

Agenda Item	<b>6.5</b>
Report No	<b>PLN/020/22</b>

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 15 March 2022

**Report Title:** 21/05554/FUL: Mr B Adams

Land 35M SE Of Site 2, Avoch Industrial Estate

**Report By:** Area Planning Manager - North

### **Purpose/Executive Summary**

**Description:** Erection of Industrial Unit (Partly in Retrospect)

**Ward:** 09 - Black Isle

**Development category:** Local development

**Reason referred to Committee:** Number of representations received / objection from Community Council

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 proposed development is a steel framed industrial unit, located within the Avoch Industrial Estate. This application is submitted partly in retrospect, as the steel frame of the unit has already been erected, with a height to the roof ridge of approximately 8.4m.
- 1.2 The development is accessed from the Avoch Industrial Estate road.
- 1.3 Pre-Application Consultation: No formal pre – application consultation took place. The applicant was advised by email that, if they could not amend the height of the existing construction to confirm with the approved drawings, a further planning application would be required, at the applicant's own risk, to normalise the development.
- 1.4 Supporting Information: None
- 1.5 Variations: revised elevations submitted 13, 30 January and 6 February 2022

## **SITE DESCRIPTION**

### **2.**

- 2.1 The application site was previously a vacant plot of land within the Avoch Industrial Estate, accessed off the estate road. To the north is an area of hardstanding, with undeveloped land directly to the east. To the south and west are located several industrial units of varying scales, but generally of a standardised steel framed design. The nearest residential properties are located on Ormonde Terrace, some 60m to the north. Core path RC07.05 runs past the site along the industrial estate road, linking to Ormond and Wood Hill, which are prominent in the landscape behind the estate. The remains of Ormond Castle atop the former hill, are a scheduled monument, reference SM4740.

## **3. PLANNING HISTORY**

- 3.1 7 June 2016      16/01482/FUL, Erection of industrial building      Permission  
Granted

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: Ross-shire Journal, Unknown Neighbour, 14 Days  
Date Advertised: 17 December 2021  
Representation deadline: 11 January 2022
- Timeous representations:    18 from 12 Households
- Late representations:        None

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

- Concerns were raised over the impact of the larger industrial unit on the visual amenity of the surroundings, particularly wider views looking from Avoch towards the Ormond and Wood Hills, especially as the former screening tree belt to the north of the estate has now been removed.
- Concerns were raised over the impact of the proposals as such, on the setting of the Ormond Castle Scheduled Monument, atop Ormond Hill.
- It was asserted that further expansion of the Avoch Industrial Estate does not accord with development plan policy.
- Concerns were raised over the traffic generated by new development within the Avoch Industrial Estate and the impact on the surrounding road network, particularly in terms of the safety of pedestrians and cyclists on Ormonde Terrace and the residential amenity of properties here.
- It was noted that a Road Traffic Impact Assessment has not been carried out in support of the proposals and that the EV charging points originally proposed, were in a location that could lead to traffic congestion and dangerous parking in the area.
- Concerns were raised with respect to noise emanating from the use of premises on the industrial estate.
- Complaints were received regarding the revised design of the unit, incorporating cladding to full height instead of the rendered external walls incorporated in the previously approved proposals.
- Concerns were raised over the prospect of external lighting to serve the development contributing to light pollution from the industrial estate, as well as the impacts of run off from vehicle and wheel washing activities in the wider industrial estate.
- Concerns were raised over the foul drainage arrangements to service the development, given these are not indicated on the application form.

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 Avoch and Killen Community Council; objected to the proposals, through the public comments process, supporting the other objections from local residents, as detailed in the 'Public Participation' section above.

5.2 Environmental Health; did not object to the proposals and suggested conditions to mitigate the issues related to noise and light pollution raised in the public comments and representations.

- 5.3 The Transport Planning Team; did not object to the proposals. The Team requested further details on the Electric Vehicle (EV) charge points originally proposed, which have now been deleted from the application.
- 5.4 Scottish Water; did not object to the proposals, advising that there is likely to be sufficient capacity in the local water supply and public sewer network to service the proposals, subject to further confirmation. They advised that the development may impact upon existing Scottish Water assets and that the applicant should contact the agency directly to ensure that any potential conflict can be identified.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

28 - Sustainable Design  
29 - Design Quality & Place-making  
34 - Settlement Development Areas  
41 - Business and Industrial Land  
65 - Waste Water Treatment  
66 - Surface Water Drainage  
77 - Public Access

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

No site-specific policies apply

### **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 CONSIDERATIONS**

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

Scottish Planning Policy (as amended December 2020): paragraphs 269-291 outline the national planning policy context for sustainable transport and active travel.

## **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 principle of development has already been established by virtue of the previous permission (ref 16/01482/FUL). The key considerations in this case are:
- a) compliance with the development plan and other planning policy
  - b) the change between the currently approved scheme and this application in terms of its design and scale
  - c) impact on amenity
  - d) road safety
  - e) any other material considerations.

### **Development plan/other planning policy**

- 8.4 The application site is located within the Settlement Development Area (SDA) and so Policy 34 of the Highland-wide Local Development Plan (HwLDP) applies. Policy 34 supports development proposals if they are not judged to be significantly detrimental in terms of the following matters: siting and design, pattern of development and servicing, particularly roads. Policy 41 supports the development of the existing local and strategic business and industrial locations. The Council will safeguard each site from other competing uses. In the first instance, proposals for new business and industrial development will be directed to these sites. As the proposals represent a new industrial unit in a recognised industrial estate, the principle of development on the site is acceptable in terms of HwLDP Policies 34 and 41, subject to detailed consideration of the design of the current proposals, particularly regarding the impact on the surrounding visual amenity and pedestrian and traffic safety. While some of the representation comments made reference to public input into the Inner Moray Firth 2 Main Issues Report, this planning assessment can only take account of the adopted Highland wide Local Development Plan (HwLDP 2012) and Inner Moray Firth Local Development Plan 1 (IMFLDP 2015).

