

Agenda Item	6.4
Report No	PLN/019/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 15 March 2022

Report Title: 21/05232/PIP Firth Plumbing Heating and Roofing Ltd
1 and 3 Blairnaparc Road, Business Park, Dingwall

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Erection of office and workshop building, installation of storage unit and associated parking arrangements.

Ward: 08, Dingwall and Seaforth

Development category: Local

Reason referred to Committee: Managers discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **REFUSE** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is to erect a 2 storey office and workshop building alongside the north Inchrory Drive boundary, and an open sided single storey storage unit alongside the west Inchrory Drive boundary.
- 1.2 The proposal is for 'permission in principle', so all details currently shown are indicative only. The indicative office and workshop building will be 2 storeys in height, with a gently sloping monopitch roof. The lower storey will be finished in larch cladding, and the upper storey in profiled metal sheet cladding. The roof will also be profiled metal sheeting. There will be an external metal staircase from the yard to the offices on the upper storey of the building, in addition to an internal staircase.
- 1.3 There are no indicative elevations for the open sided single storey storage unit.
- 1.4 A new vehicular access into the site will be formed off Blairnaparc Road, to the east of the site, which will lead to a turning circle sufficiently proportioned to accommodate an articulated HGV. Parking spaces will be provided to the front of the office and workshop building, and alongside the boundary with Blairnaparc Road.
- 1.5 A pedestrian only access will be formed to the office and workshop building off Inchrory Drive.
- 1.6 Pre Application Consultation: none
- 1.7 Supporting Information: none
- 1.8 Variations: none

2. SITE DESCRIPTION

- 2.1 The site is located between the bend in Inchrory Drive and Blairnaparc Road within Dingwall Business Park, and is bounded by Inchrory Drive to the west and north, and Blairnaparc Road to the east. There is existing landscaping alongside the public roads. The site itself is level in nature and is overgrown and unkept grassland. The site lies within Phase 2 of the Dingwall business park.
- 2.2 The site immediately to the south is currently vacant.

3. PLANNING HISTORY

- | | | |
|-----|--|----------------------|
| 3.1 | 08/00674/FULRC Erection of 2 office buildings (8 units) | Approved
05/03/09 |
| 3.2 | 16/05194/FUL Formation of access | Approved
21/02/17 |
| 3.3 | 19/04687/FUL Erection of office/workshop building (linked application on nearby site). | Pending |

This application has been referred to Ministers.

- 3.4 20/01019/FUL Erection of commercial storage and office unit (linked application on nearby site). This application has been referred to Ministers. Pending

4. PUBLIC PARTICIPATION

- 4.1 Advertised: neighbour
Date Advertised: 21/12/21
Representation deadline: 22/02/22
No representations received

5. CONSULTATIONS

- 5.1 **Transport Planning** comment that this is a PIP application, and further details will be required in support of a subsequent MSC or FUL application. There is insufficient information to say whether the access and parking are suitable, but it appears that there is sufficient space available to provide a suitable access and an appropriate level of parking. It will be for the applicant to demonstrate this in a subsequent application.

The pedestrian access off Inchroy Drive would seem to provide safe and convenient access for staff and customers arriving on foot.

- 5.2 **Flood Risk Management Team** objects on the grounds of flood risk. The embankments around Dingwall Business Park are considered to be 'informal flood defences', and the structural condition and design standard of the informal flood defences are unknown and uncontrolled. As such, a level of risk to any proposed development behind or potentially benefitting from the informal flood defences cannot be ruled out. Informal flood defences should be considered within the context of the SPP risk framework as if the scheme did not exist

SEPA's flood mapping shows that Dingwall Business Park is informally protected on at least 3 sides from flooding of the River Peffery's flood plain by the informal flood defences. A recent Flood Study broadly agrees with SEPA's flood data, confirming that the business park lies almost entirely within the 1 in 200 year storm event flood extent.

The Business Park may be at a medium to high likelihood of flooding. This level of risk is unacceptable for this type of development under the SPP.

The Flood Risk Management Team is aware that various organisations have engaged in a process which may result in land within Dingwall Business Park becoming available for appropriate developments in the future. However, no time frame for the completion of this process or guarantees of its success can be given at this time.

Drainage information is required for any further application on this site.

5.3 **SEPA** object of the grounds that the Business Park is at medium to high risk of flooding from the River Peffery and the proposal may put people and property at flood risk contrary to the flood risk principles of Scottish Planning Policy.

Until recently, it was thought that the flood bund constituted a formal flood prevention scheme. While not brought forward under flood risk legislation, it was built by the then Council (and another public body - Highlands and Islands Enterprise) for the specific purpose of flood protection. It has also recently emerged that the flood bund was sold to individual owners of plots so that the flood bund is now in multiple private ownership, and is no longer maintained as a flood bund and its structural integrity may already have been compromised.

As a result SEPA now consider the embankments bordering the business park to be an informal flood defence. Whether the bund is considered a formal flood scheme or not is very significant in relation to the acceptability of this development, and for the further development of the business park as a whole.

Any development located behind and 'protected' by informal embankments could be vulnerable due to the potential for embankment failure and/or overtopping. There is also a risk to areas behind informal embankments if the standard of protection degrades over time, either due to lack of maintenance, structural degradation or the effects of climate change. In cases when such structures are overtopped and/or fail, areas behind them are at greater risk than they would have been otherwise as sudden and rapid inundation can occur, with extremely high velocities and forces.

