

Agenda Item	6.12
Report No	PLN/027/19

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 5 March 2019

Report Title: 18/03848/FUL: Mr R Wiseman
Land North of Boom House
Mellon Charles
Aultbea

Report By: Acting Head of Development Management - Highland

Purpose/Executive Summary

Description: Construction of a private way for croft access from existing way

Ward: 05 - Wester Ross, Strathpeffer And Lochalsh

Development category: Local Development

Reason referred to Committee: Referred by ward members

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to Refuse planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

1.1 Detailed permission is sought for a section of private track totalling approx. 80m in length. The track connects two existing sections of private track and is located on a croft (Croft 51, Mellon Charles). The formation of the track requires cutting and filling an area of sloping rocky moorland. The resulting excavated material will be used as a base for the proposed track, the top surface will be a mix of smaller crushed rock and sandy fill material.

1.2 The applicant has applied for permission to form a private way for croft access and has stated that the purpose of the track is to improve access to the southern extent of their croft. The applicant has also stated that there is a legal issue with taking access over an adjacent croft (croft 38 Mellon Charles)

Other reasons stated for requiring this access include the following, access to;

- Access to a storage shed, where a boat is kept over the winter.
- Access to the beach, where the boat is kept during the summer.
- Access to the old bridge to the island for regular maintenance.
- Access to the observatory on the island used by the applicant.
- Access to a house site, where the applicant hopes his daughter can build.

1.3 Pre Application Consultation: 14/01378/PREAPP – Formation of access road – Advice sought for a track marginally to the east of what is proposed in this application - Applicant was advised that we would not support a track at this location due to the ground conditions, visual impact and proximity to other neighbouring properties.

1.4 Design Statement

2. SITE DESCRIPTION

2.1 The site is an area of rock outcrop and sloping moorland located approx. 200m to the west of Mellon Charles Burial Ground. There is a section of unadopted track to the north, onto which the proposed track will connect. The proposed track will also connect to a section of un-adopted track to the south, which appears to be associated with the military history of the area. Neighbouring properties, Boom House and Blue Stones 51B, lie directly to the west. A neighbouring property called Sea Croft, 51 Mellon Charles, lies to the east. Remnants of a WW2 campsite and gun emplacements lie to the south.

3. PLANNING HISTORY

3.1 11.12.2013 13/03270/FUL - Erection of house and garage - Permitted
51 Mellon Charles

07.03.2017 16/05684/FUL - Erection of house and garage – Permitted
51 Mellon Charles

3.2 The above house site is located approx. 30m to the south of the proposed access road. The permission granted included access via the north-east, which terminates at the cemetery. From this point the route of access to the house plot is via an existing track. The house plot was considered acceptable in terms of compliance with Development Plan policy as it presented no significant technical or amenity issues.

4. PUBLIC PARTICIPATION

4.1 Advertised: No

Representation deadline: 25.10.2018

Timeous representations: 3

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- The proposal would add to the maintenance burden on the private road leading to the site.
- The purpose of the access is to allow a house plot to be developed, and not for purposes associated with crofting. The applicant does not actively croft in this area.
- The proposal will have a detrimental impact upon the landscape both at the site and in the context of the wider area.
- The visual impact of the track from the surrounding area and neighbouring properties would be significant.
- Several trees that give protection to the surrounding landscape and neighbouring properties will be removed and would take considerable time to re-establish.
- The proposed route lies within the Wester Ross National Scenic Area and close by to a site of historic importance (WW2 remains).
- There is an existing historic access to the croft to the east, which runs past the burial ground.
- The red line boundary does not connect with a public road and the public road is incorrectly identified on the location plan.
- A blue line boundary is misleading as it signifies a right over all that land.
- The track will have a negative impact upon the privacy enjoyed by Boom House.
- The configuration of the track is very restricted and should be at least 3.5m wide.
- No construction method statement has been submitted.
- The proposed track would form a circular route, with no restriction on traffic using this route.

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.

