

Agenda Item	6.2
Report No	PLS-005-21

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 03 February 2021  
**Report Title:** 20/03718/FUL: Mrs Deborah Carmichael  
Land 70M SW Of Fordon, Badabrie, Corpach, Fort William  
**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Erection of house  
**Ward:** 11 – Caol And Mallaig

**Development category:** Local

**Reason referred to Committee:** 5 or more representations

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 is sought for a single storey chalet style of house on land to the west of the small estate at Badabrie, between Banavie and Corpach, north west of Fort William.
- 1.2 The building would be 9.024m by 6.724m by 4.275m high, a 2 bedroom rectangular building with a 25 degree pitched roof. Materials would be white roughcast external rendering for the walls with a panel of timber cladding on the front gable, and natural slate for the roof. The gable at the front would overhang a deck extending 1.5m from double patio doors.
- 1.3 A level hard standing/platform has been created for the development and its immediate curtilage together with approx. 50m of track leading into the site from a field gate. A residential access is to be created at this point on the access road that serves adjacent properties.
- 1.6 Water supply and foul drainage would be to the mains. A sustainable drainage scheme is proposed for the site.
- 1.3 Pre Application Consultation: Provided in July 2020, the advice was largely supportive in principle subject to appropriate access and servicing.
- 1.4 Supporting Information: Design Statement, Specification, Response to objections, Drainage Report.
- 1.5 Supporting Information submitted by the applicant also includes:
- Personal statement setting out the circumstances of the applicant's father
  - That the chalet is to provide a home for the applicant's elderly father, with the longer term intention to use it as a small holiday let
  - The majority of the trees will be retained
  - If planning permission is granted, the road will be upgraded as far as practicable within the constraints of the site
  - The padlocked gate is to safeguard their livestock
  - No extra caravan is being put on site - the only caravan will be the one up by Badabrie House
  - They sought advice from the Planning office before proceeding with the proposal and was advised the principle of development is likely to be supported subject to appropriate access and servicing
- 1.6 Variations: None.

## **2. SITE DESCRIPTION**

- 2.1 The site lies within the defined settlement development area of Fort William southwest of the property known as Fordon, Badabrie, Corpach. The site is a Crofting apportionment.

- 2.2 The site slopes markedly from north to south with views to Loch Linnhe. The front gable would face SE towards the rear of Carinbrook and The Whins, large detached properties which are served off the main A830, Road to the Isles. The distances from the proposed house to these properties would be over 30m. Ford Cottage would be approx. 40m to the NE and Fordon over 50m to the east. The applicant's property, Badabrie House, which was built last year, is 80m to the north.
- 2.3 This site has become overgrown and is partly covered in birch, alder and whin bushes. An unknown number of trees and bushes have been removed in the creation of the route to the house site and the level platform. The boundaries to the site are lined by trees, and the field that contains Badabrie House is very wet just beyond the boundary with this site.
- 2.4 The site is accessed from an existing private lane that currently serves Fordon, Ford Cottage, Badabrie House, Tigh a Chuil and An Struan. It is single track, relatively steep (1 in 5), largely surfaced with tarmac which is breaking up in places, and there is limited visibility (less than 10m) at a bend south of the proposed access, around the corner to the rear of Fordon.
- 2.5 The private lane leads off a minor public road (U1463) that serves Badabrie, between Fordon and An Struan. This adopted road leads steeply up from the A830, and it has an advisory 20mph speed limit.

### 3. PLANNING HISTORY

- 3.1 07 Feb 2020 20/00039/ENF site clearance work and ground preparation for a chalet Email sent to landowner seeking further information

### 4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown neighbour

Date Advertised: 09.10.2020

Representation deadline: 11.12.2020

Timeous representations: 28

Late representations: 0

- 4.2 Material considerations raised are summarised as follows:

Against:

- a) Issue with neighbours over access
- b) Road not suitable for an increase in traffic
- c) Reduction in safety for children playing in the street
- d) Would make this residential area more commercial
- e) Lack of transparency over proposed use of the chalet – whether residential or commercial. The Scottish Government's proposed Planning Control Areas

for Short Term Lets is proposed for implementation from April 2021 – would potentially apply to this development

- f) Possibility of further holiday accommodation - not requiring planning permission - being added here in the future
- g) Gate at the top of the lane is padlocked preventing access onto the hill – and a second gateway has been constructed incorporating land at the top of the lane into the garden of Badabrie House. Floodlights and a security camera have been trained on this gate, infringing others' rights to roam
- h) Query over site boundaries – the boundary fence with Fordon was altered during the works to create the access track without permission from the owners
- i) Query need for second residential caravan whilst the bungalow is built
- j) The existing temporary caravan (by Badabrie House) is still there and has been rented out for part of the year
- k) Trees already removed – tree survey needed
- l) Water supply inadequate – also required for fire fighting
- m) Query over redaction [by the Council] in the Design Statement
- n) Condition of the private lane – which has deteriorated due to the additional commercial uses by the applicant. The lane is not owned by them nor have they contributed towards the cost of its maintenance, which is shared between the 4 houses originally served off it
- o) The lane is narrow - 4.4m wide at its narrowest
- p) The creation of a passing place by the new access would not improve visibility at the blind corner; it may make it worse if used for parking
- q) Passing place is not needed as the lane widens immediately beyond here
- r) Planning permission for additional houses has previously been rejected off this lane because of the “4 house rule”; Badabrie House was to round off development in this area
- s) Red squirrels have been seen in this area for the first time in 30 years – warrants further investigation
- t) Loss of amenity to neighbours due to increased use of the private lane
- u) The junction of the private lane with the public road is made dangerous by the debris that is washed down it – this has also caused a cyclist to come off their bike
- v) The access requires to be adopted by the Council to enable its upgrade to increase its width, provide pavements, install lighting, drainage, re-route sewage and water pipes and re-site an electrical sub station and power and telegraph lines. This would necessitate compulsory purchase of land from up to 6 households
- w) Concern regarding capacity of existing sewage system
- x) Covid19 is not a justification for the development – the works for the track were begun in Nov 2019 – pre pandemic
- y) The future commercial use of the chalet is not “essential” to support the croft
- z) The road serving Badabrie serves approximately 30 properties, taking account of guest houses and subdivision for letting – and quite a high proportion of users are visitors and not familiar with it – resulting in regular near misses
- aa) Drainage concerns to the properties down slope of the proposed development; the land at the top of their properties is very wet. Surface water

drainage should be directed to the watercourse to the west of the site rather than to soakaways as proposed.

