

**Item: 3**

**Local Review Body: 18 December 2025.**

**Proposed Siting of House (Subdivision of Curtilage) at Roselea Croft,  
Blackhill Road, St Ola (24/264/PIP).**

**Report by Head of Corporate Governance.**

---

## **1. Overview**

- 1.1. Planning application 24/264/PIP in respect of the proposed siting of a house at Roselea Croft, Blackhill Road, St Ola, was refused by the Appointed Officer on 1 September 2025.
- 1.2. Under the Town and Country Planning (Scotland) Act 1997 (the Act) and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations), where an application for planning permission for local development has been determined by the Appointed Officer in accordance with the Council's Planning Scheme of Delegation, the applicant is entitled to seek a review of that decision by the Local Review Body.
- 1.3. The applicant's agent has submitted a Notice of Review (see Appendix 1) requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed. The agent has indicated that the review can be determined without any further procedure.
- 1.4. A letter from the Chief Planner, Scottish Government, issued in July 2011, confirmed that a review by a Local Review Body should be conducted by means of a full consideration of the application afresh.
- 1.5. Section 21 of the Scheme of Administration states that the Local Review Body will undertake unaccompanied site inspections for all planning applications subject to a review, prior to the meeting to consider the review. The purpose of the site inspection together with the procedure to be adopted, are set out in section 21.2 of the Scheme of Administration. The applicant's agent and interested parties have been advised that an unaccompanied site inspection to Roselea Croft, Blackhill Road, St Ola, is due to be undertaken on 18 December 2025 at 10:30.
- 1.6. The review procedure is set out in section 4 below.

## **2. Recommendations**

- 2.1. The Local Review Body is required to:
  - i. Determine whether it has sufficient information to proceed to determination of the review, and if so whether to uphold, reverse or vary the decision of the Appointed Officer.
- 2.2. Should the Local Review Body determine that the decision is reversed or varied, it is required to:
  - i. Determine the reasons, and, if applicable, the relevant matters in respect of potential conditions and informatives, if appropriate, to be attached to the decision notice.
- 2.3. Should the Local Review Body determine that the decision is reversed or varied, it is recommended that members of the Local Review Body:
  - i. Delegate powers to the Head of Corporate Governance following consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, to attach to the Decision Notice.
- 2.4. Should the Local Review Body determine that it does not have sufficient information to proceed to determination of the review, it is required to:
  - i. Determine what further information is required, which parties are to be requested to provide the information, and whether to obtain further information by one or more of the following methods:
    - By means of written submissions under the procedure set out in Regulation 15 of the Regulations; and/or
    - By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Regulations.

## **3. Planning Authority Decision**

- 3.1. The Planning Handling Report, Planning Services file and the Decision Notice are attached as Appendices 2, 3 and 4 to this report.
- 3.2. On 1 September 2025, the Appointed Officer refused planning application 24/264/PIP on the following grounds:

- 01. The application site is not ‘domestic curtilage’ as defined in paragraph 5.05 of Supplementary Guidance ‘Housing in the Countryside’ (2021). On that basis, the proposed development fails to meet the fundamental requirement of being ‘The Subdivision of a Dwelling House or its Residential Curtilage’, and therefore cannot be assessed under, Policy 5E(v) of the Orkney Local Development Plan 2017.
- 02. Policy 5E(v) of the Orkney Local Development Plan 2017 requires that, “...The curtilage to be sub-divided has served the host house for a period of 10 years or more. Evidence will be required to support the application, such as planning history or clean/documentary/photographic evidence.” Available evidence confirms the contrary, that the land is not domestic curtilage; therefore, there is no test required for how long it has served the host house. It is simply not curtilage. The development is contrary to Policy 5E(v) of the Orkney Local Development Plan 2017.

## **4. Local Review Procedure**

- 4.1. In response to a Notice of Review, “interested parties” are permitted to make a representation to the Local Review Body. “Interested parties” include any party who has made, and not withdrawn, a representation in connection with the application. A representation was received from Development Management and is attached as Appendix 5.
- 4.2. In instances where a representation is received from an “interested party”, the applicant is afforded the opportunity to make comments on any representation received. No further comment was received from the applicant and/or their agent.
- 4.3. The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, an indication of relevant matters, in respect of potential planning conditions and informatives, are as follows:
  - Duration of consent.
  - Matters:
    - Site layout.
    - Site levels/sections.
    - Design and appearance.
    - Landscaping.
    - Access and parking arrangements, including access draining detailing to avoid water drainage onto the public road.
    - Surface water drainage.
    - Roads-access forward visibility.

- Water supply.
  - Foul drainage.
  - Refuse and recycling storage.
  - Biodiversity enhancement.
  - Hours of work.
  - Informatives:
    - Roads.
- 4.4. All conditions should be in accordance with Planning Circular 4/1998 regarding the use of conditions in planning permissions.
- 4.5. If the decision is reversed and the development is approved, it is proposed that powers are delegated to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, and informatives, if appropriate, based on the relevant matters, agreed in terms of section 4.3 above.
- 4.6. If the Local Review Body decides that further procedure is required, it may decide to hold a pre-examination meeting to consider what procedures to follow in the review, or to obtain further information by one or more of the following methods:
- By means of written submissions under the procedure set out in Regulation 15 of the Regulations 2013; and/or.
  - By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Regulations.

## **5. Relevant Planning Policy and Guidance**

- 5.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended 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...”
- 5.2. The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and other supplementary planning advice and guidance can be read on the Council website [here](#). Although the Orkney Local Development Plan 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.



- 5.3. National Planning Framework 4 was approved by Parliament on 11 January 2023 and formally adopted by Scottish Ministers on 13 February 2023. The statutory development plan for Orkney consists of the National Planning Framework and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of National Planning Framework 4 and a provision of the Orkney Local Development Plan 2017, National Planning Framework 4 is to prevail as it was adopted later. It is important to note that National Planning Framework 4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in National Planning Framework 4 and can be used to guide decision-making.
- 5.4. It is for the Local Review Body to determine which policies are relevant to this application; however the policies listed below were referred to by the Appointed Officer in the Planning Handling Report:
- National Planning Framework 4:
    - Policy 3 – Biodiversity.
    - Policy 16 – Quality homes.
    - Policy 29 – Rural development.
  - Orkney Local Development Plan 2017:
    - Policy 1 – Criteria for All Development.
    - Policy 2 – Design
    - Policy 5E – Single Houses and new Housing Clusters in the Countryside.
  - Supplementary Guidance:
    - Housing in the Countryside (2021).

**For Further Information please contact:**

Gavin Barr, Planning Advisor to the Local Review Body, extension 2530, Email: [gavin.barr@orkney.gov.uk](mailto:gavin.barr@orkney.gov.uk).

**Implications of Report**

1. **Financial:** All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing revenue budgets.
2. **Legal:** The legal implications are set out in the body of the report.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of Notices of Review is delegated to the Local Review Body.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.

- 7. Links to Council Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
- ☐ Growing our economy.
  - ☐ Strengthening our Communities.
  - ☐ Developing our Infrastructure.
  - ☐ Transforming our Council.
- 8. Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
- ☐ Cost of Living.
  - ☐ Sustainable Development.
  - ☐ Local Equality.
  - ☐ Improving Population Health.
- 9. Environmental and Climate Risk:** None.
- 10. Risk:** None.
- 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](#).

Planning Circulate 4/1998, available [here](#).

### Appendices

Appendix 1 – Notice of Review (pages 1 – 26).

Appendix 2 – Planning Handling Report (pages 27 – 35).

Appendix 3 – Planning Services File (pages 36 – 83).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 84 – 87).

Appendix 5 – Representation from Development Management (page 88).

Pages 1 to 87 can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference”24/264/PIP”.



Council Offices School Place Kirkwall KW15 1NY Tel: 01856 873 535 (ex 2504) Email: [planning@orkney.gov.uk](mailto:planning@orkney.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100677470-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation: S J Omand

Ref. Number:

You must enter a Building Name or Number, or both: \*

First Name: \*

Building Name:

Last Name: \*

Building Number:

Telephone Number: \*

Address 1 (Street): \*

Extension Number:

Address 2:

Mobile Number:

Town/City: \*

Fax Number:

Country: \*

Postcode: \*

Email Address: \*

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Graham"/>	Building Number: <input type="text" value="2"/>
Last Name: *	<input type="text" value="Shearer"/>	Address 1 (Street): * <input type="text" value="Jubilee Court"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Kirkwall"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="KW15 1XR"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

## Site Address Details

Planning Authority:	<input type="text" value="Orkney Islands Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="ROSELEA CROFT"/>
Address 2:	<input type="text" value="BLACKHILL ROAD"/>
Address 3:	<input type="text" value="ST OLA"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="KIRKWALL"/>
Post Code:	<input type="text" value="KW15 1FP"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="1011451"/>	Easting	<input type="text" value="342638"/>
----------	--------------------------------------	---------	-------------------------------------

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Siting of a house (subdivision of curtilage).

## Type of Application

What type of application did you submit to the planning authority? \*

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Do not agree with the reasons for refusal. See letter 1 - Response to Refusal Oct 2025.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

1 - Response to Refusal - Oct 2025 2 - Site and Location Plan - A1 3 - Confirmations Letter - A4 4 - Bio-diversity plan - A4 5 - Response to Objection 6 - Noise Impact Assessment

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

24/264/PIP

What date was the application submitted to the planning authority? \*

03/07/2024

What date was the decision issued by the planning authority? \*

01/09/2025

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☒ Yes ☐ No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

**Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Christopher Omand

Declaration Date: 14/10/2025

**Payment Details**

Cheque: 0000, 0000

Created: 14/10/2025 19:57

Committee Members  
Orkney Islands Council  
Council Offices  
School Place  
Kirkwall  
KW15 1NY

**Proposal:** Siting of a house (subdivision of curtilage).  
**Location:** Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1FP.  
**Purpose:** Response to the reasons for refusal.

In response to the reason for the refusal of the above application.

*"01. The application site is not 'domestic curtilage' as defined in paragraph 5.05 of Supplementary Guidance 'Housing in the Countryside' (2021). On that basis, the proposed development fails to meet the fundamental requirement of being 'The Subdivision of a Dwelling House or its Residential Curtilage', and therefore cannot be assessed under, Policy 5E (v) of the Orkney Local Development Plan 2017."*

*"02. Policy 5E (v) of the Orkney Local Development Plan 2017 requires that, "...The curtilage to be sub-divided has served the host house for a period of 10 years or more. Evidence will be required to support the application, such as planning history or clean documentary/photographic evidence." Available evidence confirms the contrary, that the land is not domestic curtilage; therefore, there is no test required for how long it has served the host house. It is simply not curtilage. The development is contrary to Policy 5E (v) of the Orkney Local Development Plan 2017"*

As stated in the initial confirmation letter, the applicant's grandfather has used this area of garden for his own private vegetable patches and garden for over 15 years.

