

Agenda Item	7.7
Report No	PLN/032/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 26 April 2022

Report Title: 21/01171/FUL: Mr Scott Paton
Land 120M South Of Strawberry Lea, Knockbreck Gardens, Tain

Report By: Acting Head of Development Management

Purpose/Executive Summary

Description: Erection of showroom and workshop building with associated parking. Formation of access road and service yard area. Change of use of land to community allotment use.

Ward: 07 – Tain and Easter Ross

Development category: Local

Reason referred to Committee: Managers discretion as the development does not accord with the Local Development Plan.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the policies contained within the Development Plan but is **acceptable** in terms of 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 is for the erection of a workshop building to accommodate a joinery and carpentry business, which will accommodate an ancillary showroom for display and sales related to the joinery business. The proposal includes the formation of an access drive (already formed to base level), a tarmacked parking area, and service yard formed of hardstanding, along with the installation of associated services.
- 1.2 The showroom and workshop building is of a standard industrial / agricultural design with a footprint of 25.75m x 15m, height to eaves of 3.9m and height to ridge of 5.2m, and finished with slate blue metal profile sheeting on all elevations and roof. The building is to be accessed from the proposed service yard at the southeast of the site through a large roller door, there is a further staff entrance and separate glazed customer entrances on the west elevation. The building will also accommodate a small office, staff room area, and W.C. facilities.
- 1.3 The site (as amended) is arranged in two main sections, with the building and associated car park occupying the first (490sqm) where the building is positioned along the southeast/northwest axis. The large service yard occupies the southeast section (1800sqm), which is intended for external vehicle and equipment storage. The car park and building, along with the service yard areas will be segregated by 1.8m high palisade security fencing, which also bounds the perimeter of the site.
- 1.4 A 5.5m wide access road has already been formed to base course level into the site from the northeast access junction with the adjacent minor road, and runs alongside the site's northeast boundary to the car park area with material being used to form an earth bund around the perimeter of the site. These works were carried out without planning permission therefore the access road component is retrospective in nature.
- 1.5 Pre Application Consultation: the applicant submitted a pre-planning application request for the development, ref. 20/03245/PREAPP. The response advised that the proposal does not accord with the approved Masterplans for the site (as detailed in consented planning refs. 10/02217/PIP & 16/03969/PIP) which allocates the area of the site for community allotment uses. The applicant was advised that should they wish to proceed with the proposal, an application would be required to demonstrate that options for alternative sites or buildings within established Business and Industry areas of Tain have been investigated and exhausted, and, that there are no alternative local sites that would meet the business need. The PREAPP response also advised that the discounting of alternative sites must be justified in full in order to accord with Policy 41 of the HwLDP, and, that the current application must provide details of any socio-economic benefits of the development that may outweigh the public benefit afforded under the approved masterplan. The applicant was also advised that where the above conditions are satisfied, the proposal must then demonstrate that the development would be compatible with the masterplan and would not compromise its viability.
- 1.6 The application is supported by a Supporting Statement (as amended) with the application that sets out the applicant's brief and provides a short description of the siting, layout and the building's design and finish. The statement describes that the applicant has looked at alternative sites and includes a list of names the applicant has spoken to regarding renting / purchasing land for their business. The statement

also evidences reference to private correspondence with local landowners regarding purchasing alternative sites allocated for business use, which were not made available for sale to the applicant. In addition, the applicant has submitted Tree Survey Reports and a Drainage Impact Assessment and SUDS Strategy Report.

- 1.7 During the course of the assessment, the application has been amended to remove an area of proposed allotments from the application site/layout and updated to include tree protection and drainage proposals.

2. SITE DESCRIPTION

2.1 The site is located within the southeast section of a narrow arable agricultural field at Knockbreck on the southeast fringe of the Tain. The field lies between the adjacent A9(T) to the southwest and the Old A9 single-track public road to the northeast, from which the site is entered opposite a small junction to a private track and the entrance to the private property Strawberry Lea. Knockbreck Road marks the field's north-western extent while a small industrial commercial area, formerly a Highland Council yard, is located to its southeast beyond a small watercourse that separates the sites.

2.2 Ground levels are generally even across the site although the site sits below the level of the A9 and adjacent minor road. There is a strip of established tree growth bounding the south and west of the site along the A9(T) boundary, and scrub to the north-east along the minor road, which also serves residential properties around Knockbreck House, northeast of the site, as well as the commercial yard to the southeast.

2.3 Excepting the aforementioned bunding and access drive that has been formed to base level without permission, the field remains undeveloped.

3. PLANNING HISTORY

3.1	10/02217/PIP Masterplan for proposed mixed use development	APPLICATION PERMITTED	22 October 2013
3.2	16/03969/PIP Masterplan for proposed mixed use development on expansion area	APPLICATION PERMITTED	17 March 2017
3.3	21/00089/ENF: Unauthorised Building, Eng. or Ops.	CURRENTLY PENDING CONSIDERATION	N/A

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Schedule 3 – Bad Neighbour Development and Unknown Neighbour
Date Advertised: 30 April 2021
Representation deadline: 22 May 2021

- 4.2 Timeous representations: 3no objections and 1no general comment received timeously from 3no addresses (one comment with no address supplied). The application received no comments in support.
- 4.3 Late representations: none
- 4.4 Material considerations raised are summarised as follows:
- a) Principle of development, including that it does not accord with the approved masterplan and Local Development Plan allocation.
 - b) Impacts on neighbouring residential amenity.
 - c) Impacts on the local road network, including the condition and capacity of the single track road for larger commercial vehicles.
 - d) Road Safety Concerns, including conflict between commercial and residential traffic.
 - e) Concerns that development has commenced on site.
- 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 **Tain Community Council** do not object to the application in principle, however their response, subsequently qualified via email, expresses their concerns that the Knockbreck Road A9(T) junction is a traffic accident blackspot.
- 5.2 **Development Plans'** response sets out the relevant policy and guidance considerations for the application's assessment along with Developer Contribution requirements. It advises that the proposal does not accord with the approved Masterplan and Inner Moray Firth Local Development Plan allocation policy TN5.
- 5.3 **Transport Planning's** initial objection is withdrawn following the submission of an amended Supporting Statement and Site Layout Plan showing that the original width of the Old A9 public road can be reinstated to allow larger vehicles to pass safely in both directions along the route. The travel, access, and parking implications of the development are considered in detail in the report below.
- 5.4 **Flood Risk Management Team** initial objection to the application on the grounds of insufficient drainage information has been withdrawn following the submission of a Drainage Impact Assessment and SUDS Strategy. FRM's comments are considered in full in the relevant section of the Planning Appraisal below
- 5.5 **Conservation Team – Archaeology** do not object subject to a requirement for works to proceed in accordance with an archaeological watching brief, the details of which shall be approved by the Council prior to ground works commencing on site, which should be secured by condition.

5.6 **Scottish Water** do not object and advise that the development would be supplied fresh water from Loch Assynt Water Treatment Works, but that private foul drainage arrangements are required as no connection to the public sewer is available. Surface water across the site requires to be drained by a suitably appointed SUDS arrangement.

6. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012**

Policy 28 - Sustainable Design

Policy 29 - Design Quality & Place-making

Policy 31 - Developer Contributions

Policy 34 - Settlement Development Areas

Policy 40 - Retail Development

Policy 41 - Business and Industrial Land

Policy 51 - Trees and Development

Policy 56 - Travel

Policy 57 - Natural, Built & Cultural Heritage

Policy 58 - Protected Species

Policy 61 - Landscape

Policy 64 - Flood Risk

Policy 65 - Waste Water Treatment

Policy 66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan 2015 (IMFLDP)**

The site comprises part of the allocated site TN5 Knockbreck Road, with the overall site allocated for Mixed Use – housing, business, commercial, and community uses. The Masterplan approved with the allocation assigns the area containing the application site for allotments. Policy 1: Promoting and Protecting City and Town Centres, is not considered to apply in this instance as the retail component is ancillary to the joinery business and is not considered to result in major footfall to the application site. Policy 2: Delivering Development is however applicable.

