

Item: 8

Planning Committee: 8 October 2025.

Proposed Erection of House at 6 Moar Drive, Kirkwall.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application to erect a house at 6 Moar Drive, Kirkwall. Two objections have been received on grounds of impact on residential amenity, traffic and parking, conflict with the Local Development Plan and design brief, and suitability of the location. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/232/PP.
Application Type:	Planning Permission.
Proposal:	Erect a house.
Applicant:	Orkney Islands Council.
Agent:	HRI Munro Architecture, Naver House, Thurso, KW14 7QA.

- 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 respect of the proposed erection of a house at 6 Moar Drive, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Scottish Water

3.1. No objection.

Roads Services

3.2. No objection. Informative requested, relating to works to the public road.

Development and Marine Planning - Environment

3.3. No response received.

4. Representations

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

- David and Katie Foulis, 5 Moar Drive, Kirkwall, KW15 1FS.
- Ian Moore, 8 Moar Drive, Kirkwall, KW15 1FS.

4.2. Representations are on the following grounds:

- Impact on residential amenity.
- Traffic and parking.
- Conflict with Local Development Plan and relevant design brief.
- Suitability of location for intended use.

5. Relevant Planning History

5.1. Planning applications

Reference	Proposal	Location	Decision	Date
13/325/PPMAJ.	Erect 2 houses, erect 10 semi-detached houses, erect 13 terraced houses, create 13 serviced sites, create access road, parking areas and footpaths/cycleways.	Watersfield (Land Near), Kirkwall.	Grant subject to conditions.	04.03.14.

Reference	Proposal	Location	Decision	Date
15/399/PP.	Install air source heat pumps and solar panels to 12 houses and construct bin stores associated with 25 houses (amendment to 13/325/PPMAJ).	Watersfield (Land Near), Kirkwall.	Grant subject to conditions.	05.10.15.

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:
 - Policy 3. Biodiversity.
 - Policy 13. Sustainable transport.
 - Policy 14. Design, quality and place.
 - Policy 15. Local Living and 20 minute neighbourhoods.
 - Policy 16. Quality homes.
 - Orkney Local Development Plan 2017:
 - Policy 1: Criteria for All Development.
 - Policy 2: Design.
 - Policy 3: Settlements, Town Centres and Primary Retail Frontages.
 - Policy 5: Housing.
 - Policy 13: Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14: Transport, Travel and Road Network Infrastructure.
 - Supplementary Guidance:
 - Settlement Statements (2017).
 - Planning Policy Advice:
 - Development Briefs and Design Statements (2014).
 - Planning for Open Space (2014).

- Amenity and Minimising Obtrusive Lighting (2021).
- National Roads Development Guide (2015).
- Development Management Guidance:
 - Considering and Including Biodiversity in Development (2023).
- Development Brief:
 - Watersfield, Kirkwall (2011).

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 set 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

- 8.1. As noted in section 1 above, planning permission is sought to erect a house on a vacant plot at 6 Moar Drive, Kirkwall, as indicated on the Location Plan attached as Appendix 2 to this report. The proposed house is single storey, with a frontage to the road. The house would be finished in dry dash white render, grey windows and doors and grey tiles on the roof.

Principle

- 8.2. The application site is within the Kirkwall settlement boundary, and in a location subject to a development brief for housing: 'Watersfield, Kirkwall' (2011). In accordance with Policy 5 'Housing' of the Local Development Plan, new residential development is supported within defined settlement boundaries and areas identified for housing growth; the principle of residential development on this site is therefore considered acceptable. The proposal aligns with the strategic objectives of the Local Development Plan to promote sustainable growth within established settlements.
- 8.3. The application is to erect a house, as defined in Use Class 9 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, which includes:
- (a) Occupation by a single person or a group living together as a family;
 - (b) Occupation by up to five individuals living together as a single household;
 - (c) Limited use as a bed and breakfast or guesthouse, with no more than two bedrooms (or one in dwellings with fewer than four bedrooms) used by guests at any one time.
- 8.4. The applicant has provided supporting information which explains how the dwelling would function, specifically that it would accommodate four vulnerable adults living independently but as a single household, with support from a live-in carer. That arrangement falls within the definition of a dwelling under (b) of Use Class 9, as specific above. It is raised in representation that the development conflicts with the development brief, focussing on the proposed function of the development to provide care, in the context the development brief requires a house development. As explained above, although not the most common functionality of a 'house', in terms of the relevant planning legislation, at the scale proposed it is defined as a house. As such, and notwithstanding the representation, the application can appropriately be considered as the proposed erection of a

dwelling, and in that context the development meets the strategy of development brief 'Watersfield, Kirkwall' (2011).

