

Agenda Item	7.10
Report No	PLN/071/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 14 September 2021

Report Title: 21/02094/FUL : Mr P Hurst

Land 50M North of Thistle Cottage, Occumster, Lybster

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Retrospective siting of a storage container

Ward: 03 - Wick And East Caithness

Development category: Local

Reason referred to Committee: number of objections

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.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks retrospective permission for the permanent siting of a shipping container, footprint of 6.1m x 3.8m and height of 4m, on land at Roster, near Occumster. The application is considered alongside an associated application for the larger site to renovate a semi-ruined traditional cottage to create a private residence (ref. 21/03558/FUL). The container is intended as an outbuilding/garage to be used as a workshop and for storage purposes that would be ancillary to the enjoyment of the dwellinghouse once the house is complete. In the meantime, the container is intended for use during construction works to renovate the cottage. Unfortunately however, the container was installed without permission and the application is retrospective.
- 1.3 Pre Application advice was provided in 2019 for the principle of the renovation of the cottage however there was no specific mention of a shipping container.
- 1.4 The application is supported by a Supporting Statement explaining the purpose of the container.
- 1.5 There have been no amendments to the proposals over the course of the assessment however the container has been resited to the correction location, as is applied for.

2. SITE DESCRIPTION

- 2.1 The site is located at Roster near Occumster on the east side of the C1029 public road that connects West Clyth/Occumster with Watten, approximately 3.6km north of the road's junction with the A9. The specific site for the container is an area of hardstanding within a rear courtyard that would be formed by the proposals for the renovation of the cottage and the proposed extension that replaces the ruined byre. The wider site is 0.2ha of an agricultural field that rises eastward away from the road. The surrounding area is relatively remote although there are private residences in the immediate surrounds including Thistle Cottage approximately 50m south, and Roadside and Cnocan further south still. There are no natural heritage or landscape designations at the application site, nor is the site within connectivity distance of such designations.

3. PLANNING HISTORY

- | | | | |
|-----|--------------|---|-----------------------|
| 3.1 | 20/03811/FUL | Renovation and erection of extension to house and temporary siting of caravan | APPLICATION WITHDRAWN |
| 3.2 | 21/03558/FUL | Creation of new vehicular access, installation of private drainage system and extension and renovation of existing cottage (part retrospective) | PENDING DECISION |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour

Date Advertised: 21 May 2021

Representation deadline: 4 June 2021

4.2 Timeous representations: 26no objections from 10no individuals

4.3 Late representations: 33no objections from 11no individuals

4.4 Material considerations raised are summarised as follows:

- a) Concerns regarding the appropriateness of the container in terms of design and finish and its impact on the visual amenity of the area.
- b) Concerns regarding the container's original positioning within the wider site not corresponding to the position being applied for.
- c) Concerns with the description of the development.
- d) Concerns with the statutory development management process being correctly followed, including validation and neighbour notification processes.
- e) Concerns regarding the red line boundary not including the site access.
- f) Concerns regarding the site access including the position of the access junction adjacent to the existing access for Thistle Cottage.
- g) Concerns regarding development already undertaken on the wider site.
- h) Impact of development on neighbouring amenity.
- i) Road safety concerns.
- j) Proximity of power lines.
- k) Drainage concerns including surface water discharging on to the public road.
- l) Land contamination.
- m) Concerns regarding light pollution.
- n) The development's impact on protected species.
- o) The development's impact on trees, specifically a single mature Sitka spruce.

4.5 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.

5. CONSULTATIONS

5.1 None.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012 (HwLDP)**

28 - Sustainable Design

29 - Design Quality and Place-making

36 - Development in the Wider Countryside

6.2 **Caithness and Sutherland Local Development Plan 2018 (CaSPlan)**

No specific policies, refer to HwLDP

6.3 **Highland Council Supplementary Planning Policy Guidance**

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (as amended December 2020)

National Planning Framework 3

Creating Places

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.

Determining Issues

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.

Planning Considerations

8.3 The key considerations in this case are:

a) compliance with the development plan and other planning policy

Development plan/other planning policy

8.4 The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP), Caithness and Sutherland Local Development Plan and all statutorily adopted supplementary guidance.