5. CONSULTATIONS

5.1 Crofting Commission: Response as follows

It is noted that there are previous developments on the croft and that the applicant is the owner-occupier crofter of both this croft and the adjacent croft, 39 Mellon Charles. It is also noted that there are objections to the application, but this response is independent of these.

The Commission considers the application from a crofting perspective, including the requirements of crofting legislation for crofter residency and the cultivation of a croft. The croft is just over 4ha in extent but is compromised by its coastal location and previous use as a camp site and for previous military purposes. Accordingly, the croft is limited in terms of cultivation and this has been intensified by four previous decrofting consents.

The croft appears to have two access points to and from other minor roads serving the township. In terms of the operational needs of the croft there does not appear to be any requirement for an additional track to link the two. Further it may be contended that the development of another track will detract from the croft by reducing the land available for cultivation and restricting the capabilities of the holding as a crofting subject. On the other hand, this assessment is naturally qualified relative to the existing terrain and its existing limitations.

It is noted that other representations comment as to the intended purpose of the track, we are unable to comment on that, as we are not in a position to speculate as to a possible purpose. From a purely crofting perspective, neither is there any self-evident operational need for a further access track within the croft, nor have we evidence of any further need for the track to service developments that will assist the operation of the croft as a crofting unit.

To summarise, from a crofting perspective, there appears to be no apparent requirement for an additional track within the croft and, as indicated, it could be considered detrimental to the croft holding even within the potentially restricted capacity of this holding.

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
47 – Safeguarding Inbye/AppORTioned Croftland
57 - Natural, Built and Cultural Heritage
61 - Landscape

6.2 Wester Ross Local Plan (2006) (as continued in force)

Within Settlement Development Area

6.3 West Highlands and Islands Local Development Plan – Proposed Plan

No site specific policies of relevance

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

7.2 Scottish Government Planning Policy and Guidance

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.

Determining Issues

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.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) the visual impact of the development
- c) impact upon neighbour amenity

Development plan/other planning policy

8.4 The principal determining planning policies are summarised below.

8.4.1 Policy 28 (Sustainable Design) of the HWLDP aims to ensure that development is sustainable and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal state that proposals should be assessed on the extent to which they “impact on individual and community residential amenity” and “demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials”.

8.4.2 Policy 34 (Settlement Development Areas) of the HwLDP states that “we will support proposals within Settlement Development Areas if they meet the requirements of policy 28” and that we “will judge proposals in terms of how compatible they are with the existing pattern of development and landscape character, how they conform, with existing and approved land uses, and the effect on any natural, built and cultural heritage feature”.

8.4.3 Policy 47 (Safeguarding Inbye/Appportioned Croftland) of the HwLDP is relevant to this application as the purpose of the track has been stated as being to improve access to a croft. Policy 47 recognises that crofting is a core component of life in the Highlands and seeks to minimise the loss of croft land.

- 8.4.4 Policy 57 (Natural, Built and Cultural Heritage) of the HwLDP is applicable to this application as the site is located within the National Scenic Area. This policy states that developments should not compromise the natural environment and where there may be significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance.
- 8.4.5 Policy 61 (Landscape) of the HwLDP emphasises the importance of designated and non-designated landscapes, and highlights the need to consider how development can significantly alter and impact upon landscape quality.
- 8.4.6 It is considered that the development does not accord with the above principal determining planning policies. The proposal will result in a prominent visual scar in the landscape to the detriment of the visual amenity of the area. The track is also judged to have a negative impact upon an adjacent neighbouring residential property due to its close proximity and elevated position relative to this neighbour. Furthermore, there is no proven crofting related operational need for the track. This is discussed in more detail below.

