

**THE HIGHLAND COUNCIL**

**PLANNING APPLICATIONS COMMITTEE – 18 February 2014**

Agenda Item	6.7
Report No	PLN/016/14

**13/04276/FUL : The Tartan Company  
Dunvegan Shop, Dunvegan, Isle Of Skye IV55 8WA**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Change of use of shop/newsagent to cafe/shop/tearoom. Plus hot food takeaway and alcoholic drinks.

**Recommendation - GRANT**

**Ward :** 11 - Eilean A' Cheò

**Development category :** Local Development

**Pre-determination hearing :** n/a

**Reason referred to Committee :** 5 objection comments received from 5 separate addresses.

**1. PROPOSED DEVELOPMENT**

- 1.1 This application seeks full planning permission for the change of a currently unused shop/newsagents (Use Class 1) to a mixed use of retail and licensed café/tearoom (Use Classes 1 and 3). The application also states that some hot-food takeaway provision will be offered also. However, the floor plan submitted with the application indicates that the overall floor area given over to food preparation and service is very small (about 10% of a gross floor area of just under 60m<sup>2</sup>). Consequently, this element of the proposal is considered to be ancillary to the Class 3 café use.  
No external alterations are proposed.
- 1.2 Informal pre-application advice was provided in October 2013 and was supportive of the re-introduction of a retail use into the village centre.
- 1.3 The existing drainage infrastructure is considered adequate for the new uses.
- 1.4 A brief supporting statement was submitted with the application describing the proposed use.
  - Provision for 12 covers
  - Existing toilet meets requirements
  - Opening hours of 10:00 – 20:00 six or seven days a week in summer, less in

winter.

1.5 **Variations:** None

## 2. **SITE DESCRIPTION**

2.1 The building is an old stone building of traditional one and a half storey design with two dormer windows above three ground floor windows and two door openings. The building has the appearance of a shop and previously functioned as a general store for many years.

2.2 It is set back a little from the road resulting in a widened tarmaced pavement area between it and the curb.

## 3. **PLANNING HISTORY**

3.1 05/00139/FULSL - Alteration to Flat & Reconstruction of Store – Approved 08.05.05

## 4. **PUBLIC PARTICIPATION**

4.1 Advertised : Unknown neighbour  
Representation deadline : 20.12.2013

Timeous representations : 5 from 5 households

Late representations : 1 response to the above from the applicant

4.2 Material considerations raised are summarised as follows:

- The new use will increase the demand for parking on the street making existing congestion worse
- There were on-street parking problems associated with the former shop use

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](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. **CONSULTATIONS**

5.1 **TECS: Environmental Health** : No objection – recommend use of conditions

5.2 **TECS: Roads** : No objection

5.3 **Building Standards** : No comment received

## 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 29            Design Quality and Place-Making

Policy 34 Settlement Development Areas

Policy 40 Retail Development

## 6.2 **West Highland and Islands Local Plan**

Policy 2 In respect of land allocations

## 7. **OTHER MATERIAL CONSIDERATIONS**

### 7.1 **Draft Development Plan**

N/a

### 7.2 **Highland Council Supplementary Planning Policy Guidance**

N/a

### 7.3 **Scottish Government Planning Policy and Guidance**

SPP

## 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**

The property falls within the Settlement Development Area for Dunvegan, Kilmuir and Lonemore and so Policy 34 of the Highland-wide Local Development Plan applies. Policy 34 supports development proposals within Settlement Development Areas if they meet the Design for Sustainability requirements of Policy 28. There is also a requirement to judge proposals in terms of how compatible they are with the existing pattern of development and landscape character and how they conform with existing and approved adjacent land uses. Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern.

Policy 40 states that within identified city/town/village centres proposals will be considered favourably if they maintain or enhance the quality of existing centres and take account of Policies 28 and 29. Within that policy framework new development should seek to consolidate traditional high streets, respecting visual impact and built form, and any settlement statement and supplementary guidance relating to that settlement.

