

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
24 June 2014

Agenda Item	6.7
Report No	PLS/053/16

13/04372/FUL : Mr & Mrs G Sinclair
Land at Drummournie, Cawdor

Report by Area Planning Manager - South

SUMMARY

Description : Erection of 2 dwellings

Recommendation - GRANT

Ward : 18 Culloden and Ardersier

Development category : Local

Pre-determination hearing : not required

Reason referred to Committee : 5 or more objections.

1. PROPOSED DEVELOPMENT

- 1.1 Erection of two 1½ storey detached houses on plots to be formed in an agricultural field at Drummournie, a small housing group in Hinterland 4 km. south-west of Cawdor. The site plan shows garages though no details are provided of their plans and elevations. External finishes of the houses are not specified in writing although tiles or slates for the roofs and harling for the walls are implied by the drawings. Each house is shown as having an access to the private road which serves the group.
- 1.2 Pre-application advice was sought although this is not mandatory for local development. The advice offered was that the site appeared to have scope for a limited (2 or 3) number of houses to round off the housing group subject to TECS road and access requirements being achieved.
- 1.3 There is an existing field gate giving access to the north-eastmost corner of the site but for the houses it is proposed to create a new shared access in accordance with Council guidelines' geometry (NB The throat width for the specified diagram is not accurately drawn on the site layout plan) from the single track unsealed private road which passes the site. The houses would be served by the public water supply. Waste water treatment would be by mini treatment plants discharging to soakaways within the plots.

1.4 A flood risk assessment, a private access checklist, and a copy of the agent's professional indemnity insurance certificate were submitted with the application. Further supporting information (images and percolation test results sheet) were subsequently added.

1.5 **Variations:** No variations have been made to the application since it was lodged.

2. SITE DESCRIPTION

2.1 The site consists of an area of grazing ground on the south side of the private road with a belt of trees running along the roadside boundary. The site slopes gently southwards from the road. An area of similar land, not forming part of the application site but owned by the applicant, separates the site from the nearest two houses to the east. Across the road to the north are two houses standing in extensive plots. To the south, grazing land rolls down to the wooded fringes of the Allt Dearg. The site adjoins deciduous woodland to the west.

3. PLANNING HISTORY

3.1 13/03155/FUL Erection of 3 dwellings - withdrawn prior to determination

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown neighbour. Advert expiry date 24/12/13

Representation deadline : 21/12/13

Timeous representations : 14 representations from 13 households

Late representations : 3 representations from 3 households + Community Council comments.

(The foregoing figures relate to the first representations received from the persons listed in the appendix to the report but a number of the contributors made further representations at a later date).

4.2 Material considerations raised are summarised as follows:

- Contrary to HwLDP Hinterland Policy and related supplementary guidance
- Increased flood risk to neighbouring properties
- Flood Risk Assessment ignores known surface water problems
- Inadequate/inaccurate percolation tests
- Local road and bridge network inadequate for increased traffic
- Local services (electricity, water supply) inadequate
- Adverse impact on safety of walkers and cyclists
- Loss of residential amenity and privacy
- Harmful to amenity and character of area
- House design not in keeping with area
- Harm to natural environment

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 **Access Officer:** No objection. Informative recommended.

5.2 **Forestry Officer:** No objection. Conditions recommended.

5.3 **Transport Planning:** No objection.

5.4 **Scottish Water:** No objection.

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
35	Housing in the Countryside (Hinterland Areas)
64	Flood Risk
65	Waste Water Treatment
66	Surface Water Drainage

6.2 Nairnshire Local Plan 2000

No relevant Policies remaining in force.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Highland Council Supplementary Planning Policy Guidance

Housing in the Countryside Siting and Design (March 2013)

Flood Risk and Drainage Impact Assessment (January 2013)

7.3 Scottish Government Planning Policy and Guidance

SPP

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 site is in Hinterland to which HwLDP Policy 35 applies. Compliance with this Policy is dependent on whether the development would accord with any of the exceptions set out in the Policy and related supplementary guidance (SG). Drummournie presently consists of a group of 4 modern detached houses and a fifth house converted from a steading, on either side of a private road. Although the sizes of the houses and their curtilages vary, the modern ones are judged to have a perceptible relationship with one another and to share a well defined cohesive character. To the west of the application site there lies an extensive area of woodland which would conclude extension of the group in this direction on the south side of the private road.

