

THE HIGHLAND COUNCIL

NORTH AREA PLANNING APPLICATIONS COMMITTEE
22 OCTOBER 2013

Agenda Item	6.7
Report No	PLN/097/13

13/02352/FUL: Wildlife Sealife & Countryside Trust
Land 40M North Of 19 Chanonry Point Ness Road Fortrose

Report by Area Planning Manager

SUMMARY

Description : Retention of research unit building and erection of weather surveillance pole

Recommendation - Grant

Ward: 10 - Black Isle

Development category: Local Development

Pre-determination hearing: Not required

Reason referred to Committee: Objections received from more than 5 separate addresses.

1. PROPOSED DEVELOPMENT

- 1.1 A further application for planning permission has been submitted for the retention of the building and the installation of a weather surveillance pole at Chanonry Point Fortrose. The application also seeks to regularise the external appearance of the building with respect to the number and size of the window openings.
- 1.2 Informal pre-application advice was offered regarding the procedures for submitting a further application.
- 1.3 A supporting statement has been submitted along with the application. The points covered can be summarised as follows:
 - As a result of the decision to grant the previous planning permission subject to a time limit of 5 years in 2008, the grant aid finance was withdrawn from the Wildlife Sealife & Countryside Trust. As a consequence the original proposal to purchase a pre-fabricated building, which could be assembled quickly and allow research to commence was not possible.
 - The building is now substantially complete, scientific work is being undertaken and will continue as laboratory equipment continues to arrive.

- Discussions continue with Scottish Water to secure a connection to the public water supply.

1.4 **Variations:** No variations to the application have been made.

2. SITE DESCRIPTION

2.1 The site and the building, which is of timber construction with a rolled profiled metal roof, are being maintained in a neat and tidy condition. A parking area for two vehicles has been formed immediately to the west side of the building. A set of timber access gates have been set into the post and wire fence across the access into the parking area.

3. PLANNING HISTORY

3.1 08/00336/FULRC - Erection of research building – Approved subject to conditions for a temporary period of 5 years – 15.01.2009

3.2 P/PPA/270/614- Planning Appeal against the conditions imposed on the grant of planning permission 08/00336/FULRC – appeal allowed in part.

3.3 The appeal related to three of the conditions imposed. The conditions were condition one which granted planning permission for a temporary period of 5 years, only; and conditions 9 and 11 which related to when construction work could be carried out and the operational hours for the research activities. The Reporter substituted a new condition 1 which maintained the 5 year time limit but allowed for the Council to grant an extension of time in writing following the submission of a further planning application within 6 months prior to the expiry of the permission. The remaining conditions appealed were retained.

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown Neighbour
Representation deadline : 06.09.2013

Timeous representations : six

Late representations : six

4.2 Material considerations raised are summarised as follows:

- Extension to time is not necessary as there is no evidence that research is being carried out.
- Water deliveries could impact on road safety at Chanonry Point.
- The building could detract from the amenity of the area.
- No details of the weather surveillance pole submitted.

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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **Access Officer:** No objections. Consultation response highlights the presence of the core path adjacent to the site and the need for the applicants to uphold the requirement for the public to be able to use the path, free of any obstructions.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28 Sustainable Design

Policy 36 Development in the Wider Countryside

Policy 57 Natural, Built & Cultural Heritage

6.2 Ross and Cromarty East Local Plan (as remains in force) 2007

- 6.1 Background Policies superseded by the Highland wide Local Development Plan.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Inner Moray Firth Local Development Plan

- 7.2 **Scottish Government Planning Policy and Guidance** paragraph 92-96 and 113-114. Rural Development and Listed Buildings.

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

Policy 28 (Sustainable Development) of the HwLDP aims to ensure that development is sustainable and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal state that proposals should be assessed on the extent to which they “are compatible with public service provision, impact on individual and community residential amenity” and “demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials.”

