

Agenda Item	7.7
Report No	PLS-049-21

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 15 June 2021
Report Title: 21/01350/FUL: The Highland Council
Milton Of Leys Primary School, Leys Square, Inverness, IV2 6HF
Report By: Area Planning Manager - South

Purpose/Executive Summary

Description: Erection of nursery and associated parking and play areas
Ward: 19 – Inverness South
Development category: Local
Reason referred to Committee: Manager's Discretion

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** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is to build a separate nursery building with additional car parking and play areas for Milton of Leys Primary School and form a campus for the wider education provision in this area. The proposal will involve the western leg of the Leys Square road to be amended to exclude vehicular traffic. The nursery building itself will reflect the design of the existing primary school with a metal standing seam roof and panelling on the walls.
- 1.2 Access to the site will be from the opposite end of Leys Square and will involve some road signage to inform road users that beyond the turning for the retail units, there will be access only to the school and the Care Home.
- 1.3 Pre Application Consultation: primarily focussed on resolving roads issues.
- 1.4 Supporting Information: Design and Access Statement, Drainage Impact Assessment, Transport Statement.
- 1.5 Variations:
1. Extended footpath link and road crossing provided from the drop off spaces on the south side of Leys Square to the school and nursery, to improve active travel link.
 2. Relocation of cycle parking area to bring it adjacent to the dedicated active travel route from the south.
 3. Former area of cycle parking to now be used for external plant (air source heat pumps)
 4. Additional planting added between Leys Square and nursery car park to screen parking area – applicant happy for this to be conditioned.
 5. Understanding / agreement that the SUDs system will be connected to the wider SUDs serving the overall school development – located off site to the north-east.

2. SITE DESCRIPTION

- 2.1 This site uses around half of the existing Leys Square. At present the site is surrounded by the public road, but the proposal will tie the nursery site to the school site forming a campus that is safe for children to move around. The site has views across the city to the north, but as a single storey building should not have a significant impact on skyline views from the city.
- 2.2 The other eastern half of the square is vacant at present and has been marketed for further shop units. A kick pitch has been formed across the access road to the north and a new Care Home has been granted planning permission to the north east. The existing primary school is to the west of the site.

3. PLANNING HISTORY

- 3.1 10 Jan 2018 17/00378/PIP Development of land at Planning neighbourhood centre for sites for Permission commercial/retail, residential (including special Granted needs), community (children's day nursery),

care home and recreational open space; and related road, infrastructure and services

- | | | | |
|-----|--------------|--|-----------------------------|
| 3.2 | 10 June 2010 | 09/00249/FULIN District centre including retail, residential care housing, children's nursery, community facilities and primary school | Planning Permission Granted |
| 3.3 | 13 Aug 2007 | 07/00264/OUTIN District centre including retail, residential, restaurant/public house, care home, offices, children's nursery, health care, community facility and prima | Planning Permission Granted |

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour and Schedule 3

Date Advertised: 26.03.2021

Representation deadline: 16.04.2021

Timeous representations: 1 (from 1 household)

Late representations: None

4.2 Material considerations raised are summarised as follows:

- a) alleviate overcrowding issues at Primary School;
- b) address eyesore of the vacant square;
- c) may stop overnight parking of heavy lorries.

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 **Development Plans Team** advise that the proposal complies with the Inner Moray Firth Local Development Plan. The applicant has made some minor amendments to the layout following comments made by the Development Plans Team to more closely align with Policies 28 and 29 principles particularly in relation to pedestrian permeability.

5.2 **Transport Planning Team** advise that any permission is conditioned to include the submission of a Travel Plan and that it be submitted within 2 years of the nursery opening. To develop active travel opportunities, we expect the Travel Plan to be a combined nursery and the school Travel Plan.

Cycling: Two conditions requiring the delivery of a cycle facility that is accessible and suitably sized to accommodate 10 bikes and at least 4 buggies and requiring the delivery of a visitor cycle facility that is accessible and suitably sized to accommodate 2 bikes and that it be sited close to the main nursery entrance.

