

TCP/11/16(455)

Planning Application – 16/01511/IPL – Erection of a dwellinghouse (in principle) on land 250 metres North East of Balnairn, Foss

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TCP/11/16(455)
Planning Application – 16/01511/IPL – Erection of a
dwellinghouse (in principle) on land 250 metres North East
of Balnairn, Foss

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)		Agent (if any)	
Name	NICK & DIANA HORSFALL	Name	DAVID TAYLOR
Address	DALCHOSSIE FARM, KINLOCK BANNOCH PERTHSHIRE	Address	TAYLOR ARCHITECTURAL PRACTICE, 29/30 MARITIME ST. EDINBURGH
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Fax No		Fax No	
E-mail*		E-mail*	David@taylorarchitects.co.uk

Mark this box to confirm all contact should be
through this representative: ☒

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority	PERTH & KINROSS COUNCIL		
Planning authority's application reference number	16/01511/1PL		
Site address	LAND 250M NORTH EAST OF BALNARIN, FOSS		
Description of proposed development	ERECTION OF A DWELLING HOUSE		
Date of application	05/09/2016	Date of decision (if any)	30/09/2016

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☐
2. Application for planning permission in principle ☒
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions [SUBMITTED WITH APPEAL] ☐
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

IF THE REVIEW BODY WISHES TO CHECK THE VERACITY OF ANY OF THE EVIDENCE SUBMITTED, A HEARING AND AN INSPECTION WOULD BE HELPFULL

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

NONE

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

The Refusal of the Application states several reasons for the decision. One of the most important is the lack of operational justification for the application to build a home in the countryside. The Applicants believe that the operational need is clear and imperative. They have farmed at Kinloch Rannoch for twenty years. They are tenant farmers and own no land or home of their own. The lease of the land comes to an end in 2018 and the landowner has declined to renew it. The Applicant must therefore vacate the farm and the house attached to it, where they have worked for many years. The proposed changes to Land Tenure currently being considered by the Scottish Government have made many landowners unwilling into long term agricultural leases lest tenants acquire purchasing rights. This has meant that not only do the Applicants have to leave their farm but they cannot find land to farm on a long term basis. They have obtained leases on land close to the site but only upon an annually renewable basis. However, these leases are for substantially larger lands than they currently farm and represent a real possibility to expand their farming activities. As any farmer will agree, it is essential that a farmer lives close to his animals. This may be desirable during summer but is absolutely essential during lambing and calving. Early intervention in these activities can be the difference between saving or losing animals. The Applicants look after their animals themselves and cannot live off the farm relying on shepherds.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

SEE PAGE 5 [OVER]

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Commentary on the Reasons for Refusal of the Application listed by the Planning Department
 Topographical Survey of the Site,
 Photographic Record of the Site – 11 Photographs
 Report from Hydrologist and Flood Risk Plans – 1 to 3
 Site Boundary and Vehicular Movement Plan
 Woodland Survey and Associated Plan
 Wildlife Report
 Operational Justification for the Application
 Farm Accounts – MR N and Mrs D Horsfall
 Letters from Estate Owners adjacent to the site and whose land is farmed by the Applicant

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

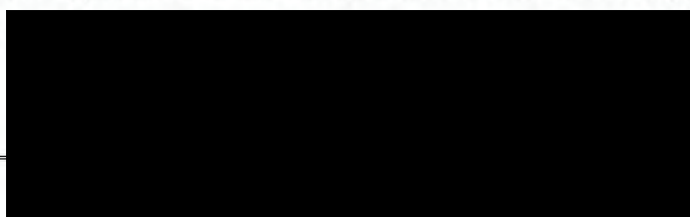
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the ~~applicant/agent~~ ~~[delete as appropriate]~~ hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

22/12/16

Several reasons given for the refusal of the Outline Planning Application are that a number of technical reports that might have supported the Application, such as a Flood Risk Assessment, a Wildlife Survey, Topographical and Woodland Surveys and an adequate economic justification had not been provided with the Application. The Application was determined and refused almost three weeks after being submitted without any request being made to the Applicants for the information listed in the determination document as not having been provided. The Applicants were not advised of the importance of providing this information.

The Application was in outline only, bearing only upon the principle of the conversion and expansion of the old ruined flax mill to form a new dwelling house. The Applicants thought that such detailed information would not be required. As tenant farmers working with their sheep in the hills of Loch Rannoch, surplus income is always in short supply and they had no wish to expend more money on an Application than was necessary. Had the need been made clear, they would have commissioned the work and presented it with the Application. To prepare a comprehensive appeal, the Applicants commissioned the reports mentioned by the Planning Department.

As has been mentioned above, The Applicants were not aware of the need, nor were they requested in response to the Application, to prepare the reports that are now submitted. The Refusal of the Application cannot be effectively challenged in fact without the submission of the reports that are incorporated into this Appeal.

Planning application of Nick and Diana Horsfall

Date of Refusal by Planning Authority: 28/09/16: Grounds Stated for Refusal

RD3 Housing in the Countryside Guide 2012

- Insufficient justification for operational need.

This contention is absolutely denied. The shepherd/farmer must be in close contact with his stock, particularly during lambing and calving time. If he farms lands of 650 acres, the farmer will always be some distance from some of his stock but in the Springtime it would be normal for the farmer to collect his animals as closely as possible to the homestead. Given the topography of the land adjacent to the Balnairn site, this is perfectly possible. It is agreed that the present annually renewed tenancy renewal arrangement is unsatisfactory both for landowner and tenant. However, in these days, landowners do not find it easy to find reliable farming tenants and the local landowners have confirmed in their statements that they hope that the existing tenancy agreements will be continued into "the foreseeable future".

The local property market is distorted by the holiday tourism industry. Property values cannot be afforded by the Applicants, as their Accounts clearly show. There are no properties within the estates that they could rent and the landowners would not be willing to sell land to them to build themselves a home. The site at Balnairn represents an opportunity for the Applicants to build themselves a modest home from which to work on the lands nearby. Once the issues of land tenure are settled, they hope to lease upon a long-term basis.

- Lack of established site boundaries

The Planning Report states that under the policy, the site must have:

"an identifiable site.... with long established boundaries which must separate the site naturally from the surrounding ground (eg a dry stone dyke, a hedge at minimum height of 1 metre, a woodland or group of mature trees, or a slope forming an immediate backdrop to the site."

The site is quite clearly and distinctly divided into two sections; high ground upon which the old flax mill was built and low ground to the north and east, associated with the fast running stream. The site designated in the Plan contained in Appendix E shows a site area bounded by a public highway on one long side, a strongly running stream on another long side and a steep bank quite distinctly separating the high ground upon which the ruined flax mill sits from the low-lying wet ground adjacent to the stream and to the north east of the high ground

The Plan contained in Appendix E identifies the Site Area as being the higher, dry part of the ground formed at the top of the steep 3 metre drop to the wet and unusable land adjacent to the stream. A line of trees running along the edge of the change in level further defines the boundary. It is suggested that this straightforward separation complies exactly with the requirements of the Policy.

- Other Planning categories not applicable

PM1A Placemaking.

- Proposal will not contribute positively to the quality of the built and natural environment. It is denied that the development of the site will not contribute to the quality of the environment. At present the old flax mill represents an interesting but derelict structure in a typically untended rural landscape consisting of over-mature trees, self-seeded saplings, brushwood, brambles and nettles. The insertion of a building into such an environment and the tidying up of the landscape are not inevitably visually damaging. They can indeed be positive elements although it is accepted that this depends upon the care and skill of the architect. However, this is a matter for a Detailed Planning Application. It is suggested that 'islands' of habitation situated in the countryside, such as the traditional white-washed cottage standing on the lochside with the hills rising behind, can enhance rather than damage the environment. The matter is one of need for care, skill and sensitivity on the part of the designer. It should not be assumed that this care must inevitably be absent.
- The site is too narrow and unsuitable for a dwelling house. Lack of sufficient associated amenity space. This opinion is not accepted. The site drawing (Appendix E) illustrates the location of the ruin, with cars parked between it and the public highway. It can be seen that there is sufficient space for a dwelling house and associated vehicles. It can be agreed that there is not much space on site for a 'garden'. However, the Applicants are more interested in landscape than a manicured garden and propose to plant the low lying land adjacent to the stream with wetland tree species and other wetland plants. This will form part of the landscaping plan for the site forming part of a detailed Planning Application, should Outline Planning Consent be granted..

PM1B Landscaping

- Removal of Woodland from the Site.

It is stated that the proposed development would both erode and dilute the character of the landscape.

The document outlining the reasons for the Refusal of the Application refers to the removal of woodland on the site. In fact the Applicants have no intention of removing any trees from the site other than to remove the brushwood and multiple –stemmed saplings that proliferate parts of the site. These are so slight in volume that they do not even appear on the Tree Survey. Should Approval be granted in principle for the construction of a dwelling house on the site, the Applicants will engage a Landscape Architect to make planting proposals to be incorporated into a Detailed Planning Application.

- Siting of the dwelling house.

The document outlining the reasons for the Refusal of the Application states that ‘siting of the house would erode and dilute the areas landscape character.’

The Application has not indicated any siting for the proposed house. The character of the site is in part already defined by the presence of the substantial stone-built ruin with walls up to 3.2 metres in height that stands on the site. It can be argued that an inappropriate building in a woodland landscape would be detrimental to the setting, but anyone viewing the site would have to agree that it is not ‘quality landscape’. It is neglected woodland. This is not an argument to give permission to any dwelling design no matter how inappropriate. It is however, an argument that a design of good quality could enhance the present nondescript appearance and nature of the site.

NE2A and NE2B: Infringement of policies of Perth and Kinross Development Plan and:

Scottish Government Policy on Woodland Removal

Scottish Government Woodland Strategy

National Planning Framework

The Refusal Document states that no Tree Survey has been submitted, the extent of tree felling has not been quantified in the Application, and that there are no clear public benefits associated with the removal of the woodland.

A tree survey has now been provided. As has already been stated, the Applicant does not intend to cut down any of the trees marked on the survey. As the Plan of the site shows, there is a considerable area on the north and eastern portion of the site that is not usable for any practical purposes. It is intended to undertake additional tree and landscaping planting in this area.

NE3

Biodiversity

No ecological survey and study on impact and no mitigation were offered for the protection of wildlife and habitats.

The Applicants were not aware of the requirement to prepare a survey and impact study, nor were they informed of the need to do so by the Planning department. Subsequent to the refusal of the Application, a study was commissioned from Coopecology who are conversant with the locality and its associated wildlife. This report is provided in Appendix H. The report concludes that “no evidence was found of any protected mammalian species that would be threatened by the relatively small scale development. Many individual mammals may use parts of the site at times but it appears very unlikely that any of them will rely upon this piece of land for sustenance or as a primary place of shelter or protection.”

ER6

Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Landscape of the Area.

The Delegation Report states that development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the test set out in 7 criteria set out in the Policy.

As has already been stated in this commentary, it is not believed by the Applicants that their proposal conflicts with the Council’s policy to protect and enhance the landscape character of the countryside around the site. They will undertake to carry out the development of the existing mill to provide a new dwelling in a manner sympathetic to the site and its landscape. The Planning Department has the power and authority to consider the detailed design that would be submitted if a Consent in Principle was to be granted, and to require changes where they disagree with the proposals. It cannot be said that no design proposals could possibly be offered that would not sympathetically expand upon the old ruin, provide new accommodation in keeping with the character of the ruin and enhance the existing landscape. The Applicant seeks approval for the principle of development to justify the effort and expense of moving on to the more detailed step of detailed design.

EP2

Flood Risk Assessment

The Refusal document states that no flood risk assessment study has been provided.

No request was made by the Planning department to the Applicant that a Flood Risk Assessment be prepared. After receiving the Refusal Document the Applicants asked the hydrological consultants Gunn MacPhee to report upon the flood risk, and to base their opinion upon the topographical survey undertaken by Property and Land Surveys (Highlands) Ltd. Their report is contained in Appendix F together with the Flood Characteristics Plans. These identify that the high ground within the site is not at flood risk. The SEPA Flood Map shows that it is subject to flooding since these Flood Maps are not sufficiently detailed to identify localized ground effects. The fact that the stream running contiguous to the site is 3.1 to 3.6 metres lower than the base level for a new dwelling is highly indicative of a plot lying higher than floodwaters. The consultants have stated that on the basis of the information available to them, a flood assessment study is unnecessary. This opinion has been sent to SEPA for their comment.

Delegated Report:

Other comments made in connection with the Application are as follows:

- 1 The vehicular access onto the site is inadequate.
The Drawing contained in Appendix E shows that there is easily enough space on the site for a standard vehicle to be manoeuvred on site, using the constraints of normal turning circles.
- 2 No drawings have been provided that identify and indication of the type of design that might be offered for the site.
The Application submitted by the Applicant was for Consent in Principle for the construction of a dwelling house. As such it was not expected that a design for the proposed dwelling would be required. Had the Planning department requested that an indicative design be submitted then this could certainly have been provided, although no architectural design work could have been prepared in the 3 weeks between the date of the Application and its refusal.
It is intended to use the award winning architectural practice Taylor Architectural Practice to prepare designs for the proposed dwelling. Their domestic work can be inspected on their website www.taparchitects.co.uk.
- 3 Form of tenure in relation to the existing agricultural tenancy and the ownerships of the lands at Drumnakyle and Lick are unclear.
Nick and Diana Horsfall currently farm the lands at Dalchosnie Farm, Kinloch Rannoch upon the basis of a formal Agricultural Tenancy. This Agreement expires in August 2018, upon which date they will be obliged to vacate the farm and to find new accommodation.
The Applicants have an annually renewable agricultural lease over approximately 131.25 hectares of land at Domnaheiche Farm, Drumnakyle, Tigh na Clerich and Foss Home farm. These properties are owned by Peter and Georgina Pejacsevich. The site east of Balnairn is adjacent to the lands of Drumnakyle.
The Applicants also have an annually renewable agricultural lease over the 332 acres of land at the Lick Estates, owned by Emslie Estates, Farming and Management. Letters from both the landowners are exhibited in Appendix D.
These lands are illustrated on the aerial map contained in Appendix J.

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The ownership of the site at Balnairn is unclear.

The site for which Outline Planning Consent is sought is owned by Rob and Beck Coope of North Acharn, Duror, Argyll PA38 4BS. Nick and Diana Horsfall have a formal agreement with the owners to purchase the site at an agreed price, subject to Outline Planning Permission being granted.

5

TAY plan – Strategic Development 2012: The vision outlined for the area is that :

“by 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”

The ambition of the policy is clearly identified as wishing to support sustainable commercial activities within the region as long as these activities and their supporting infrastructures do not detract from the environment of the region. This Application perfectly reflects these ambitions. The ability to live adjacent to the lands that the Applicant currently farms makes stock rearing more effective and potentially more viable than would be the case if the Applicants were to live at some distance from their stock. Farming for a tenant is a hard and uncertain business and one that requires all the benefits that can be accrued to render it successful. A successful farming operation benefits the locality. It sustains commercial life and spreads income into the region. It creates the potential for seasonal and permanent jobs and permits the generation of supporting farming activities such as poultry and guinea fowl rearing and egg production (all of which the Applicant undertakes at present).

It is often not considered that the landowner might have considerable difficulty in finding a suitable tenant. In fact this is a major concern for estate owners. The choice of a tenant is a major decision and one that can end badly. The landowner always has the option of operating his lands within the environmental improvement Grant Aid regime which would require little local input and generate only small local employment. Most landowners prefer the traditional route of offering agricultural leases over their land, but as has been stated, the land tenure/ownership debate is significantly affecting the landowner/tenant relationship.

It is reasonable to state that the farming endeavours of the Applicants promote the policy objectives that the Council espouses. It is also reasonable to suggest that the granting of this Appeal is a tangible means of the Council fulfilling its own Policy.

- 6 Housing in the Countryside Guide. The Guide identifies four policy ambitions:
- a) Safeguard the character of the countryside.
 - b) Support the viability of communities.
 - c) Meet development needs in appropriate locations.
 - d) Ensure that high standards of siting and design are achieved.
- It is submitted that the policy ambitions of paragraphs 2 and 3 are clearly achieved by helping the Applicants to create a strong commercial business based upon the lands that they farm within the Foss area. The fact that the Applicants have lived for years in the locality, are embedded in the rural society by their involvement in traditional activities such as folk singing and have persisted in a hard and often barely rewarding farming endeavour suggests that the Council should offer their help in improving their circumstances and their commercial opportunities. Thereby, the whole local economy will be enriched; not spectacularly but significantly.
- The audited farm accounts contained in Appendix I show clearly the extent to which stock rearing is a difficult and scarcely financially rewarding activity. The Accounts for 2010 are typical of the trading accounts over the last twenty years. Accounts for the whole period can be exhibited upon request. Nevertheless, the Applicants have persisted in their chosen trade for a full thirty years and fully intend to continue, particularly since the ability to farm more extensive lands provides an opportunity to farm on a larger scale and therefore more profitably. The Applicants hope for that the Council in the pursuit of its policies, will assist them to fulfil their wider ambitions for themselves and for their neighbours.
- 7 SEPA:
- SEPA have been asked to comment on the report prepared by Gunn MacPhee. See Section re EP2.
- SEPA are expected to respond directly to the hydrology consultants, copied to the Planning Authority.
- 8 Protected Species Survey
- See the Report from Coopecology contained in Appendix H
- 9 Category 3.3 (a) – Economic Activity on the HCG on the basis of operational need. It must be demonstrated that there is a need for the proposed new house, with a fully justified land use and ownership.
- The Operational Justification for the Application is contained in the Statement from the Applicants contained in Appendix C and in the statements made within this commentary regarding land-use and its associated commercial activity

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Policy requires an identifiable site with long established boundaries.

The site is quite clearly and distinctly divided into two sections; high ground upon which the old flax mill was built and low ground to the north and east, associated with the fast running stream. The site designated in the Plan contained in Appendix E shows a site area bounded by a public highway on one long side, a strongly running stream on another long side and a steep bank quite distinctly separating the high ground upon which the ruined flax mill sits from the low-lying wet ground adjacent to the stream and to the north east of the high ground. The line of trees bordering the high ground emphasise the separation between the two levels.

The Plan contained in Appendix E illustrates the Site Area as being formed at the top of the steep 3 metre drop from the higher, dry part of the ground, falling to the wet and useable land adjacent to the stream. It is suggested that this straightforward separation complies exactly with the requirements of the Policy.