- bb) Existing drainage problems with water running down the hill onto the A830 overwhelming the culverts and flooding the main road – would be exacerbated
- cc) The development is not “sustainable”
- dd) A Crofting apportionment is a section of common grazings apportioned to a crofter with rights to common grazings for a specific purpose, usually one of improvement of common ground or stock - As croft land this site should not be developed – it should be for grazing sheep
- ee) The croft was bought after the previous owner had unsuccessfully attempted to develop the same site in 1997 – at a price that reflected this situation
- ff) The applicant has circumvented Planning regulations in order to establish a commercial enterprise
- gg) Work to create the access track is unauthorised and was carried out without any consultation with neighbours
- hh) A major drain and watercourse was unearthed in the course of this work and has remained open for approx. 9 months without consultation with Scottish Water or other affected parties
- ii) The area is home to a wide variety of fauna and flora including pine marten, breeding birds, migrant birds, owls, blackcock and raptors

For:

- a) The development will make the private track safer
- b) The applicant should be allowed to build a place on the croft to enable her to look after her elderly father close by
- c) The road has deliberately been narrowed by a fence being erected which prevents agricultural vehicles getting up to deliver hay for the horses
- d) The applicant has stated that additional works to upgrade the road and improve safety at the corner will be carried out
- e) The person who the chalet is for no longer drives – the only additional traffic would be from carers who may visit him
- f) The applicant no longer does B&B – and they only have 1 vehicle – so the increase in traffic on the road is not significant
- g) Many of the objectors are not directly affected as they live beyond the turn off to the private lane

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 objection subject to conditions relating to the access design, drainage and parking within the site.

The proposal is off a private track that takes access from the U1463 Badabrie Road, which is a no through, double lane road with a footway on the south side. It is subject to a “Twenty’s plenty” advisory 20mph speed limit. There is a steep incline up from the A830 with a number of sharp bends which limit visibility. No record of any incidents on the road or at the junction with the A830.

The private track serves 5 houses, and it is steep and winding – no reported injury accidents.

The Council's guidance document "Roads and Transport Guidelines for new Developments" states that where there are five or more houses, they should be served by a "road" which can be public or private and should be built to adoptable standards. It is noted that the current private track is surfaced with some drainage facilities and is in an adequate state of repair. We do note that forward visibility is restricted due to the bends in the track, and at the junction with Badabrie Road visibility to the west is somewhat restricted due to vegetation and a BT cabinet.

However, we do not consider that the addition of this proposed house will have a detrimental impact on either the private track or Badabrie Road and the level of risk to other road users from additional traffic generation will be low. The access to the development will provide an additional passing place that will be of benefit to all users of the track. Nevertheless, the Transport Planning team are unlikely to support further development on this track without additional upgrades."

5.2 **Flood Risk Management Team** initially objected until a viable drainage strategy could be demonstrated. Following submission of a Drainage Statement this objection was removed subject to a condition requiring a degree of rainfall attenuation to ensure that any existing drainage issues are not exacerbated.

5.3 **Access Officer:** "If consented this application will remove the garden ground associated with this house from public access rights by virtue of Sections 6 and 7 of the Land Reform (Scotland) Act 2003. The impact is not significant enough to either note or comment, due to the small footprint. There is no record of anyone having been in the habit of visiting the site for recreation and there are no known paths through it.

Two people have claimed the applicant has deterred or discouraged the public from continuing up the track and out onto the open hill – not related to the application. That may be an issue for us to investigate – however this is not a consideration for this application. To date there have been no previous complaints about [restrictions to] public access to the hill via the track past Badabrie House."

5.4 **Scottish Water:** "There is a sufficient water supply. There is sufficient capacity for a foul only connection to the Corpach WWTW. Surface water connections will not be accepted into the combined sewer system.

The development proposals impact on existing Scottish Water assets, which must be identified, and a diversion applied for. There may be restrictions on proximity of construction."

## 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

31 - Developer Contributions

34 - Settlement Development Areas

- 44 - Tourist Accommodation
- 47 - Safeguarding Inbye/Appportioned Croftland
- 51 - Trees and Development
- 56 - Travel
- 58 - Protected Species
- 59 - Other important Species
- 66 - Surface Water Drainage
- 77 - Public Access

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

Fort William Placemaking priorities include:

- Encourage consolidation within the existing physical limits of the settlement
- Increasing internal cohesion and connectivity

## 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)  
Highland's Statutorily Protected Species (March 2013)  
Housing in the Countryside and Siting and Design (March 2013)  
Trees, Woodlands and Development (Jan 2013)

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

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

Paras 267 & 268 - Surface water drainage

## 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) impact on amenity
- d) access and parking

- e) services and drainage
- f) any other material considerations.