6.3 **Draft Inner Moray Firth Local Development Plan 2**

The draft IMFLDP is currently at Proposed Plan stage and out to consultation. This draft Plan forms a material consideration in the assessment of the application albeit limited weight can be attached to it as it may be subject to change following consultation or through the Examination process. The site is not allocated for any development within the Proposed Plan for Tain.

6.4 **Highland Council Supplementary Planning Policy Guidance**

Developer Contributions (March 2013)

Flood Risk and Drainage Impact Assessment (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Managing Waste in New Developments (March 2013)

Roads and Transport Guidelines for New Developments (May 2013)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (The Scottish Government, June 2014)

National Planning Framework 3 (The Scottish Government, June 2014)

Creating Places (The Scottish Government, June 2013)

PAN 61 - Sustainable Drainage Systems

PAN 75 - Planning for Transport

PAN 77 - Designing for Safer Places

PAN 83 – Master Planning

PAN 2/2011 - Planning and Archaeology

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) any other material considerations.

Development plan/other planning policy

8.4 The Development Plan comprises the adopted Highland-wide Local Development Plan (HwLDP), the Inner Moray Firth Local Development Plan (IMFLDP), and all statutorily adopted supplementary guidance. In this instance the site lies within an area allocated for development under site allocation TN05 therefore the key consideration in the assessment of the application is the extent to which it complies with this allocation and the associated developer requirements contained therein alongside a range of applicable material considerations. Such matters are considered in the Planning Assessment below:

Inner Moray Firth Local Development Plan (IMFLDP)

8.5 The application site forms a part of the planned expansion area for Tain, comprising part of the allocation TN5 Knockbreck Road, which is allocated for a mix of housing, business, and commercial uses. As such, IMFLDP Policy 2: Delivering Development, also applies to the assessment. The policy states that development of allocated sites will be supported subject to general conformity with the requirements of the allocation, including the provision of the necessary infrastructure, services, and facilities required to support the development.

8.6 In this instance the larger TN5 allocation is subject to a masterplan approved under application ref. 10/02217/PIP, and subsequently re-approved through application ref. 16/03969/PIP. Although these permissions have since lapsed, the requirement for compliance with the masterplan remains extant under the allocation within the IMFLDP, while the allocation details several developer requirements, the most relevant of which for the current application being:

- Development to be in accordance with the masterplan;
- Suitable access into, through and across the site;
- Tree Protection Plans;
- Bat Surveys where trees are removed; and,
- Programme of archaeological work.

8.7 The full field where the application site is located constitutes the southern section of the TN5 Knockbreck Road Mixed Use allocation, and, as mentioned, the field is largely allocated for community allotment use although a smaller portion at the north of the field is allocated for community and tourism uses. The application site occupies a small portion of the allocation overall whereby the remainder of the TN05 allocation extends to fields surrounding Knockbreck House as well as the supermarket to the northwest. Business, commercial, and mixed uses are allocated on sites to the west of the ASDA supermarket. The full allocation marks the extent of the planned southeast expansion of Tain in the current policy cycle.

8.8 The application broadly conforms with the larger TN05 Mixed Use allocation in so far that business uses are included within the masterplan. However, as set out above, the application proposes an alternative Class 4 (Business) land use (with ancillary retail component) on a site that is specifically assigned for community allotments in the approved masterplan. Subsequently the proposal does not accord with the masterplan and is therefore contrary to IMFLDP Policy 2 and consequently the Local Development Plan overall.

- 8.9 Nevertheless, following unsuccessful attempts by the applicant to locate the business within an allocated site (discussed in detail later in this report) the applicant has decided to pursue the development at the site despite the above and an overall negative PREAPP response. It is acknowledged that no proposals for community allotments have come forward for the allocated site, which has remained dormant for the period since the masterplan was first approved in 2013. Moreover, the Council's Community Food Growing Team has advised that it is not aware of any current plans to develop allotments in Tain; although they have advised that historic plans for a community allotment initiative at a different location did not progress. Additionally, the Community Food Growing Team has noted that while there are no plans for allotments, it is aware of an increasing interest in food growing initiatives, and therefore advises that a reasonable level of land should remain available for such initiatives. On that basis it is noted here that the current application initially included an area for allotment use that has since been removed from the proposal. This is because the area was indicative only so any potential impacts resulting from that element of the application could not be assessed without the required detail, which the applicant could not provide. Nevertheless, it demonstrates the applicant's willingness to provide land for community allotments/food growing initiatives within the landholding for the future. The site development does not conflict with the continued availability of the remaining land for that use.
- 8.10 In addition to the above, the TN05 allocation in its current format has indicatively been removed from the IMFLDP2, which is at the Proposed Plan Stage. The updated plan is some time away from being adopted and is subject to change and we are aware of the landowner's intention to submit a fresh application for that masterplan. On that basis, limited weight can be given to IMFLDP2, and notwithstanding, the site is currently safeguarded in policy for community use. As such the applicant is required to provide sufficient evidence and justifications to demonstrate that there are material considerations that outweigh Local Development Plan policy and weigh the assessment in favour of the proposal.
- 8.11 To that end, the application is considered in terms of the general Policies of the HwLDP below.

Highland-wide Local Development Plan (HwLDP)

- 8.12 As an application related to a Class 4 Business, which includes light industrial land uses, the principle HwLDP Policy the application is assessed against is Policy 41 for Business and Industrial Land. This policy seeks to ensure that, in the first instance, proposals for business and industrial land-uses are directed to strategic locations that the Council has already identified as suitable for such purposes or to sites already accommodating an existing employment use. Where applications for these land uses are proposed at other locations, the applicant is required to demonstrate, with evidence, that their proposal cannot reasonably be accommodated on an allocated site. Developers are then required to demonstrate that their proposals accord with the Local Development Plan's vision and spatial strategy as well as all other relevant policies.
- 8.13 Within Tain proposals are also assessed against HwLDP Policy 34 for Settlement Development Areas, which requires developments to be judged on how compatible they are with the existing patterns of development and, importantly approved

adjacent land uses. This policy is reinforced by Policy 28, for Sustainable Design, which seeks to promote and enhance the social, economic and environmental wellbeing of the people of Highland by setting out sustainability and design quality criteria for the assessment of all applications. Of particular relevance to this application are criteria relating to sensitive siting and high quality design in keeping with local character and historic and natural environments, impacts on natural and built heritage resources, impacts on community and residential amenity, and, compatibility with public service provision including water, sewerage, drainage, and roads. In addition, Policy 29 seeks developments to contribute to the visual and architectural qualities of their locations. The proposal will impact trees, and as such Policy 51 for Trees and Development, which seeks the significant protection of trees, hedgerows and woodland on and around application sites, is also relevant. Furthermore, the application is also assessed against HwLDP Policy 56 for Travel, which states that proposals for developments likely to generate increased travel activity at the location should include sufficient information in order that the impact of this, both on- and off- site, may be assessed. Finally, Policies 64, 65, and 66 all seek to ensure that sites are properly drained and are not at risk of flooding or causing flooding in other locations.

- 8.14 The applications compliance with these HwLDP policy considerations is considered below.

