Agenda Item	6.2
Report No	PLS/090/19

#### HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

Date: 4 December 2019

**Report Title:** 19/02766/FUL: JAHAMA Highland Estates

Land 780M West Of Mamore Lodge, Mamore, Kinlochleven

**Report By:** Area Planning Manager – South

# **Purpose/Executive Summary**

**Description:** Two pairs of zip wires, launch platform, 2 landing platforms, containers style reception building, 2 floating jetties, access path to the launch platform, mini bus turning area

**Ward:** 21 - Fort William and Ardnamurchan

**Development category:** Local

Reason referred to Committee: Number of objections

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.

#### Recommendation

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

#### 1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought for a zip wire experience, comprising 2 pairs of 2 zip lines, at Kinlochleven, including a car park and welcome cabin opposite the Ice Factor on part of the former smelter site (which is the subject of a separate application ref. 19/02767/FUL), and a reception centre which would be at the head of the loch by the existing pier. This would also be where one of the 2 pairs of zip lines would finish. The other pair of zip lines would finish approx. 875m further down on the south shore of the loch on a pontoon. The launch site would be from a point west of Mamore Lodge and below the existing Lairig Mor track.
- 1.2 Customers would be brought from the car park in the village to the reception building by a "Land Train". The reception building would comprise 10 green coloured container units arranged as two rows of 4 side by side with 2 on top, plus external stairs and a lift. The reception would house on the ground floor; a reception area, briefing/kitting up and de-kitting areas, equipment store, shop and toilets; and on the first floor a café, terrace and viewing platform. The landing platform would be a separate structure approx. 26m to the east, constructed of timber with a turf roof, and a timber boardwalk would lead from this structure to the roof of the reception building. The take off and landing structures would be approx. 4m by 10m in plan and approx. 3.6m high. Indicative drawings only are provided of these.
- 1.3 There would be 10 staff parking spaces next to the reception building, and 2 spaces for the land train/minibus parking with a drop off/pick up point in front.
- 1.4 The other landing platform would also comprise an open timber structure with a turf roof, and as this landing would have a pontoon adjacent there would also be a timber walkway which would connect to the pontoon a simple floating jetty, black in colour, and 25m long.
- 1.5 A similar floating jetty is proposed next to the pier, and customers would be brought back from the further pair of zip lines by boat.
- 1.6 Customers would be driven from the reception building, a distance of just under 5km, through the village and up to the launch site. This would take the private single track road from the B863 up to Mamore Lodge, which is currently vacant and dilapidated, and along the unmade track to the TV mast. An existing turning area by the mast compound would be enlarged to accommodate the land train.
- 1.7 The land train is a 4 x 4 electric vehicle that would be able to transport up to 35 persons on each journey. A licence is required to operate this type of vehicle on UK public roads and the applicant is confident that they would comply with the relevant requirements. When not in use, it would be parked in the car park near the Ice Factor, which would be a lockable space.

- 1.8 A path approx. 100m long and 1400mm wide is proposed to zig zag down the slope from the track to the launch site approx. 90m east of the TV mast, descending 20m by 61 steps constructed with untreated oak sleepers infilled with crushed stone. For disabled access it is proposed to provide an outdoor chair lift along the path, incorporating a guide rail, which would be parked at the launch platform and charged from a power supply at the launch site.
- 1.9 The launch structure would be a timber platform on stilts, similar to the landing platforms, with a turf roof. Both pairs of zip wires would launch from this one platform. An infrared light would be required on the highest parts of the structure, which would include the launch platform.
- 1.10 There would be 2 pairs of zip wires. The pair following Zip line 1 would follow a stream corridor down through the woodland from the launch site, and pass diagonally across the loch at a point approx. 600m west of the head of the loch. The pair following Zip line 2 would run north south from the launch site, over the woodland to cross the river estuary where it enters the loch, across the nose of land at the head of the loch and land just east of the pier. Both zip lines would also cross overhead lines north of the loch, the private road up to Mamore Lodge, and the B863 public road which follows the north shore of the loch. It is proposed to underground a section of the overhead lines to avoid the zip lines crossing above it.
- 1.11 The zip lines would each comprise 2 pairs of zip lines with a diameter of 18mm and two pairs of associated braking wires with a diameter of 15mm. Zip 1 would be approx. 1480m long and zip 2 would be approx. 1050m long 8 wires spanning between the launch and landing sites in total.
- 1.12 The zip wires are anticipated to attract up to 200 people per day. The applicant's figures are based on a similar development in North Wales, and the fact that this would be the longest zip line in Scotland. It is anticipated to create up to 30-35 full time equivalent jobs and additional seasonal jobs; including administration, bus and boat drivers, flight crew to operate the zip wires, catering, maintenance and general assistants. The applicant states that a percentage of the turnover would be donated to the local community.
- 1.13 Customers would be taken between the reception building and launch site, ride the longer zip 1 first, and then brought back by boat to reception, before being taken up to ride zip 2 second. Customers would ride the zip wires in a sitting position, and would sit within a camouflage overall and wear helmets. The applicant states that the zip wire ride is not to be at an excessive speed, and is not intended as an adrenaline experience, but rather will allow the landscape and scenery to be observed from this unique viewpoint.
- 1.14 There would be up to 4 round trips per hour from reception to the launch site during peak periods.

- 1.15 A separate application is required to be made to Marine Scotland for the water based elements of this proposal (below HMWS).
- 1.16 The parking area is accessed off the public road and is in the centre of the village where services are present nearby. The reception building would be accessed via the private track that serves the sewerage treatment works and the old boathouse and pier. The applicant is confident this site can be serviced with a water supply, mains foul drainage and power from the village. The launch site is accessed via the private road to Mamore Lodge, and the private track which continues west from there, which is also a public path, from Mamore Lodge to the TV mast. There is power nearby, however no other existing services.
- 1.17 Pre Application Consultation: informal advice provided regarding the scope of supporting information likely to be required.
- 1.18 Supporting Information: basic LVIA and photo montages, Transport Statement, protected species surveys, basic information relating to flood risk, trees, contaminated land, noise, impact on historic assets.
- 1.19 Variations: Reception and Landing Platform Initial Layout Plan (Revision B) siting revised to avoid a minor watercourse.

#### 2. SITE DESCRIPTION

- 2.1 The car park in the village would be on part of the site of the former aluminium smelter, between the power station and the Ice Factor climbing wall and café. The part proposed for a car park for 120+ cars, would be at the southern edge of this area, and the furthest point away from the power station. It would be next to a builder's yard which is tucked in at the foot of an area of rock cuttings, and below the new housing on the hill up to the Training Centre. This area is level, covered in gravel and scrubby vegetation, and it is contaminated land, given its previous use.
- 2.2 The reception building would be near to the head of the loch on its south side, adjacent to the private road that leads to the pier and an old boat shed and slipway, now derelict. Land to the north was used as a waste disposal area in the past and the village's sewerage treatment works is also located there. The land between the old pier and the river is mostly woodland, with a path looping round it providing impressive views down the loch in a westerly direction. This private track, which also serves the WWTW, leads off the B863 before it starts to climb out of the village on a viaduct, and it passes a builders yard and the bowling green before a locked gate gives access through the woods to the loch and Scottish Water site.
- 2.3 The hillside below the launch site is a mix of native woodland, mostly birch, and open wet grass. The trees vary from small scrubby birch to bigger more mature trees. Both landing sites are on sloping ground close to the loch shore and backed by trees.

- The whole of the site is within the Ben Nevis and Glencoe National Scenic Area. The reception area and car park would be within the Kinlochleven Settlement Development Area, whilst the launch and further landing site would be in the wider countryside. Much of the woodland around the launch site and over which the zip lines would travel is listed on the Ancient Woodland Inventory. The West Highland Way long distance trail crosses the access road to Mamore Lodge and it would pass underneath both zip lines as it climbs out of Kinlochleven and joins the Lairig Mor track approx. 800m west of the TV mast. The landing areas are close to the shore of the loch, and just outwith areas at risk of coastal flooding. There is a small watercourse which cascades over a rocky fall between the reception building and landing site of zip 2.
- 2.5 The nearest properties are a pair of semi detached cottages, Moorings and Levenside, at approx. 126m from the landing site of zip 2, and approx. 18m from the existing access track which would serve the reception building. Garbheinn House would be just over 70m south of the landing site of zip 2, and Garbheinn Cottage would be just over 300m from the landing site of zip 2, however both properties are elevated well above the loch shore and their primary aspect is north towards the launch site, looking across the loch. There are trees lining the road in front of Garbheinn House and Edenmhor which would mitigate their views of the zip lines, however Garbheinn Cottage is in a more elevated and open situation. Lochside Cottage, adjacent to the MacDonald Hotel would be approx. 230m east of zip line 2, and Mamore Lodge would be approx. 730m from the launch site. Houses in the streets north of the schools (Corrie Road, Mamore Road, Callart Road and Riverside Road) would be a minimum of 450m from zip line 2, and the schools just over 500m away.
- 2.6 There are no houses close to the landing site for zip 1 (the nearest being across the loch c.490m away at Narrach Bridge) and no land access to landing point 1 is proposed.

#### 3. PLANNING HISTORY

- 3.1 There is no relevant planning history.
- The application was submitted without a prior application for screening under the 3.2 EIA Regulations. A screening opinion was undertaken by the Council on 08 August and this concluded that this was not EIA development.

#### 4. PUBLIC PARTICIPATION

4.1 Advertised: schedule 3 and unknown neighbour

Date Advertised: 05.07.19

Representation deadline: 18.11.19 (due to consultation on protected species

survey)

Timeous representations: 204 (85 obj. 10 neutral and 109 support)

Late representations: 0

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

# **Comments raised against**

- a) Impact on landscape the wires would be more visible than stated
- b) Impact on tranquillity this area is enjoyed for informal recreation
- c) Noise and disturbance from up to 200 visitors per day
- d) Other sites at the back of the village would be more suitable for this development
- e) It would Prejudice/conflict with other water based activities at the pier and around the head of the loch; impact on navigable waters
- f) Impact on protected species and other animals and birds
- g) Loss of trees
- h) It would attract a large amount of traffic which the village would have difficulty in coping with
- Drivers would be distracted by persons on the zip wires resulting in a danger to road users
- j) Loss of industrial land (to the car park)
- k) The zip lines would cross overhead power lines and the public road how could this be done safely?
- Lack of toilet facilities existing facilities in the village could not cope with the additional visitor numbers
- m) Risk to the zip wires from lightning,
- n) The engineering necessary to anchor this number of cables over this distance will be huge
- This should have been a Major application this was avoided by 2 separate applications being submitted for the car park and the rest of the proposed development
- p) Inadequate fee paid should include all of the area between the 2 pairs of zip lines

### **Comments raised in support**

- a) Project will create employment and increase tourism
- b) Beneficial to regeneration of Kinlochleven
- c) Positive impact on the community
- d) The site is previously developed land with good road access
- e) Area by the pier is in need of investment
- f) Noise not a significant issue
- g) Zip wires not prominent in landscape
- h) Limited environmental disruption
- History of Kinlochleven has seen the village much busier with traffic, people and industry and the infrastructure coped

# **Reps from organisations:**

# 4.3 Kinlochleven Community Trust: support

It will bring economic value and create a number of jobs which is always good for any area. They have been assured that there will be jobs for local people and feel this will be a benefit to the community.