The visual impact of the development

- 8.4.7 The development is located within the Wester Ross National Scenic Area, which is a diverse landscape area where several special qualities have been identified by SNH. One of these special qualities of particular relevance to this site is the stark geology and prominence of bare rock that forms a distinctive feature in parts of Wester Ross. The creation of the proposed track will involve cutting into an area of steeply sloping exposed rock outcrops. Areas of exposed rock are a prevalent visual feature in this area and roads generally take routes which avoid such features, passing through flatter and lower areas of moorland. The proposal involves forming a track over the top of an area of exposed rock outcrop. This type of topography does not easily lend itself to the creation of tracks without significant landscape scarring. The level of intrusion into this natural feature and the degree of re-engineering of the landscape required in order to form the track is considered to result in a significant and unacceptable visual impact upon the natural environment; to the detriment of the visual amenity of the area.
- 8.4.8 The formation of the proposed track requires both cutting into an existing hillside and raising existing ground levels in order to create a viable gradient across the full route. From the southern end of the access route, the track first passes over relatively level ground and then through an area of steep rock outcrops before it levels then start to rise again more gradually. The upfill is required at the southern half of the route and the cut required at the northern half, passing both through and adjacent to rock outcrops. The greatest area of cut at an area of exposed rock is 1.6m (located at point 28 on the site layout plan). This cut will result in an exposed wall of rock on the north east side of the track of at least this height. The start of the track from the south requires to be raised above existing levels in some places marginally and in another by nearly 1m. The cut and fill required over the length will significantly re-engineer the topography at this location and the result will be a section of mechanically raised track and a visible scar where the track cuts through very rocky landform.
- 8.4.9 The track will be visible from in and around the area of headland to the south-west of the burial ground, which includes the WW2 remains, and also the area of the lochan to the north-east. The track is not considered to have any significant visual

or landscape impact beyond this local vicinity, however, the degree of scarring at this location will have a significantly adverse visual impact on receptors. There is not considered to be an operational need for the track that would outweigh concerns regarding the negative visual and environmental impact of the proposal.

- 8.4.10 The application states that the track is required in order to gain vehicular access to the southern extent of the applicant's croft (croft 51). The southern extent of the croft is an area of coastal headland and includes the remains of a WW2 campsite and gun emplacements, which severely restricts the cultivation potential of this part of the croft. Access to this part of the croft can be taken via an existing track through a neighbouring croft (croft 38), which is accessed via the public road to the north-east terminating at the cemetery. The applicant has stated that the owner of croft 38 is now reluctant to permit access via this route and that access to the southern part of the applicant's croft is only possible by foot or quad bike rather than van or tractor.
- 8.4.11 The applicant has not demonstrated that the track is required in order to properly run the croft. Consultation with the Crofting Commission highlighted that the croft is very limited by its coastal location and topography in terms of how it can be cultivated, and has already been subject to four previous decrofting consents. The crofting Commission in their consultation response affirmed that there appears to be no apparent operational requirement for an additional track within the croft, with two existing access points already in place. The reasons given for requiring the track, which are noted in section 1.2 above, do not demonstrate that the track is required in order to properly run the croft.
- 8.4.12 The impact of the track upon the landscape and amenity of the adjacent neighbour (Boom House) is not considered to be outweighed by any demonstrable benefits of providing the proposed section of track. The majority of the southern extent of the applicant's croft consists of rocky headland and will remain only accessible by foot or quad bike despite the provision of the proposed section of track. The benefits of gaining vehicular access to this rocky headland have not been demonstrated. The existing track network already allows opportunity for access to the applicant's croft, including this area at its southern extent. No significant case has been made as to the crofting related benefits of the proposal and the visual impact of this development is not considered to be outweighed by any demonstrable need for the section of proposed track.

Impact upon neighbour amenity

- 8.4.13 The track will have an impact upon the amenity of Boom House, the property immediately to the west, due to its location only 19m away from the boundary of this property and its position on higher ground. At the point closest to this neighbour the track will be approximately 19m from its gable and positioned at 1st floor height. This level of intrusion upon a residential property even with low traffic numbers is not appropriate for this rural location and will have a negative impact upon the current level of amenity enjoyed by this property. The proposed access will form a circular route linking the existing public and private track network to the north and east. Vehicles and pedestrians passing this neighbour at an elevated position and at close proximity will overlook directly onto the curtilage, rear (north) elevation and side (east) gable. This will result in an invasion upon the privacy currently enjoyed by Boom House.