Traffic Impact: The Transport Planning Team support the proposed alterations to Leys Square, because this arrangement facilitates the formation of a traffic free route

to/from the school and nursery. Condition the delivery of an appropriate Leys Square/Inshes Road road signage scheme prior to any works commencing on site.

Construction Traffic: Condition a Construction Traffic Management Plan.

Traffic Regulation Order: A Traffic Regulation Order (TRO) to extinguish (stop up) that part of Leys Square road will be required. Condition requiring the Traffic Regulation Order to be in place prior to the first occupation of nursery.

Surface Water Drainage: Will be dealt with the through Road Construction Consent.

- 5.3 **Contaminated Land** advise that this site has been subject to previous contamination assessment as part of several wider area Planning Applications, the most recent overlapping application being 17/00378/PIP. The investigations found deposits of made ground and significantly elevated methane and carbon dioxide gas readings across the wider site.

Environmental consultant ERS (December 2010) recommended gas protection measures be incorporated into the design of buildings to satisfy Gas Characteristic Situation 2 (CIRIA 665); and further investigation by Envirocentre in Aug 2018 came to the same conclusion. No risk from chemical contamination was found which assessed this area against residential standard (without homegrown produce) but the recommendation to not have the made ground near surface in areas designated for soft landscaping or play is highlighted due to the presence of timber, brick, tarmac, plastic, ceramic and concrete which could present a physical risk to future site users.

Therefore, in the absence of updated reporting and in line with the previous applications in this area, recommend both a non-standard gas mitigation condition and an advisory statement on material handing/cover system(s) for this application.

- 5.4 **Environmental Health** has no objection.

- 5.5 **Scottish Water** has no objection.

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 & Place-making
31 - Developer Contributions
66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan (IMFLDP) 2015**

IN59 - East of Milton of Leys Primary School

6.5 **Highland Council Supplementary Planning Policy Guidance**

Developer Contributions (March 2018)
Sustainable Design Guide (Jan 2013)
Inshes and Milton of Leys Development Brief (2003)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (as amended December 2020)

National Planning Framework 3

Designing Streets

Creating Places

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) siting and design;
- c) impact on infrastructure and services and proposed mitigation (developer contributions);
- d) any other material considerations.

Development plan/other planning policy

- 8.4 The application site forms part of the wider allocation of IN59 (East of Milton of Leys Primary School) with the stated uses being Retail, Commercial, Community, care home, recreational space and 16 houses scheme. The retail aspect furthest east has long been developed and occupied, and more recently the Care Home (20/01512/FUL) and housing (20/03308/FUL) to the north east of this application site both received planning permission. Therefore, the only remaining parcel of ground associated with this allocation is the area within the 'Square', which is where this proposal is located.

- 8.5 As the application site forms part of a mixed-use allocation, with little commercial interest in developing this specific parcel of ground for a retail or business use coming forward, the use of this area of ground as a day care nursery is considered fully compliant with the IMFLDP allocation IN59. This scheme 'land-take' is approximately half of the 'Square' area and the remaining uncommitted area immediately to the east of the application site, is still considered sufficiently large enough to accommodate another use (retail/commercial) when one arises.

- 8.6 Subject to the proposal being appropriately sited and designed and having no adverse impact on existing infrastructure it would comply with the development plan.

Siting and Design

- 8.7 The proposed building is separate to, rather than an extension of, the existing Milton of Leys Primary School building. The building is single storey and designed to accommodate two classrooms, a cloakroom, dining room, office space and storage space. It will have secure play space for children with planting around the perimeter.
- 8.8 The design of the nursery building closely complements the materials and character of the existing school with the metal standing seam roof and clad walls. The building is set back on a flat site from the edge of the sloping site beyond the kick-pitch so will not be seen from the wider city viewpoints. The building sits below Inshes Road and, although separate from the main building, will appear as part of the school campus. This has largely been achieved by removing the existing west access to Leys Square from vehicular use.
- 8.9 The grounds within which the nursery building will sit will appear as if they are linked to the existing school. Although vehicular access will no longer be possible, the route will continue to provide bicycle access to the school. A ramp and steps will ensure easy access from the nursery building to the school providing a close and safe link between the two buildings that avoids conflict with vehicle movements. Bicycle and buggy sheltered parking has been provided within the site. Potential for future pedestrian access from the adjacent commercial site is established, if considered necessary and appropriate, at the time that further development comes along.
- 8.10 As a whole development this proposal is considered a good solution for increasing primary school/nursery provision in the Milton of Leys area.

