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| Agenda Item | 6.5 |
| Report No | PLN/055/23 |

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 9th August 2023

Report Title: 23/00805/FUL: Mr Dan Corrigan
Land 10M NE Of Shop, 1 Douglas Row, Quay Street, Portree

Report By: Area Planner Manager - North

Purpose/Executive Summary

Description: Temporary siting of cabin

Ward: Ward 10 - Eilean A' Cheò

Development category: Local Development

Reason referred to Committee: Call in by local members

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 **REFUSE** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks full planning permission for the temporary siting of a small, wheeled cabin to be used as a sales office for boat trips. Siting is sought for a period of three years. The cabin has been on the site and in use for several months.
- 1.2 Pre Application Consultation: None
- 1.4 Supporting Information: A brief document has been submitted which sets out the purpose of the cabin (as above), the times of operation (9am to 6pm throughout the tourist season and the number of employees (one or two).
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site comprises an area of pavement at the corner of Quay Street and Beaumont Crescent at the inshore end of the Portree Harbour sea wall. The site is in the ownership of the Council and forms part of the public road. Public car parking is situated on either side of the site. There is a public bin storage area adjacent to railings above the sea wall. The site lies within the Portree Conservation Area. There are several commercial buildings along Quay Street including Hotel accommodation and restaurants), while Beaumont Crescent is largely residential, apart from a Hotel facing the site. There is a fuel depot at the end of Quay Street

3. PLANNING HISTORY

- 3.1 None

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Section 65 – Development affecting a Conservation Area – 21 days
Unknown Neighbour – 14 days

Date Advertised: 10 March 2023

Representation deadline: 31 March 2023

Timeous representations: 2 – from one household and from the Portree and Braes Community Council

Late representations: None

- 4.2 Material considerations raised are summarised as follows:

- a) Adverse impact on pedestrian safety at a very busy road junction with many pedestrians, large vehicles and unsafe fencing in lieu of railings which have been removed without permission.
- b) The site is the only area of raised footway in the area for pedestrians to provide a space to avoid vehicular traffic.
- c) The cabin not only sells tickets but also dispenses life jackets and waterproof clothing and is regularly open much longer than the stated hours.

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 Historic Environment Team – Conservation. OBJECT - Portree Harbour is the key element in the Conservation Area and this cabin will be positioned at the most prominent location on the approach to it. The cabin is an overly prominent and obtrusive eyesore which is detrimental to the character and appearance of the designated heritage area.
- 5.2 Transport Planning – OBJECT - It is an offence under the Roads (Scotland) Act 1984 to place anything within the public road boundary that could cause an obstruction without prior consent in writing from the Local Roads Authority. The location for the cabin is at the junction where the U4824 Beaumont Crescent meets the A855 Quay Street. It is our opinion that the cabin would be an obstruction to the safe and efficient use of that junction and as such will generate unacceptable road safety and network management concerns. The Applicant should be made aware that the Local Roads Authority has powers under the Roads (Scotland) Act 1986 to insist that any structure erected, deposited or placed on a road that has been done without prior approval of the Roads Authority to be removed. Failure to do so would be an offence under the Act.
- 5.3 Environmental Health – OBJECT - The cabin is proposed on an area of land with existing double yellow lines, there is limited space around the cabin due to the restricted road width and the harbour wall. Customers queuing up for tickets and, putting on lift-saving equipment, increase the number of persons on the road in an already hidden/tight road junction. Environmental Health have concerns of a road collision due to this factor. The applicant indicates that the cabin shall be used for a sales cabin. A street trader's licence shall be required for such activities under The Civic Government (Scotland) Act 1982. The applicant has been advised of this matter and has not applied for a street traders' licence.
- 5.4 Planning Enforcement Team - This application does not form part of any ongoing Planning Enforcement investigation, therefore no comment to submit.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **National Planning Framework 4 (adopted 13th February 2023)**

