

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE
20 May 2014**

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| Agenda Item | 5.5 |
| Report No | PLS/036/14 |

**14/00104/PIP : Mr E. MacDonald
Land 1376 m east of Purlie Lodge, Abriachan**

Report by Area Planning Manager - South

SUMMARY

Description : Formation of 2 house plots, installation of waste water treatment system and soakaway, and formation of vehicular access

Recommendation - GRANT

Ward : 13 Aird and Loch Ness

Development category : Local

Pre-determination hearing : not required

Reason referred to Committee: 5 or more objections from third parties.

1. PROPOSED DEVELOPMENT

- 1.1 Formation of 2 house plots set into woodland at Abriachan and formation of access road and related works.
- 1.2 Pre-application advice was tendered arising from officers' intention to recommend refusal on a previous application by the applicant. This advice was to the effect that a limited number of plots could be supported if consistent with the development pattern and landscape character of Abriachan and the policies of the Development Plan.
- 1.3 There is no existing access to the plots. The application proposals include formation of a new access track branching from the north side of the unadopted road which runs eastwards from its junction with the public road next to the bridge over the Allt Loch Laide, and localised widening/improvement of the unadopted road. Waste water treatment would be by septic tanks and soakaways. As submitted the application indicated use of a private water supply but was subsequently amended to public supply.
- 1.4 No supporting information submitted.
- 1.5 **Variations:** Change to proposed water supply – private to public.

2. SITE DESCRIPTION

- 2.1 The two plots are sited in separate clearings within an area of woodland which extends up the hill to the north of the public road on this side of the declivity containing the Allt Loch Laide.

3. PLANNING HISTORY

- 3.1 11/01229/PIP: Permission for 8 House plots and access road, improvements to existing access road and junction, construction of new community waste water treatment works. Council declined to determine application.
13/02901/PIP: Erection of 2 houses, installation of treatment system & soakaway, formation of access. This application was located in a different area of the woodland but proposed a broadly similar access route. Withdrawn before determination.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour. Expiry date 7/2/14
Representation deadline : 7/2/14
Timeous representations : 5 objections from 5 households
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:
- Inaccurate drawings
 - Not in accordance with Development Plan – outwith settlement boundary/in Hinterland
 - Access road inadequate/unsafe for further traffic
 - Access improvements proposed on land not in applicant's control
 - Loss of trees
 - Adverse impact on landscape character of housing group and area generally
- 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 **Historic Environment Team:** No objection. ARC1 condition recommended.
- 5.2 **Forestry Officer:** No objection. Conditions recommended.
- 5.3 **Transport Planning:** No objection. Junction improvement recommended.
- 5.4 **Environmental Health:** Information required if private water supply to be used.

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
- 34 Settlement Development Areas
- 35 Housing in the Countryside (Hinterland Area)
- 51 Trees and Development
- 52 Principle of Development in Woodland
- 56 Travel

6.2 Inverness Local Plan 2006 (as remaining in force)

- 1 (Abriachan) Housing
Settlement boundary

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Inner Moray Firth Local Development Plan

- 3 – Other settlements

7.2 Highland Council Supplementary Planning Policy Guidance

- Housing in the Countryside Siting and Design (March 2013)
- Trees, Woodlands and Development (January 2013)

7.3 Scottish Government Planning Policy and Guidance

- Not applicable

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**

The eastern plot demonstrates overall Development Plan conformity on the basis of HwLDP Policy 34 and the settlement boundary and housing policy of the retained Abriachan section of the ILP. The western plot does not since it is outwith the retained Local Plan settlement boundary, hence in Hinterland, therefore subject to HwLDP Policy 35, and no permissible exceptional justification such as land management has been advanced.

8.4 **Material Considerations**

Notwithstanding the Development Plan position outlined above in relation to the westmost plot a number of material considerations would support a grant of planning permission for it as well:

- The site lies very close to the Adopted Plan boundary;
- This boundary does not follow any obvious landscape, geographic or man-made feature;
- Even prior to any part of the ILP being superseded, permissions had been granted for house plots in the vicinity, outwith the Plan boundary but on the Abriachan side of identifiable features such as fence lines;
- The emerging IMFLDP is less prescriptive about defined boundaries and seeks to judge development against a range of criteria, notably fit with landscape character and settlement pattern. In that respect, both plots fit well with the pattern of individual houses set in pockets within the wider woodland which rises to the north behind the line of development strung out along the public and private road (Fawn House, Angelshare, Purlie Lodge).