Design

- 8.5. The building would front the road and maintain the existing building line of properties on the street. Modern materials include a white dry dash render to the walls, flat grey tiles for the roof and grey windows and doors. This is in keeping with the neighbouring properties.
- 8.6. The design of the proposed house is acceptable and complies with Policy 2 'Design' of the Local Development Plan, Policies 14 'Design, quality and place' and 16 'Quality homes' of NPF4, and the design criteria included in development brief 'Watersfield, Kirkwall' (2011).

Residential Amenity

- 8.7. The proposal does not raise any unacceptable concerns with regards to residential amenity for either future occupiers or neighbouring properties. No windows would directly overlook neighbouring properties. The development includes an area of amenity space to the rear. In relation to representations regarding the suitability of the site for the proposed use, the site is adequate in size for a house, and is in a residential setting.
- 8.8. In terms of construction noise as raised in the representation, hours of work would be controlled by planning condition which is a standard approach to protect residential amenity.
- 8.9. The proposal is acceptable with regards to neighbouring amenity and complies with Policy 1 'Criteria for all development' of the Local Development Plan.

Roads

- 8.10. Roads Services has confirmed no objection to the proposal. An informative would be attached regarding works affecting the public road. The proposal includes three parking spaces, which aligns with the recommended provision in the National Roads Development Guide for a dwelling of the proposed scale. Any issues arising during the construction phase are considered non-material in the context of assessing the application, and other traffic-related concerns would fall under the remit of Police Scotland.

- 8.11. The adequacy of provision of parking is raised in the representations, in relation to the stated function of four persons in care. The application as submitted and described was included in the assessment by the roads authority, in reaching the above conclusion of no objection.
- 8.12. The proposal is acceptable with regards to roads, access and parking and complies with Policy 14 'Transport, Travel and Road Network Infrastructure' of the Local Development Plan and Policy 13 'Sustainable transport' of NPF4.

Biodiversity

- 8.13. No consultation response was received from Development and Marine Planning. It is proposed to establish a perimeter hedgerow to the rear and side boundaries of the development. The submitted plan indicates that "Tea Leaf Willow" and "Downy Rose" would be planted. These species are common garden plants in Orkney and are considered appropriate for a development of this scale. Their inclusion is compatible with the existing site context and is likely to result in an enhancement of the site's biodiversity and visual amenity.
- 8.14. The enhancement would be secured by planning condition, and the proposal complies with Policy 3 'Biodiversity' of NPF4.

9. Conclusion

- 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 design and impact on the residential amenity. There are no material considerations including those raised in the objection 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:

Alison Poke, Planning Officer (Development Management), Email
alison.poke@orkney.gov.uk

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.

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. The biodiversity measures described in the submitted Biodiversity form and site plan shall be implemented in full no later than the first planting season following commencement of development. Thereafter, the biodiversity measures shall be permanently retained in accordance with the approved details, including the replacement of any planting that does not survive, is removed, or is damaged, unless otherwise approved, in writing, by the Planning Authority.

Reason: To ensure biodiversity measures are implemented as required by National Planning Framework 4 Policy 3 'Biodiversity'.

03. 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.

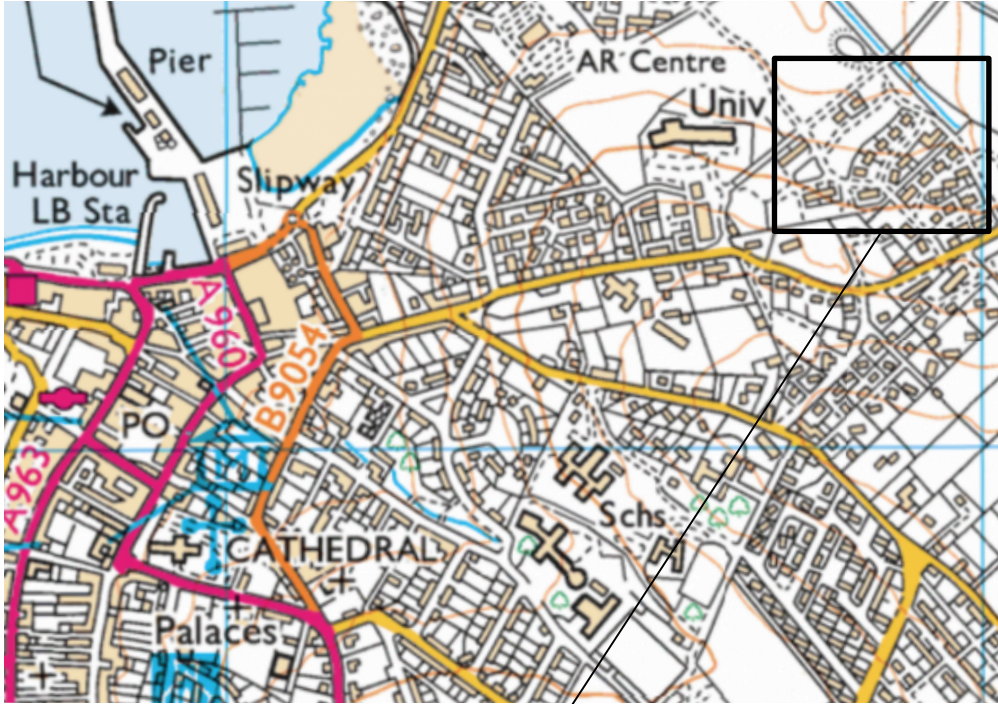
Reason: In the interest of residential amenity of the area and to reduce any possible nuisance arising to nearby residents during the construction of the development.

