

Agenda Item	6.6
Report No	PLS-10-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 08 February 2022

Report Title: 21/01623/FUL: Miss Bonny Watkins

Bonnys Wonderland, 20A Ben Nevis Drive, Ben Nevis Industrial Estate,
Fort William, PH33 6RU

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Change of Use to Class 1 (beauty salon) on first floor of Unit (Retrospective)

Ward: 21 – Fort William and Ardnamurchan

Development category: Local

Reason referred to Committee: Area 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 This application for planning permission is retrospective and relates to the subdivision of an existing unit and change of use of the first floor to a beauty salon (Class 1 use). At the time of submission, a gym was operating on the ground floor although it appears that in summer 2021 the use changed to that of a property management company. No external changes to the building have been made or are proposed to facilitate the change of use/subdivision of the unit.
- 1.2 The salon is open from 7am – 10pm and due to Covid restrictions currently operates by appointment only. There are a total of 5 full time members of staff and 2 part time. At present each therapist has one client at a time and no waiting is permitted to ensure social distancing. The max number of customers at one time would be 7. The number of clients per day would depend on the type of appointments and this would vary day by day.
- 1.3 Pre Application Consultation: None.
- 1.4 Supporting Information: Planning statement in relation to the following:
- site selection and premises within the Town Centre and sub centres
 - justification for proposals in response to Coronavirus, cross contamination and health and safety considerations,
 - photographic information (existing path and car parking),
 - staffing and opening hours information
- 1.5 Variations: Revised site layout plan showing parking spaces, disabled parking provision and cycle parking.

2. SITE DESCRIPTION

- 2.1 The site comprises of a large unit towards the centre of the Ben Nevis Industrial Estate. The unit lies approximately 13m south of units 17 and 18 (Lochaber Building Supplies) and 30m west of units 19 and 20 (Vanguard Campervan Conversions and Rexel Electrical and Site Supplier).
- 2.2 The unit is located at the southern edge of the Ben Nevis Industrial Estate where it backs on to residential properties in Grant Place, Claggan. The unit lies approximately 9m from the rear garden boundary and 22m from the closest terraced properties on Grant Place (nos. 36 - 42). The ground floor of the unit is accessed via an entrance on the east facing elevation and the upper floor is accessed via a separate pathway and entrance to the south side of the building.
- 2.3 The unit is served by an existing access spur and parking area, which is shared with units 19 and 20.

3. PLANNING HISTORY

- 3.1 08.10.2010 10/01170/FUL: Change of use from Class 4 Planning (Business) to Class 1 (shops) and siting of external storage container Permission Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown neighbour

Date Advertised: 20.05.2021

Representation deadline: 03.06.2021

Timeous representations: 1 (1 household)

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) parking – concerns raised by a resident in Grant Place, Claggan who uses parking to the rear of their property (on the Industrial Estate) when the front car park which serves Grant Place is full.

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 Historic Environment Team: No response received

5.2 Transport Planning Team raised initial concerns relating to a lack of information on access and parking (parking spaces, disabled parking and cycle parking). Transport Planning advise that the 4 current spaces would not meet the non-food retail maximum parking standards which require 7 spaces.

5.3 Historic Environment Scotland: HES note that the proposals have the potential to affect a designated battlefield – BTL34 Battle of Inverlochy I Battlefield but offers no comment.

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

34 - Settlement Development Areas

40 - Retail Development

41 - Business and Industrial Land

56 - Travel

57 - Natural, Built and Cultural Heritage

6.2 West Highland and Islands Local Development Plan 2019

Policy 1: Town Centre First

Development that generates significant footfall will firstly be expected to be located within the town centres as identified by town centre boundaries. When identifying sites, a sequential assessment will be required demonstrating that all opportunities

for regeneration through reuse or redevelopment of existing sites or buildings have been fully explored. Should the scale and type of proposal not be suitable for these locations, edge of town centre locations are favoured second, and then out of centre locations that are, or can be made, easily accessible by a choice of transport modes. This sequential approach does not apply to established uses and land allocations.