The SG requires compliance with a number of general development criteria (para. 5.2 of the SG). Several of these criteria are directly relevant to the material issues identified in objections. Flood risk in particular is also a specific policy issue in relation to HwLDP Policy 28. These issues are dealt with below.

8.4 **Material Considerations**

Trees: formation of the access from the proposed houses onto the private road will require removal of a small number of trees from a narrow belt which runs along the roadside edge of the application site. This will not represent a significant loss in terms of the character, setting, amenity and containment of the housing group and can be mitigated with replacement planting elsewhere in the plots.

Conflict with adjacent land use: the presence of an additional 2 houses and the limited additional traffic generated by them is not likely to adversely affect recreational use of the private road and public enjoyment of the amenities of the wider area. The possible adverse impact of flooding on adjacent properties is dealt with separately under that heading.

Impact on heritage and landscape: the site has no notified natural heritage interests and no features of built or cultural heritage. As the houses will form part of a housing group extended to its landscape containment the development is judged compatible with the character of the wider landscape in which the existing group is set.

Serviceability: there have been no objections from Scottish Water or Transport Planning. Scottish Water reserves the right to refuse connection to the network and/or to require developer funded enhancement if there are capacity issues. Connection to the electricity supply is at the discretion of the power company. It could not reasonably be said that the wider public road network in the area is incapable of accommodating the traffic generated by 2 additional houses. It has been pointed out that the applicant does not own or have control of the access or of the land at the junction of the private access with the public road network required to provide the visibility splays shown on his drawing.

However only a small part of the land affected by the visibility splays is not within what Transport Planning defines as the road boundary, which is taken as 3 metres from the carriageway edge where there are no boundary fences, as applies at and near the junction. Given the low levels of traffic in the area, the constraints on vehicle speeds imposed by the right angled bend onto which the private road emerges, and the absence of any existing or likely future significant impediments to visibility being created on the limited non highway land involved, this is not judged to be an issue which would justify refusal of permission. The Community Council suggest improvements to the private road in the event of permission being granted. As the track stands at present there is a vehicle gate closed across it near the western boundary of the application site and no place adjacent in which to turn. Construction of the access to the plots as to diagram SDB2 as described in words (the access width drawn on the plan is substandard) would provide such a facility.

Servicing economics: there should be no material impact on the economic viability of service delivery.

Flood risk: although a flood risk assessment was submitted in support of the application it was very basic in nature and content. Contributors have pointed to a history of surface water flooding in the area; one neighbouring house has experienced flooding recently; farmland to the south of the site and at a lower level has vegetation consistent with poor drainage; and holes and trenches in the woodland to the west contain standing water suggestive of a high water table. There were also allegations of inadequate percolation testing. On investigation it proved to be the case that the first test holes had not been dug to an adequate depth. Test holes were again dug, this time to an acceptable depth penetrating into subsoil layers, and a self certified results sheet submitted. However, contributors pointed to discrepancies in the submitted documentation in consequence of which the applicant was requested to commission further tests and to have the process inspected by both the Planning case officer and a Building Standards Surveyor. This was undertaken over the days Friday 30 May to Monday 2 June inclusive.

These tests provided information which is a necessary preliminary to further design work which would be required for an application for Building Warrant but were also helpful to inform consideration of the flooding issue.

The results demonstrate that a mound filter system will be necessary to deal with waste water. The cleaned water from such a system may only partly disperse to subsoil, although the report says that subsoils "may" be suitable for the disposal of storm/surface water through a soakaway. However the topography of the plots is such that any water not soaking into subsoils but remaining in surface layers would not run towards any existing house curtilages but would flow in the direction of the lower lying field to the south of the plots. The size of the plots is such, though, that the difference between such run-off from the land in its present undeveloped condition and that from development of the scale proposed is unlikely to be significant.