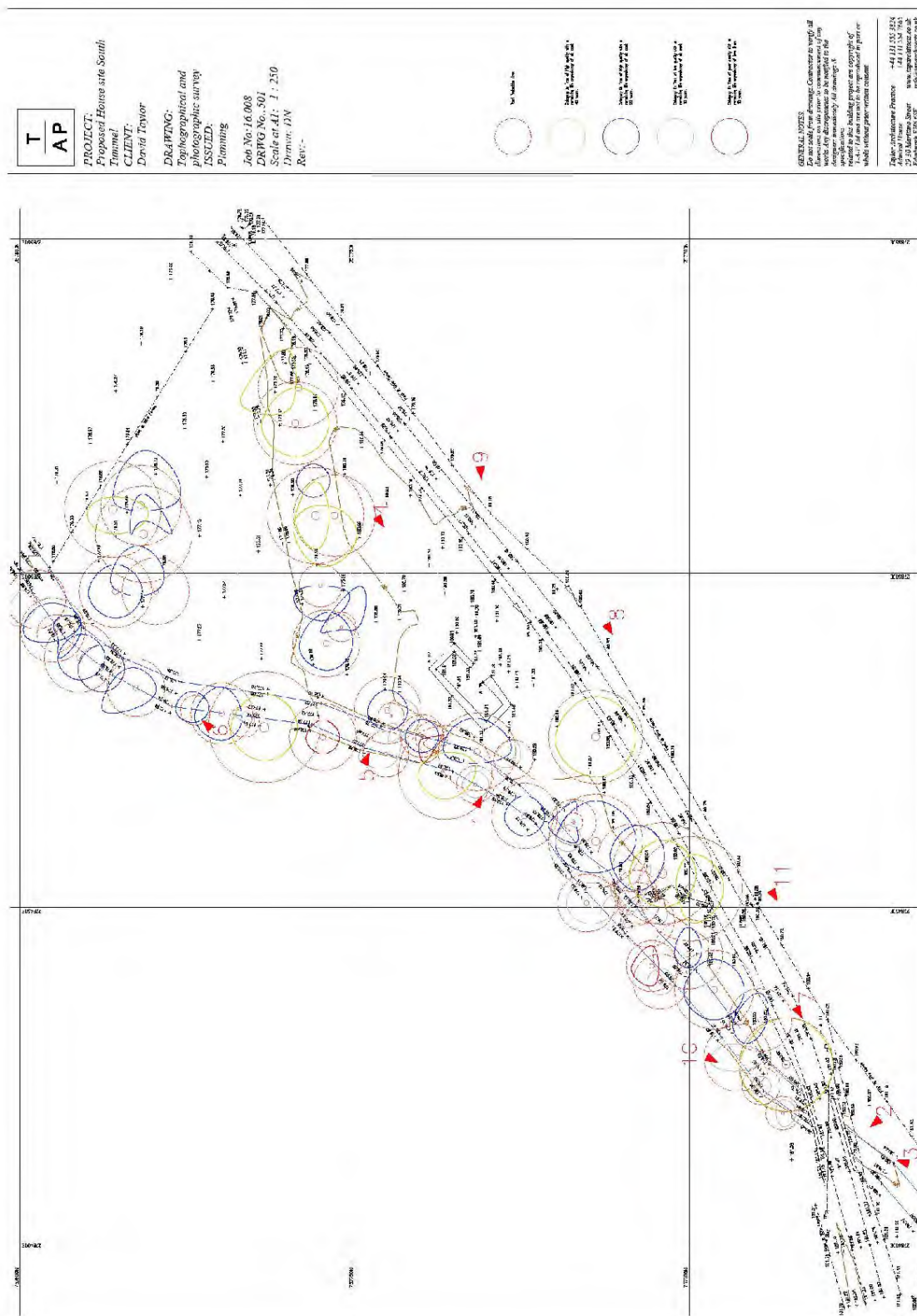
11

Design and layout of the plot. The statement is made in the report that the site is too narrow to accommodate a dwelling.

The Plan contained in Appendix E shows that the site is quite wide enough to accommodate a small dwelling.

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Appendix B	(12-23)	Photographic Record of the Site
Appendix C	(24-26)	Operation Justification by the Applicant
Appendix D	(27-29)	Letters from Estate Owners adjacent to the site and whose lands are farmed by the Applicant
Appendix E	(30-31)	Site Boundary Plan and Vehicular Movement Plan
Appendix F	(32-39)	Report from Hydrologist re Flood Risk incl Flood Plans
Appendix G	(40-52)	Woodland Survey and Associated Plan
Appendix H	(53-55)	Biodiversity Report
Appendix I	(56-62)	Farm Accounts – Mr and Mrs N Horsfall
Appendix J	(63-64)	Aerial view of the Land Farmed by the Applicant on the Southern Border of Loch Tummell



PHOTOGRAPH 1

View of the ruin from across the stream





PHOTOGRAPH 2

View of the bridge from the south bank



PHOTOGRAPH 3

Measuring staff showing width of bridge opening as being 5 metres



PHOTOGRAPH 4

View of the ruin from the east, indicating the start of the decline in the road to the flood plain



PHOTOGRAPH 5

View of the ruin across the stream. The base of the stonework sits 3.5 metres above the bed of the stream.



PHOTOGRAPH 6

View downstream to the level acreage of "flood plain"



PHOTOGRAPH 7

View west towards the bridge showing the area of low lying ground adjacent to the road



PHOTOGRAPH 8

View west towards the bridge showing the low lying ground adjacent to the road



PHOTOGRAPH 9

View of the ruined flax mill from the highway



PHOTOGRAPH 10

View of the bridge looking upstream



PHOTOGRAPH 11

View of the bridge from the east showing the low land adjacent to the highway

Appendix C - Operation Justification by the Applicant

APPENDIX C

STATEMENT TO THE PLANNING AUTHORITY OF PERTH AND KINROSS COUNCIL

Appeal against the Refusal of our Planning Application for Outline Permission for the Construction of a Dwelling House at Balnairn, Foss, Loch Tummel.

We, Nick and Diana Horsfall, applied on 05.09.2016 for Outline Planning Consent for a site to the east of Balnairn on the road to Foss. This Application was refused upon a number of grounds identified in the Refusal Document by the Planning Authority. It is stated that we should have included in our Application information on a number of different aspects relating to our proposals, to allow the Planning Officials to arrive at a clearer view of our intentions. However, we were not advised that this would be desirable and we now attempt to remedy this failure.

We are farmers, and have spent all our careers in this activity; the last thirty years having been spent as sheep and cattle farmers at Kinloch Rannoch. This activity has only ever been marginally profitable, as our Accounts show, (See Appendix I) but we have gained a reputation for good husbandry and honest trading in the Loch Tummel and Loch Rannoch Districts. Our farming activities over the years have generated commercial income for the local community . Although our farming activities have not been on a large enough scale to allow us to employ additional staff for more than a few days a month, both of us have been involved in every farming venture that might increase our income.

Our lease of the farm at Dalchosnie Kinloch Rannoch has not been renewed. The aspirations of the Scottish Government in connection with land reform have meant that Landowners are unwilling to sign up to new agricultural leases. Some landowners have taken the land back and become 'active farmers' for various reasons and some, or perhaps many, are very afraid that long-term agricultural leases will result in 'rights to buy' We therefore have to face the reality that in the near future we will lose our farmland and all our commercial activities in Rannoch.

We have been fortunate enough to find a farming estate at Drumnakyle, Foss, Tummel Bridge, where the landowners are willing to offer us an agricultural holdings agreement. This arrangement is on an annual basis. This present agreement has lasted for two years and our new leaseholder has indicated his willingness to have us farm his lands for many years. A second landowner at Lick, has agreed to have us farm his lands once again upon an annual agreement basis. (See Appendices D(1 and 2))

Agreements with these two landowners offer us the opportunity of farming 650 acres of permanent grassland in place of the 60 acres of permanent grassland and 800 acres of hill ground at Kinloch Rannoch. The lack of secure tenure is disappointing, but we hope that in good time, the issues regarding land tenure will be resolved and that we will be able to achieve a secure future. Landowners require reliable stock-rearers and we have a good track record in this regard.

An important element in stock-rearing is continuous proximity to one's stock. This is important through most of the year, but is vital during lambing. We frequently spend 18 hours a day out on the land looking after our flocks and helping ewes to lamb safely. Even if we were able to retain our existing home, we could not afford either the time spent in travel nor the fuel cost of about £2,000 per year, to travel from Kinloch Rannoch to Foss. We simply must find a property close to our livestock. We have investigated letting in the area but find that such is the value of seasonal holiday lets that this option is unaffordable. We have therefore determined that our only option is to find a small property to buy or to find a site where we can build a small home.

We are not land-owners, nor do we own a home anywhere. We will lose our existing farm in 2018 The agricultural tenancies at Drumnakyle and Lick offer us an opportunity since the grazing land available has ten times more useful grazing than the area of our existing tenancy. This increased area of grassland will allow us to finish a greater number of cattle and the introduction of lowland sheep will increase the lambing percentage rate. This greater level of commercial activity will, we hope, allow us to expand our commercial horizons and to move away from the limited existence of the last twenty years. In the future we hope to employ a shepherd and to engage in a larger farming prospectus.

To permit this vision of our future, we need a home local to our stock. The old ruin at Balnarn offers us the opportunity to build ourselves a simple farm-stead. Prior to making our Application we were not aware of all the issues that the Planning Department might raise. Subsequent to being notified of the refusal of our Application we have employed a consultant to advise us whether the reasons for the refusal are valid. As will be seen in the attached reports, most of the concerns of the Department can be addressed. Their observations are mainly due to the fact that we had not been advised to obtain reports on the issues such as topographical and tree surveys and flood assessments before lodging our Application. These matters have now been investigated and the resulting reports show that the concerns of the Department can be addressed.

We have lived in the locality for many years and are embedded in the local community. We seek nothing other than an opportunity to develop our new farming activities in the hope that after a few years we may be in a position to purchase our own land and secure our own future.

Appendix D - Letters from Estate Owners adjacent to the site and whose lands are farmed by the Applicant

APPENDIX D(1)

Letter from Peter Pejacevich of Domnaheiche Farm, Tummel Bridge, Perthshire

Domnaheiche
Foss,
Pitlochry,
Perthshire PH 16 5NQ

15 December 2016

E mail: [REDACTED]

Dear Sir/Madam

My wife and I are the owners of Domnaheiche Farm , Tummel Bridge, Perthshire, PH 16 5 NQ which includes some 131.25 hectares at Domnaheiche, Drumnakyle, Tigh na Clorich and Foss Home Farm.

These 131.25 hectares or thereabouts were let out to Nick and Diana Horsfall on a seasonal basis in September and October 2015 for the purposes of animal husbandry . These seasonal lets were renewed in September and October 2016 and I would anticipate this occurring again in the foreseeable future .

Do contact us if you require further clarification on this matter.

Yours faithfully ,

[REDACTED]

Peter and Georgina Pejacevich



Nick Colquhoun-Horsfall Esq
Dalchrosie Farm
Kintock Rannoch
By Pitlochry
Perthshire
PH16 5QD

MANM/06/LS/11

16 December 2016

Dear Nick

Emslie Farming, Forestry and Estates
Lick (6/7/0065)

I act on behalf of Emslie Farming, Forestry and Estates, the owner of Lick Estate, Pitlochry, Perthshire over which you occupy 331.97 acres of agricultural land, for the purposes of an oral tenancy.

While my clients and I are satisfied with this existing agricultural arrangement, we, in common with many landowners in Scotland, remain concerned about the plans for new Land Rights proposed by the Scottish Government. Until such time as the proposed legislation and its implications for agricultural tenure can be clearly understood, we are not in a position to enter into any formal, long-term agreement with you.

This position does not imply any lack of faith in your farming abilities, but reflects unease with the policies of the Scottish Government.

I state that I have every confidence in your agricultural competence and are hopeful that we will have a long and successful relationship based around seasonal lets.

Yours sincerely

[Redacted Signature]
Mark A N Michel FRICS
Partner
E: [Redacted]
DD: [Redacted]

Dun, 150 Road, Perth PH2 7-F
Telephone 01738 621171 Fax 01738 630 804
Email: mark@bell-ingram.co.uk

Chartered Surveyors

A bell-ingram business located within our Perth Office
Full Member of the Royal Institution of Chartered Surveyors
ISO 9001:2015 Accredited Top Award in Scotland for 2016/2017
Registered by RICS





20th December 2016

Taylor Architecture Practice Ltd
Admiral House, Second Floor
29-30 Maritime Street,
Edinburgh EH6 6SE

Caledonian House
High Street
Dingwall
IV15 9RY

For the attention of David Taylor

W: www.gunnmacphee.co.uk

Dear David,

House Plot, Foss by Loch Tummel - Flood Risk

Thank you for the site photographs and the topographical site survey provided in respect of the above. Detailed below is my initial qualitative assessment of the flood risk for the site.

The SEPA map viewed at <http://map.sepa.org.uk/floodmap/map.htm> indicates that there is medium to high risk of flooding on or adjacent the site from the Allt Kinardochy burn. The resolution of the maps are however insufficient to determine the extent or impact of this flooding, although the depth indicates less than 0.3m.

The house site approximately 3m above the level of the Allt Kinardochy burn and flooding direct from this water course is highly unlikely. All as shown on the site section drawing P445-02. The potential source of flooding is thought to originate at the interface with the road bridge over the burn. The bridge is a stone arch with an elliptical geometry, 4 to 4.8m wide and 1.5m high. Potential surcharging of the burn flows could be caused by either partial blockage of the arch or hydraulically throttling by the structure profile.

Any potential surcharging flows would be directly to the north east parallel to the public road along the low lying area as shown on the attached site photographs. There are 2 number culverts in this area that will collect and convey water under the public road back to the Allt Kinardochy Burn. Flows in excess of this may spill on to the public road north east of the site and find its way on to the low lying flood plain area to the north of the site. The levels of these surface flows are between 1m and 0.6m below the ground level at the existing house. All as shown on the predicted flood route detailed on the attached drawing P445-01.

CIVIL | STRUCTURAL | WATER | ENVIRONMENTAL | GEOTECHNICAL

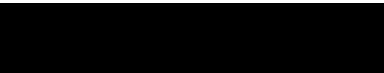
Registered in Scotland No. JS9572
Caledonian House, High Street, Dingwall, Ross-Shire, IV15 9RY

Given the above it is unlikely that the site would either flood or form an island development without safe entry or exit. It is however recommended that the following modifications be made;

1. The finished floor level of the building is set at a minimum of 181.5m AOD.
2. Debris collector be installed upstream of the road bridge.
3. An open drainage channel is formed along the southeast road edge to provide positive drainage to the lower lying / further most north east road culvert. An additional culvert to provide filed access to this area will also be required, all as detailed on drawing P445-01.

I trust the above meets with your requirements at this stage.

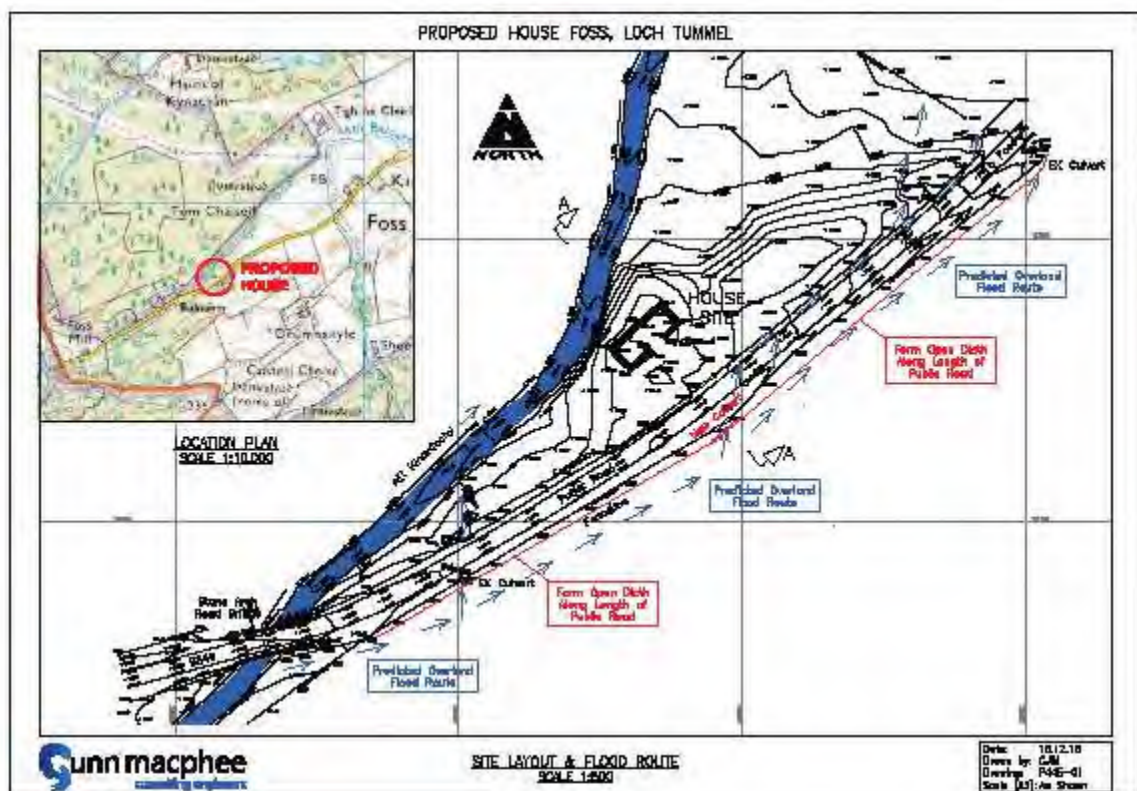
Yours sincerely
For **Gunn MacPhee & Associates Ltd**