It has been clearly stated in the response letter to the objection that the land has not been agricultural for over 40 years. The fact the land is not agricultural is also confirmed by the office manager in the North Isles Area office, who also states as well as not being registered agricultural, it has also not been claimed for IACS purposes.

## SERVICES INCLUDE:

Bank &  
Building  
Society  
Valuations

Residential &  
Commercial  
Property Surveys

Single  
Surveys

Energy  
Performance  
Certificates

SAP  
Certifications

Building  
Surveying  
Services

Rental &  
Insurance  
Valuations

Residential  
& Commercial  
Plans

Title Deed  
Plans

Overseeing  
New Builds

Planning  
& Building  
Warrant  
Applications

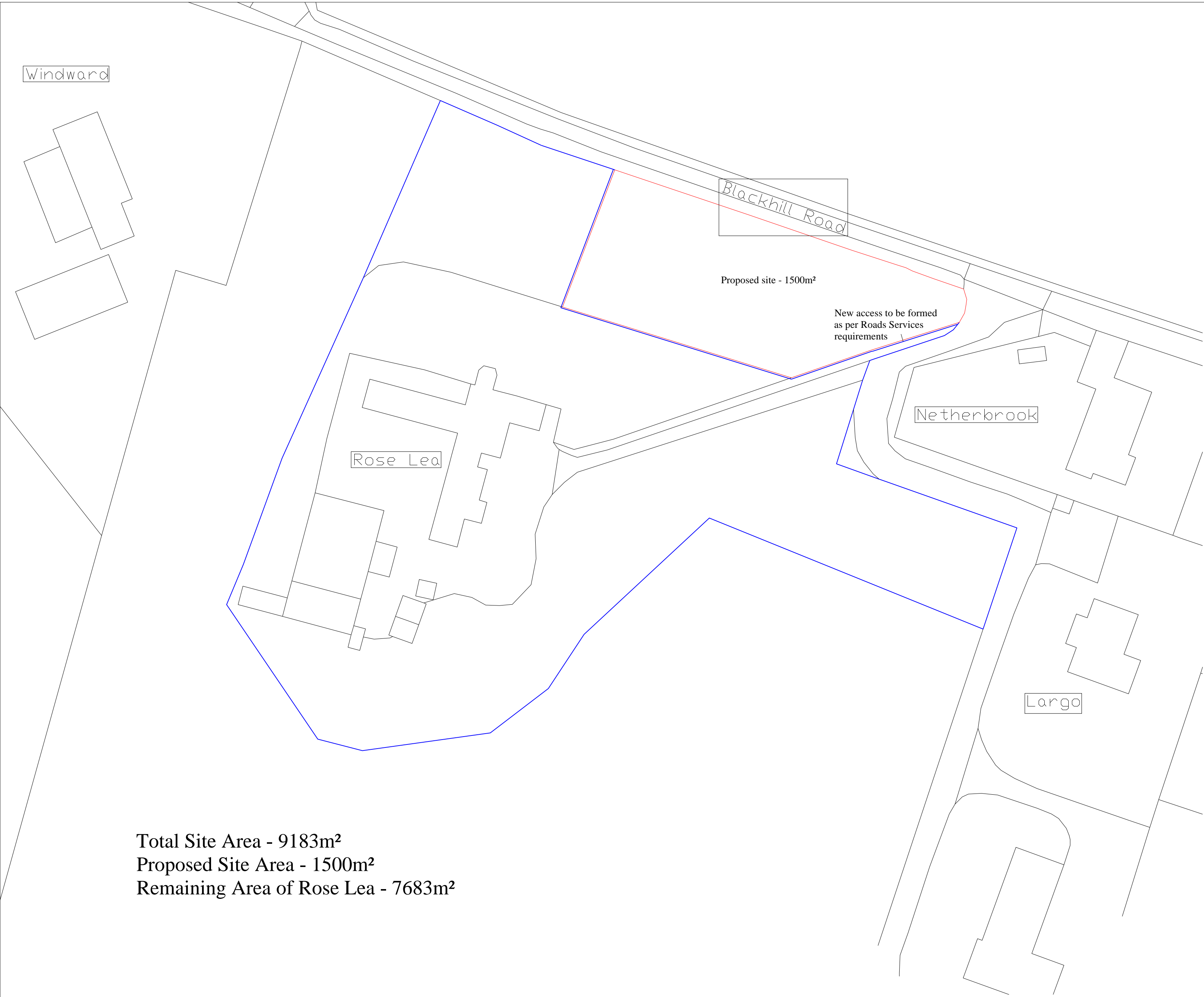


In conclusion, this area of land has been used as garden ground and for private vegetable patches for over 15 years, as confirmed by the applicant's grandfather and has not been used as agricultural for over 40 years, as confirmed in the letter in response to the objection. The applicant obtained noise assessment for the nearby wind turbine, which showed there would be no impact and Roads Services have no objection to proposal. It is for these reasons that we feel as though the application should not have been refused.

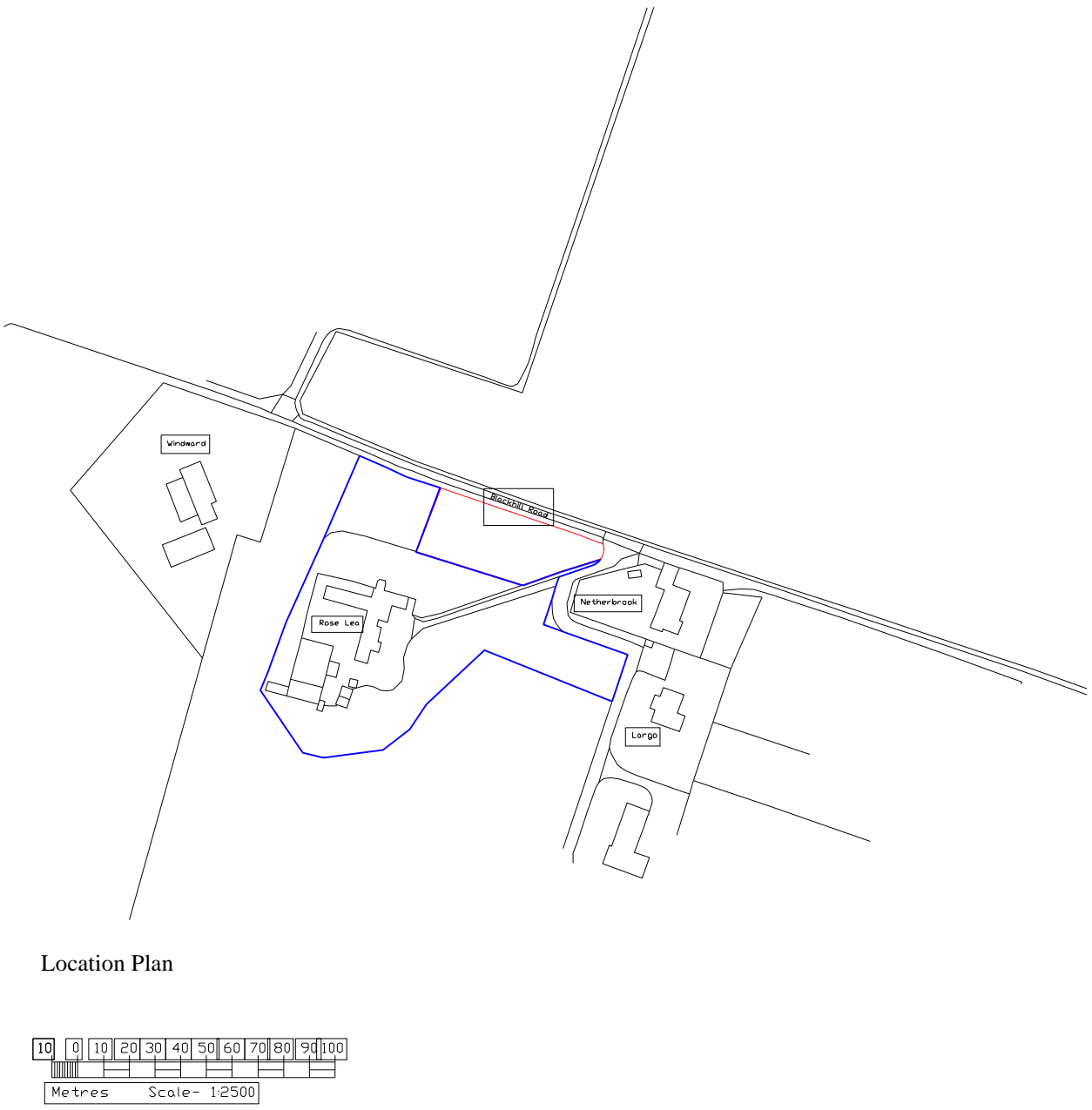
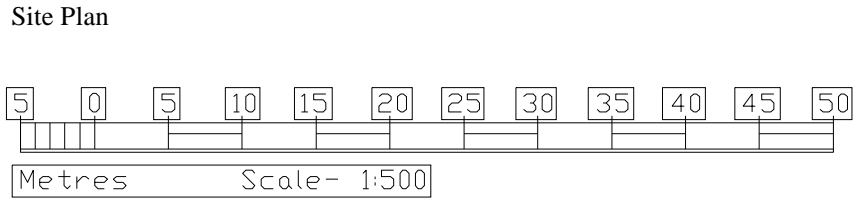
- I trust this clarifies our objection to the reasons for refusal.



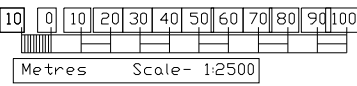
Christopher J Omand, BSc (Hons), M.R.I.C.S.




Total Site Area - 9183m²  
Proposed Site Area - 1500m²  
Remaining Area of Rose Lea - 7683m²



Location Plan



<div><div><div>S J Omand, Chartered Surveyors, 14 Victoria Street, Kirkwall, KW15 1DN.  Tel- 01856 876215 Email- stephen@sjomand.co.uk Email- christopher@sjomand.co.uk</div><div></div></div></div>		
Project Rose Lea Blackhill Road, St Ola, KW15 1FP		
Title Subdivision of domestic cartilage and form building site.		
Client Graham Shearer & Cherise Wilson 2 Jubilee Court Kirkwall KW15 1XR		
Date June 2024	Drawn By CJO	Plan Size A1
Scale As shown	Dwg No 5143/PP/1	Rev
To comply with The Building (Scotland) Regs 2004.		

