

Agenda Item	6.3
Report No	PLS-059-20

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 08 December 2020  
**Report Title:** 20/01714/FUL: Mr James Macnaughton  
Glenmamie, Lochailort, PH38 4NA  
**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Change of use to site 4 holiday letting pods and parking  
**Ward:** 11 – Caol and Mallaig  
**Development category:** Local  
**Reason referred to Committee:** Member Request for Referral

### Recommendation

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

## **1. PROPOSED DEVELOPMENT**

- 1.1 This proposal is for the siting of four holiday letting pods with associated car parking area, septic tank and soakaway. The pods are described as 'wigwam pods' with a footprint of 3m x 4.8m, oval roof extending to 2.7m in height. Two of these units are currently in the final stages of installation within the site and include a small area of raised decking to the front of each pod.
- 1.2 The site is currently accessed via an existing agricultural access which extends on either side of the A830 trunk road (eastwards to the site and westwards towards the bay).
- 1.3 Pre Application Consultation: None
- 1.4 Supporting Information: None
- 1.5 Variations: None

## **2. SITE DESCRIPTION**

- 2.1 The site comprises a fairly well contained area to the east of the A830 trunk road at Glenmamie. The pod site is set down slightly from the trunk road and is set against the rising rocky landform to the north, south and east. The site is served by an existing access track set to the north west corner of the site. The access track slopes gently down from the trunk road into the site. The site backs on to the Railway line which runs between Fort William and Mallaig.

## **3. PLANNING HISTORY**

- 3.1 None

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: Unknown Neighbour, Schedule 3 Development  
Date Advertised: 21.05.2020  
Representation deadline: 04.06.2020  
  
Timeous representations: 0  
Late representations: 0
- 4.2 Material considerations raised are summarised as follows:  
None
- 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 **Environmental Health:** No response

5.2 **Flood Risk Management Team:** No objection subject to condition.

### **Flood Risk**

Advise that SEPA's Flood Map indicates that the application site lies adjacent to predicted 1 in 200 year flood extents of Loch nam Uamh and so is potentially at medium to high risk of flooding from the Loch.

The Map shows pockets of surface water in and adjacent to the site; FRMT are satisfied that surface water can be managed by an appropriately-designed onsite surface water drainage system.

A small watercourse, too small to have been included in the modelling for SEPA's Flood Map, is culverted under the adjacent railway line and runs into the site to the south of the pods. Given its small catchment and distance from the pods FRMT are satisfied that flood risk to the development from this watercourse will be low.

The application is for 4 holiday letting pods, classified as a "Most Vulnerable" land use within SEPA's Land Use Vulnerability Guidance and, in mitigation, the pods should be located outwith the 1 in 1000 year plus climate change flood extents of the Loch. FRMT understand the 1 in 1000-year still water flood level for this stretch of coastline is 4.13mAOD. FRMT require that a freeboard of 600mm is added to this level when setting ground levels for the development, and a further 250mm when setting Finished Floor Levels (FFLs) in order to allow for the future impacts of climate change. FRMT require the pods to be located on ground at or above 4.73mAOD (1000 year level plus freeboard) with the FFLs of the pods set no lower than 4.98mAOD; these levels should be set by condition.

In April 2019, SEPA published their "Climate Change Allowances for Flood Risk Assessment in Land Use Planning" document, viewable online at [https://www.sepa.org.uk/media/426913/lups\\_cc1.pdf](https://www.sepa.org.uk/media/426913/lups_cc1.pdf). As the application site falls within the Argyll Region, FRMT strongly recommend that the Applicant applies the appropriate climate change allowance of 0.86m, in which case the FFLs should be set at 5.59mAOD (i.e. still water level of 4.13mAOD, plus 600mm freeboard plus 860mm climate change allowance).

FRMT advise no topographic information has been supplied to aid assessment of flood risk to the development. However, Ordnance Survey mapping indicates that the pods will be located on ground around the 10m contour; FRMT are therefore satisfied that the flood risk to the site from the Loch will be low.

