

Agenda Item	7.1
Report No	PLN/048/19

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 4 June 2019

Report Title: 18/04737/FUL: Mr James Riddell
Old Mossy Quarry, Castletown, Thurso KW14 8TW

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Part change of use of garage to form scrap yard (retrospective)

Ward: 2 – Thurso and North West Caithness

Development category: Local

Reason referred to Committee: Community Council Objection (Castletown CC)

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.

Recommendation

Members are asked to agree the recommendation to Grant planning permission as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks a partial change of use within the curtilage of an existing garage to allow storage of scrap metals. The garage operations will continue as existing however the proposal seeks to formalise the use of hardstanding areas to the north west of the garage building for storage of scrap metals. The application is made in retrospect. The Supporting Information notes that storage of scrap metal will be around 740 tonnes per annum comprising of both ferrous and non ferrous metal.
- 1.2 The site comprises an existing business operation including a large workshop and yard areas. Infrastructure already exists at present including access and drainage.
- 1.3 **Pre Application Consultation:** In 2016 the Council became aware that the applicant was utilising open areas around the garage workshop for storage of scrap metal following the breaking of vehicles. This is contrary to the terms of the planning permission granted for the garage in 1989 which specifically states 'no open storage of materials shall be permitted on site'. In addition, the formation of a scrapyard is a 'Sui Generis' Use as defined by the Use Class Order 1997 and in itself requires planning permission. As such the Council instigated enforcement proceedings and this application was submitted following successful enforcement action.
- 1.4 **Supporting Information:** The application is supported by a Supporting Statement outlining details of the types and quantities of metals stored on the site.
- 1.5 **Variations:** Amended site layout plan received on 9th May 2019 showing amended site boundary treatments following discussion with the Planning Authority.

2. SITE DESCRIPTION

- 2.1 The site lies to the south west of Castletown adjacent to the single track road leading to Mayfield. It comprises the existing large garage workshop building which was built around 30 years following issue of planning permission ref CA/1989/415 and has subsequently been extended. The building is surrounded by a yard area which is being utilised for storage of a small amount of cars and scrap metal. The village of Castletown lies to the north of the site; the nearest residential properties are around 220m from the site.

3. PLANNING HISTORY

- 3.1 CA/1989/415: Erection of garage workshop Permitted

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour

Date Advertised: 2 November 2018

Representation deadline: 16 November 2018

Timeous representations: 4 representations from 4 households

Late representations: None

4.2 Material considerations raised are summarised as follows:

- a) There is a long history of unsatisfactory matters relating to the operation of this garage;
- b) The garage is already causing a major nuisance to local residents
- c) Risk of flooding has not been addressed
- d) Problems with leaked oil in field drains
- e) Storage of scrap has been without SEPA approval
- f) Unsightly outlook from the area known as Murrayfield (Castletown)
- g) Noise (including in the evenings)
- h) High risk of pollution
- i) Cars parked out with the boundary of the site
- j) Extra building already erected which is not shown on the plan
- k) A bund previously installed was removed; concerns this may happen again
- l) Concern that planning conditions will not be adhered to

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.

5. CONSULTATIONS

5.1 **Castletown and District Community Council:** Objects to the application. Its response notes the following concerns:

- The site has operated as a scrap yard for many years with no planning permission and the requirement to plant trees for screening has never been done;
- A Planning Section 33A Notice requiring the owner to submit a planning application was never complied with;
- The owner has continued to accept scrap despite agreeing to clear the site;
- Concern regarding localised flood risk;
- No neighbours were notified of the application;
- Concern regarding percolation tests not being obtained over winter months;
- Noise concern and lack of action by Environmental Health;
- Visual impact;
- The CC consider that the application should be refused.

Non-material considerations are summarised as follows:

- A SEPA Waste Exemption Licence expired in July 2018 was not renewed;
- Uncertainty over the tenancy of the garage.

5.2 **THC Environmental Health:** No objections. The Environmental Health Officer initially requested the submission of a Noise Impact Assessment however following discussion with the Planning Authority and applicant regarding the tonnages of waste stored on site, confirmed the NIA would not be required subject to conditions to restrict volumes of waste as well as hours of operation.

