

Agenda Item	<b>6.1</b>
Report No	<b>PLN/053/21</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 10 August 2021

**Report Title:** 21/00454/FUL: J MacLean  
Greenhill Business Park, Kilcoy, Muir Of Ord, IV6 7AG

**Report By:** Acting Head of Development Management

### **Purpose/Executive Summary**

**Description:** Change of Use of Land to Storage and Distribution

**Ward:** 08 - Dingwall And Seaforth

**Development category:** Local Development

**Reason referred to Committee:** Number of Objections

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 This application seeks full planning permission to use land for the purpose of storage and distribution (Use Class 6).
- 1.2 The site is accessed from the U2638 public road to the south by means of an existing private road which was built to serve three warehousing units approved by application 17/01611/FUL immediately to the north of the site.
- 1.3 Pre-Application Consultation: None
- 1.4 Supporting Information: A Drainage Assessment and a Transport Statement have been submitted. These documents state that the proposed development is intended to expand the applicant's existing plant and modular building hire business which currently operates from the three warehousing units to the north of the subject site.
- 1.5 Variations: None

## 2. SITE DESCRIPTION

- 2.1 The site comprises an area of brownfield land which lies on the northern side of the U2638 public road, some 150m west of the A835 trunk road. A Council Salt Depot lies between the site and the trunk road. The eastern boundary is delineated by mature trees with the western boundary formed by the new access road to the three warehousing units to the north of the site. Existing residential properties are in the vicinity of the site, the nearest of which lies some 200m to the south east.

## 3. PLANNING HISTORY

- |     |            |   |           |
|-----|------------|---|-----------|
| 3.1 | 06.11.2008 | 08/00155/FULRC - Formation of Recycling Centre  | GRANTED   |
| 3.2 | 06.12.2017 | 17/01611/FUL - Erection of three warehouse/workshop/store buildings (Classes 4, 5 and 6), associated works and formation of access road | GRANTED   |
| 3.3 | 28.07.2020 | 19/03368/FUL - Installation of entrance gate, 3m high timber fence and earthworks to form screening bund (retrospective)                | PERMITTED |
| 3.4 | 20.11.2019 | 19/05161/ADV - Installation of signs (Part Retrospective)   | PERMITTED |
| 3.5 | 22.10.2020 | 20/03313/FUL - Erection of 6m high CCTV pole (retrospective)  | PERMITTED |

## 4. PUBLIC PARTICIPATION

### 4.1 Advertised: Schedule 3 Development and Unknown Neighbour

Date Advertised: 12.02.2021

Representation deadline: 26.02.2021

Timeous representations: 9 from/on behalf of nine households

Late representations: None

### 4.2 Material considerations raised are summarised as follows:

- a) Further industrialisation of the countryside by means of an unsustainable activity in conflict with National Planning Policy in an area not designated for industry by the Inner Moray Firth Local Development Plan, and the applicant owns another industrial site in Muir of Ord. **Officer Response:** The planning consent 08/00155/FULRC for a stone and rock recycling facility granted in 2008 provided the site with general industrial use status (Use Class 5). The recycling facility continued until early 2016 when it ceased operation. The site is therefore a 'brownfield' industrial site, rather than a greenfield site. The Development Plan directs new industrial operations to both allocated and previously developed brownfield sites.
- b) Additional traffic would adversely affect road safety on a narrow single-track road with a dangerous junction onto the A835. An unrestricted Class 6 use would allow the site to be used for self-storage with significant traffic increase. **Officer Response:** Neither Transport Scotland nor Transport Planning raise any objection to the proposed development, with the only condition sought being a Construction Traffic Management Plan. There are no proposals for self-storage provision on site – a condition is proposed to ensure this.
- c) Adverse effect on residential amenity from noise and light pollution. **Officer Response:** The nearest residential properties lie some 200m to the south east of the site, on the opposite side of the U2638 road and some 380m to the north west. These are large degree of separation which in itself would significantly safeguard residential amenity. Planning conditions on noise and hours of operation would provide sufficient additional safeguards in this respect. The application does not propose any lighting of the site.
- d) Destruction of wildlife habitat around the site. **Officer Response:** the application does not propose the loss of any existing trees around the site or any other wildlife habitat in the vicinity and the proposal lies within the area of the previously developed site for the stone and concrete recycling operation approved by application 08/00155/FULRC.
- e) The application does not meet the validation criteria applied by the Heads of Planning Scotland and the Land Ownership Certificate states that none of the land is in the ownership of any party other than the applicant Mr J Maclean, but the title to the land is in the name of Maclean Properties. **Officer Response:** The application as submitted met the statutory validation requirements, as set out in the relevant legislation and the applicant is understood to be the owner of Maclean
- f) Impact on existing water infrastructure

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).

