

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE**  
**28 February 2017**

Agenda Item	6.3
Report No	PLS 013/17

**16/05537/PIP: Mrs E Anne Fraser Per McIntyre and Co**  
**Site 40m North East of Hillview, Banavie, Fort William**

**Report by Area Planning Manager - South/Major Developments**

**SUMMARY**

**Description:** Erection of house (renewal of 13/03643/PIP)

**Recommendation - APPROVE**

**Ward:** 12 - Caol and Mallaig

**Development category:** Local Development

**Pre-determination hearing:** n/a

**Reason referred to Committee:** Community Council Objection.

**1. PROPOSED DEVELOPMENT**

- 1.1 This application seeks the timeous renewal of planning in principle for a single detached dwelling to the north west side of the B8004 at Banavie.
- 1.2 No pre-application consultation
- 1.3 Connection to the public water supply and public foul drainage is proposed. The site would be accessed via an existing shared, private access track.
- 1.4 One supporting statement from the agent was received on 06.02.17 advising that the site is not subject to a short term crofting tenancy as the lease specifically excludes this site from the tenancy.
- 1.5 **Variations:** None

**2. SITE DESCRIPTION**

- 2.1 The site is located 220m west of the B8004 public road. The site is set within a generally level hillside terrace adjacent to two dwellings and a number of outbuildings. The site is currently being used to keep horses. The nearest neighbouring residential properties are Hillview 30m to the west, Aonach View 75m to the west and The Whangie 190m to the south east.

### 3. PLANNING HISTORY

#### 3.1 Plot 4 (current application site)

13/03643/PIP : Erection of house (plot 4) - renewal of permission 09/00339/PIPLO delegated decision granted 21.02.14

09/00339/PIPLO : Erection of house (plot 4) granted by Planning Committee 10.11.10

#### Plot 1 (north side of shared access track, adjacent to B8004)

09/00336/PIPLO : Erection of house : withdrawn 01.12.11

#### Plot 2 (south side of shared access track, adjacent to B8004)

13/00910/FUL : Erection of house : granted 05.06.13

11/01147/PIP : Erection of house (amendment to 10/01505/PIP) : granted 08.06.11

10/01505/PIP : Erection of house : granted 04.06.10

#### Plot 3 (south side of shared access track, adjacent to B8004)

12/00758/FUL : Erection of house and garage : granted 17.05.12

11/01145/PIP : Erection of dwellinghouse (amendment to 10/01493/PIP) : granted 07.06.11

10/01493/PIP : Erection of house (amendment to 09/00338/PIPLO) : granted 04.06.10

### 4. PUBLIC PARTICIPATION

#### 4.1 Advertised : Vacant Land, expired 12.01.17

Representation deadline : 23.01.17

Timeous representations : 2 from 2 separate households

Late representations : 0

#### 4.2 Material considerations raised are summarised as follows:

- Site is located outside the Settlement Development Area and forms part of the hinterland.
- Additional housing development would impact on the character of the crofting township.
- Development should be directed to poorer land and this land should be crofted.
- Development would block access to a popular footpath up to Banavie Hill.

#### 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](http://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 objections. Advises that this track had not previously been identified when consultations ran on the core path plan between 2006 and 2008 and had not been recorded as part of the wider path network. Confirmed that the

path is not a recorded public right of way and is not mapped as part of the Scottish Paths Record.

The gates on site would allow the route to be used as described by the Community Council. The lower gate is well secured with rope and twine and an electric fence lies between it and the higher gate. Horses graze the lower part and pigs are sometimes kept by the upper gate requiring the electric fence and netting. Trampling by grazing animals appears to have obscured any faint line of earth beaten down by walkers.

There are traces of an old track and a well-secured gateway onto the open hill above and beyond the site, as well as a smaller pass gate just above the site.

The Access Officer recommends retaining public access in this area through the installation of an alternative gate of similar design and dimensions in the march fence immediately to the south-east of the application site. This would serve as both an agricultural access and potential public access route. Justification for this is based on the Council's duty to uphold access rights under the Land Reform (Scotland) Act 2003 and in response to the credible claims that the public have been in the habit of walking through this site.

