

**THE HIGHLAND COUNCIL**

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 13 December 2011**

Agenda Item	<b>4.6</b>
Report No	<b>PLC/063/11</b>

**11/03444/FUL : Cromarty Firth Port Authority  
The Old Railway Sidings, Invergordon**

**Report by Area Planning Manager**

**SUMMARY**

**Description:** Change of use from redundant sidings to storage facility

**Recommendation: GRANT**

**Ward:** 07 – Cromarty Firth

**Development category:** Local

**Pre-determination hearing:** None

**Reason referred to Committee:** Objections from Invergordon Community Council; and five or more representations.

**1. PROPOSAL**

- 1.1 The detailed application is for the change of use of disused former railway sidings and adjoining land, extending to around 0.9ha, to provide an area for the temporary storage of equipment as overflow from the port facility in Invergordon.
- 1.2 Pre-application advice was offered confirming that a formal application for Planning Permission was needed for this change of use of land.
- 1.3 The principal access is proposed directly from High Street through Henderson's (former builders' merchants) yard to the south. Existing security fencing is proposed to be removed between the former yard and the sidings area. A secondary access is proposed immediately adjacent to the existing railway station onto the hammer head at the end of Station Road.

**2. SITE DESCRIPTION**

- 2.1 The site is located to the immediate west of Invergordon Railway Station on the south side of the north railway line. It comprises a narrow strip of overgrown former sidings and platforms/loading banks contained between the railway line to the north and the industrial units and builders' merchants' yard to the south.

**3. PLANNING HISTORY**

3.1 98/00678/FULRC Reinstatement and Operation of Railway Goods Siding – Planning Permission granted 21.04.1999

#### **4. PUBLIC PARTICIPATION**

4.1 Advertised: Schedule 3 and Neighbour Notification

Representation deadline: 21 October 2011

Timeous representations: 10 (objections)

Non-timeous representations: 1 (objection)

4.2 Concerns raised by objectors are summarised as follows:

- Question over what is to be stored, how temporary it is and its impact on adjoining housing (visual impact, contamination, fire risk etc.)
- Station Road is a private road and is unsuitable for heavy vehicles. Existing access through yard should be used.
- Noise nuisance caused by heavy vehicle movements and machinery within and accessing site. Question over hours of working.
- Construction of gates fronting onto Station Road will reduce car parking at railway station.
- Existing water supply pipe crosses site and increased traffic could cause damage to pipe.
- Loss of trees and resultant loss of habitat.
- Questions over level of floodlighting and impact on adjoining residential properties.
- Alternative sites in industrial areas considered more suitable.
- Nuisance to existing road users on High Street/Station Road and road safety issues given proximity of primary school.
- Loss of land used by walkers and dog owners.
- Storage use will be unsightly with security fencing which is inappropriate adjacent to existing housing and for visitors from cruise liners.
- No proposals for surface water drainage
- Access to railway station platform for vehicles will be blocked off.

4.4 All letters of representation can be viewed online [www.highland.gov.uk](http://www.highland.gov.uk), at the Dingwall Area Planning Office and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

#### **5. CONSULTATIONS**

5.1 **Invergordon Community Council** – Objects to the application for the following reasons:

- No definition over temporary nature of storage or types of materials.
- No indication as to height of proposed storage or whether any buildings are proposed.
- CFPA operates on a 24 hour basis yet no mention as to intended movements per day/week
- The security fencing and lighting; and the noise created; will seriously affect residents on Station Road and Cromlet Park.
- Concerns over road safety issues and impact on existing infrastructure at access points onto High Street and Station Road.
- Health and Safety – The recent industrial accidents at the service base and related investigations should be taken into account given the proximity of the railway station and of houses on Station Road.
- The proposal will remove an existing belt of trees and bushes which forms a green belt between residents of Cromlet Park and the service base.
- The Sidings are listed as Amenity in the Inner Moray Firth Development Plan
- Concern that the CFPA is moving away from the shoreline into a residential area of the town, with land zoned for industry elsewhere considered more appropriate.
- If permission is granted then conditions should be attached requiring provision of a designated car parking area for railway passengers with parking bays, lighting and CCTV; and Station Road should be upgraded with new tarmac surface.

