

Agenda Item	6.4
Report No	PLS-63-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 18 August 2022

Report Title: 22/00616/FUL: Mrs Michelle Stewart
Land 80M SE of Tigh An Each, Balgowan, Newtonmore

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Erection of stable block (retrospective)

Ward: 20 – Badenoch and Strathspey

Development category: Local

Reason referred to Committee: Community Council objection and 5 or more objections

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 Planning permission is sought, in retrospect, for the erection of a stable block on land to the rear of Tigh An Each, Balgowan, Newtonmore. The stable block is required in connection with the applicant's business which is for breeding horses and ponies, training and schooling, and rehabilitation of sick and injured equines. Ancillary works associated with the construction of the stable block have included the creation of an area of hardstanding, the extension of an existing access road, and the erection of fencing.
- 1.2 The stable block sits on an 'L'- shaped footprint and is constructed of timber with vertical timber cladding for the external walls. It is single storey in height with a shallow pitched roof featuring profiled fibre cement sheeting and contains 7 stalls with an additional storage area. This planning application is related to two other planning applications – 22/00376/FUL for the use of land as a campervan aire and 22/00644/FUL for the installation of foul drainage treatment plant and outfall, which are being determined concurrently with this proposal and are the subject of separate reports.
- 1.3 The site is located in Balgowan, a small community of dispersed houses that lie either side of Balgown Road; a single-track elevated road that has an east and west junction with the A86 Trunk Road and which are located just under 900 metres apart. Balgown Road sweeps north of the A86 and at its furthest point is approximately 275 metres from the trunk Road. The intervening land is open countryside that gently rises to the north and with some small pockets of woodland adjacent to the A86.
- 1.4 Access to the site is from the existing access serving the dwellinghouse Tigh An Each from the south side of Balgown Road.
- 1.5 Pre-Application Consultation: Not required.
- 1.6 Supporting Information: The following information has been submitted in support of the application:
 - Design Statement
- 1.7 Variations: Alterations to application site boundary to include existing land associated with the equestrian use of the site.

2. SITE DESCRIPTION

- 2.1 The site is part of a wider land holding that consists of the dwellinghouse Tigh An Each which also operates as a B&B; 4 holiday pods; and a campervan aire. The site extends from Balgown Road to the north down to the A86 to the south. The stable block, which is the subject of this application, is located on the eastern side of the site and just north of the grazing land that extends down to the A86. The overall holding covers an area 1.57 hectares in size with the planning application site boundary accounting for 1.04 hectares.

- 2.2 Immediately to the west is the campervan aire subject to one of the applications referred to in paragraph 1.1 above and beyond the western site boundary is open grazing land. The southern boundary is defined by the A86 Trunk Road.
- 2.3 The nearest neighbouring property is Balgowan House which lies to the east of the site. At its closest point it is approximately 11 metres from the eastern site boundary and approximately 35 metres from the stable block at its closest point. This reduces to approximately 18.5 metres from the southwest corner of the curtilage of the house.

3. PLANNING HISTORY (RELEVANT TO THIS APPLICATION)

3.1	18.09.2007	07/00182/FULBS - Erection of house and garage; construction of private equestrian sand school	Planning Permission Granted
3.2	10.03.2008	07/00335/FULBS - Set aside condition 5 of planning approval 07/182/FULBS	Planning Permission Granted
3.3	25.05.2009	09/00078/FULBS - Use of land for siting of 5 towable field shelters on a rotational basis	Planning Permission Granted
3.4	10.03.2017	16/04433/FUL - Change of use of land for the siting of 8 timber pods to provide accommodation primarily for walkers and cyclists	Planning Permission Granted
3.5	14.03.2017	17/00051/FUL - Change of land use from croftland to leisure to allow the siting of 4 timber pods (amended proposal 16/4433/FUL)	Planning Permission Granted
3.6	02.03.2022	18/03551/FUL - Siting of a static caravan (retrospective)	Planning Permission Granted
3.7	26.04.2021	20/05138/FUL – Erection of house	Planning Permission Granted
3.8		22/00376/FUL - Use of the site as a campervan aire (5 pitches)	Pending
3.9		22/00644/FUL - Installation of foul drainage treatment plant and outfall	Pending