5.2 **Kilmallie Community Council:** Objection received. Points raised summarised below:-

- The site is within the Fort William Hinterland and there is no indication within the West Highland and Islands Local Plan Main Issues Report that the current site should be located within the Settlement Development Area boundary. On this basis, planning permission should not be renewed as it would be contrary to the Local Plan.
- The croft is not vacant and is sublet to a tenant who works the croft who would increase crofting activity had it not been restricted by the landlord.
- There are sites of poorer land more appropriate for building houses and croft house on this land has been allowed to fall into dereliction.
- Building a house at this site would block an obvious and traditional route to the path along the Allt Mor burn towards Banavie Hill. Public Access concerns need to be taken into consideration.

## 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
29	Design Quality and Place Making
35	Housing in the Countryside (Hinterland areas)
47	Safeguarding Inbye/AppORTioned Croftland
65	Waste Water Treatment

66 Surface Water Drainage

77 Public Access

## 6.2 **West Highland and Islands Local Plan, 2010 (as continued in force)**

Inset Map 30 : Fort William

## 7. **OTHER MATERIAL CONSIDERATIONS**

### 7.1 **West Highland and Islands Local Development Plan (WHILDP) Main Issues Report and the Emerging Proposed Plan**

The key elements of the Proposed Plan which have been determined and agreed by the Lochaber Committee on 18 January 2017 include: the plan outcomes, spatial strategy, general policies, housing land supply figures, site allocations and SDA boundaries. No substantive changes (relative to the MIR content) were recommended in relation to the Fort William Hinterland. The in-principle decision on sites has been made and this represents the 'settled view' of the Council and is a material planning consideration in making planning decisions.

Key elements to form the Proposed Plan are to be published for public consultation in early May 2017.

### 7.2 **Highland Council Supplementary Planning Policy Guidance**

Access to Single Houses and Small Housing Developments, May 2011

Housing in the Countryside and Siting and Design, March 2013

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

Planning Advice Note 72 - Housing in the Countryside

Scottish Planning Policy - Promoting Rural Development

## 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**

This application seeks the timeous renewal of planning in principle for the erection of a single dwelling house. The application site lies outwith the Fort William Settlement Development Area within the Hinterland where there is a presumption against new residential development.

Scottish Planning policy highlights areas of intermediate accessibility and the pressure for development in hinterland areas. In these areas, plans and decision making should set out the circumstances in which new housing outwith settlements

may be appropriate, avoiding use of occupancy restrictions.

The Scottish Government's Planning Advice Note 72: Housing in the Countryside, offers support for small rural housing developments in clusters, in close proximity to settlements. Support is given through this advice for rural housing that is compatible with the form and nature of existing development. It has previously been established that the application site complies with these requirements as it forms a small cluster of development which meets the aims of this advice.

Planning permission was originally granted in principle in 2010 by Planning Committee as a minor departure from the development plan, on the basis that the site represented appropriate rounding-off of development which complied with the siting requirements of the Housing in the Countryside Supplementary Guidance which was at draft stage. The Housing in the Countryside Supplementary Guidance has since been adopted by the Council in 2013 and planning permission in principle was subsequently renewed in February 2014. Application 13/03643/PIP did not attract an objection from the Community Council and was decided under delegated powers.

The site remains within an area of the Fort William Hinterland and the site allocation is unlikely to change in the emerging proposed plan (see section 7.1 above).

### **8.3.1 Siting, Design and Amenity**

The site, close to existing houses and other agricultural buildings, is not considered to adversely affect the local landscape or the amenity of the area as a whole. It remains the view that the site represents a suitable opportunity for rounding-off development, related to the two existing houses and the outbuildings; which is supported by the Housing in the Countryside Supplementary Guidance, 2013. There is infrastructure provision available for the proposed development and the existing vehicular access would be subject to commensurate improvement in line with the Council's supplementary guidance Access to Single Houses and Small Housing Development.

Permission in principle had previously been granted subject to design parameters for a dwelling no more than 1½ storeys in scale, to be finished in white coloured wet dash roughcast with natural slate roof. It is considered that design parameters appropriate to the setting and in keeping with local character, could adequately be secured through matters specified in condition.

### **8.3.2 Public Access**

Representations from Kilmallie Community Council and a member of the public have been received which raise concerns regarding public access. The Community Council highlight that there are few easily walkable routes between the B8004 in Banavie and the open land leading to Banavie Hill to the north of the application site. Part of a route which is used, takes access through a field gate off the existing private access track to the south of the site and crosses the centre of the site to a second gate at the northern corner of the application site. The northern-most gate joins a well defined path along a dyke south of the Allt Mor.