- 1 – Tackling the climate and nature crises
- 2 – Climate mitigation and adaptation
- 3 – Biodiversity
- 7 – Historic assets and places
- 14 – Design, quality and place
- 30 – Tourism

6.1 **Highland Wide Local Development Plan 2012**

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 31 - Developer Contributions

- 34 - Settlement Development Areas
- 43 - Tourism
- 57 - Natural, Built & Cultural Heritage

6.2 **West Highlands and Islands Local Development Plan 2019**

Portree Main Settlement

No Development Allocation applies to this site

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance**

Roads and Transport Guidelines for New Developments (May 2013)

Developer Contributions (March 2013)

Highland Historic Environment Strategy (Jan 2013)

Sustainable Design Guide (Jan 2013)

Special Landscape Area Citations (June 2011)

8. **PLANNING APPRAISAL**

8.1 Relevant Policy

Sections 25(1)(a) and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that this application be determined in accordance with the development plan unless material considerations indicate otherwise.

NPF4 forms part of the Development Plan and Policies 1-3 apply to all development proposals throughout Scotland. When considering development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

NPF4 Policy 7 states that development proposals in a Conservation Area **will only be supported where the character and appearance of the Conservation Area is preserved or enhanced.**

NPF4 Policy 14 requires development proposals to be designed to **improve the quality of an area, regardless of scale.**

NPF Policy 30 states that proposals for tourism related development must take into account **compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors.**

8.2 In this case the Development Plan is also comprised of the West Highlands and Islands Local Development Plan and the Highland-Wide Local Development Plan, the relevant policies of which are considered below.

Given that the application site falls within the boundaries of a Settlement Development Area (SDA) Policy 34 applies. This supports development proposals within SDA's if they meet the Design for Sustainability requirements of Policy 28

which seeks sensitive siting and high quality design in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity. Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern.

Policy 31 sets out that for development proposals which create a need for new or improved public services the Council will seek a fair and reasonable contribution toward these additional costs.

Policy 43 states that proposals for tourist facilities will be assessed as to whether the scale is appropriate to the local settlement/location, whether the site is within a settlement boundary, its likely contribution to increasing visitor stay/spending/spread, and its effect on natural, built and cultural heritage features.

There is also a requirement to judge proposals in terms of their impact upon the natural, built and cultural heritage features identified by Policy 57. The site falls within the Portree Conservation Area and is close to several Category 'B' Listed buildings in respect of which Policy 57.1 states that developments are suitable where they can be demonstrated not to have an unacceptable impact on these protected heritage and amenity resources.

- 8.3 In addition, it is necessary to consider Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 8.4 For the reasons set out below it is considered that the proposal is contrary to the above legislative requirement and policies of the Development Plan.

Determining Issues

- 8.5 The application requires to be assessed against all policies of the Development Plan relevant to the application, all policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.6 The key considerations in this case are:
- a) effect on the Conservation Area
 - b) vehicular and pedestrian safety.

Effect on the Conservation Area

- 8.7 As noted above, planning policy as set out in NPF4 and the Highland wide Local Development Plan requires that development proposals in Conservation Areas preserve or enhance the character and appearance of the Conservation Area in question. The cabin which is the subject of this application is a utilitarian, box-like white unit which has no connection in visual and design terms with the attractive historic stone buildings in the vicinity of the site. As such, the unit's appearance is at odds with its setting – to the detriment of the Conservation Area and it cannot be supported on this basis. The Conservation Officer's comment that the cabin is an overly prominent and obtrusive eyesore which is detrimental to the character and appearance of the designated heritage area is noted and endorsed. While the unit

is modest in scale NPF4 Policy 14 requires development proposals to be designed to improve the quality of an area, regardless of scale. The appearance of the unit jars with the surrounding area and therefore detracts from the quality of the area.

- 8.8 On the basis of these considerations the proposed development does not satisfy the statutory test set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 of preserving or enhancing the character or appearance of the Portree Conservation Area.

