

Agenda Item	5.1
Report No	PLN/089/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 7 December 2021
Report Title: 21/05261/PAN Midfearn Distillery Ltd
Land 470M NW Of Farmhouse, Easter Fearn, Ardgay
Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Whisky distillery, warehousing buildings, bottling facilities, tank farm, energy centre, long sea outfall and other associated infrastructure
Ward: 04 – East Sutherland and Edderton

Recommendation

Members are asked to note the submission of the PAN and highlight any material issues they wish to be brought to the attention of the applicant before the submission of an application for planning permission.

1.0 BACKGROUND

- 1.1 This report informs the Planning Applications Committee of the submission of the attached Proposal of Application Notice (PAN).
- 1.2 The submission of the PAN accords with the provisions of the Planning etc. (Scotland) Act 2006 and was made valid on 8 November 2021. The PAN is a statutory requirement for planning applications for major or national developments and must be lodged at least 12 weeks prior to the submission of a planning application. Members are asked to note this may form the basis of a subsequent planning application.
- 1.3 The submitted information attached includes:
- Proposal of Application Notice (Application Form)
 - Location Plan
- 1.4 In line with Covid-19 public health advice and temporary modifications made to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, the developer proposes to undertake one online public consultation event, as well as one in-person face to face event. Both formats will allow members of the public to engage in live discussion. The first event took place on 1 December 2021 between 1500-1900hrs at Edderton Community Hall. A second online consultation event will also take place on 20 January 2022 between 1500-1900hrs.
- 1.5 The applicant has set up a dedicated webpage with information on the proposal – www.midfearndistillery.co.uk
- 1.6 The consultation will be publicised and advertised in accordance with the appropriate statutory requirements with adverts to be placed in the Ross-shire Journal and Northern Times. The Planning Authority has confirmed that the adverts must be placed in the newspapers at least 7 days before each of the two consultation events. A maildrop will also be undertaken by the applicant to make people aware of the proposed development. The catchment area for this distribution will be a minimum of 2.5km from the site and it has been agreed with the Planning Authority that this will cover all properties, both residential and businesses, including those along the northern shoreline of the Dornoch Firth.
- 1.7 The forthcoming application will be accompanied by a Pre-Application Consultation (PAC) report explaining the consultation undertaken, feedback received, and any resultant amendments made to the planning application.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The PAN provides notice of the developer's intention to submit a planning application classified as a Major Development. The proposed development is for the erection of a whisky distillery, warehousing buildings, bottling facilities, tank farm, energy centre, long sea outfall and other associated infrastructure. Water will be sourced from the Easter Fearn Burn which forms the eastern boundary of the site and would be discharged via a long sea outfall into the Dornoch Firth.

- 2.2 The developer has sought pre-application advice from the Planning Authority through the Council's Pre-Application Advice Service for Major Developments. The developer has also sought an Environmental Impact Assessment (EIA) Screening Opinion 20/02334/SCRE, with the 16 July 2021 Planning Authority's response determining that an EIA is required for the proposed development.

3.0 SITE DESCRIPTION

- 3.1 The proposed development is located on arable agricultural land, situated mid-way between the Settlement Development Areas of Ardgay to the west and Edderton to the east, connected by the A836 which bypasses the southern boundary of the site. The site is bound by a railway line embankment to the north, with the proposed long sea outfall crossing underneath the rail line and adjacent agricultural land before discharging into the Dornoch Firth. The eastern site boundary generally follows the eastern side of the Easter Fearn Burn, with the western site boundary following the mean high water springs line of the Dornoch Firth with this area containing woodland.
- 3.2 The site is served by an existing agricultural access onto the A836 with an upgraded junction being required.
- 3.3 The site is located within the Dornoch Firth National Scenic Area, with the long sea outfall also intersecting the Dornoch Firth and Morrich More Special Area of Conservation. There are no other landscape or statutory natural heritage designations within the site boundary. Areas of existing woodland along the roadside to the south west and along the western boundary does however appear on the Native Woodland Survey of Scotland. National Cycle Network route 1 passes the site with the site also being viewed from the B9176 (Moray Firth Tourist Route), notably from the Struie Hill Viewpoint.
- 3.4 The site does not include any areas classified as containing prime soils. The northern, eastern and western boundaries of the site are mapped as being at fluvial flood risk within the 1 in 200 year event, with the western boundary also being subject to coastal flood risk within the same frequency. There are no Scheduled Ancient Monuments, Listed Buildings or Conservation Areas within the site, however, significant archaeological sites are known in the wider area and as such, the proposed development location is considered to have archaeological potential.

