

THE HIGHLAND COUNCIL

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING
APPLICATIONS & REVIEW COMMITTEE – 4 MARCH 2008**

Agenda Item	3.1
Report No	08/08

**07/00231/OUTRC:
ERECTION OF WAREHOUSES (OUTLINE)
INVERGORDON DISTILLERY, GOLF VIEW TERRACE, INVERGORDON**

Report by Area Planning and Building Standards Manager

SUMMARY

The application is in outline for the erection of warehouses for the storage of ethanol on land to the immediate north of Invergordon Distillery. The proposal has been advertised as a potential departure from policy and two letters of objection have been received from neighbouring householders.

The recommendation is to GRANT outline planning permission subject to conditions.

Applicant: Whyte & MacKay Ltd

Ward: No 7 – Cromarty Firth

The application is the subject of a Hearing.

1. PROPOSAL

- 1.1 The outline proposal comprises the erection of additional warehouses on an area of land extending to approximately 12.5 hectares (31 acres) to the immediate north of the existing warehousing at Invergordon Distillery.
- 1.2 The site is predominantly former agricultural land laid to grass however contains a narrow strip of woodland stretching from Tomich Road to the west along the southern boundary of the site immediately adjoining the existing Distillery grounds. To the north lies Inverbreakie Industrial Estate, Inverbreakie Farmhouse and the former indoor karting centre building and associated manager's house. The north-east boundary of the site is formed by the distributor road linking Tomich Road with Saltburn and beyond this to the north lies the former Alcan site, part of which received detailed planning permission last year for a combined heat, power and wood chipping plant.
- 1.3 No new access to the site is proposed, with the intended use of existing distillery accesses onto Tomich Road and Golf View Terrace. Whilst the application is in outline only, an indicative plan submitted along with the application demonstrates the siting of 17 warehouses, each measuring

approximately 34 metres x 70 metres, together with proposed tree planting around the site boundaries.

2. PLANNING HISTORY

- 2.1 07/00232/HSCRC - Application for hazardous substances consent - Pending outcome of planning application.

3. PUBLIC PARTICIPATION

- 3.1 The application was advertised under Section 34 of the Act and as a potential departure from the development plan on 13 April 2007. The expiry date for the publicity period was 4 May 2007. Three letters of representation have been received. One has been submitted on behalf of HIE Inverness & East Highland welcoming the expansion of the facility by the investment in additional infrastructure. This letter also makes the following points:-

- the colour of the warehouses should blend in with the surroundings as much as possible;
- the wall cladding materials used should be easily cleaned or preferably resistant to the discolouration often associated with the naturally occurring micro fauna/flora which are attracted to ethanol vapour;
- landscaping treatments between the site and adjoining properties should be retained and enhanced in places where appropriate; and
- any future development within the industrial estate should not be compromised by the imposition of a development restriction zone created by the construction of the warehouses.

- 3.2 Two third party submissions from neighbouring householders make the following points:-

- there is an existing amenity area between the properties at Inverbreakie and the Distillery which is proposed to be built over. It is suggested that a new amenity area should be planted up between existing boundaries and the new buildings;
- it is suggested that any security fencing should be contained between the proposed warehousing and the new tree planting;
- questions are asked as to the detail of proposed access roads/pedestrian pathways to be positioned around the new buildings. It is submitted that it would not be desirable to see a road access between Inverbreakie and the warehousing;
- submission that the proposed buildings should be further away from Inverbreakie Farmhouse than presently shown. Interested to see dimensions in height for the new buildings;
- assurances sought that no variation would be given that could allow a substantially larger building to be erected directly in front of Inverbreakie Farmhouse as this property looks directly into the new site and is only 10 metres from the boundary;