Infrastructure and Services

- 8.11 The proposal involves the stopping-up of the western leg of Leys Square ensuring vehicular access into the site all comes from the eastern leg of the Square. A new roundabout will be located within the school campus that will distribute school traffic either into the existing car parking for the school, the proposed additional 17 car parking spaces for the nursery or allow parents to turn to exit the school site having used the drop-off zones.
- 8.12 Transport Planning has been involved in discussions for this application from early on and with the addition of the conditions requested, has indicated its support for the proposal as submitted. No objections have been received in relation to any aspect of this proposal.
- 8.13 While the legal process required to exclude vehicular traffic from the western leg of Leys Square itself is not a matter for the planning application, it has required a level of consideration given the proposed works effectively create an extended school campus. A Traffic Regulation Order (TRO) under the Roads Scotland Act 1984 will be required before the changes can be implemented. While a condition has been

requested by Transport Planning in relation to the TRO this is not considered necessary. An informative on the decision notice would be appropriate.

Other material considerations

8.14 There are no other material considerations.

Non-material considerations

8.15 There are no non-material planning considerations.

Matters to be secured by Legal Agreement/Upfront Payment

8.16 None

9. CONCLUSION

9.1 Milton of Leys is a growing community and this land, as part of a wider community context, has been set aside for a mixture of uses. The proposed nursery will address the current and anticipated growth of demand for both nursery and primary school provision in the area. Creating a campus that provides segregated areas for play for children and safe links for both accessing the wider school and within the campus itself is a facility to be welcomed by the community. It is in this context that it is recommended that planning permission be granted, and approval sought for the stopping-up of the western leg of Leys Square from Inshes Road.

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 to **GRANT** the application subject to the following:

Conditions and Reasons

1. Within two years of the building herein granted permission being occupied, a Travel Plan, which sets out proposals for reducing dependency on the private car, shall be submitted to, and approved in writing by, the Planning Authority. The Travel Plan shall include:
 - i. Details of monitoring modal split to the school and nursery; and
 - ii. How access and facilities for pedestrians, cyclists and people in wheelchairs can be improved.
 - iii. Identification of targets and measures to achieve modal shift towards sustainable modes of travel and a timescale for monitoring and implementation

The approved Travel Plan shall thereafter be implemented from the date of approval of the plans.

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

2. The development shall not be occupied until a cycle storage facility, that is accessible and suitably sized to accommodate 10 bicycles and at least 4 buggies, has been installed and is thereafter maintained in perpetuity.

Reason: In order to facilitate the use of a variety of modes of transport.

3. The development shall not be occupied until a visitor cycle storage facility, that is accessible and suitably sized to accommodate 2 visitor bicycles close to the main nursery entrance, has been installed and is thereafter maintained in perpetuity.

Reason: In order to facilitate the use of a variety of modes of transport.

4. No development shall commence until an appropriate Leys Square/Inshes Road road signage scheme has been submitted to and received the approval in writing of the Planning Authority. All approved signage shall be erected prior to the first occupation of the development.

Reason: In order to facilitate the safe movement of traffic in Leys Square.

5. No development shall commence until full details of the final Construction Traffic Management Plan has been submitted to and received the approval in writing of the Planning Authority. For the avoidance of doubt this shall include:

- Proposed measures to mitigate the impact of general construction traffic on the local road network following detailed assessment of relevant roads. No construction related deliveries shall take place during school pick-up/drop-off times.

- A detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties.
- A detailed delivery programme for abnormal load movements, which shall be made available to Highland Council and, as required, community representatives.
- Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period.
- Measures to ensure that all affected public roads are kept free of mud and debris arising from the development.

