

**Item: 5**

**Planning Committee: 10 December 2025.**

**Proposed Siting of Three Houses and Creation of Two Accesses on Land Near Merlehaven, South Ronaldsay.**

**Report by Director of Infrastructure and Organisational Development.**

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## **1. Overview**

- 1.1. This report considers an application for planning permission in principle for the siting of three houses and creation of two accesses on land near Merlehaven, South Ronaldsay. Two objections have been received in relation to road safety, access, amenity and wastewater flooding. The development complies with relevant policies, and the objections and other material considerations do not merit refusal of the application.

Application Reference:	25/276/PIP.
Application Type:	Planning Permission in Principle.
Proposal:	Siting of three houses and create two accesses.
Applicant:	Mr William Annal.
Agent:	Grieve Associates Ltd, East Nearhouse, Birsay, KW17 2ND.

- 1.2. All application documents (including plans, consultation responses and valid representations) are available for members to view [here](#) (click on “Accept and Search” to confirm the Disclaimer and Copyright document has been read and understood, and then enter the application number given above).

## **2. Recommendation**

- 2.1. It is recommended that members of the Committee:
- Approve the application for planning permission in principle in respect of the proposed siting of three houses and creation of two accesses near Merlehaven, South Ronaldsay, subject to the conditions detailed in Appendix 1 to this report.

### **3. Consultations**

#### **Roads Services**

- 3.1. Roads Services has confirmed no objection subject to planning conditions regarding public road widening, introduction of a passing place and access construction.

#### **Scottish Water**

- 3.2. Scottish Water has confirmed no objection.

#### **Engineering Services**

- 3.3. Engineering Services has confirmed no objection.

#### **Development and Marine Planning – Policy**

- 3.4. Development and Marine Planning – Policy has confirmed the development would be compliant with the relevant policies in Orkney Local Development Plan 2017 and National Planning Framework 4.

### **4. Representation**

- 4.1. Two valid representations (objections) have been received from:

- Soibhan Robertson, Merlehaven, KW17 2RH.
- Tony Whenman, Banks, Herston, KW17 2RH.

- 4.2. The representations are on the following grounds:

- Overlooking issues towards neighbouring properties due to the potential orientation of the future houses towards public road.
- Limited property demand of the area due to limited public transport and other infrastructure and potential crisis for health and care sector in Orkney due to attraction of elderly people from outside Orkney.
- Road safety issues due to more traffic on the existing single-track public road.
- Impacts of the Roads Services initial suggestion to provide access via the shared road behind Newhouse, as that could create access issues to existing properties, particularly during construction stage.
- Potential foul water flooding due to the poor soakaway capacity of the existing heavy clay soil type.

## 5. Relevant Planning History

Reference	Proposal	Location	Decision	Date
25/227/PIP.	Siting of three houses and create two accesses	Merlehaven (Land Near), South Ronaldsay, Orkney.	Withdrawn.	13.08.2025.

## 6. Relevant Planning Policy and Guidance

- 6.1. The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).
- 6.2. National Planning Framework 4 can be read on the Scottish Government website [here](#).
- 6.3. The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:
- National Planning Framework 4 (NPF4):
    - Policy 9 - Brownfield, vacant and derelict land and empty buildings.
    - Policy 17 - Rural Homes.
  - Orkney Local Development Plan 2017 (OLDP):
    - Policy 5 - Housing.
  - Planning Policy Advice:
    - Amenity and Minimising Obtrusive Lighting (2021).
  - Supplementary Guidance:
    - Settlement Statements.

## 7. Legislative Position

- 7.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”.

7.2. Annex A of Planning Circular 3/2013: ‘development management procedures’ provides advice on defining a material consideration, and following a House of Lords’ judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: “If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.”

7.3. Annex A continues as follows:

- The House of Lords’ judgement also sets out the following approach to deciding an application:
  - Identify any provisions of the development plan which are relevant to the decision.
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
  - Consider whether or not the proposal accords with the development plan.
  - Identify and consider relevant material considerations for and against the proposal.
  - Assess whether these considerations warrant a departure from the development plan.
- There are two main tests in deciding whether a consideration is material and relevant:
  - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
  - It should relate to the particular application.
- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy and UK Government policy on reserved matters.
  - The National Planning Framework.
  - Designing Streets.
  - Scottish Government planning advice and circulars.
  - EU policy.
  - A proposed local development plan or proposed supplementary guidance.
  - Community plans.
  - The environmental impact of the proposal.
  - The design of the proposed development and its relationship to its surroundings.
  - Access, provision of infrastructure and planning history of the site.
  - Views of statutory and other consultees.
  - Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long-term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

7.4. Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

- 7.5. An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

#### **Status of the Local Development Plan**

- 7.6. Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still a significant material consideration when considering planning applications. The primacy of the plan should be maintained until a new plan is adopted. However, the weight to be attached to the Plan will be diminished where policies within the plan are subsequently superseded.