8.5 With no site-specific allocations or policies within the CaSPlan at the application's location, the development is principally assessed against the general policies of the HwLDP, and principally Policies 36 for Development in the Wider Countryside, 28 for Sustainable Design, and 29 for Design Quality and Placemaking. The policies broadly support development in the Wider Countryside providing the proposal shows sensitive siting and design so as to fit the local settlement pattern

and be compatible to the local landscape and character, while seeking to improve the design, architectural, and visual quality of new development across the Highland area.

8.6 **Siting**

Regrettably, the container, which was not included in the original submission (ref. 20/03811/FUL), was installed on the wider development site without prior approval from the Council. Following reports of the potential breach of planning, the matter was investigated and the applicant subsequently advised permission was required and invited to submit the current application to regularise the development, which is intended for use in connection with the redevelopment of the cottage. However, the initial positioning of the container did not correspond with that detailed on the submitted plans although this has now been corrected. As things stand, the container is now located in the correct position, where it is considered to be rationally positioned in relation to the wider development of the cottage and the proposed outbuilding in a manner that creates an open south facing courtyard at a discreet location to the rear of the original building. There are no issues with the principle of siting the container in this position during the works to reinstate the house and build the extension.

8.7 **Design**

In terms of the design, the temporary nature of the container and its current yellow painted finish are not considered an appropriate long term solution for the site and as such a condition is suggested to secure the container's removal following the development's completion. It is appropriate to also include the condition on the associated application for the wider site to tie its use to the construction phase of that development. Any proposal for a permanent outbuilding/garage for the wider development may fall within the limits of permitted development however this would require to be assessed at that time.

Other material considerations

8.8 Although the container's positioning has now been corrected, as discussed in paragraph 8.6, the container was located in the wrong position for some time before being moved while officers were in discussions with the applicant about how he wished to proceed with the applications. Unfortunately, this inconsistency and the length of time it has taken the applicant to reposition the container, coupled with the submission and withdrawal of the earlier application, has generated concerns for the neighbours and has led to the application receiving a large number of representations.

8.9 Concerns have been highlighted regarding the Council following statutory development management procedures. While these concerns are acknowledged, it is nevertheless for the Planning Authority to determine whether an application is valid and accords with the regulatory requirements and guidance. In this instance, it would not be necessary to include the access within the redline boundary of the application for an ancillary and temporary building as its use was directly linked to the associated application for the renovation and extension to the adjacent building. The presence of the container was solely linked to house equipment, tools and materials required for these works initially with the stated aim of tis

retention thereafter. The issues associated with the access are fully addressed in the consideration of the dwellinghouse (ref 21/03558/FUL) and appropriate conditions proposed. The provision of the service bay is directly linked to the increase in traffic associated with, and servicing requirements of, the house and is conditioned accordingly. Any such condition for a service bay applied to the current application would not be proportionate to the development itself. Similarly, following the statutory development management procedure, Thistle Cottage was not neighbour notified of the current application's submission because it is outwith the statutory 20m neighbour notification buffer zone based on the details submitted with the application. The application did however require to be advertised. The applicant subsequently confirmed that they wished to proceed with the application in accordance with the development as applied for, and consequently the Council is obliged to determine the application regardless of the unfortunate initial temporary positioning of the container in a different location.

- 8.10 With reference to the other points raised under section 4.4 j - o the points raised are not directly affected by the siting of the container and are addressed in the associated planning report (ref 21/03558/FUL).

Non-material considerations

- 8.11 The following issues are not material planning considerations:
- a) Land ownership and private property sales as these are civil matters.
 - b) The development's impact on property values.
 - c) Preliminary works undertaken on site not requiring planning permission.
 - d) Any other activities on private property not requiring planning permission including for agricultural and land management purposes.
 - e) Concerns that the assessment of the original withdrawn application was not completed.
 - f) Opinions expressed regarding the applicant and their agent.
 - g) Disputes between owners of neighbouring properties including accusations of criminal behaviours.
 - h) The age, experience, career, and other personal circumstances of the objector are not land use matters.
 - i) The stated personal preferences expressed by objectors that they do not want the larger development to go ahead or people to live at the site where the reasons are personal rather than related to land use matters.

Matters to be secured by Section 75 Agreement

- 8.12 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:
- a) None.

