

Agenda Item	6.3
Report No	PLS-09-25

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 06 February 2025

Report Title: 24/00531/FUL: Mrs Ann-Marie MacRae
Land 40M East of Moidart, Badabrie, Banavie, Fort William

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Erection of house and detached garage, driveway, drainage scheme, package treatment plant and soakaway

Ward: 11 – Caol and Mallaig

Development category: Local

Reason referred to Committee: Manager's discretion

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** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought for a house and detached garage at Badabrie, west of Banavie and east of Corpach, Fort William. The site measures 0.19ha in size [as per application form - 0.75ha acc to the DIA]. The site is at the end of a cul-de-sac on elevated ground partly covered in trees. The amended application red line boundary encloses the house and surrounding land, plus the driveway corridor which extends to the east, forming a long curving route up to the house. The driveway crosses into neighbouring land ownership – no blue line is provided to show the extent of the applicant's land ownership, but notice has been served on the agent of the neighbouring landowner (Bidwells per Locheil). The amended red line does not include all the land proposed for the surface water drainage features and engineering works, however Bidwells have stated the neighbouring landowner is agreeable to necessary enabling works on their land.
- 1.2 An existing property "Moidart" is to the west of the site; Taigh na Coille is to the SSW. Treetops (which is a guesthouse), and Tigh Stobban are served off the end of the same cul-de-sac and are to the south of the site. Loch Leven House, which is served off another, separate access to the east, would also bound the site to the south. The moorland fence bounds the site to the north, and rough ground with some tree cover bounds the site to the east. The war memorial is SE of the site, within this area of undeveloped ground.
- 1.3 The site would be accessed via an existing turning head at the end of the upper leg of the estate road serving Badabrie. A private drive continues east and south off this turning head serving Treetops and Tigh Stobban. The proposed driveway would come off the other part of the turning head and form an anticlockwise loop extending approx. 220m, initially to the east, parallel to the southern boundary of the site, then turning north, uphill to the northern boundary of the site and then running west alongside the fence line to the proposed house site. There would be a field gate to the common grazings off the NE corner of the driveway.
- 1.4 The site would be served by mains water supply. A treatment plant and soakaway are now proposed for the foul drainage to the SE side of the house. A surface water drainage scheme is proposed to serve the house and driveway, leading into a small watercourse to the SE of the house.
- 1.5 This application differs from previous application 22/05452/PIP, in being for one house, not two, and this is a full application rather than for planning permission in principle. In comparing drawings 23071-GDG-PL-XX-DR-C-0001 Rev S4-PO1 for the previous application with the Tree Plan for the current application, the current proposal is different in that the access point off the turning head is moved to the north, top side of the turning head, and the lower part of the driveway is slightly further up the slope, the driveway is longer in that it is proposed to swing wider, further to the east, which now involves crossing a small watercourse, the house position (indicative only for the PIP) is more directly behind tree T978 and a detached garage is included in this application, which would be on steeply sloping ground to the east of the house – the house site itself is a small level area forming the top of a knoll.

- 1.6 Pre-Application Consultation: 20/03379/PREAPP dated 10.02.21 – advice provided: whilst the principle of development on this site would accord with policy in being within the development envelope for the town, the topography and trees would make this site particularly challenging.
- 1.7 Supporting Information:
- 16.02.24 - Drainage Statement;
 - 02.07.24 - amended drainage statement, Planning Policy Statement, Pre-application advice, preliminary ecological appraisal, private access checklist, tree survey, applicant's response to objections (07.05.24).
 - 04.07.24 - copy of letter from Cameron of Lochail (per Bidwells) confirming agreement to elements of the development on their land for access, driveway, and compensatory tree planting
 - 06.08.24 - Draft Tree Protection Plan and Tree Schedule
 - 14.08.24 - Visual information
 - 20.08.24 - Applicant's response to Planning concerns
 - 21.08.24 - Stuart Ross on behalf of applicant – visual information
 - 23.08.24 - Topographic survey - existing; Views 3 Initial 06 (incl section); Location Plan initial 03; proposed section with datum 000001
 - 02.10.24 - Tree Survey, Tree Schedule, Tree Protection Plan TPP AM 050724 (revised), Arboricultural Impact Assessment
 - 02.10.24 - Drainage Impact Assessment Sept 2024 by Atholl Associates
 - 02.10.24 - visual information – aerial fly through – viewable via weblink
 - 02.10.24 - amended Location Plan Initial 03 – red line boundary amended, turning head and access amended (enlarged to 5 x 15m), siting of septic tank and soakaway amended, route of driveway amended, additional spur off driveway to access common grazing added (this does not match tree survey dwg)
 - 09.10.24 - amended Location Plan Initial 03 (red line amended - omits enlarged turning head) – accords with Tree survey dwg
 - 18.10.24 - Drainage Impact Assessment Revision A Oct 2024 by Atholl Associates
 - 18.10.24 - letter from Atholl Associates responding to Transport Planning objection
 - 01.11.24 - applicant's response to objections
 - 12.11.24 - applicant's response to Transport Planning objection
- 1.8 Variations: 20.06.24 amended location plan, visual information and turning head details, and tree constraints plan (superseded)
- 23.08.24 - Views 3 Initial 06, Section with datum 000001
 - 02.10.24 - Tree Survey, Tree Schedule, Tree Protection Plan TPP AM 050724 (revised), Arboricultural Impact Assessment
 - 09.10.24 - amended Location Plan Initial 03

2. SITE DESCRIPTION

- 2.1 The site is elevated in relation to the adjacent houses. The proposed house would be at 51m AOD on the top of a knoll. The existing house, Moidart, approx. 30m to the west, is at approx. 40m-45m AOD. The houses to the south are on land between 30m-35m AOD. The driveway would loop round directly above Loch Leven House, on a south facing slope.
- 2.2 The knoll is at the end of a spur projecting south from the lower slopes of Banavie Hill. The top of the knoll is largely open (one prominent Scots Pine T978) with slopes dropping away steeply to the west, south and south-east covered in pines and gorse on wet heath/acid grassland. There are overhead electricity lines crossing the site towards the foot of the slope, which would likely need to be re-routed or buried where they conflict with the proposed line of the access driveway.
- 2.3 The trees are mostly early mature Scots Pine, with some rowan, oak and birch along the SE boundary. There is a tall hedge of Cypresses, Sitka spruce and birch along the top side of the private driveway to Treetops and Tigh Stobban.
- 2.4 An existing streetlight at the turning head would need to be re-located, and the bins for Treetops and Tigh Stobban are left by the turning head for collection. The collection area would need re-locating, and additional provision added for the proposed development.
- 2.5 The site is mostly within the settlement development area as shown on the Fort William Caol map in the WestPlan. The eastern part of the proposed driveway and site of some of the drainage attenuation features extend outwith the SDA, and together with land adjacent to the north and east is shown as "Green Network".

3. PLANNING HISTORY

- | | | | |
|-----|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 3.1 | 17.10.1989 | LO/1989/546 erection of a house | Planning
Permission
Refused due to
access issue |
| 3.2 | 28.10.1992 | LO/1992/291 erection of a house | Planning
Application
Withdrawn due
to access issue |
| 3.3 | 28.09.2001 | 01/00329/OUTLO erection of house on land east of Moidart, Badabrie (indicative position of house on lower ground to the east of the knoll; site excludes land on which driveway is proposed in current application) | Planning
Permission
Granted |
| 3.4 | 15.08.2023 | 22/05452/PIP Erection of 2no. houses, Land 40M East Of Moidart | Planning
Permission in |

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown neighbour

Date Advertised: 01.03.24

Representation deadline: 17.03.24

Timeous representations: 55 (44 in support; 10 objections; 1 neutral)

Late representations: 0

4.2 Considerations raised are summarised as follows:

Objection:

- a) Loss of protected Caledonian pine trees – more than the 5 initially stated
- b) Loss of woodland which is prominent from the canal
- c) Siting prominent on skyline – significantly higher than adjacent houses – will be visible from the town
- d) Turning head is inadequate
- e) Access road is inadequate; not to adoptable standard – the bin lorry has to reverse along the road
- f) The site separates the existing houses from the noise, dust and visual impact of the quarry
- g) the proposed house will be too close to the quarry – 350m/385m
- h) public access to the hill beyond would be cut off
- i) loss of common grazing land
- j) the development would require blasting and digging out of a vast amount of rock
- k) drainage issues, increased run off down the driveways to Treetops and Stobban – the water table will also be affected
- l) Foul drainage issues – the applicant is proposing a septic tank [subsequently amended] rather than connecting to the mains; concern re impact of a septic tank on neighbouring properties
- m) the site was cleared of scrub and vegetation in May 2022 destroying wildlife; and a machine was driven onto the site on 15.08.24 to dig trial pits for percolation testing
- n) there is abundant wildlife on the site including birds of prey, red squirrels (which have recently returned to the area), bats, otter, pine marten, reptiles and amphibians – Nature Scot should be consulted
- o) concerns about ground stability; effect of removing rock on neighbouring property, and drainage – the north elevation of the nearest house is approx. 20-30m from the edge of the rocky knoll that would be excavated as part of the access
- p) the driveway would require passing places – increasing its impact
- q) residents park on the estate road itself in poor weather conditions, and as a result of properties being used as B&Bs and as short term lets – resulting in further congestion

- r) the proposed driveway is not suitable as an access for crofting purposes or as a preferred access to the mast; the existing estate road could not accommodate this increase in non-residential traffic
- s) this site would lead to a future application for a second plot – as per the previous application
- t) the applicant used to live in this street and chose to sell their house
- u) a neighbour who applied for a house on the same street in 2020 notes that several objectors to his application are in support of this application, and are no longer raising issues that concerned them previously [questioning their motives]
- v) Kilmallie Community Council objected to the previous application for two houses on this site (22/05452/PIP) and their objections are still pertinent; the CC is inquisitive on this matter at present
- w) Lack of detail given this is a FULL application, not a PIP; particularly cross sections and a long profile for the driveway, and visual impressions [subsequently provided]
- x) Highway concerns over gradient, drainage, manoeuvrability, and land take for cuttings and embankments either side of the driveway; collision risk at the turning head for visitors to Tree Tops, Tigh Stobban and the proposed house; the ditches required to drain the driveway and lead water into the burn east of Loch Leven House would be extensive and result in the loss of trees T747-T757
- y) The site is within the “exclusion zone” surrounding the quarry; vibration from blasting would be a significant nuisance to the residents
- z) Tree planting elsewhere in lieu of the proposed tree loss on the site will not adequately compensate for the loss of these trees
- aa) The proposed house would sit on a small level area (Cnoc Bad Abrach), well above other houses, where there is a solitary tree [T978]. The tree is 6m high [10m according to Stuart Ross’s digital survey]; the proposed house would be around 8m high – higher than the tree and it would be approx. 18m wide; the impact on the landscape will be substantial
- bb) Overlooking and loss of privacy to neighbours

Support:

- i) Applicants are lifetime residents of the area, involved in the community; Gaelic language, culture and music; and supportive of local charities and businesses
- ii) The applicant’s forebears are from Smirisary, Roshven, Arisaig – housing for local families should be prioritised
- iii) The applicant’s children now have families also living locally
- iv) Site is within the town envelope for planning policy purposes; and outwith the green network adjacent
- v) The site is set back on the flat area and therefore will not be prominent; it will not change the skyline or be noticeable from the residences below or from further afield
- vi) There are already houses in Badabrie visible on the hillside from Fort William
- vii) The loss of 6 trees out of 68 = only 8.8% loss; existing houses in Badabrie necessitated the loss of more trees; also many trees have been cut down recently in Inverlochy [amended Tree Survey increases this number]

- viii) The 4 main trees to be lost are at the fringe of the NE corner of the site and will not affect the main body of trees; these 4 trees are too close to one another in any event and would not grow to their full potential
- ix) There will be compensatory planting for the 6 trees to be removed; this will ensure a mixed age group of trees in the future
- x) The upgraded turning head will be safer in allowing HGVs to turn [not now proposed]
- xi) Opportunity to round off and tidy up a barren site – good use of a vacant site
- xii) The development will have little effect on wildlife or the environment
- xiii) Proposed house design would fit in with the surroundings
- xiv) The vehicular access provided to the grazings will encourage its use; and improve access to the hill generally, provided the applicant does not padlock gates, as on the west boundary [to Badabrie]
- xv) The site at the entrance to Badabrie has been a mess for many years and that turning head is blocked by parked cars and an associated temporary encampment – in contrast this will improve the estate
- xvi) No loss of privacy to existing residents
- xvii) As former residents of this street the applicants would be welcomed back
- xviii) The site is close to public transport (bus and rail), cycle routes, employment and services
- xix) Bin storage, screening and working hours have been considered to mitigate their impacts
- xx) No flood risk
- xxi) It will support government objectives to boost the supply of homes
- xxii) The house will be energy efficient
- xxiii) The loss of some trees is a sacrifice necessary to allow local families to remain in the community
- xxiv) The applicants sold Innisfree – a successful guest house (west of Moidart and 50m from the proposed site) in 2022 and went into private rental with the long-term goal of developing this plot – this has been a long held retirement plan
- xxv) The previous proposal for 2 houses has been reduced to just this one plot which is the correct solution
- xxvi) The applicants will encourage wildlife back to the site once developed – local gardens draw insects, birds and animals whilst the site is relatively barren
- xxvii) The development will generate very little additional traffic – this would be a residential house – not a tourist development
- xxviii) Drainage would be carried out by a qualified and experienced civil engineer; The existing drain across the private drive below, and the ditch beyond, it is partly blocked and should be cleaned out – which is causing the existing run-off problems to TreeTops and Tigh Stobban
- xxix) There was no public footpath through the site – it was thick with gorse bushes and practically impossible to access; a new fence was constructed alongside Moidart in 2018 which allowed for access alongside it within the site
- xxx) The site will eventually be built on – this is a most suitable proposal; an opportunity not to be missed

- 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 **Kilmallie Community Council:** Queried whether they were a consultee to the current application. [They are not a formal consultee but were entitled to request to be consulted and can comment in any event; no further formal request for consultation was received]. The CC noted that they had objected to the previous application 22/05452/PIP, in which they highlighted some factual errors in the Preliminary Ecological Appraisal – and they note these are repeated again without correction.

5.2 **Forestry Officer:**

21.05.24: **Objects.** All of the trees within the site are protected by a Tree Preservation Order (TPO) which was served on 21.12.23 and confirmed on 19.03.24. The majority of the site, with the exception of a small area in the SW is recorded in the Native Woodland Survey of Scotland as young native pinewood of very high nativeness and very high semi-naturalness. These together infer high biodiversity value.

TPOs are a nationally important natural heritage feature protected by policy 57 of the HwLDP; "Highland Council will allow developments that can be shown not to compromise the natural environment, amenity or heritage resource."

The Placemaking Priorities for Fort William in the West Highland and Islands Local Development Plan note that development should "safeguard, through appropriate siting and design, areas protected or otherwise important for nature conservation or landscape qualities."

The applicant has provided a Location Plan and Site Plan which is overlain on a topographical survey which does not adequately identify the trees to be retained and removed. Comparison with the previously submitted plan [for 22/05452/PIP] indicated there would be similar direct impacts on tree Group G1, T741, T758, T977, T995, T996, T997 and T998.

In addition, as before, the extent of cut and fill necessary to form the platform for the house and for the proposed access would have an additional adverse impact on trees. Up to 15 further trees would potentially be affected as their Root Protection Areas (RPAs) would likely be affected by construction.

The submitted Drainage Statement dated April 2023 was also previously submitted in support of application 22/05452/PIP but has been updated to highlight the reduction from 2 houses to one. There is no confirmation of the position or scale of drainage, and the site plan shows an indicative location only for the septic tank and soakaway to the SE of the house.

No details of any replacement tree planting are submitted.

There would be significant adverse impact on trees, contrary to policy 6 of NPF4, and policies 51, 52 and 57 of the HwLDP.

04.12.24 in response to further Tree Survey: **Objection** – The red line of the application (Location Plan 03 submitted 09.10.24) extends east out of the settlement development area and beyond the TPO, and into an area marked as Green Network on the Fort William West Plan.

NPF4 Policy 6 paras b) and c) apply together with policies 51, 52 and 57 of the HwLDP. In addition to the Placemaking Priorities (quoted above) the WestPlan states that development should “safeguard through appropriate siting and design areas protected or otherwise important for nature conservation or landscape qualities” and that there should be “protected, connected and enhanced green networks within /around every larger settlement.”

An updated Arboricultural Impact Assessment and Method Statement has been submitted by Treetek dated 30 Sept 2024. This identifies 14 individual trees (T1, T2, T3, T6, T7, T8, T10, T977, T758, T994, T995, T996, T997 and T998) and part of Tree group G2 that would need to be removed to accommodate the development. In addition, works are proposed in the Root Protection Areas of 5 further trees (T744, T978, T983, T984 and T988). RPAs are the minimum area around a tree deemed to contain sufficient roots to maintain its viability, and their protection should be a priority. We are not comfortable with these incursions to the RPAs.

Given the proposed height of the gabion structures, we are concerned by the close proximity of some of the retained trees. There will also be a loss of trees from part of group G1 and within the RPAs of T740 (adjacent to the cut for the cellular drainage system by the culvert) and T978 [the pine in the centre of the photo above – which would be directly in front of the proposed house].

Also, the proposed location of the foul drainage treatment plant is on shallow soil (up to 0.3m deep) and rock. The treatment plan proposed would be a min 2m high, and therefore would require excavation that would be likely to impact on the RPAs of trees T978 and T981 [or T983 – a category A quality tree].

The direct impact on trees is now greater than was presented in the previous Tree Plan (June 2024) – to which we also objected. No replacement planting proposals are submitted.

As it is, the applicant has not adequately demonstrated they could develop the site without significant adverse impact on protected trees.

- The proposals do not accord with NPF4 Policy 6 b)ii as they would result in adverse impacts on native woodlands and individual trees of high biodiversity value.
- The proposals do not accord with NPF4 Policy 6 c) as they would require woodland removal without adequate demonstration of what significant and clearly defined additional public benefits they would achieve.
- The proposals do not accord with policy 51 of the HwLDP as they do not promote significant protection to existing trees and woodlands on the site.

- The proposals do not accord with policy 52 of the HwLDP as they do not demonstrate the need to develop a wooded site; they do not show that the site has capacity to accommodate the development; they do not offer clear and significant public benefit, and they do not provide compensatory planting.
- The proposals do not accord with policy 57 of the Highland wide Local Development Plan as it has not been adequately demonstrated that the development proposal would not compromise the natural environment, amenity or heritage resource, in this case the Tree Preservation Order.

5.3 **Transport Planning Team**

28.05.24: Insufficient information.

The site is accessed from the U1463, a no through road subject to a 20mph speed limit from its junction with the A830. The road is steep in places and suffers from substandard forward visibility at the corner by The Rowans. There is a footway on one side of the road for most of its length. The road ends at a turning head which does not meet current design standards.

As for 22/05452/PIP, further details are required of the turning head, retaining wall, the gradient of the driveway which does not meet the Council's standard, the drainage proposals and dimensions to show the parking and turning within the curtilage.

The Drainage Statement, as for the previous application sets out a range of potential solutions for surface water drainage, however no percolation tests have been undertaken to determine whether this is viable, and further details of the outfall are required. Pre and post development run off rates are also needed for a range of storm events with allowance for climate change – a level 2 Drainage Impact Assessment is sought.

Any permission granted should include a Construction Traffic Management Plan to ensure the integrity of the public road. A Road Opening Permit will be required from the Council before commencing any work.

09.07.24 in response to submission of further details: The surface water drainage proposals are still inadequate.

The updated Location Plan shows a 3.7m wide access track which is acceptable for a private track to a single house. The max driveway gradient at the switchback will be 10% which is the permitted maximum. Further information is required however on the gradient where the driveway meets the public road.

The View 3 drawing showing the turning head appears to meet the requirements of a residential turning head, and space for bins and the grit bin. There is no information showing the relocation of the lighting column, however this could be dealt with by condition.

Details are required to show how the turning head would be constructed – a method statement detailing the amount of rock that will be removed and how this will be

achieved; the type of plant required, number of vehicles to remove surplus materials off site and the length of the construction period.

There is sufficient car parking and turning space within the curtilage.

The update Drainage Statement is still inadequate, lacking technical detail: no pre and post development flow estimates; the Assessment of proposed SuDS features to show they are sufficient; no percolation tests; the permeable paving proposed for the enlarged turning head is not acceptable within the adoptable road boundary; inadequate evidence of a viable outfall to the existing watercourse that is culverted under the A830. The applicant has not provided sufficient evidence to show that the proposed development will not increase run-off. [the enlarged turning head was subsequently dropped from the plans]

10.10.24 in response to Atholl Assoc DIA: **Objection maintained.** Concern that the elaborate surface water drainage proposals may not work effectively, there is uncertainty with regards to the outfall and the turning head is not large enough for a refuse vehicle to manoeuvre safely. Transport Planning state that due to the complicated surface water drainage design, the liability of large retaining walls and the ongoing cost of maintenance of them as well as an unbound access track, the Council will under no circumstances adopt the access track or support additional development off it.

The first part of the driveway includes a dip where it is likely that vehicles will ground; the rest of the track has a gradient of 10 percent which is the max permitted in Council guidance.

The amended turning head would require the refuse vehicle to use part of the private access track to manoeuvre and it would require a 4 or 5 point turn involving a significant vehicle overhang into the property to the south and potentially conflicting with the bin area. The enlarged turning head does not therefore provide any significant improvement over the existing arrangement.

If approved, the initial section of the proposed access and private drive would need to be built to adoptable standards – this is bound by a new gabion retaining wall that may be up to 4.5m high. This would need to be approved by the Council's Chief Structural Engineer. Cross sections are therefore required of the new access road up to chainage 20m, at 5m intervals for review by the Council.

