

Agenda Item	6.4
Report No	PLN/030/25

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee  
**Date:** 23 April 2025  
**Report Title:** 20/01019/FUL : Fraser Electrical  
Land 110m NE of 3B Inchrory Drive, Business Park, Dingwall  
**Report By:** Area Manager North

### SUPPLEMENTARY REPORT

#### Purpose/Executive Summary

**Description:** Erection of commercial storage and office unit  
**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 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. BACKGROUND**

- 1.1 This application was previously discussed at the North Planning Applications Committee on 25<sup>th</sup> January 2022 (copy attached – Appendix 1). Although it generally was acceptable in principle, it was recommended for refusal solely on the grounds of flood risk. The Committee was however minded to approve it subject to conditions. SEPA had objected to this application on grounds of flood risk, so in accordance with the requirements of Circular 3/2009 this was referred to Scottish Ministers, who proceeded to call it in.
- 1.2 The previous report and suggested conditions and reasons are attached for information.

## **2. UPDATE**

- 2.1 Linked planning applications 25/00190/FUL and 25/00191/FUL have now been received. These are both for flood management measures to the River Peffery in the vicinity of the Business Park. An application 23/02569/FUL has also been received for the formation of a flood bund around Dingwall Business Park, to act as a formal flood defence structure.
- 2.2 In light of this, Scottish Ministers have concluded that the application should be referred back to the Council to determine. Accordingly, the 2022 Direction has been withdrawn.
- 2.3 Ministers have issued a new Direction to advise that consideration must be given to an appropriate condition that could allow the development to proceed while addressing the flood risk issue at Dingwall Business Park. Any such condition should prevent the commencement of development until a scheme to manage the flood risk at Dingwall Business Park has been agreed with the planning authority and implemented. The wording of the condition will need to be referred back to Ministers application to ensure that this condition meets their requirements.
- 2.4 The planning application for the flood bund, 23/02569/FUL, is currently awaiting additional information in relation to compensatory planting, works required to existing trees, tree protection measures, and biodiversity.
- 2.5 Planning applications 25/00190/FUL and 25/00191/FUL for flood management measures to the River Peffery are both on the agenda for determination at this Committee meeting. If they are granted and implemented, they will reduce the chance of failure of the existing unadopted and substandard flood bund. They will also help to reduce, but not remove, the risk of flooding of the Business Park.
- 2.6 If supported, they could be considered to constitute the agreement of a scheme to manage flood risk at Dingwall Business Park, as required by Scottish Ministers. They would still need to be implemented before any works could commence in relation to this application by Fraser Electrical, in order to satisfy the terms of the condition requested by Scottish Ministers.

### **3. POLICY ASSESSMENT**

- 3.1 Since this application was previously discussed, policies have progressed with the adoption of NPF4 and the Inner Moray Firth Local Development Plan 2. It is therefore necessary to assess the proposal in light of the policies which these contain.
- 3.2 NPF4 Policy 22 covers flood risk and water management, with similar requirements to SPP (against which it was previously assessed) in relation to flooding. This only supports proposals at risk of flooding or in a flood risk area if they are for:
- Essential infrastructure where the location is required for operational reasons;
  - Water compatible uses;
  - Redevelopment of an existing building or site for an equal or less vulnerable use; or
  - Redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice.
- 3.3 The proposed works under the associated planning applications (ref 25/00190/FUL and 25/00191/FUL) to the River Peffery will help to lessen the chances of the Business Park flooding, but will not constitute a formal flood protection scheme. The proposal by Fraser Electrical does not meet any of the requirements listed above whereby it can be supported in an area at risk of flooding. It is therefore still contrary to Policy requirements.
- 3.4 Although there is also an application for works for a formalised flood bund around Dingwall Business Park (23/02569/FUL), the Planning Service is currently awaiting additional supporting information which to date has not been forthcoming. It appears that this application is not progressing. It is also understood that there is no funding in place to enable it to be implemented, in the event that it is able to progress to a decision. It is therefore not considered to represent a material consideration in relation to this application by Fraser Electrical.
- 3.5 IMFPDP2 includes the Business Park within Dingwall Settlement Development Area, but has no specific allocation in relation to it. Policy 7 relates to industrial land. This safeguards existing industrial sites for such uses, and proposals for uses other than Classes 4, 5, and 6 will not be supported. The application relates to a vacant site within the established boundaries of Dingwall Business Park and therefore complies with this policy requirement.
- 3.6 IMFLDP2 says 'at Dingwall Business Park development proposals will be subject to Flood Risk Assessment and may require the River Peffery Flood Protection Scheme to be in place for some sections of the site be developed.'
- 3.7 The proposed River Peffery works (ref 25/00190/FUL and 25/00191/FUL) will help mitigate the incidence and severity of flooding and are a new material planning consideration. There is a committed programme of funding in place in this current financial year to enable the works to progress, if planning permission is forthcoming. Works also have to be completed before winter due to ecology restrictions;

accordingly, there is high confidence that these works will be implemented and completed this year.

- 3.8 Given this and the broader aspirations of NPF4, whilst SEPA's position is acknowledged the Planning Service is now minded to support the proposal due to the imminent River Peffery works and since this proposal represents development with an established business park which will result in investment and create employment. A condition will be necessary to ensure that construction work does not commence until such time as the finalised design for the River Peffery works has been submitted to and approved in writing by the Planning Authority, and that no building is occupied until such time as the River Peffery works have been completed.
- 3.9 The remainder of the issues remain as previously set out in the attached Report to NPAC from 25<sup>th</sup> January 2022.

#### **4. CONCLUSION**

- 4.1 The application is for the development of a commercial unit within an undeveloped plot within Dingwall Business Park. The principle of development here has always been accepted. However in light of the update above, it is now considered that this planning application can now be afforded support given the associated applications 25/00190/FUL and 25/00191/FUL for works to the River Peffery. These applications form part of a programme of works which will offer tangible benefits in relation to the concerns regarding flooding which had previously been raised and prevented officer support. These applications represent a meaningful and significant change in circumstances and, coupled with the funding being in place and appropriate mitigation, these enable this application to be supported subject to the condition requested by Scottish Ministers and the conditions previously requested by Members following the consideration of the application at Committee on 25 January 2022. In view of the associated applications and related conditions it is considered that the proposal can be supported and is not considered to be in conflict with the overall aspirations of NPF4.
- 4.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal still fails to accord with the principles and policies contained within the Development Plan, but that measures can now be put in place to reduce the risk of flooding of Dingwall Business Park and the application site. The proposal is acceptable in terms of all other applicable material considerations.
- 4.3 Should planning approval otherwise be granted, the wording of the condition will need to be agreed with Scottish Ministers, as per the terms of the clearance letter.

#### **5. IMPLICATIONS**

- 5.1 Resource: Not applicable
- 5.2 Legal: Not applicable
- 5.3 Community (Equality, Poverty and Rural): Not applicable
- 5.4 Climate Change/Carbon Clever: Not applicable

5.5 Risk: Not applicable

5.6 Gaelic: Not applicable

## 6. RECOMMENDATION

### Action required before decision issued y

Notification to Scottish Ministers y

Conclusion of Section 75 Obligation n

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. 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.

