

THE HIGHLAND COUNCIL

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING
APPLICATIONS AND REVIEW COMMITTEE – 23 June 2009**

Agenda Item	3.5
Report No	33/09

**09/00135/FULSU – Change of use of agricultural land/ ex-World War II airfield land to
grass strip airfield on land south-east of Fearn Aerodrome, Fearn**

Report by Area Planning and Building Standards Manager

SUMMARY

This application seeks detailed planning permission for the creation of a grass strip airfield on land south-east of Fearn Aerodrome, Fearn.

This application is being reported to Committee because more than 5 letters of objection have been received.

The Recommendation is to GRANT planning permission for a temporary period (two years) subject to conditions.

Ward Number 8 - Tain and Easter Ross

Applicant - David Munro

1. PROPOSAL

1.1 This application seeks detailed consent for a grass strip airfield. Such airfields are permitted to operate for 28 days of each calendar year and the airfield has operated on this basis since May 2008. The current application seeks to formalise the position of the airstrip and allow it to be used for more than 28 days a year. The site was part of the wartime airfield at Fearn and a number of derelict buildings remain from that period. The application site was vacant farm land until it was taken over by the applicant.

1.2 The air strip is 650m long and 50m wide. The applicant has advised that his intention is to provide facilities for visiting aircraft and to allow a small number of light general aviation aircraft to be based at the site. There will be two planes based at the site on a permanent basis and the applicant would expect 6-10 aircraft movements over the course of an average working week and 10-20 during an average weekend. However, the number of visiting aircraft would vary. The applicant also intends to hold two or three 'fly-ins' each year when a variety of aircraft will visit the site and members of the public will be invited to view them. The last fly-in held at the site attracted 30 aircraft over the course of a weekend but the aim is to attract up to 50 aircraft.

- 1.3 The airfield is not to be licensed by the Civil Aviation Authority therefore training flights and flights that involve passengers or cargo being carried for a fare will not be permitted.

2. PLANNING HISTORY

- 2.1 None known.

3. PUBLIC PARTICIPATION

- 3.1 The application was advertised on 10 April 2009 under section 34 of the Act and as a potential departure from the provisions of the development plan with the closing date for representations being 1 May. Eleven representations have been received in relation to this application. Five are supportive of the application and six make representations against the proposal.

- 3.2 The letters of support cover the following points:

- Improvement of a derelict area
- Limited use of Fearn airfield
- Maintenance of the right of access
- Opportunity to see visiting aircraft
- Noise is not an issue
- Benefits for the local economy

The objections relate to the following issues:

- Neighbour Notification and public consultation
- Loss of the right of access
- Safety
- Noise
- Use of the airstrip
- Environmental damage
- Further expansion of the airfield
- Impact on the proposed wind farm nearby
- Existing provision of airfields
- Development plan policy
- Minimal benefit to the local economy
- Loss of agricultural land

- 3.3 The letters of representation are available in the Area Office and will be available at the Committee meeting. The names of those making representation are listed at the end of this report.

4. Views of the Applicant

- 4.1 The applicant has provided a full written response to the letters of objection that had been received by 1 May 2009. A copy of this response is available in the Area Office. A summary of the responses is as follows:

Neighbour Notification and public consultation

- Notice was incorrectly served on Mrs Sutherland. Notice has now been correctly served on the Trust of Mrs Catherine Sutherland.

The right of access

- The access has been reinstated and gates will be installed.
- The right of access across the airstrip is not a safety issue as aircraft movements will be strictly controlled and there will be warning signs for other users.
- Perfo Ground Reinforcement matting will be laid across this section of the strip in order to protect it from the effects of vehicular use.

Safety

- Safety procedures are published online. No aircraft will be permitted to land without requesting prior permission. Any pilot unable to comply with these procedures will not be allowed to land.
- The runway is 650m long while most of the General Aviation aircraft that have been operating from the site require c.300m for takeoff and c.230m for landing.
- A 'modus operandi' between the airfield and RAF Tain has been in place for the past 18 months.