The house is too far from the bin collection point – it does not meet the Council standard. The car parking and turning area by the house is satisfactory.

The updated Drainage Impact Assessment proposes that all surface water from the septic tank, roof and driveway will be directed via filter trenches into an existing watercourse that will be culverted in two locations. The access track is proposed to be permeable to intercept water and drain into a filter trench underneath the track along its entire length. At three locations, an underground drain will intercept cellular storage systems. All of these systems then outfall to the watercourse. However, there are no measures to prevent surface water from the high point of the access track flowing onto the U1463 which is unacceptable. Also, the system design is not supported by the SuDs manual – therefore the team do not accept that the scheme

will be effective in infiltrating or absorbing surface water – and given the gradient, most of it will run down the road especially during storm events. Further info sought to demonstrate the storage capacity is greater than the rainfall intensities as per the SuDs manual. A series of check dams is required to provide sufficient attenuation to prevent surface water flooding at the low points.

The condition of and exact route of the watercourse outwith the site is unknown and not within the applicant's control. This information is crucial to establish whether the proposed drainage is viable and deliverable. This watercourse is ultimately culverted under the A830.

The revised drawings show considerable lengths of gabion basket retaining walls up to 4.5m high, which will require the importation of significant quantities of materials plus those for the 220m long access track. The team are concerned with the impact of construction traffic on the integrity of the U1463 – a Section 96 Agreement is therefore sought to protect the interests of the public road. This requires a Legal Agreement between the applicant and the Council to provide a road bond to cover the costs of extraordinary wear and tear from construction vehicles. Pre and post development surveys of the public road will also be required.

A Road Opening Permit will be required from the Roads Authority before any works commence on or adjacent to the public road.

1.11.24: **Objection maintained;** following comments in the applicant's submission dated 17th October 2024. The team do not consider the proposed construction of the driveway to be sufficient to intercept surface water, due to its steepness and construction type. Type 1 aggregate is not recommended by the SuDs manual as a permeable surface. On steep roads there is more surface runoff and less infiltration and can result in flash flooding and washouts during intense rainfall.

The applicant has not demonstrated the condition or viability of the route for surface water from their site to the existing drain at the eastern side of Loch Leven House to the culvert under the A830. They have confirmed the route of the channel becomes "indistinct" and the existing channel is "infilled".

Also, the applicant has confirmed that they will not enlarge the turning head despite providing earlier drawings showing the turning head enlarged to meet Council guidelines. Transport Planning disagree with the applicant's assertion that the turning head has nothing to do with their access. It provides the only means of vehicular access to their site. The applicant has failed to provide a method statement to detail the amount of rock that must be removed to create the turning head and how this will be achieved ie. type of plant, number of vehicle movements, length of construction period.

Regardless of whether an access track is put forward for adoption, the geometry should comply with current design guidelines to ensure it is safe and accessible.

Regardless of whether a structure remains in private or public ownership, if it is over 1.5m in height and on or adjacent to a public road, it will require Technical Approval from the Highland Council.

Measures to prevent surface water flowing from the access road onto the public road will be required – this could be conditioned.

As previously advised, a Construction Traffic Management Plan and a Section 96 Wear and Tear Agreement are required, together with a Road Opening Permit before any work commences on or adjacent to the public road.

- 5.4 **Access Officer:** No objection subject to retention of a 2m wide strip along the western edge of the site and ideally a gate to the open hillside at the north end. In addition, access from the tarmac road towards the war memorial should be retained and any fencing along the east edge of the site/new road should ensure that an access route is retained.

5.5 **Flood Risk Management Team**

17.07.24: No objection on grounds of flood risk; Objects to the drainage plans due to insufficient information.

The proposal is to manage direct surface water runoff using the channel that runs adjacent to the site which appears to discharge to a watercourse to the east of the site. However, this channel is shown to fall outside the red line boundary and the applicant has not shown if the drain is available to them. The Drainage Statement notes that the channel is not fit for purpose. The applicant will have to show the improvements they intend to undertake to ensure the drain can manage run off and discharge to the watercourse.

10.10.24 (and 29.10.24): **Objection withdrawn** – The applicant has submitted a Drainage Impact Assessment, Sept 2024, which outlines the surface water drainage strategy for the site. The applicant has conducted an infiltration test on the site, which indicates relatively poor infiltration rates due to the presence of shallow bedrock. A two tier Sustainable Urban Drainage System (SUDS) is therefore proposed to manage both roof drainage from the house and drainage from the access road. Roof drainage will be collected through pipework and directed to underground storage, with attenuation prior to discharge into the watercourse. Additionally, runoff from the road will be collected via permeable surfaces, conveyed through voids in a porous gravel subbase, and supplemented by collector drains. This runoff will also be stored and attenuated in underground storage before being discharged into the adjacent watercourse.

The applicant should note that Building Standards should be consulted as early as possible regarding the proposed foul drainage arrangements.

- 5.6 **Transport Scotland** does not propose to advise against the granting of permission.
- 5.7 **Scottish Water:** “There is capacity to provide a water supply to the proposed property; there is capacity for a foul only connection to the Corpach waste water treatment works. No surface water connections will be accepted.”

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4 (2023)

Policy 1 - Tackling the Climate and Nature Crises
Policy 2 - Climate Mitigation and Adaptation
Policy 3 – Biodiversity
Policy 4 – Natural Places
Policy 6 - Forestry, Woodland and Trees
Policy 14 - Design Quality and Place
Policy 15 - Local Living and 20 Minute Neighbourhoods
Policy 16 - Quality Homes
Policy 22 - Flood Risk and Water Management

6.2 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality & Place-making
30 - Physical Constraints
31 - Developer Contributions
34 - Settlement Development Areas
47 - Safeguarding Inbye/Appportioned Croft land
51 - Trees and Development
52 - Principle of Development in Woodland
55 - Peat and Soils
56 - Travel
57 - Natural, Built & Cultural Heritage
58 - Protected Species
65 - Waste Water Treatment
66 - Surface Water Drainage
74 - Green Networks
77 - Public Access

6.3 West Highland and Islands Local Development Plan (WestPlan) 2019

Fort William Placemaking Priorities include:

- Encourage consolidation within the existing physical limits of the settlement
- Increasing internal cohesion and connectivity
- Connections are important to wildlife – continuous habitat along burn-sides or strips of woodland
- Safeguard, through appropriate siting and design, areas protected or otherwise important for nature conservation or landscape qualities

6.4 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)
Developer Contributions (March 2013)
Flood Risk & Drainage Impact Assessment (Jan 2013)
Green Networks (Jan 2013)

Highland's Statutorily Protected Species (March 2013)
Rural Housing (Dec 2021)
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

Scottish Government's Control of Woodland Removal Policy

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) siting and amenity
 - c) impact on trees and woodland
 - d) impact on nature conservation
 - e) access
 - f) drainage and services
 - g) public access
 - h) any other material considerations.

Development plan/other planning policy

- 8.4 The site is shown as being just outwith the urban area of Fort William on the Scottish Government's 6 fold Urban Rural Classification 2020 map. It is within the Rural Area, with the boundaries of neighbouring houses forming the boundary of the "Other Urban Areas" classification. It is however mostly within the Settlement Development Area (SDA) shown on the Fort William Caol map in the WestPlan, although the eastern part of the driveway extends outwith the SDA into land shown as Green Network in the WestPlan. Fort William is identified as a Main Settlement in the West Plan. The Council's Rural Housing Planning Policy Explanatory Note (Nov 2024) updates the Interim Guidance, Section 3 of which directs that the site's WestPlan status prevails over the 6 fold mapping. The application should therefore be

assessed against Policy 16 of NPF4 and the WestPlan's Placemaking Priorities for Fort William, together with policy 34 of the HwLDP. The driveway and associated elements that extend outwith the SDA should be assessed against Policy 74 of the HwLDP and the Placemaking Priorities (last bullet point) for Fort William in the WestPlan.

- 8.5 Policy 16 of NPF4 states in para f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:
- i) the proposal is supported by an agreed timescale for build out; and
 - ii) the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20minute neighbourhoods;
 - iii) and:
 - the proposal is for smaller scale opportunities within an existing settlement boundary [this is one of four bullet points – the others are not relevant here]

In principle, such locations are generally considered to be acceptable for residential development, due to their being in a sustainable location close to services and facilities, subject to the siting being acceptable and taking into consideration other factors such as trees and woodland. On a plan, the site would appear a logical rounding off of the settlement. However, the topography largely explains why this knoll has not been developed to date, together with access issues. The trees have become established since the 1980s and they appear to have regenerated naturally. The woodland does provide an attractive treed backdrop to the large, detached houses in Badabrie and at the west end of Banavie.

- 8.6 The proposal would accord with the sustainable location element of Policy 16, an agreed timetable for build out could be sought if permission were likely to be forthcoming, and it would be consistent with the WestPlan spatial strategy in terms of consolidating development within the existing physical limits of the settlement and increasing internal cohesion and connectivity. However, the proposal would conflict with Policies 34 and 74 of the HwLDP and at least two of the Placemaking Priorities identified in the WestPlan, by virtue of encroaching into the Green Network around the settlement, its impact on the landscaped setting of Badabrie, its impact on the TPO protected woodland and nature conservation value of this woodland, urban fringe site.
- 8.7 This site was in the past allocated for housing in the Lochaber Local Plan of 1999, which partly explains the grant of outline planning permission for this site in 2001. That plan is however long out of date and superseded by the policies as set out above.
- 8.8 The site is identified as part of the common grazings, however there is no evidence to it having been grazed in recent times. It is fenced off separately to the hill beyond where there are a few cattle. The Crofting Commission would consider the proposals further if an application to them is subsequently necessary for de-crofting. It will review the extent to which the development would impact on crofting, the crofting community, the landscape and the environment; and the effect of the development on the social and cultural benefits associated with crofting. It would appear there are no crofting interests which would be prejudiced by this development, subject to an agricultural access to the hill beyond being incorporated. The spur off the proposed

access drive would satisfy this requirement and in fact improve the current situation, as the topography currently makes vehicular access difficult. Improved access could be secured by planning condition if permission were to be forthcoming. The development would not conflict with Policy 47 of the HwLDP in this respect.