### **Design and amenity**

- 8.5 The current proposals are for a steel framed, shed roofed industrial unit, measuring some 18m in width x 12m in depth. Height to the eaves is approximately 6m and height to the roof ridge is approximately 7.8m: this represents a proposed reduction in height of approximately 0.6m from the steelwork currently erected on site. The unit is of a two-bay design, incorporating two sets of front roller shutters and two rear access doors. It is understood that the unit is required for a business servicing commercial vehicles. Internally, the unit has a single workshop area and is to be fitted with two WC's, including an accessible WC space. It is proposed to finish the unit externally in metal roof and wall cladding, in a slate grey colour, RAL number 7012. Currently, the foundations have been laid and the internal steel frame and roof structure has been erected on site. The original planning permission had no attached conditions. As such, it is likely that a meaningful start could be considered to have taken place in terms of the existing planning permission 16/01482/FUL. A Notice of Initiation in respect of

this permission was submitted 8 November 2021, although it is dated 31 April 2019. The design of unit benefiting from planning permission 16/01482/FUL was generally similar in terms of width and length. However, measuring from the approved drawings, height to the eaves and roof ridge height were lower, at approximately 5.5m and 7.1m respectively. The main visual impact from the current proposals therefore, results in terms of the increased roof height from that permitted, of approximately 0.7m.

- 8.6 The applicant has explained that the increased dimensions are necessary for the building to incorporate an internal gantry mounted crane. As outlined above in this form, the proposals are approximately 0.7m taller than the original permitted roof ridge height under 16/01482/FUL, but the height will be decreased by around 0.6m from the steelwork currently erected on site.
- 8.7 During the planning assessment, the impacts on several wider viewpoints within Avoch, including from above the High Street, from the Harbour Wall, the shoreline adjacent Ormonde Terrace and from the Moray Wynd housing area, were considered. Additionally, the applicant has submitted an extended site section that shows the proposal in the context of the adjacent development to the east and west. With respect to the first three viewpoints considered in the assessment, the roof ridge line, viewed in perspective, does not significantly exceed that established by the adjacent properties in the Avoch Industrial estate, or those residences neighbouring to the north, along Ormonde Terrace. It is acknowledged that the impacts on public views from Moray Wynd are more significant, due to the removal, for reasons of infection with Dutch Elm disease, of woodland along the boundary of this development, on the opposite side of the adjoining public road from the industrial estate. On balance however, considering the wider visual impact and the reduction in height now sought compared to what has been erected on site, the current proposals would not result in as severe an impact on the local visual amenity as to warrant refusal.
- 8.8 The proposed design lacks the cement cladding as approved on the original unit, under 16/01482/FUL, although this was raised as a favourable feature to retain through correspondence with the applicant. Nevertheless, it is accepted the proposed building will be viewed in the context of the existing development in the estate, which exhibits a variety of designs of industrial unit, some clad in metal to full height. As such, the impacts on the surrounding visual amenity, wider public views and the setting of the scheduled monument are on balance, considered acceptable in terms of HwLDP Policies 28, 29 and 34.

### **Road safety**

- 8.9 The proposed warehouse would directly front onto the industrial estate road. The applicant has not provided a form TA1, in accordance with the Council's Roads and Transport Guidelines for New Developments. Nevertheless, the proposals do not exceed any of the applicable floorspace thresholds to require a full transport assessment to be submitted to satisfy the Council's Roads and Transport Guidelines for New Developments (May 2013). The Transport Planning team were consulted on the proposals and did not raise any issues with respect to the capacity of the local road network.

- 8.10 As submitted, the application incorporated two Electric Vehicle (E.V) charging points on the front elevation, as also noted as a concern in the consultation response from the Transport Planning Team. These facilities have now been deleted, following the receipt of revised proposals on 6 February 2022. The current development retains the same parking and access arrangements as were assessed under application 16/01482/FUL. These were considered adequate at the time in terms of the Council's Roads and Transport Guidelines for New Developments, and this remains the case. As such, the impact of the proposals in terms of local road safety is considered acceptable in terms of HwLDP Policies 28 and 34.

#### **Other material considerations**

- 8.11 The representation comments regarding drainage are acknowledged and a condition is attached to ensure that the proposed facilities are connected into the public sewer, in line with the Scottish Water consultation response, and to satisfy the terms of HwLDP Policies 65 and 66. Following consultation with the Council's Environmental Health Service, conditions are attached in respect of noise and artificial lighting emanating from the current premises. Noise from any other premises on the industrial estate cannot be regulated retrospectively within the scope of the planning system and as such, is a matter for the environmental health legislation.
- 8.12 As the original permission and the current proposals could not both be physically built out on site, it is not considered necessary to revoke permission 16/01482/FUL.
- 8.13 The erection of the steelwork on site has also been reported to the Planning Enforcement Team. This application is aimed at resolving the current position.