- 8.4 Policy 36 (Development in the Wider Countryside) of the HwLDP states that development will be assessed for the extent to which the proposal is acceptable in terms of siting and design, is sympathetic to existing patterns of development in the area, and is compatible with landscape character and capacity, and that it can be adequately serviced.
- 8.5 Policy 57 (Natural, built and Cultural Heritage) states that for nationally important features (namely Chanonry Lighthouse) “we will allow development that can be shown not to compromise the natural environment resource” and with respect to the Sutors of Cromarty, Rosemarkie and Fort George Special Landscape Area which is a feature of local/regional importance “ we will allow development if it can be satisfactorily demonstrated not to have an unacceptable impact”. There are no specific policies in the Inner Moray Firth Local Development Plan which affect this application.

8.6 **Material Considerations**

- 8.7 The principle of siting a building in this location for use as a marine environment research unit was accepted in 2008 through the determination of the original application. The Planning Committee granted permission for a period of five years, although the applicant had sought permission for a period of 10 years. Through the determination of the Appeal, which followed on from the grant of planning permission, the terms of the planning permission were varied. A new condition was imposed by the Reporter. This condition approved the development for five years but allowed for an extension of time to be granted if a further application was made to the Planning Authority. The reason specified by the Reporter for imposing the new condition was to reflect the temporary nature of the development applied for and to allow the Council to assess its impact on local amenity and road safety.
- 8.8 The current application has been lodged as a further application. The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 states that further applications relate to applications to renew permissions where development has not commenced or applications made under section 42 of the Act to develop land without compliance with previous conditions. The regulations require an application under s 42 to contain a statement that the application is made under that regulation. In this case the applicants have not specified that the application is being made under section 42 and as development has clearly commenced on the site it is not considered appropriate to assess the current application as a further application.
- 8.9 The assessment of the proposal therefore requires to consider the principle of development for which planning permission is sought. This is the retention of the building for research purposes connected with the marine environment. The applicants state that they chose this site for the development due to the large plankton bloom that is present on the east coast of Scotland and the ease of access to the sea from the location. They state that their research of the marine environment is an on-going all year round project. Over time the Trust hope to secure work with the university of the Highland and Islands. The extant planning permission and the presence of the building on site are material considerations in the determination of the application.

- 8.10 Policies 28 and 36 of the HwLDP provide general support for development that would not have a significant adverse effect on the area. Policy 57 refers more specifically to the impact of the development on the setting of Chanonry Lighthouse and also the impact on the locally important Special Landscape Area.
- 8.11 With respect to the siting and design of the building and the impact that it would have on the setting of Chanonry Lighthouse, a category A listed building, Chanonry Ferry House, a category C listed building, and the general landscape character of the area, these matters were assessed in the determination of the original application. The building has been constructed in accordance with the plans approved, other than the minor changes that have been made to the size and shape of the window openings. These changes do not detract from the overall appearance of the building. The building, as constructed is considered to be of an acceptable quality and design which does not impact significantly on the setting of the listed buildings or the landscape character of the area.
- 8.12 At the time of dealing with the previous application there was significant local concern about the potential impact of the proposals on traffic on Ness Road leading to Chanonry Point and on local residential amenity. It was due to these concerns that the permission was granted subject to a condition that limited the permission to 5 years. The appeal lodged against the previous planning permission sought to extend the period of consent to ten years in accordance with the application as lodged. The appeal was sustained in part. The Reporter substituted a new condition which maintained the 5 year time limit but allowed for the Council to grant an extension of time in writing following the submission of a further planning application within 6 months prior to the expiry of the permission. (The remaining conditions appealed were retained). The Reporter considered that the 5 year time limit was merited to allow the planning service to assess the material issues of impact of the development on traffic on Ness Road and on residential amenity. He considered that the original condition to be unreasonable as it did not allow for an extension of time. In essence this application allows for a review of this position to consider granting planning permission for the development.
- 8.13 Since the granting of permission in 2009 the Planning Service has received no complaints about the impact upon traffic on Ness Road or residential amenity and none of the representations received in relation to the current application raise concerns about these issues. Use of the path at the side of the site which provides public access to Rosemarkie beach has not been affected by the development.
- 8.14 The main objection to the current application is the alleged lack of research that is being carried out. This is a matter of speculation on the part of the objectors, which include Fortrose and Rosemarkie Community Council. The application has attracted several letters of support which provide information about the laboratory equipment inside the building. The presence of laboratory equipment has been verified by a site visit by the planning case officer. The applicants' supporting statement refers to the time delay incurred due to the withdrawal of grant finance and the impact this had on delivering the building swiftly after the initial planning permission was secured.

