

IH DESIGNS (MORAY)

12 COUNCILLORS WALK,

FORRES IV36 1HA

01309 674368 or 07989499006

2nd November 2016

The Clerk,

The Moray Council Local Review Body,

Legal and Committee Services

Council Office, High Street, Elgin IV30 1BX

Dear Sirs

**Site 7no self storage containers on Site To Rear Of 24 26 And 28
High Street Forres Moray for Mr Carlo Miele. Application Ref
16/01305/APP Refusal date - 10th October 2016**

We consider the Application worthy of review and now respond as follows to the two reasons for refusal. The following comments are made with respect to this Refusal and the Granting of a two storey factory extension immediately adjacent to our site. Planning Ref 15/01455/APP approved on 8th December 2015 for Murdoch the Butchers, Forres.

Reason for Refusal

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 (Policies BE3, ED1, T2, T5, PP1 and IMP1) where:

1. the scale of the proposal it is overdevelopment within the curtilage of the site. The detrimental impact of this overdevelopment would be exacerbated by the site's presence within the conservation area, where a better standard of design and layout is required. "

Here we refer you to additional documents : Adjacent Site Plan, Elevations, Report of Handling and Final Decision.

Overdevelopment is not thought to be an issue as the scale of the proposal is far less intrusive, i.e. a container (2.4m high) just visible above an existing fence than that of a two storey factory extension approx 6m high. Both applications note are within the conservation area. The statement that refers to a better standard of design and layout should have also been applied to the two storey roughcast extension with a metal roof ! The gable of the two storey extension blanks off the windows of the adjacent timber building at Les Road car park, no cognisance was made of this at the design stage. Our application on the other hand does not impede of the amenity of this building.

Part of the justification for self storage is the Applicant requires space for storing packaging, the same reason for the two storey factory extension.

2. the space limitations for traffic movement and customer/staff parking in and around the site would be inappropriate for the use proposed.

The application site has to a certain extent off street parking although strictly speaking not in compliance with Moray Council standards. As evident from the " Adjacent Site Plan " there is no provision for staff parking, deliveries and collections. Was this approved with the deliveries being made directly at Leys Road public car park. We contend that the small scale infrequent use of the storage units are not an issue in this instance. It is worth drawing to your attention that the original two storey factory has no provision for Staff / Customer / Delivery / Collection and that the access road is frequently unavailable due to lorries and staff parking their vehicles in the turning area. Photograph attached.

It is noted that 15/01455/APP under policies IMP1, BE3, T2 and T5 received no comments from Planning, however this application did ! The adjoining business has no provision for Provision of Access (T2) or Parking Standards (T5) ! We do.

Another point to note is that under Town Centre Development R1 again no comment on a two storey factory extension. We have mobile containers which can be moved off site at any time.

Regarding comments this application received only one, i.e. Mr Graham Murdoch (local councillor) of Murdoch's Butchers while 15/01455/APP received **52** and only 1 in support yet still got approval !

Finally we attach the Title Deed Plan and a plan of the site carried out by a Land Surveyor to reflect who owns individual properties. The reason for this is to clarify three issues.

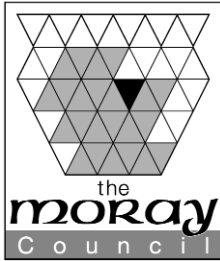
1. The correct Application Site Plan.
2. That planning consent for 15/01455/APP was based on what appears to be false information. The footpath from the two storey extension is actually on the Applicant's land.
3. The existing fire exit is again opening onto the Applicants land.

From the above comparisons between the two applications it appears that perhaps double standards are in operation and we sincerely ask you to review the process and handling of the Application. If further information is required please do not hesitate to contact myself or the Applicant.

Yours faithfully.

Ian Holmes.

cc. Mr Carlo Miele



**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Forres]
Application for Planning Permission**

TO Mr Carlo Miele
c/o IH Design
Eilean Dubh
12 Councillors Walk
Forres
Moray
IV36 1HA

With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Site 7 no self storage containers on Site To Rear Of 24 26 And 28 High Street
Forres Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **10 October 2016**

Pp

HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 (Policies BE3, ED1, T2, T5, PP1 and IMP1) where:

1. the scale of the proposal it is overdevelopment within the curtilage of the site. The detrimental impact of this overdevelopment would be exacerbated by the site's presence within the conservation area, where a better standard of design and layout is required.
2. the space limitations for traffic movement and customer/staff parking in and around the site would be inappropriate for the use proposed.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
BP/1		Elevations site and location plan

NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scot/eplanningClient

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

REPORT OF HANDLING

Ref No:	15/01455/APP	Officer:	Craig Wilson
Proposal Description/ Address	Proposed extension to factory unit at Factory To Rear Of High Street Forres Moray		
Date:	08.12.2015	Typist Initials:	LMC

RECOMMENDATION

Approve, without or with condition(s) listed below	Y	
Refuse, subject to reason(s) listed below	N	
Legal Agreement required e.g. S,75	N	
Notification to Scottish Ministers/Historic Scotland	N	
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	04/09/15	No objection subject to informative
Contaminated Land	01/09/15	No objection or comment
Transportation Manager	02/11/15	No objection subject to informative
Scottish Water	02/09/15	No objection subject to informative
Forres Community Council	13/10/15	No objection or comment to the proposed development
Estates, Central Services		No objection
Moray Council Other Depts - Education		No response at time of report

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
IMP1: Developer Requirements		
BE2: Listed Buildings		
BE3: Conservation Areas		
EP9: Contaminated Land		
T2: Provision of Access		
T5: Parking Standards		
PP3: Placemaking		
R1: Town Centre Development		

REPRESENTATIONS

Representations Received

YES

Total number of representations received: 52 (objection) and 1 (support)

Names/Addresses of parties submitting representations

Name and address details of parties submitting representations withheld in accordance with the Data Protection Act.