For the reasons laid out below, the proposal is considered to comply with these policy requirements and to be acceptable in principle.

### 8.4 **Material Considerations**

Parking and Road Safety – In their consultation response TECS-Roads have carefully calculated, using the Council's adopted standards, the theoretical parking requirements of the previous use of the building and also those generated by the proposed use.

These calculations suggest the previous use generated a theoretical requirement for 4 parking spaces.

The proposed use is calculated to require some 10 parking spaces – although TECS have suggested reducing this to 8 to take account of the shared floor space between the uses.

The case officer comes to a similar conclusion - taking the mixed use nature of the proposal into account to suggest a 50:50 mix of these two calculations - half of 4 plus half of 10 = 2 + 5 = 7.

Depending which methodology is applied, it can be concluded that the proposed use generates the demand for a further 3 or 4 parking spaces beyond that generated historically by the previous general store use. None of this proposed or previous parking need could be accommodated within the site.

However, TECS-Roads also point out that the Community Council had previously indicated that they did not wish to see parking restrictions along this part of the village and infer from this that there is a general acceptance of on-street parking. Double yellow lines were laid down in the past but then removed. Consequently, TECS have no objection to the proposal.

Although some of the objections suggest that congestion due to on-street parking does occur sometimes (presumably during peak summer periods), there is no suggestion that this stretch of the main road through the village has become an accident black-spot with serious road safety implications.

It is considered that the addition of the further demand for 3 or 4 vehicle parking spaces at peak times is unlikely to make a material difference to the existing situation. Adequate public parking does exist in the village and at least some of this extra demand could be accommodated by it.

It is concluded that the parking issue will not create any demonstrable harm (in terms of road safety) sufficient enough to justify a refusal of this application.

Design, Appearance and Street-scene Impact – the return of the building to an active commercial use will not involve any material alteration to its external appearance.

Neighbour amenity – notwithstanding the parking issue addressed above the proposed use is not considered likely to result in any harmful loss of neighbour amenity.

The one aspect of the application which does need to be addressed in this regard is that of cooking smells from food preparation. Although only about 10% of the floor area is set aside for the food preparation/serving area and so the amount of 'cooking' can be assumed to be minimal, TECS-Environmental Health have requested further information about the ventilation and extraction systems to be used. These details can be covered by a pre-commencement condition.

Furthermore, a condition is recommended which defines the 'mixed-use' Class 1

and Class 3 nature of this proposal – effectively limiting the degree to which the Class 3 use could be expanded at the expense of the Class 1.

#### 8.5 **Other Considerations – not material**

Several of the objection letters raise the issue of over-provision of Class 3 uses within Dunvegan and state this as a reason for objection. Government planning guidance makes it clear that the issue of competition between similar commercial concerns is not a material consideration in the determination of planning applications.

#### 8.6 **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 **Granted** subject to the following conditions and reasons:

1. The use hereby approved shall not commence until full details of all external ducting and other elements of the proposed ventilation system have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with these approved details.

Reason : In order to safeguard the amenity of neighbouring properties

2. The premises shall not be used other than as a mixed-use of Class 1 (retail) and Class 3 (café/tearoom) with a layout and proportional mix of the uses as shown on the floor plan drawing submitted with this application and hereby approved.

**Reason** : To restrict the permission to the mix of uses applied for in the interests of neighbour amenity and road safety

