

THE HIGHLAND COUNCIL

NORTH PLANNING APPLICATIONS COMMITTEE  
16 February 2016

Agenda Item	7.1
Report No	PLN/008/16

15/02287/FUL: Mr Richard Pumphrey  
Land 50M NW of Leathley Lodge Edderton

Report by Area Planning Manager

**SUMMARY**

**Description** : Formation of riding centre with associated access and parking (in retrospect), manege and floodlights, installation of caravan and portable office building (As Amended)

**Recommendation - GRANT**

**Ward** : 05 - East Sutherland and Edderton

**Development category** : Local Development

**Pre-determination hearing** : None

**Reason referred to Committee** : More than 5 objections.

**1. PROPOSED DEVELOPMENT**

1.1 The **original proposal** was for the *Formation of riding centre, parking, stabling, manege (and offices, changing facilities and toilets) (As Amended)*.

Following discussions with the applicant, the **application description was adjusted** to better reflect the proposal and future aspiration of the applicant to the *Formation of riding centre with associated access and parking (in retrospect), manege and floodlights, installation of caravan and portable office building (As Amended)*

The **main elements** of the development are:

- formation/upgrade of access onto public road
- access road into hard standing area (41.9m x 20.5m) – to the northeast of the application site and north of Leathley Lodge
- car parking area
- equine manège with floodlighting (an enclosed area in which horses and riders are trained) (60m x 30m) – approximately 45m to the west of Leathley Lodge and the public road
- static caravan (10m x 3m) for changing and storage – to the southwest corner of the hard standing area
- office

- 1.2 No pre-application discussions.
- 1.3 Water and sewerage pipes cross site.
- 1.4 Supporting letter outlining background to application submitted.
- 1.5 **Variations:** Adjusted site/location plans received 14.09.2015 and 06.11.2016.

## **2. SITE DESCRIPTION**

- 2.1 The site is located off the single track public road at Bogrow Edderton, which is to the north of the A836 from Tain to Edderton village. It is around 1km to the south of the A836 and sits in an elevated position overlooking the Dornoch Firth to the north. The land generally slopes from south to north and is currently used for agricultural grazing. The public road rises steeply to the site from the A836. The road is relatively quiet as it has only a few houses and primarily serves these and the associated agricultural land, as well as providing access to the forestry plantations at Edderton Hill. The closest residential property is Leathley Lodge, approximately 50m to the south east of the site, and to the south side of the public road.
- 2.2 Access is currently obtained from an agricultural entrance to the site. This is positioned on a bend in the road at the end of the long straight climb to the site from Edderton Mains to the north. An overhead telephone line with terminal pole is also located adjacent to the access; it is understood that the applicant has explored the removal of the pole and undergrounding of the cable with BT. To the south side of the public road opposite the proposed access point is a separate access to a small Scottish Water installation.

## **3. PLANNING HISTORY**

- 3.1 There is no recent or relevant planning history to the site.

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown Neighbours (Expiry 07.08.2015, 09.10.2015, 22.01.2016)  
Representation deadline : 05.02.2016

Timeous representations : 12

Late representations :

- 4.2 Material considerations raised are summarised as follows:

- Access, sightlines, road safety, increased traffic
- Lack of passing places on public road
- Alternative sites further away from nearby house
- Lack of toilets
- Impact on neighbouring residential amenity
- Development would visually intrude into landscape
- Accuracy of plans
- Damage to private foul drainage system
- Application is in retrospect
- Size and position of caravan
- Removal of trees
- Competency of the application submission

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 Transport Planning

1. **(27.07.2015)** - The roads related information submitted in support of the application is limited. Essentially this is a situation where the requirements of the access to Single Houses and Small Developments should apply. The completion of a Private access Checklist would have been helpful; however, from the information available to me it seems fairly clear that the proposals are sub-standard in road terms.

The access should join the public road at an angle close to perpendicular and should, as a minimum, satisfy the geometric and construction requirements of a SDB1 type access. Visibility splays appropriate to the assessed speed of main road traffic should be provided and maintained at the junction with the public road and, furthermore, the static caravan proposed should be located such that forward visibility in either direction across the bend in the public road will not be impaired.

Unless the above requirements can be secured by appropriate planning conditions, I am afraid I cannot support the application in its present form.