- assurances sought that earth movement and levels would be such that the new building would be built at the same ground level as the present storage buildings so as to minimise the impact on Inverbreakie Farmhouse;
- assurances sought that no security lighting would be positioned in areas that directly shine towards Inverbreakie Farmhouse. Concerns also over noise pollution;
- considered that the indicative planting plan is insufficient for the Council to justify departing from Council policy;
- hoped that the Council would cap the number of warehouses or square meterage on the site to 17 (allowing for one to be omitted);
- once a robust landscaping plan has been submitted to the Council the active participation of the Forestry Officer should be encouraged in agreeing a workable and justifiable landscaping solution to provide the Council with strong and justifiable grounds for departure from policy to allow 3.66 acres of woodland including mature oaks to be felled;
- the recommendation from the Forestry Officer is welcomed to make it a condition that planting should be carried out within the first year following approval to enable early establishment;
- despite the Forestry Officer's recommendations, no broadleaved trees are proposed to be included and although the tree planting proposed initially on Mr Wilson's land has been removed this has not be compensated for within the boundaries of the site. In addition, trees are proposed to be planted on land adjacent to Tomich Road beneath overhead power lines;
- The householder at Inverbreakie Farm Lodge makes reference to a planning application submitted by himself last year for the removal of an occupational restriction to allow this property to be sold on. This was refused despite there being no objections from neighbours, on the grounds that it would set a dangerous precedent. It is believed the proposed plan also sets a dangerous precedent;
- the size of the proposed trees to be planted is questioned;
- pointed out that there is a sewer running from Inverbreakie Farmhouse diagonally across the site and this does not seem to have been considered by the Council in considering the capacity of the site.

3.3 The letters of representation are available in the Area Office, 2 Achany Road, Dingwall and will be available at the Committee meeting. The names of those making representation are listed at the end of this report.

4. CONSULTATIONS

4.1 **Invergordon Community Council:** This application was discussed at the Community Council and nobody had any objections.

Internal consultees

- 4.2 **TECS (Transport):** No objection. It is noted that existing access is proposed and it is assumed that this will be off the C16 Tomich Road at the existing warehouse access point which has fairly recently been approved for upgrade. It is unclear from the application whether there will be any significant intensification of traffic movements at the existing junction and perhaps this issue can be clarified at the detailed application stage given that the principal purpose of the building will be storage. Provision for staff and other parking will need to be identified to suit Council Road Guideline standards at this stage also. SuDS drainage should be provided to ensure there is no risk of flooding adjacent properties or roads. The standards are to accommodate a 30 year return storm and not cause property flooding or safety risk during a 200 year return storm. The applicant will need to consider in detail the safe management of pedestrian and vehicle movements within the site. Suitable wheel wash facilities should be provided on site during the construction phase to ensure public roads are not contaminated with debris.
- 4.3 **TECS (Contaminated Land):** Records indicate that a landfill associated with the former Alcan Smelter is located within close proximity to this development site, which may have resulted in land contamination and potential for landfill gas production. It is therefore recommended that the applicant provide, by way of an assessment of potential contamination issues, evidence that the site is suitable for its proposed use. Such an assessment should be consistent with the approach to land contamination contained within the new contaminated land regime as reflected in PAN 33 and with the British Standard for investigation of potentially contaminated sites, BS10175:2001.
- 4.4 **Forestry Officer:** While eight of the proposed warehouses are located within a narrow strip of woodland which includes two small stands of oak, it is considered that its removal could be compensated for by substantial areas of new planting. In order to accommodate a meaningful level of planting and to provide an adequate screen, the warehouse opposite Davidson Drive and possibly the one nearest to the road opposite the oil tanks would have to be omitted. Tree planting should be concentrated to the west opposite the junction with Davidson Drive and along the north/north-east boundary. A detailed landscaping plan is required. In accepting significant tree loss to accommodate the expansion it is considered that the landscaping requirements are a small concession given the scale of development. More importantly, the public amenity benefits to be gained from a well designed landscape plan should not be under-valued. There is therefore a need for a detailed and robust landscaping plan.