9. CONCLUSION

- 9.1 It is regrettable that the container was installed on site and in the wrong position without the applicant first seeking the approval of the Council, which has caused concerns for neighbours and members of the community. Nevertheless, the container has now been moved and its position now accords with what has been applied for.
- 9.2 There are no issues with the temporary use of the container for the construction phase of the development however its permanent stationing at the site is not supported due to its temporary nature and poor visual finish. The container should be removed from the site following the development's completion and a condition is proposed to ensure this.
- 9.3 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. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers N

Conclusion of Section 75 N
Obligation

Revocation of previous permission N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons:

- 1 Planning permission is hereby granted for a temporary period only for the shipping container and it is permitted solely for the benefit of the applicant or developer for the duration of construction works for the associated development (Highland Council application reference 21/03558/FUL). Within one month of the completion of that development or first occupation of the

dwellinghouse, whichever is the sooner, the container shall be removed permanently from the application site, along with all associated fixtures and fittings. For the avoidance of doubt, if for whatever reason the development does not complete then this permission shall cease to have effect after three years of the date of this decision notice, and the container shall be removed permanently from the application site, along with all associated fixtures and fittings.

Reason: in recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time and secure removal and restoration.

REASON FOR DECISION

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.

INFORMATIVES

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.

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 (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud and Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Designation: Area Planning Manager – North

Author: Mark Fitzpatrick

Background Papers: Documents referred to in report and in case file.

Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Location / Site Layout Plan	005		29 April 2021
Elevations	006		29 April 2021

Application Site

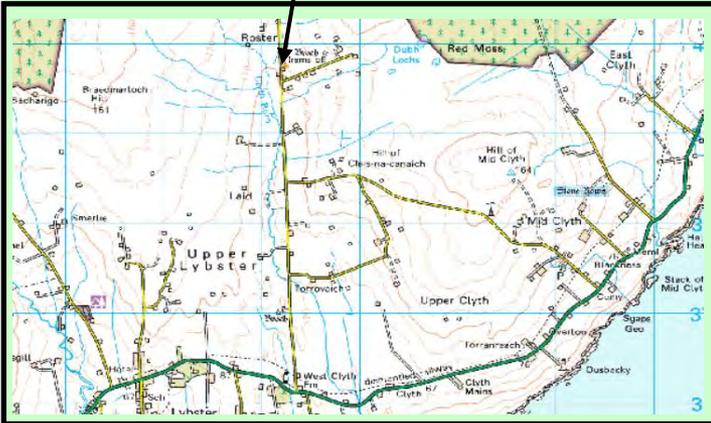
Drain

Well

Track

102.4m

Thistle Cottage



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Planning and
Development Service

