

Agenda Item	6.5
Report No	PLN/051/20

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 24 November 2020

Report Title: 20/03370/FUL: Andy Brand and Struan Mackie
Unit 1 Murkle House, 23 Forss Business And Energy Park
Forss, Thurso

Report By: Acting Head of Development Management – Highland

1. Purpose/Executive Summary

1.1 **Description:** External alterations and partial change of use of building from Class 4 (Business) to Class 5 (General Industrial) (Distillery)

Ward: 02 – Thurso and North West Caithness

1.2 **Development category:** Local

Reason referred to Committee: One of the applicant is an elected councillor.

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.

2. Recommendations

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

3. PROPOSED DEVELOPMENT

- 3.1 The application is for the change of use of Murkle House, Unit 1, at 23 Forss Business And Technology Park, from business use (Class 4) for use as a Distillery, which falls under Use Class 5, General Industrial. The development will also entail some alterations to the external appearance of the building, including a new roller shutter door for vehicular access to the building, and a relocated emergency exit, both on the south elevation. Internal spaces will include areas for distillation, alcohol finishing, bottling and packaging, goods and batching, as well as storage, staff and office facilities. There are no proposals for new ventilation or flues, signage or changes to the external site area included with the application.
- 3.2 The development will make use of an existing warehouse unit within the Forss Business and Energy Park. The unit has seven associated vehicular parking spaces, with further spaces within the business park, is connected to the Park's private water supply and private sewerage treatment plant, as well as the surface water drainage system, and is connected for electricity supply.
- 3.3 Pre Application Consultation: a Permitted Development Enquiry was submitted prior to the submission of the current application, ref. 20/02185/PDENQ. The applicant was advised that that planning permission would be required for the Change of Use due to the potential for smells as part of the distilling process, with the Use Classes Order making specific mention of odours as a factor in determining Class 4 or Class 5 use.
- 3.4 Supporting Information: Supporting Planning Statement detailing how noise will be
- 3.5 Variations: amended Existing Floor Plan submitted XXXX showing the current configuration of the unit; and, amended Proposed Floor Plan submitted XXXX showing the proposed internal configuration of the unit.

4. SITE DESCRIPTION

- 4.1 The application site is the aforementioned Murkle House, which is Unit 1 of the Forss Business And Technology Park. The building is of block construction with a dry dash off-white finish render and cement fibre roofing sheets, and is located to the north of the Park sited between Dunbeath House to the north, Sinclair House to the south, and Lybster House to the West. The Forss Business and Technology Park is approximately 8km west of Thurso in an isolated coastal location adjacent to the Forss Wind Farm and surrounded by agricultural fields. The nearest residential properties are in Crosskirk on the opposite side of Forss Waters, approximately 820m west, and some isolated housing along the A863 to the South at Lybster. The Scheduled Monument St. Mary's Chapel is 270m northeast of the application site.

5. PLANNING HISTORY

- 5.1 No recent Planning History

6. PUBLIC PARTICIPATION

- 6.1 Advertised: Schedule 3 Development and Unknown Neighbour
Date Advertised: 18 September 2020
Representation deadline: 03 October 2020

Timeous representations: None

Late representations: None

6.2 Material considerations raised are summarised as follows:

a) None

6.3 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.

7. CONSULTATIONS

7.1 **Environmental Health:** do not object to the application and have no comments regarding adverse impacts.

7.2 **Health and Safety Executive:** consultation not required. The proposal was checked against HSE's consultation checker due to the site's location within the Dounreay Consultation Boundary, which confirmed the site does not lie within Consultation Distance of a major hazard site or major accident hazard pipeline.

7.3 **SEPA:** do not object and note the building is connected to the business park's private water supply and foul drainage arrangements, and that the existing SUDS arrangements will be used. SEPA also welcome the proposal to repurpose waste products for agricultural use and advise that this can be done via a 'paragraph 7 exemption'.

7.4 **Scottish Water:** no objection. Scottish Water confirmed there is no public water supply to the business park or public sewer connection.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan (HwLDP) 2012

28 - Sustainable Design

31 - Developer Contributions

36 - Development in the Wider Countryside

41 - Business and Industrial Land

57 - Natural, Built and Cultural Heritage

58 - Protected Species

65 - Waste Water Treatment

66 - Surface Water Drainage

8.2 Caithness and Sutherland Local Development Plan (CaSPlan) 2018

Forss Business and Energy Park is identified as a Caithness Economic Development Area within the CaSPlan.

8.3 **Highland Council Supplementary Planning Policy Guidance**

Developer Contributions (March 2013)

Highland's Statutorily Protected Species (March 2013)

Managing Waste in New Developments (March 2013)

Sustainable Design Guide (Jan 2013)

9. **OTHER MATERIAL POLICY CONSIDERATIONS**

9.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (The Scottish Government, June 2014)

10. **PLANNING APPRAISAL**

10.1 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

10.2 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

10.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy

Development plan/other planning policy

Policy Appraisal

10.4 As an application related to a business and industrial land-use, the application is principally assessed against Policy 41 of the HwLDP for Business and Industrial Land, with all relevant HwLDP policies, including for Sustainable Design (28), carrying their due weight. Policy 41 is designed to direct proposals for industrial land-uses to strategic locations that the Council has already identified as suitable for such purposes, or, to sites already accommodating an existing employment use. In this instance, the proposal for a distillery entails an industrial process with potential to impact residential amenity due to odours, and is therefore assessed as a Class 5, Industrial Use. The application site's location is within the Forss Business and Energy Park, which is explicitly identified in Policy 41 of the HwLDP, as well as the CaSPlan, for business and industrial land-uses with potential for expansion. As such the principle of the land-use is considered to accord with the Local Development Plan and is supported.