Justification for Site Selection / Development

- 8.15 The applicant has provided evidence that they have sought to locate the development at alternative sites within established and designated Business and Industry areas around Tain. The evidence shows that the application has had ongoing discussions with the Highland Council and private landowners regarding potential suitable land around Tain and within the Blairliath industrial Estate (Allocation TN7 of the IMFLDP) the IMFLDP, and sites allocated for mixed commercial and business use adjacent to the ASDA superstore within the same TN5 IMFLDP allocation. Regrettably, the applicant has not been able to secure a Council owned site that suited their business needs in terms of size and ability to purchase. The evidence also demonstrates that the applicant was unable to purchase suitable privately owned land or buildings within designated sites for reasons beyond the applicant's control. It is recognised that there are only limited allocated sites for business and industrial land uses of this scale in and around Tain and we are also aware that privately owned sites can be difficult to acquire due to the landowners themselves having existing businesses they do not wish to create competition with. It is therefore considered that the applicant has adequately evidenced that they have investigated and exhausted alternative locations that would otherwise have met the business need, as required under HwLDP Policy 41.
- 8.16 In addition to the above, the applicant's Supporting Statement has outlined the business need for a larger site to accommodate workshop facilities, storage of materials and equipment, as well as secure vehicle parking facilities. The statement also outlines some socio-economic benefits of the proposal; the business currently employs 7no full time staff, for which it is reasonable to assume that a new operational base has potential to increase staff numbers, while such employment includes skills development and training in carpentry, joinery and the construction sector. The business also provides a much needed service for the wider construction industry. The applicant advises that there is a specific business need

for the related showroom to display their carpentry products, aimed in particular at the home market (for bedrooms, kitchens, etc.). The applicant has stated that, without a showroom, the business can be overlooked by the local market as potential customers tend to favour similar businesses in Inverness where the majority of showrooms are located. As such, the showroom is intended as an integral part of the business specifically intended to generate custom and allow the business to expand, with concomitant economic benefits.

- 8.17 Although the above socio-economic benefits appear to be at the local scale, the amended plan shows that the development does not preclude the remainder of the allotment allocation being brought forward for community use in the future (see paragraph 8.9). As such, the proposal is not considered to significantly prejudice the public benefit afforded under the approved masterplan, or indeed the masterplan overall, and is not considered significantly detrimental to the social, economic, and environmental wellbeing of Tain. On that basis, the proposal is considered to meet the criteria for site selection as set out in HwLDP Policy 41, and the specific policy test for sustainable design as set out in Policy 28.

Siting and Design

- 8.18 The justification of the site's selection can be accepted. Under the provisions of Policy 34 for Settlement Development Areas, and Policy 28 for Sustainable Development, however, the site must also be acceptable in terms of compatibility with approved adjacent land uses. On that point, the proposed Class 4 use would conform with the established land use at the adjacent site to the southeast, which is the former Council Service yard that hosts a similar small scale industrial/storage building and is currently in use by a private mechanical repair business. Similarly, the proposed land use is not considered detrimental to any future community allotments on the remainder of the allocated site (see paragraph 8.9). A condition is suggested to limit the site's use to Class 4 (Business) usage with ancillary retail component only, to be tied to the business so each individual component cannot be sold or leased separately in consideration of surrounding amenity and to protect the vitality and viability of Tain's Town Centre.
- 8.19 The proposed layout of the site is rational in relation to existing physical features including the site's boundary and the aforementioned adjacent building, that it conforms with the surrounding settlement pattern in terms of spacing of infrastructure and buildings. In terms of design, the building is standard of its type, and is considered appropriate in scale, form, materiality and colour finish, which is a dark neutral slate blue that should be secured by condition, with an added shopfront feature to add interest to the east elevation. As such, the development is considered acceptable on siting, layout, and design grounds. No details of signage are included with the submission, so a condition is suggested to secure details of signage and advertisements prior to their installation to ensure they are suitable in terms of road safety and amenity.

Amenity

- 8.20 The nearest residential property to the development is Strawberry Lea which is approximately 60m from the proposed building, with 20m separating the property's garden ground and the application site's car park. The applicant has advised that the expected operational times of the business are between 8am and 5pm while

the shop component is expected to be open from 9am and 5pm. Daily Access and egress by employees and visitors using the site is not considered likely to result in significantly detrimental amenity impacts on the aforementioned property, which would otherwise be expected with the field's activation for community allotments. However, operations within the site could result in additional noise from plant and machinery and it is appropriate to limit maximum noise levels experienced at noise sensitive receptors from these sources by condition. Other noise generating activities are limited under Environmental Health legislation and an informative of such is included with this report to advise the applicant. It is therefore not considered reasonable or proportionate to limit operational or opening times by planning condition given the relatively small scale of the development.

- 8.21 The locations of external high level LED floor lights are included on the Site Layout Plan; two on the east principal elevation and one on the south side elevation. The application site is within the Settlement Development Area adjacent to the street lighting of the A9(T) so is not considered to result in additional excessive light pollution. Nevertheless, the development will bring new light sources closer to private properties so it is appropriate to condition that the lighting does not overspill from the site, and that the lighting is switched off at times when the site is not in use.
- 8.22 Some limited disruption may be expected during the construction phase of development however, developers must comply with reasonable operational practices with regard to construction noise so as not to cause nuisance. Section 60 of the Control of Pollution Act 1974 sets restrictions in terms of hours of operation, which would subsequently be controlled through Environmental Health. Finally, some additional landscaping is secured in the form of additional planting to screen the site from the A9(T).

Impact on Trees

- 8.23 The field boundary surrounding the application site is ringed by mature tree and hedge growth, which form an important feature on the southern approach to Tain from the A9(T) and are a part of the character of Tain's surrounding rural setting. The trees also screen the site and the A9(T) from each other. Unfortunately, pre-emptive works have taken place on the site including the excavation of an access road and formation of a hardstanding, with material being used to form an earth bund around the perimeter of the site within the trees' Root Protection Area (RPA) as confirmed by the Tree Survey Report.
- 8.24 The Tree Survey Report includes an Arboricultural Method Statement while the Recommendations given in Section 6.0 of the report include the removal of the spoil bund from within the RPA, the erection of a temporary protective barrier, and pruning works to remove dead or damaged stems prior to any further development commencing within the application site. These measures are supported and should be secured by condition. The applicant has further amended the Proposed Site Layout to extend the RPA to at least 3 metres from the site boundary, which also relocates the palisade security fencing outside the RPA in order to ensure the trees are not further negatively impacted by the site's development. The applicant has

agreed to the Council's Forestry Officer's request that the resulting three metre gap site between the palisade fence and the site's boundary be planted with a mixture of native shrubs to provide greater depth to the existing roadside tree belt, which is reflected in the amended Site Layout Plan, and should be secured by condition.

Access and Parking

- 8.25 The site is accessed using an upgraded field junction approximately 125m along an unnamed adopted single track road (the Old A9) from its junction with Knockbreck Road. The minor road currently serves 5no private residences as well as the former Council Service Yard, which remains in commercial use. The applicant has provided details of the carriageway width, which varies between 20m at the junction with Knockbreck Road, narrowing to around 5.5m at its narrowest point including verges. However, to achieve these measurements and essentially reinstate the original full carriageway width of the Old A9, cut backs are required to the road verges and overhanging trees and branches, which the applicant has agreed to and which would be covered through the subsequent roads consents. The amended Site Layout Plan shows that no gates will be installed at the site's access junction with the minor road to assist with the manoeuvrability of general traffic at that junction, while the site's access is required to be hard surfaced to the satisfaction of the Council for a minimum distance of 10 metres from the public road's nearside carriageway edge. The applicant has proposed a suitable vehicle turning area within the site for the largest vehicles that would use the site. Additionally, the proposed public and staff parking provision is adequate for the development. Transport Planning has confirmed general satisfaction with these arrangements, which will be secured by condition. Similarly, a condition is suggested to secure a Construction Traffic Management Plan (CTMP), as is standard for such developments, to control and minimise the impact of construction traffic.
- 8.26 The Community Council's concerns regarding road safety at the junction of Knockbreck Road with the A9(T) are acknowledged. It is understood that the section of the A9 that passes Tain is currently under review by Transport Scotland with the speed limit having recently been reduced to 50mph as a result of road traffic incidents following the Community Council's concerns. Given that the application site is already allocated for development within the IMFLDP, it is assumed that the junction is of a sufficient standard to accommodate the modest level of development now proposed.

