

Agenda Item	6.1
Report No	PLN/003/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 25 January 2022

Report Title: 19/04687/FUL: Graham MacGregor Joinery Ltd
3a Inchrory Drive, Business Park, Dingwall

Report By: Area Planning Manager North

Purpose/Executive Summary

Description: Erection of office/workshop building

Ward: 08, Dingwall and Seaforth

Development category: local

Reason referred to Committee: Managers discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

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

1. PROPOSED DEVELOPMENT

- 1.1 The application is for the erection of an office/workshop building, for a joinery business. The building will be approximately 12.6m wide x 25.7m long, and be finished in off white harl with grey profiled metal sheeting to the upper section of walls and roof.
- 1.2 The building will be orientated with gable towards Inchroy Drive, a new access formed off Inchroy Drive, and a row of parking spaces formed at the back of the roadside verge/ landscape strip. There will be further parking spaces adjacent to the side of the building, with space also for servicing the building.
- 1.3 Pre Application Consultation: none
- 1.4 Supporting Information: none
- 1.5 Variations: cycle parking added; accessible parking amended

2. SITE DESCRIPTION

- 2.1 This site is located on the west side of Inchroy Drive, and immediately to the south of the Dundonnell Mountain Rescue base. There is a landscaped strip alongside the public road, with the remainder of the site overgrown grassland. The site is flat in nature. The site lies within Phase 2 of the Dingwall business park. Plots to the north are as yet undeveloped.

3. PLANNING HISTORY

- | | | | |
|-----|---|-----------|----------|
| 3.1 | 14/03280/FUL Erection of storage building | Permitted | 10/10/14 |
| 3.2 | 07/00073/FULRC Erection of office building | Withdrawn | 23/02/09 |
| 3.3 | 20/01019/FUL Erection of commercial storage and office unit (linked application on nearby site). This application is also on the agenda for this Committee. | Pending | |
| 3.4 | 21/05232/PIP Erection of office and workshop building, installation of storage unit and associated parking arrangements (linked application on nearby site). This application will be assessed at a future Committee. | Pending | |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: neighbour
Date Advertised: 07/11/19
Representation deadline: 16/11/19
Timeous representations: 0
Late representations: 1

- 4.2 Material considerations raised are summarised as follows:
- a) Resolution of the classification of the flood bund required as soon as possible. Delays mean that the mountain rescue team's funds are tied up in the site and can not be released for investment in life-saving equipment, and new developments can not be realised since there are no alternative designated sites for business development in the area.
- 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.

5. CONSULTATIONS

- 5.1 **Transport Planning** have no objections to the proposal
- 5.2 **Flood Risk Management Team** object. The flood protection installed is not council controlled, owned or maintained. The flood protection can therefore not be treated as a Formal Flood Barrier.
- 5.3 **SEPA** object. Any development behind and 'protected' by informal embankments could be vulnerable due to the potential for embankment failure and/or overtopping. There is also a risk to areas behind informal embankments if the standard of protection degrades over time, either due to lack of maintenance, structural degradation or the effects of climate change. In cases when such structures are overtopped and/or fail, areas behind them are at greater risk than they would have been otherwise as sudden and rapid inundation can occur, with extremely high velocities and forces.
- Any protection offered by informal flood defences is not taken into account when considering development behind or benefitting from them. Such proposals are considered within the context of the SPP risk framework as if the embankments did not exist. Therefore the business park is at medium to high risk of flooding from the River Peffery and SEPA object on flood risk grounds.
- SEPA would only be able to withdraw their objection if relevant works were undertaken to formalise the bund and an ongoing maintenance regime is established and adopted by Council as formal flood works to ensure the integrity of the bund in perpetuity.
- It would also need to be demonstrated that all three sections of the existing flood bund have adequate geotechnical stability and provide a 1 in 200 year standard of protection to the Business Park.
- 5.4 **Scottish Water** has no objection. There is currently capacity in the water treatment works. Scottish Water is unable to confirm capacity in the waste water treatment works. Capacity can not be reserved.