### **Drainage**

FRMT advise that details of the surface water drainage arrangements for the development should be included on site plans.

5.3 **Lochaber Disability Access Panel:** Unable to support or fully comment on the proposals due to the lack of floor plans included with the application. Request for further information to provide comment. General recommendation for all paths to and from the pods to be created using a hard bound smooth finished surface and all entrances to the pods to have a level threshold. If this is not feasible then a

temporary ramp be provided which can be stored elsewhere on the property when not in use.

5.4 **Network Rail:** No objection

Consider the proposals will have no impact on railway infrastructure.

5.5 **SEPA:** No objection.

The application site is next to the sea and the lowest areas of the site could be at risk of coastal flooding. However, the location indicated for the 4 camping pods and the parking area is away from the coastline in the upper half of the site, on higher ground. The contours on the Ordnance Survey map shows the pods are located on land around 10 metres above Ordnance Datum.

The approximate 1 in 200 year flood level for the area is 3.9mAOD. Even allowing for uncertainties in the estimate, the effects of wave action and climate change allowances, this would still seem to be well below the level of the proposed development.

There is also a small watercourse running through the site. Watercourses with a catchment area of less than 3km<sup>2</sup> are not modelled for the SEPA Flood Maps and so risk from this source is not shown. This does not imply an absence of risk. However, the watercourse is small draining a catchment area of 0.4km<sup>2</sup> and is culverted under the large railway line embankment which may be a further limitation to flows reaching the site. SEPA have no records of flooding associated with the watercourse and provided an appropriate buffer strip is allowed within the site to give the watercourse space, we have no information to suggest it would pose a significant flood risk to the development.

5.6 **SNH:** No objection.

Advise the proposal lies within the Glen Beasdale Special Area of Conservation (SAC) designated for western acidic oak woodland, otter and freshwater pearl mussel. The Highland Council is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

The camping pods are to be positioned within a wooded area in the north of the application area. The application does not mention tree removal. SNH advise there is scope for the pods to be positioned without the need to remove trees. However, there will still be a loss of qualifying habitat beneath each pod but overall this will be extremely small in comparison to the rest of the site.

The track and parking area are adjacent to what appears to be qualifying oak woodland habitat. Providing that the footprint of the track does not extend westwards and the parking bay is restricted to the footprint on the application plans there will be no loss of qualifying habitat from these components.

The septic tank and soakaway are not in and will not impact on the woodland habitat.

Otter will not be affected by the proposal. The site is located between the West Highland rail line and the A830 trunk road and is unlikely to be favoured by otter in the presence of better habitat close by.

There are no freshwater pearl mussels on or near this site.

SNH advise that providing no trees are removed and the track and parking bay don't extend into the wooded areas there will be no adverse effect on Glen Beasdale SAC.

**5.7 Transport Scotland** advise planning permission be refused:

The proposed access is substandard and would create interference with the safety and free flow of traffic on this length of trunk road where vehicle speeds are high.

The visibility splays as required by DMRB CD123 are not achievable from the access point onto the A830. This constitutes a safety risk to vehicles on the trunk road.

The proposed development is located adjacent to a high speed section of the A830 where there are no footways or formal crossing facilities. Increased pedestrian activity in this location, including crossing the trunk road to access Loch Nah Uamh, represents a road safety concern.

## **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
- 29 - Design Quality & Place-making
- 36 - Development in the Wider Countryside
- 44 - Tourist Accommodation
- 51 - Trees and Development
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

### **6.2 West Highland and Islands Local Development Plan 2019**

No specific policies apply

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

- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Sustainable Design Guide (Jan 2013)
- Trees, Woodlands and Development (Jan 2013)

## **7. OTHER MATERIAL CONSIDERATIONS**

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

Scottish Planning Policy (The Scottish Government, June 2014)

Planning Advice Note 66: Trunk Roads Planning Applications Handling - Best

## Practice Guidance

### Annex A: Advice on Minor Developments affecting Trunk Roads

#### Traffic

Para. 8 *“Traffic generation is the main impact a development has on the trunk road. Increased traffic can affect the capacity and more importantly, in the case of minor developments, the safety of the trunk road. Even a small increase in traffic using a substandard access can have a significant impact.”*

