Agenda	5.5
item	
Report	PLN/015/18
no	

THE HIGHLAND COUNCIL

Committee	e: North Planning Applications Committee	
Date:	6 March 2018	
Report Tit	le: 17/05803/FUL: Land 230M SE of The Glebe, Kildary	
Report By	: Area Planning Manager – North	
1.	Purpose/Executive Summary	
1.1	Applicant: Mr Alan Whiteford per Sutherland Drawing Services	
	Description of development: Erection of house	
	Recommendation: GRANT	
	Ward: 7 - Tain and Easter Ross	
	Category: Local	
	Reasons Referred to Committee: More than 5 objections	
2.	Recommendation	

2.2 Members are asked to agree the recommendation to grant as set out in section 11 of the report.

3. PROPOSED DEVELOPMENT

- 3.1 The application seeks detailed planning permission for the erection of a new house with an integral garage, installation of private drainage arrangements (septic tank and soakaway) and formation of a new access. The proposed house is a 1³/₄ storey dwelling with a T-shape footprint. The material palette includes slate roofing and a mix of natural stone and 'K rend' external render (similar in appearance to a wet dash render).
- 3.2 The application has been subject to pre-application discussion with the agent. An application was also originally submitted for an area of land north of the site, adjacent to existing housing. This was withdrawn as a result of objection comments and this revised application was submitted to allow for a greater separation between dwellings.
- 3.3 No infrastructure exists on site at present.
- 3.4 The application includes a Supporting Statement.
- 3.5 **Variations**: None

4. SITE DESCRIPTION

4.1 The site comprises flat agricultural land located in the area generally known as Shandwick, to the north east of the village of Kildary, and extends to 0.52 hectares. Two houses lie around 150m north of the site (The Glebe and Shandwick Lodge, as well as the Logie Easter Church and a further house lies around 220m to the south west (Ballachraggan Farm). A large area of woodland lies immediately opposite to the site to the east. The site is accessed via an existing single track road which connects onto the Kildary to Arabella road.

5. PLANNING HISTORY

5.1 No site specific planning history however as noted in Section 3.2, an application was originally submitted on the area of land north of this site - planning application ref: 17/04238/FUL.

6. PUBLIC PARTICIPATION

6.1 Advertised: Unknown Neighbour 05.01.2018

Representation deadline: 19.01.2018

Timeous representations: 12 representations from 9 households (including a petition of 16 signatures)

Late representations: 0

6.2 Material considerations raised are summarised as follows:

Principle of Development

- The development site lies within the hinterland where there is a clear and unambiguous presumption against new housing in the open countryside;
- Development of the site would represent an inappropriate intrusion into a previously undeveloped agricultural field

- Loss of agricultural land
- The development would set a precedent for developments of a similar nature

Design

- The proposed design is not in keeping with local character/the natural environment
- The house is too large and too high
- Not in keeping with planning policy which does not allow dwellings in such close proximity to each other.
- Gradual erosion of the countryside

Wildlife

- The site adjoins sites of scientific interest and contains rare blue butterflies
- A wildlife and habitat assessment should be undertaken

Access

- The access road (including a railway bridge) already serves a pub, church and farm traffic along with existing dwellings and there have been near misses in recent years with problems reversing up the track to allow passing of traffic
- The site does not allow safe access to bus stops as claimed by the applicant

Amenity

- The house would overlook the back garden and back door of Ballachraggan Farm compromising privacy
- Concern the future residents will have dogs and other animals close to the sheep at Ballachraggan Farm

Flood Risk

Potential to increase flooding due to proximity to watercourses

Kilmuir and Logie Easter Community Council: Do not object. KALECC are however aware of the concerns of individuals both at the meeting and those that have made comment separately, with regards to the access road, and we ask that consideration is given to these concerns. Several other objections were raised by members of the public, including the possibility of a 'cluster development', should the application be approved. Whilst KALECC acknowledge these objections, we believe they are not relevant to this planning application.

