Ref: AB1

# ARGYLL AND BUTE COUNCIL

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OFFICIAL USE Validated 18/01/24 HM

Date Received 16/01/24

## **NOTICE OF REVIEW**

Notice of Request for Review under Section 43(a)8 of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Important – Please read the notes on how to complete this form and use Block Capitals. Further information is available on the Council's Website. You should, if you wish, seek advice from a Professional Advisor on how to complete this form.

(1) APPLICANT FOR REVIEW		(2) AGENT (if any)				
Name	MALCOLM SLOSS	Name IAIN A MACDONALD				
Address	ROWAN BRAE	Address INVERESREGAN				
	GLENCRUITTEN	ARDCHATTAN				
	OBAN	OBAN				
Postcode	PA34 4OB	Postcode PA37 1RG				
Tel. No.		Tel. No. 07766394079				
Email		Emai iain@inveresregan.co.uk				
(3) Do you wish correspondence to be sent to you  or your agent  X						
(4) (a) Reference Number of Planning Application 23/00825/PPP						
(b) Date of Submission 16 JANUARY 2024						
(c) Date of Decision Notice (if applicable)						
(5) Address of Appeal Property		ROWANBRAE GLENCRUITTEN OBAN PA34 4QB				

(6) Description of Proposal

SITE FOR THE ERECTION OF A DWELLING HOUSE

(7) Please set out the detailed reasons for requesting the review:-

The applicant disagrees with planning authority's definition of cluster development, in relation to the existing built environs surrounding the application site.

A detailed supporting statement is attached to this document.

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information:-					
(a) De	ealt with by written submission				
(b) De	ealt with by Local Hearing				
(c) De	ealt with by written submission and site inspection	X			
(d) De	ealt with by local hearing and site inspection				
NB It is a r	natter solely for the Local Review Body to determine if further infor	mation			
is required	and, if so, how it should be obtained.				
` applic	(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-				
copies	ule of documents submitted with Notice of Review (Note: 3 p s of each of the documents referred to in the schedule be be attached):	•			
No.	Detail				
No.	Detail  Combined written supporting statement with maps etc attack	hed.			
		hed.			
1	Combined written supporting statement with maps etc attac	hed.			
1 2	Combined written supporting statement with maps etc attack BDS 524 101 CLUSTERS IN SPACE	ched.			
1 2 3	Combined written supporting statement with maps etc attack BDS 524 101 CLUSTERS IN SPACE BDS 524 100 BIRDS EYE VIEW WITH CLUSTERS	ched.			
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Submitted by (Please Sign)	IAIN A MACDOANLD	Dated	16 January 2024

### **Important Notes for Guidance**

- 1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
- 2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
- 3. Guidance on the procedures can be found on the Council's website www.argyll-bute.gov.uk/
- 4. If in doubt how to proceed please contact 01546 604392/604269 or email <a href="mailto:localreviewprocess@argyll-bute.gov.uk">localreviewprocess@argyll-bute.gov.uk</a>
- 5. Once completed this form can be either emailed to <a href="mailto:localreviewprocess@argyll-bute.gov.uk">localreviewprocess@argyll-bute.gov.uk</a> or returned by post to Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT
- 6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604392/604269 or email <a href="mailto:localreviewprocess@argyll-bute.gov.uk">localreviewprocess@argyll-bute.gov.uk</a>

For official use only	
Date form issued	
Issued by (please sign)	

# WRITTEN STATEMENT FOR NOTICE OF REVIEW

REFUSAL OF PLANNING APPLICATION

23/00825/PPP APPLICATION FOR THE ERECTION
OF A DWELLINGHOUSE AT LAND NORTH OF ROWAN
BRAE, GLENCRUITTEN, OBAN, ARGYLL PA34 4QB

building design studio

inveresregan house ardchattan argyll PA37 1RG

iain@inveresregan.co.uk

07766394079

8<sup>th</sup> January 2024

Revision -

### Introduction

The applicant Mr Malcolm Sloss submitted the planning application 23/00825/PPP on 25<sup>th</sup> April 2023 which was assessed under delegated authority and after summary assessment and determination of material considerations was refused on 17<sup>th</sup> October 2023.

The reason for refusal

### Summary justification statement for refusal of planning permission in principle

The proposal is considered to be contrary to NPF4 Policy 9 as underpinned by LDP Policies LDP STRAT 1, LDP DM 1, SG LDP ENV 14 and SG LDP HOU 1 and Policy 02 of pLDP2, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.

The proposed development on this greenfield site conflicts with National Planning Policy NPF4 Policy 9. NPF4 Policy 9 (b) states that proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported in the LDP.