Siting and amenity

- 8.9 The visual impact of the proposed siting of the house and associated development, and its impact on the trees are the main issues in this case. The position of the house would be significantly elevated in relation to neighbouring properties. The house would be approx. 10m above Moidart, the nearest house to the site, and significantly higher up the hill than any other neighbouring houses. It would be positioned on the flat top of the knoll. In contrast, the previous outline permission (01/00329/OUTLO) required the house to be sited on lower ground to the east of the knoll, amongst the trees which would have been very much smaller in 2001. As proposed, it would stand above most of the trees that would remain, apart from T978 which would be directly in front of the house, very close to the front elevation and it would stand slightly taller than the ridge line. Whilst the house would break the skyline in some views and it would be prominent in longer views including from the canal path, the submitted visual information does show that the house, by itself could sit relatively comfortably in this position. Further plans have also shown that it would be cut into the top of the knoll by 0.5m - 1m and set back from the front edge of the knoll, which would mitigate its prominent siting.
- 8.10 However, the development as a whole would involve a significant amount of ground re-profiling for the construction of the access and driveway which would take a lengthy (218m) and circuitous route to attain the height to the house. The revised Tree Report (AIA) and Drainage Impact Assessment both clarify the extent of engineering operations necessary to provide the required drainage features and the extent of cut and fill across the slope for the driveway. The digital survey and fly through are helpful in understanding the visual impact of the house, however this does not show the access and driveway which would include cutting through the nose of rock just in from the access, resulting in a retaining wall of gabion baskets up to 4.5m high on the upslope side of the driveway. The whole of the driveway would necessitate the construction of retaining walls of varying heights on one or both sides together with substantial drainage features. The extent of the visual impact of the development, as a whole including, the access and servicing requirements, would be detrimental to the amenity of the surrounding area, it would not constitute sensitive siting, nor would it respect or be in keeping with the natural heritage or street scene locally, contrary to Policies 28, 29 and 34 of the HwLDP and Policy 14 of NPF4. There is no realistic alternative means of accessing the house site that would have less of an impact due to the topography.
- 8.11 The proposal would be likely to require the re-routing or undergrounding of a section of overhead line where it conflicts with the route of the proposed driveway. No information has been provided regarding this issue, however.
- 8.12 Housing has extended up the hillside elsewhere in Fort William, however here the proposed driveway and drainage infrastructure would have a disproportionate impact in serving one house only, and this would not constitute sustainable development.

- 8.13 The development of this proposed driveway would also potentially open up the area to the east to further development. That land (including former plot 2 as per application 22/05452/PIP) is outwith the settlement development area and in the Green Network surrounding the town, where further development would be contrary to policy. In this regard, the proposals would not accord with Policy 74 of the HwLDP and a Placemaking Priority for Fort William in the WestPlan.

Impact on Trees and woodland

- 8.14 The site is within an area of mostly semi mature and mature native Scots Pines. The house would result in the loss of one tree, T977 (an 8m tall category B mature Scots Pine), however the driveway would result in the loss of a further 13 trees (T758 - a goat willow by the access, and 994, 995, 996, 997 and 998 – semi-mature and mature Scots Pines close to the top, northern boundary, and T1, T2, T3, T6, T7, T8 and T10 – semi mature and younger Scots Pines by the north and eastern part of the driveway on land outwith the applicant's ownership) plus much of Group G1 (category C - mixed conifers, willow and birch) which is close to the access and alongside the top of the existing private drive to Treetops and Tigh Stobban. Also, part of Group G2 (mixed semi mature Scots Pine, a rowan and gorse), which would be lost due to the cut for the cellular drainage feature next to the watercourse and above the lower section of driveway.
- 8.15 A further 5 trees' Root Protection Areas (RPAs) would be eroded, as identified in the Tree report (AIA), and there are concerns that a further 3 would be similarly affected due to the proximity of excavations and due to the siting of the foul drainage treatment plant. Total tree loss would be at least 14 individual trees plus part of tree groups G1 and G2, and a further 5-8 likely to be damaged by incursions to the RPAs out of 67 on the site – a significant proportion of the woodland. Five of the 14 individual trees that would be lost are category B, the remainder being category C, and 4 out of the 5 trees that would have RPAs affected are category B, and 1 is category A. This is a relatively young group of Scots Pine – 30-40 years old, and the C categorisation largely reflects their modest stature rather than being poor in terms of their health or condition.
- 8.16 In addition, tree T978, a 10m tall category B mature Scots Pine, which is particularly prominent on the site, and is shown as being retained with some encroachment into its RPA, even though it would be only 5m in front of the fully glazed front elevation of the house and only 2.5m off the deck/terrace in front of the house. Its retention is unlikely to be desirable or feasible in the long term, given its proximity to the front of the house. Even if it were retained initially, as it gets larger there would be a risk of it striking the house should it fall or shed limbs. This side of the house and this tree would be fully exposed to the prevailing winds.
- 8.17 The trees and woodland that would be lost are nearly all of high landscape and biodiversity value. The group G1 is not of comparable quality in landscape or nature conservation terms but does stand at the top of the neighbouring driveway and does provide some shelter and privacy and will absorb some of the (existing) surface water run-off to those properties.

- 8.18 The extent of ground works necessary on this sloping site would also be likely to change the hydrology and so have a further indirect adverse effect on the remaining trees.
- 8.19 NPF4 Policy 6, Policies 51, 52 and 57 of the HwLDP together with the Scottish Government's Control of Woodland Removal Policy apply, given the size of the site and extent of woodland affected. Policy 6 states that proposals will not be supported where they will result in (ii) adverse impacts on native woodlands and individual trees of high biodiversity value; (iii) fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy (sequentially: avoid, minimise, restore and lastly offset impacts). Policy 51 of the HwLDP affords significant protection to existing trees and woodlands on and around development sites. The acceptable developable area is influenced by tree impact, and adequate separation distances will be required between established trees and any new development. Policy 52 states that "The applicant is expected to demonstrate the need to develop a wooded site and to show that the site has capacity to accommodate the development. The Council will maintain a strong presumption in favour of protecting woodland resources.
- 8.20 Development proposals will only be supported where they offer clear and significant public benefit. Where this involves woodland removal, compensatory planting will usually be required."
- 8.21 The proposal would result in the loss of a significant proportion of this Scots Pine woodland, which provides valuable habitat and a high quality landscaped setting to Badabrie and the western part of Banavie. It is of sufficient quality for a Tree Preservation Order to have been made. The trees to the east were only omitted as they were not included in the site area of the previous application 22/05452/PIP. The development of a single private dwelling house would not constitute a significant public benefit that would outweigh the national level of protection given to this woodland due to its quality, and therefore it would not comply with the Control of Woodland Removal Policy, Policy 6 paras b and c of NPF4, nor with Policies 51, 52 or 57 of the HwLDP.
- 8.22 The applicant states that they would meet any requirements for compensatory tree planting, however no details are provided. In any event, compensatory planting would only be appropriate if the loss of trees was justified in policy terms in the first place.
- 8.23 Whilst trees have been cut down in recent years in Inverlochry (raised in representations), this was undertaken due to the risk to existing properties and to the public. There is no comparable imperative here. The loss of some trees which are too close together to ever reach their potential in terms of height and shape, and the provision of compensatory planting to diversify the age profile of the woodland, would all be possible without the proposed development; these benefits would not justify the development and its consequent impact on the pine wood.

Impact on Nature Conservation

- 8.24 The ecological survey did not find evidence of any protected species or their nests, dens etc on the site itself, however it is acknowledged that red squirrel and pine

marten are active within the immediate and surrounding area. The site was considered to provide medium/high potential for nesting birds. The site is of negligible value for reptiles, great crested newts, bats, badger and otters. Mitigation measures are identified comprising tree removal outwith the bird nesting season (March – August inclusive), clearance works only between Sept and February, unless pre-clearance checks are carried out by an ecologist, and exclusion zones established if nests are present. Toolbox talks and good practice measures are also recommended to be followed for all protected species.

- 8.25 There is no requirement to consult NatureScot for such applications - there is standing advice on their website relating to development and protected species. If permission were to be forthcoming a condition could ensure construction is undertaken in accordance with the ecological report, to accord with policies 58, 59 and 60 of the HwLDP, and Policy 3 of NPF4. Reference to the requirements of other Wildlife legislation is also included on any planning permission decision notice. The clearance of scrub from the site in May 2022 is not a breach of planning control. Nevertheless, other wildlife legislation applies.

Access

- 8.26 The proposed access would comprise a private driveway 3.7m wide and 218m long, that would come off the east side of the northern part of the existing turning head at the end of the public road. An existing private drive to Treetops and Tigh Stobban comes off the other part of the turning head and turns steeply downhill before dividing to each of those properties.
- 8.27 An amended plan was submitted 2.10.24 which showed the turning head enlarged to 5 x 15m to bring the geometry of the turning head up to standard and enable the bin lorry to turn. This change was welcome in principle however no swept path analysis was provided to demonstrate its adequacy. The bins and the grit bin were to be re-located to the west side of the turning head, and a streetlight would need to be re-located. However, in further correspondence from Atholl Associates (11 Nov 2024) and from the applicant (12 Nov 2024) they have rolled back from this proposal, as the bin lorry was apparently observed turning here and therefore, they do not consider the enlargement of the turning head to be necessary. A further amended site location/layout plan was submitted on 09 October 2024, and this keeps the turning head as existing. This drawing matches the drawings in the Drainage Impact Assessment by Atholl Associates.
- 8.28 A comparison of the two drawings submitted 02 Oct and 09 Oct shows that the turning head would need to be extended to the north into the steeply rising ground to get the 15m length. This would result in the turning head having a very high rock face or retaining wall - which is not now proposed. Nevertheless, the first 10m of the driveway would need to cut through the nose of land that forms a spur 3.7m in height, in relation to the level of the existing turning head. The first 25m of the driveway would have a rock cut or retaining gabion baskets forming a wall between 0.5m and 4.5m in height on the top side of the driveway, and the first 16m of the driveway would have retaining gabions between 0.5m and 2m in height on its lower side. This very significant engineering operation would have a significant visual impact, as discussed above in para 8.12.

- 8.29 The formation of the access off the public road would require consent from Transport Planning in addition to any requirements of planning permission, as a Road Opening Permit would be required. TP have advised that any retaining structure over 1.5m high that is formed adjacent to the road would require technical approval from the Council. The first 10m of the driveway (and land above it) would also be likely to drain towards the turning head, although this is unclear as only existing and not proposed contours are provided on the drawings. It is unlikely that the applicant would be able to secure a Road Opening Permit because they are not now proposing to enlarge the turning head, and the development would add a further house onto an already substandard turning head. In addition, it is likely that there would be a cut face or retaining structure over 1.5m high adjacent to the turning head, which would require Road's approval; and there are concerns there would be surface water from the first part of the driveway that would drain towards the turning head, and which Roads would also not be likely to accept. Given the applicant's decision to not now enlarge the turning head, and to leave it as it is, the proposal would not accord with Policies 28 of the HwLDP and Policy 13 of NPF4 in that a satisfactory access has not been demonstrated to serve the additional dwellinghouse.
- 8.30 If Members were minded to grant permission, a Construction Traffic Management Plan would need to be secured by condition. This would seek details of the amount and type of construction traffic and machinery necessary to undertake the extensive engineering works involved in this development. It would be for the applicant to agree to a S96 Agreement with the Council, as Roads Authority.
- 8.31 The tree screen (Tree Group A) that would otherwise separate the existing private driveway from the proposed new driveway would be eroded to accommodate the ground works and allow for adequate visibility at the junction of both private driveways onto the turning head. The addition of a second private drive would require additional caution to be exercised by users of the turning head and by users of both private drives.
- 8.32 The proposed driveway itself is not required to be constructed to an adoptable standard. The gradient would meet the maximum permitted. The lower section would have a retaining gabion structure between 0.5m and 4.5m high along its lower edge, the middle, hill section would have gabions between 0.8m and 1.5m along the inside edge, and the upper section would have gabions up to 3.5m high along the lower edge. The section up the hill would also have a 1:2 cut slope on the outside edge where it turns the corner and a 1:2 section of fill to form the corner for the grazings access. This would have a significant visual impact – see para 8.12 above. There is no requirement to include a passing place, and the junction for the grazing access in the NE corner of the site would in effect provide a passing and turning place at 145m along this 218m long driveway. The eastern part of the driveway, beyond the watercourse, is outwith the applicant's ownership, however they have received confirmation that they would be permitted to undertake the extensive engineering works necessary for the driveway on the neighbouring land.
- 8.33 There would be sufficient space within the curtilage for parking.
- 8.34 The existing adopted road serving Badabrie is narrow. However, the addition of one additional residential property would not result in an increase in traffic that would be

unacceptable. The potential use of the driveway to access the mast would not add an unacceptable amount of traffic. However, the formation of a further section of track to continue from the driveway up to the mast would require a new planning application.