Siting and Design

10.5 The proposal makes use of an existing unit within the business park and therefore the siting conforms with the settlement pattern. In terms of the design, external alterations are limited to the south elevation where a roller shutter door will be installed into the existing roller door frame that was built into the building when originally erected, and the re-installation of the existing fire exit, which will replace an adjacent window. Both alterations are considered

appropriate for the use and type of building, as are the proposed materials and colour finishes of the doors. No further external changes are proposed and as such, the development is not considered to deteriorate the visual qualities of the business park or the setting of the nearby Scheduled Monument St. Mary's Chapel, nor is it considered to impact the wider landscape character. The development is therefore considered acceptable on siting and design grounds.

Amenity

- 10.6 As stated in para. 4.1, Unit 1 of 23 Forss Business And Energy Park, is located at the northern part of the site, which itself is in a discrete location away from residential properties, so there are no concerns that onsite processes will impact the residential amenity of properties in the wider area. It should be noted however, that Calder House, approximately 75m south of Murkle House, was granted permission in 2015 for conversion to contractor accommodation (ref. 15/02309/FUL). Conditions were attached to that permission to ensure the building provides temporary accommodation to contractors only, and to ensure the building was insulated to the required standard against noise from the adjacent windfarm. Given that the purpose of the business park is to provide a suitable location for business and industrial land-uses, for which the contractor accommodation is ancillary to, it would not be appropriate to impede business and industrial uses at the site as a result of the neighbouring ancillary residential land-use. Nevertheless, it is standard to include a Condition to ensure plant equipment is operated within acceptable noise limits to such permissions. The condition will ensure that any impacts on the amenity of the contractors at Calder House resulting from the development will be within acceptable limits. Environmental Health have no concerns that the development will result in Statutory Nuisances.

Transport, Access and Parking

- 10.7 The site is accessed from the A836 using the existing business park access routes, which are designed and laid out with a one way system to be suitable for business and industrial uses, including for deliveries and HGV use. Additionally, the size of the operation is such that it is not considered to have a significant impact on the public road network. The unit has seven dedicated parking spaces while further overspill parking is available across the park, this is considered sufficient for staff parking needs as there are no plans to make the distillery accessible to visitors. The application is therefore considered acceptable under transport, access and parking considerations.

Water, Drainage and Waste Management

- 10.8 Forss Business and Energy Park has its own private water supply and foul treatment plant that the distillery will make use of, in addition to the existing sustainable surface water drainage system. All washings, including recirculated water from the still condenser, used for Clean In Place procedure, will be held in the Intermediate Bulk Containers before being used for agricultural purposes. Therefore, no new water abstractions or foul drainage discharges are proposed as part of the development, and SEPA have confirmed they have no concerns with the development on water supply, drainage, or pollution from spillages grounds. The proposal to repurpose waste products for agricultural use is supported under Policy 28 of the HwLDP, and the associated Managing Waste in New Developments Supplementary Guidance, while SEPA have advised that this process may be done via a 'paragraph 7 exemption'.

Developer Contributions

- 10.9 The application requires to be assessed against the adopted supplementary guidance for Developer Contributions for potential contributions towards infrastructure upgrades. In this instance, no financial contribution requirements towards service and infrastructure improvements have been identified.

Other material considerations

- 10.9 The proposal is not considered to have an impact on sensitive landscape designations or European Protected Species concerns.

Non-material considerations

- 10.10 No non-material considerations were raised during the course of this assessment.

Matters to be secured by Section 75 Agreement

- 10.11 None

11. CONCLUSION

- 11.1 The development is considered to accord with the provisions of Policy 41 of the HwLDP by virtue of being located within an identified site for business and industrial land-uses, appropriate to the distillery operations of the business. The development is considered to be appropriate in terms of siting and design, as well as access and parking, and, drainage considerations, and is not considered to have an unacceptable impact on the amenity of sensitive properties, the public road network, or result in any unacceptable environmental impacts.

11. 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.

12. IMPLICATIONS

- 12.1 Resource: Not applicable.
- 12.2 Legal: Not applicable.
- 12.3 Community (Equality, Poverty and Rural): Not applicable.
- 12.4 Climate Change/Carbon Clever: Not applicable.
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

13. 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. The development hereby approved shall only be for uses defined under the Town and Country Planning (Use Classes) (Scotland) Order 1997 Class 5 (General Industrial) and any subsequent amendments or alterations to the above Order.

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, and in accordance with the use applied for.

- 2.. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration services or similar and including fans, ducting and external openings shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive premises with windows open for ventilation purposes. For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels and Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

Reason: to protect the amenity of occupants of nearby sensitive properties.

REASON FOR DECISION

The proposal accords with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

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.

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 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.

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.