## 5. CONSULTATIONS

5.1 **Contaminated Land:** Records indicate that the site's previous operation could have resulted in land contamination. As such a condition requiring a survey of potential contamination and any appropriate mitigation in advance of development is sought.

5.2 **Transport Planning:** No objection. Condition sought requiring a Construction Traffic Management Plan.

5.3 **Flood Risk Management Team:** No objection, no conditions sought.

5.4 **Development Plans:** No objection and advise that the proposal is in overall compliance with the Development Plan but recommend conditions which limit the range of Class 5 and 6 activities permitted on the site to an operation akin to the applicant's plant and modular unit hire business. Such a restriction is sought on the basis that this is a low value (in terms of rental income) land use better suited to this site than traditional business parks and industrial estates which are in scarce supply across the inner Moray Firth and which are better suited to higher value and higher employment density uses.

5.4 **Transport Scotland:** No objection, no conditions sought.

## 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  
36 - Development in the Wider Countryside  
41 - Business and Industrial Land  
42 - Previously Used Land

### 6.2 Inner Moray Firth Local Development Plan 2012

Hinterland

### 6.3 Highland Council Supplementary Planning Policy Guidance

Roads and Transport Guidelines for New Developments (May 2013)  
Sustainable Design Guide (Jan 2013)

## **7. OTHER MATERIAL POLICY CONSIDERATIONS**

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

Scottish Planning Policy (as amended December 2020) paras 92-108

National Planning Framework 3

## **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) Land Use and Siting
- c) Landscape/Visual Impact
- d) Neighbour Amenity
- e) Vehicular Access
- f) Contamination
- g) Any other material considerations

#### **a) Development Plan/other planning policy**

- 8.4 In this case the Development Plan is comprised of the Inner Moray Firth Local Development Plan and the Highland-Wide Local Development Plan, the relevant policies of which are listed above. For the reasons set out below it is considered the proposal is in compliance with the Development Plan and relevant National Planning Policy.

#### **b) Land Use and Siting**

- 8.5 Planning consent was granted in 2008 for an industrial use on the subject site and land to the north and the west, namely a facility for the crushing and recycling of stone, rock and concrete. This facility was operational from 2009 until early 2016 when it was cleared of the various pieces of mobile plant involved with that business. The land to the north of the subject site subsequently developed for the three warehousing units permitted by application 17/01611/FUL. Policy 41 of the HwLDP directs proposals for new industrial development to particular sites, including land "already accommodating an existing employment use", while Policy 42 states that the Council will support development proposals that bring previously used land

(defined as land in either urban or rural areas) that was developed but is now vacant back into beneficial use, assuming that contamination issues are not an obstacle and that the proposal complies with all other relevant development plan policies.

- 8.6 It is considered that because the previous industrial operation on the site only ceased in 2016 and because it has been vacant since that time, with no change of use to any other Use Class having occurred in the intervening period, the site's established industrial status has not been abandoned. Indeed, had another stone and concrete recycling business taken over the site with similar mobile plant no planning consent would have been necessary for that development. That recent industrial operation on the site, combined with its brownfield status mean that the proposed storage and distribution use complies with HwLDP policies 41 and 42. As noted above Development Plans consider that the subject site is better suited to a land intensive and low value storage and distribution use than the designated business parks and industrial estates identified by Policy 41. While compliance with this aspect of the Development Plan lends important support to the proposal it is also necessary to examine the scheme against the other aspects of applicable policy.