#### **Non-material considerations**

- 8.14 None

### **9. CONCLUSION**

- 9.1 In essence this application is aimed at assessing the impact of the increase in height over the previously approved permission which amounts to 0.7 metres. It is acknowledged that the revised height of the proposed industrial unit is noticeably higher than the existing approval under planning permission 16/01482/FUL. As part of the planning assessment, the impact of the proposals on several wider viewpoints within Avoch was considered. While the original breach of the planning approval is regrettable, a reduction in its height has been secured, the revised height of the unit does not result in as severe an impact on the visual amenity of the surroundings as to warrant refusal.
- 9.2 The proposed building will be increased in height by less than 1m compared to the approved design and will be viewed in the context of the existing development in the estate, which exhibits a variety of designs of industrial unit. The impacts on

the surrounding visual amenity, wider public views and the setting of the scheduled monument, are therefore on balance, considered acceptable in terms of HwLDP Policies 28, 29 and 34

9.3 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 N  
Obligation

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 The sanitary facilities incorporated within the development hereby permitted shall be connected to the public sewer.

**Reason:** In order to ensure that water and sewerage infrastructure is carefully managed and provided timeously, in the interests of public health and environmental protection.

2 No further development shall take place, until the finished ridge height, measured against an off-site datum, has been submitted to and agreed in writing with the planning authority. For the avoidance of doubt, this must not exceed 7.8m in height above the adjacent ground level.

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



- 3 All external lighting system shall comply with the best practice contained in the Institute of Lighting Professionals document, 'Guidance Notes for the Reduction of Obtrusive Light', GN 01/21.

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

- 4 Operations, including vehicle movements, associated with this development, for which noise is audible at the curtilage of any noise sensitive property, shall only be permitted between:

- 0800 hours and 1900 hours Monday to Friday; and
- 0800 hours and 1300 hours on Saturdays.

Noise arising from operations associated with this development shall not exceed 55 dB(A) as measured as a 1 hour Leq at the curtilage of any noise sensitive property during permitted operating hours.

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

- 5 Prior to construction operations re-commencing the applicant shall submit, for the written approval of the planning authority, a construction noise mitigation scheme which demonstrates how the applicant/contractor will ensure the best practicable measures are implemented in order to reduce the impact of construction noise. The assessment should include but is not limited to the following: -

- A description of the most significant noise sources in terms of equipment; processes or phases of construction.
- The proposed operating hours and the estimated duration of the works for each phase.
- A detailed plan showing the location of noise sources, noise sensitive premises and any survey measurement locations if required).
- A description of noise mitigation methods that will be put in place including the proposals for community liaison. The best practice found in BS5228 Code of practice for noise and vibration control on construction and open sites should be followed. Any divergence requires to be justified.

Thereafter the development shall progress in accordance with the approved Noise Mitigation Scheme and all approved mitigation measures shall be in place prior to construction commencing or as otherwise may be agreed in writing by the Planning Authority.

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

- 6 Public access to any Core Path within, or adjacent to, the application site shall at no time be obstructed or deterred by construction-related activities, unless otherwise approved in writing by the Council's Access Officer as a temporary measure required for health and safety or operational purposes. Under such circumstances, any temporary obstruction or determent shall cover only the smallest area practicable and for the shortest duration possible, with waymarked diversions provided as necessary.

**Reason:** In order to safeguard public access during the construction phase of the development.

### **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.

## **Flood Risk**

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

## **Scottish Water**

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

## **Septic Tanks & Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

## **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/permissions\\_for\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permissions_for_working_on_public_roads/2)

## **Mud & Debris on Road**

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

**Construction Hours and Noise-Generating Activities:** You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact [env.health@highland.gov.uk](mailto:env.health@highland.gov.uk) for more information.

### **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

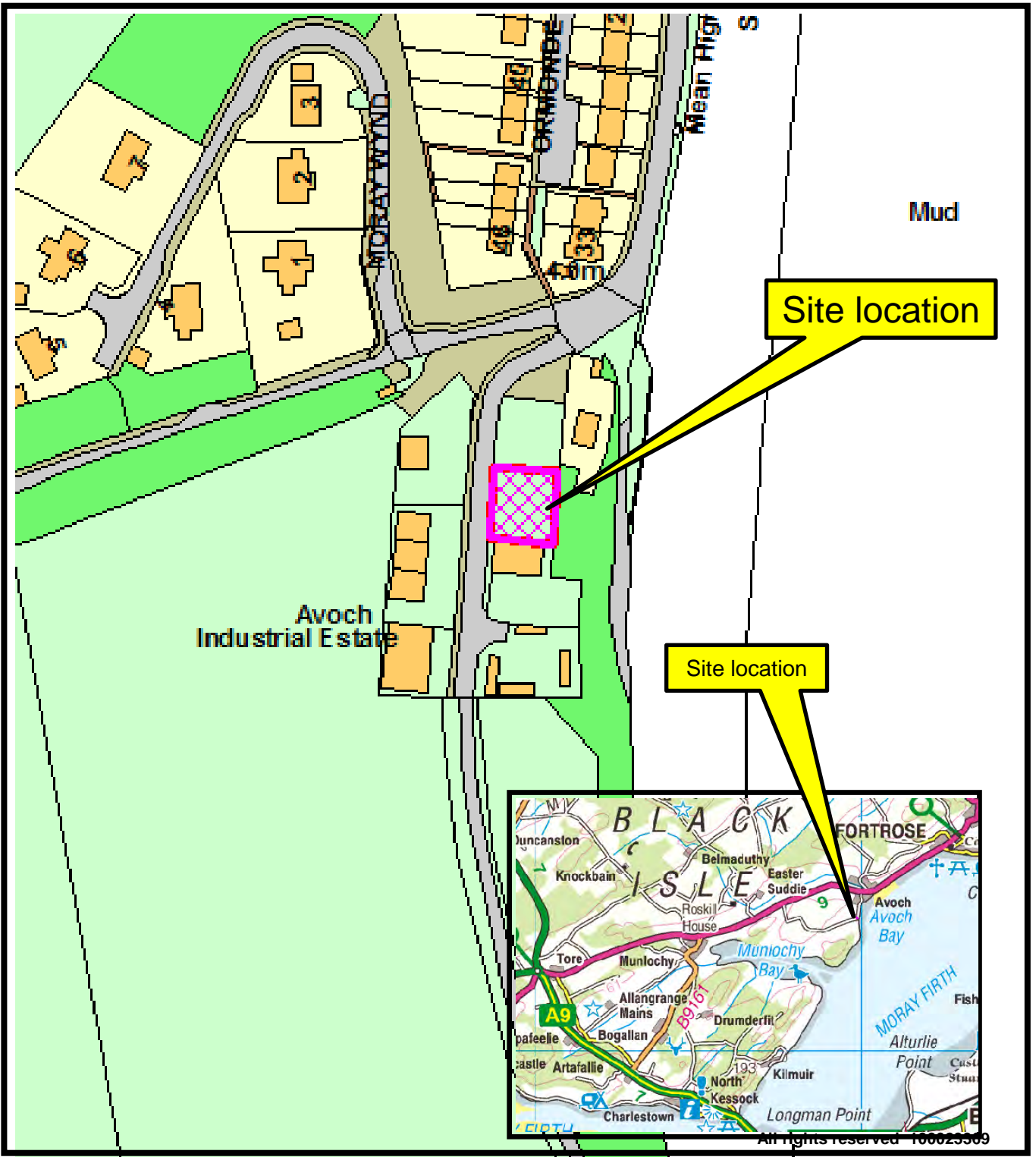
Designation: Area Planning Manager North