Significant footfall developments include retail, restaurants, commercial leisure uses, offices, hotels, community and cultural heritage facilities, and public buildings including libraries, education and healthcare facilities.

If the Council considers that a proposal may result in an adverse impact on the vitality and viability of any defined town centre, the developer will be required to produce a retail or town centre impact assessment, tailored to reflect the scale and function of the town centre in question. The Council will only support proposals accompanied by competent assessments that demonstrate no significant adverse impacts. A flexible and realistic approach will be required when applying this sequential assessment, however, developers need to consider how appropriate the nature of their proposal is to the scale and function of the centre within which it is proposed. Exceptions may be made for any ancillary uses that support existing and proposed developments.

6.3 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (March 2018)

Highland Historic Environment Strategy (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

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) impact on amenity
- c) access and parking

- d) impact on cultural heritage
- e) any other material considerations

Development plan/other planning policy

- 8.4 The proposal is situated in the Ben Nevis Industrial Estate which lies within the Settlement Development Area of Fort William.
- 8.5 Policy 41 of the Highland wide Local Development Plan establishes that Glen Nevis Business Park and Ben Nevis Industrial Estate are to be safeguarded from other competing uses unless a development plan review concludes that the site is no longer required or is suitable for business and industrial purposes. The West Highland and Islands Local Development Plan, which was adopted in September 2019, has not identified alternative future uses for the site. The proposal, which is for Class 1 retail, is not a business or industrial use (Classes 4, 5 or 6) and would therefore not comply with the Development Plan in this regard.
- 8.6 Retail development is expected to be directed toward town centres. As required by Policy 40 of the Highland wide Local Plan and Policy 1 of West Highland and Islands Local Development Plan, where this is not possible, a sequential assessment to identifying appropriate locations should be undertaken. This should consider edge of centre locations before any proposed out of centre location. Fort William town centre should therefore be considered first, followed by sub-centres such as Inverlochy or Caol and only then any other location. Proposals that are judged to have a significant impact on the vitality and viability of a town centre would not be supported by the Development Plan.
- 8.7 The applicant has provided information highlighting the lack of suitable premises within the town and village centres to cater for the operational needs of the business. These needs include large, spacious areas required for individual treatments and, at the current time, to meet additional distancing and cleaning requirements in light of the Covid19 pandemic.
- 8.8 Retail development which generates significant footfall takes advantage of passing trade, where customers tend to make a single trip to town and visit multiple premises within a concentrated area. Proposals which generate this cross footfall contribute to the vitality and viability of town and village centres. The applicant has advised that the business operates on an appointment only basis with no walk-in appointments. The nature and operation of the business does not seem likely to contribute significantly to cross footfall in the High Street. As such its location outwith Fort William town centre, or village sub centres, is unlikely to be such a draw that it be detrimental to the vitality and/or viability of those centres.
- 8.9 It is the case that many existing business and industrial units on the Ben Nevis Industrial Estate will also include a retail element. These will largely be incidental to the main use. However, there has been a change to the mix of uses on the estate over recent years with eight other units benefitting from changes of use to provide a range of services including; a yoga studio, fitness suite, pet crematorium, vehicle repairs, vehicle depot and a hairdresser (see Appendix 2). These applications have catered for small scale alternative business uses, to cover largely niche areas compatible with the industrial estate location, subject to conditions to restrict the

extent of use and for the use to revert back to business or general industrial use in the future.

