



# LAND REGISTER OF SCOTLAND



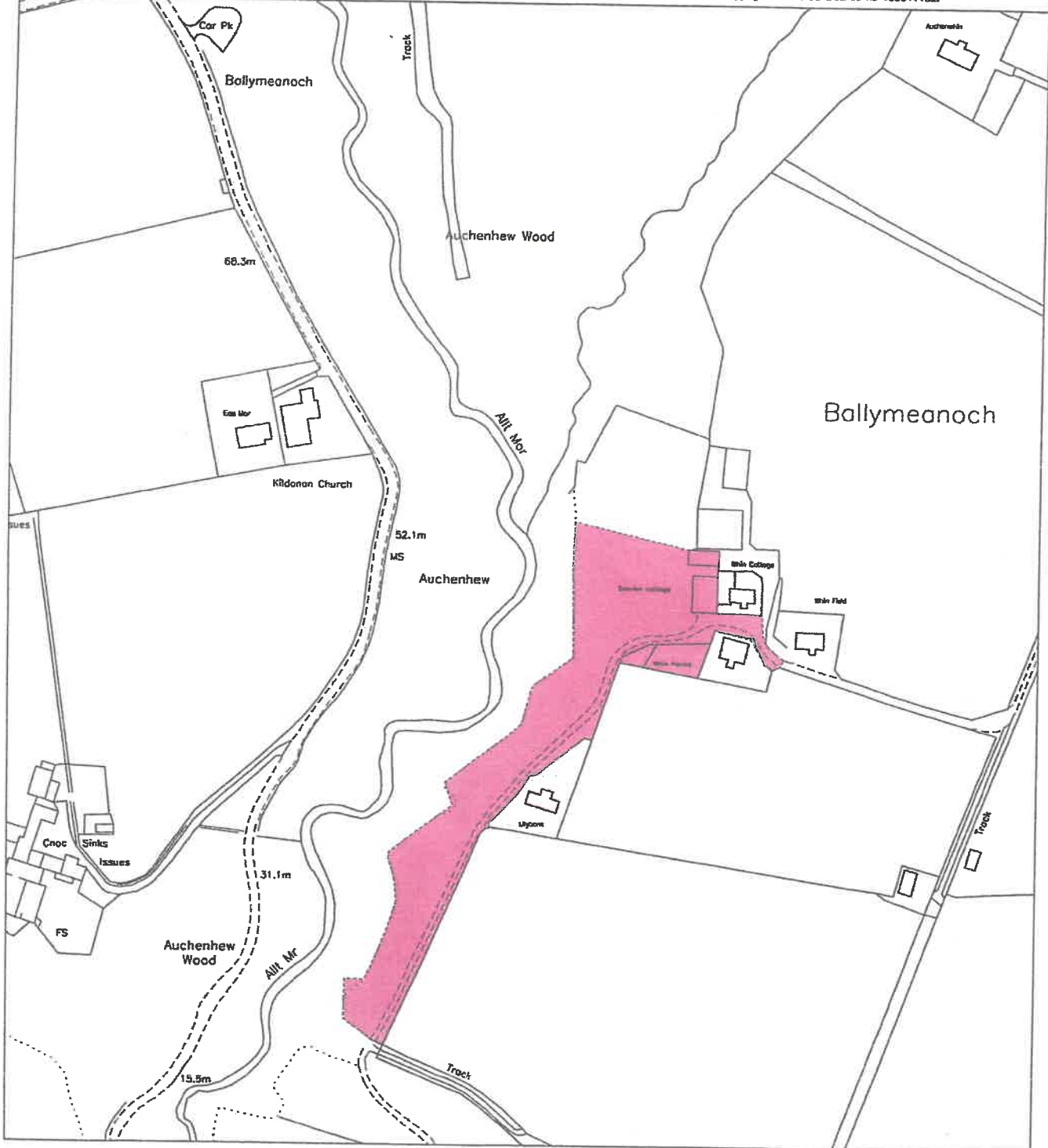
ORDNANCE SURVEY NATIONAL GRID REFERENCE

NS0121 NS0221 NS02SW

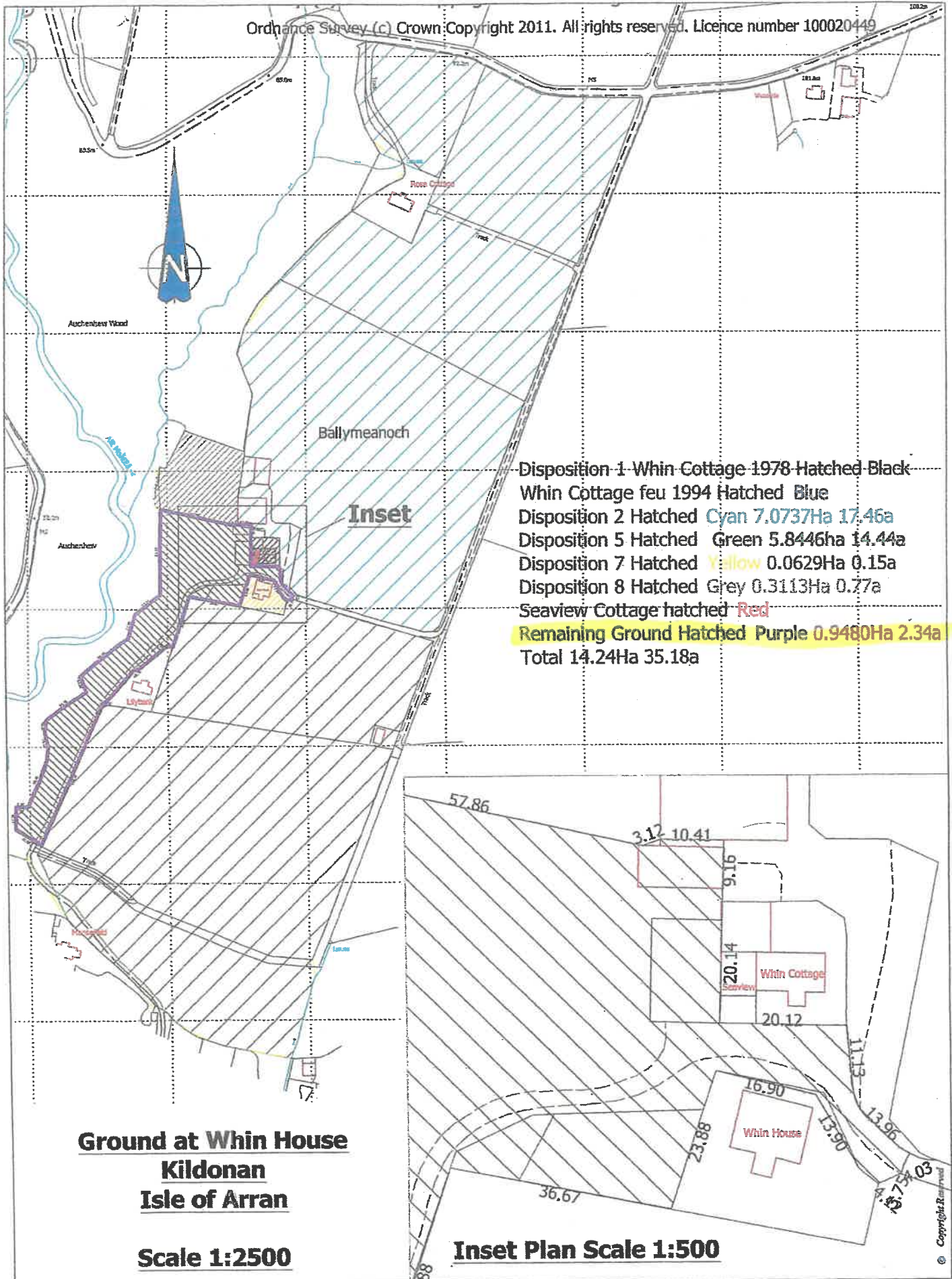
Scale  
1/2500

Survey Scale  
1/2500

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RED SHADED AREA IS LAND UNDERSTOOD TO BE AVAILABLE FOR SALE ADJOINING WHIN HOUSE  
 Subject 11.1.19



- Disposition 1 Whin Cottage 1978 Hatched Black
- Whin Cottage feu 1994 Hatched Blue
- Disposition 2 Hatched Cyan 7.0737Ha 17.46a
- Disposition 5 Hatched Green 5.8446ha 14.44a
- Disposition 7 Hatched Yellow 0.0629Ha 0.15a
- Disposition 8 Hatched Grey 0.3113Ha 0.77a
- Seaview Cottage hatched Red
- Remaining Ground Hatched Purple 0.9480Ha 2.34a
- Total 14.24Ha 35.18a