04. Throughout the lifetime of the development hereby approved, any external lighting used on the development hereby approved shall be downward facing only and shall comply with the Council's requirements of Orkney Local Development Plan 2017 Policy 2 (principle vi) that all external lighting shall minimise light pollution and shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1/E2 areas (Rural/Low District Brightness).

Reason: To minimise obtrusive light, glare or distraction in the interests of safeguarding the amenity of the area and to accord with Orkney Local Development Plan 2017 Policy 2 - Design.

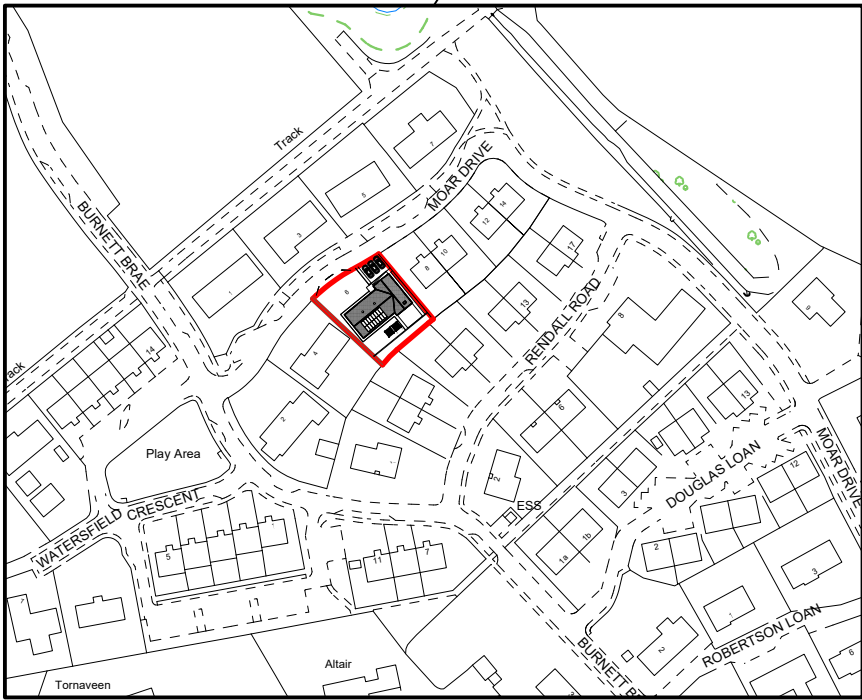
05. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, or any superseding Order, no boundary shall be installed forward of the building line of the development hereby approved until details have been submitted to and approved, in writing, by the Planning Authority. Thereafter, only the approved boundary treatment shall be installed.

Reason: To ensure compliance with the Watersfield, Kirkwall (2011) development brief.