- 8.35 Construction traffic and disturbance is relatively short lived, and it is an inevitable consequence of development, and is not in itself a reason to resist development. Existing controls exist under Environmental Health legislation to address working outside of reasonable hours, and excessive noise and dust. Any consequential impacts on neighbours e.g. due to rock pecking and vibration would be a civil matter between neighbours.
- 8.36 Whilst the applicant is correct to say that the driveway itself would not be required to be constructed to adoptable standards, the junction onto the public road at the turning head is required to meet the Council's standards as Roads Authority. The applicant has stated that they are not now prepared to enlarge the turning head to meet this standard and therefore the access junction would not be acceptable. It would exacerbate existing concerns regarding the adequacy of the turning head. The development would therefore conflict with Policy 28 of the HwLDP and Policy 13 of NPF4.
- 8.37 Previous applications LO/1989/546 and LO/1992/291 didn't progress due to issues with the adequacy of the Badabrie road. Application 01/00329/OUTLO came forward after the existing road was adopted by the Council, following a protracted period of negotiations regarding the adequacy of the turning head.

Drainage and services

- 8.38 A Drainage Impact Assessment was submitted on 2 October 2024 and revised 18 October in response to issues raised. The site is not within a designated flood risk area for surface water drainage (or from fluvial flood risk). However neighbours have raised drainage as a significant concern, and it is evident that houses below the site do experience significant run off affecting their properties, as does the A830. There is a small watercourse that flows north to south across the site roughly along the eastern boundary of the applicant's land ownership and which the driveway would cross and re-cross as it loops around to the house site. This watercourse is too small to be mapped, and it is largely covered by the surrounding vegetation. The watercourse passes close to the eastern boundary of Loch Leven House where it is culverted in part, before passing under the Old Banavie Road and the A830.
- 8.39 The DIA recognises the potential for significant surface water run-off given the amount of engineering work that would be involved in developing this site and proposes a comprehensive set of attenuation measures to capture and store water on the site before discharging it into this watercourse. There are four sets of cellular storage features, one either side of where the driveway first crosses the watercourse, a third in the NE part of the site inside the loop of the driveway, and one adjacent to the house to collect water shed from the house and immediate surrounds. These water storage features would be 660mm deep necessitating additional excavation for their installation. The one in the NE part of the site would discharge into the watercourse, which would then be culverted under the lower part of the site, between the lower two sets of cellular storage, which would discharge into this culverted

section, and the culvert then passes under the driveway at the lowest point of the site. Drainage would also discharge through the gabion baskets forming a retaining wall at the lower edge of the driveway into a ditch. The attenuation is proposed to ensure that runoff rates are no greater than greenfield runoff rates and would accommodate flows up to and including 1 in 200 year storm events. (1:200 events plus climate change will follow the same path as existing flows but will be reduced post-development). The existing watercourse crosses into the grounds of Loch Leven House close to here. The storage feature at the top of the site by the house would discharge into a partial trench soakaway along the lower edge of the final part of the driveway.

8.40 Transport Planning is concerned that the drainage scheme is over elaborate, and that the driveway's design will result in it washing out and the proposed infiltration not working. However, there is no requirement to meet the standards set out in the SUDS manual for the development of a single house and ultimately such drainage is addressed through Building Standards. It will become a civil matter between neighbours if excessive run-off affects a neighbouring property. The professional report does propose an engineered solution for this site which should work, provided it is installed and maintained properly. The scheme does however require substantial engineering works which would have a significant visual impact of itself and would increase the impact on trees. The proposal would not conflict with policy 66 of the HwLDP however.

8.41 Foul drainage should be connected to the public sewer where this is available. All the neighbouring properties connect to the mains. However, the proposal is to install a package treatment system and soakaway to the SE side of the house. Policy 65 of the HwLDP requires connection to the public sewer within settlements, as here, unless the applicant can demonstrate that:

- the development is unable to connect to a public sewer for technical or economic reasons; and
- that the proposal is not likely to result in or add to significant environmental or health problems

For proposals where connection to the public sewer is not currently feasible a private system would only be supported if:

- the system is designed such that it can be easily connected to a public sewer in the future

8.42 The private foul drainage is proposed because the levels are such that it would not be feasible to connect to the public sewer. Whilst this could be accepted due to the difficult topography, it is not ideal given the suburban situation and number of houses adjacent down slope. Again, this element would be controlled by Building Standards. In addition, the installation of the treatment system would impact on the trees both directly and indirectly. As submitted the proposal would not however conflict with Policy 65.

8.43 The undergrounding of the overhead electricity lines would be a minor visual improvement, although these lines are not prominent given their location behind the existing houses and below the woodland. It is assumed they would run under or alongside the proposed driveway. However, this work would potentially have an

impact on the design of the driveway and the drainage system, or tree roots, and this has not been considered in the drainage scheme, driveway design or tree survey report.

Public access

- 8.44 The proposed driveway, in incorporating access to adjacent croft land and the Common Grazings, would provide an improved route through the site to Banavie Hill, and to the War Memorial. Subject to agreement to such a condition this would safeguard public use rights to access the open hill beyond Badabrie, in accordance with Policy 77 of the HwLDP.

Other material considerations

- 8.45 Banavie quarry is just under 400m to the NE of the site and as a hard rock quarry explosives are used approx. 4 times a year. Planning permission extended its operational life to the end of 2045 and the area of extraction to the NW, bringing it marginally closer to this site (20/02154/FUL). There is no explicit policy guidance set out in the Physical Constraints Supplementary Guidance regarding the proximity of development to quarries. The SG states that it does have the potential to impact on public amenity within 400m, due to noise. However, the working face is away from the application site, and much of Banavie is already much closer to the quarry than this site. Access to the quarry is via Lochail Crescent, off the Banavie – Gairloch road, and doesn't affect this site. If existing properties are affected by vibration from blasting, there are several avenues for residents to pursue any complaint. There are controls set out in the existing planning permission for the quarry, and in permission ref. 20/02154/FUL which will come into effect once the next phase of the quarry's development is implemented. The Quarries Regulations 1999 also include controls, and there are controls on noise, emissions and vibration under The Environmental Protection Act 1990, which is administered by Environmental Health. This site would be no more affected by disturbance from the quarry as many other houses in the area. The site, by virtue of being a rocky promontory, may however provide some screening from quarry noise to the existing houses in Badabrie. This estate is however generally a sufficient distance from the quarry not to be significantly affected by it.
- 8.46 At present the access to the nearby telecoms mast goes through the quarry. One objector raises a concern that there is a proposal to switch the access to the mast to share the proposed common grazings access through the application site. This is not referred to in any of the submitted documents, however if it was proposed in the future and a constructed track was proposed from the eastern edge of the site to the mast, this would require another full planning application, for the 200m or so of new track needed up the hill to the mast.
- 8.47 Ground stability would be a matter for the developer – care would need to be taken to ensure neighbouring properties were not affected. Any impact on neighbouring properties as a result of blasting or pecking out of rock would be a civil matter between the interested parties.

Non-material considerations

- 8.48 The personal circumstances of the applicant are not a material planning consideration. Planning permission goes with the land, not the applicant. There are no Local Plan policies here which favour local people over anyone else regarding housing need or demand. Short Term Let legislation, recently introduced, does provide some control regarding the commercial use of residential property for holiday let purposes in STL Control Areas such as Badenoch and Strathspey; however, this is not in such a Control Area, and this would not be relevant in this case.
- 8.49 The condition of another development site at the bottom of the estate is not relevant to the consideration of this application.

Developer Contributions

- 8.50 Policy 31 requires all developments to make fair and reasonable contributions towards improved public services as required. None required in this area at the present time.

9. CONCLUSION

- 9.1 The extent of the proposed engineering works associated with this single house, and the impact on trees are the main issues in this case.
- 9.2 There would be a significant amount of ground re-profiling needed for the access, driveway and garage, and the driveway would take a lengthy and circuitous route to attain the 10m elevation to the house. The proposed drainage arrangements would also involve significant engineering works on this steeply sloping site. Altogether the engineering works would have an adverse visual impact on area when viewed from near by, from the A830 and Badabrie Road, and from further away, from the canal bank.
- 9.3 The development would not sit comfortably in the landscape contrary to Policy 34 of the HwLDP and Policy 14 of NPF4, and it would encroach into the Green Network around the settlement, eroding its quality contrary to Policy 74 of the HwLDP and one of the Placemaking Priorities for Fort William in the WestPlan. The development would not constitute sensitive siting, nor would it respect the natural heritage or street scene locally, contrary to Policies 28 and 29 of the HwLDP.
- 9.4 The proposal would result in the loss of at least 14 individual trees and parts of two tree groups and jeopardise 5-8 further trees by virtue of encroaching within their Root Protection Areas. This Scots Pine woodland provides valuable habitat and a high-quality landscaped setting to Badabrie and the western part of Banavie. The development of a single private dwelling house would not constitute a significant public benefit that would outweigh the national level of protection given to this woodland, which is protected by a Tree Preservation Order, and therefore it would not comply with the Control of Woodland Removal Policy, Policy 6 paras b and c of NPF4, nor with Policies 51, 52 or 57 of the Highland wide Local Development Plan (HwLDP).

- 9.5 Surface water drainage could be adequately attenuated by several features however these would be likely to add to the impacts on trees and the woodland. The house could not be served by the nearby mains sewer due to the topography, and the proposed installation of a foul drainage treatment system would similarly add to the impact on trees and the woodland.
- 9.6 The proposed improvement to the existing turning head is no longer part of the plan, and it has not been demonstrated that the proposal could achieve an access that would be acceptable to the Council, as Roads Authority. It is unlikely that it would be able to secure a Road Opening Permit. The provision of vehicular access to the Common Grazings would provide a small benefit, however this would not outweigh the unacceptable access arrangements, which would be contrary to Policy 28 of the HwLDP and Policy 13 of NPF4.
- 9.7 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.