**Ground at Whin House  
Kildonan  
Isle of Arran**

**Scale 1:2500**

**Inset Plan Scale 1:500**

REMAINING GROUND HATCHED PURPLE UNDERSTOOD TO BE LAND AVAILABLE FOR SALE ADJOINING WHIN HOUSE  
Suburb 10.1.19





# LAND REGISTER OF SCOTLAND



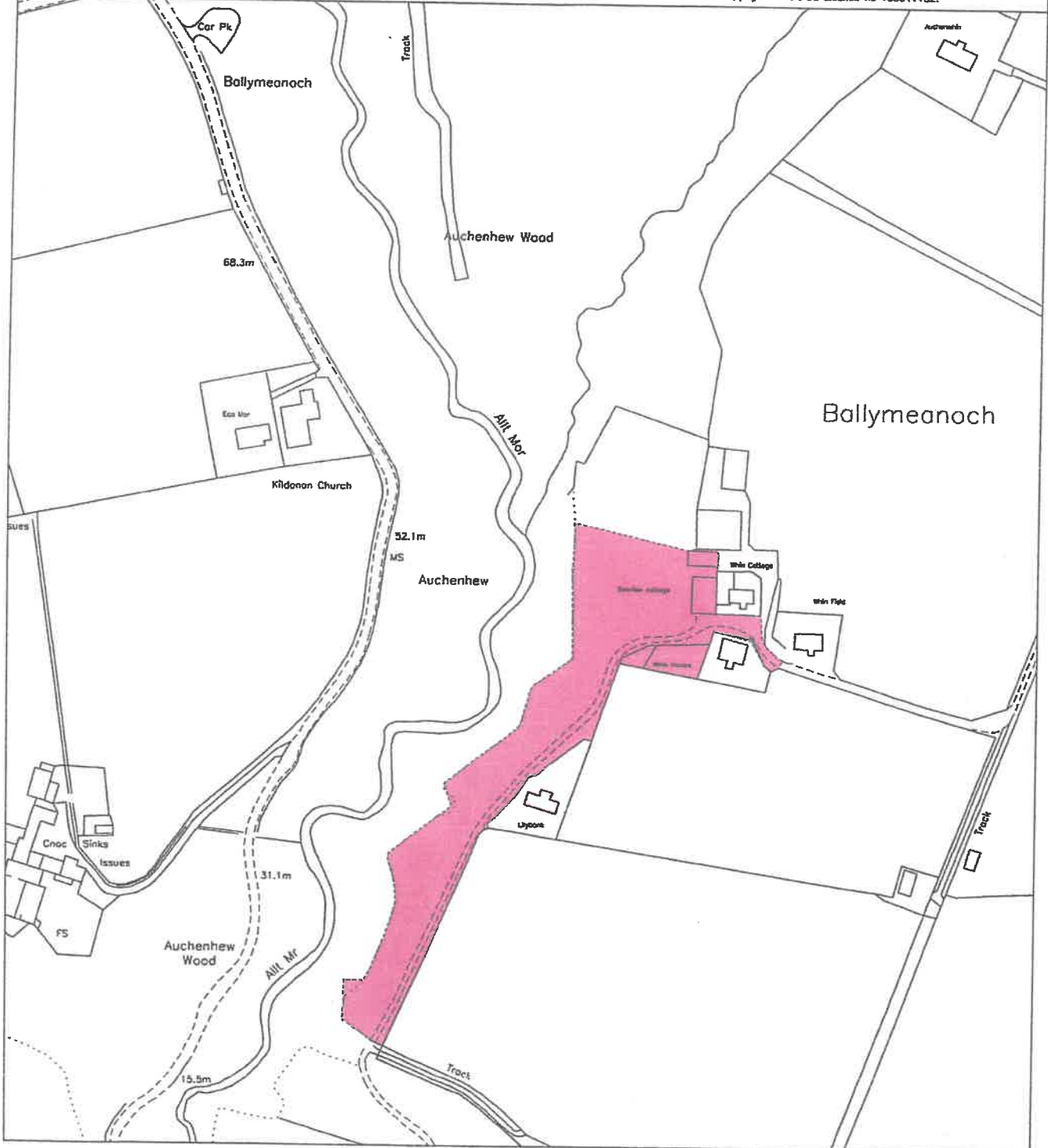
ORDNANCE SURVEY NATIONAL GRID REFERENCE

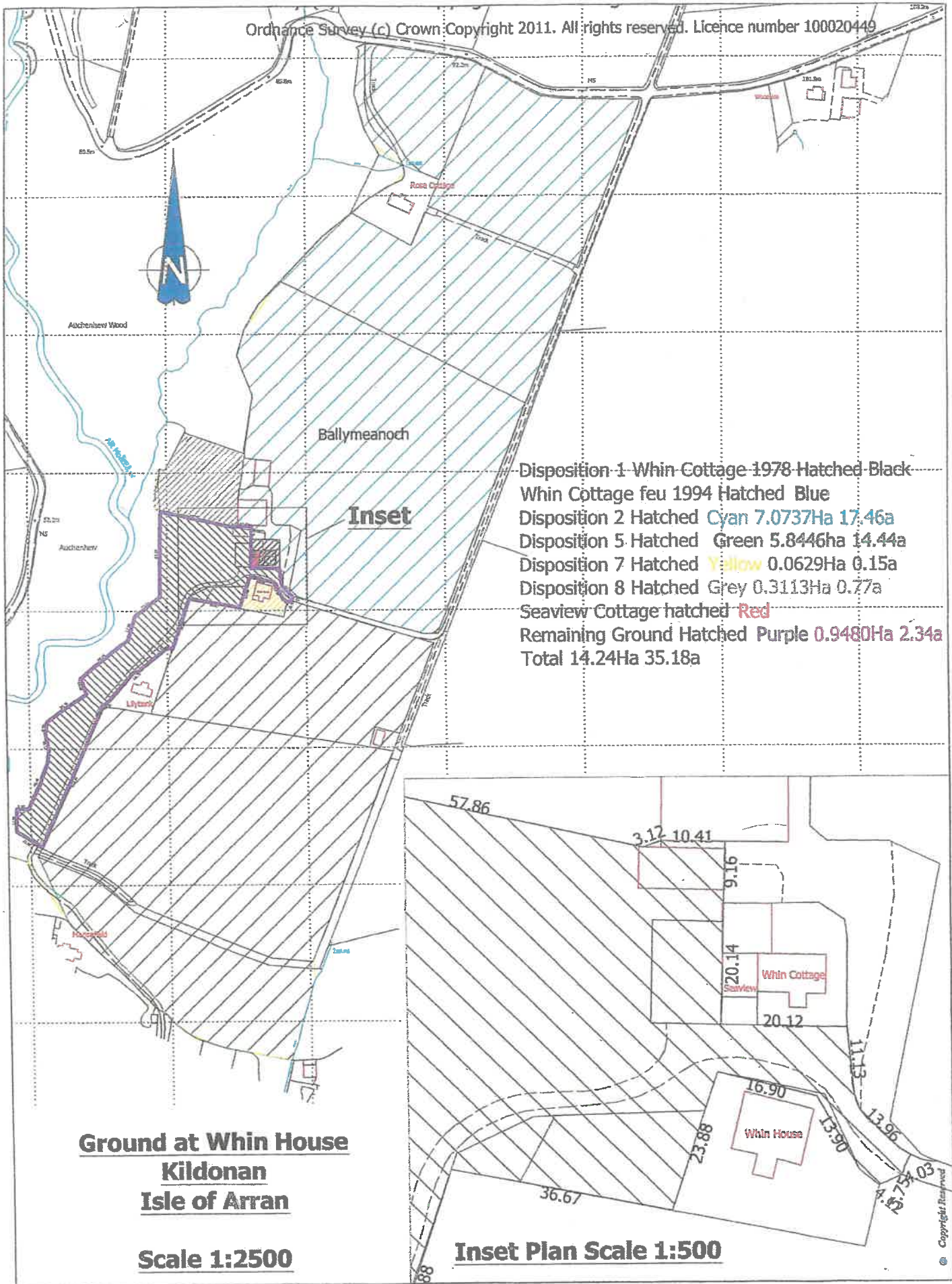
NS0121 NS0221 NS02SW

Scale  
1/2500

Survey Scale  
1/2500

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- Remaining Ground Hatched Purple 0.9480Ha 2.34a
- Total 14.24Ha 35.18a

**Ground at Whin House**  
**Kildonan**  
**Isle of Arran**  
**Scale 1:2500**

**Inset Plan Scale 1:500**

**ECONOMIC GROWTH**

Head of Service: Caitriona McAuley  
Cunninghame House, Irvine KA12 8EE  
Tel: 01294 310000 Fax: 01294 324309  
[www.north-ayrshire.gov.uk](http://www.north-ayrshire.gov.uk)



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Your Ref: Our Ref: 18/00827/LUE

If telephoning please call: Mr Neil McAteer 01294 324316  
email: [nmcateer@north-ayrshire.gov.uk](mailto:nmcateer@north-ayrshire.gov.uk)

1<sup>st</sup> November 2018

Stephen Birch  
The Coverage  
Grantshouse  
DUNS  
TD11 3RP

Dear Mr Birch,

**Town and Country Planning (Scotland) Act 1997,**  
**Re: 18/00827/LUE - land at Whin Farm, Kildonan, Isle of Arran**

Further to the above application, I can confirm that I have made my report recommending that, based on the evidence you submitted, and on the balance of probability, the planning permission CH/01/91/0573 was commenced within five years of its issue and that a Certificate of Lawful Development for an Existing Use should therefore be issued confirming that it remains extant. The Certificate will follow under separate cover.

You should note that CH/01/91/0573 remains valid only if it is completed in accordance with the plans approved at the time. A new building warrant would be required before works could be undertaken and the developer should therefore contact Building Standards (01294 324913 or [buildingstandards@north-ayrshire.gov.uk](mailto:buildingstandards@north-ayrshire.gov.uk)) in this regard.

If any alteration to the approved plans is proposed, for instance to comply with current day Building Regulations, then a new planning application would require to be made. The planning history confirmed by this Certificate would be a material consideration in any future planning application.

I trust that this is sufficient confirmation for your records but please contact my officer named above if you require anything further. The contents of this letter have been copied to your client Mrs Smyth at the address supplied.

Yours sincerely

For James Miller  
Senior Planning Services Manager

18/00827/LUE



**NORTH AYRSHIRE**  
COUNCIL

**CERTIFICATE OF LAWFUL  
USE OR DEVELOPMENT**

Town and Country Planning (Scotland) Act 1997: Sections 150 and 151  
Town and Country Planning (General Development Procedure)  
(Scotland) Order 1992: Article 28 (7)

North Ayrshire Council hereby certify that on (a) 1 November 2018 the use\* /operation\* /matter\* described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged\* /hatched\* /coloured\* (b) red on the plan attached to this certificate, was\* /would have been\* lawful within the meaning of Section 150 of the Town and Country Planning (Scotland) Act 1997, for the following reason(s):

The applicant has demonstrated that, on the balance of probability, development was commenced within five years of the date of issue of planning permission CH/01/91/0573.

Signed:  (for North Ayrshire Council)

Date: 2nd November 2018

\*Delete where appropriate (a), (b), (c) and (d) - (see notes over)

FIRST SCHEDULE (c)

Certificate Of Lawfulness for erection of three holiday letting units (CH/01/91/0573)

SECOND SCHEDULE (d)

Whin House

Kildonan

Isle Of Arran

KA27 8RR



## NOTES

1. This certificate is issued solely for the purpose of Section 150\* /151\* of the Town and Country Planning (Scotland) Act 1997.
2. It certifies that the use\* /operation\* /matter\* described in the First Schedule taking place on the land specified in the Second Schedule was\* /would have been\* lawful, on the specified date and, thus, was not\* /would not have been\* liable to enforcement action under Section 127 of the 1997 Act on that date.
3. This certificate applies only to the extent of the use\* /operation\* /matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\* /operation\* /matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
- \*4. ~~The effect of the certificate is also qualified by the proviso in Section 151(4) of the 1997 Act, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.~~

\*Delete where inappropriate.

### Insert:

- (a) date of application to the Council.
- (b) colour used on the plan.
- (c) full description of use, operations or other matter, if necessary, by reference to details in the application or submitted plans, including where appropriate a reference to the use class of any order made under Section 26(2) (f) of the Town and Country Planning (Scotland) Act 1997 within which the certified use falls.
- (d) address or location of the site.



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

<b>OFFICE USE ONLY</b>
REG NO.....
DATE OF RECEIPT.....
FEE DEPOSITIED.....
FEE DUE.....
FEE EXEMPTION CLAIMED

**APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE OR OPERATION OR ACTIVITY IN BREACH OF A PLANNING CONDITION**

Town & Country Planning (Scotland) Act 1997: Section 150,  
Town & Country Planning (General Development Procedure) (Scotland) Regulations 2008

**McEwan Fraser Legal**  
130 East Claremont Street  
Edinburgh  
EH7 4LB

Particulars of Agent (if any) acting on applicant's behalf

Name Stephen Birch  
Postal Address The Coverage,  
Grantshouse, Duns  
Post Code TD11 3RP  
Tel.No. 01361 850356  
Email \_\_\_\_\_  
Profession Architect (1977 – 2013)

1. (1) Nature of applicant's interest in the land, e.g. owner, lessee, occupier. Owner

(2) If you do not have an interest:-

(a) give name(s) and address(es) of anyone you know who has an interest in the land;

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) state the nature of their interest (if known): \_\_\_\_\_

(c) state whether they have been informed about this application YES/NO

2. Address or exact location of the land to which this application relates:

Describe here and enclose 4 copies of an OS-based plan showing the boundary of the land edged in red.

Land at Whin House, Kildonan, Arran. The subject of planning approval CH/01/91/0573 N.G.R.02152144 and  
Immediately adjoining Whin cottage (noted as Whin Farm on original site/location plan)

3. This application is for:

- an existing use; in terms of Section 50 (1) (a) of the act
- an existing operation; in terms of Section 50 (1) (b) of the act
- an existing use, operation or activity in breach of a condition; in terms of Section 50 (1) (c) of the act

being a use, operation or activity subsisting on the date of this application. (Tick whichever box(es) are applicable.)



4. State nature of existing use, or operation, or activity in breach of a condition.

If there is more than one subsisting use of, or operation or activity on, the land at the date of this application, describe fully each of them and, where appropriate, show to which part of the land each use, operation or activity relates.

Commencement of building work to planning approval CH/01/91/0573 within statutory 5 year planning approval period

5. When was the use or activity begun, or the operation substantially completed?

Building warrant commencement notice 19/11/91 excavations complete and foundation concreting in progress 22/1/92

6. Under what grounds is the certificate sought?

(Delete those which are not applicable)

- (1) ~~The use began more than 10 years before the date of this application; or~~
- (2) ~~The use, operation or activity in breach of condition began more than 10 years before the date of this application; or~~
- (3) ~~The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years; or~~
- (4) ~~The operations were substantially completed more than 4 years before the date of this application; or~~
- (5) ~~The use as a single dwellinghouse began more than 4 years before the date of this application.~~
- (6) Other – specify (this might include claims that the change of use or operation was not development, or that it benefited from planning permission granted under the Act or is permitted development.

A material start was made between the dates in 5 above. This date was within the relevant 5 year planning Period referred to in CH/01.91/0573 which ran from 24/9/91 – 24/9/96

7. If the certificate is sought for a use, operation or activity in breach of a condition or limitation, specify the condition or limitation which has not been complied with, and attach a copy of the relevant planning permission.

N/A

8. If you consider the existing, or last, use is within a "use class" in the Town and Country Planning (Use Classes) (Scotland) Order 1997, state which one.

N/A

- (a) State site area (hectares) 0.13 HA
- (b) State gross floorspace of buildings (sq.m.) 225 M<sup>2</sup>

9. Give any additional information you consider necessary to substantiate your claim. (Continue on a separate sheet if necessary).

See attached information

10. List here all the documents, drawings or plans which accompany this application.

See attached schedule of documentation and drawings referred to

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I/We hereby apply for a lawful use or development certificate under Section 150 of the 1997 Act in respect of the existing use, operations or activity described in this application and the documents, drawings and plans which accompany it.

Signed  Date 31 Aug 2018

On behalf of Frances Smyth

(insert name of applicant if signed by an agent)

**WARNING: Section 153 of the 1997 Act as amended provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. A person guilty of an offence under section 153 is liable on summary conviction to a fine not exceeding £5,000 and on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine, or both. Section 152(7) enables the Council to revoke, at any time, a certificate they may have issued as a result of such false or misleading information.**

### **Additional Information O9**

- The work on site consisted of: excavation for foundations/services to proposed building, laying of concrete foundations, underbuilding to ground floor slab level, services laying and all blockwork walls up to 1<sup>st</sup> floor level.
- The excavation for foundations constitutes a “specified operation comprised in the development” for the purposes of S40 of the Town and Country Planning (Scotland) Act 1972, the planning legislation at the relevant date, and must be the point at which development is taken to be begun. The excavation and laying of foundations would also constitute commencement of development for the purposes of S27 of the current Town and Country Planning (Scotland) Act 1997.
- This work was referred to specifically in the Building Inspector’s report as “excavation complete and foundation concreting started on 22/1/92” which was obviously within the 5 year timescale.
- All the above work stood until some time immediately prior to 29/6/96 when neighbours unilaterally (with no reference to the owner but allegedly with the Building Inspector’s tacit understanding) organised the demolition and clearance of all walls to ground floor level as they considered them unsafe. - There does not appear to be any official documentation for this operation.
- Notable substantiation of the above work is given in the attached schedule of documentation item Nos:

D4	Estate agent’s letter re demolition.
D5	Neighbour’s letter re ‘part build’.
D12	Photograph of concrete floor slab 2016.
D18C	Building Inspector’s file and site notes.
D19/20	Valuation Assessor’s correspondence.
D23/23A/23B	Dated aerial photographs.

Photograph 23A (1993) clearly shows how far work had progressed by that date, whereas photograph 23B (29 June 96) shows the concrete floor slabs thus remaining after demolition of walls to that level and all within the five year timescale.

## **Documentation Referred to in Application Form O10**

- D1 Planning approval CH/01/91/0573 – 24/9/91.
- D2 Building warrant 91/468 – 22/4/91.
- D3 Photographs 3A and 3B showing party wall (2011).
- D4 Letter 10/8/11 Arran Estate Agents to Stephen Birch – ‘demolition’.
- D5 Letter 17/9/11 Rj Bambury to McSherry Halliday Solicitors (MHS) – ‘part build’.
- D6 Land Registry search sheet 00856 to justify date correction to above.
- D7 Letter 11/9/12 MHS to NAC Planning.
- D8 Letter 18/9/12 NAC reply to above.
- D9 Letter 27/9/12 MHS to Frances Smyth.
- D10/11 E-mails 6/2/17 estate agent to J Hanna – NAC Planning + replies.
- D12 2016 photo of concrete floor slab clearly showing internal wall arrangement.
- D13 Letter 4/5/17 MHS to NAC Planning.
- D14 Note of phone call reply to above 19/5/17.
- D15 E-mail 6/7/17 NAC Planning to MHS confirming above.
- D16 F.O.I. request 2/6/17 Stephen Birch to NAC ref. building register entry and site notes.
- D17 A & B NAC F.O.I. reply to above – 6/6/17 and 7/7/17.
- D18 A & B & C enclosures with above – register entry and file/site notes.
- D19 E-mail 19/7/17 Magnus Voy Ayrshire V.J.B. to Stephen Birch.
- D20 E-mail 21/7/17 Magnus Voy Ayrshire V.J.B. amplifying above.
- D21 Letter 20/8/17 MHS to NAC Planning.
- D22 Report of phone reply 2/10/17 to above. Despite request for written confirmation and reminder no confirmation forthcoming. Also included is the substance of an intended response should a confirmation have been received.
- D23 Letter of authentication 3/7/18 skyviews to Stephen Birch referring to photos enclosed below.
- D23A Photo (MH547-12) 17/9/93 – after cessation of building work.
- D23B Photo (NR189-07) 29/6/96 – after demolition showing spoil heap to left of base.
- D24 Sworn Affidavit from Stephen Birch dated 31 August 2018 Regarding proposed building and labour employed.
- D25 Locality photograph pre 1990 showing previous (demolished 1991) building to far left (subject of building warrant 91/468).
- D26 Current land ownership DWG.