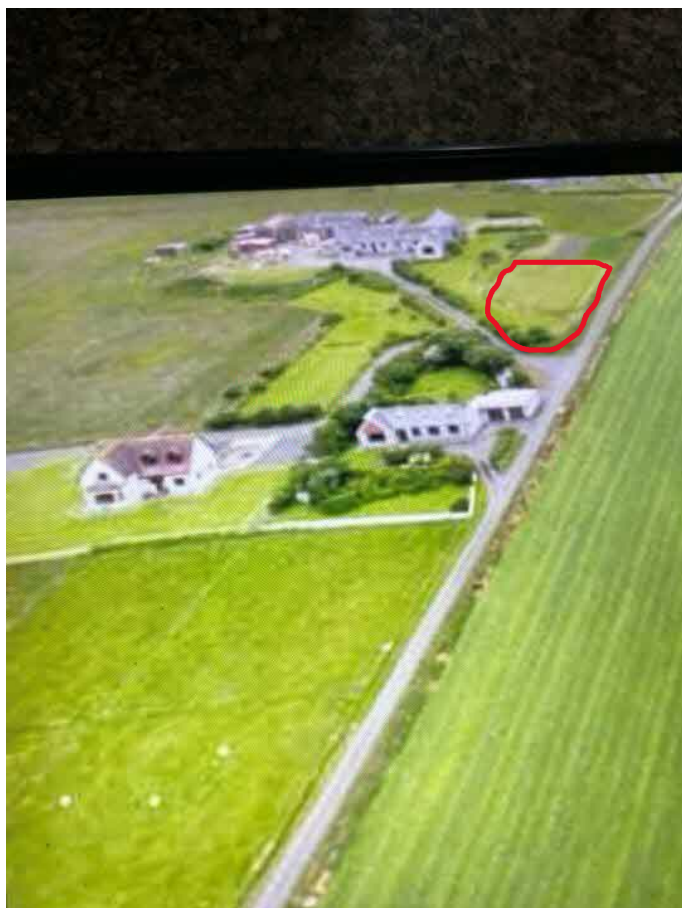
3<sup>rd</sup> July 2024

Development Management Planning, and Community Protection,  
Neighbourhood Services and Infrastructure,  
Orkney Islands Council,  
Council Offices,  
Kirkwall,  
KW15 1NY.

Dear Sirs,

**Subject: Siting of a house (subdivision of curtilage).**  
**At: At Rose Lea, Blackhill Road, St Ola, KW15 1FP**

Mr Shearers grandfather has worked this area of land for over 15 years as a garden and vegetable patches. Photographs below have been provided proof of the land being used as a garden over the years.



Site area highlighted in red.

## SERVICES INCLUDE:

Bank &  
Building  
Society  
Valuations

Residential &  
Commercial  
Property Surveys

Single  
Surveys

Energy  
Performance  
Certificates

SAP  
Certifications

Building  
Surveying  
Services

Rental &  
Insurance  
Valuations

Residential  
& Commercial  
Plans

Title Deed  
Plans

Overseeing  
New Builds

Planning  
& Building  
Warrant  
Applications

A list of partners is available at the above address

## LOCAL KNOWLEDGE ■ NATIONAL COVERAGE

Offices throughout Scotland

Each member firm of First Surveyors Scotland is an independent entity and no partnership implies or otherwise exists between the firms by reason of their membership of First Surveyors Scotland. First Surveyors Scotland is the trading name of First Surveyors Scotland Limited a company registered in Scotland Company No 201050. Registered Office: 57 Albany Street, Edinburgh, EH1 3QY



Member Firm of  
**FIRST SURVEYORS SCOTLAND**  
National Valuation & Property Consultancy Service

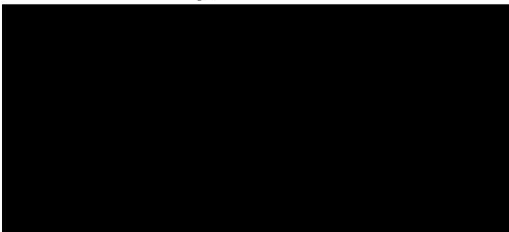


**Audrey Newland**

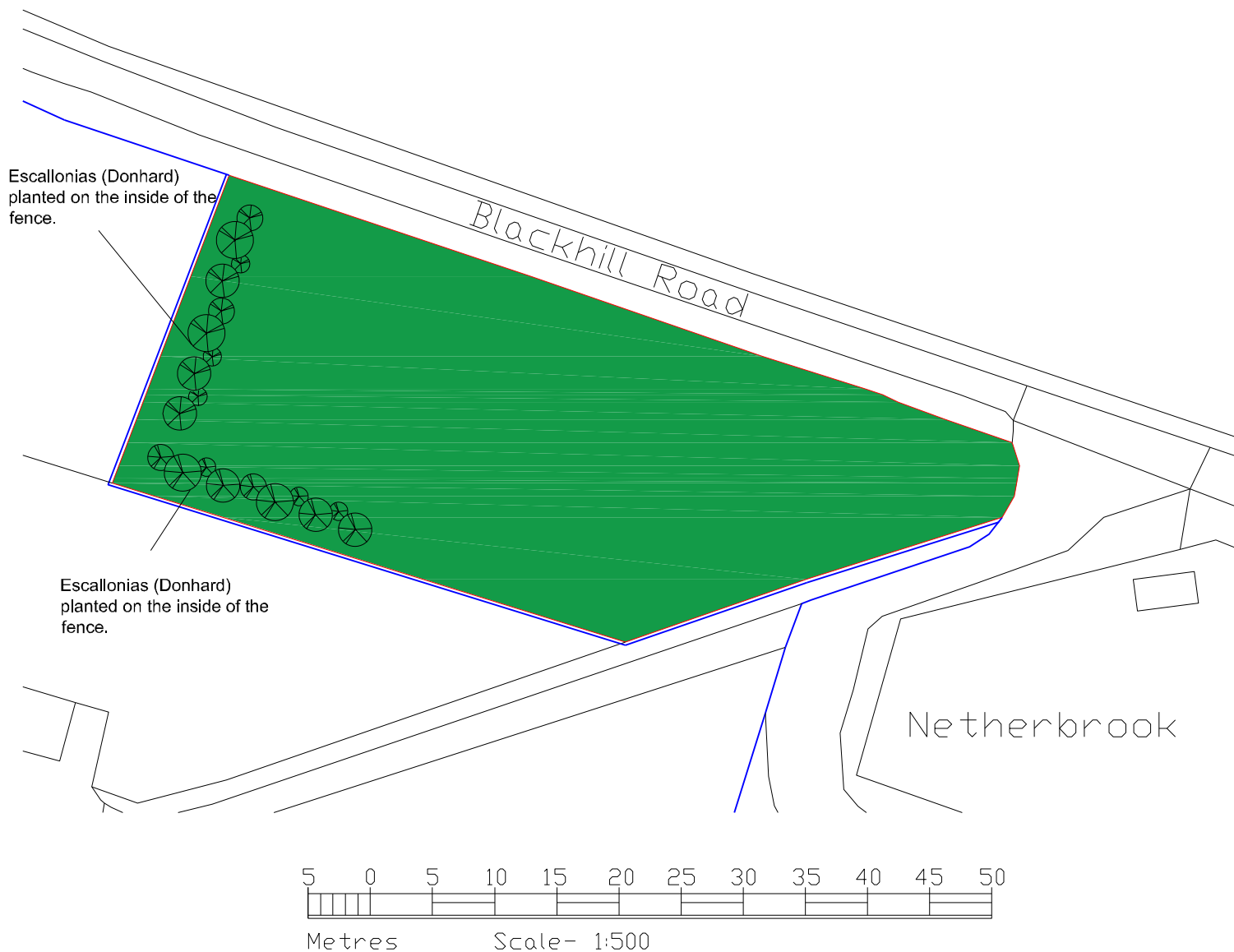
7 May 2016 · 🌐

Mr Shearers grandad working the garden in 2016.

Yours faithfully,

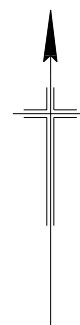


Christopher J Omand, BSc (Hons), M.R.I.C.S.  
Chartered Surveyor



— Garden grounds to be laid to lawn. Planting as per  
Bio-diversity plan.

All boundaries are existing post and wire agricultural type fencing



#### Bio-diversity Plan

Subdivision of domestic cartilage and form building site.

At - Rose Lea  
Blackhill Road,  
St Ola,  
KW15 1FP

For - Graham Shearer & Cherise Wilson

5143/PP/2

OS Licence No- ES100003740



9<sup>th</sup> September 2024

Isla McLeod,  
Graduate Planner,  
Development Management,  
Planning and Community Protection  
Neighbourhood Services and Infrastructure,  
Orkney Islands Council,  
Council Offices,  
Kirkwall,  
KW15 1NY.

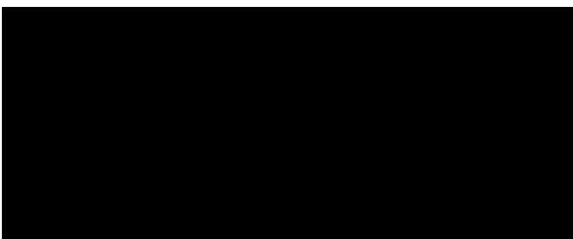
Dear Miss McLeod

**Response to objection received from Mr & Mrs Marcus.**  
**Planning Ref: 26/267/PIP**  
**Proposed: Siting of a house (subdivision of curtilage)**  
**At: Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1FP**

In response to the objection received from Mr & Mrs Marcus. We can confirm that the land has not been used as agricultural and have confirmation from SGRPID (Scottish Government Rural Payments and Inspections Directorate, Kirkwall department. See appendix 1. As per the applicants the area of land has not been used as agricultural for over 40 years.

Mr Shearers grandad has a vintage tractor, which he used to use to prepare the land for planting a selection of different vegetables for the family. The tractor was not used for any other purposes on the land.

Your sincerely



Christopher J Omand, BSc (Hons), M.R.I.C.S.,

## SERVICES INCLUDE:

Bank &  
Building  
Society  
Valuations

Residential &  
Commercial  
Property Surveys

Single  
Surveys

Energy  
Performance  
Certificates

SAP  
Certifications

Building  
Surveying  
Services

Rental &  
Insurance  
Valuations

Residential  
& Commercial  
Plans

Title Deed  
Plans

Overseeing  
New Builds

Planning  
& Building  
Warrant  
Applications

## Appendix 1

Emails below, which was received from SGRPID confirming the areas marked in blue and red on the site and location plan submitted, are not agricultural.

“Hi Audrey

I can confirm that the land outlined in blue below is not registered on our system and has therefore not been claimed for IACS purposes.