**Reason:** In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence until a scheme of flood risk management measures, which have been informed by an associated flood risk assessment, have been submitted to and approved in writing by the Planning Authority to manage the flood risk at Dingwall Business Park and to demonstrate that there will be no increased flood risk to properties downstream. Thereafter, no occupation of the premises shall occur until such time as the approved flood risk management measures have been implemented in full to the satisfaction of the Planning Authority.

**Reason:** To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously.

3. No other development shall commence until the site access has been constructed, with visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

**Reason:** To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

4. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref. 2020-01-

MRH-102 shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

**Reason:** In order to ensure that the level of off-street parking is adequate. In the interests of road safety, and that the works involved comply with applicable standards.

5. No development shall commence until full details of a covered and secure communal bicycle storage system, close to the building entrance, for 4 bicycles has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the storage/racking system shall be installed in accordance with these approved details prior to the first occupation of the development hereby approved.

**Reason:** In order to facilitate the use of a variety of modes of transport.

6. All surface water drainage provision within the application site shall accord with the principles of Sustainable Urban Drainage Systems (SUDS) and shall be designed to the standards outlined in Sewers for Scotland Fourth Edition (or any superseding guidance prevailing at the time). There shall be no drainage to the local road network.

**Reason:** To ensure that surface water drainage complies with the principles of SUDS; in order to protect the water environment

7. No development shall commence until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

**Reason:** To ensure that suitable provision is made for the storage and collection of waste and recycling bins.

8. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

**Reason:** In order to ensure the protection of retained trees, which are important amenity assets, during construction.

9. Prior to the first occupation of the office and storage unit hereby approved, the access through the application site to the adjacent undeveloped plots shall be formed in accordance with the details shown on the approved plans and thereafter shall be maintained in perpetuity.

**Reason:** To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of adjacent land.

10. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
  - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
  - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

## **REASON FOR DECISION**

All relevant matters have been taken into account when appraising this application. It is considered that the proposal still fails to accord with the principles and policies contained within the Development Plan, but that measures can now be put in place to reduce the risk of flooding of Dingwall Business Park and the application site. The proposal 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.

### **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.

### **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](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.

### **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature:

Designation: Planning Manager North

Author: Susan Hadfield

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

Relevant Plans: Plan 1 - 2020-01-MRH-102 Location Plan  
Plan 2 - 2020-01-MRH-101 Proposed Floor Plan  
Plan 3 - 2020-01-MRH-100 Proposed Elevation Plan  
Plan 4 - Flood Embankment Risk Assessment Report Dingwall  
Business Park

Letters of Representation

None

Agenda Item	<b>6.3</b>
Report No	<b>PLN/005/22</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 25 January 2022

**Report Title:** 20/01019/FUL: Fraser Electrical  
Land 110m NE of 3B Inchrory Drive, Business Park, Dingwall

**Report By:** Area Planning Manager North

### Purpose/Executive Summary

**Description:** Erection of commercial storage and office unit

**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 proposal is to erect a commercial storage and office unit, with associated access and parking. It is a standard steel profile structure measuring approx. 30m x 20m, and will be finished in dark grey Kingspan panels with red doors and windows.
- 1.2 The parking and main entrance area will be off the north elevation, with a service area to the rear (south) elevation. There is a large set back off both Inchroy Drive (to the south) and Druimchat Ave (to the east) to enable the existing landscaping to be augmented.
- 1.3 A new access into the site will be formed off Druimchat View.
- 1.4 Pre Application Consultation: none
- 1.5 Supporting Information: design statement
- 1.6 Variations: none

## **2. SITE DESCRIPTION**

- 2.1 The site is located on the corner of Inchroy Drive and Druimchat Ave within Dingwall Business Park. There is existing landscaping alongside the public roads. The site itself is level in nature and is overgrown and unkept grassland. The site lies within Phase 2 of the Dingwall business park.
- 2.2 The sites immediately to the west and north are currently vacant.

## **3. PLANNING HISTORY**

- 3.1 19/04687/FUL Erection of office/workshop building (linked application on nearby site). This application is also on the agenda for this Committee Pending
- 3.2 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: 27/03/2020  
Representation deadline: 04/04/2020  
  
No representations received

## 5. CONSULTATIONS

5.1 **Transport Planning** have no objection subject to the access layout being shown on a scaled, dimensioned drawing; the visibility splay being shown on a drawing; the waste and recycling area being shown on a drawing; parking discrepancy in that 7 spaces are shown but it is stated that 9 are provided; no cycle parking is shown (but is required), and no drainage drawings are provided.

5.2 **Flood Risk Management Team** objects on the grounds of flood risk. The embankments around Dingwall Business Park are considered to be 'informal flood defences', and the structural condition and design standard of the informal flood defences are unknown and uncontrolled. As such, a level of risk to any proposed development behind or potentially benefitting from the informal flood defences cannot be ruled out. Informal flood defences should be considered within the context of the SPP risk framework as if the scheme did not exist

SEPA's flood mapping shows that Dingwall Business Park is informally protected on at least 3 sides from flooding of the River Peffery's flood plain by the informal flood defences. A recent Flood Study broadly agrees with SEPA's flood data, confirming that the business park lies almost entirely within the 1 in 200 year storm event flood extent.

The Business Park may be at a medium to high likelihood of flooding. This level of risk is unacceptable for this type of development under the SPP. . Whilst there are not concerns about significant flood risk to existing properties, the standard of protection does not meet the requirements for future development

The Flood Risk Management Team will maintain its objection until such time as an appropriate resolution is reached to ensure adequate flood protection of the business park in perpetuity.

Suitable drainage information is required for a development of this size.

5.3 **SEPA** object of the grounds of flooding. Until recently, it was thought that the flood bund constituted a formal flood prevention scheme. While not brought forward under flood risk legislation, it was built by the then Council (and another public body - Highlands and Islands Enterprise) for the specific purpose of flood protection. It has also recently emerged that the flood bund was sold to individual owners of plots so that the flood bund is now in multiple private ownership, and is no longer maintained as a flood bund and its structural integrity may already have been compromised.

As a result SEPA now consider the embankments bordering the business park to be an informal flood defence. Whether the bund is considered a formal flood scheme or not is very significant in relation to the acceptability of this development, and for the further development of the business park as a whole.

Any development located 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.

With regards to Scottish Planning Policy (SPP), any protection offered by informal flood defences would not be taken into account when considering development behind or benefitting from them. Such proposals would be considered within the context of the SPP risk framework as if the embankments did not exist. SEPA therefore consider that the business park is at medium to high risk of flooding from the River Peffery and 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 the 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 at least a 1 in 200 year standard of protection to the Business Park.

## **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 commercial storage and office unit is an appropriate 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, instability 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 which offer a degree of protection to existing property, these do not afford the required level of protection for future development. 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 proposal occupies a corner site, at the junction of Inchroy Drive and Druimchat View within the wider context of Dingwall Business Park. The plots to the west and to the north are as yet undeveloped. There is existing landscaping around the roadside boundaries.
- 8.22 The existing units on the Business Park are of assorted design and materials. This proposal is for a steel portal framed industrial unit, finished in dark grey profiled cladding with red doors and windows. This is not atypical of some of the existing units in the vicinity, and the design and materials can be supported.
- 8.23 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.
- 8.24 The unit will be well set back within the plot, providing space for additional landscaping to reinforce the existing roadside trees. A condition should be used to ensure that this is achieved, should the proposal be otherwise found capable of achieving support.
- 8.25 The new access off Druimchat View will terminate at the west plot boundary, and an indicative access is shown continuing from this location into the adjoining plot. It is appropriate that access to the adjoining plot is maintained to facilitate its development at some point in the future. This area is, however, also shown as the



turning head for this site, and requires to be within the application site boundary so that it can be ensured that it is provided as part of the development of this unit, and is thereafter available for the users of this unit.

