

**THE HIGHLAND COUNCIL**

**NORTH PLANNING APPLICATIONS COMMITTEE  
26 April 2016**

Agenda Item	6.4
Report No	PLN/025/16

**16/00626/FUL: Mrs Claire Ferguson  
85 High Street, Invergordon, IV18 0AB**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Part change of use of shop to tea room including takeaway

**Recommendation - GRANT**

**Ward :** 07 – Cromarty Firth

**Development category :** Local Development

**Pre-determination hearing :** Not required

**Reason referred to Committee :** Community Council objection

**1. PROPOSED DEVELOPMENT**

- 1.1 Detailed planning permission is sought for the partial change of use of 85 High Street, Invergordon to a tea room, including takeaway. The premises are currently a craft shop, and it is proposed to change the use of an area to the rear of the shop. Tables and seating for 1pprox.. 10-15 people are to be provided to allow customers to be served soup, sandwiches, home baking, hot and cold drinks etc. Customers will also have the option of taking food away. Food is prepared off-site and transported to the premises. There are currently two toilets within the premises, one of which is to be enlarged and made into a unisex disabled access customer toilet.
- 1.2 The following statement was submitted by the applicant in response to representations lodged;

I am the owner of the shop unit, Scotsburn Croft and wish to clarify certain points.

We currently prepare food at Lower Dalnaclach and Drovers House, Lamington, Kildary. We have gone through the full process of having these premises approved for the preparation of food with Environmental Health. Six members of Staff have carried out the Food Hygiene Certificate level 2 via the Highland Council.

Food is transported from the above addresses to the premises on 85 High Street where sandwiches can be assembled, and will be sold with soup and home baking. Tea, coffee and cold drinks will also be available.

There are two toilets in the premises; the rear one is currently for staff and the forward one is to be made into a unisex disabled access toilet.

There is a rear exit in the premises.

The statement in two objections that we have tables in the premises and are currently serving food to customers sitting in the shop is untrue.

## **2. SITE DESCRIPTION**

2.1 The shop unit, Scotsburn Croft, currently occupies the ground floor of a traditional property located on the northern side of Invergordon High Street. The long linear floor plan consists of a serving area, shelving, toilets and storage towards the rear.

## **3. PLANNING HISTORY**

3.1 None

## **4. PUBLIC PARTICIPATION**

4.1 Advertised : Schedule 3 development, unknown neighbour  
Representation deadline : 11.03.2016

Timeous representations : 3

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Non-food uses required on the High Street to improve its viability and vitality.
- Proposed seating capacity of 10-15 will not be adhered to – difficult to police.
- Pavement should be kept free of tables and chairs.

Non-material considerations raised are summarised as follows:

- There is an over provision of food outlets in Invergordon.
- Toilet facilities proposed by the applicant are inadequate – will not be sufficient during the busy cruise season.

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](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

- 5.1 **Environmental Health** : No objection – Proposed toilet provision meets relevant guidance, which allows for one unisex accessible toilet for up to a maximum of 25 persons, including staff. Therefore, a condition is recommended restricting the number of seats to 15, as indicated by the applicant. A condition is also recommended restricting the type of catering permitted on the premises as currently this is carried out off-site and there is no fully equipped kitchen at the premises with the associated level of ventilation.
- 5.2 **Transport Planning**: No objection due to town centre location.
- 5.3 **Invergordon Community Council** : Object for the following reasons;
- There is no fire exit other than the front door of the shop.
  - No disabled toilet and no separate male and female toilets.
  - Proposed toilet provision will be inadequate during the cruise liner season.
  - Other cafes within the town have been instructed by planning to add disabled toilets, as well as male and female toilets and staff toilets.
  - Proposed area is more than half the shop.
  - More than the 10-15 seats proposed by the applicant have been seen in the shop.
  - It will be impossible to police/enforce only 10-15 people having food/drink.
  - The application is to the detriment of the town given we currently have 14 cafes and takeaways within the town giving it the very dubious title of “the cafeteria of the Highlands”, which is not a title we feel the town should ever aspire to.

## 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

34 Settlement Development Areas

### 6.2 Inner Moray Firth Local Development Plan

1 Promoting and Protecting City and Town Centres

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

Not applicable

### 7.2 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

### 7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (SPP) June 2014

## **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**

The principal determining policies are summarised below:

Policy 28 (Sustainable Design) of the HwLDP aims to ensure that development promotes the social, economic and environmental wellbeing of the people of Highland and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal state that proposals should be assessed on the extent to which they “impact on individual and community residential amenity” and “contribute to the economic and social development of the community”.

