

Agenda Item	6.6
Report No	PLN/085/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 19 October 2021

Report Title: 21/03053/FUL: Scottish Sea Farms

91 Laid, Loch Eriboll, Lairg, IV27 4UN

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Partial change of use of house and partial change of use of land to form shore base, the siting of a storage container, creation of hardstandings and improvements to access track (retrospective)

Ward: 01 – North, West and Central Sutherland

Development category: local

Reason referred to Committee: number of representations

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 application seeks to partially change the use of a house and croft land to retain residential use and provide office facilities and a shore base for a fish farm. The proposal includes the siting of a storage container, creation of hardstandings and improvements to the access track (all the above is in retrospect).
- 1.2 The application is supported by:
- Site Photographs (house and track / shoreline)
 - Certificate of Conformity for the radio equipment
 - Response to objections
- 1.3 There have been no amendments to the proposals over the course of the assessment.

2. SITE DESCRIPTION

- 2.1 The site is located at Laide, on the western side of Loch Eriboll and approximately 2.6Km SW of Portnancon.

The house is of a relatively modern design with roughcast walls and a concrete tiled roof with an associated hardstanding area to accommodate on-site vehicle parking. It lies adjacent to and east of the A838 public road. Post and wire fencing runs adjacent to the road and the site is accessed via a gated track; this track leads down to the foreshore where the proposed sea access and equipment are stored. This track has been upgraded with additional hardstandings added to it along its length.

The cottage had been unused for some time and was falling into disrepair. The development aims to restore the building as necessary, bringing it back into use as an office facility with staff living accommodation.

- 2.2 The wider area is relatively remote although there are private residences in the immediate surrounds. The historic pattern of development is along the seaward side of the public road with crofted land lying in between individual properties; the houses are generally well separated with the nearest neighbouring properties respectively, 280m to the SW and 250m to the NE (approximately). There are no natural heritage or landscape designations at the application site, nor is the site considered to be within connectivity distance of such designations.

3. PLANNING HISTORY

- 3.1 Enforcement Enquiries
- 19/00127/ENF – Unauthorised Building, Engineering or Operations
 - 19/00180/ENF – Unauthorised Building, Engineering or Operations
 - 20/00364/ENF - Unauthorised Building, Engineering or Operations

3.2 The above reported breaches are addressed by the submission of this application.

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 30th July 2021

Representation Deadline: 13th August 2021

4.2 Timeous Representations: 14No. objections from 16No. individuals and 1No. general comment from 1 individual on behalf of the landowner.

4.3 Late representations: 1No. objection from 1 individual

4.4 Material considerations raised in objections and correspondence are summarised as follows:

- a) Concerns regarding development already undertaken.
- b) Concerns regarding loss of amenity.
- c) Impact of development on neighbouring businesses – BandB, Tourism etc.
- d) Road safety concerns regarding the use of site access in industrial setting.
- e) Land / sea contamination.
- f) Consider the development to be contrary to policy.

4.5 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 No consultations

5.4 DEVELOPMENT PLAN POLICY

6. The following policies are relevant to the assessment of the application

Highland Wide Local Development Plan 2012

6.1 Policy 28 - Sustainable Design

Policy 29 - Design Quality and Place-making

Policy 31 - Developer Contributions

Policy 36 - Development in the Wider Countryside

Policy 65 - Waste Water Treatment

Policy 66 - Surface Water Drainage

Caithness and Sutherland Local Development Plan 2018 (CaSPlan)

There are no site-specific policies for the application site so the general policies of the HwLDP referenced above apply

Highland Council Supplementary Planning Policy Guidance

Developer Contributions (November 2018)

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June 2014)

Scotland's National Marine Plan (March 2015)

8. PLANNING APPRAISAL

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.1 Determining Issues

This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.2 Planning Considerations

The key considerations in this case are:

- compliance with the development plan and other planning policy.

8.3 Development plan/other planning policy

The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP), Caithness and Sutherland Local Development Plan and all statutorily adopted supplementary guidance.

- 8.4 With no site-specific allocations or policies within the CaSPlan at the application's location, the development is principally assessed against the general policies of the HwLDP, and principally Policy 36 for Development in the Wider Countryside. The policy states that the Council broadly supports development in the Wider Countryside providing the proposal shows sensitive siting and design so as to fit the local settlement pattern and be compatible to the local landscape and character, while adequately addressing drainage and servicing constraints. The policy is reinforced by HwLDP Policies 28 and 29 for Sustainable Design, and

Design Quality and Placemaking, which support developments that make use of existing buildings and recycled materials, while seeking to improve the design, architectural, and visual quality of new development across the Highland area.