4.0 DEVELOPMENT PLAN

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

4.1 Highland Wide Local Development Plan (2012)

- 28 - Sustainable Design
- 29 - Design Quality and Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 36 - Development in the Wider Countryside
- 41 - Business and Industrial Land

43 - Tourism
49 - Coastal Development
51 - Trees and Development
52 - Principle of Development in Woodland
55 - Peat and Soils
56 - Travel
57 - Natural, Built and Cultural Heritage
58 - Protected Species
59 - Other Important Species
60 - Other Important Habitats
61 - Landscape
63 - Water Environment
64 - Flood Risk
65 - Waste Water Treatment
66 - Surface Water Drainage
72 - Pollution
73 - Air Quality
77 - Public Access
78 - Long Distance Routes

4.2 **Caithness and Sutherland Local Development Plan, 2018 (CaSPlan)**

- No specific policies relevant

4.3 **Highland Council Supplementary Guidance**

- Developer Contributions (Nov 2018)
- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (Mar 2013)
- Managing Waste in New Developments (Mar 2013)
- Physical Constraints (Mar 2013)
- Public Art Strategy (Mar 2013)
- Roads and Transport Guidelines for New Developments (May 2013)
- Standards for Archaeological Work (Mar 2012)
- Sustainable Design Guide (Jan 2013)
- Trees, Woodlands and Development (Jan 2013)

4.4 **Scottish Government Policy and Other Guidance**

- Scottish Planning Policy (Jun 2014)
- National Planning Framework 3, NPF3 (Jun 2014)
- National Planning Framework 4, NPF4 Consultative Draft (Nov 2021)
- PAN 60 – Planning for Natural Heritage (Jan 2008)
- PAN 61 – Sustainable Drainage Systems (Jul 2001)
- PAN 68 – Design Statements (Aug 2003)

- PAN 75 – Planning for Transport (Aug 2005)
- PAN 1/2011 – Planning and Noise

5.0 POTENTIAL MATERIAL PLANNING CONSIDERATIONS

- a) Development Plan and other planning policy;
- b) Design and layout;
- c) Landscape and visual impact;
- d) Amenity impacts (including construction and operational noise, odour, air quality and lighting);
- e) Impact upon the road network, access and parking;
- f) Wider access (impact on long distance routes and the Core Path network);
- g) Water supply, flood risk and drainage;
- h) Natural heritage (including impact on ecology, protected species, trees and the green network);
- i) Built heritage;
- j) Developer contributions; and
- k) Any other material considerations raised within representations.

6.0 CONCLUSION

6.1 The report presents the information submitted to date as part of the PAN. Summarised are the policy considerations against which any future planning application will be considered as well as the potential material planning considerations and key issues based on the information available to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 IMPLICATIONS

7.1 Not applicable.

8.0 RECOMMENDATION

8.1 It is recommended the Committee notes the submission of the PAN and advises of any material issues it wishes to be brought to the applicant's attention.

Designation: Area Planning Manager – North

Author: Peter Wheelan

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

Relevant Plans: Plan 1 - Proposal of Application Notice Form
Plan 2 - Location Plan

PROPOSAL OF APPLICATION NOTICE MOLADH BRATH IARRTAIS

The Town and Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) Act 2006 Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

The Council will respond within 21 days of receiving the Notice. It will advise whether the proposed Pre-application Consultation is satisfactory or if additional notification and consultation above the statutory minimum is required. Please note that a planning application for this proposed development cannot be submitted less than 12 weeks from the date the Proposal of Application Notice is received by the Council and without the statutory consultation requirements having been undertaken. The planning application must be accompanied by a Pre-application consultation report.