- 8.10 It is acknowledged however, that there has been a gradual increase in alternative uses within the estate that have not had the benefit of planning permission. Supporting information submitted by the agent notes the decline in business and industrial uses. These are stated to include another beautician, a bakery, carpet sales, white goods, buildings supplies, a kitchen salesroom, a laundry, funeral headstone sales and a fitness gym. The incremental introduction of such uses does raise concerns over their cumulative impact over time. If left unchecked these types of operations could ultimately squeeze Class 4, 5 and 6 uses out directly or indirectly by making it difficult to locate conventional industrial estate uses next to more sensitive businesses.
- 8.11 In the case of this particular building, a building warrant was granted for internal alterations to the unit in 1998 and this included the formation of a first floor area. Planning permission was granted in 2010 for the change of use from Class 4 (Business) to Class 1 (retail) use and the siting of an external storage container. Although this permission was granted, operation was restricted to the repair and maintenance of white goods (Class 4) with the retail sale of white goods, fireplaces, stoves and cookers ancillary to the main use. The retailing area was restricted to a small display area on the ground floor measuring 16.5m².
- 8.12 A general Class 1 Use is not considered suitable in this location due to the safeguarding of the area for business and industrial uses. However, the salon use is restricted to the first floor and the regularisation of the current use (beauty salon use only) would not prejudice the operation of the separate Class 4 business premises at ground floor level – ground floor space being the optimal space for business and industrial uses with the estate and business park. Given this, and that the business will have limited, if any, impact on the town centre, a departure from the Development Plan may be justified in this instance subject to the proposal complying with the other relevant policies of the Development Plan in particular with regard to amenity and servicing.
- 8.13 It is important to note that justification for this upper floor restricted Class 1 use does not indicate support for further Class 1 retail uses within the Glen Nevis Business Park or Ben Nevis Industrial Estate. Officers remain of the view that the area should be safeguarded for business and industrial uses (Classes 4, 5 and 6) as per the Local Development Plan and general Class 1 Retail Use will be resisted and hope that Members agree with this approach.

Impact on residential and community amenity

- 8.13 While the building is adjacent to residential premises, it lies within an established industrial estate. The nature of the business is unlikely to result in noise or activity at unsociable hours. No alterations to the building that would give rise to any amenity impacts are proposed.

Access and parking

- 8.14 The industrial estate is situated on the North Road in Fort William, close to public bus routes and served by footpaths from the town centre. The Transport Planning Team initially queried the number of car parking spaces available to serve the unit, lack of disabled parking spaces and lack of cycle parking provision. Further information and revisions to the parking layout have been provided showing 7 car parking spaces to serve the development including a disabled parking space and cycle parking.
- 8.15 An objection has been received from a nearby resident of Grant Place, in relation to parking. It appears that this resident occasionally uses the industrial unit parking, which lies to the rear of properties in Grant Place, to gain access to the rear garden and for parking when the front car park, which serves Grant Place, is full. Parking areas on the industrial estate are primarily to serve the industrial units and visitors to the units and cannot be reasonably relied upon to provide over-spill or additional parking for residents on Grant Place.
- 8.16 The Transport Planning Team has advised that the level of cycle and car parking provision and revised layout proposed is acceptable. A condition is recommended to secure the revised parking and cycle parking arrangements.

Historic Environment

- 8.17 The site lies within the Inventory of Historic Battlefields site BTL34 Battle of Inverlochy I which extends either side of the A82 between The River Nevis and the Allt a'Mhuilinn. The area is the landscape in which the first battle of Inverlochy was fought in 1431 between the Scottish monarchy and the Lords of the Isles. Evidence of this battle has been recovered from the area in the past, most notably at the time that the Smelter was being constructed. There is therefore potential for archaeology on the site.
- 8.18 Since the building is already on the site, in the context of an existing urban development site, it is not considered that the proposal will have any impact on the landscape setting and or appreciation of the battle. While it is noted that the Historic Environment Team has not responded on the application given the nature of the proposal there will be no impact on archaeology.

Other material considerations

- 8.19 There are no other material considerations.