Non-material considerations raised are as follows:

- A house may become available for a sale so there is no need to build on this site
- The broadband is very slow for existing residents
- The applicant is not registered as a resident at the farm therefore has no right for farming rights for displacement to this area
- There are many alternative sites

- The applicant is not of retirement age and does not occupy the farm currently
- The remainder of the field should be subject to a Section 75 Agreement to prevent further development
- 6.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>. Access to computers can be made available via Planning and Development Service offices.

7. CONSULTATIONS

- 7.1 **Highland Council Flood Risk Management Team**: No objections. Although the flood risk posed by the local drainage ditch is considered to be low, we request the following condition be attached to any consent granted:
 - Minimal finished floor levels of 250mm above surrounding ground levels should be applied in order to protect against the residual risk of overland flows.
- 7.2 **SEPA**: Objection withdrawn. SEPA initially objected to the proposed development on flood risk grounds. However, following receipt of additional information from the agent, this has been withdrawn. SEPA agree the approach of the flood team above and have also requested that the above condition is attached.
- 7.3 **Scottish Water**: No objections however highlight that there are Scottish Water assets within the boundary of the site (HPPE water main) which may require relocation. This is a matter for the applicant to discuss directly with Scottish Water.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality and Place Making
- 36 Development in the Wider Countryside
- 64 Flood Risk
- 65 Waste Water Treatment

8.2 Inner Moray Firth Local Development Plan 2015

There are no site specific policies covering the site.

9. OTHER MATERIAL CONSIDERATIONS

9.1 **Draft Development Plan**

Not Applicable

9.2 Highland Council Supplementary Planning Policy Guidance

Housing in the Countryside and Siting and Design Guidance Sustainable Design Guidance

9.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

10. PLANNING APPRAISAL

- 10.1 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.
- 10.2 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.

10.3 **Development Plan Policy Assessment**

The application lies in the wider countryside area therefore Policy 36 of the Highlandwide Local Development Plan is the key determining policy in the assessment of the application. It is noted in objection comments that the site is within the hinterland land. However this is incorrect; the site lies outwith the boundaries of the hinterland (which ends at the railway line nearly 300m north of the site). Policy 36 which is concerned with the wider countryside applies a broadly supportive approach to new housing. Nevertheless this is subject to a detailed assessment as to whether proposals are acceptable in terms of siting and design, are sympathetic to existing patterns of development in the area and can be adequately serviced in terms of drainage, access and other infrastructure.

In this instance the site lies an area of relatively sparsely populated housing, lying in close proximity to the larger settlements of Milton and Kildary. However, as noted in the site description, there are existing houses north and south west of the site. As such, this is not an entirely undeveloped area. The house has been sited to achieve an acceptable separation between the site and the two houses located to the north - The Glebe and Shandwick Lodge. As such, development of the site maintains the established pattern of development. It is noted by objectors that the development would represent an unwelcome intrusion into a previously undeveloped field. It is correct to note that the field itself is previously undeveloped, however there is no presumption against development in this area. Indeed the policy is supportive where development is in keeping with the pattern of development. Similarly the loss of agricultural land is noted by objectors but it should be noted that at present the land does not appear to be actively worked.

10.4 Material Considerations

Impact on Neighbouring Amenity

As noted previously the applicant has re-located the proposed position of the house elsewhere within this land to ensure further separation from the houses known as 'The Glebe' and 'Shandwick Lodge' located to the north of the site. The house has now been sited to allow for a separation distance of 200m from 'The Glebe', which is the nearest neighbouring property, and about 300m from Ballachraggan Farmhouse. Such distances are commensurate with the rural location. With regards impact on Ballachraggan Farmhouse which has been highlighted as being of concern in objection comments, the proposed separation distance of 300m means that the new house will not overlook this property. In addition, intervening trees mean that the proposed house will not be readily visible from this location.

Siting and Design

The proposed house is a 1³/₄ storey dwelling which forms a rough T-shape. It is acknowledged that the house is relatively large in terms of the overall floorspace to be gained, however the footprint of the house allows the overall mass and scale to be broken up into different elements thereby avoiding any overbearing impact. In addition, a material palette containing a mix of different finishes also aids in further breaking up the perceived mass. The external walls will be finished in a mix of 'K-rend' and natural stone, with a roof covering of natural slate. The windows have a generally vertical emphasis with the main (front elevation) appearing as a contemporary take on a traditional farmhouse. The proposed design is, on the whole, considered to comply with the Housing in the Countryside and Siting and Design Guidance.