Applicant: Midfearn Distillery Ltd.	Agent: Rhiannon Martin
Address: Turcan Connell, Princes Exchange 1 Earl Grey Street, Edinburgh, EH3 9EE	Address: Scott Hobbs Planning, 24a Stafford Street, Edinburgh, EH3 7BD
Phone: 0131 226 7225 E-mail: rm@scotthobbsplanning.com	Phone: 0131 226 7225 E-mail: rm@scotthobbsplanning.com

Address or Location of Proposed Development

Please state the postal address of the prospective development site. If there is no postal address, please describe its location. Please outline the site in red on a base plan to a recognised metric scale and attach it to this completed Notice

**Land adjacent to the north of the A836, to the west of Easter Fearn Burn, Ardgay.
Please see attached Location Plan.**

Description of Development

Please include detail where appropriate – eg the number of residential units; the gross floorspace in m of any buildings not for residential use; the capacity of any electricity generation or waste management facility; and the length of any infrastructure project. Please attach any additional supporting information.

Proposed whisky distillery and associated development including warehousing buildings, bottling facilities, tank farm, energy centre, long sea outfall, and water off take from Easter Fearn Burn; access, parking, landscaping and other associated infrastructure.

Pre-application Screening Notice

Has a Screening Opinion been issued on the need for a Proposal of Application notice by the Highland Council in respect of the proposed development?

If yes, please provide a copy of this Opinion.

Yes/No

Community Consultation [See checklist of Statutory minimum consultation attached]

State which other parties have received a copy of this Proposal of Application Notice.

Community Council/s

Edderton Community Council
Ardgay & District Community Council
Creich Community Council
Dornoch Community Council

Date Notice Served

08/11/2021

Names/details of any other parties

East Sutherland and Edderton Ward:

Cllr Richard Gale
Cllr Deirdre Mackay
Cllr Jim McGillvary

Date Notice Served

08/11/2021

North, West and Central Sutherland Ward:

Cllr Kirsteen Currie
Cllr Hugh Morrison
Cllr Linda Munro

Caithness, Sutherland, and Ross Constituency:

MP Jamie Stone
MSP Maree Todd

Highlands and Islands Region:

MSP Ariane Burgess
MSP Rhoda Grant
MSP Edward Mountain
MSP Douglas Ross
MSP Donald Cameron
MSP Jamie Halcro Johnston
MSP Emma Roddick

Other (land ownership interests):

Highland Council Roads Authority
Crown Estate

Please give details of proposed consultation

Proposed public event	Venue	Date and time
Event 1: Face to face. with information available online at www.midfearndistillery.co.uk	Edderton Community Hall	01/12/2021 3pm – 7pm
Event 2: Online (using a virtual live chat feature).	www.midfearndistillery.co.uk	20/01/2022 3pm – 7pm
Newspaper Advert – name of newspaper	Advert date(wher known)	
Event 1: Ross-Shire Journal & Northern Times	19/11/2021	
Event 2: Ross-Shire Journal & Northern Times	07/01/2022	