With regards to Scottish Planning Policy (SPP), any protection offered by informal flood defences would not be taken into account when considering development behind or benefitting from them. Such proposals would be considered within the context of the SPP risk framework as if the embankments did not exist. SEPA therefore consider that the business park is at medium to high risk of flooding from the River Peffery and object on flood risk grounds.

SEPA would only be able to withdraw their objection if relevant works were undertaken to formalise the bund and an ongoing maintenance regime is established and adopted by the Council as formal flood works to ensure the integrity of the bund in perpetuity.

It would also need to be demonstrated that all three sections of the existing flood bund have adequate geotechnical stability and provide at least a 1 in 200 year standard of protection to the Business Park.

This is a strategic issue, leading to various bodies working together to try and overcome it. HIE has commissioned a consultant to determine the condition of the current bund structure, to see what additional works may be required to bring the flood bund up to an appropriate standard. This work has been completed and a report produced. Discussions are ongoing.

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

- 30 - Physical Constraints
- 41 - Business and Industrial Land
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan 2015**

Within Settlement Development Area; no site specific policies apply.

6.3 **Highland Council Supplementary Planning Policy Guidance**

Flood Risk and Drainage Impact Assessment (Jan 2013)

Physical Constraints (March 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy 2014 (as revised 2020)

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) flood risk
- c) design and layout
- d) trees and landscaping
- e) access and parking
- f) any other material considerations.

Development plan/other planning policy

- 8.4 The site lies within Dingwall Business Park, and as such the proposed office and workshop building, and open sided storage unit is an appropriate use, and accords with Policy 41 which directs business and industrial users to specified business and industrial sites.

Flood Risk

- 8.5 Policy 30, Physical Constraints and its associated supplementary guidance aim to provide developers with up to date information regarding physical constraints to development, and to ensure proposed developments do not adversely affect human health and safety or pose risk to safeguarded sites. Where a proposed development is affected by any of the listed constraints, developers must demonstrate compatibility with the constraint or outline appropriate mitigation measures to be provided. One of the listed constraints is flood risk.
- 8.6 Policy 64 specifically relates to flood risk, and requires development to avoid areas susceptible to flooding and promotes sustainable flood management. Development proposals within or bordering medium to high flood risk areas will need to demonstrate compliance with SPP through the submission of suitable information.
- 8.7 Dingwall Business Park lies on the River Peffery Flood Plain, and accordingly an embankment was erected around the perimeter of the Business Park as part of the development of the land for business purposes in the 1980's. The Business Park has since been extended to the west, and a further embankment erected around the newer section (around the year 2000). It has recently transpired that these embankments do not form a formal flood defence, although they do provide the properties within the park a certain degree of flood protection. SPP requires that any new developments demonstrate that they avoid areas of flood risk, and any protection offered by informal flood defences is not considered when assessing development located behind or said to be benefitting from them.
- 8.8 A study of the current condition of the flood embankments around Dingwall Business Park and the level of protection they provide was commissioned by HIE in July 2021, and the findings are now available.
- 8.9 This used GIS files of various flood extents to determine the peak water levels around the perimeter of the business park for a variety of flood events. The files contain information on the elevation the water from the River Peffery will reach when it breaches its banks for the various flood events around the business park. These flood extents have been used to create a long section for each embankment at the point where the water level rise appears to meet each of the 4 embankments. This high point for the various events has then been adapted as representing the peak water level.
- 8.10 The major flood related potential failure modes are overtopping, instability of the embankment, and internal erosion.
- 8.11 The flood extents for flood events with an annual exceedance of 1 in 200 AEP, 1 in 200 AEP plus climate change and 1 in 1000 AEP indicate that overtopping of the flood embankment may occur at the far north eastern corner of the business park.
- 8.12 There are a significant number of well-established trees located around the perimeter of the business park. It is considered that their root systems will have had an impact on the properties of the embankment, including the moisture content of the soils and the structure of the soil, causing internal erosion.

- 8.13 Typically, tree toppling would not normally be included in an assessment, unless the trees are very large in proportion to the embankment and the flood reaches the embankment crest. In this case due to the number of large well-established trees located along the crest of the embankments, and the relatively low height of the embankments, there is the potential that if a tree came down during a single event it could lead to a breach of the embankment
- 8.14 Other failure modes which are not deemed credible so have been excluded include slope stability, internal erosion due to a hydraulic structure in the embankment, and internal erosion through the foundation.
- 8.15 The annual probability of failure of the northern embankment is the highest. This is attributed to overtopping and internal erosion due to the presence of tree roots. There is also a low spot in the far north eastern corner of the site (6.50m AOD).
- 8.16 During the 1 in 200 AEP event water will enter the business park at the north eastern corner of the site. The long sections for all events modelled indicate the water level rise could reach 6.70 m AOD and 7.11m AOD over the eastern and northern embankments respectively. Typically an overtopping depth of 300mm can be sufficient to fail an earth embankment if the duration of the event is long enough. With the low point identified at 6.5m AOD, and a water level rise of 6.7m and 7.11m AOD, there is a high probability of failure of the embankment. The longer the time of overtopping, the higher the probability of scour erosion. The model has assumed that the overtopping will be for 2 hours, which is a favourable condition, as it could be for much longer.
- 8.17 There is also a possibility of failure from internal erosion due to the presence of tree roots. There are a significant number of large trees on the crest of the embankments resulting in a possibility of a continuous defect. If dead trees were present in any of the embankments this number would increase further.
- 8.18 The results of this assessment show that the existing embankments do not offer the level of protection required for any future development. In addition, ownership of the flood bunds lies with various adjoining landowners around the periphery of the park so maintenance can not be controlled.
- 8.19 SPP says (para 263) that in medium to high flood risk areas (greater than 1:200 years) land in built up areas may be suitable for industrial and commercial development provided flood protection measures to the appropriate standard already existing and are maintained, are under construction, or are a planned measure in a current flood risk management plan. Informal flood defences should be considered as if the scheme did not exist. Furthermore, the planning system should prevent development which would have a significant probability of being affected by flooding.
- 8.20 Accordingly, this proposal fails to comply with SPP, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, since it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments which offer a degree of protection to existing property, these do not afford the required level of protection for future development.

