footings and hardstanding associated with the former Delmore Bungalow, and reinstatement works to these areas, including a timetable for undertaking the works, shall have been provided for the agreement in writing of the Planning Authority. The development shall thereafter be undertaken in accordance with the agreed details.

**Reason:** In the interest of visual amenity and to ensure the area is tidied up as necessary.

## **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 when taken in the round and when taking into account all other applicable material considerations.

## **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION**

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**

### **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](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.

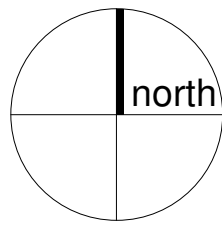
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. 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](mailto:env.health@highland.gov.uk) for more information.

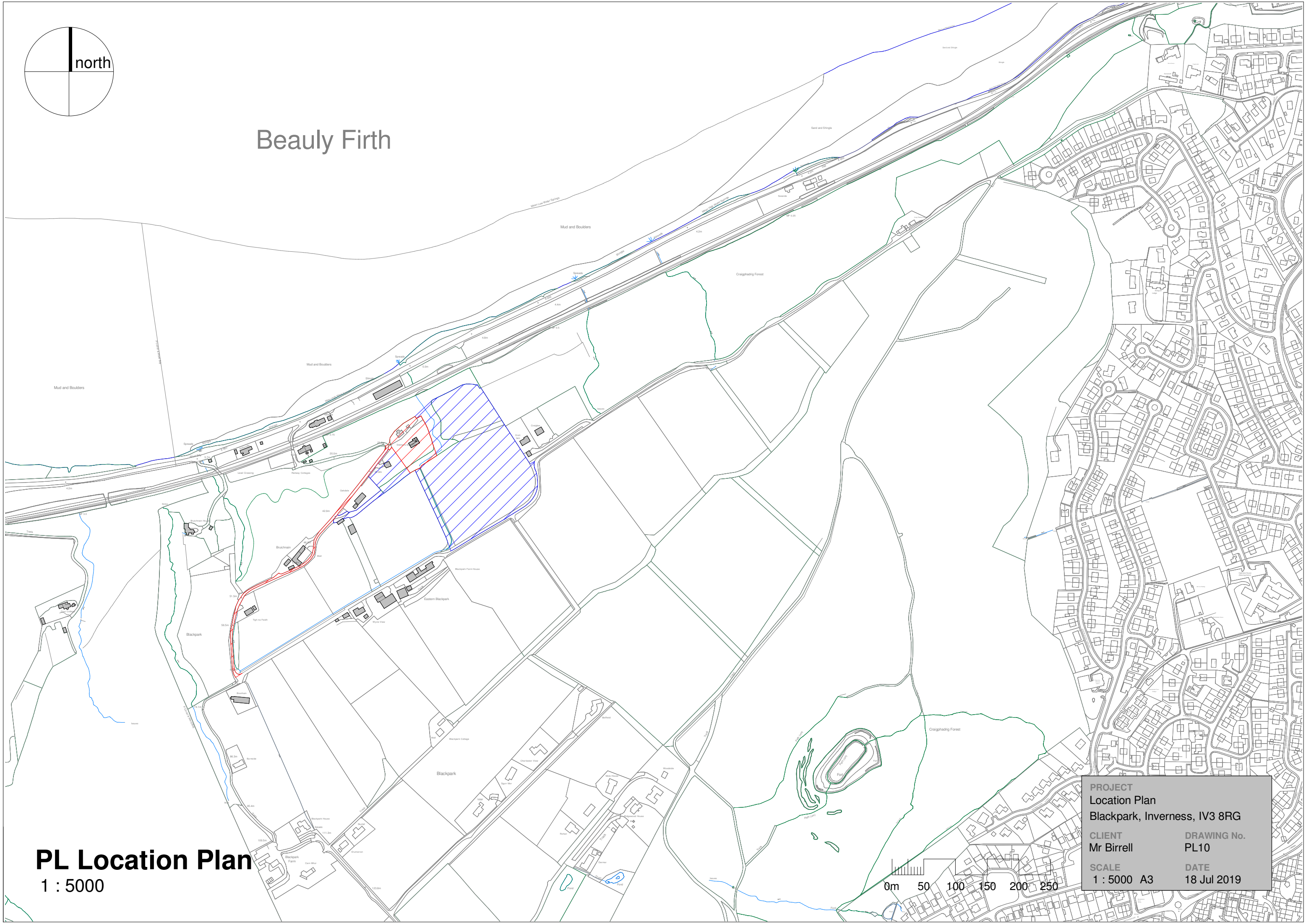
### **Protected Species – Halting of Work**