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour/Schedule 3 Development

Date Advertised: 10.03.2022

Representation deadline: 24.03.2022

Objectors

Timeous representations: 19

Late representations: 1

Supporters

Timeous representations: 44

Late representations: 0

4.2 Material considerations raised are summarised as follows:

Objectors

- a) Development is contrary to Development Plan;
- b) Overdevelopment of site;
- c) This application is related to a commercial business and not for domestic needs of applicant;
- d) Unacceptable waste management practices including manure pile run off to River Spey;
- e) Unsympathetic siting of stable block;
- f) Increase in traffic;
- g) Application description does not adequately describe extent of works that have taken place over the wider holding;
- h) Adverse impact on residential amenity; and
- i) Landscape impact

Supporters

- a) MAC Equestrian is always immaculately tidy and well kept. A stable block is essential to running any equestrian business and the welfare of horses.
- b) The design and layout are to a high standard and in keeping with the area;
- c) The operator provides a vital service for clients in helping schooling and backing of horses and ponies;
- d) As a veterinary professional the stable block in question is absolutely vital in providing a safe and suitable environment for horses which are there for specialist training and/or rehabilitation. The building is fit for purpose and maintained to a high standard;
- e) This is an appropriate development for a countryside location; and
- f) The stable block is a significant improvement over the previous stables that were falling into a state of disrepair.

- 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.

5. CONSULTATIONS

- 5.1 **Laggan Community Council:** Object to the proposal to ensure that it is considered by South Planning Applications Committee. It appears that this proposal, when considered in conjunction with the other recent planning applications, has elements which could be considered as Schedule 3 Development. That is not to say that the activities and businesses undertaken at the site do not represent and bring benefits to the community, it is simply to ensure that no precedent is set to sanction any non-residential developments without full rigour of the planning process, including effective neighbourhood consultation and compliance to existing planning rules. It is therefore the view of the Community Council that the individual planning applications should not be considered in isolation but assessed for their full impact on the amenity and character of the existing Balgowan crofting township and be consistent with the development plan.
- 5.2 **Environmental Health:** Proposed planning conditions have been discussed and agreed between the case officer and Environmental Health in relation to this and the related planning applications under consideration. The need for an approved lighting scheme for the site has been identified as a matter to address.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Cairngorms National Park Local Development Plan 2021

- 2 – Supporting Economic Growth
- 3 – Design and Placemaking
- 4 – Natural Heritage
- 5 – Landscape
- 10 – Resources

6.2 Cairngorms National Park Planning Guidance

- Supporting Economic Growth (non-statutory guidance)
- Design and Placemaking (non-statutory guidance)
- Natural Heritage (non-statutory guidance)
- Landscape (non-statutory guidance)
- Resources (non-statutory guidance)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (Revised 2020)

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) site layout and design
 - c) impact on environment, community and residential amenity
 - d) impact on infrastructure and services
 - e) any other material considerations.

Development plan/other planning policy

- 8.4 The site lies within the small settlement of Balgowan which is within and to the northeast of the Ben Alder, Laggan and Glen Banchor Special Landscape Area. It also forms part of the Upper Spey Farmlands – Laggan Strath, Landscape Character Area as defined by Cairngorms National Park Authority.
- 8.5 Development Plan policy is supportive of proposals where they conserve or enhance the landscape character and special landscape qualities of the Cairngorms National Park. The Development Plan is supportive of proposals which have no adverse environmental or amenity impacts on the site or neighbouring areas and are compatible with existing business activity in the area; and support the vitality and viability of the local economy.
- 8.6 Subject to the proposal having no significant detrimental impact on the landscape, the environment in general, or community and residential amenity, the proposal; would comply with the Development Plan.

