

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
25 February 2014

Agenda Item	5.7
Report No	PLS/016/14

13/04835/FUL: Self Storage 4U Ltd
Site B Esso Inverness Remediation Site, Cromwell Road, Inverness

Report by Area Planning Manager – South

SUMMARY

Description: Siting of 120 container storage units, portacabin offices, lighting, CCTV, access gates and fencing. Change of use of existing Shell/Esso storage site to container storage.

Recommendation: GRANT

Ward: 17 - Inverness Millburn

Development category: Local

Pre-determination hearing: N/A

Reason referred to Committee: Technical objection from statutory consultee that cannot be resolved.

1. PROPOSAL

- 1.1 The proposal relates to the siting of 120 container storage units, and portacabin offices, on the former Shell/Esso fuel storage site. The storage containers will each measure 6m x 2.5m x 2.5m. The portakabin office/ toilet block will measure 10.4m x 3.05 m x 2.5 metres high and is finished in blue.
- 1.2 No pre-application advice was provided other than to indicate that the site was located within the Development Proximity Zone (DPZ) of the GB Oils Petrol Storage Site and that, as a result, it was likely there would be concerns raised by HSE.
- 1.3 There is to be a gated access to the site (inward opening) and 3 metre high perimeter security fencing (some of which is existing).
- 1.4 No details have been submitted with regard to the required upgrade of the site access, bin storage or the method by which surface water will be disposed of.

2. SITE DESCRIPTION

- 2.1 The site is currently vacant. Surrounding land uses are generally business/industrial and the site is close to the GB Oils depot. It is noted that Esso have already carried out decontaminative treatment of the site.

3. PLANNING HISTORY

- 3.1 08/00187/FULIN - Excavation of 3000m³ of soil for cleaning off site at Site B Esso Inverness Remediation Site, Cromwell Road, Inverness. Application withdrawn.
- 13/03664/FUL - Erection of 6 business starter units (General industrial, factories, workshops and non-food warehouse (trade) buildings). Recommended for approval and currently referred to Scottish Ministers as also located within the DPZ.

4. PUBLIC PARTICIPATION

- 4.1 Advertised: 24.01.2014
- Representation deadline: 16.02.2014
- Timeous representations: 0
- Late representations: 0
- 4.2 Material considerations raised are summarised as follows:
- N/A
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **SEPA:** No objection. Condition recommended.
- 5.2 **HSE:** Advises against the grant of planning permission on safety grounds due to the location of the site within the defined DPZ.
- 5.3 **TECS (Area Roads and Community Works Manager):** No objections. Conditions recommended.
- 5.4 **TECS (Contaminated Land):** No objections. Condition recommended.
- 5.5 **TECS (Flood Team):** No objection. Condition requiring drainage design and SuDS layout recommended.
- 5.6 **TECS (Environmental Health):** No comments.
- 5.7 **Historic Environment Team:** No objections. Informative recommended.
- 5.8 **Forestry Officer:** No objections. No further action.
- 5.9 **SSE:** No objection. Advisory note relating to the presence of a high voltage underground cable under the application site. Map of site with cable superimposed provided by SSE for the developer's information.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland-wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality and Place-Making
- 30 Physical Constraints
- 34 Settlement Development Areas
- 42 Previously Used Land
- 64 Flood Risk

6.2 Inverness Local Plan (March 2006) (as continued in force)

- I Industry
- 2.13 Longman

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Physical Constraints

Flood Risk and Drainage Impact Assessment

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

7.3 Other

HSE Circular SPC/TECH/Gen/43 – Land Use Planning Advice around Large Scale Petrol Storage Sites.

PADHI – HSE's Land Use Planning Methodology

8. PLANNING APPRAISAL

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

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy Assessment**

Policy 42 on Previously Used Land states that the Council will support development proposals that bring previously used land back into beneficial use provided:

- the site is suitable for the proposed development; and
- the proposed development accords with all other relevant policies of the Plan.

8.4 With regard to the Highland-wide Local Development Plan, the key policies are Sustainable Design (28), Physical Constraints (30) and Previously Used Land (42). Policy 28 states that proposed developments will be assessed on the extent to which they meet a number of criteria, including, inter alia,

- are affected by physical constraints as described in the Physical Constraints Supplementary Guidance;
- make use of brownfield sites; and
- contribute to the economic and social development of the community.

