

**THE HIGHLAND COUNCIL**

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 8 DECEMBER 2009**

Agenda Item	4.6
Report No	56/09

**08/00528/FULCA : Islay J W MacLeod  
Land to West of Raggra Farm, Thrumster, Wick**

**Report by Area Planning and Building Standards Manager**

**SUMMARY**

**Description :** Formation of wildlife pond

**Recommendation - GRANT WITH CONDITIONS**

**Ward :** 4 - Landward Caithness

**Development category :** Local

**Pre-determination hearing :** None

**Reason referred to Committee:** Five letters of representation have been received.

**1. PROPOSED DEVELOPMENT**

- 1.1 This application seeks retrospective permission for a pond that was dug on land west of Raggra Farm on the Thrumster Estate in June 2008. The pond covers approximately 1840 sq m and is thought to be approximately 1.2m deep below the bank. The pond is used for duck flighting and facilitates wildlife walks, presentations and research on the estate.

**2. SITE DESCRIPTION**

- 2.1 The site is approximately 230m north of the road at Raggra. A strip of houses sits to the south of this road. There is a house approximately 300m to the east of the pond and Raggra Farm to the west is approximately 320m from the pond at its closest point.

**3. PLANNING HISTORY**

- 3.1 None known

**4. PUBLIC PARTICIPATION**

- 4.1 Advertised : None  
Representation deadline : 08/01/09

Timeous representations : 4

Late representations : 1

4.2 Material considerations raised are summarised as follows:

- Inaccuracies in the description of the development
- Potential for unaccompanied shooting parties and the use of inappropriate equipment
- Police involvement on previous occasions
- Proximity of houses and the road
- Impact of large numbers of sportsmen using the site
- Lack of fences or warning signs
- Impact on crops in the adjacent fields and drains
- Construction of the pond
- Visual impact

4.3 A statement in response to the objections and in support of the application has been provided by the applicant and Lance Nicholson who is the Gamekeeper on the estate. Their comments are summarised as follows:

- The site is not part of a working farm
- All shooting parties are accompanied and shooting is carried out in accordance with The British Association for Shooting and Conservation (BASC), National Gamekeepers Association and Scottish Gamekeepers Association guidelines.
- All parties use shotguns not rifles
- All guns face away from the nearest houses
- The estate has not received any complaints about noise or safety and is not aware of the Police having been called out
- The pond is not used regularly by children or dog walkers
- The duck pond is fed everyday which should prevent any additional pressure on nearby grass
- Local geese are migratory so pose no threat to young shoots if the crops are spring sown. Wild geese may land but a pond will not increase this risk. Ducks and geese do not land in standing grain crops prior to harvesting.
- Duck flighting consists of approximately 30 minutes of shooting and 30 minutes collecting fallen ducks
- Vermin is controlled by the Estate
- The pond is visited by teal, widgeon and mallard which are not species that are threatened or in decline. No non-target or non-legal species have ever been shot.

- The sporting activities of the estate supports their continued work to maintain habitats and benefits the local economy

4.4 All letters of representation can be viewed at the Area Planning Office.

## 5. CONSULTATIONS

5.1 **Roads** : No objection but advise that the dam should be regularly checked by an engineer.

5.2 **Contaminated Land** : No comment.

5.3 **Environmental Health** : No objection but recommend an informative on complying with Health and Safety Legislation and BASC good practice which includes a written Risk Assessment for shooting activities.

- It is not clear whether this Service or the Health and Safety Executive is the enforcing Authority because both agricultural and sporting activities occur on the Estate.
- Lack of fencing and warning signage would come under the scope of a Health and Safety Risk Assessment. However, given that shooting parties are always accompanied and the Gamekeeper has not reported seeing many walkers or children in the area warning signage is unlikely to be necessary.
- This service has received no complaints regarding this activity or similar activities run by Thrumster Estate, to date.

5.4 **SEPA**: No objection. Following a site visit on 28 July 2009 SEPA are content with the work done to stabilise the pond walls.