#### Visibility and Safety

Para. 11 & 12 *“For safety reasons, drivers should be able to see any potential hazard in time to slow down or stop comfortably before reaching it. To ensure good lines of sight, junctions have to be designed with suitable visibility splays (requirements for visibility splays are illustrated in the diagrams below).*

*“Applicants will usually be required to provide and maintain visibility splays and consideration should therefore be given to the ownership of the land over which the visibility splay sits. Visibility on the trunk road is also important and new or altered accesses where visibility is restricted, such as on bends or crests or dips, will be resisted.”*

#### Visibility and Visibility Splays

Para 14. *“The following tables and diagrams give general guidance on visibility splays and the most suitable layout for junctions. All new accesses should be provided to the most appropriate standard. In addition, where a development generates a significant increase in traffic on to an existing access, it will be necessary to bring this access up to standard. No object should obscure visibility in a vertical plane within the splay above a height of 0.26m measured from a driver's eye height of between 1.05m and 2m. Horizontal visibility splays are normally expressed in terms of the x-distance along the centreline of the access, and a y-distance along the nearside of the trunk road carriageway. The y-distance depends on the speed of traffic on the trunk road.”*

Speed of traffic on trunk road (mph)	70	60	50	40	30
y-distance (m)	295	215	160	120	90
Table 1					

## 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) visual impact
  - c) flood risk and drainage
  - d) impact on natural heritage designations
  - e) European Protected Species
  - f) servicing
  - g) road safety

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

- 8.4 The site lies outwith any settlement development area but along a popular and key tourist route to coastal west. Policy 44 Tourist Accommodation (Highland wide Local Development Plan) offers support for tourist accommodation within the countryside, where it can be demonstrated that a demand exists for this type of accommodation, where it can be achieved without adversely affecting the landscape character or the Natural, Built or Cultural Heritage features of the area; and is consistent with other guidance on siting and design set out in Policy 36 Development in the Wider Countryside. In principle, subject to appropriate siting, design, access and servicing, the proposal would accord with the development plan.
- 8.5 The site is located within the Glen Beasdale Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). Policy 57 of the Highland wide Local Development Plan requires proposals to be assessed to the extent they would adversely impact these sites of national and international importance. An appropriate assessment is also required in view of the site's conservation objectives for its qualifying interests under the Conservation (Natural Habitats, &c.) Regulations 1994, as amended. Subject to no significant effect on the qualifying features of the SSSI and SAC, the proposal would accord with the development plan.

## **Visual Impact**

- 8.6 The proposed pods are of modest scale and appearance, suited to the rural site. The pods would be relatively well contained within the rising landform and the proposals raise no significant concerns regarding adverse impact on the landscape character.

## **Flood Risk and Drainage**

- 8.7 Subject to conditions for the finished floor level of the pods to be set above the flood risk envelope (including adequate freeboard and climate change), in line with SEPA and FRMT advice, flood risk to the development is considered low.
- 8.8 Full details of the proposed drainage have not been provided in support of this application. It is likely that an appropriate scheme could be incorporated in the proposals. Full details of the proposed surface water drainage scheme have not been requested at this stage.

## **Natural Heritage Designations**

- 8.9 The site is located within the Glen Beasdale Site of Special Scientific Interest and Special Area of Conservation, designated for western acidic oak woodland, otter and freshwater pearl mussel. Development within the site is located in areas where there is insignificant or no impact on qualifying habitat. Permission if granted, could be issued subject to conditions, to ensure development does not encroach into the wooded environs and lead to loss of qualifying habitat.

## **European Protected Species**

- 8.10 Given the proximity of the application site to the A830 trunk road, which separates the site from the coast, it is considered less likely that Otters or Otter habitat would be impacted by the development. Similarly, the pods can be accommodated within the site without requiring tree removals and impact on bats and bat habitat is considered unlikely. In this context, Protected Species Surveys have not been requested in support of the application.