Author: Michael Kordas

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

Relevant Plans:

<b>Document Type</b>	<b>Document No.</b>	<b>Version No.</b>	<b>Date Received</b>
Location Plan	0683-300-E		6 February 2022
Elevations	0683-302	REV E	6 February 2022
Elevation and Section Plan	0683-306	REV A	6 February 2022

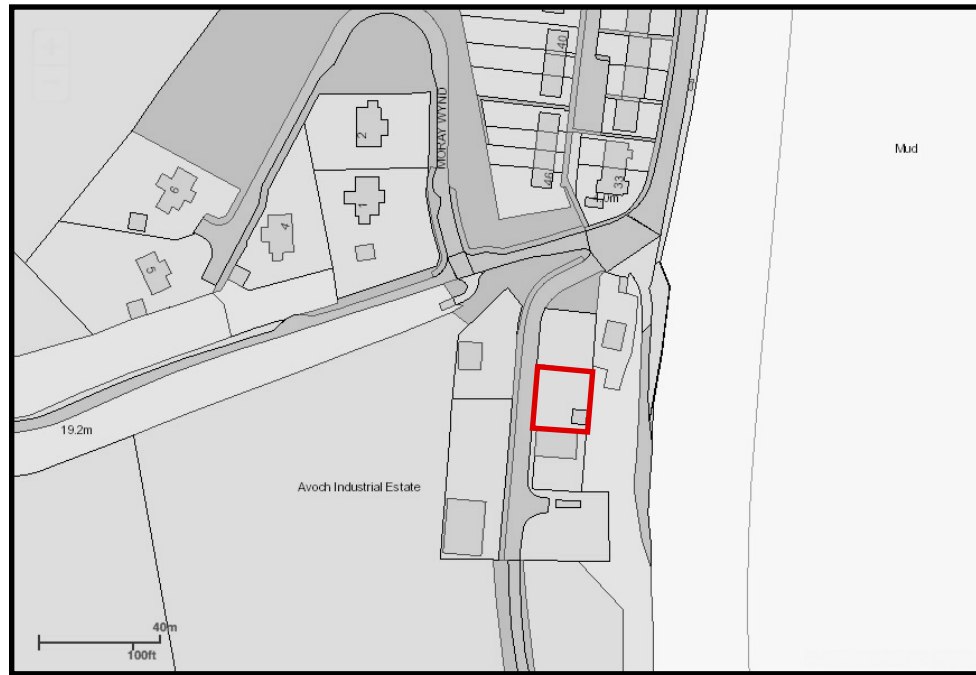


Development & Infrastructure  
Service

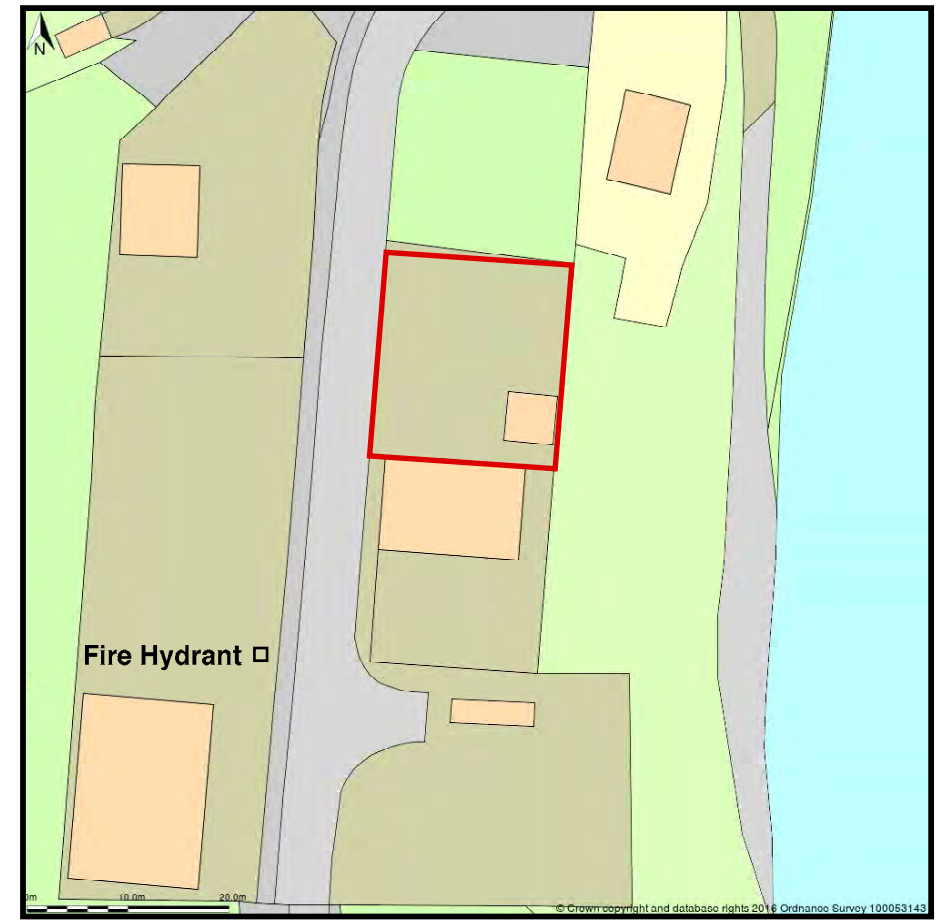
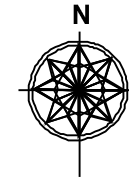
**21/05554/FUL**

Erection of industrial unit (partly in retrospect) at  
Land 35M SE Of Site 2, Avoch Industrial Estate  
Avoch