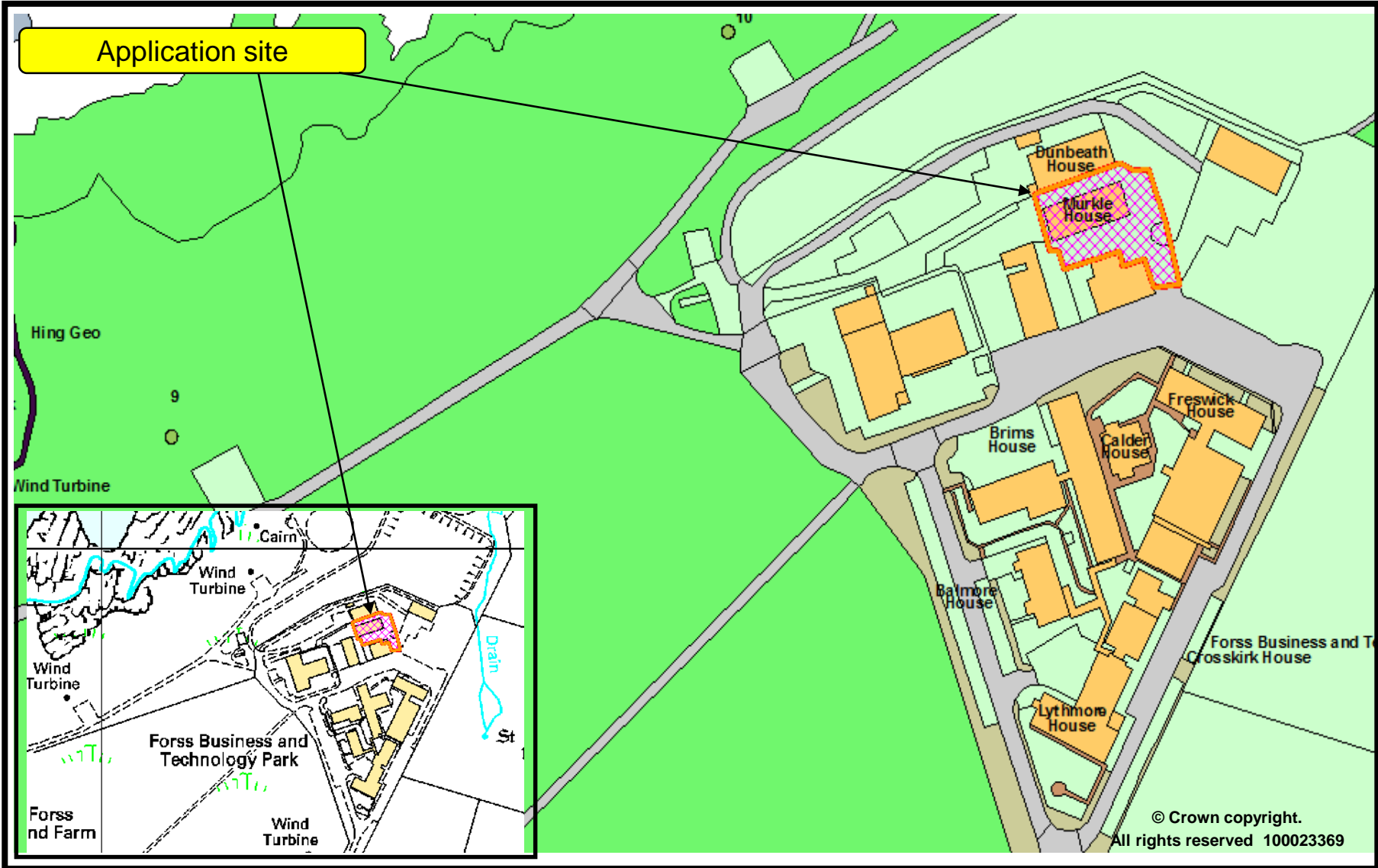
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits.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

Designation:	Acting Head of Development Management – Highland
Author:	Mark Fitzpatrick
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 - Location Plan
	Plan 2 - Block Plan
	Plan 3 - Existing Elevations
	Plan 4 - Proposed Elevations
	Plan 5 - Existing Floor Plans
	Plan 6 - Proposed Floor Plan

Application site

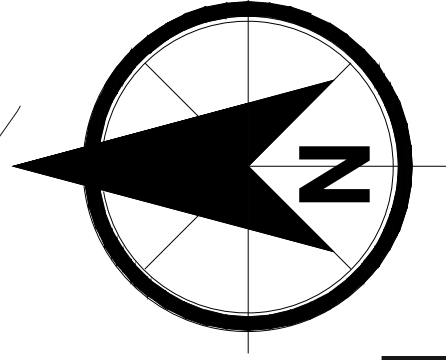
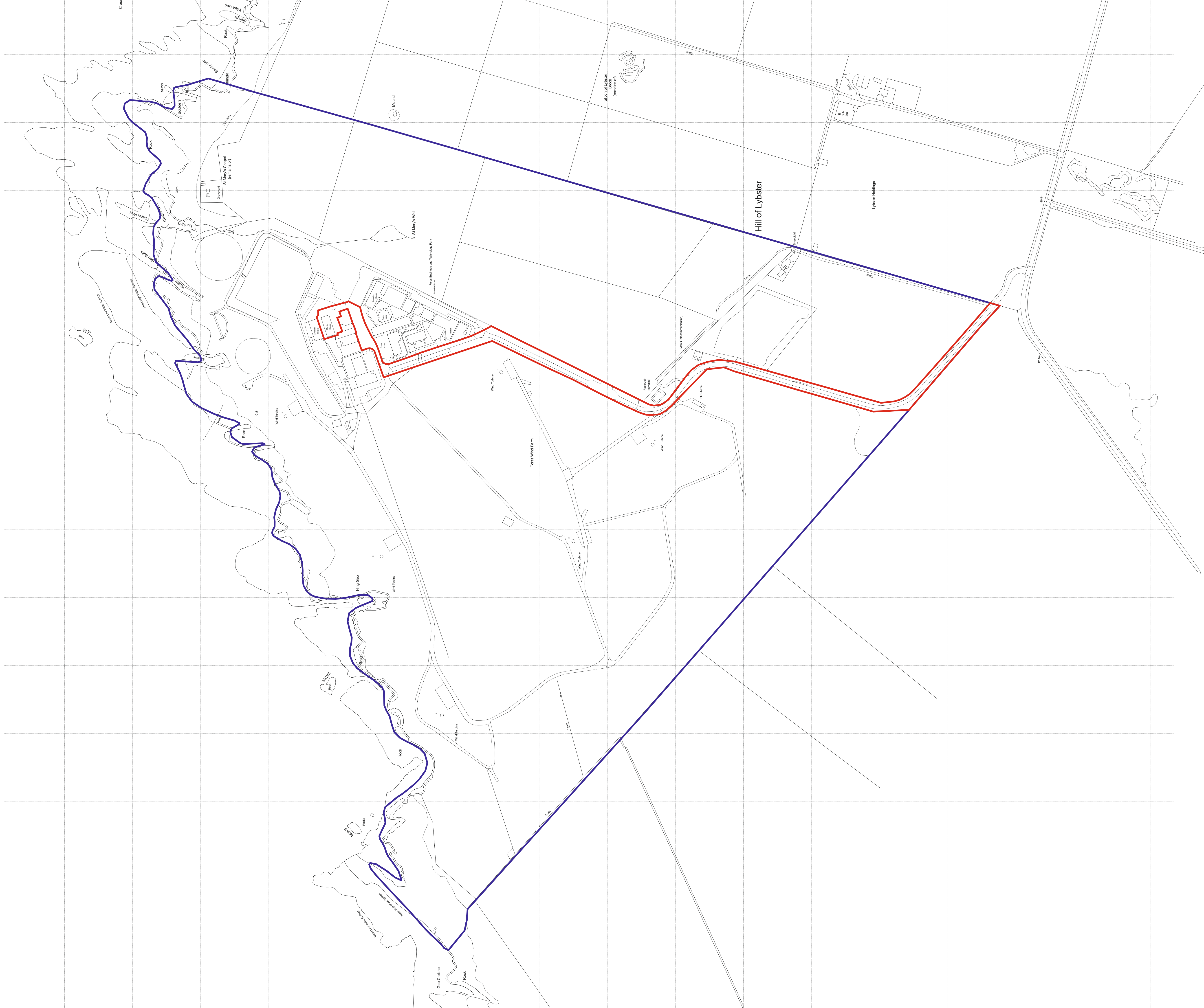