External consultees

- 4.5 **Scottish Water:** No objections. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water supports the principles of Sustainable Drainage Systems and the developer should consider utilising this in the surface water drainage design. It is important to note that Scottish Water will not adopt surface water drainage systems but require the flows to be pumped. The development may involve building over or in such a way obstruct access to an existing public sewer and water main. The developer should contact Scottish Water who will provide advice regarding possible solutions that will require to be implemented by the developer to protect existing apparatus.
- 4.6 **SEPA:** On the basis that the warehouses are solely for the storage of spirits, SEPA does not object to the development so long as the proposed surface water system meets the requirements of CIRIA C521. SEPA also recommends that design of this scheme include the ability for it to be sealed to contain any accidental spillages and stop them reaching the water environment.
- 4.7 **Health and Safety Executive:** The HSE has assessed the risks to the surrounding areas from the likely activities resulting from the granting of the proposed Hazardous Substances Consent (07/00232/HSCRC). On the basis of this assessment, HSE has concluded that the risks to the surrounding population arising from the proposed operations are such that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent. A revised consultation distance will be put in place on the basis of any such consent issued.

5. POLICY

- 5.1 The following policies are relevant to the assessment of the proposal

Highland Structure Plan (March 2001)

- G1 – Conformity with Strategy
- G2 – Design for Sustainability
- B1 – Industrial Land
- B3 – Industrial Land

Ross and Cromarty East Local Plan (February 2007)

- BP2 – Permit development unless this is likely to have a significantly adverse effect on, or be significantly adversely affected by, the features for which the area has been designated.
- BP3 – Approve development if there are no significant adverse effects on heritage, amenity, public health and safety interests.

- Invergordon Business/Industrial Uses - Site 13 – Inverbreakie Industrial Estate – requirements: landscaped buffer, tree planting.
- Invergordon Amenity Areas – 26 – The Council will protect important open spaces and amenity areas, particularly all areas of amenity trees including Tomich Road.

5.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP); and Planning Advice Notes (PAN):-

- SPP1 – The Planning System
- SPP2 – Economic Development
- PAN61 – Planning and Sustainable Urban Drainage Systems
- PAN33 – Development of contaminated land

6. PLANNING APPRAISAL

6.1 **Determining issues** - 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.

6.2 The proposal requires to be assessed against both the appropriate policies of the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy section. In particular, the proposal requires detailed assessment of the following fundamental issues:

- whether the principle of development is appropriate in terms of policy;
- whether the layout of development is appropriate;
- the impact on the amenity of the area and residents; and
- other material issues raised by the objectors.

6.3 **Policy** – The application site lies primarily within land allocated for industrial use in the adopted Ross & Cromarty East Local Plan. The requirements for development of the site indicate the need for landscaping and tree planting. A smaller area of land identified within the development site is indicated as land of amenity value reflecting the existence of mature broadleaved trees to the immediate north of the existing warehouses. The development of the site will result in the loss of part of the amenity land and thereby runs contrary to Policy BP3 which states that the Council will only approve development if there are no significant adverse effects on heritage, amenity, public health and safety interests. In this regard, it is important that any loss of trees within this part of the site is compensated for by way of substantial structural planting along the north and west boundaries. Such replacement planting would ensure that any effect on amenity would not be significant and that the existing planted boundary to the site would merely be displaced further north.

6.4 Structure Plan Policy G2 Design for Sustainability requires new development, amongst other criteria, to be assessed on the extent to which it has an impact on individual and community amenity and to demonstrate sensitive siting in keeping with the natural environment, notwithstanding that it will undoubtedly

contribute to the economic development of the community. The applicants have already agreed to retain an area of existing trees to the south-west corner of the site adjacent to Tomich Road and to reinforce this with additional planting alongside the road to the north. This will involve undergrounding and realignment of existing overhead lines to ensure a greater depth of planting than currently exists. There are already some trees and shrubs planted around the margins of the industrial estate access roads to the north-west of the site and this could be reinforced, together with more substantial structural planting around the properties of Inverbreakie Farmhouse and the former kart-way and along the Saltburn distributor road. This would ensure adherence with policy.