- 8.26 Similarly, there is no provision for waste or recycling bins marked on the submitted plans. There is sufficient space for this to be provided. A condition can therefore be used to require these details to be submitted to and approved in writing by the Planning Authority should the development be otherwise found capable of support.
- 8.27 The plans show 7 car parking spaces along the building frontage. Transport Planning do not object to this proposal. However, cycle parking is not shown, but is required. A condition should be used to require the provision of covered cycle parking close to the building entrance, to help encourage the use of sustainable forms of transport including cycling.
- 8.28 No details of surface water drainage are shown. This should comply with the requirements of SuDS, and care should be taken to ensure that water does not run from the site onto the public road. Again, a condition can be used to require this to be provided.

#### **Referral to the Scottish Ministers**

- 8.29 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

#### **Other material considerations**

- 8.30 There are no other material considerations.

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

- 8.30 None

### **9. CONCLUSION**

- 9.1 The principle of development in itself is acceptable and compatible with other existing land uses. However the proposal fails to comply with SPP, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, in that it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments, these 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.
- 9.2 The Council in conjunction with HIE and SEPA are actively exploring options to try and resolve the matter however at this juncture there is no clear timetable for securing a resolution. Accordingly the Planning Service is not in a position to recommend the application for approval.

9.2 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.

## 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 No issued**

Notification to Scottish Ministers	No	<b>Unless minded to approve contrary to Officer recommendation</b>
------------------------------------	----	--

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:

### Reasons for Refusal

1. The proposal fails to comply with Scottish Planning Policy, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, in that 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, 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

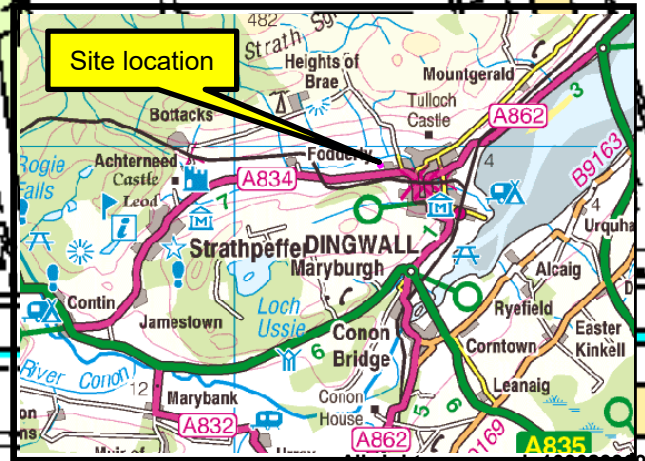
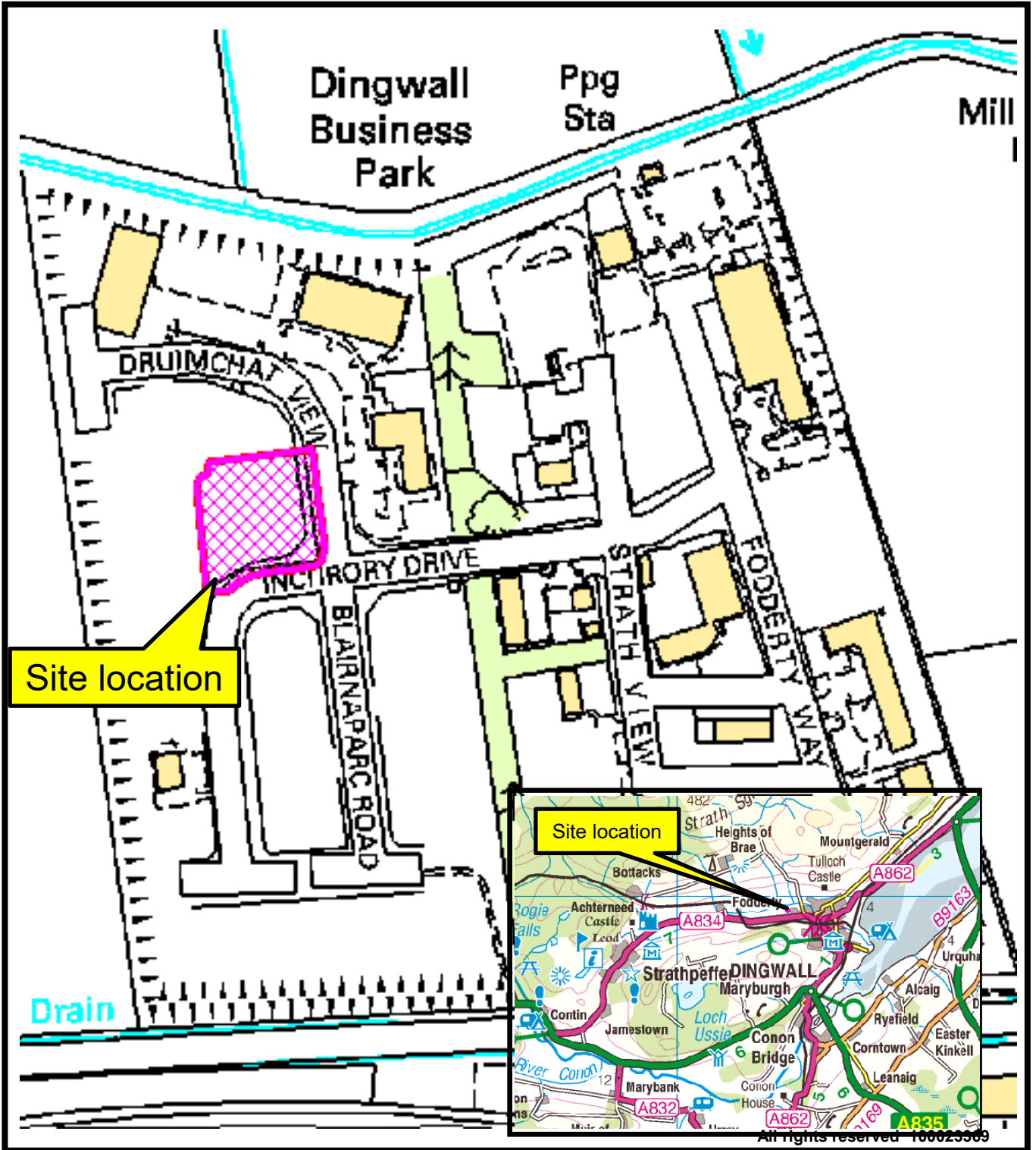
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - 2020-01-MRH-102 Location Plan