Non-material considerations

- 8.20 None.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.21 None

9. CONCLUSION

- 9.1 The proposal relates to a retail use located outwith the town centre, where such uses are expected to be located, in a place that is safeguarded for business and industry. On face value, the proposal does not comply with the Development Plan.
- 9.2 It has been demonstrated by the applicant that there are no suitable premises available for this business either within the town centre or sub-centres of the Fort William Settlement Development Area.
- 9.3 A small number of changes of use to cater for niche markets have been accepted within the estate, subject to conditions to limit the extent of use and for the use to revert to business/industrial use. These restrictions have been imposed to safeguard the future operation of the industrial estate. With such restrictions imposed on what would be a regularisation of this use, the salon would not be considered to significantly impact on the Ben Nevis Industrial Estate.
- 9.4 The unit is easily accessible by a range of travel modes, will not impact upon existing service arrangements and will have no adverse impact on individual or community residential amenity. There will be no adverse impact on cultural heritage. The use will not prejudice the operation of the separate Class 4 business premises located on the ground floor.
- 9.5 Taking this into account and the controls to specify the use and reverting the permission on cessation of that use are considered sufficient to not significantly impact on the business and industrial allocation as a whole. The proposal, while not fully compliant with policy, would be considered to comply with the Development Plan 'in the round'. The grant of planning permission for this development would not be considered to set a precedent or prejudice the consideration of any future applications for change of use within this safeguarded area. Any future applications would need to be considered on their own merits against development plan policy taking into account the individual circumstances and cumulative impacts on the future operation of the estate. General Class 1 retail uses within the Glen Nevis Business Park and Ben Nevis Industrial Estate will continue to be resisted.
- 9.6 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 actions, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. Notwithstanding the provisions of Class 1 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, the approval hereby granted relates only to the use of the premises as a beauty salon and for no other use or purpose including any other activity falling within Class 1 of the said Order.

Upon the cessation of the use of the premises as a beauty salon the use of the premises shall revert to Class 4 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended.

Reason: In order to allow the Planning Authority to retain effective control over the future use of the site given its location within the Ben Nevis Industrial Estate; in accordance with policies 40 and 41 of the Highland wide Local Development Plan, 2012 and Policy 1 of the West Highland and Islands Local Development Plan, 2019.

2. Within three months of the date of this permission, the car and cycle parking and access arrangements shown on approved plan 001 Rev B shall be completed in full and made available for use. Thereafter the access, parking and cycle parking provision shall be maintained for this use in perpetuity, unless otherwise first agreed in writing by the Planning Authority.

Reason: To ensure that the level of off-street parking is adequate and to facilitate the use of a variety of modes of transport; in accordance with policies 28 and 56 of the Highland wide Local Development Plan, 2012.