Site layout and design

- 8.7 The stable block is located on the eastern side of the site and just north of the grazing land that extends down to the A86. It is conveniently placed adjacent to the grazing land.
- 8.8 The stable block sits on an 'L' shaped footprint and the longest section measures approximately 19 metres in length, with the shorter section approximately 14 metres in length. The width of the stable block is approximately 3.6 metres with a short overhang of the roof extending over the stalls extending this to

approximately 4.7 metres. The building measures 2.4 metres to eaves and 3.25 metres to ridge. A cupola is located approximately halfway along the roof of the longer section of the building, projecting approximately 1.9 metres above the ridgeline.

- 8.9 When viewed from the northern part of the wider site and from the A86 the low profile and timber finish of the stable block results in a minimal visual impact.

Impact on environment, community and residential amenity

- 8.10 As referenced in paragraph 8.4 above the site lies within the Ben Alder, Laggan and Glen Banchor Special Landscape Area (SLA) and forms part of the Upper Spey Farmlands – Laggan Strath, Landscape Character Area (LCA) as defined by Cairngorms National Park Authority.
- 8.11 In 2011 the Council published, in partnership with Scottish Natural Heritage a report titled 'Assessment of Highland Special Landscape Areas'. The overview for the Ben Alder, Laggan and Glen Banchor SLA notes that it is located at the heart of the Central Highlands where it combines a series of attractive, predominantly wooded glens interspersed with small-scale farmlands, and rising to moorland that leads to distinctive craggy summits and mountain plateaux which are of picturesque quality. Traditional estate farmsteads, cottages, castles and gatehouses occur throughout the glens and enrich the sense of history within the area.
- 8.12 Cairngorms National Park Authority's landscape toolkit informs users that within the Upper Spey Farmlands – Laggan Strath the area of Balgowan has a settlement pattern formed by a close sequence of individual farms and linear fields extending down across the strath. Buildings are kept off the better land but close to the road, reinforcing the edge between free draining cultivatable land and rough grazing. The public roads are elevated above the strath floor, often located at a break in slope between high terraces along the lower edge of the hills.
- 8.13 The Development Plan advises that it does not seek to keep landscapes unchanged; rather that new development conserves and enhances the distinctive characteristics that are valued as landscapes evolve.
- 8.14 This proposal is for a modest stable block lying to the south, and below but adjacent to the existing established properties that define the built character of Balgowan. It is located close to the Strath floor and visual impact is minimal. Consequently, it is considered that the proposal will not have an adverse impact on the wider landscape characteristics that define the SLA or LCA.
- 8.15 In terms of impact on community and residential amenity, it is recognised that the proposal contributes to a number of incremental changes that have taken place on the land at Tigh An Each over a period of time dating from circa 2008 when the house was constructed. It is also recognised that this impact will have been more obvious for occupiers of adjacent neighbouring properties.
- 8.16 The site has been in equestrian use for a number of years. Three stable buildings were located in the northeast corner of the holding adjacent to Balgowan Road and

were in place by July 2009. Their distance from the nearest neighbouring property at Balgown House was comparable to the proposed building, lying approximately 35 metres away at their closest points. These buildings have subsequently been removed from the land. The location of the stable block further down the holding is arguably a more appropriate location away from the roadside and adjacent to existing grazing fields.

- 8.17 Light pollution and glare from the site have been highlighted as a concern from the representations received. It is considered that with an appropriately worded planning condition any undesirable impacts arising from the development could be made acceptable enabling the proposal to be supported.

