

Agenda Item	7.4
Report No	PLS-046-21

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 15 June 2021  
**Report Title:** 21/00994/FUL: Kingussie Community Development Company  
Gynack Gardens, Gynack Street, Kingussie  
**Report By:** Area Planning Manager - South

### Purpose/Executive Summary

**Description:** Installation of public art work  
**Ward:** 20 – Badenoch and Strathspey  
**Development category:** Local Development  
**Reason referred to Committee:** Manager's Discretion

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** the application as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 The application seeks planning permission for the installation of a plinth and public artwork at Gynack Gardens in Kingussie. This application is advanced by the Kingussie Community Development Company (KCDC).
- 1.3 Pre-Application Consultation: None
- 1.4 Supporting Information:
- Community Survey and Consultation
  - Supporting Statement with background to project
  - Photo of similar artwork by sculptor
- 1.5 Variations: Evidence of Community Consultation submitted

## 2. SITE DESCRIPTION

- 2.1 The gardens are located in the centre of the village to the south of the Duke of Gordon Hotel on Newtonmore Road and contain new planting and hard landscaping. Paviours have been laid in the area so that a memorial/public art can be installed.

## 3. PLANNING HISTORY

- |     |             |  |                             |
|-----|-------------|--|-----------------------------|
| 3.1 | 21 Nov 2019 | 19/04272/FUL – Formation of access, paths and plaza area | Planning Permission Granted |
| 3.2 | 26 Feb 2021 | 20/05033/FUL – Installation of public art and plinth     | Withdrawn                   |

## 4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour  
Date Advertised: 11.03.2021  
Representation deadline: 25.03.2021
- Timeous representations: 7
- Late representations: 0
- 4.2 Material considerations raised are summarised as follows:
- a) Design will enhance the large open area while leaving plenty of room for planned events.
  - b) Encourage locals and visitors to stop (photo opportunities) and explore the town
  - c) Support incorporation of Shinty Camans in the sculpture
  - d) Art based attractions along active travel network encourages cyclists to explore
  - e) Enhancement of the neighbourhood to benefit of residents and visitors and encourage sense of pride
  - f) Note artists previous work and that sculpture would be unique to Kingussie

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 **Cairngorms National Park Authority:** Proposals not considered to raise planning issues of significance to the Park aims.

5.2 **Transport Planning Team:** No objection, sculpture located outwith public road boundary.

5.3 **Transport Scotland:** Do not advise against granting planning permission.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Cairngorms National Park Local Development Plan (2021)**

3 – Design and Placemaking

6.2 **Cairngorms National Park Guidance**

3 – Sustainable Design

## 7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (as amended December 2020)

Creating Places

## 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
- c) design
- d) community engagement

- e) any other material considerations

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

8.4 The main policy of relevance in assessing the proposals is Policy 3 - Design and Placemaking of the Cairngorms National Park Local Development Plan (2021). This requires that developments meet the six qualities of successful places which are:

- i) Distinctive;
- ii) Safe and pleasant
- iii) Welcoming
- iv) Adaptable
- v) Resource efficient; and
- vi) Easy to move around and beyond.

All development proposals must also be designed to be sympathetic to the traditional pattern and character of the surrounding area, local vernacular and local distinctiveness, whilst encouraging innovation in design and use of materials. Development must use materials and landscaping that will complement the setting of development.

### **Siting**

8.5 The sculpture is to be sited within the Memorial Garden, also referred to as Gynack Gardens, which was previously associated with the Duke of Gordon Hotel. The area has recently been subject to redevelopment to provide a new landscaped open space. A large circular area of paving lies central to the landscaping fronting the High Street which is where the proposed sculpture is to be situated. This is considered to be an acceptable location and a good focal point within the context of the garden itself, but also on the High Street and main thoroughfare in Kingussie; a principal settlement within the National Park.

8.6 Representations note that the site is considered to be a positive addition to the village for residents, but it will also be a good stopping point for people passing through to take pictures and is located on an Active Travel route. It could encourage cyclists to stop and access local business on the High Street. The siting of a sculpture/public artwork in this location is supported in planning terms.