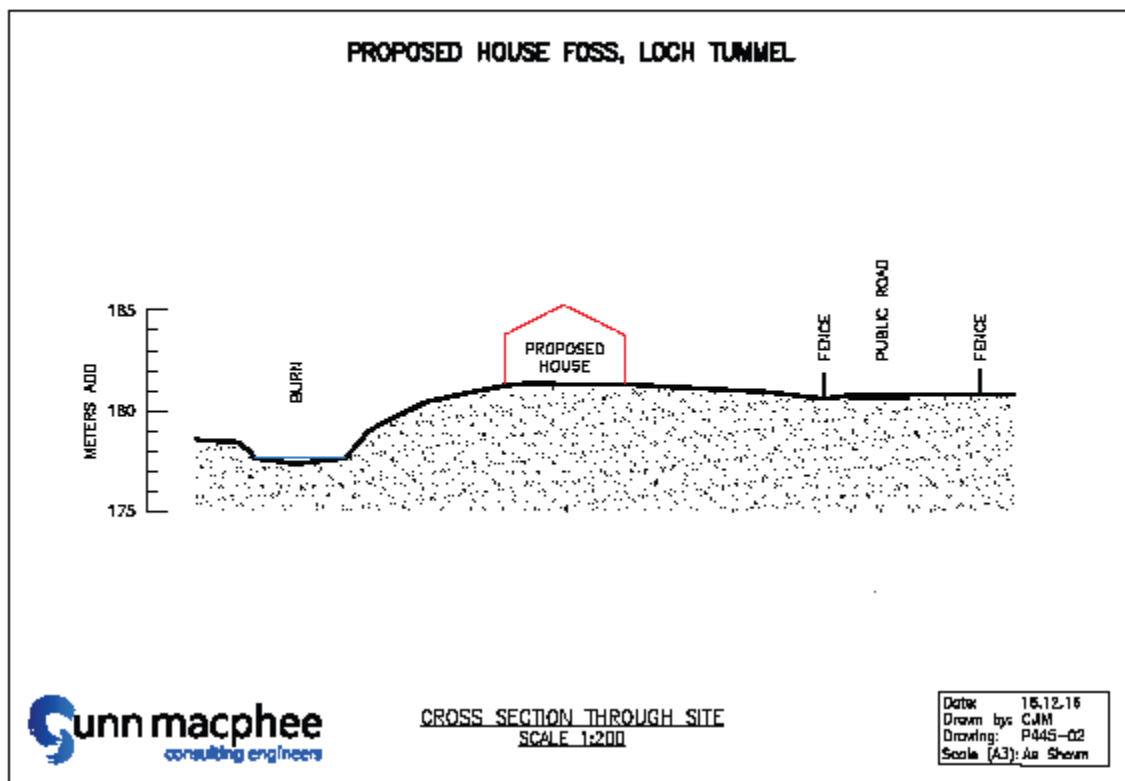


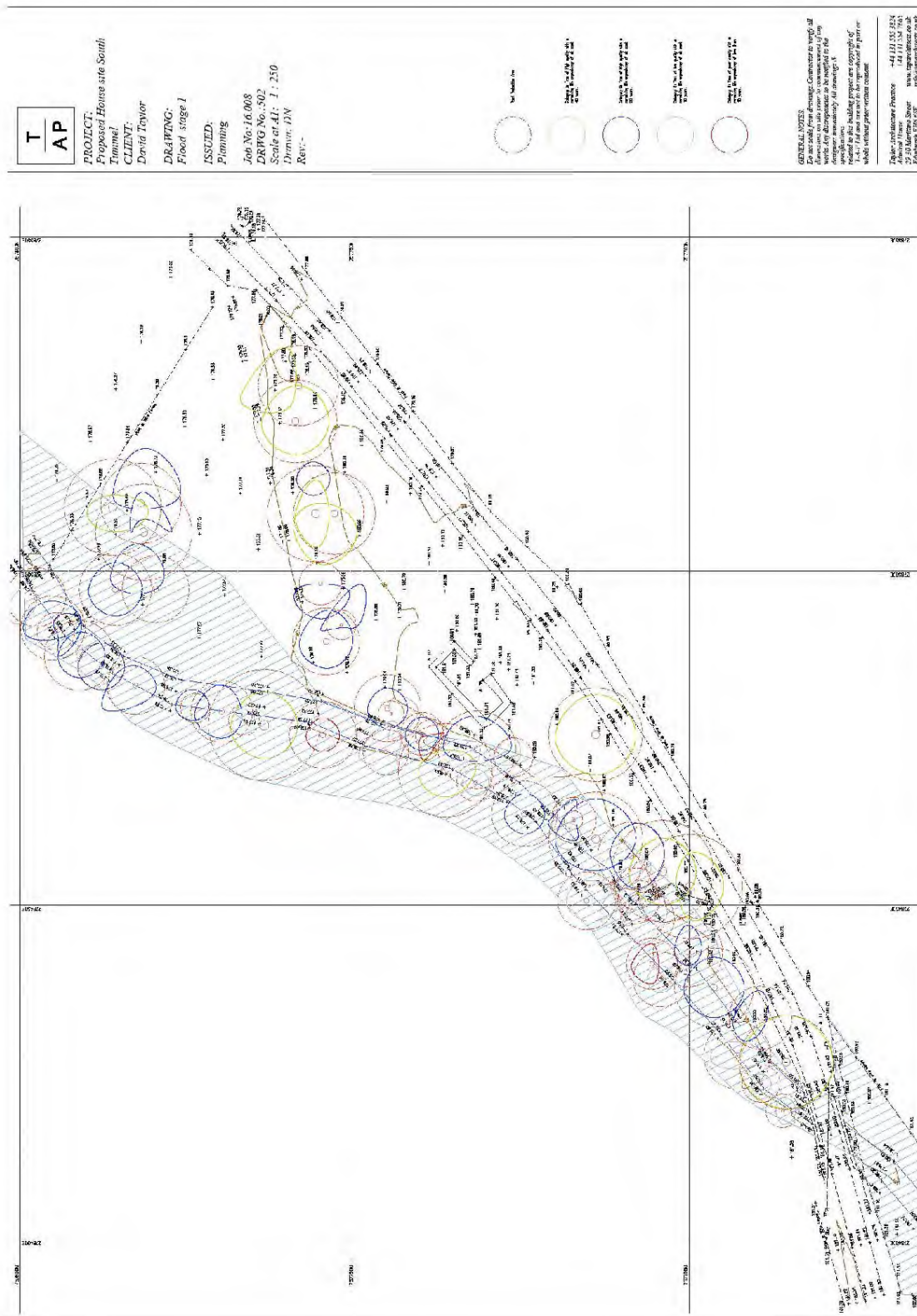
Colin MacPhee
Director

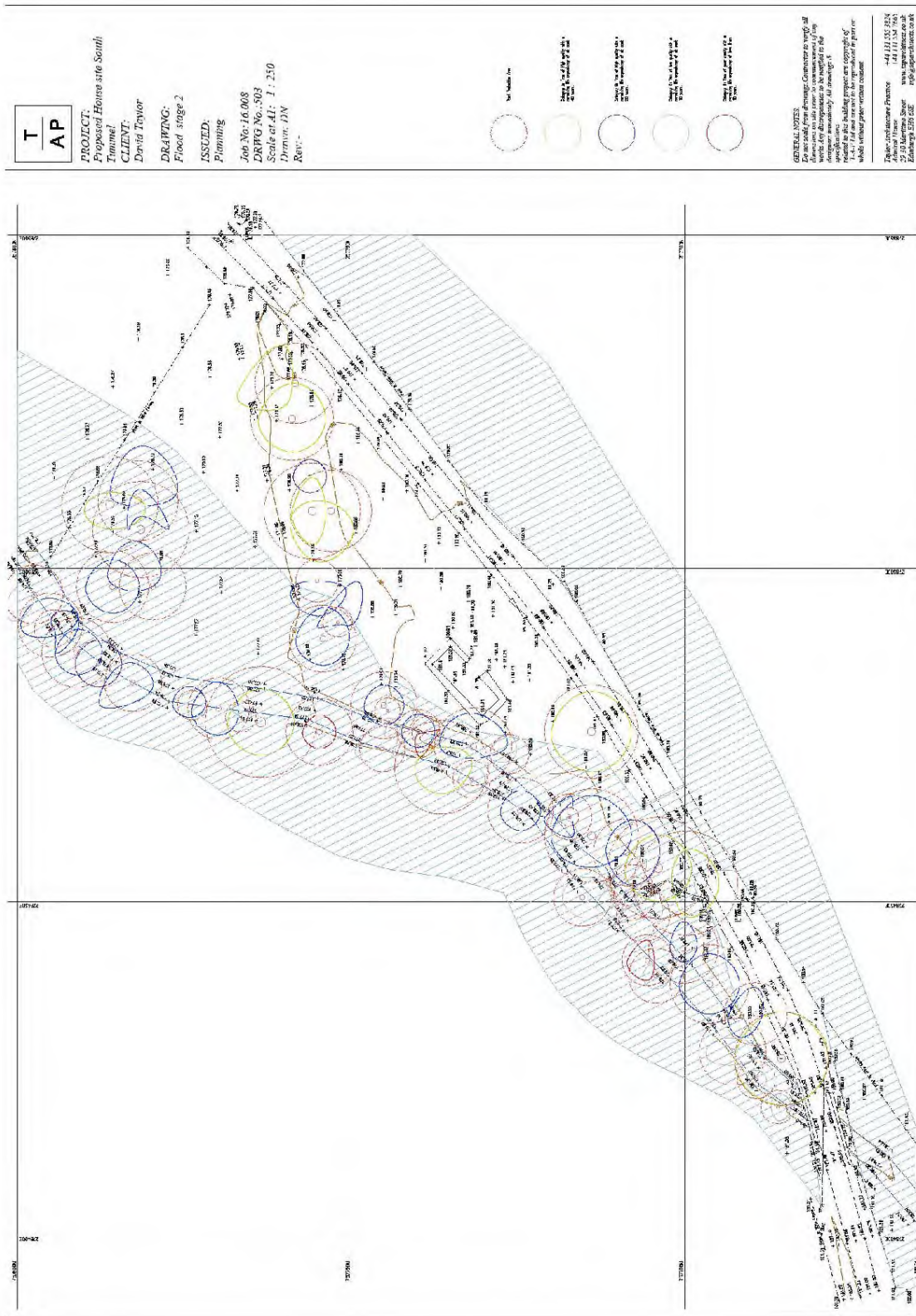


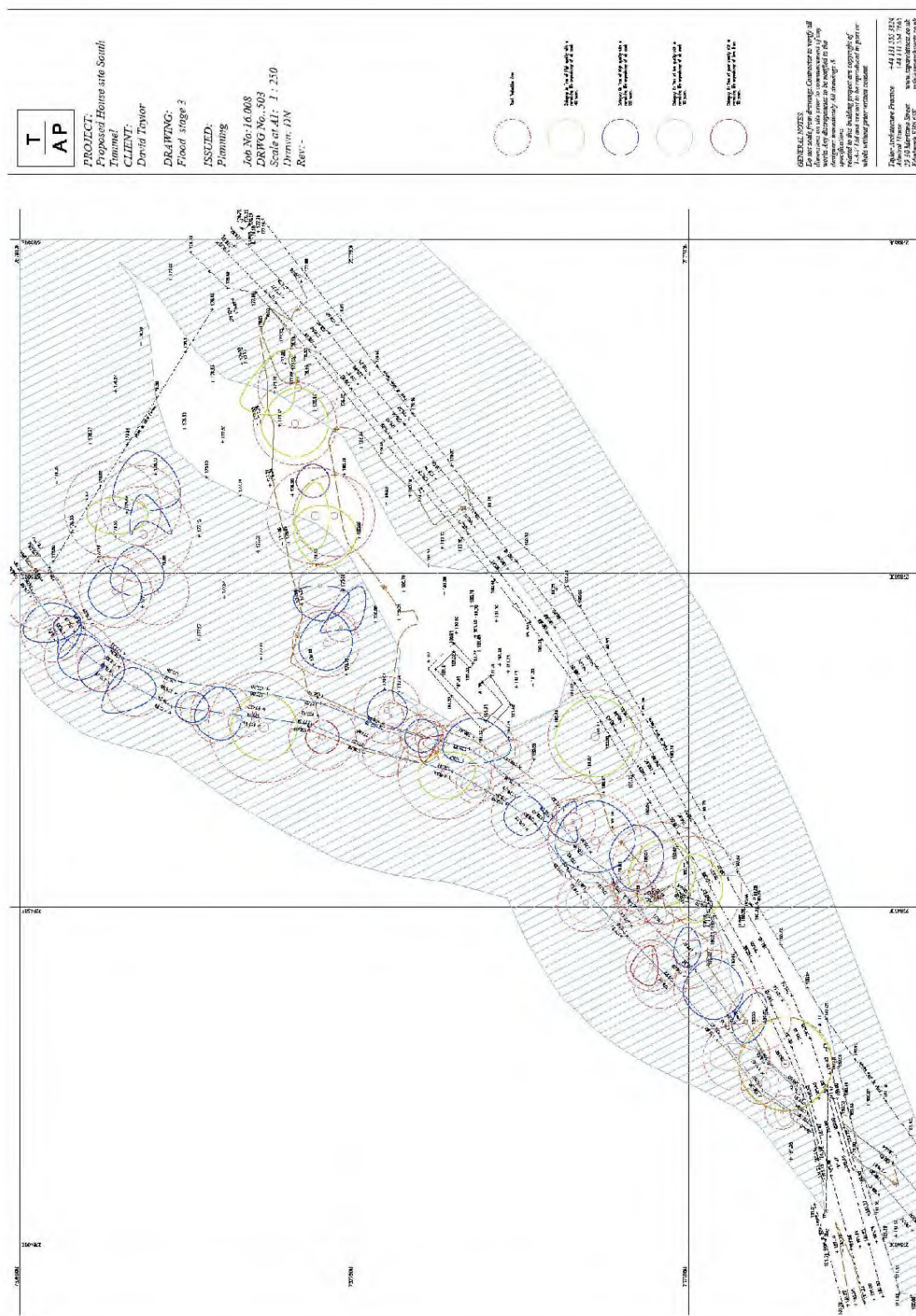
Encl *Site Photographs*
 P445-01 Site Layout & Flood Routing
 P445-02 Site Section











Property & Land Surveys (Highlands) Ltd
Floors Lodge, Athole Court, Dingwall,
Ross-shire, IV15 9SH

Email [REDACTED]



Tree Survey

In accordance with BS 5837:12

Trees in relation to design, demolition and constructions
-Recommendations

Project Number: 939601
Site: Foss, South Tummel
Client: TAP architects
Site visit: 12.12.2016
Report produced: 14.12.2016
Produced by: Helge Hansen, Master of Forestry Science,
LANTRA certified Professional Tree Inspector

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1. Introduction

1.1. Terms of references

Property & Land Surveys (Highlands) have been commissioned by TAP architects to prepare a Tree Survey, for the existing trees at a site with an old stone building that is located about 500m southwest of Foss.

Helge Hansen carried out the site survey on the 25.11.2016. The relevant qualitative tree data was recorded in order to assess the condition of the existing trees and their constraints upon future development of the site.

Relevant information is given on condition, age, size and accurate positioning of all the trees both on and affecting the site, according to British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations.

Scope of works

All individual trees, groups of trees, and hedges within and close to the boundary of the site have been surveyed by Helge Hansen. The objective of the survey is to gather tree data relevant to any future works at the site and to categorise individual trees and tree groups in accordance with BS 5837:12 based on their condition, quality and future potential.

BS 5837:12 Section 4.5.2 states '*The purpose of the tree categorization method, which should be applied by an arboriculturist, is to identify the quality and value (in a non-fiscal sense) of the existing tree stock, allowing informed decisions to be made concerning which trees should be removed or retained in the event of development occurring.*' Therefore, this report does not determine whether retention of trees is desirable.

The detailed inspection of individual trees with respect to decay, defects and hazard is beyond the scope of this survey.

The Site

1.2. Site Description

The site (approx. 3,600m²) is located to the northwest of South Tummel Road about 500 southwest of Foss. South Tummel Road creates the boundary to the southeast and a small stream forms the boundary to the northwest. A post and wire fence creates the boundary to the northeast. An old derelict stone building is located at the centre of the site. There is an existing access from South Tummel Road. The site is slightly sloped from South Tummel Road to the stream. All trees on and in close proximity to the site were surveyed and the individually tagged trees are numbered T827 – T884 and T893.

1.3. Vegetation Overview

Early/semi mature and mature ash and alder trees are the dominant tree species. Other species found on site include willow, and birch. Young alder, ash, holly and hazel are growing along either side of the stream. Most of the tagged trees are growing along the stream but trees are also loosely covering most of the site with a larger clearing at the middle of the site. Wetland grasses, brambles and bracken are covering the ground.

Foss, South Tummel

2. Tree Survey

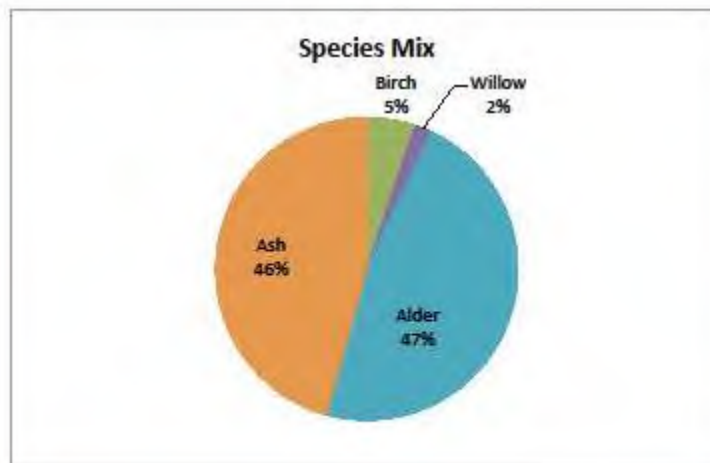
A topographical survey is provided by Properties & Land Surveys (Highlands) Ltd showing the accurate positions of the individual trees.

2.1. Overview of trees, group of trees, hedges and areas surveyed

As part of this survey a total of 57 trees have been identified and these have been numbered T827 – T884 and T893. The tags 853 and 882 were damaged/lost.

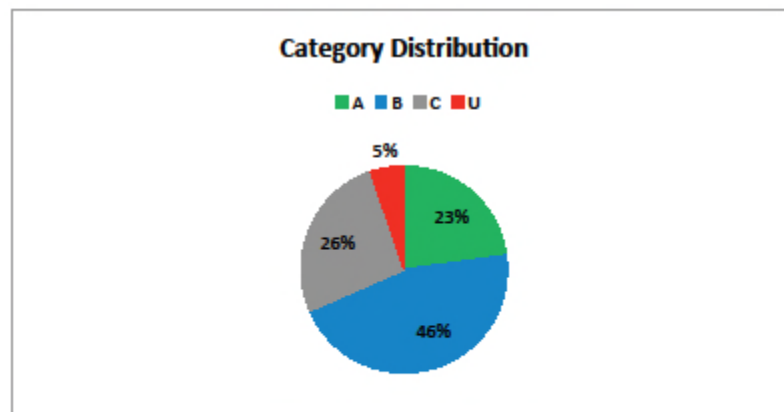
2.1.1. Species Mix

The mix of species present on site at the time of inspection is shown in the chart below. A total of 4 tree species were identified amongst the 57 tagged trees. These include: 27 common alder (*Alnus glutinosa*), 26 ash (*Fraxinus excelsior*), 3 monarch birch (*Betula maximowicziana*), and 1 willow (*Salix spec*).



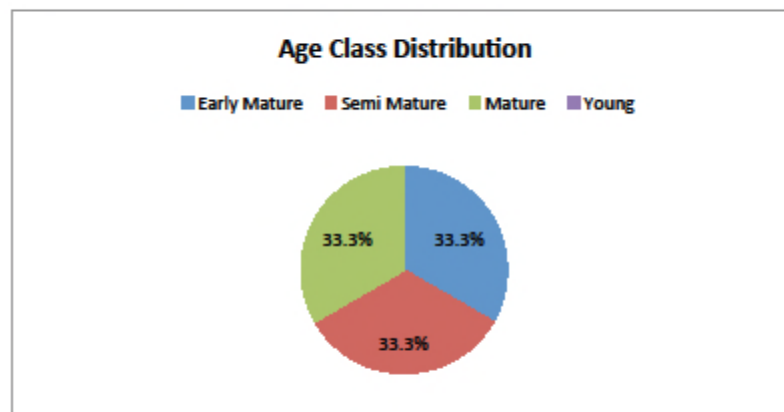
2.1.2. Category Distribution

The distribution of BS 5837:2012 specimens by category is as shown in the chart below:



2.1.3. Age Class Distribution

The distribution of age class is shown in the chart below:



Foss, South Tummel

2.2. Tree Data Schedule

The tree data schedule contains information gathered for each tree during the survey conducted on 12.12.2016. The tree data schedule is attached as a separate document to this report.

The reader should also refer to the explanatory notes at the end of this document in order to correctly interpret the tree data shown in the spread sheets attached.

3. Explanatory Notes

Below is an explanation of the terms and categories used in this Tree Survey.

Tree No	Sequential number identifying individual trees.
Species	Common names are used in this document with a key provided to scientific names in the appendices.

BS 5837 Main Category

Using BS 5837:2012 Table 1 trees can be divided into one of the following simplified categories, and are differentiated by colour on the attached drawing:

Category A	Those of high quality with an estimated remaining life expectancy of at least 40 years. (Light green)
Category B	Those of moderate quality with an estimated remaining life expectancy of at least 20 years. (Mid blue)
Category C	Those of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm. (Grey)
Category U	Those trees in such condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. (Dark red)

BS 5837 Subcategory

Trees in categories A to C can qualify under one or more of the following subcategories:

Subcategory 1	Mainly arboricultural qualities;
Subcategory 2	Mainly landscape qualities;
Subcategory 3	Mainly cultural values, including conservation.