5.5 **Police**: No objections. After due enquiry nothing detrimental to the applicants has emerged.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland Structure Plan 2001

G2 Design for Sustainability

### 6.2 Caithness Local Plan 2002

PP1 Primary Policy 1

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

N/A

### 7.2 Highland Council Supplementary Planning Policy Guidance

N/A

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

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 Assessment**

In line with Structure Plan Policy G2 the pond is sensitively sited and does not have a significantly detrimental impact on individual or community amenity or natural resources. The site is covered by policy PP1 of the Caithness Local Plan which favours development subject to the consideration of detailed site factors. The proposal is considered to accord with Development Plan policy.

### 8.4 **Material Considerations**

8.5 **Policy** – The proposals are felt to broadly accord with Development Plan policy as set out in 8.3 above.

8.6 **Description of the development** – Objectors have disputed the description of the development provided by the applicants claiming that as the pond has already been built it is not a proposal and suggesting that it is not for wildlife purposes. In response to this it should be noted that it is recognised that the application is retrospective and the Estate have acknowledged that the work was carried out without Planning Permission. The description of the pond as a wildlife pond is not inaccurate as the pond is part of a network of habitats that the Estate uses for a variety of walks and wildlife talks. However, it will also be used for duck flighting during the season which lasts from 1 September until 31 January. Duck flighting takes place at dusk as the birds leave the pond. The Estate advises that their shoots normally consist of around 30 minutes of shooting and a further period of about 30 minutes to collect the fallen ducks. Shooting on the pond is to the north west and south west. It is estimated that the pond was used for this purpose every 4-5 weeks last season.

8.7 **Use of the site** - Objectors express concern about the use of the site for duck flighting. Specific concerns relate to the risks associated with unaccompanied shooting parties, the possible use of rifles and previous Police involvement. It should be noted that the applicants have stated that all shooting is carried out in accordance with The British Association for Shooting and Conservation (BASC), National Gamekeepers Association and Scottish Gamekeepers Association guidelines. All shooting parties on the Estate use shotguns and are accompanied. Furthermore, the applicants dispute the claim that the Police have been called to any incident related to activities at the pond. The Police do not object to this application.

- 8.8 It should also be noted that Environmental Health do not object to the application and have to date not received any complaints about activities on the pond.
- 8.9 Objectors express concern about the proximity of the pond to houses and the road. Shooting on the site is to the north west or south west. It should be noted that the pond is approximately 230m from the Raggra road which runs to the south of the site and approximately 300m from Raggra Farm to the west. BASC guidance suggests that a shotgun has an effective range of about 35m. It therefore seems clear that the pond is sufficiently separated from both neighbouring houses and the road.
- 8.10 It has been suggested by objectors that the pond should be fenced and warning signs erected. The Environmental Health Officer noted that this could be considered as part of a formal Risk Assessment but suggested that it may not be necessary as the area is not heavily used by children or walkers.
- 8.11 Concern is also expressed about the impact of large numbers of people using the site for shooting. However, there is unlikely to be any significant impact as shooting only takes place at intervals of roughly four weeks during a prescribed five month season. A condition can be attached to ensure that shooting is not more frequent than this.
- 8.12 Notwithstanding the concerns of the objectors, it would appear that the pond is appropriately sited for duck flighting and adequate measures are in place to manage this use.
- 8.13 **Impact of the pond** - Objectors raise concerns about the visual impact of the pond, the impact on neighbouring crops and the construction of the pond.
- 8.14 It has already been stated that the pond is somewhat distant from both the nearest houses and the road. It is not visually prominent and while it does not have the appearance of a natural feature it is not considered to be an inappropriate addition to the landscape.
- 8.15 Any impact on neighbouring crops is likely to be mitigated by the feeding of the pond which should discourage birds from eating crops. The Estate has disputed the assertion that the pond will encourage geese onto the fields.
- 8.16 The construction of the pond has also been questioned. It should be noted that SEPA did request that additional work be undertaken to stabilise the walls of the pond. They recommended that the invert of the discharging ditch be lowered so that the water level was lowered and a freeboard of 0.9m achieved. A site visit was conducted on 28 July 2009 and SEPA have expressed themselves satisfied with the work carried out. SEPA have no other objections to the proposals.
- 8.17 The Area Roads Office does not object to the application but recommend that the pond is regularly inspected by an engineer.
- 8.18 The pond is appropriately sited and there is unlikely to be any undue loss of individual or community amenity as a result of this development. The impact of the pond has been mitigated by the works to stabilise the walls and the feeding of the pond should minimise any impact on neighbouring farms.