- 8.5 The principle of the development is supported by the Local Development Plan subject to the proposal being acceptable in all other aspects, which are considered in detail below.

8.6 **Siting and Design**

The application makes use of an existing building and therefore conforms with the local settlement pattern while the residential use is compatible with surrounding residential and agricultural land uses, which together support the principle of the development's siting. In addition, much has been made of the construction of the track leading to the foreshore; this track was previously existing, and the works undertaken have upgraded it to a useable condition for the purpose of accessing the foreshore and providing hardstanding areas. These developments are considered to be compatible with similar croft operations on adjoining land.

- 8.7 As stated in paragraph 2.1, the house is of relatively modern design, common in the area. The building was complete but had been suffering water ingress and settlement from lack of use and maintenance. It is important to note that the building lies close to the A838 which is part of the NC500 and a dilapidated structure would do little for visitor experience of the area.

8.8 **Amenity**

Representations made against the application assert that the development will result in loss of privacy and amenity through noise and traffic movement. These issues are understood in the context of the surrounding open countryside and the site's position at the foreshore, which require detailed consideration as provided below.

- 8.9 The separation distance between the property to the south west, and the development, is approximately 280m, with the open area of land between, in croft tenure. It is acknowledged that the development is on relatively open ground, however the topography immediately adjacent to the site greatly screens the site from the western side of the loch. Additionally, no part of the completed development is located any closer to this neighbour than the previous track.

The property to the north and east of the site is approximately 250m distant and belongs to the renowned ceramicist, Lotte Globb. The land between the properties has been heavily planted in native trees and this provides a large amount of screening.

There are no other properties that the development would potentially impact upon and the site location being distant from its neighbours mitigates any amenity reduction.

- 8.10 However, it is noted that an unfortunate incident involving burning of rubbish caused distress to neighbours which lasted a period of a few days; the burning of waste materials is a matter for SEPA but none the less is addressed by condition below.

8.11 A further claim has been made that the development will result in road traffic problems that would impact the amenity of the surrounding area. However, it has been established that delivery of fish feed and materials is mostly provided via the sea and only infrequently via the road network when weather conditions restrict seaborne delivery. Given the existing level of traffic on the road, it is not considered that the infrequent deliveries by large lorry will have a significant additional impact.

8.12 It is understood that the re-development and reuse of this redundant building and croft represents a change in the local area with a resulting perceived impact on the established residential and business amenity of adjacent properties. However, as demonstrated above, the concerns raised regarding loss of amenity cannot tip the planning balance against the granting of planning permission on amenity grounds; the development will revitalise a dilapidated house in a conspicuous location and will not lead to unacceptable impacts on the established amenity of the area as far as these elements can be controlled through the planning system.

8.13 **Natural Heritage – Sea Life**

Concern has been raised in respect of the potential for impact on amenity through the perceived dumping of waste materials and fuelling of plant and machinery. It is acknowledged that Loch Eriboll has a very picturesque setting and that should remain. However, there is no evidence to suggest that the applicant is responsible for the dumping of plastic and general waste at the loch side; this may sadly be an indictment of unscrupulous dumping by many people and cannot be attributed to the applicant. Fuelling of machinery etc. and storage of fuels is strictly controlled and enforced by SEPA.

8.14 **Storage of Materials**

Concern has also been raised in respect of the open storage of equipment and the perceived lack of control over waste materials. In respect of amenity, it is considered appropriate to attach a condition requiring the submission of a Waste Management and Control Statement for current and ongoing operations. This condition is attached below.

8.15 **Natural Heritage - Protected Species**

There are no statutory nature conservations designations in place on the site.

8.16 **Access and Parking**

The site access is taken through an existing access from the A838, adjacent to the house. Several representations have questioned the relative safety of this arrangement while correspondents have warned of the dangers of large vehicles using the junction. It is noted that shared accesses are supported in Highland Council Policy, however in this instance the positioning of the access is such that only the service bay would be shared. The hardstanding for the office and house site is formed adjacent to the track. The existing access is certainly sufficient to allow larger vehicles to both enter and exit the site safely having previously been used in a croft context. These arrangements are not considered to result in

unacceptable road safety impacts as visibility splays of 215m plus are achievable in both directions, which is appropriate for the 60mph speed limit of the road (40mph is a more realistic average). The proposed access and sightline provisions are considered acceptable.