**Drawings referred to in application form O10**

**Planning application drawings** CH/01/91/0573

91/3/12B - Floorplans, site location - 1:100/1:500

91/3/13C - Elevations 1:100

**Building warrant drawings** 91/468

91/3/12A - Floor plans, site location - 1:100/1:500

91/3/13B - Elevations - 1:100

91/3/14 - Original building - 1:100

As the above drawings could only be compiled from NAC microfilm records accuracy is variable - generally 1:100@ A3.

A further drawing (not part of the original approvals) "Ground at Whin House, Kildonan, Isle of Arran" - 1:2500 is included showing ground currently in applicant's ownership outlined blue (D26).

## CUNNINGHAME DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS  
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS

To : John Smyth  
Whin House  
Kildonan  
Isle of Arran

With reference to your application dated 26/ 7/91 for planning permission under the above mentioned Acts and Orders for the development described below

at Whin House  
Kildonan  
Isle of Arran

The District Council in exercise of their powers under the above-mentioned Acts and Orders hereby grant planning permission, in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, for:-

Erection of building to form 3 holiday letting units

Planning permission is granted subject to the following conditions:-

- 1 That the first 6 metres of the access road from the carriageway of the public road, route A841, be widened to 5.5 metres and that the gradient of the first 6 metres of the access road shall be not more than 5% to the satisfaction of CDC as planning authority.
- 2 That visibility splays of 2.5 metres x 60 metres shall be provided and maintained, on land within the applicants control, at the junction with the public road, route A841, such that there is no obstruction to visibility above a height of 1 metre above the adjacent carriageway level to the satisfaction of CDC as planning authority.
- 3 That the first 2.5 metres of the access road adjacent to the carriageway of the public road, route A841, shall be surfaced in bituminous material to the satisfaction of CDC as planning authority.
- 4 That the three holiday letting units hereby permitted shall not be used for any purpose other than holiday letting without the prior written approval of CDC as planning authority.
- 5 That prior to the use of any of the three holiday letting units hereby permitted, all existing caravans on the site shall be removed to the satisfaction of CDC as planning authority.
- 6 That prior to the occupancy of any of the three holiday letting units hereby permitted the land shown on the plan, drawing no. 91/3/12B shall be retained for the exclusive use of the three holiday letting units as curtilage and vehicle parking to the satisfaction of CDC as planning authority.
- 7 That the three holiday letting units shall not be occupied until a water treatment plant has been provided in the property to the satisfaction of CDC as planning authority.

The reason(s) for the above condition(s) are:-

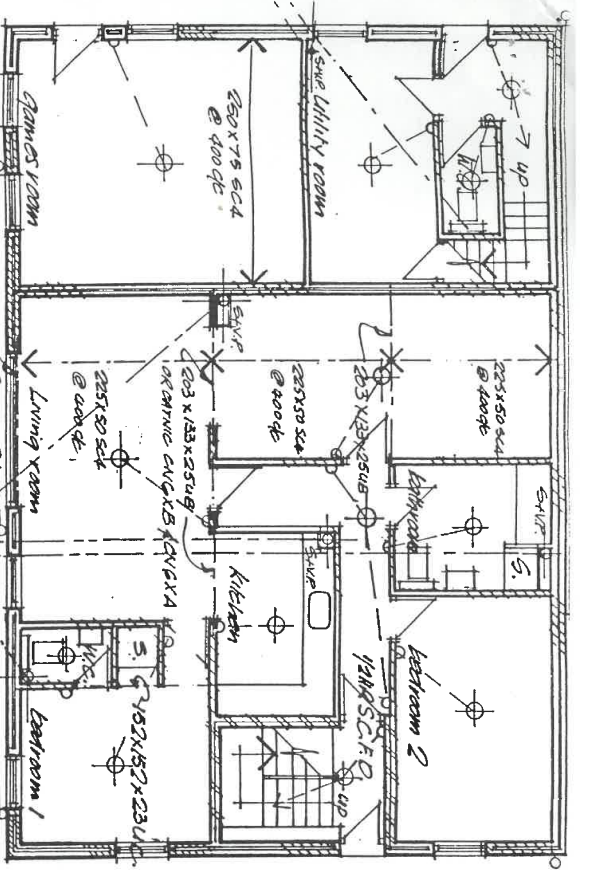
- 1 To meet the requirements of SRC as roads authority.
- 2 To meet the requirements of SRC as roads authority.
- 3 To meet the requirements of SRC as roads authority.
- 4 To maintain control of the development in the interest of amenity.
- 5 In the interest of the amenity of the area.
- 6 To maintain control of the development in the interest of amenity.
- 7 To meet the requirements of CDC as Environmental Health Authority.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments.

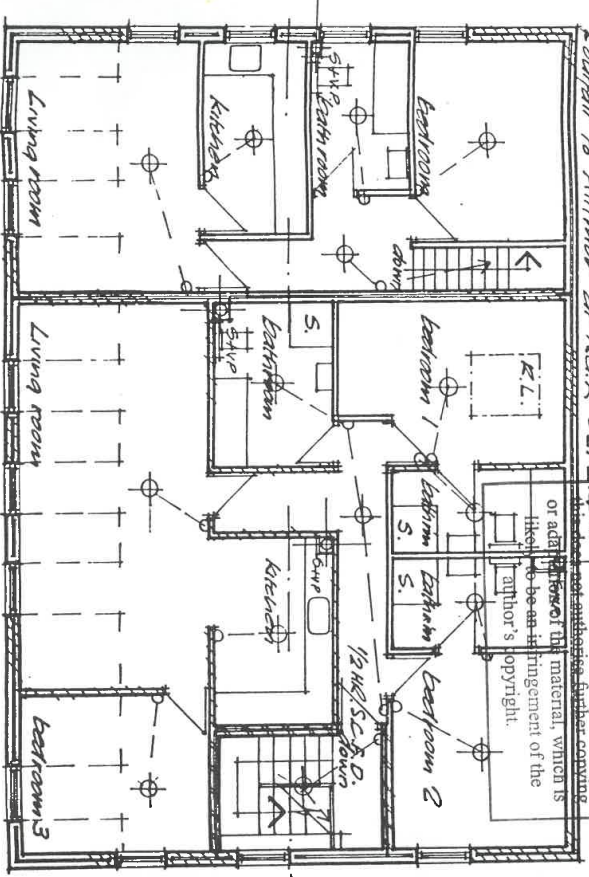
Dated this : 24th September 1991

.....  
for the Cunningshame District Council

(See accompanying notes. The applicant's attention is particularly drawn to note 5 (limit of duration of planning permission))

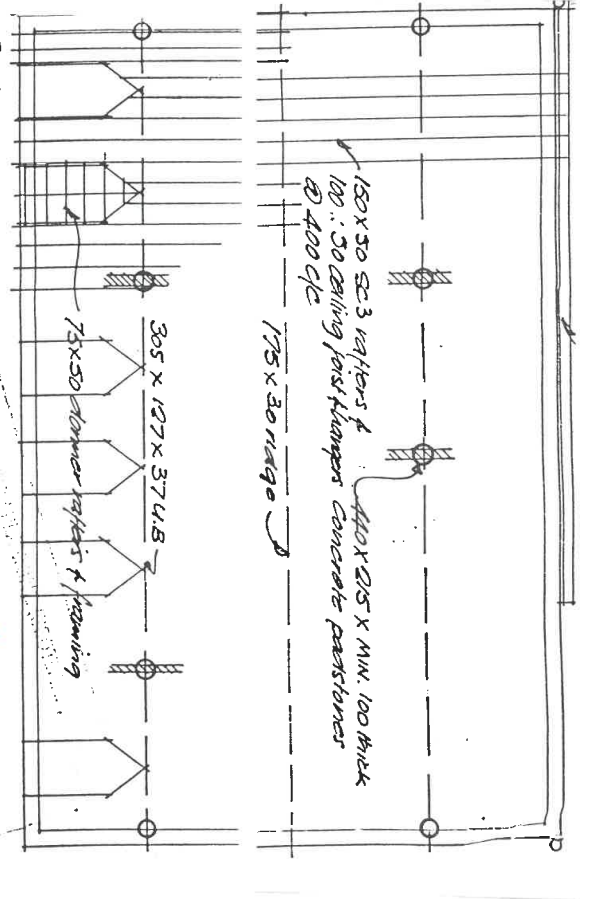


Ground floor plan Hat 2

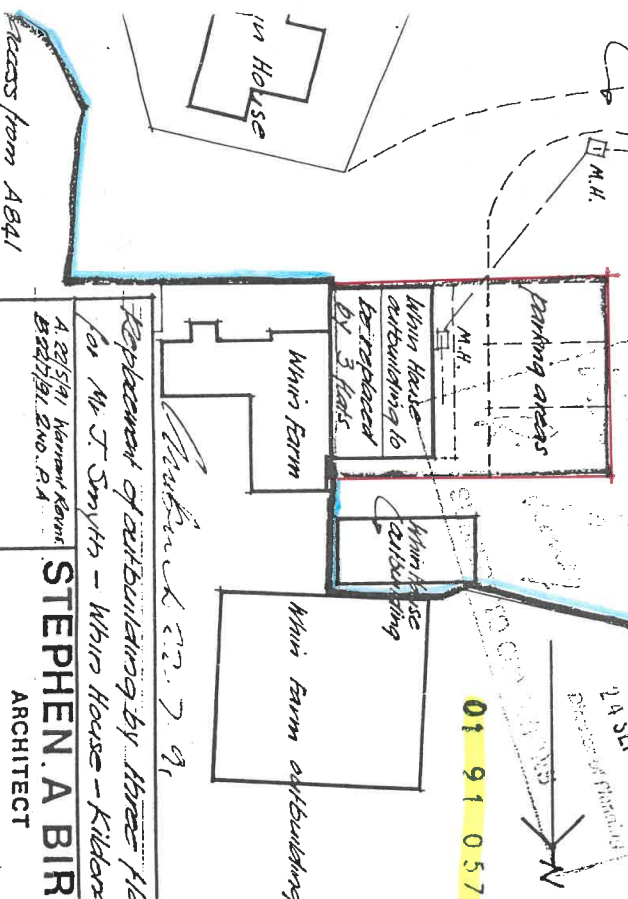


1st floor plan

To enable bank loan in 15M from dwelling...  
 To enable to Allman at No. R 0215...  
 This material is copied and issued by...  
 National Fire Council in terms of...  
 Section 47 of the Copyright Designs...  
 and Patents Act, 1988 for the purpose...  
 of enabling the public inspection of the material...  
 or additional material, which is...  
 likely to be an infringement of the...  
 author's copyright.



Roof plan  
 access from Lower Kildonan



Site Plan 1:500  
 N.C. Ref: 022 214

Eng No. 4131046  
 12.3.91  
 This proposal is issued by  
 077 087 336

Replacement of outbuilding by three flats  
 for Mr J Smyth - Whin House - Kildonan  
 A 20191 warrant from  
 2021/191 2nd. P.A.  
**STEPHEN A BIRCH**  
 ARCHITECT

01 91 0573

24 SEP 1991  
 Department of Planning







02

BUILDING (SCOTLAND) ACT 1959, section 6

Building Warrant

This warrant is granted by CUNNINGHAME DISTRICT COUNCIL Council in connection with the application by Mr. John Smyth, Whin House, Kildonan, Arran dated 22nd April, 1991 for the ~~alteration~~ change of use of a building/buildings at Whin House, Kildonan, Arran

The reference number of this warrant is 91/468

The following conditions apply:—

- 1. The building(s) shall be ~~altered~~ in accordance with any necessary plans (including drawings, specifications and other particulars) accompanying the application and in accordance with the Building Standards (Scotland) Regulations 19.90
2. The conditions specified in the relation direction given by the Secretary of State/the local authority reference no. dated shall be observed.
3. The limited life building(s) shall be demolished on or before the expiry of the period of years from the date on which the certificate of completion in respect of the building was granted.
4a. This warrant relates to:

Work on any further stage(s) shall not commence until sufficient information has been supplied to the local authority, as below:

4b. Stage(s) of warrant not yet granted:

A copy of the plans is returned duly endorsed.