8.5 Policy 30 states that where a proposed development is affected by any of the constraints detailed within the Guidance, developers must demonstrate compatibility with the constraint or outline appropriate mitigation measures. The Supplementary Guidance specifically refers to hazards identified by the Health and Safety Executive. In this instance the site is within the Development Proximity Zone (DPZ) of the GB Oils Petrol Storage Site.

8.6 The Inverness Local Plan (as Continued in Force) allocates land at the Longman Industrial Estate under Background Policy I (Industry) which states that the Council will maintain or promote industrial uses.

8.7 The Inner Moray Firth Proposed Local Development Plan does not specifically identify the site but the whole of the Longman falls within the Inverness Settlement Development Area where Policy 34 of the Highland-wide Local Development Plan applies. This states that proposals will be supported where they meet the terms of other Plan policies and meet a range of other criteria, including compatibility with the existing pattern of development and approved adjacent land uses. Developments judged to be significantly detrimental in terms of the criteria will not be supported unless there are clear material considerations which would justify permission being granted.

- 8.8 Members will note the clear conflicts within these policies. On the one hand it is difficult to see how a developer can show compatibility with or mitigation from, the major hazard as identified by the Health and Safety Executive and the proposal would, therefore, be contrary to Policy 30. On the other hand, the site has been previously used for business/industrial uses, is compatible with other industrial developments in the vicinity, will contribute to the economic development of the city, and there are no other technical/infrastructure issues with the site.
- 8.9 Members should also note that the DPZ covers a significant area of the Longman Industrial Estate and there are other such areas within the Longman and also the Carse Industrial Estate. Accepting the Health and Safety Executive's position would effectively sterilise a large area of industrial land within the city that offers economic development opportunities.
- 8.10 In light of this inherent contradiction between development plan policies and the health and safety issues raised by HSE, it is recommended that planning permission is granted thereby deferring the final decision to Scottish Ministers. This approach is consistent with that taken in relation to 13/03664/FUL and takes account of the potential for setting an unhelpful precedent for all similar development proposals.
- 8.11 **Material Considerations**
- 8.12 Members will also be aware that the first commitment in "Working Together for the Highlands" is to the economy and commits the Council to prioritising and supporting the creation of jobs in the Highlands. This includes supporting local enterprises and small businesses. Growth of employment is therefore a key commitment of the Council and the current proposal will contribute to that, albeit in a small way.
- 8.13 Whilst the concerns of HSE are recognised, and going against their advice is not to be taken lightly, there are a number of other factors that need to be considered. The refusal of this application on the grounds of the HSE comments alone would effectively sterilise a large area of the Longman which incorporates several significant opportunities for re-use of previously developed land within one of the few recognised established industrial areas of Inverness. As noted above there are other DPZs within the Longman/Carse that are also likely to be similarly affected. Moreover, the application would help to maintain and promote the role of the Longman area as a key industrial and employment centre. It is also the case that the use proposed, effectively one of storage albeit potentially by a large number of parties if each unit is operated individually, is not likely to result in significant numbers of people congregating on the site at any one time, or over a long period of time.

In these circumstances, it is considered appropriate to test the HSE advice with Scottish Government. No matter the outcome, it would provide clear guidance to the Council as to how future applications within the DPZ should be considered in relation to HSE advice.

8.14 **Other Considerations – not material**

None.

8.15 **Matters to be secured by Section 75 Agreement**

None.

9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal generally accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Members will note that if they are minded to support the proposal, the application will require to be notified to Scottish Ministers under the Direction in Scottish Planning Circular 3/2009 on the basis of the HSE advice.

10. RECOMMENDATION

Action required before decision issued Y

Notification to Scottish Ministers	Y	Objection by Statutory Consultee (HSE).
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Notification to Historic Scotland	N
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Conclusion of Section 75 Agreement	N
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Revocation of previous permission	N
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Subject to the above, it is recommended the application be **GRANTED** subject to the following conditions and reasons / notes to applicant:

1. No development shall commence until a scheme to deal with potential contamination on site has been submitted to and agreed in writing by the Planning Authority. The scheme shall include:
 - a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A1:2013 Investigation of Potentially Contaminated Sites - Code of Practice;
 - b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;
 - c) measures to deal with contamination during construction works;

d) in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;

e) in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

No development shall commence until written confirmation has been received that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority.