Other material considerations

8.5 The majority of the contents of the representations are covered in the above sections. Remaining material issues are discussed below.

8.5.1 Representations make reference to the removal of trees at the northern end of the track and the fact that these trees provide a shelter belt for the neighbouring properties. While trees are valued in such an exposed landscape and their loss is not desirable, there would be scope to provide compensatory planting at the location of this existing tree belt.

8.5.2 Representations raise the impact of the development upon the historic WW2 campsite, which is located to the south of the site. This feature does not have any formal designation or protection. The track will however be clearly visible to those visiting the campsite and gun emplacement remains.

8.5.3 A house plot exists to the south of the site (planning applications 13/03270/FUL and 16/05684/FUL, referred to in planning history section above). Representations refer to the track being required in order to access this house plot rather than for the crofting reasons stated by the applicant. When first submitted, application reference 13/03270/FUL proposed the new section of track under consideration in this current application as part of its route of access from the public road.

When planning application 13/03270/FUL was under consideration, this route of access was deleted from the proposal and the application amended so that the house plot was accessed via the existing track from the cemetery to the north-east. This amendment was sought due to concerns regarding the visual and amenity impact of the new track.

The permission for a house was renewed (16/05684/FUL) and does not require renewal until March 2020. If permitted, the access proposed would also be available for use by the house permitted under the aforementioned consent. The residential use of the track would increase the frequency of traffic using this route and compound the adverse impact upon the amenity of the residential neighbour.

8.5.4 With regards to points raised in representations relating to details shown on the plans, the red line site of application does not have to extend all the way to a public road for a development such as is proposed. While this is the case for applications which will involve improvements to the access point with a public road, this is not relevant in this case. The blue line shown on the location plan indicates the applicant's croft and is not taken as the entirety of the applicant's legal ownership of property and land. The Planning Authority are aware of the public and private road boundaries in this area and any inaccuracy on the location plan regarding the labelling of the public road has not impacted upon the assessment of this case.

9. CONCLUSION

9.1 The proposed track is considered to result in significant visual intrusion into the natural landscape, which will have a significantly detrimental impact upon visual amenity and will have a significantly adverse impact upon the integrity of the special qualities of the Wester Ross NSA at this location. The track is also considered to have an adverse impact upon the neighbouring property by virtue of its close proximity and elevated position relative to this neighbour. The proposal

does not accord with the determining Development Plan policies and there are no other material planning considerations that justify the granting of planning permission.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

The application is recommended for refusal for the reasons set out below.

1. The proposal does not accord with policy 28 (Sustainable Design) of the Highland-wide Local Development Plan. This policy demands that proposals have no significant impact upon residential amenity and are sited sensitively in keeping with local character and the natural environment. The proposed track results in a significant intrusion into the natural environment, cutting and filling an area of rocky outcrop. The level of engineering works required will result in a very visible scarring of the landscape; to the detriment of the visual amenity of the area. The proximity and elevated position of the track relative to the neighbouring property Boom House has an unacceptable impact upon the amenity currently enjoyed by this property.
2. The proposal does not accord with policy 34 (Settlement Development Areas) of the Highland-wide Local Development Plan. This policy demands that proposals accord with policy 28 (Sustainable Design) and that proposals will be judged as to how compatible they are with landscape character, existing land uses and their effect on any natural heritage feature. The proposal will have a significant adverse visual impact within the Wester Ross National Scenic Area and have a negative impact upon the adjacent residential property, Boom House.
3. The proposal does not accord with policy 47 (Safeguarding Inbye/AppORTioned Croftland) as the operational requirement for the track has not been demonstrated and the development will result in the further erosion of croft 51 Mellon Charles.
4. The proposal does not accord with policy 57 (Natural, Built and Cultural Heritage) of the Highland-wide Local Development Plan. The site is located within the Wester Ross National Scenic Area. This policy states that developments should not compromise the natural environment. The landscape scarring and adverse visual impact resulting from this development is considered significant and is not outweighed by any other material planning consideration.