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

- 8.4 The proposed house is within the Settlement Development Area for Fort William, which is a Main Settlement in the West Plan. The principle of residential development is therefore accepted. The development would constitute organic consolidation of the settlement well within its capacity limits. In this respect the development may be regarded as relatively sustainable.
- 8.5 The site forms part of a croft, however this part of it has not been actively worked in recent years. As the site is within the defined settlement development area of a main settlement and the proposed development is of a scale and layout that respects the settlement pattern, the loss of croft land to development would accord with development plan policy. The Crofting Commission will nevertheless consider the proposals in detail at de-crofting stage, if necessary, and it reserves the right to review the extent to which these issues have been taken into account as part of the planning process. In addition, it will review the extent to which the impact of the development on crofting, the crofting community, the landscape and the environment, have been taken into account; and the effect of the development on the social and cultural benefits of crofting. Crofting interests on neighbouring land would not be prejudiced by this development, nor would any crofting access be adversely affected.
- 8.6 There is no need to demonstrate that this house is needed to support the economic viability of the croft in this location, because the proposed house would accord with planning policy in principle in this location anyway.
- 8.7 Whether the house is proposed for the applicant's father or for letting out on a commercial basis makes no difference in planning terms in this instance because the location is acceptable in principle anyway. There is no distinction (currently) in planning use classes between a house that is privately occupied and a house that is let out – on a short or long term let. Occupancy conditions to restrict a house to holiday use are used on occasion, for instance where the curtilage is inadequate for an independent dwelling. That is not the case here.
- 8.8 Subject to the proposal being appropriately sited and designed, with no detrimental impact on individual and community residential amenity or existing services, the proposal would accord with the Development Plan.

### **Siting and design**

- 8.9 The proposed position of the house is a sufficient distance from neighbouring houses, and it would fit in with the low density pattern of development in the vicinity.
- 8.10 The proposed size of the house is modest, and its proposed design is a simple chalet like building. The materials are in keeping with other houses in the area. It would fit in to the area and it would not look out of keeping.



### **Impact on amenity**

- 8.11 The house itself would not have an adverse impact on neighbours' amenity due to the separation distances. There is no requirement for it to be linked to Badabrie House by planning condition because of its proposed occupation by the father of the applicant. It would function as an independent dwelling unit with its own access and garden curtilage.
- 8.12 The amount of additional traffic generated by this one modest dwelling unit would not be significant. The impact of this additional traffic on the private access lane and its effects on the amenity of neighbouring residents would not be significant, in relation to the existing level of traffic using the lane.
- 8.13 The loss of trees from the middle part of the site is not unreasonable given the fact that this was grazing land that has become overgrown. The trees are mainly naturally regenerated birch and alder and they are not covered by any specific designation or protection. Nevertheless, a condition is recommended to secure the protection of those that remain around the edges of the site during construction. The trees will assist in mitigating the wet ground conditions and in providing shelter and an established landscape setting for the development.

### **Access and parking**

- 8.14 The U1463 Badabrie Road serves a small estate of approximately 20 properties, and the addition of this one additional dwelling unit would not result in capacity being exceeded on this road. There may be a significant proportion of visitors who use this road in addition to permanent residents, however the advisory speed limit is there to ensure the safety of all road users. If this is ignored by some road users that is not a reason to withhold planning permission for this proposed house – that is a policing/traffic enforcement matter. The junction of the private lane with Badabrie Road is considered to be satisfactory for the relatively small amount of traffic using it.
- 8.15 The private lane leading from Badabrie Road to the site is steep and narrow. Under previous planning policy in the former Structure Plan the “4 house rule” set a threshold beyond which such private roads would have to be upgraded to adoptable standard before further residential development would be allowed to be served off them. That policy no longer exists; the current policy is set out in Access to Single Houses and Small Housing Developments – which is adopted as Supplementary Guidance for planning purposes; and in the Roads and Transport Guidelines for New Developments – which is Council guidance though not specifically adopted planning guidance.
- 8.16 The addition of one additional dwelling house onto this private lane is not considered to be unacceptable or unreasonable in highway safety terms. This judgement is based on the small number of dwellings that are served off it, together with the fact that it serves croft land that is used for grazing horses. Whether these houses are used exclusively as private residences or whether they provide B&B or incorporate holiday flats would make a small but insignificant difference. The number and type of vehicles that each householder has will similarly vary over time but again this would not make a significant difference. The formation of a residential access at the

existing gateway will provide a small benefit in providing some additional space to pass. It will not make the lane less safe. There is no planning policy basis which would require the lane to be upgraded to an adoptable standard on the basis of this development.

- 8.17 The issue regarding ownership of the lane and the division of responsibility for its upkeep amongst those who use it is not a matter for the Planning Authority. That is a private civil matter that should be set out in the deeds of the properties of those who have a legal interest in it and resolved under separate legislation.
- 8.18 There is space within the curtilage for at least 2 parking spaces for the proposed house, as per the Council's standards.

### **Services and drainage**

- 8.19 The water supply and foul drainage would be to the mains. Scottish Water has indicated that there is capacity and it is for the developer to secure a connection.
- 8.20 The surface water drainage was initially proposed to be to a soakaway. However, a Drainage Assessment was sought in light of the very wet nature of the ground, the presence of a very small watercourse that runs down into the grounds of Carinbrook, and issues regarding drainage by the access. The Drainage Statement recommends that surface water is collected into a silt trap chamber at the SW corner of the house which will then lead to a filter trench and the water then piped to the small watercourse at the SW corner of the plot. This leads down the west side of Carinbrook and under the A830.
- 8.21 The bellmouth at the access will be designed to convey surface water run-off away from the shared access lane into an existing drainage ditch to the south side. This would lead water in the same direction as the existing cross drain across the lane just below the gate. The development would thereby not exacerbate the existing situation whereby debris is washed down the lane in heavy rain.