### **Design**

8.7 The submitted documents emphasise that a renowned Scottish sculptor is to be commissioned to design the sculpture. The final design has not yet been established, however indicative drawings outline that the sculpture is to be of a thistle design measuring approximately 3.9m in height. The materials are to be galvanised metal, utilising local recycled materials as far as possible. The sculpture will sit on top of a granite boulder which measures 2m in width by 0.7m in height.

8.8 On receipt of planning permission, the applicant requires to gain permission from The Highland Council as landowner (separate to planning permission) to site the sculpture. It is noted that Sustrans has pledged financial support alongside possible

monies from the Town Centre Fund (managed by The Highland Council); however, funding will not be forthcoming until such time as planning permission is granted. Thereafter the artist can be commissioned to fully design the sculpture. The design of a thistle is being progressed, although, following public consultation, shinty camans are to be incorporated into this to reflect the areas strong ties with the sport. This has been welcomed however, until the funds are available to commission the artist and relevant consents in place, no further specific detail is available. The principle of siting and design is supported, although further detail will require to be secured by planning condition before works commence on site.

### **Community Engagement**

- 8.9 Supporting documentation outlines that the applicant (KCDC) has since lodging the application engaged with the community through a survey, reaching 158 people. These were predominantly from Kingussie itself, with respondents also from nearby Newtonmore and Aviemore. A summary of the consultation appears to suggest that of those who responded 47% agreed with the principle of the design but had some concerns. It appears from those who responded that there is however support for some form of sculpture.
- 8.10 It is understood that the KCDC has also engaged with other local groups including the Community Council, Business Forum, Kingussie High School, Kingussie Shinty Club, Badenoch Heritage Project, The Community Support Manager, Cairngorms National Park Authority and Sustrans. It is submitted that of those groups who responded, feedback was largely positive.

### **Other material considerations**

- 8.11 There are no other material considerations.

### **Non-material considerations**

- 8.12 There are no non-material planning consideration.

### **Matters to be secured by Legal Agreement / Upfront Payment**

- 8.13 None

## **9. CONCLUSION**

- 9.1 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

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

**Subject to the above actions**, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. No development shall commence until finalised details of the proposed sculpture design have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt this shall include detailed elevational drawings and detail on final materials to be used. The development shall thereafter be undertaken in accordance with the approved details.

**Reason:** As the design has not yet been finalised and in the interest of visual amenity.

## 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.

## INFORMATIVES

### 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.

### **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.

### **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.

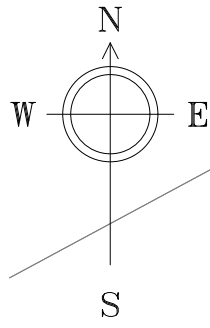
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. 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**