- 5.3 **THC Flood Risk Management Team:** No objection. SEPA's Flood Map indicates that the north-west boundary of the application site lies inside predicted surface water flood extents. However, given there is no development planned within this area and since percolation testing demonstrates that the ground is suitable for infiltration, we have no objection to the proposals.
- 5.4 **Scottish Environmental Protection Agency:** Objections – resolved. The objection initially concerned a lack of information regarding waste management. Following receipt of additional information and plans, SEPA have removed its objection. Comments summarised below:
- The applicant will be able to operate under a Paragraph 45 waste exemption with no End of Life Vehicles
 - SEPA's information requirements have now been addressed – in particular oil interceptors are included and fencing/a bund have been identified on the plan. Waste storage areas have also been identified any batteries will be sorted in battery boxed within the building.

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
29 - Design Quality and Place-making
41 - Business and Industrial Land
42 - Previously Used Land
63 - Water Environment
64 - Flood Risk
65 - Waste Water Treatment
66 - Surface Water Drainage

6.2 Caithness and Sutherland Local Development Plan 2018

No site specific policies

6.5 Highland Council Supplementary Planning Policy Guidance

Flood Risk and Drainage Impact Assessment (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June, 2014)

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.

Determining Issues

- 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.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) amenity impact
 - c) environmental impact
 - d) drainage and flood risk
 - e) any other material considerations.

Development plan/other planning policy

- 8.4 The application seeks consent for a partial change of use of the existing garage premises at Mossy Garage, to allow for storage of scrap metal. A number of concerns are noted by objectors about the retrospective nature of the scrapyards however this application has been submitted following successful enforcement action and must be assessed solely in the merits of the proposal. Moreover it is an opportunity to enable the Planning Authority to ensure effective monitoring of the scrapyards to ensure the operations can continue without any adverse impact on residential amenity.
- 8.5 The expansion/continuation of an existing business use is promoted by Highland-wide Local Development Plan Policy 41 and Scottish Planning Policy. Whilst both documents provide support in principle, in this instance the development requires to be assessed in terms of its amenity impact as well as any impacts arising on the environment.

Impact on Local and Residential Amenity

- 8.6 The scrapyards operations have been in place for a number of years and it is evident from comments from members of the public and the community council (both in relation to this application and through correspondence with the enforcement team) that it has resulted in adverse impacts on amenity both through visual impact and noise.
- 8.7 The scrapyards is somewhat screened from public view when viewed from Castletown due to the presence of the workshop building however there will be some pockets of visibility and it also becomes much more visible when viewed from the south where the area becomes more rural and open in nature (the nearest house to the south is over 800m away). The scrapyards area is however relatively small in size particularly when viewed in association with the large workshop building and any visual effects can be mitigated through the installation of appropriate treatment boundaries. The submitted site layout plan which has been amended through discussion with the Planning Authority provides for the formation

of landscaping bunds along the northern and eastern boundaries and the installation of a timber fence along the southern boundary. These are considered appropriate as the landscaping bund will provide a 'softer' boundary to the development when it is viewed from residential receptors with the timber fencing providing screening from more long distance views from the south. A planning condition has been attached to require these proposed boundary treatments to be in place within 3 months (should consent be granted). This will ensure any visual impact is effectively mitigated and will give a greater degree of containment for the business.

- 8.8 In terms of noise, it is reasonable to expect that a business of this nature will naturally generate a certain level of noise whilst operations are ongoing. Concern has however been noted in representations about late night working resulting in disturbance in the evenings. Nuisance noise has been reported to Environmental Health on a number of occasions by affected residents however the Council's Environmental Health Officers have been unable to verify the complaints which have been received. As such it was initially considered that a Noise Impact Assessment should be sought from the applicant however after discussion with the EHO around the level of development and the quantities of metal that are/will be stored on site, it was subsequently decided that a NIA would be disproportionate to the scale of the development. The EHO has confirmed no objection to the application on the basis that the quantities of metals to be stored are secured by condition. This planning application does provide an opportunity to ensure working hours can be set by condition which would allow enforcement action to be taken, in conjunction with Environmental Health, should the applicant fail to comply with suitable working hours.