Plan 2 - 2020-01-MRH-101 Proposed Floor Plan

Plan 3 - 2020-01-MRH-100 Proposed Elevation Plan

Plan 4 - Flood Embankment Risk Assessment Report Dingwall  
Business Park

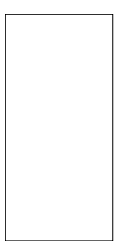


Development & Infrastructure Service

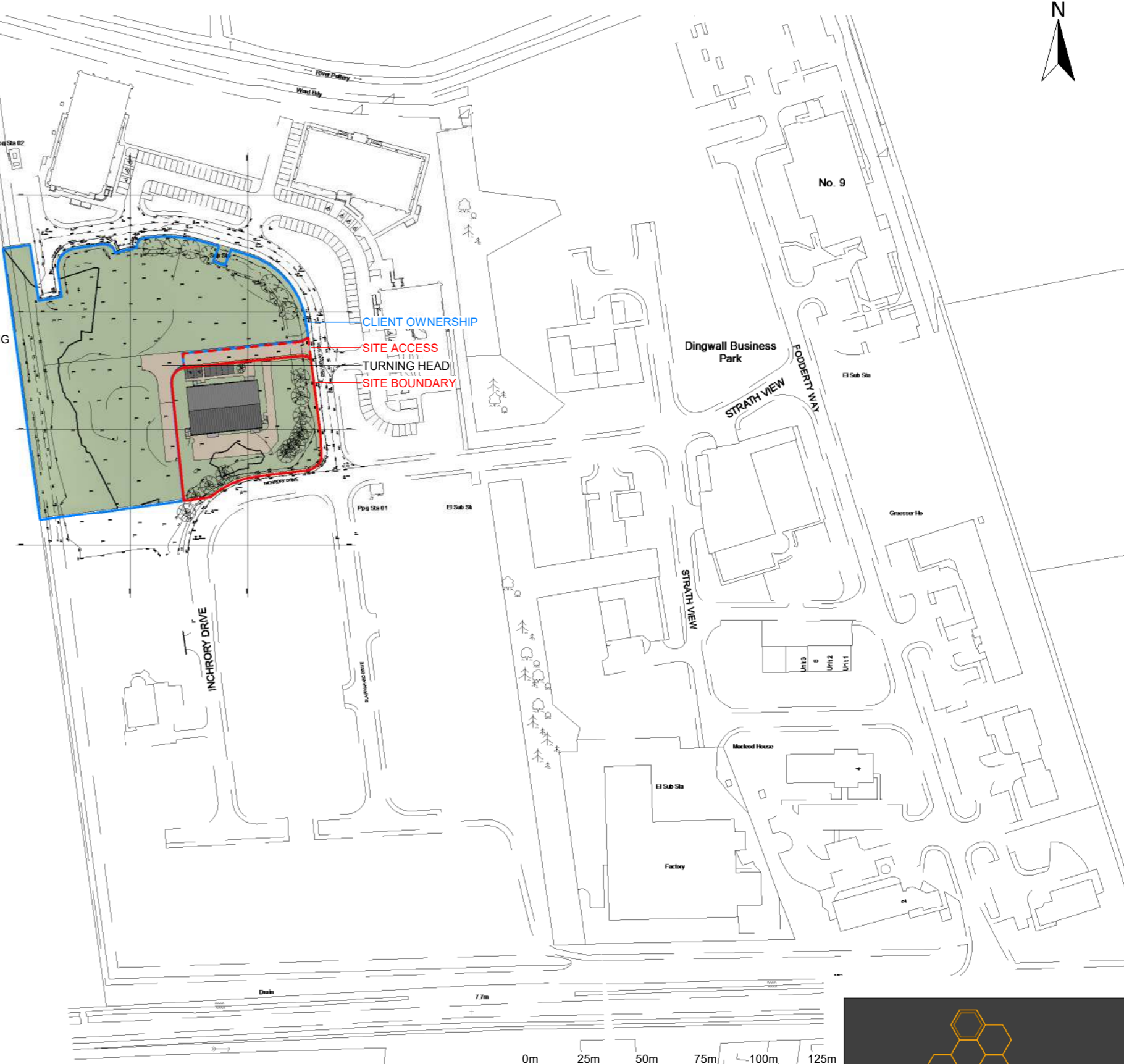
**20/1019/FUL**

Erection of commercial storage and office unit  
at Land 110M NE Of 3B Inchrory Drive  
Business Park, Dingwall

**January 2022**



PROPOSED - PLOT A, WEST OF DRUIMCHAT VIEW, DINGWALL



1 Location Plan  
1 : 2000

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2 Block Plan  
1 : 250

SITE AREA = 3086m<sup>2</sup>

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Westhill  
Inverness IV2 5TH

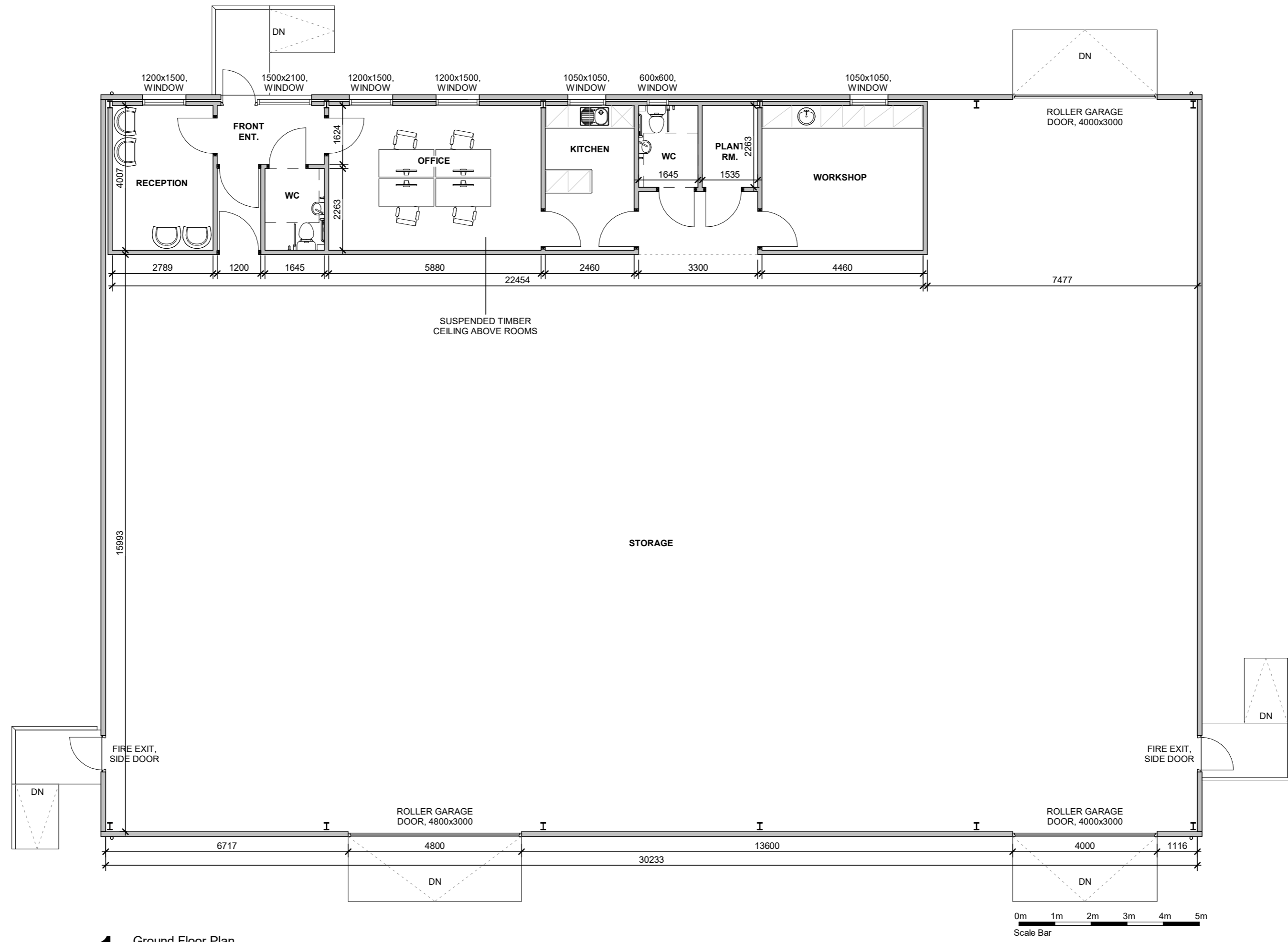
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Client	
<b>Mr F. Mackenzie</b>	
Project	
New Busiess Park Unit	
Address	
Plot A, West of 2 Drumchat View, Dingwall, IV15 9XL	
Scale	As indicated
Date	March 2020
Drawn by	KH
Project No.	2020-01
Drawing No.	2020-01-MRH-102
rev.	