Noise

- Noise abatement procedures are in place.
- Noise from jets on the RAF Tain range is louder than any noise produced by the airstrip.
- Good airmanship would lead any pilot to avoid built up areas or at least fly over with sufficient height.
- There is no justification for banning circuit flying as one objector suggested because flying circuits increases safety by providing adequate separation between aircraft.
- The area to the north-west of the airfield cannot be used for approaches or departures as one objector suggested because it is used by RAF Tain during the week and at weekends aircraft must fly at a minimum of 5000ft in this area.

Use of the airstrip

- The strip will not be licensed and therefore there will be no commercial or training flights from the site.

Environmental Damage

- There are no fuelling facilities at the site and there is no possibility of contamination of the water course.
- The airstrip development has improved the site and has already attracted wildlife.

Further expansion of the airfield

- The author of expansion claims made on the BMAA online forum is not known to the applicant and his claims are unfounded. The applicant may seek permission to erect a small clubhouse in future.

Wind farm application

- Civil Aviation Publication 764 means that if granted permission, the airfield would have to be consulted on development within 3km.

Existing provision of airfields

- Other local airfields do not adequately serve the area.
- The status of Fearn airfield is unclear and it was promulgated in the Notices to Airmen (NOTAMS) as closed.

Local Economy

- The airfield will generate benefits for the local economy.

5. CONSULTATIONS

5.1 **Balintore Community Council** - No comments.

5.2 **Internal consultees**

Environmental Health – No objections –

- The activities have been ongoing for several months including a fly-in of up to 30 aircraft without any complaints being made to this Service.
- The activities will be limited to daytime hours.
- The majority of neighbouring residents have either supported the application or have not objected in terms of noise affecting amenity.
- The applicant has put in place measures aimed at mitigating the disturbance to residents, particularly those who have expressed concerns.
- The site is adjacent to an existing airfield albeit a disused one.

The Environmental Health Authority has no powers under nuisance legislation in relation to aircraft noise. Suggest that planning permission might be granted on a temporary basis in order to allow effects to be assessed.

Access Officer - The right of access across the airstrip is not necessarily a public right of way but there would be a public right of responsible access under the Land Reform Act. The route was mentioned during the core path consultations but has not been designated a candidate core path. It is part of the wider access network.

Contaminated Land - The former use of the site means that there is the potential for contamination. An informative will be attached.

Archaeology - No archaeological condition requested.

Area Roads and Community Works Manager - No comments.

Development Plans - No comments.

5.3 External consultees

SEPA – No comments.

Highlands and Islands Airport Ltd (HIAL) - No objection, subject to a letter of agreement and protocols, that have been agreed, and will be drawn up between the two parties.

Civil Aviation Authority (CAA) - The CAA is not involved in the land use which is a planning matter. The facility would not be licensed so the CAA would not have any role in the operation of the airfield however all pilots operating at the aerodrome would have to comply with the Rules of the Air regulations.

The CAA has no issues with the proposed use of the site but highlight that it is immediately adjacent to Fearn Aerodrome.

Ministry of Defence - The application site is outside Ministry of Defence safeguarding areas therefore the Ministry of Defence has no safeguarding issues.

Squadron Leader John McKeown RAFR, Officer Commanding at RAF Tain - No comment on the merits of the application.

The proposed airfield lies 5 miles south of the Tain Air Weapons Range (AWR) target area and below one of our circuit patterns. Technically Easter Rarichie lies immediately outside our Danger Area airspace but it is common practice for airfields to have liaison arrangements to avoid possible conflicts. Albeit that some of our aircraft route through the Easter Rarichie area at low level, the AWR circuit pattern is at 2000 feet and will not affect the operations in the immediate vicinity of the airfield. However in order to risk manage the situation and minimise any possible situation I have drawn up a procedure between RAF Tain and Easter Rarichie.

When we are advised of Easter airfield movements the RAF Tain controllers advise the aircrew using the AWR in order to de-conflict from the civilian movements.

6. POLICY

6.1 The following policies are relevant to the assessment of the proposal:

Highland Structure Plan

- G2 Design for Sustainability

Ross and Cromarty East Local Plan

- Settlement Boundary policy
- Environment policy 74
- Economic Development policy 41

6.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP's), National Planning Policy Guidance (NPPGs) and Planning Advice Notes (PANs).