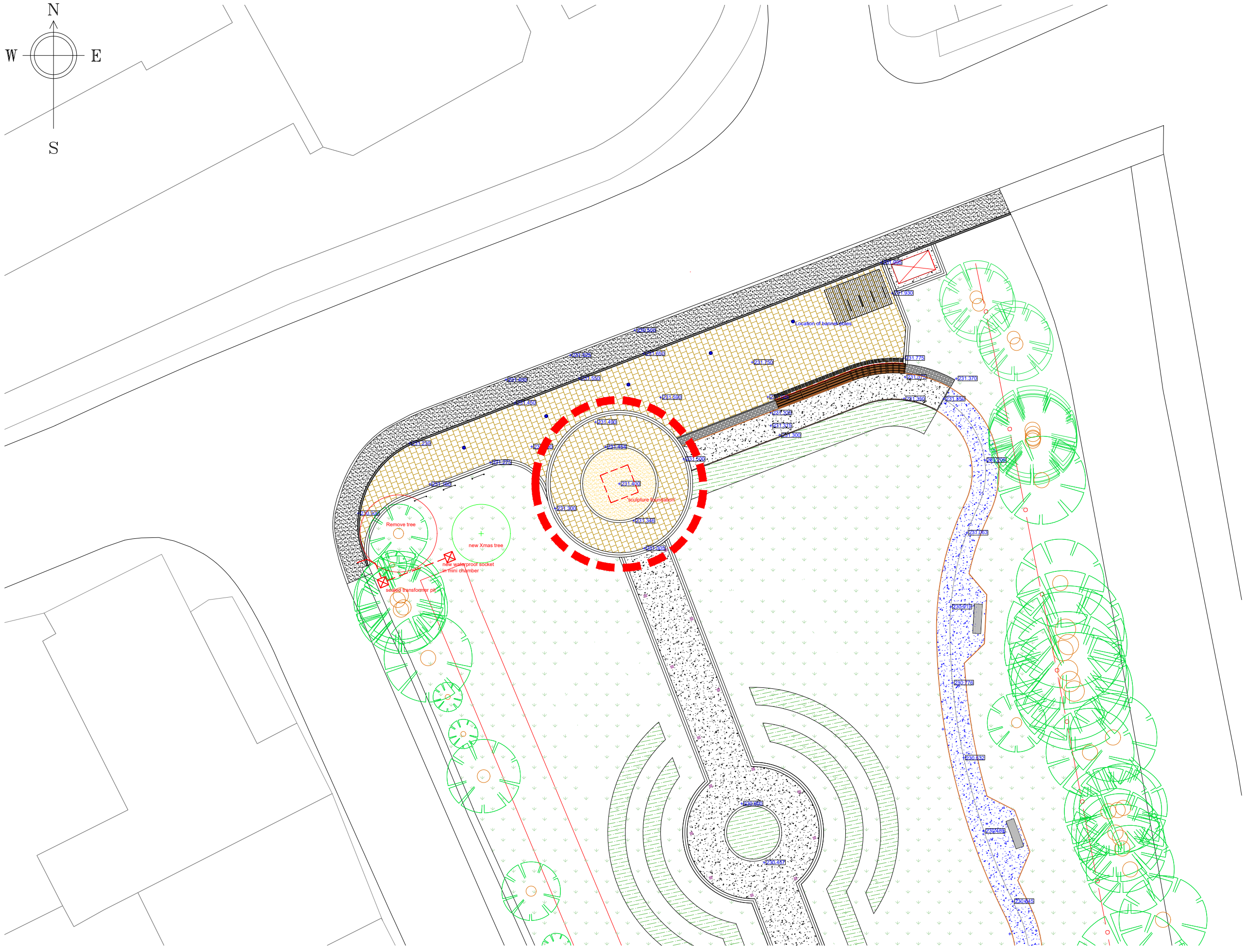
You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance 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)

Signature: David Mudie  
Designation: Area Planning Manager - South  
Author: Laura Stewart  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 000001 – Elevation Plan  
Plan 2 - L04 Rev A – Location Plan





**Legend**  
 - - - Planning application boundary



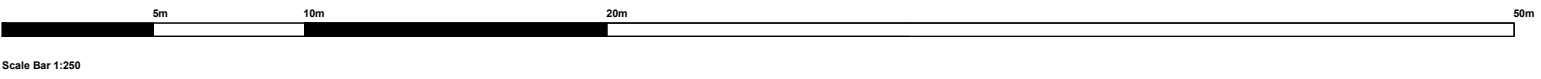
Rev.A 18.01.21 Amendment to scale and addition of scale bar

Rev. Date. Reason.

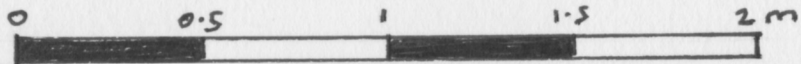
**TGP LANDSCAPE ARCHITECTS**  
 7 The Square, 95 Morrison Street,  
 Glasgow, G5 8BE Tel: 0141 429 2999  
 info@tgp.uk.com/www.tgp.uk.com  
 Also in Edinburgh & Newcastle

Project	Kingussie Active Travel and Landscape Designs					
Title	Gynack Gardens Sculpture Area					
Date	Scale	Drawn	Checked			
7/01/21	1:250 @ A3	KB	ME			
Job	Suitability	No.	Issue	Revision		
1997	-	L04	Construction	A		
LI WORKSTAGE:	0/1	2	3	4	5	6
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**DISCLAIMER:**  
 Do not scale from this drawing.  
 All dimensions to be verified on site prior to commencement of works.  
 Drawing to be read in conjunction with related TGP drawings, consultants drawings and any other relevant information.  
 This drawing is the copyright of TGP Landscape Architects Ltd, unless otherwise specified.