## 8.19 Other Considerations – not material

Representations express concerns that the site is on a working farm and that the agricultural tenants were not properly consulted before the pond was constructed. Representations also make mention of alleged damage to fences and a bridge as a result of the works. This is principally a legal matter between the estate and its tenants.

8.20 One of the representations refers to the proximity of other ponds and lochs. This is not a material consideration, however the applicant does point out that the Estate will have to stop using Thrumster Mill Loch for duck flighting because of its proximity to a new house that has been granted permission.

8.21 One objector suggests that the Estate should shoot vermin instead of ducks.

## 9. CONCLUSION

9.1 The proposal is considered to accord with Development Plan policy. The use of the site for shooting would appear to be appropriate to the location and the measures in place to manage the use appear effective. The pond is considered to be suitably sited and does not detract from the amenity of the area or impact unduly on individual neighbours. The application is therefore recommended for approval subject to the conditions set out below.

## 10. RECOMMENDATION

**Action required before decision issued** N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons and notes to applicant:

1. Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

**Reason:** In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

2. Shooting at the site shall only take place between 1 September and 31 January inclusive and shall not take place more than once in every four weeks during this period.

**Reason :** In the interests of amenity and to enable to the Planning Authority to retain effective control of the development

3. All shooting parties at the site shall be accompanied by a member of the Estate staff.

**Reason:** In the interests of safety

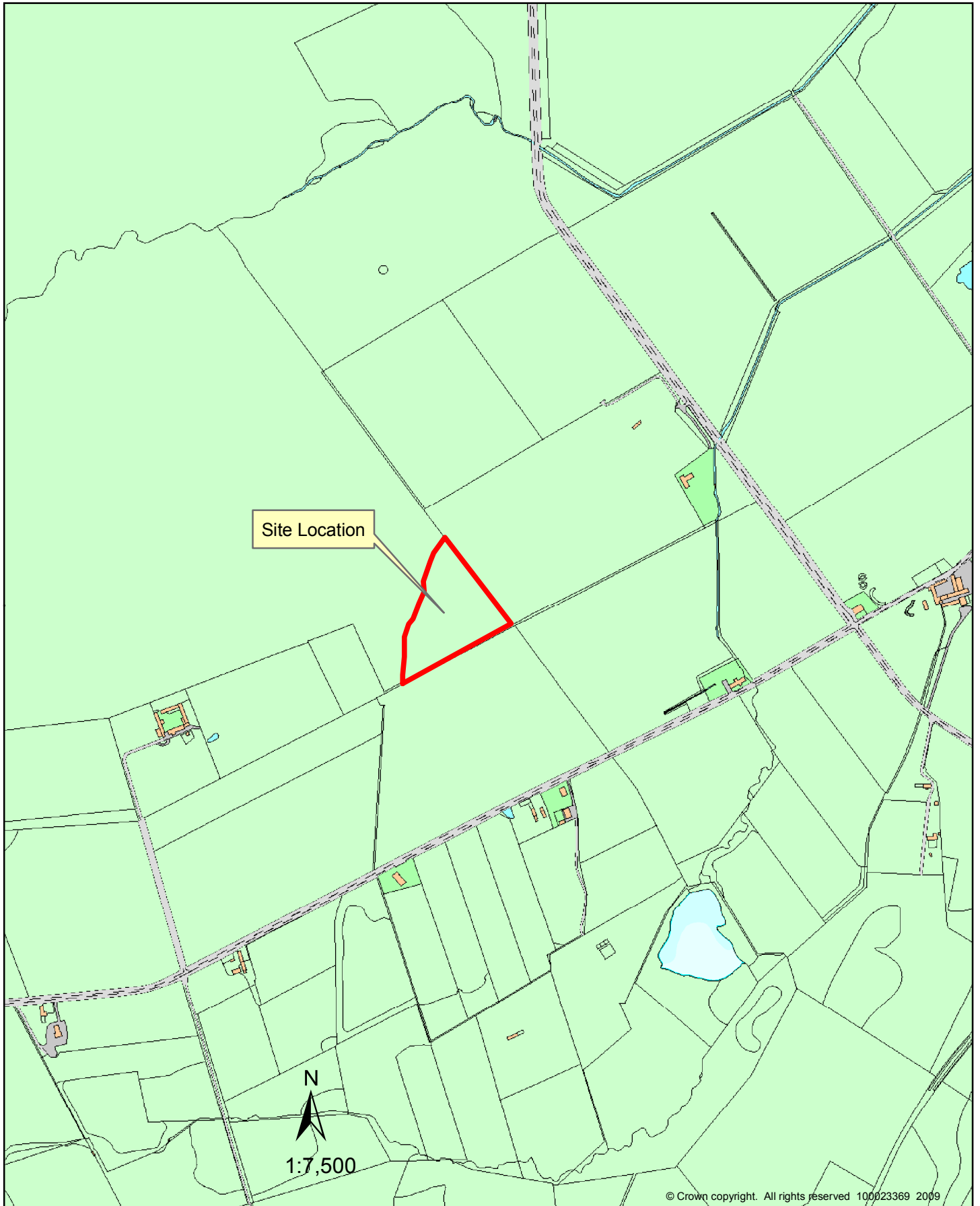
### **INFORMATIVES**

1. The development must comply with all relevant Health and Safety legislation. In particular, if not already implemented, it would be good practice to comply with the Health and Safety advice in regard to a written Risk Assessment for Shooting activities given by the British Association for Shooting and Conservation.
2. SEPA recommend that a freeboard of 0.9m is maintained between the water level and the top of the pond wall in order to reduce the risk of collapse.
3. It is recommended that the pond is inspected regularly by a suitably qualified engineer.

### **Note to Applicant**

**Please note:** Your attention is drawn to the conditions attached to this permission. 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 meet these conditions may invalidate your permission or result in formal enforcement action

Signature: Allan J Todd  
Designation: Area Planning & Building Standards Manager Caithness, Sutherland and Easter Ross  
Author: Lisa MacKenzie  
Background Papers: Documents referred to in report and in case file 08/00528/FULCA  
Relevant Plans: Plan 1 – Site Plan, Location Plan and Cross Sections



08/00528/FULCA  
Formation of Wildlife Pond  
at Land 400m East of Raggra Farm  
Thrumster, Wick.