5.2 **TECS (Transport)** – No objections.

5.3 **TECS (Contaminated Land)** – No objections. Due to the former presence of railway sidings a pre-start condition requiring a Contaminated Land investigation is recommended.

5.4 **Network Rail** – No objections. Due to close proximity to railway a number of matters require to be taken into account in determining the application.

6. **POLICY**

The following Development Plan policies are relevant to the assessment of the proposals: -

**Highland Council Structure Plan** (Approved March 2001)

Policy G1 Sustainable Economic Growth

Policy G2 Sustainable Development

**Highland Wide Local Development Plan** (Proposed Plan September 2010)

Policy 29 Sustainable design

**Ross and Cromarty East Local Plan (Adopted 2007)**

Invergordon section – Policy 22 – Land allocated for railway goods sidings.

**Scottish Planning Policy (SPP) (February 2010)**

**7. PLANNING APPRAISAL**

- 7.1 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.
- 7.2 **Policy** – The adopted Ross & Cromarty East Local Plan identifies the site for new railway sidings reflecting the Planning Permission which was granted for this use to the Cromarty Firth Port Authority in 1999. The Permission was granted on the basis of a new access onto the B817 coast road and a number of conditions which restricted hours of operation and the erection of noise barriers. Although this permission was never enacted and lapsed in 2004, the location of the site contained between the railway line and established industrial units and builders merchants' yards, does however mean that its use for industrial storage appears suitable in land use terms. It is therefore considered that the proposal complies with generally with policy.
- 7.3 Invergordon Community Council makes reference to the Inner Moray Firth Local Development Plan (IMFLDP) and states that the land is allocated for amenity purposes within this Plan. This is not the case. The Call for Sites suggestions, which the Community Council refers to, have no policy status. They are simply suggestions or ideas at present. January PED Committee will require to decide on initial Council preferences between all the site suggestions but even after this "decision" the Planning & Development Service will still need to issue the consultation draft (the Main Issues Report) which will contain all the (sometimes) competing suggestions for wider comment. Council's final choice between options and formal rejection of ones not considered appropriate will be late 2012 with objection and Examination process thereafter. So IMFLDP has no decision making material consideration status until Proposed Plan draft stage (late 2012). The provisions of the adopted Ross & Cromarty East Local Plan continue to apply meantime.
- 7.4 **Representations** have been received and are set out at sections 4.2 above. Invergordon Community Council has also raised objections as detailed at section 5.1. Policy issues are addressed above and other material planning concerns raised are considered below.
- 7.5 **Access and traffic** - TEC Services has indicated that the proposal is acceptable. The applicants have confirmed that as the storage will be long term it is difficult to predict daily vehicle movements although traffic density is expected to be low. The existing access onto High Street provides principal access and has the advantage of a more direct route from the port. It is also proposed to form a secondary access from Station Road however this route is not adopted and serves adjacent established housing, church and railway station. The High Street access could be made wider to accept larger loads and it is therefore considered appropriate to restrict access to the single existing access point to reduce disturbance, noise and nuisance to local residents. For information, the permission

for the sidings contained a condition which stated that there shall be no vehicular access or egress between the site and Station Roads at any time, reflecting the concern over the fragility of this road and the potential conflict with residential traffic.

7.6 **Visual impact** - The applicants have stated that as the site is proposed for storage of port related equipment this will include offshore engineering equipment, wind farm components, rig anchors and chains. It is not intended to store hazardous materials in containers or bulk. It is also stated that it would not be expected that any stored equipment would exceed 3m in height. This can be addressed by conditions restricting height and type of storage and a requirement for all boundary fencing facing High Street and Station Road to include closeboard timber fencing to help screen the site.