21/02094/FUL

Retrospective siting of a storage container
At

Land 50M North Of Thistle Cottage, Occumster, Lybster

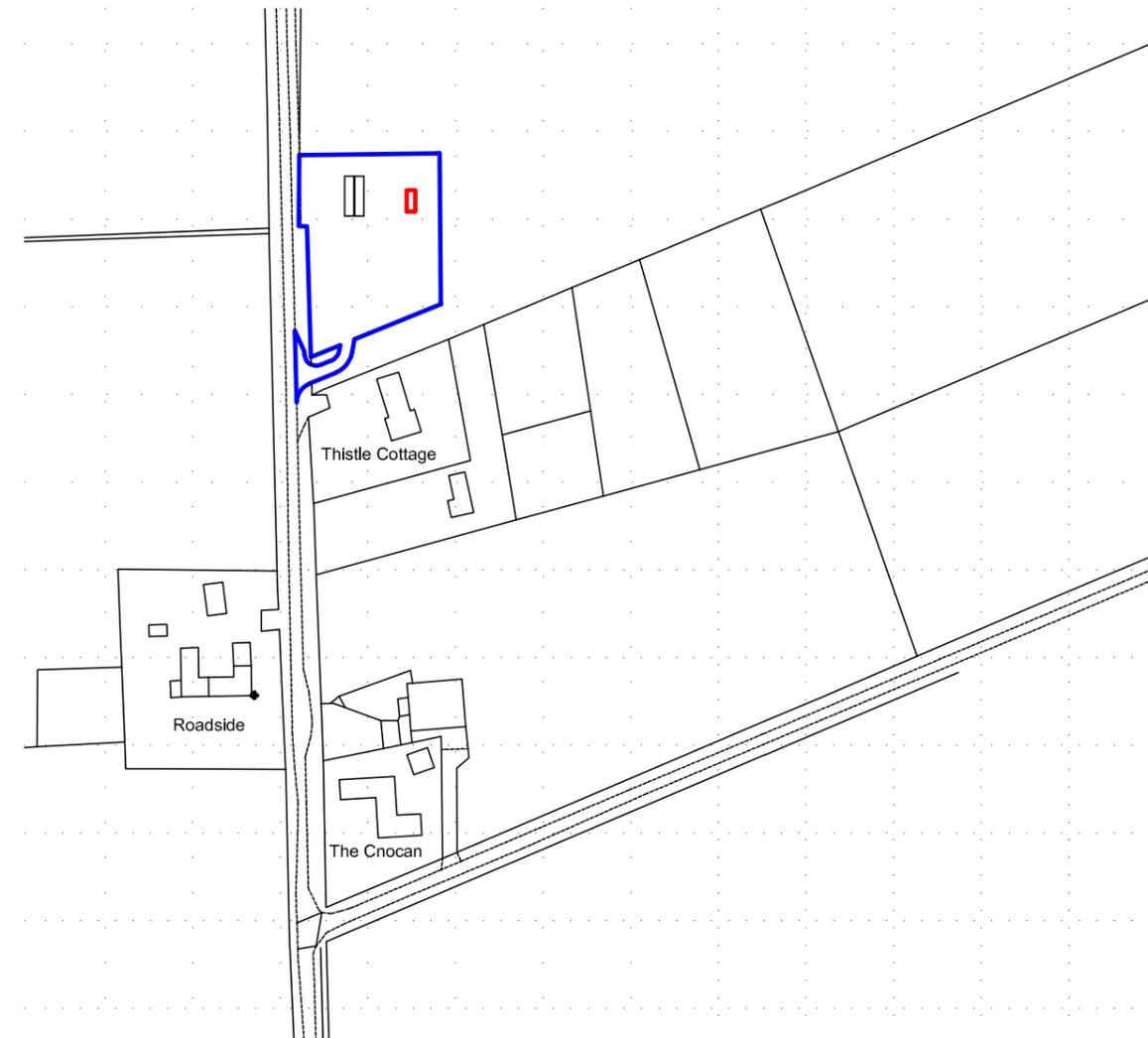
Scale:

EXISTING BARN

CONTAINER TO BE SET DOWN ON TO 4.5m X 8.0m HARDSTANDING. MIN. 150MM HARDCORE BASE, LAID ON TO HARD GROUND WITH GEOTEXTILE MEMBRANE AS REQUIRED.

20' CONTAINER POSITIONED AS SHOWN.

Site Plan 1:300

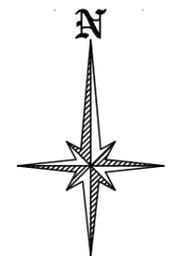


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Location Map 1:2000



OS Map Extract



REV:	DESCRIPTION:	BY:	DATE:

NORCAD DESIGN

NorCAD Design
DUNEIESTEIN
THRUMSTER
CAITHNESS
KW1 5SE
07738 208 823
info@norcaddesign.co.uk
www.norcaddesign.com

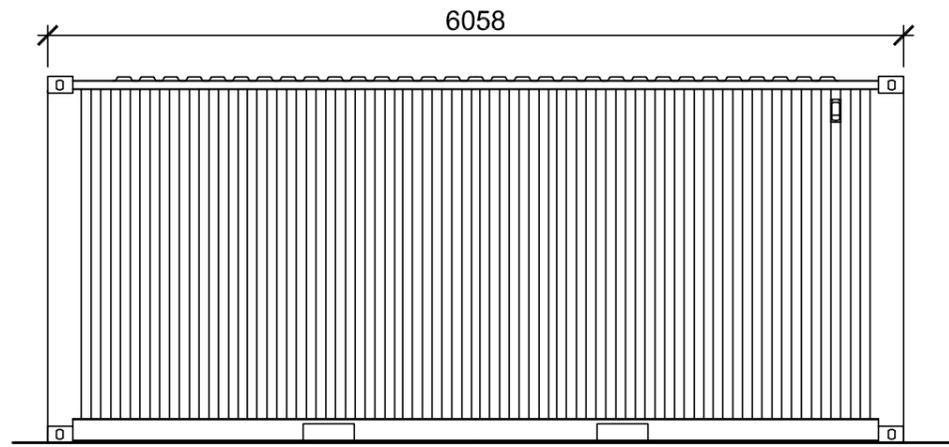
NorCAD DESIGN IS A TRADING NAME OF
NorCAD ENGINEERING LTD
COMPANY No. SC461656 VAT No. 175 5238 91