8.15 It is considered that there are no servicing issues with the development. The foul drainage system formed part of the application for a building warrant and has also received consent from SEPA. The applicants' are in discussion with Scottish Water to secure a connection to the public system. The current arrangements for bringing water to the site with the use of a 45 gallon bowser is considered acceptable and has not lead to any complaints from local residents or the public using the path which provides access to the building and over which there is also a public right of access.

8.16 It is considered that the principle of retaining the building for use as a research laboratory for the marine environment and the provision of a weather surveillance pole are compatible with the aims and objectives of the HwLDP. There is no justification to withhold granting planning permission as the issues which justified limiting the original 5 year consent, that is the potential impact on traffic on Ness Road and residential amenity, have not given rise to problems.

8.17 **Other Considerations – not material**

Concerns have been raised by those who lodged objections to the application that in due course the building will be occupied as a residential unit. Such comments are speculation. There is no evidence to substantiate this. The determination of the planning application must be based on the relevant facts. There is no evidence to suggest that the building is being used for any purpose other than that specified. Changing the use of the building would require the submission of a planning application which would have to be assessed and determined by the Council.

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

None

9. CONCLUSION

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

10. RECOMMENDATION

Action required before decision issued N

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

1. Prior to work commencing on the construction of the weather surveillance pole details of its height and external appearance shall be submitted for the consideration and written approval of the Planning Authority. Thereafter the development shall be carried out in accordance with the details agreed.

Reason : The details of the pole were not submitted as part of the application for planning permission and therefore require further assessment in the interests of visual amenity.

2. The land and building to which this permission relates shall be used for scientific research (and ancillary purposes) as described in paragraph one of the supporting document dated 30 May 2013 which accompanied the application. It shall be used for no other use, including any other purpose under Class 4: Business of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) and the General Permitted Development Order 1992 (as amended).

Reason: To accord with the use applied for, and in order to allow the Council as Planning Authority to control any subsequent change of use which might otherwise be permissible in order to protect the amenities of the area.

3. The research unit hereby approved shall not be occupied, and no research activities carried out therein, outwith the hours of 7.00am to 10pm inclusive, unless otherwise agreed in writing by the Planning Authority

Reason: To ensure amenity of adjacent residents is not diminished by the presence of the research unit.

REASON FOR DECISION

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

TIME LIMITS DIRECTION

Not required as development has commenced.

FOOTNOTE TO APPLICANT

Completion Notice

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit a notice to the Planning Authority upon completion of development. This is 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. 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.

A copy of the notice referred to is attached to this decision notice for your convenience.

Accordance with Approved Plans & 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 (p.198), 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.

Signature: Dafydd Jones
Designation: Area Planning Manager North
Author: Erica McArthur
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 –Location Plan
Plan 2 –Block Plan
Plan 3 –Elevations

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Fortrose and Rosemarkie Community Council,	Black Isle Service Point, Deans Road, Fortrose IV10 8TJ	04/09/2013	Against
Mr And Mrs David And Mary Galloway	17 Ness Road, Fortrose, IV10 8SD	27/08/2013	Against
Miss Aileen Fraser,	20 Ness Road, Fortrose, IV10 8SD,	31/08/2013	Against
Mr Michael Phillips	35 High Street, Rosemarkie, IV10 8UF	22/08/2013	Against
Sheena Skinner	The Bothan, Arabella, Tain, IV19 1QH	28/08/2013	Against
Barbara And Brian Jones	8 Wester Greengate, Fortrose, IV10 8RX	28/08/2013	Against
Mr Joseph Gibbs	113 King Street, Inverness, IV3 5HJ	13/09/2013	For
Mr David Jenkins,	23 MacEwen Court, Inverness, IV2-3LQ	13/09/2013	For
Mr David Brown	39b Otago Street, Kelvinbridge, Glasgow, G128JJ	13/09/2013	For
Mr Findlay Cook,	25a Greig Street, Inverness, IV3-5PX	13/09/2013	For
Ms Brenda Steele	16 Station Crescent, Fortrose, IV10 8SZ	13/09/2013	For
Mr Chris McDonald	Flat 2, Old School, Drumsmittal, North Kessock, IV13XF	07/09/2013	For