### **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**

### **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 & 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

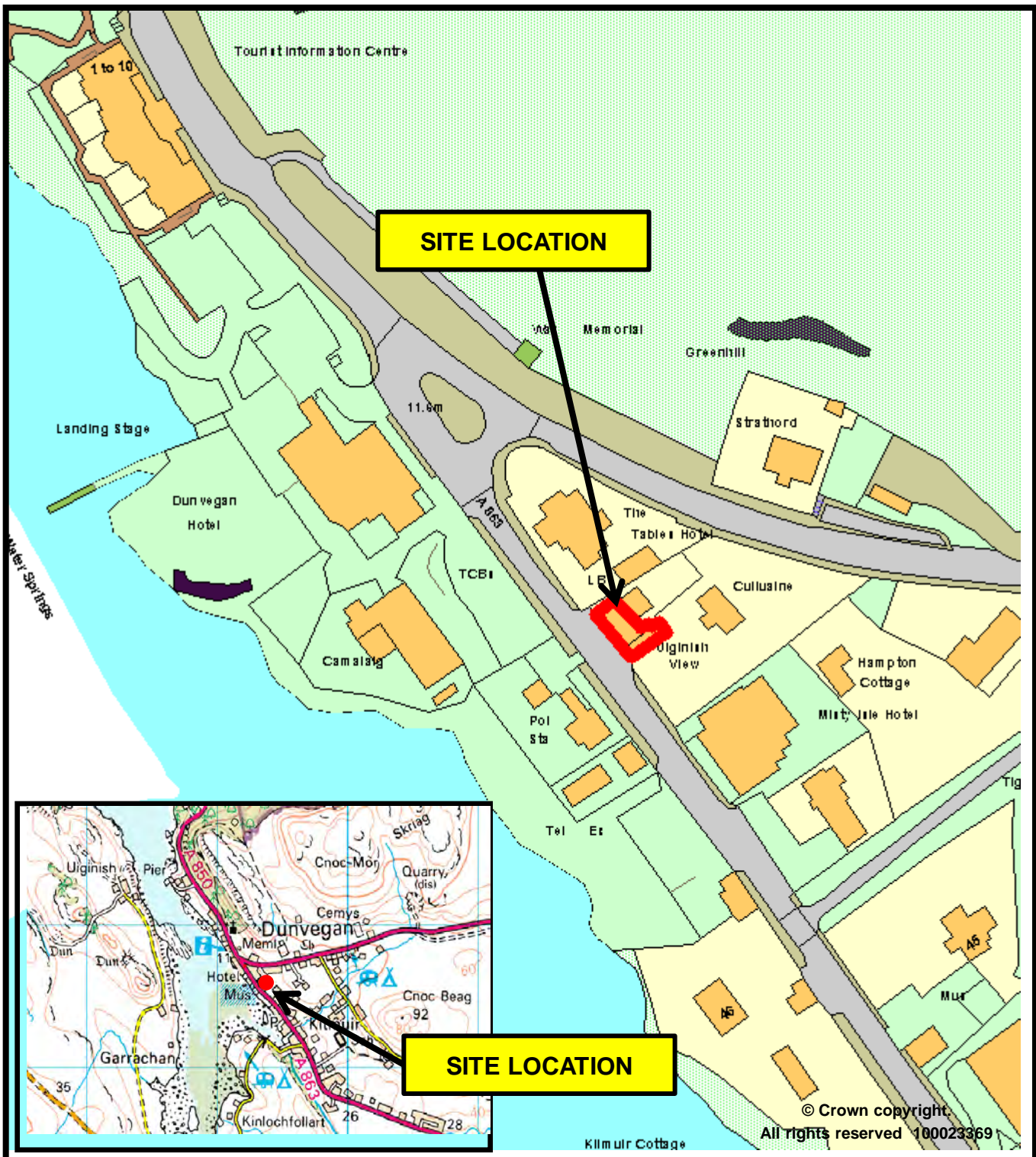
Signature:

Designation: Area Planning Manager North  
Author: Mark Harvey  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Floor Plan