Water, Flood Risk, and Drainage.

- 8.27 Scottish Water has confirmed that a public supply is available.
- 8.28 In terms of flood risk, SEPA's flood mapping shows that the site lies outwith any indicated areas of fluvial or coastal flooding but partially lies within an area with a 1:200 year risk of flooding from pluvial sources, which suggests that the flood risk from surface water sources may be medium to high. However, given the small and un-connected nature of the indicated area of pluvial flooding, which is located at the site access and parking area, the Council's Flood Risk Management Team has advised that the applicant's Drainage Impact Assessment with SUDS Strategy is sufficient to manage the risk. The strategy demonstrates that the area at risk of pluvial flooding can be corrected during construction works with surface water

runoff incorporated into the overall SUDS for the site. The SUDS forwarded by the applicant includes a surface water runoff attenuation tank for the access, car park, and building, with discharge to watercourse, while the service yard area will be formed of free draining granular hardstanding, which does not require formal SUDS. These arrangements are accepted in principle by the Council's Flood Risk Management Team, who request a condition to secure final details of the SUDS design and the calculations used to inform it prior to further development commencing on site.

- 8.29 The applicant has proposed private foul drainage arrangements to account for there currently being no public sewer connection available at the site, as confirmed by Scottish Water. The arrangements are set out in the DIA and SUDS Strategy Report and include a waste water treatment plant discharging to the watercourse, which accounts for the poor ground conditions for a ground soakaway arrangement, as evidenced by the onsite infiltration tests, which is accepted. Discharge to watercourse will require a CAR Licence from SEPA and will be given further consideration by Building Standards during the Building Warrant Stage of development, nevertheless, given the site's location within the Settlement's expansion area, a condition is suggested to ensure the development is connected to the public sewer in the event a connection becomes available.

Developer Contributions

- 8.40 The application has been assessed against HwLDP Policy 31 for Developer Contributions and its associated Supplementary Guidance Developer Contributions. In this instance, the additional planting to be secured between the palisade fence and the site's boundary with the A9(T) is sufficient to satisfy the public art component and, works to the public Old A9 road are considered sufficient to satisfy any contributions towards Transport and Active Travel.

Other material considerations

- 8.31 As per the request of the Council's archaeology Officer, a condition is suggested to ensure works proceed in accordance with an Archaeology Watching Brief, which should be approved by the Council prior to any further works proceeding on site. Additionally, the application site's red line boundary has been amended during the course of the assessment, which represents a material change to the proposal. In this instance the boundary change has reduced the development site's area, while all other aspects of the proposal have remained the same including where amended plans have been submitted with clarifications and more detail as requested by the Council. Accordingly, it has not been considered proportionate to readvertise or re-neighbour notify the application following the reduction of the site's area, while all material considerations raised in the representations have now appropriately been addressed.

Non-material considerations

- 8.32 The following issues were raised in representations but are not material planning considerations and therefore have not been considered as part of the application's assessment:
- a) Land ownership, as this is a civil matter.

- b) Expectations about continued and future land uses where these do not correspond with the Development Plan.
- c) The personal circumstances of the applicant or objectors.

Departure from the Development Plan

8.34 Based on the above assessment, it is considered that the minor departure from the development plan is justified on the following grounds:

- The applicant has evidenced that they have investigated and exhausted alternative sites in line with HwLDP Policy 41.
- The applicant has demonstrated a business need for the development.
- The proposal does not preclude the remainder of the site's use for community allotments or any other food growing initiative and the applicant has indicated this use on the adjacent ground within their ownership.
- The proposal conforms with approved adjacent land uses in line with HwLDP Policies 28 and 34.
- The proposal conforms with the Local Development Plan in all other aspects and any impacts of the development have been suitably mitigated through design and the suggested conditions.

Matters to be secured by Section 75 Agreement

8.32 a) None.

9. CONCLUSION

9.1 The proposal is contrary to the Local Development Plan by virtue that the application proposes an alternative Class 4 (Business) land use (with ancillary retail component) on a site currently assigned for community allotments in an approved masterplan secured by the Inner Moray Firth Local Development Plan. The proposal, therefore, does not accord with the masterplan and is consequently contrary to the terms of the IMFLDP.

9.2 However, it is considered that the applicant has sufficiently demonstrated that there are material considerations to outweigh this Local Development Plan policy and weigh the assessment in favour of the proposal. In particular it has been demonstrated that there is a business need specific to the site in order to accommodate the business, and it has been sufficiently evidenced that alternative sites within established and designated Business and Industry areas around Tain, cannot feasibly be developed. In this instance it is considered that the proposed Class 4 use may be supported because it conforms with the established commercial land use at the former Council Service yard on the adjacent site, and, because the proposal does not preclude the remainder of the allocated site coming forward for community allotment use in the future. The proposal is considered to accord with the remaining relevant general policies of the Highland-wide Local Development Plan subject to the mitigation to be secured by the conditions suggested below. Consequently, the application can be supported and is recommended 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 site-specific TN5 Policy of the Inner Moray Firth Local Development Plan but is acceptable in terms of applicable material considerations and the remainder general policies of the Highland-wide Local Development Plan.

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 N issued

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

Subject to the above, it is recommended that planning permission be **Granted**, subject to the following:

Conditions and Reasons

1. Notwithstanding the provision of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), planning permission is hereby granted for Class 4 (Business), with ancillary Class 3 (Shops) limited to the area demarked 'Showroom' on the approved drawing ref. P869/PI03 REV A only. The site shall be laid out in accordance with the approved site plan ref. P869-PL02 REV D and details approved through condition below, with all access, vehicle parking and turning provision, SUDS, drainage, landscaping, and services installed and made available for use prior to the development's first occupation, and thereafter maintained as such in perpetuity. The site shall be operated in accordance with the use applied for as approved by the Council. For the avoidance of doubt, no amendment or addition to the site, its layout, or buildings, and signage, on the site shall take place without the prior approval of the Planning Authority.

Reason: In order to clarify the terms of the planning permission in accordance with the use applied for, to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

2. No part of the development hereby approved shall be sold, leased, transferred, or otherwise disposed of from the remainder of the development unless agreed in writing on application to the Planning Authority.

Reason: To enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

3. No development shall commence until a Landscape Plan (including future maintenance) has been submitted for the approval of the planning authority. This shall detail the planting of native trees and shrubs along the 3 metres strip between the new palisade security fence and the site boundary. Thereafter, the approved Landscape Plan shall be implemented in full prior to first occupation or use of the site and maintained until established to the satisfaction of the planning authority.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site, and to reinforce the existing roadside screening.

4. No development shall commence until an updated Drainage Impact Assessment and SUDS Strategy with full details of all surface water drainage provision within the application site (which shall accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time), which shall include calculations demonstrating that surface water from a 1 in 200 year plus climate change storm event will be managed, and a finalised Drainage Layout Plan, have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, no drainage infrastructure shall be installed within the Root Protection Area as delineated on the approved Site Layout Plan ref. P869-PL02 REV D. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; to ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously.