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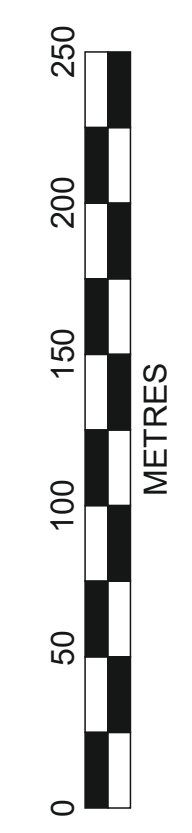


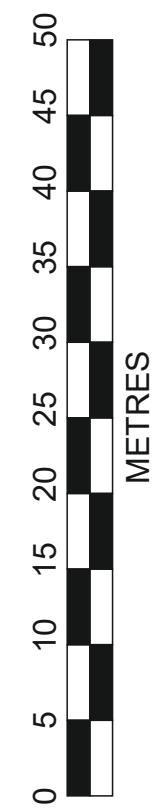
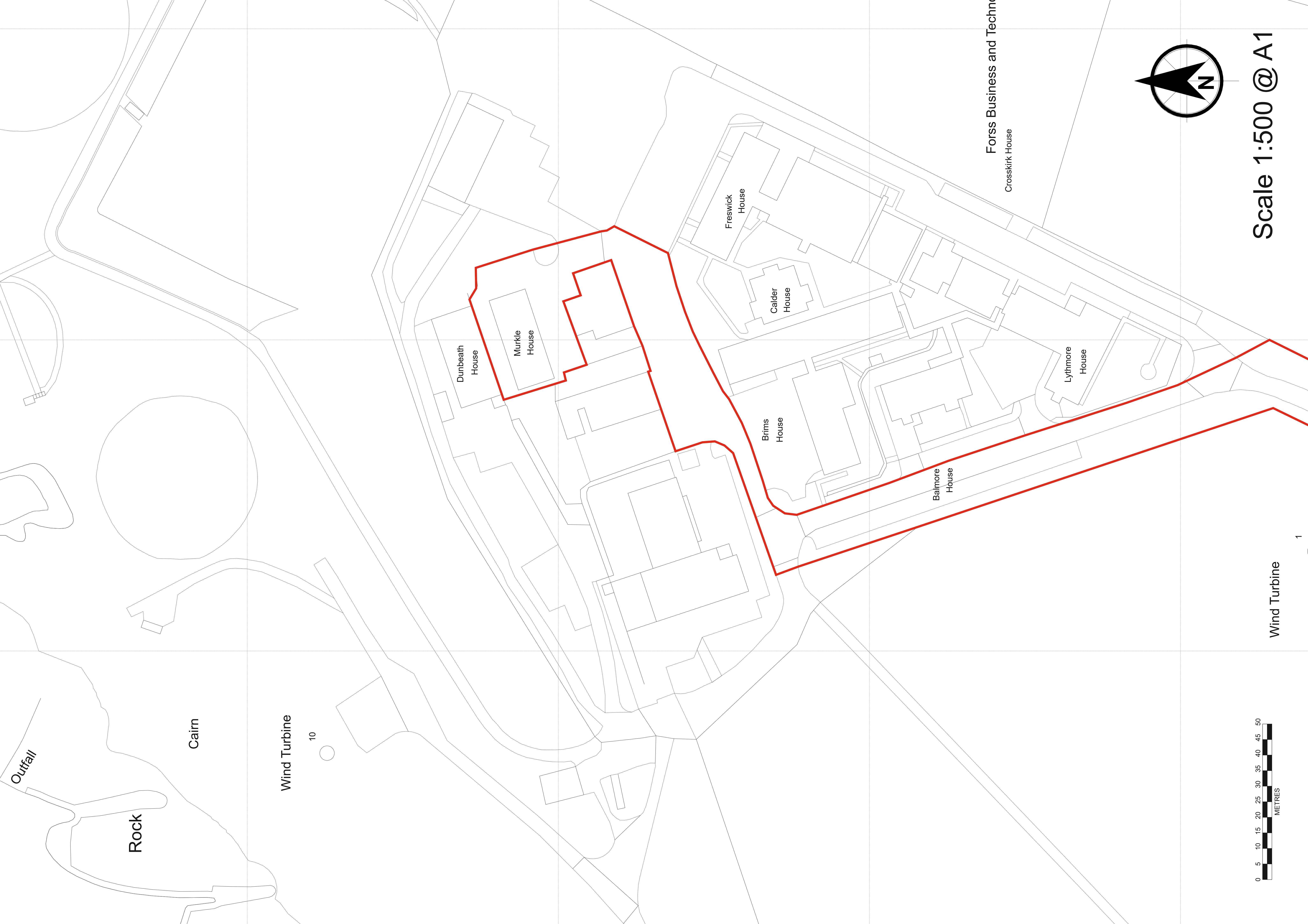
Planning and
Development Service