Furthermore, the embankments are within assorted ownership, with no measures in place to ensure their maintenance and prevent further deterioration. As such, any development behind the flood bunds could be vulnerable to flooding and accordingly can not be supported.

Design and Layout

- 8.21 The proposal occupies a corner site, at the junction of Inchrory Drive and Blairnaparc Road within the wider context of Dingwall Business Park. The plot to the south is as yet undeveloped. The plots on the opposite sides of Inchrory Drive remain undeveloped, with two being the subject of applications which have recently been referred to Ministers (19/04687/FUL and 20/01019/FUL). There is existing landscaping along the roadside boundaries.
- 8.22 This application is for 'permission in principle', and accordingly the submitted details are for information only. Any comments in relation to the design and layout could, however, prove useful in helping to inform future development on the site.
- 8.23 Policy 28 assesses development according to a number of factors, including demonstrating sensitive siting and high quality design in keeping with the local character, and making use of appropriate materials. The existing units on the Business Park are of assorted design and materials, and the use of timber cladding and steel profile sheeting is commonplace. The design with timber to the lower section of walls, and steel profile sheeting above is not, however, a common feature. The use of harl to the lower section of walls and either timber or profile metal sheeting above would better reflect the material combinations found in the immediate vicinity.
- 8.24 Similarly, the design with large horizontally proportioned and square windows at first floor level is atypical of other local units, with vertically proportioned fenestration being more in keeping. This can, however, be achieved through breaking up the proposed windows into vertical panes rather than the use of single large panes as is currently implied.
- 8.25 The site layout plan indicates the office /workshop building being located in close proximity (approximately 3.5m) to the north boundary with Inchrory Drive. The layout of other nearby plots, however, includes buildings being set back into the plots, with the landscaped boundary retained and parking commonly provided between the buildings and the public road. This provides an element of screening to the buildings, and the set back into the site helps reduce their prominence in the streetscape. The office/workshop building is indicated as being positioned approximately 3.5m from the north site boundary with Inchrory Drive, and this, combined with the proposed 2 storey height, will result in it being visually prominent within the streetscape, and failing to sit comfortably within the site.
- 8.26 The indicative design and siting of the office and workshop building therefore fails to comply with Policy 28, in that it fails to demonstrate sensitive siting and high quality design in keeping with the local character and making use of appropriate materials. It will, instead, be visually intrusive in the streetscape and of incongruous

design and materials, and thus fail to integrate into its surroundings in an acceptable manner. Since these details are purely indicative, and could be amended to overcome the issues of siting, design, and materials, this is not currently a reason for the refusal of this application for permission in principle.

- 8.27 The indicative open sided storage building is positioned further from the site boundary (approximately 7.5m) and will be single storey in height. This should enable the landscaping to be retained. The set back from the west boundary is assessed as appropriate given the intervening landscaping and single storey height, and should not result in an overly dominant structure.
- 8.28 Any future application will also need to make provision for waste or recycling bins, and show surface water drainage arrangements (to comply with the requirements of SuDS).

Trees and Landscaping

- 8.29 There is currently advance landscaping alongside all of the road boundaries, this being a feature of the Business Park. Policy 51, trees and development, promotes significant protection to existing hedges and trees on and around development sites. The building needs to be positioned at a suitable distance from this landscaping to enable this important feature to be retained and to guard against potential damage during construction works. Of particular concern is the proximity to the beech hedge and the adjacent individual trees.
- 8.30 Any future application would need to accurately show the location of the current landscaping alongside the boundaries, and note the extent of any removal. It is expected that the office/workshop building will need to be moved to the south to provide sufficient separation to adequately protect the landscaped boundary. This will also help to achieve a better set back from the road boundary, provide partial screening, and help it to integrate better into the streetscape.

Access and Parking

- 8.31 There are currently insufficient details to assess whether the proposed access and parking arrangements are suitable. There does, however, appear to be sufficient space for these to be provided. Since this is an application for permission in principle, conditions can be used to ensure that these details are provided as part of a future application.
- 8.32 A previous application for an access into the site, 16/05194/FUL, was approved. This indicated that the geometry of the access arrangement was suitable for cars and light goods vehicles, but that a revised geometry and more robust construction may be required for HGV's. This application states that the access will be as approved by 16/05194/FUL, but it shows a turning circle for HGV's. It may be that revisions to the access will be required as part of a future application.
- 8.33 The proposed parking arrangement needs to include both disabled parking and covered cycle parking close to the office entrance. Since this application is for permission in principle, the precise number of required parking spaces has not currently been assessed. Full details can be sought as part of a future 'Matters Specified in Condition' application.

- 8.34 A pedestrian access point is indicated off Inchrory Drive. This appears to provide a safe and convenient access for staff and customers arriving on foot.