Environmental Impact

- 8.9 There is potential for environmental impact as a result of the storage of metals through pollution entering drainage systems. Such measures are regulated by SEPA who initially objected to the application due to a lack of information to allow it to demonstrate compliance with the Waste Management Licensing (Scotland) Regulations 2011 noting that the Licence granted previously has now expired. SEPA highlighted a number of measures which the applicant must put in place in order to ensure a further licence can be granted.
- 8.10 A Supporting Statement and revised layout plan was subsequently received which has allowed SEPA to remove its objection on the basis that the development can operate at such levels that it can be granted a licence under Paragraph 45 Waste Exemption. The supporting information demonstrates that the SEPA's requirements have been addressed, in particular:
- Drainage incorporates an oil interceptor;
 - Fencing and bunds are included;
 - Waste storage areas are specifically identified;
 - Battery storage will be within battery boxes contained in the garage building.

Drainage and Flood Risk

- 8.11 The north western corner of the site is an area which is identified on SEPA's Flood Risk map as being at risk of pluvial flooding. These are areas which may be prone to localised surface water flooding. The site layout plan confirms there is an existing large soakaway and although concern is noted by the Community Council that the submitted percolation tests were carried out over summer months, the Council's Flood Risk Management Team have confirmed no objection as no development is proposed in the area subject to potential flood risk.

Other material considerations

- 8.12 It is noted in representations that the workshop building has expanded since the granting of consent in 1989. This was investigated by the Council's enforcement team who found that, due to the extensions having been constructed prior to 2009, they are now considered to be lawful in planning terms. In addition, the Community Council note that no neighbours were notified of this planning application. In line with Scottish Government policy, the Council serves notice on any address points within 20m of the site boundary; in this instance there are no properties within this buffer. As such the application was advertised in the local press. Given the nature of the application the community council were consulted as a statutory consultee.

Non-material considerations

- 8.13 The issue of whether the applicant operates the garage as an owner/operator or as tenant is raised by the Community however this is not a material planning consideration. In any event, the submitted land ownership certificate states the site is owned by the applicant.

9. CONCLUSION

- 9.1 It is acknowledged that the scrapyards for which the applicant seeks consent have been in place for a number of years which has impacted on local residents by virtue of its visual appearance and associated noise. This application however now seeks to regularise the planning position but has also provided an opportunity to ensure appropriate mitigation measures are put in place to alleviate and such concerns as well as to address the concerns of SEPA. It is therefore considered that there is sufficient supporting information to allow the application to be approved. Given the nature of the development, it is considered that a temporary consent of 5 years is appropriate to allow the situation to be monitored to ensure compliance and the proposal does not adversely impact on neighbours to their detriment. Following which, should the consent not be renewed, the scrapyards area should be removed and the land reinstated.
- 9.2 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. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be

GRANTED subject to the following:

Conditions and Reasons

1. Planning permission is hereby granted for a temporary period only and shall cease to have effect on 15th June 2024 (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)) and reinstated.

Reason: In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

2. Within 3 months of the date of this permission, the proposed boundary treatments shown on the approved landscaping plan shall have been installed. For the avoidance of doubt, such boundary treatments shall include a landscaping bund on the northern and eastern boundaries of the site and a 2m timber close boarded fence on the southern boundary.

Reason: To ensure an adequate level of landscaping is provided and to minimise visual impact from residential receptors.

3. Upon the first use of the development hereby approved and thereafter, operations for which noise is audible at the boundary of the application site shall only be carried out between:
- i. 0800 hours and 1900 hours Monday to Friday; and
 - ii. 0800 hours and 1300 hours on Saturdays.

Notwithstanding the above, no such operations shall take place at any time on a Sunday or Christmas Day, New Year's Day, 2nd January or Good Friday Bank Holidays (as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended)), unless otherwise approved in writing by the Planning Authority as an exceptional instance for operating outwith these hours.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

REASON FOR DECISION

FOOTNOTE TO APPLICANT

Accordance with Approved Plans and 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 (paragraph 259), 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.

Septic Tanks and Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads 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/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud and 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.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