Whilst the site is within a Rural Opportunity Area, Policy DM1 support is qualified to 'appropriate sites'. Furthermore, this support is subject to on-going capacity evaluation of the Rural Opportunity Area.

The site is elevated above the level of the existing cluster of development to the south where it is considered that the existing stables on the lower ground form the natural boundary for this small cluster of development. In this case, it is considered that the proposal would harmfully extend the existing cluster of development and unacceptably harm the rural landscape character and appearance of the area.

Consequently, it is considered that the proposed development is contrary to NPF4 policies 9, 14 and 17, Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9, SG LDP ENV 14 and SG LDP HOU 1

It is our contention that the grounds for refusal are based on a single issue surrounding the definition of "appropriate site" in relation to an exact meaning of "cluster developments" in a rural context. This single issue is the single reason for NPF4 9, 14, 15, 16 and 17, failing in compliance, and that failure by association, the single reason LDP STRAT1, LDP DM1, LDP3, LDP 9, SGLDP ENV14 and SG LDP HOU 1 are considered to be non-compliant.

Conversely, In terms of NPF4 1, 2, 3, 4, 12, 13, 18 and 22, the proposed development are wholly compliant, and underpinned by LDP DM 1 LDP3, SG LDP ENV 1 G LDP ENV1 SG LDP ENV4 LDP2, LDP 10, SG LDP SRV 1, SG LDP SERV 5 (b) and Pol 63 of p, SG LDP SERV 6, Pol 58, 59, & 61 LDP2, LDP LDP11, SG LDP TRAN 2 SG LDP TRAN 4 SG LDP TRAN 6 (37, 39, 40) OF pLDP2

The refusal is underpinned by the following statement at NPF4 Policy Summary of the handling report.

However, whilst the site is within a ROA where the LDP gives general support to small-scale housing development, Policy DM1 support is qualified to 'appropriate sites'. Furthermore, this support is subject to on-going capacity evaluation of the ROA. In this case, it is considered the proposal would unacceptably erode the rural character of the landscape and introduce a more suburban character to the landscape, leading to possible coalescence and linear development. It is noted that permission in principle is only sought at this stage. However, it is not considered that matters of detailed design and siting would prevent or sufficiently mitigate this harm.

The site is elevated above the level of the existing cluster of development to the south where it is considered that the existing stables on the lower ground form the natural boundary for the small cluster of development to the south, an area which has been subject of development pressure in the last few years. It is considered that extending the development beyond the stables would extend the existing cluster of development in an inappropriate manner to the detriment of the wider landscape, resulting in linear development and eroding the rural character of the area. This resultant material harm to landscape, local character and appearance would be appreciable along the public road to the immediate east of the site.

### MAP 1



### 1.0 PLANNING POLICY:

From the Local Development Plan Proposals Map, the site can be seen to be located within a Rural opportunity Area. The proposed use of the site is residential. Key Planning Policies include:

List of all Development Plan Policy considerations taken into account in assessment of the application.

National Planning Framework 4 (Adopted 13th February 2023)

### Part 2 – National Planning Policy Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 - Biodiversity NPF4 Policy 4 - Natural Places

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (includes provisions relevant to Greenfield Sites)

NPF4 Policy 12 - Zero Waste

NPF4 Policy 13 – Sustainable Transport

### **Liveable Places**

NPF4 Policy 14 - Design, Quality and Place

NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods NPF4 Policy 16 – Quality Homes

NPF4 Policy 17 - Rural Homes NPF4 Policy 18 - Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 8 – Supporting the Strength of our Communities LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption LDP 11 – Improving our Connectivity and Infrastructure

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted March 2016 & December 2016)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity SG LDP ENV 7 – Water Quality and the Environment

Landscape and Design

SG LDP ENV 14 – Landscape

<sup>&#</sup>x27;Argyll and Bute Local Development Plan' Adopted March 2015

**General Housing Development** 

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

**Resources and Consumption** 

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems SG LDP SERV 2 – Incorporation of Natural Features / SuDS

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

SG LDP SERV 6 – Private Water Supplies and Water Conservation

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes SG LDP TRAN 6 – Vehicle Parking Provision

SG LDP TRAN 7 – Safeguarding of Airports

- (ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.
- Consultation Reponses
- ABC Technical Note Biodiversity (Feb 2017)

Argyll and Bute proposed Local Development Plan 2 (November 2019) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the Examination Report has been published (13th June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

Spatial and Settlement Strategy

Policy 02 – Outwith Settlement Areas Policy 04 – Sustainable Development

**High Quality Places** 

Policy 05 – Design and Placemaking Policy 06 – Green Infrastructure Policy 08 – Sustainable Siting Policy 09 – Sustainable Design Policy 10 – Design – All Development