6.5 **Public Concerns** – Correspondence has been received from HIE and from two local residents to the proposal. There is no overall objection to the principle of additional warehouses being erected, rather the concerns relate specifically to the loss of existing trees and concern that the applicant has not provided the level of detail in relation to replacement planting recommended by the Council's Forestry Officer. The two individual householders who have made representation occupy the only two residential properties within Inverbreakie Industrial Estate. They are specifically concerned over the loss of mature trees and accordingly wish to ensure that the details pertaining to landscaping and siting, servicing and height of any buildings is carried out in a manner which does not impact significantly on their own established amenity. Such concerns are acknowledged – however they can be adequately addressed through appropriate conditions attached to an outline permission. In this regard, a balance must be struck between any requirements relating to the detailed layout and design of the proposals against the fact that both houses and the majority of the site are contained within land allocated for industrial/business purposes. With regard to HIE's comment relating to any possible development restriction, this is a matter for the Health and Safety Executive in advising on the necessary application for hazardous substances consent. The amount of ethanol to be stored will dictate the relative consultation distances with the HSE however it should be noted that the majority of Inverbreakie Industrial Estate already falls within a 500m consultation distance.

6.6 **Amenity – Technical Issues** – There are no overriding technical difficulties associated with the proposal. There are no objections from TECS (Transport) and the requirements of TECS (Contaminated Land) are currently being addressed by the applicant. A condition is recommended by the Principal Contaminated Land Officer to address such outstanding works. SEPA and Scottish Water similarly do not object to the application and requirements relating to underground services crossing the site and to surface water drainage can be addressed by condition. HSE has no particular concerns and will require to be consulted on the detailed proposals in relation to redefining the consultation distances around the site boundary in relation to the quantity of ethanol to be stored. Invergordon Community Council confirms it has no objection to the application.

7. CONCLUSION

- 7.1 Whyte & MacKay advise that they require more warehousing space as they have moved into a more prestigious market for aged whisky. As this spirit will require to lie longer in the warehouses, 8-10 years instead of 3-5 years, there is a fairly urgent requirement for additional warehousing space to be provided. Planning permission has already been granted for three new warehouses within the site, however advice from Whyte & MacKay is that the two at the eastern end of the site will be filled by the end of May 2008 and the new warehouse approved at the west side of the site adjacent to Tomich Road will be filled by the end of September. It is therefore important to progress the current application to a positive determination to allow detailed applications to be submitted and approved by Autumn of this year in order to meet the Distillery's development timescale.
- 7.2 It is disappointing that, despite considerable correspondence between the Planning Authority and the applicants with regard to landscaping requirements around the fringes of the site, very little detail has been provided in this regard. As can be noted from the above discussion, the principal issue in determination of this application is the proposed loss of trees identified as a finger of amenity land within the larger area which has an industrial allocation. It is therefore fundamental to ensure that any development of this site, involving the loss of the trees, as proposed, includes significant structural planting around what will be the new boundary to the Distillery complex.
- 7.3 Whilst concern has been expressed by the Distillery over the retention of trees close to boundaries in view of fire risk, security fencing between the trees and the site, together with the required setback of warehouses from the security fence, should ensure that such standards are not compromised. An amended indicative layout plan now submitted by the applicants demonstrates a possible 17 warehouses (a reduction from the 18 shown originally) being accommodated together with existing trees retained adjacent to Tomich Road and additional planting carried out around the northern and western boundaries of the site. Whilst such indicative plan is useful, the lack of detail relating to the landscaping and also the absence of information relating to existing and finished ground levels, access arrangements and surface water drainage proposals means that it is not possible to approve either a specific number of warehouses or a specific floor area at this stage.
- 7.4 Nonetheless, in terms of consideration of this outline application, it is submitted that approval can be justified in accordance with Council policy on the basis of appropriate conditions attached.

RECOMMENDATION

Grant outline planning permission subject to the following conditions:

1. Standard outline condition and reason.
2. For the avoidance of doubt the indicative layout plan submitted as part of this application is not herewith approved and the total number of warehouses and their exact location shall be determined further to submission of reserved matters as referred at condition 1 above. This shall specifically include a detailed landscape plan which shall be submitted for approval specifying the quantity, position, size, species and protection measures (tree shelters, stakes and ties) of all trees/shrubs to be planted together with an indication as to how they integrate with the proposal in the long term. A maintenance programme shall be submitted for approval specifying weed control; adjustment/replacement of shelters; stakes and ties; formative pruning; and replacement of failures. Planting shall be carried out during the first year following approval of reserved matters to enable early establishment. All trees shall be retained in perpetuity and any failures shall be replaced within the next planting season, unless otherwise agreed in writing by the Planning Authority. For clarification, such landscape plan shall include the following elements:-