### 4.4 Mountaineering Scotland: neutral

Concern regarding the applicant's assertion that the zip wires are only likely to be perceptible at relatively close distances of 100m - 200m and so would be unlikely to be visible in more distant views. The wires would cross the loch and this would be a significant impact on the NSA. There is no comparative analysis of the potential visibility and this undermines the Visual Impact Appraisal. Scottish Power and the Forestry Commission have guidelines – the Holford Rules - for line routing in the landscape. Rule 1 states "Avoid altogether, if possible, the major areas of highest amenity value"; Rule 4 suggests "Choose tree and hill backgrounds in preference to sky backgrounds"; FC guidance recommends "avoid areas of landscape sensitivity" and "avoid the line of sight of important views". They consider that the single viewpoint on the WHW is insufficient. An assessment of how often and for how long the proposed development would be visible would be beneficial in assessing visual impact.

#### 4.5 Ramblers Scotland: concern

Intrusive visual impact in a NSA. The Visual Impact Assessment fails to assess the full impact. The zip wires would cross north – south across an east- west lying loch and therefore it would be highly intrusive visually as well as introducing an element of noise pollution which would be amplified by the steep sides glen and the loch itself. The claim that the wires will only be visible at close distances of 100m - 200m is questioned, and the fact that customers will provide a moving object for the eye to follow. The quality of the light across Loch Leven is remarked upon in the NSA description and their position means they will be more visible in certain light conditions. The DIO has required aviation warning lights which will add to the sense of intrusion. The suggestion to require an access management plan is supported.

### 4.6 Scottish Rights of Way and Access Society: neutral

Concern at increased traffic impacting on the West Highland Way and the public access network in the area. An access management plan would ensure that access rights are protected.

4.7 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 **Kinlochleven Community Council**: Neutral stance.

KCC public meeting held on 24<sup>th</sup> July was attended by approx. 150 residents representative of both sides of the debate. The range of views is covered in the submitted public representations. The Community Council would like to see a community work together on projects and improvements both in regeneration and investment. This village has been identified as an area highest on the Scottish Index of Multiple Deprivation in Lochaber and surely this has to change.

- 5.2 **Contaminated Land Team**: Recommend a condition requiring a landfill gas risk assessment for the reception building prior to development commencing, due to the proximity of a closed licensed landfill to the site.
- 5.3 **Environmental Health**: No objection subject to conditions relating to noise management, and days and hours of operation. The Environmental Health Officer has made the following comments:

# **Operational Noise**

My understanding is that the application is for two distinct zip wire routes across Loch Leven with two lines for each route. The route to the east is closer to noise sensitive properties and there is potential for noise from the mechanical operation

of equipment moving along the wires and from the participants themselves. The applicant has suggested that the development could ultimately attract up to 200 visitors per day.

#### Mechanical Noise

The applicant has submitted data on the mechanical noise which predicts noise from one wire in operation would be around 56 dB(A) at 1m. This appears to be remarkably quiet but the applicant has confirmed these levels explaining that it is down to the use of a frictionless electromagnetic braking system.

The nearest noise sensitive property is Garbhein House which is located about 100m from the bottom of the east route. The predicted level from the mechanical noise at that distance would be very low at around 20 dB(A). In reality the noise is actually likely to be even lower due to attenuation from trees and topography.

Based on the noise data submitted by the applicant, mechanical noise from the development should not be significant provided the equipment performs as predicted and is adequately maintained.

# Participants Noise

The applicant has advised that the development is not intended to be an adrenaline ride and that the speed of descent will be controlled to some extent. I understand the proposal is for users to go down the west line first which is further away from houses. The idea being that they will be more prepared and less exuberant for when they go down the east line.

That being said, with perhaps up to 200 visitors a day there is obviously still potential for noise from people undergoing such an experience. However, it is extremely difficult to predict or assess that type of noise at this stage. Much will depend on the management of participants but ultimately, it will be difficult for the operator to stop people shouting or screaming once they are under way.

If noise is subsequently found to be a problem it may be that the only option would be to curtail the use of the east route. I understand there may be an option to use sound muffling head gear as part of the personal protective equipment given to participants but this would likely be a last resort.

To clarify, regardless of the Planning issues, should this development proceed, this Service still has powers under the Environmental Protection Act 1990 to investigate noise nuisance complaints.

## Hours of Operation

I am not aware of any proposals for operating hours. I have recommended a restriction on hours in the proposed conditions below but with an allowance for these to be altered with agreement of the Planning Authority.

My understanding is that this will be a daylight only activity and there are no proposals for external lighting.

## Health and Safety

Although not a Planning consideration, prior to operating the operator would be required to undertake a thorough risk assessment of the activity. This will include consideration of weather related risks which may have some bearing on operating periods.

#### Summary

Based on the noise data submitted by the applicant, mechanical noise is unlikely to be a significant issue.

I am unable to assess the likelihood of complaints about participant noise with any degree of accuracy. I do not consider that it is likely to constitute a Statutory Nuisance provided adequate management controls are in place but there is potential for some impact on the amenity of residents.

Flood Risk Management: No objection subject to 2 planning conditions relating to the finished floor level of the reception building, and the establishment of an escape plan for vehicles using the car park and the public using the building/facilities.

For the reception building a freeboard of 600mm is sought on top of the 1 in 200 year flood level of 4.52m AOD for this stretch of coastline, plus a further 250mm to allow for climate change. The finished floor level should therefore be no less than 5.37m AOD. The building should have appropriate water resistance and resilience measures.

The site is a "Water compatible use" and therefore parking at a level lower than 5.12m will be acceptable – it is shown at approx. 4.7m AOD. Private car parking will be at another location. However an escape plan for vehicles using the car park and the public using the reception building and facilities is recommended.

The 6m standoff from the culvert is welcome. The building will also be more than 6m from the intersection of a watercourse to the south, and a watercourse draining the adjacent hillside to the east.

- 5.5 **Access Officer**: No objection subject to condition relating to public access commitments including
  - Accommodate public access along the Core Paths and wider paths network before, during and after the development is completed
  - The provision of gaps of at least 1.5m beside any new and/or temporary gates installed anywhere on core paths or the wider network along with a plan of where those gates will be placed
  - A signposting scheme for and physical improvements to core paths and the wider paths network to safely accommodate continued public access during construction and operation
  - A scheme for permanently signposting the West Highland Way crossing of the Mamore Lodge Road.

An access management statement could be sought by condition before development commences to address all of the above together, in order to uphold access rights and policies 77 and 78 of the HwLDP.

- 5.6 **Transport Planning**: No objection in principle subject to receipt of further information, including:
  - Method for installing the cables over the B863
  - How will items be prevented from falling from zip line users?
  - Route of the minibuses?
  - Accessibility issues at all locations particularly the path to the launch site and the route from the furthest zip line back to reception
  - number and spacing of passing places on the single track road to Mamore Lodge, and a technical drawing of the proposed minibus turning area
  - Waste and recycling details
  - Construction Traffic Management Plan
  - Details of waste storage and recycling provision, and collection arrangements
- 5.7 **Forestry Officer:** Advised the submitted tree information covers the reception and one landing area, but not the take off point and the other landing station. A drawing to show the position of all trees on and adjacent to the development site along with their crown spread is required.
- 5.8 **SEPA:** Initial objection withdrawn following receipt of a further drawing of the Reception and Landing Platform Initial Layout Plan (Revision B) and this becoming an approved plan.

- 5.9 **SNH:** No comments.
- 5.10 **Marine Scotland:** No comments. A Marine Licence will be required for the works below the Mean High Water Springs.
- Defence Infrastructure Organisation: No safeguarding objections. In the interests of Air Safety, the MOD requests that the structure is fitted with aviation warning lights. Any tall structure should be fitted with a minimum intensity 25 candela omni-directional flashing red light or equivalent infra red lighting at the highest practicable point of the structure. In addition, the launch and landing areas should also be fitted with a single warning light.

DIO requests, as a condition of any planning permission granted, the developer must notify UK DVOF and Powerlines at the Defence Geographic Centre with details of the development prior to development commencing.

#### 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
- 30 Physical Constraints
- 31 Developer Contributions
- 34 Settlement Development Areas
- 36 Development in the Wider Countryside
- 41 Business and Industrial Land
- 42 Previously Used Land
- 43 Tourism
- 49 Coastal Development
- 51 Trees and Development
- 56 Travel
- 57 Natural, Built and Cultural Heritage
- 58 Protected Species
- 59 Other important Species
- 60 Other Importance Habitats
- 61 Landscape
- 63 Water Environment
- 64 Flood Risk
- 65 Waste Water Treatment

- 74 Green Networks
- 77 Public Access
- 78 Long Distance Routes

# 6.2 West Highland and Islands Local Development Plan Sept 2019

# **Kinlochleven Placemaking Priorities**

- Safeguard and revamp the industrial heritage of the area by promoting a mixed use redevelopment of the brownfield smelter site
- Protect the natural heritage of the settlement by allocating previously developed land such as the former smelter site
- Safeguard, through appropriate siting and design, areas protected or otherwise important for nature conservation or landscape qualities, in particular the Ben Nevis and GlenCoe NSA
- Secure active travel connection and green network improvements with all new developments.

# 6.3 **KN04: Quay**

#### **Use: Business/Tourism**

Developer requirements: Flood risk Assessment; Protected Species survey, protect existing woodland with integration to the green network wherever possible and compensatory tree planting; Road and active travel connection improvements to village centre; safeguard operational and maintenance access to sewerage facility; Air quality (odour) assessment; Land contamination site investigation; programme of archaeological works/mitigation may be required; high quality of siting and design that will avoid adverse impacts on the special qualities of the Ben Nevis and Glencoe NSA.

#### 6.4 KN03: Smelter

# Use: mixed use (Housing Community, Business/Tourism, Retail

Developer requirements: Flood Risk and drainage Impact Assessment; minimum 6m buffer between watercourses and development; public sewer connection; setback from existing trees and woodland and integration of green network; protected species survey; land contamination site investigation; high quality of siting and design that respects the category A listed smelter powerhouse and its setting and the setting of the adjacent Category B listed carbon factory silos and avoid adverse impacts on the special qualities of the Ben Nevis and GlenCoe NSA.

### 6.5 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (March 2013) Flood Risk and Drainage Impact Assessment (Jan 2013) Green Networks (Jan 2013) Highland Historic Environment Strategy (Jan 2013) Highland's Statutorily Protected Species (March 2013) Physical Constraints (March 2013) Sustainable Design Guide (Jan 2013) Trees, Woodlands and Development (Jan 2013)

## 7. OTHER MATERIAL POLICY CONSIDERATIONS

# 7.1 Scottish Government Planning Policy and Guidance

Para 83. In remote rural areas, where new development can often help to sustain fragile communities, plans and decision-making should generally:

- encourage sustainable development that will provide employment;
- support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy;
- include provision for small-scale housing and other development which supports sustainable economic growth in a range of locations, taking account of environmental protection policies and addressing issues of location, access, siting, design and environmental impact;

Para 212. Development that affects a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve should only be permitted where:

- the objectives of designation and the overall integrity of the area will not be compromised; or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance

#### 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**

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) landscape and visual amenity
  - c) amenity
  - d) impact on trees
  - e) impact on protected species

- f) flood risk and surface water drainage
- g) contaminated land
- h) access and parking
- i) military safeguarding; overhead lines and other safety issues
- j) public access
- k) procedural issues
- I) any other material considerations

# Development plan/other planning policy

- The main elements of the proposed development, apart from the launch site, 8.4 would be within the Settlement Development Area for Kinlochleven, which is a "Main Settlement" in the West Highlands and Islands Local Development Plan. Policy directs that the majority of future developments should be directed to such The zip wire attraction would complement existing tourist Main Settlements. facilities in Kinlochleven and the surrounding area, and it would be likely to increase the length of people's stay, increase visitor spending and promote the area to a wider spread of visitors. It would help to support the community by helping to maintain and re-populate the community and strengthen services in the village. Subject to satisfactorily addressing issues surrounding access, and the management of natural, built and cultural heritage features it would accord with policy 43 in respect of tourism and policy 34 in being located in and associated with a Main settlement. The launch site and landing structure for zip 1, which would be beyond the settlement, in the wider countryside, are relatively small scale structures in natural materials that would be sited within a landscape that has the capacity to accommodate them, subject to detailed consideration of their siting and design, as discussed below. The development would therefore accord in principle with policy 36. The zip lines themselves are discussed further below.
- 8.5 The reception building and landing for zip 2 would be part within and immediately adjacent to site allocation KN04 in the WHILDP and the car park would be within allocated site KN03. The use of area KN04 for a proposed tourist facility would accord with the land use allocation. The developer requirements have broadly been addressed for site KN04, as covered further in the assessment below. The reception building would not be regarded as high quality, but it would be well contained in a discreet location, coloured green and with steeply rising ground behind, and surrounded by woodland which would mitigate its utilitarian visual appearance.
- 8.6 The car park and welcome cabin on the former smelter site would also fit in with the proposed land uses identified in the Local Development Plan. The parking would involve minimal works to the existing ground, and it would be a sufficient distance away (+100m) not to adversely affect the setting of the listed power station building. It would similarly have a minimal impact on the setting of the former carbon silos approx. 80m away (now the Ice Factor climbing centre).