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
- 41 - Business and Industrial Land
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan 2015**

Within settlement development area; no site specific policies apply.

6.3 **Highland Council Supplementary Planning Policy Guidance**

Flood Risk and Drainage Impact Assessment (Jan 2013)

Physical Constraints (March 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy 2014 (as revised 2020)

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
- b) flood risk
- c) design and layout
- d) any other material considerations.

Development plan/other planning policy

- 8.4 The site lies within Dingwall Business Park, and as such the proposed joinery office and workshop building is an appropriate and compatible land use, and accords with Policy 41 which directs business and industrial users to specified business and industrial sites.

Flood Risk

- 8.5 Policy 30, Physical Constraints and its associated supplementary guidance aim to provide developers with up to date information regarding physical constraints to development, and to ensure proposed developments do not adversely affect human health and safety or pose risk to safeguarded sites. Where a proposed development is affected by any of the listed constraints, developers must demonstrate compatibility with the constraint or outline appropriate mitigation measures to be provided. One of the listed constraints is flood risk.
- 8.6 Policy 64 specifically relates to flood risk, and requires development to avoid areas susceptible to flooding and promotes sustainable flood management. Development proposals within or bordering medium to high flood risk areas will need to demonstrate compliance with SPP through the submission of suitable information.
- 8.7 Dingwall Business Park lies on the River Peffery Flood Plain, and accordingly an embankment was erected around the perimeter of the Business Park as part of the development of the land for business purposes in the 1980's. The Business Park has since been extended to the west, and a further embankment erected around the newer section (around the year 2000). It has recently transpired that these embankments do not form a formal flood defence, although they do provide the properties within the park a certain degree of flood protection. SPP requires that any new developments demonstrate that they avoid areas of flood risk, and any protection offered by informal flood defences is not considered when assessing development located behind or said to be benefitting from them.
- 8.8 A study of the current condition of the flood embankments around Dingwall Business Park and the level of protection they provide was commissioned by HIE in July 2021, and the findings are now available.
- 8.9 This used GIS files of various flood extents to determine the peak water levels around the perimeter of the business park for a variety of flood events. The files contain information on the elevation the water from the River Peffery will reach when it breaches its banks for the various flood events around the business park. These flood extents have been used to create a long section for each embankment at the point where the water level rise appears to meet each of the 4 embankments. This high point for the various events has then been adapted as representing the peak water level.
- 8.10 The major flood related potential failure modes are overtopping, stability of the embankment, and internal erosion.
- 8.11 The flood extents for flood events with an annual exceedance of 1 in 200 AEP, 1 in 200 AEP plus climate change and 1 in 1000 AEP indicate that overtopping of the flood embankment may occur at the far north eastern corner of the business park.
- 8.12 There are a significant number of well-established trees located around the perimeter of the business park. It is considered that their root systems will have had an impact on the properties of the embankment, including the moisture content of the soils and the structure of the soil, causing internal erosion.

- 8.13 Typically, tree toppling would not normally be included in an assessment, unless the trees are very large in proportion to the embankment and the flood reaches the embankment crest. In this case due to the number of large well-established trees located along the crest of the embankments, and the relatively low height of the embankments, there is the potential that if a tree came down during a single event it could lead to a breach of the embankment
- 8.14 Other failure modes which are not deemed credible so have been excluded include slope stability, internal erosion due to a hydraulic structure in the embankment, and internal erosion through the foundation.
- 8.15 The annual probability of failure of the northern embankment is the highest. This is attributed to overtopping and internal erosion due to the presence of tree roots. There is also a low spot in the far north eastern corner of the site (6.50m AOD).
- 8.16 During the 1 in 200 AEP event water will enter the business park at the north eastern corner of the site. The long sections for all events modelled indicate the water level rise could reach 6.70 m AOD and 7.11m AOD over the eastern and northern embankments respectively. Typically an overtopping depth of 300mm can be sufficient to fail an earth embankment if the duration of the event is long enough. With the low point identified at 6.5m AOD, and a water level rise of 6.7m and 7.11m AOD, there is a high probability of failure of the embankment. The longer the time of overtopping, the higher the probability of scour erosion. The model has assumed that the overtopping will be for 2 hours, which is a favourable condition, as it could be for much longer.
- 8.17 There is also a possibility of failure from internal erosion due to the presence of tree roots. There are a significant number of large trees on the crest of the embankments resulting in a possibility of a continuous defect. If dead trees were present in any of the embankments this number would increase further.
- 8.18 The results of this assessment show that the existing embankments do not offer the level of protection required for any future development. In addition, ownership of the flood bunds lies with various adjoining landowners around the periphery of the park so maintenance can not be controlled.
- 8.19 SPP says (para 263) that in medium to high flood risk areas (greater than 1:200 years) land in built up areas may be suitable for industrial and commercial development provided flood protection measures to the appropriate standard already existing and are maintained, are under construction, or are a planned measure in a current flood risk management plan. Informal flood defences should be considered as if the scheme did not exist. Furthermore, the planning system should prevent development which would have a significant probability of being affected by flooding.
- 8.20 Accordingly, this proposal fails to comply with SPP, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, since it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments, these have been found to be substandard and do not afford the required level of protection. Furthermore, the embankments are