The location of the westmost plot has been carefully chosen to exploit (as does the eastmost plot) a clearing where there are very few trees and the vegetation is predominantly whins, thus achieving fit with the landscape and settlement pattern with minimal impact on trees. The access route from the private road, rising up the hillside, will result in loss of rather more trees. In its lower section, however, the track passes through the more densely developed area of houses around Reindoul and is therefore of less significance in the wider landscape context. Following some revision to the route of the upper part of the new track the Forestry Officer is now satisfied that (subject to his recommended conditions) the level of net loss of trees will be acceptable.

While objectors have queried road safety issues Transport Planning offer no objection, simply seeking minor improvements to the junction of the private road with the public road. The improvements at the junction of the new access track with the private road will also offer safety benefits. The improvements at the public road junction do not involve work on the objector's property – the junction improvement detail on drawing 12-020-L(90) 005 is simply illustrating the size of the radius existing across the objector's part of the private road.

8.5 **Other Considerations – not material**

An alternative access route has been suggested. Apart from its impracticality due to the limited width of land owned by the applicant, this is not the proposal before Committee. The application proposals have to be treated on their own merits.

Several objectors raise the issue of precedent and allege that the applicant is seeking development “by instalments”. Each application has to be judged on its merits. Provided that any application which is approved is in accordance with the Development Plan there is no reason why it should set a precedent for developments which would not be in accordance with the Plan.

8.6 Matters to be secured by Section 75 Agreement

None

9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that although part of the proposal does not accord with the Policies contained within the Development Plan the development as a whole is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

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| Action required before decision issued | No |
| Notification to Scottish Ministers | No |
| Notification to Historic Scotland | No |
| Conclusion of Section 75 Agreement | No |
| Revocation of previous permission | No |

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

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 including detailed alignment, design and construction of the access track leading to the house plots; 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 Matters Specified in Conditions application shall clearly and accurately mark on a plan all trees proposed for retention or removal; shall be accompanied by a Tree Protection Plan in accordance with BS5837:2012 (Trees in relation to Design, Demolition and Construction); and shall provide a detailed Tree Planting Plan and maintenance programme. The approved tree planting plan shall be implemented in full during the first planting season following commencement of development.

Reason : In the interests of visual amenity.

3. No other development shall take place until the junction of the private road with the public road, and the junction of the private road with the new access track leading to the house plots, have been constructed/improved in accordance with the details ("detail at A/detail at B") shown on drawing 12-020-L(90)005 Revision C, including the surfacing of the first 6 metres of the widened private access track, measured from its junction with the public road, in bituminous macadam; the provision of positive drainage at this junction to ensure that no water is shed onto the public road; and the installation of the drain and soakaway shown as serving the junction of the private road with the new access track.

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

4. No development shall commence on either plot until the access track leading to it has been formed and constructed to a standard capable of accommodating all traffic, including vehicles engaged in any tree felling, surgery or protection works.

Reason : To ensure that all traffic is capable of reaching the plots by a defined route which minimises impact on, and risk of accidental or unplanned further damage to, trees.

5. 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.

REASON FOR DECISION

Parts of the proposals accord with the provisions of the Development Plan and those that do not do so are acceptable in terms of other material considerations.

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.