Referral to the Scottish Ministers

- 8.35 Should planning approval otherwise be granted, this application will require to be notified to the Scottish Ministers, under Category 2 of Planning Circular 3 2009, pursuant to the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009. This is due to the objection of SEPA to the proposals, in its role as a national government agency

Other material considerations

- 8.36 There are no other material considerations.

Matters to be secured by Section 75 Agreement

- 8.37 None

9. CONCLUSION

- 9.1 The principle of development in itself is acceptable and compatible with other existing land uses. However the proposal fails to comply with SPP, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, in that it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments, these do not afford the required level of protection. Furthermore, the embankments are within assorted ownership, with no measures in place to ensure their maintenance and prevent further deterioration. As such, any development behind the flood bunds could be vulnerable to flooding and accordingly can not be supported.

- 9.2 As was previously reported in January in relation to the two other recent applications at Dingwall Business Park 19/004687/FUL and 20/01919/FUL the Council in conjunction with HIE and SEPA are actively exploring options to try and resolve the matter however at this juncture there is no clear timetable for securing a resolution. Accordingly the Planning Service is not in a position to recommend the application for approval.

- 9.3 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of 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	No	
Notification to Scottish Ministers	No	Unless minded to approve contrary to Officer recommendation
Conclusion of Section 75 Obligation	No	
Revocation of previous permission	No	

Subject to the above, it is recommended that planning permission be **REFUSED**, for the following reasons:

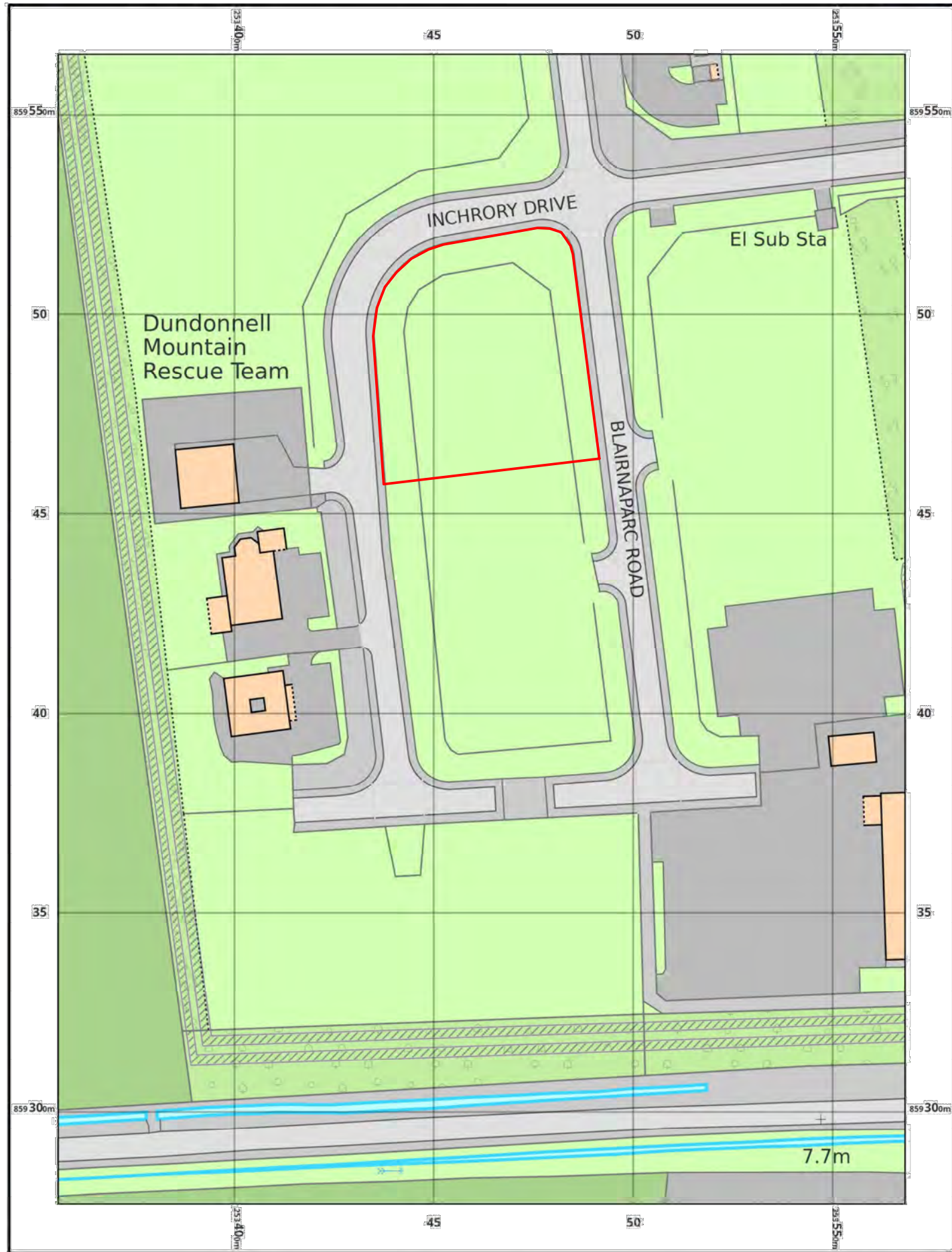
Reasons for Refusal

1. The proposal fails to comply with Scottish Planning Policy, and also fails to accord with Policies 30 and 64 of the Highland-wide Local Development Plan, in that it lies within an area at risk of flooding. Although there are informal flood prevention measures in situ in the form of embankments, these have been found to be substandard and do not afford the required level of protection. Furthermore, the embankments are within assorted ownership, with no measures in place to ensure their maintenance and prevent further deterioration. As such, development behind the flood bunds could be vulnerable to flooding and accordingly can not be supported.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Designation: Area Planning Manager – North
 Author: Susan Hadfield
 Background Papers: Documents referred to in report and in case file.
 Relevant Plans: Plan 1 - Location Plan LP-001
 Plan 2 - Indicative site layout plan SP-001
 Plan 3 - Proposed Floor Plan GA-100
 Plan 4 - Proposed Elevation Plan GA-200