Kind regards



Paula Craigie | Office Manager

Northern Isles Area Office | Tankerness Lane | Kirkwall | Orkney | KW15 1AQ | Tel: 0300 244 9626 | Email: [SGRPID.kirkwall@gov.scot](mailto:SGRPID.kirkwall@gov.scot)



”

Hi David & Audrey

The area outlined in red is not mapped on our system so is therefore not claimed for IACS purposes.

Kind regards



Paula Craigie | Office Manager

Northern Isles Area Office | Tankerness Lane | Kirkwall | Orkney | KW15 1AQ | Tel: [0300 244 9626](tel:03002449626) | Email: [SGRPID.kirkwall@gov.scot](mailto:SGRPID.kirkwall@gov.scot)



Show trimmed content

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not

**London office**

1B(c) Yukon Road  
London  
SW12 9PZ

Tel: 0203 475 2280

**Manchester office**

Suite 34 Europa House  
Barcroft Street  
Bury BL9 5BT

Tel: 0161 850 2280

# Roselea Croft

Blackhill Road, St Ola, Orkney

7 March 2025

19584-NIA-01

Project Number  
19584

Issued For  
Graham Shearer & Cherise Wilson



## EXECUTIVE SUMMARY

---

This noise exposure assessment has been undertaken in order to investigate whether noise due to an existing wind turbine affecting a proposed residential development at Roselea Croft, Blackhill Road, St Ola, Orkney can meet certain Local Authority and British Standard requirements.

The assessment adheres to the Local Authority requirements, the principles provided by the Draft Fourth National Planning Framework: 2021 (Draft NPF4) and external noise criteria stated within BS 8233: 2014 'Guidance on sound insulation and noise reduction for buildings'.

The site currently comprises an unused plot of land close to existing farmland and residential properties. Proposals are to construct a new house on the land.

A noise model has been constructed as detailed in the report, in order to establish the anticipated noise levels affecting proposed sensitive areas due to the existing wind turbine installed at a nearby property.

The calculated levels of turbine noise apparent at the proposed residential boundary have been compared with the set limits established by Orkney Islands Council. Calculations demonstrate that full compliance with the set limits is anticipated at the closest proposed residential curtilage.

A subsequent detailed analysis has been carried out of anticipated noise levels in external amenity space, which has demonstrated that the site location is suitable to ensure an amenable level of noise in garden areas.

This report is designed to be suitable to discharge typical noise planning conditions, as per our original scope of work.

Clement Acoustics has used all reasonable skill and professional judgement when preparing this report. The report relies on the information as provided to us at the time of writing and the assumptions as made in our assessment.

## CONTENTS

1.0	INTRODUCTION .....	1
2.0	SITE DESCRIPTION .....	1
3.0	CRITERIA .....	1
3.1	LOCAL AUTHORITY REQUIREMENTS.....	1
3.2	DRAFT FOURTH NATIONAL PLANNING FRAMEWORK: 2021 [DRAFT NPF4] .....	2
3.3	EXTERNAL NOISE CRITERIA .....	2
4.0	ASSESSMENT ACCORDING TO LOCAL AUTHORITY REQUIREMENTS.....	3
4.1	CONSIDERATION OF TURBINE APPLICATION ASSESSMENT .....	3
4.2	NOISE MODELLING.....	5
5.0	ASSESSMENT OF NOISE LEVELS IN EXTERNAL AMENITY AREAS .....	6
5.1	DETERMINATION OF SOURCE NOISE AND MODELLING .....	6
6.0	CONCLUSION .....	7

## LIST OF ATTACHMENTS

19584-SP1	Indicative Site Plan
Appendix A	Glossary of Acoustic Terminology

Issue	Date of Issue	Author	Reviewed	Authorised
0	07/03/2025			
		<b>Duncan Martin</b> Director BSc (Hons) MIOA		<b>John Smethurst</b> Director BSc (Hons) MIOA

Issue	Comments
0	First Issue

## 1.0 INTRODUCTION

---

Clement Acoustics has been commissioned by Graham Shearer & Cherise Wilson to assess the suitability of the site at Roselea Croft, Blackhill Road, St Ola, Orkney for residential development.

Proposals are to construct a single dwelling on a currently unused plot of land. An assessment has been undertaken in order to assess anticipated levels on the site due to an existing wind turbine, in accordance with the requirements of Orkney Islands Council.

## 2.0 SITE DESCRIPTION

---

The proposed development site is currently an empty plot of land in a largely rural area, surrounded by existing farms and farmland, and existing residential dwellings. Plans are to construct a single dwelling.

The site is in a remote location, with very few notable noise sources in the area.

An existing wind turbine is installed on land close to Casa Nuestra, to the southeast of the development site. The turbine is located approximately 155 m from the closest boundary of the proposed development site.

The site location relative to the existing turbine and surrounding area is shown in attached site plan 19584-SP1.

## 3.0 CRITERIA

---

### 3.1 Local Authority Requirements

In response to the application for Roselea Croft, the following comments were received from the Local Authority Environmental Health department:

“A wind turbine, approved under reference 11/332/TPP, is located within 250 metres of the application site area. As proposed development for a noise sensitive use it must be confirmed that this wind turbine would not cause any unacceptable amenity impacts to the occupants of the proposed development.”

In correspondence with representatives of the Environmental Health Department at Orkney Islands Council on previous projects, the following more detailed requirements have been established for this type of application:

“It is [the applicant’s] responsibility to evidence that noise emissions from the wind turbine(s) (including the application of any tonal penalty) should not exceed a sound pressure level not exceeding 35dB

LA90, 10 mins, within the curtilage of the indicated development, at wind speeds up to an including 10m/s, standardised/measured to a height of 10m or as otherwise specified within the noise emission conditions within the relevant application(s).”

### 3.2 Draft Fourth National Planning Framework: 2021 [Draft NPF4]

The Draft NPPF4, which was laid in Parliament in November 2021, outlines environmental, economic and social policies for Scotland. Part 3 of the Draft NPPF4, the National Planning Policy, contains detailed national policy on a number of planning topics.

Relevant paragraphs of the National Planning Policy are summarised as follows:

Policy 6: Design, quality and place

e) Proposals that are detrimental to the character or appearance of the surrounding area taking into account effects on daylight, sunlight, noise, air quality and privacy should not be supported, in order to protect amenity.

Policy 14: Health and wellbeing

d) Development proposals that would result in unacceptable levels of noise will not be supported. A noise impact assessment will be required where significant exposure to noise is likely to arise from the proposed development.

Policy 19 Green Energy

k) Specific considerations will vary relative to the scale of the proposal and area characteristics but development proposals for renewable energy developments must take into account:

- impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;’

### 3.3 External Noise Criteria

The guidance of BS 8233: 2014, with regards to external amenity spaces, is as follows:

“For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB  $L_{Aeq,T}$ , with an upper guideline value of 55 dB  $L_{Aeq,T}$  which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these

locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.”

The site is in an area that would be considered rural. We would therefore recommend the lower guideline value of  $L_{Aeq,T}$  50 dB(A) would be an appropriate target although exceedance of this may also be acceptable where unavoidable.

## 4.0 ASSESSMENT ACCORDING TO LOCAL AUTHORITY REQUIREMENTS

### 4.1 Consideration of Turbine Application Assessment

The existing wind turbine was installed under planning application 11/332/TPP. The available information for that application has been used in order to determine the source noise of the wind turbine.

The application for the turbine included a noise impact report for a Iskra Wind Turbine, type AT5-1, which is understood to be the turbine installed under this application.

The submitted information does not include a traditional noise label for the wind turbine, rather onsite noise measurements of an installed turbine are provided. The stated noise levels at different wind speeds are summarised in Table 4.1.

Wind Speed (m/s)	Measured Noise Level 20 m from Base of Turbine (dB(A))
4-5	48
5-6	49*
6-7	49
7-8	50

Table 4.1 Summary of stated turbine noise emission levels

\* Centre point of stated range at this wind speed

As the Local Authority requirements are to consider the noise level at 10 m/s wind speed, analysis has been carried out to determine a noise slope for the wind turbine, relative to wind speed.

The stated noise levels have been plotted against the stated wind speeds, in order to allow a line of best fit to be applied to the dataset. The resulting chart is shown in Figure 4.1.

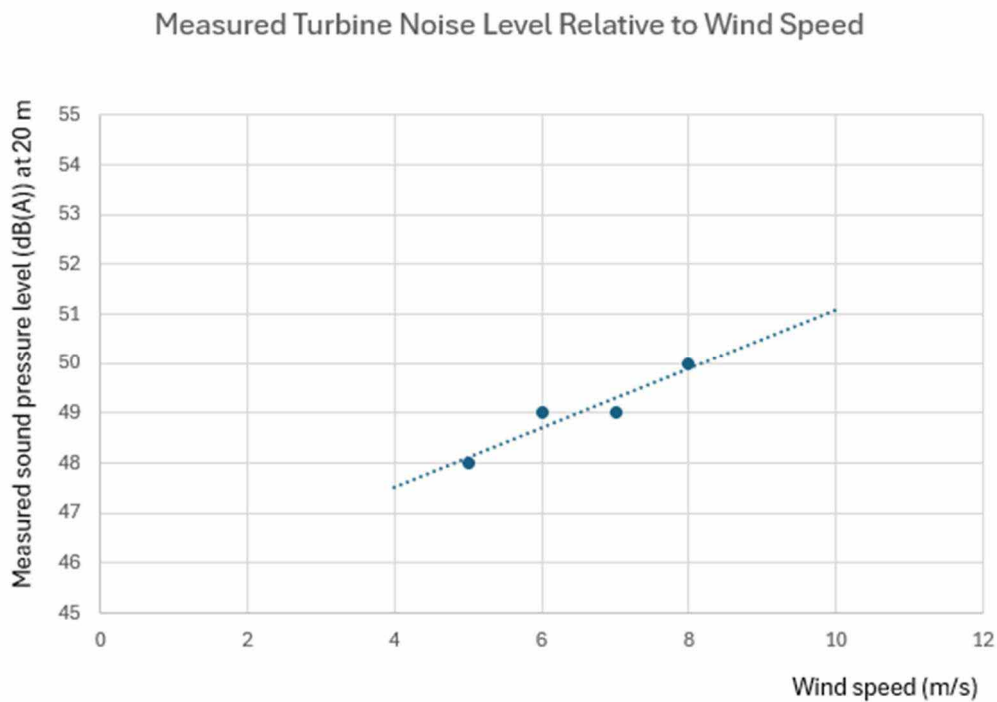


Figure 4.1 Chart showing line of best fit for turbine noise measurements

Analysis of the trendline indicates an expected noise emission level of 51 dB(A) at 20 m, when operating at 10 m/s wind speed. The equivalent calculated sound power level is therefore  $L_{W,10m/s}$  85.3 dB, accounting for the stated measurement distance and hemi-spherical radiation.