7.7 **Noise** – The use for storage will not in itself create noise, however the traffic movements and any internal reorganisation of stored goods has the potential to be noisy and cause nuisance to adjoining residential properties. It is therefore considered appropriate to restrict movement of stored goods to avoid evening, night-time or Sunday operations. The applicants have expressed a desire to allow activity between 0600 and 2200 hours 7 days a week. This is not considered acceptable so close to existing houses and a much more appropriate time frame is recommended to protect the established amenity of those adjacent properties. A similar condition was attached to the previous permission granted for the sidings.

7.8 **Lighting** – No details have been submitted with regard to floodlighting however confirmation has been given by the applicants that lighting is proposed for security reasons and safe working. It is important that the lighting is appropriate (not excessive) for purpose and the light spill is contained within the site itself. A condition is recommended to address this.

7.9 **Loss of amenity space/trees** – The site is an overgrown parcel of brownfield land where, over time, trees and bushes have begun to grow. It is used informally by walkers and dog owners as a route between Station Road and Linear Park, via a rough crossing over the B917 roadside wall at the west end of the site. It has not been maintained and is not considered to have any significant amenity value as it forms a narrow strip of ground adjacent to the railway and established industrial/business uses. There is presently no barrier between the site and the railway line and therefore there is an existing safety issue associated with continued adhoc recreational use. It is not considered that the productive use of this space will have any material impact on overall amenity and indeed if managed well will help tidy up this disused area of land.

## 8. CONCLUSION

8.1 The Council's Development Plan policies provide general support for the use of redundant brownfield land adjacent to established business uses for appropriate development purposes. The adopted Local Plan identifies the site for sidings, which would be potentially a more intensive and disruptive use in relation to nearby housing. There are no technical objections and accordingly, the proposal is considered to accord with Development Plan policies. However, given the temporary nature of the proposed use and the current review of the local development plan, it is considered appropriate to attach a time limited condition for three years only to allow reassessment of the compatibility of the use in the light of updated policies at the end of this temporary period.

## RECOMMENDATION

**Action required before decision issued** N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons:

(1.) The permission hereby granted shall endure for a period of three years from the date of this consent within which period, unless with the express approval of the Planning Authority, the site shall have been cleared of all materials and thereafter reinstated to the satisfaction of the Planning Authority.

Reason: To order to allow the Planning Authority to retain effective control over this development, which is temporary by nature, and review the impact of the use on neighbouring properties.

(2.) Prior to the first use of the site for storage purposes, a scheme to deal with potential contamination on site shall be submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and BS10175:2011;
- b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;
- c) measures to deal with contamination during construction works;
- d) in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;
- e) in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

Prior to first use of the site for storage purposes, written confirmation that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority, shall be required.

Reason: To ensure that the site is suitable for its intended use.

(3.) Hours of heavy traffic movements to and from the site and for movements requiring the use of machinery or plant within the site and are audible at the site boundary shall be restricted to 0800 to 1800 on Mondays to Fridays and from 0800 to 1300 on Saturdays with no such access or works on Sundays. Any work on site outwith these times shall only take place with the prior written approval of the Planning Authority.

Reason: In the interests of safeguarding the established amenity of surrounding residential properties.

(4.) Prior to first use of the site for storage purposes, the following details shall be submitted for the written approval of the Planning Authority and thereafter implemented in full in accordance with an approved timetable:

1. Full details of all lighting proposed within the site showing position, design, specification and light spill. This shall be designed to contain all light spill within the site itself.
2. Full details of all boundary fencing proposed including close board timber fencing along the boundary with Station Road to match the existing timber fencing along the Henderson's yard site frontage to High Street.

Reason: In the interests of safeguarding the established visual amenity of the area.