- Scottish Planning Policy

7. PLANNING APPRAISAL

7.1 **Determining issues** – Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 The proposal requires to be assessed against the appropriate policies of the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy section. In particular, the proposal requires detailed assessment of the following fundamental issues:

- whether the principle of development is appropriate in terms of policy
- whether the layout of development is appropriate
- the impact on the amenity of the area and residents
- other material issues raised by the objectors

7.3 This application seeks to formalise the position of an existing airstrip south east of Fearn Aerodrome. The airstrip is 650 m long and 50 m wide. The site was part of the war time airfield and a number of derelict military buildings remain from that period. Prior to construction of the airfield the application site was vacant agricultural land. The applicant began the construction of the airstrip in April 2007 and the first flight into the site was on 12 May 2008.

- 7.4 **Policy** - Highland Structure Plan Policy G2 requires that proposals are considered in terms of their impact on individual and community residential amenity and the extent to which they demonstrate sensitive siting. While the airfield will affect local residents, the noise abatement procedures proposed by the applicant would preclude undue loss of amenity by individuals or the wider community. In addition, the airfield is appropriately sited away from built up areas and on the edge of the historic aerodrome site. The proposals are, therefore, considered to accord with Structure Plan policy.
- 7.5 The site lies within the Fearn/Hilton of Cadboll settlement boundary identified in the Ross and Cromarty East Local Plan. Environment policy 74 supports the removal of dereliction and contamination and other environmental improvements in this area. Economic Development policy 41 identifies part of the site for business uses and states that the Council will seek to safeguard the character and historical interest of the airfield. This development has returned a vacant site to use and improved the appearance of the area. The proposals are therefore considered to accord with Local Plan Policy.
- 7.6 **Third Party Representations** – Eleven letters of representation have been received in relation to this application, five of which are supportive. Two correspondents questioned the notification and consultation process. Neighbour Notification was originally served incorrectly on Mrs Catherine Sutherland as owner of Tulloch Farm, Fearn. Notice was subsequently served correctly on the Trust which owns the land in question. In addition, the application was advertised in the Ross-shire Journal. Standard procedures have been followed and the number of representations suggests that the proposals are widely known about.
- 7.7 Objectors also raise the issue of safety. It should be noted that while the airfield is unlicensed any pilot using the site would have to comply with the Rules of the Air and misconduct could lead to the revocation of a pilot's licence. The applicant has stated that safety is paramount in the operation and has published the safety procedures online. Prior approval is required before any aircraft uses the site and on weekdays pilots are also required to contact RAF Tain before they use the airfield. In addition, an operating agreement between the airfield and RAF Tain is in place and Squadron Leader McKeown of RAF Tain has actively sought to allay safety concerns over the proximity of the two sites. It should also be noted that HIAL do not object to the application and are in the process of drawing up a letter of agreement and protocols with the airfield operators.
- 7.8 The fact that this airstrip is proposed in close proximity to Fearn airfield has been noted both by the CAA and objectors. There appears to be some confusion over the exact status of Fearn airfield and the applicant's noise abatement and landing procedures are arguably misleading in that they state that Fearn airfield is disused. While it is perhaps not in general use it is clear some local pilots do continue to use it and there is the potential for conflict. However, in order to prevent collisions with aircraft from Fearn airfield aircraft will report their position using a dedicated radio frequency called SafetyCom. In addition, the applicant intends to apply for a dedicated ground-air frequency for the airfield which will provide greater control. It would appear, not surprisingly, that safety is an issue that is taken seriously by the applicant and appropriate steps have been taken to ensure public safety.

A condition would be attached to any consent in order to ensure that these procedures are followed.