### **Other material considerations**

- 8.22 The site is large enough to accommodate further development and there is concern that the applicant will use their "permitted development rights" to site holiday pods or similar adjacent to the proposed house in the future. It is recommended that relevant PD rights are removed by planning condition to allow the planning authority to control any such future development. Future proposals to add camping pods or other works or buildings within the garden ground would then need planning permission. This is considered necessary because of the potential impact of yet further traffic on the private lane, in particularly at its junction with the public road. Also, further development may have implications for surface water drainage and have further impacts on trees.
- 8.23 The formation of the access at the gateway would enable surface water flows to be better directed off the lane here and this may also provide a small improvement. These small benefits are not by themselves reasons to allow the house – that is acceptable in principle in any event.

- 8.24 A previous owner sold this land after failing to secure planning permission for residential development, mainly because of the “4 house rule” which was in place at that time. Policies change and that is part of the risk associated with development.
- 8.25 The site does contain habitat that may be suitable for several protected species such as pine marten, bats, red squirrels, and some less common birds. There is no evidence of protected species being directly affected, nor of nests or dreys on the site itself. Other legislation affords protection to such species and their nests and resting places, and an informative note on a planning decision notice draws the developer’s attention to their responsibilities in this regard.

### **Non-material considerations**

- 8.26 The following issues are not material planning considerations:
- Whether the house is for occupation by the applicant’s father or to be used as a holiday let – or long term let.
  - Legislation for the Regulation of Short Term lets is to be introduced and this would be needed – the Scottish Government undertook a consultation in 2020 and proposes to introduce this new requirement in 2021. It has not yet been introduced however, and when it is, this would be a separate requirement if the house was to be used for short term letting purposes. This has no bearing on the acceptability of the proposals under current planning policy.
  - The site could be the subject of future development proposals for additional chalets for holiday letting – if so, any future planning applications would be subject to assessment under the policies that apply at that time.
  - The unauthorised works (which commenced pre-Covid19) to create a constructed track into the site and to create a hard standing where the house is to be built, and loss of trees associated with this work. Whilst regrettable, this is not a reason to reject the proposal. The trees are not covered by a Protection Order, and although pre-emptive felling is inadvisable prior to making a planning application, no offence has been committed. As this is croft land that was used for grazing, the land would not have been covered in trees until relatively recently and this regeneration has occurred due to the lack of grazing in this area.
  - The issue regarding access onto the hill from the top of the lane is a separate matter not directly connected with this proposal.
  - The floodlights and CCTV covering the gate at the top of the lane is also a separate matter not directly connected with this proposal.
  - The issues surrounding boundaries and land ownership are not relevant to planning, but rather are civil issues relevant to those with a legal interest in the land affected. A planning condition is recommended to ensure that the development cannot proceed unless and until the proper access is constructed at the field gate.
  - The dispute regarding the division of responsibility for the upkeep of the lane, and its repair following construction work, is a matter for those with a legal

interest in it. The constriction of the lane by a neighbour's fence at the corner, which is apparently restricting access to larger vehicles, is also a private matter between those with an interest in the lane.

- The broken pipes just inside the field gate are redundant, and have been replaced
- The status of the caravan adjacent to Badabrie House is a separate matter to this planning application
- Whether objectors live immediately adjacent to the site or not is not relevant – it is the points that they make that are important
- Redaction of public comments is undertaken by the Council in order that material published on the website accords with relevant data protection legislation

### **Matters to be secured by Section 75 Agreement**

8.27 None

## **9. CONCLUSION**

9.1 The proposed house would infill a site that is surrounded by houses in a low density area on the outskirts of Fort William, but within the Settlement Development Area. Policy directs that development is focussed within such areas, and as such it is a sustainable location for development. The house is acceptable as an independent dwelling unit.

9.2 The access is adequate for this one additional dwelling house. The alterations to the field gate to form a residential access would provide a small improvement to the existing lane at this point. Conditions are recommended with respect to the access, drainage, tree retention and protection, landscaping, and to control future development in the garden grounds in the interests of the amenity of the area

9.3 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.

## **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 other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated xx February 2021), with the junction formed to comply with drawing ref.SDB1.

**Reason:** To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity, in accordance with policy 57 of the Highland wide Local Development Plan.

2. 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 a high standard of landscaping is achieved, appropriate to the location of the site in accordance with policies 28 and 34 of the Highland wide Local Development Plan.

3. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

**Reason:** In order to ensure the protection of retained trees, which are important amenity assets, during construction in accordance with policy 51 of the Highland wide Local Development Plan

4. Notwithstanding the provisions of Article 3 and Class 1A and Class 3 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development of a type identified in the aforementioned classes (enlargement to the dwelling house and development within the curtilage of a dwelling house) shall take place within the curtilage of the dwelling house hereby approved without planning permission being granted on application to the Planning Authority.

**Reason:** In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in an adverse impact on the amenity of the area in accordance with policies 28, 34, 51 and 66 of the Highland wide Local Development Plan.

5. All surface water drainage provision within the application site shall be implemented in accordance with the approved plans, including the attenuation of surface water run-off from the development, and shall be completed prior to the first occupation of the development.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment in accordance with policy 66 of the Highland wide Local Development Plan.

## **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 and is acceptable in terms of all other applicable material considerations.