Impact on infrastructure and services

- 8.18 Concerns have been raised about the impact of the development on the existing roads infrastructure, particularly given that Balgown Road is a single width carriageway with limited passing places. However, given that horses and ponies are trained, schooled or rehabilitated over a protracted period of time, it is considered that the level of traffic associated with the use of the stables would be very limited. There is no evidence to suggest that the equestrian use of the site has generated, or continues to generate, a high volume of traffic and visitors to the site.
- 8.19 Concerns have also been raised about the impact on water and drainage. The applicant has advised that the site has its own private water supply. There is no evidence to suggest that this has had any adverse impact on water supplies to other properties in the area.
- 8.20 The drainage issues raised include concerns over effluent discharges from manure stockpiles to a nearby watercourse. Any discharge to a watercourse is a matter for SEPA as the appropriate regulatory authority to investigate.
- 8.21 It should also be noted that on the day of a site inspection carried out in May 2022 in connection with the current planning applications, and where several horses were observed grazing in the fields below, there was no evidence of odour emanating from, or in the vicinity of, the stable building.

Other material considerations

- 8.22 Several objectors have commented that enforcement action should have been taken when the breach of planning control was first brought to the Council's attention. Enforcement action is a discretionary power available to the Planning Authority under the 1997 Act to remedy any breach of planning control. However, national and local guidance on the use of enforcement powers is clear that the purpose of enforcement is not to punish persons that have carried out unauthorised development but rather remedy any undesirable effects that arise from it. In this case the submission of a planning application has enabled the Council to consider the use and operations that have taken place in accordance with the Development Plan and the conclusion reached is that any undesirable effects arising from the use of the stable block and the wider site can be effectively controlled through the use of planning conditions.

- 8.23 Several objectors have also questioned the lawfulness of equestrian activities that are taking place on the site and specifically the commercial element of this. It is noted that in June 2007 planning permission was granted for the house Tigh an Each, along with a private equestrian sand school (07/00182/FULBS). One of the conditions specifically imposed on the permission sought to restrict the use of the sand school “solely by the named applicant for exercise of her own horses and training for her own participation in sporting events or similar personal purposes...”. A subsequent planning application was submitted in December 2007 that sought to delete this restriction. This application was granted planning permission in March 2008 with an amended condition which stated: “The Sand School granted planning permission by the Highland Council on 18 September 2007 under 07/00182/FULBS shall be utilised solely for the exercise of the named applicant's own horses and any other horses grazed on the applicant's land, and for her own personal training for participation in sporting events or similar personal purposes.”
- 8.24 The subsequent amendment of the original restriction therefore enabled the applicant to utilise the sand school for other horses under her care but not necessarily her ownership. The letters of support submitted in connection with this proposal clearly evidence that this takes place and therefore the use of the site for equestrian activities by the applicant for horses and ponies under her care is lawful.

Non-material considerations

- 8.25 There are no non-material considerations relevant to this proposal.

Matters to be secured by Section 75 Agreement

- 8.26 None.

9. CONCLUSION

- 9.1 Planning permission is sought in retrospect for the erection of a stable block. Ancillary works associated with the construction of the stable block have included the creation of an area of hardstanding, the extension of an existing access road, and the erection of fencing.
- 9.2 The site is located within a regionally important SLA, noted for its series of attractive, predominantly wooded glens interspersed with small-scale farmlands, and rising moorland. The stable block by virtue of its siting and design is considered to fit within the local landscape and does not in any way detract from the important and valued landscape features of the wider area. It is an appropriate scale of development which is not untypical of a rural location.
- 9.3 The development has been carried out to a high standard with the design and use of materials complimenting its rural setting. Any adverse impacts arising from lighting on the site could be eliminated through approval and implementation of a lighting schedule. Landscaping works would enhance the setting of the stable block and limit the visual impact for adjacent neighbours. These are matters that could be effectively controlled through planning condition, should

Members be minded to grant planning permission for this proposal.

- 9.4 Subject to appropriate planning conditions as set out at the end of this report, the proposed stable block would be acceptable in land use planning terms.
- 9.5 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

Notification to Scottish Ministers N

Conclusion of Section 75 N
Obligation

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. Within 3 months of the date of this planning permission full details of all external lighting to be used within the site and/or along its boundaries and/or access shall be submitted to, and approved in writing by, the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary. The submission shall also include seasonal hours of operation. Thereafter only the approved lighting scheme shall be operated.