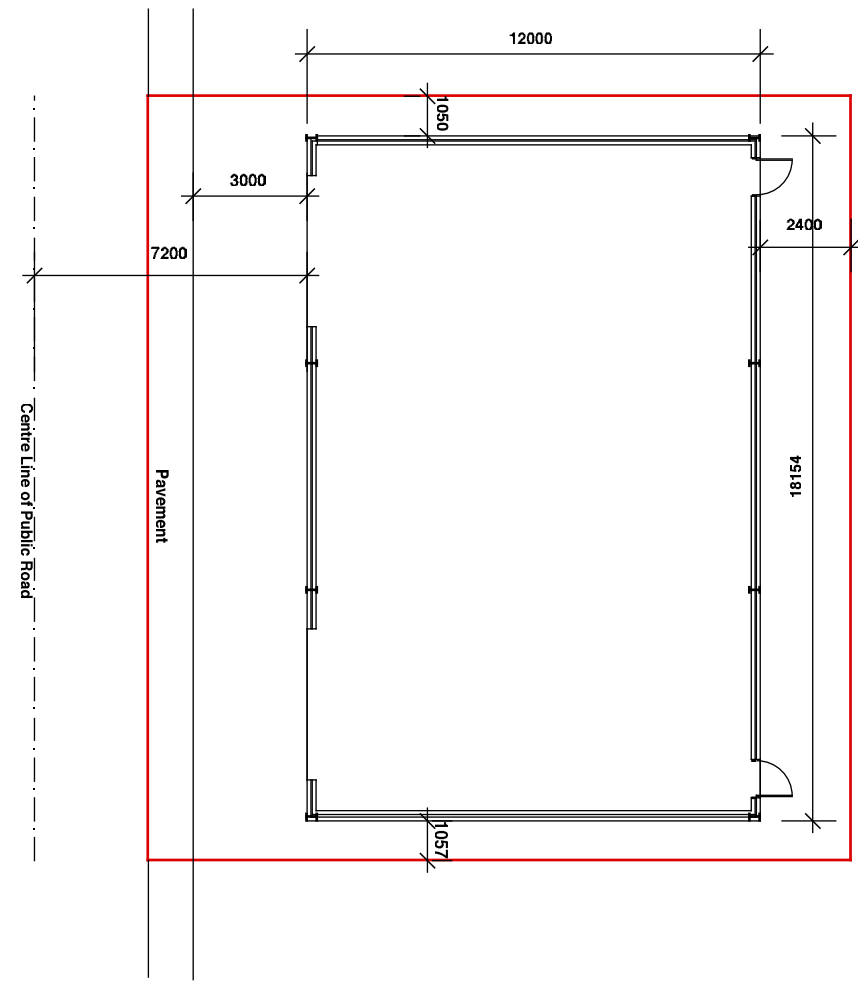
**March 2022**



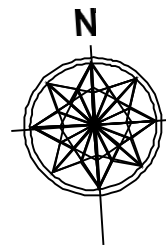
**Location Plan**



**Block Plan**



**Site Plan**



**PROJECT:**  
Proposed Industrial Unit  
Avoch Industrial Estate  
Avoch  
Ross-shire

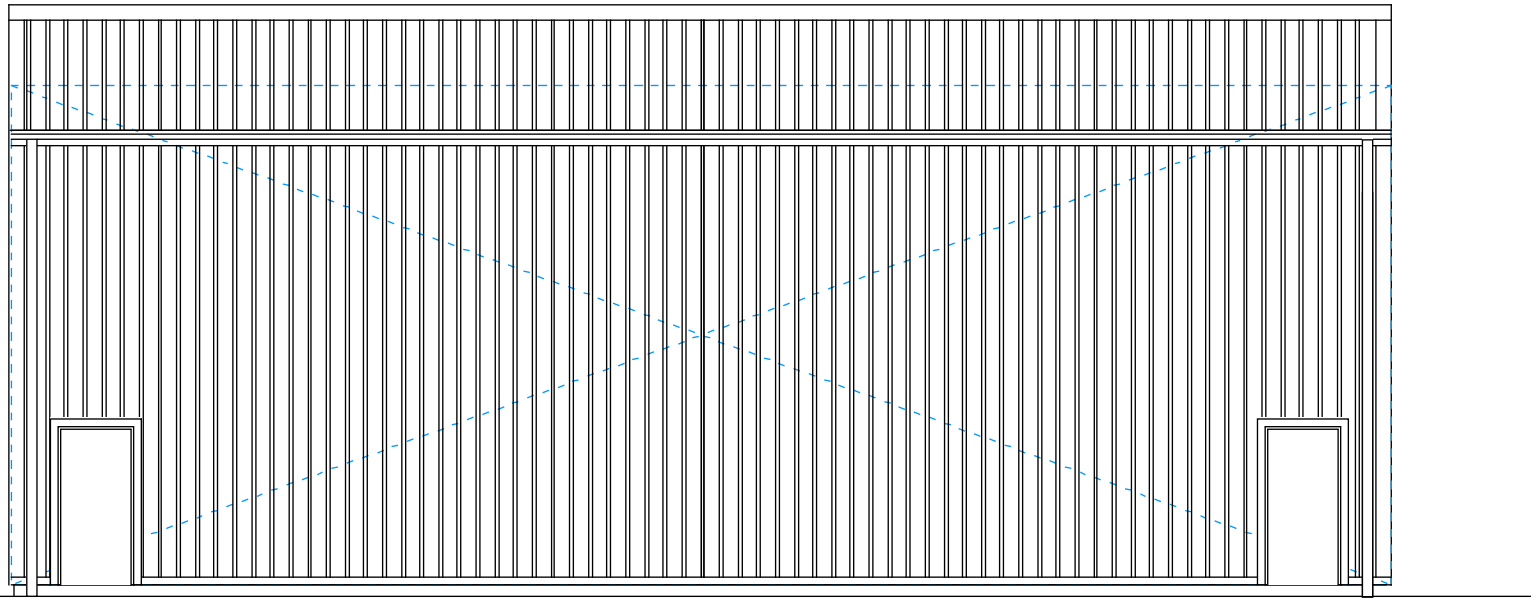
**NOTES:**  
DO NOT SCALE  
ALL DRAWINGS MUST BE CHECKED  
PRIOR TO COMMENCEMENT AND ANY  
DISCREPANCIES MUST BE REPORTED  
TO THIS OFFICE