The height of the proposed house is expressed as a concern by some objectors. Within the area, there is a mix of heights across existing housing. The property to the south east of the site (Shandwick House) is a 2 storey mansion house and Balachraggan Farmhouse to the south west is a 1.5 storey farmhouse. 'The Glebe' and 'Shandwick Lodge' to the north, are both single storey houses. As such there is no clearly established uniformity in house types. Indeed this would not be expected in or appropriate for such a rural area. The location of the house some distance from other dwellings means that it will be largely viewed in isolation and not in connection with any existing housing and therefore the building of a 1³/₄ storey dwelling in this location does not give rise to any concerns in terms of visual impact.

Access and Parking

It is proposed to access the site from the single track road which runs along the eastern boundary of the site. This can be reached from the A9 via a double width road which eventually leads to the single track road to the site; this single track road currently also serves 2 other houses. However it also provides a connection to the public road from Kildary to Arabella. There are no passing places along the single track road currently. The addition of a house with a service bay will allow provision for a passing space to be provided along with a section of road currently without any. This is to the benefit of road users in the wider locale who currently utilise this road.

This has good visibility in each direction of 190m which is appropriate for traffic speeds along this section of road; which would tend to be relatively low due to its single track nature. It is proposed to install a service bay at the site entrance, to be in accordance with the appropriate specification contained in the Access to Single Houses and Small Housing Developments document.

In addition to the integral garage, parking for 2 cars is also to be provided. A turning area is proposed which prevents the need for vehicles to reverse onto the public road. The proposal is considered to be in accordance with the Access to Single Houses and Small Housing Developments requirements in this regard.

It is noted in comments that the railway bridge which must be crossed to access the site is already overused. The Planning Authority is not aware of any issues with regards the stability of this bridge. At present its use is prohibited for very heavy goods vehicles (i.e. over 7.5 tonnes) however it is not considered that the addition of 2 cars utilising this bridge will result in stability concerns.

Drainage and Flooding

Although the site lies outwith the SEPA Fluvial Flood Map, it is near two small watercourses. The Campack Burn lies to the west and a small drain runs along the southern boundary of the site. Consequently the site may be at risk of flooding. Following receipt of additional information provided by the agent which shows the site levels in relation to the aforementioned watercourses, SEPA have outlined no objection subject to the condition requested by the Council's Flood Risk Management Team. This requires the proposed house to have minimum finished floor level of 250mm above surrounding ground levels in order to protect against the residual risk of overland flows.

Protected Species

The site lies a considerable distance from any natural heritage designations and there is no evidence to suggest that the site provides a habitat for protected species. As such it is not considered warranted for any protected species surveys to be undertaken by the applicant. It is an offence under separate legislation, the Wildlife and Countryside Act to endanger or harm a protected species; this is highlighted for information in an informative.

10.5 **Other Considerations – not material**

Applicant's Retirement

It is stated in objections that the applicant is not yet of retirement age and that the site is not the applicant's main address. However both these considerations are irrelevant to consideration of the application which is only considered with whether the development of a house is suitable in this location when assessed against the terms of Policy 36 of the Highland-wide Local Development Plan. It is possible that this issue has arisen due to the contributors' belief that the site is located within the hinterland. As stated above this is not the case. Whether a house is required for a retiring farmer may be a consideration only if the site is located within the hinterland.

Broadband Speeds in the Area

This is not an issue which can be controlled by the planning system

Use of Section 75 Legal Agreement

It is suggested that, should the Council be minded to grant consent, this should be subject to a Section 75 Agreement to prevent any further development. The use of Section 75 Agreements is now strongly discouraged by Scottish Government with such legal mechanisms generally only being employed to secure developer contributions. Moreover there are no policy reasons which would specifically preclude any further development across the remainder of the area. Any future planning applications would require to be assessed on their own merits.

Use of Alternative Sites

The Planning Authority has a requirement to assess the planning application that has been presented. The potential for other existing houses to come onto the market therefore cannot be considered as a material issue.