J D G Gordon

(signed) for

12th July, 1991

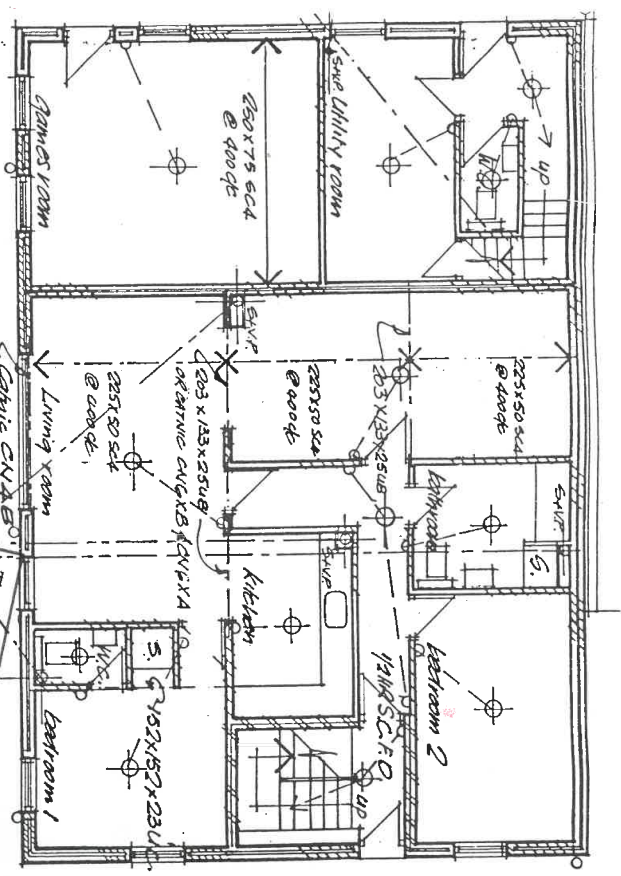
(date)

Delete as appropriate

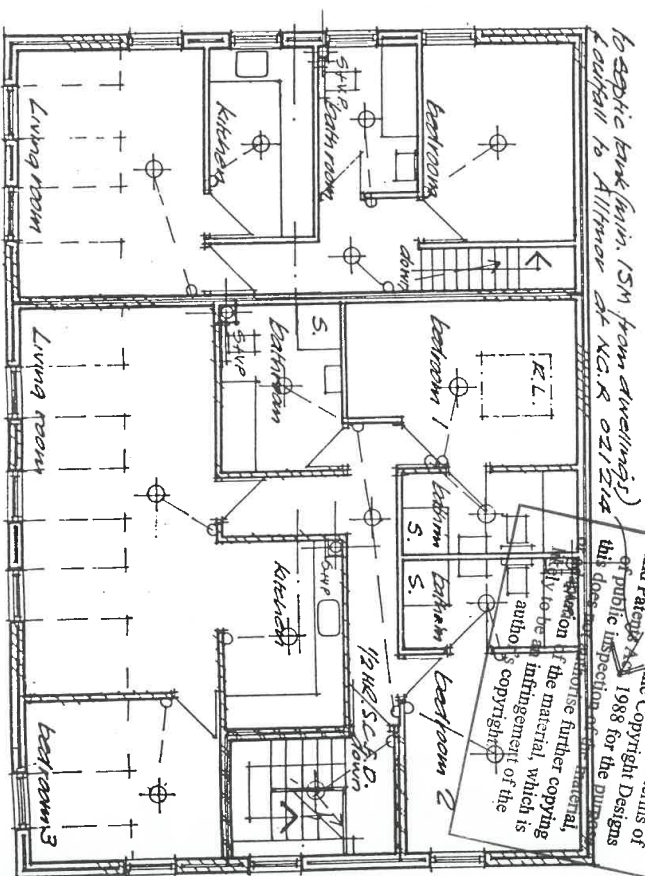
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WARNING

THIS WARRANT DOES NOT EXEMPT YOU FROM OBTAINING OTHER TYPES OF PERMISSION NECESSARY. E.G. PLANNING PERMISSION OR LISTED BUILDING CONSENT. CONSULT THE LOCAL AUTHORITY IF IN DOUBT.

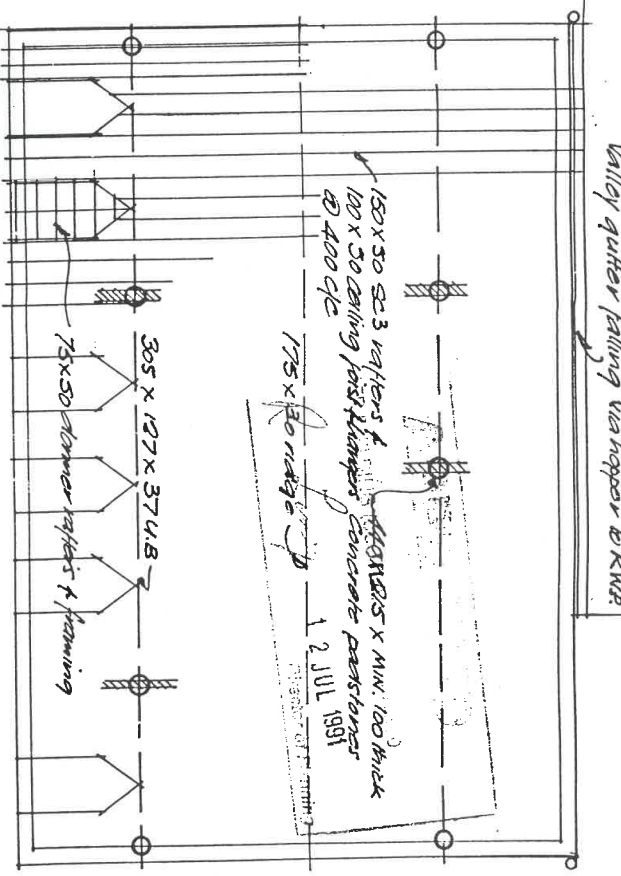


Ground floor plan (Plan 1)

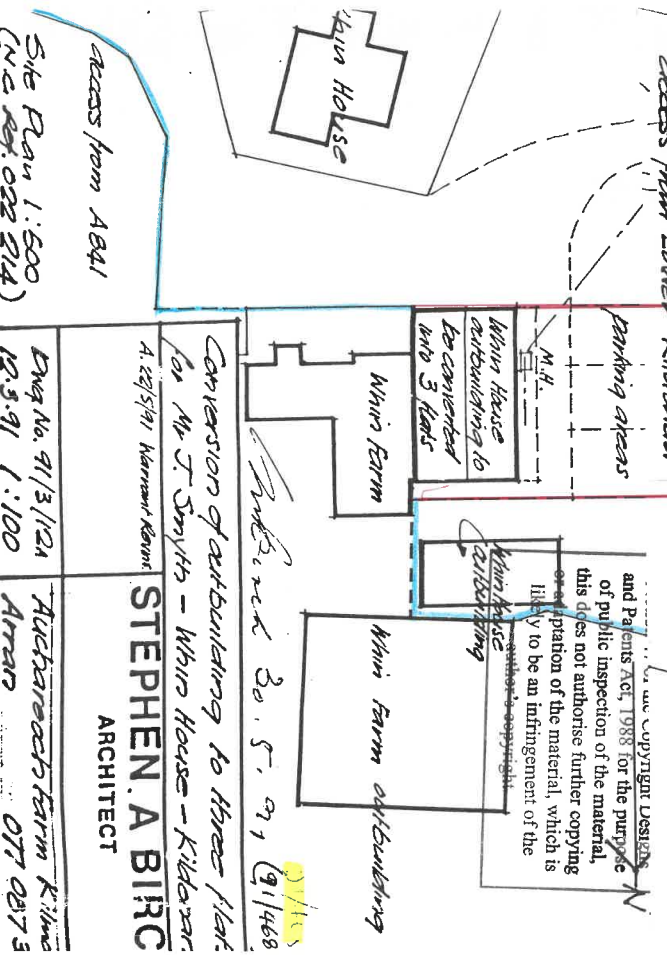


Ground floor plan (Plan 2)

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Roof plan

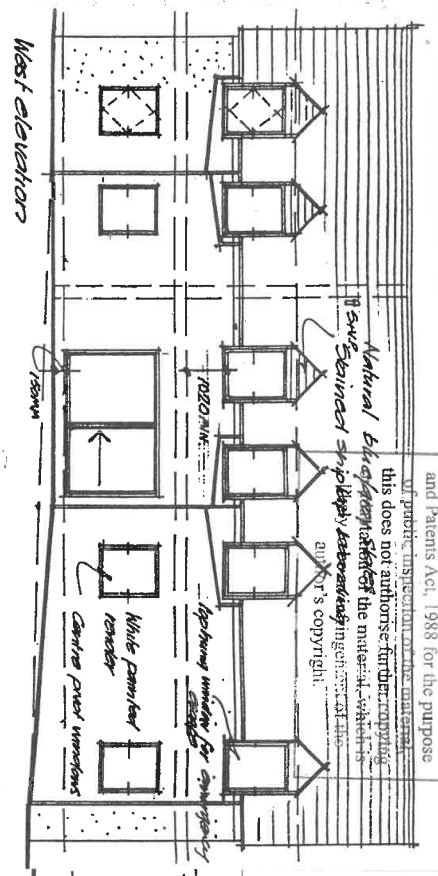


Site plan

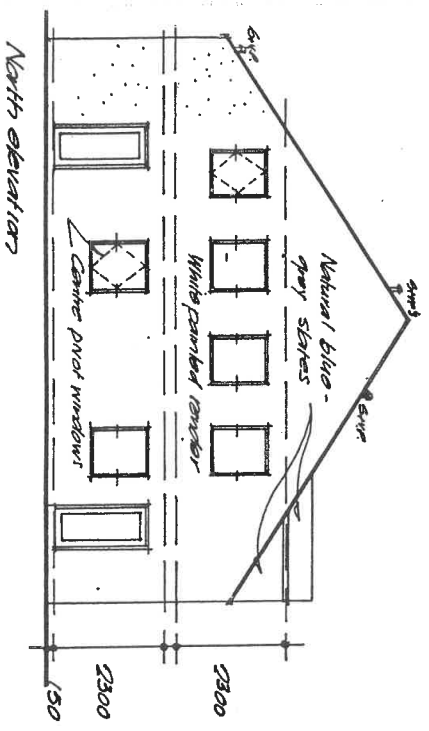
Conversion of outbuilding to three planes for Mr J Smyth - Main House - Kildonan  
 A: 22/5/91 Norman Kinnear  
**STEPHEN A BIRC**  
 ARCHITECT  
 Archibarrach Farm Kildonan  
 077 087 3



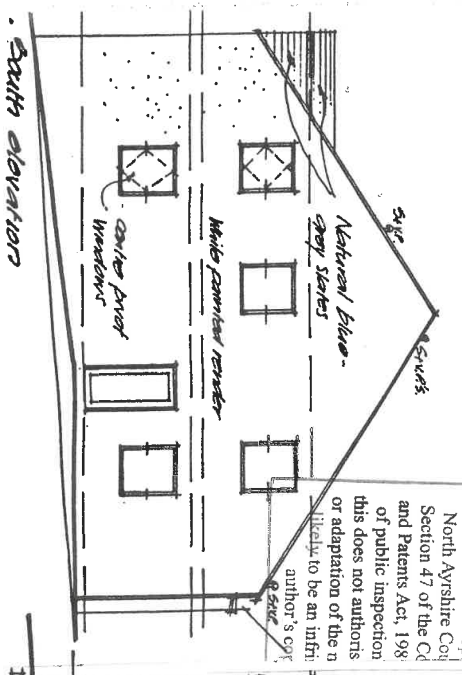
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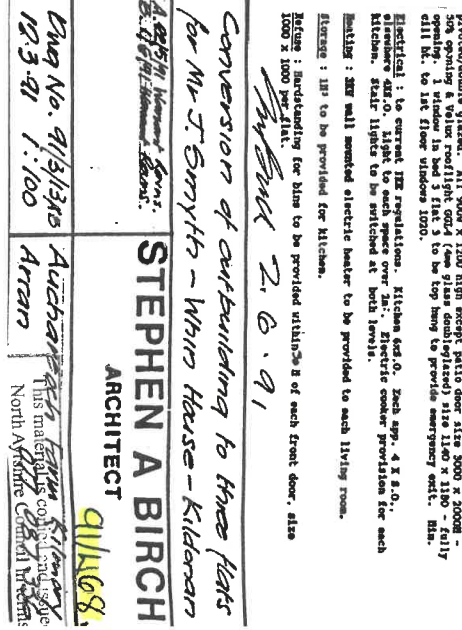
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**Section A-A (Typical)**

A - 150mm T.G. flooring, string, sleepers, spaced to match joists  
 B - 150mm plaster-board on  
 C - Reinforced layer 25mm mineral fibre 60-100kg/m<sup>3</sup>  
 D - Floor joist 150mm flooring member to S.N.J. 200  
 E - 150mm plaster-board  
 F - 12-36kg/m<sup>2</sup> layers on ceiling  
 G - 150mm plaster-board

**Notes:**

1. All upper floor windows to be cleanable from inside including horizontally pivoted/double glazed. All 900mm x 1200 high except patio door size 2000 x 2000mm - 300 opening & 100mm rooflight 600 x 450 (see glass double-glazed) size 1140 x 1180 - Full height 1140 x 1180 to be provided to provide emergency exit. Min. 1000 x 1000 per flat.

2. Kitchen: Start lights to be switched at both levels.

3. Electrical: To correct IEE regulations. Kitchen end 0. Each app. 4 x 8.0. 1000 x 1000 per flat.

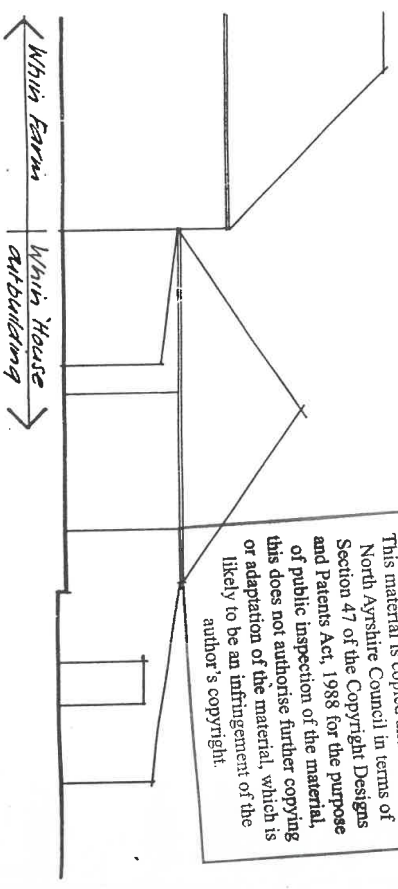
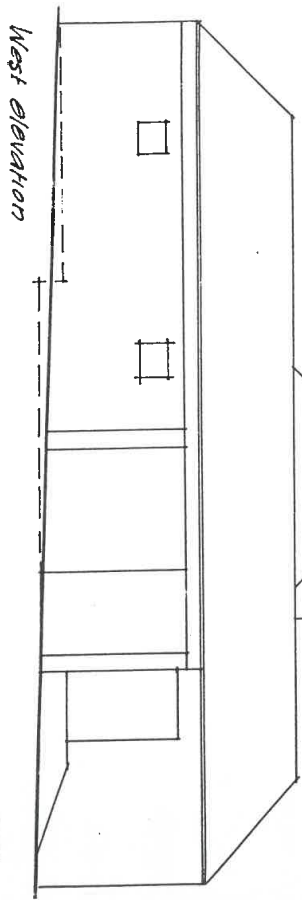
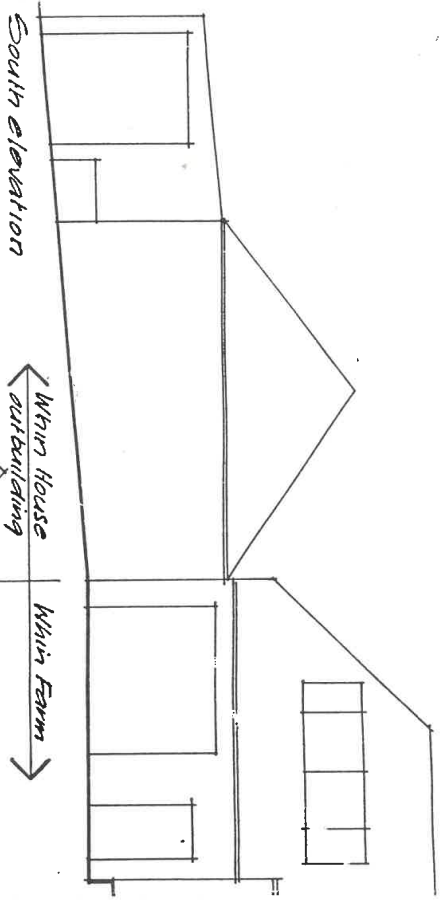
4. Heating: HP to be provided for kitchen.