The Access Officer has advised that this track had not previously been identified when consultations on the core path plan ran between 2006 and 2008 and this

track had not been recorded as part of the wider path network. The path is not a recorded public right of way and is not mapped as part of the Scottish Paths Record. There was little evidence at site visit that the route is heavily used however the land is used for keeping horses and sometimes pigs which may have trampled the earth and obscured the track.

There are traces of an old track and a well-secured gateway onto the open hill above and beyond the site, as well as a smaller pass gate just above the site.

Policy 77 (HwLDP) requires proposals which would significantly affect access rights to either retain the existing path or ensure alternative access provision is made which is safe and convenient for public use. A condition is recommended, in line with the Access Officer's recommendations for the provision of an alternative gate of similar design and dimensions to be installed in the march fence immediately to the south-east of the application site which would serve as both an agricultural access and public access route.

### **8.3.3 Loss of Inbye Croftland**

The site comprises an area previously used as part of Hillview's curtilage and is currently used to keep horses. The site is recorded as a proposed decrofted/decrofted area on the Council's GIS database. The agent has advised that the crofting tenancy specifically excludes this site from the tenancy. The proposed house site, in close proximity to Hillview and the existing outbuildings, is not considered to impede use of neighbouring croft land. Access on to the hill from the lower field may be beneficial in terms of managing the movement of animals and is to be sought through planning condition in line with the Access Officer's recommendations.

### **8.4 Material Considerations**

Three objections have been received, the points raised are summarised in sections 4.2 and 5.2 above. The material issues raised are considered as part of the above assessment.

### **8.5 Other Considerations – not material**

- 8.5.1 Objections were raised on the basis that the crofting character of Banavie is being eroded as a result of a number of housing developments instigated by absentee landowners, alternative poorer land would be better suited for development and the neighbouring house is being allowed to fall into disrepair.

### **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 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 development featuring the following elements:
  - i. external walls finished in a white wet-dash render;
  - 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** : In order to respect the vernacular building traditions of the area and integrate the proposal into its landscape setting; in the interests of visual amenity; in accordance with policies 28, 29 and 35 of the Highland wide Local Development Plan, 2012.

3. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
  - iv. All soft landscaping and planting works, including plans and schedules

showing the location, species and size of each individual tree and/or shrub and planting densities; and

- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

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; in accordance with policies 28 and 29 of the Highland wide Local Development Plan, 2012.

4. No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 10.02.17), with the junction formed to comply with drawing ref. SDB2.

**Reason :** To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity and in accordance with policy 28 of the Highland wide Local Development Plan, 2012.

5. No development shall commence until full details of an alternative field gate to the south east of the application site has been approved in writing by the Planning Authority. Thereafter, prior to the commencement of works to the foundation of the house hereby approved in principle, the field gate shall be fully installed in accordance with the approved details and retained for this use in perpetuity.

**Reason :** To retain public access between the B8004 and Meall Bhanbaidh; in accordance with policy 77 of the Highland wide Local Development Plan, 2012.