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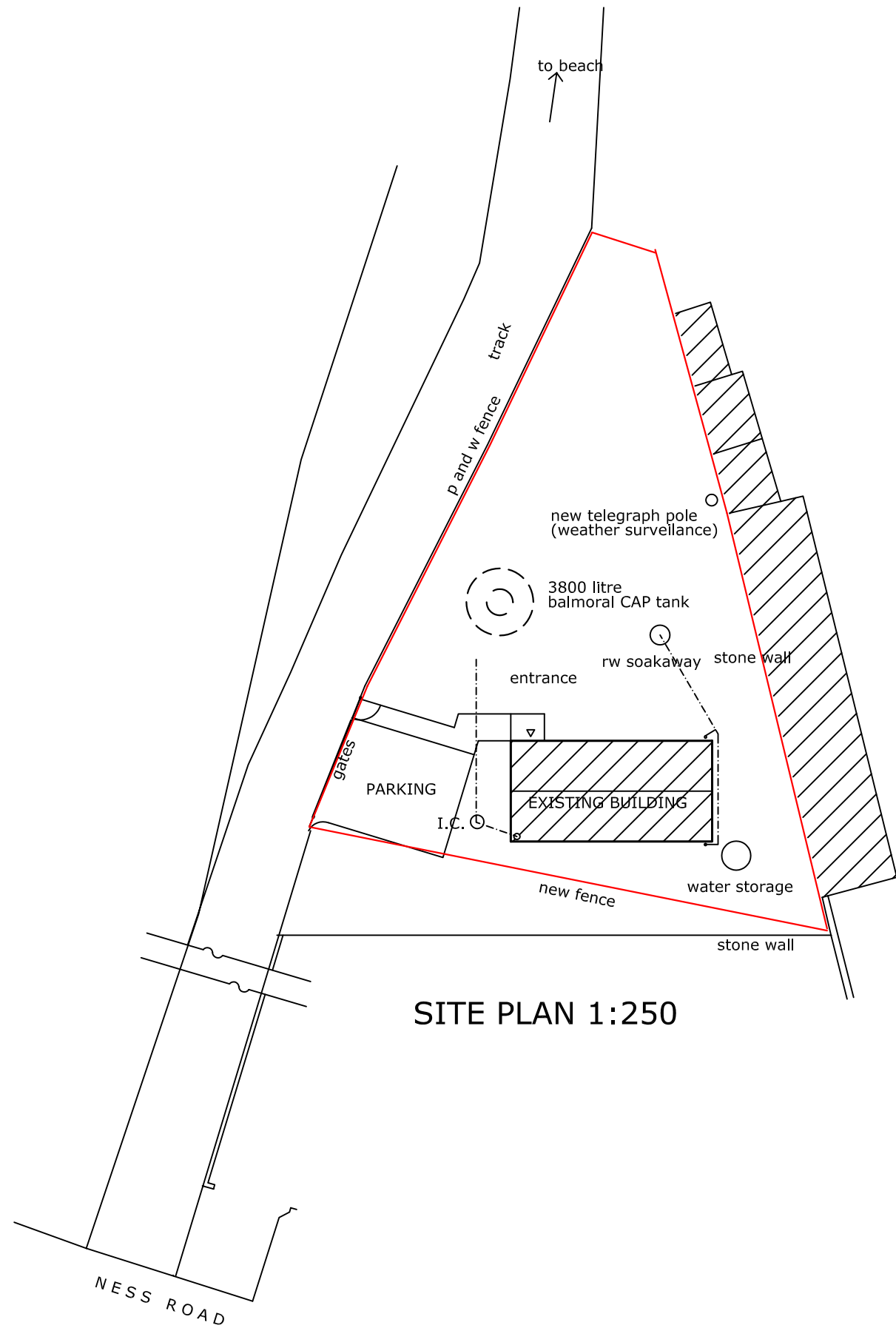