The development shall thereafter be undertaken in accordance with the agreed Construction Traffic Management Plan. For the avoidance of doubt, the access gates to the Construction Site shall be closed to vehicles during school opening and closing times.

Reason: In the interest of road safety to ensure that the local road network is not significantly impacted during the construction/delivery period.

6. Prior to any development commencing, detailed gas protection measures shall be submitted to and agreed in writing by the Planning Authority in consultation with the Contaminated Land Authority. The gas protection measures shall be in accordance with the following guidance, and shall include proposals for post building verification:

- British Standard BS8485:2015 "Code of Practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings"
- CIRIA C665 "Assessing risks posed by hazardous ground gases to buildings"
- CIRIA C735 "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases"

The development shall thereafter be undertaken in accordance with the agreed measures.

Reason: In order to ensure that the site is suitable for redevelopment, given the demonstrated presence of ground gases onsite.

7. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of any existing or proposed walls, fences and gates;

- iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

- 8. Prior to the first occupation of the development hereby approved, the developer shall have submitted full details of any external lighting to be used within the site and/or along its boundaries and/or access for the approval in writing of the Planning Authority. Such details shall include full details of the location, type, 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. Thereafter only the approved details shall be implemented.

Reason: In order to ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

REASON FOR DECISION

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.

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 & 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.

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 & 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.

Road Construction Consent (RCC) and Traffic Regulation Order

A Road Construction Consent (RCC) application and Traffic Regulation Order will be required for the proposed changes to exclude the western leg of Leys Square for use by pedestrians and cyclists only.

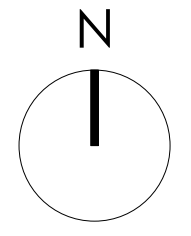
Signature: David Mudie
Designation: Area Planning Manager - South
Author: Elaine Watt
Background Papers: Documents referred to in report and in case file.

- Relevant Plans:
- Plan 1 - 1909-CAA-ZZ-ZZ-DR-A-90-100 Rev F – Site Layout Plan
 - Plan 2 - 1909-CAA-ZZ-ZZ-DR-A-90-103 – Location Plan
 - Plan 3 - 1909-CAA-ZZ-ZZ-DR-A-00-302 – 3D Views
 - Plan 4 - 1909-CAA-ZZ-ZZ-DR-A-00-300 – Elevations
 - Plan 5 - 1909-CAA-ZZ-ZZ-DR-A-00-200 – Section Plan
 - Plan 6 - 1909-CAA-ZZ-ZZ-DR-A-00-100 Rev A – Floor Plans



Figured dimensions only are to be taken from this drawing. All dimensions are to be checked on site before any work is put in hand. IF IN DOUBT ASK.

CDM: Hazard Elimination & Risk Reduction has been undertaken and recorded where appropriate, in accordance with the requirements of "The Construction (Design and Management) Regulations 2015" and the associated "Industry Guidance for Designers"



Rev	Description	Date


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Client
The Highland Council

Project
Milton Of Leys Nursery

Project No. 1909

Drawing No.
1909-CAA-ZZ-DR-A-90-103

Revision

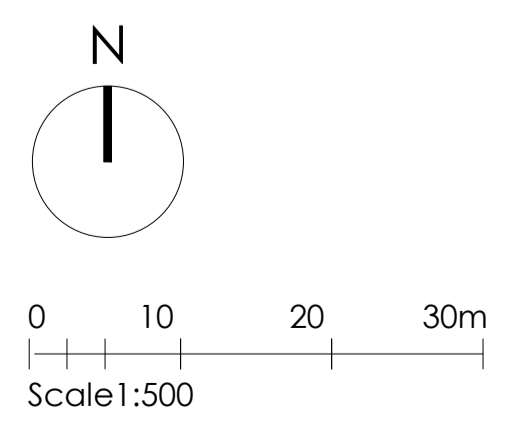
Location Plan

Status
Planning

Date Created Drawn by
 03/19/21 RG

Scale Sheet
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Rev	Description	Date
F	Added path and crossing. Changed parking bay marked. Moved Bike/Dugby shelter. Amended fence lines	13/05/21
E	Added bicycle store	03/03/21
D	Widened turning head. Introduced Herringbone paving to define turning areas	03/03/21
C	Added Bicycle Stores	02/03/21
B	Updated Car park layout	16/02/21
A	Car Park Position Adjusted	05/02/21