(5.) All access shall be taken via the existing access through the former Henderson's Yard directly onto High Street. There shall be no vehicular access or egress whatsoever between the site and Station Road at any time. Any proposals to widen or otherwise alter the access onto High Street shall require the prior approval of the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of safeguarding the established amenity of surrounding residential properties and in the interests of road safety.

(6) Storage on site shall be restricted to Service Base related equipment, oil industry and renewable industry components, off-shore and port engineering equipment and other related items. For the avoidance of doubt there shall be no storage of liquids, fish meal, distillery draff, fertiliser, or other such loose or bagged items. Prior to first use of the site, the applicants shall provide the Planning Authority with a list of types of materials to be stored and no use of the site shall take place until such information has been approved in writing by the Planning Authority. The storage use thereafter shall be restricted to such items as approved, unless with the prior written approval of the Planning Authority. There shall be no storage which exceeds a height of 3m above finished ground level at any time within the site. For the avoidance of doubt, there shall be no buildings (portable or otherwise) erected within the site without the further express Planning Permission of the Planning Authority.

Reason: In the interests of safeguarding the established amenity of surrounding residential properties.

**INFORMATIVE NOTE REGARDING THE 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.

**Conditions:** Your attention is drawn to the conditions attached to this permission. 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 meet these 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 (of emanating from) the application site. As per Scottish Planning Policy 7: Planning & Flooding, planning permission does not remove the liability position of developers or owners in relation to flood risk.

**Road Openings Permit / Road Construction Consent:** You may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.

**Network Rail:** Whilst Network Rail has no objections in principle to the proposal, due to its close proximity to the operational railway, it is requested that the following matters are taken into account:

- If not already in place, the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Network Rail recommends a 1.8 metre high 'rivetless palisade' or 'expanded mesh' fence. Network Rail's existing boundary measures must not be removed without prior permission.
- Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.
- Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks. The developer must contact the Asset Protection Engineers regarding the above, contact details below:

Network Rail Asset Protection Engineer  
Buchanan House, 58 Port Dundas Road  
Glasgow, G4 0LQ.  
Tel: 0141 555 4887  
E-mail - [AssetProtectionScotland@networkrail.co.uk](mailto:AssetProtectionScotland@networkrail.co.uk)



- The developer should also note that all or part of this land was previously owned by Network Rail, or its predecessors, and that title obligations may exist that require development consent to be obtained from Network Rail. No building works may commence until such consent has been obtained. This must be obtained by the applicant outwith the planning process. The developer must contact the Asset Protection Engineers regarding this.