8.17 The access driveway for the application site has already been formed of but is not currently to Highland Council Standards. A condition for a Council Standard SDB2 service bay, should therefore be included with any permission to ensure the access is appropriately surfaced and finished with adequate drainage to protect the public road from surface water discharging from the site; approval would also be required for a road opening permit from the local Roads office. Onsite vehicle parking and turning provision makes use of the hardstanding area and is adequate for the development.

8.18 **Water and Drainage**

The house is already served by public water and private drainage and there is no change in respect of the capacity required.

8.19 **Land Contamination**

As noted above, there was an unfortunate incident previously in respect of burning of waste materials; this activity is strictly controlled and is conditioned.

8.20 **Developer Contributions**

No developer contributions are due in respect of the above development given the house pre-exists.

8.21 **Other material considerations**

Policy – In particular, Scotlands National Marine Plan (March 2015)

The above policy has been offered as an objection to the development of a shore base at Loch Eriboll.

The policy talks of a presumption against further marine finfish farming in the north and east of Scotland; this proposal is not considered to be further development of a finfish operation; it is the relocation of an existing business working on Loch Eriboll. This is a terrestrial rather than a marine development.

8.22 **Non-material considerations**

This proposed development has received a large volume of correspondence, which has been duly considered for matters material to the assessment. Issues material to planning have been considered above, however, several non-material issues were raised and are summarised as follows:

- a) Failure to adhere to previous commitments
- b) Preliminary works undertaken on site without planning permission.
- c) Time limit of permission required if permission granted

8.23 Matters to be secured by Section 75 Agreement

None

9. CONCLUSION

The principle of the conversion and rehabilitation of the building in order to preserve residential and commercial use is supported in Highland and Scottish Planning Policy. The application has attracted considerable interest and the issues raised given due consideration in the course of the application's assessment. As stated, it is understood that the development represents a change in the local area and concerns have been raised about its perceived impact on the established residential amenity and private businesses. However, on review of all relevant material planning considerations, the proposal has been assessed and found to be acceptable on siting, design, amenity, natural heritage, and protected species grounds. Access, parking, and road safety, as well as drainage and land contamination concerns have been assessed and any impacts are considered to be within acceptable limits subject to details being secured and reinforced by conditions.

Clearly there has been a breakdown in relations between the developer and the local community and "broken agreement" has been quoted by many of the objectors. This is not a material planning consideration and can be given no weight in planning terms.

Expressions of concern have been raised in respect of full planning permission being granted without a time limit. The site is being leased from a landowner who has agreed the cessation date with the applicant. It is not considered reasonable or necessary to attach a temporary approval to this application to support this position. There are no planning reasons for the permission to be temporary.

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. 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

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons:

1. The existing site access shall be upgraded and formed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 26.08.2021), with:
 - i. the junction formed to comply with drawing ref. SDB2; and
 - ii. visibility splays of 2.4m x 215m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

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

2. All fuel storage and fuelling operations shall be undertaken strictly in accordance with best practice and industry guidelines. For the avoidance of doubt, all fuelling operations shall be undertaken in a controlled manner with spill kits immediately available. In addition, the burning of waste materials is strictly forbidden.

Reason: In the interest of the environmental protection and for the avoidance of doubt.

3. A Waste Management and Control Statement shall be submitted for agreement in writing to the planning Authority within 30 days of the date of this approval. For the avoidance of doubt, the statement shall include details of the current and proposed arrangements for the storage of plant, fuels and equipment associated with the ongoing operation. In addition, a programme for periodic maintenance of the site (rubbish gathering etc.) shall also be provided.

Reason: In the interest of residential amenity and for the avoidance of doubt.

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.

INFORMATIVES

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.

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

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_f_or_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.

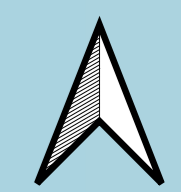
Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take 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.