Vehicular and Pedestrian Safety

- 8.9 The site occupies an area of public pavement at the junction of two busy roads where there are commercial and residential premises with numerous associated vehicle movements. Some of these vehicles are large, including fuel tankers travelling to and from the Depot at the end of Quay Street. At peak times the area can be very busy with passenger and vehicular traffic to and from cruise ships as well as being a busy commercial and recreational area.
- 8.10 There are no pavements along the Harbour frontage of Quay Street or the entirety of Beaumont Crescent other than the pavement provided by the site itself. As such, the loss of this area of pavement to the Cabin has obvious adverse implications for pedestrian safety.
- 8.11 Customers of the Cabin who are queuing to purchase tickets and to don or return life jackets represent a hazard to vehicular traffic on the basis that they often occupy the roadway and may do so without looking to check if it is clear of oncoming traffic. The comment from Transport Planning that the cabin would be an obstruction to the safe and efficient use of that junction and as such will generate unacceptable road safety and network management concerns is wholly understandable in this context.

Other material considerations

- 8.12 There are no other material considerations.

8.13 Developer Contributions

The proposal does not trigger any Developer Contribution thresholds.

9. CONCLUSION

- 9.1 The principle of supporting a commercial enterprise is in principle acceptable however the use of this public road space fails to have regard to its setting and would introduce a structure and a use which would adversely affect the appearance the Portree Conservation Area contrary to the relevant provisions of the Development Plan and contrary to relevant historic environment legislation. In addition the proposed development would be an obstruction to the safe and efficient use of the busy Quay Road/Beaumont Crescent junction and as such would generate unacceptable road safety concerns, contrary to the relevant provisions of the 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

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| Action required before decision issued | N |
| Notification to Scottish Ministers | N |
| Conclusion of Section 75 Obligation | N |
| Revocation of previous permission | N |

Subject to the above, it is recommended that planning permission be **REFUSED**, subject to the following **Reasons for Refusal**

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| 1. | The proposed development would fail to enhance the character and appearance of the Portree Conservation Area, contrary to the objectives of section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and contrary to Policy 4 of the National Planning Framework 4 and Policy 57 of the Highland wide Local Development Plan. |
| 2. | The appearance of the proposed development would not be in keeping with the local surroundings, contrary to Policies 14 and 30 of the National Planning Framework 4 and Policy 28 of the Highland-wide Local Development Plan Policy which seeks sensitive siting and high quality design in keeping with local character and historic environments as well as Policies 29 and 57 of the Highland-wide Local Development Plan which require good design in compatibility with the local pattern of development. |
| 3. | The proposed development would represent a risk to pedestrian and vehicular safety, contrary to Policy 28 of the Highland-wide Local Development Plan which requires compatibility with service provision. |