## Impact on landscape and visual amenity

- 8.7 The development would be within the Ben Nevis and Glencoe National Scenic Area, which is a designation of national importance. The special qualities of the NSA include the fjord like sea loch of Loch Leven which provides a sense of enclosure. The expanse of calm waters affords a far brighter light to pervade than across the moor or within the Glen, and this significantly contributes to the quality of the place, particularly at dawn and dusk. Vistas from sea level and from the slopes surrounding Loch Leven are stunning. Kinlochleven itself has a particular charm enhanced by its long access route and enclosed setting.
- 8.8 The proposed development would be unlikely to significantly impact on the overall integrity of the designation, given its extent and the massive scale of the landscape. However the proposed development's location at the head of the loch and the fact that the zip wires would span the loch itself is significant, as this area is important in so many views from the roads along both sides of the loch, the surrounding hills, and from the village itself. Its visual impact must be weighed against the social, environmental and economic benefits of the development, and only if these benefits are considered to be of national importance, then the proposal would accord with SPP, and policies 57 and 61 of the HwLDP.
- 8.9 The submitted visual impact appraisal (VIA) has assessed how conspicuous the elements of the development would be from 9 viewpoints. Photomontages were prepared from each of these locations. The viewpoints:
  - a. the bench at the head of the loch
  - b(1). Track to pier east immediately east of access gate
  - b(2). Track to pier west where the track splits to the waste water treatment works
  - c, grounds of MacDonald Hotel
  - d. Riverside Road junction with B863, just north of The Tailrace Inn.
  - e. Garbheinn House area
  - f. pipes adjacent to West Highland Way at the timber bridge over the hydro pipes
  - g. 50m east of the entrance into picnic area off B863 south west of the village
  - h. Beinn na Caillich summit
- 8.10 The VIA states that the wires would be difficult to see at distances greater than 620m given their diameter at 18mm, although this will vary considerably due to the light conditions, and when the wires are new they will be more conspicuous until the galvanised coating weathers, which would take 1 2 years. Elsewhere in submitted documents the applicant claims they would be difficult to see beyond 100m 200m. The basis for this alternative figure is unclear. The degree of contrast between the dark lines and a light sky or the loch will determine how visible the wires would be, and this will vary considerably. Where the wires are seen against woodland or the hills they will be far less conspicuous. The lighting required by DIO can be infra red so will not add to the visual impact.

- 8.11 From all of the identified viewpoints the launch site would be a sufficient distance away not to be conspicuous in the wider landscape given its relatively small size (see indicative picture in supporting information by JLL) and because it would be a timber structure with a turf roof seen against the slope behind, and it would be sited amongst woodland. From the track between Mamore Lodge and the TV mast it would be set well down below the level of the track, and so not visible from the track. From the WHW, below where the path comes up to meet the track, west of the TV mast, the launch structure would be on the wooded slope at a distance of approx. half a km. It is likely that the folds of the hillside and woodland would largely screen views of the launch structure itself from the WHW path at this point. Similarly the private road (also a public path) up to Mamore Lodge is through woodland, which would screen views of the launch site from here.
- 8.12 The zip wires themselves would be most visible from the MacDonald Hotel (viewpoint c), the house adjacent to the hotel (Lochside Cottage) and from houses in Leven View which are over the road from the hotel; from the bench at the head of the loch (viewpoint a) and the access track to the pier and around the head of the loch. Zip wire 2 would be approx. 290m from the MacDonald Hotel - and closer to Lochside Cottage (c.235m). Zip line 1 meanwhile would be c.830m from this viewpoint, which is probably too distant to be seen. The nearer zip line would be viewed from the hotel, Lochside Cottage and houses in Leven View, visible against the sky, crossing above the loch from right to left. It would mean looking up at this point however, whilst the main view would still be down the loch and the focus would be the loch framed between the prominent hills of Benn na Caillich and the Pap of Glencoe. This is considered to be one of the most significant visual impacts of the proposal on residential properties. Whilst the zip line would be prominent from the hotel and beer garden, it would not be likely to detract visitors from the hotel or the camping lodges which are within its grounds.
- 8.13 Persons walking in the general area around the head of the loch and pier, or fishing at the mouth of the river, would be relatively close to the zip wires, particularly zip line 2. Views would be intermittent because of the woodland and the direction of view, with the whole development being difficult to see from the nearest locations because of intervening woodland or other obstacles. From the bench at the head of the loch zip 2 would be behind you when looking down the loch, and screened by nearer woodland.
- 8.14 From viewpoint b(1) the locked gate on the access track to the pier views would be intermittent and largely screened by the surrounding woodland. The nearest zip line would be approx. 340m from here. From further up the track (viewpoint b(2), where it splits to the boatshed and waste water treatment works), zip line 2 would pass almost directly overhead. It would be visible for a relatively short distance to the north of this point above the woodland, to the landing platform immediately to the south. At this point the impact would be as much on amenity as visual at this proximity. Persons walking here would be acutely aware of persons going overhead at this point.

- 8.15 The further zip line 1 would be c.645m from here at its closest point, and it would cross the loch c.770m from here. At these distances the further zip line would be at the limit of visibility. At its closest, zip line 1 would have the woodland as a backdrop, which would have a mitigating effect, and where it would otherwise be most conspicuous, across the loch, it would be further away. Beinn na Caillich is the main focus in views down the loch from here and this view would not be significantly impacted by the introduction of zip line 1.
- 8.16 The area around the head of the loch contains a dilapidated boatshed and the pier is semi derelict. The area was industrial in the early days of the smelter and power station, and it is now a somewhat neglected area that has natural regeneration.
- 8.17 From the residential area near the schools a viewpoint was chosen close to The Tailrace Inn (viewpoint d). Many of the houses in this area would have partial views of the nearer zip line 2 where it is not obscured by buildings or vegetation nearer to the viewer. The houses at the end of Riverside Road would be approx. 450m away from zip 2 at its closest point, and many of the houses in these streets face west - north-west, towards the zip wires which would run right to left across the view. The launch site would be up to 900m from here and the cables would not be visible at this distance, however as zip 2 descends it would become visible although it would be seen initially against the backdrop of the woodland. Some of the houses would see zip line 2 where it would cross above the head of the loch by the mouth of the river, and it is likely to have some effect on the amenity of those residents. The view from most of these houses would be at least partially obscured by trees and other structures however, and the wires themselves would be a reasonable distance away at this point. In evening light they may be silhouetted against the sky, and persons riding the zip wires would be obvious and draw the eye. The extent to which this impact would affect residents' amenity would be partially dependent on their attitude towards the development, and the extent to which they value this view. This is considered to be an area of moderate visual impact on residents.
- 8.18 The west facing elevation of the primary school would face towards zip 2, however the building is set well down and the woodland near to the building would screen any views from here.
- 8.19 The landing zones and reception would not be visible from this part of the village.
- 8.20 The houses on Garbheinn Road (viewpoint e) are elevated, and they would look along the lines from above the landing site of zip 2, up towards the launch site. They would be closer to zip 2 than houses near the schools, and the visual impact would be different in that the view would be along the lines, or just off to one side, with the riders coming towards the viewpoint. This is likely to be less intrusive visually, although this may depend on the viewer's attitude towards the development. The views from houses on Garbheinn Road are largely screened by trees along the road, which will significantly mitigate the impact of the zip lines from here, particularly in summer, when it is likely to be busiest. Edenmhor does have windows in the upper floors which would be likely to have a clear view, and Garbheinn Cottage is higher up on the main road above the trees, and would

have an uninterrupted view of the zip wires, zip 1 being c.600m away to the NW and zip 2 c.300m to the NE. The wires would descend straight down the slope across the glen and disappear from view below a ridge in front of the cottage. The visual impact would be moderate from this property; again, the extent to which this would impact on residents would partly depend on their attitude towards the development. This is currently a holiday cottage. The impact of the zip lines on its appeal to visitors could work either way – it may be more attractive to those seeking out such a venture, or less attractive to those seeking tranquillity.

- 8.21 The views of the development from the hydro pipes and WHW to the SW of the village (viewpoint f) would be so distant, +1km, as to be negligible.
- 8.22 Similarly, from the layby on the A863 just east of the picnic site on the south side of the loch (viewpoint g) the development would be difficult to see. Zip 1 would be approx. 747m away at its nearest point and the launch site +2km away. The zip lines would be seen against the hillside except for a short section across the loch in this view where it might just be visible in certain light conditions. The addition of persons riding the zip wires would mean the development may be visible along this stretch of road from this viewpoint to the top of the hill where the road descends through trees into the village. The development is likely to be viewed in the wider landscape context of the village and other developments in the vicinity, including hydro developments, forestry works and other tourist developments, such as the caravan site on the south shore of the loch.
- 8.23 Lastly, from the summit of Beinn na Caillich (viewpoint h), the development is similarly too distant to be visible, at +3km. The path on the east ridge of this hill would command a bird's eye view of the development, albeit at a distance of over 2km. The movement of persons on the zip wires may attract attention and draw the eye, however the impact on walkers at this distance is not likely to be significant.
- Similarly, the path up to Loch Eilde from the car park on Wades Road has a fine view straight down the length of the loch (not a viewpoint in the submitted VIA). Again, the nearest zipline 2 would be sufficiently distant, c.1½km, from the point at which this path emerges from the trees affording views down the loch, that the wires would not be visible. Persons on the zip line may draw the eye, but would not present a significant visual impact at this distance.
- 8.25 The visual impact of the nearest zip line 2 would be significant from Lochside House, next to the MacDonald Hotel, the houses in Leven View and from the non residential area around the head of the loch. From the houses near to the schools zip 2 would be partially visible where not obscured by vegetation or buildings, but not overly conspicuous, and from Garbheinn Cottage both zip wires would be seen, against the woodland across the loch, with riders on zip 2 sliding towards the viewpoint. The route of the zip lines across the loch would not normally be a line that an overhead power or telephone line would take as the (Scottish Power) guidance would caution against crossing such a sensitive landscape in this way. The zip wires would not dominate the view even from where they would be most conspicuous, however, due to the scale and grandeur of the landscape. The 2 prominent hills of Beinn na Caillich and the Pap of Glencoe would remain as the sentinel features framing the loch, and the eye is

drawn down the length of the loch, or to the dramatic mountainous skylines. The development is therefore considered not to significantly conflict with policies 57 and 61.