### **Connected Places**

Policy 37 – Development Utilising an Existing Private Access or Existing Private Road

Policy 39 – Construction Standards for Private Accesses Policy 40 – Vehicle Parking Provision

Policy 43 – Safeguarding of Aerodromes

### Sustainable Communities

Policy 58 – Private Water Supplies and Water Conservation Policy 59 – Water Quality and the Environment

Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems Policy 61 – Sustainable Urban Drainage Systems (SUDS)

Policy 63 – Waste Related Development and Waste Management

**High Quality Environment** 

Policy 73 – Development Impact on Habitats, Species and Biodiversity

### **GENERAL**

In terms of the site environment, we are aware of no issues or impact upon the natural, human and built environment.

The house will pay respectful attention to the local vernacular, sitting as low in its natural landscape context as possible and will be positioned and oriented so as to retain the loose linear nature of the contoured ground levels of the existing neighbouring dwellinghouses whilst at the same time optimising amenity in terms of both views, natural light and privacy to neighbouring buildings.

The proposed building will be designed with resource efficiency/renewability and ecosustainability foremost in mind in terms of construction, insulation, glazing and heating source/s.

### **NPF4 PRINCIPALS**

**Healthy:** The location of this plot is directly off a public road and so benefits from the passive security of being visible for passers-by thus supporting the prioritisation of women's safety, and generally a feeling of security and safety.

**Pleasant:** The new dwelling will be simply proportioned and complemented with a limited natural material palette that offer the range of materials sought in assessing the housing character of the area which support attractive natural and built spaces and contemporary in design.

**Connected:** This rural location has limited but adequate public transport connectivity, locally and nationally. The public road from forma part of the Nationals cycleways system.

**Distinctive:** A contemporary design of the proposed dwelling will complement the adjoining older buildings and sit comfortably with other newly constructed additions of a more contemporary nature.

**Sustainable:** The dwelling will achieve the now demanding standards required by Building Standards and possibly exceed these. It will have very high levels of insulation, efficiently glazed doors and windows, using renewable energy where practicable.

**Adaptable**: The interior layout will be well proportioned with due attention given to inclusive design requirements and a disabled compliant WC on the ground floor. The dwelling would have a level access threshold, referencing 'Design for Life' guidelines. The spaces are simple and large enough to respond to any future changes by the owners.

**Biodiversity.** The planting and boundary treatments will reflect back land theme of masonry and brickwork boundary walls. The garden will generally be laid to lawn but will incorporate an area of natural lawn for foraging birds, insects etc and will have hedgehog holes in fences and boundaries. It will have a log pile, as the dwelling will have a wood burner, great for insects, a compost bin and lots of hiding places so bugs will not be disturbed.

### **NPF4 SPECIFICS**

The handling report offers the following summary, which we have commented on in red to support our statement.

Development along the Connel Back Road generally comprises small clusters of development, some set alongside the public road and others set back, with these clusters broken up with areas of open ground.

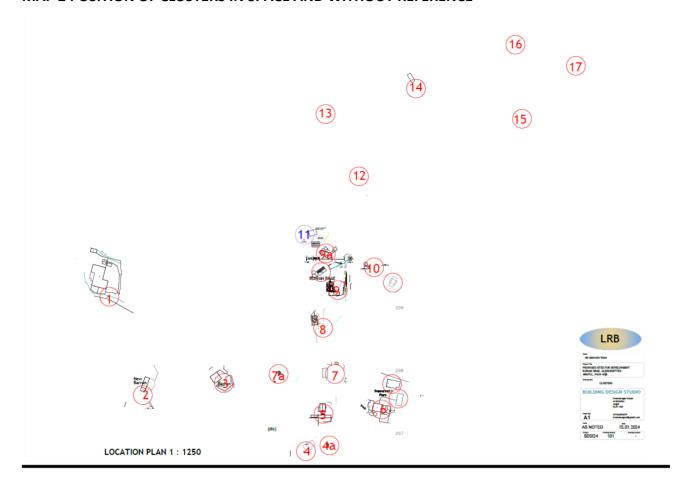
The site the subject of the application is a relatively flat area of ground elevated above the Barran-Connel public road which runs along the east of the site. The site rises up to the rear of the site to the north and the northwest. There are two stable buildings to the south of the site beyond which is an agricultural building and a small cluster of residential development associated with the junction of the public road leading to Oban.