5. No development or work (including site clearance) shall commence until proposals for an archaeological watching brief to be carried out during site clearance and excavation works, in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the watching brief shall be implemented as approved.

Reason: In order to protect the archaeological and historic interest of the site.

6. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority in consultation with the relevant Roads Authority(s). The CTMP must include:
- i. A description of all measures to be implemented by the developer in order to manage traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised SQ traffic management consultant;
 - ii. The identification and delivery of all upgrades to the public Old A9 road to ensure that it is to a standard capable of accommodating construction-related traffic (and thereafter site-related traffic), including the cutting back of verges, overhanging trees and branches.

Thereafter, the CTMP shall be implemented in full as approved. For the avoidance of doubt, all works to the public Old A9 road shall be completed prior to further construction works commencing on site and maintained as such in perpetuity.

Reason: In the interests of road safety, to ensure that the works involved comply with applicable standards.

7. No other development shall commence until the earth bund is removed from with the Root Protection Area (reinstated back to original levels). For the avoidance of doubt, the palisade security fence shall be installed at least 3 metres from the site boundary.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, both during construction and thereafter.

8. No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Roads and Transport Guidelines for New Developments, with the junction formed to comply with approved drawing ref. P869-PL02 REV D, with:

- no gates erected at the junction of the site access and the public road; and,
- the site access hard surfaced to the satisfaction of the Council for a minimum distance of 10 metres from the nearside carriageway edge of the public road.

Thereafter the site access shall be maintained as such in perpetuity.

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

9. No advertisement or signage shall be installed until details of signage designs including dimensions, materials, lighting, and how/where it will be displayed and installed are submitted to, and approved in writing by, the Planning Authority.

Reason: In order to enable the planning authority to consider this matter in detail prior to the installation of advertisement and signage; in the interests of amenity and road safety.

10. The building hereby approved shall be finished in a neutral dark slate blue matt finish and shall be maintained as such in perpetuity.

Reason: To ensure that the development is sensitive to, and compatible with, its context and does not result in unacceptable visual impacts.

11. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration services or similar and including fans, ducting and external openings shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive premises with windows open for ventilation purposes. For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

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

12. The floodlighting system shall be positioned and controlled so as to prevent any direct illumination, glare or light spillage outwith the site boundary and shall be fitted with an automatic cut-out timer to ensure that the system cannot operate outwith the hours of operation.

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

13. Prior to the first use of the development hereby approved a Foul Drainage Scheme shall be submitted to, and approved in writing by, the Planning Authority. The scheme shall address the following matters:

- i. Proposals for making a connection to the public sewerage network as soon as such a connection is available; and
- ii. A decommissioning and restoration plan for the removal of the temporary drainage system when connection to the public sewerage network has been made.

Thereafter, the approved Foul Drainage Scheme shall be implemented in accordance with the approved details and timescales. For the avoidance of doubt, any private foul drainage system permitted is done so as a temporary measure only.

Reason: In order to protect people and the environment from the impact of waste water and ensure the development of the public sewerage network to which this development can be connected in due course

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 policies contained within the Development Plan but is **acceptable** in terms of 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.

FOOTNOTE TO APPLICANT

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.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

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 and 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/permits_for_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

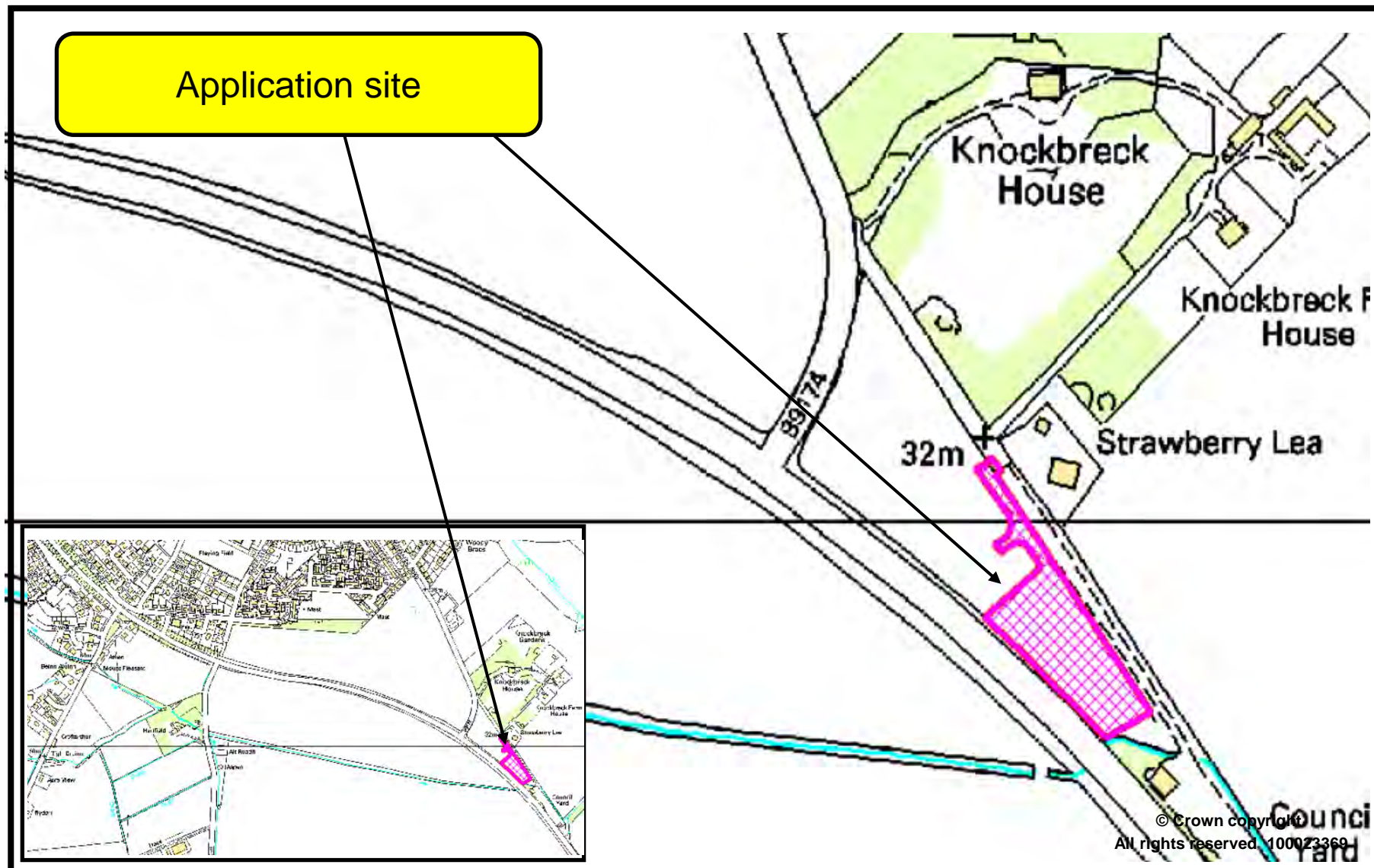
Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

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

Designation: Acting Head of Development Management – Highland
Author: Mark Fitzpatrick
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - P869-PL01 REV A Location Plan
Plan 2 - P869-PL02 REV D Proposed Site Layout Plan
Plan 3 - P869-PL03 REV A Proposed Floor - Elevation Plan
Plan 4 - P869-PL04 Section Plan

Application site



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Planning and Development Service