**DRAWING TITLE:**  
Location & Site Plans

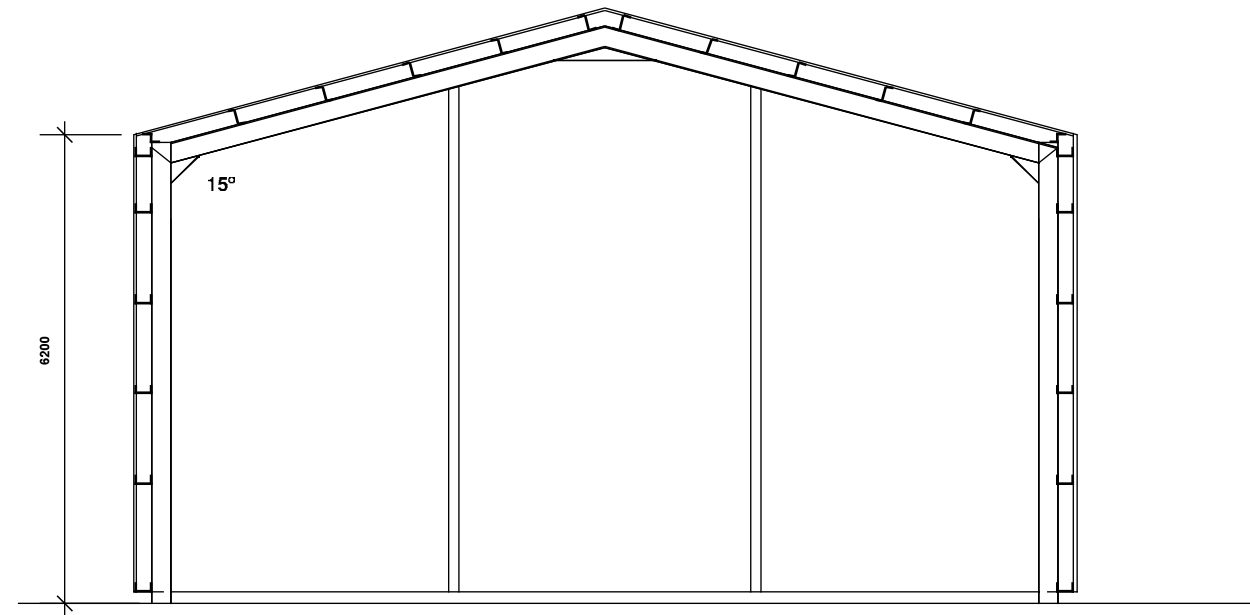
**CLIENT:**  
Mr B Adams

**SCALE:** 1:12,500; 750; 200  
**DATE:** 01.03.2016  
**DRAWN:** D.M. **REV:** -  
**0683/300/E**

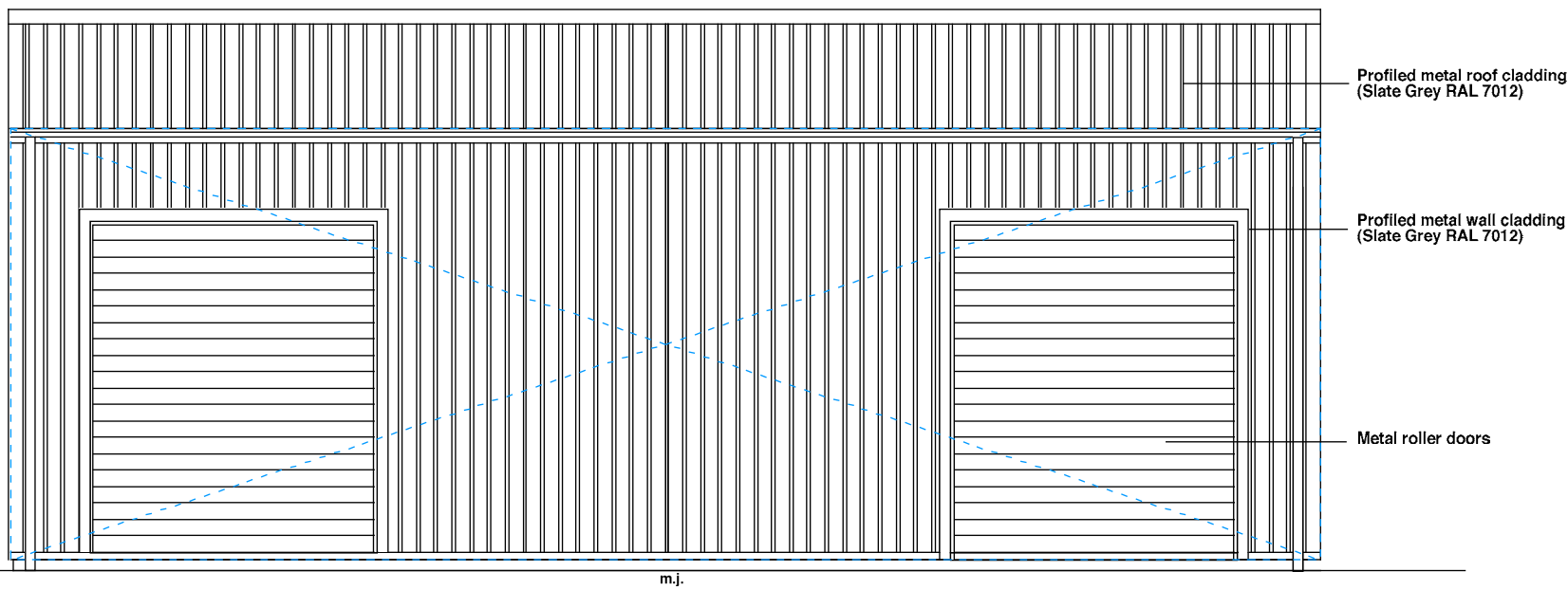


### East Elevation

Enclosing Rectangle = 7.5x18.m  
 Unprotected Area = 15%  