The site is above the public road but only directly east of its position. In terms of the main body of existing built development the site is actually at the same level as the level at the crossroad junction, to Connel, Oban Kilmore. The difference in level between the applicant's house Rowanbrae and the proposed site ground level is almost exactly the same as the difference in level between the applicant's house and the road junction and houses thereon nearby.

It is considered that the stables effectively terminate the extent of built development at this location with the development of the site with a dwellinghouse extending the existing built development at this location in an unacceptable manner, resulting in the loss of open space between the existing cluster of development to the south and the small pairing of dwellinghouses to the north.

If the bare clusters shown below are referred to, it is difficult to agree with the statement "It is considered that the stables effectively terminate the extent of built development at this location", and "resulting in loss of open space" when in fact the clusters formed and resulting open space are so random in nature making it very difficult to identify which is which in terms of open space and cluster groups. The proposed site location is sufficiently far away from the small cluster north of the site to ensure adequate open space is retained to between the two sets of built development. The proposed site is circled in blue below. It would be much more consistent with a designation of "INFILL AND ROUNDING OFF".

### MAP 2 POSITION OF CLUSTERS IN SPACE AND WITHOUT REFERENCE



An existing vehicular access spurring from the UC19 Barran – Connel public road is to be utilised to serve the proposed development with drainage and water supply via private arrangements due to the lack of public infrastructure within the vicinity of the site.



VIEW FROM CROSS ROAD



### **NPF4 SPECIFICS (continued)**

The handling report offers the following assessment, which we have commented on in red to support our statement.

NPF4 Policy 1 – Tackling the Climate and Nature Crises NPF4 Policy 2 – Climate Mitigation and Adaption

Assumed compliant.

NPF4 Policy 2 - Climate Mitigation and Adaption.

Assumed compliant.

NPF4 Policy 3 - Biodiversity

Assumed compliant.

NPF4 Policy 4 - Natural Places

Assumed compliant.

# NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (includes provisions relevant to Greenfield Sites)

The proposal is consistent with this policy in terms of development of in-bye or low-quality agricultural land which is of little merit for any other purpose.

The failure of this proposal to comply is singularly down to the false premise that the area is not an "appropriate site" and that an adverse impact will be created due to the un-evidenced assumption that the open space will be lost and it is asserted that "material harm to the landscape, local character and appearance would be appreciable along the pubic road to the east of the site. The site is in fact not visible from the public road., to use the word harm (to inflict injury) rather overstretches the reality.



### NPF4 Policy 12 - Zero Waste

Assumed compliant.

### NPF4 Policy 13 - Sustainable Transport

Assumed compliant.

### **Liveable Places**

### NPF4 Policy 14 – Design, Quality and Place

This policy broadly supports the proposals but qualifies and negates that support by referring back to the "harmful" aspects referred to in NPF\$ Policy 9 noted above.

### NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

This policy supports the development notwithstanding the default cross referencing to Policy 9 and Policy 14 above.

However, as detailed at NPF4 Policies 9 and 14 above, the presumption in favour of development in ROAs is subject to on-going capacity evaluation of the ROA to avoid overdevelopment which could erode the rural character of the landscape and introduce a more suburban character to the landscape with development between existing dwellinghouses leading to possible coalescence and linear development.

In this instance, the proposed development site would fail to respect the existing established settlement pattern resulting in an adverse environmental impact and therefore would fail to meet the requirements of NPF4 Policy 15 as underpinned by the settlement strategy policies contained within LDP Policies LDP DM 1, LDP 8, SG LDP ENV 14 and SG LDP HOU 1.

It is interesting to note, and as shown on the 17 dwelling cluster shown at MAP 2 above the capacity evaluation of the ROA has arguably missed the boat if you look at the time frame of approval of each of the individual dwellings spiraling outwards from the three way junction at Barranriach farm, which clearly shows existing development coalescing into linear development heading north towards Connel, the idea that these individual groups can be considered clusters dispelled if you look at the equal spacing between most of them If you accept that argument then policy 15 becomes complaint.

### NPF4 Policy 16 – Quality Homes;

seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations and providing choice of tenure to meet diverse housing needs.

This policy supports the development notwithstanding the default cross referencing to Policy 9 and Policy 14 above, and the inclusion of "right location" as a material consideration for policy 16 making it contrary to its aims.

### NPF4 Policy 17 – Rural Homes

seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

This policy supports the development notwithstanding the default cross referencing to Policy 9 and Policy 14 above, and the inclusion of "right location" as a material consideration for policy 17 making it contrary to its aims.

NPF4 Policy 18 – Infrastructure First Assumed compliant.