## Impact on amenity

8.26 The impact on amenity would be most significant in the area close to the landing point for zip 2. This area is well used for informal recreation as it provides a tranquil area by the loch shore with good views down the loch, particularly in the late afternoon and evening. This area also provides access to the loch itself although the slipway and pier are dilapidated and appear to be little used. There is a pair of cottages (Moorings and Levenside) just above the track to the pier which would be affected by an increase in disturbance due to the additional vehicular use of this access. Although relatively close to zip line 2 and the landing platform, the woodland will largely screen these cottages from views of the development itself. They would however hear the land train on the access track

which passes close by, and they would experience increased disturbance from customers coming in to land on zip line 2 and from the activity around the reception building, which includes a café.

- 8.27 The managed vehicular access from the car park in the village would mean that the amount of additional vehicular traffic would be minimised however. This area is allocated in the WestPlan for tourist development and business uses and it is likely that any development of this area would bring an increase in traffic along this track. The woodland either side of the track would remain and this would assist in screening these houses from increased disturbance.
- 8.28 The amount of disturbance experienced by people at Lochside Cottage, the MacDonald Hotel and from houses in Leven View would be greater than from residents at Garbheinn Cottages, although they are similar distances away from the zip wires. From the MacDonald Hotel area, the zip lines and riders would be seen against the sky and any noise would be contained by the steep sides of the glen. The houses by Garbheinn House and Garbheinn Cottage meanwhile would lose the views as the zip wires dip down out of sight to the landing places. The area around the reception building would however be a focus for noise from participants as they finish the ride, and from friends and family etc who may be watching from here. From these receptors the noise impact may be greater than the visual impact.
- 8.29 The noise from the zip mechanism itself is considered not to be significant. However the level of noise from participants is very difficult to anticipate. There are no comparable zip wires given their proposed length and the particular geography at the head of a steep sided loch and on the edge of the village. It is not anticipated that the use of the zip wires would result in a statutory noise nuisance however, and it is considered possible to mitigate the noise by various means including physical equipment such as visors and limiting the hours and days of operation. The conditions recommended by Environmental Health to secure a Noise Management Plan and to restrict the number of days and hours that the venture can operate would satisfactorily address these concerns.

- 8.30 The applicant is seeking operation during daylight hours from 8am to 8pm during the summer, 7 days a week. During the winter this would reduce to 9am to 3.30pm 5 days a week (closed Tues/Weds). This is in order to accommodate the seasonal nature of the tourist market, accommodate walkers on the WHW who would be likely to be in the area at the beginning and end of the day, and ensure the viability of the project.
- 8.31 Environmental Health would however regard the following hours as reasonable: 9am to 6pm Monday to Saturday and 10am to 6pm on Sundays, with consideration given to having no operation on at least one day a week. A condition to this effect is recommended. The applicant would have a right to apply to vary the condition or to appeal it if they found this proved to be too limiting for the business.

#### Impact on trees

- 8.32 The development would have a direct impact on a small area of woodland close to the launch site. The construction of the path to the launch site and the launch structure largely follows a gap in the woodland, however it would involve the loss of approx. 20 small trees, all less than 75mm in diameter at 1.5m above ground. Whilst this is an area listed on the Ancient Woodland Inventory the area of woodland to be lost would be less than 0.1Ha.
- 8.33 Six trees would be lost at landing site 2 and on the approach to the landing site: 5 silver birch and 1 beech, all of low/medium quality, and ranging from 5m to 12m in height. A condition is recommended seeking further details of the precise extent of tree loss at landing site 1, and a condition recommended to secure protection measures for the trees that are to remain.
- 8.34 The amount of tree loss would be minimal, and provided appropriate protection measures are put in place during construction, and compensatory planting provided with appropriate native species the proposed development would not conflict with policy 52 and the Trees Woodland and Development Supplementary Guidance.

# Impact on protected species

- 8.35 Surveys for protected species were undertaken at the three main locations: reception, launch site and landing 1. The areas potential for breeding birds of conservation importance and risk of bird collision with the zip wires was also appraised.
- 8.36 The development locations are mainly within broadleaved woodland and the landing sites are situated immediately adjacent to or near to coastal habitat, comprising rocky shoreline. Habitat under the lines is mainly broadleaved woodland, and they also pass over a small area of grass/saltmarsh and open water.
- 8.37 Two trees near to the eastern landing site were assessed as having some bat roost potential and pipistrelle and Daubenton's bats were observed foraging. Surveys detected the presence of otter within around 100m of the western landing

site. Two confirmed resting-up sites and 6 potential resting up sites were recorded during the survey. No breeding holts were located and none of the confirmed or potential resting up sites located were considered to be optimal as breeding holts. No other protected species were detected, although species such as red squirrel and pine marten are likely to be present. No substantial adverse effects are predicted to occur to any protected species.

- 8.38 A relatively small number of common bird species were recorded all of which are likely to breed in the area. The habitat could support several other species during the bird breeding season, including some red-listed birds of conservation concern. The development is not predicted to result in any adverse effects on local bird populations through habitat loss, disturbance or as a result of collision with the lines.
- 8.39 Key recommendations listed in the report:
  - Retention of trees with bat roost potential; pre-construction checks by a licensed bat worker if these trees will be removed, de-limbed or disturbed
  - Provide bat boxes on nearby trees
  - Pre-construction checks for the presence of otter resting up sites near to the landing areas
  - Pre-construction checks for the presence of other protected species that may occur in the area, ie. Red squirrel, badger, pine marten and wildcat
  - A speed limit of 20mph on the access route
  - If possible undertake construction works outside the bird breeding season. If not possible, habitats should be checked by an experienced ecologist for nesting birds prior to works commencing. If birds are found to be nesting, delay any work that may affect them until the young have fledged and the nest has been abandoned naturally
  - Provide nest boxes as compensation for possible displacement of nesting birds
  - Ensure compliance with all regulations and best practice guidance to safeguard the terrestrial and freshwater environment
  - Produce a dust management plan to prevent any impacts to Ancient Woodland

A condition is recommended to ensure the mitigation set out in the report is incorporated into the construction and development.

# Flood risk and surface water drainage

The reception building would be just above the 1 in 200 year flood risk level taking into account local conditions and climate change. A condition is recommended to ensure the finished floor level is no lower than 5.37m AOD, and it is recommended that the building is constructed with flood resistant materials and to ensure the design is resilient.

- As the reception building is a place of work and a tourist facility to which people would visit, rather than a house where people would live, it is regarded as a lower risk than a domestic dwelling house. An escape plan should nevertheless be devised to ensure staff and visitors would be able to vacate the premises in an orderly manner to a place of safely should flooding occur.
- 8.42 The position of the reception building and landing site were revised to avoid a small watercourse, where it comes down the steep rocky slope and a small culvert.

#### **Contaminated Land**

8.43 The presence of the former landfill close to the reception building requires further consideration to ensure that the development, particularly the introduction of services to the building, do not open up a pathway for contamination. It is not proposed to disturb the ground for the proposed car park on the former smelter site however; a top dressing of crushed stone would be laid over the existing material only. A condition is recommended to secure a landfill gas risk assessment to include what, if any mitigation is required to ensure the integrity of the site.

## Access and parking

- The Council's Transport Planning Team has not raised any concern regarding the adequacy of the roads into Kinlochleven, or their capacity to accommodate the predicted traffic generated by this proposal. A proportion would be visitors and locals who would be in the area anyway. Kinlochleven has been successful in promoting itself as a place for outdoor enthusiasts and as a focus for several events which have become regular annual fixtures in the village, such as the Six Day Trials, the pre-65s, and mountain running events such as the Skyline Race. Some of these events use the former smelter site including the proposed parking area for their event parking, however it is anticipated that there would be enough space to accommodate parking for these occasional events and the zip wire parking without significant problems.
- 8.45 A Construction Traffic Management Plan is sought and this should include how the zip lines would be installed over the public road, and further details of the enlargement of the minibus turning area.
- 8.46 The management of visitors by using the land train would minimise vehicle movements between the car park, reception and launch site. The private single track road up to Mamore Lodge could accommodate the anticipated 4 journeys an hour by the land train. The use of this road would continue to be restricted as at present by a locked gate, so preventing the wider public from taking vehicles up to the Lodge. Mamore Lodge is vacant and unused at present. It could be brought back into use as a hotel without the need for planning permission; however it is likely to require significant works to bring it back into habitable use from its current condition. If it did re-open as a hotel in the future, the gated private access could

still be controlled by the landowner, and so limit vehicular access by the public. A condition is recommended to ensure that customers are transferred between the elements of the site by a single vehicle rather than lots of separate trips being generated.

8.47 Details of waste provision, recycling and arrangements for its collection, primarily from the reception and café, is also sought by condition.

# Military safeguarding; overhead lines and other safety issues

- The DIO is satisfied that the developments would not pose a safety risk to aircraft provided details are provided to them for recording on the relevant charts, and appropriate lighting is installed on the structures. Infra red lighting may be used, which would not be visible to the human eye.
- 8.49 The developer states that SSEN will bury the overhead power lines where the zip wires would otherwise pass over them, thereby avoiding any conflict from a health and safety aspect. The zip lines would have lightning protection.
- 8.50 Cores would be drilled into the ground and fixings used to secure the zip lines directly into the bedrock thereby minimising the impact and size of construction at either end.
- 8.51 The lines would cross the mouth of the river at a height of approx. 35m, which is considered high enough not to interfere with fishing activities. The lines would be just above the tree tops where they cross the path to the pier.
- 8.52 Customers would wear a "coverall" to ensure items are not dropped whilst riding down the zip wires.

#### Public access

- 8.53 The proposed development would not introduce any restrictions to public access on the land other than to the structures that form part of the launch and landing sites. An Access Management Plan is sought to include improved signage to ensure the development does not deter the public from exercising their existing rights to use the Core Paths which include the circuit around the head of the loch, and the WHW Mamore Lodge circuit from the main road. The point where the WHW crosses the private drive up to Mamore Lodge is reasonably well marked, however a warning sign at this point, and at the path track junction west of the TV mast would be desirable to warn walkers of the zip lines going overhead.
- There would be a requirement to install safe navigation channel buoys in the loch indicating the area where the height clearance is the same as that under the Ballachulish Bridge (16m at the Highest Astronomical Tide HAT). This would be addressed by Marine Scotland and not as part of the planning process. The applicant states that a notice to mariners will be issued as for the notification to aircraft. They state that there is no need for the channel marking buoys to have lights fitted. Small boats will be able to cross under the wire in the non navigable area marked in red on a submitted drawing; the green navigable area ensures

that any vessel that can get under the Ballachulish Bridge can also get under the zip line 1. This aspect is outwith planning's jurisdiction and will be addressed under the marine licencing regime.

8.55 Access to the proposed new jetties would not be restricted and may present an opportunity for increased access to the water. The landing platforms would be gated when not in use.