The Highland Council
Comhairle na Gàidhealtachd

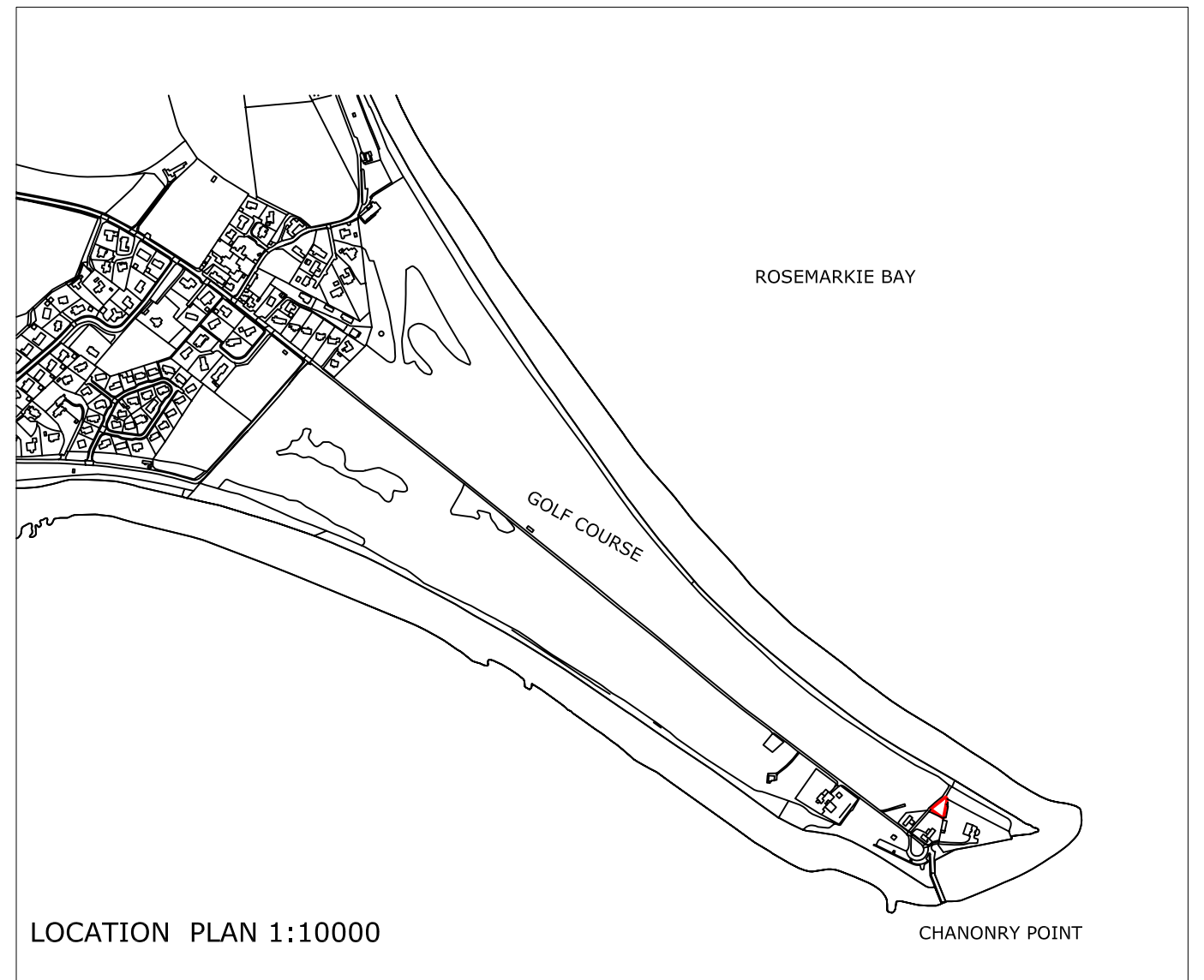
Planning & Development Service

Plan 1
13/02352/FUL
Retention of research unit building and weather surveillance pole
22 October 2013