NPF4 Policy 22 – Flood Risk and Water Management

Whilst it has been demonstrated that appropriate servicing and infrastructure arrangements can be provided to serve the proposed development, the principle of the development of the site with a dwellinghouse is not considered to be acceptable as it would extend the existing built development in an unacceptable manner, resulting in the loss of important spacing between development clusters and leading to possible coalescence and linear development.

This flood risk and water management policy fails the test because of matters connected to visual impact, which is illogical nonscientific and a construction used to amplify the overall refusal. It entirely passes this policy otherwise.

### CONCLUSION

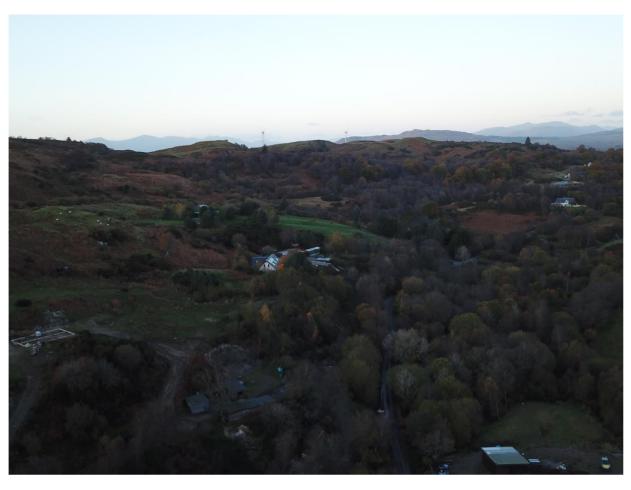
It is our contention that the grounds for refusal are based on a single issue surrounding the definition of "appropriate site" in relation to an exact meaning of "cluster developments" in a rural context.

It is also considered the language used including words like "harmful" and "unacceptable impacts" the determining of the extents of acceptable built development without appropriate justification and the creation of nonphysical barriers without understandable and effective reasoning.

This single issue is the single reason for NPF4 9, 14, 15, 16 and 17, failing in compliance, and that failure by association, the single reason LDP STRAT1, LDP DM1, LDP3, LDP 9, SGLDP ENV14 and SG LDP HOU 1 are considered to be non-compliant.

A site visit would enable the Local Review Board to make an independent assessment of whether or not to agree with the planning authority's assessment.

