THE HIGHLAND COUNCIL

PLANNING APPLICATIONS COMMITTEE - North

Agenda Item	6.1
Report No	PLN/058/13

11/03025/PIP : Ms Reneta Coleman Land 260m NW of Birch Cottage, Rogart

Report by Area Planning Manager

SUMMARY

Description: Erection of house, installation of septic tank, soakaway & upgrade of

access (site 1)

Recommendation - GRANT

Ward: 05 - East Sutherland And Edderton

Development category: Local Development

Pre-determination hearing: Not required

Reason referred to Committee : 5 or more objections

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks planning permission in principle for the erection of a house, the installation of a septic tank and soakaway and the upgrade of an existing access, which includes a vehicular bridge crossing.
- 1.2 The application was supported by the following documents;
 - Archaeological Survey
 - Drainage Report
 - Flood Risk Assessment
- 1.3 Site plan varied to show amended position of site 2.

2. SITE DESCRIPTION

2.1 The site of the proposed house is located on the western side of the public road leading from Rogart Station towards Rogart Cemetery. The site is accessed from an existing track leading off the public road. The track passes through an area of native woodland and includes of ford crossing over a watercourse called "Garbhallt", which lies to the south and east of the site. The site is currently undulating rough grazing and the area is characterised by exposed rock outcrops and boulder fields.

3. PLANNING HISTORY

3.1 Two previous applications (11/03027/PIP & 11/03028/PIP) were withdrawn within close proximity to this site due to conflict with archaeological features and unacceptable siting. There is a planning permission in principle permission (12/00614/PIP) for a house to the north-east of this site, this is marked site 2 on the location plan.

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown Neighbour

Representation deadline: 28.10.2011

Timeous representations: 7
Late representations: 1

- 4.2 Material considerations raised are summarised as follows:
 - The blue line depiction of landownership is incorrect.
 - The area is of archaeological importance and a house site shall conflict with this.
 - The area is agricultural land and has been used by local crofters for cattle grazings and a bull park for almost 20 years. The application may be prejudicial to a continuing dispute between the crofters who graze the park and the current landlord. The proposal will prevent the area being used as inbye grazing for surrounding crofts.
 - The area is susceptible to flooding and the soakaway drainage may result in water coarse contamination.
 - There is a wealth of flora and fauna in the area, which should be protected.
 - This area is used by the community for recreation and the development may prevent access.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **TEC Services**: Requested a flood risk assessment as part of the access lies within the 1 in 200 year flood envelope of the indicative river and coastal flood map. Following the submission of a flood risk assessment by the applicant, TECS Roads confirmed that flood risk has been adequately assessed and recommended standard access conditions and a condition ensuring that access to the house is designed to allow the free passage of a 1 in 200 year storm flow.
- 5.2 **Historic Environment Team (Archaeology)**: The application site lies within an area of high archaeological potential. However, no objections subject to an ARC1 condition (evaluation, preservation and recording).
- 5.3 **Forestry Officer**: The woodland surrounding the site is listed in SNH's Inventory

of Ancient Woodland. The upgrade of the existing track should not affect this feature and the location of the house appears to avoid the open grown trees. Conditions recommended to ensure the protection of existing trees. A tree planting plan is also recommended to provide a local setting.

- Access Officer: Commented that the public would be reasonably able to take access over the track leading to this development under the rights given in the Land Reform (Scotland) Act 2003. All gates on the access track should be accessible to the public or suitable provision to BS5709 provided.
- 5.5 **SEPA**: No objection to the development on flood risk grounds, however, recommended emergency access/egress was discussed with the Council's flood prevention staff.
- 5.6 **Scottish Water :** No objection, standard comments given.
- 5.7 **SNH**: No objections or comments regarding any natural heritage impacts.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland-wide Local Development Plan 2012

28	Sustainable Design
36	Development in the Wider Countryside
51	Trees and Development
57	Natural, Built and Cultural Heritage
64	Flood Risk
65	Waste Water Treatment

6.2 Sutherland Local Plan (2010) (as continued in force 2012)

6.3 Highland Council Statutory Supplementary Guidance

Sustainable Design Guide Supplementary Guidance

Flood Risk and Drainage Impact Assessment Supplementary Guidance

Trees, Woodland and Development Supplementary Guidance

Housing in the Countryside and Siting and Design Supplementary Guidance

Historic Environment Strategy Supplementary Guidance

7. OTHER MATERIAL CONSIDERATIONS

7.1 Scottish Planning Policy

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy**

Policy 28 (Sustainable Design) of the HWLDP aims to ensure that development is sustainable and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal state that proposals should be assessed on the extent to which they "impact on individual and community residential amenity" and "demonstrate sensitive siting and high quality design in keeping with local character'.