#### **Procedural issues**

- 8.56 Two planning applications have been submitted; one for the majority of the scheme and a separate application for the car park on the former smelter site. There is no procedural reason why they could not have been submitted as a single application. Objectors have claimed that the developer was seeking to avoid it being a "major application". However the combined area of the 2 applications is under 1.5Ha, whereas the relevant threshold for a major development is where the site area exceeds 2Ha.
- 8.57 Should the proposal have constituted a major development it would have been considered in a similar way in any event, except there would have been a requirement for more formal publicity and notification to the local community prior to the planning application's formal submission.
- 8.58 A question has also been raised about the way the fee for the application was arrived at. The combined area of the various elements was added together, and the fee is checked by the Council as part of the application validation process. It is submitted by some objectors that the area in between the 2 zip wires should have been included in this figure, which would have significantly increased the total area and therefore the planning application fee (and made it a major application). There is no specific guidance in the fees legislation for such developments. It is considered that there is no justification to require this space to be included within the application site, and so contribute towards the fee, as future development would not necessarily be prevented in the gap between the zip lines, for instance at the head of the loch, west of zip 2.

### Any other material considerations

- 8.59 The developer would be obliged to undertake a comprehensive risk assessment regarding health and safety relating to the construction and operation of the zip lines. This is covered by other legislation and would only be relevant to planning where it has implications for the design and operation of the development, such as undergrounding electric cables. Further details of this are addressed by condition.
- 8.60 The Planning Authority is obliged to consider the application as submitted, on its merits. Alternative sites in the vicinity were investigated by the applicant and found not to be suitable due to the profile of the hillside. It is not justifiable in planning to refuse a proposal because another site may be preferable.

#### Non-material considerations

- 8.61 The proposal would appear to involve considerable investment and an onerous management responsibility. The likely viability of the scheme is not a material planning consideration however. It is a matter for the developer and their backers to ensure a proper business plan is drawn up and due diligence undertaken.
- The applicant has stated that a percentage of the profits from the development would go to the local community. This is not a material planning consideration.

## Matters to be secured by Section 75 Agreement

8.64 None

#### 9. CONCLUSION

- 9.1 The development would not have a significant adverse impact on the landscape or the integrity of the National Scenic Area. There would be a moderate impact on visual amenity from the area around the MacDonald Hotel, Lochside Cottage and Leven View. From most properties in the village and from the south side of the loch the visual impact would be modest. The scale of the development would be proportionate to the location, and it would complement existing tourist facilities in Kinlochleven. It would increase the length of peoples stay, increase visitor spending and promote a wider spread of visitors. The development would be focussed around a site which is allocated in the Local Development Plan for such developments.
- 9.2 The impacts in terms of the appearance of the structures and impacts on amenity can be adequately mitigated by planning conditions. All other material planning considerations can be satisfactorily addressed through conditions.
- 9.3 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. 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

Action required before decision issued N

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

**Subject to the above,** it is recommended that planning permission be **GRANTED,** subject to the following:

#### Conditions and Reasons

1. Prior to construction commencing, the applicant shall submit for the approval of the Planning Authority a noise management plan which covers mechanical noise and noise from participants. The plan should include a specification of the type of equipment to be used and confirmation of the predicted noise levels. It should also include management proposals to curtail noise from participants. The development shall thereafter be operated and managed in accordance with the approved Noise Management Plan.

**Reason**: In order to protect occupants of nearby housing from noise and disturbance in the evenings and for a minimum of one day a week, in accordance with policy 28 of the Highland wide Local Development Plan.

2. Unless otherwise agreed by the Planning Authority, the hours of operation shall be restricted to daylight hours between 9am and 6pm Monday to Saturday and between 10am and 6pm on Sundays. The zip wires shall not be operated on at least one day a week, that day to be agreed in writing by the Planning Authority as part of the Noise Management Plan referred to in condition 1 above.

**Reason**: In order to safeguard the amenity of neighbouring properties and occupants in accordance with policy 28 of the Highland wide Local Development Plan.

3. The Finished Floor Level (FFL) of the reception building shall be no lower than 5.37m AOD.

**Reason**: To avoid the risk of coastal flooding, in accordance with policy 64 of the Highland wide Local Development Plan.

4. The development shall not be brought into use until an Escape Plan for vehicles using the car park by the loch and the public using the reception building has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the plan shall be clearly displayed in the reception building, and brought to staff's attention as part of their induction training.

**Reason**: To safeguard staff and visitors in the event of flooding, in accordance with policy 64 of the Highland wide Local Development Plan.

5. No development shall commence until a detailed Outdoor Access Plan for public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority. The plan shall include details showing:

All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;

Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to proposed buildings or structures:

All proposed paths, tracks and other routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.);

Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the development (including details of mitigation measures, diversion works, duration and signage).

The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the first occupation of the development or as otherwise may be agreed within the approved plan.

**Reason**: In order to safeguard public access both during and after the construction phase of the development in accordance with policies 77 and 78 of the Highland wide Local Development Plan.

- 6. No development shall commence until the developer has notified in writing UK DVOF and Powerlines at the Defence Geographic Centre with the following information:
  - Precise location of development
  - Date of commencement of construction
  - Date of completion of construction
  - The height above ground level of the tallest structure
  - The maximum extension height of any construction equipment
  - If the structure will be lit with air navigation warning beacons

**Reason:** In the interests of the safety of aircraft, in accordance with policy 30 of the Highland wide Local Development Plan.

7. No development shall commence until details of the infra red lighting have been submitted to, and agreed in writing by, the Planning Authority. Details to include the number and position of all lights required by the Defence Infrastructure Organisation.

**Reason:** In the interests of the safety of aircraft, in accordance with policy 30 of the Highland wide Local Development Plan.

8. No development shall commence until precise plans and elevations for the launch structure, reception structure and landing structure for zip 2 (including the walkway), and landing structure for zip 1 have been submitted to and agreed in writing by the Planning Authority. The development shall thereafter be undertaken in accordance with the approved plans.

**Reason:** To ensure the structures have a high quality appearance appropriate to the National Scenic Area, in accordance with policies 28, 29, 57 and 61 of the Highland wide Local Development Plan.

9. The development shall be undertaken strictly in accordance with the mitigation set out in the Protected Species Survey Report and Advice for the Zip Line development, Kinlochleven by Direct Ecology, dated 23.10.19.

**Reason:** In order to safeguard protected species, in accordance with SPP and policy 58 of the Highland wide Local Development Plan.

- 10. No development shall commence until a scheme to deal with potential contamination within the application site has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:
  - the nature, extent and type of contamination on site and identification
    of pollutant linkages and assessment of risk (i.e. a land contamination
    investigation and risk assessment), the scope and method of which
    shall be first submitted to and approved in writing by with the Planning
    Authority, and undertaken in accordance with PAN 33 (2000) and
    British Standard BS 10175:2011+A1:2013 Investigation of Potentially
    Contaminated Sites Code of Practice;
  - the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
  - measures to deal with contamination during construction works;
  - in the event that remedial action be required, a validation report that validates and verifies the completion of the approved decontamination measures;
  - in the event that monitoring is required, monitoring statements submitted at agreed intervals for such time period as is considered appropriate in writing by the Planning Authority.

Thereafter, no development shall commence until written confirmation that the approved scheme has been implemented, completed and, if required, on-going monitoring is in place, has been issued by the Planning Authority.

**Reason:** In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes near to the site in accordance with policy 42 of the Highland wide Local Development Plan.

11. No development shall commence on site until a Construction Traffic Management Plan (including a routing plan for construction vehicles) has been submitted to, and approved in writing by, the Planning Authority. The approved construction traffic management plan shall be implemented prior to development commencing and remain in place until the development is complete. The CTMP to include details of the B863 road crossing.

**Reason:** In order to ensure the safety and free flow of traffic on the public road, in accordance with policy 56 of the Highland wide Local Development Plan.

12. Vehicular access by customers to the reception and launch sites shall be limited to that provided by the developer, except for disabled access. The developer shall manage the movement of customers between the car park, reception and launch sites by providing transport, details of which shall be included in the Noise Management Plan referred to in condition 1 above.

**Reason**: In order to protect occupants of nearby housing from additional traffic noise, in accordance with policy 28 of the Highland wide Local Development Plan.

13. No development shall commence until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

**Reason**: To ensure that waste on the site is managed in a sustainable manner in accordance with policy 28 of the Highland wide Local Development Plan.

14. No development, site excavation or groundwork shall commence until a detailed Tree Survey and report has been undertaken for landing site 1. The Tree Survey and Report to identify the precise extent of tree loss in this area.

**Reason**: To help inform the extent of tree protection measures and replanting as required in conditions 16 and 17 below, in accordance with policy 51 of the Highland wide Local Development Plan.

No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

**Reason**: In order to ensure the protection of retained trees, which are important amenity assets, during construction in accordance with policy 51 of the Highland wide Local Development Plan.

16. No development, site excavation or groundwork shall commence until a Tree Planting Plan and Maintenance Programme has been submitted to, and approved in writing by, the Planning Authority. The approved Tree Planting Plan shall be implemented in full during the first planting season following commencement of development, or as otherwise approved in writing by the Planning Authority, with maintenance thereafter being carried out in accordance with the approved Maintenance Programme.

**Reason**: In order to ensure that sufficient compensatory planting is carried out and to ensure a high standard of landscaping is achieved, appropriate to the location of the site in accordance with policy 51 of the Highland wide Local Development Plan.

17. Should the zip wires hereby approved not be in use for a continuous period of 12 months, they shall be deemed to have ceased to be required and, unless otherwise agreed in writing by the Planning Authority, shall be removed from the site, along with all associated development, fixtures and fittings.

**Reason:** In the interests of amenity, in accordance with policies 28, 29, 57 and 61 of the Highland wide Local Development Plan.

#### REASON FOR DECISION

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.

#### 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.

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.

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 (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

The reception building should incorporate flood resilient measures; see Living with Flooding: Action Plan Nov 2019:

https://www.gov.scot/publications/living-flooding-action-plan-delivering-property-flood-resilience-scotland/pages/3/

### **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 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: <a href="http://www.highland.gov.uk/yourenvironment/roadsandtransport">http://www.highland.gov.uk/yourenvironment/roadsandtransport</a>

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\_for\_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.

# **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.

# **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: <a href="https://www.snh.gov.uk/protecting-scotlands-nature/protected-species">www.snh.gov.uk/protecting-scotlands-nature/protected-species</a>

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Lucy Prins

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

Relevant Plans: Plan 1 - Location Plan - Schematic Operations Layout

1061/h+m/PP07

Plan 2 - Site Layout Plan - Red Line boundary 1061/ h+m/ ZL/PP01

Rev.D

Plan 3 - Reception and Landing platform Initial Layout Plan

1061/h+m/ZL/PP02 Rev B

Plan 4 - reception elevation rough sketch

Plan 5 - quayside jetty Initial layout plan 1061/h+m/ZL/PP05

Plan 6 - Launch Platform /Access Path and Mini bus turning area

initial layout plan 1061/h+m/ZL/PP03 (incl steps)