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

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

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

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

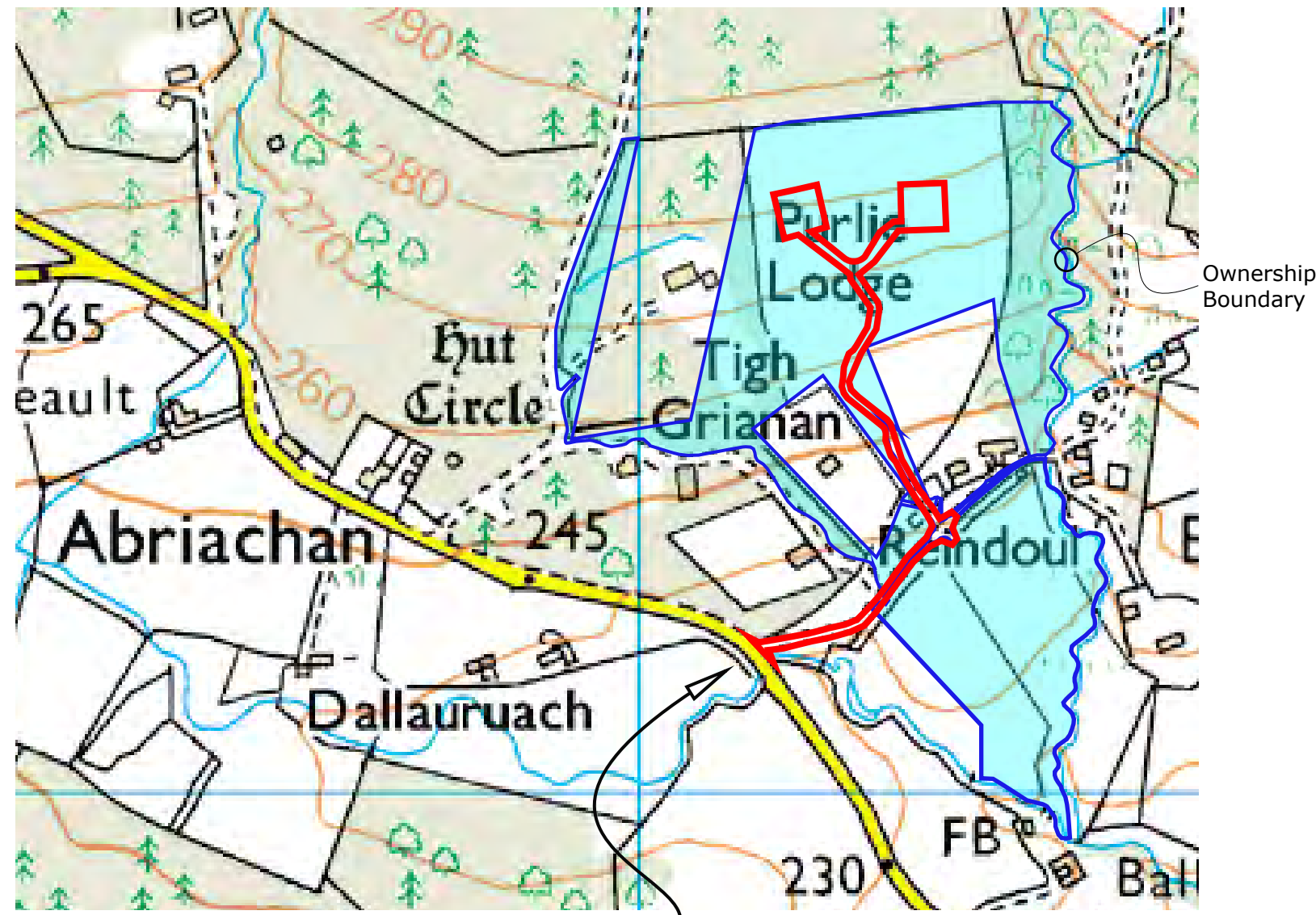
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature: Allan Todd
Designation: Area Planning Manager - South
Author: A. McCracken
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Site/location/access plan