Reason: To ensure that the external lighting scheme as approved does not have the potential to adversely affect the amenity of surrounding neighbouring properties and occupants.

2. Within 3 months of the date of this planning permission a scheme of hard and soft landscaping works shall be submitted for approval in writing by the Planning Authority. Details of the scheme shall include:
 - i. A plan showing existing landscaping features and vegetation to be retained;
 - ii. The location and design, including materials, of any existing or proposed walls, fences and gates;
 - iii. 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
 - iv. 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.

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.

INFORMATIVES

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).

Signature: David Mudie
Designation: Area Planning Manager – South
Author: John Kelly
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan (2201-200 REV A)
Plan 2 – Site Layout Plan (2201-2031)
Plan 3 – Floor/Elevation Plan (2201-202)

Track

Verify all dimensions and levels.

Do not scale from this drawing. This drawing is to be used in conjunction with the consultants drawings and the specification. Any discrepancies to be referred to the Architect.

Stoney Brae

Tigh an Each

Balgowan House

caravan parking

Track

Cluny Croft

Stables

Rev A Redline extended 3/3/22

Rev _____ Date _____

Drawing status
Planning

Client
M Stewart

Project _____

Proposed Stable accomodation
Tigh an Each Croft
Balgowan

Detail _____

Location Plan

Drg No _____ Rev _____

2201-200 A

Scale _____ Date _____

1/1000@A4 Jan 22

Drawn _____ Checked _____

LH

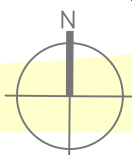
Leslie Hutt Architect

3 View Place Inverness IV2 4SA

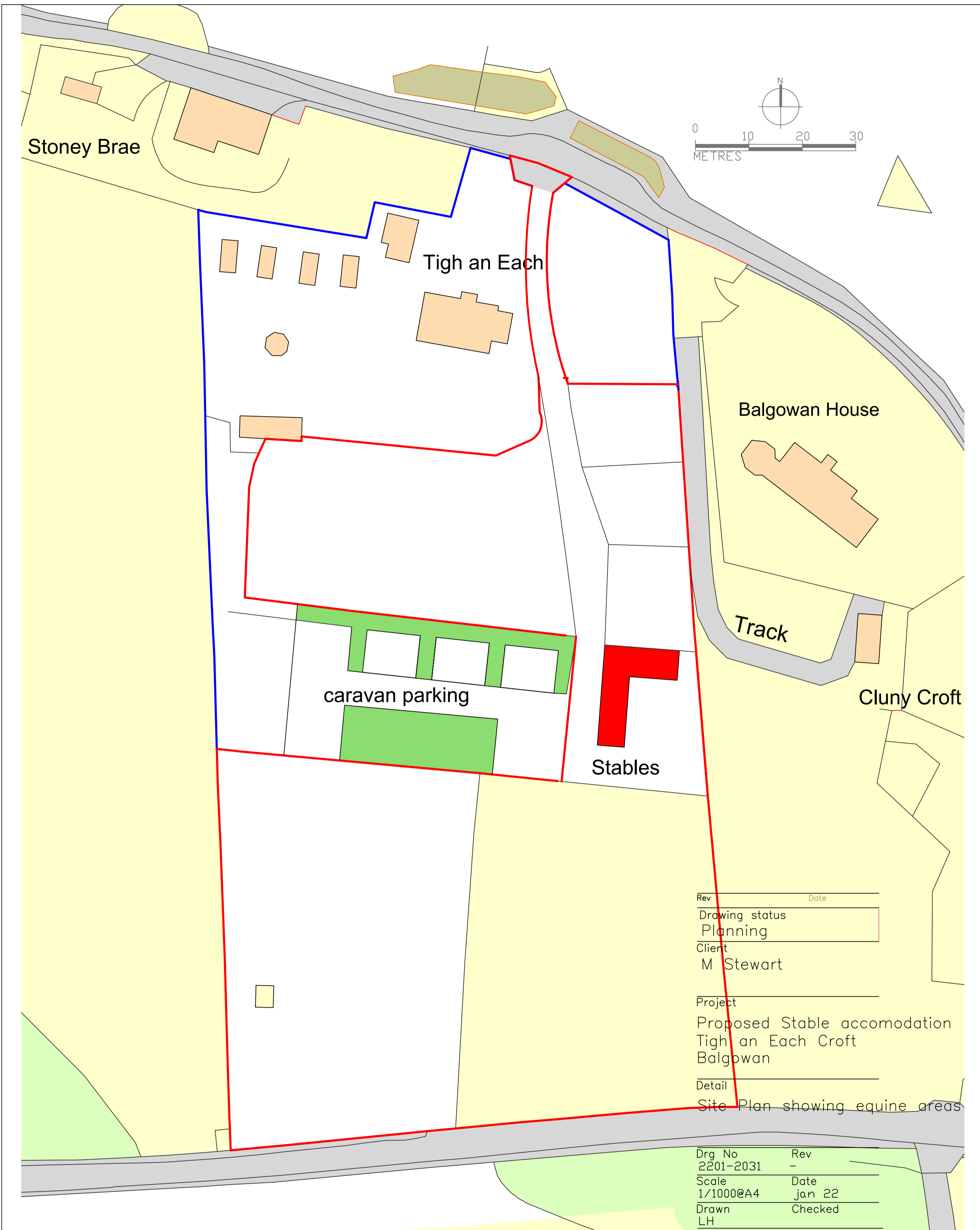
Tel: 01463-235566 Fax: 01463-234370

e-mail: les@leshutt.co.uk

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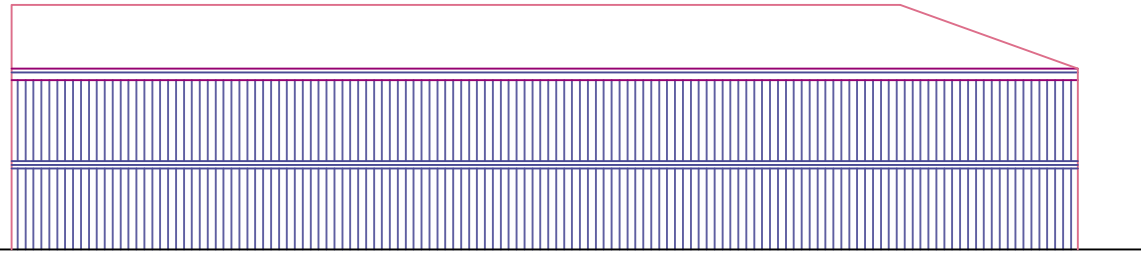
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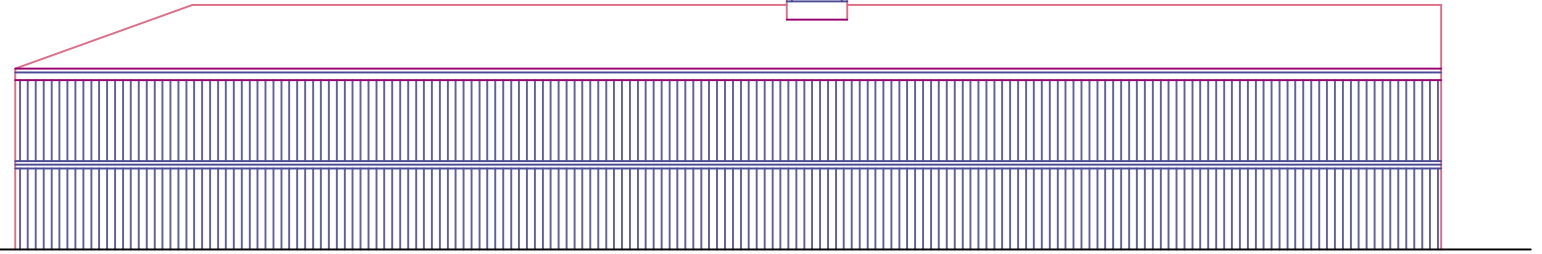
Rev	Date
Drawing status	
Planning	
Client	
M Stewart	
Project	
Proposed Stable accomodation	
Tigh an Each Croft	
Balgowan	
Detail	
Site Plan showing equine areas	