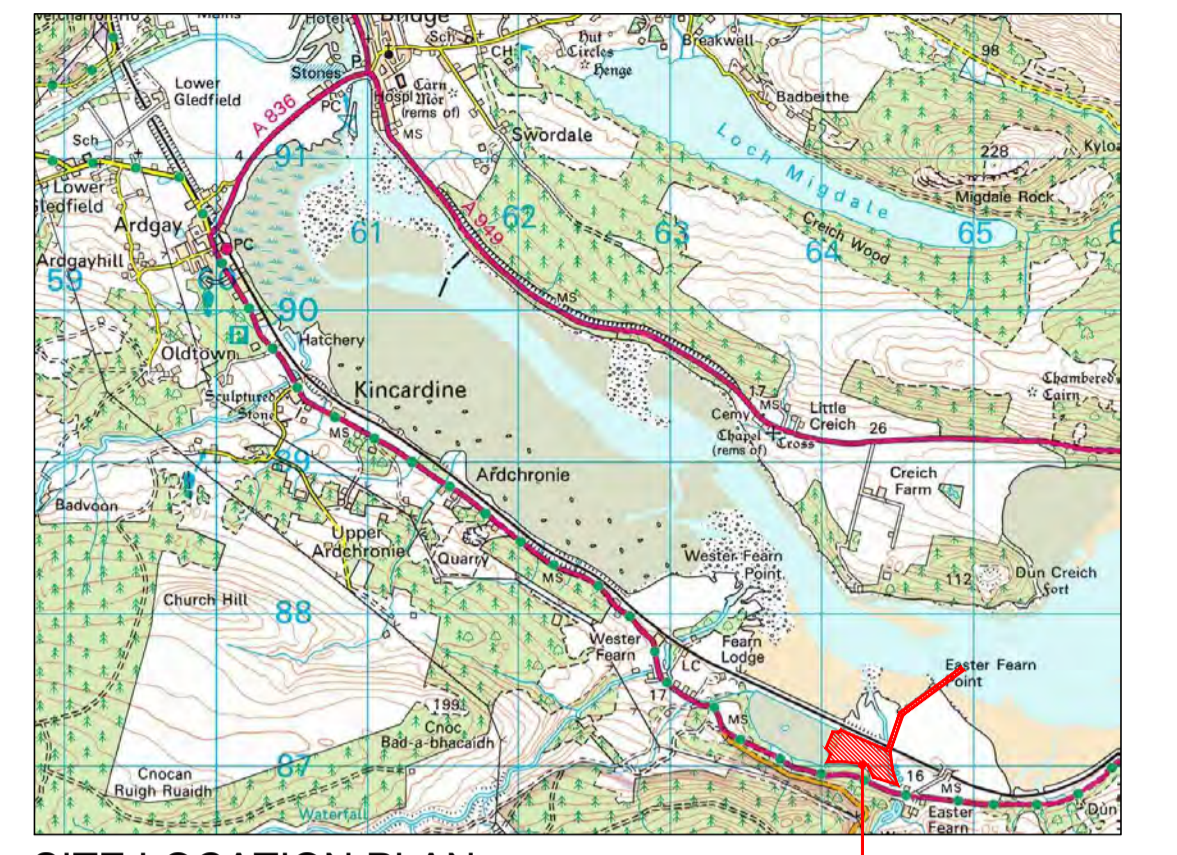
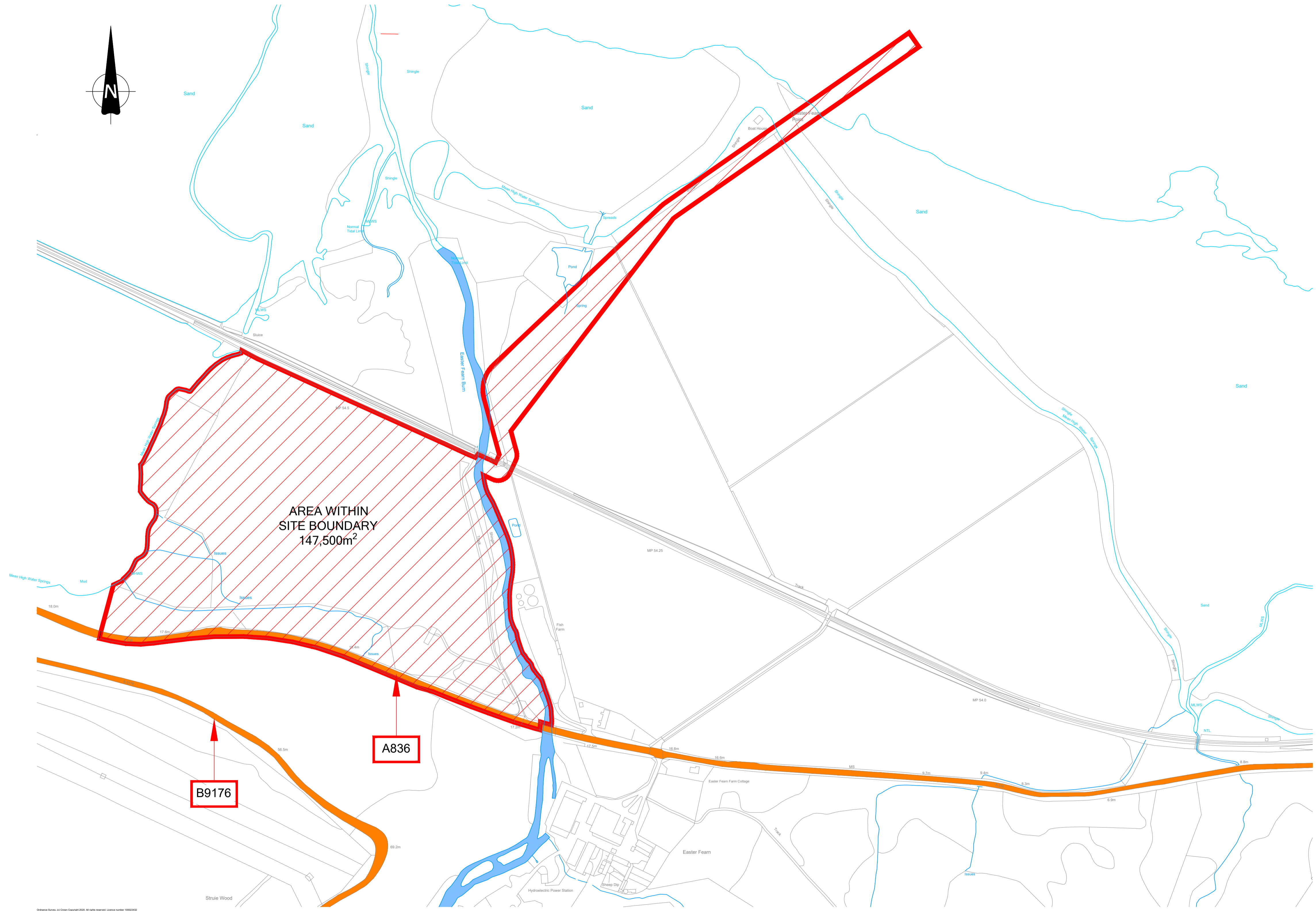
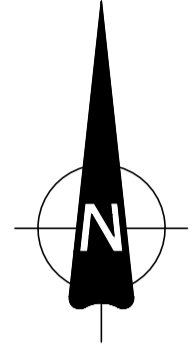
Details of any other consultation methods (date, time and with whom)