DBH (mm)	Diameter of main stem in millimetres at 1.5 metres from ground level. Where the tree is a multi-stem, the diameter is calculated in accordance with item 4.6.1 of BS 5837:2012.
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Foss, South Tummel

Age	Recorded as one of seven categories:
Y	Young. Recently planted or establishing tree that could be transplanted without specialist equipment, i.e. less than 150 mm DBH.
S/M	Semi-mature. An established tree, but one which has not reached its prospective ultimate height and crown spread.
E/M	Early-mature. A tree that is reaching its ultimate potential height, whose growth rate is slowing down but if healthy, will still increase in stem diameter and crown spread.
M	Mature. A mature specimen with limited potential for any significant increase in size, even if healthy.
O/M	Over-mature. A senescent or moribund specimen with a limited safe useful life expectancy. Possibly also containing sufficient structural defects with attendant safety and/or duty of care implications.
V	Veteran. An over-mature specimen, usually of high value due to either its age, size and/or ecological significance.
D	Dead.
Height	Recorded in metres, measured from the base of the tree.
Crown Base	Recorded in metres, distance from ground and aspect of the lowest branch.
Lowest Branch	Recorded in metres, the distance from ground and aspect of the emergence point of the lowest significant branch.
Life Expectancy	Relates to the prospective life expectancy of the tree and is given as 4 categories: 1 = +40 years; 2 = +20 years; 3 = +10 years; 4 = <10 years.
Crown spread	Indicates the radins of the crown from the base of the tree in each of the northern, eastern, southern and western aspects.
RPA	This is the Root Protection Area, measured in square metres and defined in BS5837:2012 as "a layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority". The RPA is shown on the drawing. Ideally this is an area around the tree that must be kept clear of construction, level changes of construction operations. Some methods of construction can be carried out within the RPA of a retained tree but only if approved by the Local Planning Authority's tree officer.

Foss, South Tummel

[illegible]

Tree Survey in Accordance with British Standard BS 5837:12

Property & Land Surveys (Highlands) Ltd
 Floors Lodge, Athole Court, Dingwall,
 Ross-shire, IV15 9BH
 Tel: (01349) 862393
 Email: info@landsurveys.co.uk

Job Number: 838801				Client: David Taylor				Site: House Site, South Tummel				Date: 12.12.16				
Tree ID	Species	BS 5837 cat.	Est. remaining contribution in years	No. of stems	Stem diameter (mm) BS 5837 2012	RPA (m) radius	Height (m)	Age class	Canopy height above ground level (m)	Canopy Spread (m)				Condition	Commentary	Location Commentary
										N	E	S	W			
854	Ash	B	+40	1	420	5.0	15	SM	4	3	3	3	3	Moderate vigour		
855	Alder	C	+10	1	180	1.9	9	EM	4-N	2	2	0	2	Moderate vigour		
856	Alder	C	+10	3	280	3.4	8	EM	0	2	2	4	2	Moderate to low vigour		
857	Alder	U	<10	1	420	5.0	12	M	0	2.5	2.5	2.5	2.5	Very low vigour		
858	Ash	A	+40	2	890	8.3	18	M	2-W	5	5	5	5	Moderate vigour		
859	Ash	C	+10	1	180	2.3	9	EM	4-W	1	1	1	3	Moderate to low vigour		Suppressed
860	Alder	B	+40	3	380	4.6	16	EM	0	4	4	4	4	Moderate vigour, western stem almost dead		
861	Alder	B	+20	1	180	2.2	8	EM	0	2.5	2.5	2.5	2.5	Moderate to low vigour		
														Moderate vigour, longitudinal crack in first scaffold branch		
862	Ash	B	+40	1	480	5.8	18	SM	3	5	5	5	5			
863	Alder	B	+40	1	290	3.5	9	EM	4	3.5	3.5	3.5	3.5	Moderate vigour		
864	Alder	B	+40	2	380	4.3	14	SM	0	3	3	3	3	Moderate vigour		
865	Ash	B	+40	2	430	5.2	16	SM	5	3.5	3.5	3.5	3.5	Moderate vigour		
866	Alder	B	+40	1	230	2.8	10	SM	0	2	3	0	2	Moderate vigour		Suppressed
867	Ash	B	+40	1	400	4.8	18	SM	5-N	4	4	4	4	Moderate vigour		
868	Alder	C	+10	2	370	4.4	9	EM	0	2.5	2.5	2.5	2.5	Moderate to low vigour		
869	Ash	B	+40	2	450	5.4	19	SM	6	4	4	4	6	Moderate vigour		
870	Ash	B	+40	1	420	5.0	20	SM	4-W	4	3	3	5	Moderate vigour		
										4	1	2	6	Moderate vigour, Large stem scar 1-4m at south of trunk (branch break off) with decay, remove tree		
871	Ash	B	+20	1	600	7.2	19	M	5-W					Moderate vigour, Bulging at lower stem with decay at 2m south.		
872	Ash	B	+20	1	500	6.0	21	M	6-W	5	2	5	7			Leaning west
873	Alder	A	+40	1	600	7.2	17	M	1	3	3	5	3	Moderate vigour		
874	Ash	A	+40	1	500	6.0	20	M	5-N	1	2	7	7	Good to moderate vigour		Leaning to south west
875	Ash	A	+40	1	520	6.2	18	M	4-E	5	5	5	5	Good to moderate vigour		
876	Birch	B	+40	1	210	2.5	12.0	EM	4-S	2.5	2.5	2.5	2.5	Moderate vigour		Suppressed

[illegible]



This survey and report relate to a proposed single house residential development at Foss, Perthshire (NN 785 577).

An initial search of the NBN (National Biodiversity Network) and local knowledge of the site indicated that protected and / or priority mammal species are found in the vicinity (within the 10km square NN75). These species include Otter, Wildcat, Pine Marten, Water Vole, Badger, Red Squirrel and Bats (2 species). Field work to assess the local presence and site use by these species was carried out on November 24th, 2016.

General description: This site is approximately 1 hectare of raised land bounded by the minor south Loch Tummel road to the south, Allt Balnairn (a significant burn) to the north and a permanent pasture field to the east. There are several trees, some large, and a drystone building on site. A detailed and thorough walk over of the site was carried out in an effort to locate any signs of protected mammal species; in particular, all trees that might offer roost sites for bats were examined from the ground (using binoculars), both banks of the burn were thoroughly investigated at least 200m up and downstream of the site, all prominent features such as boulders and logs were examined to search for signs of protected mammals such as spraints scats and / or scratch marks.

Otter. (*Lutra lutra*). There are 11 records of otters on the NBN within the 10km square since 1990, but none of these are from the area on or around the development site. One very old and decayed spraint was found 180 m downstream. It is likely that otters regularly pass along the Allt Balnairn burn but there was no indication of any holt (or other place used for rest or shelter by otters).

Wildcat. (*Felis sylvestris*). There are 5 records of Wildcat on the NBN within the 10km square since 1990, but none of these are from the area on or around the development site. No indication of any wild living cats was found on or adjacent to this site.

Pine Marten. (*Martes martes*). There are 3 records of Pine Marten on the NBN within the 10km square since 1990. Pine martens have very extensive home ranges and are likely to use the semi-wooded habitat present on this site from time to time, however no indication of pine martens using this site at the time of the survey was found.

Water Vole. (*Arvicola amphibius*). There are 11 records of Water Voles on the NBN within the 10km square since 1990 all of these are in a discrete area nearly 1 km from this site. No signs of Water Voles were found on this survey.

Badger. (*Meles meles*). There is an active badger sett about 800m west of this site. Although it is likely that badgers forage on the adjacent pasture and periodically cross this site there was no evidence of any recent presence or use.

Red Squirrel. (*Sciurus vulgaris*). There were no signs of red squirrel feeding or of dreys on or adjacent to this site. The dominance of ash and birch renders the trees associated with this site of minor importance as Red Squirrel habitat.

Bats (*Vespertilionidae*). It is likely that bats will use parts of this site for foraging in the warmer months of the year. During this survey all of the larger trees were surveyed for holes and crevices that could provide bats with roosts. Also crevices in the dry stone building were investigated. There was no evidence of bats being present and none of the features that showed potential as roosts showed any signs of their summertime occupation. It is unlikely that bats use any part of this site as habitual roosts.

No evidence was found of any protected mammalian species that would be threatened by the relatively small scale development. Many individual priority mammals may use parts of the site at times but it appears very unlikely that any of them will rely on this piece of land for sustenance or as a primary place of shelter or protection.

**MR N H COLDWELL-HORSFALL
T/A DALCHOSNIE FARM
ACCOUNTS
FOR THE YEAR ENDED
28 NOVEMBER 2010**

WALTON KILGOUR
Chartered Accountants
30 Bonninghill Road
Pitlochry
PH16 5BS

**MR N H COLDWELL-HORSFALL
T/A DALCHOSNIE FARM
ACCOUNTS
YEAR ENDED 28 NOVEMBER 2010**

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Accountants' report	1
Profit and loss account	2
Balance sheet	3
Notes to the accounts	4

**MR N H COLDWELL-HORSFALL
T/A DALCHOSNIE FARM
ACCOUNTANTS' REPORT TO THE PROPRIETOR PARTNER
YEAR ENDED 28 NOVEMBER 2010**

We have prepared for your approval the financial information of Mr N H Coldwell-Horsfall for the year ended 28 November 2010 which comprises of Profit and Loss Account, Balance Sheet and the related notes from the entity's accounting records and from information and explanations you have given us.

As a practising member firm of the Institute of Chartered Accountants of Scotland, we are subject to its ethical and other professional requirements which are detailed at <http://www.icas.org.uk/accountspreparationguidance>.

Our work has been undertaken in accordance with the requirements of the Institute of Chartered Accountants of Scotland as detailed at <http://www.icas.org.uk/accountspreparationguidance>.

30 Bonnetmill Road
Pitlochry
PH16 5BS

24 January 2012

WALTON KILGOUR
Chartered Accountants

PROPRIETOR PARTNER'S APPROVAL OF ACCOUNTS

I approve these accounts for the year ended 28 November 2010 set out on pages 2 to 4 and confirm that I have made available all relevant records and information for their preparation and give my authority for them to be submitted to HM Revenue and Customs.

MR N COLDWELL-HORSFALL

24 January 2012

MR N H COLDWELL-HORSFALL
T/A DALCHOSNIE FARM
PROFIT AND LOSS ACCOUNT
YEAR ENDED 28 NOVEMBER 2010

	2010	2009
	£	£
TURNOVER	41,370	39,284
COST OF SALES		
Opening stocks	14,755	10,754
Purchases	15,912	12,862
Subcontract	450	2,061
	<u>31,117</u>	<u>25,677</u>
Less closing stocks	17,235	14,755
	<u>13,882</u>	<u>10,922</u>
GROSS PROFIT	27,488	28,362
OTHER INCOME		
Other operating income	—	142
	<u>27,488</u>	<u>28,804</u>
EXPENSES		
Wages and salaries	2,580	2,672
Rent	4,572	4,650
Rates	849	772
Light and heat	1,344	1,055
Insurance	703	—
Repairs and maintenance	3,579	1,576
Haulage	793	174
Motor expenses	6,229	4,711
Travel and subsistence	213	—
Telecoms	545	449
Hire of equipment	—	249
Printing, stationery and postage	77	53
Sundry expenses	154	349
Protective clothing	188	270
Dues and subscriptions	794	780
Bookkeeping fees	180	—
Accountancy fees	1,232	939
Depreciation	1,526	1,957
Bank charges	272	263
Bank interest	227	227
Other interest	28	—
	<u>26,085</u>	<u>21,146</u>
NET PROFIT FOR THE YEAR	<u>1,403</u>	<u>7,658</u>

MR N H COLDWELL-HORSFALL

T/A DALCHOSNIE FARM

BALANCE SHEET

28 NOVEMBER 2010

	Note	2010 £	2009 £
FIXED ASSETS			
Tangible assets	1	5,933	7,459
HERD		<u>14,950</u>	<u>14,825</u>
		20,883	22,284
CURRENT ASSETS			
Stocks		17,235	14,755
Trade debtors		17,579	19,814
VAT		18	-
Prepayments		<u>1,625</u>	<u>1,625</u>
		36,457	36,194
CURRENT LIABILITIES			
Bank overdraft		864	2,255
Trade creditors		156	1,785
VAT		-	327
Accrued expenses		<u>1,030</u>	<u>550</u>
		2,050	4,917
NET CURRENT ASSETS		<u>34,407</u>	<u>31,277</u>
NET ASSETS		<u>55,290</u>	<u>53,561</u>
FINANCED BY:			
CAPITAL ACCOUNT - Mr N Coldwell-Horsfall			
Balance brought forward		53,561	45,725
Capital introduced		15,600	6,592
Net profit for the year		<u>1,403</u>	<u>7,658</u>
		70,564	59,975
Less: Drawings		<u>15,274</u>	<u>6,414</u>
Balance carried forward		<u>55,290</u>	<u>53,561</u>

MR N H COLDWELL-HORSFALL

T/A DALCHOSNIE FARM

NOTES TO THE ACCOUNTS

YEAR ENDED 28 NOVEMBER 2010

1. TANGIBLE FIXED ASSETS

	Plant & Machinery £	Fixtures & Fittings £	Motor Vehicles £	Total £
COST				
At 29 November 2009 and 28 November 2010	<u>10,280</u>	<u>272</u>	<u>23,254</u>	<u>33,806</u>
DEPRECIATION				
At 29 November 2009	6,903	261	19,183	26,347
Charge for the year	<u>506</u>	<u>2</u>	<u>1,018</u>	<u>1,526</u>
At 28 November 2010	<u>7,409</u>	<u>263</u>	<u>20,201</u>	<u>27,873</u>
NET BOOK VALUE				
At 28 November 2010	<u>2,871</u>	<u>9</u>	<u>3,053</u>	<u>5,933</u>
At 28 November 2009	<u>3,377</u>	<u>11</u>	<u>4,071</u>	<u>7,459</u>



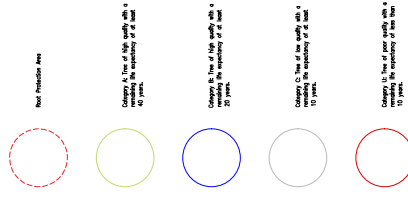
T
AP

PROJECT:
Proposed House site South
Tunnel

CLIENT:
David Taylor

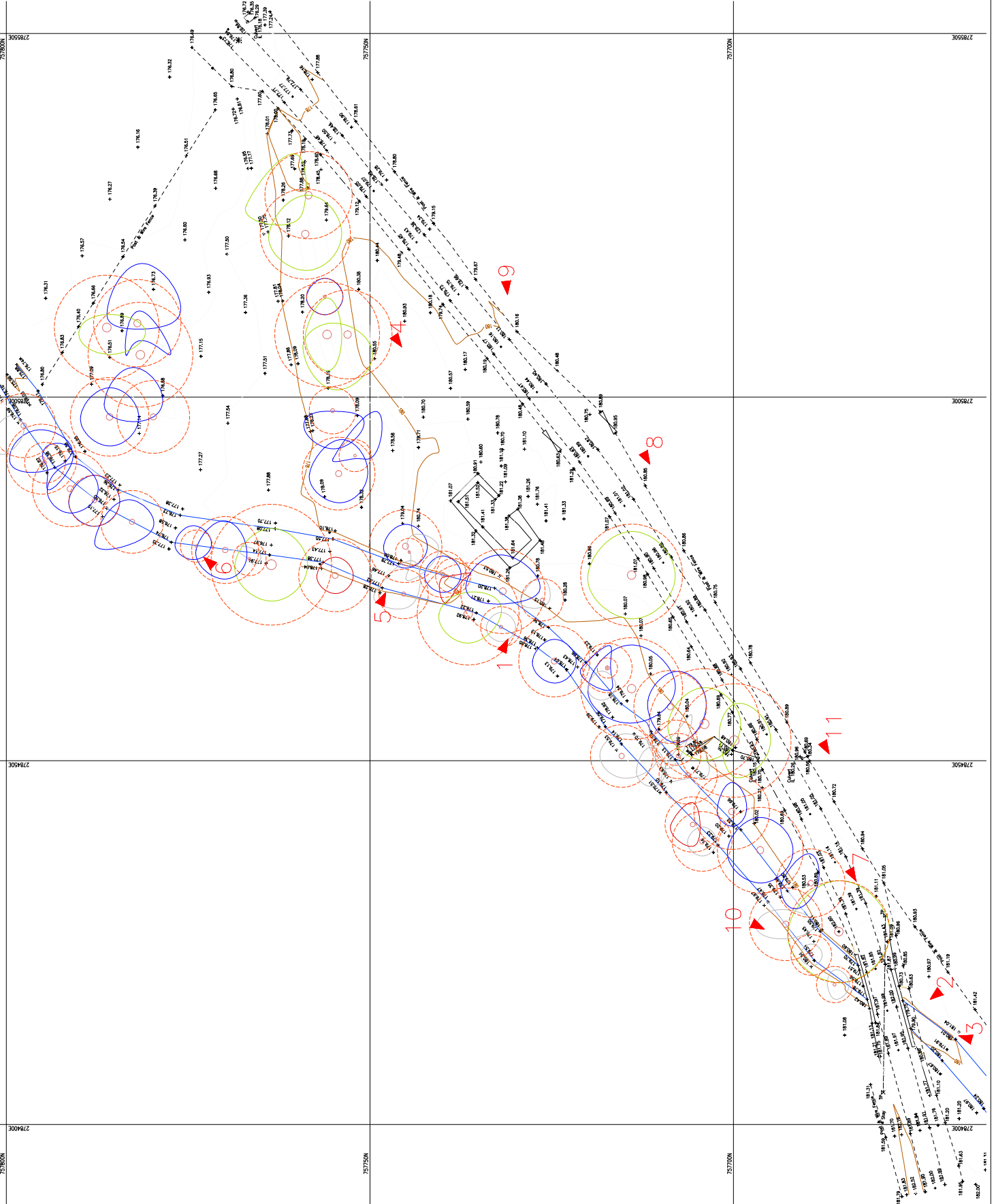
DRAWING:
Topographical and
photographic survey
ISSUED:
Planning

Job No: 16.008
DRWG No.: 501
Scale at A1: 1 : 250
Drawn: DN
Rev: -



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+44 131 554 7665
www.taylorarchitects.co.uk
info@taylorarchitects.co.uk