### **c) Landscape/Visual impact**

- 8.7 While the proposed siting and land use is considered acceptable, Use Class 6 allows for a range of operations to take place on the site and it is therefore necessary to consider the potential implications of such activities. Given that the application does not propose any buildings, but only the formation of parking/laydown areas that does limit the range of potential activities which are possible. A storage and distribution business already operates from the scheme developed under the auspices of planning permission 17/01611/FUL to the north of the site and the submitted supporting documentation states that it is intended to extend that business onto the subject site. Development Plans have advised that the site is suited to this type of distribution operation which requires a large land area and a condition which restricts its use to plant and modular building hire is considered necessary to prevent it being used for higher employment density uses which would be better located on traditional business parks and industrial estates. The site to the north, which features buildings some 9.5m high, is reasonably well screened from public view by existing tree belts around the site and by the bund approved by planning consent 19/03368/FUL. These features would also provide some screening for Class 6 activity on the subject site. However, given that the subject site is somewhat closer to the visual receptor provided by the U2638 public road, and given that Use Class 6 could involve the short term storage of some relatively tall plant for hire such as cranes and cherry pickers or the stacking of modular units for hire (as occurs on the site to the north), it is considered appropriate to apply a condition which limits the storage of anything on the site in excess of 5m height (equivalent to two stacked modular units). It is also considered appropriate to apply a condition requiring landscaping along the southerly part of the site boundary to provide screening where a gap in the tree belt at the site entrance currently allows some limited views into the subject site.

### **d) Neighbour Amenity**

- 8.8 As noted above, the nearest existing dwelling lies some 200m to the south east of the site on the opposite side of the U2638, which is an extensive degree of separation. Existing mature belts of coniferous trees to the east and south of the site

provide significant buffers between this property and the site. It is therefore considered that the amenity of this house would not be adversely affected by the proposed development. Other houses to the west, north west and south west range between some 300m to 1000m away from the site and their amenity is not considered at risk due to these extensive separation distances with intervening mature tree belts. As a safeguard conditions can control hours of operation and noise emitted by any operational plant/machinery.

### **Vehicular Access**

- 8.9 The submitted Transport Statement notes that the proposal will be operated by the applicant to improve the efficiency of their existing plant and modular unit hire business on the site to the north. As such, it is stated that the proposal will not result in any additional vehicular movements to or from the site, but that its purpose is to improve the efficiency and working practices of the existing operation. Traffic counts were undertaken for the existing operation which showed a daily total flow of 156 vehicles to and from the site. The Transport Statement tested a theoretical doubling of this figure to 312 vehicles a day (a higher figure than the 244 vehicles per day assumed in the Transport Statement which accompanied the 17/01611/FUL application). It was found that even with this much higher traffic generation figure the junction of the U2638 and the A835 was well within its capacity. As noted above no objection is offered by either Transport Planning or Transport Scotland. Transport Planning seek only one condition in respect of a Construction Traffic Management Plan. However it is considered necessary to also apply a condition, as per consent 17/01611/FUL, which would prevent goods vehicles servicing the site, both during its construction and operational phases via the U2638 minor road from Muir of Ord.
- 8.10 The proposal will not result in public access to the site as self-storage provision is not proposed. This will be ensured by a condition.

### **Contamination**

- 8.11 The condition sought to deal with potential contamination issues resulting from previous industrial activity on the site can be applied.

### **Non-material considerations**

- 8.12 The submitted objections do not raise any non-material considerations

## **9. CONCLUSION**

- 9.1 Key considerations in this case are the fact that the site was recently in Class 5 General Industrial Use and that it is a previously developed brownfield site. These considerations mean that the proposal complies with Policies 41 and 42 of the HwLDP. It is necessary to consider any potential adverse effects arising from the range of Class 6 activities which could be accommodated on this external space. It is considered that such potential effects in terms of the key planning issues relating to landscape/visual impact, neighbour amenity, vehicular access and potential land contamination can be addressed by conditions.

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

**Subject to the above actions**, it is recommended to

**GRANT** the application subject to the following conditions and reasons:

1. Class 6 Use of the site shall be restricted solely to a business offering modular units and plant for hire and shall not include any self-storage units.

**Reason:** To enable the Planning Authority to retain effective control over the development to ensure that the site is occupied by an operation to which it is suited.

2. Nothing shall be stored on the site exceeding a height of 5metres above the finished ground level on which it sits.

**Reason:** In the interests of visual amenity.

3. No development shall commence until a scheme for the provision of landscaping along a southerly section of the site boundary has been submitted for the written approval of the Planning Authority. Thereafter development shall proceed in accordance with these approved details.

**Reason:** In the interests of visual amenity.

4. All plant, machinery and equipment used on the site shall be 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 a flat or static residential caravan.

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

5. The development hereby approved shall not be operational, and there shall be no vehicle deliveries to, or the unloading or loading of delivery vehicles within the application site, outwith the hours of:
- i. 0800 to 1800 Monday to Friday;
  - ii. 0900 to 1300 on Saturdays; and
  - iii. No operations on Sundays.