5. Policy 61 (Landscape) of the Highland Wide Local Development Plan emphasises the importance of designated and non-designated landscapes, and highlights the need to consider how development can significantly alter and impact upon landscape quality. Areas of exposed rock outcrops form an important part of the landscape within and around the coastal crofting settlement of Mellon Charles. The proposal involves a level of intervention into the natural landscape that will have a damaging affect on the landscape quality at this location.

Designation: Acting Head of Development Management – Highland

Author: Rebecca Hindson

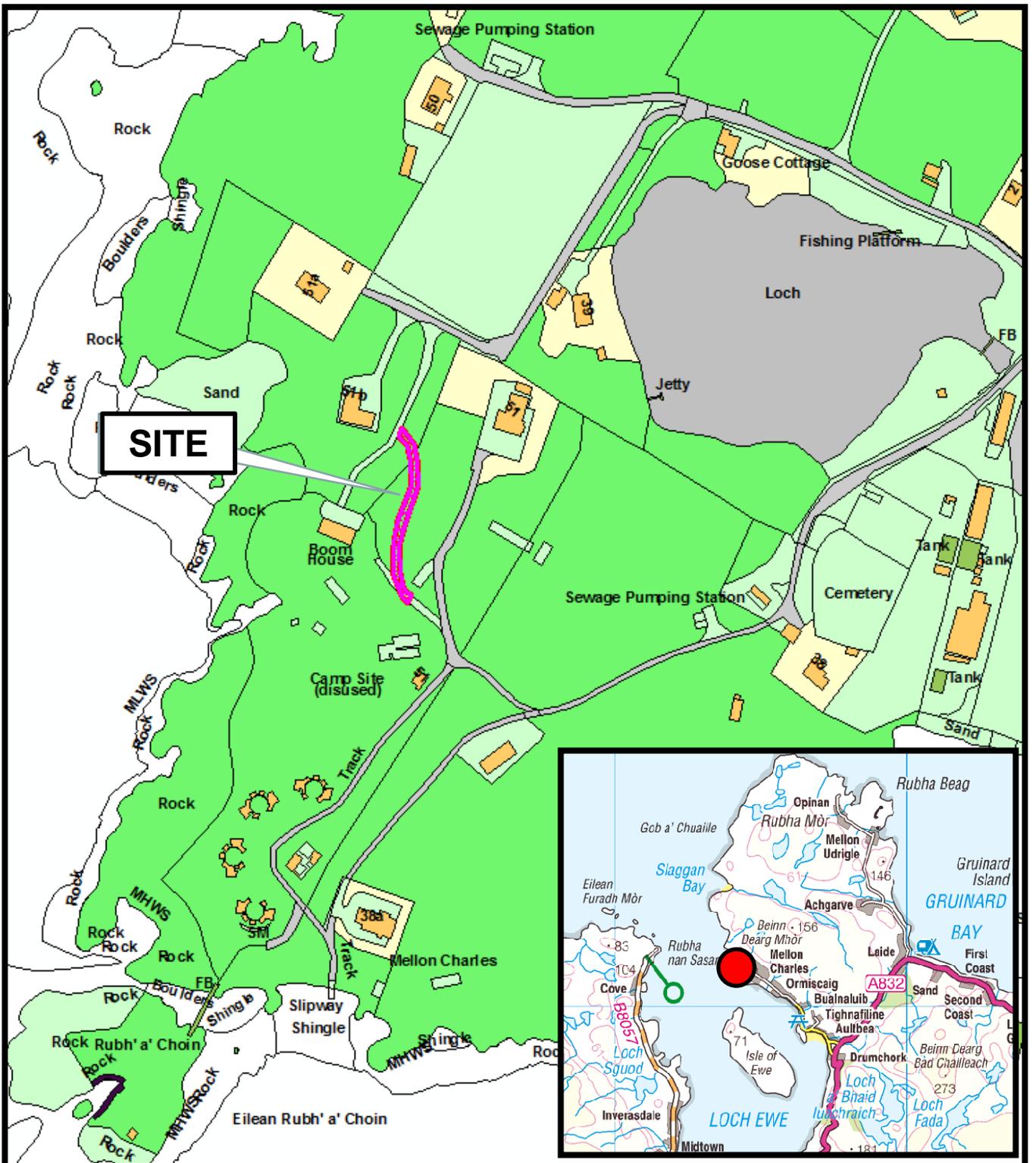
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1- HC Location Plan