It should be noted that the Building Warrant is generally the mechanism for considering this issue at a more detailed level. Technical Standard 3.3 and related guidance requires that surface water drainage from new buildings, hard standing areas and any site strip are done in such a way as will not cause a flood risk to the site and any adjacent properties or sites. On poor draining sites any additional loading on the surface water caused by the development, such as the foul drainage, must be included as part of that assessment. If Technical Standard 3.3 is not met a Warrant cannot be granted.

Siting/layout/design/residential amenity: the layout of the houses within the group is relatively informal with no single dominating orientation and the proposed layout is consistent with that. 1½ storey design is consistent with the existing mix of single storey and 1½ storey houses. As the proposed houses are well spaced out from the existing houses there should be no loss of residential amenity as judged by accepted yardsticks of overlooking, daylighting and sunlighting.

8.5 **Other Considerations – not material**

A number of objectors assert that the applicant has no rights to use the access road, take access to the site, or connect the site to services. These are private matters. References are made to the history of the applicant's ownership and development history in the area. These matters are of no relevance to the merits of the application.

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 the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

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:

1. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision, as it relates to, or is relied upon by, an individual house, shall be completed prior to the first occupation of that house.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment and to protect adjacent properties from flooding.

2. No development shall commence until all obstructions to visibility in the visibility splay areas shown on drawing 0813.1931.06 lying within the road verge have been removed.

Reason: To ensure that an adequate standard of visibility is provided at the junction of the public road and the road leading to the site.

3. No development shall commence until a scheme of tree planting for the development has been submitted to and approved by the Planning Authority. The approved planting scheme shall be undertaken during the first planting season following commencement of development.

Reason: To mitigate for tree loss at the roadside resulting from the formation of the access to the plots.

4. No other 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 the junction formed to comply with drawing ref. SDB2.

Reason: To ensure that adequate access is provided to the plots for all traffic including construction traffic.

5. Prior to the commencement of construction of either house full details of the materials, colours and finishes to be used on that house shall be submitted to and approved by the Planning Authority. Only the approved materials, colours and finishes shall be used in the construction of the house.

Reason: as these details are not clearly specified in the application; so that the Planning Authority can ensure that these details harmonise with the character and appearance of the housing group.

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 LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission 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).

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.

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. Consent may also be required for any works impacting upon the road surface, the verge, drainage or any roadside footway or pavement.