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

6. No development shall commence on site until a construction phase Traffic Management Plan (including a routing plan for construction vehicles) has been submitted to, and approved in writing by, the Planning Authority. The approved traffic management plan shall be implemented prior to development commencing and remain in place until the development is complete.

**Reason:** In order to ensure the safety and free flow of traffic on the public road, and to maintain the integrity of the public road carriageway.

7. All goods vehicles serving the proposed development during construction, operation and decommissioning of the development shall access the site from the A835 turning onto the U2638 and then turning right into the site and shall exit the site turning left onto the U2638 and then onto the A835. No goods vehicles shall access or exit the site traveling on the U2638 south of the site via Drynie Park.

**Reason:** In order to safeguard the amenity of neighbouring properties and occupants, and to maintain the integrity of the public road carriageway.

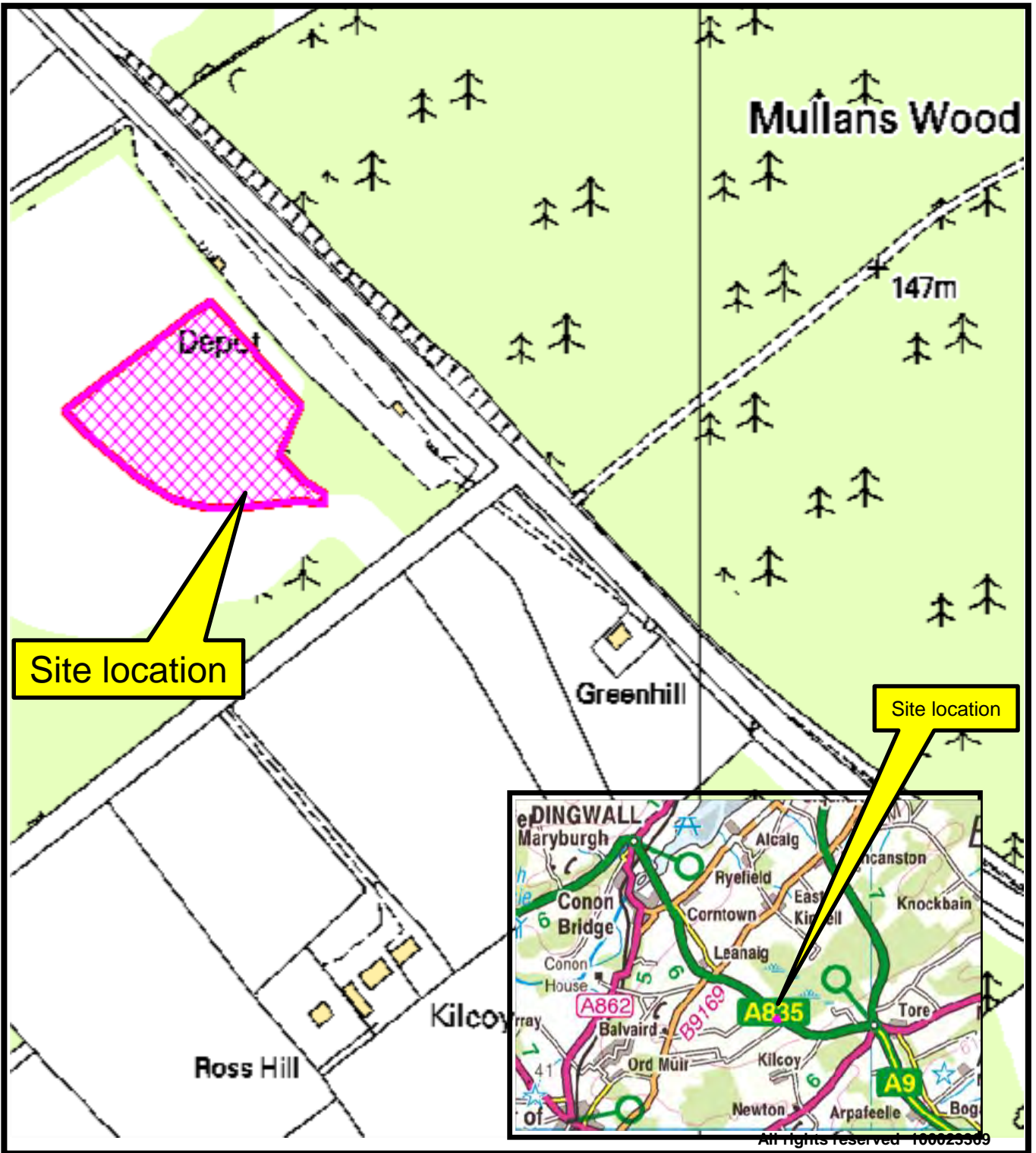
8. No development shall commence until a scheme to deal with potential contamination on site has been submitted to and agreed in writing by the Planning Authority. The scheme shall include:
- i. the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A2:2017 Investigation of Potentially Contaminated Sites - Code of Practice;