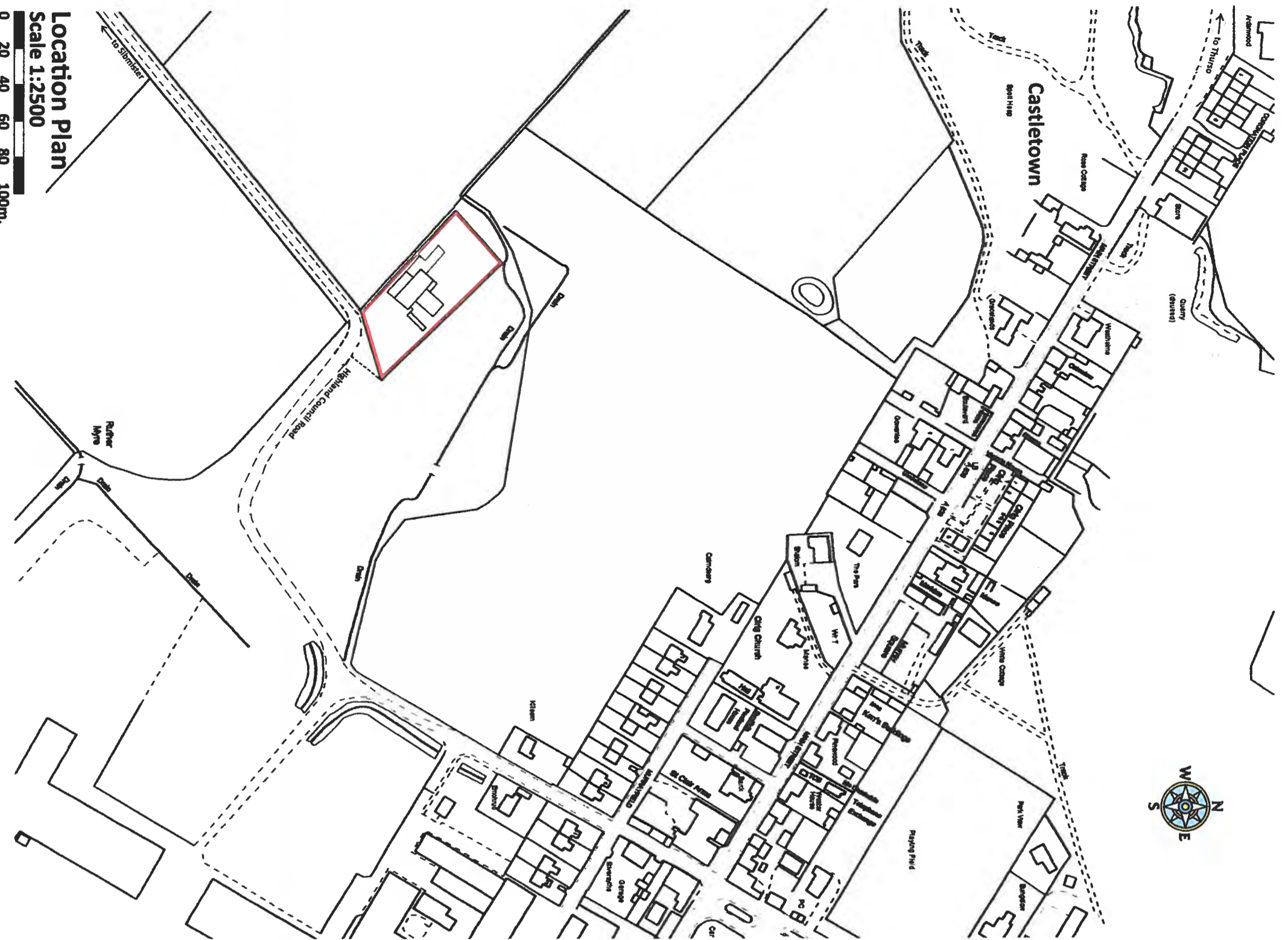
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision

taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature: Dafydd Jones
Designation: Area Planning Manager – North
Author: Gillian Pearson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan (Sheet 1 of 1)
Plan 2 - Site Layout Plan (Sheet 2 of 2)
Plan 3 - Landscaping