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>

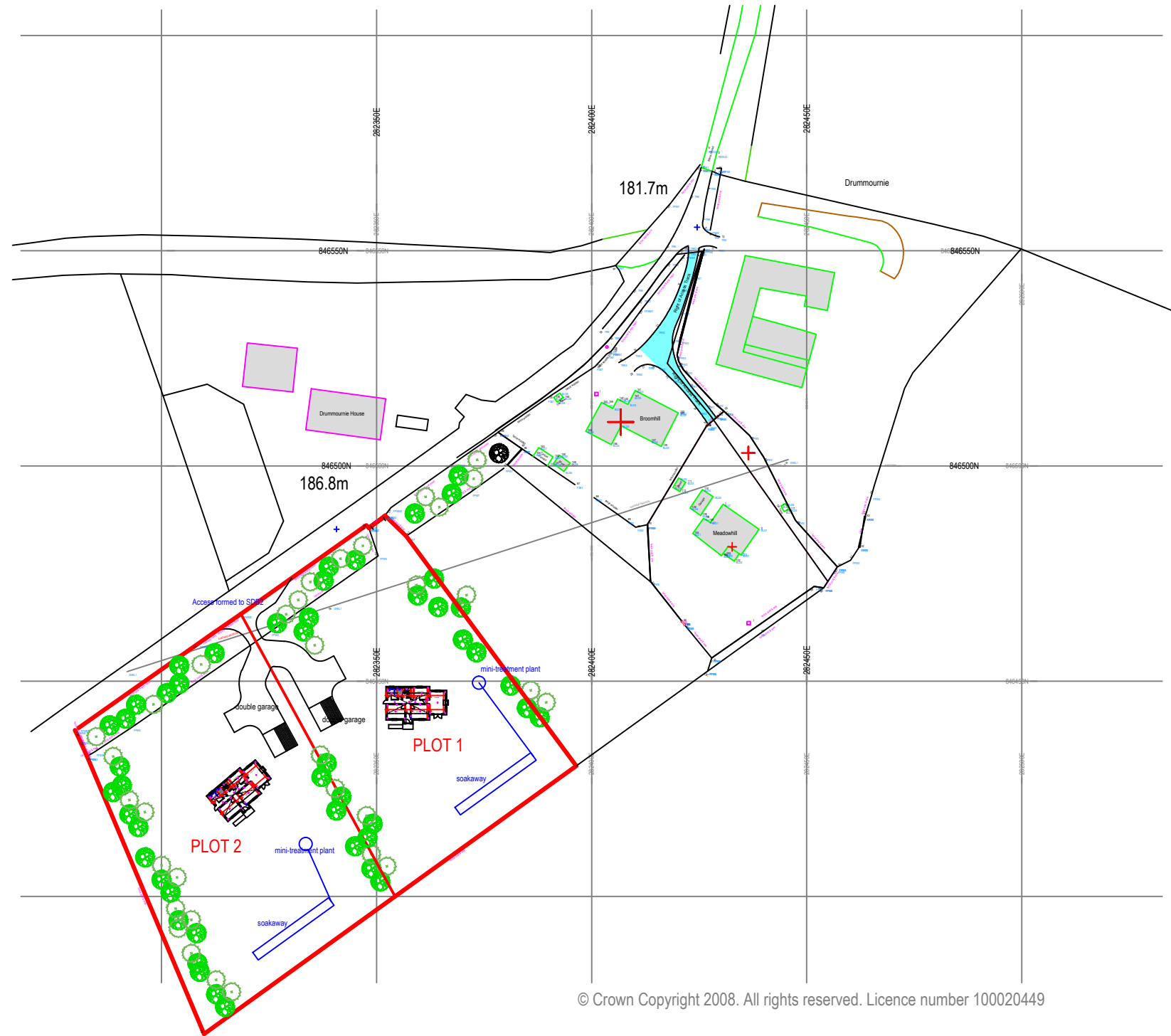
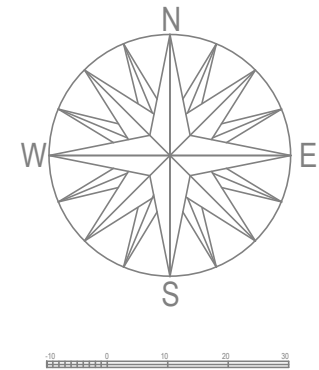
Public Access

The development is next to a track over which access rights apply under the Land Reform (Scotland) Act 2003. This track is to remain accessible and free from obstruction before, during and after completion of the development.

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Andrew McCracken
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location plan
Plan 2 – Site layout plan
Plan 3 – Junction geometry and visibility plan
Plan 4 – Elevations plan

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Norman Fortesque,	c/o 1 Tower Close, Tower Road, Hindhead, Surrey, GU26 6SN	27.12.13	A
Mr Bryan Mitchell,	Acarsaid, By Cawdor, IV12 5XU	13.12.13	A
Ms Donna Melvin,	Cawdor House, Drummournie, Cawdor, Nairn, IV12 5XU,	24.12.13	A
Mrs Catherine Gibson,	2 Towerhill Road, Cradlehall, Inverness, IV2 5FH	13.12.13	A
Mr Darrell Robertson	Forest Lodge, Drummournie, Cawdor	16.12.13	A
Mr James Robertson,	Freeburn Cottage ,Tomatin , IV137YP	7.1.14	A
Mr Darren Bannister	1 Tower Close, Tower Road, Hindhead, Surrey, GU26 6SN,	16.12.13	A
Mr Michael Stubbs	2 Dalcham Cottages, Barevan-by-Cawdor, Nairn, IV12 5XU	18.12.13	A
Mrs Emma Micklethwaite	Barevan Schoolhouse, Cawdor, Nairn, IV12 5XU	4.12.13	A
H W Cunningham	Kilcaraig, Wester Galcantray, Cawdor, Nairn, IV12 5XU	19.12.13	A
Fiona Payne	Drummournie Steading	3.4.14	A
Cawdor & West Nairnshire Community Council, per Margaret Robertson		30.4.14	A
Captain A.D.M. McGregor	Mill of Cantray, Cawdor, Nairn, IV12 5XT	6.12.13	A
Mrs D P Bulley,	1 Daleham Cottages, Barevan, Cawdor, By Nairn IV12 5XU	23.12.13	A
Mr Graeme Clark		23.12.13	A
Mr Chris Bulley,	1 Squires Cottages, Craigie Knowes Road, ,Perth,PH2 0BY	23.12.13	A
Fraser Johnson	Broomhill, Cawdor, Nairn, IV12 5XU	16.12.13	A
Mr Paul Carter	Rehiran Beag, Cawdor, Inverness, IV12 5XU	20.12.13	A