It is noted that no uncertainty is stated for the turbine noise emissions. In order to present a robust assessment, a typical uncertainty for wind turbines of this type of 1 dB has been assumed, resulting in an uncertainty correction of 1.645 dB (when multiplied by a factor of 1.645, as per the guidance of ETSU-R-97 'The assessment and rating of noise from wind farms').

A penalty for tonality is not stated as being required. The determined noise emission level of the turbine is therefore  $L_{W,10m/s}$  87 dB.

It should be noted that, as the source noise is given in terms of ' $L_W$ ' a -2 dB relaxation to convert noise levels to the  $L_{90}$  background level has been incorporated, in line with the standard.

The noise impact report includes a spectral shape for the turbine noise emissions, which has been shifted to match the overall calculated level. The spectral levels used in the noise model are summarised in Table 4.2.

Source	90 <sup>th</sup> Percentile Sound Power Level (dB) in each Frequency Band, Hz								
	63	125	250	500	1k	2k	4k	8k	dB(A)
Iskra Wind Turbine, type AT5-1	91	82	76	73	77	80	80	71	85

Table 4.2 Calculated sound power levels for existing wind turbine

## 4.2 Noise Modelling

A noise map has been created using the above determined source noise, using proprietary software CadnaA. The turbine has been modelled as a point source, placed at a height of 15 m in the existing turbine location, in line with the available elevation information for the turbine application.

The noise model was constructed utilising the following assumptions and parameters:

- Locations of obstacles such as proposed building envelopes
- Presence of reflecting surfaces
  - All buildings are assumed to be reflective
- Hardness of the ground between the sources and receivers
  - Although the ground is soft, ground absorption is set at 0.5, in accordance with guidance of ETSU
- Attenuation due to atmospheric absorption
- Land topography assumed flat
- Calculations are performed over single octave band from 63 Hz to 8 kHz.

The grid has been implemented to demonstrate contours where the 35 dB(A) threshold occurs, with the wind turbine operating. Noise contours have been placed at a height of 4 m in order to present a robust assessment, indicative of first floor windows.

Figure 4.2 shows a plan view of turbine noise propagation towards the development site, with contours indicating areas where the  $L_{90}$  35 dB(A) noise limit is reached.

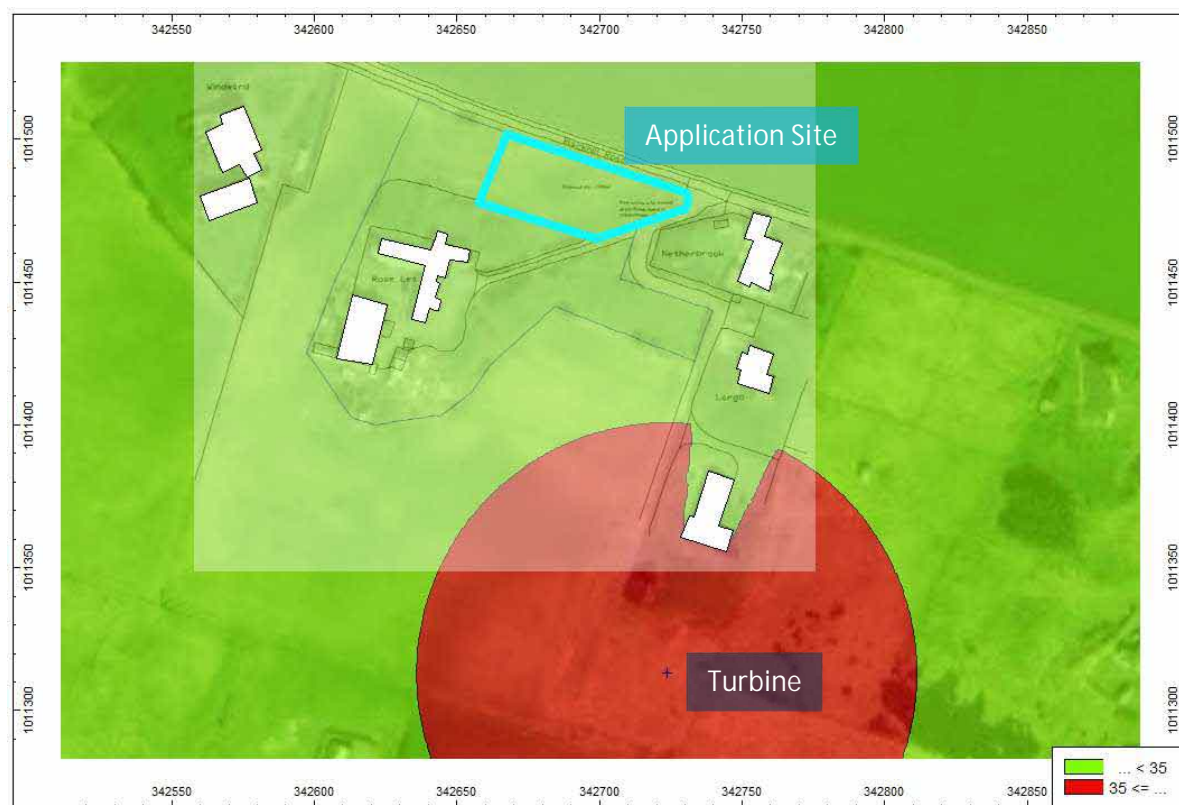


Figure 4.2 Plan view of turbine noise propagation towards proposed development site



As shown in Figure 4.2, the closest point of the site boundary is below the established noise limit, and full compliance with the Local Authority requirements is therefore demonstrated.

## 5.0 ASSESSMENT OF NOISE LEVELS IN EXTERNAL AMENITY AREAS

### 5.1 Determination of Source Noise and Modelling

As shown in Sections 3.1 and 4.1, the assessment to Local Authority criteria is carried based on the sound power level of the turbine at 10 m/s wind speed.

In order to assess anticipated levels of noise in external amenity areas, using the sound power level at 12 m/s wind speed is considered suitably robust. The guidance of ETSU is that assessments should typically be limited to wind speeds of 12 m/s at a height of 10 m. This is due to noise emissions at higher wind speeds being both unlikely, and difficult to predict reliably.

The calculated noise slope as derived from the trendline has again been used, resulting in a calculated sound power level of  $L_W$  88.2 dB(A) at 12 m/s wind speed (including the uncertainty correction).

No reduction to a  $L_{W90}$  background noise level has been applied, as BS 8233 considers ambient noise levels.

The noise map has then been recalculated, with contours placed at a height of 1.5 m, which is considered representative of a typical receiver height when relaxing in a garden.

Figure 5.1 shows the noise propagation from the turbine towards the development site, showing areas where the lower and upper guideline values are exceeded.



Figure 5.1 Plan view of turbine noise propagation towards proposed development site



As shown in Figure 5.1, the entire development site falls below the lower guideline value of  $L_{AeqT}$  50 dB(A).

Noise levels in proposed residential gardens due to the existing turbine are therefore expected to be suitable for typical relaxation and enjoyment activities, without the need for any particular mitigation in terms of site layout or orientation.

## 6.0 CONCLUSION

---

An environmental noise assessment has been undertaken for the proposed residential redevelopment at Roselea Croft, Blackhill Road, St Ola, Orkney.

Available information regarding an existing wind turbine has aided an assessment of the level of exposure to noise of the proposed development site to be made.

Calculations undertaken to consider the requirements of the Local Authority indicate that full compliance would be achieved, based on the information submitted with the turbine application.

Further calculations have demonstrated that noise levels due to the turbine in external amenity areas associated with the proposed residential development would be suitable, without the need for any particular mitigation measures.





Not to scale

Description:  
Indicate site plan showing location of proposed site

Date	07 March 2025
Reference	19584-SP1
Project Name	Roselea Cro#
Image ©	Google Earth

Key:

	Existing Wind Turbine
	Site Location

# APPENDIX A

## GLOSSARY OF ACOUSTIC TERMINOLOGY

### dB(A)

The human ear is less sensitive to low (below 125Hz) and high (above 16kHz) frequency sounds. A sound level meter duplicates the ear's variable sensitivity to sound of different frequencies. This is achieved by building a filter into the instrument with a similar frequency response to that of the ear. This is called an A-weighting filter. Measurements of sound made with this filter are called A-weighted sound level measurements and the unit is dB(A).

### $L_{eq}$

The sound from noise sources often fluctuates widely during a given period of time. An average value can be measured, the equivalent sound pressure level  $L_{eq}$ . The  $L_{eq}$  is the equivalent sound level which would deliver the same sound energy as the actual fluctuating sound measured in the same time period.

### $L_{10}$

This is the level exceeded for not more than 10% of the time. This parameter is often used as a "not to exceed" criterion for noise.

### $L_{90}$

This is the level exceeded for not more than 90% of the time. This parameter is often used as a descriptor of "background noise" for environmental impact studies.

### $L_{max}$

This is the maximum sound pressure level that has been measured over a period.

### Octave Bands

In order to completely determine the composition of a sound it is necessary to determine the sound level at each frequency individually. Usually, values are stated in octave bands. The audible frequency region is divided into 10 such octave bands whose centre frequencies are defined in accordance with international standards.

### Addition of noise from several sources

Noise from different sound sources combines to produce a sound level higher than that from any individual source. Two equally intense sound sources operating together produce a sound level which is 3dB higher than one alone and 10 sources produce a 10 dB higher sound level.

### Attenuation by distance

Sound which propagates from a point source in free air attenuates by 6dB for each doubling of distance from the noise source. Sound energy from line sources (e.g. stream of cars) drops off by 3 dB for each doubling of distance.

# APPENDIX A

## Subjective impression of noise

Sound intensity is not perceived directly at the ear; rather it is transferred by the complex hearing mechanism to the brain where acoustic sensations can be interpreted as loudness. This makes hearing perception highly individualised. Sensitivity to noise also depends on frequency content, time of occurrence, duration of sound and psychological factors such as emotion and expectations. The following table is a reasonable guide to help explain increases or decreases in sound levels for many acoustic scenarios.

Change in sound level (dB)	Change in perceived loudness
1	Imperceptible
3	Just barely perceptible
6	Clearly noticeable
10	About twice as loud
20	About 4 times as loud

## Barriers

Outdoor barriers can be used to reduce environmental noises, such as traffic noise. The effectiveness of barriers is dependent on factors such as its distance from the noise source and the receiver, its height and its construction.