5. Access: Handicapping for him to be provided with 1800 x 8 of each front door, also 1000 x 1000 per flat.

**Conversion of outbuilding to three flats for Mr J. Smyth - Whinn House - Kildonan**

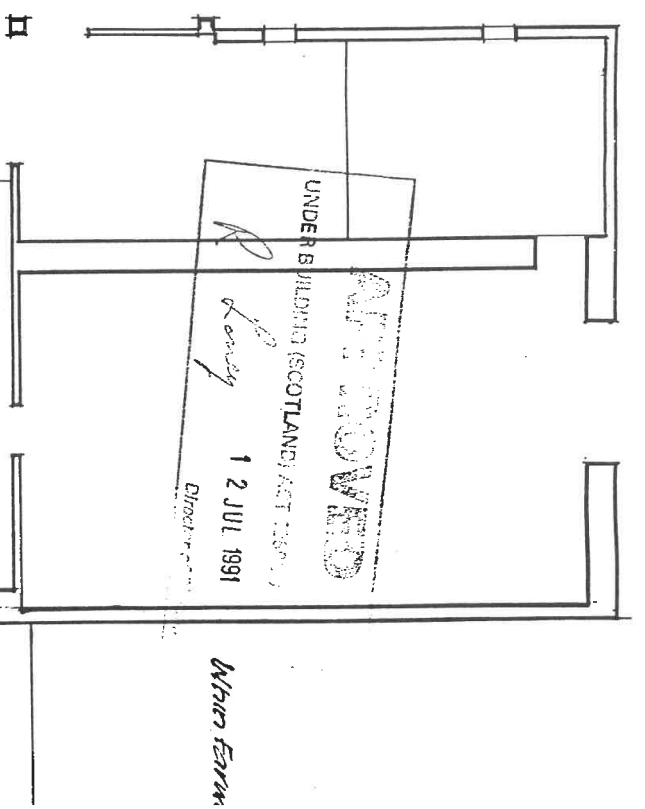
**STEPHEN A BIRCH ARCHITECT** 0114608

**Architect** 18.3.91



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Floor plan



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*Sketch 19.2.91*  
 Conversion of outbuilding to three flats for Mr J. Smyth-Whin House-Kildonan.

<b>STEPHEN A BIRCH</b> ARCHITECT	
Dwg. No. 91/3/14 12.3.91 1:100	Auchmacha Farm Arran 07



D3

PHOTOGRAPH 3A - 2011



PHOTOGRAPH 3B - 2011



RNB/ar

Mr Stephen Birch  
The Coverage  
Grants House  
Duns  
Berwickshire  
TD11 3RP

DA

10<sup>th</sup> August 2011

Dear Stephen

**Whin Farm Cottage and Land**

Following our recent discussions in connection with the above, I spoke this morning to the Building Officer, Gus McLeod.

He advised me that there was no Commencement Notice submitted for the 'new' flatted development and he therefore has no records of any site visits.

He did, however, confirm that he had been approached, he thinks by David McKinnon, with regard to demolition of the structure. He thinks that David asked him how far the demolition should go and that, although his memory is not 100% clear, he expects that he told David that he should take the building down to ground level.

*Handwritten notes:*  
The building  
was demolished  
later found

From my inspection I can confirm that this is what happened as the foundations and ground floor slab are still evident.

I also spoke to Alan Marshall regarding the westerly boundary and agreed to amend our plan of the land still in the ownership of Mrs Smyth to reflect this.

I will let you have a copy of the plan once it is amended.

Best wishes

*Bob*

Robert N Brass



Inverclyde House, Brodick, Isle of Arran, KA27 8AJ

SHOULD READ 1995 - See attached Search Sheet

D5

PHONE 01740 840561

MR. R. J. BARTBURY  
6 TORRILIN TERRACE  
KILMORY  
ISLE OF ARRAN  
KA27 8PQ

17/9/2011

DEAR SIR

Re your letter to me dated 30<sup>th</sup> August 11  
REF AWM/SM/001AA/LD.

MY WIFE AND I BROUGHT WITH US IN OCT  
2005 AND SHORTLY AFTER THAT BOTH MYSELF AND MY WIFE  
REQUESTED NORTH Ayrshire Council to do something about  
THE DANGEROUS STATE OF A PART BUILD OVER THE TRACK ALSO  
TO REMOVE A NUMBER OF SCRAP CARS WHICH WERE THERE, THIS  
WAS BACKED UP BY MR DAVID MCKINNON WHO LIVED OPPOSITE AT  
WHIN COTTAGE.

I WAS THEN INFORMED BY NORTH Ayrshire THAT  
IT WAS MY GROUND AND I SHOULD PUT IT IN ORDER  
THIS CAN BE CONFIRMED BY MR MCKINNON AS I SHOWED  
HIM THE LETTER AT THE TIME.

I THEN PAID TO HAVE THE CARS REMOVED AND  
THE GROUND MADE GOOD, SINCE THEN I HAVE PUT A NEW  
ROOF ON THE BARN AND ALSO A LARGE SLIDING DOOR  
OVER THE LAST 16 YEARS I HAVE BEEN UNDER THE  
IMPRESSION THAT IT WAS MINE AND NOBODY HAS  
EVER QUESTIONED MY RIGHTS TO IT. SO TO THIS  
END I INTEND TO SEEK ADVICE AS TO WHERE  
MY WIFE AND I STAND AS FAR AS THE LAW IS  
CONCERNED AND IF WE DONT OWN IT WHAT  
COMPENSATION WE ARE ENTITLED TO FOR WORK  
DONE AND MAINTENANCE GIVEN





Disp 1 Mar 1973  
Disp 10 Oct 1959  
Disp 1 Nov 1973  
Disp 15 Apr. 1968.

DG

46 - 00

Search Sheet, County of Dute

8179

n-06315

006315-hectare, known as WHIN HOUSE, KILDONAN, ISLAND OF ARRAN, part of 2 areas extending to 25.97 hectares, disposed by Disp. to Peter Alexander Hamilton and another, recorded 23 Aug. 1974.

(From SS 6155 <sup>39</sup>/<sub>203</sub>)

00351 (No.6) 17 Mar. 1989

Fi 12.33

PLAN

LFrA.

DISP. by JOHN ALEXANDER McKINLAY SMYTH (otherwise JOHN ALEXANDER McKINLEY-SMYTH), Whin House Farm, Kildonan, Island of Arran - TO himself and his wife FRANCES SMYTH, equally and survivor, - of the S q s Dated 1 Mar. 1989

00352 (No.7) 17 Mar. 1989

Fi 12.36

STANDARD SECURITY for £15,200 and further sums by JOHN ALEXANDER McKINLAY SMYTH (otherwise JOHN ALEXANDER McKINLEY-SMYTH) and FRANCES SMYTH - TO YORKSHIRE BUILDING SOCIETY, - over the S q s Dated 1 Mar 1989.

00301 (No.2) 28 Feb. 1990

Fi 21.17

PS

DISCH. by YORKSHIRE BUILDING SOCIETY, - of Standard Security (recorded 17 Mar. 1989) by JOHN ALEXANDER McKINLEY-SMYTH (otherwise JOHN ALEXANDER McKINLEY-SMYTH) and FRANCES SMYTH, both Whin House Farm, Kildonan, Arran, - [over ground known as WHIN HOUSE, KILDONAN, Island of Arran]. Dated 22 Feb. 1990.

00567 (No.42) 19 Mar. 1990

Fi 33.43

PS

CG-OC

DISP. by JOHN ALEXANDER McKINLAY SMYTH and FRANCES SMYTH, both Whin House Farm, Kildonan, Isle of Arran - TO said Frances Smyth, - of 0.06315 hectare, known as WHIN HOUSE, KILDONAN, ISLAND OF ARRAN. Dated 20 Jan. 1990.

00568 (No.43) 19 Mar. 1990

Fi 33.46

PS

STANDARD SECURITY by FRANCES SMYTH, Whin House, Kildonan, Isle of Arran - TO BRISTOL AND WEST BUILDING SOCIETY, - over the subjects in the immediately preceding Minute. Dated 21 Dec. 1989.

01813 (No.3) 15 Nov. 1990

Fi 109.41

PS

STANDARD SECURITY by FRANCES SMYTH, Whin House Farm, Kildonan, Isle of Arran, with consent of Firm of JOHN ALEXANDER McKINLAY SMYTH and FRANCES SMYTH and said Frances Smyth and JOHN ALEXANDER McKINLAY SMYTH as Trustees for their said Firm (containing undertaking by said Granter and others) - TO CLYDESDALE BANK P L C, - over 0.06315 hectare, known as WHIN HOUSE, KILDONAN, ISLAND OF ARRAN. Dated 1 Nov. 1990.

00856 (No.1) 22 Aug. 1995

Fi 58.1

DISP. (in virtue of power of sale in Standard Security, recorded 19 Mar. 1990, by FRANCES SMYTH, Whin House, Kildonan, Isle of Arran) by BRISTOL AND WEST BUILDING SOCIETY, - TO ROBERT JAMES BAMBURY and FAITH BAMBURY, spouses, 8 Bridewell Lane, Bury St. Edmunds, Suffolk, equally and survivor, - of 0.06315 hectare, known as WHIN HOUSE, KILDONAN, ISLE OF ARRAN &c. thereon, referred to in Disp. to John Alexander McKinlay Smyth and another, recorded 17 Mar. 1989. Dated 11 Aug. 1995. - £58,000.

MD.

St. Sec. f

John Alexander McKinlay Smyth

JH/SMY014AA/LL/NM

Kilmarnock

D7

McENERY MILLER

11 September 2012

**Development Management  
North Ayrshire Council  
Cunninghame House  
Irvine  
KA12 8EE**

Dear Sirs,

**The Estate of the Late Mr J Smyth  
Whin House Farm, Kildonan, Isle of Arran**

We have been instructed to act in connection with the Estate of the Late Mr J. Smyth and understand that the above subjects may have the benefit of planning permission under reference CH/01/91/0573 and we enclose a copy of a letter sent by our clients Architect in 2007.

We would be obliged if you could check the records and confirm if this planning permission is still valid in order that we may advise our clients accordingly.

We look forward to hearing from you as soon as possible.

Yours faithfully,

**Jeffrey Halliday  
Partner**



**SOLICITOR TO THE COUNCIL (Corporate Services): Ian T. Mackay**  
Cunninghame House, Irvine KA12 8EE  
Tel: 01294 324300 Fax: 01294 324372



Your Ref:            Our Ref: Arran 1/1

If telephoning please call: Ms J. Hanna, 01294 324330 (direct line)  
e-mail: jhanna@north-ayrshire.gov.uk

**NORTH AYRSHIRE  
COUNCIL  
RESTRICTED**

18 September 2012

McSherry Halliday Solicitors  
Bank Chambers  
42 Bank Street  
Kilmarnock  
KA1 1HA

**FAO Jeffrey Halliday**

Dear Sir

**Town and Country Planning (Scotland) Act 1997**  
**Whin House Farm, Kildonan, Isle of Arran**

I refer to your letter dated 11<sup>th</sup> September 2012, with regard to the above subject.

I can advise that planning permission (reference CH/01/91/0573) was approved subject to conditions on 24<sup>th</sup> September 1991 for the erection of building to form 3 holiday letting units at Whin House Kildonan.

**Building Standards have confirmed that work commenced on site. Provided that work has commenced on site, I can advise that the planning permission would still be valid.** However should your client wish to alter the scheme in any way, it is likely that they would be required to submit a fresh planning application.

I trust that the above information will be of assistance.

Yours faithfully

*p.f.* **J. Hanna**  
**SENIOR PLANNING SERVICES MANAGER**

JH/TF/Arran 1/1/jh1709



Ref: JH/SMY014AA/LL/LD  
Our Ref:  
Please reply to: Kilmarnock



**SOLICITORS**

**NOTARIES**

**ESTATE AGENTS**

**FINANCIAL ADVISERS**

27<sup>th</sup> September 2012

Mrs Frances Smyth  
c/o Macindoe  
132 Netherhill Road  
Gallowhill  
Paisley  
PA3 4SB

Dear Mrs Smyth,

**Whin House Farm, Kildonan, Isle of Arran**

Further to our recent discussions I confirm that I contacted North Ayrshire Council regarding the Planning Permission and a copy of their response is enclosed herewith. Please confirm if you **now** wish me to instruct Arran Estate Agents to market the subjects for sale.

Yours sincerely,

**Jeffrey Halliday**  
**Partner**

**Irvine:**  
Galt House, 78 East Road  
Irvine KA12 0AA  
Tel: 01294 274097  
Fax: 01294 279692  
LEGAL POST LP1  
irvine@mcsherryhalliday.co.uk  
Partner:  
Caroline M. Nisbet, LL.B. (Hons), Dip. L.P., N.P.  
Associate:  
Stacey McIntyre, LL.B. (Hons), Dip. L.P., N.P.

**Kilmarnock:**  
7 Bank Street  
Kilmarnock KA1 1HA  
Tel: 01563 533121  
Fax: 01563 570840  
LEGAL POST LP15  
enquiries@mcsherryhalliday.co.uk  
Partner:  
Martha Clark, LL.B., Dip. L.P., N.P.  
Consultant:  
Allan W. Marshall, LL.B., N.P.