- ii. the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;
- iii. measures to deal with contamination during construction works;
- iv. in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;
- v. in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

Thereafter, no development shall commence until written confirmation has been received that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority.

**Reason:** In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes on the site.

Designation: Acting Head of Development Management  
Author: Graham Sharp  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Committee Location Plan  
Plan 2 - 000001 Location Plan  
Plan 3 - 20 P 01 REV A Site Plan  
Plan 4 - J2438-005 REV B Layout Plan



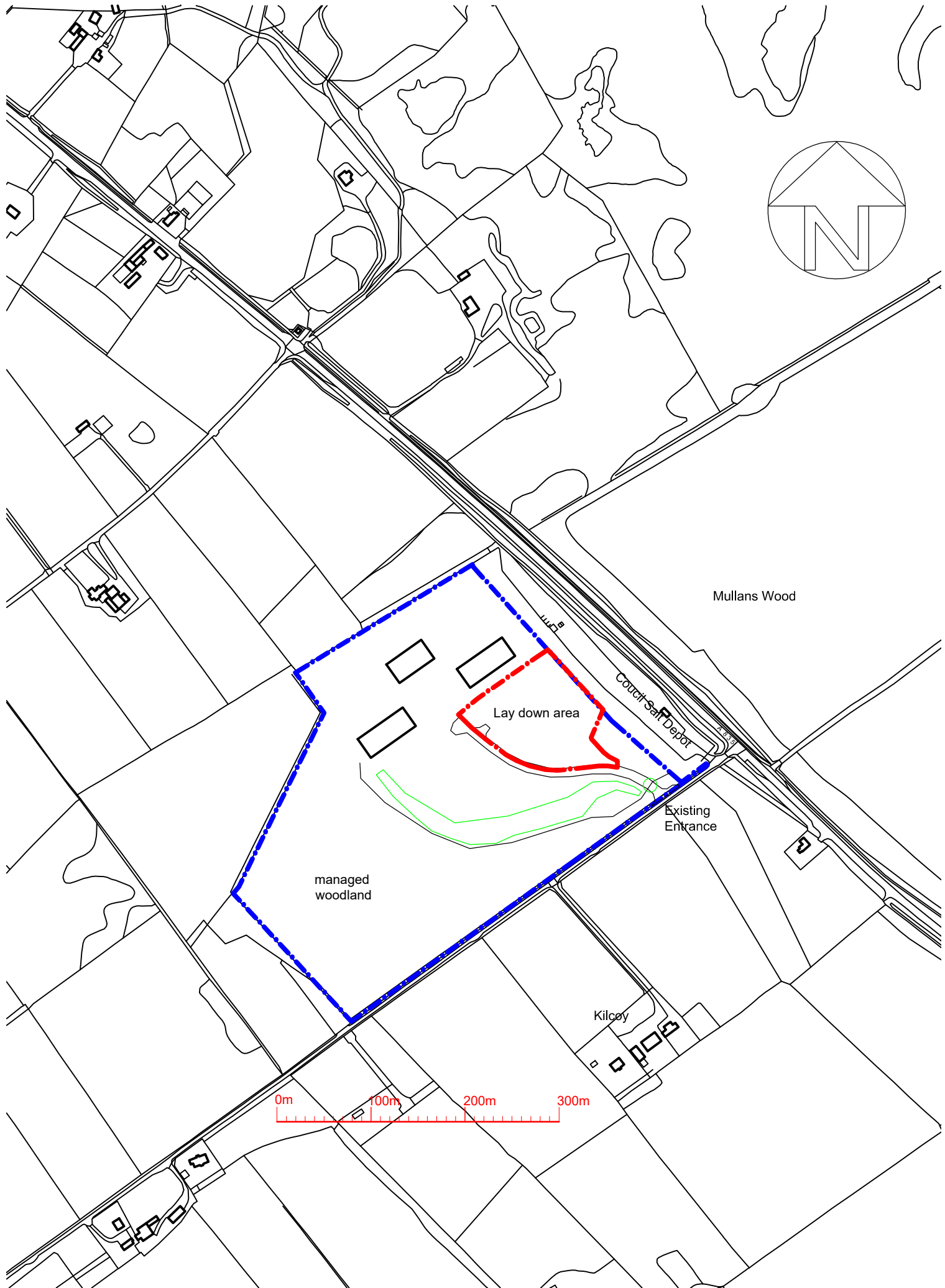
The Highland  
Council  
Comhairle na  
Gàidhealtachd