11. CONCLUSION

11.1 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.

12. IMPLICATIONS

- 12.1 Resource Not applicable
- 12.2 Legal –Not applicable
- 12.3 Community (Equality, Poverty and Rural) –Not applicable
- 12.4 Climate Change/Carbon Clever –Not applicable
- 12.5 Risk Not applicable
- 12.6 Gaelic Not applicable

13. **RECOMMENDATION**

Action required before decision issued	Ν
Notification to Scottish Ministers	Ν
Notification to Historic Scotland	Ν
Conclusion of Section 75 Agreement	Ν
Revocation of previous permission	Ν

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

- 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 (dated 14th February 2018), with:
 - i. the junction formed to comply with drawing ref. SDB1; and

ii. visibility splays of 2.4m x 190m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

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

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

2. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref. 000003 shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

3. The house hereby approved shall have minimum finished floor levels of 250mm

Reason: In order to protect against the residual risk of overland flooding.

4. The vehicle turning area shown on the approved plans shall be provided prior to the first use of the development and thereafter maintained as a turning area in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

5. All landscaping works shall be carried out in accordance with the scheme and plans approved as part of this permission. All planting, seeding or turfing as may be comprised in the approved scheme and plans shall be carried out in the first planting and seeding seasons following the commencement of the 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 the approved landscaping works are properly undertaken on site.

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.

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 and 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 there are Scottish Water assets within the boundary of the site (HPPE water main) which may require re-location. You are also 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 and 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

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

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_or_working_on_public_roads/2

Mud and Debris on Road

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

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

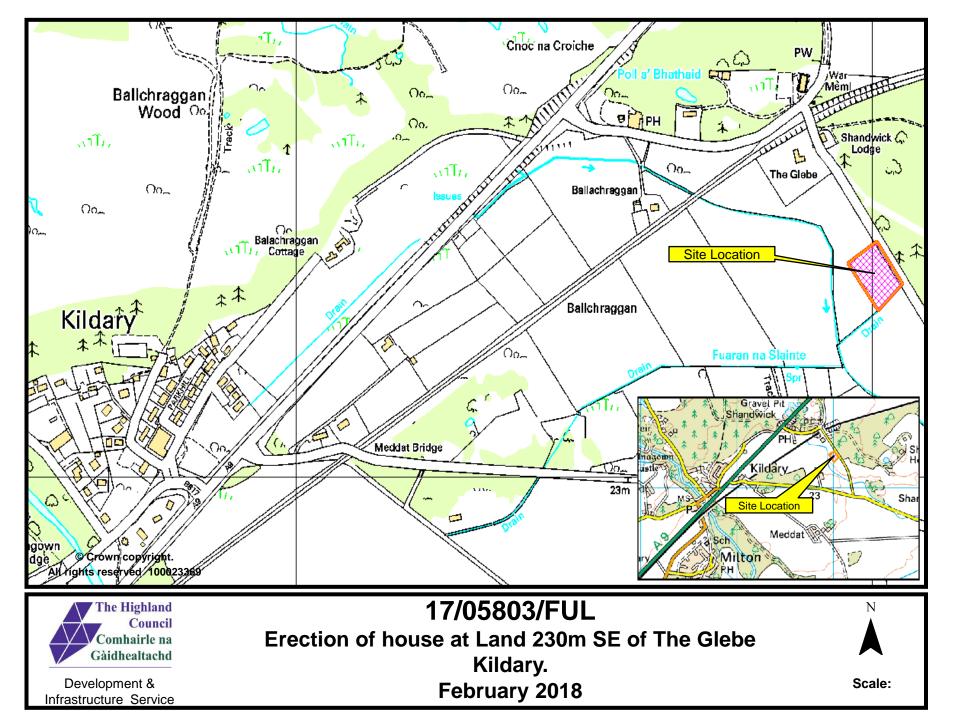
the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