Summary and Assessment of main issues raised by representations

Issue:

In objection

- This application has not allowed proper public consultation as the application was advertised in the Forres Gazette 9/9/15 with a 2 week time for object.
- This will affect the Children at Andersons who have very little playground as it is. It would be a shame to lose what little grassed area is available and with children encouraged to play outdoors, proposal is detrimental to their fitness and well-being. The proposal is also considered to be contrary to Scottish Planning Policy (SPP) which refers to need to safeguard green infrastructure.
- Parents have not been properly consulted or provided with adequate information about the plan and the ground exchange or safety issues. When purchasing the neighbouring learning centre for office use, I had no prior notification of the development. The offer was put in 4/9/15 and the planning application came into the public domain on 8/9/15.
- The safety issues surrounding access during the building process including traffic and machinery are unacceptable. Detrimental effect on residents including increased traffic problems including problems for resident and town centre parking. It would also put a strain on, and increase traffic flow in an already overcrowded car park with poor access and egress to the High Street. There is currently insufficient parking for the existing business.
- This development is too large for designated area and at present is part of a green belt play area for school children. Loss of green space available and accessible to children, and against national policy about leading healthier lives.
- The height of the building affects the skyline reducing natural light. The application will have a detrimental effect on the conservation area and the existing building already mars the skyline and view. Also, given proximity of building and height, it will restrict light and reduce access for maintenance, affect foundations and increase in traffic and deliveries will affect business. Overdevelopment.
- They already have a huge factory (by Forres standards) plonked right next to their playground with all the associated noise and smells emitting from it (including smells out of the fan into the playground! Surely a development of this kind will interrupt their education time with noise, dust workmen and machinery? The smell produced by the factory in cooking pies is disgusting and would be unacceptable in a residential and high street setting and for the adjacent school. There will be an unacceptable increase in noise from the production.
- There is enough land available at Greshop and Waterford without having to build on unsuitable spaces just off the High Street. If wanting to expand this commercial business then should move onto an industrial estate. The business has outgrown its present premises and now of a scale more appropriately suited to an area specifically designated for employment.
- The intensification of use is such as to render it incompatible with adjacent town centre uses and brings it into conflict with the terms of Policy R1 'Town Centre Development' with no legitimate need for proposal of this scale to be located within the town centre.
- Drainage.

In support

- This development will bring two real benefits to Forres town centre. Firstly it will lead to more employment that will then be more likely to use High Street shops and also help secure the future of the existing butchers shop on the High Street. Pushing this kind of industry out to industrial estates on the outskirts of towns would further lead to the death of the High Street.

Comments (PO):

In objection

- The neighbour notification procedure and advertisement of the application were carried out correctly. In total 21 days were available for comment on application once received.
- The area of ground subject of the application is set at a lower level than the rest of the school playground and represents a very small percentage of the total playground area. A condition of sale is that a new play area is created by tidying up a currently unused part of the playground offsetting any loss. The proposal is not contrary to the SPP in relation to green infrastructure.
- The sale of ground and whether prior discussion was had between the school and parents is not a planning matter.
- The Transportation Manager has not objected to the proposed development on parking or road safety grounds.
- The proposed development is not too large for the designated area and can be accommodated within the red line boundary. The site is not designated in the local plan as green belt.
- The extension to factory production unit will improve storage capacity removing the need to have refrigerated vehicles parked in lane to the rear which will improve current arrangements.
- The proposed extension to existing building is comparable in scale to parent property and no higher. It is subservient to the larger neighbouring primary school building and located to the rear of the High Street, the extension will not be readily visible from key vantage points within the conservation area. There will be no impact on the skyline, and with no residential properties in close proximity to the development the height of the building does not raise significant amenity issues to warrant refusal of the application.
- The Environmental Health Manager has not objected to the proposed development and no noise and/or odour control measures are required. An element of disturbance is inevitable during construction of the development. However, for the duration of that phase the development/developer would be expected to observe all relevant health and safety and other best practices to minimise disturbance and disruption.
- Regardless of whether there are alternative sites suitable for development the applicant has provided a locational justification for the extension for this site. The new extension will enable the existing food production unit to operate more efficiently and will house equipment used after the cooking process to package and store goods. The scale, form, massing and location of the extension comply with development plan policies covering these aspects of the development.
- The proposed development is located outwith the core retail area as identified on the settlement plan and complies with Policy R1. The extension is considered to have a neutral effect on the conservation area designation and located within the town centre the site benefits from adequate servicing and infrastructure.
- Applicant proposes to connect to mains drainage system. Scottish water has been consulted and has not objected.

In support

- Existing production facilities are at capacity and as such a business case submitted in support of this application identifies the wider economic benefits of this project and provides justification for a building of this size in this location.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the approved Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. In this case the main planning issues are considered below.

Proposal

- Extend existing production facility serving Murdoch's Butchers
- Material finish of extension will match existing building; rendered finish, profile metal sheet roofing
- Cut and fill ground works and provision of new entrance gate (rear access to school)
- No designated parking to be provided.

Site

- Site forms part of the existing playground area within Andersons Primary School.
- Premises to be used in conjunction with existing butchers shop production facility located to rear of established Butchers shop fronting High Street, Forres
- Located within the designated Forres Conservation Area and in close proximity to a number of listed buildings, including the Category B listed, Andersons Primary School.
- Site enclosed by established buildings either side, school playground to the south and fenced compound to the north.

Impact of proposed development on listed building (BE2 and IMP1)

Policy BE2: Listed Buildings seeks to protect the character, integrity and setting of listed buildings and requires development proposals i.e. alterations/extensions to listed buildings to be of the highest quality and to respect the original structure in terms of setting, scale, materials and design.

Policy IMP1 (in short) seeks to ensure that development proposals relate satisfactorily to their surroundings in terms of siting, design, servicing and amenity etc. It also seeks to ensure that historic environment resources are protected.

The new extension will have limited impact on the setting of Andersons Primary School, which in some ways is already compromised by the existing factory production unit. In design terms the proposed extension will match the form, massing and appearance of existing factory building. It is located on western side of the factory and further away from the listed building. Key views of the listed building (taken from South Street/High Street) will be maintained. Proposal will not have a detrimental impact on the setting of the nearby listed building and complies with Policy BE2.

Design and Siting

BE3, R1 and IMP1

Policy BE3 requires new development within conservation areas to preserve and enhance the character and appearance of the subject area, having regard to scale, height, materials, colour, detailed design and use. Policy R1 Town Centre Development seeks to create a mix of uses appropriate to the role, scale and function of the centre. Policy IMP1 (as already outlined above) seeks to ensure that development proposals relate satisfactorily to their surroundings in terms of siting, design etc.