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.

Reasons for Refusal

1. The engineering works associated with the access driveway and drainage for the house would have a significant adverse impact on amenity and would not make a positive contribution to the visual quality of the place contrary to Policies 28, 29 and 34 of the Highland wide Local Development Plan and Policy 14 of NPF4. The development as a whole would not constitute sensitive siting, nor would it respect the natural heritage or street scene locally, contrary to elements of the Placemaking Priorities in the WestPlan, nor would it constitute sustainable development. It would be highly prominent from the Caledonian Canal

between Banavie and Corpach, where it would be elevated above the roofs of existing houses and trees.

2. The driveway and drainage works would extend out of the Settlement Development Area and encroach into the Green Network which is protected for its nature conservation and landscape qualities, contrary to Policy 74 of the Highland wide Local Development Plan and included in the Placemaking Priorities for Fort William in the WestPlan.
3. The proposal would result in the loss of at least 14 individual trees and parts of two tree groups and jeopardise 5-8 further trees by virtue of encroaching within their Root Protection Areas, which provide a high-quality landscaped setting to Badabrie and valuable habitat. A single private dwelling house would not constitute a significant public benefit, that would justify the loss of a significant proportion of the woodland, much of which is protected by a Tree Preservation Order, and therefore it would not comply with the Control of Woodland Removal Policy, Policy 6 of NPF4, nor with Policies 51, 52 or 57 of the HwLDP.
4. The applicant has failed to demonstrate that a suitable access can be provided by virtue of its junction with a sub-standard turning head, contrary to Policy 28 of the Highland wide Local Development Plan and Policy 13 of NPF4.

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Lucy Prins

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

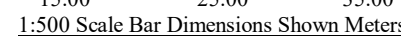
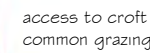
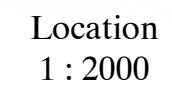
Relevant Plans:

- Plan 1 - Amended Location Plan Initial 03 – 09.10.24
- Plan 2 - Section with datum 000001 – 23.08.24
- Plan 3 - Views 3 Initial 06 Visual info and section – 02.10.24
- Plan 4 - Tree Protection Plan TPP AM 050724 – 02.10.24
- Plan 5 - Floor Plan/Elevation 01 – 16.02.24
- Plan 6 - Visual information 02 – 16.02.24
- Plan 7 - Visual information 04 – 16.02.24
- Plan 8 - Visual information 05 – 16.02.24
- Plan 9 - Visual information 07 – 16.02.24



FORT WILLIAM WESTPLAN 2019

2 Lochaber Settlements | Tuineachaidhean Loch Abar



SITE PLAN
1 : 500

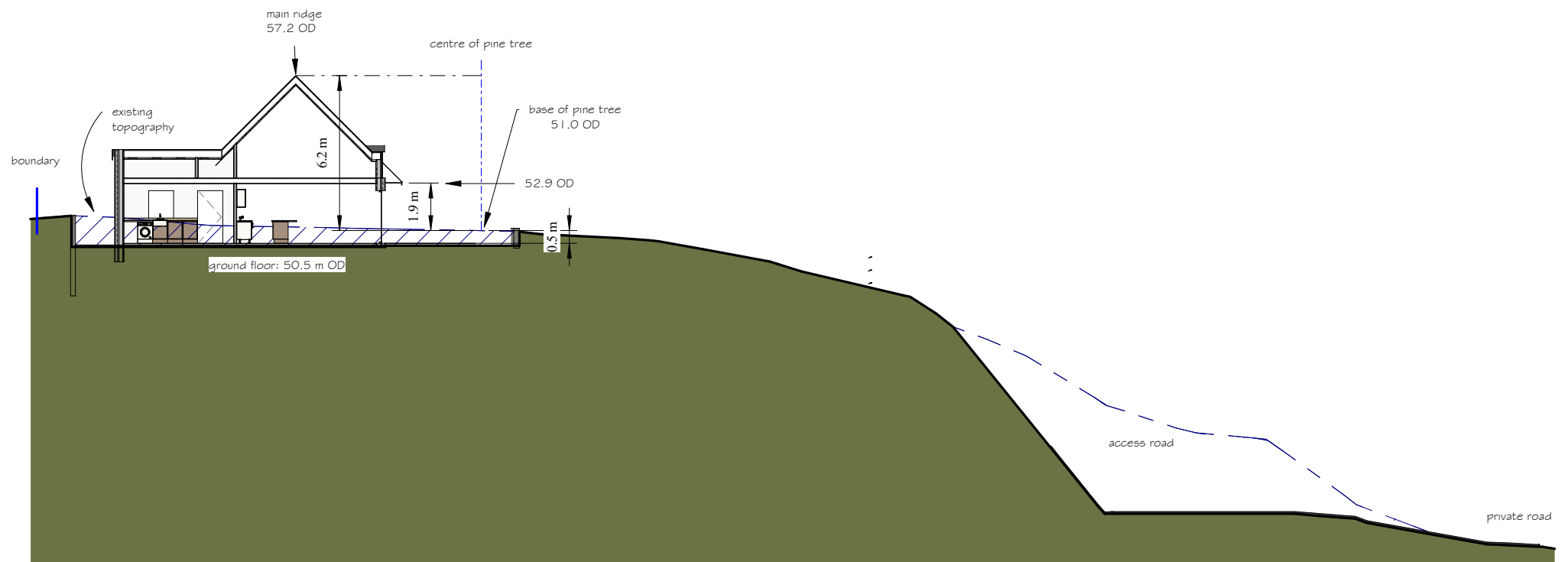
PLOT 1, BADABRIE

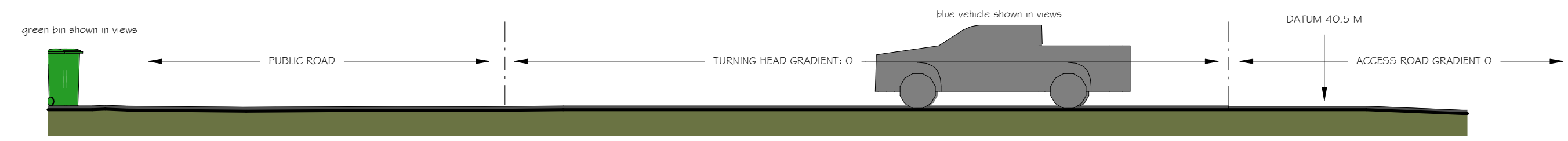
ANN MARIE MACRAE
LOCATION PLAN

NIGEL JOHNSTON
SCALE: As indicated

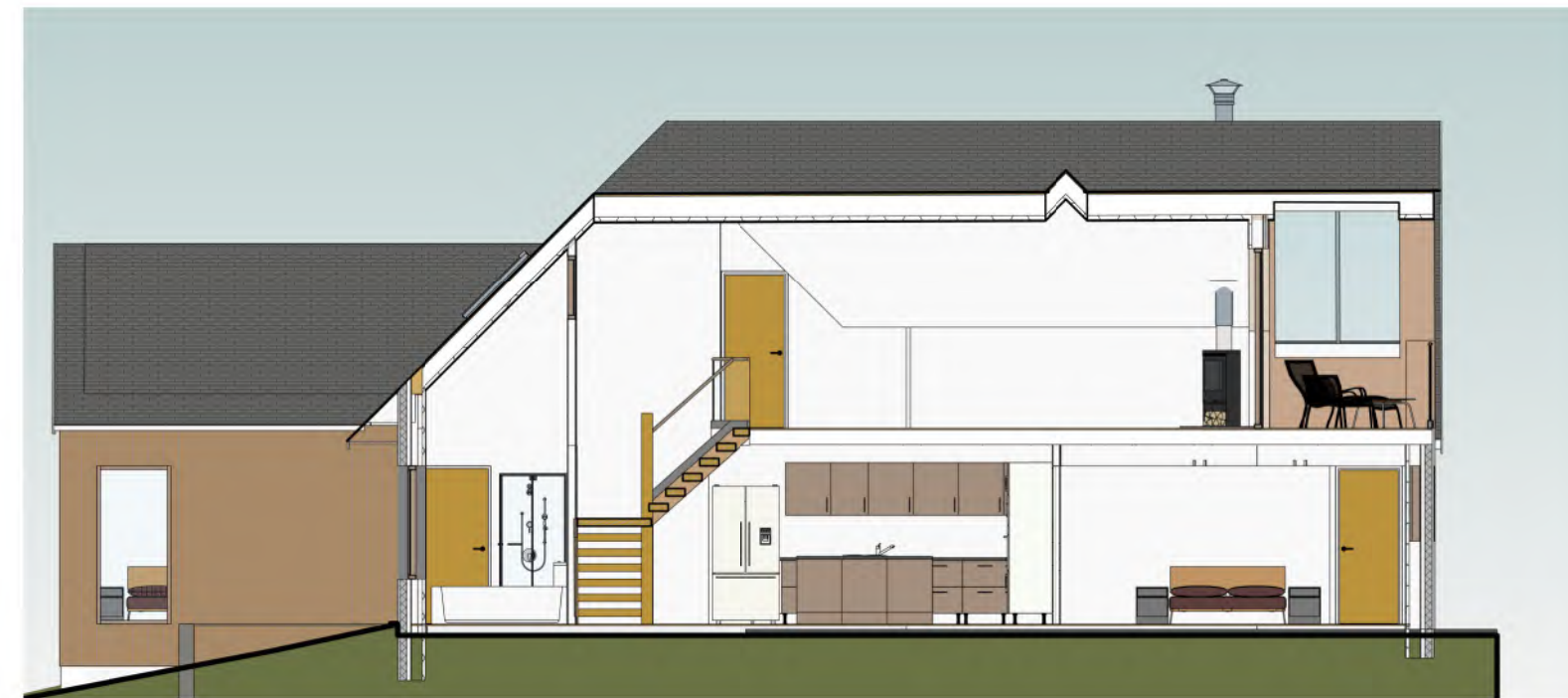
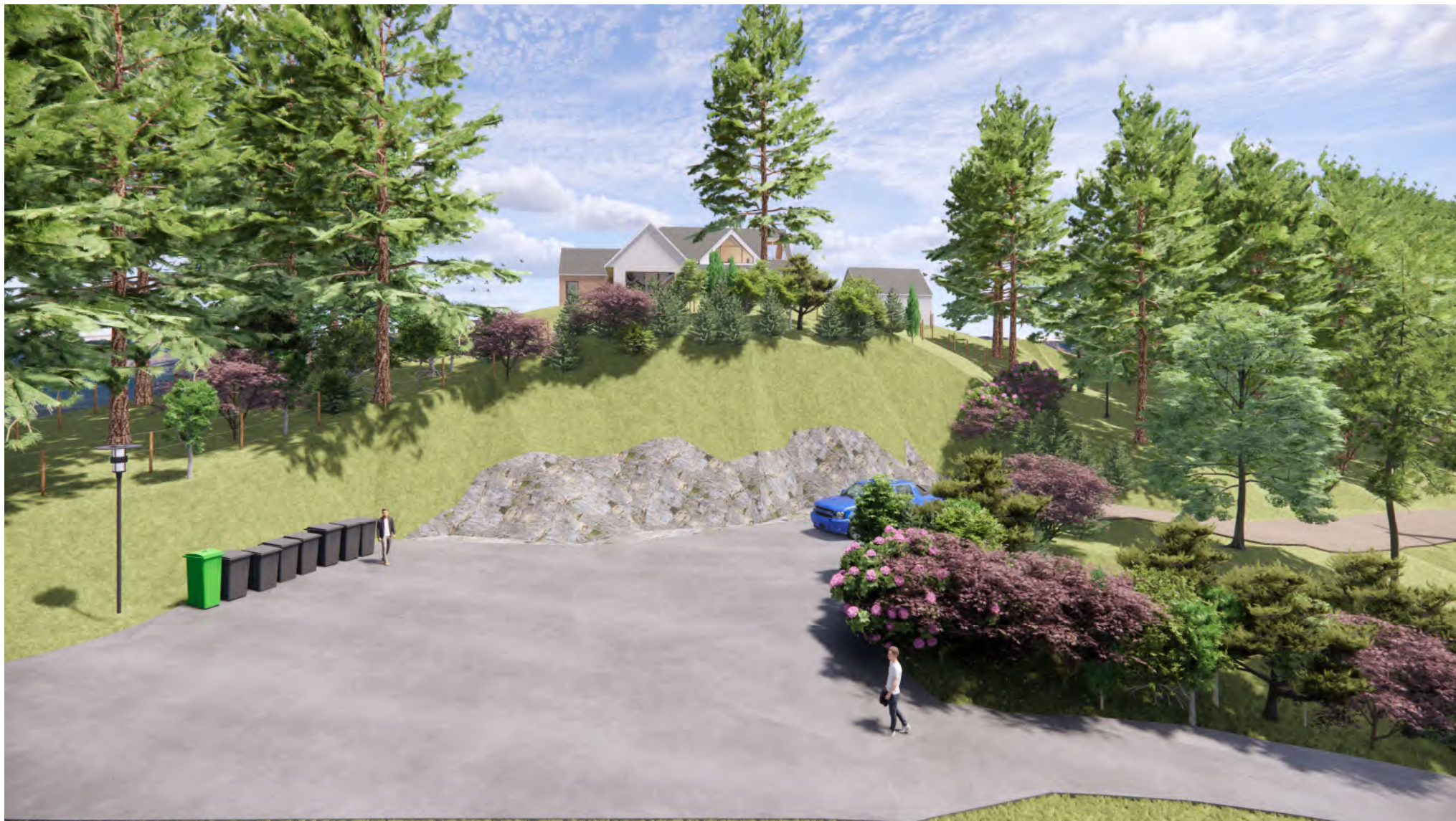
Initial 03