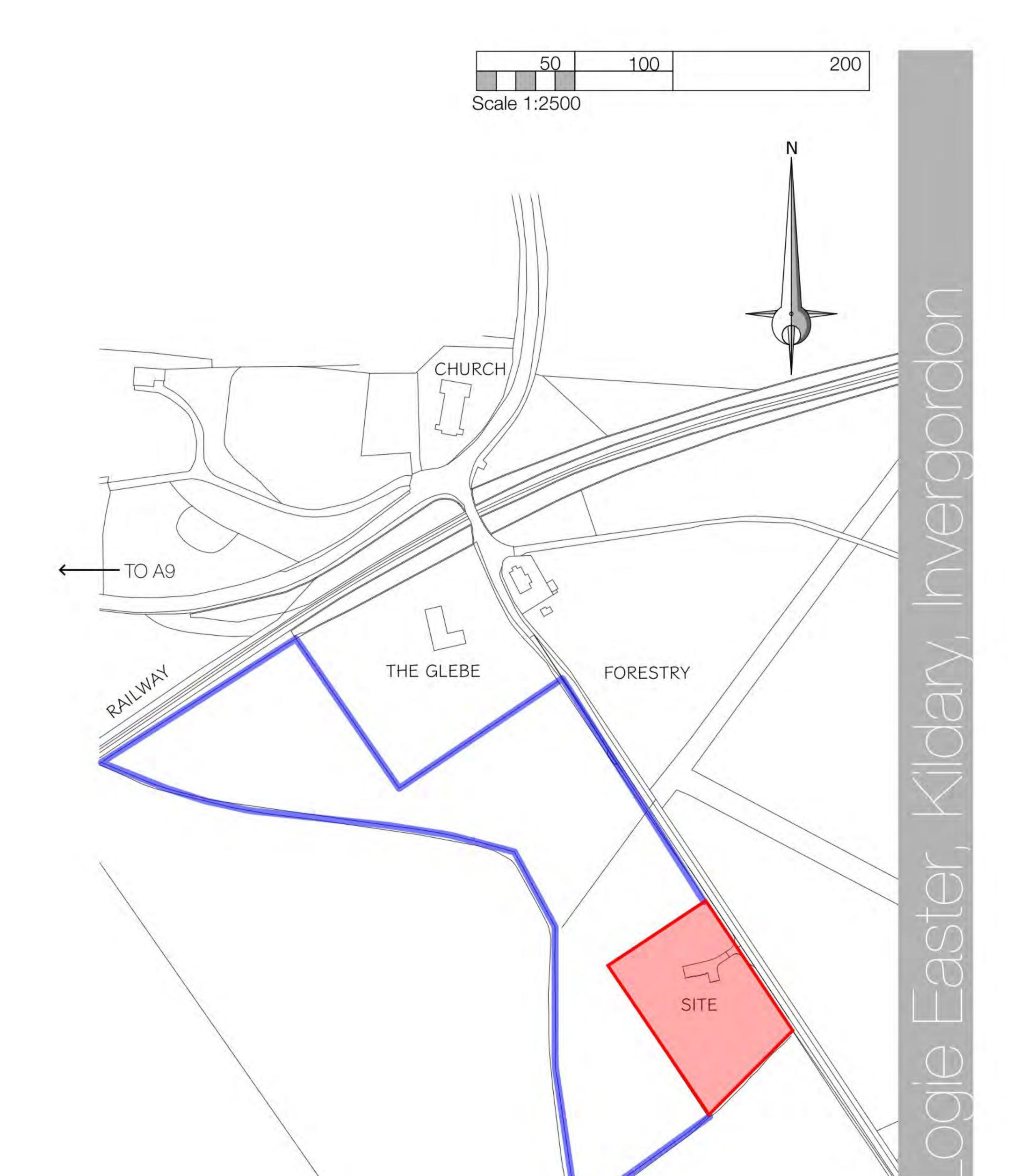
Protected Species - Contractors' Guidance

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Julie Fe	rguson
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Designation:	Team Leader
Author:	Gillian Webster
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – Location Plan 000001
	Plan 2 – Access Layout 000002
	Plan 3 – Floor/Elevation Plan 000003