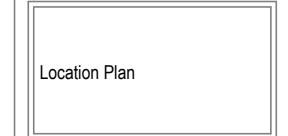


Planning Reference
Building Control Reference

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07889 722463 (mob)
e-mail: bill@macdonald.co.uk
website: www.billmacdonald.co.uk

client
Mr & Mrs Sinclair

project
**Erection of 2 dwellings at
Broomhill
Galcantray**



date
12.8.2013

scale
1:1250

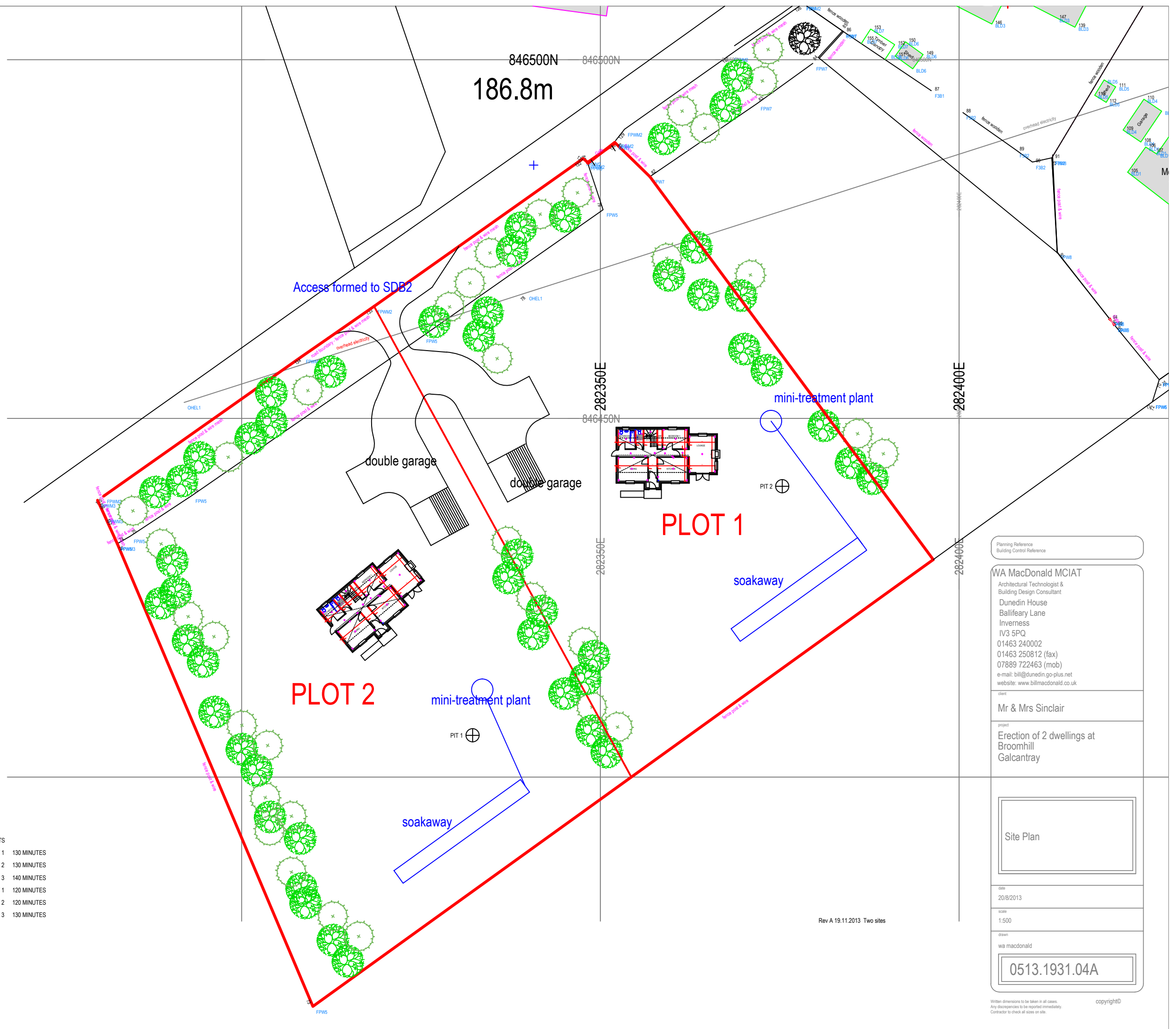
drawn
wa macdonald

0813.1931.01B

Rev B 19.11.2013 Two sites
Rev A 19.8.2013 Garages, driveways, drainage added

Written dimensions to be taken in all cases.
Any discrepancies to be reported immediately.