Plan 7 - picture of accessible chair to launch site

Plan 8 - indicative drawing of structure at launch site

Plan 9 - Loch Landing platform and jetty Initial layout plan

1061/h+m/ZL/PP04

Plan 10 - indicative drawing of landing sites

Plan 11 - navigation constraint under zip 1

Plan 12 - Longitudinal profile zip line 1 dwg. 16 08 18 0001

Plan 13 - Longitudinal profile zip line 2 dwg. 16 08 18 0002

Plan 14 - Key to Viewpoints

Plan 15 - Viewpoint A

Plan 16 - Viewpoint B1

Plan 17 - Viewpoint B2

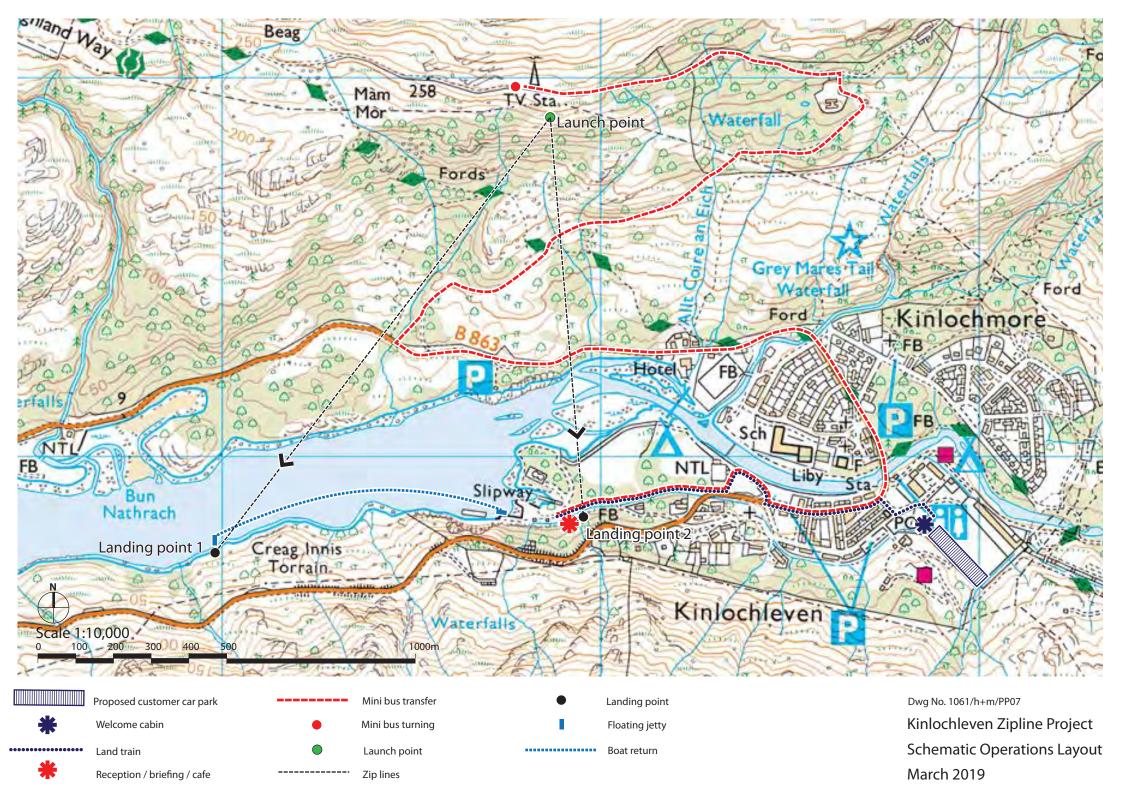
Plan 18 - Viewpoint C

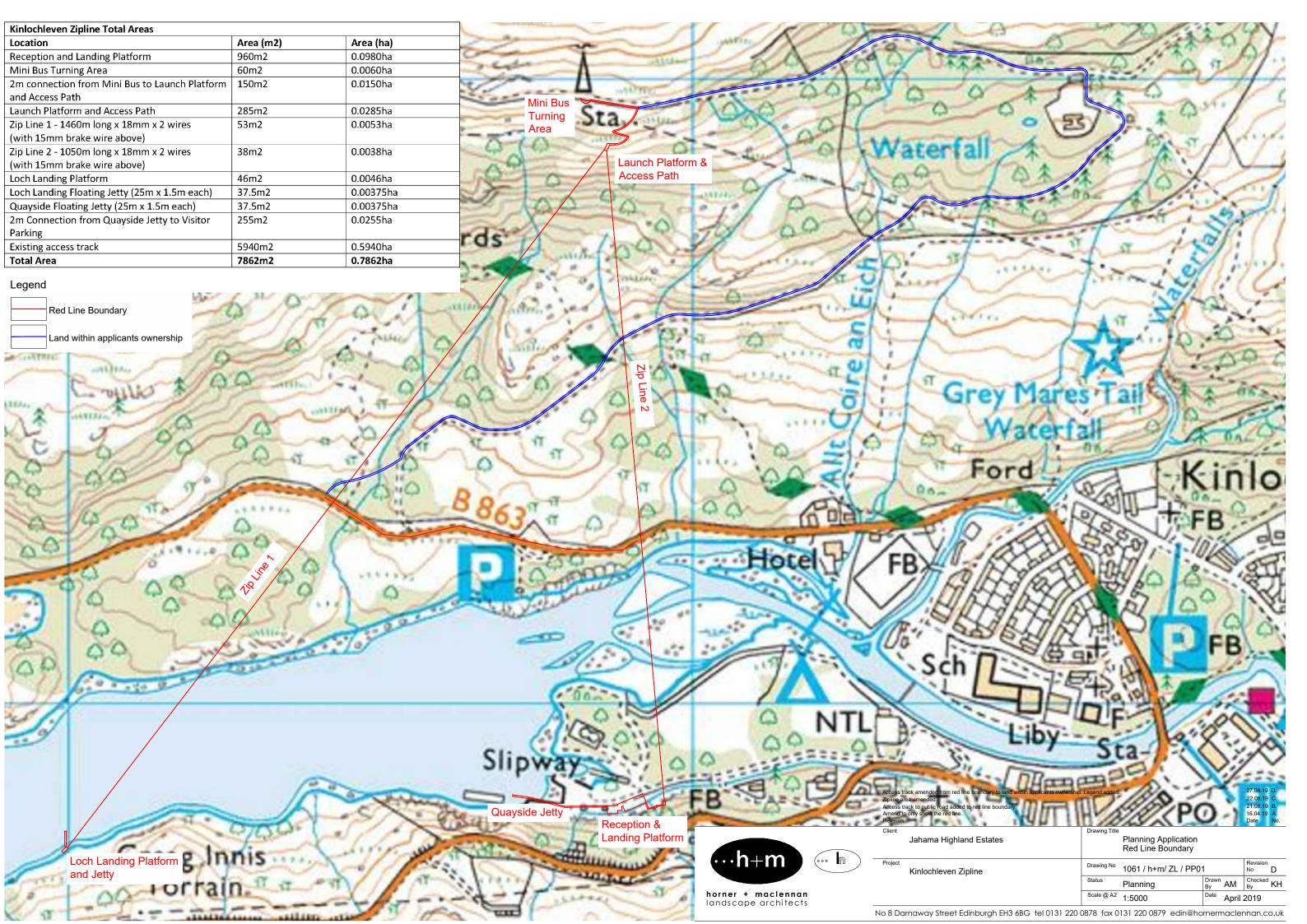
Plan 19 - Viewpoint D

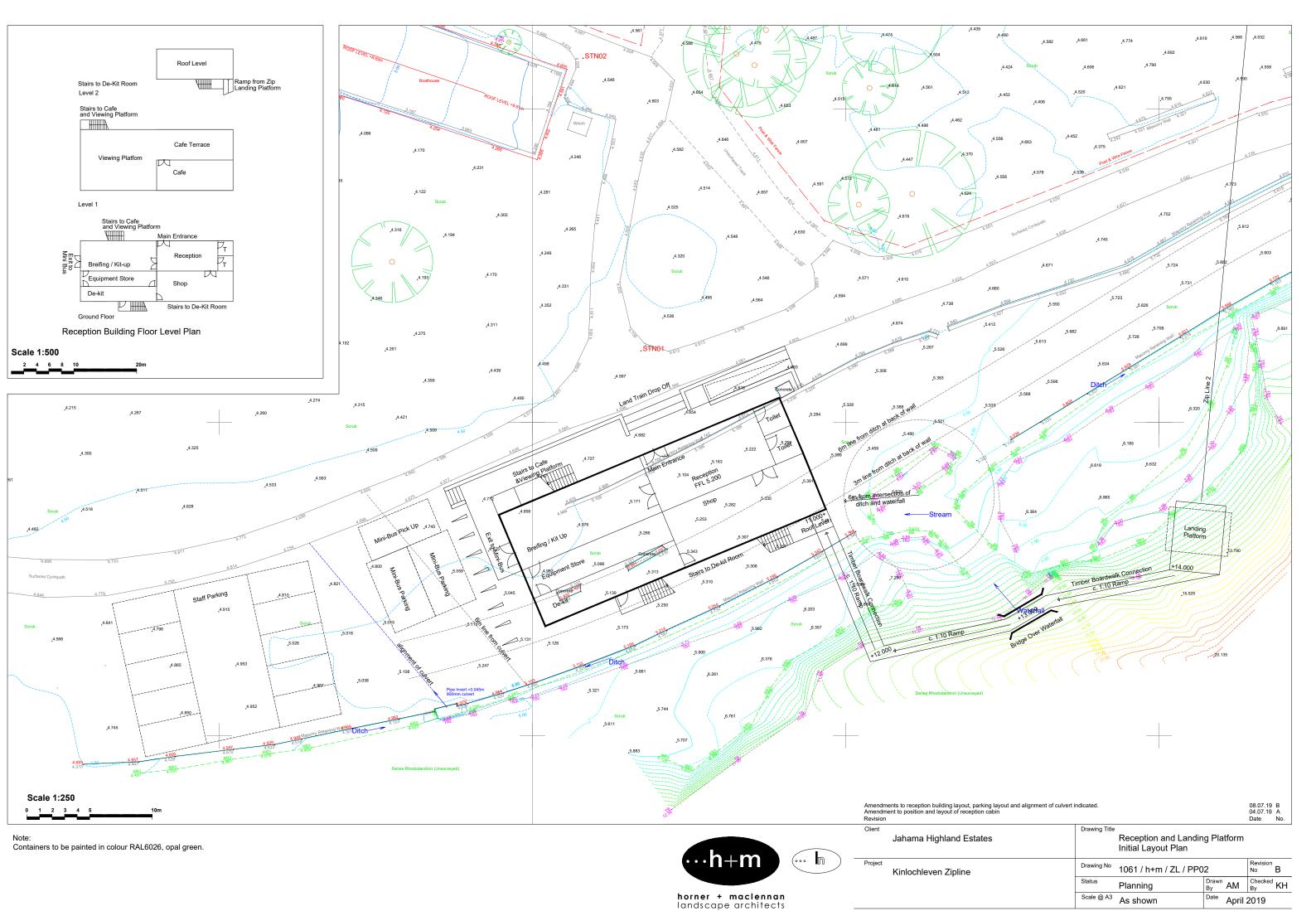
Plan 20 - Viewpoint E

Plan 21 - Viewpoint F

Plan 22 - Viewpoint G

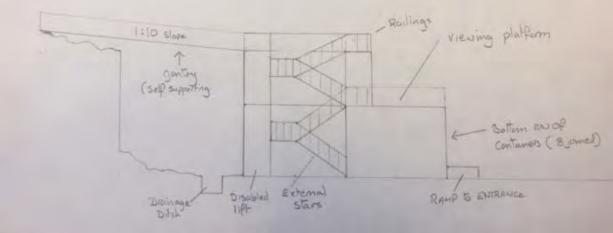


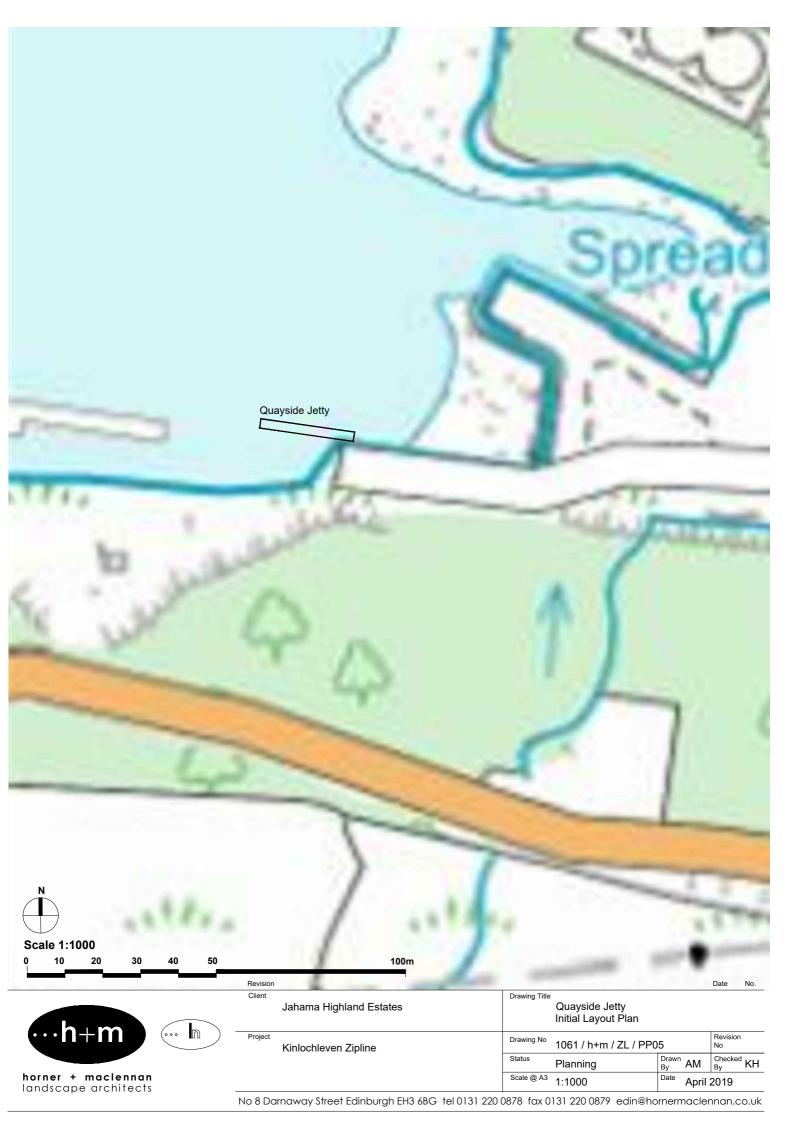


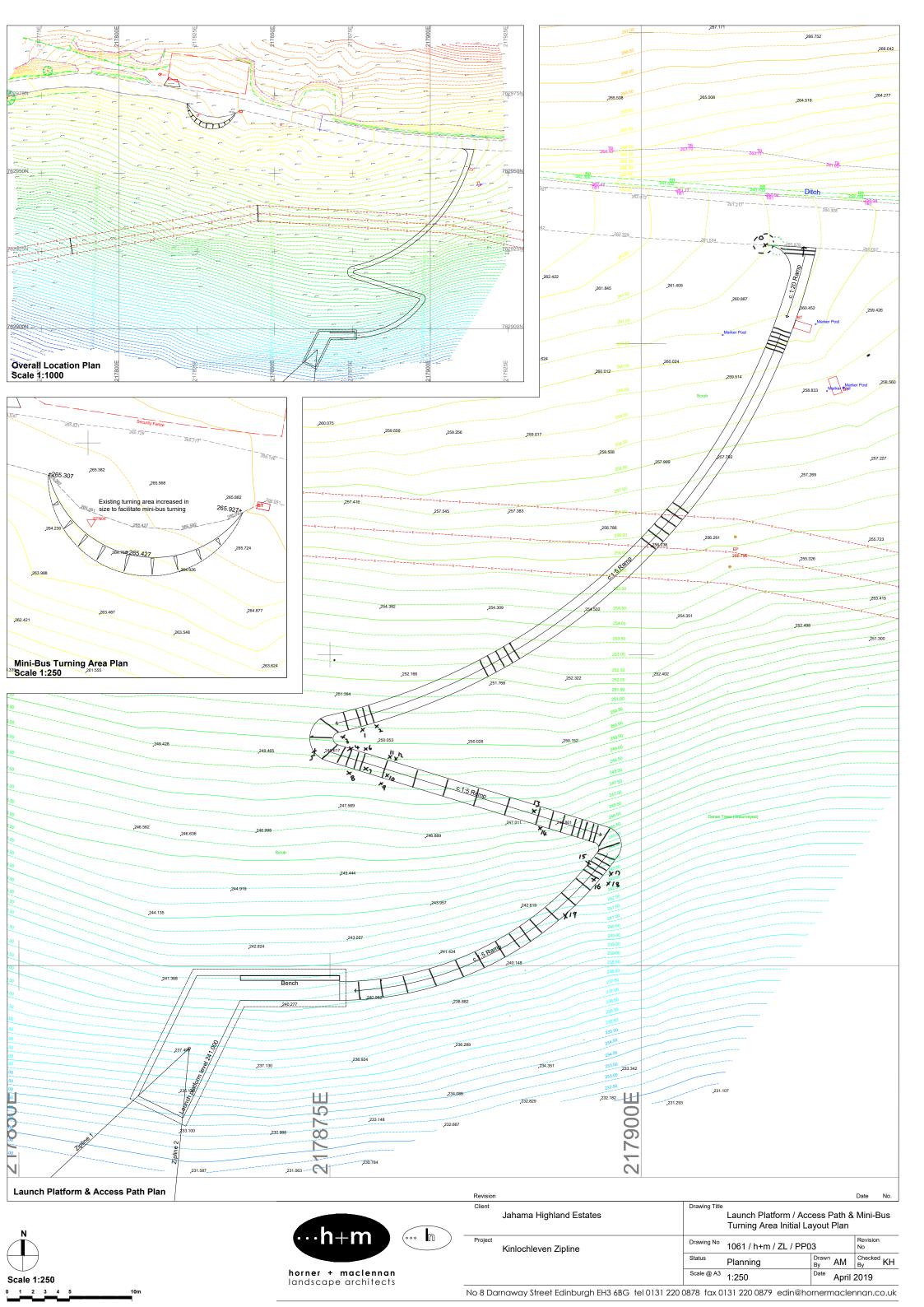


No 8 Darnaway Street Edinburgh EH3 6BG tel 0131 220 0878 fax 0131 220 0879 edin@hornermaclennan.co.uk