20/03370/FUL
External alterations and partial change of use of building from Class
4 (Business) to Class 5 (General Industrial)(Distillery)
November 2020

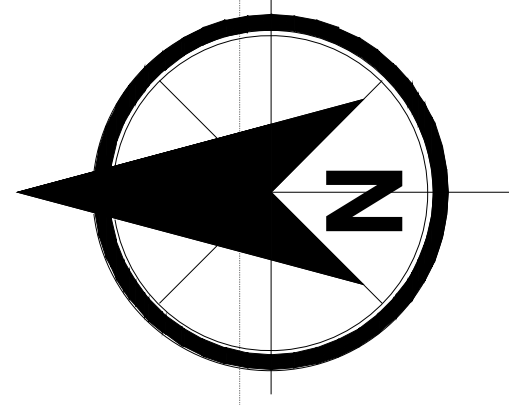


LOCATION PLAN
SCALE 1:2500 @ A1





Scale 1:500 @ A1



Wind Turbine

1

Rock

Cairn

Wind Turbine

10

Forss Business and Techn

Crosskirk House

Freswick House

Calder House

Dunbeath House

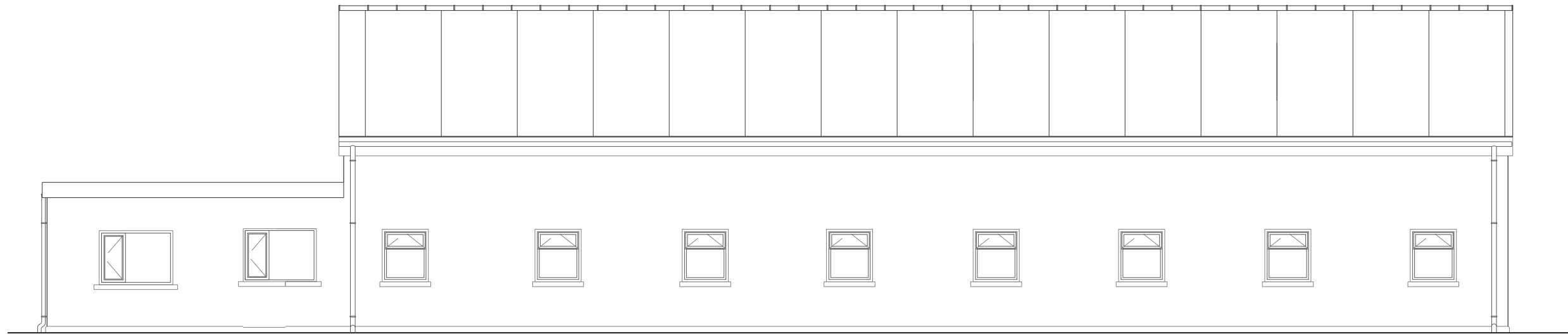
Murkle House

Brimms House

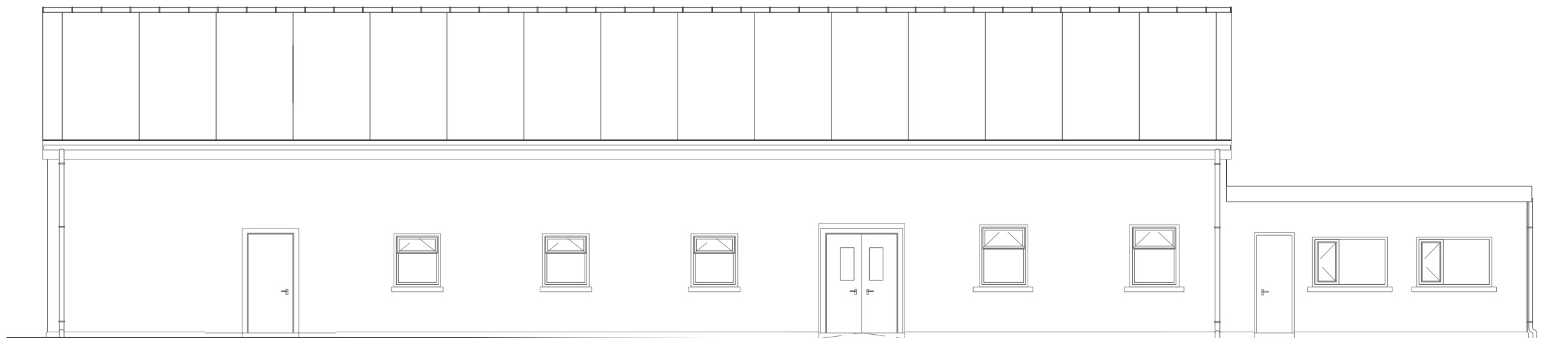
Baltimore House

Lythmore House

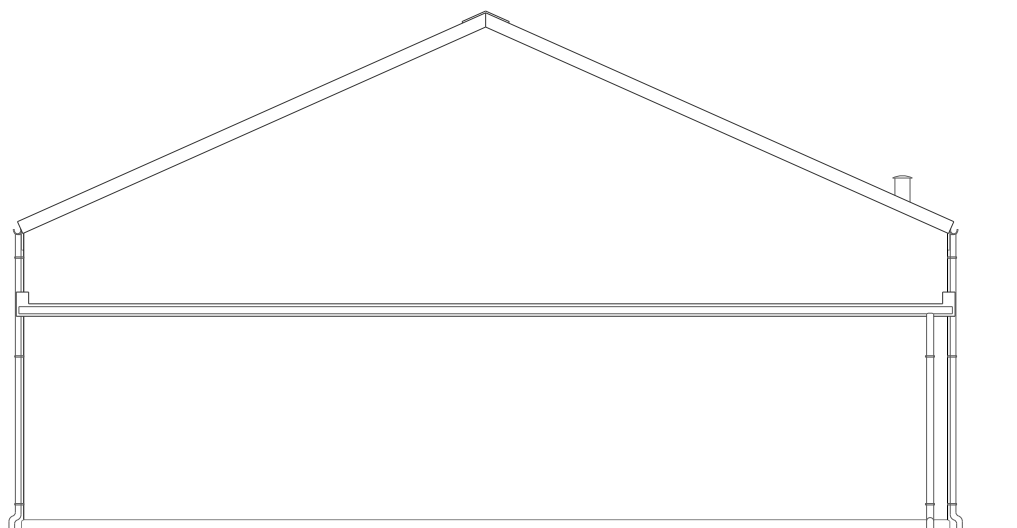
Outfall



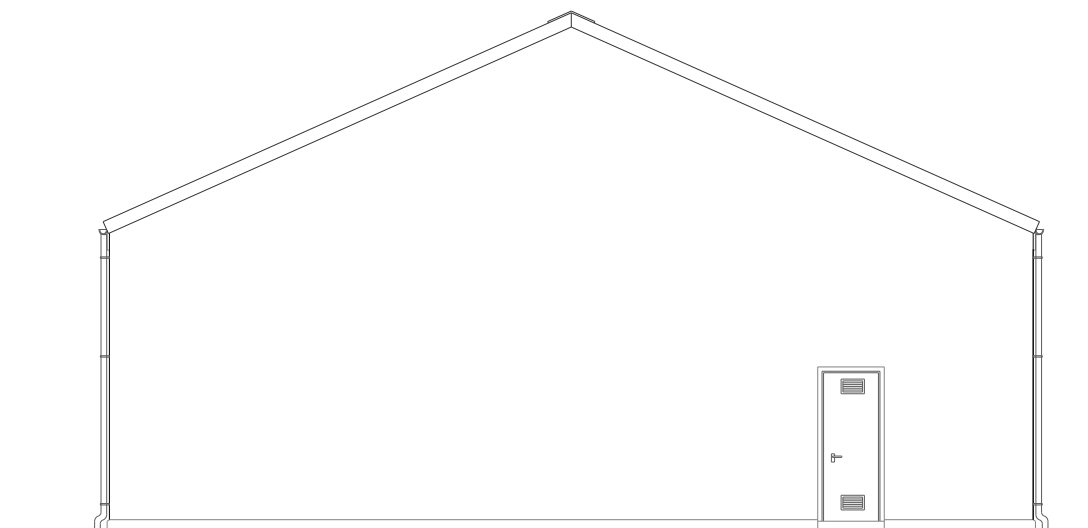
NORTH ELEVATION