Contractor to check all sizes on site.
copyright©

846500N
186.8m



PERCOLATION TESTS

PIT 1	TEST 1	130 MINUTES
	TEST 2	130 MINUTES
	TEST 3	140 MINUTES
PIT 2	TEST 1	120 MINUTES
	TEST 2	120 MINUTES
	TEST 3	130 MINUTES

Rev A 19.11.2013 Two sites

Planning Reference
Building Control Reference

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client
Mr & Mrs Sinclair

project
**Erection of 2 dwellings at
Broomhill
Galcantray**

Site Plan

date
20/8/2013

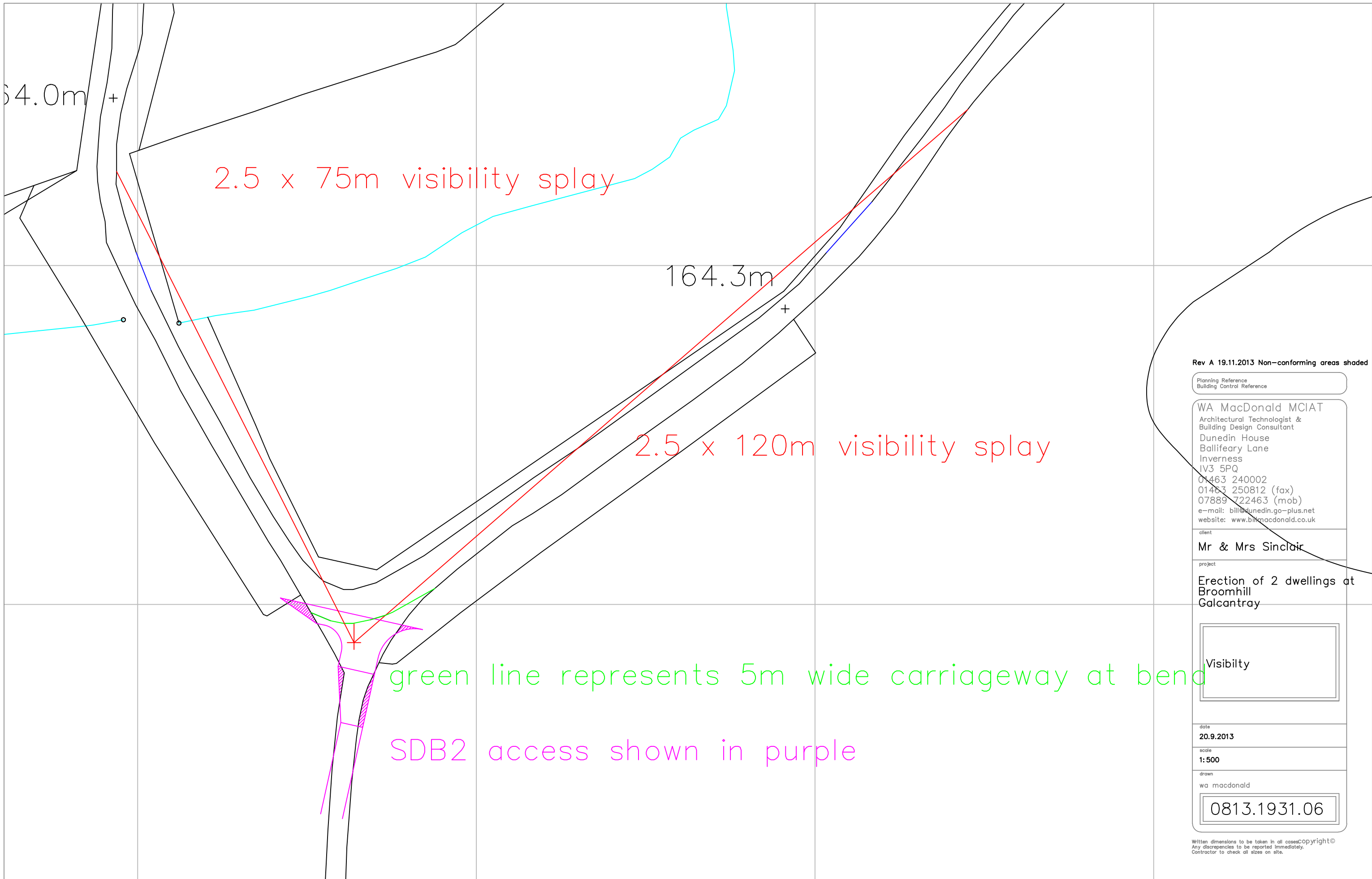
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drawn
wa macdonald