REASON FOR DECISION

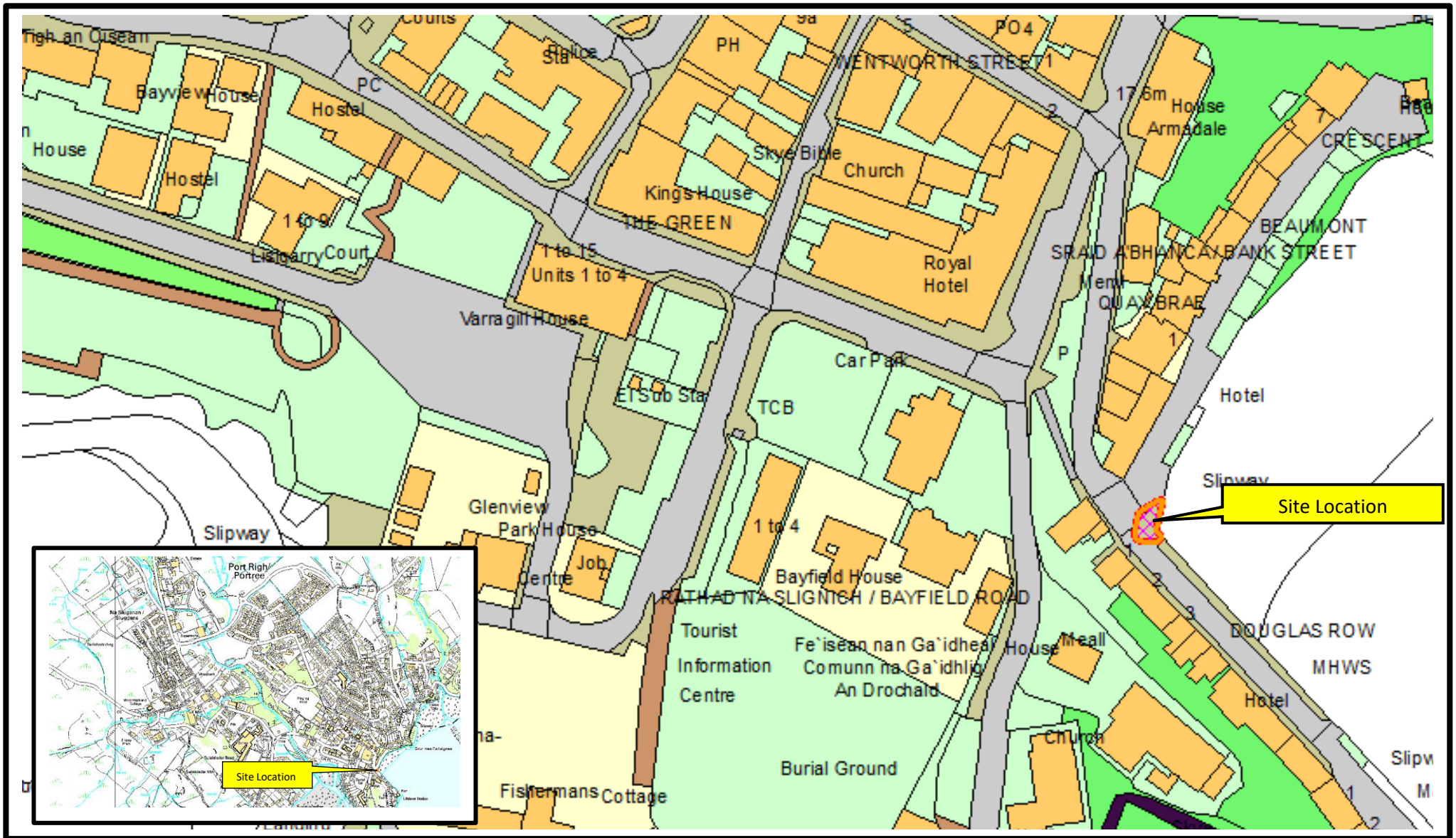
It is considered that the proposed development would introduce a structure which would adversely affect the appearance of the Portree Conservation Area, and which would be contrary to the relevant provisions of the Development Plan and contrary to relevant historic environment legislation. In addition, the proposed development would represent a risk to pedestrian and vehicular safety, contrary to the relevant provisions of the Development Plan.

Designation: Area Planning Manager North

Author: Graham Sharp

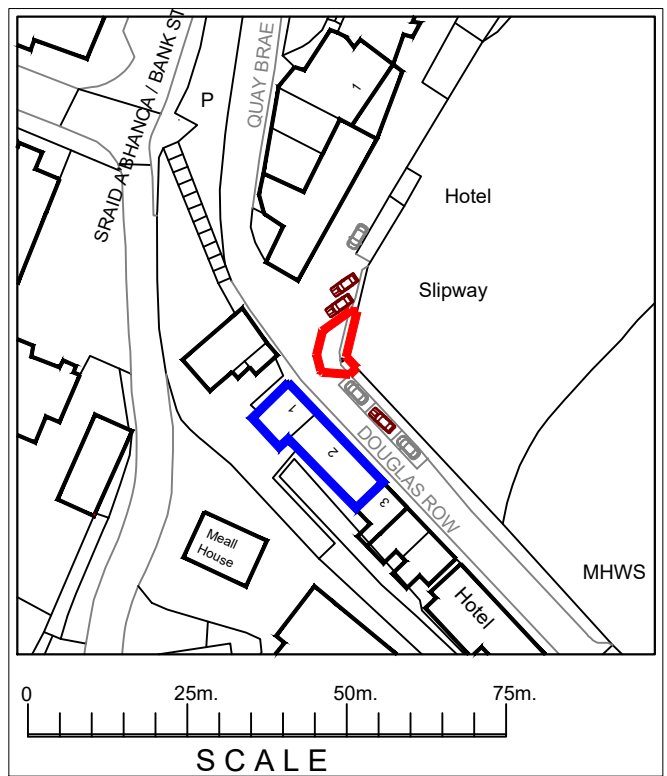
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 – Proposed General Plan 1009-101 Rev. A