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Christine Millard

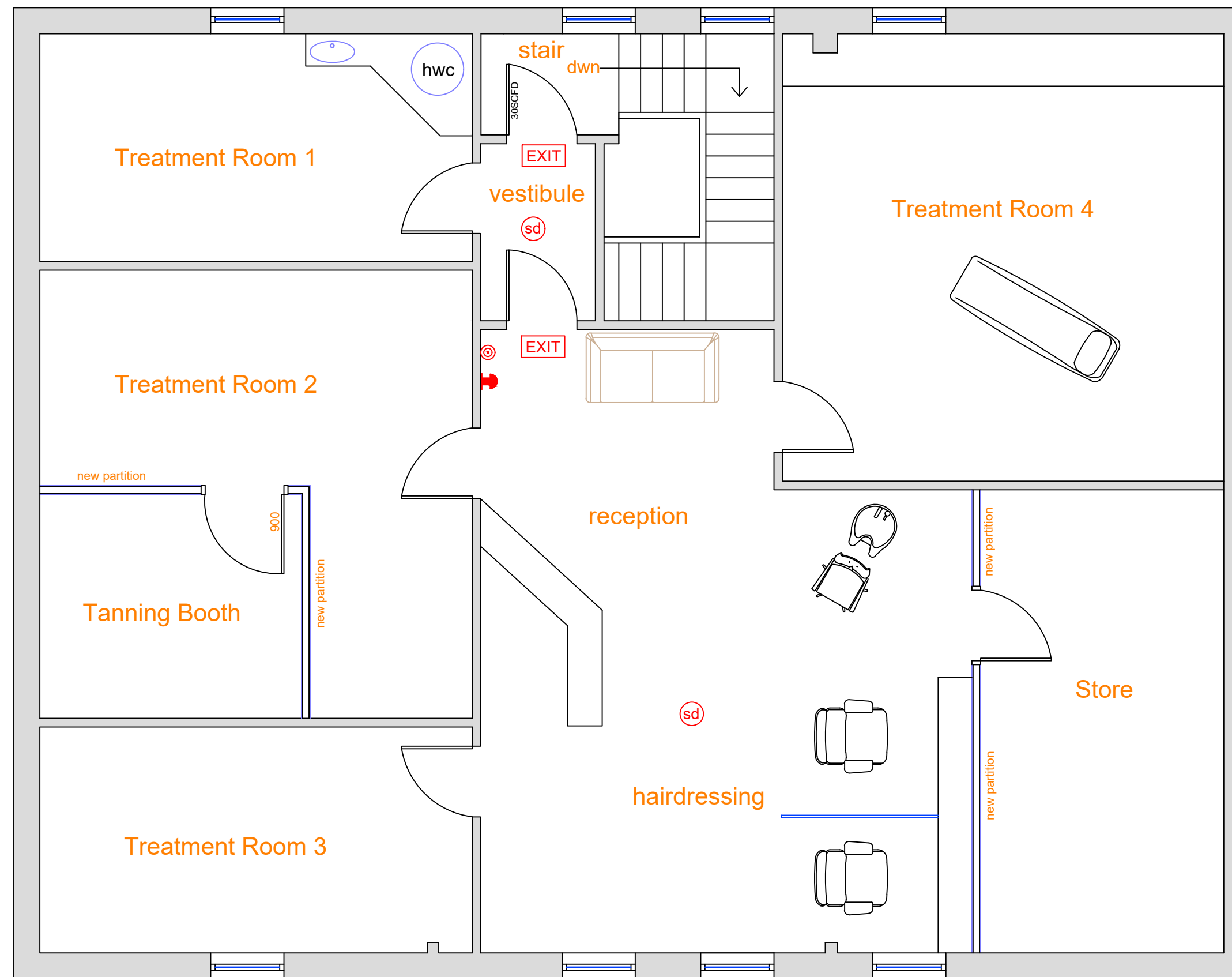
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - 001 Rev B Location/Site Layout