**Kilmarnock:**  
Bank Chambers, 42 Bank Street  
Kilmarnock KA1 1HA  
Tel: 01563 533121  
Fax: 01563 522762  
LEGAL POST LP15  
kilmarnock@mcsherryhalliday.co.uk  
Partner:  
Jeffrey Halliday, LL.B., N.P.  
Financial Services:  
Alan Hewitt, B.Sc., Dip. PFS, Cert CII(MP)  
Practice Manager:  
Deborah Hart, S.L.A.

**Troon:**  
8 Academy Street, Troon KA10 6HS  
Tel: 01292 313737  
Fax: 01292 317856  
LEGAL POST LP1  
troon@mcsherryhalliday.co.uk  
Partner:  
James B. Morrison, LL.B., N.P.

[www.mcsherryhalliday.co.uk](http://www.mcsherryhalliday.co.uk)



On 6 Feb 2017, at 14:32, Julie Hanna <[hanna@north-ayrshire.gov.uk](mailto:hanna@north-ayrshire.gov.uk)> wrote:

D10

I refer to your recent email correspondence with regard to the above subject.

I can advise that you would need to demonstrate that work (constituting development) commenced on site in association with this planning approval prior to the expiry of this planning permission.

Following a recent site visit, it does not appear that development has commenced on site.

Regards

Julie Hanna  
Planning Officer  
Corporate Services  
North Ayrshire Council  
Cunninghame House  
Irvine  
KA12 8EE

Tel: 01294 324330  
Fax: 01294 324372

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<http://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/>

[PUBLIC] No measures  
[INTERNAL] Council employees only  
[RESTRICTED] Defined distribution list  
[CONFIDENTIAL] Need to know basis/sensitive data

<3A226226.jpg>

<graycol.gif> cameron wallace —06-02-2017 12:52:26 PM—Dear Ms Hanna, We have recently taken on the plot of land at Whin House Farm, Kildonan, Isle of Arran

From: cameron wallace <[bolevard31@hotmail.com](mailto:bolevard31@hotmail.com)>  
To: "[hanna@north-ayrshire.gov.uk](mailto:hanna@north-ayrshire.gov.uk)" <[hanna@north-ayrshire.gov.uk](mailto:hanna@north-ayrshire.gov.uk)>  
Date: 06-02-17 12:52 PM  
Subject: Whin Farm, Kildonan, Isle of Arran

Dear Ms Hanna,

We have recently taken on the plot of land at Whin House Farm, Kildonan, Isle of Arran on behalf of a Mrs Smythe.

We were under the impression that there was planning permission granted on this land (see attached letter) and have verbally had an offer accepted. We now understand that the potential buyer has contacted you and has been told that no planning permission is valid on the land?

Can you please confirm the position as the owner seems to believe that, going by the letter from your office dated 18th September 2012, the planning permission was granted and should still be valid.

Cameron Wallace

Boulevard Properties[attachment "Planning Permission.pdf" deleted by Julie Hanna/EconomyandCommunities/North Ayrshire Council]

\* Please help reduce waste. Don't print this email unless absolutely necessary. \*\*

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**From:** boulevard31@hotmail.com  
**Sent date:** 16/02/2017 09:31  
**To:** julie.hanna@north-ayrshire.gov.uk  
**Subject:** Re: Whin Farm, Kildonan, Isle of Arran [PUBLIC]  
**Attachments:** 15491207.jpg 4.9 KB  
gta.col.gif 105 B

D11

**Cameron Wallace**  
**Boulevard Properties**

**From:** Julie Hanna <JHanna@north-ayrshire.gov.uk>  
**Sent:** 06 February 2017 15:03:03  
**To:** cameron wallace  
**Subject:** Re: Whin Farm, Kildonan, Isle of Arran [PUBLIC]

It can only relate to work in association with the planning approval that would have been carried out before the planning permission expired.

The planning permission was dated the 24th September 1991, therefore it would have had to be within 5 years of this decision date. Work around 2012 is beyond the expiry date of the planning permission.

I trust that the above information clarifies the matter.

Julie Hanna  
Planning Officer  
Corporate Services  
North Ayrshire Council  
Cunninghame House  
Irvine  
KA12 8EE

Tel: 01294 324330  
Fax: 01294 324372

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[PUBLIC] No measures  
[INTERNAL] Council employees only  
[RESTRICTED] Defined distribution list  
[CONFIDENTIAL] Need to know basis/sensitive data

Scottish Awards for  
Quality in Planning  
2016: Award Winner

cameron wallace —06-02-2017 02:49:11 PM—Thanks for the swift reply. The owner was under the impression that Building Control had stated that:

**From:** cameron wallace <boulevard31@hotmail.com>  
**To:** Julie Hanna <JHanna@north-ayrshire.gov.uk>  
**Date:** 06-02-17 02:49 PM  
**Subject:** Re: Whin Farm, Kildonan, Isle of Arran [PUBLIC]

Thanks for the swift reply.

The owner was under the impression that Building Control had stated that the development had started and thus the planning was granted.

Does this need to be ongoing work or work that was started back in 2012?

Cameron Wallace

Sent from my iPhone



D12

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-   
DESCRIPTION
-   
MAP & SCHOOLS
-   
STREET VIEW
-   
SCHEDULE
-   
AREA VALUES

£55,000 Offers Around

Whin House, Kildonan, Arran, KA27 8RR

plot for sale

Property Details

FLOOR PLANS: [Floorplan 1 \(/floorplans/BoulevardEstateAgents/2016/2016052413482696/2016052413482696\\_FLP\\_00-660x660.jpg\)](#) | [Floorplan 2 \(/floorplans/BoulevardEstateAgents/2016/2016052413482696/2016052413482696\\_FLP\\_01-660x660.jpg\)](#) | [Floorplan 3 \(/floorplans/BoulevardEstateAgents/2016/2016052413482696/2016052413482696\\_FLP\\_02.pdf\)](#) | [Floorplan 4 \(/floorplans/BoulevardEstateAgents/2016/2016052413482696/2016052413482696\\_FLP\\_00-540x540.jpg\)](#) | [Floorplan 5 \(/floorplans/BoulevardEstateAgents/2016/2016052413482696/2016052413482696\\_FLP\\_01-540x540.jpg\)](#)

0.95Ha of land available, just off the main road around Arran, close to Kildonan. With spectacular views to the West Coast of Scotland and the beautiful Arran countryside, this plot of land comes with planning permission for 3 holiday flats, but could be used for residential purposes subject to planning amendment. Private water supply to property with public water available. Mains electricity connection close by, currently



MC/SMY014AA/MC  
Arran 1/1  
Kilmarnock

D13

04 May 2017

Planning Department,  
North Ayrshire Council  
Cunninghame House  
**IRVINE**  
KA12 8EE.

Dear Sirs,

**Mrs. Frances Smyth**  
**Ground at Whin House Farm, Kildonan, Isle of Arran**

I act on behalf of Mrs Frances Smyth in the sale of the above land. I understand there is some confusion as to whether the planning consent granted for the erection of 3 holiday flats is still extant. My understanding is that it is but we do require confirmation from the Council to allow a sale of the land to proceed.

My colleague Jeff Halliday who died in April 2015 wrote to the Council on 11<sup>th</sup> August 2012 and, at that stage, received a response from a Ms Hanna dated 18<sup>th</sup> September 2012 who advised that Building Standards had confirmed that work had commenced on the site. They subsequently confirmed the start date as 19<sup>th</sup> November 1991.

Work proceeded in terms of the planning consent as has been confirmed by Gus McLeod, the Arran Building Inspector and he noted that the work commenced to the extent that **foundation concreting had started on 22<sup>nd</sup> January 1992** and blockwork walls at ground floor were in progress.

In 1996 the walls above ground level required to be demolished due to a lengthy delay in work proceeding but nonetheless the **foundations were and are still in situ showing clear evidence of work commencing within the requisite period.**

We accordingly require confirmation that the planning consent for erection of 3 holiday flats is still extant and that the property may accordingly be advertised with the consent.'

Yours faithfully,

**Martha Clark**  
**Partner**

**From:** mc@mcserryhalliday.co.uk  
**Sent date:** 19/05/2017 - 16:24  
**To:** marion684@btinternet.com  
**Subject:** Land at Whinhouse Farm  
**Attachments:** image001.png 8.6 KB  
image002.png 37.6 KB  
image003.png 7.8 KB  
image004.png 1.9 KB  
image005.png 1.8 KB  
image006.png 1.8 KB  
image007.png 1.8 KB

DIA

19/5/17  
I've just taken a call from Ross Middleton of North Ayrshire Council Planning Department. He has looked at their records and says he needs evidence to prove the building did start in 1992 e.g. time-stamped photos; a picture showing the work starting and in that picture a newspaper from the day the work started; receipts and invoices from the builders for the work done from that time.

Unless that evidence can be provided a new planning application would require to be made.

He asked if any evidence could be found that it be e-mailed to him at :-

[eplanning@north-ayrshire.gov.uk](mailto:eplanning@north-ayrshire.gov.uk)

I am just finishing up for a week's holiday so if you have such evidence you may want to send it to him direct .

Kind Regards,  
**Martha**  
**Martha Clark**  
Partner

Direct: +44 (0) 1563 548632  
Office: +44 (0) 1563 533121

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**From:** mc@mcserryhalliday.co.uk  
**Sent date:** 07/07/2017 - 08:37  
**To:** marion684@btinternet.com  
**Subject:** FW: Ground at WhIn House Farm, Kildonan. [OFFICIAL]  
**Attachments:** 37434608.jpg 3.4 KB  
image001.png 8.6 KB  
image002.png 37.6 KB  
image003.png 7.8 KB  
image004.png 1.9 KB  
image005.png 1.8 KB  
image006.png 1.8 KB  
image007.png 1.8 KB  
image008.jpg 11.9 KB

D15

Please see below response received from North Ayrshire Council. Once you've looked over it and have spoken with Mrs. Smyth you can let me have your comments.

Kind Regards,  
Martha

**Martha Clark**  
Partner

Direct: +44 (0) 1563 548632  
Office: +44 (0) 1563 533121

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Authorised and Regulated by the Financial Conduct Authority

**From:** Ross Middleton [mailto:rossm Middleton@north-ayrshire.gov.uk]  
**Sent:** 06 July 2017 15:54  
**To:** Martha Clark  
**Subject:** Ground at Whin House Farm, Kildonan. [OFFICIAL]

Dear Martha,

CONFIRMATION REQUEST REMINDER

Further to your letter dated 7th June, subsequent letter on 23rd June and our discussion I can confirm that Planning Permission was granted for the erection of 3 holiday letting units (Reference CH/01/91/0573) on 24th September 1991. The permission for this development expired on 24 September 1996.

We have previous received correspondence regarding this subject and the assertion that work started on the development within the statutory 5 year period for commencement. A previous planning officer responded to a Jeffrey Halliday on 18 September 2012 advising that planning permission was approved subject to certain conditions. More recently the same planning officer advised a selling agent that the landowner would need to demonstrate that work (constituting development) commenced on site in association with this planning approval prior to the expiry of the planning permission.

Works such as digging a trench, laying a foundation, creating an access or other works that would normally require planning permission would constitute commencement. We would require clear evidence that those works were in line with the original planning consent, and were conducted between the dates above. mainly 1991 and 1996. The onus is on the landowner to evidence this and we would then take a view on whether the work had indeed commenced within the statutory time frame. If the works started within this timeframe, they do not require to have been finished. Only commenced.

I also understand that Planning Permission was granted for the erection of a dwellinghouse (Reference 03/01082/PP) on 8 February 2005. The permission for this development expired on 8 February 2010. This consent was granted subject to an occupancy restriction which is restricted by a Section 75 agreement. Similarly there is no note on file of this house having been erected and as above we would require evidence that work started on the development within the statutory 5 year period for commencement.

NOT RELEVANT - ON LAND IN ADJOINING OWNERSHIP.

I hope this may provide some clarity.

Should your client wish to formally confirm that either development has been commenced, or indeed completed, they would be required to apply for a Certificate of Lawfulness (existing), the forms for which can be found at <https://www.north-ayrshire.gov.uk/Forms/CorporateServices/Legal/Protective/Planning/certificate-of-lawfulness-existing.pdf>

D15  
CONT

I trust this information may be of use and should you have any further queries please do not hesitate to contact me.

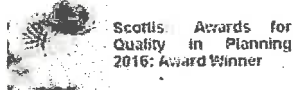
Kind Regards

Ross Middleton

Ross Middleton  
Senior Development Management Officer  
Planning Services  
North Ayrshire Council  
Cunninghame House  
Irvine

DD: 01294 324379

Email: [rossmiddleton@north-ayrshire.gov.uk](mailto:rossmiddleton@north-ayrshire.gov.uk)



**New house in the countryside at Meikle Auchengree - Award Winner**

**Saltcoats Town Hall - Award Winner**

**November 2016**



**Saltcoats Town Hall - Commended**

**June 2017**

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Please be advised that North Ayrshire Council's incoming and outgoing



D16

### North Ayrshire Council - Information Request Form Freedom of Information

The Freedom of Information (Scotland) Act 2002 gives you rights to access information that the Council holds. Further information is available on our website at [www.north-ayrshire.gov.uk](http://www.north-ayrshire.gov.uk)

Your name:	Surname	BURCH	Forename	STEPHEN	Title:	MR
------------	---------	-------	----------	---------	--------	----

Your address	House number	THE COVERAGE	Telephone number	01361 850346
	Street/Road	HOW PARK	Email address	
	Town	GRANTS HOUSE	mavion684@btinternet.com	
	Post Code	DUN5 TD11 3RP		

What information are you requesting? (Please provide as much detail as possible as this will assist us in responding to your request)

REF. BUILDING WARRANT NO. 91/468 DATED 12/7/91 FOR WHIN HOUSE, KILDONAN, ISLE OF ARRAN I WOULD BE PLEASED TO RECEIVE A COPY OF THE FOLLOWING! -

① RELEVANT ENTRIES FROM THE BUILDING REGISTER - NOTABLY CONFIRMATION OF THE COMMENCEMENT DATE

② THE LOCAL BUILDING INSPECTOR'S CONTEMPORARY SITE INSPECTION REPORTS (GUS MCCOYD - ARRAN LOCAL OFFICER) - NOTABLY NOTE DATED 22/1/92 RELATIVE TO FOUNDATION CONCRETING IN PROGRESS

What is the purpose of your request? (You do not have to provide this information but, by understanding this, we may be able to more fully respond to your request).