0513.1931.04A

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Any discrepancies to be reported immediately.
Contractor to check all sizes on site.

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2.5 x 75m visibility splay

164.3m

2.5 x 120m visibility splay

green line represents 5m wide carriageway at bend

SDB2 access shown in purple

Rev A 19.11.2013 Non-conforming areas shaded

Planning Reference
Building Control Reference

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client
Mr & Mrs Sinclair

project
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Broomhill
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Visibility

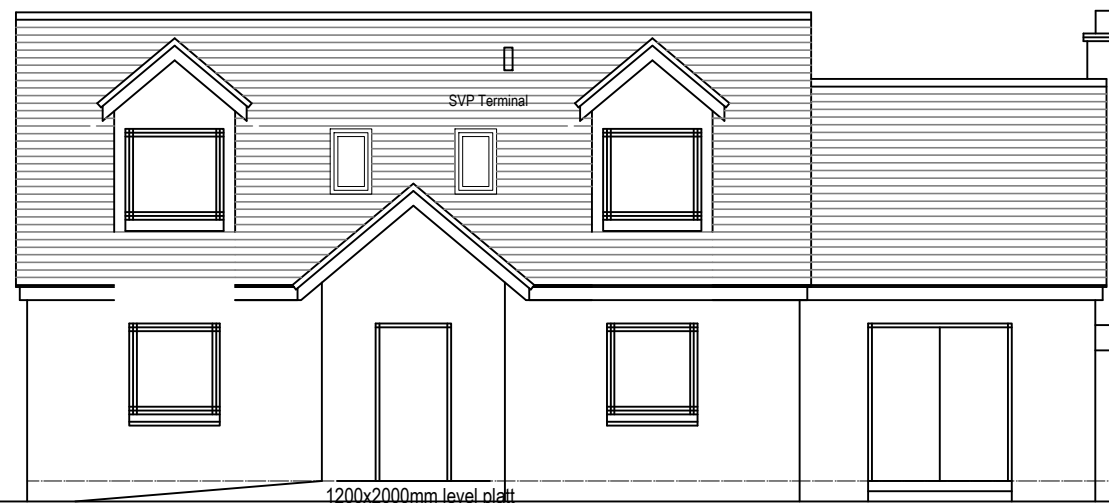
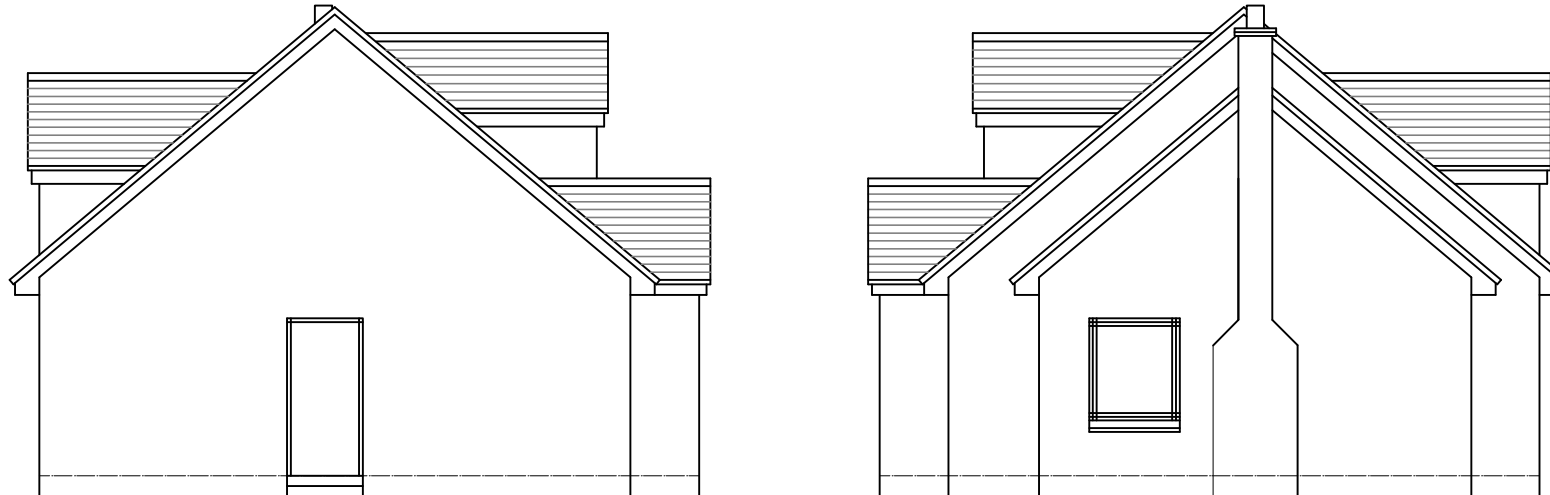
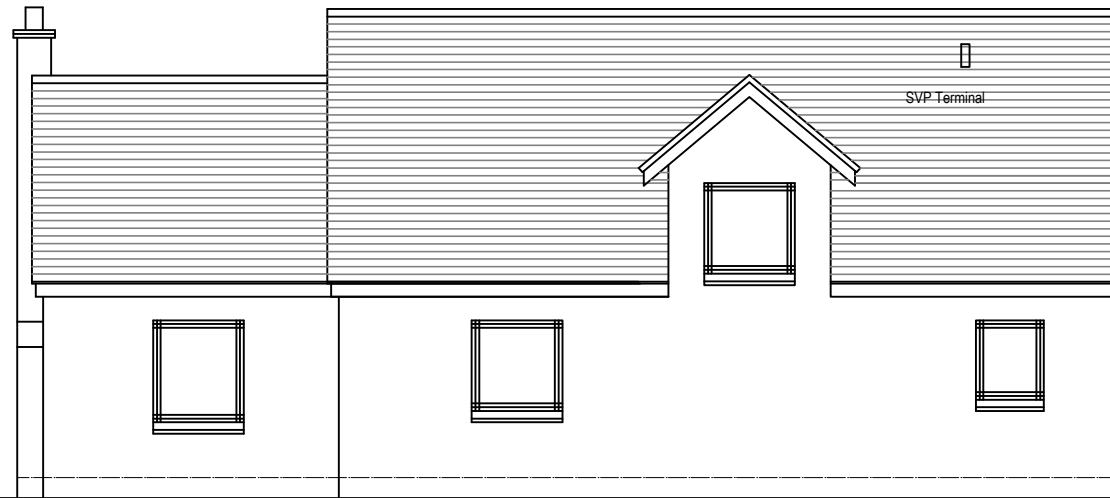
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20.9.2013

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drawn
wa macdonald

0813.1931.06

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Rev A 19.11.2013 Reduzed

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client

Mr & Mrs Sinclair

project

Erection of dwellings
 at Galcantray
 Croy
 Inverness

Elevations

date
 1/8/2005

scale
 1:100

drawn
 wa macdonald

0813.1931.03A

Written dimensions to be taken in all cases.