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

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission 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 & 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 & 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 & 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)

Designation: Area Planning Manager – South  
Author: Lucy Prins  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location – Site Location Plan 1105-3 Rev 1  
Plan 2 - General Plan – Floor Plan and Section Plan 1105-2  
Plan 3 - Elevations 1105-1Plan 1

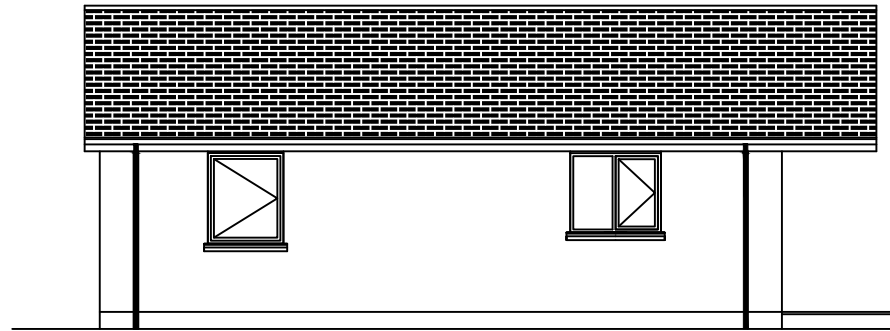
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Ridge

Natural Slate

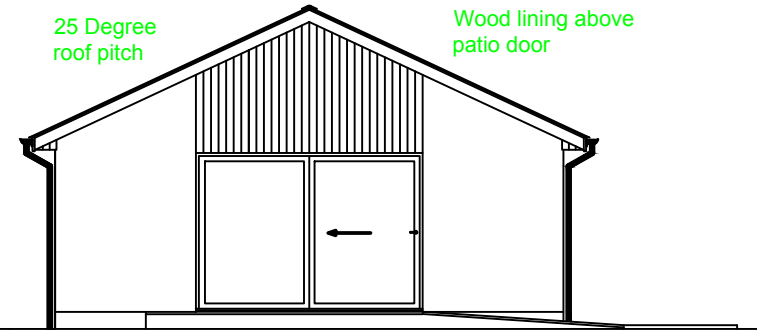
PVC windows and  
doorsets

White Wet Dash Harl

Smooth Grey Base  
Course



Side Elevation 1 : 100



End Elevation 1:100

0m 5m 10m

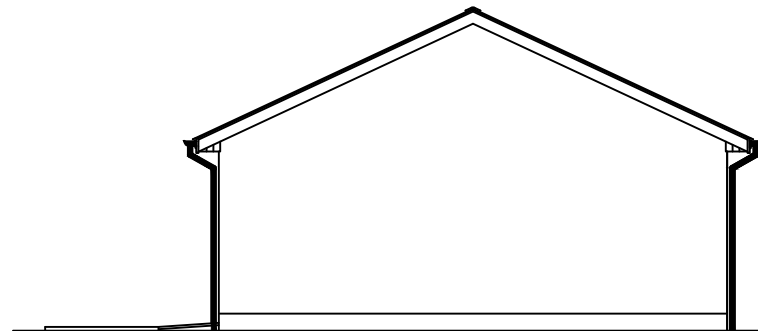
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Ridge