The proposed development is located outwith the core retail area as identified on the settlement plan. The primary policy intention here is to promote the continued use of town centres for a diverse mix of uses that includes retail and commercial. This is supported if the design is sensitive to the location and adequate infrastructure and servicing is available. The scale, form and massing of the proposed building is satisfactory given the somewhat functional design of the modern existing factory production facility. The extension is subservient in scale and massing and through the use of appropriate material finishes (render and profile metal roofing) ensuring that the building responds

well to its setting. The extension is considered to have a neutral effect on the conservation area designation and located within the town centre the site benefits from adequate servicing and infrastructure.

In land use planning terms there is a locational justification for the extension. The new extension will enable the existing food production unit to operate more efficiently and will house equipment used after the cooking process to package and store goods. The surrounding land use is mixed but is predominantly other commercial and business use ensuring that the extended factory fits well within existing town centre uses.

Amenity IMP1

To facilitate the factory expansion the proposal will use a section of land comprising part of Anderson's Primary School's playground extending to approximately 223m² and also the surfaced lane at the rear of its shop extending to approximately 92m². The area of ground required for the extension is set a lower level that slopes down from the rest of the playground; it is shaded by surrounding buildings and suffers drainage problems.

There has been a significant body of objection to the proposed development on the grounds that part of the school playground will be lost a result of the proposed development. However the area of ground subject of the application represents a small proportion of the total green space available at the school. The section of playground near the site containing play equipment will not be affected by the proposed extension. Although a separate matter from any planning considerations, it is understood that a condition of the sale of the ground includes the requirement to tidy up another unused area of playground by the applicant within 6 weeks of the extension completion.

The proposed extension will create additional storage space for the existing factory removing the need to have refrigerated vehicles parked outside to store goods. The environmental health section has been consulted and has not objected to the proposed development on noise or odour grounds.

The proposed extension to existing building is comparable in scale to parent property and no higher. The height of the building does not raise significant amenity issues to warrant refusal of the application.

Access and Parking Policies T2 and T5

The Transportation Manager has not objected to the proposed development. The proposed extension would provide space to enable more efficient production and enhanced storage facilities. The enhanced storage facilities would allow the operator to better manage deliveries and to cease the current practice of using refrigerated vehicles parked within the lane adjacent to the site for storage of goods. The proposal complies with policies T2 and T5.

Conclusion

The proposal is on balance, acceptable and does not conflict with current development plan policies.

Existing production facilities are at capacity and as such a business case submitted in support of this application identifies the wider economic benefits of this project and provides justification for a building of this size in this location.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision are:-

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
06/02807/FUL	Erect new butcher production facility on Site To Rear Of 10 High Street Forres Moray			
	Decision	Permitted	Date Of Decision	12/04/07
06/02337/GPA	Proposed preparation/cook building to service existing shop on Site Adjacent To Andersons Primary School High Street Forres Moray			
	Decision	ID/PE Answered	Date Of Decision	02/10/08
13/02217/ID	Change of use of ground at Andersons Primary School High Street Forres Moray IV36 1DB			
	Decision	Planning Permission Required	Date Of Decision	07/03/14

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Forres Gazette	Planning application affecting LB/CA	29/09/15	
PINS	Planning application affecting LB/CA	29/09/15	

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *

* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
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Summary of terms of agreement:
Location where terms or summary of terms can be inspected:

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO

Summary of Direction(s)

Comments for Planning Application 16/01305/APP

Application Summary

Application Number: 16/01305/APP

Address: Site To Rear Of 24 26 And 28 High Street Forres Moray

Proposal: Site 7no self storage containers on

Case Officer: Derek Wilson

Customer Details

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inadequate plans
- Legal issues
- Over-development of site
- Parking
- Road access
- Traffic

Comment: Dear Sir/Madam,

I am writing to object to the proposals to provide 7No self storage containers on the site to the rear of 24,26,28 High Street, Forres.

The reason for my objection is that the plans do not accurately reflect the position of the sites existing timber fence boundaries.

The boundary to the rear of the site does not run at a 90 degree angle between the neighbouring buildings, while the boundary fence to the left is shown running down the side elevation of the neighbouring property, which again is not accurate as this area forms part of the existing buildings emergency exit.

The proposals currently show 7No storage containers which run the entire length of the site. As the rear and left hand boundaries are incorrect it may not be possible to install the desired number of containers.

Further to my comments above, the left hand boundary is currently shown running down the side elevation of the neighbouring property, the proposed containers are also shown running the entire

length of the site, this would suggest that the emergency exit from the neighbouring property will be blocked by a container and rendered useless.