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PROPOSED - PLOT A, WEST OF DRUIMCHAT VIEW, DINGWALL



**1** Ground Floor Plan  
1 : 100

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Client  
**Mr F. Mackenzie**

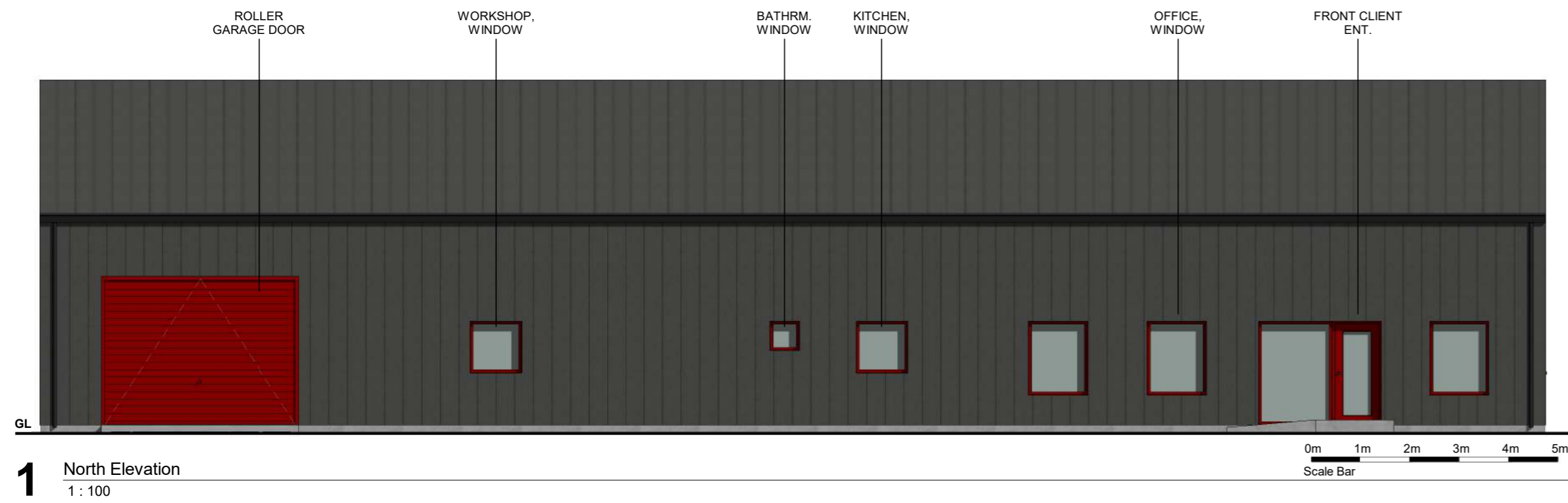
Project  
Industrial Unit

Address  
Plot A, West of 2 Drumchat View, Dingwall, IV15 9XL

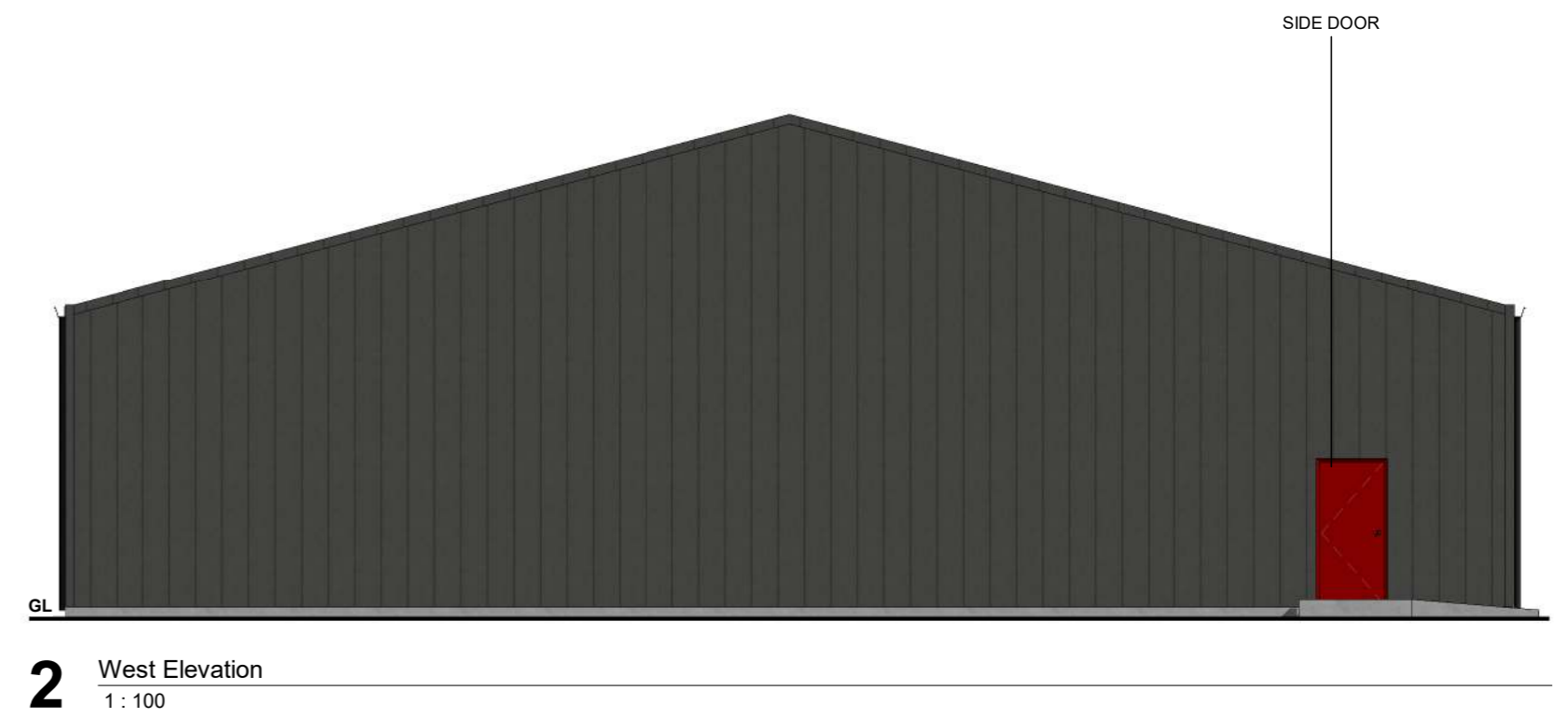
Scale 1 : 100 Project No. **2020-01**  
Date Jan 2020 Drawing No.  
Drawn by KH **2020-01-MRH-101**