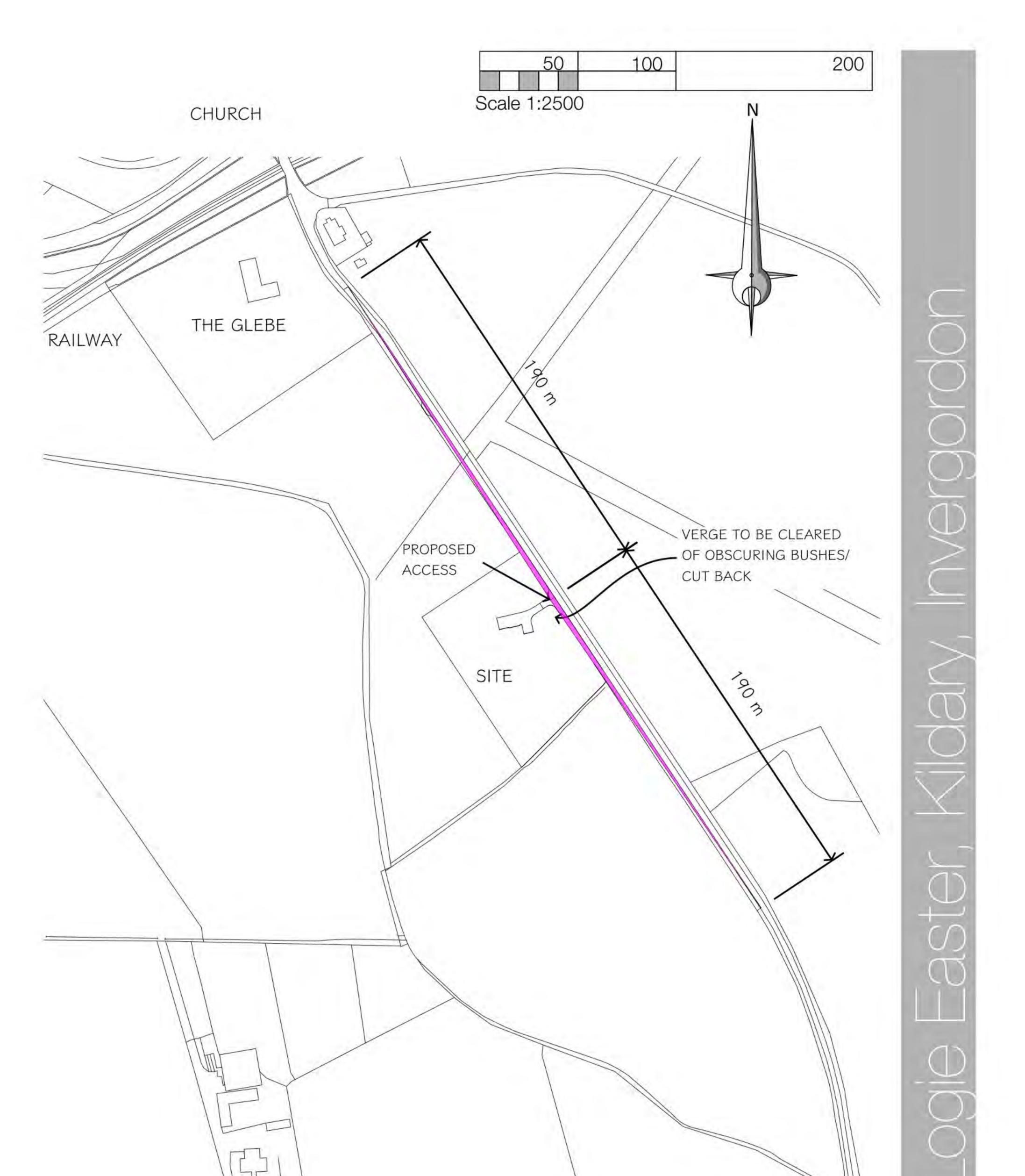




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NEW HOUSE, LOGIE EASTER, KILDARY, INVERGORDON LOCATION PLAN (REF: 16 - 078) - 15/12/2017



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NEW HOUSE, LOGIE EASTER, KILDARY, INVERGORDON ACCESS VISIBILITY (REF: 16-078) - 15/12/2017