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

Signature: David Mudie  
Designation: Area Planning Manager – South  
Author: Keith Gibson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - PL10 REV A Location Plan  
Plan 2 - PL09 REV A Site Layout Plan  
Plan 3 - PL07 Site Section Layout



# Beauly Firth

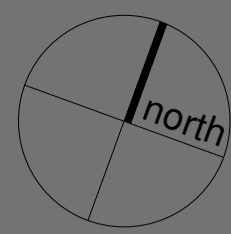


## PL Location Plan

1 : 5000



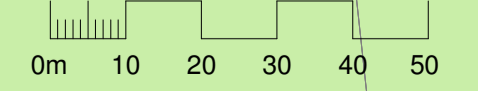
|                               |                    |
|-------------------------------|--------------------|
| <b>PROJECT</b>                |                    |
| Location Plan                 |                    |
| Blackpark, Inverness, IV3 8RG |                    |
| <b>CLIENT</b>                 | <b>DRAWING No.</b> |
| Mr Birrell                    | PL10               |
| <b>SCALE</b>                  | <b>DATE</b>        |
| 1 : 5000 A3                   | 18 Jul 2019        |

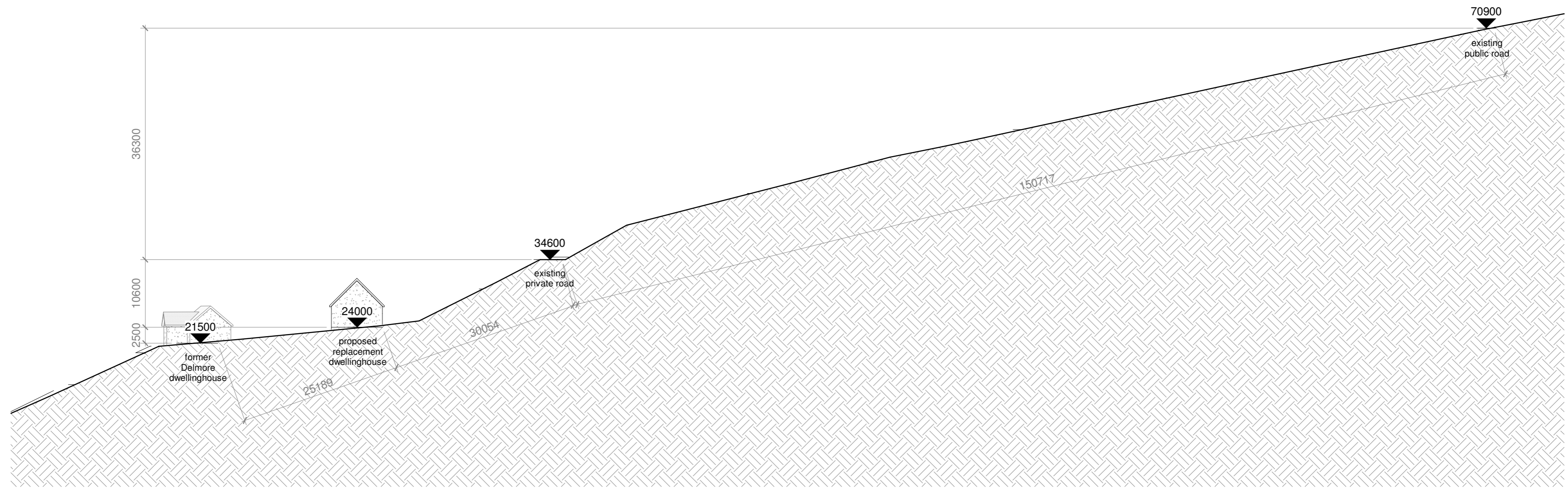


existing public road access to site to comply with guidance 'Access to Single Houses and Small Housing Developments', achieving a 2.4 x 215m visibility splay

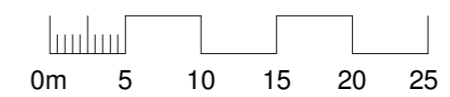
**PL Site Plan**  
1 : 1000

PROJECT  
Site Plan  
Blackpark, Inverness, IV3 8RG  
CLIENT  
Mr Birrell  
SCALE  
1 : 1000 A1  
DRAWING No.  
PL09  
DATE  
18 Jul 2019





**PL Site Section 1**  
1 : 500



|                               |                    |
|-------------------------------|--------------------|
| <b>PROJECT</b>                |                    |
| Site Section                  |                    |
| Blackpark, Inverness, IV3 8RG |                    |
| <b>CLIENT</b>                 | <b>DRAWING No.</b> |
| Mr Birrell                    | PL07               |
| <b>SCALE</b>                  | <b>DATE</b>        |
| 1 : 500 A2                    | 28 Jun 2019        |