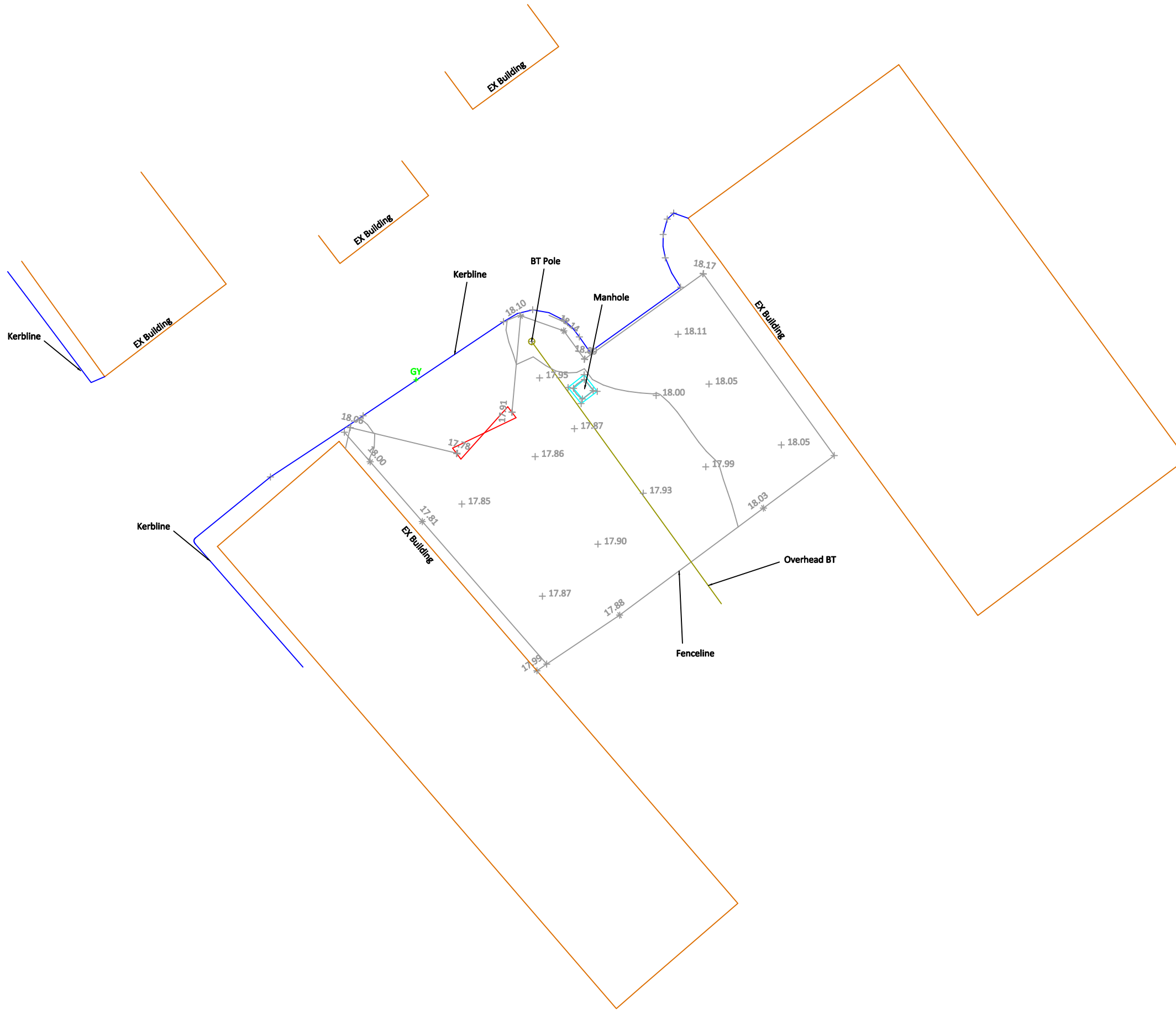
Parking at the moment isn't often an issue, but an increased traffic flow may also have an affect on the surrounding properties and businesses who require access and have regular deliveries via arctic lorries and other heavy goods vehicles. If a number of the container owners are on site with separate vehicles, this may cause an issue.

Finally, with the storage containers being located less than 1m from the boundaries, will they be certified as non-combustible should someone wish to store flammable substances, and how would this be regulated.

Architectural drawings in support of my objection can be provided if required and I ask that you do not hesitate to contact me should you have any queries whatsoever.

Regards,

A solid black rectangular box used to redact the sender's name and contact information.



gmcsurveys
 Surveys, Setting Out, Civil Engineering Design
 T: 07557 431 702
 E: gmcsurveys@gmail.com

DRAWING TITLE
Topographic Survey

LOCATION
Leys Road, Forres

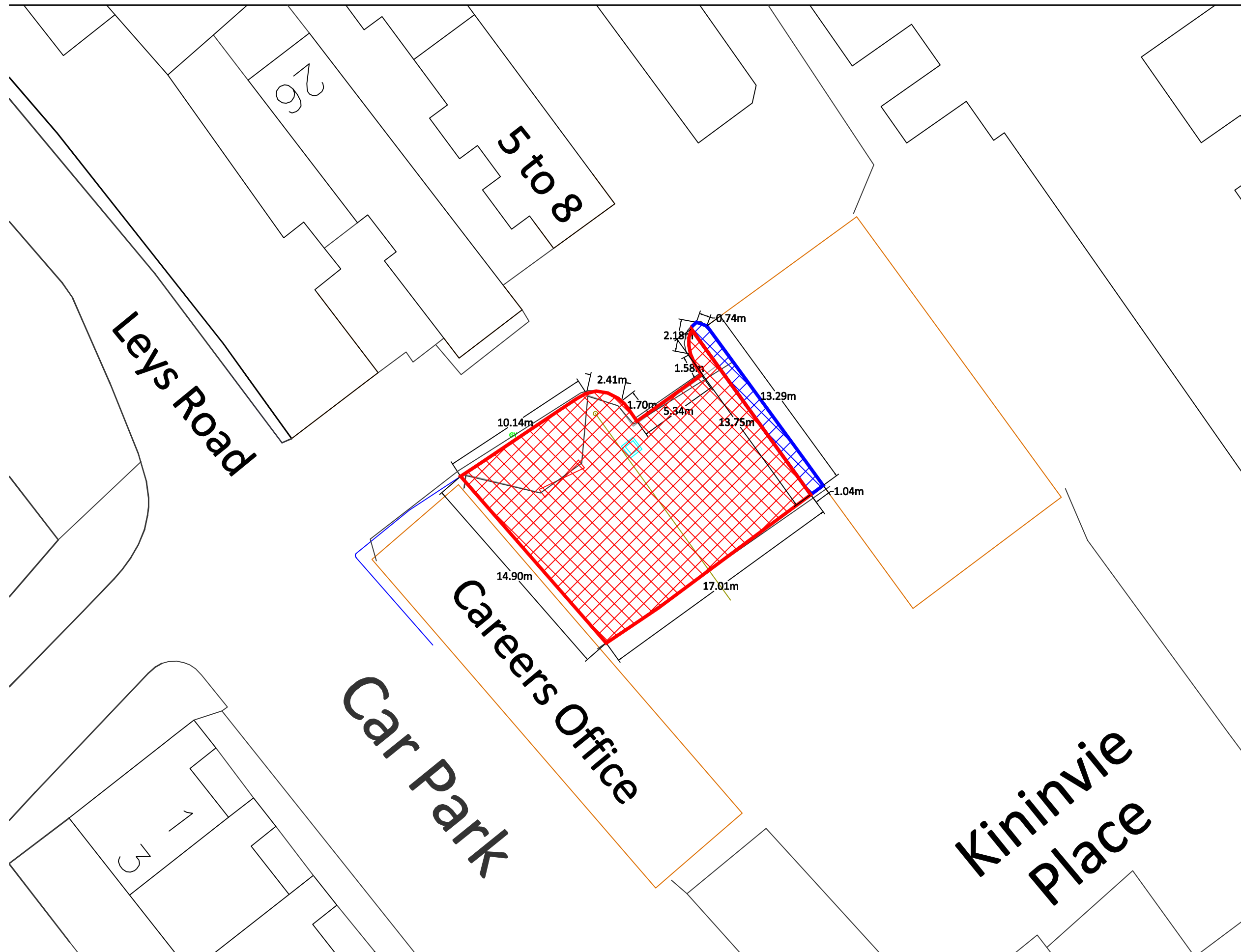
SCALE
1:200 (at A3)