## Reverberation control

When sound falls on the surfaces of a room, part of its energy is absorbed and part is reflected back into the room. The amount of reflected sound defines the reverberation of a room, a characteristic that is critical for spaces of different uses as it can affect the quality of audio signals such as speech or music. Excess reverberation in a room can be controlled by the effective use of sound-absorbing treatment on the surfaces, such as fibrous ceiling boards, curtains and carpets.

## Planning Handling Report.

**Siting of a house (subdivision of curtilage) at Roselea Croft,  
Blackhill Road, St Ola**

### Determination under delegated powers

## 1. Summary

Application Number:	24/264/PIP
Application Type:	Planning in Principle
Applicant:	Mr Graham Shearer, 2 Jubilee Court, Kirkwall, KW15 1XR.
Agent:	Christopher Omand, 14 Victoria Street, Kirkwall, KW15 1DN.

### 1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

[https://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm)  
(then enter the application number given above).

## 2. Consultations

### 2.1. Development & Marine Planning (Environment)

No objection. Noted that no biodiversity information has been submitted with the application in terms of Policy 3 c) of National Planning Framework 4.

### 2.2. Roads Services

No objection, subject to a condition and informatives.

### 2.3. Scottish Water

No objection.

### 2.4. Environmental Health

No objection on noise grounds, including in relation to the nearby wind turbine, reference 11/332/TPP.

## 3. Representations

### 3.1.

One valid representation (objection) has been received from:

- Mr Keith and Mrs Jacqueline Harcus, Windward, Blackhill Road, St Ola, KW15 1FP

### 3.2.

The objection is on the grounds that the application site is agricultural, and not domestic as submitted. This is supplemented by a description of the use of the land for 10+ years, and a series of photographs of the land being cultivated by a tractor, and aerial photographs.

## 4. Relevant Planning History

### 4.1.

Reference.	Proposal.	Location.	Decision.	Date.
09/051/PPF	Extend a house	Roselea Croft, Blackhill Road, St Ola	Grant subject to conditions	30.01.2009
87/096/PPF	Proposed extension to a house	Roselea Croft, St Ola	Grant	09.04.1987

## 5. Pre-application Advice

No pre-application advice was sought by the agent or applicant in advance of a formal planning application.

## 6. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- National Planning Framework 4
  - Policy 3. Biodiversity
  - Policy 16. Quality homes.
  - Policy 29. Rural development.
- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Housing.
- Supplementary Guidance
  - Housing in the Countryside (2017)

## 7. Legal Aspects

### 7.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 (“the Act”) states that in making determinations under the Planning Acts the determination should be

in accordance with the development plan unless material considerations determine otherwise.

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

Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still 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 Plan will be diminished where policies within the plan are subsequently superseded.

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

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 the National Planning Framework 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.

# **8. Assessment**

## **8.1. Site Description**

Permission is sought for the siting of a house, submitted as a subdivision of domestic curtilage at Roselea Croft, Blackhill Road, St Ola. The site is in the countryside, and the development is therefore assessed under the provisions of Policy 29 of NPF4, Policy 5E of the Local Development Plan, and Supplementary Guidance: Housing in the Countryside (2021).

## **8.2.**

The site lies between Roselea Croft and Blackhill Road, with the topography a gentle downward gradient towards the north-east. This location has an open, rural landscape character, of open fields and a scatter of buildings. The development visual impact must be considered in relation to surrounding properties and the broader countryside setting.

## **8.3. Principle**

The relevant provision for housing in the countryside, under Policy 5E, is as follows:

“Outwith the settlements, on the Mainland and Linked South Isles, developments of single houses and housing clusters will be supported where it involves one of the following:

- i. The reinstatement or redevelopment of a former dwelling house.
- ii. The conversion of a redundant building or structure.
- iii. The replacement of an existing building or structure.
- iv. The re-use of brownfield land, where the previous use is evident on site.



- v. The subdivision of a dwelling house or its residential curtilage.
- vi. Single house infill development within existing housing groups.
- vii. The provision of a single dwelling house for a rural business where 24-hour supervision is an operational requirement (including agricultural workers or crofters).
- viii. The provision of a single dwelling house to allow for the retirement succession of a viable holding.”

#### **8.4.**

This application is presented under Policy 5E (v.) The Subdivision of a dwelling house or its residential curtilage. In turn, there are six policy provisions from paragraph 3.17, as follows:

- “1. The curtilage to be sub-divided complies with the definition of curtilage as noted in the Supplementary Guidance.
- 2. The curtilage to be sub-divided has served the host house for a period of 10 years or greater. Evidence will be required to support the application, such as planning history or clean documentary/photographic evidence.
- 3. The subdivision is achievable without the need to extend the existing curtilage, with all proposed development being fully contained within the boundary of the existing curtilage.
- 4. The proposed house and the host house have adequate parking, access provision and outside amenity space, and foul drainage.
- 5. When the proposal is for the subdivision of a house as well as the curtilage, any built form extension should not dominate the original house in terms of scale and form, and
- 6. The residential amenity of adjacent properties, including that of the host house, must be protected.”

#### **8.5.**

The proposal does not meet the policy provision; this is on the simple basis it is concluded that the application site does not comprise “a dwelling house or its residential curtilage” in terms of lawful planning grounds. Therefore, the six policy provisions that allow for sub-division of domestic curtilage in the countryside cannot be applied.

#### **8.6.**

The application is submitted on a basis of the site being domestic curtilage. Paragraph 5.05 of policy 5E (v) of the Orkney Local Development Plan 2017 confirms, “Curtilage is defined as the extent of the land associated with the building (house) which is used and maintained as domestic space and is in the ownership and/or control of the host house. The curtilage is often demarked by a boundary wall or fence and contains a lawn or garden, drying area, vegetable patch, and any outbuildings which are ancillary to the property, such as sheds, stores, or garages.”



### 8.7.

Supporting text of policy 5E (v) of the Orkney Local Development Plan 2017 confirms that, “A field or piece of ground which is near to or associated with the house is not necessarily curtilage. Where an area of land has planning permission to be used as domestic curtilage or has achieved the status lawfully through the passage of time, it will be considered as such unless it has been abandoned for a period of ten years, where its use will be deemed to have lapsed.”

### 8.8.

The proposed site does not comply with the definition of curtilage. And there is no lawful planning basis to regard the land as curtilage. Further, it is confirmed land cannot be regarded as curtilage simply by being associated with or close to a house.

### 8.9.

The images below demonstrate the evolution and use and function of the site.



Extract from Google Earth in 2009, showing Roselea croft central and the application site to the north.

Google (2009) Google Earth Pro. Available:  
<https://earth.google.com/intl/earth/versions/> [Accessed: 05/05/2025]

**8.10.**

Extract from Google Earth in 2016, showing Roselea croft central and the application site to the north.

Google (2016) Google Earth Pro. Available:  
<https://earth.google.com/intl/earth/versions/> [Accessed: 05/05/2025]

**8.11.**

Extract from Google Earth in 2019, showing Roselea croft central and the application site to the north.

Google (2016) Google Earth Pro. Available:  
<https://earth.google.com/intl/earth/versions/> [Accessed: 05/05/2025]

**8.12.**

Extract from Google Earth in 2021, showing Roselea croft central and the application site to the north.

Google (2016) Google Earth Pro. Available:  
<https://earth.google.com/intl/earth/versions/> [Accessed: 05/05/2025]

**8.13.**

Extract from Google Earth in 2024, showing Roselea croft central and the application site to the north.

Google (2016) Google Earth Pro. Available:  
<https://earth.google.com/intl/earth/versions/> [Accessed: 05/05/2025]

### **8.14.**

The image at 8.9. shows the croft and proposed site in 2009, at the time of a previous planning application. The image shows that, at that time, the proposed site is not enclosed and is grazing. The image at 8.10. shows the land in 2016, where the proposed site remains open to the larger field, and a patch of the agricultural land used for different cultivation (vegetables). By 2019, in the image at 8.11., a larger area of cultivation is evidenced. This cultivation is extended again by the 2021 image at 8.12. By the final image in 2024, at 8.13., there is a change in agricultural practice, with much of the land reverted to grass, and the vegetable cultivation smaller.

### **8.15.**

Response was received 12 March 2025 in response to the objection received 23 August 2024 regarding use. The response does not confirm that the land is not agricultural. The Scottish Government Rural Payments and Inspections Directorate, Kirkwall Department (SGRPID), cannot be taken as factual confirmation of land use for the purposes of planning. Planning decisions must be based on observed and evidenced land use at the time of the application, supported by site inspection, photographic records, and other relevant documentation. That evidence includes the images shown above, and that the land was used for agricultural purposes, regardless of status or “not being claimed for IACS purposes” with SGRPID. I.e. land does not become domestic, simply by not being claimed for IACS purposes, therefore any claimed link between these for planning purposes can be dismissed. That evidence aligns with the absence of planning history that would make the site domestic.

### **8.16. Landscape and Amenity**

The proposed site is on relatively flat land, with a slight slope down to the north-east. Visually, the proposed site will be frequently observed by other residents within the area. The dwelling of Windward would be most affected by the visual intrusion issues. Rosalea Croft, the host house, would be affected in terms of visual amenity, although there would be some protection due to existing planting at the Roselea Croft.

## **9. Conclusion**

### **9.1.**

Fundamentally, the proposed development does not meet any of the policy provisions for housing in the Orkney countryside and is contrary to both the Orkney Local Development Plan 2017, Policy 5E, and Supplementary Guidance ‘Housing in the Countryside’ (2021). Although presented as a subdivision of curtilage application, which would normally then require assessment of the relevant policy requirements under that provision, in this case the application site is not domestic curtilage, and so there is no further assessment required. This is based on the definitions provided in the Supplementary Guidance, for the specific purpose of applying the relevant policy test.

### **9.2.**

Evidence from Google Earth provides an insight into the use of the proposed site from 2009 until 2024. The proposed site is not used as domestic curtilage as defined in 5.05 of Supplementary Guidance ‘Housing in the Countryside’ (2021), as

evidenced by the satellite imagery. As the site is not domestic curtilage, the application cannot pass a test as a proposed 'subdivision' of such curtilage.

### **9.3.**

The representation submitted provides dated photographic evidence showing the site in use for agricultural/horticultural purposes, contrary to the applicant's position, and with those submitted photographs corresponding with the satellite imagery.

## **10. Reasons for Refusal**

01. The application site is not 'domestic curtilage' as defined in paragraph 5.05 of Supplementary Guidance 'Housing in the Countryside' (2021). On that basis, the proposed development fails to meet the fundamental requirement of being 'The Subdivision of a Dwelling House or its Residential Curtilage', and therefore cannot be assessed under, Policy 5E (v) of the Orkney Local Development Plan 2017.