Designation: Area Planning Manager – North
Author: David Borland
Background Papers: Documents referred to in report and in case file.
Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Location	001		22 June 2021
Site Layout Plan	002		22 June 2021
Schematic Floor Plan	003		16 July 2021



**Laid Shorebase, Eriboll
Location Plan**


June 2021

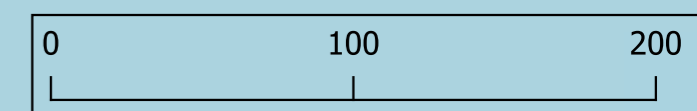
Scale 1:2,500 @ A2

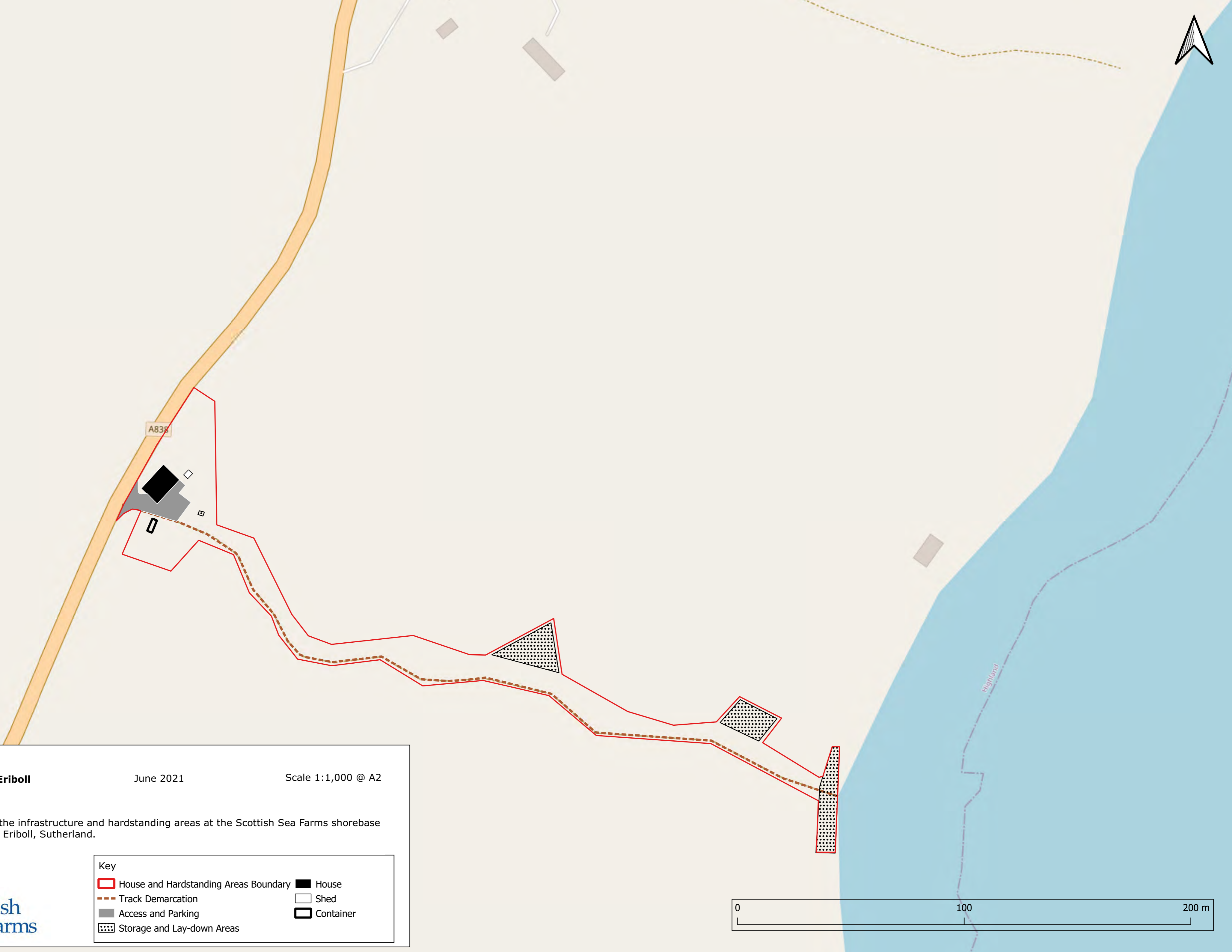
Plan showing the location of the Scottish Sea Farms shorebase area located at 91 Laid, Eriboll, Sutherland.



Key

 House and Hardstanding Areas Boundary





**Laid Shorebase, Eriboll
Site Plan**

June 2021

Scale 1:1,000 @ A2

Site plan showing the infrastructure and hardstanding areas at the Scottish Sea Farms shorebase located at 91 Laid, Eriboll, Sutherland.

Key	
House and Hardstanding Areas Boundary	House
Track Demarcation	Shed
Access and Parking	Container
Storage and Lay-down Areas	