DATE
April 14

CLIENT
C Miele

DRAWING NO.
15/0178/01

Area hatched in Red = 0.024ha otb
Area hatched in Blue = 0.001ha otb



gmcsurveys
Surveys, Setting Out, Civil Engineering Design
T: 07557 431 702
E: gmcsurveys@gmail.com

DRAWING TITLE
Title Plan

LOCATION
Leys Road, Forres

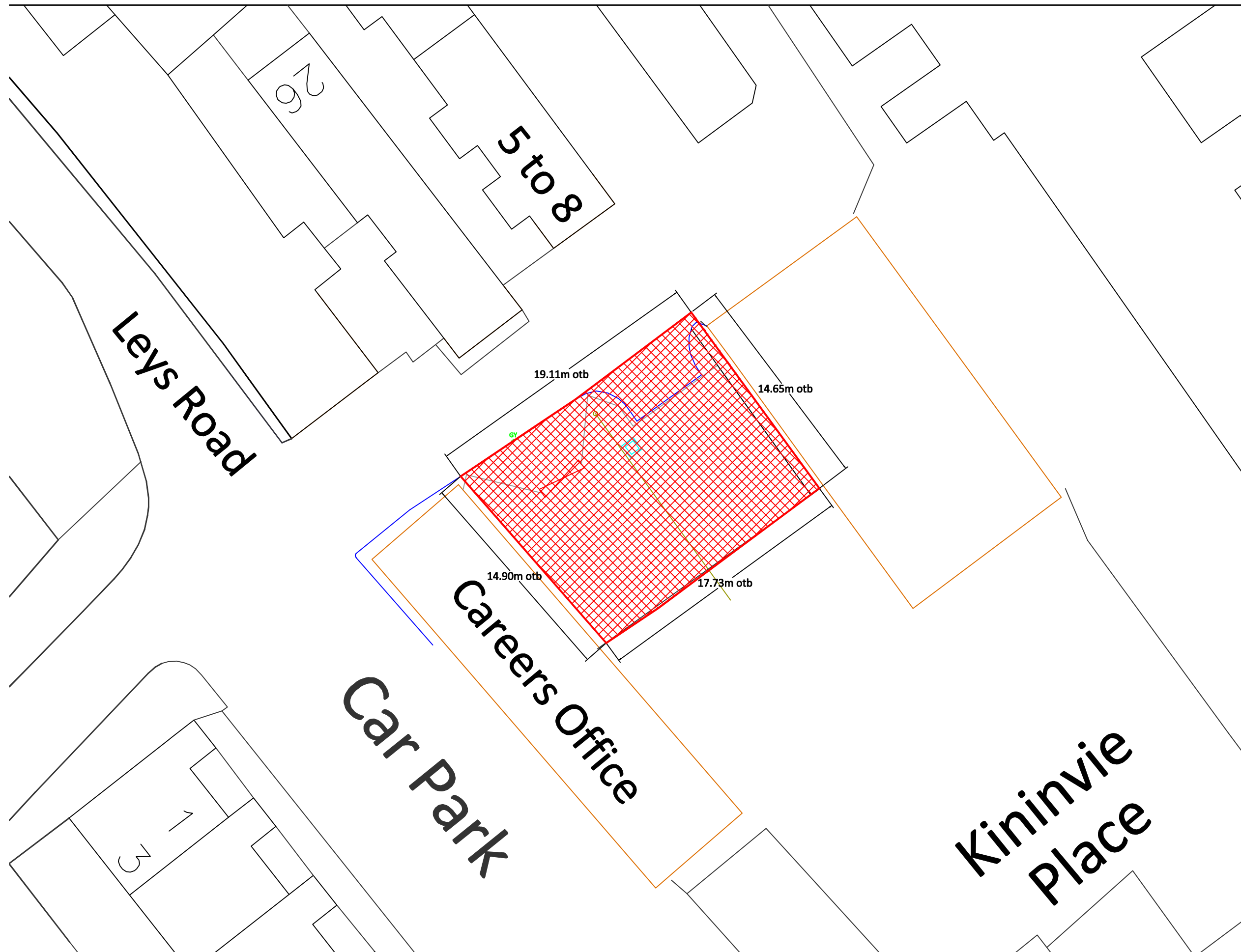
SCALE
1:250 (at A3)