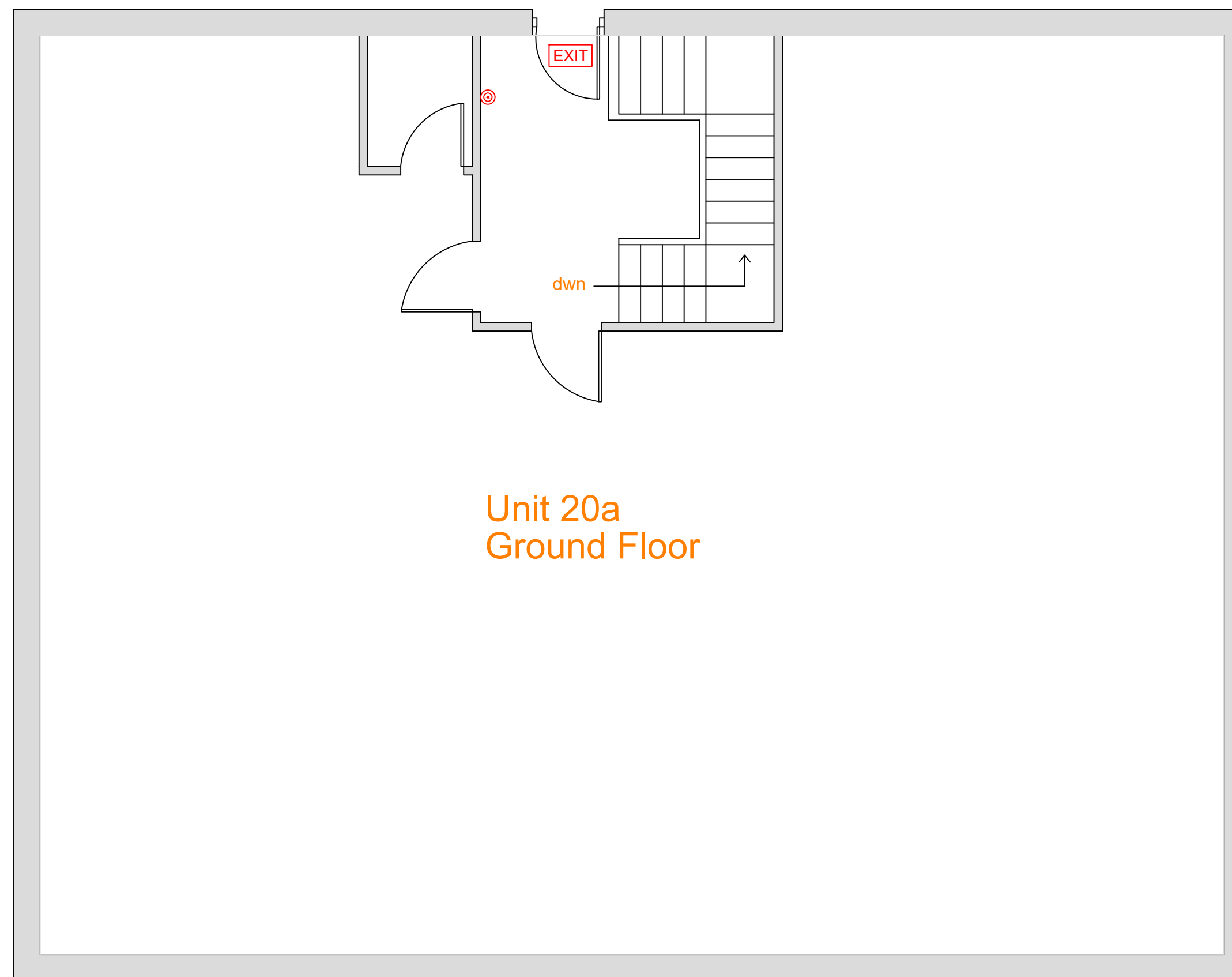
Plan 2 - 002 Floor Plan

Appendix 2 – Summary of Authorised Changes of Use from 1998 - present

Decision Date	Proposal	Comment
07.05.2021	21/00938/FUL: Change of use to pet crematorium at 4 Ben Nevis Way, Ben Nevis Drive, Ben Nevis Industrial Estate	Change of use from Class 5 (General Industrial) to Sui Generis Use (in a class by itself)
27.07.2020	20/00589/FUL: Change of use from Class 4 to Class 1 (hairdressing) at 9 Ben Nevis Drive, Ben Nevis Industrial Estate	Conditions restricting use to single trader with change of use to revert to Class 4 (Business) upon cessation of the occupation of the unit by the applicant
10.02.2019	18/05571/FUL: Change of use from office and store to a yoga studio at 10 Ben Nevis Drive, Ben Nevis Industrial Estate	Change of use from Class 4 (Business) to Class 11 (Assembly & Leisure) restricted by condition for yoga studio use only and upon cessation of the yoga studio, use to revert to Class 4 (Business).
17.03.2011	11/00196/FUL: Change of use to fitness suite at 11 Ben Nevis Drive, Ben Nevis Industrial Estate	Relocation of existing business from unit 8B to unit 11. Restricted by condition for fitness suite/personal training only, premises to revert to Class 4 (Business) upon cessation of use
12.10.2020	10/01170/FUL: Change of use from Class 4 to Class 1 and siting of external storage container at 20A Ben Nevis Drive, Ben Nevis Industrial Estate – application site	Details in section 8.9 above
02.08.2006	06/00248/FULLO: Change of use from industrial unit to fitness suite for personal training at unit 8B Ben Nevis Drive, Ben Nevis Industrial Estate	Restricted by condition for fitness suite/personal training only, premises to revert to Class 4 (Business) upon cessation of use
28.03.2002	Change of Use from Light Industrial to Vehicle Depot at 37B Ben Nevis Drive, Ben Nevis Industrial Estate Ben Nevis Drive, Ben Nevis Industrial Estate	Use restricted by condition solely to the use of land as a vehicle depot for the temporary storage of road worthy vehicles
09.08.2000	Change of use from contractors' store/yard to vehicle repair garage at Unit 38 Ben Nevis Industrial Estate	Sui Generis Use granted (in a class by itself)
08.02.1999	Use of Unit for Light Vehicle Body Repairs	Sui Generis Use granted (in a class by itself)