2. **(25.01.2016)** - Further to our previous correspondence of 27.07.15 and 16.10.15 regarding this development, I note that a new drawing has been submitted by the applicant, Proposed Entrance to Riding Centre, ref. PA/02287/FUL. This would indicate that an SDB 2 type access is to be provided at the point of access to the site; however, no details of junction visibility splays have been provided. I can find no other new information regarding the development proposed.

On the basis of the new drawing submitted, I have **no objection in principle to the access now proposed subject to**; the geometric standards indicated being met, the provision and maintenance of visibility splays appropriate to the assessed speed of traffic on the adjacent public road, and compliance in all other respects (including construction) with the requirements of the Access to Single Houses and Small Developments guidance.

Should planning permission for the access be granted, you will note that appropriate permission from the Roads Authority will be required prior to the start of any works within or alongside the public road fronting the site.

### 5.2 Environmental Health

No objections to the proposal. The applicant already holds a Riding Establishment Licence at another location and should be aware that he will require to obtain a new licence for the proposed premises.

## 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

64 Flood Risk

66 Surface Water Drainage

## 6.2 **Sutherland Local Plan (as continued in force 2012)**

## 7. **OTHER MATERIAL CONSIDERATIONS**

### 7.1 **Draft Development Plan**

Not applicable

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

Not applicable

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

Not applicable

## 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 proposal is partly in retrospect for the *formation of riding centre with associated access and parking (in retrospect), manege and floodlights, installation of caravan and portable office building (As Amended)*.

In addition, the submitted plans show the indicative positions of future aspirant development within the site including:

- self catering accommodation (3 units in the northern part of the site)
- polytunnel (along the northern boundary of the site)
- stables (between the manège and the public road)
- toilets

It should be noted that these elements are not part of the current application and would require separate application(s) in the future.

8.3.1 The site is currently used for grazing and is within a rural location with relatively few proximate properties. Traffic levels on the adjacent public road are low and reflective of the rural nature of the area, with no through traffic on the single track road.

### 8.3.2 The applicant has indicated in supporting documentation that:

- *Built up business as riding centre at Edderton Mains, with animals kept in area of current application site. This separation of parking and centre from animals location makes running business more difficult. Using part of a field could provide better and safer parking, more convenient storage and better training with use of a manège.*
- *No intention of using proposed riding centre for horse and pony shows or competitions, so suggested increase in vehicle traffic and horseboxes is not considered to be likely*
- *Some works undertaken on site without permission; were not aware of legislative changes in relation to such works (tracks and car parks on agricultural land).*
- *Access and parking – there are locations on the existing road where traffic can pass; proposal would lead to less walking of animals on public road. Existing agricultural access to the field improved.*
- *Riding and keeping of horses is accepted (commercial) rural land use.*
- *Damage to private sewer pipe was repaired.*
- *Providing toilet facilities with a portable toilet*
- *Noise – increase in levels unlikely; no greater than existing road traffic, aircraft and our animals*
- *View – development is most unlikely to make much difference to the view. Would be willing to screen activities*

### 8.3.3 Planning Assessment

The **use of the land for a consolidation of the existing small equine business** by way of the provision of an equine manège with associated access, hard standing, and siting of static caravan for storage, **is considered to generally be compatible with this rural location and Development Plan policy.**

### 8.3.4 The application has 6 distinct elements:

- upgrade/improvement of existing access
- access road into hard standing area (41.9m x 20.5m) – to the northeast of the application site and north of Leathley Lodge
- car parking area
- equine manège with floodlighting (an enclosed area in which horses and riders are trained) (60m x 30m) – approximately 45m to the west of Leathley Lodge and the public road
- static caravan (10m x 3m) for changing and storage – to the southwest corner of the hard standing area
- office

The site is to the west side of the single track public road which is located around 1.4km SSE of Edderton village and 5.7km to the west of Tain. The site is grazed open agricultural land falling generally from south to north and has an outlook over the Dornoch Firth. The **manège with floodlighting** is located to the western part of the application site. The lighting of this area can be controlled by condition. The **static caravan** and **office** are positioned between the **car park**, manège and the public road. The siting of the caravan on the site can be controlled by a specific time

limited condition, thus allowing the physical condition of the caravan to be monitored over a period of time, and thus preventing it from becoming a permanent and potentially deteriorating fixture on the site.

8.3.5 **Representations** have highlighted concerns over a range of issues. Some of these are technical matters which can be addressed by conditions; others relate to impact on amenity and the suitability of the site for the proposed use; and others relate to technical aspects of planning application procedures being followed.