Natural Slate

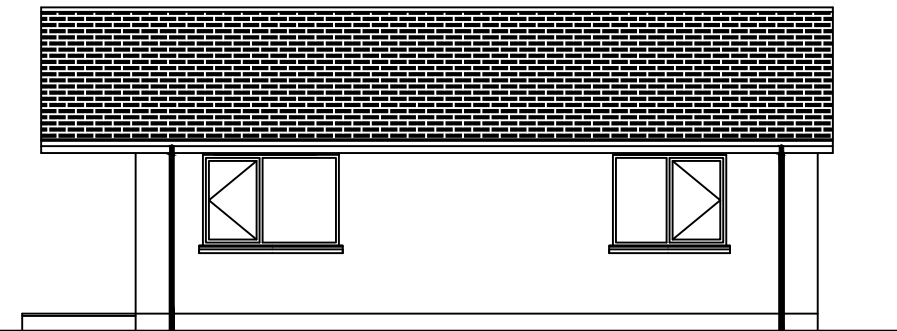
PVC windows and  
doorsets

White Wet Dash Harl

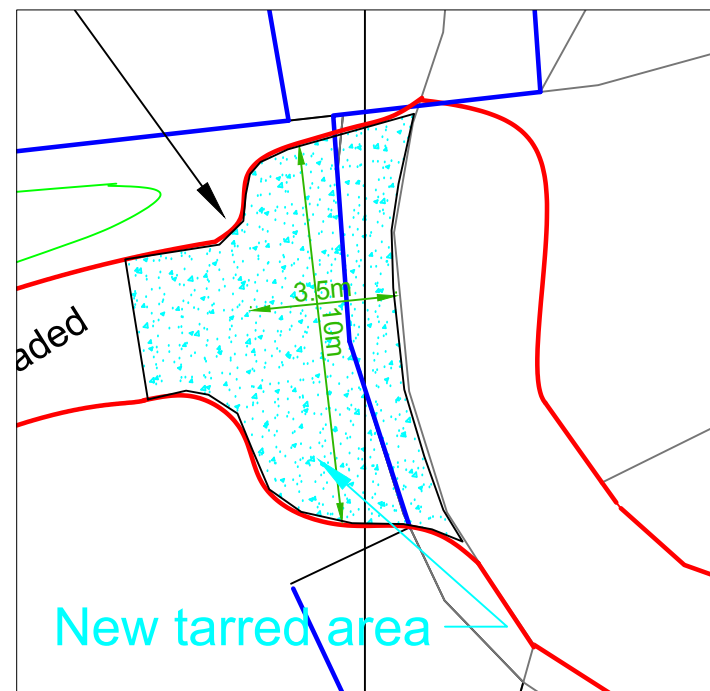
Smooth Grey Base  
Course



End Elevation 1:100



Side Elevation 1 : 100



New passing place / bell mouth Details