## **Servicing**

- 8.11 The proposals would be served by a private septic tank and land based soakaway. The principle of this arrangement would accord with adopted development plan policy. A private water supply is proposed to serve the development. No details of the supply have been provided in support of the application. Details of the private water supply could be secured through planning condition, if permission were granted contrary to recommendation.

## **Road Safety**

- 8.12 Transport Scotland has raised concerns that the proposed access is substandard and would create interference with the safety and free flow of traffic on this length of the trunk road where vehicle speeds are high.
- 8.13 Transport Scotland advise the visibility splays required by Design Manual Roads and Bridges CD123 are not achievable from the access point onto the A830. This constitutes a safety risk to vehicles on the trunk road.
- 8.14 The visibility splays shown on the layout plans submitted show a visibility splay of 4.5m x 210m to the south east. There is a rock cutting to the south of the existing access which obstructs visibility in this direction. An assessment of the splays on



site suggested a splay of approximately 130m to the south east and approximately 200m to the north west. Given the rocky topography it appears unlikely that the visibility splays shown on plan would be feasible on site.

- 8.15 Transport Scotland raise concerns that the proposed development is located adjacent to a high speed section of the A830 where there are no footways or formal crossing facilities. Increased pedestrian activity in this location, including crossing the trunk road to access Loch Nah Uamh, represents a road safety concern.
- 8.16 In a response from the agent dated 24 July 2020, the applicant disputes the submission from Transport Scotland and is convinced that the visibility splays are achieved/achievable and road safety will not be impaired.
- 8.17 The applicant cites previous advice from the Planning Authority which he considers supports and justifies the development and an excerpt from the email chain has been provided in support of the application. Looking into the correspondence history, it appears a general enquiry was made to the Duty Planning Officer in August 2019 with follow up emails sent regarding the siting of development within 25m of the public road and provision of a septic tank made in November 2019 and February 2020. The Duty Planning Officer provided general advice regarding permitted development rights offered to crofters, which provide for up to 3 caravans on a croft, providing it is bigger than 2 acres, for income through diversification, between April and September only. The applicant was advised to use the pre-application advice service if further information was required.
- 8.18 Part 5, Class 16 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended (GPDO) contains provisions for the use of land, as a caravan site subject to the circumstances specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act, but do not include use for winter quarters. This class would only apply to up to three pods which meet the definition of a caravan (Caravan Sites and Control of Development Act 1960), sited between April and September. The current proposals for four units, with unrestricted all year round operation and associated drainage would not meet the provisions of Class 16 of the GPDO.
- 8.19 Part 2, Section 3 of the GPDO sets out circumstances where permitted development rights do not apply. Paragraph (5) states *“the permission granted by Schedule 1 shall not authorise the following (a) any development other than development permitted by parts 9, 11 and 24 and Class 31 of Schedule 1, which requires or involves the formation, laying out or material widening of a means of access to an existing road which is a trunk road or a classified road or creates an obstruction to the view of persons using any road used by vehicular traffic, so as to be likely to cause danger to such persons;”* Permitted development rights under Part 5, Class 16 would therefore not apply if the proposal necessitates material works to improve the standard of access and/or where development would create an obstruction to traffic on the public road, adversely impacting public road safety. While the siting of pods, would not physically obstruct the visibility splays either side of the existing agricultural access, the intensification of use of vehicles sitting in the trunk road and at the junction with the trunk road would impact the forward visibility of traffic on the trunk road. Transport Scotland have advised that the proposed use would require an improvement of the design and layout and widening

of the access to the trunk road. In this context permitted development rights are not considered to apply.

8.20 The provisions of permitted development are not material to the determination of this planning application and would need to be considered as a separate matter, should the applicant pursue development under the provisions of the GPDO.

8.21 In light of the road safety issues raised, Transport Scotland has recommended that the application be refused. No over-riding supporting information or evidence has been provided by the applicant/agent, sufficient to refute Transport Scotland's assessment of the proposed access arrangement.