rev. A2  
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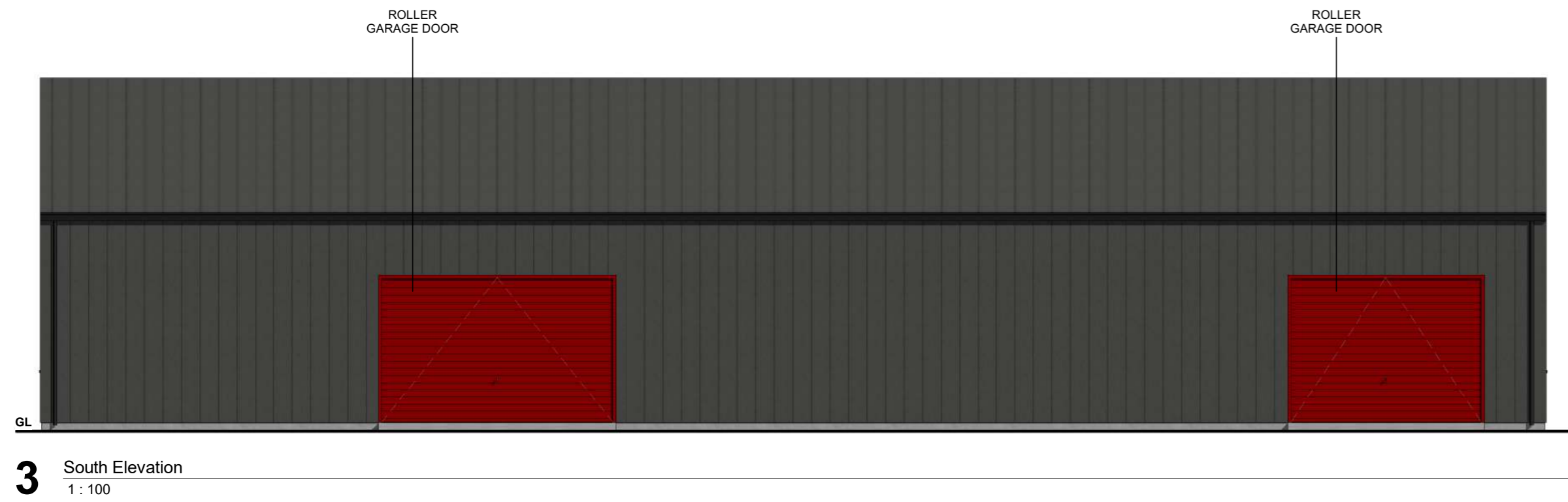
# PROPOSED - PLOT A, WEST OF DRUIMCHAT VIEW, DINGWALL