Drg No	Rev
2201-2031	-
Scale	Date
1/1000@A4	Jan 22
Drawn	Checked
LH	

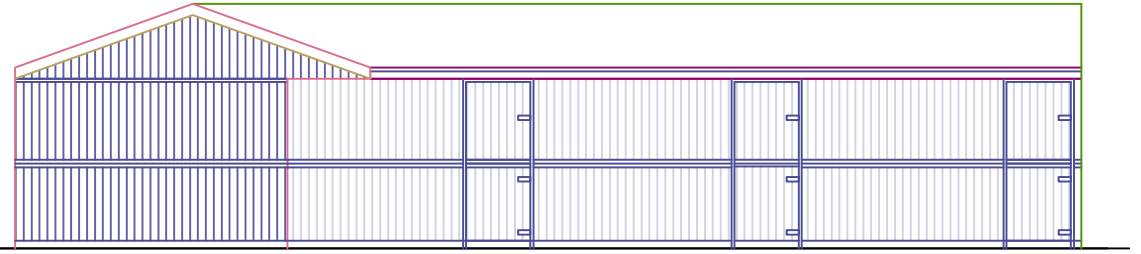
Leslie Hutt Architect
 3 View Place Inverness IV2 4SA
 Tel: 01463-235566 Fax: 01463-234370
 e-mail: les@leshutt.co.uk
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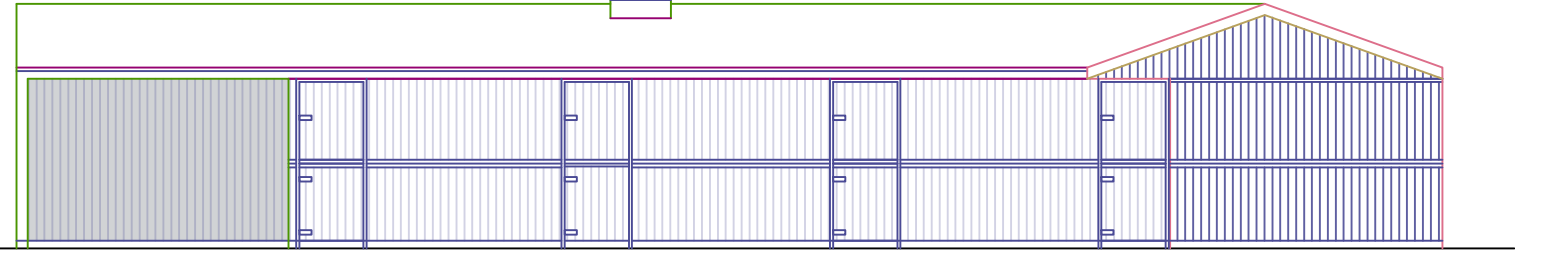
NORTH ELEVATION