Policy 36 (Development in the Wider Countryside) lists the criterion against which proposals outwith settlement development areas will be assessed. Development proposals may be supported if they are judged to be not significantly detrimental under the terms of this policy.

Policy 51 (Trees and Development) states that "the acceptable developable area of a site is influenced by tree impact, and adequate separation distances will be required". Furthermore, this policy states that the Council will secure additional tree/hedge planting within a tree planting or landscape plan to enhance the setting of any new development.

Policy 57 (Natural, Built and Cultural Heritage) is applicable to this application as part of the application site is within a long established woodland. This policy states that we will only allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the amenity resource.

Policy 64 (Flood Risk) is relevant to this proposal as part of the site is within a medium to high risk flood envelope. This policy states that compliance with SPP should be demonstrated through the submission of a flood risk assessment or similar.

A detailed assessment of the proposal against the aforementioned policies is given below.

8.4 Material Considerations

Siting

There is a relatively dispersed settlement pattern in the area, to which this development would conform. Properties are located on both sides of the public road and with varying set back from the road. The proposal reflects the traditional pattern of land use in the area and the permission for a house to the north-east of this proposal (site 2) also reflects this pattern of development. The agent

demonstrated consideration of the sequential approach to housing in the countryside at pre-application stage and this site was retained following the withdrawal of other sites that were deemed unsuitable and contrary to Development Plan Policy. The existing trees and undulating topography within the area will help reduce the visual impact of the proposed house, however, from a stretch of the public road to the north-east you effectively look down upon the site, and the proposal will be visible. A house with traditional form and proportions, although visible, will integrate with the scattered pattern of traditional development in the area. Furthermore, tree planting and landscaping will help mitigate the visual impact of the development and conditions shall be attached to the permission to ensure that this forms part of the detailed proposal. The natural landform screens the development from the wider area to the north and west of the site. Therefore, overall the impact of this proposal upon the landscape shall not be significant.

Conditions shall be attached to ensure that any house on the site is designed to reflect local architectural traditions. Any house should be traditional in form and have relatively modest proportions in order to reflect surrounding development. The site is relatively isolated and given the topography inappropriate development could be unduly prominent in the landscape. Permitted development rights will therefore be removed by condition.

Flooding/drainage

Part of the access to the site crosses the Garbh-allt watercourse and is covered by the SEPA 1 in 200 year fluvial flood map. Therefore, emergency access/egress from the site during a flood event had to be assessed through the submission of a flood risk assessment. At the site of the current ford crossing it is proposed that a bridge crossing to withstand a 1:200 year event be installed to ensure that access to the house is maintained at all times. Details of the bridge shall form part of the detailed planning application for the site. The Council's flood team have confirmed that flood risk has been adequately assessed and that they have no objections on flood risk grounds.

The drainage assessment submitted with the application shows that ground conditions at the site do not offer sufficient porosity to support a traditional soakaway and that the most favourable means of treating foul drainage is via a biological treatment plant discharging to a watercourse. The representations raise concerns regarding the impact of the foul drainage upon the area. However, the discharge to the watercourse would be licensed through the Water Environment (Controlled Activities) (Scotland) Regulations 2011. Furthermore, the site is not located within a SEPA waste water drainage deficiency area.

Access

An existing access to the site is to be upgraded to meet standard specifications. The existing access to the site meets the public road at an acute angle, and will require engineering works to achieve a perpendicular access, as required by the standard specification. The 90 metre visibility splays required by TECS are achievable and TECS have confirmed that they have no objection to the improvement of the existing access.

Archaeology

The representations raise concern over the fact the application is located within an area that is known to be archaeologically sensitive. The location of the house was

chosen to avoid any known archaeological features. The Historic Environment Team were consulted during the course of the application, and raised no objection subject to a condition ensuring that any unknown archaeological features present on the site of application are investigated, recorded and preserved.

Trees and landscaping

The woodland to the south of the site and surrounding the access track is listed in SNH's Inventory of Ancient Woodland. The upgrade of the existing track does not affect this feature and the location of the house avoids the open grown trees. Selective tree planting around the property will help to provide a local setting and conditions shall be attached to the consent to ensure the provision of a tree planting plan and the protection of existing trees.

Other points raised in representations

There are no natural heritage designations covering the site of application other than the area of native woodland. However, the application avoids any conflict with this designation. Representations raise issues with the fact that the local community has always taken access across this area. The Council's access officer commented that the public would be reasonably able to take access over the track leading to this development under the rights given in the Land Reform (Scotland) Act 2003. A condition shall be applied to the permission ensuring that any gates on the access track should be accessible to the public.