CLIENT: MR. & MRS P. HURST

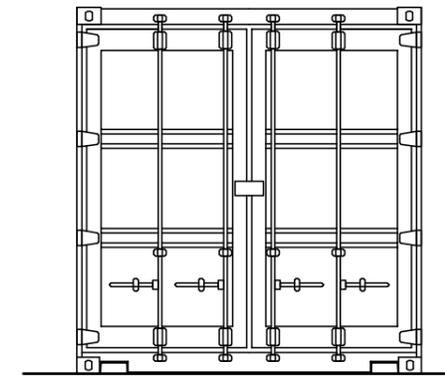
SITE: PLOT 50M NORTH OF
THISTLE COTTAGE
OCCUMSTER
LYBSTER

TITLE: SITE PLAN

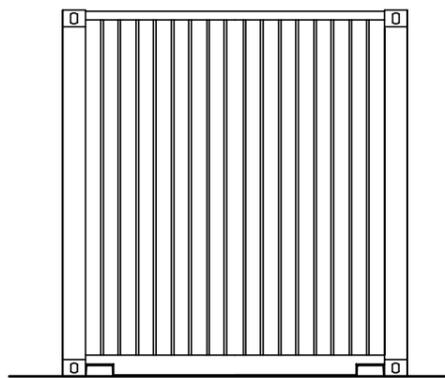
SCALE AT A3: AS SHOWN	DATE: 29-04-21	DRAWN: JNM
PROJECT NO: NC087	DRAWING NO: 005	REVISION: FIRST ISSUE



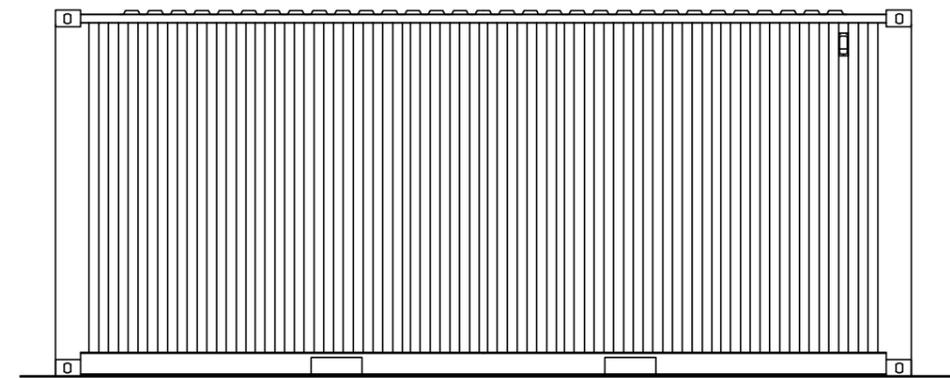
20ft Shipping Container - Side Elevation



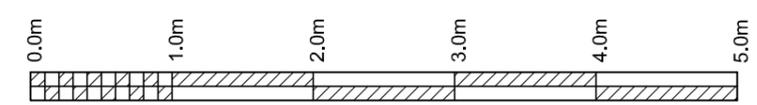
20ft Shipping Container - Door Elevation



20ft Shipping Container - Front Elevation



20ft Shipping Container - Side Elevation



REV:	DESCRIPTION:	BY:	DATE:


NorCAD Design
 DUNEISTEIN
 THRUMSTER
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 KW1 5SE
 07738 208 823
 info@norcaddesign.co.uk
 www.norcaddesign.com

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 NorCAD ENGINEERING LTD
 COMPANY No. SC461656 VAT No. 175 5238 91

CLIENT: MR. & MRS P. HURST

SITE: PLOT 50M NORTH OF
 THISTLE COTTAGE
 OCCUMSTER
 LYBSTER

TITLE: CONTAINER DETAILS

SCALE AT A3: 1:75	DATE: 29-04-21	DRAWN: JNM
PROJECT NO: NC087	DRAWING NO: 006	REVISION: FIRST ISSUE