- retention of existing trees adjacent to Tomich Road for a distance of at least 80 metres back from the road edge;
- new planting adjacent to Tomich Road to the immediate north-west of the above area, involving the undergrounding and realignment of current overhead electric lines;
- additional new planting adjacent to Tomich Road opposite the sport centre and between the road and the new warehouse approved under planning reference 07/00935/FULRC;
- new tree planting along the northern boundary of the site with Inverbreakie Industrial Estate, Inverbreakie Farmhouse and the former indoor karting complex, and the Saltburn distributor road, to a varied depth between 10 and 20 metres;
- all trees to be indigenous species and comprise a mix of deciduous and coniferous species.

Reason: In the interests of adhering to approved Council policy and protecting the established amenity of adjoining properties.

3. Prior to any development commencing on site, a scheme shall be submitted by the Developer (at his/her expense) to deal with potential contamination on site. No construction work shall commence until such scheme has been submitted to and approved by the Planning Authority, and is thereafter implemented to like satisfaction. The scheme shall contain details of proposals to deal with potential contamination and shall include:-
 - a) The nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (ie Contaminated Land Risk Assessment and Remediation Plan). The scope and method of this assessment to be agreed IN ADVANCE with the Planning Authority, and undertaken in accordance with PAN

33 (2000) and BS10175:2001.

- b) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for the uses proposed (this shall include a method statement, programme of works, and proposed verification plan).
- c) Submission of a Validation Report (should remedial action be required) by the competent person employed by the developer who will validate and verify the completion of works to a satisfactory standard as agreed with the Planning Authority.
- d) Submission, if necessary, of monitoring statements at periods to be agreed with the Planning Authority for such time period as is considered appropriate by the Planning Authority.

Written confirmation from the Planning Authority that the scheme has been implemented, completed and if appropriate, monitoring measurements are satisfactorily in place, shall be required by the Developer BEFORE ANY DEVELOPMENT HEREBY APPROVED COMMENCES.

4. The reserved matters referred to at Condition 1 above shall include comprehensive drainage plans to be implemented by the developers at their expense in respect of all surface and any ground water arisings. Said drainage plans shall require to comply with the principles of sustainable drainage systems (SuDS) and shall require to be approved by the Planning Authority in consultation with SEPA prior to development commencing.

Reason: In the interests of securing adequate drainage systems.

5. The reserved matters referred to at Condition 1 above shall demonstrate that any services crossing the site are adequately protected or diverted at the applicants' expense to the satisfaction of the Planning Authority in consultation with the appropriate utility provider. Specifically, the overhead electric line adjacent to Tomich Road shall be undergrounded and diverted to allow for planting of additional trees as referred to in condition 2 above; and the existing sewer and water main crossing the site shall be protected or diverted in accordance with advice from Scottish Water's Asset Operations Technical Support Team.

Reason: In order to protect existing services crossing the site.

6. The reserved matters referred to at Condition 1 above shall include cross sections through the site showing existing and proposed ground levels and finished floor levels of the warehouses proposed relating to fixed and identifiable ground levels outwith the site including the existing distillery access roads and the adjacent public roads. The buildings shall be set down within the site to reduce their prominence.

Reason: In the interests of protecting the amenity of adjacent properties and the wider landscape.

7. The reserved matters referred to at Condition 1 above shall include details of the finishes, including colour, of the warehouses proposed. This shall take into account the effects of the discolouration caused by ethanol vapours and shall ensure that the colours are muted and relate well to the colour and finish of the existing newer warehouses within the distillery complex.

Reason: To ensure the warehouses relate well to adjoining buildings, in the interests of amenity.

8. The reserved matters referred to at Condition 1 above shall include details of security fencing, to be located around the operational area of the site inside the landscaping required by condition 2; and security lighting to be positioned to minimise spill of light onto adjoining properties.