8.5 Other Considerations – not material

A representation raises issues over the depiction of landownership in the application. The applicant's land agent submitted copies of titles demonstrating that the landownership was correct. The Planning Authority is content that the landownership certificate accompanying the application need not be amended. Any private legal disputes over landownership are not relevant to the consideration of this planning application.

The representations raise concern over the fact that this area, until recently, has historically always been used by tenant crofters for grazing, through a seasonal agreement with the landowner. Both the crofter's commission and the applicant's surveyors have confirmed that the area is not in fact subject to crofting tenure. It is unlikely that this development would prevent the wider area being let for grazing purposes in the future.

8. CONCLUSION

8.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

9. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be Granted subject to

the following conditions and reasons:

- 1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
 - ii. the design and external appearance of the proposed development;
 - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
 - iv. details of access and parking arrangements; and
 - v. details of the proposed water supply and drainage arrangements.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

- 2. Any details pursuant to Condition 1 above shall show a house of traditional form and proportion featuring the following elements:
 - i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;
 - ii. a roof covering of natural slate;
 - iii. single storey or 1½ storeys in height;
 - iv. windows with a strong vertical emphasis;
 - v. a roof symmetrically pitched of not less than 40° and not greater than 45°; and
 - vi. predominantly rectangular in shape with traditional gable ends.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

Any details pursuant to condition 1 above shall include a detailed Landscape Plan and Maintenance Programme. The Landscape Plan shall be implemented in full during the first planting season following commencement of development, with maintenance thereafter being carried out in accordance with the Maintenance Programme. For the avoidance of doubt, any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

4. No development, site excavation or groundwork shall commence until a Tree Planting Plan and Maintenance Programme has been submitted to, and approved in writing by, the Planning Authority. The approved Tree Planting Plan shall be implemented in full during the first planting season following commencement of

development, or as otherwise approved in writing by the Planning Authority, with maintenance thereafter being carried out in accordance with the approved Maintenance Programme.

Reason: In order to secure the long term management of the trees and/or woodland.

A minimum separation of 20 metres shall be maintained between existing trees and any future development within the application site. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no extensions or outbuildings which encroach into any such separation area shall be erected within the curtilage of the development without planning permission being granted on application to the Planning Authority.

Reason: In order to avoid future conflict due to safety concerns and restricted light or views.

6. No development, site excavation or groundwork shall commence until full details of protective tree barriers, in accordance with BS5837:2012, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved barriers shall be erected prior to any development, site excavation or groundwork commencing and shall remain in place throughout the construction period. Barriers must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of trees during construction.

7. No development shall commence until a supplementary plan outlining the extent of the residential curtilage to be associated with the development hereby approved has been submitted to, and approved in writing, by the Planning Authority. Thereafter, all land included within the residential curtilage delineated on the approved supplementary plan shall be taken as being the area to which any change in use of land permitted by this planning permission applies. For the avoidance of doubt, the use of any land lying outwith the residential curtilage delineated on the approved plan shall remain unchanged by this planning permission.

Reason: In order to ensure that the footprint of the development, and any associated development in the future, is carefully managed and does not have an adverse impact on the amenity or character of the area.

- 8. No development shall commence until the site access has been constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule, with:
 - i. the junction formed to comply with drawing ref. SDB2; and
 - ii. visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

Reason: To ensure that an adequate level of access is timeously provided for the development, in the interests of road safety and amenity.

9. Prior to the first occupation of the development hereby approved, parking spaces (excluding garages) for a minimum of 2 cars shall be provided within the application site in accordance with The Highland Council's Roads Guidelines for New Developments, and shall thereafter be maintained for this use in perpetuity.

Reason: In order to ensure the safety and free flow of traffic on the public road.

No development shall commence until details of a vehicle turning area within the application site, formed in accordance with The Highland Council's Road Guidelines for New Developments, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the turning area shall be provided in accordance with these approved details, prior to the first use of the development, and thereafter maintained as a turning area in perpetuity.

Reason: In order to ensure the safety and free flow of traffic on the public road.

The access to the site shall be realigned to meet the public road at right angles. No development shall commence until details of this realignment, including cross sections and levels in relation to an agreed and fixed datum point, have been submitted to and agreed in writing by the Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that an adequate level of access is timeously provided for the development, in the interests of road safety and amenity.

12. No development shall commence until full details of the bridge crossing over the watercourse, have been submitted to and approved in writing by, the Planning Authority. Thereafter development shall be carried out in accordance with the approved details.

Reason: To ensure that access/egress is maintained to the site during a flood event.