#### **Status of National Planning Framework 4**

- 7.7. National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. The statutory development plan for Orkney consists of NPF4 and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. It is important to note that NPF4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making.
- 7.8. In the current case, there is not considered to be any incompatibility between the provisions of NPF4 and the provisions of the Orkney Local Development Plan 2017, to merit any detailed assessment in relation to individual NPF4 policies.

## **8. Assessment**

### **Background and Proposal**

- 8.1. The application site is in agricultural use, located near Merlehaven, South Ronaldsay, adjoining the B9042 single track public road, as indicated in the Site Plan attached as Appendix 2 to this report.
- 8.2. Planning permission in principle is sought to site three houses with two accesses. All three sites would be adjoined by the public road.

### **Principle**

- 8.3. The site is located within the Herston settlement boundary and is part of a site allocated for housing development (HE-1) in the Local Development Plan, with an indicative overall capacity of six houses. Accordingly, there is general policy support to site houses, in accordance with Policy 5A of Local Development Plan

and Policy 9(a) of NPF4, subject to individual plot sizes and ensuring the development would not prejudice future development of houses or associated infrastructure within the allocation.

- 8.4. The proposed housing plot layouts and scales would be consistent with neighbouring residential properties, which fulfils the required criteria of the design guidance for Herston in Supplementary Guidance: Settlement Statements and in general compliance with Policy 17(a)(i) of NPF4.
- 8.5. Although the adjacent site within the housing allocation (HE-1) is not owned by the same applicant, the proposed siting would ensure that the long-term development of the adjacent land would not be hindered, in accordance with Policy 5A(i) and (ii) of the Local Development Plan. Development and Marine Planning – Policy has no objection to the principle of the development.

### **Access and Parking**

- 8.6. Roads Services has confirmed no objection to the proposal to introduce a single access for Plot 3 and a shared access for Plots 1 and 2. The accesses would be constructed in accordance with the Council's access detail SD-05 (access with a service bay) which would be controlled by planning conditions.
- 8.7. It is stated in the objection that there could be road safety issues due to increased traffic joining the existing single-track road from the proposed development (and other nearby upcoming housing developments). Including taking account of additional pressure on the public road network, Roads Services has recommended that part of the public road be widened across the frontage of the site, which would be secured by planning condition. Notwithstanding objections raised, the improvements that would be secured by condition would be adequate to protect the safety of road users and the capacity of the public road network.
- 8.8. It is also stated in the objection that an initial suggestion by Roads Services to provide an access via the shared road behind Newhouse would create access issues affecting existing properties; on the basis the applicant has no control over much of the overall housing allocation, the suggestion has been withdrawn by Roads Services. As such, there would be no impact on this shared access.
- 8.9. Roads Services has also recommended construction of a passing place to protect the capacity of the road network, which would be secured by planning condition.

## **Water Supply and Drainage**

- 8.10. The public water supply from Kirbister Water Treatment Works is available in the vicinity where the future developments could possibly be serviced. Scottish Water has no objection to the application and further information and guidance can be found in the consultation response.
- 8.11. No public wastewater infrastructure is available in the vicinity, and it is stated in the objection that there would be potential impacts on the wider area from the waste water drainage system of the proposed development due to the existing heavy clay soil type. Private treatment options would be pursued in any future submission, noting that the current application is in principle only. It is also relevant that for any development to be constructed, it must also pass relevant tests in relation to building regulations.
- 8.12. The surface water would require to be managed within the site boundary in accordance with the principles of Sustainable Drainage Systems (SuDS) and demonstrate that there would be no extra burden to the surrounding drainage as controlled by planning condition.

## **Erosion Risk**

- 8.13. The Dynamic Coast mapping based on national scale data indicates that the coastline below the site is indicated to be in 'erosion vicinity'. Engineering Services was consulted and does not consider the site to be at risk of coastal erosion due to the relative shelter of the site and its distance from the shore. A site scale analysis would be conducted when processing any future planning application.

## **Residential Amenity**

- 8.14. In relation to the representation raised regarding potential overlooking issues, it is considered that there is adequate distance from the closest neighbouring house to the application site boundary, approximately 19 metres, and on the basis the future house design would almost certainly not be located immediately on the site boundary, the 21 metre distance recommended by Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021) could therefore be achieved. In any case, the current application is in principle only, and residential amenity would be considered in any future planning application, in relation to the location and orientation of any future house design, and window openings within that house design.