Scale 1 : 200

20m 10m 0m

Project:  
Proposed Chalet, Carmichaels croft, Badabrie

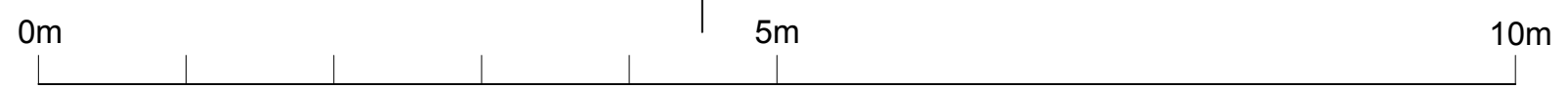
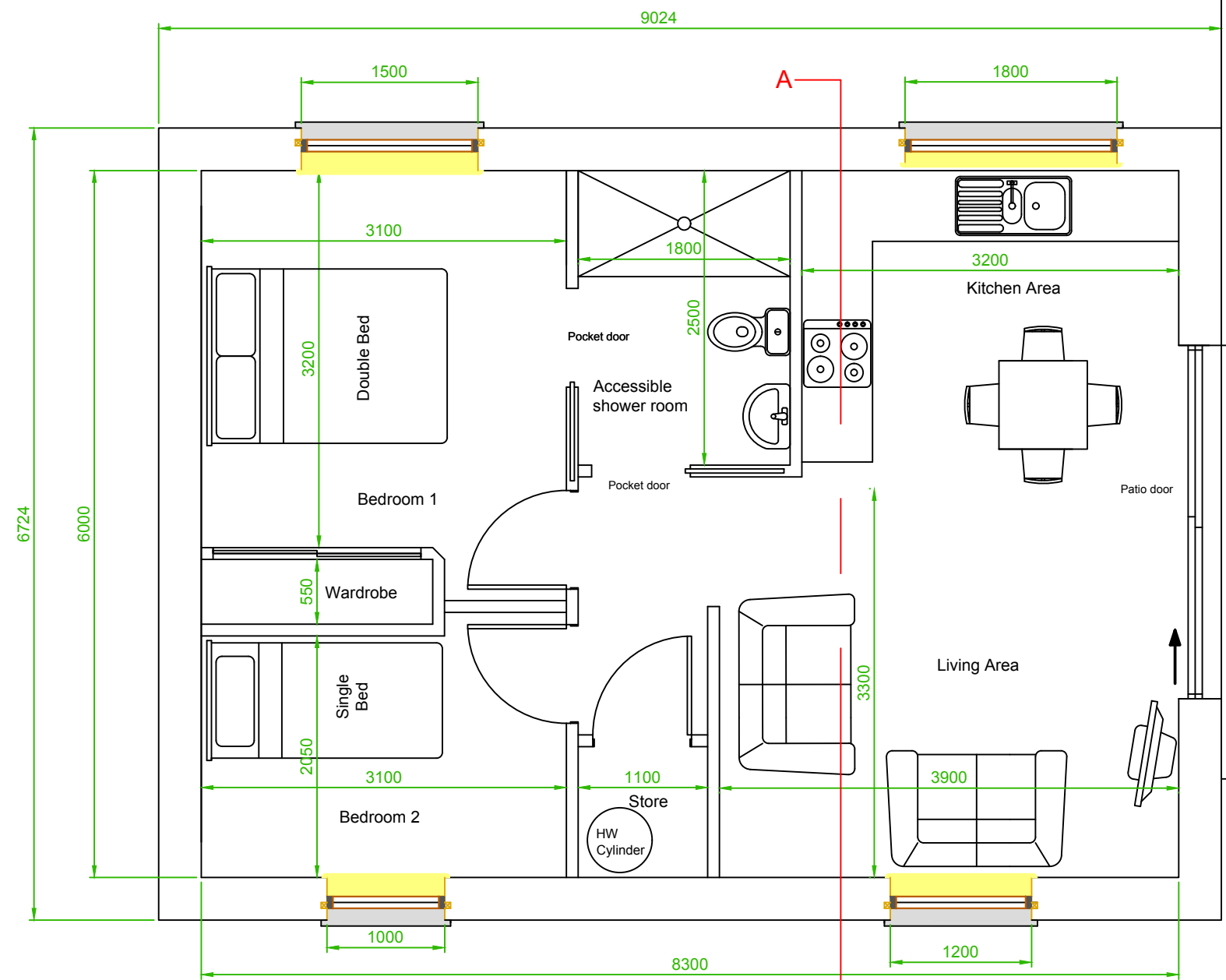
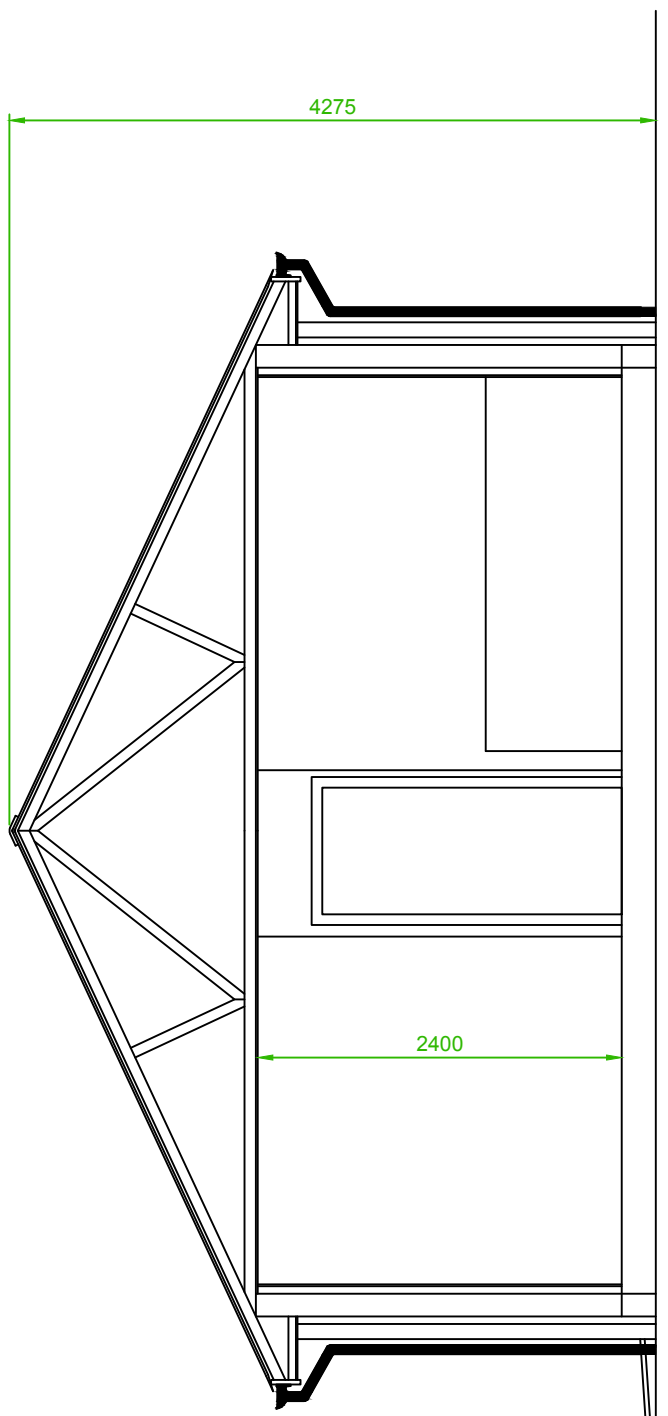
Drawing:  
Elevations