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Project: Milton Of Leys Nursery

Project No. 1909

Drawing 1909-CAA-ZZ-ZZ-DR-A-90-100

Revision F

External Works Site and Location Plan

Status: Planning

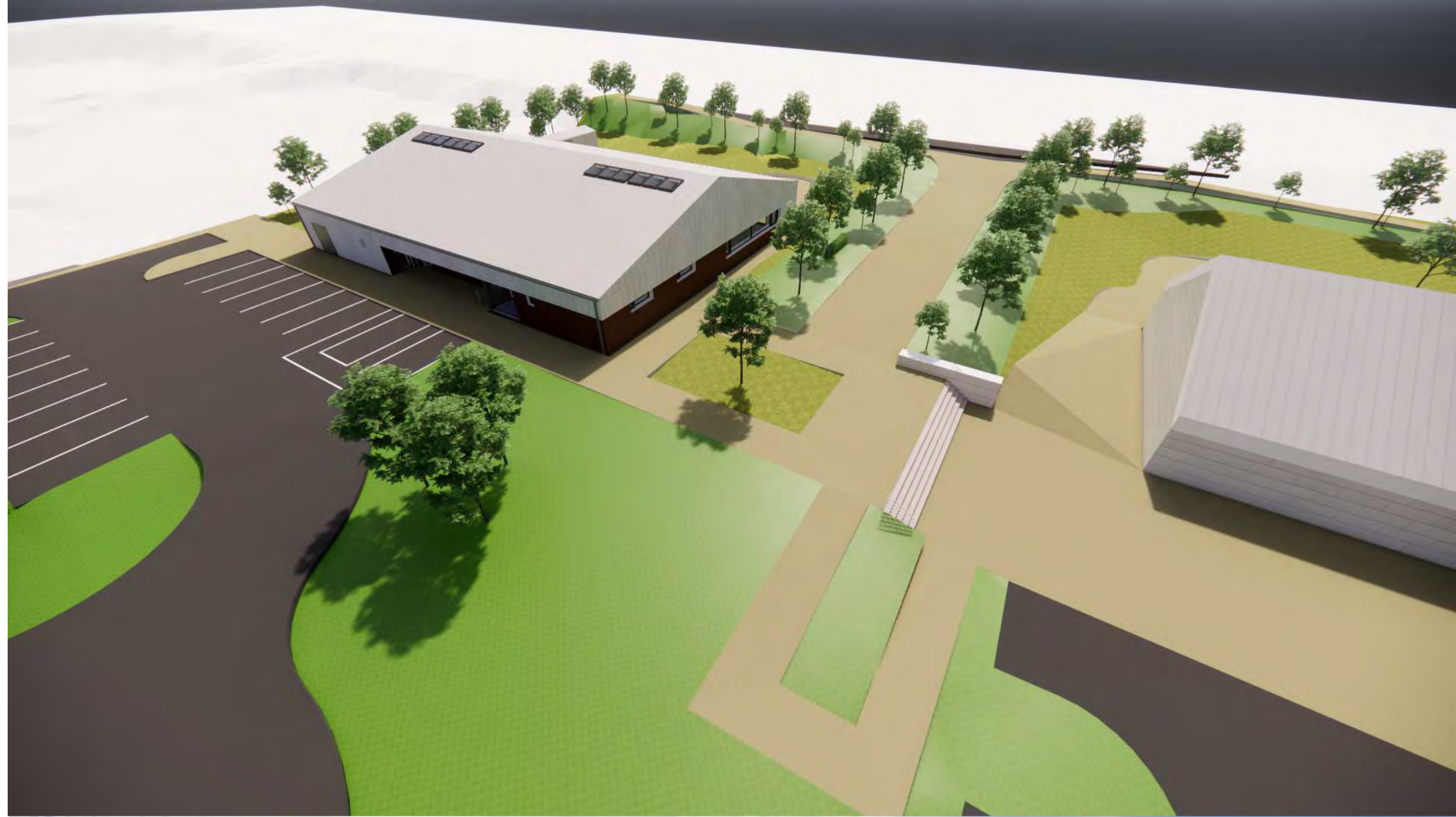
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Drawn by: RG