8.3.6 **Elements of the proposal are in retrospect** – for the initial formation of the access and parking – and it is very disappointing that these works were undertaken on the site before planning permission was applied for. The **parking area** is also in front of the only nearby house, Leathley Lodge. This parking area, with its associated larger vehicles including trailers and horse boxes, could have easily been better sited further to the southwest, thus maintaining the long standing uninterrupted outlook from both the road and the house. Furthermore, part of the **foul drainage system** for the house is located to the northwest side of the public road within the area proposed for parking. It has been suggested that this foul drainage system has been damaged (and repaired) during the course of the unauthorised works, which are now subject to the planning application. This course of events could have been avoided had works not been undertaken; and engagement with both the Planning Authority and the householder been carried out by the developer at a far earlier stage. Whilst alleged damage and repair to a foul drainage system are private matters for the parties involved and not material planning considerations, they have been an unnecessary cause of concern to the parties involved, and could have been avoided.

8.3.7 Members will note that any **further future expansion of the site** for commercial purposes associated with the equine interests will require planning permission. This can be addressed by condition.

## 8.4 **Material Considerations**

8.4.1 **Representations** on the proposal relate to various matters:

### 1. **Access, road safety, increased traffic** – *Planning response* –

There is an existing access of agricultural standard into the field. Works have been undertaken by the applicant to improve this, by adjusting the size of the bellmouth and the geometry of the access point onto the public road. However the formation or improvement of an access onto this road for agricultural purposes would not in itself require planning permission. Works to the road not connected with agriculture do however require planning permission. Although the proposed use is one which would typically be found within and associated to an area where agriculture is a predominant land use, the proposed land use (development of equine manège and associated works) is not in itself defined as “agriculture” within Planning legislation. Therefore the complete development of the site, including works to provide access to the proposed new planning unit, does require planning permission.

The developer does propose some limited works to the access to the public road which would in itself benefit from agricultural permitted development rights (that is not require planning permission) but the works thereafter do need planning permission. The normal standard for such an access would be that the new access point is formed at right angles onto the public road with a minimum visibility splay in each direction. With a development of this nature on a road such as this the minimum required visibility would be 2.5m x 90m, which can be achieved in this instance.

This is based on an assessment of the proposed access arrangements which examines various factors:

- assessed road speed (low at around 30mph) and achievable visibility splay (90m)
- likely typical type of vehicle traffic (including larger agricultural vehicles, horse boxes and trailers);
- levels of traffic; and
- the direction of most traffic into/out of the site (to/from Edderton Mains to the north and downhill); and

this would suggest that the works which have already been undertaken to the existing agricultural access (including widening the bellmouth and removal of some roadside vegetation and trees) have already significantly improved the visibility into and out of the site for all vehicles. The original access joined the road at an angle which had restricted visibility to the south east. In light of concerns, this has been amended so that vehicles approach the junction at a right angle.

The BT pole in the southern visibility splay will need to be removed before the commencement of development; this is addressed by condition.

Accordingly, the assessment of the potential impact of the development on the road at this location is that it is not considered to be significantly detrimental with regards to road servicing provision as identified by Development Plan Policy 28 Sustainable Design.

This has been confirmed by the most recent assessment of the proposal by Transport Planning (25.01.2016) which advises that the proposal would be acceptable provided that the Council's SDB2 access standard is met; and the maintenance of visibility splays from this access point is achieved.

- 8.4.2
- 2 Lack of passing places on public road** – *Planning response* – the single track road has relatively few passing places. Transport Planning have not requested the provision of additional passing places. However, there are passing places and as with most single track roads in rural areas, drivers have to adjust their driving style to accommodate this and the more limited manoeuvring opportunities.
  - 3 Lack of toilets** – *Planning response* – this aspect is covered by separate legislation. The supporting statement indicates that a portaloo will be used. Further development of toilet facilities would require a planning application.
  - 4 Impact on neighbouring residential amenity** – *Planning response* – the development will have a visual impact on the neighbouring property. However, there is a 15m gap between between the front of the adjacent house and the south eastern edge of the application site, and the site is set below the adjacent house. Whilst there will be a visual impact – as it

introduces something new in the foreground when viewed from the house and the road – this visual impact is not considered to be significantly detrimental to individual or community residential amenity (as set out by Development Plan Policy 28). Whilst it is unfortunate that the development is not located slightly further south west from its proposed position, and thereby out of the natural direction of outlook from the road and the house, there is no right to a view. The change in elevation is also considered to assist in mitigating impacts as the development is below the adjacent house, rather than above it. Notwithstanding this, it is disappointing that greater consideration was not given to the proposed siting as these concerns could perhaps have been avoided.