First Floor Plan
Scale 1:50



Ground Floor Plan
Scale 1:50

FIRE SAFETY SYMBOLS

Category M Fire Alarm System in accordance with BS5839 to be installed

- ⊙ Fire Alarm Call Point
- ➔ Fire Alarm Audible Warning device
- EXIT Fire Exit Illuminated Sign

All electrical work to comply with the Buildings Standards (Scotland) Regulations and to be in accordance with the current edition of the I.E.E. Regs. All fire detection equipment to be hard wired on a separate protected circuit.

NOTES
The contractor will be held to have checked all dimensions before commencing with any works and in the event of any discrepancies is to refer them directly to the Architect prior to commencement of works.
Written dimensions are to be taken at all times. Drawings should not be scaled. In case of doubt refer to Architect.
The contractor will ensure that all materials conform to the British Standards relating to them and/or certificates issued by the British Board of Agreement and that they are fixed, mounted or installed strictly in accordance with the B.S. Code of practice relative to them or the Manufacturer's printed instructions. British Standards & Codes of Practice will include amendments made on or before date of tender.
The drawing is the copyright of the Architect and all rights are reserved. Copying of this drawing or any part thereof by any means is an infringement of the copyright and may be subject to prosecutions unless consent of the Architect is obtained.

date	revisions	mk	by	check'd

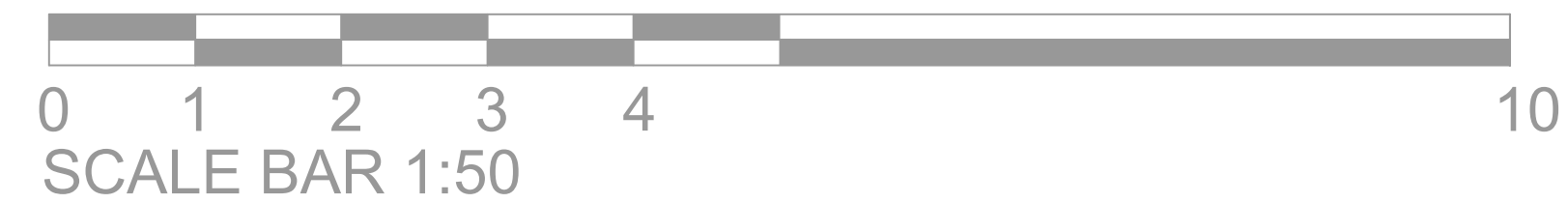
i-j McColl
ARCHITECT
Unit 21, Ben Nevis Industrial Estate, Fort William PH33 6PR
Tel: 01397 708567

project **Proposed Beauty Salon at Unit 20a
Ben Nevis Industrial Estate
Fort William PH33 6PR**