02. Policy 5E (v) of the Orkney Local Development Plan 2017 requires that, "...The curtilage to be sub-divided has served the host house for a period of 10 years or more. Evidence will be required to support the application, such as planning history or clean documentary/photographic evidence." Available evidence confirms the contrary, that the land is not domestic curtilage; therefore, there is no test required for how long it has served the host house. It is simply not curtilage. The development is contrary to Policy 5E (v) of the Orkney Local Development Plan 2017.

## **11. Contact Officer**

**Isla McLeod. Graduate Planner**

**Date: 12 May 2025**





Council Offices School Place Kirkwall KW15 1NY Tel: 01856 873 535 (ex 2504) Email: [planning@orkney.gov.uk](mailto:planning@orkney.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100677470-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- ☐ Application for planning permission (including changes of use and surface mineral working).
- ☒ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Subdivision of a domestic curtilage for siting of a new house

Is this a temporary permission? \* ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \* ☐ Yes ☒ No

Has the work already been started and/or completed? \*

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	S J Omand		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Christopher	Building Name:	
Last Name: *	Omand	Building Number:	14
Telephone Number: *	01856876215	Address 1 (Street): *	Victoria Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Kirkwall
Fax Number:		Country: *	Scotland
		Postcode: *	KW15 1DN
Email Address: *	christopher@sjomand.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Graham	Building Number:	2
Last Name: *	Shearer	Address 1 (Street): *	Jubilee Court
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Kirkwall
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	KW15 1XR
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Orkney Islands Council

Full postal address of the site (including postcode where available):

Address 1:

ROSELEA CROFT

Address 2:

BLACKHILL ROAD

Address 3:

ST OLA

Address 4:

Address 5:

Town/City/Settlement:

KIRKWALL

Post Code:

KW15 1FP

Please identify/describe the location of the site or sites

Northing

1011451

Easting

342638

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Site Area

Please state the site area:

1500.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Garden ground for Rose Lea, Blackhill Road, St Ola

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.



<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? *      ≤ Yes <b>T</b> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<h2 style="margin-top: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? *      ≤ Yes <b>T</b> No</p>
<p>Do your proposals make provision for sustainable drainage of surface water?? *      ≤ Yes <b>T</b> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p>≤ Yes</p> <p>≤ No, using a private water supply</p> <p><b>T</b> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>
<h2 style="margin-top: 0;">Assessment of Flood Risk</h2> <p>Is the site within an area of known risk of flooding? *      ≤ Yes <b>T</b> No ≤ Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? *      ≤ Yes <b>T</b> No ≤ Don't Know</p>
<h2 style="margin-top: 0;">Trees</h2> <p>Are there any trees on or adjacent to the application site? *      ≤ Yes <b>T</b> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>
<h2 style="margin-top: 0;">All Types of Non Housing Development – Proposed New Floorspace</h2> <p>Does your proposal alter or create non-residential floorspace? *      ≤ Yes <b>T</b> No</p>
<h2 style="margin-top: 0;">Schedule 3 Development</h2> <p>Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *      ≤ Yes <b>T</b> No ≤ Don't Know</p> <p>If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.</p> <p>If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.</p>

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*  $\leq$  Yes **T** No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*  $\leq$  Yes **T** No

Is any of the land part of an agricultural holding? \*  $\leq$  Yes **T** No

Are you able to identify and give appropriate notice to ALL the other owners? \* **T** Yes  $\leq$  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mr John David Newlands

Address:

Rose Lea, Blackhill Road, St Ola, Scotland, KW15 1FP

Date of Service of Notice: \*

04/07/2024

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Christopher Omand

On behalf of: Mr Graham Shearer

Date: 03/07/2024

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

≤ Yes ≤ No **T** Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

≤ Yes ≤ No **T** Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

≤ Yes ≤ No **T** Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

**T** Site Layout Plan or Block plan.

≤ Elevations.

≤ Floor plans.

≤ Cross sections.

≤ Roof plan.

≤ Master Plan/Framework Plan.

≤ Landscape plan.

≤ Photographs and/or photomontages.

≤ Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	≤ Yes <b>T</b> N/A
A Design Statement or Design and Access Statement. *	≤ Yes <b>T</b> N/A
A Flood Risk Assessment. *	≤ Yes <b>T</b> N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤ Yes <b>T</b> N/A
Drainage/SUDS layout. *	≤ Yes <b>T</b> N/A
A Transport Assessment or Travel Plan	≤ Yes <b>T</b> N/A
Contaminated Land Assessment. *	≤ Yes <b>T</b> N/A
Habitat Survey. *	≤ Yes <b>T</b> N/A
A Processing Agreement. *	≤ Yes <b>T</b> N/A

Other Statements (please specify). (Max 500 characters)

**Declare – For Application to Planning Authority**

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Christopher Omand

Declaration Date: 03/07/2024

**Payment Details**

Cheque: 0000, 0000

Created: 03/07/2024 22:44

3<sup>rd</sup> July 2024

Development Management Planning, and Community Protection,  
 Neighbourhood Services and Infrastructure,  
 Orkney Islands Council,  
 Council Offices,  
 Kirkwall,  
 KW15 1NY.

Dear Sirs,

**Subject: Siting of a house (subdivision of curtilage).**  
**At: At Rose Lea, Blackhill Road, St Ola, KW15 1FP**

Mr Shearers grandfather has worked this area of land for over 15 years as a garden and vegetable patches. Photographs below have been provided proof of the land being used as a garden over the years.



Site area highlighted in red.

## SERVICES INCLUDE:

Bank &  
Building  
Society  
Valuations

Residential &  
Commercial  
Property Surveys

Single  
Surveys

Energy  
Performance  
Certificates

SAP  
Certifications

Building  
Surveying  
Services

Rental &  
Insurance  
Valuations

Residential  
& Commercial  
Plans

Title Deed  
Plans

Overseeing  
New Builds

Planning  
& Building  
Warrant  
Applications

A list of partners is available at the above address

## LOCAL KNOWLEDGE ■ NATIONAL COVERAGE

Offices throughout Scotland

Each member firm of First Surveyors Scotland is an independent entity and no partnership implies or otherwise exists between the firms by reason of their membership of First Surveyors Scotland. First Surveyors Scotland is the trading name of First Surveyors Scotland Limited a company registered in Scotland Company No 201050. Registered Office: 57 Albany Street, Edinburgh, EH1 3QY



Member Firm of  
**FIRST SURVEYORS SCOTLAND**  
 National Valuation & Property Consultancy Service



**Audrey Newland**

7 May 2016 · 🌐

Mr Shearers grandad working the garden in 2016.

Yours faithfully,



Christopher J Omand, BSc (Hons), M.R.I.C.S.  
Chartered Surveyor

**Consultee List**

Application Number 24/264/PIP

- Roads Services
- Scottish Water



## Neighbour Notification List

From the 3rd August 2009 the responsibility for Neighbour Notification transferred from the applicant to Orkney Islands Council. The Council will send out Notices to those having an interest in land coterminous with or within 20 metres of the boundary of the land for which development is proposed. Where there are no premises on this land and where the Council is unable to identify a relevant address to which notification can be sent, it will advertise this in the local press.

Below is a list of the properties notified for this application.

### Application Number 24/264/PIP

- Netherbrook, Blackhill Road, St Ola, Orkney Islands, KW15 1FP
- Largo, Blackhill Road, St Ola, Orkney Islands, KW15 1FP
- Roselea Croft, Blackhill Road, St Ola, Orkney Islands, KW15 1FP

**Number of neighbours notified: 3**

**INTERNAL MEMORANDUM  
Environment****TO: Development & Marine Planning -**

Date of Consultation	15th August 2024
Response required by	5th September 2024
Planning Authority Reference	24/264/PIP
Nature of Proposal (Description)	Siting of a house (subdivision of curtilage)
Site	Roselea Croft, Blackhill Road, St Ola, Orkney KW15 1FP
Proposal Location Easting	342638
Proposal Location Northing	1011451
Area of application site (Metres)	1470
Supporting Documentation URL	<a href="http://planningandwarrant.orkney.gov.uk/online-applications/">http://planningandwarrant.orkney.gov.uk/online-applications/</a>  Please enter - 24/264/PIP
PA Office	Development Management
Case Officer	Isla McLeod
Case Officer Phone number	
Case Officer email address	
PA Response To	planningconsultation@orkney.gov.uk

Comments:

**Advice provided by:** Nina Caudrey,  
Environmental Planner

**Date of assessment:** 19 August 2024

**Is the advice final or interim?**  
(if interim then further information is needed, see detailed advice)

interim

**SUMMARY ADVICE (must be read in conjunction with detailed advice)**

No information has been provided about biodiversity - **further information is therefore required.**

**Are condition(s) required/ recommended in the detailed advice?** no

**Separate consideration of need for a Habitat Regulations Appraisal required? (9.A.1 / NPF4 4.b)** no

**If yes, which European site(s) may need further consideration?**

n/a

**DETAILED ADVICE**

**Which natural heritage interests have the potential to be significantly affected by the proposed development? Is further information or survey work required before final advice can be given? Are conditions required?**

– **SSSIs**  
(9.A.2 / NPF4 4.c)

- **Local Nature Conservation Site, Local Nature Reserve,**  
(9.A.3 / 4.d)

- **Protected species**  
(9.B / NPF4 4.f)

- **Wider biodiversity**  
(9.C / NPF4 3)

#### **Wider biodiversity**

Unfortunately no biodiversity information has been submitted with the application. The planning policy requirements of NPF4 policy 3.c on biodiversity apply to all relevant planning applications at both in principle and full application stages. Biodiversity measures should be proposed at the in principle stage to ensure that measures proportionate to the nature and scale of development can be accommodated within the proposed development site.

**The applicant should use the Orkney Islands Council Considering and including biodiversity in development guidance and Biodiversity form** (both available from <https://www.orkney.gov.uk/our-services/planning-and-building/development-and-marine-planning-policy/natural-and-built-environment/biodiversity/>) **to guide them through the process of identifying biodiversity measures appropriate for the proposed development and submit the required information (including site photographs) about biodiversity.**

**Once this information has been submitted it should be possible to provide further advice about proposed biodiversity measures in relation to NPF4 policy 3.c.**

- **Water environment**  
(9.D / NPF4 20, 22.e, 3.d)

- **Peat and soils**  
(9.E / NPF4 5)

- **Trees or woodlands of significant ecological, landscape, shelter or recreational value**  
(9.F / NPF4 6, 3.d)

- **Natural coastal resources**  
(12.A.ii / NPF4 10)

- **Coastal and marine ecosystems, geomorphology**  
(12.A.iii / NPF4 10)

- **Aquaculture habitats and species, designated sites, biodiversity, PMFs**

(12.D.i.a / NPF4 32.d)

- **SUDS in relation to ecology and habitat enhancement**

(13.B.ii.e / NPF4 22.c, 22.e, 3.d)

- **Have any opportunities been included in the proposed development to enhance biodiversity and promote ecological interest?** (9.C.ii, 9.D.i.b / NPF4 3)

See advice for **Wider biodiversity**.