 Distance to Notional Boundary = 2.0m  
 Distance to Actual Boundary = 2.4m

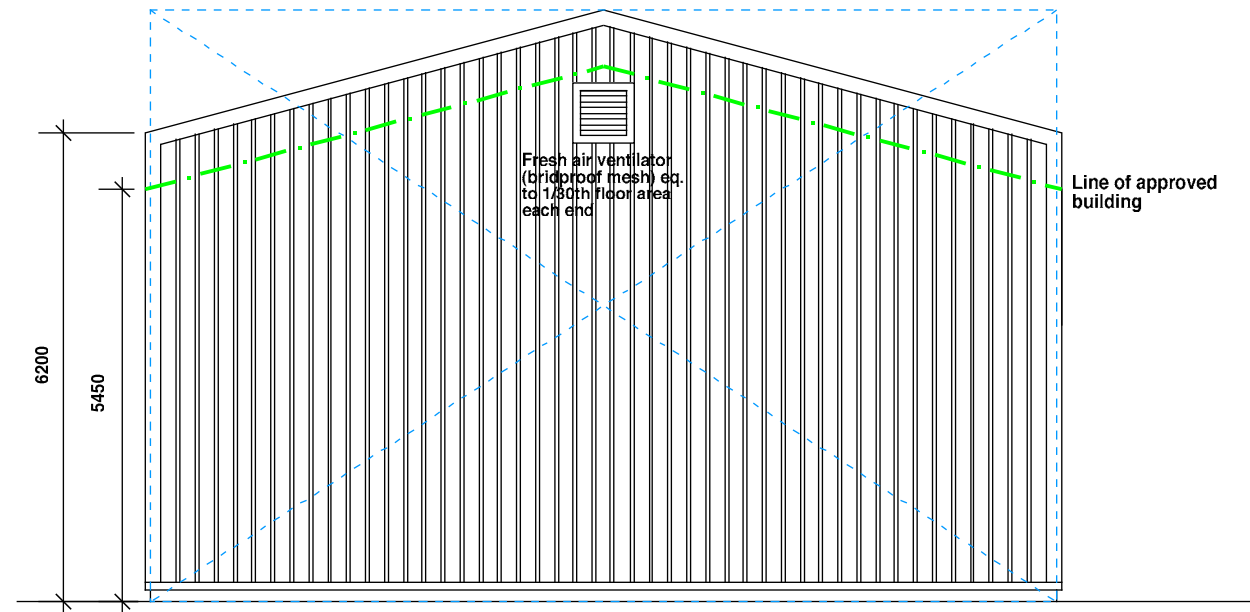


### Section



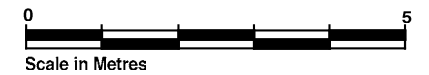
### West Elevation

Enclosing Rectangle = 7.5x18.m  
 Unprotected Area = 50%  
 Distance to Notional Boundary = 6.5m  
 Distance to Actual Boundary = 7.2m