- 5 Development would visually intrude into landscape** – *Planning response* – it is considered that there will be some intrusion into the landscape, primarily by the formation of the area of hardstanding. However, this is localised to the site, which is in itself relatively small, and in terms of the Development Plan Policy 28, the visual impact is not considered to have a significantly detrimental impact on individual or community residential amenity.
- 6 Size and position of caravan** – *Planning response* – the details of this can be controlled by condition.
- 7 Removal of trees** – *Planning response* – there are no statutory designations relating to the trees
- 8 Competency of the application submission; accuracy of plans** – *Planning response* – The Planning Authority assessed the details submitted and, following this, and an initial site inspection, advised the applicant that adjusted accurate plans would be required; and that the application would have to be re-advertised. Revised plans were received and the application re-advertised.
- 9 Application is in retrospect** – *Planning response* – the planning application provides an opportunity for the unregulated development to be brought under formal planning control.

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

- Alternative sites further away from nearby house
- Damage to private foul drainage system

#### 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

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 / notes to applicant:

1. Planning permission for the **static caravan as an office/changing space only and for no other use** is hereby granted for a temporary period of 3 years only and shall cease to have effect on 16.11.2019 (the 'cessation date'). Prior to the cessation date, the static caravan along with all associated fixtures and fittings shall be cleared from the application site shall approved under the terms of this permission.

**Reason** : In recognition of the temporary nature of the static caravan, to enable the Planning Authority to reassess the impact of the development after a given period of time and secure removal and restoration.

2. No development shall commence on the *manege and its floodlighting until the developer shall have submitted full details in writing and on plan of the proposed floodlighting of the site, for the approval in writing of the Planning Authority. For the avoidance of doubt, the details shall include the location, height, light bulb type (sodium or LED), angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary; and the details of any lighting column. The floodlighting system shall be fitted with an automatic cut-out timer to ensure that the system cannot operate outwith the hours of 18:00-09:00. Thereafter only the approved details shall be implemented.*

**Reason** : In order to ensure that the development hereby approved does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

3. The **hours of operation** of the site shall be 09:00 and 18:00 Monday to Sunday unless otherwise agreed in exceptional circumstances with the prior written agreement of the Planning Authority.

**Reason** : As no details have been provided and in order to minimise any impact on individual or community residential amenity.

4. No development shall commence on site until the developer shall have submitted full details in writing and on plan of any:
  - **Animal shelters**
  - **Location of any muck heap**

for the approval in writing of the Planning Authority. For the avoidance of doubt, the development shall thereafter be undertaken in accordance with the agreed details.

**Reason :** As no details have been provided and in order to minimise any impact on individual or community residential amenity.

5. The **express approval** of the Planning Authority shall be required for the provision of:

- self catering accommodation
- polytunnel
- stables
- toilets

all as shown on Approved Site Layout Plan No. 000002 Rev B. For the avoidance of doubt, these **details are hereby not approved** as part of this permission.

**Reason:** As no details have been provided and in order to control the commercial development of the site.

6. All development works associated with the **formation of the access point** to the public road shall be completed before the first use of the rest of the development as a riding centre, as shown on the Access Layout Plan docketed hereto, to the satisfaction of the Planning Authority in consultation with the Roads Authority. For the avoidance of doubt visibility splays of 2.5m x 90m shall be provided, and that the BT pole within the southern access splay shall be removed before the commencement of any development.

**Reason:** In the interests of 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

### **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.

### **Local Roads Authority Consent**

**In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from Community Services prior to work commencing.** These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local **Community Services** 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/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