Appendix – Letters of Representation

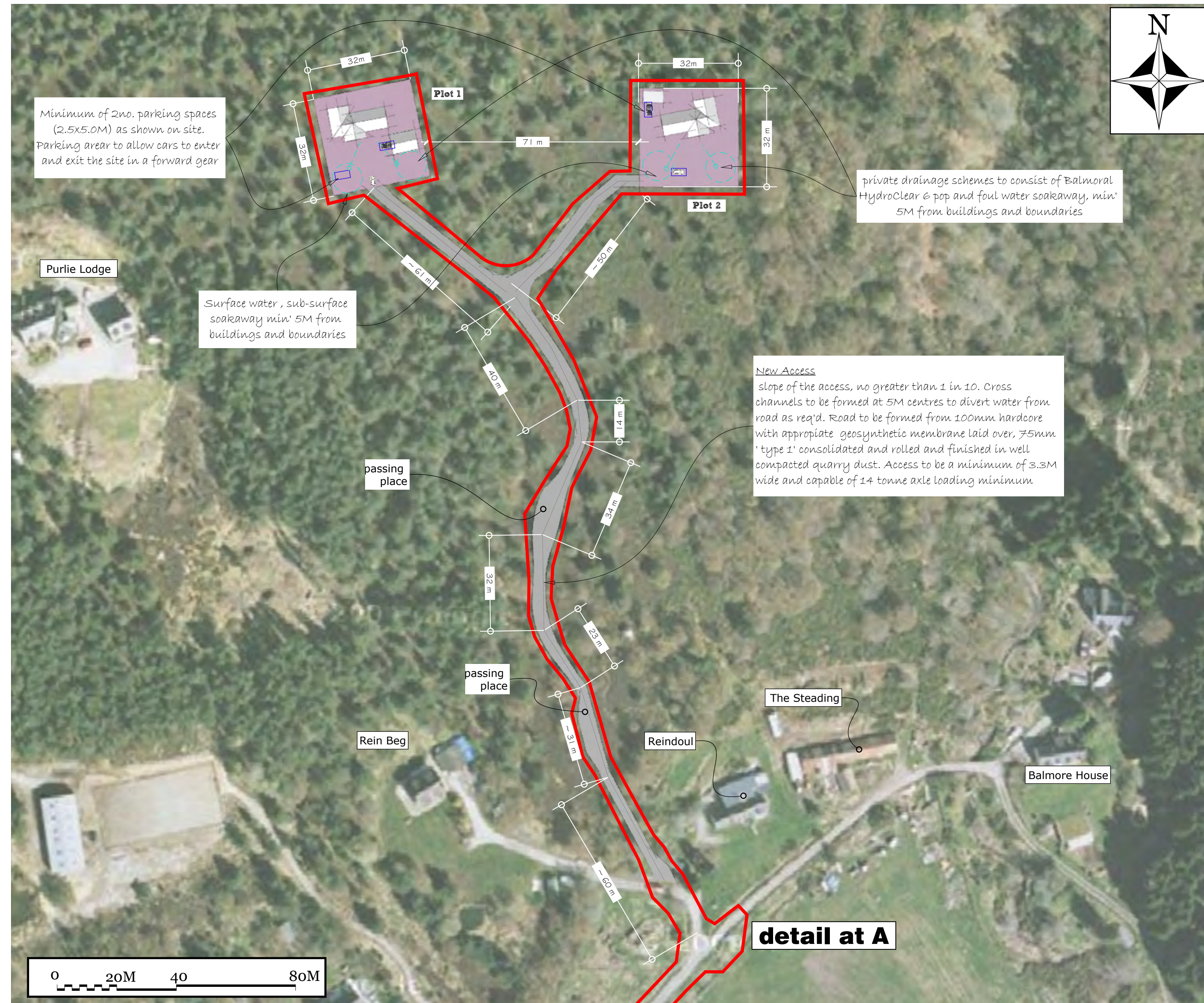
| Name | Address | Date Received | For/Against |
|---------------|----------------------------------|---------------|-------------|
| R & F Jacques | Ardoch Cottage, Abriachan | 29/1/14 | Against |
| J W Lindsay | Achabuie, Abriachan | 3/2/14 | Against |
| Urs Gasser | Boxer's Croft, Abriachan | 3/2/14 | Against |
| Lynn Birch | Reindoul, Balchraggan, Abriachan | 5/2/14 | Against |
| John Coe | Purlie Lodge, Abriachan | 6/2/14 | Against |

Site location Plan at Plots - scale (1 : 50,000)