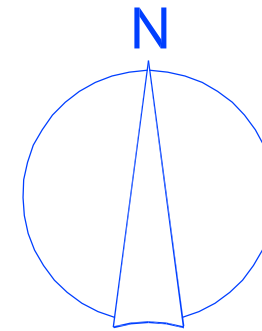
21/01171/FUL

Land 120M South Of Strawberry Lea, Knockbreck Gardens, Tain
Erection of showroom and workshop building with associated parking,
Formation of access road and service yard area

Scale:

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MAIL@BLUEPRINTARCHITECTURE.COM | 01862 892900

Client	Mr. Scott Paton	Scale	1:2000
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Project	New Showroom and Workshop Building, Service Yard, Access Road at Land 50m South of Strawberry Lea, Tain IV19 1GZ		
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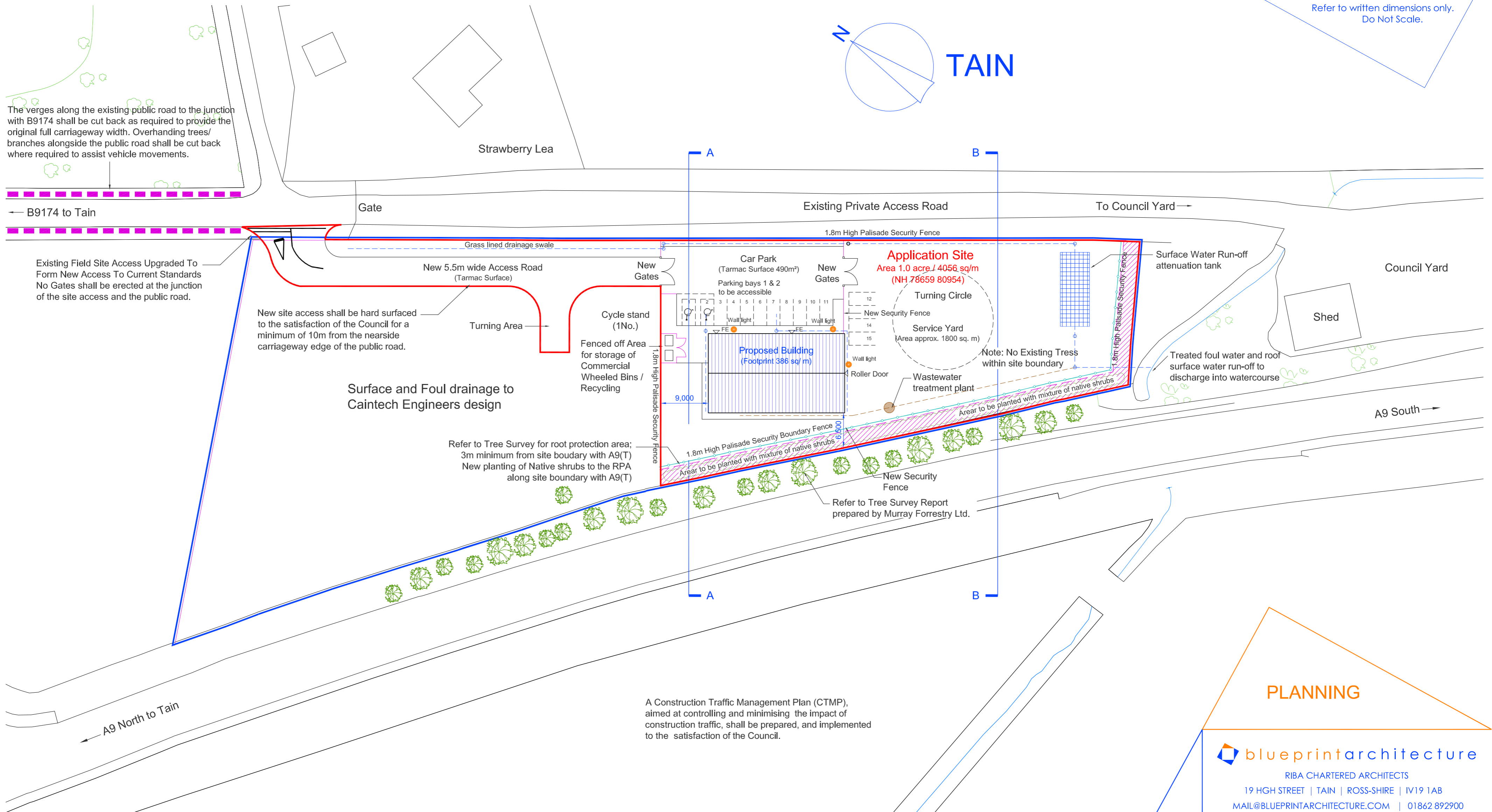
Title	Location Plan	Size	A3
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Drawing No.	P869 / PL01	Rev	A
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0 10 Millimetres 100



Location Plan (1:2000)



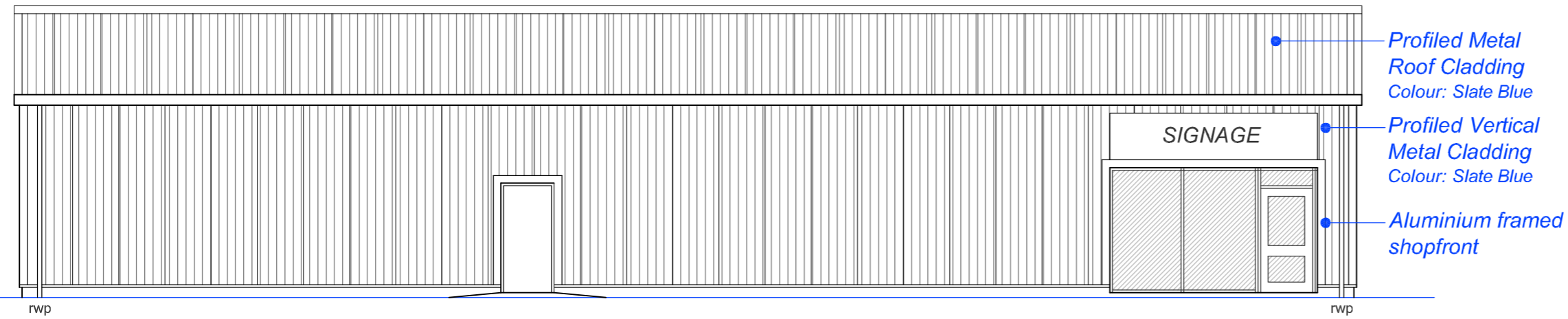
Site Layout Plan (1:500)