- 7.9 The issue of noise and the impact on local residents is also a major concern for objectors. However, four of the five letters of support state that noise from the airfield to date has been acceptable and is less significant than noise created by aircraft on the bombing range. The Environmental Health officer has advised that there have not been complaints to his service since the airstrip went into operation. In order to address noise concerns, the applicant has produced noise abatement procedures which must be followed by all users. This includes instructions to avoid flying over local houses, ANTA pottery and the Industrial Estate. The Environmental Health officer is generally satisfied with these arrangements.
- 7.10 The airfield inevitably produces noise and having planes taking off and land will arguably make the impact more acute than the impact of aircraft associated with RAF Tain which simply fly over. Nonetheless, it is apparent that steps have been taken to minimise flight over populated areas and to reduce the effects on residents. Provided that the noise abatement procedures are followed it is felt that the increase in noise that would result from this development is acceptable in this area.
- 7.11 However, Members should note that the Environmental Health Authority has no powers under nuisance legislation in relation to aircraft noise. They have suggested that planning permission might be granted on a temporary basis in order to allow effects to be assessed. This seems a reasonable approach in the circumstances and a temporary consent for two years is recommended in order to allow the position to be monitored.
- 7.12 Objectors also express concern about the use of the airfield. Members will note that the airfield will not be licensed by the CAA and as such no training flights can take place from the airfield and no passengers or cargo can be transported for a fare. The usage of the airfield is further restricted by the activities of aircraft on the bombing range which means that the airfield is most heavily used at weekends. Conditions will be attached to further restrict the use of the airfield.
- 7.13 Objectors raise the issues of environmental damage and the loss of agricultural land. However, four out of the five letters of support cited the improved appearance of the site as a reason for supporting the development. In addition, the former owners of the site have stated that the land formed the less fertile part of their farm. In relation to environmental damage, the applicant has also stressed that he does not believe that there is any potential for contamination of the watercourse. A condition will be attached to prevent refuelling and the storage of fuel on the site which should limit the potential for contamination. The construction of the airstrip has improved an unsightly area and it has been well maintained to date. The environmental improvements would appear to outweigh any concerns that may exist in this regard.

7.14 Members will note that objections relating to claimed rights of access, the existing provision of airfields, and possible future development of the airfield are not material considerations in the determination of this application.

8. CONCLUSION

8.1 The proposed airfield is appropriately sited away from built up areas. The construction of the airstrip returns a vacant site to use and improves the overall appearance of the area. The proposals are felt to accord with development plan policy and no technical objections have been raised. While this application has attracted a number of third party objections, support has also been expressed by members of the local community. The applicant has put measures in place to address concerns over safety and noise. Furthermore, the use of the site will be restricted by the fact that the airfield will not be licensed by the CAA. The proposals are therefore felt to be acceptable and are recommended for approval subject to the conditions detailed below.

RECOMMENDATION

Grant Planning Permission for a temporary period (two years) subject to the following conditions

1. The permission hereby granted shall endure for a period of two years from the date of this consent within which period, unless with the express approval of the Planning Authority, the site shall have been cleared and thereafter reinstated to the satisfaction of the Planning Authority.

Reason: In order to allow the Planning Authority to retain effective control over this development which is temporary by nature.

2. Except as otherwise provided by the terms of this permission, the developer shall operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

3. The development shall be operated in accordance with the terms of the noise abatement and operational procedures accompanying the application and appended hereto, and any variation shall require the prior written approval of the Planning Authority, in consultation with TEC Services as Environmental Health Authority.

Reason: To enable the Planning Authority to retain effective control and to minimise the risk of noise nuisance.

4. The site shall operate between the hours of 8 am and 8 pm only. For the avoidance of doubt there shall be no training flights, no flights carrying passengers or cargo for a fare, no night time flying and no parachute dropping.

Reason: To enable the Planning Authority to retain effective control and for the avoidance of doubt.

5. There shall be no more than three advertised 'fly-ins' in any one year and these events shall result in no more than 100 aircraft movements during the course of a single event. The Planning Authority shall be given at least 7 days advance written notice of such events.

Reason: In the interests of amenity and to enable the Planning Authority to retain effective control.

6. There shall be no refuelling of aircraft on the site and no fuel or oil shall be stored at the site.

Reason: To avoid possible contamination, in the interests of amenity and for the avoidance of doubt

Informative

There is potential for contamination at this site due to its former use as a WWII airfield. As the proposed development would not appear to materially change the risk of potential contamination at the site an investigation is not required at this stage. However, be advised that all sites with a former industrial/commercial use have been prioritised by the Highland Council under duties conferred by Part IIA of the Environmental Protection Act 1990, and may require investigation in the future. In addition land contamination issues may affect property value. Should you wish to discuss potential contamination issues or commission your own investigation, please contact TEC Services – Contaminated Land for advice.