Drawing No.:  
1105/1

Scale: As Shown  
Date 26 / 9 / 20

**A. N. FRASER**  
Joinery & Building Contractor  
Innishail

South Laggan  
By Spean bridge  
Inverness Shire  
PH34 4EA  
Tel/Fax 01809 501451



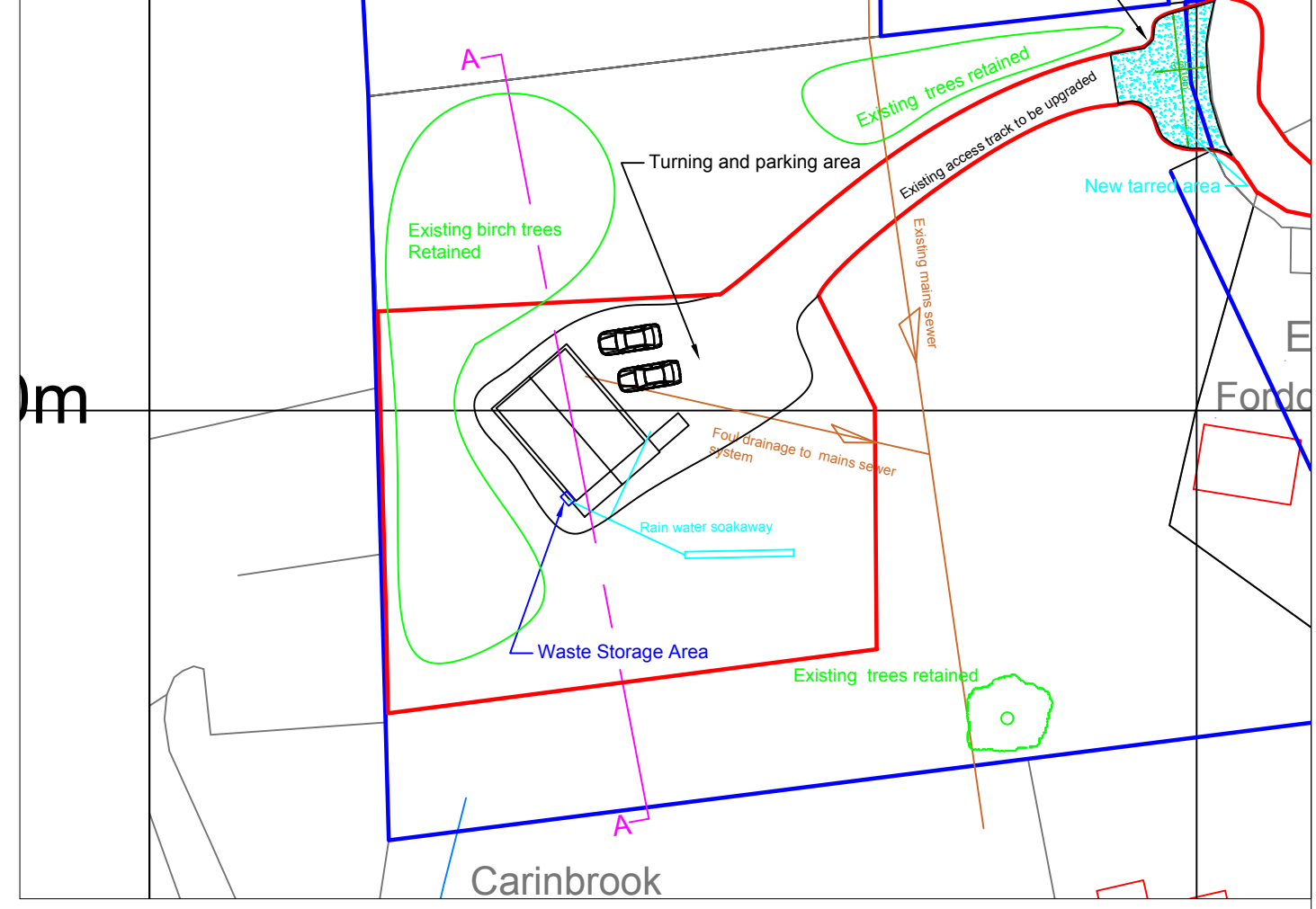
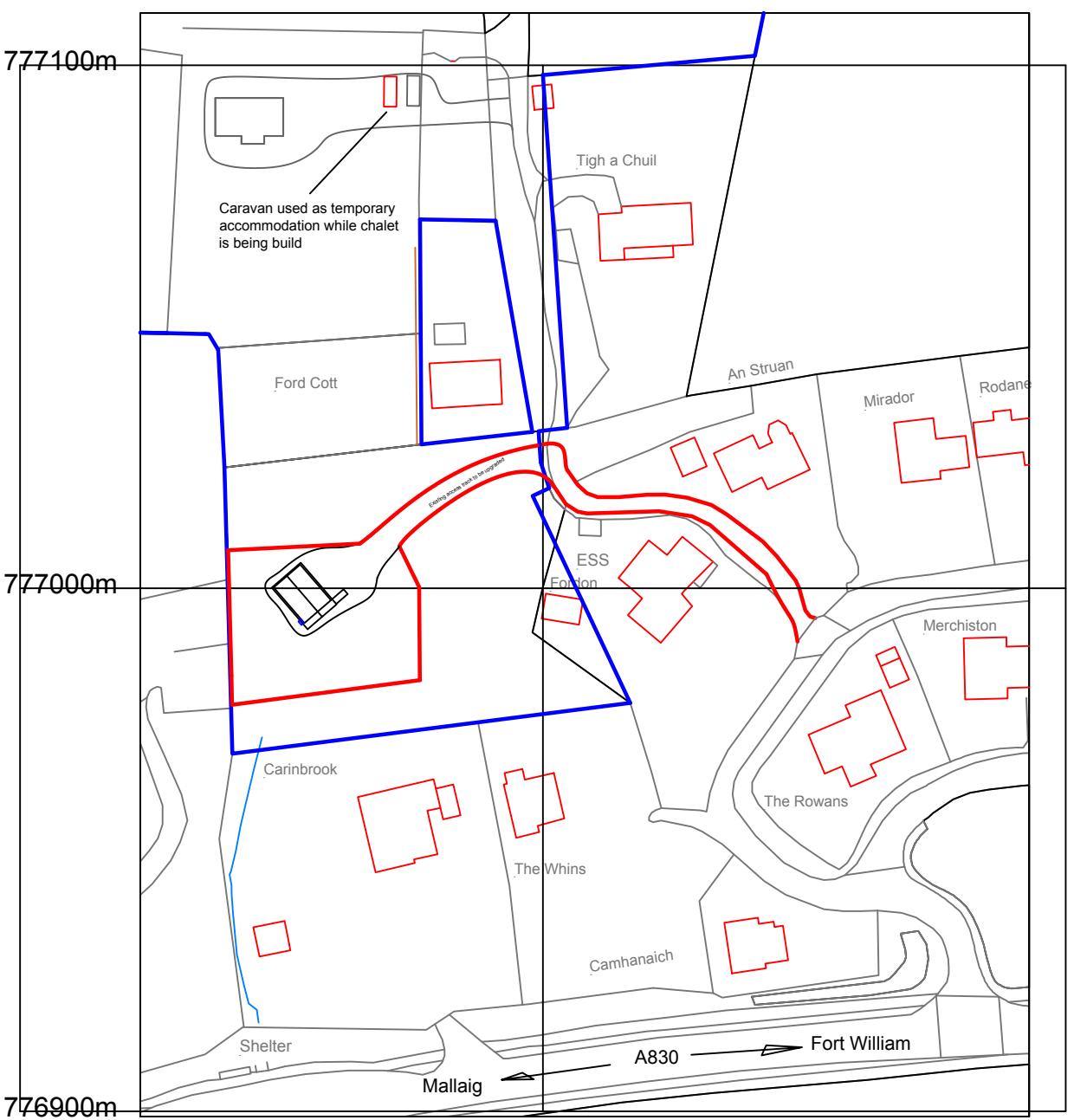
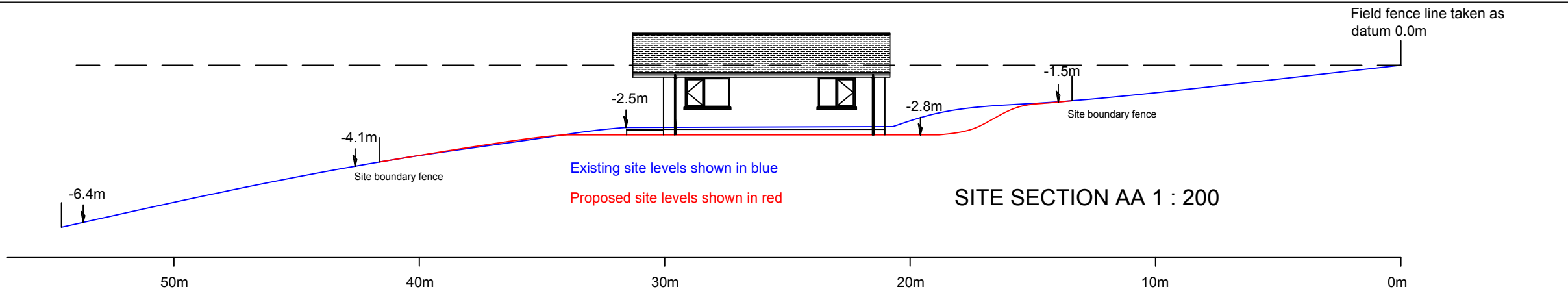
Project:  
Proposed Chalet, Carmichaels croft, Badabrie

Drawing:  
Floor plan /  
Section AA

Drawing No.:  
1105/2

Scale: 1 : 50@A3  
Date 26 / 9 / 20

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Project:  
Proposed Chalet, Carmichaels croft, Badabrie, Fort William

Drawing:  
Location Plan

Drawing No.:  
1105-3

Scale:  
As Shown  
Date 26/9/20

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