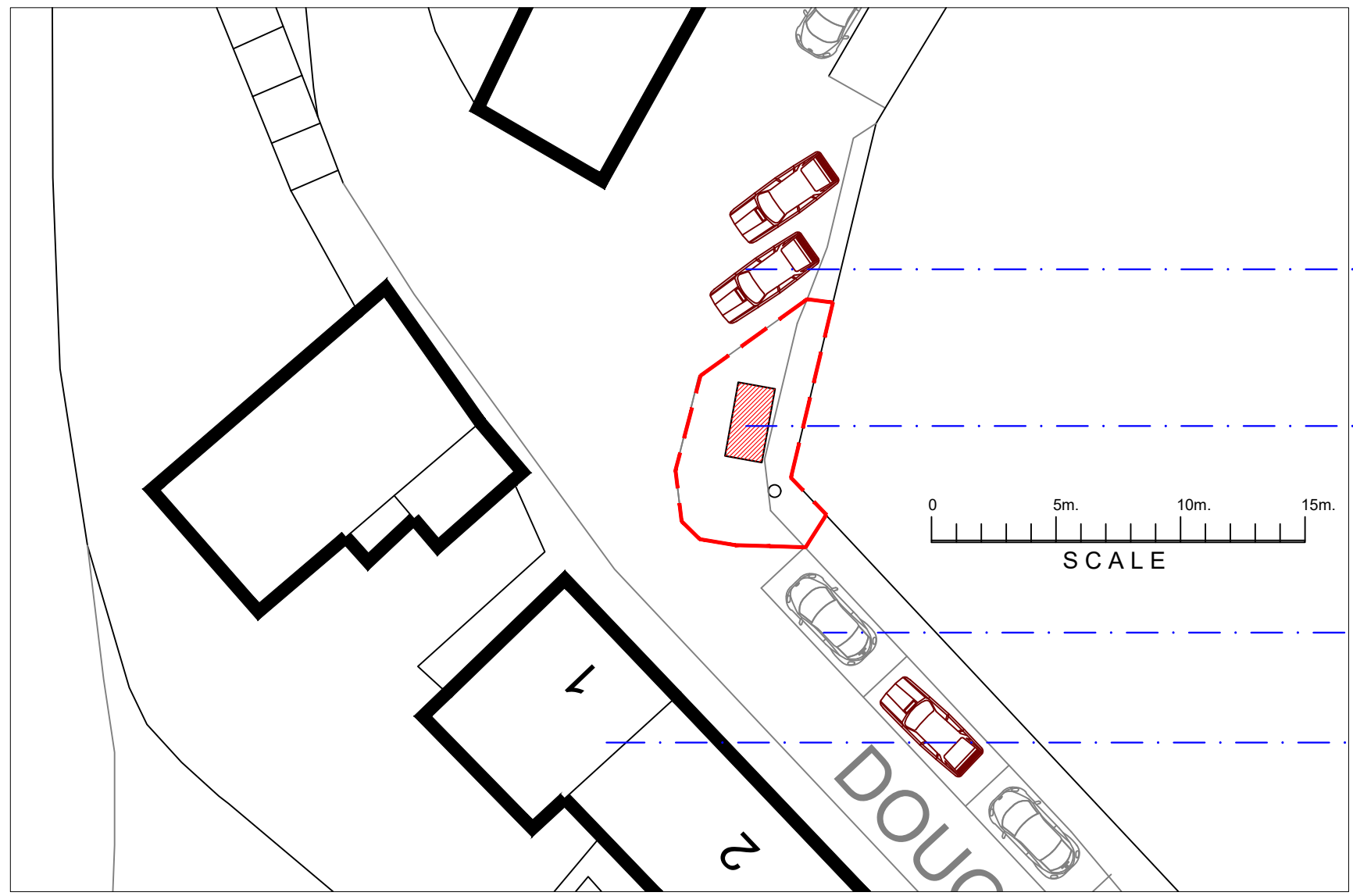
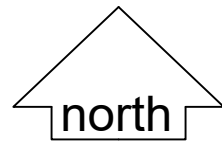