Reason: In order to ensure that the site is suitable for redevelopment, given the nature of previous uses of the site.

2. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time), have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

3. The opening of all gates, details of which shall be submitted to and agreed in writing by the Planning Authority before development commences on site, shall be contained within the site and shall not encroach on the public road (includes footway/verge).

Reason: In the interests of road safety.

4. No development shall commence until both accesses, which extend from Cromwell Road and from Lotland Street, are re-surfaced in bituminous macadam or a similar hard, cohesive material, details of which shall first be submitted to, and approved in writing by, the Planning Authority. Only the approved details shall be employed and thereafter the access shall be maintained to the agreed standard unless/until it is adopted for maintenance under the Roads (Scotland) Act 1984 (as amended).

Reason: In the interests of road safety, and to ensure that the works involved comply with applicable standards.

5. No development shall commence until a plan showing visibility splays of 4.5 metres by 90 metres (or as otherwise agreed in writing with the Planning Authority) at the Lotland Street and Cromwell Road entrances has been submitted to and approved by the Planning Authority. The approved visibility splays shall thereafter be maintained free of any obstruction above adjacent carriageway levels.

Reason: In the interests of road safety, and to ensure that the works involved comply with applicable standards.

6. No development shall commence until full details of a covered and secure bin storage and collection area have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the storage and collection area shall be installed in accordance with these approved details prior to the first occupation of the development hereby granted planning permission.

Reason: In the interests of road safety and amenity.

INFORMATIVE NOTE REGARDING THE TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Statutory Requirements: The following are statutory requirements of the Town and Country Planning (Scotland) Act 1997 (as amended). Failure to meet their respective terms represents a breach of planning law and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development (NID) in accordance with Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority prior to work commencing on site. Furthermore, work must not commence until the notice has been acknowledged in writing by the Planning Authority.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority.

Copies of the notices referred to are attached to this consent for your convenience.

Conditions: Your attention is drawn to the conditions attached to this permission. Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to meet these conditions may invalidate your permission or result in formal enforcement action.

Flood Risk: It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (of emanating from) the application site. As per Scottish Planning Policy, planning permission does not remove the liability position of developers or owners in relation to flood risk.

Road Openings Permit / Road Construction Consent: you may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.

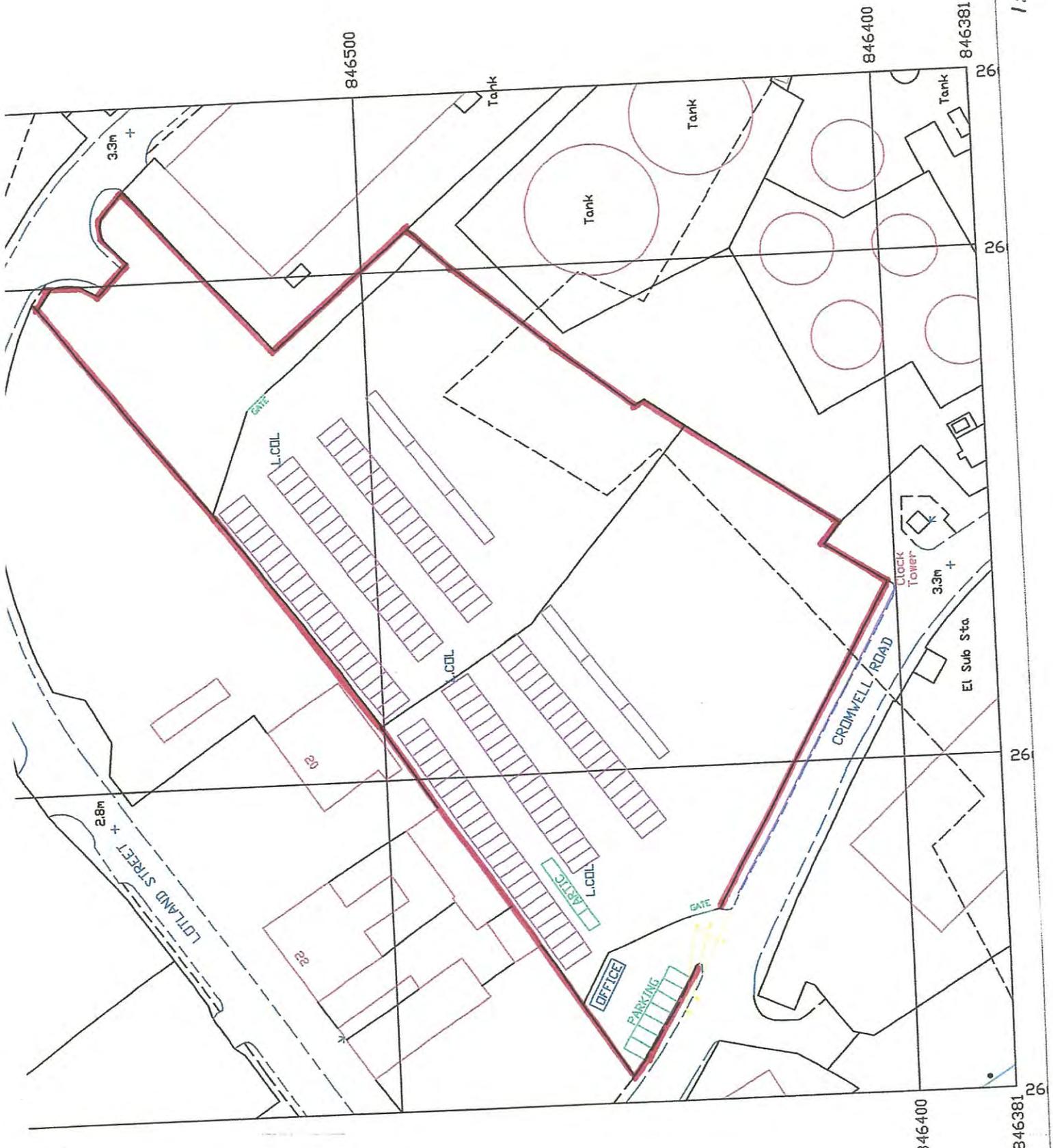
Scottish Water: You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Archaeology: During construction work the applicant and/or the developer should remain vigilant for signs of archaeological remains. If they come across any evidence of such remains, all work in that area must cease immediately and the Historic Environment Team must be contacted for further advice.