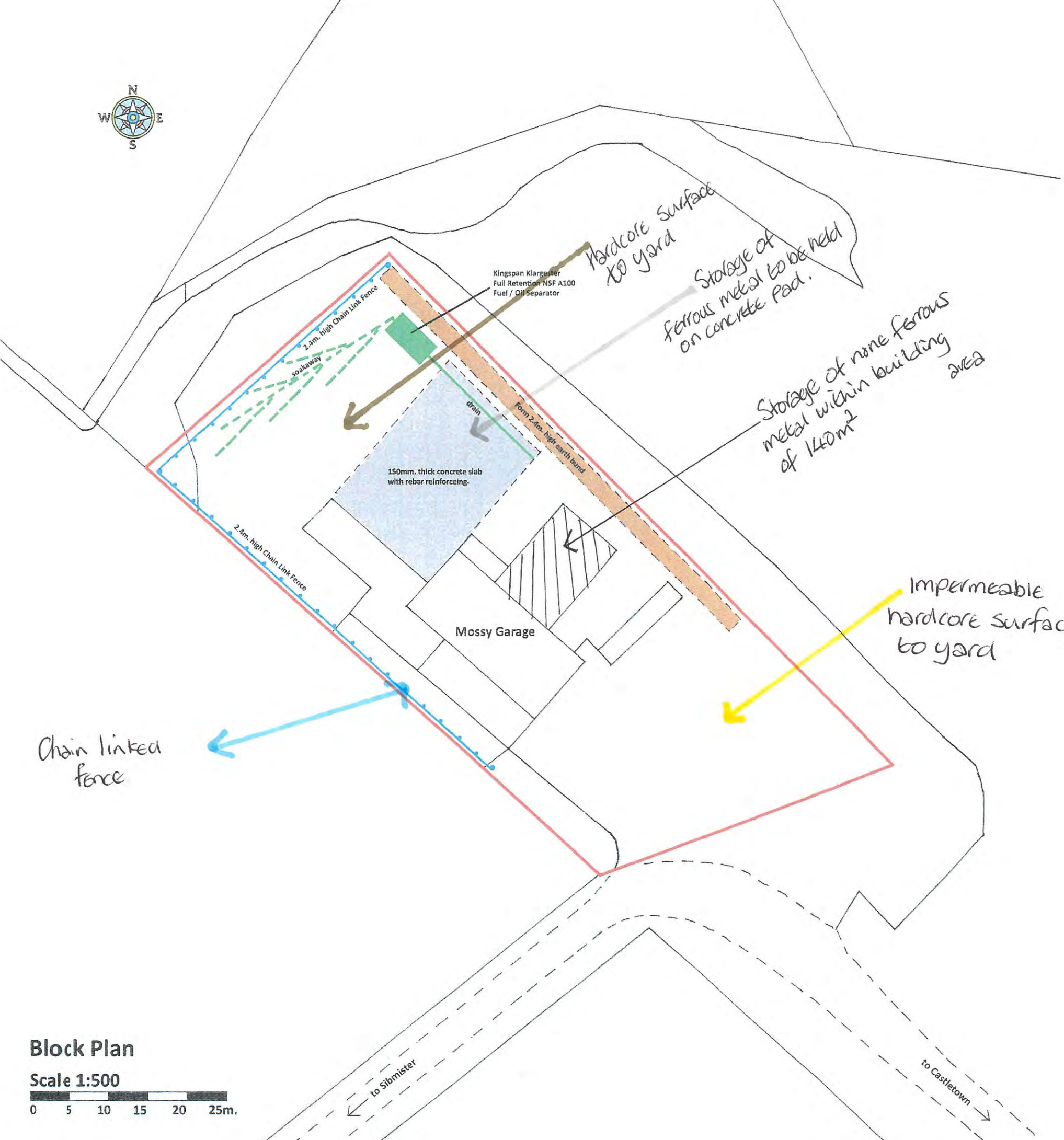
Location Plan
Scale 1:2500








0 20 40 60 80 100m.


eProcess
Date Received: 08 OCT 2018

**Conversion of Garage to Form Garage and
Scrapyard**
at
**Mossy Garage, Quarryside, Castle town,
Caithness**
for
Mr. James Riddell