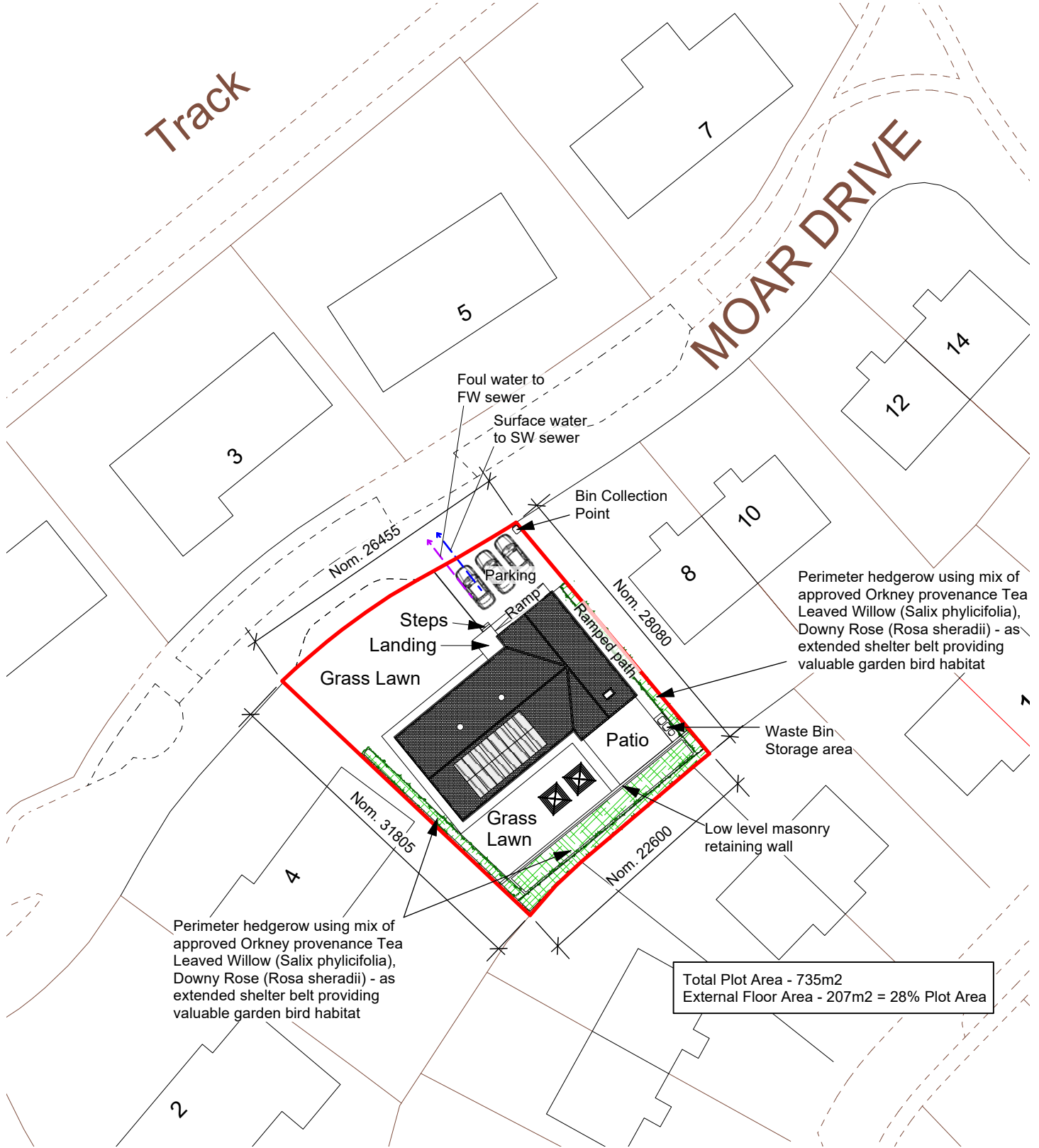
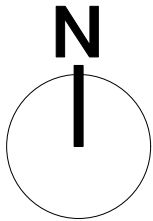
2 Location Plan
Scale: 1:10000

metres 0 500



1 Location Plan
Scale: 1:2500

metres 0 50 100



3 Site Plan
Scale: 1:500

metres 0 5 10 15 20 30 40 50

<div>HRI Munro</div> <div>architecture</div> <div>62 Academy Street Inverness IV1 1LP</div> <div>t: 01463 240066 f: 01463 717247</div> <div>admin@hri-architects.com</div> <div>www.hri-architects.com</div>	4	07/08/25	Location & Site Plans updated	<div>Scale bar</div> <div>© HRI Munro Architecture Ltd. All rights reserved.</div>	Project Title		Project Stage		Date	Project Lead By
	3	12/06/2025	Updated for Planning		6 Moar Drive, Kirkwall		Planning		15/01/25	AG
	2	27/03/2025	Updated Building		Project Address		Project No	Drawing No	Rev No.	Drawn By
	1	2025	First Issue				T7348	001	04	RG
	No.	Date	Revision		6 Moar Drive Kirkwall KW15 1FS		Drawing Title		Scale @ A3	Checked By
				Location plan		as noted		AG		