CAMUSDARACH, ARISAIG, INVERNESS-SHIRE PH39 4NT - 01687 450271 - nigeldesign@gmail.com





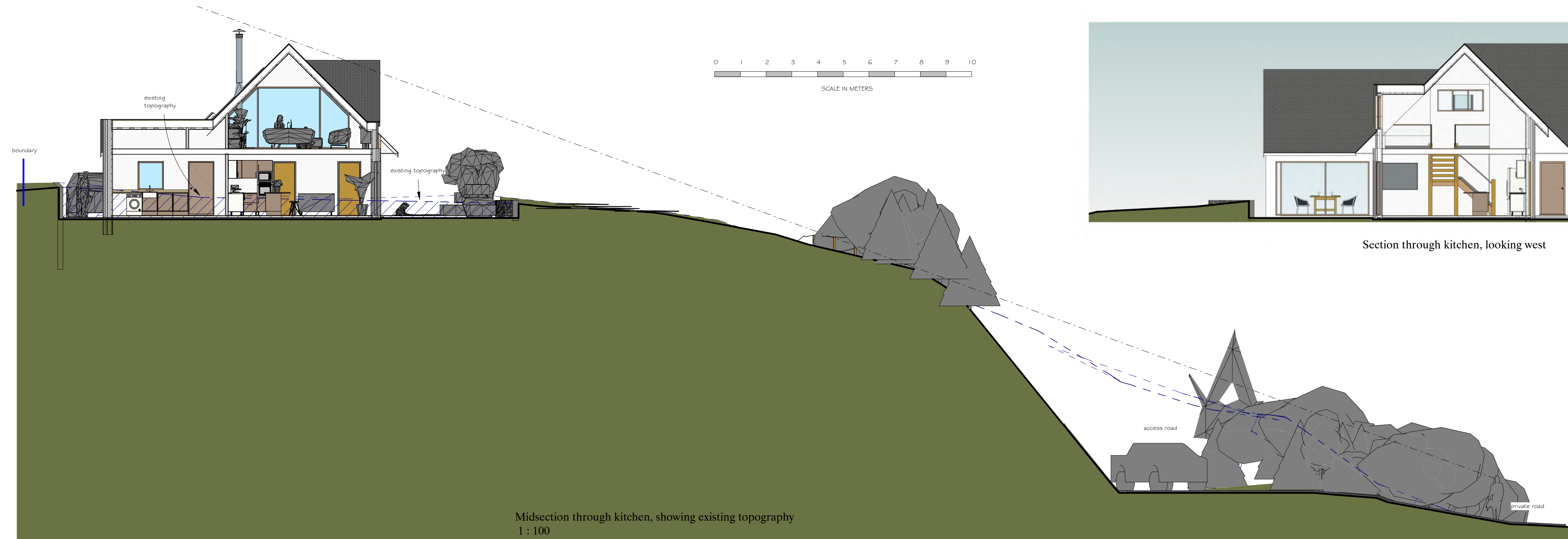
Turning head and access road gradient
1 : 100



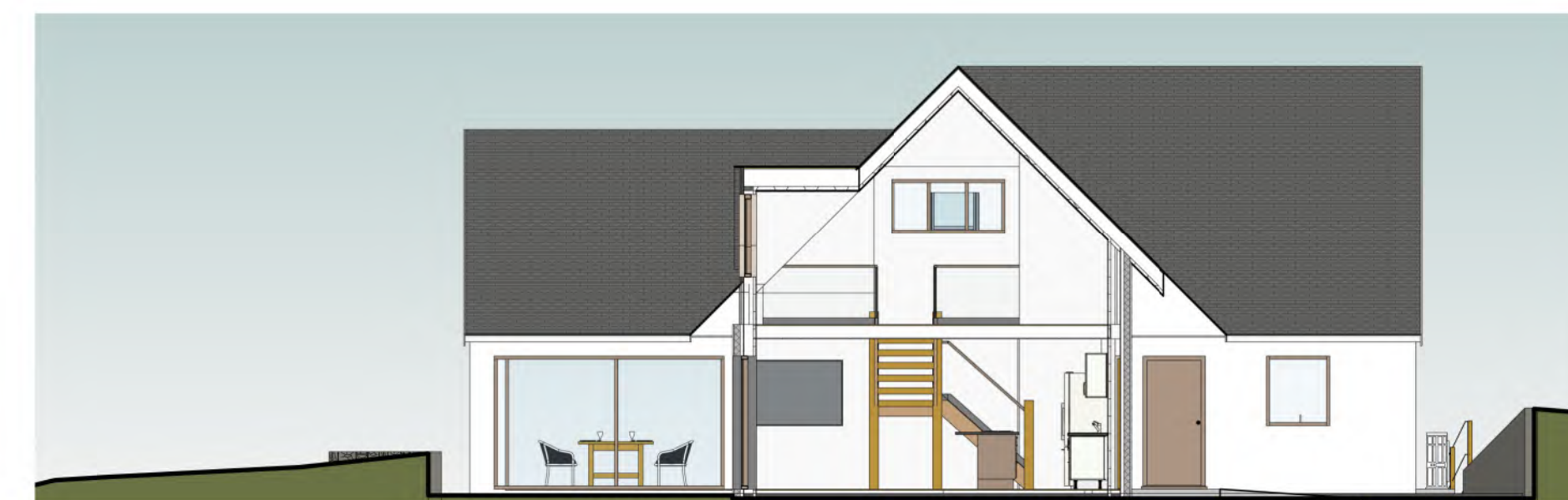
Section through kitchen, looking north



Section through stair, looking east



Midsection through kitchen, showing existing topography
1 : 100



Section through kitchen, looking west

SCALE: 1:100

PLOT 1, BADABRIE

ANN MARIE MACRAE

VIEWS 3
NIGEL JOHNSTON
SCALE: As indicated
JULY 2024

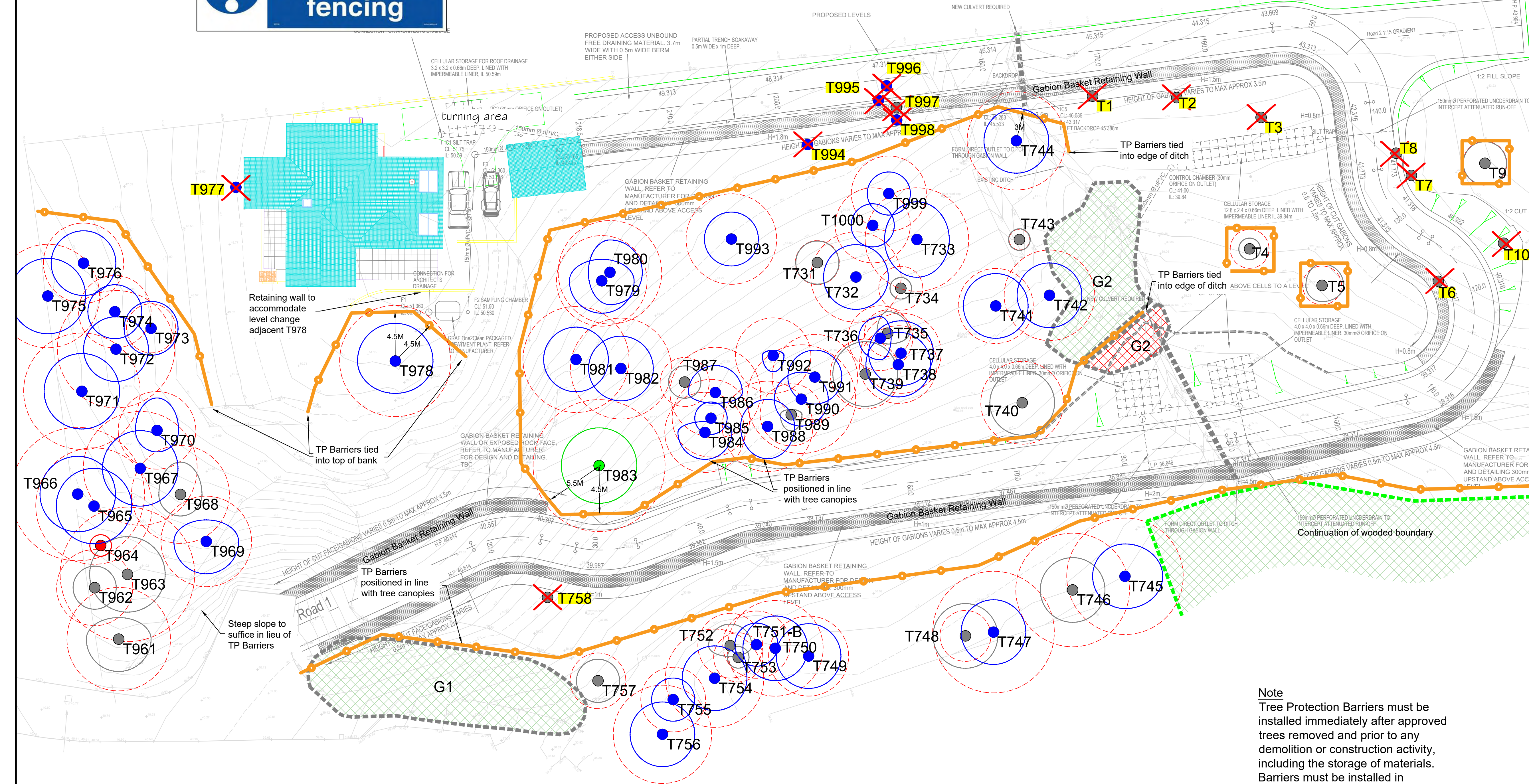
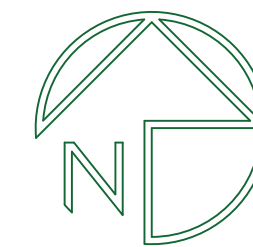
Initial 06