Reason: In the interests of safeguarding the established amenity of adjoining properties

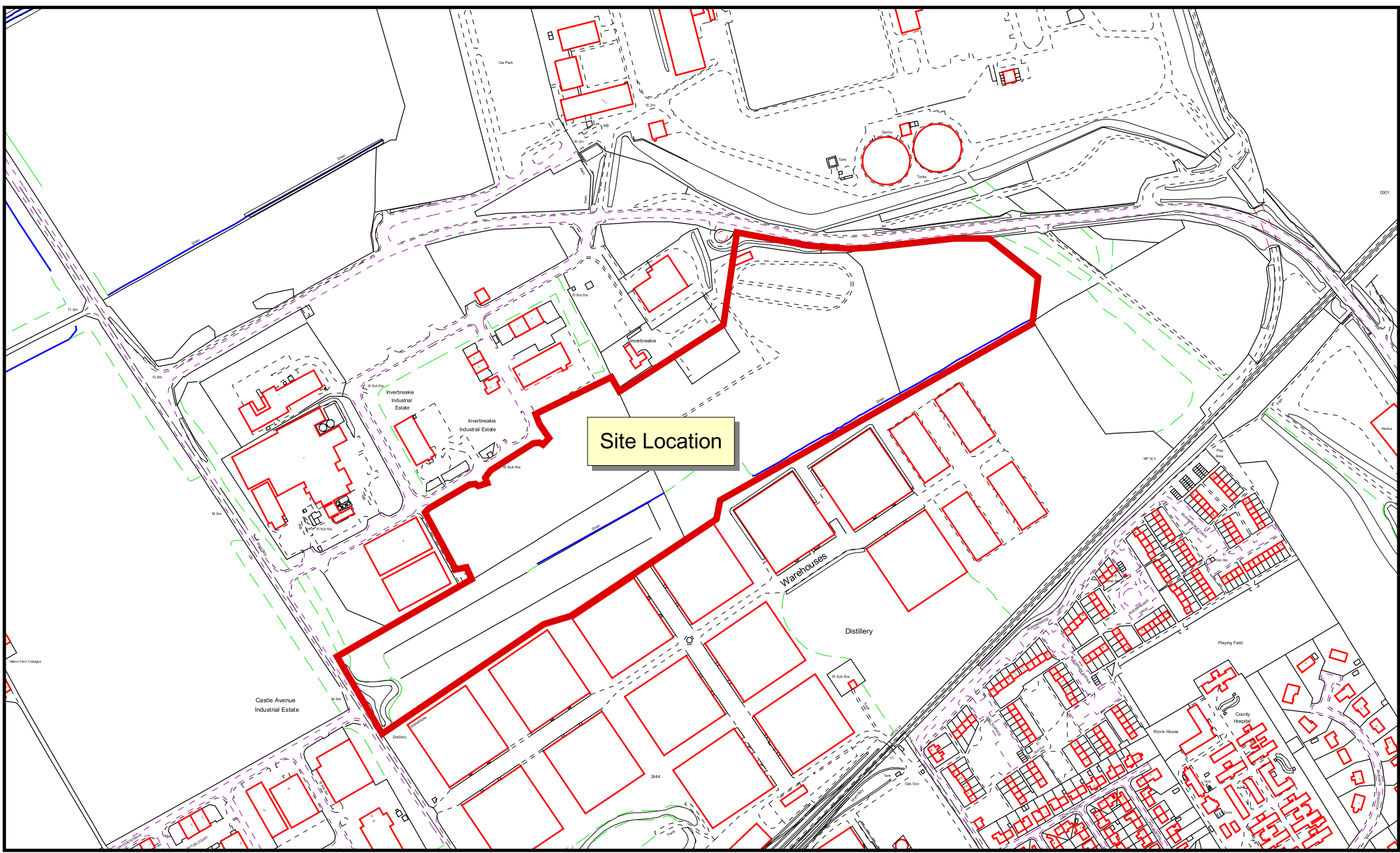
Signature: Allan J Todd

Designation: Area Planning and Building Standards Manager

Author: Dorothy Stott, Principal Planner (01349 864991)

Date: 21 February 2008

Background Papers: As referred to in the report above and case file reference number 07/00231/FULRC



07/00231/OUTRC
 Erection of warehouses (Outline) at
 Invergordon Distillery, Golf View Terrace, Invergordon.

Whyte & Mackay Ltd
 Invergordon Distillery
 Cottage Brae
 Invergordon

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