Scale Bar 1:250

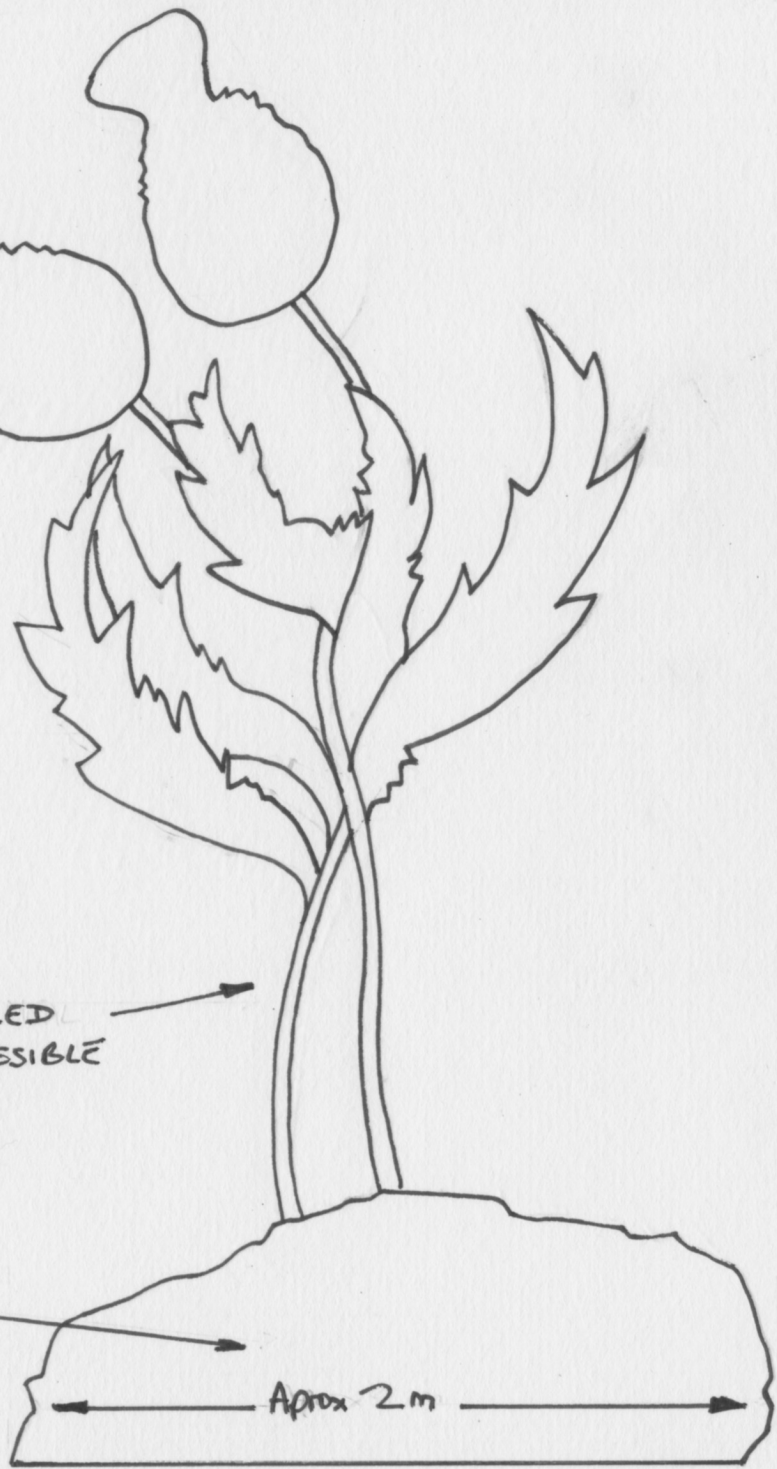


SCALE 1:20

20/05033/FUL SCULPTURE  
GYNACK GARDENS. KINGUSSIE  
INDICATIVE ELEVATION  
DRAWING 1:20 SCALE

GALVANISED METAL (USING LOCAL RECYLED METAL AS FAR AS POSSIBLE)

GRANITE BOULDER SOURCED LOCALLY



Approx ht 3.9m

Approx 0.7m

Approx 2m