August 2018
Location Plan
Scale 1:2500
Sheet 1 of 2

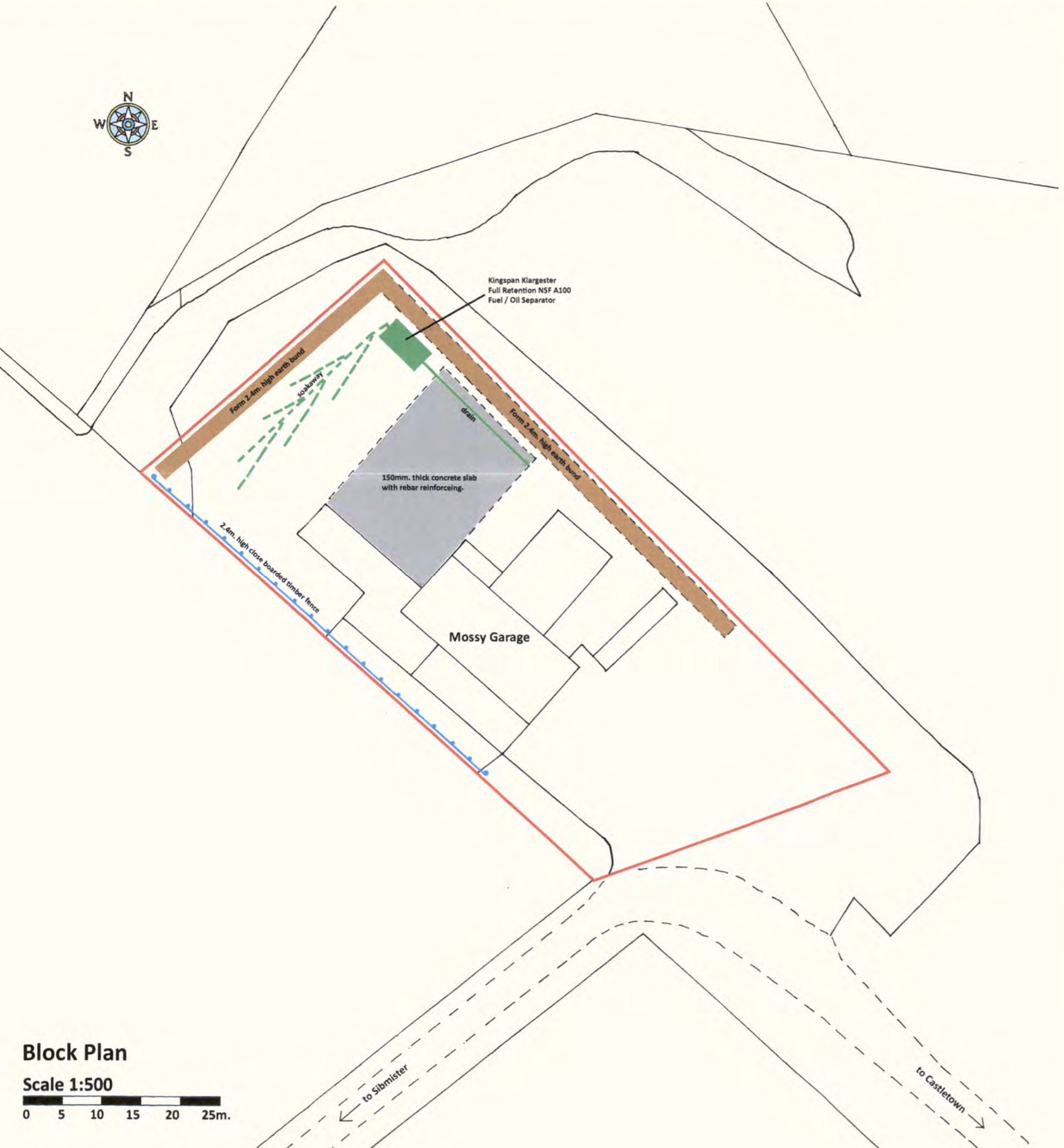


	Form 2.4m. high earth bund
	Instal Kingspan Klargester Full Retention NSF A100 Fuel / Oil Separator
	Drain
	Soakaway
	150mm. thick concrete slab with rebar reinforcing
	2.4m. high Chain Link Fence with stanchions at 3m. cts.
	Site boundary








Block Plan
Scale 1:500

 0 5 10 15 20 25m.

Conversion of Garage to Form Garage and Scrapyard
 at
Mossy Garage, Quarrvside, Castletown, Caithness
 for
Mr. James Riddell

August 2018
 B
 Block Plan
 Scale 1:500
 Sheet 2 of 2



Block Plan
Scale 1:500
0 5 10 15 20 25m.

-  Form 2.4m. high earth bund
-  Instal Kingspan Klargestar Full Retention NSF A100 Fuel / Oil Separator
-  Drain
-  Soakaway
-  150mm. thick concrete slab with rebar reinforcing
-  2.4m. high close boarded timber fence
-  Site boundary

The right to use the
eProcessing Centre
Date Received:
09 MAY 2019

Conversion of Garage to Form Garage and Scrapyard
at
Mossy Garage, Quarryside, Castletown, Caithness
for
Mr. James Riddell

August 2018 **Amended April 2019** Scale 1:500
Block Plan Sheet 2 of 2