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Dorothy Stott

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

**Relevant Plans:** Plan 1 - Location Plan 1:50,000  
Plan 2 – Location Plan 1:2,500

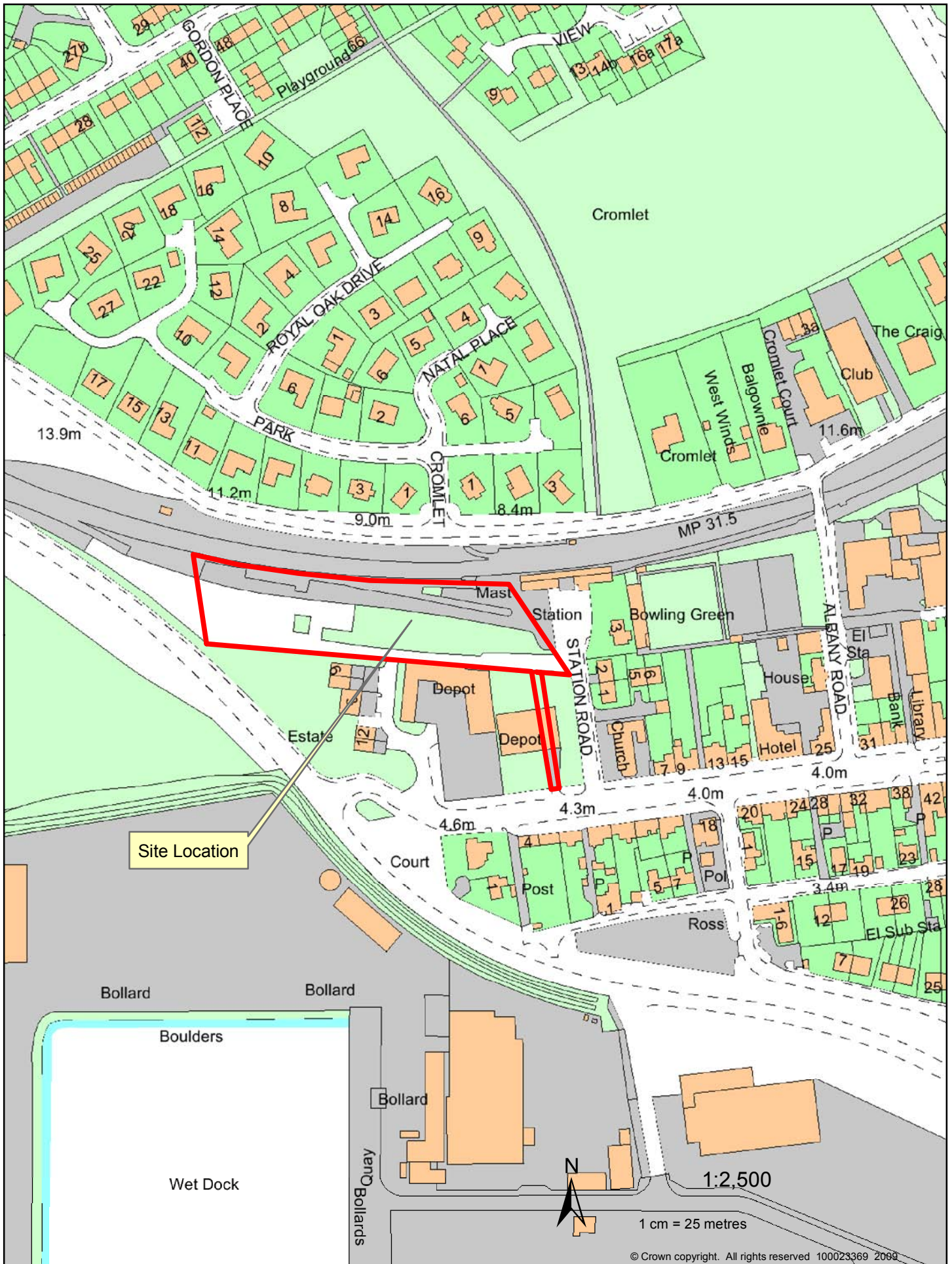
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mrs Macfarlane	Station House, 3 Station Road, Invergordon	11.10.2011	Against
Jean Pattie	6 Cromlet Park, Invergordon	14.10.2011	Against
G L Brown	7 Cromlet Park, Invergordon	17.10.2011	Against
I M Maclean	3 Cromlet Park, Invergordon	17.10.2011	Against
Mr and Mrs Dobson	5 Agincourt, Cromlet Park, Invergordon	17.10.2011	Against
Mr and Mrs Brown	6 Station Road, Invergordon	18.10.2011	Against
R MacRae	1 Station Road, Invergordon	18.10.2011	Against
D Macfarlane	Station House, Station Road, Invergordon	19.10.2011	Against
M & S Ross	1 Cromlet Park, Invergordon	20.10.2011	Against
Mrs K MacIver	15 Cromlet Park, Invergordon	20.11.2011	Against
R & J Russell	9 Cromlet Park, Invergordon	27.10.2011	Against



11/03444/FUL  
 Change of use from railway sidings to storage facility at  
 The Old Railway Sidings, Invergordon.

Captain K Gray  
 Cromarty Firth Port Authority  
 The Port Office  
 Shore Road  
 Invergordon



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