DATE
April 14

CLIENT
C Miele

DRAWING NO.
15/0178/02

Area hatched in Red = 0.027ha otb



REV:	DESCRIPTION:	BY:	DATE:
STATUS: ISSUE			

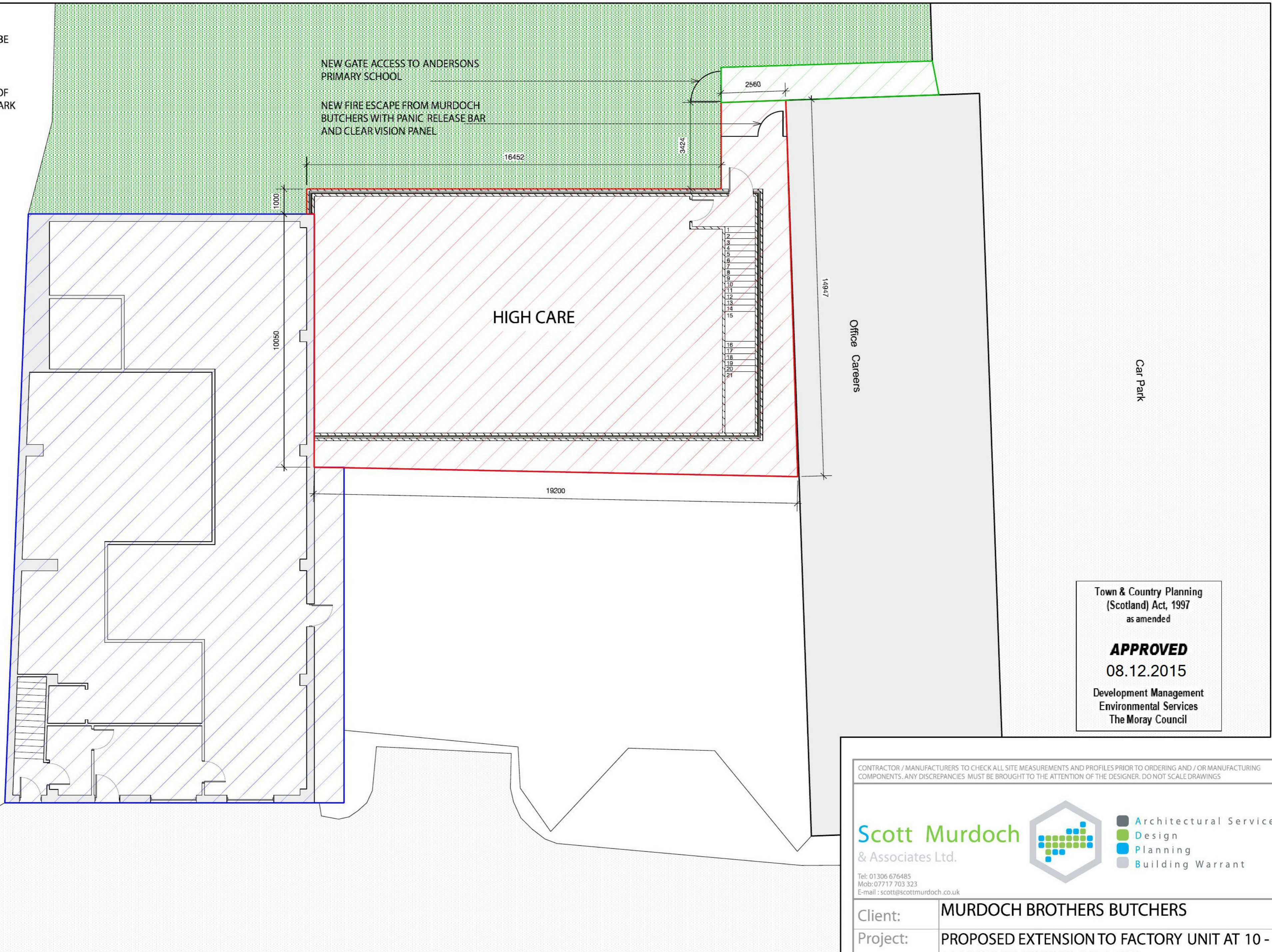
gmcsurveys
Surveys, Setting Out, Civil Engineering Design
T: 07557 431 702
E: gmcsurveys@gmail.com

CLIENT: Mr C Miele

SITE: Leys Road
Forres
TITLE: Title Plan

SCALE AT A4:	DATE:	DRAWN:	CHECKED:
1:250	AUG16	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
LR01	900	-	

BLUE HATCH DENOTES LAND OWNED BY APPLICANT
 RED HATCH DENOTES LAND TO BE PURCHASED FROM THE MORAY COUNCIL
 GREEN HATCH DENOTES RIGHT OF SERVITUDE TO LEYS ROAD CARPARK



Town & Country Planning (Scotland) Act, 1997 as amended

APPROVED

08.12.2015

Development Management
 Environmental Services
 The Moray Council

CONTRACTOR / MANUFACTURERS TO CHECK ALL SITE MEASUREMENTS AND PROFILES PRIOR TO ORDERING AND / OR MANUFACTURING COMPONENTS. ANY DISCREPANCIES MUST BE BROUGHT TO THE ATTENTION OF THE DESIGNER. DO NOT SCALE DRAWINGS

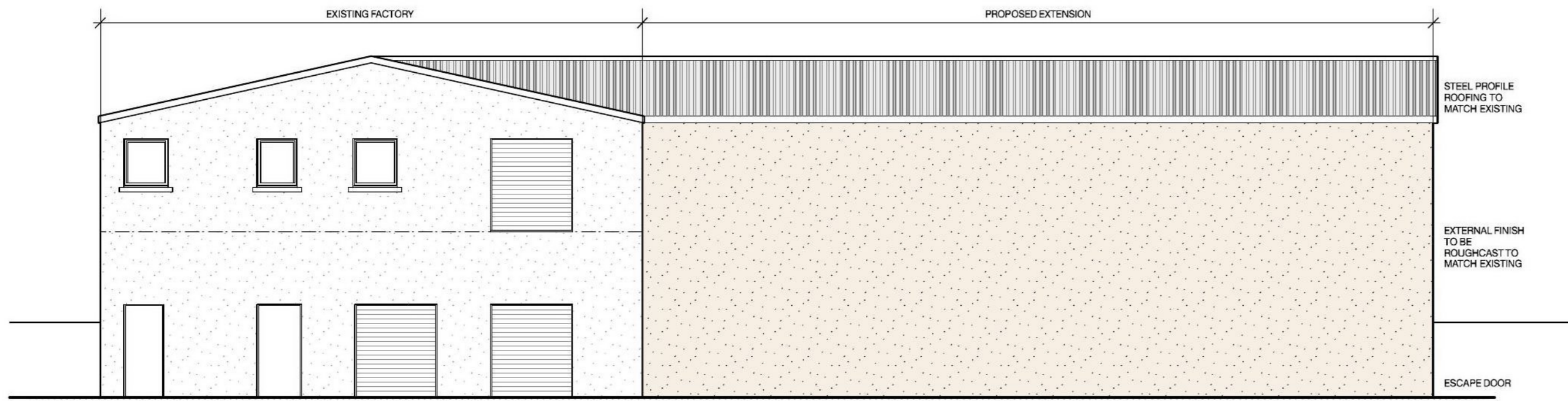
Scott Murdoch & Associates Ltd.