Policy 34 (Settlement Development Areas) states that “we will support proposals within Settlement Development Areas if they meet the requirements of policy 28” and that we will judge proposals in terms of how compatible they are with the existing pattern of development and adjacent land uses.

Policy 1 (Promoting and Protecting City and Town Centres) of the Inner Moray Firth Local Development Plan states that The Council will not support any proposals for development that are likely to have an adverse effect on the vitality and viability of town centres. The policy is mainly focused on directing proposals that generate footfall to town and city centre locations first, before considering alternative locations.

The key issues in relation to the Development Plan policy assessment are considered under the following headings:

#### **Impact on vitality and viability of the High Street**

A combined craft shop and tea room is an acceptable use for a High Street location. Both the Community Council response and the representations received have referred to an over provision of cafes and takeaways within Invergordon. There is currently a mix of uses and services available on Invergordon High Street, including cafes, takeaways, food and non-food retail, and financial and professional services. While there may be a high percentage of food outlets on the High Street compared to other uses, this proposal for a relatively small tea room complements an existing retail business and is not considered to represent a significant threat to the overall vitality or viability of the High Street. Case law has established that the level of provision of such facilities is a matter for the market to determine rather than being restricted by the planning system.

## 8.4 **Material Considerations**

### **Response to issues raised by Community Council and representations**

Representations and the Community Council raise the issue of policing and enforcing the number of seats for the tea room. The applicant has applied for permission for the part change of use of the property and has stipulated that there will be a maximum of 15 seats for the tea room. On this basis the application has been assessed and is found to comply with Development Plan Policy. The proposal also complies with building regulations and environmental health standards in terms of toilet provision and fire escape. As with all such businesses, there is a requirement to comply with relevant planning, building standards and environmental health legislation, and if there is a future intensification of the business, the onus would be on the applicant to increase toilet provision and ensure that the correct consents are in place. If the applicant wanted to expand the tea room at some time in the future, a separate planning application for change of use would be required.

In response to a concern raised in the representations regarding keeping the pavement clear of obstacles a condition is recommended to ensure that no tables and chairs are placed outside on the public footpath. Again any future proposal for such a use would require a separate planning application.

## 8.5 **Other considerations – not material**

### **Response to issues raised by Community Council and representations**

In response to the points raised regarding toilet provision, a maximum of 15 seats is proposed and both Environmental Health and Building Standards have confirmed that the proposed accessible unisex toilet complies with relevant standards. If the café seating and staff were to exceed 25 persons, additional provision would be required in order to comply with standards. There is an additional toilet at the rear of the premises and potential for further facilities should they be required for any possible future expansion of the tea room. It would not be reasonable to require individual businesses to provide beyond the regulatory minimum requirements, which in this case is one accessible unisex toilet, even if the cruise liner season may temporarily increase demand for toilets in Invergordon. The Community Council raised the issue that other businesses in Invergordon have been required by planning to provide toilet facilities in excess of what is proposed in this application. Other businesses may have been required by Building Standards or Environmental Health, rather than planning, to provide separate accessible, male and female toilets due their seating numbers.

Building Standards have confirmed that fire exit arrangements comply with relevant standards. Furthermore, the applicant has clarified that there is an additional exit at the rear of the unit.

## **9. CONCLUSION**

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

## **10. RECOMMENDATION**

### **Action required before decision issued N**

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant:

1. The floor area dedicated to the tea room shall not exceed 50% of the total retail floor area.

**Reason** : For the avoidance of doubt, as only part change of use is hereby approved.

2. The number of seats for the tea room shall not exceed 15 in number.

For the avoidance of doubt, in accordance with the part change of use applied for and to ensure adequate toilet provision in accordance with the relevant regulations in relation to the number of seats provided.

3. The cooking and preparation of hot food on the premises shall be limited to the preparation of hot beverages, the heating of food in a microwave oven, the use of a Panini grill/electric griddle (or similar) the use of a pie oven or warmer, and the use of a soup urn. No other forms of cooking, heating or reheating shall take place without prior written consent from the Planning Authority.