client **Bonnys Wonderland**

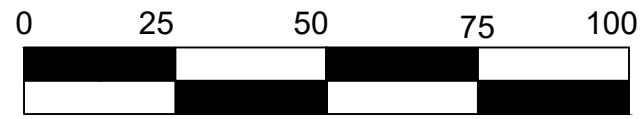
detail **Floor Plans**

scale 1:50 (A1)	date March 21	drawn IJM
job no. 0421	dwg no. 002	checked X

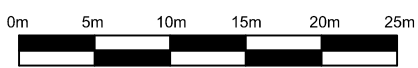
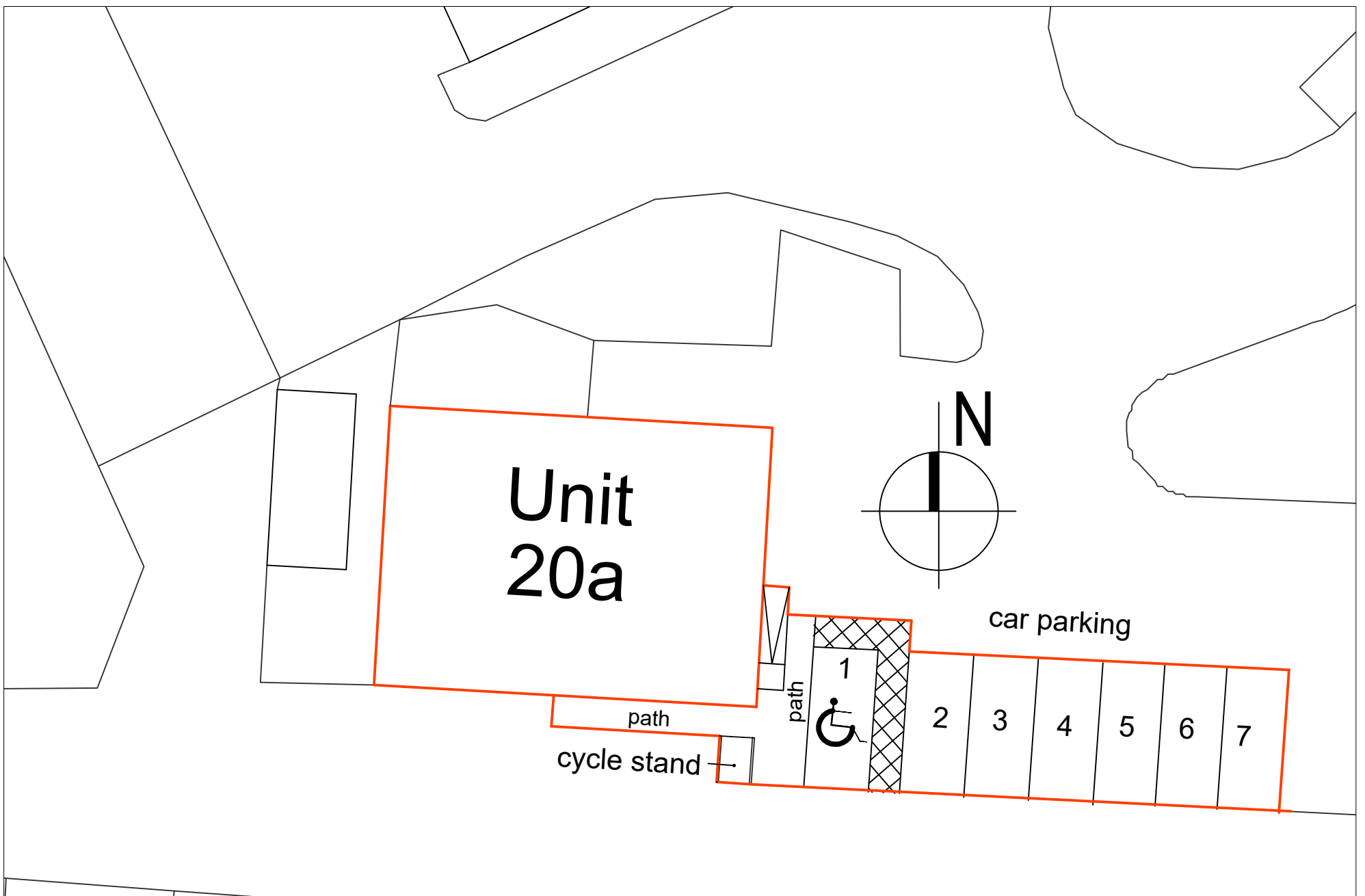




Location Plan
Scale 1:1250



SCALE BAR 1:1250



Scale Bar 1:500

Site Plan
Scale 1:200

<p>i-j McColl Architect</p> <p>Unit 21, Ben Nevis Industrial Estate, Fort William PH33 6PR Email: info@ijarchitect.co.uk Tel: 01397 708567</p>	project Proposed Beauty Salon at Unit 20a Ben Nevis Industrial Estate Fort William PH33 6PR			
	client Bonnys Wonderland			
	detail Location Plan & Site Plan			dwg no. 001B
	scale as noted (A3)	date March 21	job no. 0421	drawn IJM