## Other matters

- 8.15. In relation to the representation raised regarding the property demand and impacts on health and care sector in Orkney, these matters are not of sufficient weight to merit detailed consideration in the context of scale of development proposed.

## 9. Conclusion and Recommendation

- 9.1. The proposed development complies with relevant policies of National Planning Framework 4 and the Orkney Local Development Plan 2017. The proposal is acceptable in principle, and in terms of layout and impact on the residential amenity. There are no material considerations, including those raised in the objections, that outweigh this conclusion. The application is therefore recommended for approval, subject to the conditions attached as Appendix 1 to this report.

### For Further Information please contact:

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### Implications of Report

1. **Financial:** None.
2. **Legal:** Detailed in section 7 above.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
4. **Human Resources:** None.
5. **Equalities:** Not relevant.
6. **Island Communities Impact:** Not relevant.
7. **Links to Council Plan:** Not relevant.
8. **Links to Local Outcomes Improvement Plan:** Not relevant.
9. **Environmental and Climate Risk:** None.
10. **Risk:** If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission on the basis of the proposal being contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to provide clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

- 11. Procurement:** None.
- 12. Health and Safety:** None.
- 13. Property and Assets:** None.
- 14. Information Technology:** None.
- 15. Cost of Living:** None.

### **List of Background Papers**

Orkney Local Development Plan 2017, available [here](#).

National Planning Framework 4, available [here](#).

### **Appendices**

Appendix 1 – Planning conditions.

Appendix 2 – Location Plan.

## Appendix 1.

1. The development hereby approved to which this planning permission in principle relates must be begun not later than the expiration of five years, beginning with the date on which the permission in principle is granted, which is the date of this decision notice. If development has not begun at the expiration of this period, the planning permission in principle lapses.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. No development shall commence until all matters specified below have been approved on application to the Planning Authority:

- i. A detailed layout of the site of the proposed development.
- ii. Site levels as existing and proposed, based on a fixed datum point.
- iii. The design and external appearance of the proposed development (all buildings and structures).
- iv. All hard and soft landscaping proposals for the site of the proposed development (including boundary treatments).
- v. Details of access and parking arrangements.
- vi. Details of the proposed water supply arrangements.
- vii. Details of the foul drainage disposal.
- viii. Details of the management of surface water.
- ix. Details of refuse and recycling bin storage, including for collection.
- x. Full details of biodiversity enhancement measures in pursuance of Policy 3 of National Planning Framework 4.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to commencement of development.

3. No other development shall commence until the access hereby approved from the public road to Plots 1 and 2 has been constructed to the Council's Roads Services standard drawing 'SD-05 (Typical Access Over Verge with Service Bay)' for 2 to 4 dwellings, attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. Thereafter the access shall be retained in accordance with these details throughout the lifetime of the development.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

4. No other development shall commence until the access hereby approved from the public road to Plot 3 has been constructed to the Council's Roads Services standard drawing 'SD-05 (Typical Access Over Verge with Service Bay)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. Thereafter the access shall be retained in accordance with these details throughout the lifetime of the development.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

5. No development shall commence until a drawing has been submitted to and approved, in writing, by the Planning Authority, showing a realignment of the boundary of the site with the B9042 in a southerly direction, to facilitate a carriageway width of 5.5 metres and a verge width of 1.5 metres, across the frontage of the housing allocation. The boundary and extent of the development, in accordance with Condition 2 above, shall include realigned boundary, as approved.

Reason: To safeguard land to enable widening of the B9042 should the remainder of development site HE-1 be developed.

6. No development shall commence until full details of the location of a passing place on the B9042 are submitted to and approved, in writing, by the Planning Authority, in conjunction with Roads Services. No other development shall commence within the application site until this passing place has been constructed wholly in accordance with the approved location, and constructed in accordance with the Council's detail for a passing place, attached to and forming part of this decision notice.

Reason: To protect the safety of road users.