Islay J W Macleod  
per Ian Giles  
Stoneybank  
Thrumster





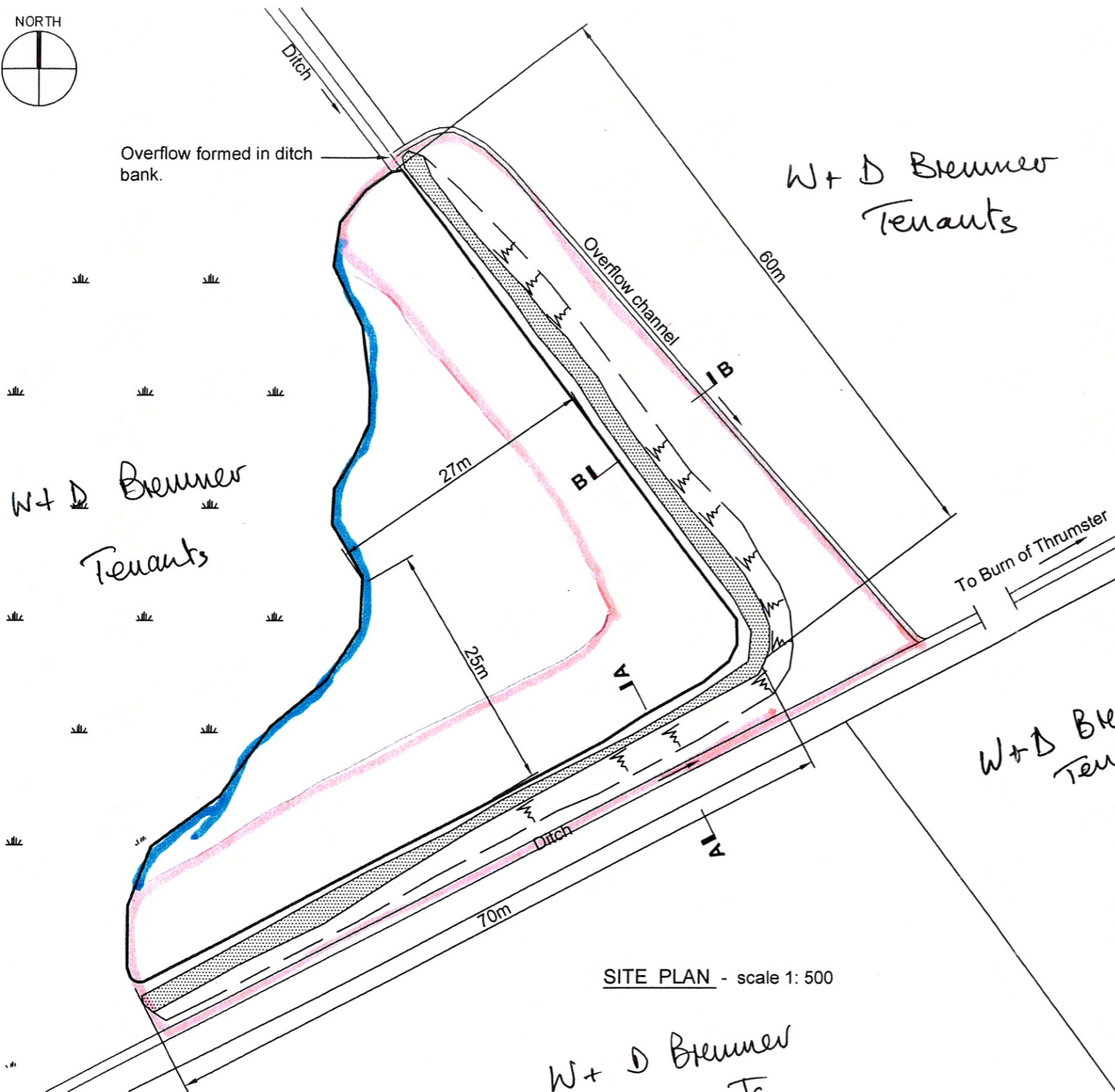
Overflow formed in ditch bank.