Tel: 01306 676485
 Mob: 07717 703 323
 E-mail: scott@scottmurdoch.co.uk

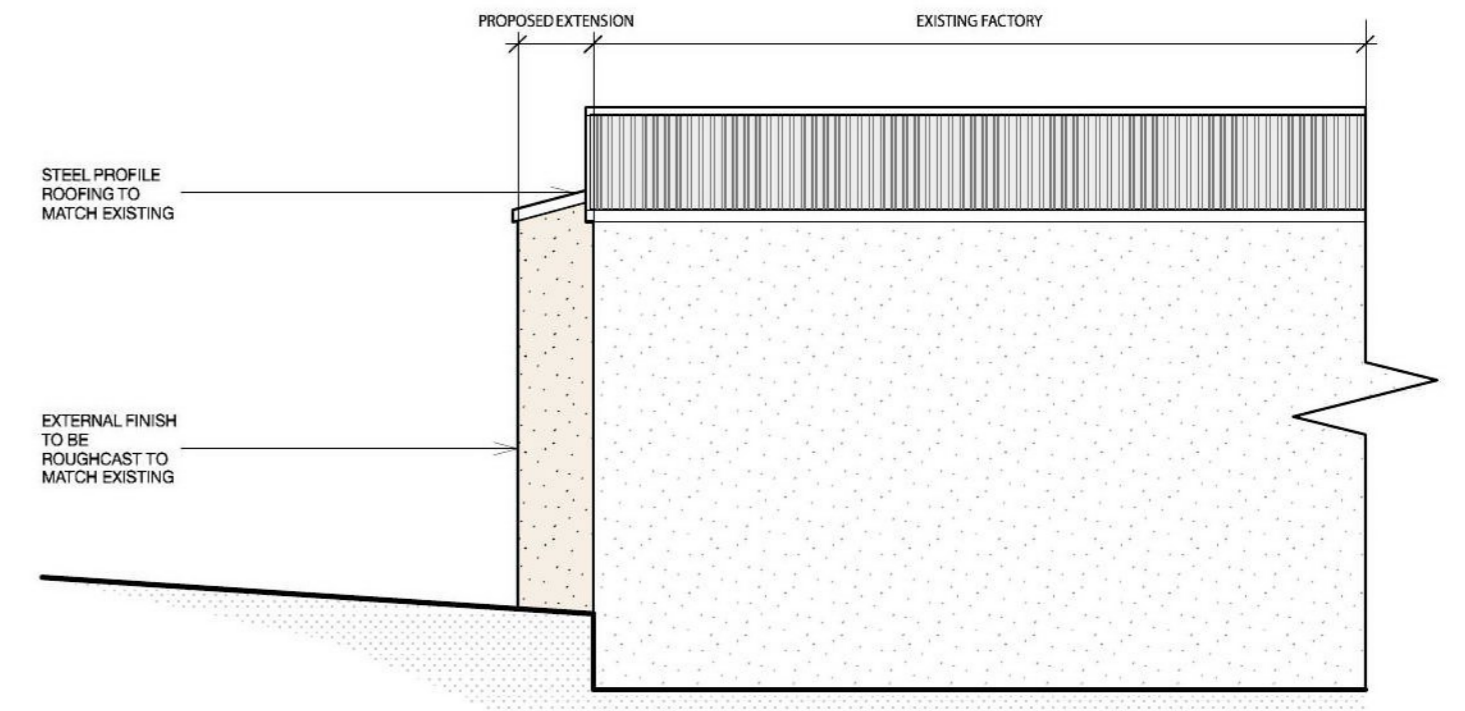
- Architectural Services
- Design
- Planning
- Building Warrant

Client:	MURDOCH BROTHERS BUTCHERS
Project:	PROPOSED EXTENSION TO FACTORY UNIT AT 10 - 12 HIGH ST, FORRES, IV36 1DB
Reference:	SM/1505/MURDOCH/01A

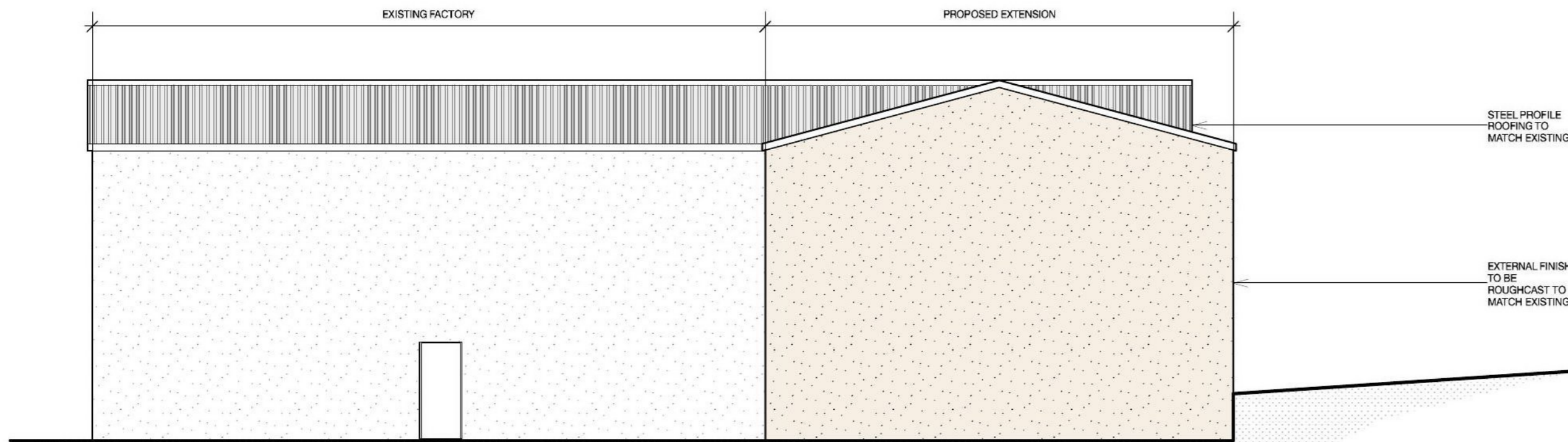
SITE PLAN 1:100 (A3)