WEST ELEVATION

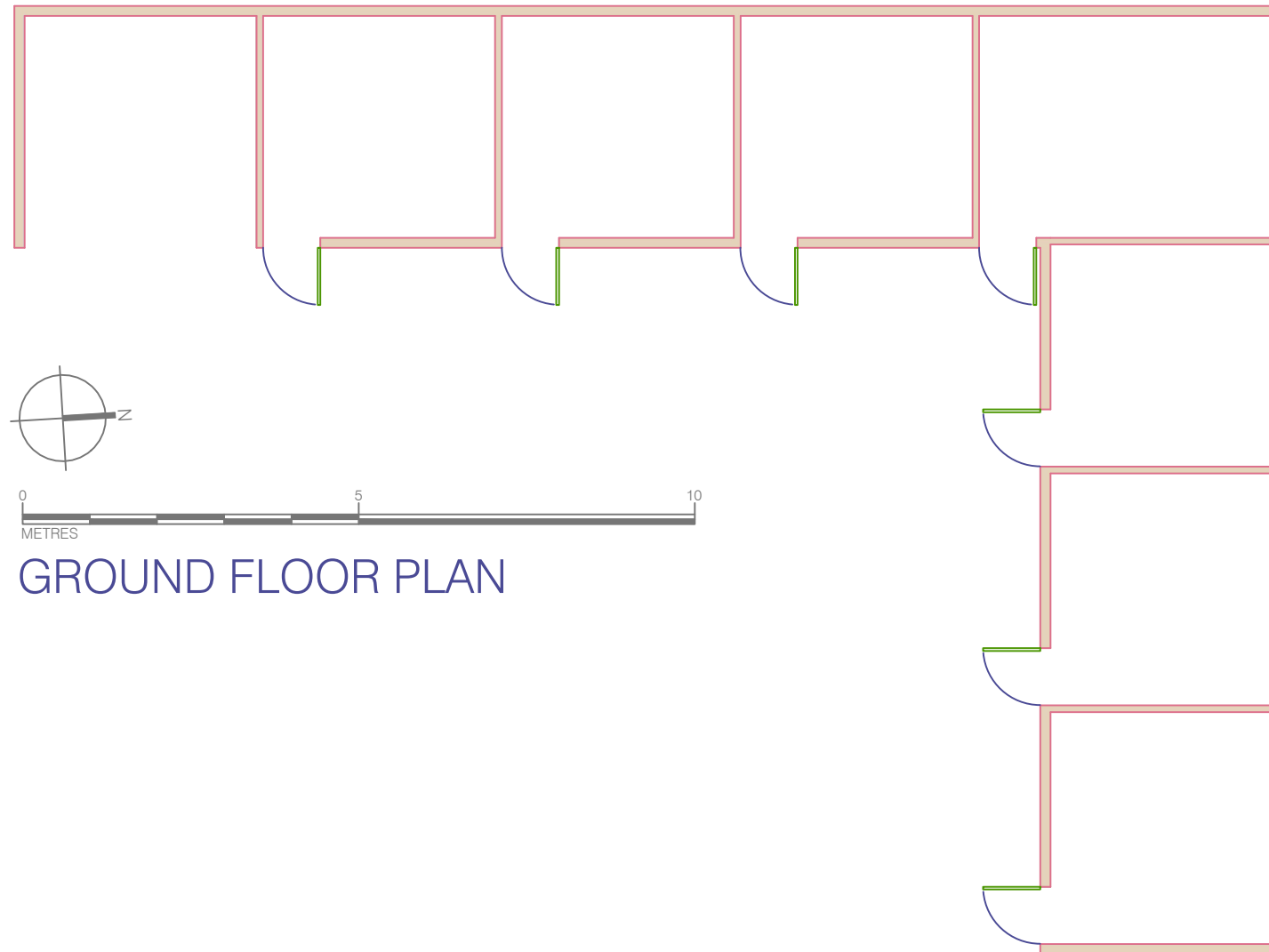


SOUTH ELEVATION



EAST ELEVATION

Finishes
 Walls vertical Timber Cladding
 Roof
 Profiled fibre cement sheeting



GROUND FLOOR PLAN

Verify all dimensions and levels.

Do not scale from this drawing.
 This drawing is to be used in conjunction with the consultants drawings and the specification.
 Any discrepancies to be referred to the Architect.

Rev	Date
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Drawing status	
PLANNING	

Client
 M STEWART

Project

PROPOSED STABLE
 ACCOMMODATION, TIGH AN EACH
 CROFT, BALNAGOWAN

Detail
 FLOOR PLAN

Drg No	Rev
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2201-202	
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Scale	Date
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1/100@A3	FEB 22
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Drawn	Checked
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JB	
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Leslie Hutt Architect

3 View Place Inverness IV2 4SA
 Tel: 01463-235566 Fax: 01463-234370
 e-mail: les@leshutt.co.uk

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