NOTES
USE FIGURED DIMENSIONS ONLY. ALL DIMENSIONS IN MM UNLESS NOTED OTHERWISE.

— Site boundary

STATUS - This drawing has been prepared for **PRE PLANNING ADVICE ONLY**.

Project	Firth Plumbing Office & Workshop, Blairnaparc Rd, Dingwall Business Park, Dingwall, IV15 9XH		
Client	Mr Paul Brindle		
Date	10.10.20		
Title	LOCATION PLAN		
Drawn	IVL	Verified	IVL
Scale	1:1250 @ A3		
Project No.	19-022	Drawing No.	LP_001 Rev

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50m
Scale 1:1250
North

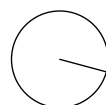
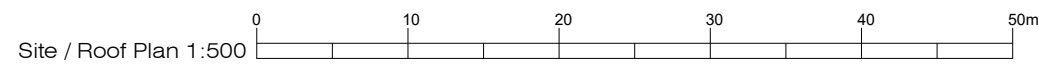
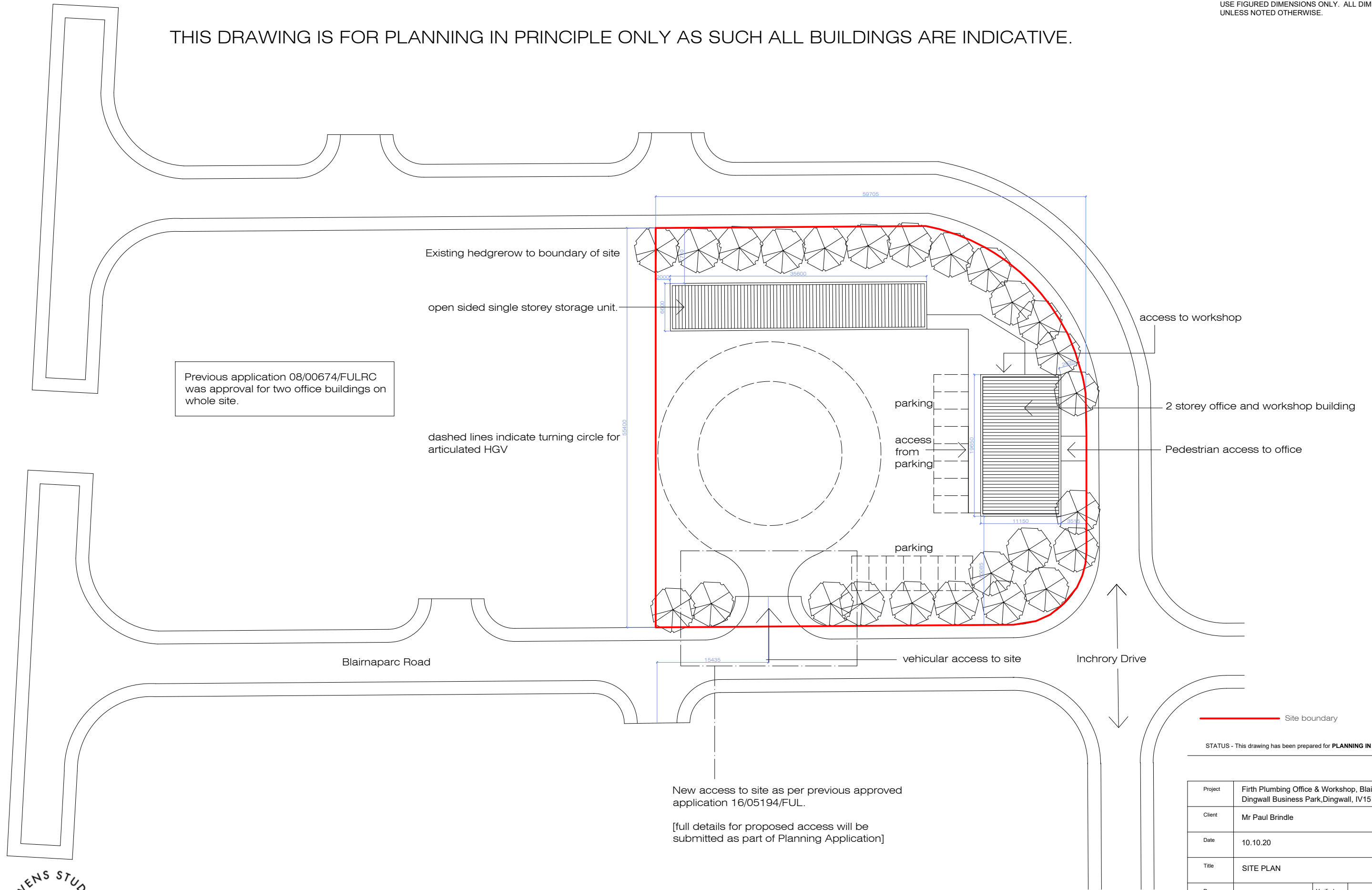
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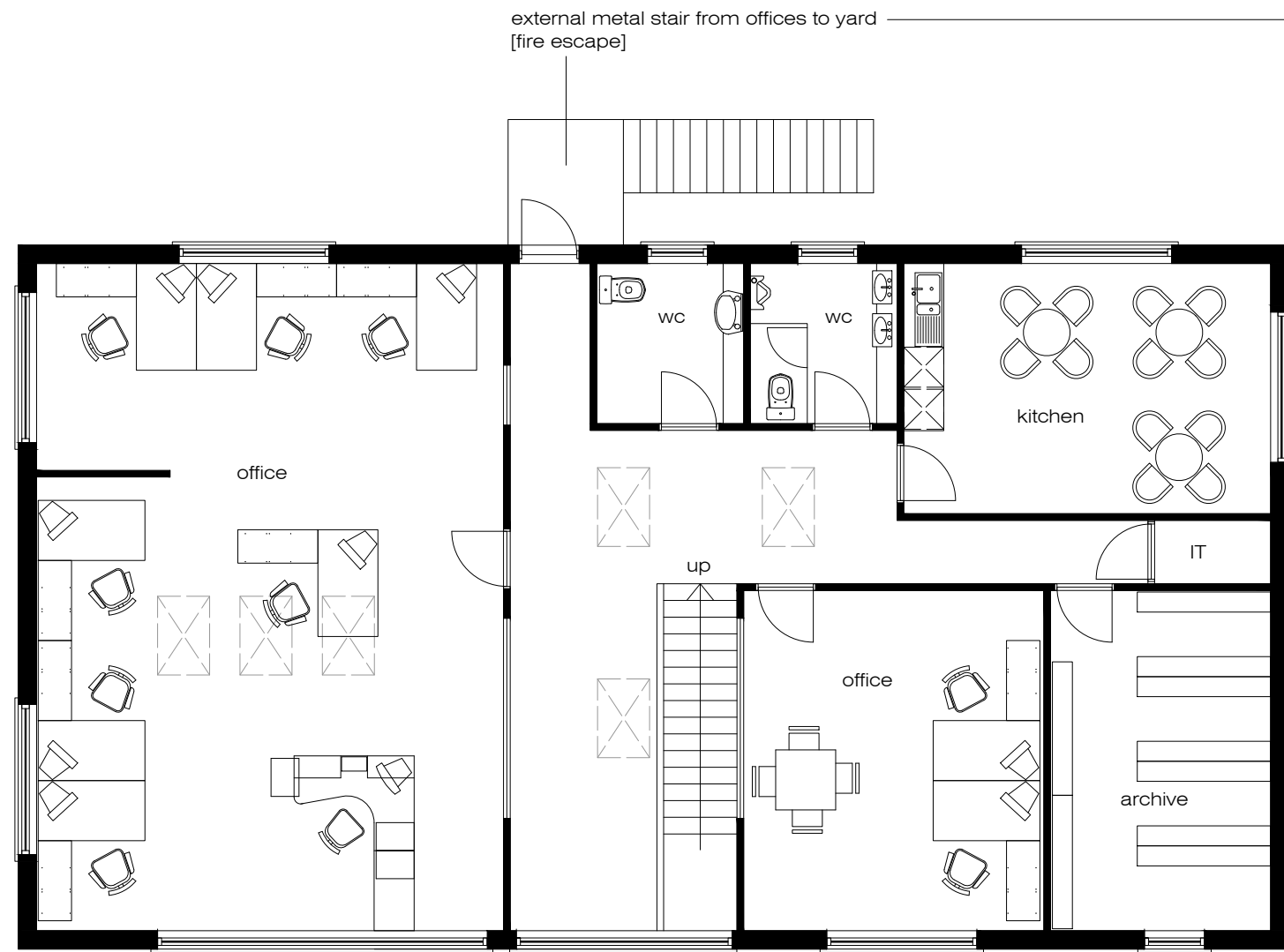
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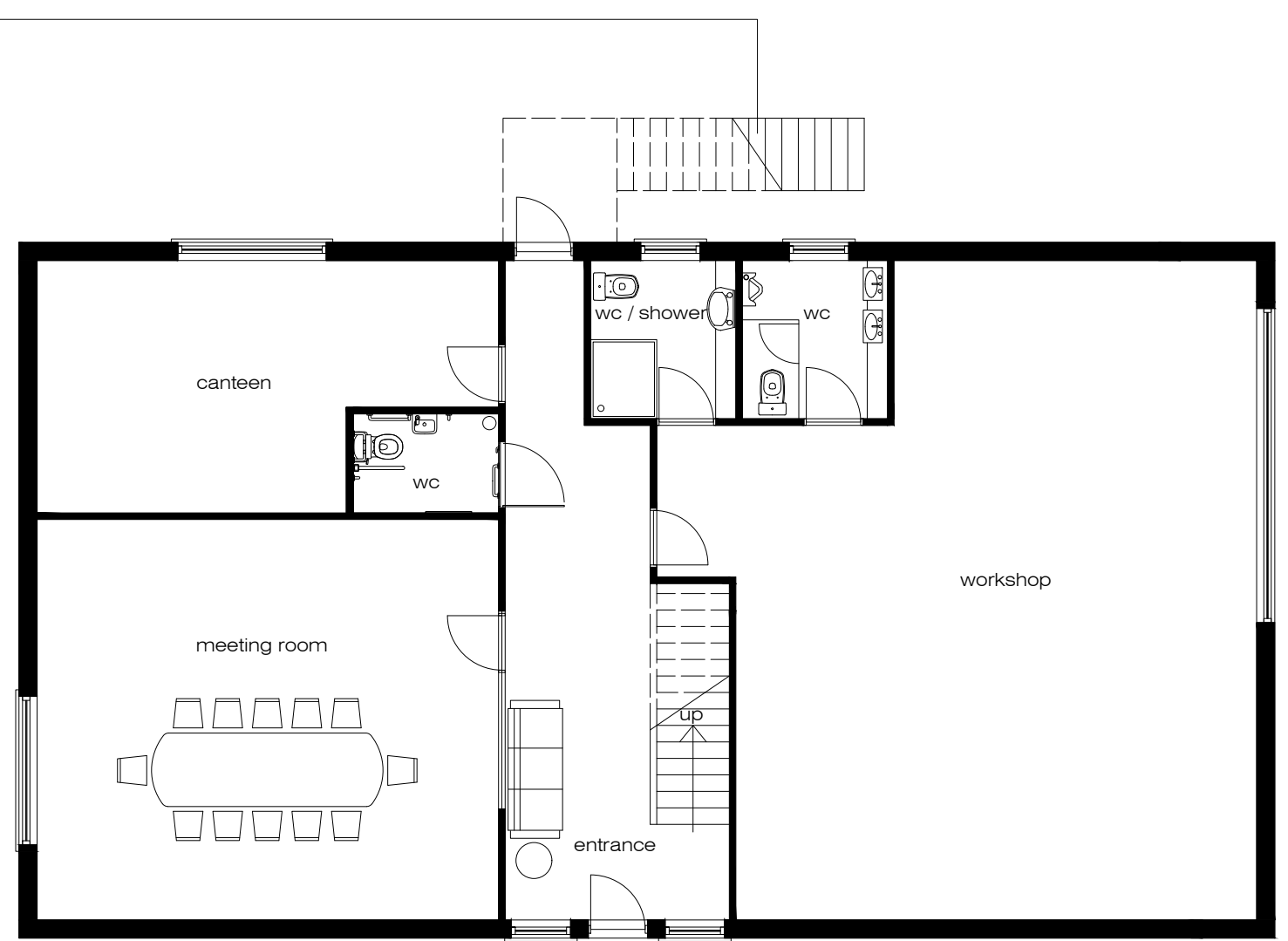
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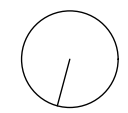
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FIRST FLOOR PLAN