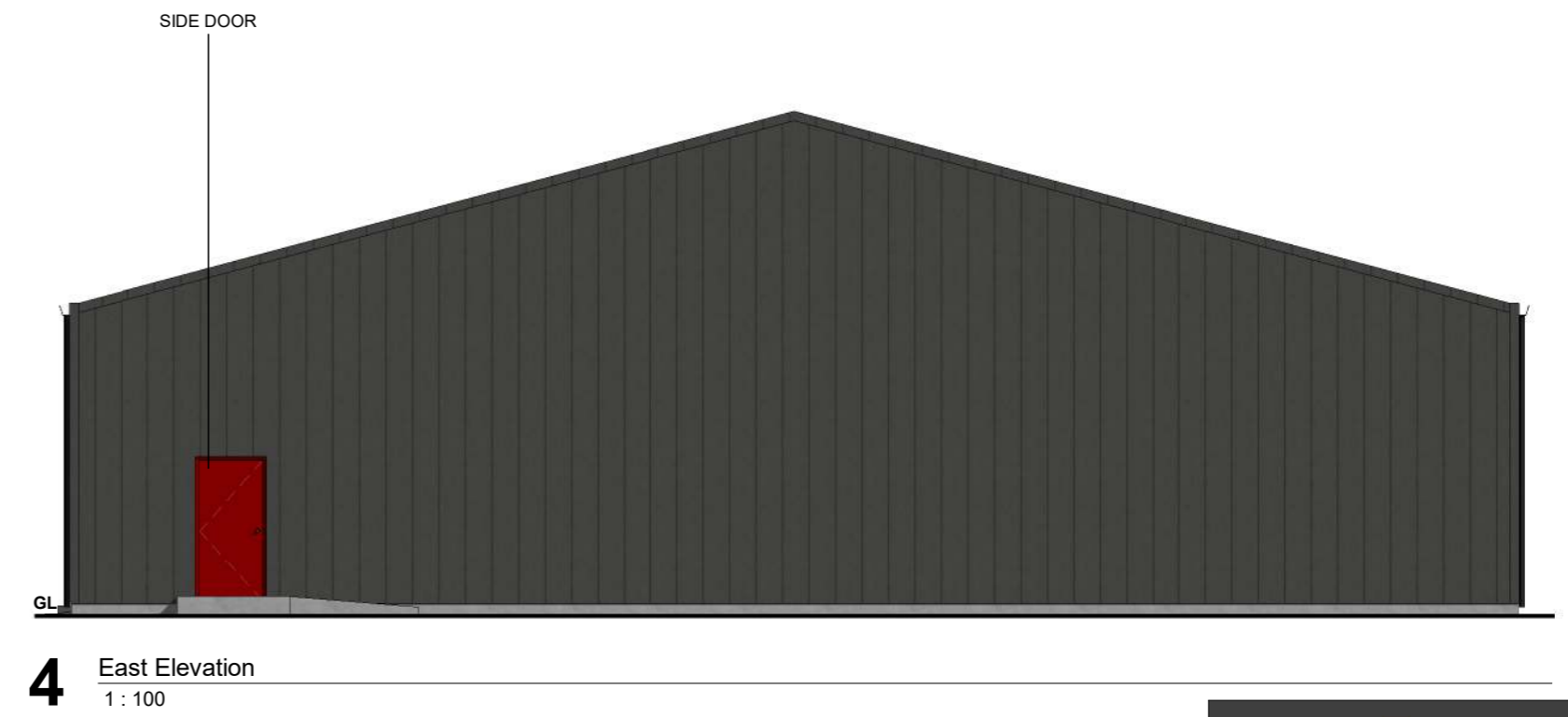
**1** North Elevation  
1 : 100



**2** West Elevation  
1 : 100



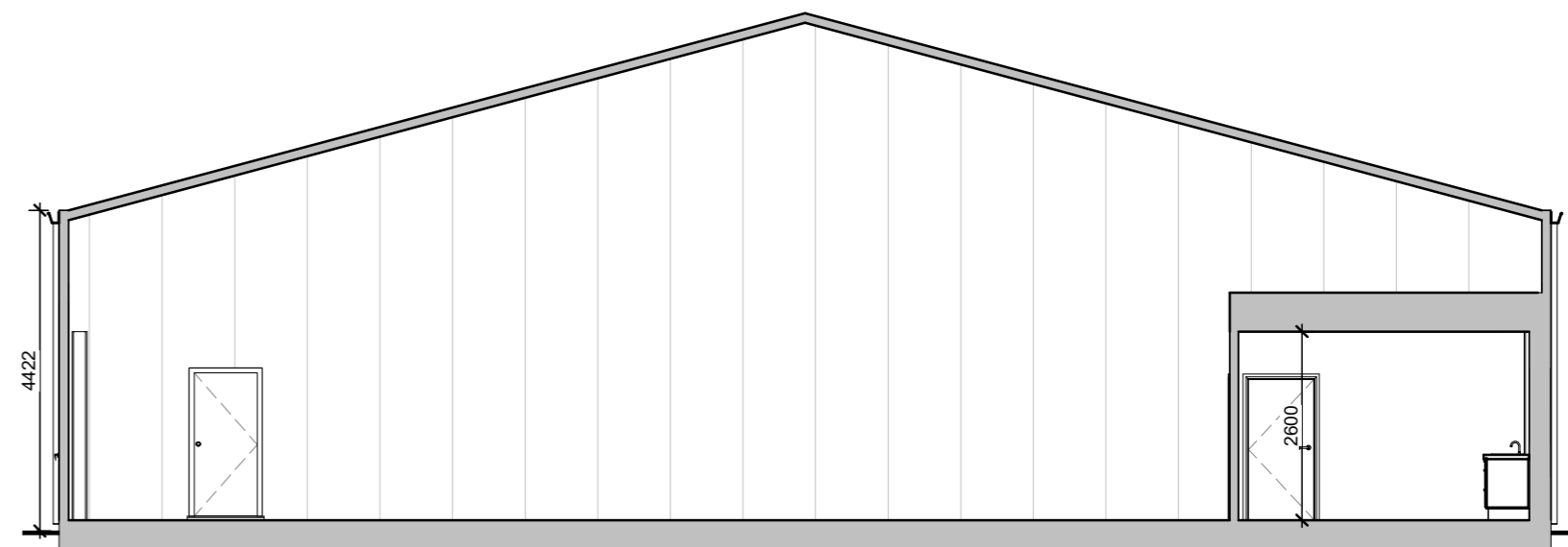
**3** South Elevation  
1 : 100



**4** East Elevation  
1 : 100



**5** 3D Artistic Impression



**6** East Section  
1 : 100

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**DO NOT SCALE, IF IN DOUBT PLEASE ASK**  
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Client	
<b>Mr F. Mackenzie</b>	
Project	
Industrial Unit	
Address	
Plot A, West of 2 Druimchat View, Dingwall, IV15 9XL	
Scale	1 : 100
Date	March 2020
Drawn by	KH
Project No.	2020-01
Drawing No.	2020-01-MRH-100
rev.	

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**20/01019/FUL**

**Land 110m NE of 3B Inchroy Drive, Business Park, Dingwall**

**Conditions and Reasons**

1. No other development shall commence until the site access has been constructed, with visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

**Reason:** To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

2. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref. 2020-01-MRH-102 shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

**Reason:** In order to ensure that the level of off-street parking is adequate. In the interests of road safety, and that the works involved comply with applicable standards.

3. No development shall commence until full details of a covered and secure communal bicycle storage system, close to the building entrance, for 4 bicycles has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the storage/racking system shall be installed in accordance with these approved details prior to the first occupation of the development hereby approved.

**Reason:** In order to facilitate the use of a variety of modes of transport.

4. All surface water drainage provision within the application site shall accord with the principles of Sustainable Urban Drainage Systems (SUDS) and shall be designed to the standards outlined in Sewers for Scotland Fourth Edition (or any superseding guidance prevailing at the time). There shall be no drainage to the local road network.

**Reason:** To ensure that surface water drainage complies with the principles of SUDS; in order to protect the water environment

5. No development shall commence until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

**Reason:** To ensure that suitable provision is made for the storage and collection of waste and recycling bins.

6. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition & Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved



or removed during the construction period without the prior written approval of the Planning Authority.

**Reason:** In order to ensure the protection of retained trees, which are important amenity assets, during construction.

7. Prior to the first occupation of the office and storage unit hereby approved, the access through the application site to the adjacent undeveloped plots shall be formed in accordance with the details shown on the approved plans and thereafter shall be maintained in perpetuity.

**Reason:** To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of adjacent land.

8. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
- iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason:** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

## **REASON FOR DECISION**

- The application site is within an existing Business Park and the proposed development is compatible with surrounding uses;
- Economic recovery and supporting creation of local jobs are the Council's focus moving forward out of the pandemic;
- Businesses have shown they want to invest in Dingwall and locate their businesses in the Business Park;
- The concerns of SEPA, also based in the Business Park, are understood.
- Despite the requirement for flood protection being the same across all uses, the development of the site as a commercial storage and office unit is within the least vulnerable use category as defined by SEPA when the impact of flooding is considered;

- While acknowledging that SEPA indicate that the existing bunding needs to be discounted, it was constructed to meet the guidance in place at the time the Business Park was developed and appears to have protected the existing units from flooding to date;
- The Council in conjunction with HIE and SEPA are actively exploring options to try and resolve the future improvement and maintenance of the bund surrounding the Business Park.

## **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**

### **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

### **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.

### **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.

### **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:

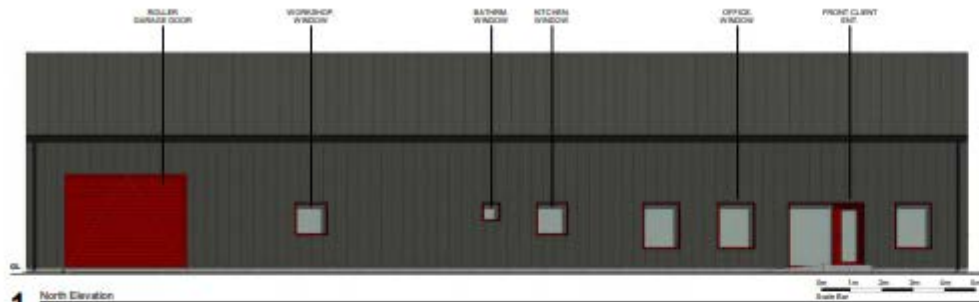
[http://www.highland.gov.uk/info/20005/roads\\_and\\_pavements/101/permits\\_for\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2)

### **Mud and Debris on Road**

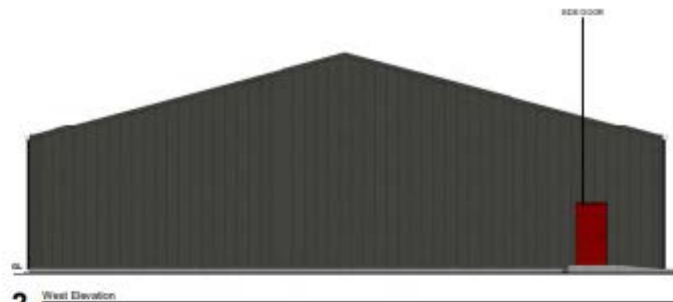
Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on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