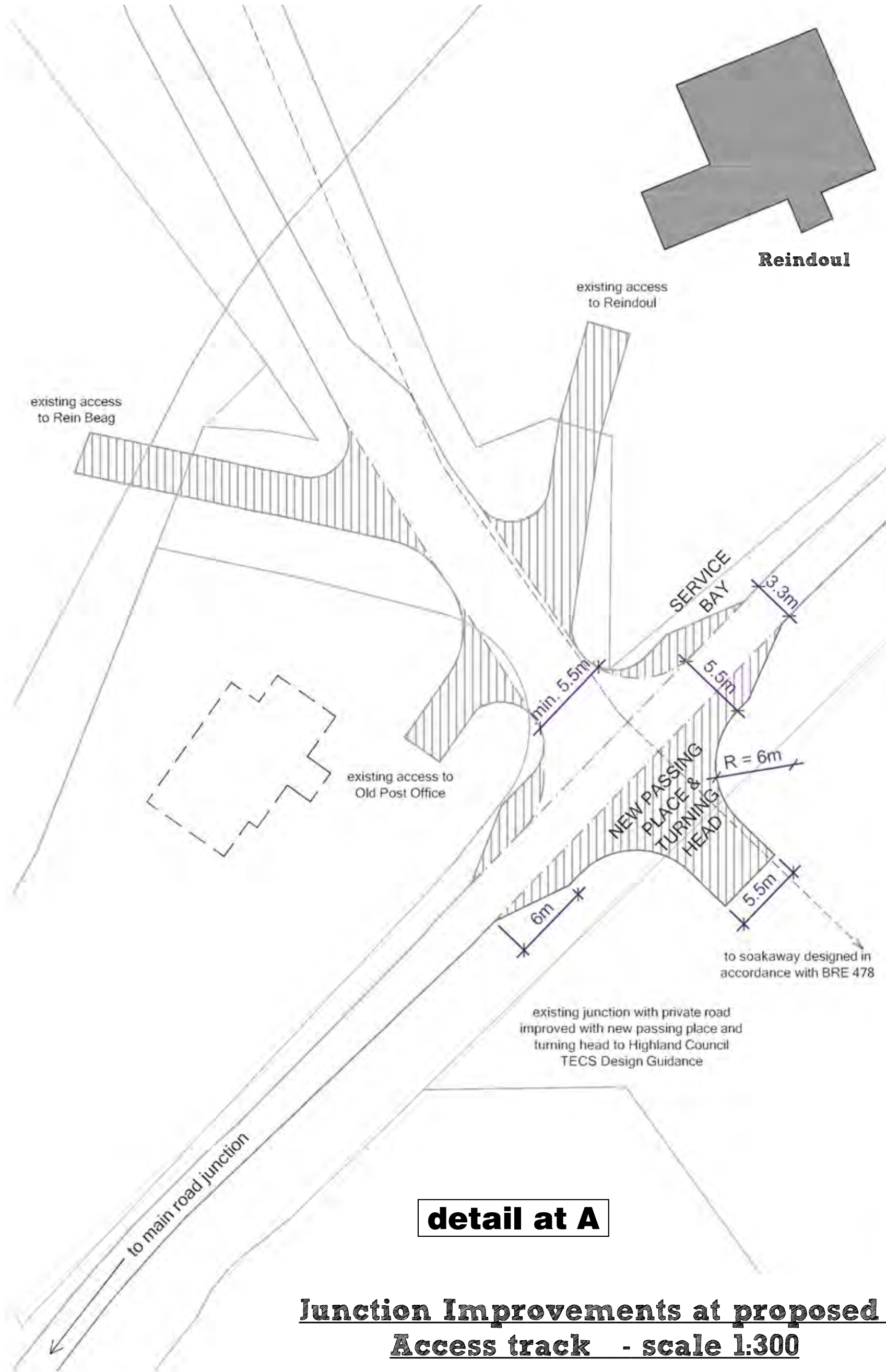


see detail at B

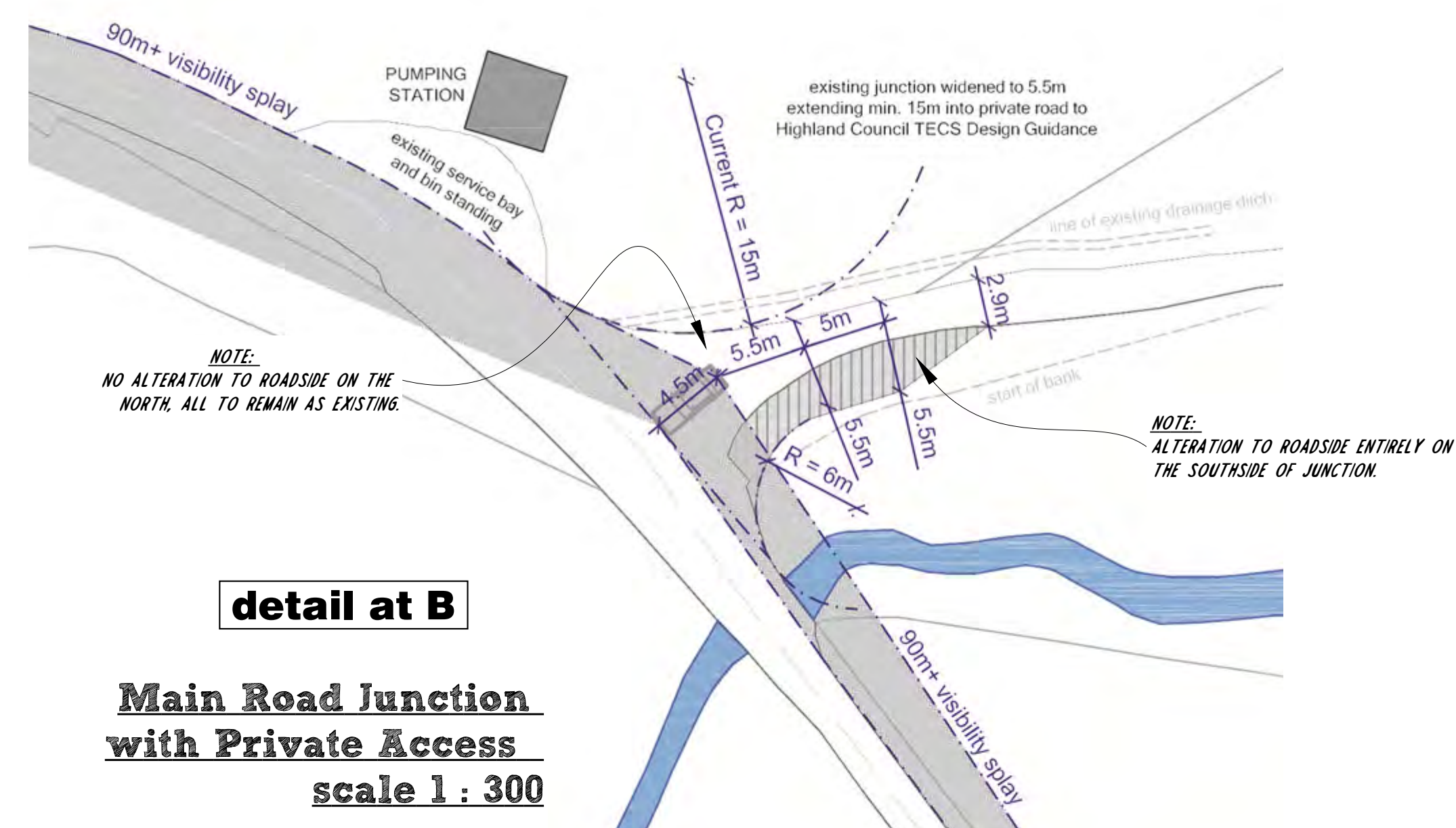
PROPOSED LAYOUT OF ACCESS TRACK AND PLOTS 1&2 - scale 1 : 1000



see Location Plan for continuation



Junction Improvements at proposed Access track - scale 1:300



Main Road Junction with Private Access scale 1 : 300

| rev | date | comments | by |
|-----|---------|---|----|
| C | Feb' 14 | Middle section of proposed access track amended to mitigate required tree felling | fs |

Notes
Do not scale this drawing. Use only figured dimensions. This drawing must be read in conjunction with specification. The contents of this drawing are protected by copyright

Issued For
PLANNING IN PRINCIPLE

Project Ref:
12-020

Project title:
Proposed 2 housing plots on land at Abriachan for Duncan MacDonald Executors.

Drawing title:
General Arrangement;
Location plan, Site Plan, Block Plan
Junction Improvements

| | | |
|-----------|------------|---------|
| scale | sheet size | drwn by |
| as stated | A1 | FS |

THOMAS MUNRO & Co.
Chartered Architects
62 Academy Street
INVERNESS IV1 1LP
Tel 01463 232233
Fax 01463 717613

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