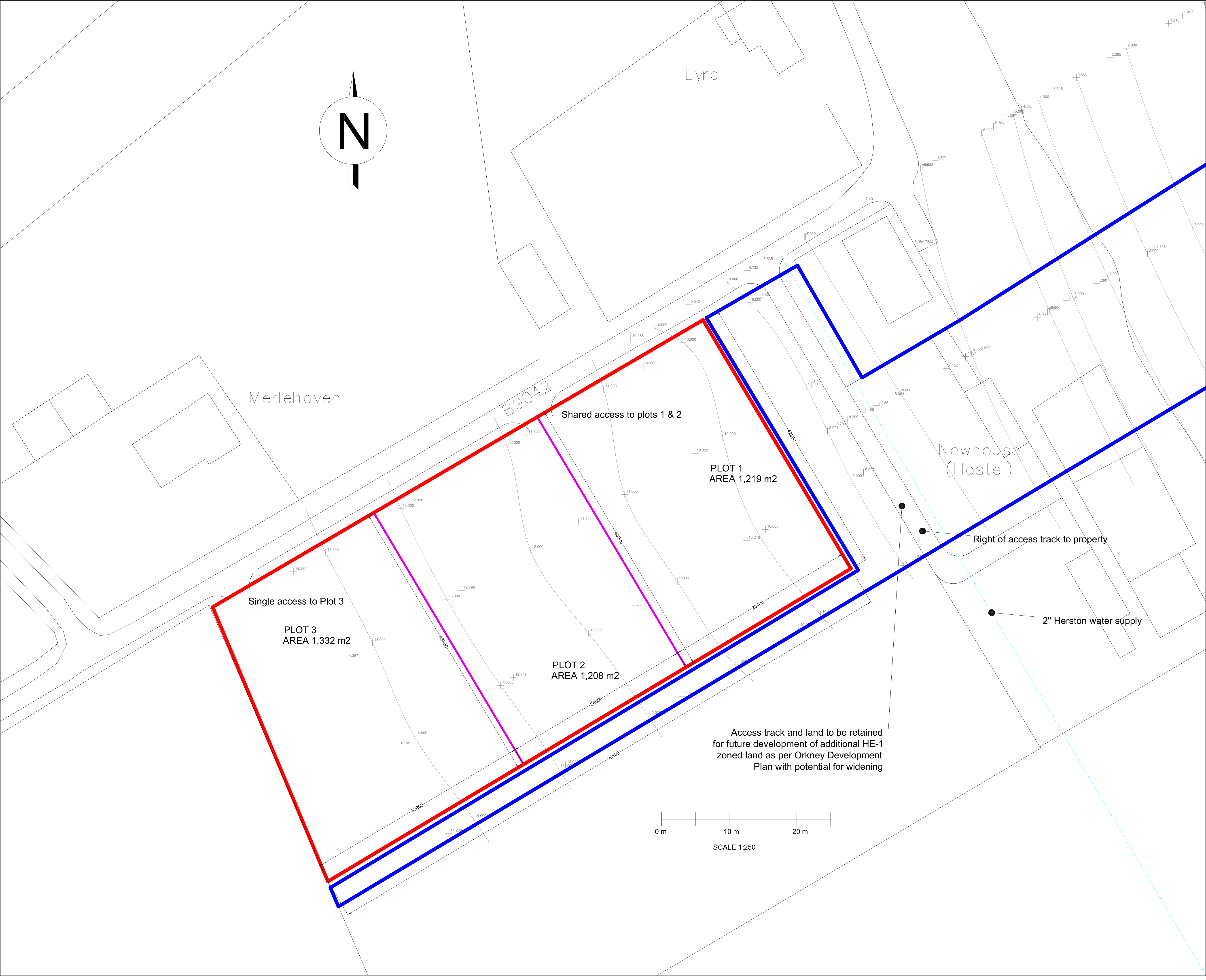
7. In accordance with Condition 2, surface water drainage provision within the application site shall accord with the principles of Sustainable Drainage Systems (SuDS) and shall be designed to the standards outlined in Sewers for Scotland Fourth Edition (or any superseding guidance prevailing at the time) prior to the first occupation of any part of the development hereby approved in principle, and no part of the development shall be occupied until the development is connected to an approved and fully constructed and operational surface water drainage system.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS.

8. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Mondays to Fridays; 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays unless otherwise agreed, in writing, with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of the amenity of the area and to reduce any possible nuisance arising to nearby residents/properties during the construction of the development.



**NOTES**  
HEIGHTS ARE TIDAL DATUM, IN METRES ABOVE LOWEST ASTRONOMICAL TIDE (ORKNEY ISLANDS)  
HEIGHTS ARE GROUND OR SURFACE UNLESS NOTED OTHERWISE  
THE GRID ON THIS PLAN IS THE ORDNANCE SURVEY NATIONAL GRID OSGB36  
  
SURVEYED 14.04.22 & 20.04.23  
  
DISTANCES ON THIS PLAN ARE GRID DISTANCES, APPLY THE APPROPRIATE COMBINED SCALE PROJECTION FACTOR TO OBTAIN GROUND DISTANCES  
  
TBM = UPPER HINGE ON WALL

2	Amendment to line boundaries	04/08/25
1	Change of plot boundary lines colour	22/07/25
Rev	Description	Date
<div><div>G</div><div>GRIEVE Associates Ltd</div></div>		
Project Herston Housing Development		
Drawing Unserviced Sites		
Drawn By E. Grieve	Checked By -	Approved By -
Drawing No. HE03	Scale 1:250	Date August 2025