SOUTH ELEVATION

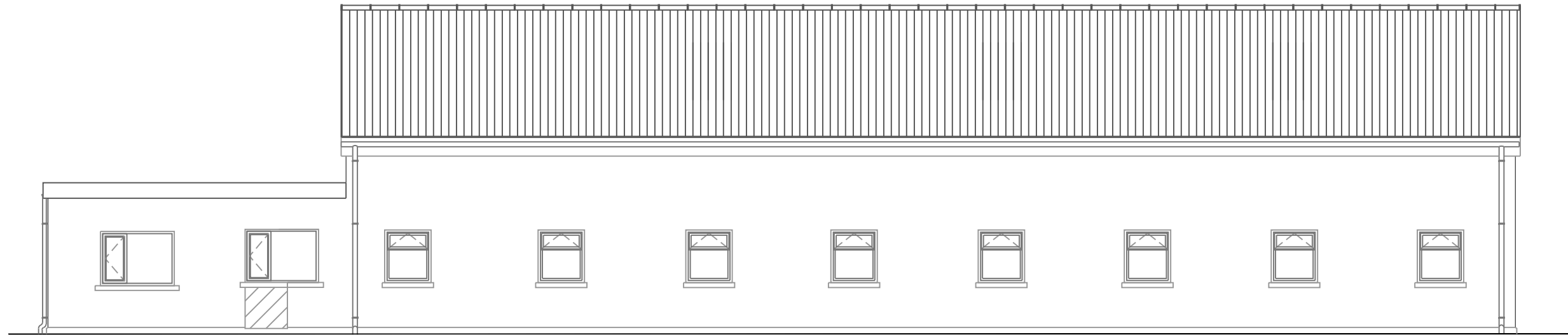


EAST ELEVATION

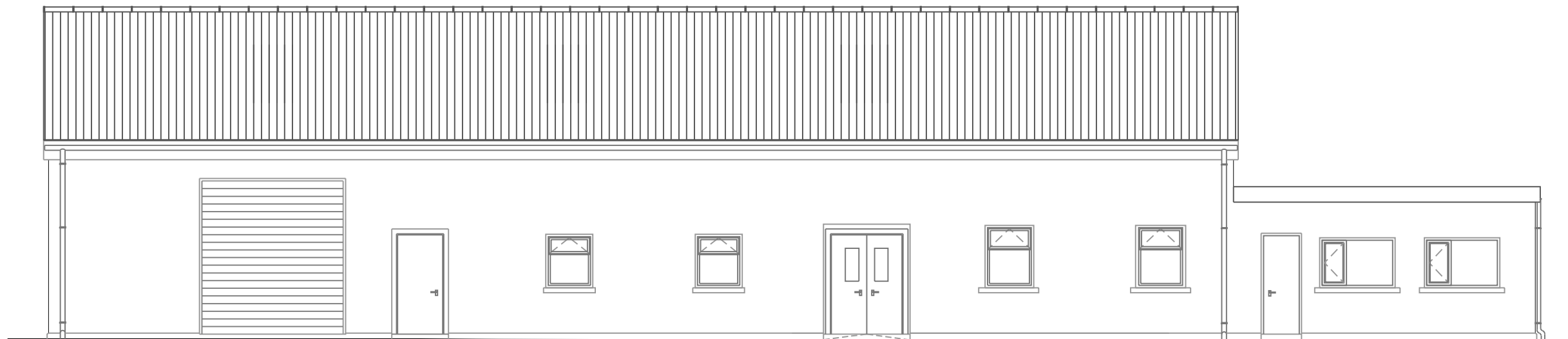


WEST ELEVATION

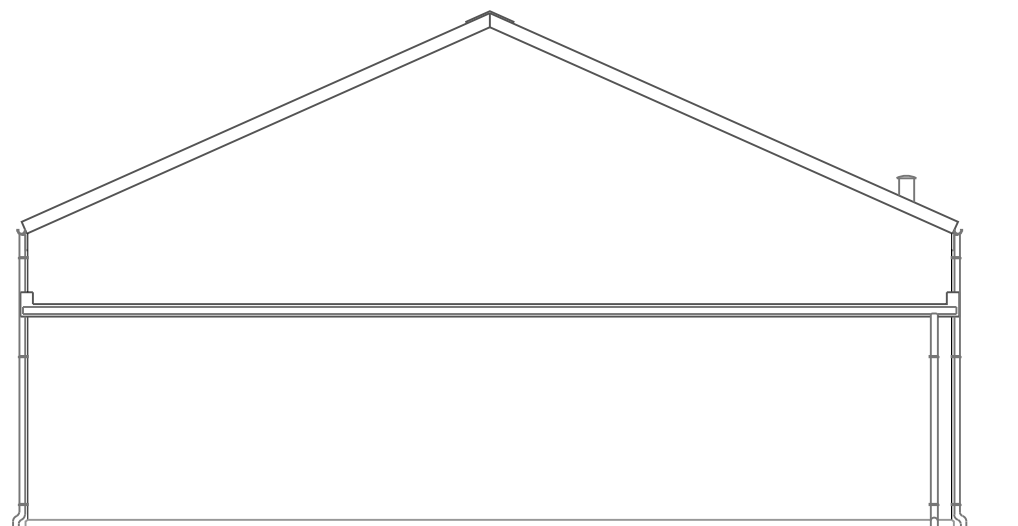
AS EXISTING ELEVATIONS
SCALE 1:100 @ A3



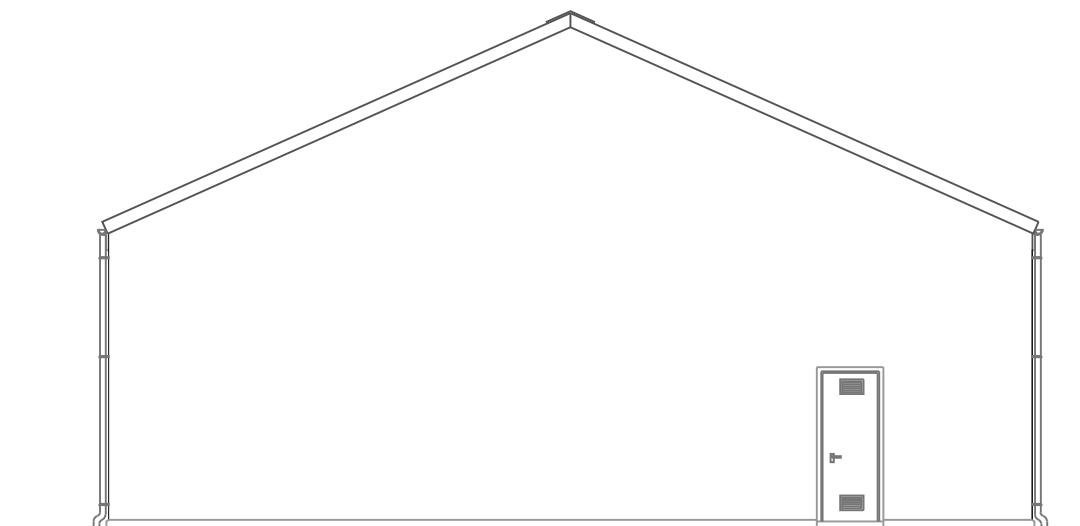
NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION



WEST ELEVATION



AS FITTED

NEW PARK HIGHLAND LTD
FORSS BUSINESS &
TECHNOLOGY PARK, THURSO

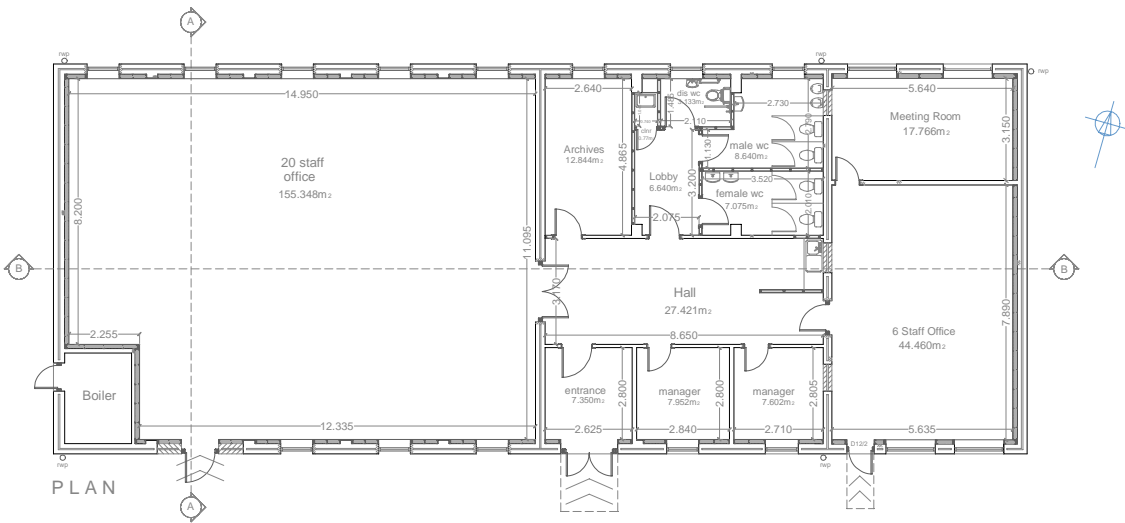
BLDG. 23 ELEVATIONS

Rev A - 20.08.20

02/21 23 (SF) 02

1:100 @ A3

03.12.03



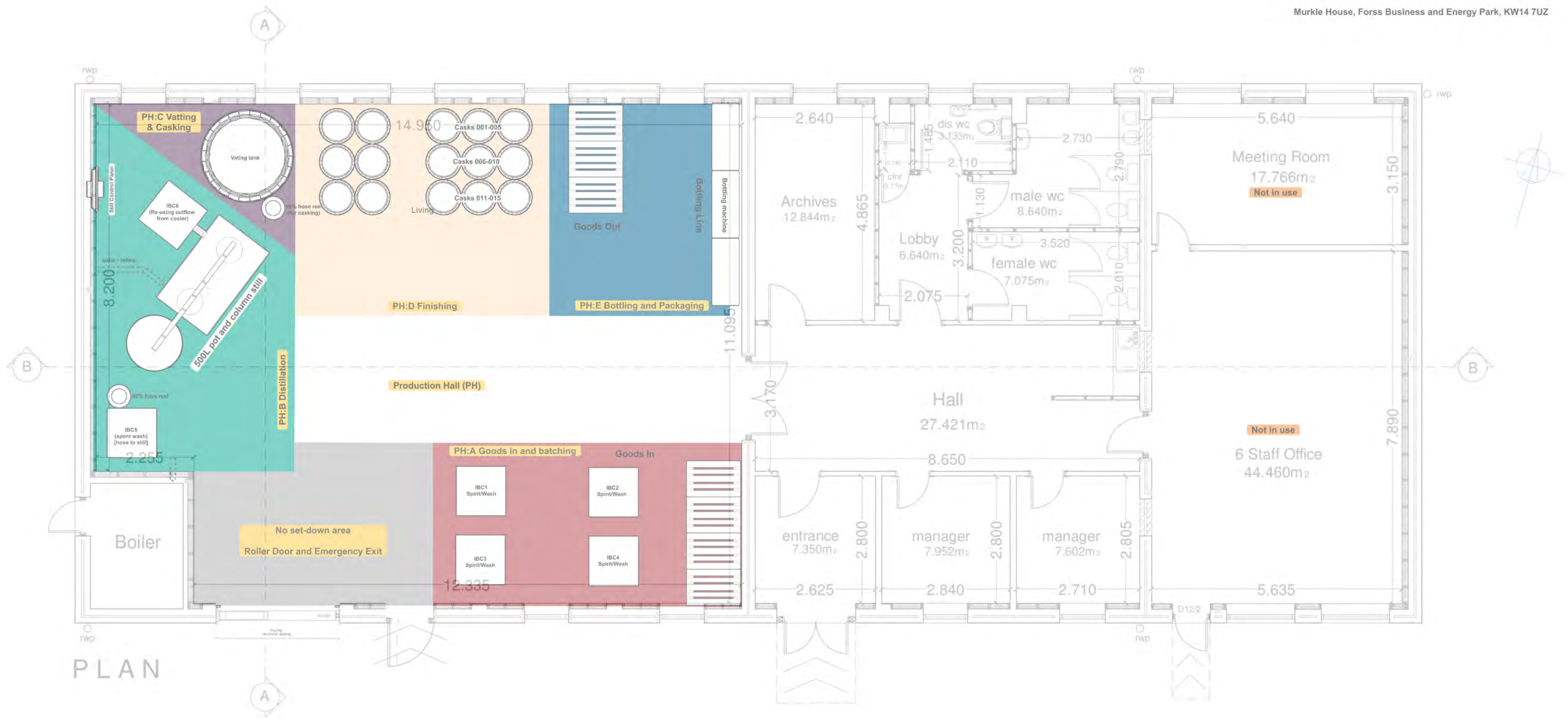
PLAN

AS FITTED 

NEW PARK HIGHLAND LTD
FORSS BUSINESS &
TECHNOLOGY PARK, THURSO

B L D G. 2 3 GROUND FLOOR

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PLAN

MURKLE HOUSE
 FORSS BUSINESS &
 TECHNOLOGY PARK, THURSO

B.L.D.G. 23 GROUND FLOOR

Drawing v.3 01/10/2020