T
A P

PROJECT:
Proposed House site South
Tunnel

CLIENT:
Nick and Diana Horsfall

DRAWING:
Proposed Site Arrangement

ISSUED:
Planning

Job No: 16.008

DRWG No.: 503

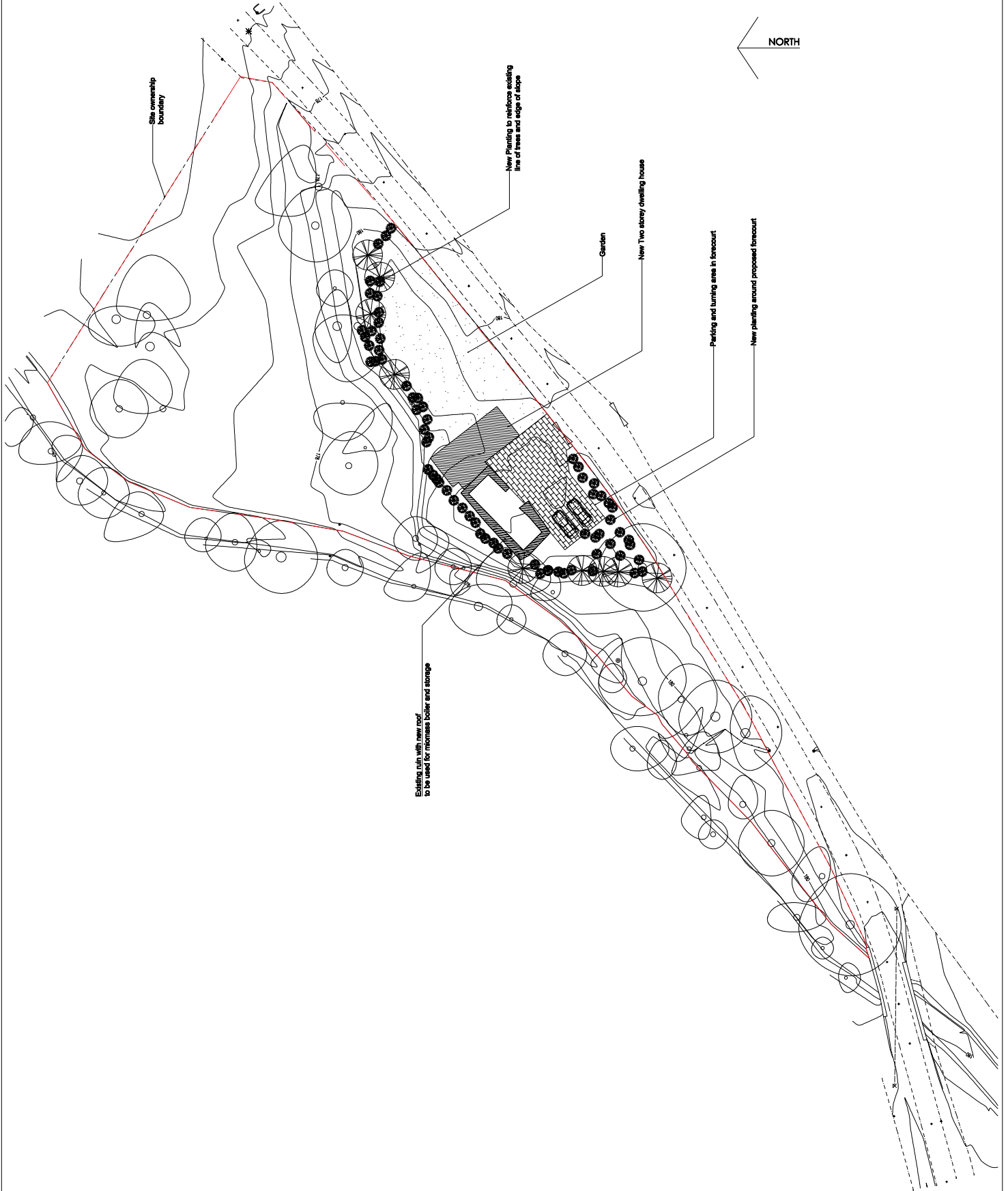
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Drawn: DN

Rev: -

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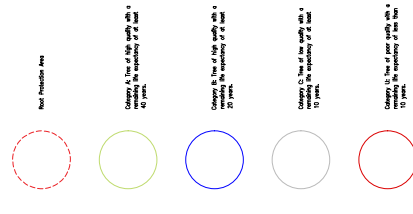
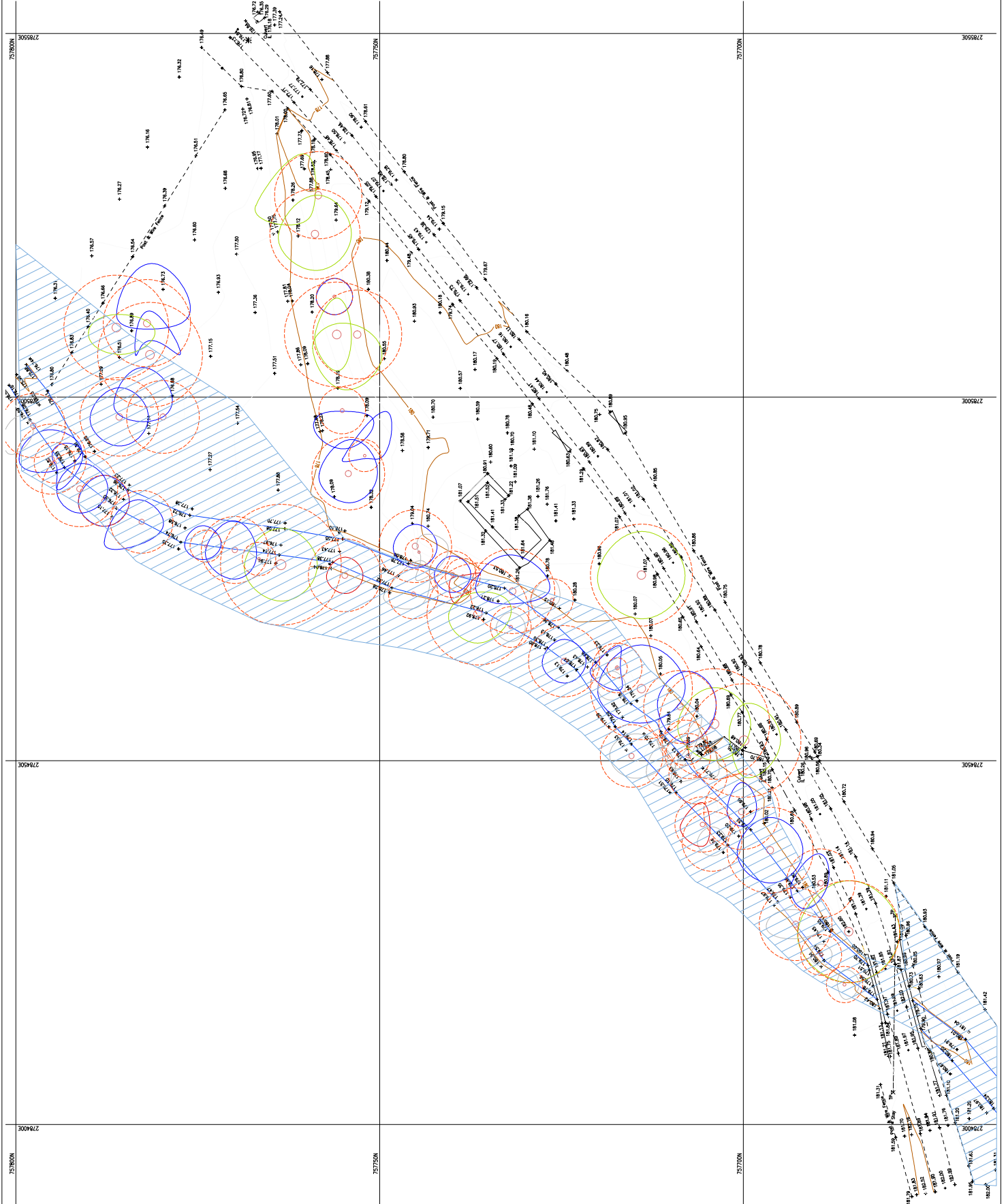
PROJECT:
Proposed House site South
Tunnel

CLIENT:
David Taylor

DRAWING:
Flood stage 1

ISSUED:
Planning

Job No: 16.008
DRWG No.: 502
Scale at A1: 1 : 250
Drawn: DN
Rev: -



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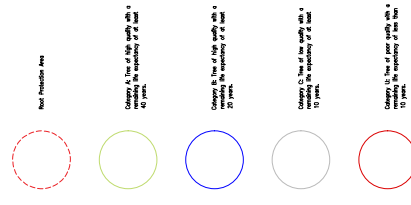
PROJECT:
Proposed House site South
Tunnel

CLIENT:
David Taylor

DRAWING:
Flood stage 2

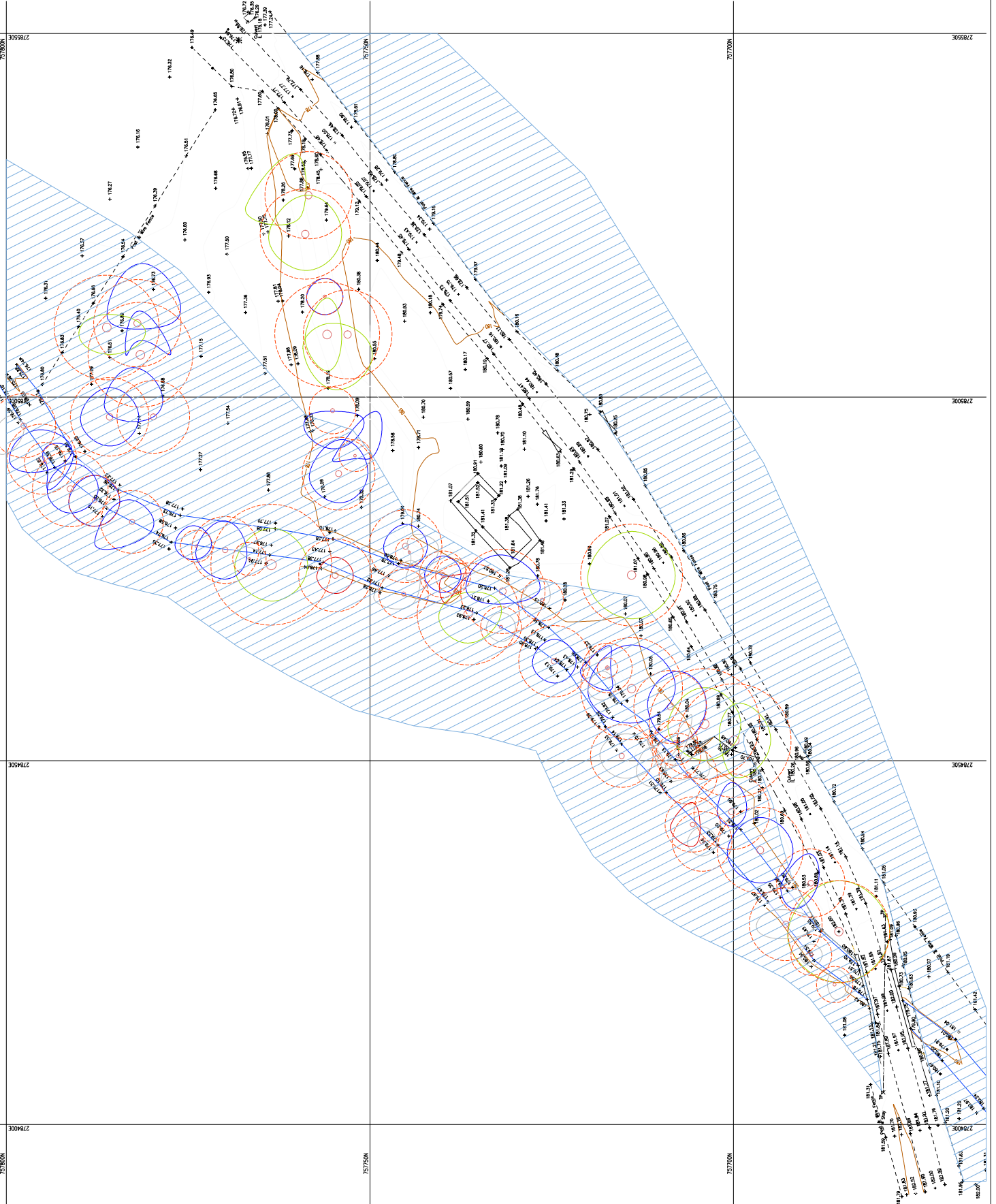
ISSUED:
Planning

Job No: 16.008
DRWG No.: 303
Scale at A1: 1 : 250
Drawn: DN
Rev: -

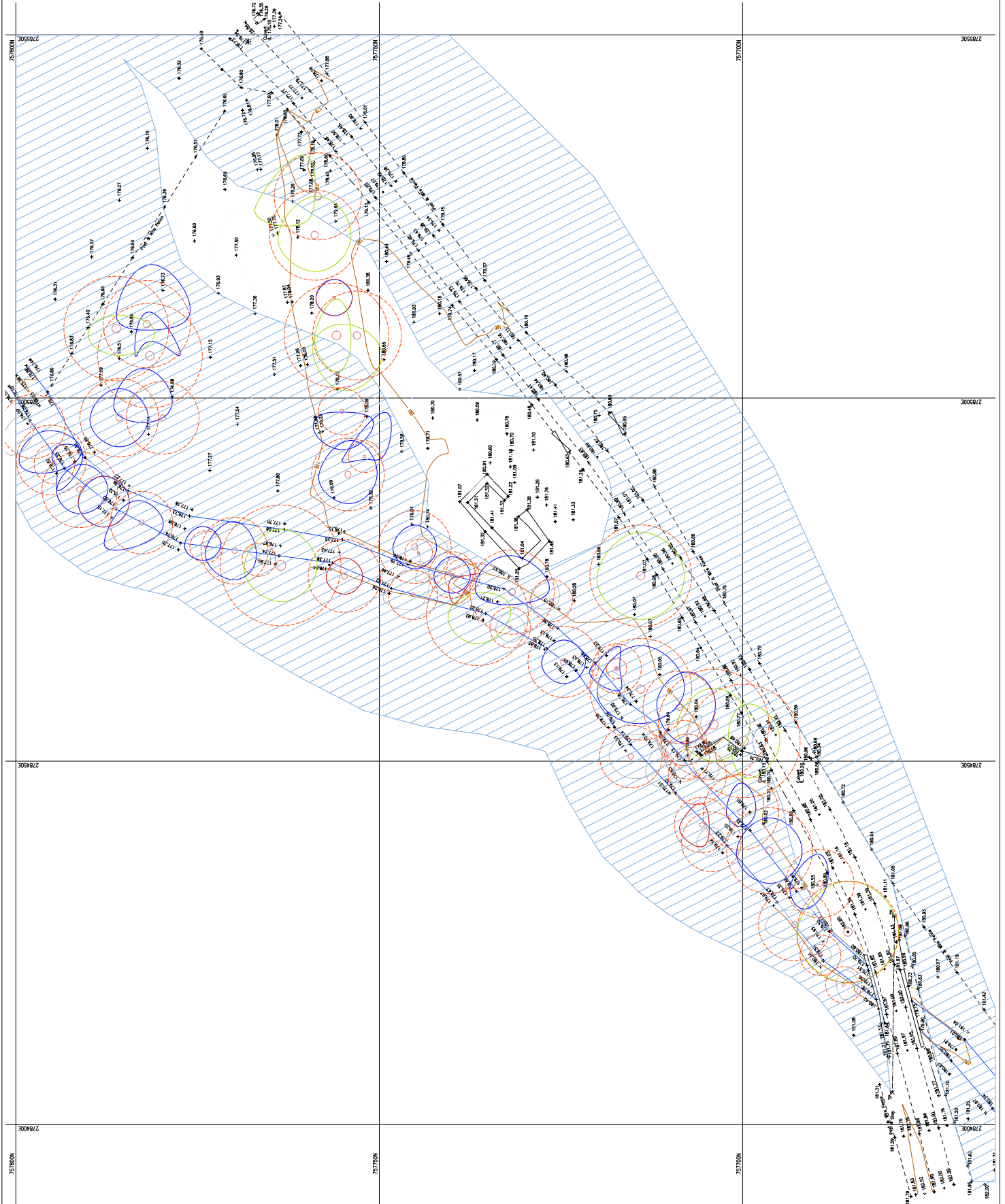


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Job No: 16.008
DRWG No.: 503
Scale at A1: 1 : 250
Drawn: DN
Rev: -



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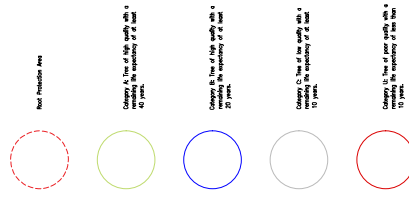
PROJECT:
Proposed House site South
Tunnel

CLIENT:
David Taylor

DRAWING:
Tree Survey

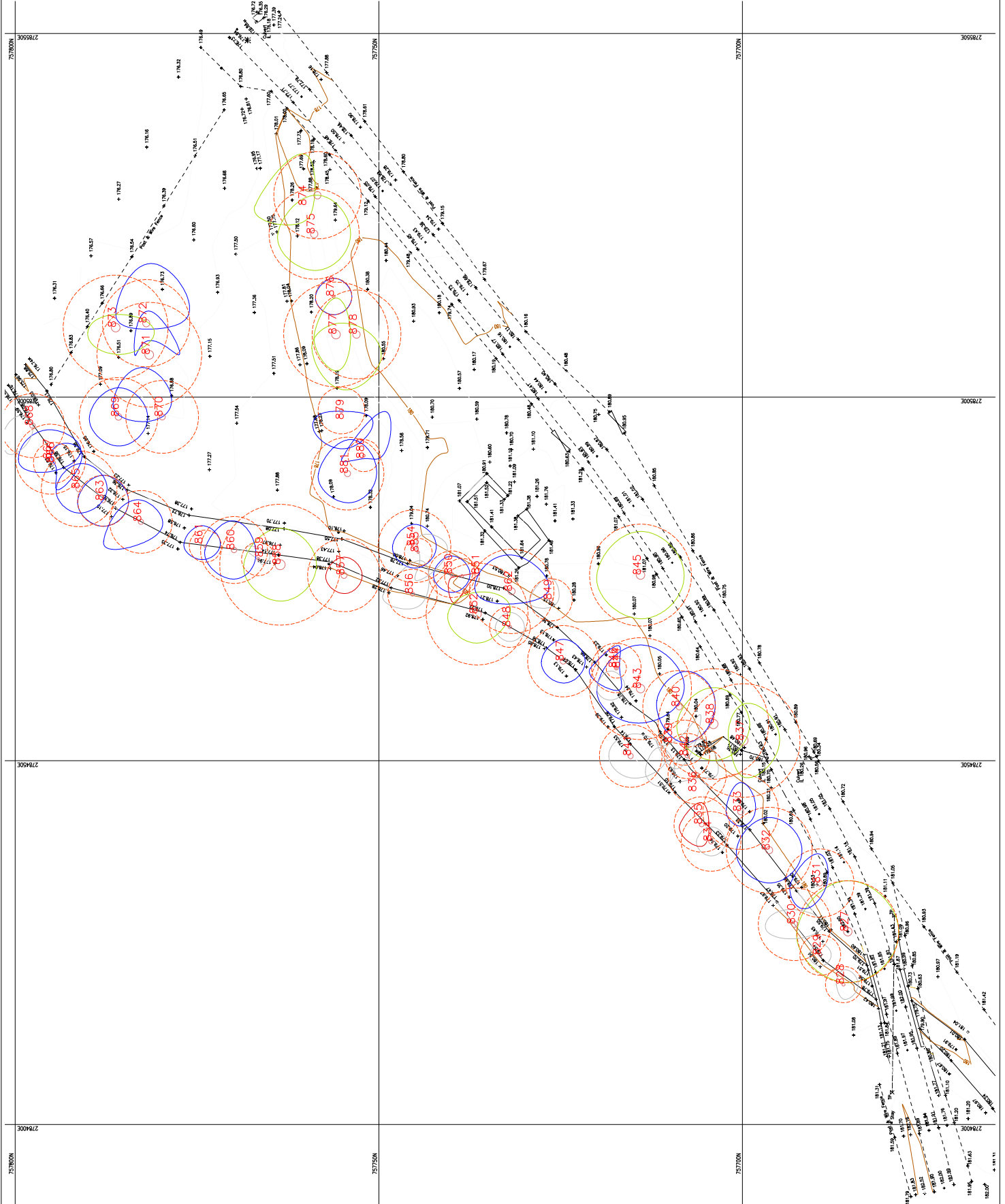
ISSUED:
Planning

Job No: 16.008
DRWG No.: 500
Scale at A1: 1 : 250
Drawn: DN
Rev: -



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TCP/11/16(455)

Planning Application – 16/01511/IPL – Erection of a dwellinghouse (in principle) on land 250 metres North East of Balnairn, Foss

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENTS

PERTH AND KINROSS COUNCIL

Mr and Mrs N Horsfall
c/o CASA
Colin Smith
Treetops
Dull
Aberfeldy
Perthshire
PH15 2JQ

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 30.09.2016

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **16/01511/IPL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 5th September 2016 for permission for **Erection of a dwellinghouse (in principle) Land 250 Metres North East Of Balnairn Foss** for the reasons undernoted.