### **Protected Species – Halting of Work**

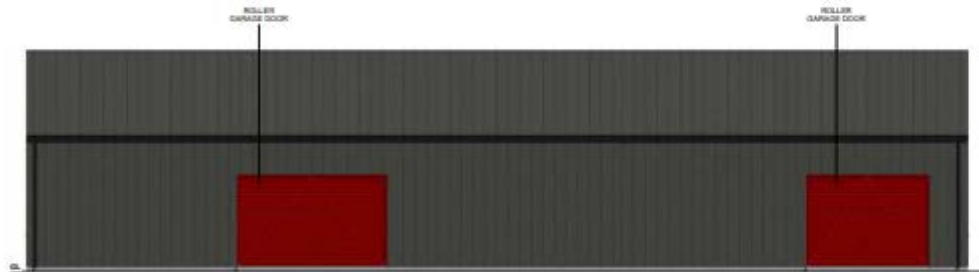
You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance 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](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)



1 North Elevation  
1:100



2 West Elevation  
1:100



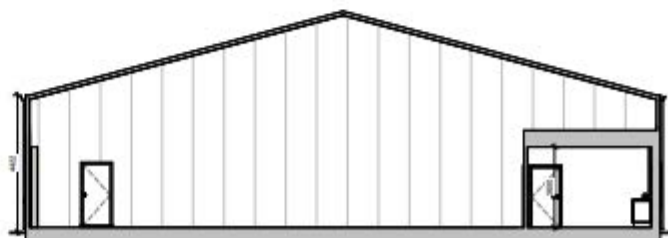
3 South Elevation  
1:100



4 East Elevation  
1:100



5 3D Artistic Impression



6 East Section  
1:100

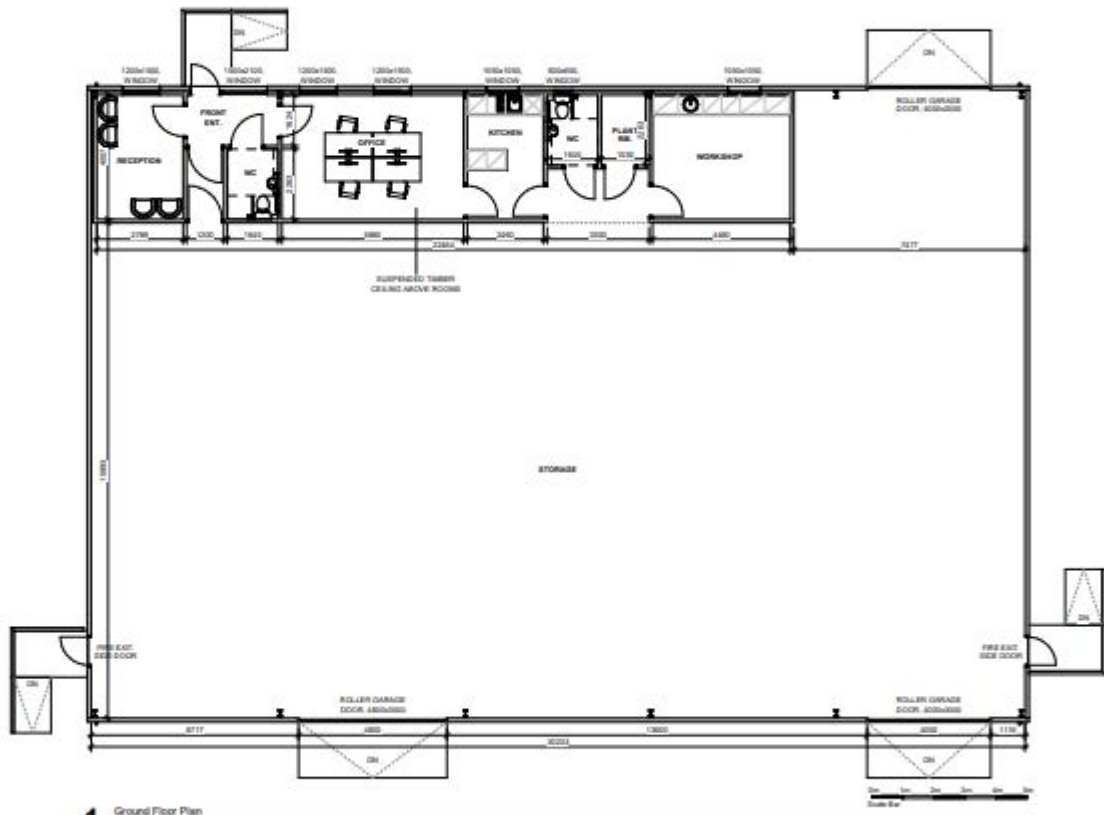
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Client:   
 Project:   
 Industrial Unit  
 Address:   
 Plot A, West of 2 Drumchal  
 View, Dingwall, IV15 9XL

Scale: 1:100      Project No: 2020-011  
 Date: March 2020      Drawing No:  
 Drawn by: KJA      2020-01 MRH 100

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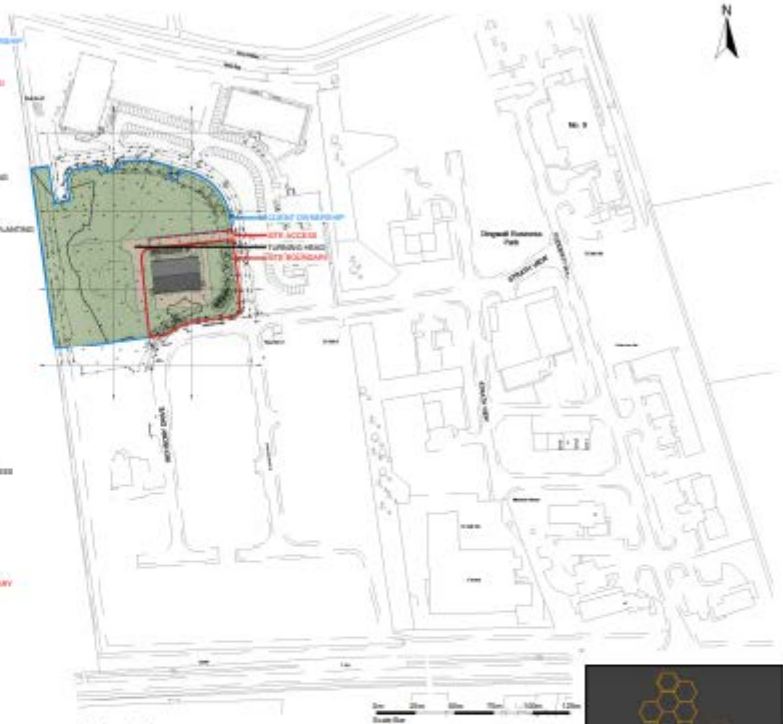


1 Ground Floor Plan  
1:100



**2** Block Plan  
1:250

SITE AREA = 380m<sup>2</sup>



**1** Location Plan  
1:2000

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Client:	<b>Mr F. Mackenzie</b>
Project:	<b>New Business Park Unit</b>
Address:	<b>Plot A, West of 2 Drumchat View, Dingswall, IV15 5JL</b>
Scale:	As indicated
Date:	March 2020
Client by:	020 01 MRH 192
Project No.:	2020-01
Drawing No.:	