### **Developer Contributions**

8.22 Not applicable.

## **9. CONCLUSION**

9.1 The proposed development is generally acceptable in terms of the principle of development, siting, design, flood risk and natural heritage designations and would meet the requirements of the adopted development plan, if safe access onto the trunk road could be achieved.

9.2 Unfortunately, the proposed pod site would be served by an existing substandard access onto the trunk road. Given the rock cutting to the south east of the access, which represents a significant obstruction to advance visibility, it appears there is little scope to achieve appropriate advance visibility and safe access. There are no footways or formal crossing facilities in the vicinity of the site and pedestrian movements represent a road safety concern. The safety of users of the site, access and trunk road is paramount, and the proposal does not meet the requirements of policies 28, 36, 44 and 56 of the Highland wide Local Development Plan, 2012.

9.3 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.

## **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 (unless granted)
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **Refused** for the following reasons:

### Reasons for Refusal

1. The proposal would be served by a substandard access onto the trunk road and fails to comply with the Design Manual for Roads and Bridges for the formation of the access meeting required visibility splays. The proposal would have an adverse impact on the safety and flow of traffic on the trunk road network, contrary to policies 28, 36, 44 and 56 of the Highland wide Local Development Plan, 2012.
2. The proposed development would be located adjacent to a high speed section of the trunk road where there are no footways or formal crossing facilities. Increased pedestrian activity in the location would have an adverse impact on the safety and flow of traffic on the trunk road network, contrary to policies 28, 36, 44 and 56 of the Highland wide Local Development Plan, 2012.

Signature: David Mudie  
Designation: Area Planning Manager – South  
Author: Christine Millard  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 01 Location Plan  
Plan 2 - 03 Proposed Site Plan

## **Appendix A - Appropriate Assessment**

### **Consideration of Proposals Affecting European Sites**

The site status as a SAC under EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (the "Habitats Directive") means that the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), the 'Habitats Regulations,' apply.

This means that where the Planning Authority concludes a development proposal (unconnected with the nature conservation management of a Natura 2000 site) is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment also extends to any plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

#### Appraisal

##### **Glenbeasdale SAC**

The site is located within the Glen Beasdale Special Area of Conservation (SAC) designated for western acidic oak woodland, otter and freshwater pearl mussel. The camping pods would be positioned within a wooded area in the north of the application site. It appears that development can be accommodated without the need to remove trees. A very small area of qualifying habitat beneath each pod would be lost but overall this is extremely small in comparison to the rest of the site. The track and parking area would be set adjacent to qualifying oak woodland habitat. Providing the footprint of the track and the parking area is restricted to the footprint shown on the application plans, there would be no loss of qualifying habitat from these elements. Otter are unlikely to be affected by the proposal, as the site is located between the West Highland rail line and the A830 trunk road. Otter are likely to favour better habitat close by. There are no freshwater pearl mussels on or near this site.

On this basis that no trees are removed and the track and parking bay are formed as shown on the proposed plans, it is considered unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required.