PLANNING

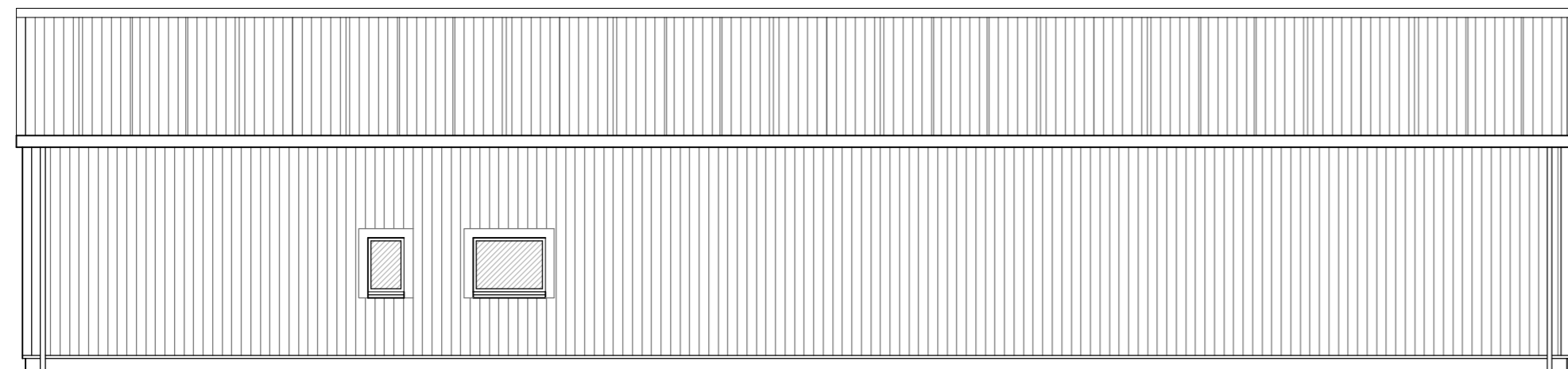
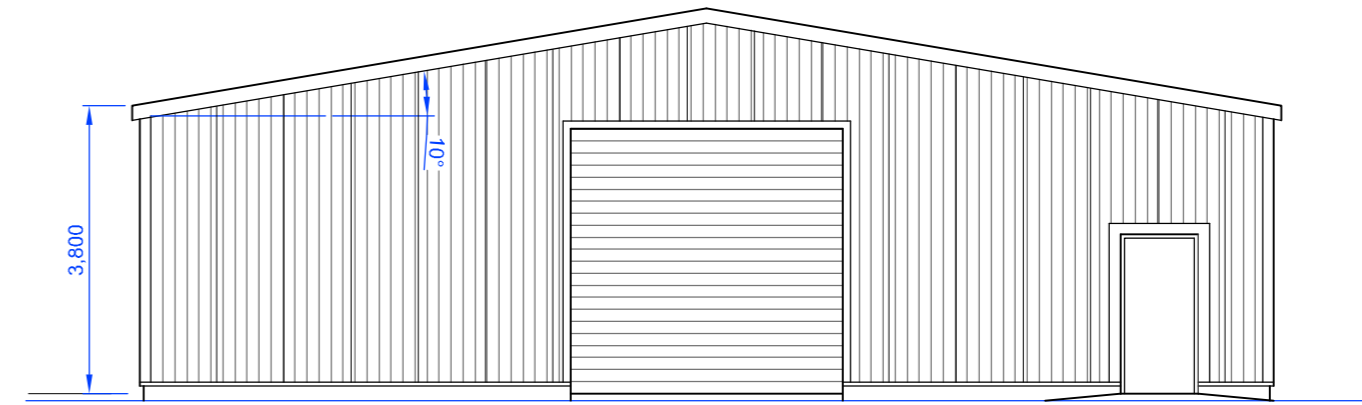
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Client	Mr. Scott Paton	Scale	1:500
Project	New Showroom and Workshop Building, Service Yard, Access Road at Land 50m South of Strawberry Lea, Tain IV19 1GZ		
Title	Site Layout Plan	Size	A2
Drawing No.	P869 / PL02	Rev	D

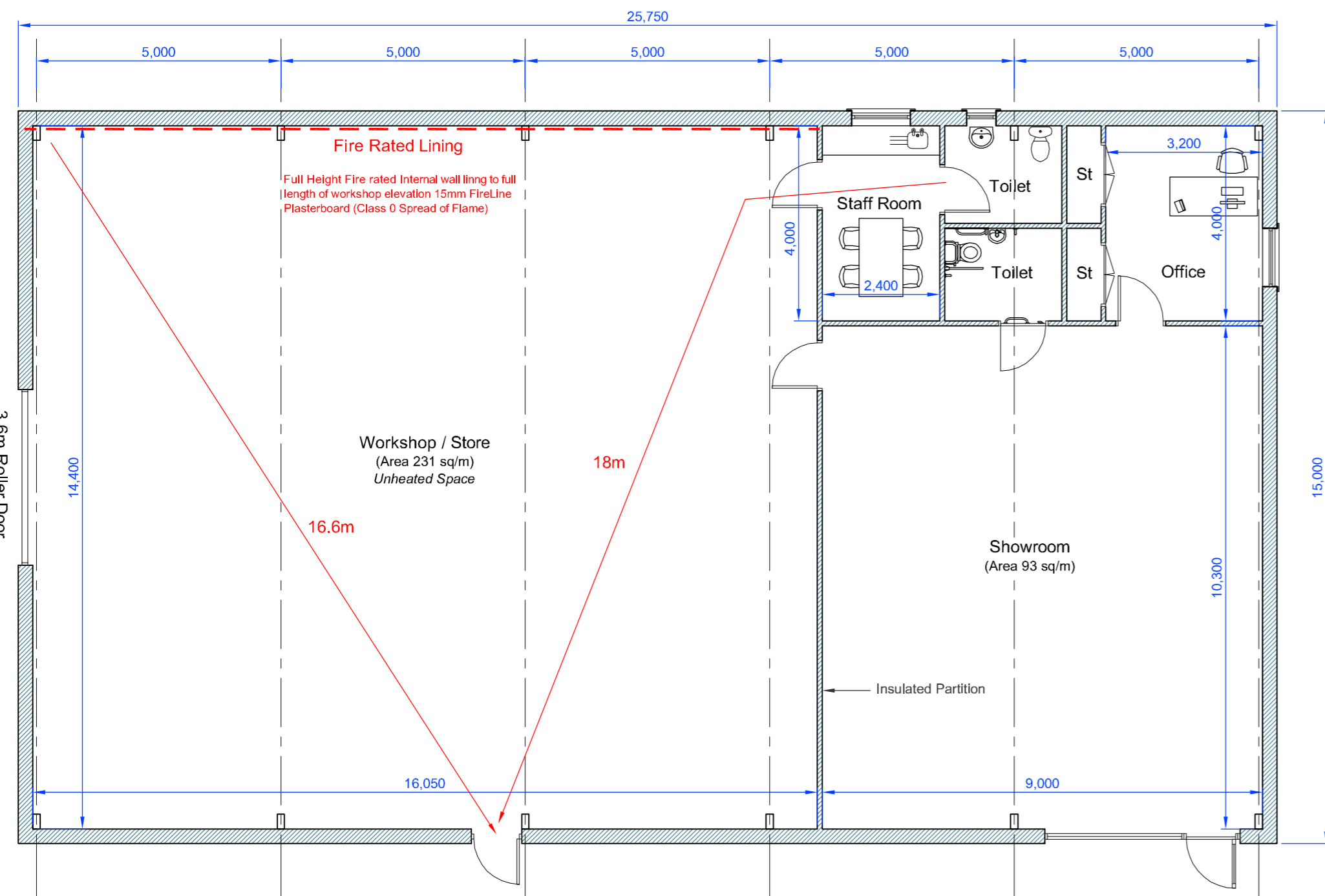
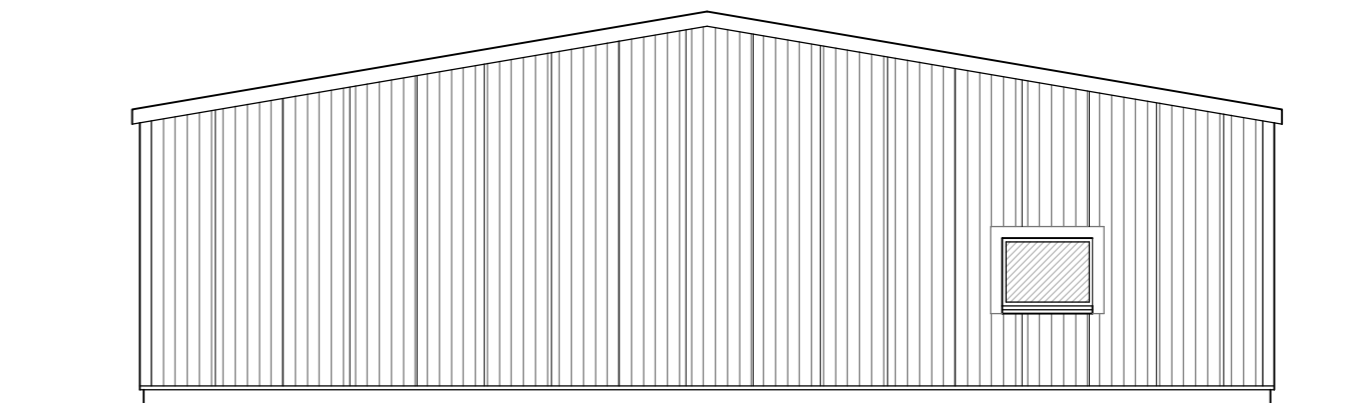