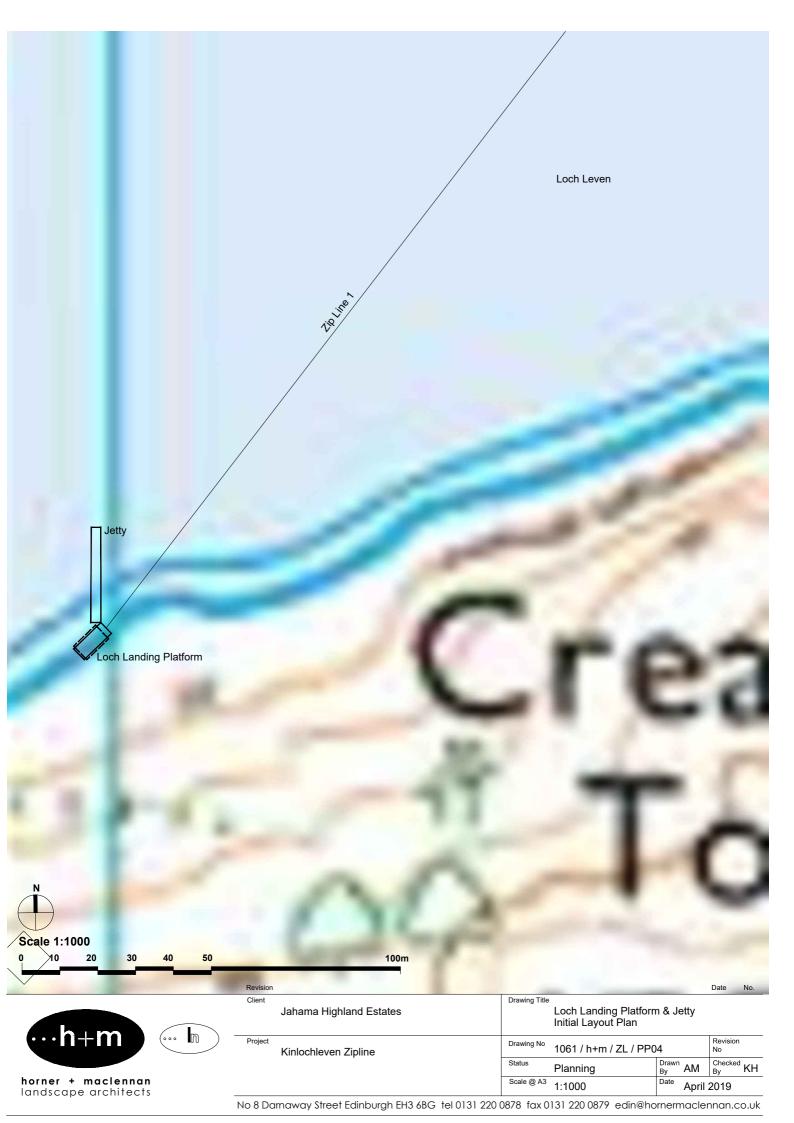








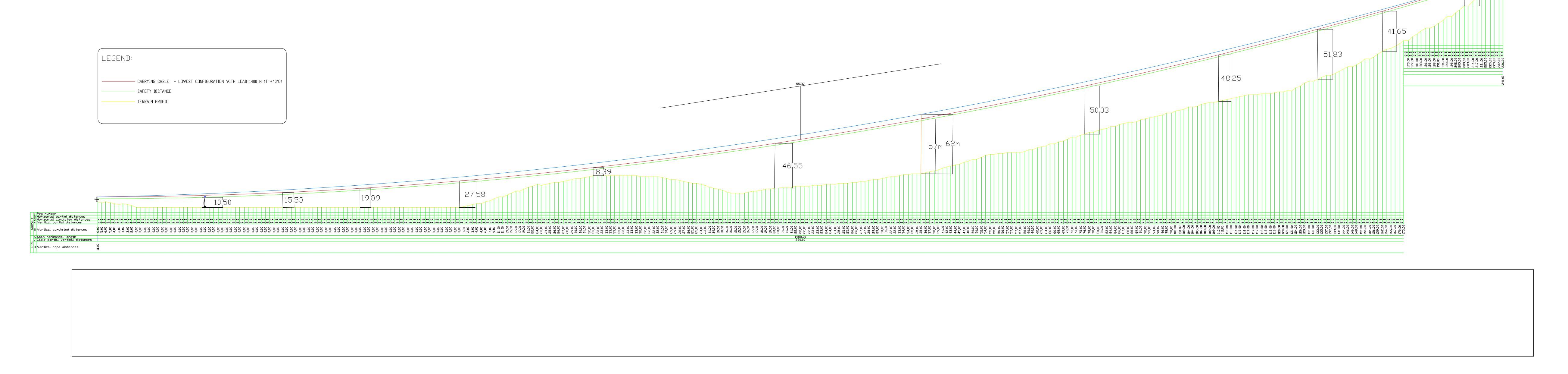


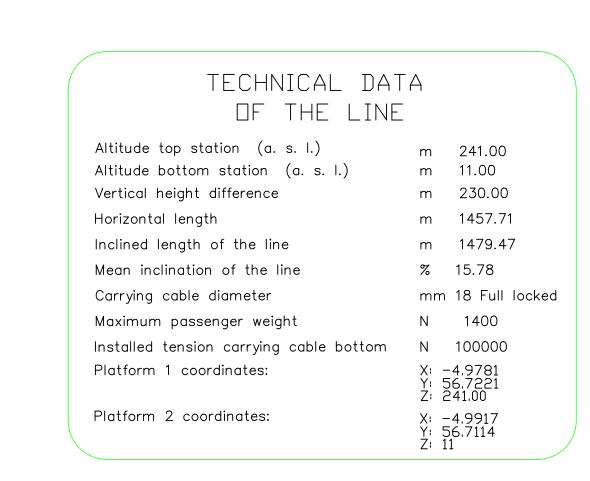




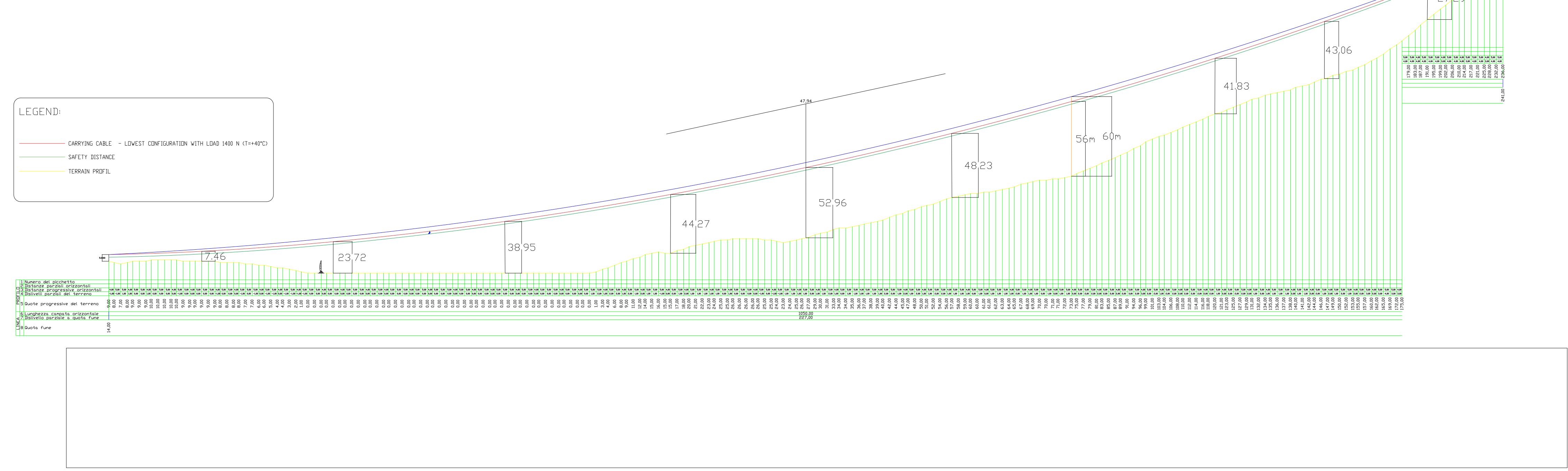


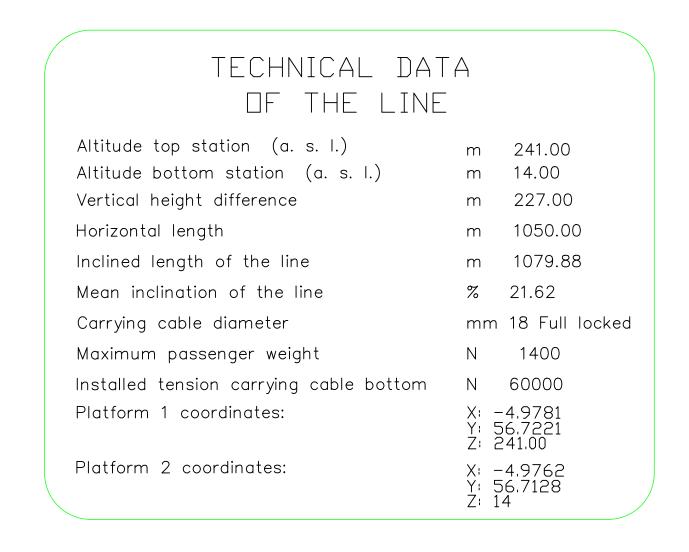






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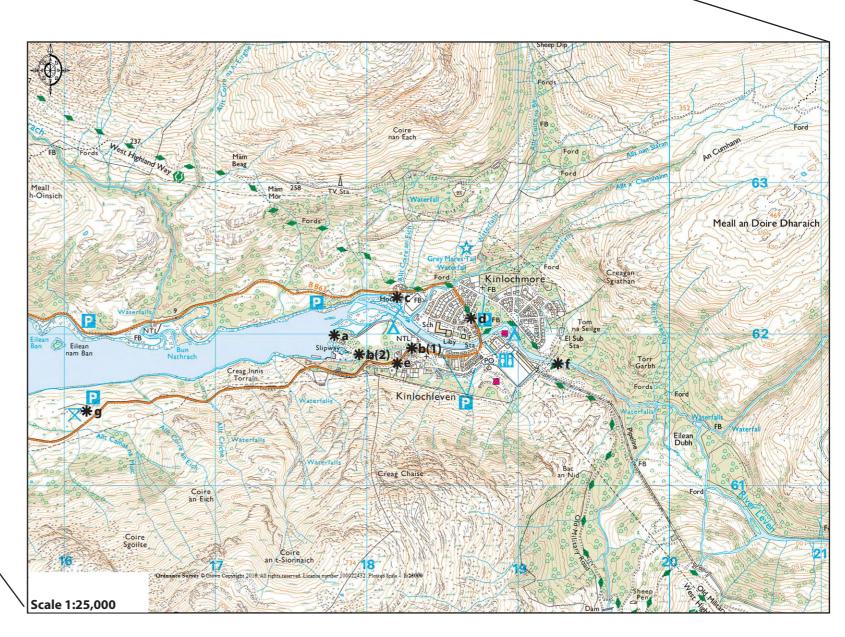




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## \* Location of Viewpoints

Viewpoint a Bench at Head of Loch
Viewpoint b(1) Track to Pier: East
Viewpoint b(2) Track to Pier: West
Viewpoint c Grounds of Macdonald

Viewpoint c Grounds of Macdonald Hotel
Viewpoint d Riverside Road / B863
Viewpoint e Garbheinn House Area

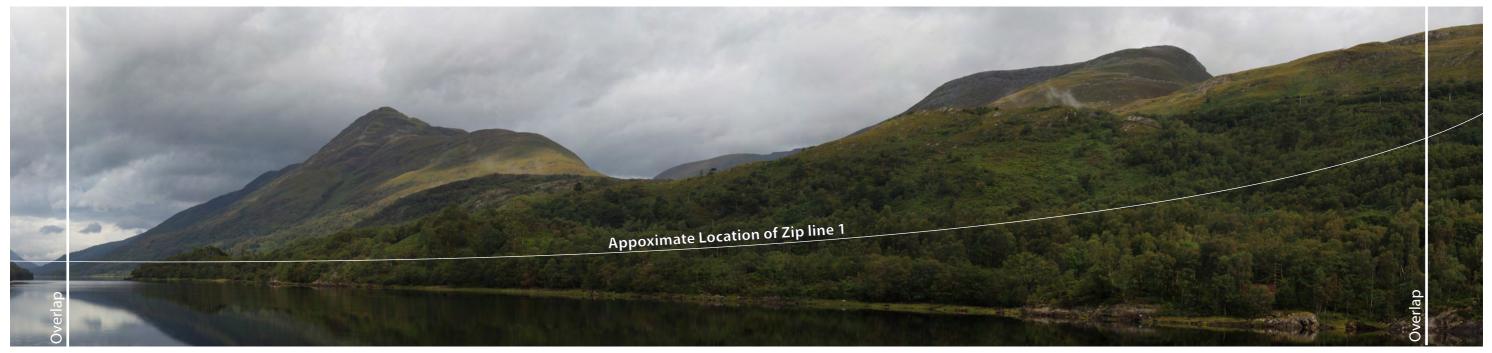
Viewpoint f Pipes Adjacent to West Highland Way

Viewpoint g Picnic Area B863 Viewpoint h Beinn na Caillich

**Figure 1**Location of Viewpoints

horner + maclennan landscape architects ...h+m





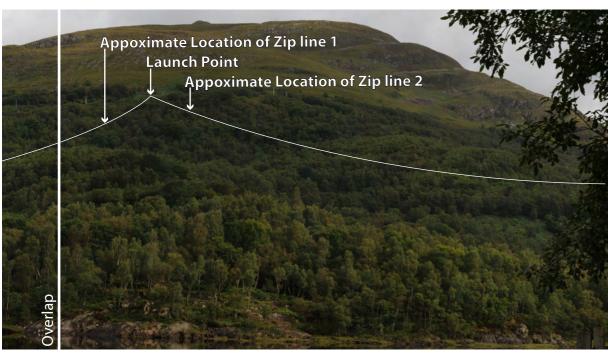


Figure 2
Viewpoint a
Bench at Head of Loch









Figure 4
Viewpoint b (2)
Track to Pier: West





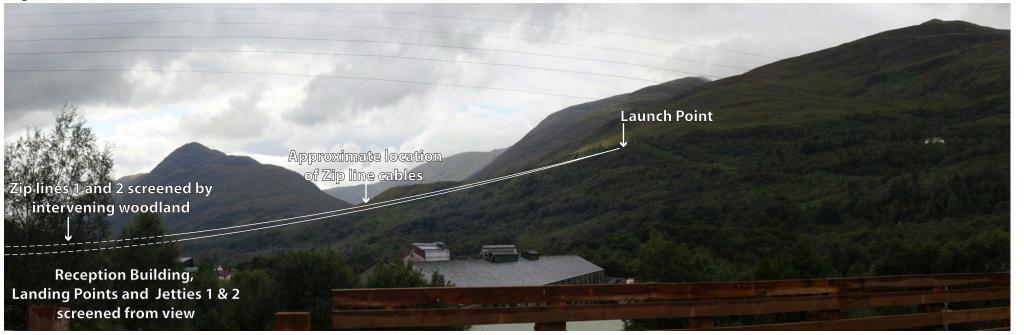




**Figure 6**Viewpoint d
Riverside Road / B863

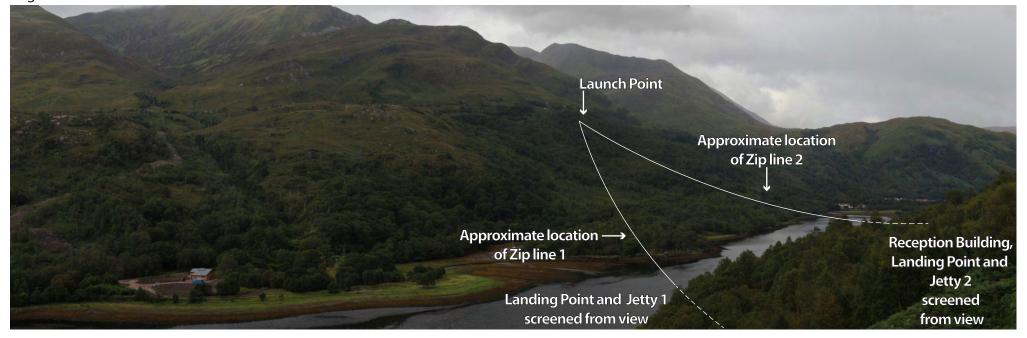


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**Figure 8**Viewpoint f
Pipes Adjacent to West Higland Way

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**Figure 9**Viewpoint g
Picnic Site B863

horner + maclennan landscape architects