W+D Bremner  
Tenants

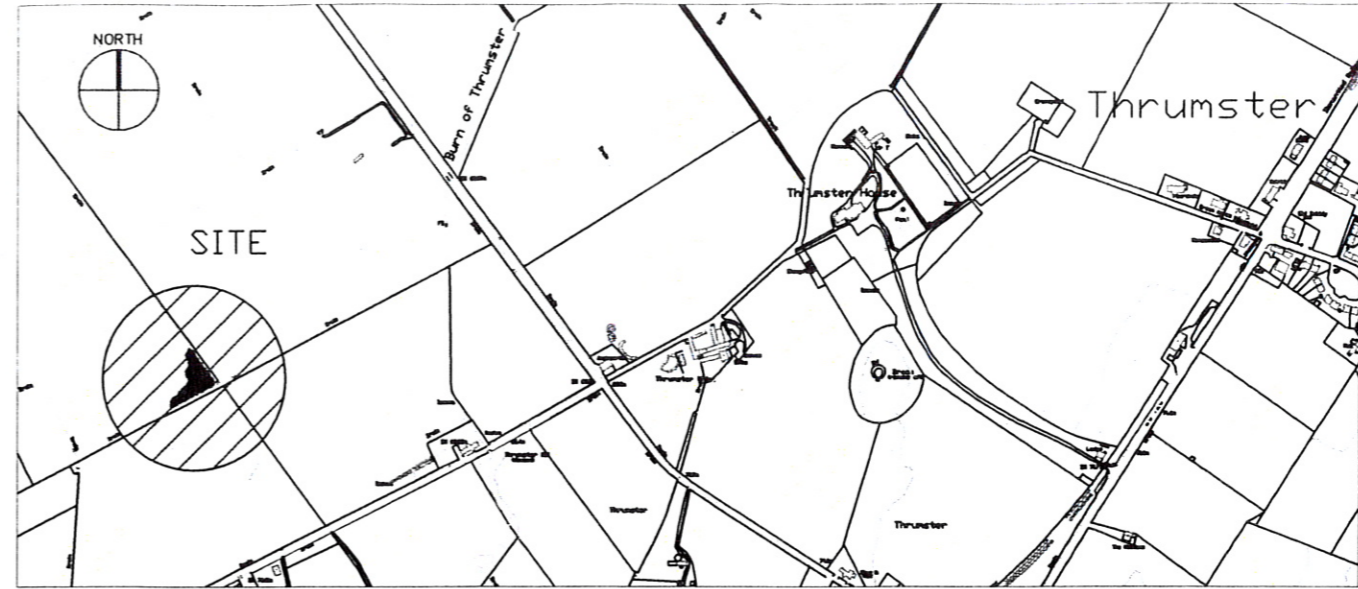
W+D Bremner  
Tenants

W+D Bremner  
Tenants

W+D Bremner  
Tenants



SITE PLAN - scale 1: 500



Location Plan - Scale 1:10,000

Earth and clay embankments formed on east and south sides, impounding flow from ditch from north west.

Approximate surface area of water at level of overflow = 1840 sq.m

Estimated impounded volume of water at level of head of embankment = 1300 cu.m.  
Impounded volume is less than 25,000 cu.m thus pond does not fall within the ambit of the Reservoirs Act 1975.

Legend

WL - Water Level

OGL - Original Ground Level

Project

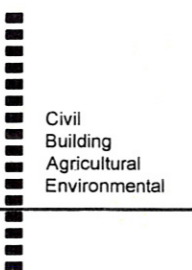
**Proposed Wildlife Pond at Thrumster for Thrumster Estate.**

Drawing

**Location Plan, Site Plan and Cross Sections.**

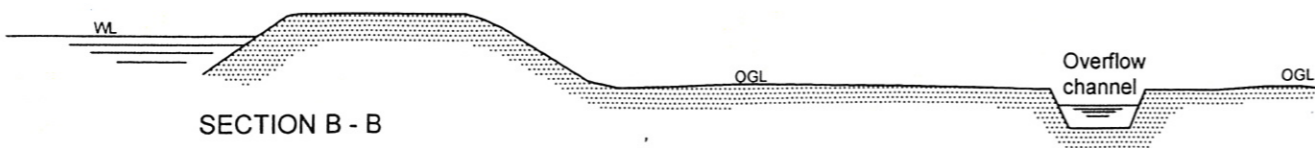
Ian Giles Associates Ltd

Consulting Engineer

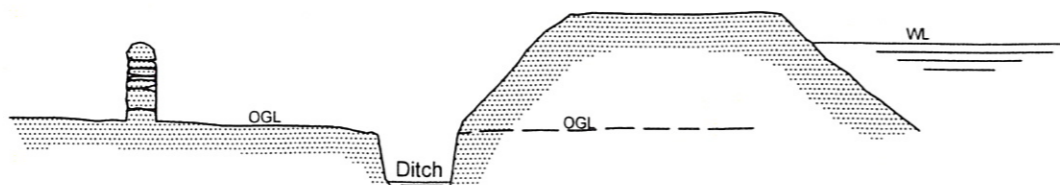


Civil  
Building  
Agricultural  
Environmental

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SECTION B - B



SECTION A - A

TYPICAL CROSS SECTIONS - Scale 1:100

PLAN 1 OF 1 OF PROPOSED WILDLIFE POND  
08/15/08  
RECEIVED 12/12/08

Scale as shown		
Drawn by IRG	Date 6/12/08	
Project 099.08	Drawing 1	Rev.