- Profiled Metal Roof Cladding
Colour: Slate Blue
- Profiled Vertical Metal Cladding
Colour: Slate Blue
- Aluminium framed shopfront



Fire Rated Internal Wall Lining



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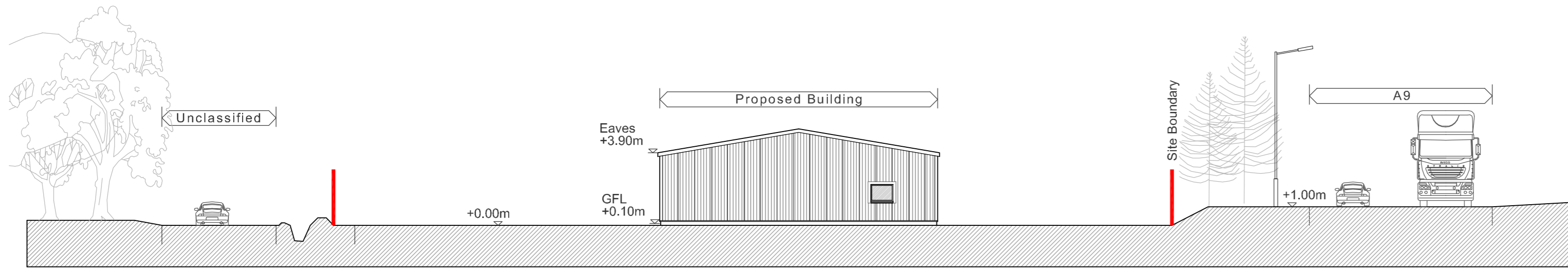
Client: Scott Paton Scale: 1:100

Project: New Showroom and Workshop Building, Service Yard,
Access Road at Land 50m South of Strawberry Lea,
Tain IV19 1GZ

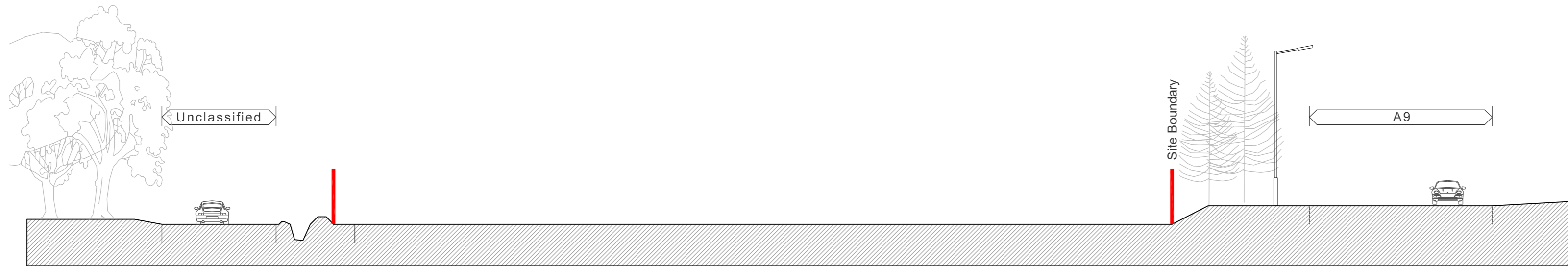
Title: Proposed Plans and Elevations Size: **A2**

Drawing No. **P869 / PL03** Rev: **A**

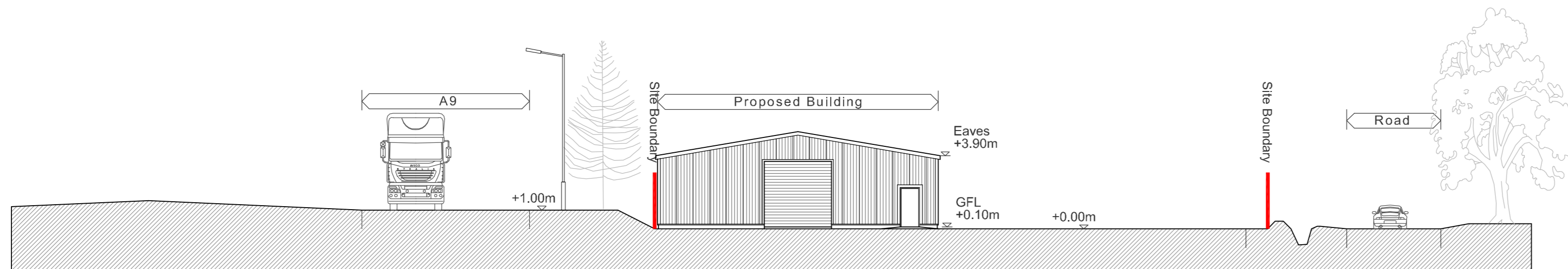
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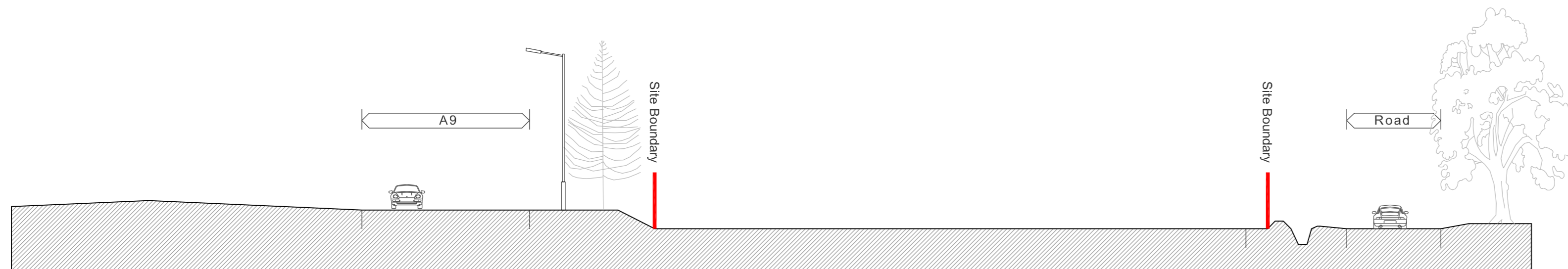
Site Section AA as Proposed (scale 1:200)



Site Section AA as Existing (scale 1:200)



Site Section BB as Proposed (scale 1:200)



Site Section BB as Existing (scale 1:200)

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Client Scott Paton Scale 1:100

Project New Showroom and Workshop Building, Service Yard,
Access Road at Land 50m South of Strawberry Lea,
Tain IV19 1GZ

Title Site Sections as Proposed and Existing Size **A2**

Drawing No. **P869 / PL04** Rev -

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