#### **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**

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**

### **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.

### **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.

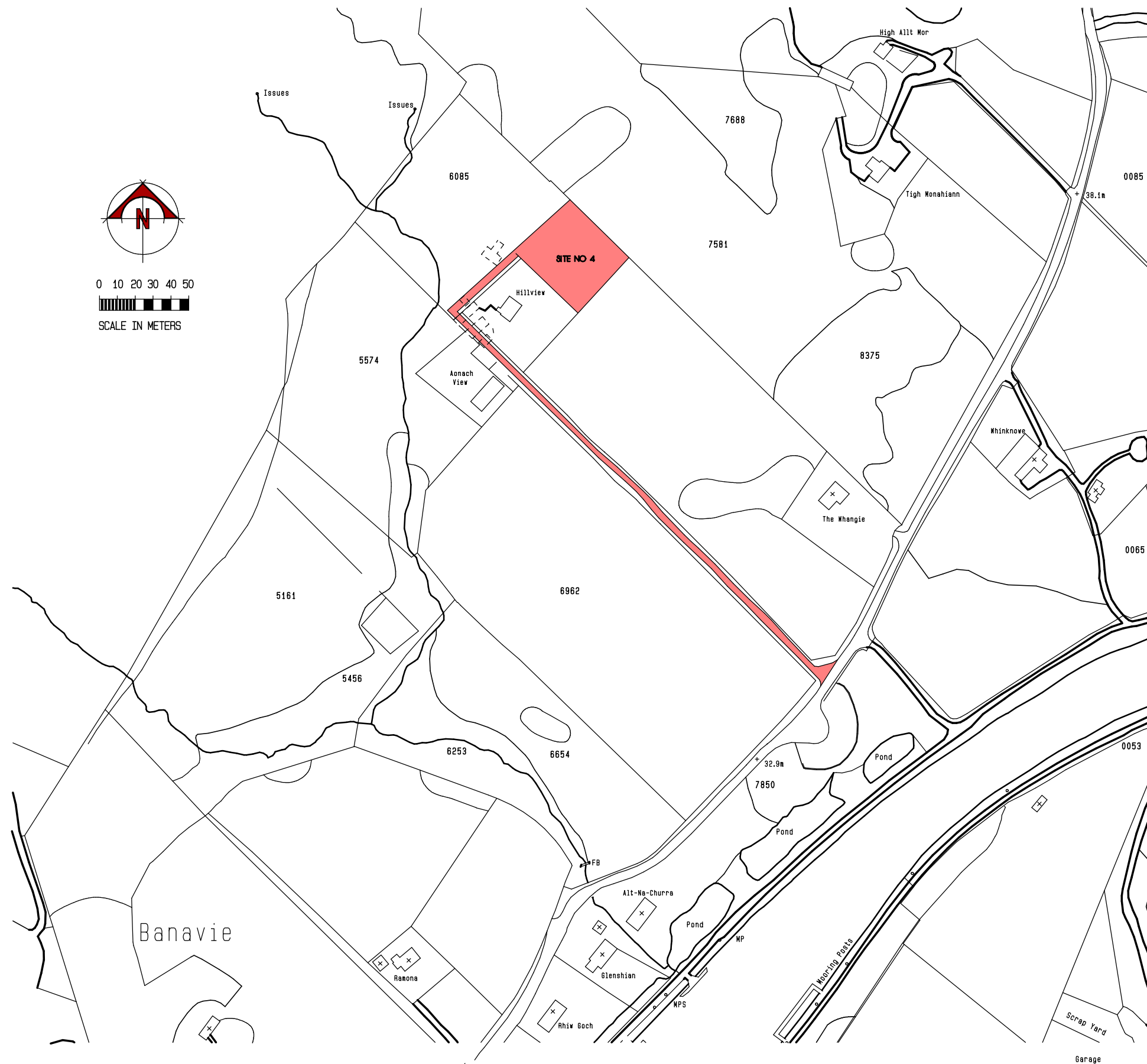
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. 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](mailto:env.health@highland.gov.uk) for more information.

### **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](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Signature: Nicola Drummond  
Designation: Area Planning Manager South/Major Developments  
Author: Christine Millard  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan

## Plan 2 – Site Layout Plan



Note  
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.

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project  
**PROPOSED HOUSE SITE, PLOT NO 4,  
 HILLVIEW, BANAVIE, FORT WILLIAM**