SITE PLAN 1:250

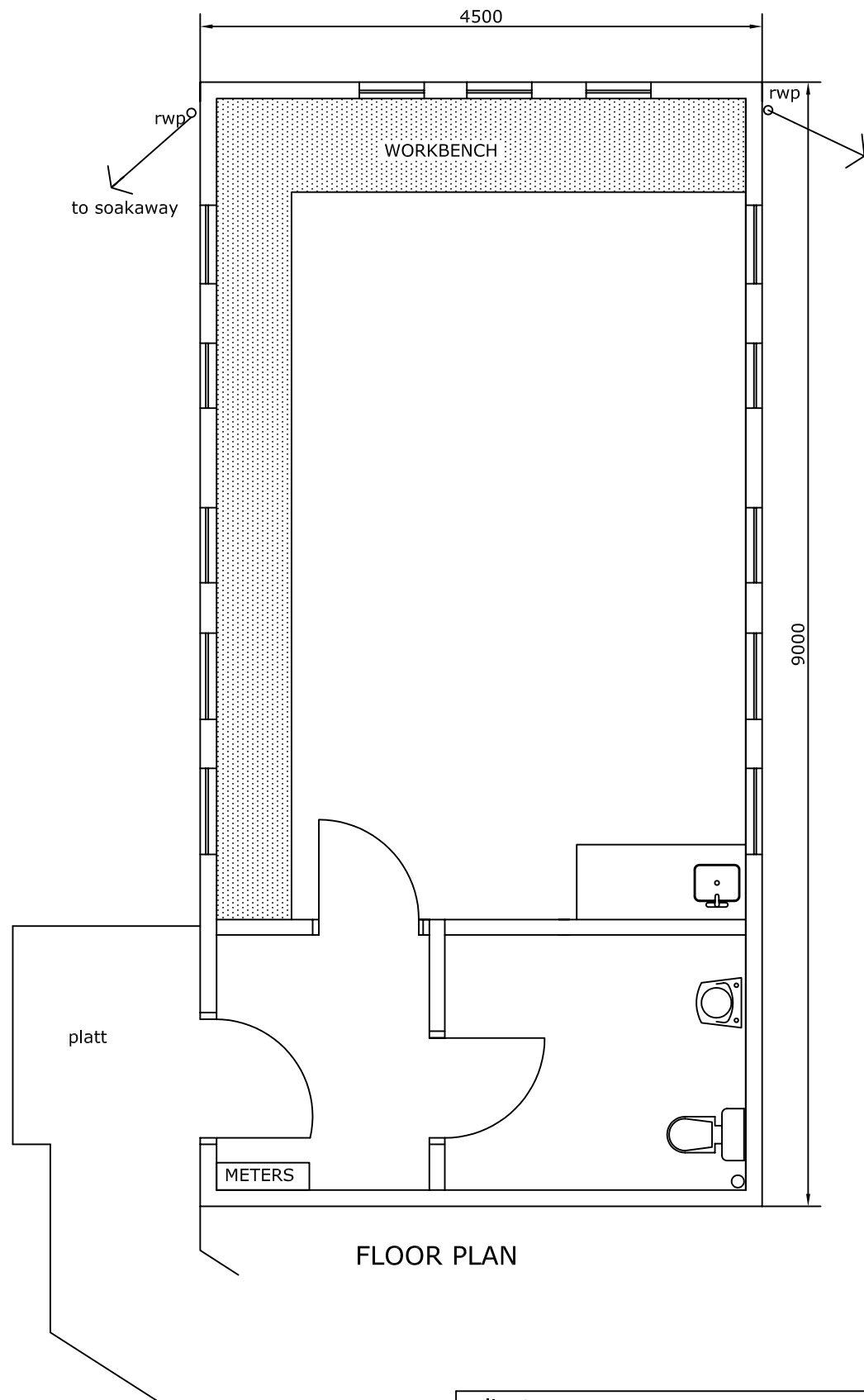


LOCATION PLAN 1:10000

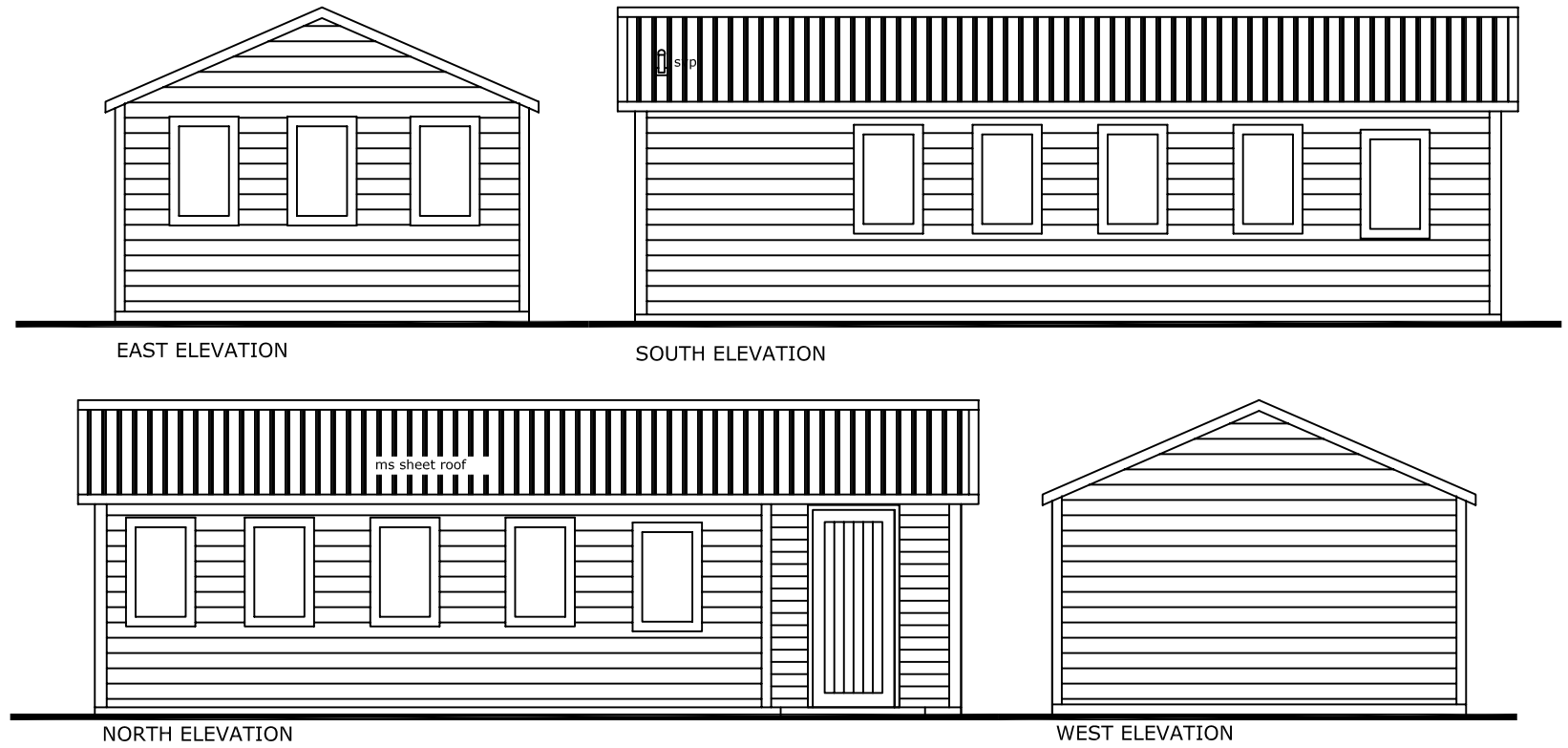


LOCATION PLAN 1:2500

client WILDLIFE SEALIFE COUNTRYSIDE (TRUST) RESEARCH UNIT	drawing SITE PLANS	drawn AJB	A.J. BLACK MCIAT CHARTERED ARCHITECTURAL TECHNOLOGIST AND BUILDING DESIGN CONSULTANT 51 CHARLES STREET INVERNESS IV2 3AH Tel 01463 224026 e-mail : blacksonthehill@aol.com
project CHANONRY POINT FORTROSE	drawing no. 01	date JUNE 13	
	revision	scale 1:250	