within assorted ownership, with no measures in place to ensure their maintenance and prevent further deterioration. As such, any development behind the flood bunds could be vulnerable to flooding and accordingly can not be supported.

Design and Layout

- 8.21 The building will be seen within the wider context of assorted units which comprise Dingwall Business Park. The building is orientated with its gable towards Inchrory Drive, which reflects the orientation of the adjacent unit to the south, Dundonnell Mountain Rescue Base. This proposal will be finished in harl with steel cladding to the upper section of the walls and the roof. The functional design and materials are appropriate in this setting, and will integrate in a satisfactory manner with other nearby units.
- 8.22 This complies with Policy 28 which assesses development according to a number of factors, including demonstrating sensitive siting and high quality design in keeping with the local character, and making use of appropriate materials.
- 8.23 The proposed building will be set back off Inchrory Drive, with the area between the front of the building and the road forming an area of hardstanding for parking. This is similar to the layout of the neighbouring sites to the south, and is appropriate for this location. Cycle parking racks for 4 bicycles are also shown near the site entrance. Although there is a note that these will be protected, they lie alongside the manoeuvring area for the car park and the servicing area, and details of their proposed protection will be required by condition, should the scheme be found to be otherwise capable of support.
- 8.24 A new access will be formed off Inchrory Drive into the site. Transport Planning are satisfied with the access details and the achievable visibility splays.
- 8.25 A SuDS filter trench is shown alongside the north site boundary, continuing along the east boundary, and part of the south boundary. The use of SuDS (sustainable drainage systems) to deal with surface water is appropriate and complies with Policy 66.

Other material considerations

- 8.26 It is regrettable that the flood protection embankments have not been maintained, have been sold off as part of the adjacent plots, and are substandard. This adversely impacts on the ability to complete the development of the Business Park for its allocated business / industrial purposes.

There are no other material considerations.

Referral to the Scottish Ministers

- 8.27 Should planning approval otherwise be granted, this application will require to be notified to the Scottish Ministers, under Category 2 of Planning Circular 3 2009, pursuant to the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009. This is due to the objection of SEPA to the proposals, in its role as a national government agency.

Conclusion of Section 75 Obligation No

Revocation of previous permission No

Subject to the above, it is recommended that planning permission be

REFUSED, for the following reasons

1. The proposal fails to comply with SPP, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, since it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments, these have been found to be substandard and do not afford the required level of protection. Furthermore, the embankments are within assorted ownership, with no measures in place to ensure their maintenance and prevent further deterioration. As such, any development behind the flood bunds could be vulnerable to flooding and accordingly can not be supported.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Designation: Area Planning Manager – North