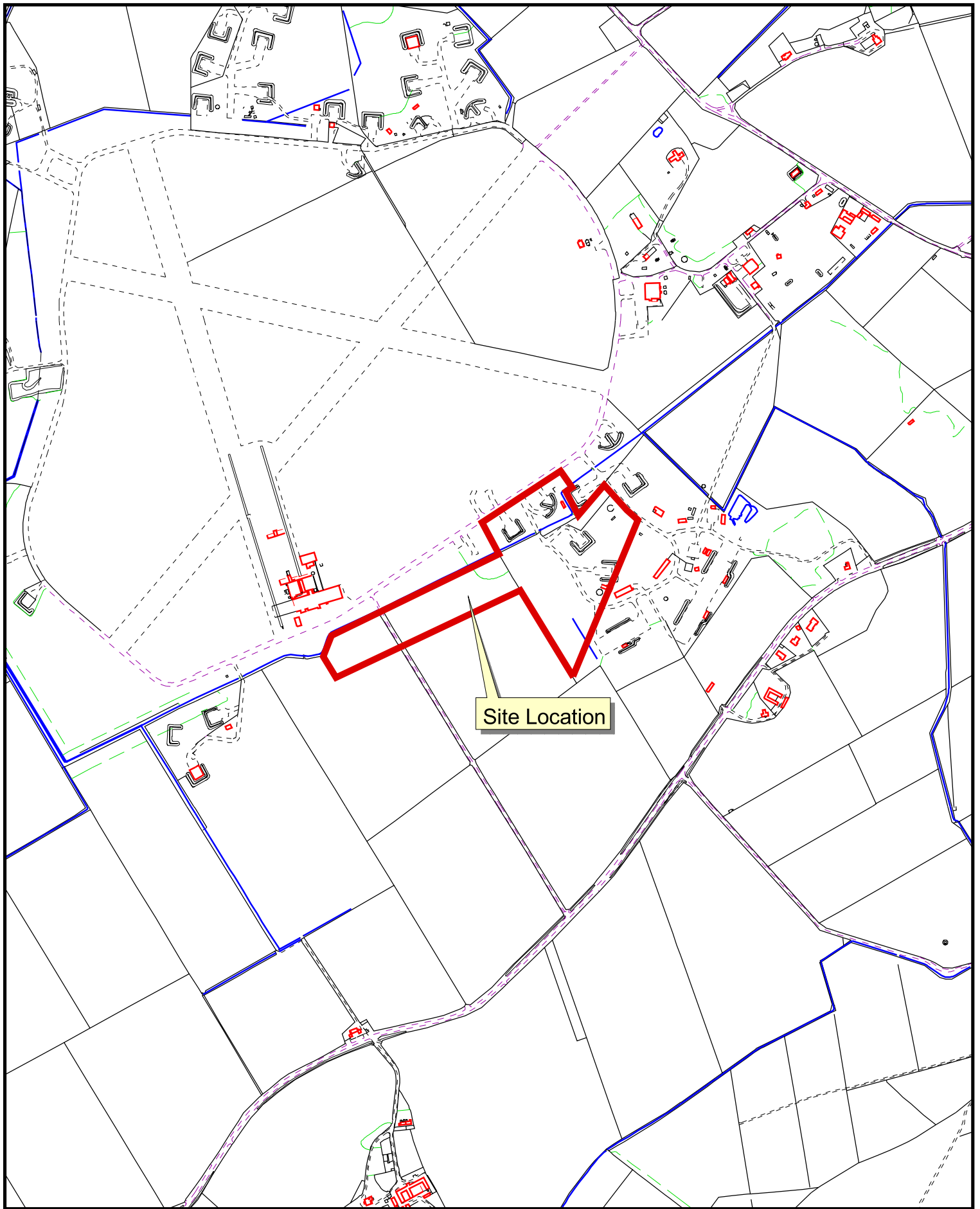
Signature: Allan J Todd

Designation: Area Planning & Building Standards Manager

Author: Lisa MacKenzie (01408 635219)

Background Papers: As referred to in the report above and case files reference number 09/00135/FULSU

Date: 11 June 2009



09/00135/FULSU
 Change of use of agricultural land / ex-WWII airfield
 land to grass strip airfield at
 land SE of Fearn Aerodrome, Fearn, Tain.

Mr D Munro
 Easter Rarichie Farm
 Fearn
 Tain.

Date: 11 June 2009

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