Sheet: @ A1

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Printed on: 13/05/2021 16:45:15



Figured dimensions only are to be taken from this drawing.
All dimensions are to be checked on site before any work is put in hand.
IF IN DOUBT ASK.

CDM:
Hazard Identification & Risk Reduction has been undertaken and recorded where appropriate, in accordance with the requirements of 'The Construction (Design and Management) Regulations 2015' and the associated 'Industry Guidance for Designers'

Rev	Description	Date

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Client
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Project
Milton Of Leys Nursery

Project No. 1909

Drawing 1909-CAA-ZZ-DR-A-00-302

Revision

3D Views

Status
Sketch

Date Created 02/11/21 Drawn by RG

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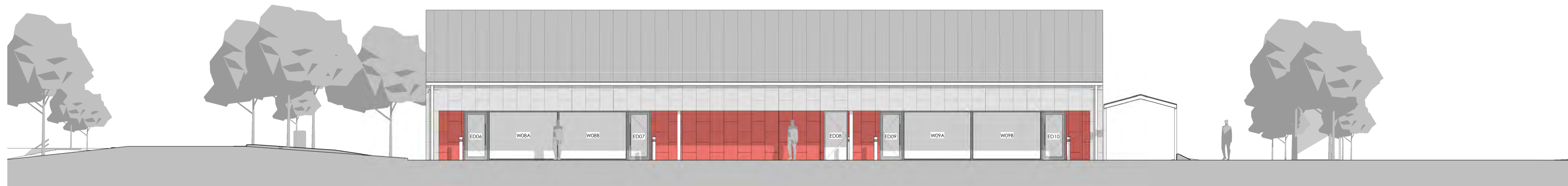
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WINDOWS & DOORS RAL7016 METAL STANDING SEAM CLADDING SYSTEM METAL PANEL CLADDING SYSTEM



North Elevation

Scale - 1 : 100



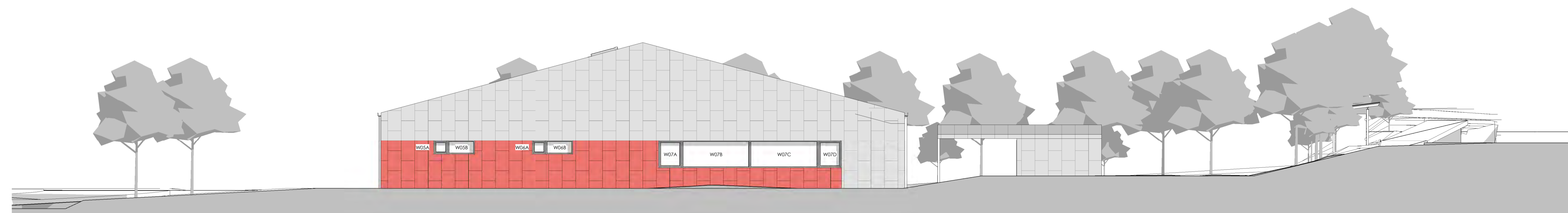
South Elevation

Scale - 1 : 100



East Elevation

Scale - 1 : 100



West Elevation

Scale - 1 : 100

Rev	Description	Date



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Client
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Project
Milton Of Leys Nursery

Project No. 1909

Drawing 1909-CAA-ZZ-DR-A-00-300

Revision

General Arrangement
Elevations

Status
Planning

Date Created 05/08/20 Drawn by RG

Scale 1 : 100 Sheet

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