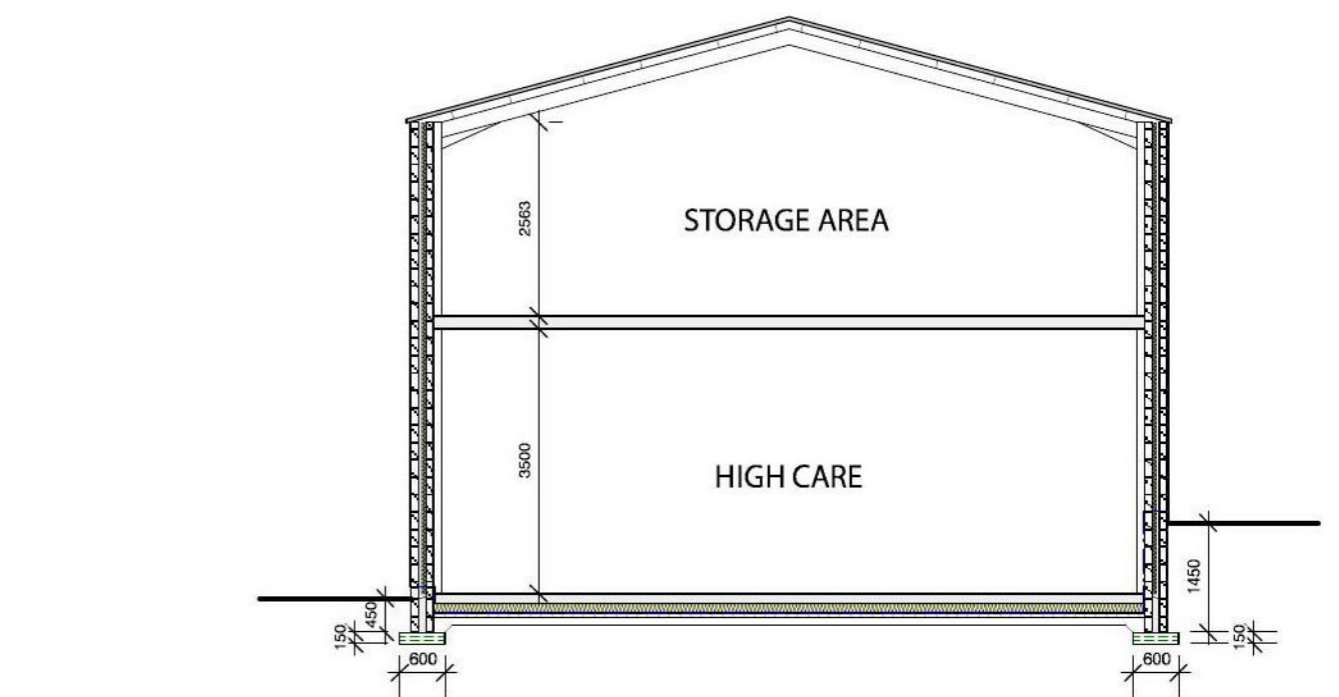
FRONT ELEVATION 1:100



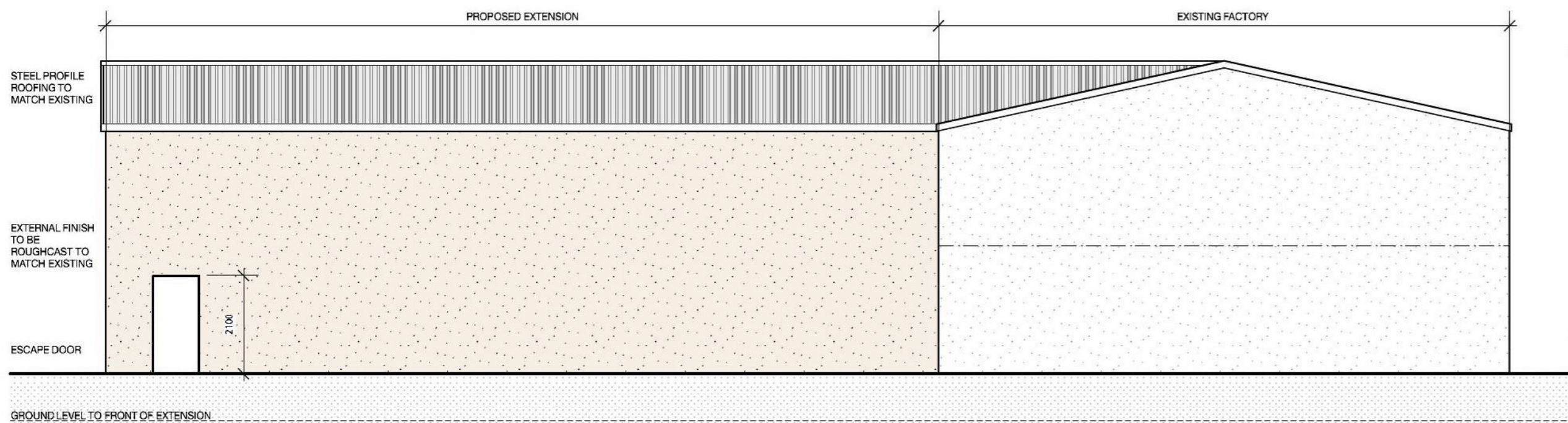
SIDE ELEVATION 1:100



SIDE ELEVATION 1:100



PROPOSED SECTION 1:100



REAR ELEVATION 1:100

Town & Country Planning
(Scotland) Act, 1997
as amended

APPROVED
08.12.2015

Development Management
Environmental Services
The Moray Council

CONTRACTOR / MANUFACTURERS TO CHECK ALL SITE MEASUREMENTS AND PROFILES PRIOR TO ORDERING AND / OR MANUFACTURING COMPONENTS. ANY DISCREPANCIES MUST BE BROUGHT TO THE ATTENTION OF THE DESIGNER. DO NOT SCALE DRAWINGS

Scott Murdoch & Associates Ltd.

- Architectural Services
- Design
- Planning
- Building Warrant

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Mob: 07717 703 323
E-mail: scott@scottmurdoch.co.uk

Client:	MURDOCH BROTHERS BUTCHERS
Project:	PROPOSED EXTENSION TO FACTORY UNIT AT 10 - 12 HIGH ST, FORRES, IV36 1DB
Reference:	SM/1505/MURDOCH/02

Scott Murdoch & Associates Ltd

Registered in Scotland No: SC429612