#### **National Interests - Glenbeasdale Site of Special Scientific Interest**

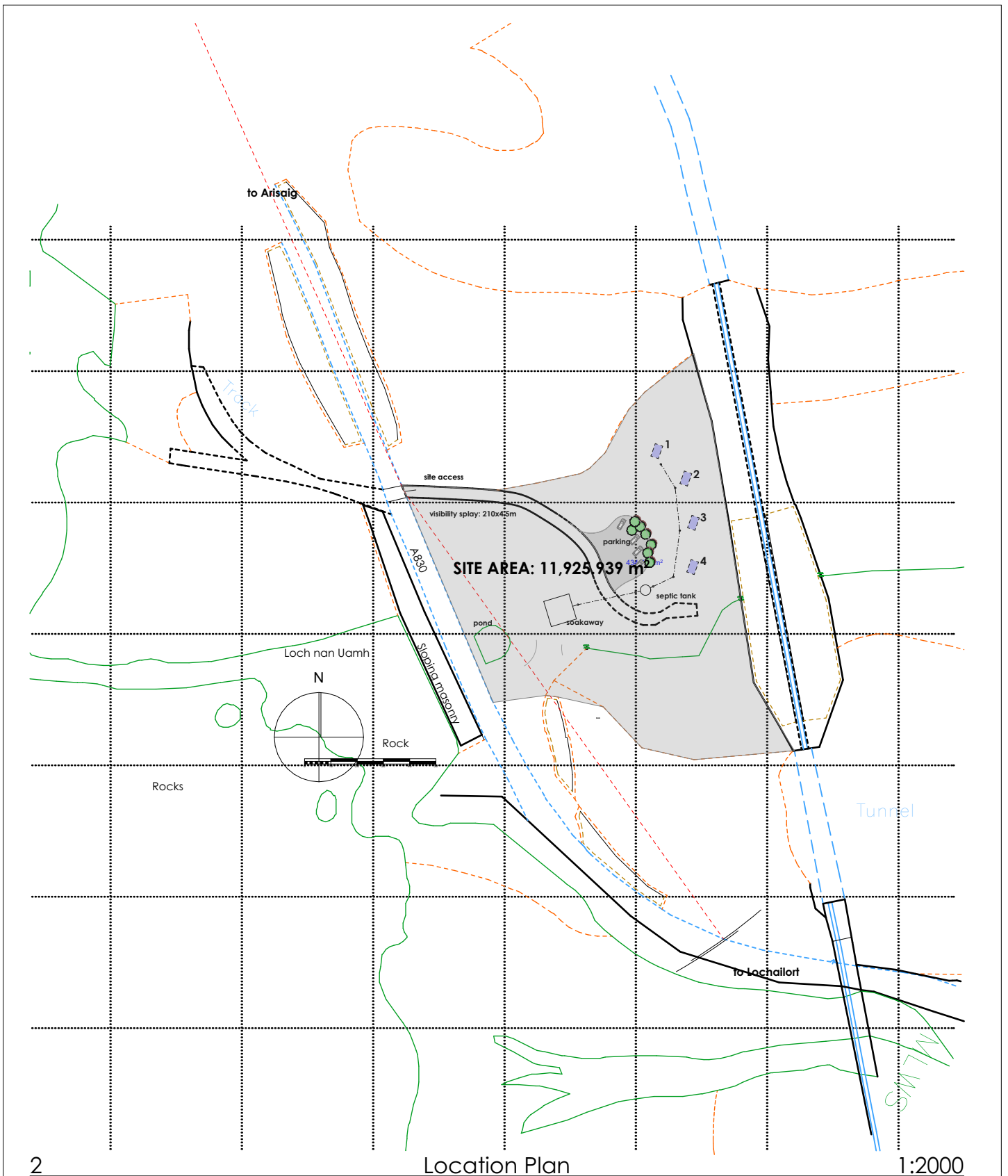
The site is located within the Glenbeasdale Site of Special Scientific Interest (SSSI). The SSSI is notified for its biological and geological features of national importance. As the development will affect only an extremely small area of qualifying habitat, the natural heritage interests of national importance at this site will not be affected by this proposal.