client  
**MRS. E. ANNE FRASER  
 c/o MACINTYRE & CO.**

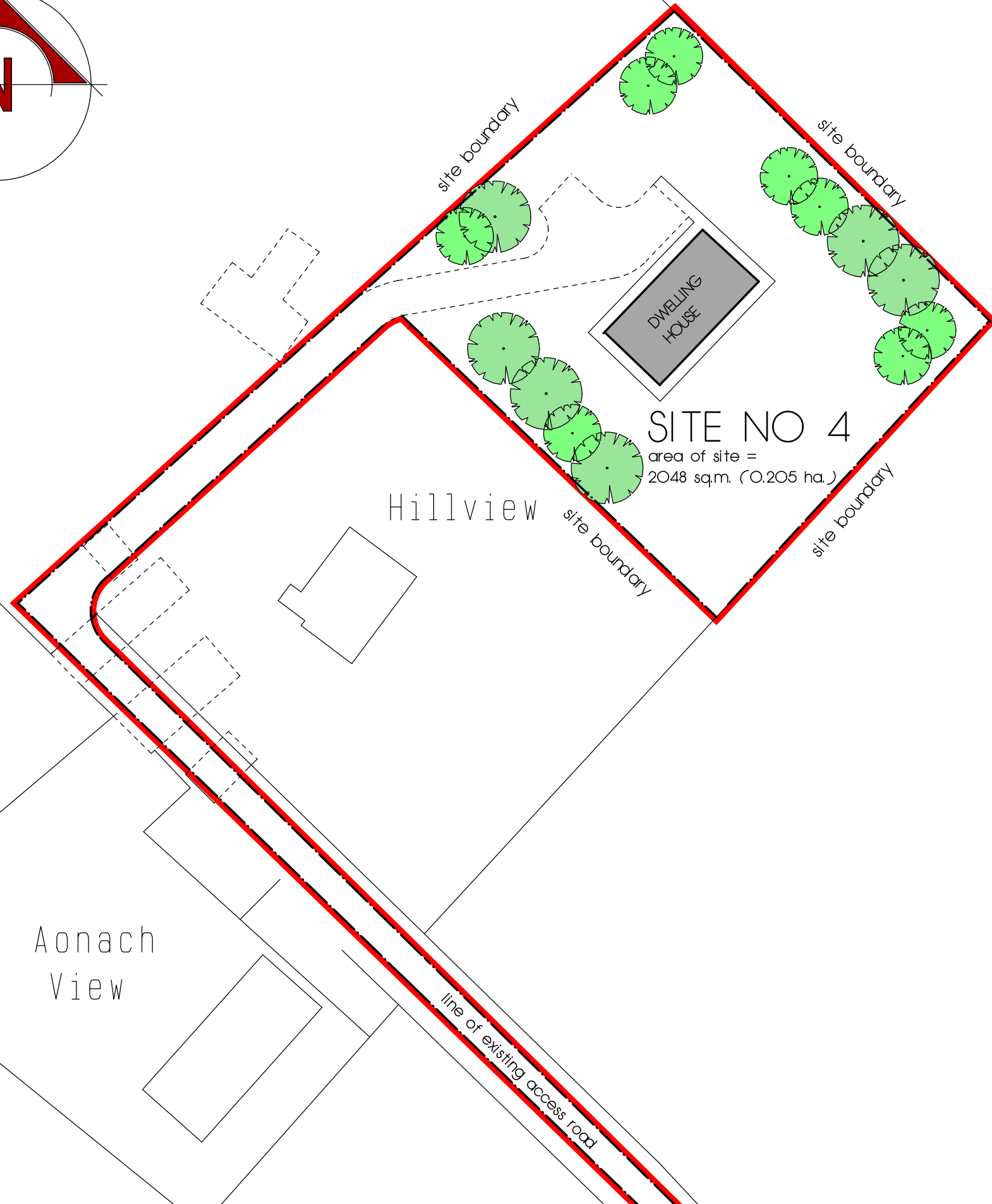
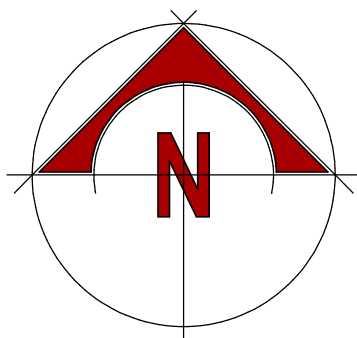
detail  
**LOCATION PLAN –  
 PLOT NO 4**

**DKD**  
**D KELLY DESIGN**  
 Architectural Consultant

Queen Anne House • 111 High Street  
 Fort William • PH33 6DG  
 Tel: 01397 700999 • Fax: 01397 700888

scale 1: 2500      date 21: 08: 09

job no. 08/097      drg no. 401      drawn D. KELLY



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project  
PROPOSED HOUSE SITE, PLOT NO 4,  
HILLVIEW, BANAVIE, FORT WILLIAM

client  
MRS. E. ANNE FRASER  
c/o MACINTYRE & CO.

detail  
SITE PLAN –  
PLOT NO. 4

**DKD**  
D KELLY DESIGN  
Architectural Consultant  
  
Queen Anne House • 111 High Street  
Fort William • PH33 6DG  
Tel: 01397 700999 • Fax: 01397 700888

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job no. 08/097      drg no. 402      drawn D. KELLY