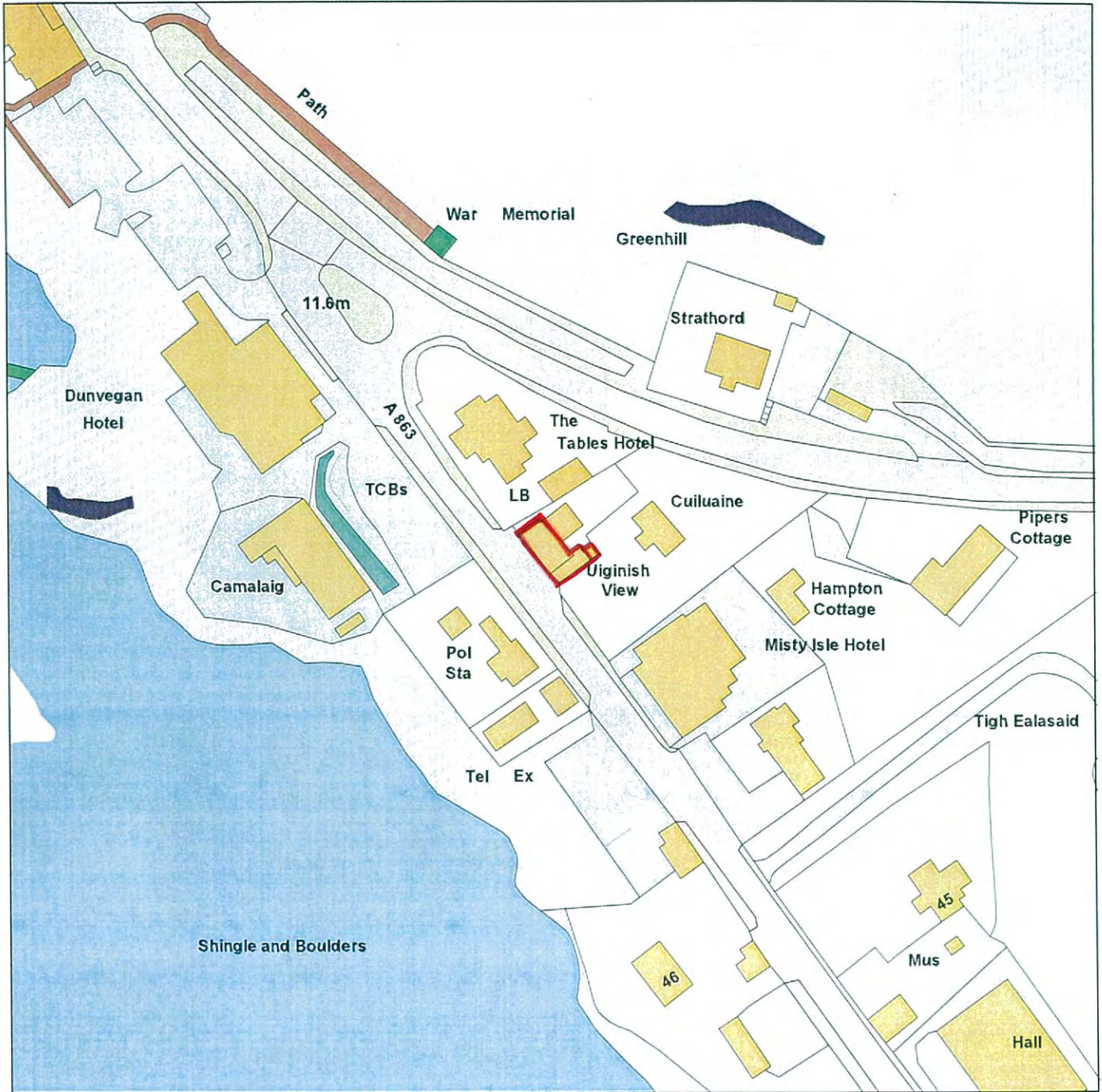
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Ian C Henderson	The Tables Guest House, Main Street, Dunvegan	06.12.2013	Against
Dr. P.R. Lyon	'Camalaig', Dunvegan, IV55 8WA	10.12.2013	Against
Mrs Janice McLellan	27 Kilmuir, Dunvegan	12.12.2013	Against
Miss Alison Raisbeck	Dunvegan Hotel, Main Street, Dunvegan	17.12.2013	Against
Mr John Mackenzie	The Old School Restaurant, Isle of Skye	19.12.2013	Against