Iain A MacDonald 10 January 2024

























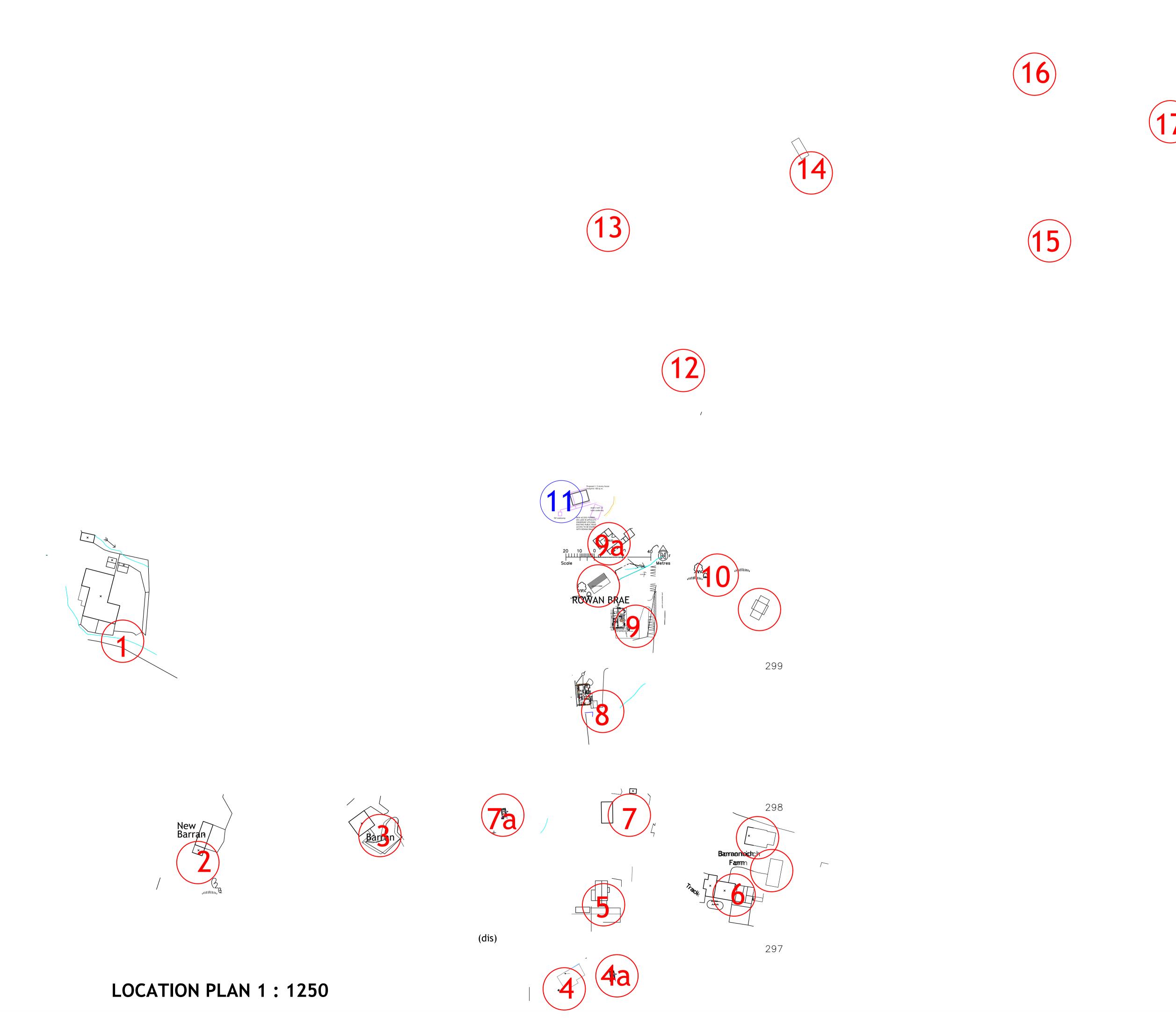












LRB

Project Title
PROPOSED SITES FOR DEVELOPMENT
ROWAN BRAE, GLENCRUITTEN
ARGYLL, PA34 4QB

CLUSTERS

AS NOTED

Project BDS524

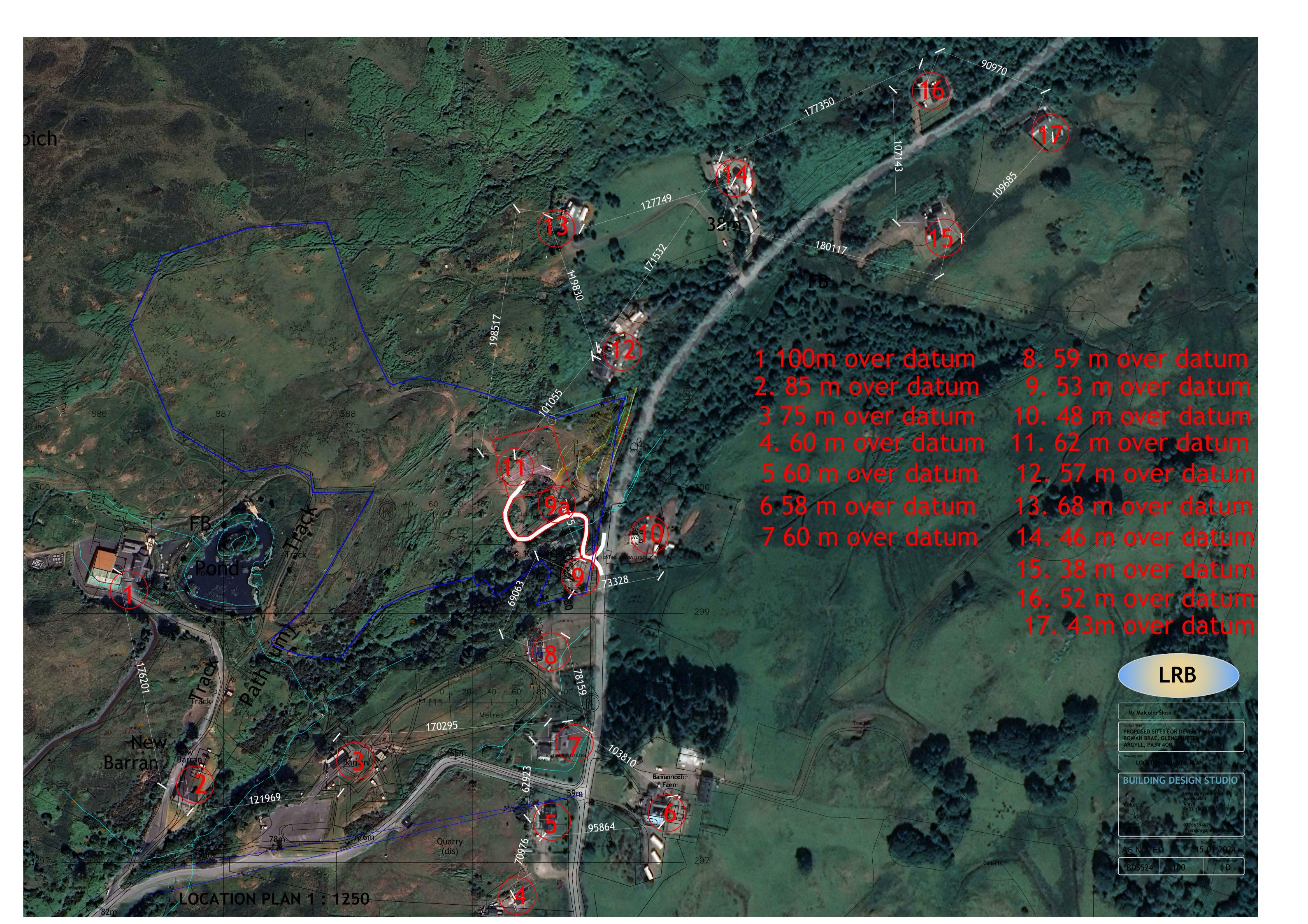