GROUND FLOOR PLAN

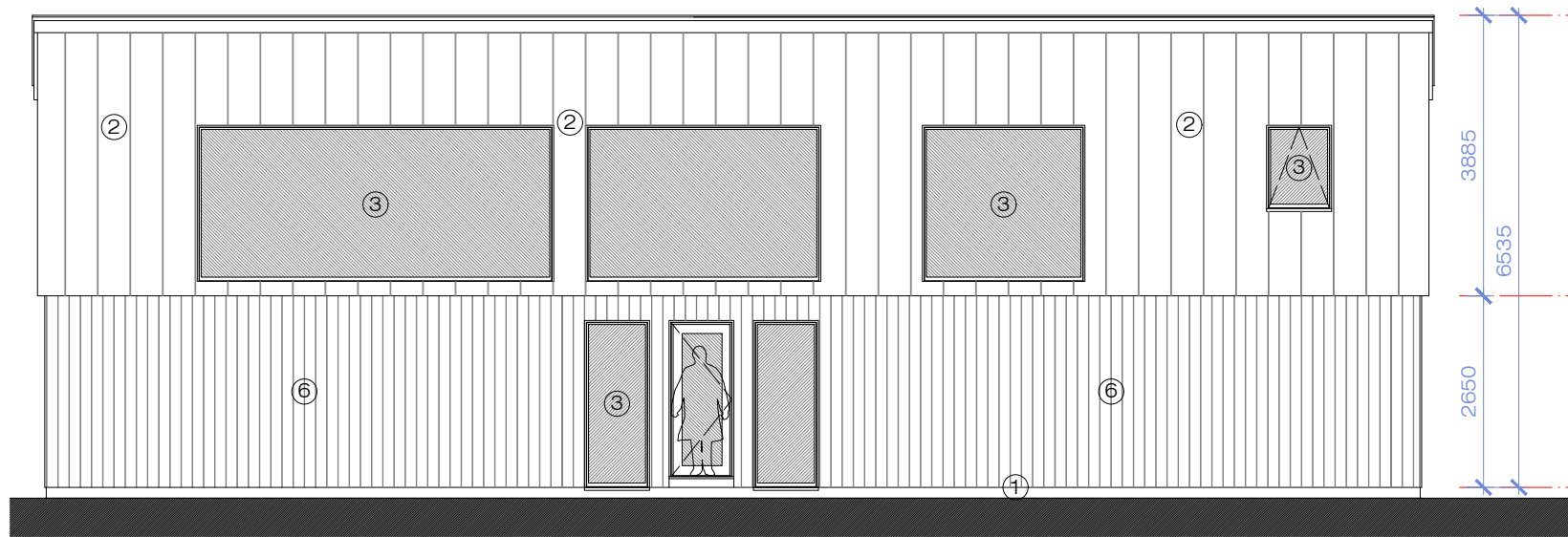


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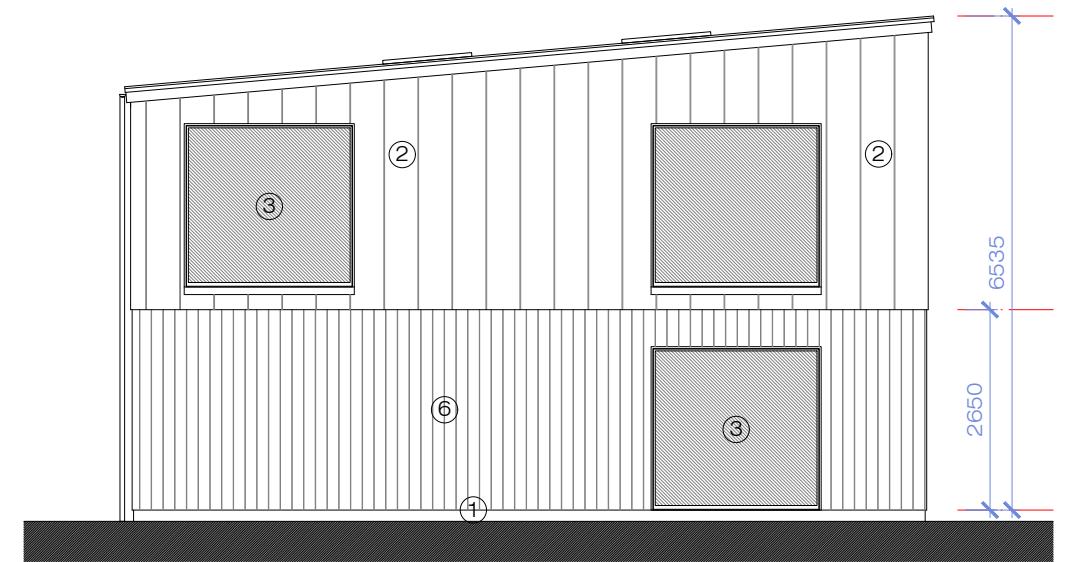
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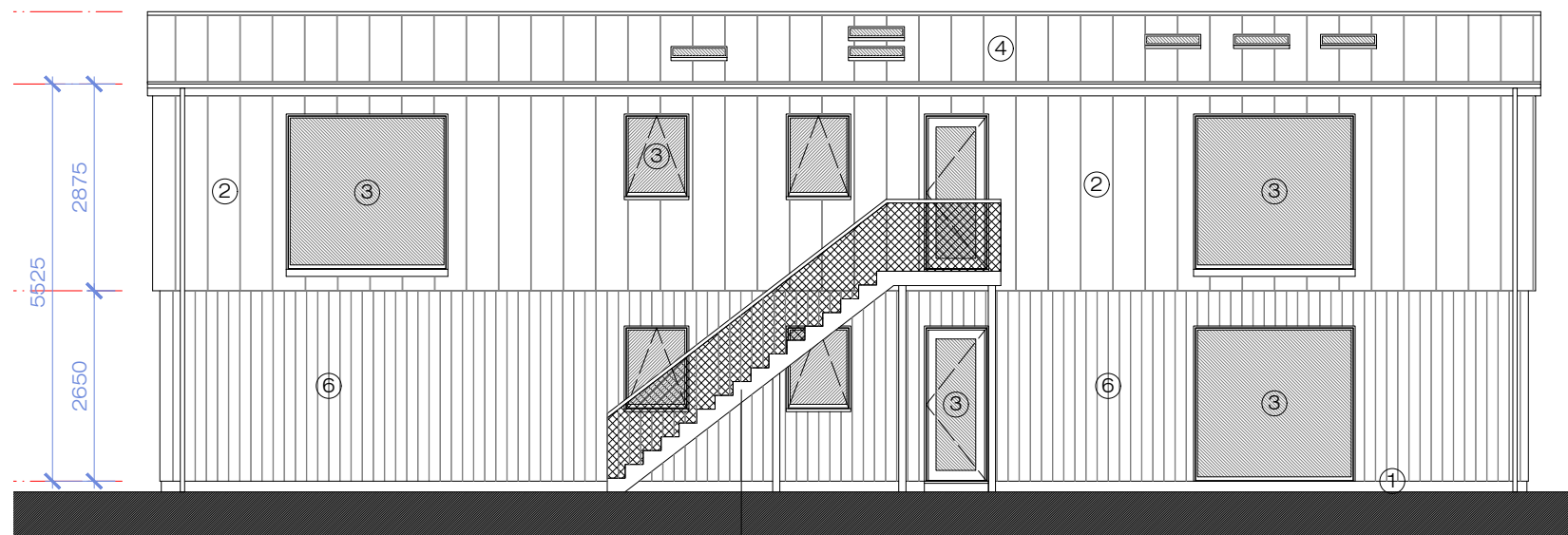
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NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION

metal stair from yard to offices



WEST ELEVATION

1. blockwork base course
2. profiled metal sheet cladding
3. double glazed windows and doors
4. profiled metal sheet roofing
5. roller shutter door
6. larch timber cladding

STATUS - This drawing has been prepared for **PRE PLANNING ADVICE ONLY**.



Project	Firth Plumbing Office & Workshop, Blairnparc Rd, Dingwall Business Park, Dingwall, IV15 9XH		
Client	Mr Paul Brindle		
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