Interim Head of Planning

Reasons for Refusal

1. The proposal is contrary to Policy RD3 'Housing in the Countryside' of the Perth & Kinross Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with category (3) New Houses in the Open Countryside as there insufficient justification on the basis of operational need and the proposed site cannot satisfy the detailed siting criteria due to the lack of established boundaries. The proposal does not satisfy any of the remaining categories (1) Building Groups, (2) Infill Sites, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, or (6) Rural Brownfield Land.

2. The proposal is contrary to Policy PM1A 'Placemaking' of the Perth & Kinross Local Development Plan 2014 as the proposed development would not contribute positively to the quality of the surrounding built and natural environment, particularly due to the presence of the site within the Loch Tummel National Scenic Area. The site is also considered to be too narrow and unsuitable for a dwellinghouse that have sufficient associated amenity space and would therefore also not comply with Policy PM1A.
3. The proposal is contrary to Policy PM1B, criterion (b) of the Perth and Kinross Local Development Plan 2014, as the removal of the woodland and the siting of a dwellinghouse would erode and dilute the areas landscape character.
4. The proposal is contrary to the Scottish Government's Policy on Woodland Removal, the Scottish Forest Strategy, the National Planning Framework as well as policies NE2A and NE2B of the Perth and Kinross Local Development Plan 2014 as the extent of tree felling on site has not been quantified through a survey and there are no clear public benefits associated with the removal of the woodland.
5. The proposal is contrary to Policy NE3 of the Perth and Kinross Local Development Plan 2014, as no survey information has been provided to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensure the protection of wildlife and wildlife habitats.
6. The proposal is contrary to Policy EP2 of the Perth and Kinross Local Development Plan 2014, as no Flood Risk Assessment has been provided to ascertain the flood risk of the proposed development.

Justification

7. The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan Reference

16/01511/1

16/01511/2

16/01511/3

REPORT OF HANDLING

DELEGATED REPORT

Ref No	16/01511/IPL	
Ward No	N4- Highland	
Due Determination Date	04.11.2016	
Case Officer	Sean Panton	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Erection of a dwellinghouse (in principle).

LOCATION: Land 250 Metres North East Of Balnairn, Foss.

SUMMARY:

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

DATE OF SITE VISIT: 9th September 2016

SITE PHOTOGRAPHS:



BACKGROUND AND DESCRIPTION OF PROPOSAL

The application site is located on land 250 metres north east of Balnairn, Foss in the Loch Tummel National Scenic Area. The site is a narrow wedge located between a small burn and the road which connects the B846 to the A9 via Foss. The site currently has mature vegetation including a number of large established trees and there are ruins of a previous building on site which is

likely to have been used for agricultural purposes. These trees are in an area designated as a mixed broadleaf and conifer on the semi natural woodland inventory. The application seeks Planning Permission in Principle for a dwellinghouse on the site. As the application is in Principle there are no indicative drawings, however it is expected that the existing access will be utilised.

The applicant has stated through a Justification Statement that they have farmed in the area for the past 40 years and currently reside at Dalchosnie Farm in Rannoch where their tenancy is soon to end. After their tenancy at Dalchosnie ends, the applicants still intend to farm at Domnaheiche and have recently increased their acreage at the farm to make this viable. This farm does not have a farmhouse however, hence the need for this application to allow for the applicants to reside in close proximity to their tenanted land and livestock. It has not been made clear if the land is tenanted rather than owned and there is no information regarding the proposed duration of the new tenancy.

SITE HISTORY

None.

PRE-APPLICATION CONSULTATION

None.

NATIONAL POLICY AND GUIDANCE

The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of TAYplan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

The Local Development Plan is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

Policy PM1A - Placemaking

Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

All proposals should meet all eight of the placemaking criteria.

Policy PM3 - Infrastructure Contributions

Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD3 - Housing in the Countryside

The development of single houses or groups of houses which fall within the six identified categories will be supported. This policy does not apply in the Green Belt and is limited within the Lunan Valley Catchment Area.

Policy TA1A - Transport Standards and Accessibility Requirements

Encouragement will be given to the retention and improvement of transport infrastructure identified in the Plan.

Policy NE2B - Forestry, Woodland and Trees

Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

Policy NE3 - Biodiversity

All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP2 – New Development and Flooding

There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

OTHER POLICIES

Development Contributions

Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

Housing in the Countryside Guide

A revised Housing in the Countryside Policy was adopted by the Council in October 2014. The policy applies over the whole local authority area of Perth and Kinross except where a more relaxed policy applies at present. In practice this means that the revised policy applies to areas with other Local Plan policies and it should be borne in mind that the specific policies relating to these designations will also require to be complied with. The policy aims to:

- Safeguard the character of the countryside;
- Support the viability of communities;
- Meet development needs in appropriate locations;
- Ensure that high standards of siting and design are achieved.

The Council's "Guidance on the Siting and Design of Houses in Rural Areas" contains advice on the siting and design of new housing in rural areas.

CONSULTATION RESPONSES

Transport Planning:

Transport Planning did not respond to the consultation however through informal comments it was noted that they had no comments to make on the proposal.

Contributions Officer:

As the proposal is in principal, there are no contributions required at this stage.

Scottish Water:

Scottish Water was consulted however did not respond to this consultation.

Local Flood Prevention Authority:

The Local Flood Prevention Authority was consulted as part of this proposal and highlighted that the site falls within the SEPA 1 in 200year flood map and a Flood Risk Assessment would therefore be required as part of this proposal.

They also noted that no land rising would be permitted within the 1 in 200 year flood envelope.

Environmental Health:

No objection to the proposed development however requested a condition and an informative to be added to any consent issued.

Biodiversity Officer:

The Biodiversity Officer has requested protected species surveys prior to the approval of reserved matters. This is due to recorded signs of otters, pine marten and bats in close proximity to the site of the proposals.

REPRESENTATIONS

No representations were received regarding the proposal.

ADDITIONAL STATEMENTS RECEIVED:

Environment Statement	Not Required
Screening Opinion	Not Required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Justification Statement Submitted
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

Policy Appraisal

As the site lies within the landward area within the adopted Local Development Plan 2014, the proposal falls to be principally considered against Policy RD3: Housing in the Countryside and its associated Housing in the Countryside Guide 2012 (HICG 2012), which is the most recent expression of Council policy towards new housing in the open countryside.

In this particular instance, it is considered that the proposed site fails to comply with any of the accepted categories of development (1) Building Groups (2) Infill Sites (3) New Houses in the Open Countryside (4) Renovation of Replacement of Houses (5) Conversion of Replacement of Redundant Non-Domestic Buildings or (6) Rural Brownfield Land.

It is therefore considered that, in principle, the proposed site fails to comply with the requirements of Policy RD3 and the associated Housing in the Countryside Guide 2012.

The applicant is seeking to justify the proposed house under category 3.3(a) Economic Activity on the HICG on the basis of operational need associated with the farmland which the applicant currently farms.

This category outlines that where the applicant proposes that a new house is required in association with an established or consented economic activity, it must be demonstrated to the satisfaction of the Council that there is a need for the proposed new house.

Having reviewed the justification statement, I am unconvinced of the justification for a new house to aid with operations of the farm. My first concern is that the applicant's justification for the new house is primarily based on farming land which is not identified as being their own. The application refers to land 'farmed' by the applicant and not 'owned'. This is a concern as it could mean that the proposed dwellinghouse may not relate to the land being farmed and in the future and could result in an unnecessary house in the countryside. Whilst it is recognised that in some circumstances there may be an argument for a house based next to land which is farmed by the applicant and not owned, this is usually only where there is no existing property on site. It has not been made clear if the owner of the land has associated dwellinghouses for workers or has sold any off previously. I would therefore suggest that the applicant should fully justify land ownership and if the land is indeed their own, identify any buildings or houses currently or previously associated with the land owned.

This leads onto my other concern which relates to the position of the house relative to the majority of the stated farmed land. If there was indeed a need for a dwellinghouse it would seem far more logical to place the house immediately adjacent to the business operation in order to provide 24 hour supervision of the business, including security. This proposed site, albeit within the applicant's ownership, is a substantial distance from any agricultural holding. It should be noted that the applicant has also not demonstrated where the existing agricultural holding/ hub is. It would be far more logical to have selected a site immediately adjacent to the existing operations hub as this would provide better oversight of the business on a 24 hours basis. Furthermore, placing the house next to an existing cluster of buildings would provide a far better context for built development and may allow support through the building group as part of the policy.

Therefore, having reviewed the justification statement, it is considered that there is no justification in this instance for the erection of a new dwellinghouse to support the farming of the tenanted land.

However, notwithstanding the above, the policy also requires that all proposals for new houses must comply with the siting criteria. In this respect under part c) of the site criteria it states that the site must have

“an identifiable site, (except in the case of proposals for new country estates) with long established boundaries which must separate the site naturally from the surrounding ground (e.g. a dry stone dyke, a hedge at minimum height of one metre, a woodland or group of mature trees, or a slope forming an immediate backdrop to the site). The sub-division of a field or other land artificially, for example by post and wire fence or newly planted hedge or tree belt in order to create the site, will not be acceptable”

In this instance the proposed plot is not considered to be an identifiable site and presently forms part of a wedge of land which lacks any form of boundary to the North East other than a post and wire fence, which as stated above, is not an acceptable site boundary. The proposals are basically seeking to artificially partition part of the existing field and woodland area to form a new house plot which is remote from any other built development.

As such it is considered that, in principle, the proposed site fails to comply with the requirements of Policy RD3 and the associated Housing in the Countryside Guide 2012, both in terms of its justification and siting.

Design and Layout

As this application is simply seeking to establish the principle of residential development within the site, there is no requirement for the submission of any detailed plans relating to the design or layout of the proposed house. I am however concerned at the shape of the site being too narrow for a house of a suitable size to be constructed with sufficient amenity space.

Landscape and Visual Amenity

As discussed above, the site is presently an open area of woodland and farmland which has no form of suitable established boundary to the North East. It is therefore considered that any form of housing development within this site would have an adverse impact on the character and visual amenity of the surrounding rural area. The site also falls within the Loch Tummel National Scenic Area and it is considered that a new dwellinghouse in this location would impact upon the scenic value of the area.

As such it is considered that the proposals fail to comply with the requirements of Policy PM1 of the local development plan.

Residential Amenity

The site is remote from any nearby residential properties. As such it is considered that the approval of a house on this site would not result in any adverse impact on existing or proposed residential amenity.

Woodland

The Scottish Government's Policy on Woodland Removal signals a strong presumption in favour of protecting Scotland's Woodland resources. The Scottish Forestry Strategy 2006 identifies seven key themes for Scotland's woodlands which are reiterated in the National Planning Framework, while this highlights a need to plan proactively for the expansion of woodland cover it also confirms that existing woodland should be protected and that its removal should only be permitted where it will achieve significant and clearly defined additional public benefits.

In this case the extent of tree felling on site has not been quantified through a survey but based on the submitted site plan it will likely be significant to accommodate the development. In light of this and the fact that there are no clear public benefits associated with the removal of the woodland. The proposal is contrary to the Scottish Government's Policy on Woodland Removal, the Scottish Forest Strategy, the National Planning Framework as well as local plan policy NE2A and NE2B.

Bio-diversity

Policy NE3 requires all wildlife and wildlife habitats, whether formally designated/ protected or not to be taken into account. In this case the woodland site is likely to have a bio-diversity resource and without any survey information it cannot be ascertained that the development will not have an adverse impact. There are also records of Otters, Pine Marten and Bats which are a protected species in close proximity to the site. Applying the precaution principle approach the proposal is contrary to local plan policy NE3.

Roads and Access

I do not have any concerns with the location of the site in relation to the road. As this application is in principal however, I am unable to offer full comments on the access from the road to the site as this has not been stated.

Drainage and Flooding

The Local Flood Prevention Authority was consulted as part of this application and confirmed that this site is within a 1 in 200 year SEPA flood envelope therefore a Flood Risk Assessment would be required. As this application has not included a Flood Risk Assessment I will apply the precautionary principle approach that the proposal is contrary to Policy EP2.

Developer Contributions

- Primary Education

With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.

This proposal is within the catchment of Kinloch Rannoch Primary School.

As this application is only “in principle” it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.

Economic Impact

The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

Conclusion

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is not considered to comply with the approved TAYplan 2012 or the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal.

APPLICATION PROCESSING TIME

The recommendation for this application has been made within the statutory determination period.

LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Refuse the application.

Conditions and Reasons for Recommendation

- 1 The proposal is contrary to Policy RD3 'Housing in the Countryside' of the Perth & Kinross Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with category (3) New Houses in the Open Countryside as there insufficient justification on the basis of operational need and the proposed site cannot satisfy the detailed siting criteria due to the lack of established boundaries. The proposal does not satisfy any of the remaining categories (1) Building Groups, (2) Infill Sites, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, or (6) Rural Brownfield Land.
- 2 The proposal is contrary to Policy PM1A 'Placemaking' of the Perth & Kinross Local Development Plan 2014 as the proposed development would not contribute positively to the quality of the surrounding built and natural environment, particularly due to the presence of the site within the Loch Tummel National Scenic Area. The site is also considered to be too narrow and unsuitable for a dwellinghouse that have sufficient associated amenity space and would therefore also not comply with Policy PM1A.
3. The proposal is contrary to Policy PM1B, criterion (b) of the Perth and Kinross Local Development Plan 2014, as the removal of the woodland and the siting of a dwellinghouse would erode and dilute the areas landscape character.
4. The proposal is contrary to the Scottish Government's Policy on Woodland Removal, the Scottish Forest Strategy, the National Planning Framework as well as policies NE2A and NE2B of the Perth and Kinross Local Development Plan 2014 as the extent of tree felling on site has not been quantified through a survey and there are no clear public benefits associated with the removal of the woodland.
5. The proposal is contrary to Policy NE3 of the Perth and Kinross Local Development Plan 2014, as no survey information has been provided to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensure the protection of wildlife and wildlife habitats.
6. The proposal is contrary to Policy EP2 of the Perth and Kinross Local Development Plan 2014, as no Flood Risk Assessment has been provided to ascertain the flood risk of the proposed development.

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

Informatives

Not Applicable.

Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

16/01511/1

16/01511/2

16/01511/3

Date of Report 28th September 2016



LAND FARMED BY APPLICANTS AS TENANTS

APPLICATION SITE

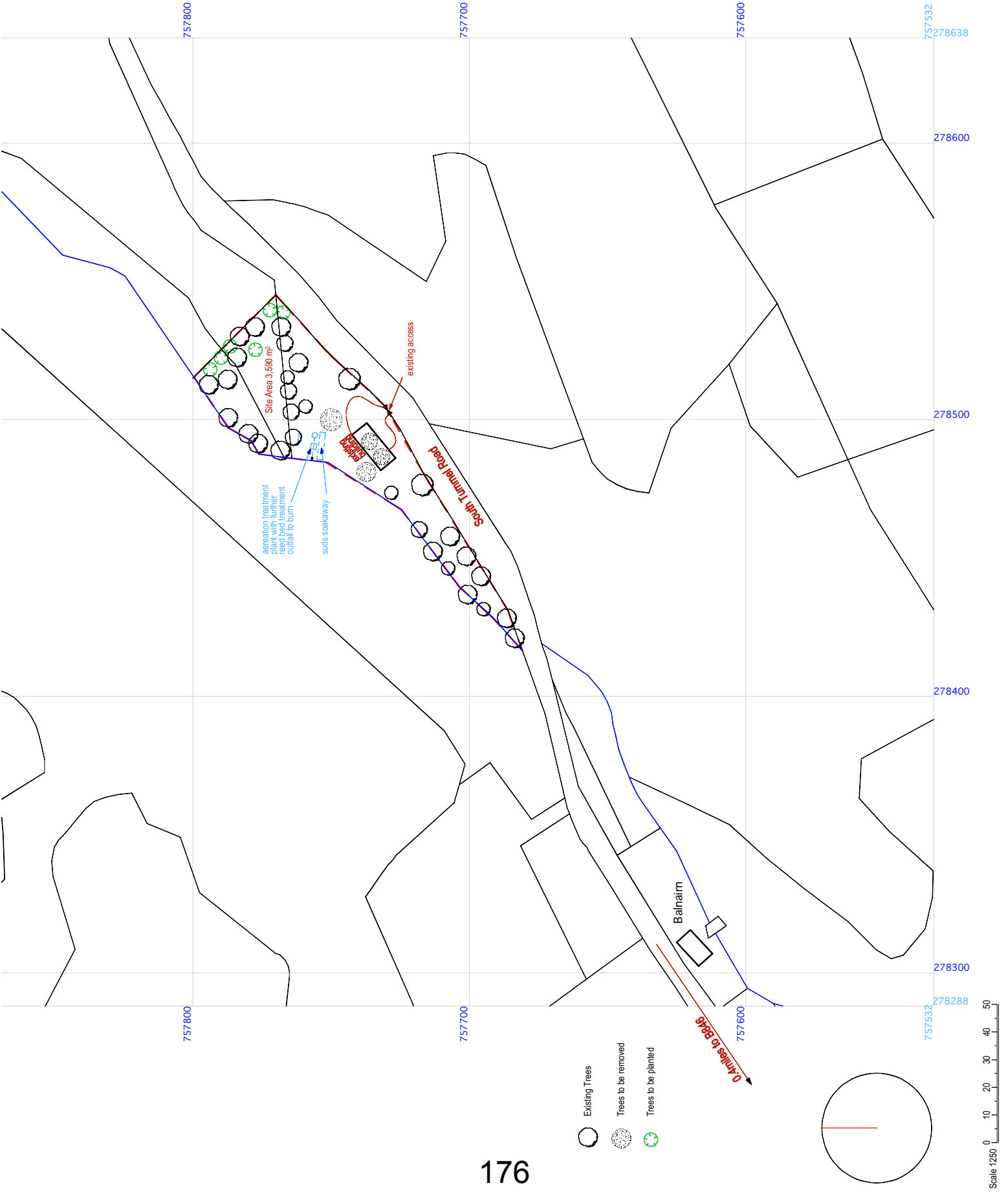


SITE VIEWED FROM ROAD



EXISTING BUILDING ON SITE

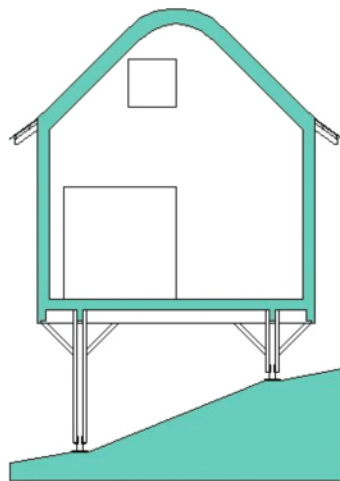
Amendments:	
Replacement of existing Stone Building with new Dwelling House. East of BALNARIN FOSS TUMMEL BRIDGE	
for: Mr and Mrs N Horsfall	
status: Application in Principle	
title: Location Plan	
drawing no: 249-01/AP	
scale: 1:10,000@A3	
Date August 2016	
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**Application in Principle for
Replacement of Existing Building with
New Dwelling House at
Site to EAST OF BALNAIRN
South Tummel Road
Foss**

For Mr and Mrs N Horsfall

JUSTIFICATION STATEMENT



casa

colin . andrew . smith . architect
treetops . dull .
aberfeldy . perthshire . PH15 2JQ
01887 820815
colin@casarchitect.co.uk

1.0 INTRODUCTION

- 1.1 This statement should be read in conjunction with the Application in Principle submitted on behalf of Mr and Mrs N Horsfall for the replacement of existing redundant building with a new dwelling house at the site to East of Balnairn and to the West of Domnaheiche on the South Tummel Road, Foss, Tummel Bridge.
- 1.2 The applicants have farmed in the area for the last forty years and currently have tenancy at Dalchosnie Farm at Rannoch. Their tenancy is soon to end and in preparation they have been farming the area outlined in the location plan again as tenants. At the end of their tenancy at Dalchosnie they still intend to continue farming this area at Domnaheiche as outlined and recently have increased the acreage to make this possible. This new tenancy however does not have a farmhouse. This application if approved will provide a house in a suitable location to allow them to carry out their farming activities in close proximity to their tenanted land and livestock.