**BUILDING DESIGN STUDIO** 

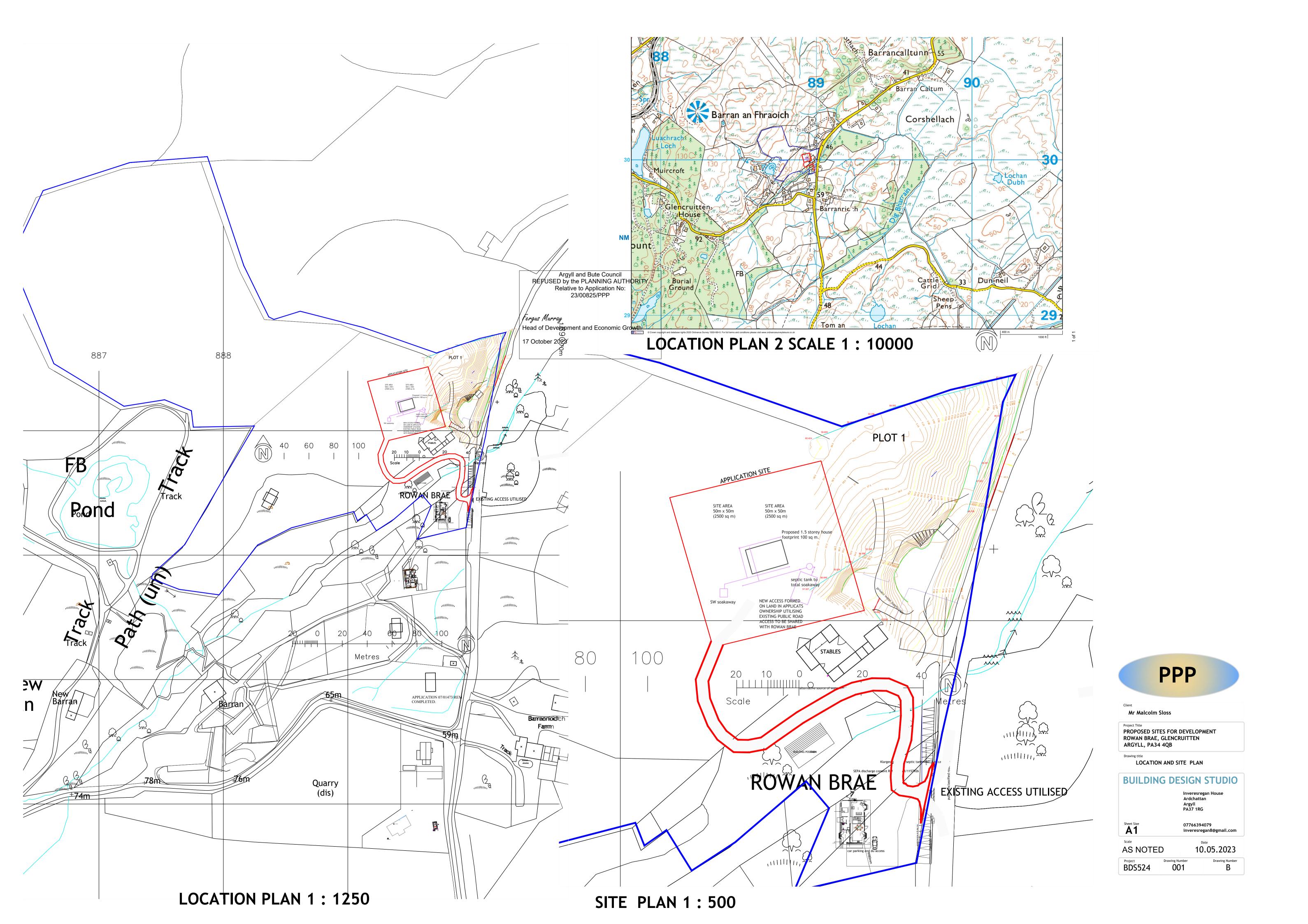
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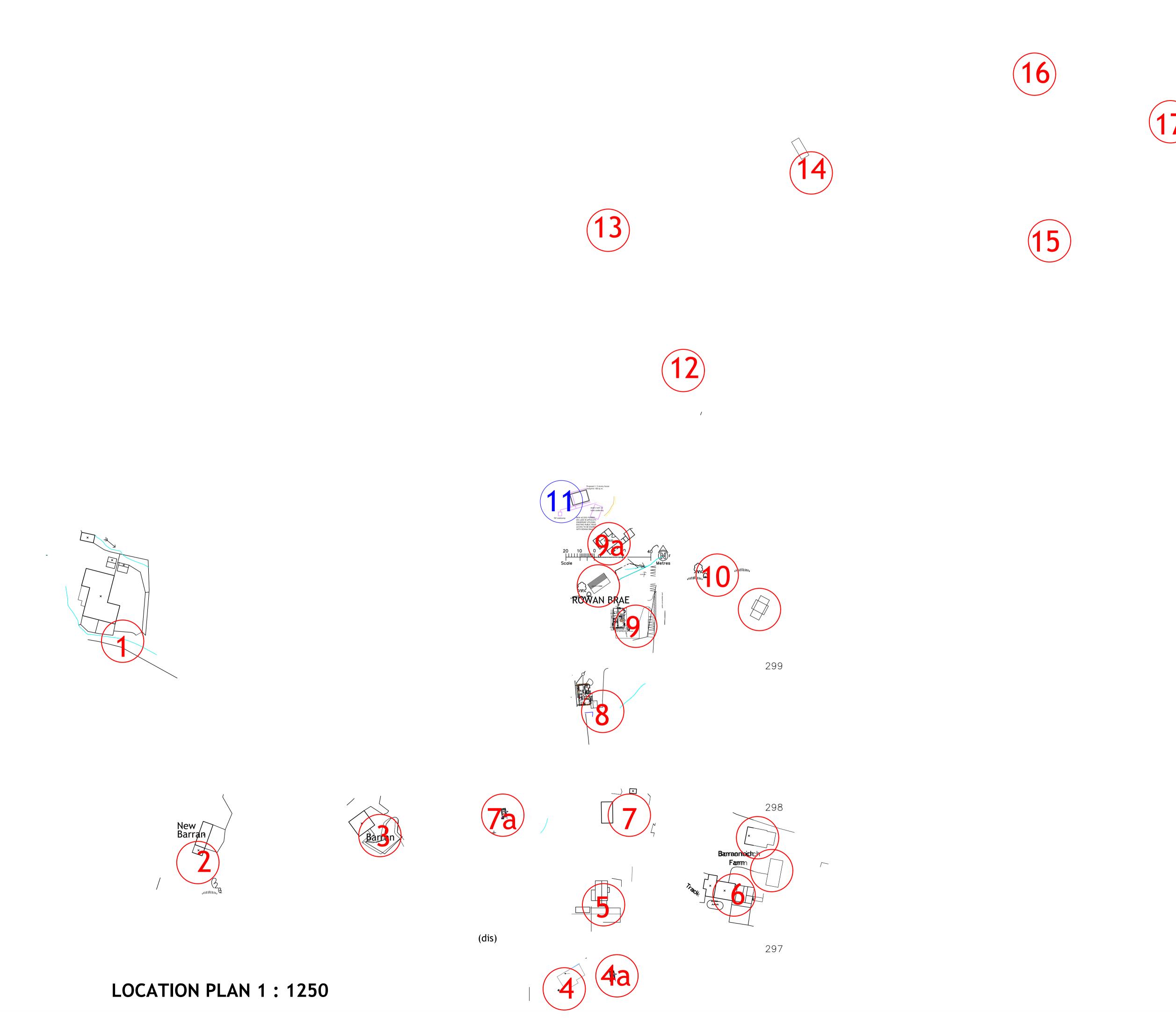
Inveresregan House Ardchattan Argyll PA37 1RG

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15.01.2024







LRB

Project Title
PROPOSED SITES FOR DEVELOPMENT
ROWAN BRAE, GLENCRUITTEN
ARGYLL, PA34 4QB

CLUSTERS

AS NOTED

Project BDS524

**BUILDING DESIGN STUDIO** 

Drawing Number 101

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