--

How would you like us to communicate our reply to you? Please tick one box

By letter	By Email	Other (please describe)
	✓	

Signature	<i>S. Burch</i>	Date	2/6/17
-----------	-----------------	------	--------

**From:** KevinMcGinn@north-ayrshire.gov.uk  
**Sent date:** 06/06/2017 - 14:59  
**To:** marion684@btinternet.com ,  
**Subject:** Information Request - Our Ref : NAC/17711/2017 [OFFICIAL]  
**Attachments:** 20170605165131.pdf 595.6 KB  
91-0468-bw.pdf 1001.6 KB

DITA

Dear Stephen Birch

Subject : Freedom of Information (Scotland) Act 2002

Thank you for your request for information dated 05/06/2017, which was received by North Ayrshire Council on 05/06/2017.

We have now completed our research for the information you request and the responses to the questions submitted are listed below.

Please see the attached PDF files with the information requested

Your right to seek a review

Should you be dissatisfied with the way in which North Ayrshire Council has dealt with your request, you have the right to ask us to review decisions.

Your request should explain why you wish a review to be carried out, and should be made within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. Staff not involved in your original request will undertake the review. If you are not satisfied with the result of the review you then have the right to make a formal complaint to the Scottish Information Commissioner at <http://www.itspublicknowledge.info/Appeal>.

A request for a review should be made in writing to:

The Information Governance Manager  
Democratic and Administration Services  
Cunninghame House  
Irvine  
Ayrshire  
KA12 8EE

Email : FreedomOfInformation@north-ayrshire.gov.uk

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While efforts have been made to ensure the accuracy of this information, its accuracy is not warranted. In particular, the Council accepts no liability for onward sale or transfer of this information to any third party and for any reliance placed on such information by you or by a third party.

If you need further help please telephone Kevin McGinn on 01294 324368.

Yours sincerely

Kevin McGinn  
FOI Co-ordinator

---

For your information - Your details received :  
Name: Stephen Birch

Address:  
email: marion684@btinternet.com

---

Information Requested :  
FOI\_Information\_Requested

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**From:** KevinMcGinn@north-ayrshire.gov.uk  
**Sent date:** 07/07/2017 - 14:51  
**To:** marion684@btinternet.com  
**Subject:** NAC/17711/2017 [OFFICIAL]  
**Attachments:** 20170605165131.pdf 595.6 KB  
91-0468-bw.pdf 1001.6 KB

D17B

Hi

Please see the information requested

(See attached file: 20170605165131.pdf)(See attached file: 91-0468-bw.pdf)

Kind Regards

Kevin McGinn  
Corporate Operations Team Leader  
Business Support

Tel 01294324502

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"This footnote also confirms that this email message has been swept for the presence of computer viruses and malicious content."



D18A

N.A.C. Bird Club  
CDIC  
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9/1/468

9/1/468

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FILE # SITE RECORDS

Name: Tommy Smyth

Agency: \_\_\_\_\_

**D18C**

Date

Site Address: WILKINS HOUSE.

KENDAMAN.

377 70

**91/468**

19/1/92 Existing building demolished FOUNDATION STRENGTH

22/1/92 EXCAVATIONS COMPLETE. CONCRETE STRENGTH OK.

LAPS TO STEPS OK. FGL WILL HAVE TO BE BRIDGED 150mm!!

31/1/92 Block underpinnings 25% LAPS TO PIPE OPENS ETC. 1  
Foundation to deep well rig underpinning

6/2/92 Foundation Steps completed. LINTERS IN PLACE OK.  
75% underbuild comp.

17/2/92 G/F FLOOR IN COMPLETE STATION EXT WALLS.  
EXT FINISHING COMP.

04/3/92 EXTERIOR WALLS TO 1st FLOOR OK no other progress

11/3/92 NO PROGRESS

27/3/92 INTERNAL PARTITIONS TO 1st FLOOR COMP. - LINTERS TO BE EXTENDED  
Valley gutter found OK ETC TANKING.



**From:** Magnus.Voy@ayrshire-vjb.gov.uk  
**Sent date:** 21/07/2017 - 11:11  
**To:** marion684@btinternet.com  
**Subject:** FW: FAO Stephen Birch - Winhouse

D20

Dear Mr Birch,

As per our telephone conversation this morning, I can confirm the following:

At an inspection on 26<sup>th</sup> November 1992 the valuer noted "walls up" on the survey card for this subject.

The previous inspection on 7<sup>th</sup> April 1992 recorded "WIP" (work in progress).

The card was cancelled in 1997 (appears that whatever had been erected had been demolished) and no further inspections were made for the purposes of three holiday units.

The member of staff involved has since retired, so I am unable to provide details of what was witnessed on site.

Regards,

Magnus

*Magnus Voy MRICS*

*Divisional Assessor*

*AVJB*

*Tel: 01292 612 513*

*E-mail: [magnus.voy@ayrshire-vjb.gov.uk](mailto:magnus.voy@ayrshire-vjb.gov.uk)*

---

**From:** Voy, Magnus  
**Sent:** 19 July 2017 14:52  
**To:** 'marion684@btinternet.com'  
**Subject:** FAO Stephen Birch - Winhouse

Dear Mr Birch,

Following our recent telephone conversation regarding Winhouse, Kildonan, Isle of Arran, I have now investigated further and can confirm the following:

The subject was visited on various occasions between 1992 and 1997 to check for the erection of three holiday letting units (and conversion of outbuildings etc).

I have no specific details of the structure or works, which would only normally be recorded on completion of the works.

I have historical survey cards which are used to record the date of inspection, date next inspection is due and any remarks.

Typical remarks refer to "work in progress" (WIP), Not Started (NS), Surveyed (S) etc.

In this case, the subject has been inspected from 1992, where work was in progress, but was cancelled in 1997 as planning permission had expired and the work not carried out.

It appears from remarks that work had stopped by 1993/1994 and I believe that whatever existed of the structure was demolished at some point, but I have no record of when this occurred.

I hope that this information is of use.

**From:** mc@mcserryhalliday.co.uk  
**Sent date:** 15/09/2017 - 07:57  
**To:** marion684@btinternet.com  
**Subject:** RE: Whin House  
**Attachments:** image001.png 8.6 KB  
image002.png 37.6 KB  
image003.png 7.8 KB  
image004.png 1.9 KB  
image005.png 1.8 KB  
image006.png 1.8 KB  
image007.png 1.8 KB

021

This is the letter which I sent to Ross Middleton in August. As I said I have already issued a reminder to him and as soon as I have a response I will be in touch.

**FAO: Ross Middleton**  
Planning Department  
North Ayrshire Council  
Cunninghame House  
Irvine  
KA12 8EE

Dear Sirs

**Frances Smyth**  
**Ground at Whin House Farm, Kildonan, Isle of Arran**

We refer to previous correspondence and discussions and have been instructed by our client to write to you in the following terms:-

In your e-mail dated 6<sup>th</sup> July 2017 you state that a previous Planning Officer responded to Jeffrey Halliday on 8<sup>th</sup> September 2012 stating that 'Planning Permission was approved subject to certain conditions'. There is however no mention of the same Officer stating that 'Building Standards have confirmed that work has commenced on site. Provided that work has commenced on site, I can advise that Planning Permission would still be valid.'

Over the intervening five years our client has placed considerable reliance on the second Statement which she considers is conclusive.

In our letter to you of 4<sup>th</sup> May 2017 we referred to Gus McLeod (Arran Building Inspector) having confirmed that certain material works were in progress on 22<sup>nd</sup> January 1992.

Under a Freedom of Information request our client has obtained a copy of a North Ayrshire Council historical document relative to the above which we now enclose. This includes a relevant extract from the Buildings Register and a site record of work done in connection with Building Warrant reference 91/468.

These records show without doubt that work started on 19<sup>th</sup> November 1991 (when a Commencement Notice was provided) and that excavations were complete and concreting was in progress on 22<sup>nd</sup> January 1992. This is clearly within the relevant planning approval period of 24<sup>th</sup> September 1991 to 24<sup>th</sup> September 1996.



In your e-mail of 6<sup>th</sup> July 2017 you state that you require clear evidence that those works were in line with the original planning consent reference 01/91/-573. We therefore enclose copies of the following (not to scale as these have been taken from the Council's microfiche records):-

**Building Warrant Reference 91/468 approved drawings for the conversion of outbuilding to three flats**  
Floor plans 91/3/12A  
Elevations and Notes 91/3/13B  
Existing Building 91/3/14

**Planning Approval reference 01/91/0573 drawings for replacement of outbuilding by three flats**  
Floor Plans 91/3/12B  
Elevations and Notes 91/3/13C

You will appreciate there are considerable similarities within the pairs of comparable drawings and –  
They were from the same 'negatives'  
There was minimal alteration or addition  
The layout/construction was 99% identical and  
Both schemes had a totally new cavity perimeter wall

The only significant variation was in the titles i.e. conversion compared with new build. However, nowhere did a means of implementing any conversion aspect figure so, to all intents and purposes, the two approvals, one for a Building Warrant and one for Planning, were one and the same scheme.

Accordingly the work done on site, as viewed by Gus Macleod during his Building Warrant site inspections, can only be considered to be consistent with that envisaged in the planning approval reference 01/91/-573.

Indeed, whilst the first entry in his site notes refers to 'existing outbuildings demolished' nowhere does he suggest that the scope and nature of work carried out would not comply with the approved Warrant scheme 91/468 (excepting, of course, the minor constructional deficiencies deferred for rectification).

Our client suggests that a further site visit by an appropriate person would further illustrate the practical on-site situation where the ground floor slab and under-building wall arrangement are clearly visible, in the approved location, immediately to the west of Whin Cottage (noted as Whin Farm on the site plan).

We look forward to hearing from you when you have considered the foregoing.

Yours faithfully'

Kind Regards,

**Martha Clark**  
Partner

Direct: +44 (0) 1563 548632  
Office: +44 (0) 1563 533121

**mcs**herry  
**mh** halliday

**From:** marion684@btinternet.com  
**Sent date:** 11/10/2017 - 10:50  
**To:** marion684@btinternet.com, duckpondyachts@gmail.com  
**Subject:** Fwd: Whin House/Smyth

022

-----Original message-----

**From :** marion684@btinternet.com  
**Date :** 11/10/2017 - 10:49 (GMTST)  
**To :** mc@mcserryhalliday.co.uk  
**Subject :** Re: Whin House/Smyth

Dear Mrs Clark,

Thank you for your email. The initial response from the Council is disappointing, to say the least.

A Certificate of Lawfulness would be a very convenient solution for the Council because it would effectively negate the contradictory advice from current officers and/ or their predecessors over a significant period of time. Although such a Certificate might offer a solution for a site or development with no recent "planning history", it is quite clearly inappropriate in this case.

The contradictions in the Council's advice were clearly set out, in detail, in our previous letter. Thus far, the Council has declined to address the detailed points we have raised. This is completely unacceptable, especially given the time taken to provide any response.

Suggesting that we should apply for a Certificate of Lawfulness (and pay an additional fee to the Council!) merely restates their previously expressed position whilst ignoring any question of responsibility for the actions, statements or omissions of Council officers.

A retrospective demand for documentary and photographic evidence, when it is quite clear that there was no requirement for this to be provided for, or retained by, the Council, simply adds to the impression that somebody in the authority is anxious to draw a veil over their own shortcomings and omissions. It is worth reiterating that, when requested, our client provided everything that was needed at the time (i.e. a commencement note provided to Building Control and appropriate foundation inspections facilitated).

If subjected to legal challenge, I find it hard to believe that a Court would find that the Council's actions were reasonable.

Yours sincerely,

Stephen Birch

-----Original message-----

**From :** mc@mcserryhalliday.co.uk  
**Date :** 02/10/2017 - 15:58 (GMTST)  
**To :** marion684@btinternet.com  
**Subject :** Whin House/Smyth

Good afternoon

I've taken a call from Ross Middleton from NAC. He apologised for the delay in coming back to me. He is suggesting that you apply for a Certificate of Lawfulness but you would need to show a 'meaningful' start to the work by way of evidence such as photos with a date on them or invoices for the work and showing who carried out the work. They would then undertake a site visit. He did confirm that the evidence has to show beyond all reasonable doubt that the work did commence and when. The cost of such an application would be £202.

I've asked him to put all of this in writing to me and as soon as I hear from him I will be in touch.

Kind Regards,

*L + REMINDER - NO RESPONSE*

**Martha Clark**  
Partner

Direct: +44 (0) 1563 548632  
Office: +44 (0) 1563 533121

cid:image005.png@01D149F4.2FDF8280

3<sup>rd</sup> July 2018

**Letter of Date Authenticity**

Thank you for your instruction to research on your behalf, we can confirm that according to pilot records held by ourselves the dates of the film reference numbers are listed below as follows.

Film Ref : MH547-12 was taken on the 17<sup>th</sup> of September in the year 1993.

Film Ref : NR189-07 was taken on the 29<sup>th</sup> of June in the year 1996.

We trust this information is satisfactory and should you require any further assistance, please do not hesitate to contact us.

Yours faithfully



Darren Powell  
Research Manager

SKYVIEWS AERIAL ARCHIVES  
Springwell Cottage : 3a Rakehill Road : Barwick in Elmet : Leeds : LS15 4JJ  
Tel : 0113 281 1043  
[www.skyviewsarchives.co.uk](http://www.skyviewsarchives.co.uk)





D23A



D23B



2000


AFFIDAVIT OF STEPHEN BIRCH


At Eyemouth, Berwickshire on the Thirty-first day of August Two Thousand and Eighteen before me, Colette Catherine Maria Burden, Notary Public, Eyemouth, COMPEARED STEPHEN BIRCH, aged Seventy-five years, residing at, of The Coverage, Howpark, Grantshouse, Duns, Berwickshire TD11 3RP, who being solemnly sworn DEPONES as follows:

1. I am STEPHEN BIRCH, aged Seventy-five years, of The Coverage, Howpark, Grantshouse, Duns, Berwickshire TD11 3RP.
2. I am now retired. Prior to retirement, I worked professionally as an Architect.
3. In my professional capacity as an Architect I had involvement in Planning Approval CH/01/91/0573 dated the Twenty-fourth day of September Nineteen Hundred and Ninety-one ("the Planning Approval") for Planning Permission for the erection of a building to form three holiday units at Whin House, Kildonan, Arran ("the Site")
4. As such Architect I was responsible for the design and submission of the Planning and Building Warrant Applications associated with the Planning Approval. In January Nineteen Hundred and Ninety-two I set out the position of the proposed building with reference to approved drawing numbers 91/3/12B and 13C (planning) and 91/3/12A and 13B (Building warrant) which in this respect were for identical buildings. The only horizontal setting out 'references' on these drawings were graphical:
  - a. The immediate proximity of the proposed east wall to the existing adjoining Whin Cottage (noted as Whin Farm); and
  - b. The close proximity of the outer face of the proposed south gable being an extension of the Whin cottage south boundary wall outer face line.