2.0 PERTH AND KINROSS COUNCILS HOUSING IN THE COUNTRYSIDE GUIDE

- 2.1 Policy 3.3 a) of the housing in the countryside guide suggests that the council will be supportive of an application if there is economic activity which requires housing. As mentioned above Mr and Mrs Horsfall have farmed in this area for many years and due to an existing tenancy agreement coming to an end require to re-establish their farming activities at Domnaheiche. The tenanted land however does not come with a farmhouse. The house is therefore required to allow them to farm the land effectively and in close proximity to their livestock.
- 2.2 Policy 3.4 states that the council will support an application for houses for local people. As mentioned Mr and Mrs Horsfall have farmed in the area for the last 40 years and their current tenancy at Dalchosnie will soon come to an end, this application will provide them with a much needed house.
- 2.3 Under the section titled '*Siting Criteria*' of policy 3 there are a number of criteria for a site which has to be met. The site proposed is in a location bounded to the south by the Loch Tummel road and to the North by a burn and to the East boundary an informal grouping of mature trees offer screening. These boundaries ensure the development will blend sympathetically and demarks an identifiable site. Notwithstanding this the site already has a derelict building on it demonstrating the sites suitability for placing a dwelling.
- 2.4 Policy 5 allows for the replacement of redundant non-domestic buildings. It states '*replacement of such buildings will only be permitted in cases where there is evidence that the existing building requires to be reconstructed*'. The existing stone traditional building on site has been derelict for some years and weather and time has taken its toll and is now ruinous. The building has lost its roof however the original form is still apparent. It is clear to see that the building structure would not meet current standards. Any future detailed application could be designed to respect the existing building in form and proportions to satisfy the planning authority to ensure the proposed house has a good fit in the landscape.
- 2.5 Policy 6 allows for small scale housing in areas of Brownfield Land. It specifically states that on '*..land which was formerly occupied by buildings may be acceptable where it would remove dereliction*'. As mentioned above the site currently is occupied by a derelict stone building and therefore its replacement will remove dereliction.

3.0 CONCLUSION

- 3.1 The proposed application seeks to replace an existing derelict building with a dwelling house to provide a necessary dwelling for the applicants who farm the adjoining land. As demonstrated above there are a number of policies in the Housing in the Countryside Guide which the application complies with. I trust the council agrees with this interpretation of policy and duly approves this application in principle.

TCP/11/16(455)

Planning Application – 16/01511/IPL – Erection of a dwellinghouse (in principle) on land 250 metres North East of Balnairn, Foss

REPRESENTATIONS

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	16/01511/IPL	Comments provided by	P Fernandez Ferrero
Service/Section	TES - Flooding	Contact Details	
Description of Proposal	Erection of a dwellinghouse (in principle)		
Address of site	Land 250 meters North East of Balnairn, Foss		
Comments on the proposal	<p>The proposed dwelling house would be located where a derelict building exists. The SEPA 1 in 200 year flood maps indicate a risk of flooding to the site from overland flow the Allt Kinardochy burn overtopping at the road bridge approximately 100m west of the existing derelict building.</p> <p>A flood risk assessment would need to be provided demonstrating that the site is out with the 1 in 200 year floodplain and finish floor levels are above the 1 in 200 year (plus climate change) flood level and also include a 600mm allowance for freeboard. No landraising would be permitted within the 1 in 200 year flood envelope.</p>		
Recommended planning condition(s)			
Recommended informative(s) for applicant	Developer's Guidance note on flooding and drainage – June 2014.		
Date comments returned	12/09/2016		

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	16/01511/IPL	Comments provided by	Euan McLaughlin
Service/Section	Strategy & Policy	Contact Details	Development Negotiations Officer: Euan McLaughlin [REDACTED]
Description of Proposal	Erection of a dwellinghouse (in principle)		
Address of site	Land 250 Metres North East Of Balnairn, Foss		
Comments on the proposal	<p>Primary Education</p> <p>With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.</p> <p>This proposal is within the catchment of Kinloch Rannoch Primary School.</p>		
Recommended planning condition(s)	<p>Primary Education</p> <p>CO01 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to primary education infrastructure, unless otherwise agreed in writing with the Council as Planning Authority.</p> <p>RCO00 Reason – To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.</p>		
Recommended informative(s) for applicant	N/A		
Date comments returned	13 September 2016		

Memorandum

To Development Quality Manager

From Regulatory Service Manager

Your ref 16/01511/IPL

Our ref MA

Date 15 September 2016

Tel No [REDACTED]

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission

Re: Erection of a dwellinghouse (in principle) land 250 North East of Balnairn, Foss for Mr and Mrs N Horsfall

I refer to your letter dated 13 September 2016 in connection with the above application and have the following comments to make.

Water (assessment date – 15/9/16)

Recommendation

I have no objections to the application but recommend the undernoted condition and informatives be included in any given consent.

Comments

The development is for a dwelling house in a rural area with both private water supplies and public mains known to serve properties in the vicinity. The applicant has indicated that they will connect to the Public Mains water supply but should this prove to be impractical cognisance must be taken of Informative 2 below. To ensure the new development has an adequate and consistently wholesome supply of water and to maintain water quality and supply in the interests of residential amenity and ensure the private water supply or septic drainage systems of neighbours of the development remain accessible for future maintenance please note the following condition and informatives. No public objections relating to the water supply were noted at the date above.

Condition

Prior to commencement of site works, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways / private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The approved protective or replacement measures shall be put in place before the site works commence and shall be so maintained throughout the period of construction.

Informative 1

The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.

Informative 2

Although the applicant has indicated on the application form that mains water will be provided, it is believed that connection to the public mains may be impractical therefore the following should be noted if a private water supply is utilised.

The applicant shall ensure the private water supply for the house/ development complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks/ pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above act and regulations.

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	16/01511/IPL	Comments provided by	David Williamson
Service/Section	Strategy and Policy	Contact Details	[REDACTED]
Description of Proposal	Erection of a dwellinghouse (in principle)		
Address of site	Land 250 Metres North East Of Balnairn, Foss		
Comments on the proposal	<p>Part 214 of the Scottish Planning Policy states:</p> <p>The presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application. Certain activities – for example those involving European Protected Species as specified in the Conservation (Natural Habitats, &c.) Regulations 1994 and wild birds, protected animals and plants under the Wildlife and Countryside Act 1981 – may only be undertaken under licence. Following the introduction of the Wildlife and Natural Environment (Scotland) Act 2011, Scottish Natural Heritage is now responsible for the majority of wildlife licensing in Scotland.</p> <p>In this instance there are recorded signs of otters, pine marten and bats in close proximity to the site of the proposals.</p> <p>A licence is required to undertake works within 30m of an otter holt or resting place, in this instance the site is bounded by a watercourse where signs of otters are present..</p> <p>A licence is required to undertake works that could affect a bat roost, in this instance the trees to be removed may provide bat roost potential.</p> <p>A licence is required to undertake works that could affect the den of pine martens, in this instance the derelict building may provide shelter or a suitable site for a pine marten den.</p> <p>As this is an In Principle application I am suggesting there needs to be protected species surveys provided PRIOR TO APPROVAL OF RESERVED MATTERS. September is also getting to the end of the season for full activity bat surveys and this will allow bat surveys to be</p>		

	<p>undertaken at the correct time of year.</p> <p>The RTPI GOOD PRACTICE GUIDE - PLANNING FOR BIODIVERSITY provides the following guidance:</p> <p>The presence of a protected species is a material consideration in planning decisions. It is important to bear in mind that the granting of planning permission can provide a legal justification for Undertaking operations that would harm a protected species.</p> <p>In dealing with cases that may involve protected species it is important to ensure that an expert survey is undertaken and specialist advice is obtained, either from the applicant (through consultants) or from the statutory agencies or local nature conservation organisations, many of which have valuable local knowledge and experience of the species. In most cases harm could be overcome by modifications to the proposals or by the use of conditions or agreements related to any permission granted. However, it should be born in mind that mobile species frequently range beyond designated sites or sites where they are known to breed, roost, rest or hibernate. They may be equally dependent upon more extensive foraging, hunting or feeding areas (for example, barn owls and bats).</p> <p>The Association of Local Government Ecologists Guidance on Validation of Planning Applications provides a trigger list where protected species surveys are required. It appears that the development falls into the following categories:</p> <ul style="list-style-type: none"> • Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies. • Proposed tree work (felling or lopping) and/or development affecting: <ul style="list-style-type: none"> • old and veteran trees that are older than 100 years; • trees with obvious holes, cracks or cavities, • trees with a girth greater than 1m at chest height; • Proposals affecting or within 200*m of rivers, streams, canals, lakes, or other aquatic habitats. • Proposals affecting 'derelict' land (brownfield sites), allotments and railway land. <p>As the application was submitted in September and is 'in principal' it is not feasible to ask for full protected species surveys prior to determination, I will therefore propose a condition that full protected species surveys are undertaken as part of any further application.</p>
Recommended planning condition(s)	<p>If you are minded to approve the application then I recommend the following conditions be included in any approval:</p>

	<ul style="list-style-type: none"> • Prior to commencement on site, a protected species survey shall be undertaken and submitted to the planning authority for approval. All recommendations and mitigation measures contained in the protected species survey will be carried out fully and to the satisfaction of the planning authority. <p>RNE01 Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).</p> <ul style="list-style-type: none"> • No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority. <p>RNE01 Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).</p> <ul style="list-style-type: none"> • No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include creation of sloping escape ramps which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. <p>RNE02 Reason - In order to prevent animals from being trapped within any open excavations.</p>
Recommended informative(s) for applicant	<ul style="list-style-type: none"> • The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non compliance. • The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not

	provide a defence against prosecution under this act.
Date comments returned	19 September 2016

TCP/11/16(455)

Planning Application – 16/01511/IPL – Erection of a dwellinghouse (in principle) on land 250 metres North East of Balnairn, Foss

FURTHER INFORMATION

CHX Planning Local Review Body - Generic Email Account

From: David <david@taparchitects.co.uk>
Sent: 25 January 2017 12:54
To: CHX Planning Local Review Body - Generic Email Account
Subject: Re: TCP/11/16(455)
Attachments: N & D Horsfall - SEPA Response 09-01-17.doc; N & D Horsfall - Response fro PKC Flood Section 19-01-17.pdf

Good afternoon,

In conversation with one of your colleagues this morning, I was informed that it had been inappropriate for me to send the attached SEPA document to the Planning Department who considered the original Application. The email from Emily Macmillan of the Floods Section of the Perth and Kinross Council was received only a week ago and had not been sent on to either the Planning Department or to your Board.

It was suggested that I should send the documents, which are very important to any determination of whether the site is subject to flooding, to the Appeals Board.

I am pleased to attach them for your attention.

Kind regards,

David Taylor

From: CHX Planning Local Review Body - Generic Email Account <PlanningLRB@pkc.gov.uk>
To: "david@taparchitects.co.uk" <david@taparchitects.co.uk>
Sent: 1/24/2017 3:52 PM
Subject: TCP/11/16(455)

Good Afternoon Mr Taylor,

Please see the attached letter regarding the Notice of Review for planning application 16/01511/IPL.

If you have any queries please do not hesitate to contact us.

Kind Regards

Paige Crighton
Committee Support Assistant
Corporate and Democratic Services
Perth and Kinross Council
2 High Street
Perth
PH1 5PH



please don't print this e-mail unless you really need to

Fwd: RE: Planning Application 16/01511/IPL - Land 250 meters North East of Balnairn, Foss

From: Colin MacPhee [REDACTED]
To: David <david@taparchitects.co.uk>
Date: 1/19/2017 10:50 AM

Morning David,

I have not had a chance to pull together proposals / cost the other water and drainage issues, on the back foot at the moment, but pleased find attached a positive response from the Councils flood team in removing their objection to flooding. They are looking for information on the measures I proposed and details of responsibilities, but these can be addresses as and when things move forward.

Kind Regards
Colin MacPhee

----- Forwarded Message -----

Subject: RE: Planning Application 16/01511/IPL - Land 250 meters North East of Balnairn, Foss
Date: Thu, 19 Jan 2017 10:39:32 +0000
From: Emily McMillan [REDACTED]
To: 'Colin MacPhee' [REDACTED]
CC: Sean Panton [REDACTED]

Good Morning Mr MacPhee

Thank you for your email and the attachments detailing the flood risk at the site.

In light if this information I am happy to remove my previous objection. I would however like to note the installation of a "debris collector" upstream of the road bridge. It would be useful to have information as to what this will be (i.e. trash screen etc?) and an idea of maintenance responsibilities for keeping it clear - would these lie with the householder/occupant?

Many thanks

Emily

From: Colin MacPhee [REDACTED]
Sent: 13 January 2017 12:00
To: Emily McMillan
Subject: Planning Application 16/01511/IPL - Land 250 meters North East of Balnairn, Foss

The applicants for the above site have appointed Taylor Architecture Practice to review the proposals for the above site. TAP have in turn asked ourselves to undertake an initial / qualitative review of the flood risk at the site and provide advice on these findings. Attached is our initial findings as reported to TAP, in which we have concluded that the site is not at flood risk and flooding to the existing public road can be managed by improvements to local drainage arrangements.

As part of this proposed we have consulted SEPA to obtaining their views on the flood risk to the site and obtain any further information that they may have. I have attached a copy of their response in which they have supported the conclusion from the aforementioned assessment. Given the above I would be most grateful if this additional information could be reviewed with a view to the flood team being able to remove their objection and consider now supporting development at the site.

I look forward to hearing from you in due course.

--

Kind Regards
Colin MacPhee
Gunn MacPhee & Associates Ltd

Consulting Engineers
Civil . Water . Structural . Environmental . Geotechnical

Our ref: PCS/150722
Your ref:

If telephoning ask for:
Silvia Cagnoni-Watt

9 January 2017

Colin MacPhee
Gunn MacPhee & Associates Ltd
Caledonian House
High Street
Dingwall
IV15 9RY



Dear Mr MacPhee

**Pre-planning enquiry
House Plot - Flood Risk
Foss by Loch Tummel**

Thank you for your consultation email which SEPA received on 02 January 2017.

We have recorded this consultation as pre-application engagement, on the basis the SEPA was not consulted by the Planning Authority on this development. From your email of the 4 January 2017 we understand that the Council refused permission to 16/01511/IPL | Erection of a dwelling house (in principle) | Land 250 Metres North East of Balnairn Foss.

Your enquiry is in relation to flood risk and we have therefore consulted SEPA hydrologists.

If formally consulted through the planning process on the proposed development we would be unlikely to object on flood risk grounds based on the information supplied with this consultation. Notwithstanding this we would expect Perth & Kinross Council to undertake their responsibilities as the Flood Prevention Authority.

Our pre-application advice relies on the accuracy and completeness of the information supplied with this consultation. Should finalised development proposals differ in any future planning application we reserve the right to alter our position if we are of the opinion that such proposals would not meet with the principles of Scottish Planning Policy

1. Flood risk technical report

- 1.1 It is noted that the application site (or parts thereof) lies within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding. However, as outlined the Flood Map only provides a first indication of potential flood risk.
- 1.2 It is acknowledged that topographic survey data of the area and site photographs have also been submitted. Review of the topographic data indicates that a fairly significant

topographic difference exists between the watercourse and proposed site. Given this we are satisfied that assuming free flow i.e. no upstream bridge blockage the potential flood risk from the watercourse is low.

- 1.3 The flooding statement does flag up a potential concern about upstream bridge blockage as the structure is viewed as a potential hydraulic constraint. However, the flood relief level and flow pathways in the event of blockage or under-capacity have been indicated and are below the ground level of the proposed development. It is also recommended that the proposed new culvert is sized appropriately to help ensure a neutral effect on flooding. Based on the information submitted we are satisfied that the proposed development would be compliant with the principles of Scottish Planning Policy (SPP).
- 1.4 It is recommended that the Flood Prevention Authority (FPA) satisfy themselves that post development runoff and management are acceptable for flood control purposes.

Caveats & Additional Information for Applicant

- 1.5 The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km² using a Digital Terrain Model (DTM) to define river cross-sections and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>.
- 1.6 We refer the applicant to the document entitled: "*Technical Flood Risk Guidance for Stakeholders*". This document provides generic requirements for undertaking Flood Risk Assessments and can be downloaded from <http://www.sepa.org.uk/media/162602/ss-nfr-p-002-technical-flood-risk-guidance-for-stakeholders.pdf>. Please note that this document should be read in conjunction Policy 41 (Part2).
- 1.7 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

2. Regulatory advice for the applicant

- 2.1 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at:

Broxden Business Park, Lamberkine Drive, PERTH, PH1 1RX, Tel: 01738 627989

If you have any queries relating to this letter, please contact me by telephone on 01786 452430 or by e-mail to planning.se@sepa.org.uk.

Yours sincerely

Silvia Cagnoni-Watt
Senior Planning Officer
Planning Service



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

Perth Strathearn House

Broxden Business Park,
Lamberkine Drive, Perth, PH1 1RX
tel 01738 627989 fax 01738 630997

www.sepa.org.uk • customer enquiries 03000 99 66 99

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

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Statement to the Appeals Board of the Perth and Kinross Council

At the conclusion of the Meeting of the Board on Tuesday 7th February, the Chair of the Board suggested that the agent for Mr and Mrs Horsfall write a simple report to comment on the points underpinning the Refusal of the Application by the Planning Department. The following are his comments:

1 The existing landscape of the site:

In the document prepared for the Appeals Board, the agent for the Applicant described the existing landscape of the site as 'neglected woodland'. This adjective was used to try to describe the woodland on and adjacent to the site as being self-seeded saplings, growing around several substantial trees reaching the ends of their lives; untended, with no efforts being made by the current owners to thin original growth or remove dying branches. The use of this word was not intended to imply that the woodland lacks value or merit but only to describe its present state. The report to the Board is clear in stating that, contrary to the opinion expressed by the Planning Department, it is definitively agreed that no felling of trees should take place on site as a result of a Consent being granted. If a Consent is granted, a landscape architect will be appointed to prepare a plan for the treatment of the woodland. It is envisaged that brushwood will be removed but the intention is to retain a woodland site within which is situated a modest and appropriate dwelling. Such a plan would be subject to the approval of the Council.

2 Ruined flax mill. It is believed that the existing stone-built ruin is the remains of an old flax mill. There is evidence of a horse-driven ring connected to a shaft powering the processing equipment.

A map of 1765 shows the hamlet of 'Balinearn' standing on the banks of the Allt Kynachan.

The Statistical Account of Scotland of 1785 states that "To the raising of this valuable root (the potato), and to the raising of flax, this country is particularly indebted. In general, all the farmers here raise and spin what flax is sufficient to pay their money rents, besides all their other smaller amounts. There is probably 3000 stones of flax (500 tonnes) annually raised in the parish." The flax plant was either processed for the manufacture of linen cloth, or for linseed oil which formed part of the staple diet of the era. The Parish Accounts of 1820 refer to the existence of the 'Balnarn Flax Mill', although they do not confirm whether the mill pressed or spun the flax.