13. The access road to the house and associated bridge shall be designed to allow the free passage of a 1 in 200 year storm flow in the burn which crosses the route of the access road.

Reason: To ensure that access/egress is maintained to the site during a flood event.

No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the archaeological and historic interest of the site.

Any gates on the access track should be accessible to the public or suitable provision to BS5709 provided. For the avoidance of doubt, in this case BS5709 would be a pedestrian gate with an opening width of 152mm with a flat, hard surfaced and well drained access and egress to the gate.

Reason: To ensure that public access rights across the site are not lost as a result of this development.

Notwithstanding the provisions of Article 3 and Class(es) 1A, 1B, 1C, 1D, 2B, 3A, 3B, 3C, 3D or 3E of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or reenacted; with or without modification), no development of a type identified in the aforementioned classes shall take place within the curtilage of the house hereby approved without planning permission being granted on application to the Planning Authority.

Reason: In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i.The expiration of THREE YEARS from the date on this decision notice:
- ii.The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development)

must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: http://www.highland.gov.uk/yourenvironment/roadsandtransport

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm

Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Improvements to access

The existing access track to the site has a sub-standard access onto our road network. In addition to widening and provision of a service bay in accordance with out standard conditions, the access will also need to be realigned to meet the public road at right angles. This will require considerable earthworks.

Land Reform (Scotland) Act 2003

Please note that the public would be reasonably able to take access over the track leading to this development under the rights given in the Land Reform (Scotland) Act 2003. All gates on the access track should be accessible to the public or suitable provision to BS5709 provided. In this case BS5709 would be a pedestrian gate with an opening width of 152mm with a flat, hard surfaced and well drained access and egress to the gate.

Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature: Dafydd Jones

Designation: Area Planning Manager North

Author: Rebecca Hindson

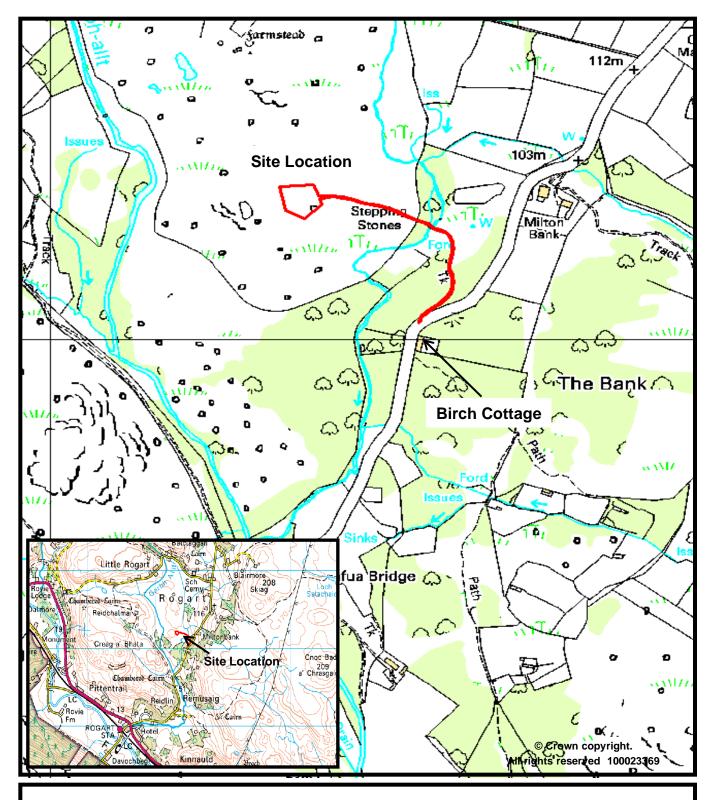
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 – Location plan

Plan 2 - site plan

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Alexander B Mearns	Muie East, Rogart, Sutherland	18.10.2011	А
South-East Sutherland Branch of The Scottish Crofter's Trust		18.10.2011	A
Mr and Mrs Calvert	Reidchalmi, Rogart, Sutherland, IV28 3XE	26.10.2011	А
Barry and Lynda Laing	Drynoch, Little Rogart, Sutherland, IV28 3XF	27.10.2011	
Little Rogart district tenants and residents		27.10.2011	A
Mr Black	14 MacDonald Road, Rogart, Sutherland	27.10.2011	А
Rogart Heritage Society		27.10.2011	A
M Mackenzie	198 Pittentrail, Rogart, Sutherland	31.10.2011	А





11/03025/PIP

Erection of house, installation of septic tank, soakaway & upgrade of access at Land 260m NW of Birch Cottage, Rogart.

Date: 03 June 2013





Planning & Development Service