There will be letter / flyer drops on 19/11/2021 and on 07/01/2022 to provide notification of Events 1 & 2 to all properties shown on the attached 'Consultation Zone' plan, which exceeds a distance of 2.5 km radius of the site.

Signed

A solid black rectangular box redacting the signature of the person who signed the document.

Date 08/11/2021



SITE LOCATION PLAN
1:50,000

SITE LOCATION

Key

— Site Boundary (147,500m²)

Revisions	Date	Drm.
/ Issued for PAN SUBMISSION.	28.10.21	J.T.
A Red line boundary updated to run along South side of A836 along extents of proposed site. Issued for PAN SUBMISSION.	05.11.21	J.T.

**PAN
SUBMISSION**

MIDFEARN ESTATES

MIDFEARN DISTILLERY

SITE BOUNDARY PLAN

Drawn: J.T.	Ck'd:	Scale: 1:2500 @ A1
Date: OCT '21	Date:	DO NOT SCALE

BLYTH&BLYTH
Cornerstone, 60 South Gyle Crescent
Edinburgh EH12 9EB
Email: edinburgh@blythandblyth.co.uk
www.blythandblyth.co.uk Telephone: 0131 474 2200

Drawing No. EC22481:00:006	Revision A
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SITE PLAN
SCALE 1:2500
0 50 100 200m 1:2500 @ A1