#### **Protected Species**

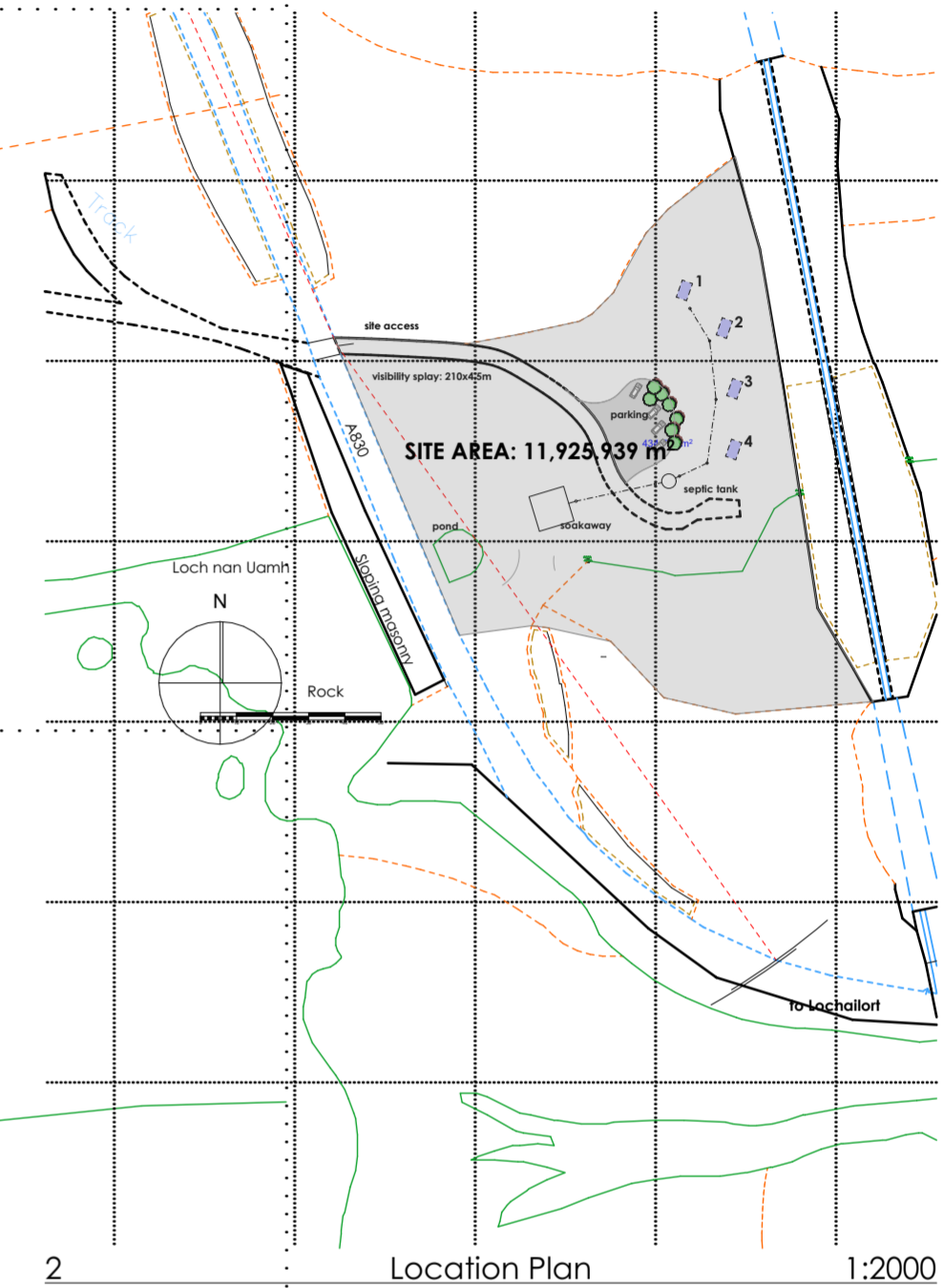
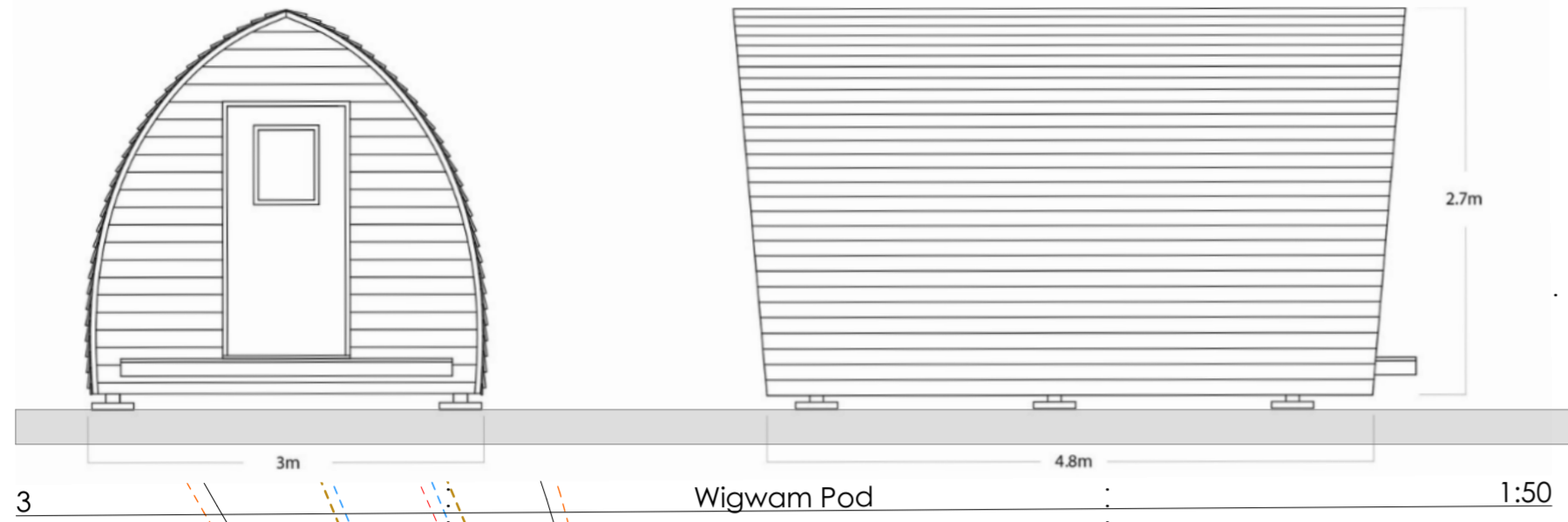
Otters live along the shoreline of Loch Nah Uamh. Otters may use neighbouring woodland for siting their holts and couches. Otters may pass through this area and it is possible that there may be breeding or resting places nearby. As the site is located between the A830 trunk road and West Highland rail line, otter are less likely to be present, favouring better quality habitat nearby.