FLOOR PLAN

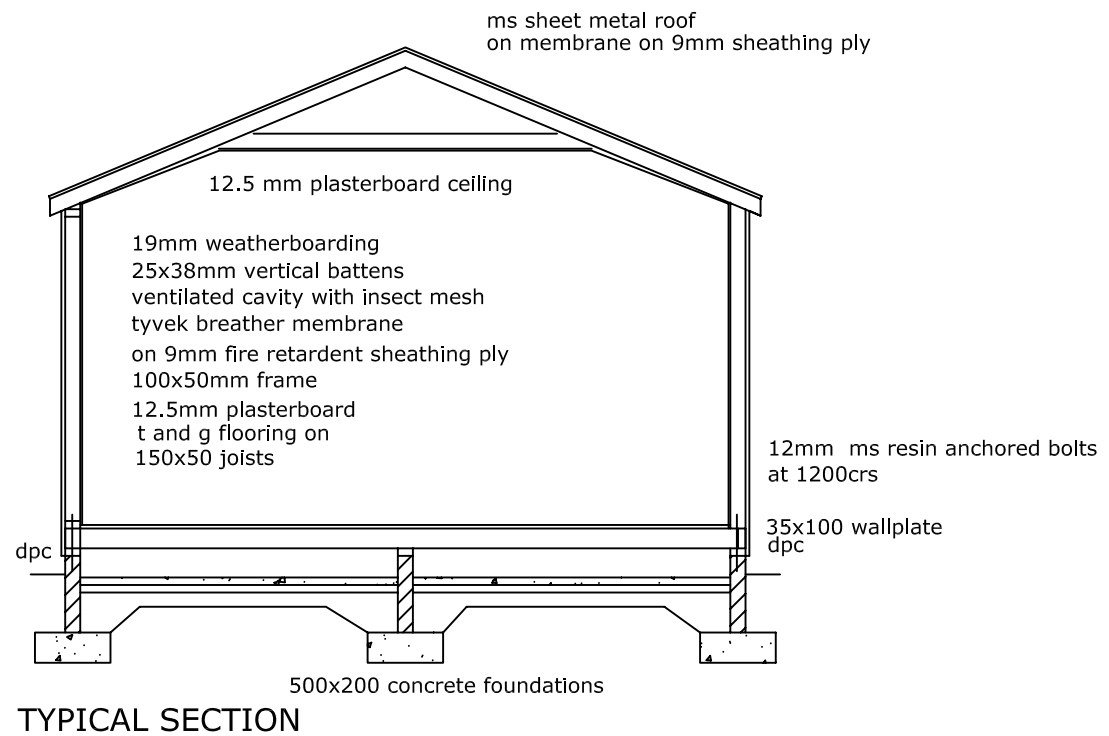


EAST ELEVATION

SOUTH ELEVATION

NORTH ELEVATION

WEST ELEVATION



TYPICAL SECTION

client	WILDLIFE SEALIFE COUNTRYSIDE (TRUST) RESEARCH UNIT	drawing	PLAN SECTION ELEVATIONS AS BUILT	drawn	AJB	A.J. BLACK MCIAT CHARTERED ARCHITECTURAL TECHNOLOGIST AND BUILDING DESIGN CONSULTANT 51 CHARLES STREET INVERNESS IV2 3AH Tel 01463 224026 e-mail : blacksonthehill@aol.com
project	CHANONRY POINT FORTROSE	drawing no.	02	date	JUNE 13	
		revision		scale	1:50 1:75	