**Reason** : In the interests of amenity and as no ventilation equipment is proposed as part of this application.

4. At no time shall any tables or chairs be placed on the public footpath.

**Reason** : In the interests of pedestrian safety.

### **REASON FOR DECISION**

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

### **TIME LIMITS**

#### **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**

### **Initiation and Completion Notices**

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

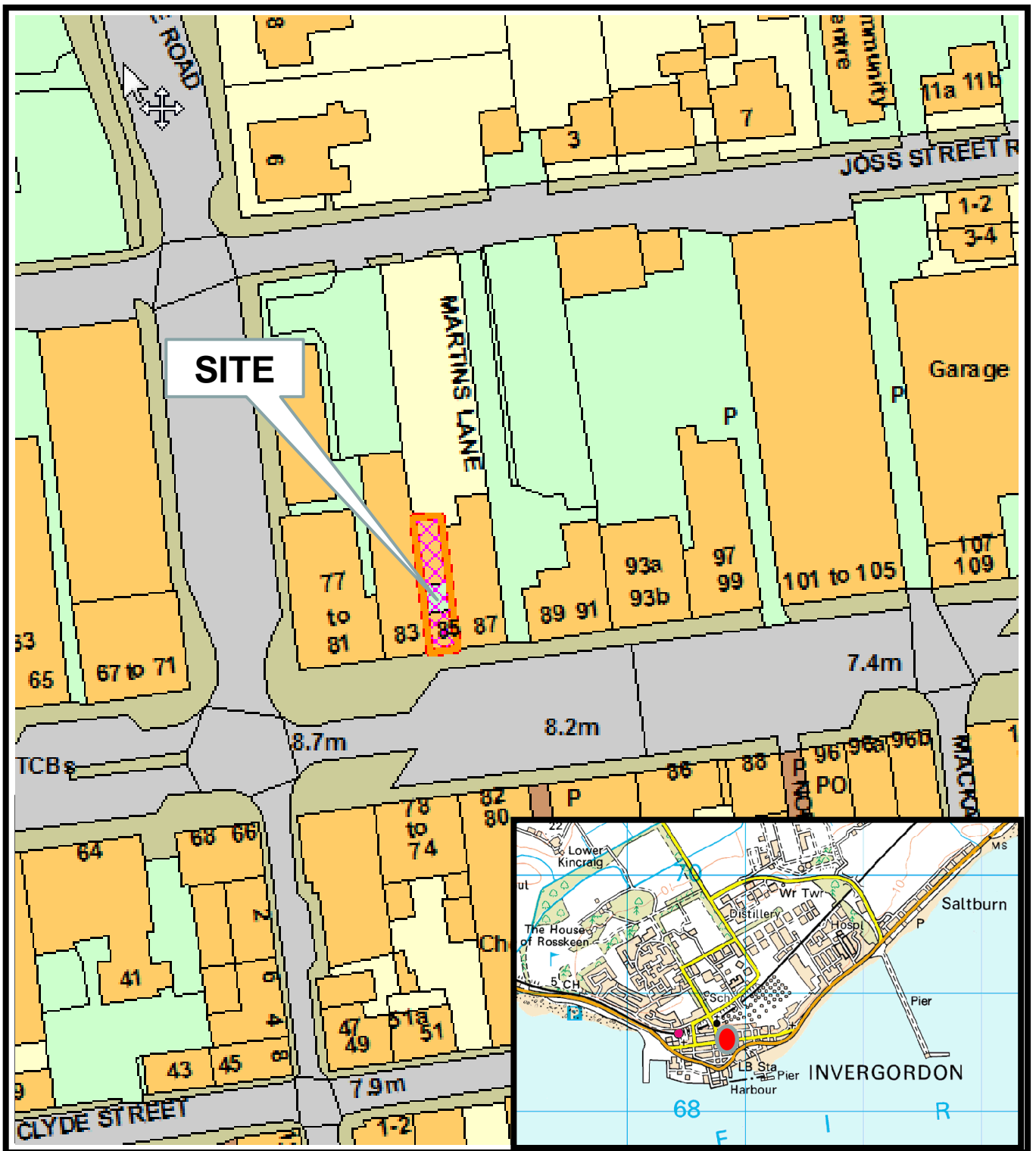
1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

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

### **Accordance with Approved Plans and Conditions**

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). 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 adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Rebecca Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Existing and Proposed Layout Plan



Planning & Development  
Service

**16/00626/FUL**

Part change of use of shop to tearoom  
Including takeaway at  
85 High Street, Invergordon, IV18 0AB