Plan 2 - Location Plan A3-18-01

Plan 3 - Section Plan A3-18-02

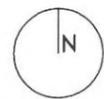
Plan 4 - Site Layout Plan A3-18-03



18/03848/FUL

Construction of a private way for croft access from existing way at Land North of Boom House, Mellon Charles, Aultbea





Proposed private way — (red line)
 Extent of croft — (blue line)

rev date detail

Matheson Mackenzie Ross
ARCHITECTS Ltd

Royal Bank Buildings, High Street Dingwall IV15 9HA
 T 01349 863352 F 01349 865746
 e info@mmross.co.uk

Neil H Ross DipArch RIBA RIAS ARB
 www.mmross.co.uk

Proposed private way at Croft 51
Mellon Charles
Aultbea

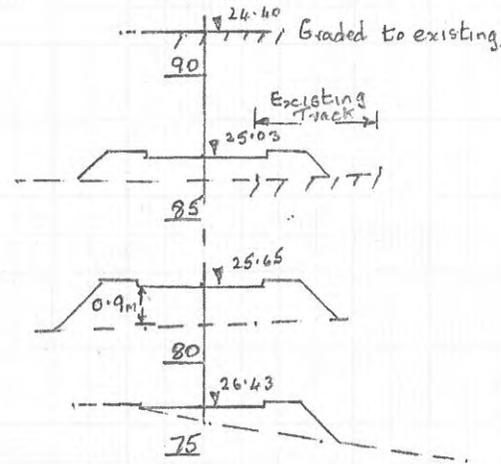
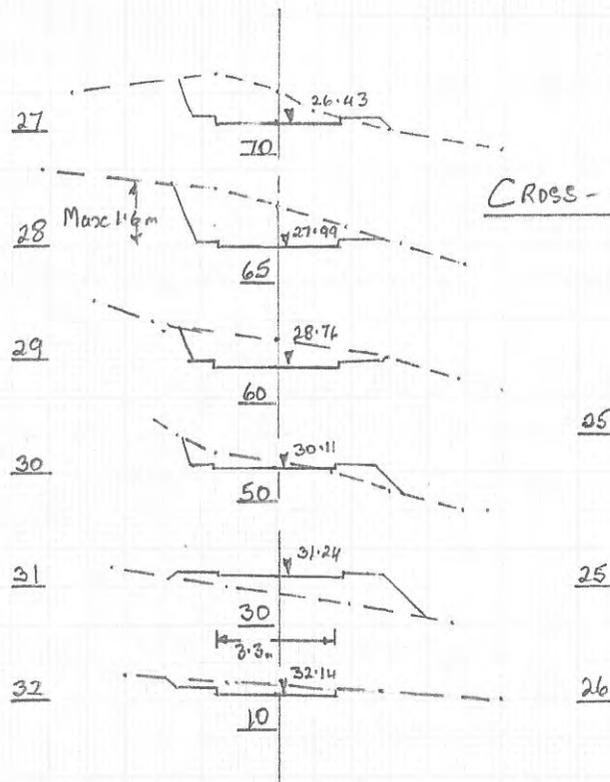
drawing LocationPlan

scale 1:2500 A3 date 2.8.18
 drawn NHR status

no **A3.18.01** rev

PROPOSED ACCESS - DETAIL
CROFT 51, MELTON CHARLES,
AULTBEA.

CROSS-SECTIONS - SCALE 1:200



CENTRE LINE PROFILE - SCALE 1:200