These references were complied with.

5. I have seen the Building Inspector's site notes which record that the works were started on site between Fourteenth and Twenty-second January Nineteen Hundred and Ninety-two, that foundation concreting started on Twenty-second January

  
 COLETTE CATHERINE MARIA BURDEN  
 NOTARY PUBLIC, EYEMOUTH  
 31<sup>ST</sup> AUGUST 2018.

..... Stephen Birch



024  
CONT.

Nineteen Hundred and Ninety-two, and internal loadbearing partitions are shown as complete on Twenty-seventh May Nineteen Hundred and Ninety-two per the last of the Building Inspector's reports. These reports show that walls were raised between Seventeenth March and Twenty-seventh May Nineteen Hundred and Ninety-two. This fits with my recollection of works progressing on site. The photographs included with the application taken in Nineteen Hundred and Ninety-six and Two Thousand and Sixteen show the concrete ground floor slabs and intermediate internal walls in situ.

6. I was not involved in supervision of any of the construction work at the Site. However, as I was involved with other jobs locally, I did see laying of the foundations and erection of walls in progress during the period between November Nineteen Hundred and Ninety-one and September Nineteen Hundred and Ninety-two.

7. During the period November Nineteen Hundred and Ninety-one to September Nineteen Hundred and Ninety-two: I observed the following people working on the site

D. McKinnon, Hillhead, Benn an, Arran (reduced level excavation and underground services to building).

D. Stuart, Arran Plant Ltd. – Company dissolved (Foundation excavation).


G. Stewart, The CNOC, Kildonan, Arran (Arran Plant Ltd.) – (Site mixed concrete for foundations and floor slab).

N. Muir, The Terrace, Kilmory, Arran (laying blockwork walls).

All of which, I, the said STEPHEN BIRCH, swear to be true:-

Sworn by the above named Stephen Birch at Eyemouth, Berwickshire on the Thirty-first day of August Two Thousand and Eighteen before me, Colette Catherine Maria Burden, Notary Public, Eyemouth

  
..... Stephen Birch

  
..... Notary Public

COLETTE CATHERINE MARIA BURDEN.

DOUGHTYS WS  
3 CHURCH STREET  
EYEMOUTH  
BERWICKSHIRE  
TD14 5DH



5/26/2017

WHIN HOUSE, KILDONAN: Isle of Arran postcard.(C26389) | eBay

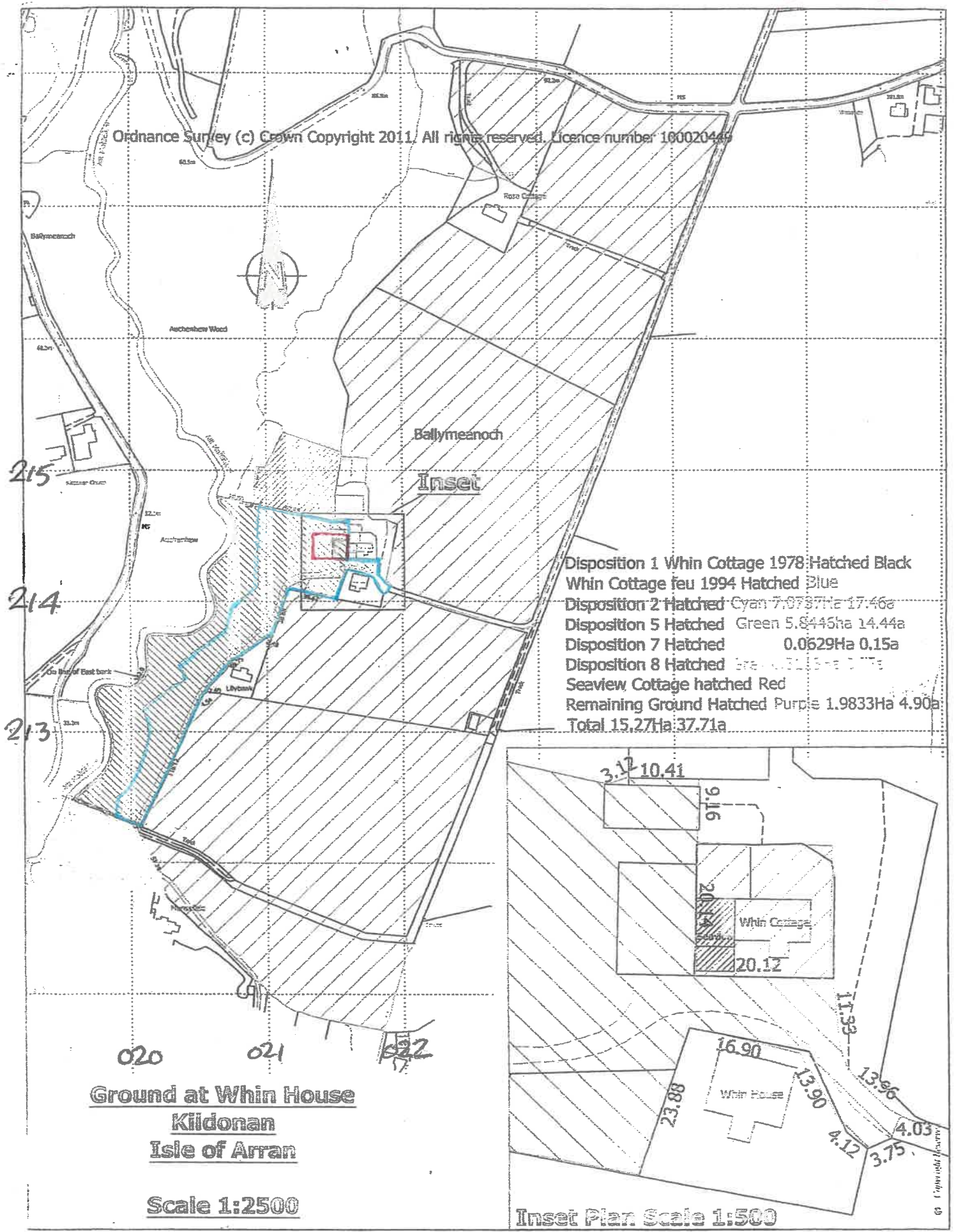
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WHIN HOUSE, KILDONAN, ISLE OF ARRAN.

210894.

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- Disposition 1 Whin Cottage 1978: Hatched Black
- Whin Cottage feu 1994 Hatched Blue
- Disposition 2 Hatched Cyan 7.0787Ha 17.46a
- Disposition 5 Hatched Green 5.8445Ha 14.44a
- Disposition 7 Hatched 0.0629Ha 0.15a
- Disposition 8 Hatched 0.0021Ha 0.005a
- Seaview Cottage hatched Red
- Remaining Ground Hatched Purple 1.9833Ha 4.90a
- Total 15.27Ha:37.71a

**Ground at Whin House**  
**Kildonan**  
**Isle of Arran**

Scale 1:2500

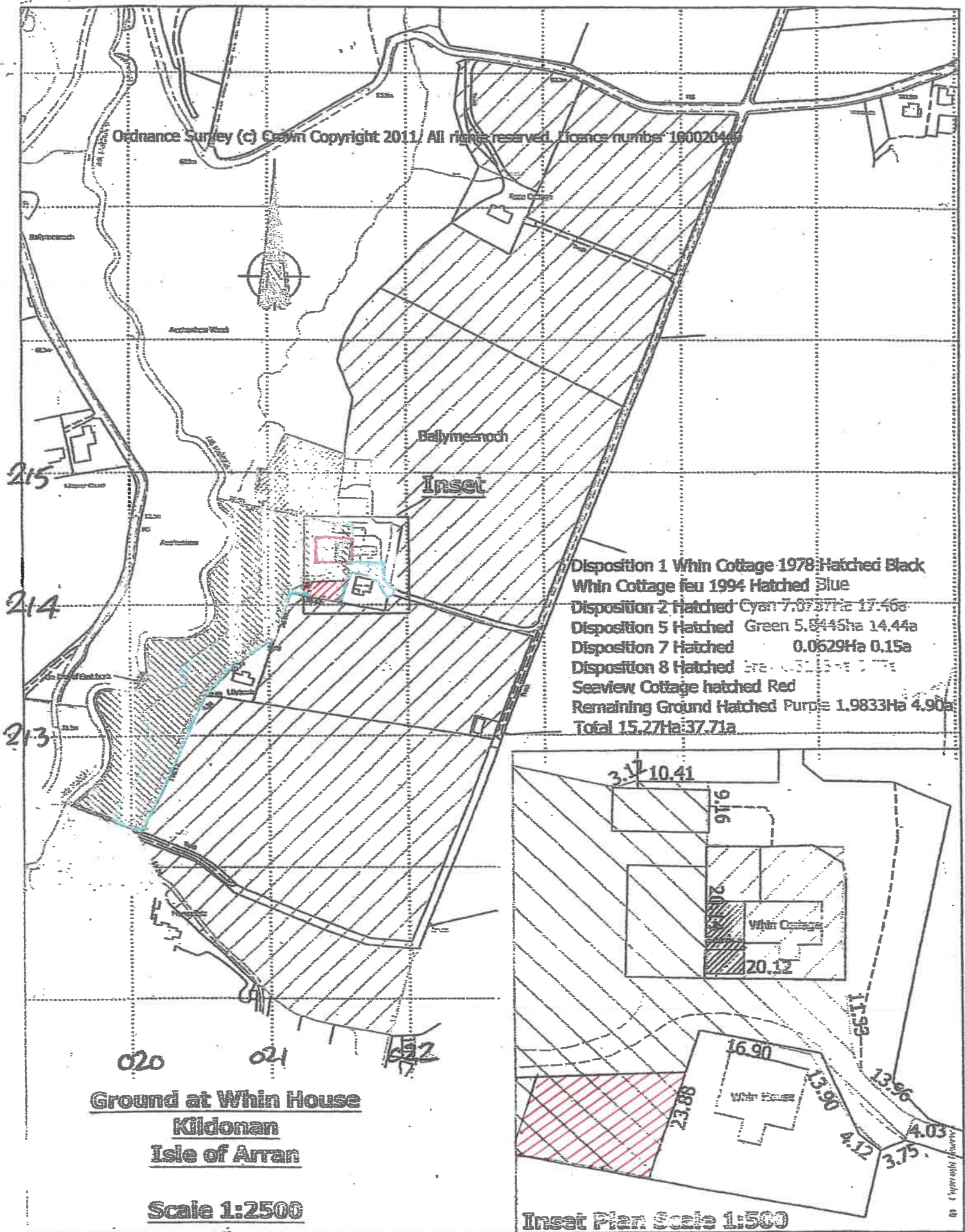
Inset Plan Scale 1:500

CURRENT LAND OWNERSHIP - BLUE  
 SITE - RED



D26

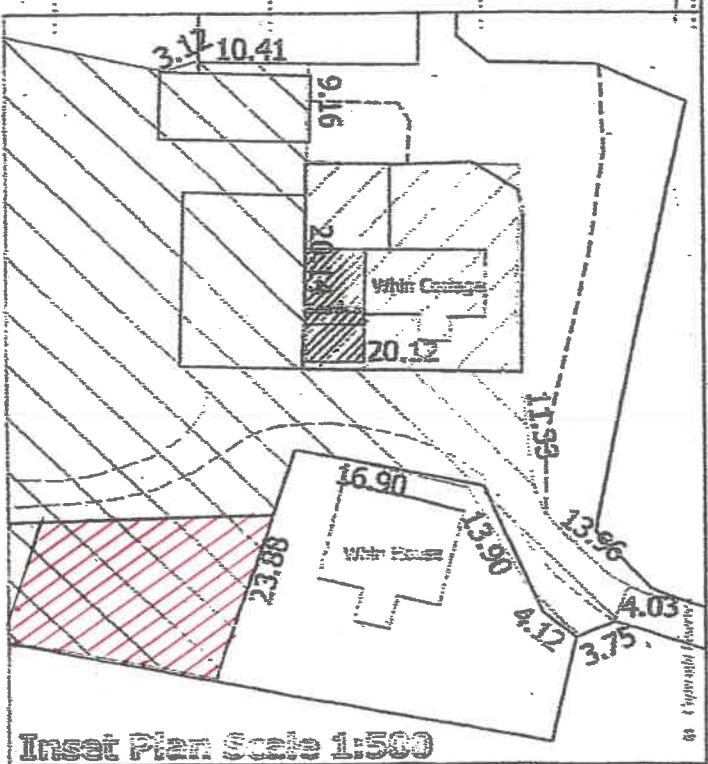
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Disposition 1 Whin Cottage 1978 Hatched Black  
 Whin Cottage feu 1994 Hatched Blue  
 Disposition 2 Hatched Cyan 7.0757Ha 17.46a  
 Disposition 5 Hatched Green 5.8445Ha 14.44a  
 Disposition 7 Hatched 0.0629Ha 0.15a  
 Disposition 8 Hatched  
 Seaview Cottage hatched Red  
 Remaining Ground Hatched Purple 1.9833Ha 4.90a  
 Total 15.27Ha/37.71a

**Ground at Whin House**  
**Kildonan**  
**Isle of Arran**

**Scale 1:2500**



**Inset Plan Scale 1:500**

POSSIBLE ADDITIONAL 'GARDEN' GROUND FOR WHIN HOUSE? (HATCHED RED)  
 CURRENT LAND OWNERSHIP - BLUE  
 PLANNING APPROVAL SITE FOR 3 FLATS - RED OUTLINE