PROPOSED CABIN PLANS

portree slipway : douglas row



location plan 1-1250



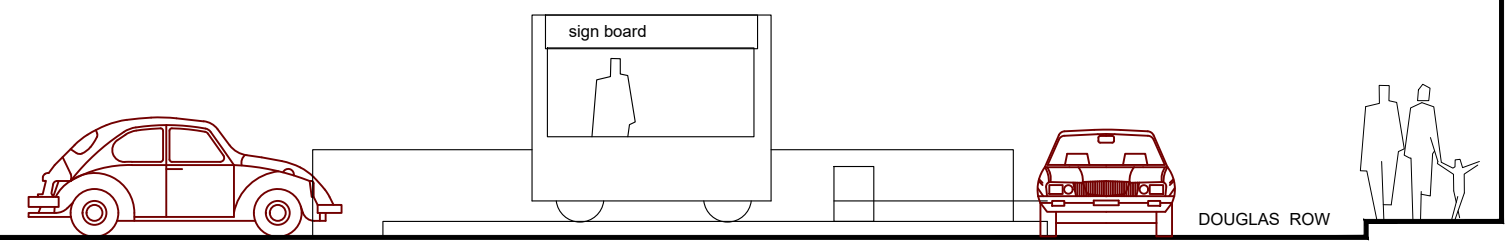
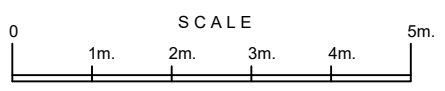
SITE LAYOUT PLAN 1-250

existing parking unaffected

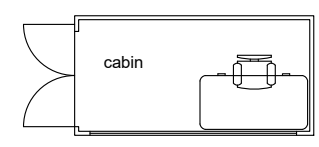
proposed sales cabin 1.5mx3m

existing parking unaffected

adjacent restaurant + shop under applicants ownership

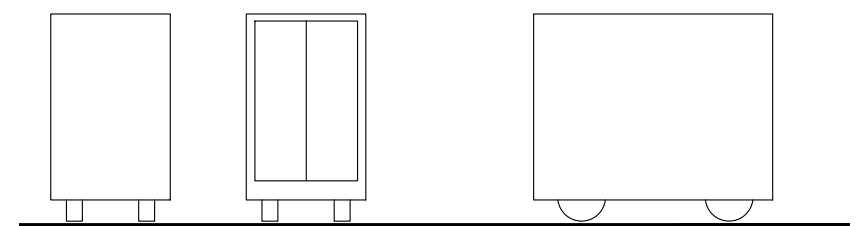


west elevation of cabin 1-100



cabin plan

proposed cabin : on movable trailer ; white with signage above hatch
1.5.x3.0x2.4m



north south east cabin elevations 1-100

chartered architect
taigh solais : 1 waterloo : isle of skye
<http://www.grigor-taylorassociates.co.uk>
tansygd@btinternet.com : 07720059219

temporary sales cabin : portree slipway
for dan corrigan
scale 1-1250/250/100@a3
dwg no. 1009-101a