Nothing remains of the original equipment which was probably constructed from timber materials. In the 1800's such equipment was quite common in farm-steading.

The attached photograph shows the incorporation of a gigantic boulder into the structure of the building. A boulder of this size could not have been moved simply by manpower. It is likely to be the remains of a glacial deposit. The existence of the boulder tends to support the notion of an industrial rather than a domestic building. Research on these issues will be continued.

If current Appeal is granted, the intention would be to preserve the existing ruin. It would be incorporated into the overall design of the new homestead.

- 3 House Design. The Application is for Outline Consent for the site. Mr and Mrs Horsfall cannot afford to appoint an architect to prepare plans for a new dwelling until they have the certainty about the acceptance of the principle of a development on the site. However, it is agreed that the ruin is an interesting example of an early agricultural/industrial building and its incorporation into an appropriate design for an adjacent dwelling will be a tricky but interesting design task. The Applicants have every intention of employing architects of ability to ensure that the task is well executed. The designs submitted will obviously need to meet with the approval of the Council.
- 4 The report by the Planning Department suggests that if the Applicants need to live close to their flocks and herds then a housing plot situated centrally within the leased areas would be better sited than one on the perimeter of the farms. The report also indicated that a house related to the existing buildings within these areas would form a better visual outcome. Naturally, the Applicants originally sought such an agreement with both of their lessors. Neither were willing to sell land within their landholdings to allow the construction of a house. The best location – the steading buildings at Domnaheiche Farm, are not in fact farm buildings at all, having been converted to private accommodation some time ago. Both landowners will confirm their opinions on this matter. The solution proposed by the Planning Department is not possible.
- 5 During the sitting of the Board, one of the councillors mentioned the subject of wildlife and otters. This arose out of the statement by the Department that, anecdotally, a variety of species of wildlife, including possibly otters, might live near the site. The Applicant employed a respected wildlife consultant with long experience in the area to undertake an ecology survey. Examination of the terrain found no protected species living near the site, nor signs of their transit through the site. The report from the consultant was included in the report submitted to the Board.
- 6 Location within the Tay Forest , and visibility of the house from the public highway. One important aspect of the development within the existing landscape is the very limited extent to which the ruin and any new building are visible from the public highway. The roadway lies in a configuration in which the ruin is not seen until a vehicle or pedestrian travelling east is over the small hump-back bridge to the west of the site, or travelling from the east, crests the rise from the flatter land lying to the east of the site. The site is completely hidden by woodland from all directions with the exception of the limited view from the highway.
- 7 Annual agricultural leases. The report from the Department states that annual leases do not provide sufficient security to justify approving the Application. The report from the Applicant contains the written statements from the landowners to the effect that, were it not for the proposed changes in the law relating to land tenure, they would be pleased to enter into long term leases with the Applicants. They have offered to appear before the Appeals Body should these statements require corroboration. The position of the Planning Department in this matter is perfectly understandable. However, the reservations of the Department should be viewed in the light of the thirty years in which the Applicants have been engaged locally in their farming activities and their local society. Their need for a base from which to continue their farming activities is clear and genuine.





**Delayed Office Opening for
Employee Training**

*This Office will be closed from 8.45 am –
11.00 am on the 1st Thursday of each
month.*

Heledd Rheinalt,
Committee Officer,
Perth & Kinross Council,
2 High Street,
Perth,
PH1 5PH.
[REDACTED]



Planning and Development
Interim Head of Planning: **Nick Brian**

Pullar House, 35 Kinnoull Street,
Perth, PH1 5GD.
Tel: 01738 475300 Fax: 01738 475310

Contact: Sean Panton
[REDACTED] [REDACTED]

Our ref: 16/01511/IPL

Your ref: TCP/11/16 (455)

Date: 10th March 2017

Dear Heledd Rheinalt,

Town & Country Planning (Scotland) Act 1997

**The Town & Country Planning (Schemes of Delegation & Local Review Procedure)
(Scotland) Regulations 2013**

**Application Ref: 16/01511/IPL – Erection of a dwellinghouse (in principle) on land
250 metres North East of Balnairn, Foss – Mr and Mrs Horsfall**

I refer to the letter submitted on the 24th February 2017 by Gillian Taylor with regards to the above. As the Case Officer for the application, I would like to make comment on a number of points raised by the agent in the Local Review Body (LRB) appeal.

Reason 1 for Refusal – Policy RD3: Housing in the Countryside

Firstly, I would like to draw your attention towards the information submitted in respect of the first reason for refusal. As a reminder, reason 1 was as follows:

'The proposal is contrary to Policy RD3 'Housing in the Countryside' of the Perth & Kinross Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with category (3) New Houses in the Open Countryside as there insufficient justification on the basis of operational need and the proposed site cannot satisfy the detailed siting criteria due to the lack of established boundaries. The proposal does not satisfy any of the remaining categories (1) Building Groups, (2) Infill Sites, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, or (6) Rural Brownfield Land.'

The information submitted in reference to the above still **does not** provide a satisfactory level of information as required by the Policy to comply with category (3), as there is still insufficient justification on the basis of operational need. The applicant is seeking to justify the proposed house under category 3.3(a) Economic Activity on the HICG on the basis of operational need associated with the farmland which the applicant currently farms.

This category outlines that where the applicant proposes that a new house is required in association with an established or consented economic activity, it must be demonstrated to the satisfaction of the Council that there is a need for the proposed new house. By the agent simply stating that the applicants have farmed in the area for a number of years and that their existing tenancy is soon to end, this does not justify a new dwellinghouse in the countryside. Whilst I appreciate that the existing tenancy is to end, this does not justify the proposed site itself.

My concerns remain as stated in the Report of Handling for the application. One of my main concerns, **which has not been addressed fully**, is in relation to the position of the house relative to the majority of the stated farmed land. If there was indeed a need for a dwellinghouse it would seem far more logical to place the house immediately adjacent to the business operation in order to provide 24 hour supervision of the business, including security. This proposed site, albeit within the applicant's ownership, is a substantial distance from any agricultural holding. Although the applicant has demonstrated that they were unable to obtain land closer, this undermines the whole justification by the applicant for a new house in the countryside. If the house is not required to be adjacent to the farm land then this poses the question why can't the house be located next to an existing building group further away rather than placed as per this application?

I would also like to point out at this stage that Reason 1 was the primary reason for refusal as the proposal in full does not comply with the requirements set by Policy RD3: Housing in the Countryside. **If this appeal is to be granted, then this could significantly undermine the approved policy and weaken its power in decision making, as a precedent will be set.** I would draw your attention towards the Report of Handling 'Policy Appraisal' section where reasons for un-compliance with Policy RD3 are expanded further.

Reasons 2 and 3 for Refusal – Policy PM1A: Placemaking and Policy PM1B Placemaking

Secondly, I would like to draw your attention towards the information submitted in respect of reasons 2 and 3 of the refusal. As a reminder, these reasons were as follows:

'The proposal is contrary to Policy PM1A 'Placemaking' of the Perth & Kinross Local Development Plan 2014 as the proposed development would not contribute positively to the quality of the surrounding built and natural environment, particularly due to the presence of the site within the Loch Tummel National Scenic Area. The site is also considered to be too narrow and unsuitable for a dwellinghouse that have sufficient associated amenity space and would therefore also not comply with Policy PM1A.'

'The proposal is contrary to Policy PM1B, criterion (b) of the Perth and Kinross Local Development Plan 2014, as the removal of the woodland and the siting of a dwellinghouse would erode and dilute the areas landscape character.'

The submitted information makes reference in part to the design of the proposal; however this is not a consideration for an 'in principle' application. As stated in the Report of Handling, I do not consider that a house in this location could contribute positively to the Loch Tummel National Scenic Area. This is due to the natural beauty of the area and a house in this location being out-of-character. A new dwellinghouse, even when sensitively

designed, is likely to have a negative effect upon the landscape character of this national designation.

In relation to the removal of woodland, this should be considered due to the site being designated as a National Scenic Area. It is as such considered that the applicant has demonstrated that tree removal would be limited through additional supporting information however this does not justify the site to be suitable for a new dwellinghouse for reasons mentioned in relation to Reason 1 of the refusal.

Reason 4 for Refusal – Scottish Government Policy on Woodland Removal and Policies NE2A and NE2B: Forestry, Woodland and Trees.

Thirdly, I would like to draw your attention towards the information submitted in respect of reason 4 of the refusal. As a reminder, reason 4 was as follows:

‘The proposal is contrary to the Scottish Government’s Policy on Woodland Removal, the Scottish Forest Strategy, the National Planning Framework as well as policies NE2A and NE2B of the Perth and Kinross Local Development Plan 2014 as the extent of tree felling on site has not been quantified through a survey and there are no clear public benefits associated with the removal of the woodland.’

Through the information submitted, I am now satisfied that tree removal would be limited however there still remains no clear public benefits associated with the removal of the woodland.

Reason 5 for Refusal – Policy NE3: Biodiversity

In relation to my fourth point, I would like to draw your attention towards the information submitted in respect of reason 5 of the refusal. As a reminder, reason 5 was as follows:

‘The proposal is contrary to Policy NE3 of the Perth and Kinross Local Development Plan 2014, as no survey information has been provided to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensure the protection of wildlife and wildlife habitats.’

The information submitted in Appendix H states that no evidence was found of any protected mammalian species that would be threatened by a ‘relatively small scale development’. Whilst the report is noted, the LRB should be aware that by granting an application for a house in principle does not guarantee a ‘relatively small scale development’. This can only be confirmed through a detailed application.

I am now however satisfied that Reason 5 for refusal has been addressed through the supporting information for the LRB appeal.

Reason 6 for Refusal – Policy EP2: New Development and Flooding

Finally, I would like to draw your attention towards the information submitted in respect of reason 6 of the refusal. As a reminder, reason 6 was as follows:

'The proposal is contrary to Policy EP2 of the Perth and Kinross Local Development Plan 2014, as no Flood Risk Assessment has been provided to ascertain the flood risk of the proposed development.'

I am aware that correspondence has since been made between our Flooding Officer and the agent. During consultation on the application itself, the Flooding Officer did not object to the proposal. The following comment was however made:

'The proposed dwelling house would be located where a derelict building exists. The SEPA 1 in 200 year flood maps indicate a risk of flooding to the site from overland flow the Allt Kinardochy burn overtopping at the road bridge approximately 100m west of the existing derelict building.'

A flood risk assessment would need to be provided demonstrating that the site is out with the 1 in 200 year floodplain and finish floor levels are above the 1 in 200 year (plus climate change) flood level and also include a 600mm allowance for freeboard. No landraising would be permitted within the 1 in 200 year flood envelope.'

To confirm, the Flooding Officer **did not object** and only requested a flood risk assessment to be submitted.

The agent has stated in the supporting information that Flooding have since withdrawn their objection, however Flooding did not place an objection in the first place. In an email from the Flooding Officer, Emily McMillan, to agent, Colin MacPhee, on Thursday 19th January, it was stated 'In light of this information I am happy to remove my previous objection.'

I have since consulted Flooding and they have stated that this was an error and are aware that they cannot remove their objection as they did not make one. They simply requested a Flood Risk Assessment to be undertaken.

As Case Officer, I felt it would be unreasonable to request a Flood Risk Assessment as part of the application when the application was to be recommended for refusal for other reasons (primarily RD3: Housing in the Countryside), as this would be an added expense to the applicant. The comments from the agent in relation to the application being dealt with in such a short time frame where not all details were taken into consideration is therefore highly unreasonable. Perth & Kinross Council endeavour to issue all of our decisions as promptly as possible so that we remain a respected Planning Authority.

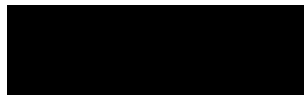
I am however now satisfied, as is the Flooding Officer, that the submitted information in relation to Reason 6 of the reasons for refusal is satisfactory.

Conclusion

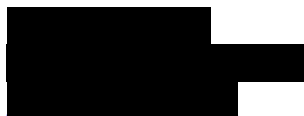
In conclusion, although the applicant has given a detailed and comprehensive response, it still does not address the key underlying factors relating to the refusal of the application. Primarily, this is due to the proposal not complying with the relevant requirements of Policy RD3: Housing in the Countryside. I am however satisfied that issues in relation to Reasons 5 and 6 have been addressed.

I would like to thank you for the opportunity to comment further and trust that my comments will respectfully be taken into consideration in the determination of the appeal. Should you have any further comments or queries then please do not hesitate to contact me. I will be happy to help where I am permitted.

Kind regards,



Sean Panton,
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
Perth,
PH1 5GD.



CHX Planning Local Review Body - Generic Email Account

From: David <david@taparchitects.co.uk>
Sent: 21 March 2017 09:03
To: CHX Planning Local Review Body - Generic Email Account
Subject: 16/01511/IPL – Erection of a dwellinghouse (in principle) on land 250 metres North East of Balnairn, Foss - 455
Attachments: N & D Horsfall - Report to Appeals Board 20-03-17 (1).docx

Dear Heledd,

Further to my email of yesterday regarding the above, I am pleased to attach my response to the commentary prepared by the Planning Department.

I look forward to hearing from you the arrangements for the Hearing,

Kind Regards,

David

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013

Application Ref: 16/0511/IPL – Erection of a dwelling house (in principle) on land 250 metres north east of Balnairn, Foss – Applicant Mr and Mrs Nick Horsfall

I refer to the comments received from the Planning Department of the Perth and Kinross Council in relation to the Report prepared by myself for submission to the Local Review Body in connection with the Refusal of Consent for the above Application. I comment on the opinions expressed by the Planning Department as follows:

Reason for Refusal 1: Policy RD3: Housing in the Countryside

The Department still do not accept that a case based upon “Operational Need” has been made. The report states that “it must be demonstrated that there is a need for the proposed new house.” In case of there being any doubt, I confirm that Mr and Mrs Horsfall lease farmland and live in a rented house adjacent to that land in Kinloch Rannoch. They have done so for thirty years. As a result of receiving notice that their lease over the land and house will not be renewed, they had to plan a new future. They were fortunate to be able to lease land at Drumnakyle and Lick, both adjacent to Foss. However, no living quarters are available to them in either location. Since they have no option but to move off the land that they farm in 2018, they must find a new home. The strain of attempting to farm at Kinloch Rannoch as well as at Drumnakyle is considerable, involving long hours of travel and risk to unattended stock. However, unless they give up their existing lease prematurely, leaving themselves homeless, they have no alternative but to seek a new home adjacent to their new leases. The Planning Department state that these realities do not justify a new house in the countryside. In fact, unless an existing and affordable house can be purchased in close proximity to their leases, then their economic activity in the area will come to an end. This is a very fair “justification” of need and only an ability to find alternative accommodation would negate it.

Requests to local landowners to sell land for a dwelling have been turned down, an approach to the Forestry Commission has been rebuffed and their attempts to buy properties local to the leased land have failed due to the high prices sought for houses that can provide holiday homes. The site that they have found and for which an Application has been lodged is both available and affordable. It should be said that the land is affordable because the owners are old friends of the Applicants and are trying to assist them in the search for a future home.

The Planning Department have reiterated their opinion that the site covered by their Application is not sufficiently central to their agricultural holdings to represent an appropriate position for a farm steading. There are two important points to be noted in this regard:

- 1 The distance between the two leased farms is 3 kilometers. At this distance apart there cannot be a perfect location from which all stock can be fully supervised. The central position between the farms is occupied by Forestry Commission land upon which no property can be built.
- 2 Although the chosen site is at the western edge of the leased lands, it is within 300 metres of the buildings in which their Pedigree Luing herd are housed. This rearing of pedigree cattle is the most important economic activity undertaken by the Applicants. An ability to supervise the herd is essential during calving. At this proximity, the Applicants can install a video link from Balnairn to the byre and this will avoid the

occasional overnight supervision of cattle, although it will not avoid the need to assist the vet in the middle of the night to help with a difficult calving. This proximity also offers security in relation to the theft of animals, a matter of increasing concern to the farming community. A dead calf will represent a loss of £2,000 to the Applicants, and as reference to their accounts will show, such a loss would be significant. The reply of the Planning Department effectively argues that the spread-out nature of the lands leased by the Applicants make it impossible to justify a new house in the countryside because any location will be distant from some part of their holdings. This argument is flawed for the reason given. The property at Lick is stocked with sheep and these require less supervision than pedigree cattle.

These agricultural realities, together with the lack of viable housing alternatives, amply justify the claim of “Operational Need”.

Finally, the Planning Department uses the argument that approval of the Appeal will set an unfortunate precedent. In reality, the circumstances of the Applicants are highly specific: they live locally, and have done so for years. They provide an economic and social service to the locality. Through no fault of theirs they are about to lose their existing business. They seek to maintain their links with the area, made possible by the willingness of local landowners to lease land to them. They need housing in a particular location where none exists that they can afford. Without a solution to their housing problem, they will have to give up their new leases and move away to find land where accommodation is available.

The likelihood of an identical Application being lodged which incorporates all these factors is unlikely, in the opinion of their agent. And given the need that drives this Application, perhaps the Planning Department should balance the needs of such an Applicant against the need to avoid sporadic development in the countryside.

Reasons for Refusal 2 and 3: Policies PM1A and PM1B

The Department considers that:

- 1 “the proposed development would not contribute positively to the quality of the surrounding built and natural environment” and “ A new dwelling house Is likely to have a negative effect upon the landscape character of ...” the National Scenic Area.
- 2 “The site is ... too narrow and unsuitable for a dwelling house.”
- 3 It seems that the Department accepts the statement by the Agent that no trees will be removed to achieve the proposed development but considers that this statement does not justify the proposed use of the site.

The statement that the Planning Officer does not consider that a house in this location could contribute positively to the National Scenic Area is a very subjective conclusion, and one that assumes that it is quite impossible for any architect, no matter how careful or talented, to devise a house design that would complement the existing ruin and site. Since the Application is one ‘in principle’, rather than assuming the impossibility of the design task, the Department should await the production of a design and then comment accordingly. The argument for refusal seems rather to favour “the absence of a built environment” ie a landscape that is almost devoid

of buildings and that is how the Department would prefer to see the landscape remain. It is a fact that a building on this site will not be seen from any long views and would be discreetly located within the stand of trees on the valley floor and so will not have any detrimental impact to the wider context of the National Scenic Area.

The site does in fact already contain a substantial stone ruin that constitutes an element in the existing 'environment'. It seems inappropriate to ignore its existence. It has a strong presence on the site and the proposed use, as part of a homesteading, will preserve its existence. Failing that, it will inevitably crumble and disappear as so many old stone built buildings locally have fallen and become overgrown.

It is not clear whether the Department has accepted that Point 2 regarding the narrowness of the site has been disproved by the submission to the Review Board. An architect drafted indicative house plan submitted to the Review Board showed clearly that there is sufficient space on site for the construction of a house.

Reasons for Refusal 4: Policies NE2A and NE2B – Woodland Removal

The Planning Department state that "I am now satisfied that tree removal would be limited, however there still remains no clear public benefits associated with the removal of woodland." The Agent for the Applicant would like to repeat the assurance contained in the report to the Local Review Board that no woodland will be removed to achieve the proposed development.

Reasons for Refusal 5: Biodiversity

The Planning Department have stated that they accept that reason 5 for refusal has been addressed by the information submitted to the LRB appeal.

Reasons for Refusal 6: Flooding

The Planning Department have stated that they accept that reason 6 for refusal has been addressed by the information submitted to the LRB appeal.