SSE: On checking our records, there is a high voltage underground cable within the site. The applicant must contact us prior to carrying out any site preparation as these cables may require deviation to allow the building works to proceed. There is a 1:1000 record plan for your records.

Signature: Allan J Todd
Designation: Area Planning Manager – South
Case Officer: Stuart Morrison
Background Papers: Highland-wide Local Development Plan, Inverness Local Plan
Relevant Plans: Plan 1: Location Plan
Plan 2: Site Layout Plan
Plan 3: Portacabin Detail

13104 835 / FUL /
DES7 / MAMK.



1:1000



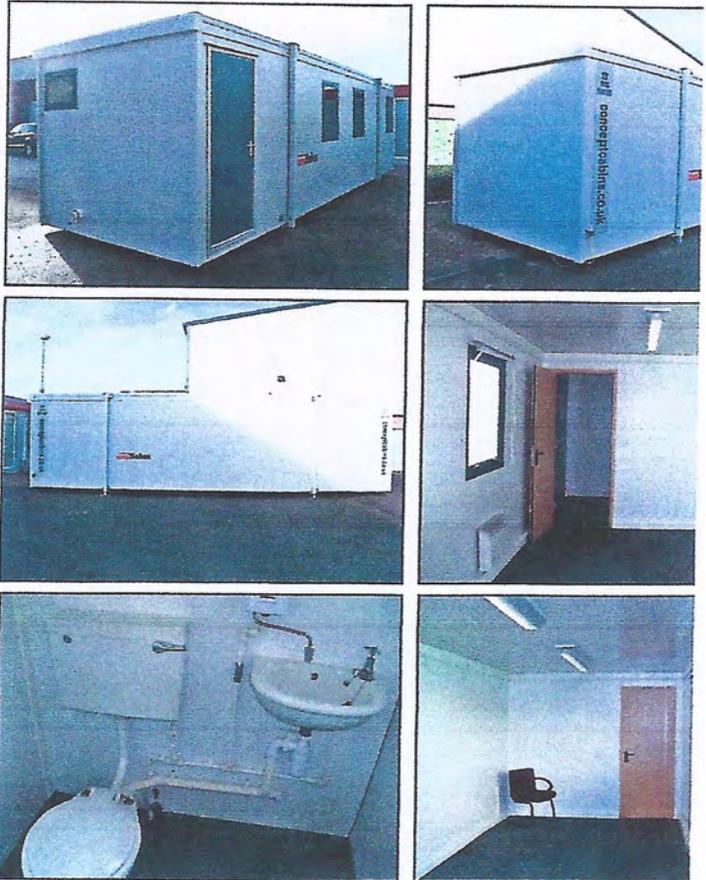
**34' x 10'
& 2 Offices**

Building, Toilet

- Price:
- Style:
- Type: Office Unit
- Size: 34' x 10'
- Stock: SOLIC BLUE

Description:

A Genuine Portakabin Building from the SOLUS Range, finished in original external colour. This unit has one door & 3 UPVC windows & 1 High Level window. Internally it has a fully plumbed toilet cubicle, main office of 20' x 10' & private office of 6' x 10'. The walls and ceiling are finished in smooth composite steel panels & the floor has Grey vinyl/ black carpet. Full heat, light & power facilities via a mains fuse board. THIS UNIT HAS HAD VERY LITTLE USE & IS READY FOR IMMEDIATE DESPATCH!

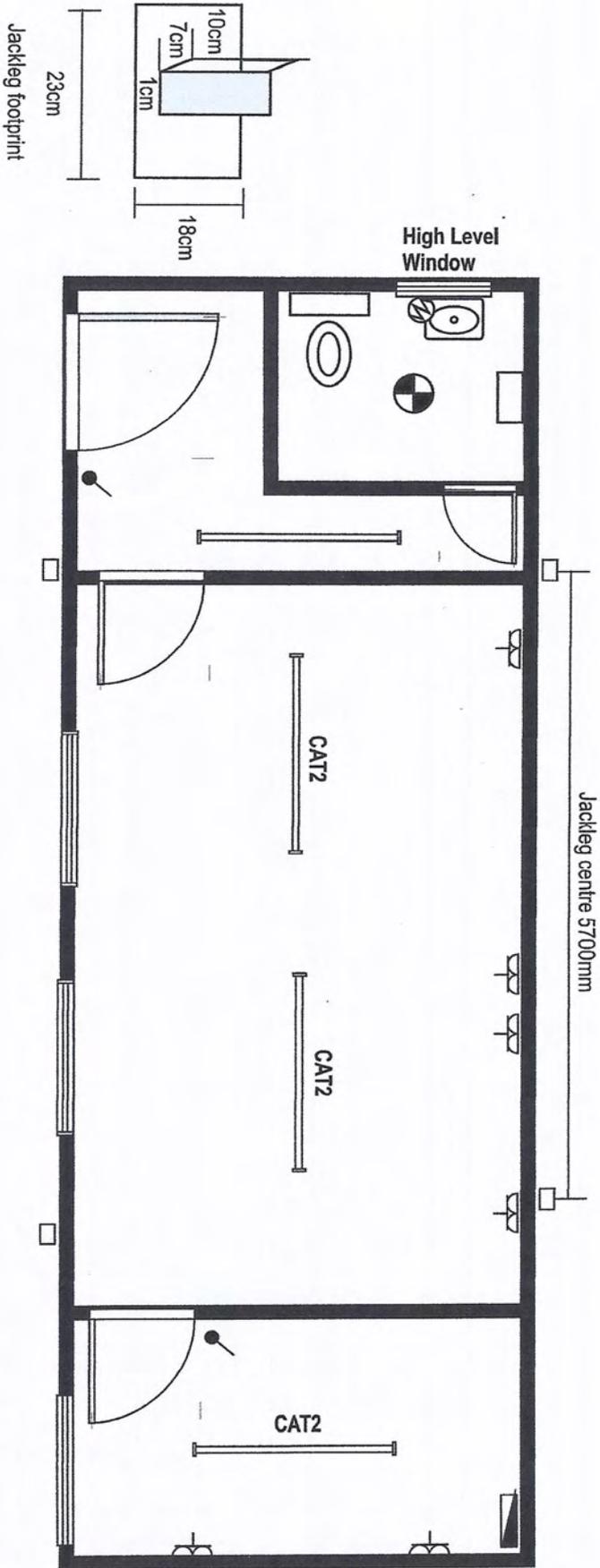


Click on an image to enlarge pictures

 [Download Unit Details](#)

 [Download Floor Plan](#)

34' x 10'



NB NOT DRAWN TO SCALE