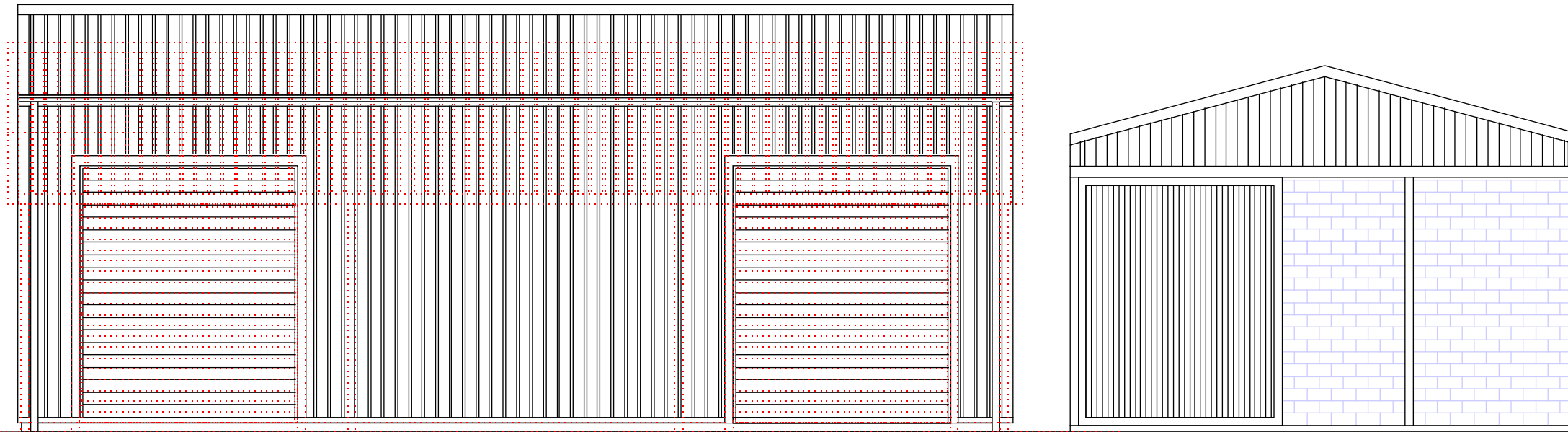
### Gable Elevations

Enclosing Rectangle = 8.6x12.0m  
 Unprotected Area = 0%  
 Distance to Notional Boundary = 1.0m

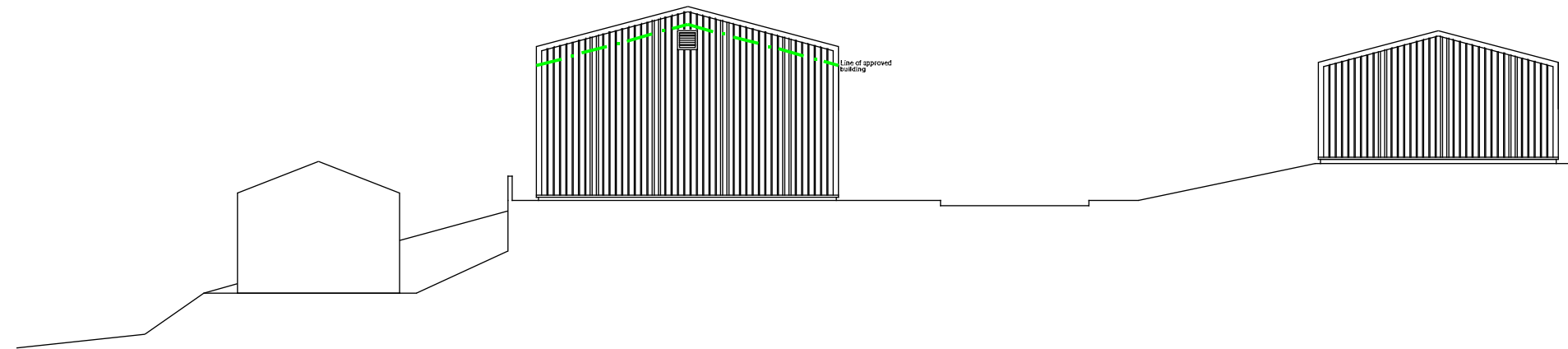


<b>PROJECT:</b> Proposed Industrial Unit Avoch Industrial Estae Avoch Ross-shire	<b>NOTES:</b> DO NOT SCALE ALL DRAWINGS MUST BE CHECKED PRIOR TO COMMENCEMENT AND ANY DISCREPENCIES MUST BE REPORTED TO THIS OFFICE		<b>DRAWING TITLE:</b> Elevations & section	<b>SCALE:</b> 1:100 @ A3
			<b>CLIENT:</b> Mr B Adams	<b>DATE:</b> 01.03.2016
			<b>0683/302/E</b>	

Red outline is approved building



West Elevation



Site Section



**PROJECT:**  
Proposed Industrial Unit  
Avoch Industrial Estae  
Avoch  
Ross-shire

**NOTES:**  
DO NOT SCALE  
ALL DRAWINGS MUST BE CHECKED  
PRIOR TO COMMENCEMENT AND ANY  
DISCREPANCIES MUST BE REPORTED  
TO THIS OFFICE



**DRAWING TITLE:**  
Elevations

**CLIENT:**  
Mr B Adams

**SCALE:** 1:100 ; 250@ A3

**DATE:** 01.03.2016

**DRAWN:** D.M. **REV:** -

**0683/306/A**