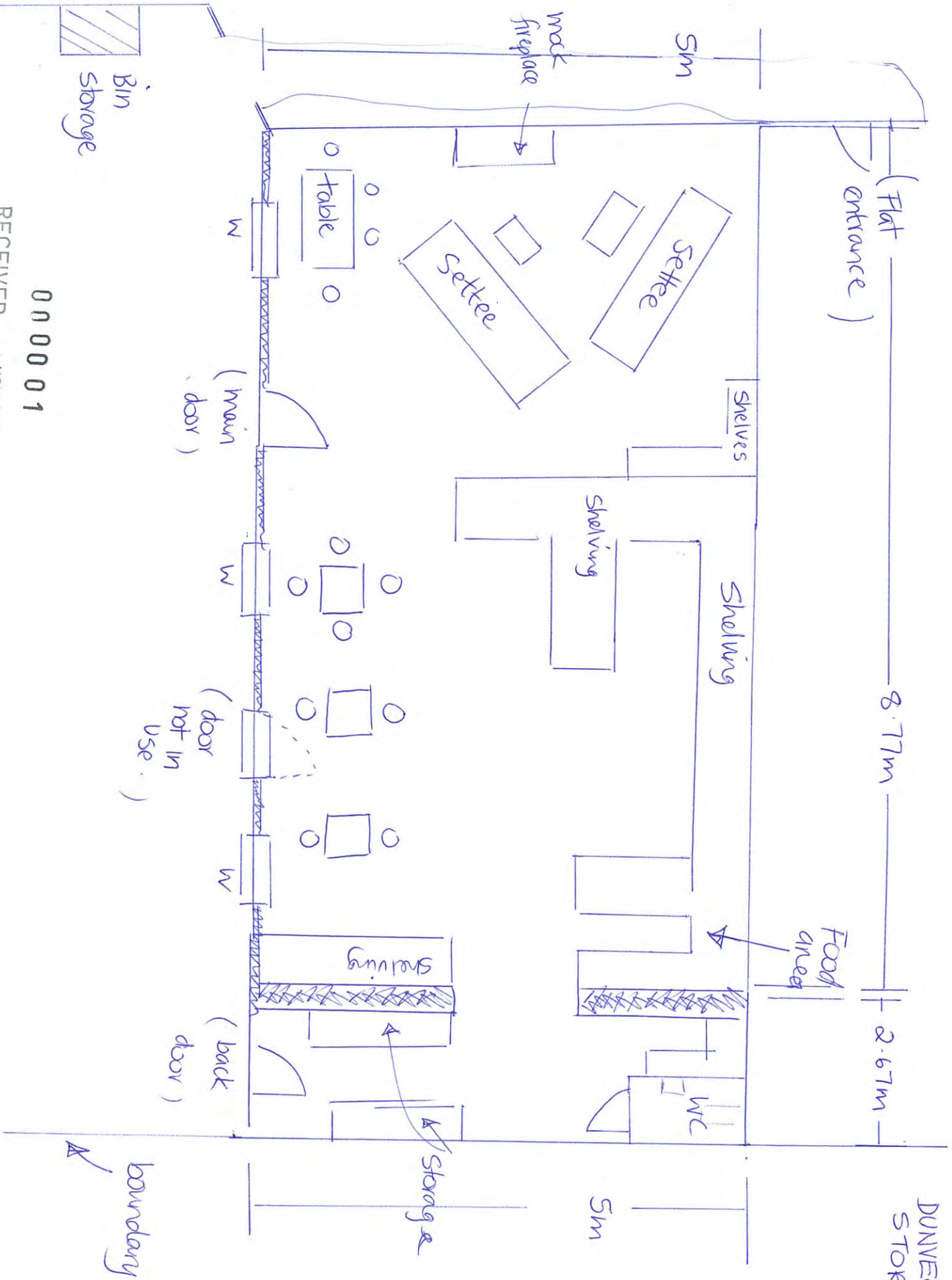




# LOCATION PLAN



1:1250 (A4)



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RECEIVED 14 NOV 2013