26 April 2016

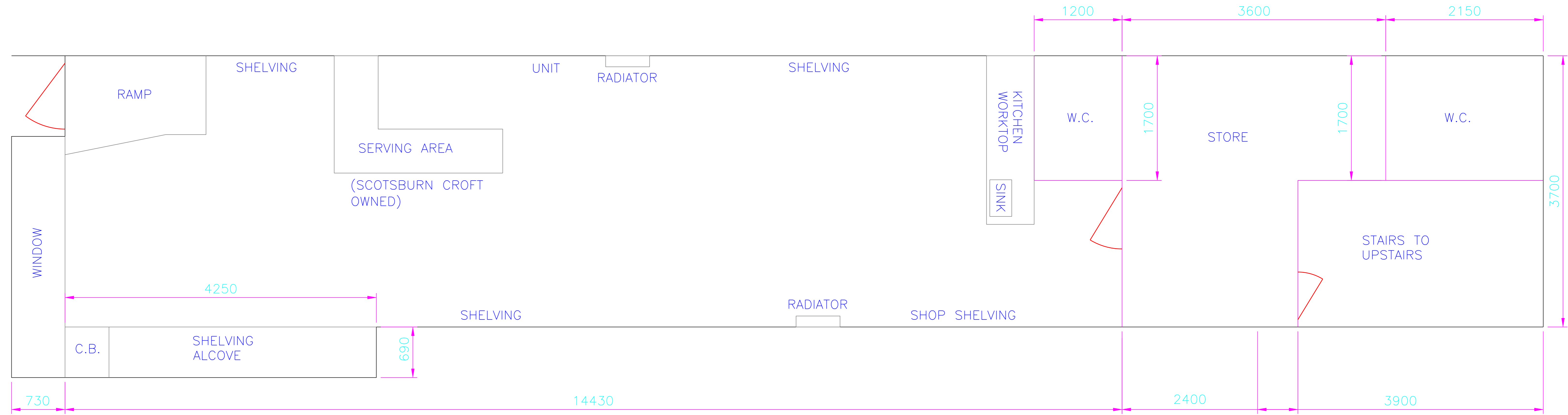




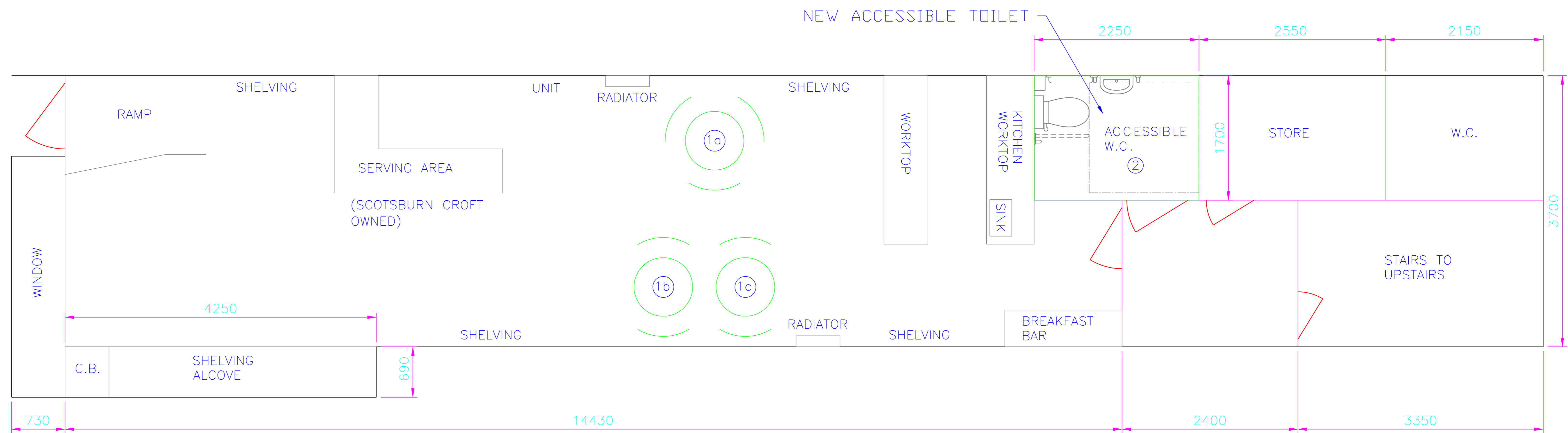
# PROPOSED ALTERATIONS TO 85 HIGH STREET INVERGORDON



SITE PLAN



EXISTING GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

## PROPOSED MODIFICATIONS

(1a-c) BETWEEN 3&4 TABLES

(2) ADDITION OF ACCESSIBLE TOILET

AREA ASSIGNED TO TEA ROOM  
APPROX 22.01m<sup>2</sup>

COPIES TO	DATE	COPIES TO	DATE	ISSUE	MODIFICATION	DATE	BY
				A	ACCESSIBLE TOILET ADDED	5/2/16	J.D.W.
TITLE:- PROPOSED ALTERATIONS TO: 85 HIGH STREET INVERGORDON						DATE :- 19/1/16	
SCALE:- 1 : 25 @ A0				DRAWN BY:- J.D.W			
REF:- 696-0116				PLAN No.:- 1A			

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