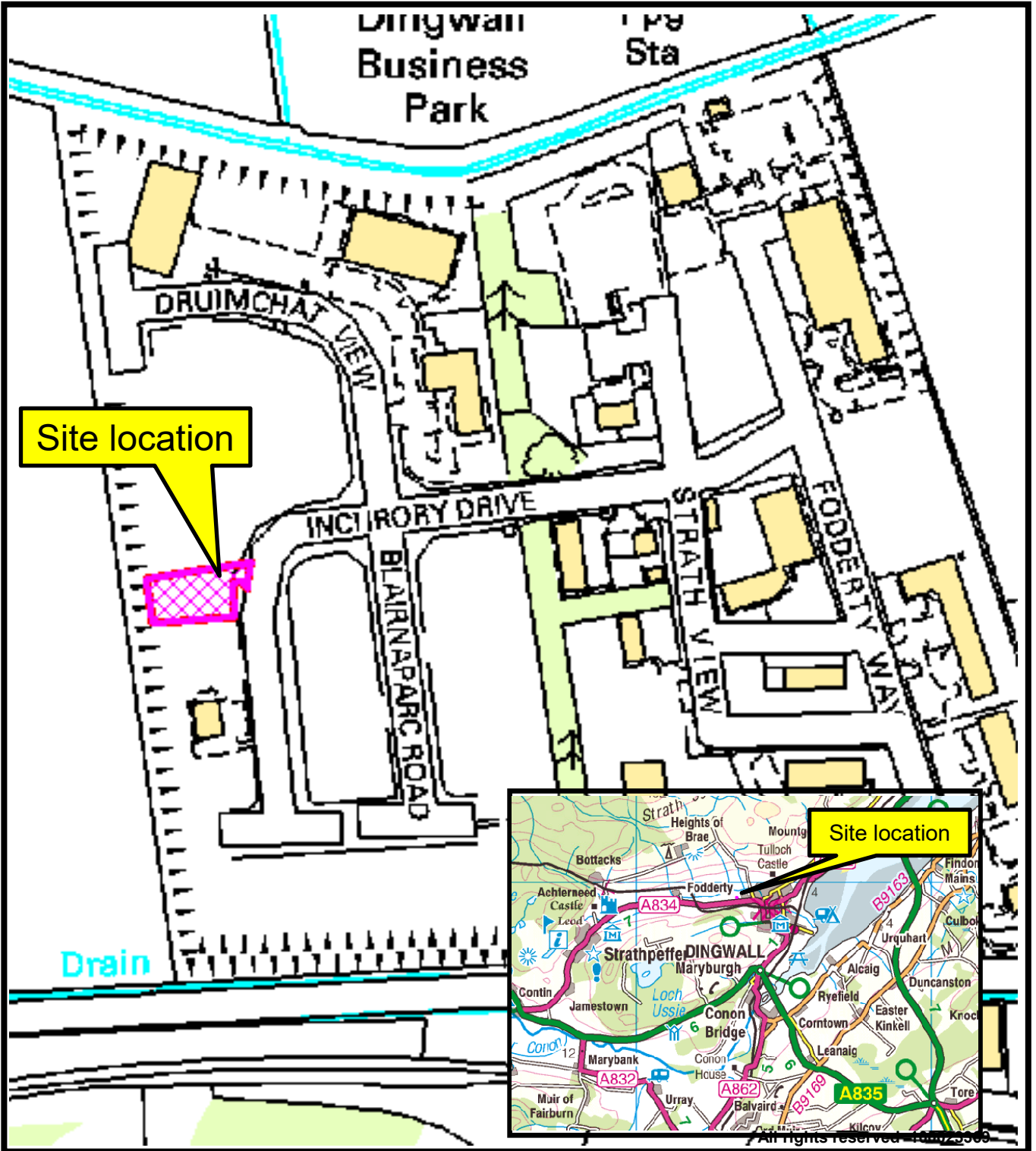
Author: Susan Hadfield

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

Relevant Plans: Plan 1 - 002 Site Layout Plan

Plan 2 - 001 Rev B General plan

Plan 4 – Flood Embankment Risk Assessment Report Dingwall
Business Park



Development & Infrastructure
Service

19/04687/FUL

**Erection of office/workshop building
at 3A Inchrory Drive, Business Park, Dingwall
January 2022**