Tree protection zone



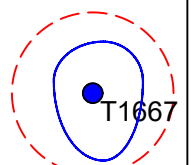
Do not remove this fencing



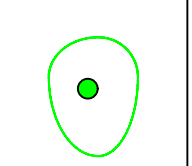
Note
Tree Protection Barriers must be installed immediately after approved trees removed and prior to any demolition or construction activity, including the storage of materials. Barriers must be installed in accordance with the specification in key adjacent with all weather signage attached as illustrated. The protected area must remain as a Construction Exclusion Zone until the development is complete. Barrier positions should be set out using the relevant co-ordinates to ensure accurate positioning.

Tree Protection Plan

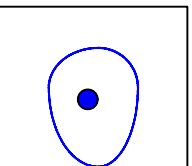
Detail of trees for removal and protection measures for retained trees



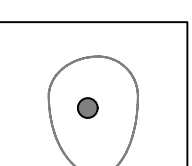
Tree
Showing Canopy extents, category colour, RPA circle (BS5837), tag number



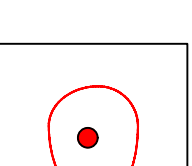
Category A
Trees of high quality with an estimated remaining life expectancy of at least 40 years



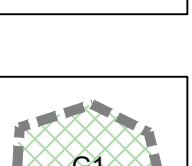
Category B
Trees of moderate quality with an estimated remaining life expectancy of at least 20 years



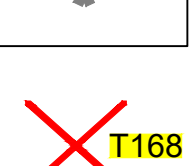
Category C
Trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm



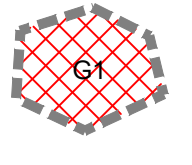
Category U
Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years



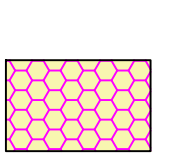
Group
Showing canopy extents and category colour which will also represent RPA unless detailed separately



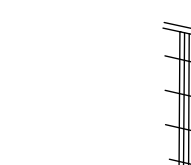
T168 Tree proposed for removal



G1 Group proposed for removal



Tree Protection Barriers



Specialist construction methods (Cellular Containment System) for root protection

ILLUSTRATION SHOWING HERAS FENCING AS TEMPORARY ROOT PROTECTION BARRIER WITH SCAFFOLD BACKSTAY CLAMPED ONTO DRIVEN UPRIGHT ON ROOT SIDE AS RECOMMENDED BY BS 5837:2012
SEE PLAN FOR POSITIONING

Treetek

Treetek, Woodland Park, Contin,
Ross-shire. IV14 9EU

Tel: 07857 145226 Email: Lawrence@treetek.co.uk

Client
Anne-Marie MacRae

Project
**Proposed House,
Badarbie**

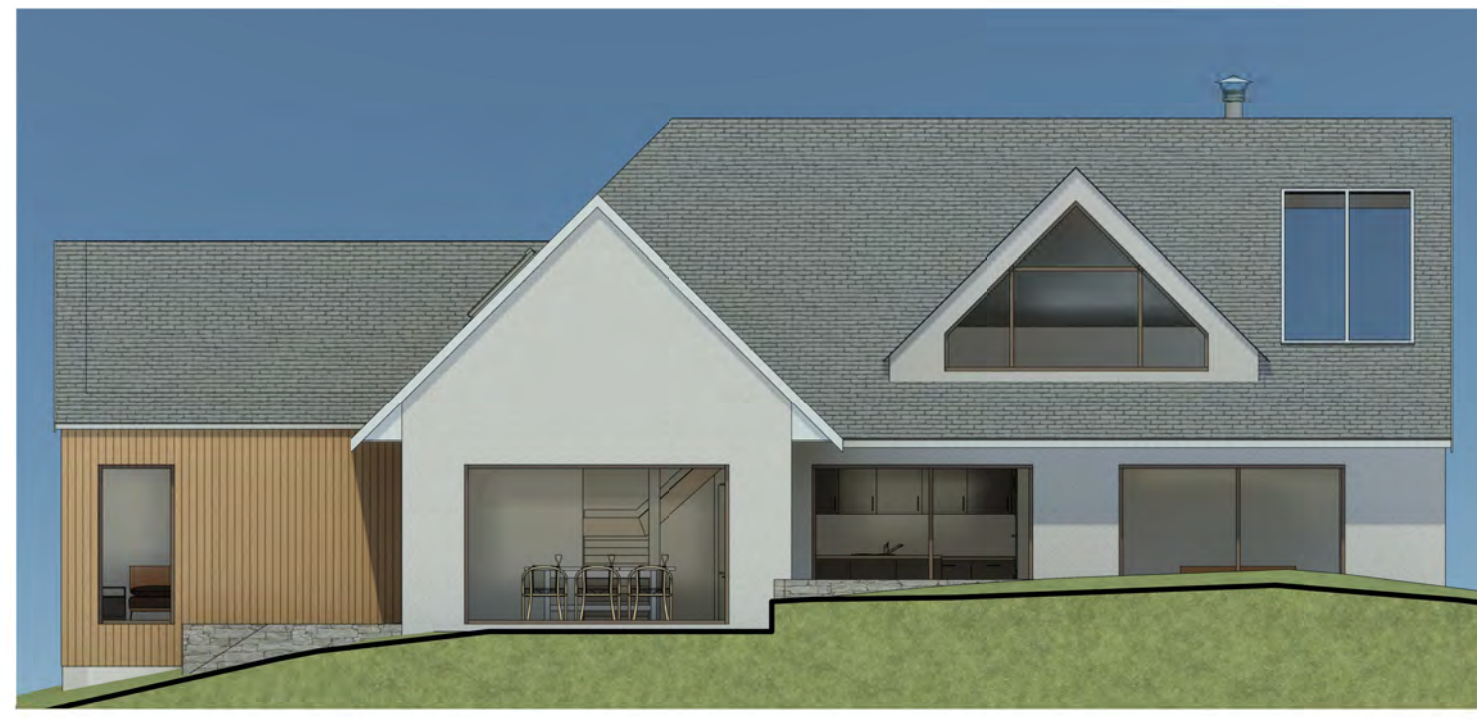
Drawing Title
Tree Protection Plan

Scale: 1:200 @ A1	Date: 30th Sept 2024	DB LM
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Drawing Number TPP_AM_050724	Rev	Sheet 1 of 1
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NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION



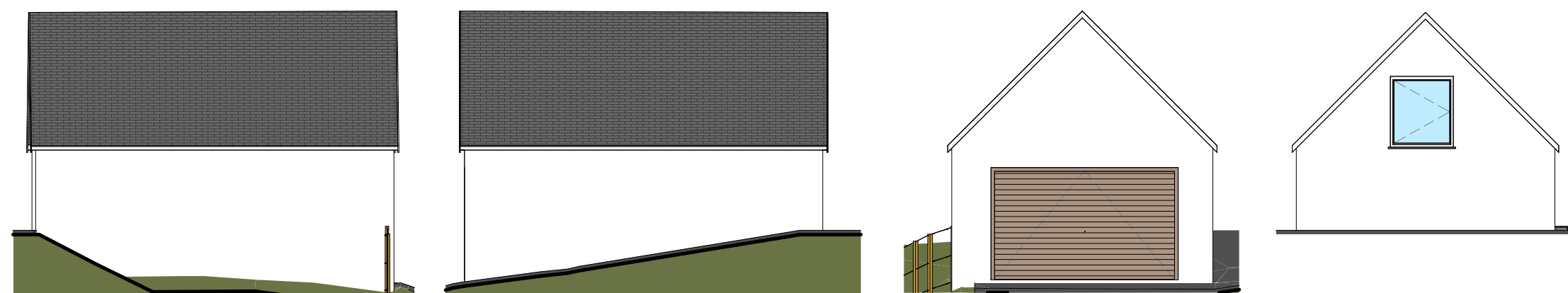
FIRST FLOOR PLAN
1 : 100

Floor Areas	
Level	Area
Ground Floor	142.29 m ²
First Floor	89.62 m ²
	231.85 m ²

EXTERNAL MATERIALS:-
ROOF:- SLATE
WALLS:- WHITE RENDER, VERTICAL LARCH BOARDING
WINDOWS AND DOORS:- RAL POWDER COAT



GROUND FLOOR PLAN
1 : 100



GARAGE
1 : 100

PLOT 1, BADABRIE

ANN MARIE MACRAE

FLOOR PLAN AND ELEVATIONS
NIGEL JOHNSTON
SCALE: As indicated
JANUARY 2024

Initial 01





PLOT 1, BADABRIE

ANN MARIE MACRAE

VIEWS
NIGEL JOHNSTON
SCALE: 1 : 1
JANUARY 2024

Initial 02



PLOT 1, BADABRIE

ANN MARIE MACRAE

VIEWS 1
NIGEL JOHNSTON
SCALE: 1 : 1
JANUARY 2024

Initial 04



PLOT 1, BADABRIE

ANN MARIE MACRAE

VIEWS 2
NIGEL JOHNSTON
SCALE: 1 : 1
JANUARY 2024

Initial 05



PLOT 1, BADABRIE

ANN MARIE MACRAE

VIEWS 4
NIGEL JOHNSTON
SCALE: 1 : 1
JANUARY 2024

Initial 07