#### **Conclusion**

Neither the SAC nor the SSSI will be significantly affected as a result of the development, therefore appropriate assessment is not required.



<b>David Mee-Architect</b> <small>CHARTERED ARCHITECT</small> 3 Cameron Square, Fort William PH33 6AJ tel:(01397) 700332 fax:(01397) 700224 e: dmee@davidmee-architect.co.uk www.davidmee-architect.co.uk	Drawn by <b>DMM</b>	Date	Drawing Name <b>Location Plan</b>
	Checked by <b>DMM</b>	Date	Drawing Status <b>PLANNING</b>
<b>PROPOSED PODS AT GLEN MAMIE</b>	<b>JAMES MACNAUGHTON</b>	Drawing Scale <b>1:500, 1:2000</b>	Drawing ID <b>01</b>
		Status	Revision



NOTES  
The contractor will be held to have checked all dimensions before commencing with any work and in the event of any discrepancies is to refer them directly to the Architect prior to commencement of works.  
Written dimensions are to be taken at all times. Drawings should not be scaled. In case of doubt refer to Architect.  
The contractor will ensure that all materials conform to the British Standards relating to them and/or certificates issued by the British Board of Agreement and that they are fixed, mounted or installed strictly in accordance with the B.S. Code of practice relative to them or the Manufacturer's printed instructions. British Standards & Codes of Practice will include amendments made on or before date of Tender.  
The drawing is the copyright of the Architect and all rights are reserved. Copying of this drawing or any part thereof by any means is an infringement of the copyright and may be subject to prosecutions unless consent of the Architect is obtained.

date	issue/revision	mk	by	chk'd

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project: PROPOSED PODS AT GLEN MAMIE

client: JAMES MACNAUGHTON

detail: O1-Site  
Site Plan Proposed

scale at	printed	drawn	
A2	05/05/2020	DMM	
as noted			
Client ref.	Job no.	Drw no.	Issue
MN002	20/001	03	