Development & Infrastructure  
Service

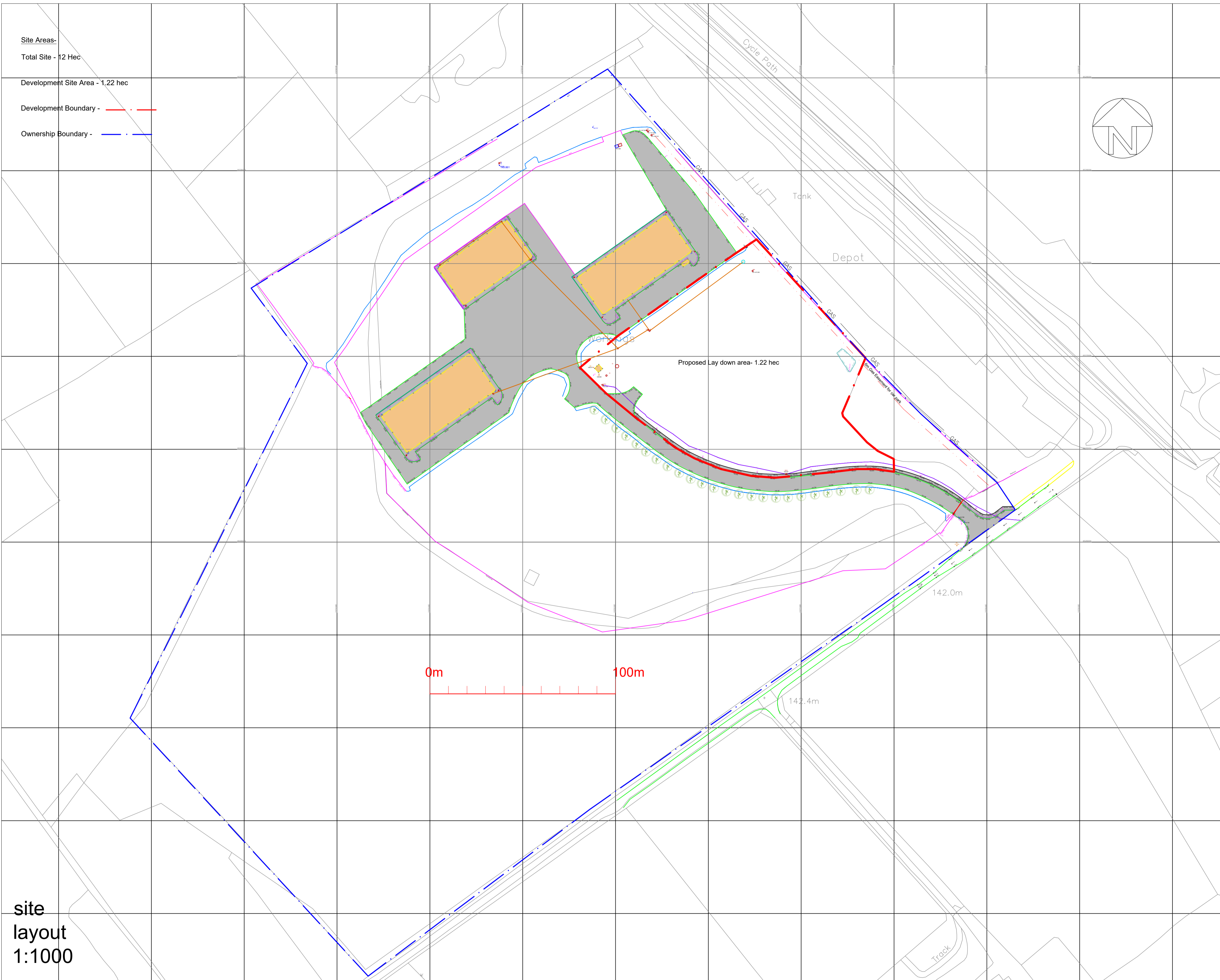
**21/00454/FUL**

**Change of use of land to storage & distribution at  
Greenhill Business Park, Kilcoy**

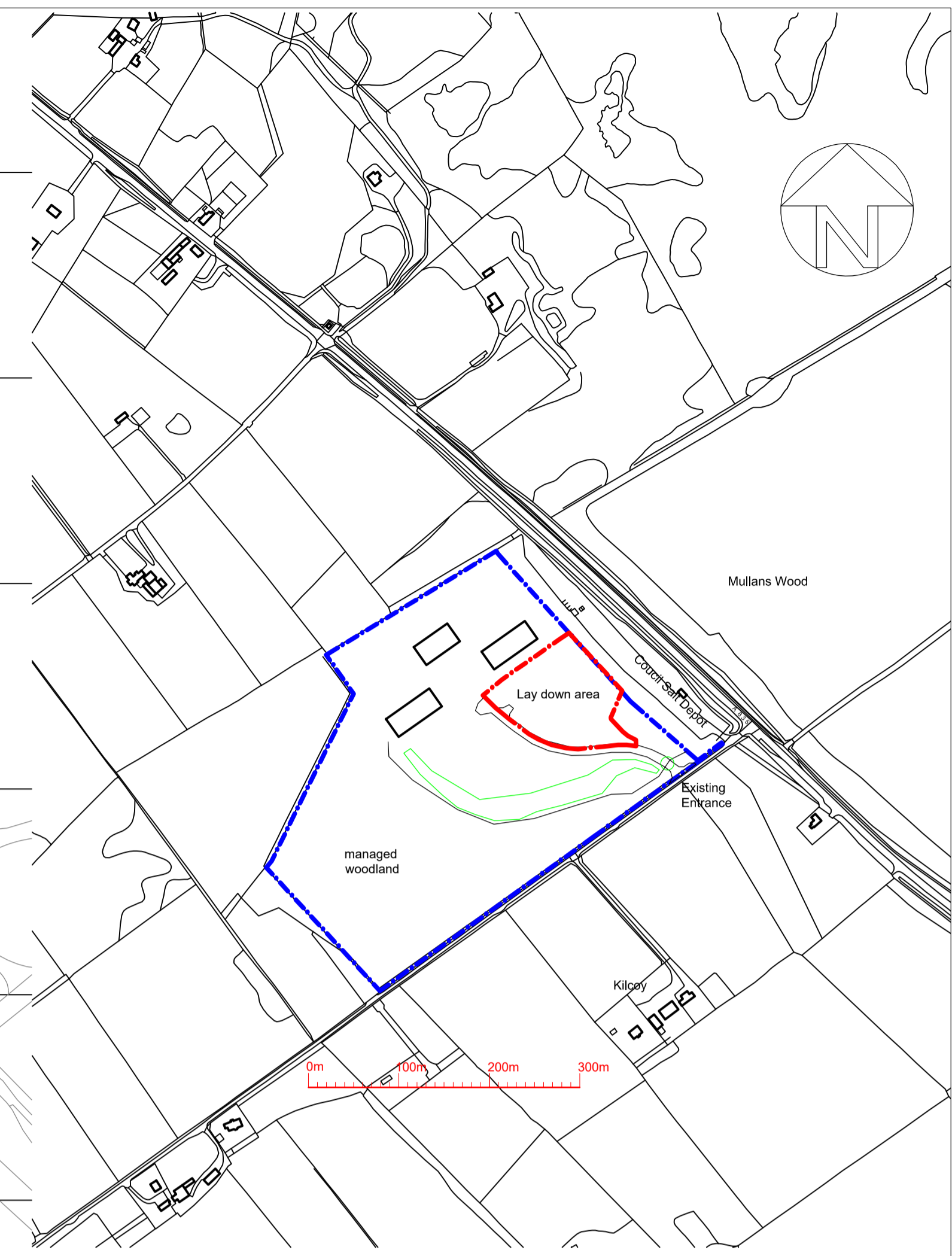
**August 2021**



Location Plan 1:5000



site layout 1:1000



Location Plan 1:5000

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**R Jack MCIAT**  
Chartered Architectural Technologist



**Chartered Institute of Architectural Technologists**

CLIENT  
J MacLean Esq.