### **Mud & 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.

Signature: Dafydd Jones

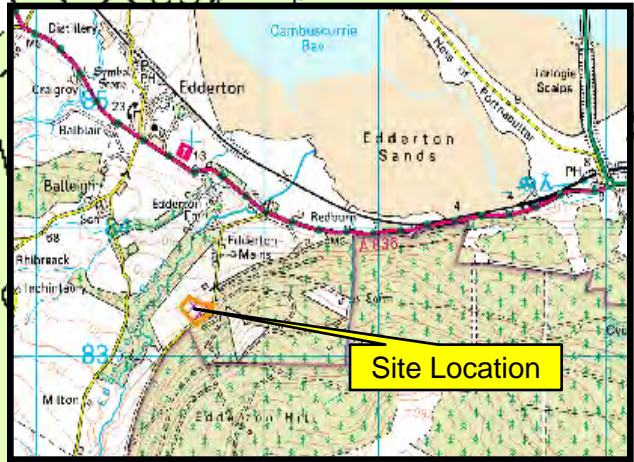
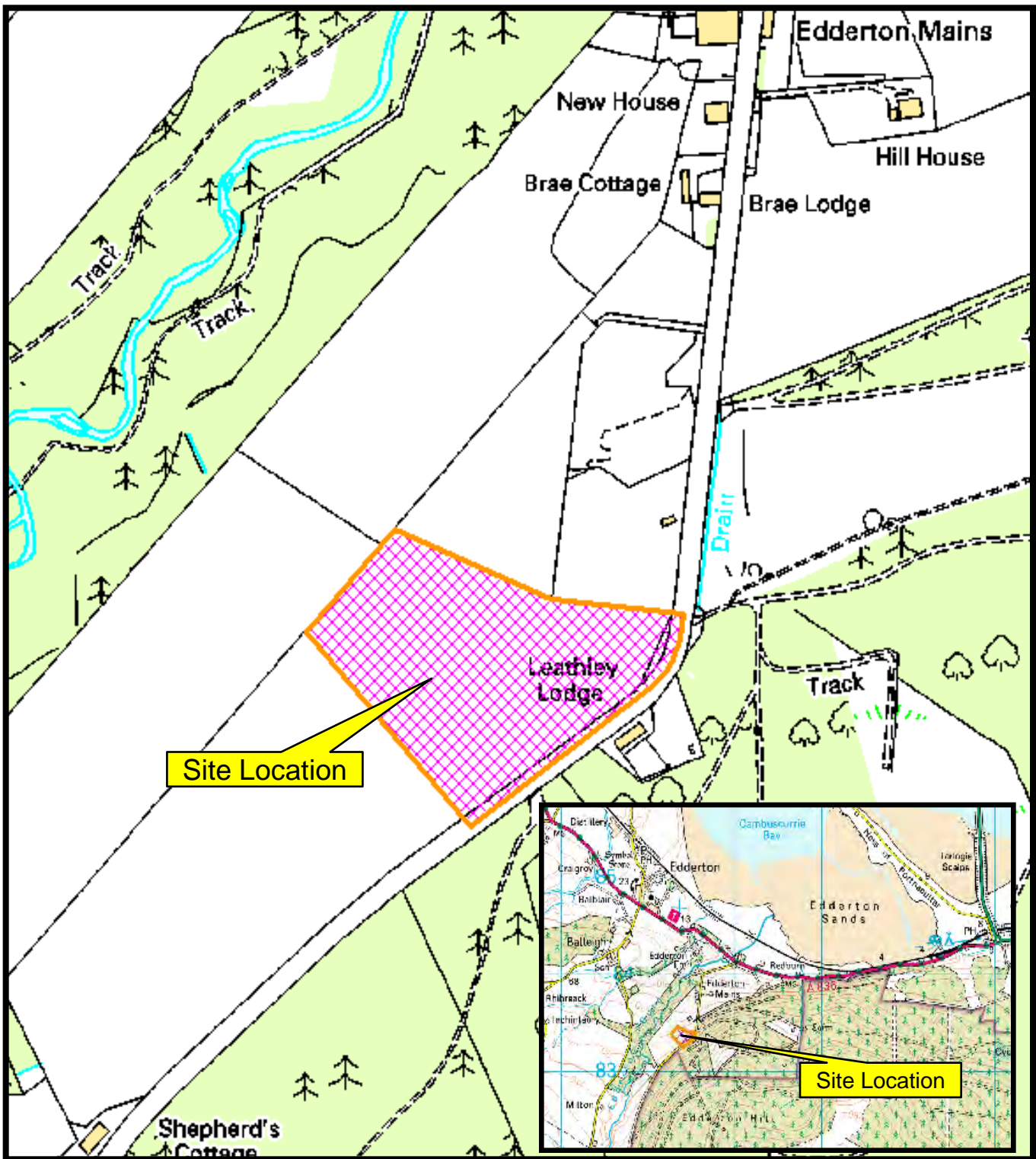
Designation: Area Planning Manager North

Author: Bob Robertson

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

Relevant Plans:

- Location plan 01 Rev B
- Site layout plan 02 Rev A
- Access Layout Plan 03



Development & Infrastructure Service

15/002287/FUL

Formation of riding centre with associated access and parking (in retrospect), manege and floodlights, installation of caravan and portable office building (As Amended) at land 50m NW of Leathley Lodge, Edderton

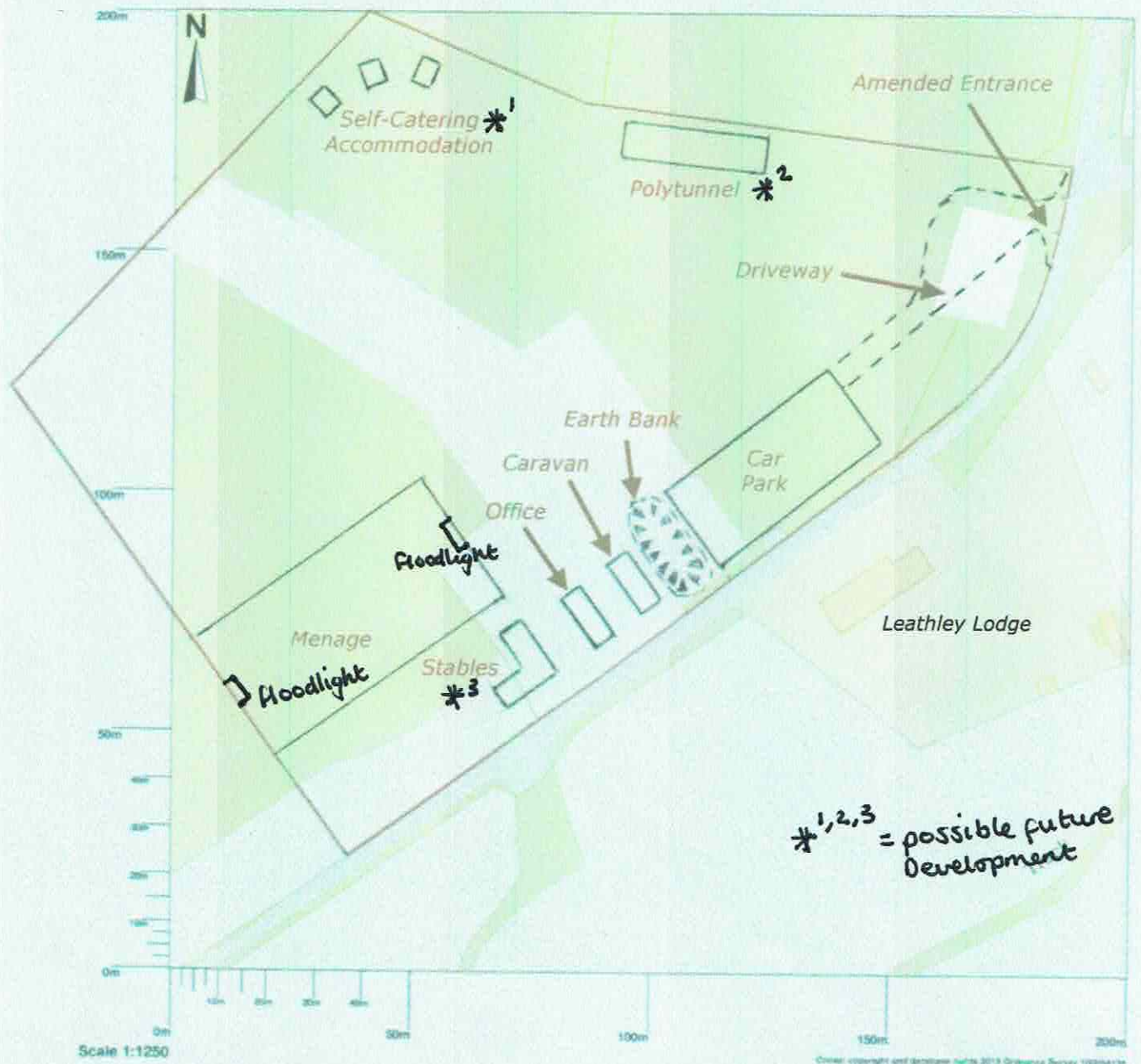
Date: 26<sup>th</sup> January 2016





**Leathley Lodge, Edderton, Tain, IV19 1LJ**

PA/02287/FUL



Map shows area bounded by: 271364.0,883232.0,271564.0,883432.0 at a scale of 1:1250. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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### Hollingwells Equestrian Centre, Edderton Mains, IV19 1LJ