CONTACT  
Richard Jack

PROJECT  
Greenhill Business Park, Proposed Development Site for Laydown Space & Storage/Distribution

DRAWING TITLE  
Proposed Site Layout

PURPOSE OF ISSUE  
Planning PAPER **A1**

SCALE	DATE	DRAWN BY	CHK'D BY
1:1000	Sept 20		

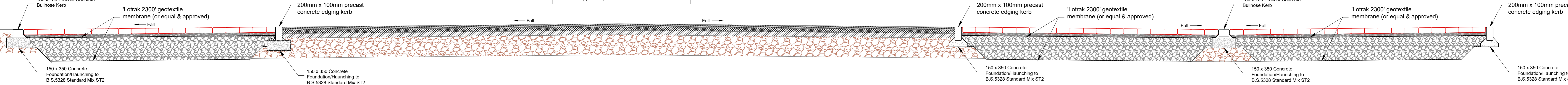
PROJECT NUMBER	SERIES	UNIQUE NO.	REVISION
20	P	01	A

**PERMEABLE BLOCK CONSTRUCTION**  
 \*100x200x60mm blk. permeable block paving laid in 45° or 90° herringbone pattern.  
 \*50mm thk. 2-6mm clean stone.  
 \*350mm thk. 4-20mm coarse graded aggregate.



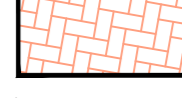



**ASPHALT ROAD CONSTRUCTION**  
 \*45mm Hot Rolled Asphalt Surface Course to Cl. 911 or Cl. 910.  
 \*55mm Dense Asphalt Concrete Binder Course to Cl. 906.  
 \*65mm Dense Asphalt Concrete Base to Cl. 906.  
 \*300mm Type 1 Sub-base to Cl. 803.  
 \*Approved Granular Fill Down to Suitable Formation.

**PERMEABLE BLOCK CONSTRUCTION**  
 \*100x200x60mm blk. permeable block paving laid in 45° or 90° herringbone pattern.  
 \*50mm thk. 2-6mm clean stone.  
 \*350mm thk. 4-20mm coarse graded aggregate.

**PERMEABLE BLOCK CONSTRUCTION**  
 \*100x200x60mm blk. permeable block paving laid in 45° or 90° herringbone pattern.  
 \*50mm thk. 2-6mm clean stone.  
 \*350mm thk. 4-20mm coarse graded aggregate.



**TYPICAL SECTION THRU' ACCESS RD & PERMEABLE PAVING**  
 (Scale 1:20)

- Proposed Site Materials Legend**
-  150mm x 100mm Precast Concrete Bullnose Kerbing
  -  Area of Bitmac (5018.42m<sup>2</sup>)
  -  Area of Permeable Pavings (3059.30m<sup>2</sup>)
  -  Area of Gravel (724.52m<sup>2</sup>)
  -  100mm Wide Kerb
  -  150mm Wide Kerb



**General Arrangements Plan**  
**Proposed Storage Yard**  
**Kilcoy**

**CainTech**

LAND & BUILDING SURVEYING  
 SETTING OUT ENGINEERS  
 CIVIL ENGINEERING DESIGN  
 DIMENSIONAL CONTROL SURVEYING  
 LASER SCANNING SERVICES

HYDROGRAPHIC SURVEYING  
 VOLUMETRIC SURVEYING  
 DIMENSIONAL CONTROL SURVEYING  
 AUTOCAD DRAUGHTING SERVICES

Client: **MacDonald Groundworks Ltd**  
**Daviot**  
**Inverness**  
**IV2 6XN**

Drawn By:	Checked By:	Surveyed By:	Surveyed Date:
GCN	KGT	LT	29/03/2019

Drawing Status:	Drawing Date:
<input type="checkbox"/> FOR APPROVAL	28/10/2020
<input checked="" type="checkbox"/> FOR ISSUE	Drawing Scale:
<input type="checkbox"/> FOR DISCUSSION	1 : 200 @ A0
<input type="checkbox"/> DRAFT STATUS	Drawing No:
	J2438-005

Our Job Ref:	Our Job Ref:
J2438	B

• Levels are in metres and are to Ordnance Datum.  
 • Coordinates are to National Grid. (EPS Network)