Tuesday, 20 August 2024



Local Planner  
Development Management, Development and Infrastructure  
Orkney Islands Council  
Kirkwall  
KW15 1NY

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)



Dear Customer,

**Roselea Croft, St Ola, Orkney, KW15 1FP**  
**Planning Ref: 24/264/PIP**  
**Our Ref: DSCAS-0115122-YCS**  
**Proposal: Siting of a house (subdivision of curtilage)**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application. The applicant should be aware that this does not confirm that the proposed development can currently be serviced.

Please read the following carefully as there may be further action required. Scottish Water would advise the following:

## Water Capacity Assessment

- This proposed development is within the Kirbister Water Treatment Works catchment. Single house developments; unless utilising private water sources, are required to submit a Water Connection Application via our Customer Portal to allow us to fully appraise the proposals. We recommend that this is done at the earliest opportunity to allow for network appraisal to be carried out ahead of development proceeding.

## Waste Water Capacity Assessment

- According to our records there is no public waste water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

### Please Note

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works. When planning permission has been granted and a formal connection application has been submitted, we will review the availability of capacity at that time and advise the applicant accordingly.

### Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should refer to our guides which can be found at <https://www.scottishwater.co.uk/Help-and-Resources/Document-Hub/Business-and-Developers/Connecting-to-Our-Network> which detail our policy and processes to support the application process, evidence to support the intended drainage plan should be submitted at the technical application stage where we will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

### Asset Impact Assessment

Scottish Water records indicate that there is live infrastructure in the proximity of your development area that may impact on existing Scottish Water assets.

- 1.5" PVC water main

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team via our Customer Portal for an appraisal of the proposals.

The applicant should be aware that any conflict with assets identified will be subject to restrictions on proximity of construction. Please note the disclaimer at the end of this response.

Written permission must be obtained before any works are started within the area of our apparatus.

### Next Steps:

Single house developments; unless utilising private water or drainage sources, are required to submit a Water Connection Application and Waste Water Application via our Customer Portal to allow us to fully appraise the proposals. Please note that Single House developments are not required to submit a Pre-Development Enquiry form (PDE) however local network capacity will be assessed on receipt of application forms.

Further information on our application and connection process for Single Household development can be found on our website <https://www.scottishwater.co.uk/Business-and-Developers/NEW-Connecting-to-Our-Network/Single-Household-Customers>

I trust the above is acceptable however if you require any further information regarding this matter, please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Angela Allison**

Development Services Analyst

[PlanningConsultations@scottishwater.co.uk](mailto:PlanningConsultations@scottishwater.co.uk)

#### **Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

## **Supplementary Guidance**

- Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - Site Investigation Services (UK) Ltd
  - Tel: 0333 123 1223
  - Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - [www.sisplan.co.uk](http://www.sisplan.co.uk)
- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Development Operations department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or a Sustainable Drainage System (SUDS) proposed to vest in Scottish Water is constructed.
- Please find information on how to submit application to Scottish Water at our Customer Portal



Ref No: 24/264/PIP

Alternative Reference: 100677470-001

Proposed siting of a house (subdivision of curtilage)

Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1PF

For the attention of Isla, Case Officer

With reference to our telephone conversation of Friday 16<sup>th</sup> August, 2024, I am writing to you regarding the above proposed siting of a house at Roselea Croft, Blackhill Road, St Ola, which was recently published in the Orcadian newspaper.

As stated in the application the proposed site would be on an area of garden which has been used by the applicant's grandfather for vegetable patches over the past fifteen years. This we find to be untrue, as the plot has been farmed as agricultural/horticultural land for around the past thirteen years.

In the application it can be seen from the image from 2016, that this is quite a large area of garden for someone just planting vegetables for a hobby.

The area to the right of the site in this image shows a small strip of lawn going down the right-hand side boarder of the proposed site, this grass has been cut by the landowner for a number of years. Along the bottom boarder of the site, it can vaguely be seen that there is another small strip of lawn just behind the trees at the opening of the roadway going up to Roselea Croft, this strip of lawn has also been maintained by the landowner. In the background, down the left-hand side boarder of the site, next to the main Blackhill Road, you can see the grass has not been cut by a lawn mower and is coarse in texture, this indicates where it has been used for agricultural/horticultural purposes over the years.

With regards to the above, we would like to query the area Mr Graham Shearer has submitted as a site for a proposed sitting of a dwelling, as we are of the opinion that this area has been used for agricultural/horticultural purposes and not for a small garden/vegetable plot.

My wife and I, moved to a neighbouring property around thirteen years ago. Since living in this area, the land around Roselea Croft and the field above Windward has been farmed by Mr Arnie McAdie, Aikers, Tankerness, Orkney. Mr McAdie is a farmer with years of agricultural experience and has used this proposed plot and the field around Roselea Croft

for hay and barley, rotating these crops over the years for the best growth. Mr McAdie grows part of his crops around the sides of applicant's grandfather's vegetable plot and this crop can clearly be seen in an image shown on the most recent google earth satellite mapping system picture on the internet. The agricultural land which has been harvested for crop in the field above Windward, the field around Roselea Croft and the area around the vegetable patch in the proposed building site in this google map image are a very different colour from the lawn which has been cut around the bottom and the right-hand side of the proposed site. This google map image also shows a brown area indicating the vegetable patch, which in this image is nearly the same size as a nearby dwelling house. This indicates a very large vegetable plot, clearly for used for horticultural purposes.

Shown below are supporting photographs which capture the proposed building plot over numerous years where the area is being used as a large horticultural site for vegetables and potatoes. Due to the scale of the vegetable patch a tractor is needed for farming this area. Obviously if this was a domestic vegetable garden being enjoyed as a hobby, a horticultural tractor wouldn't be required.

Pictures taken on Tuesday 2<sup>nd</sup> May 2017 show the vegetable plot being prepared by an agricultural tractor right up as far as the patch of lawn on the right and then down to the bottom of the proposed site.





Pictures taken on Saturday 4<sup>th</sup> May 2019, again show the scale of the area used for planting vegetables. The first image shows the land being prepared by tractor which reaches over to the right of the proposed site.





In the second image you can clearly see the horticultural farmed area which extends right out to the fencing which joins Blackhill Road and then over to the strip of lawn on the right. Again a tractor is used due to the size of the farmed area.



This third image also shows the large horticultural patch.



The fourth image again shows the horticultural land.

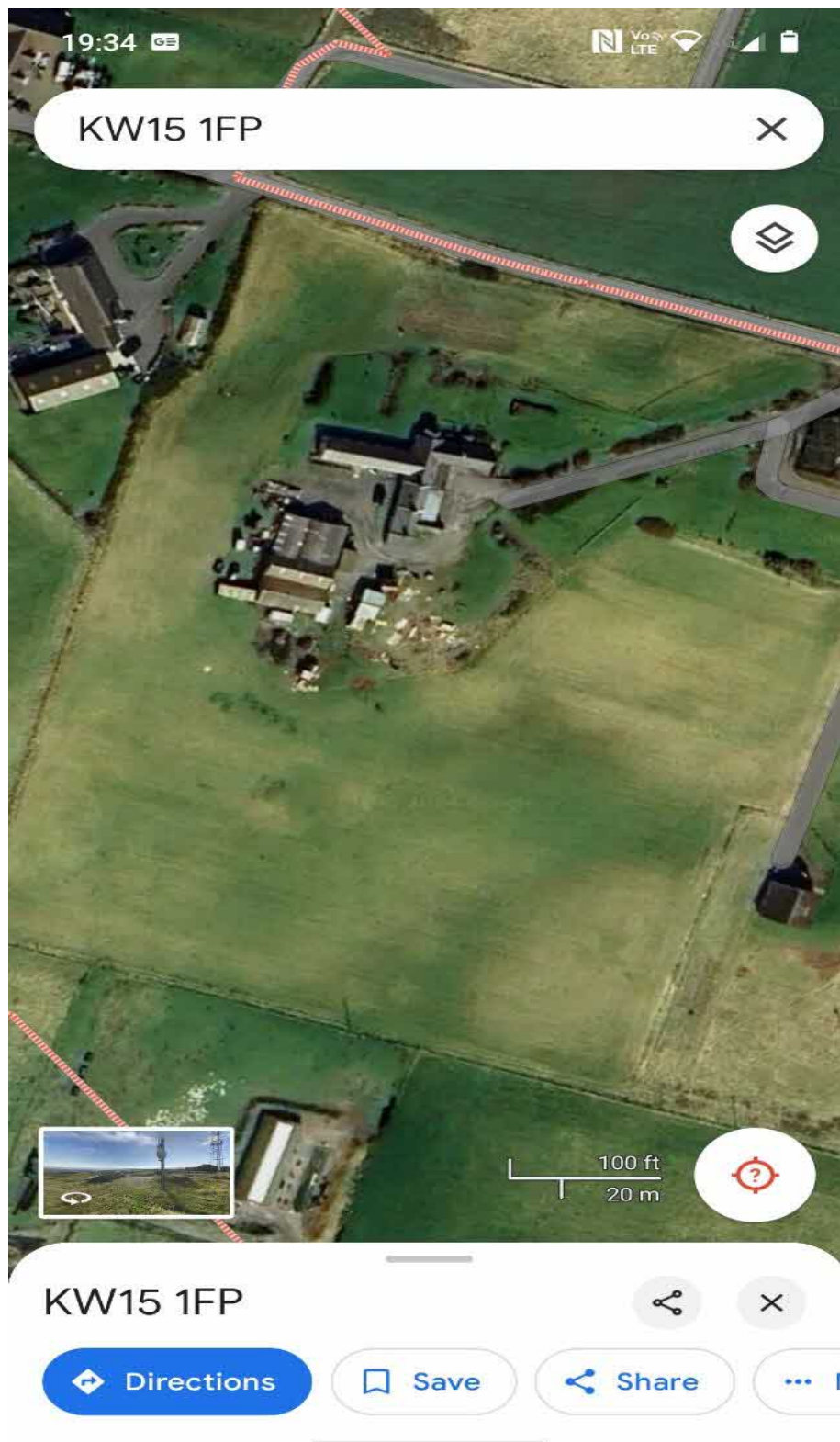


An image from 22<sup>nd</sup> April 2022 again shows the large area of land being cultivated by tractor for the use of horticultural land on the proposed dwelling site.



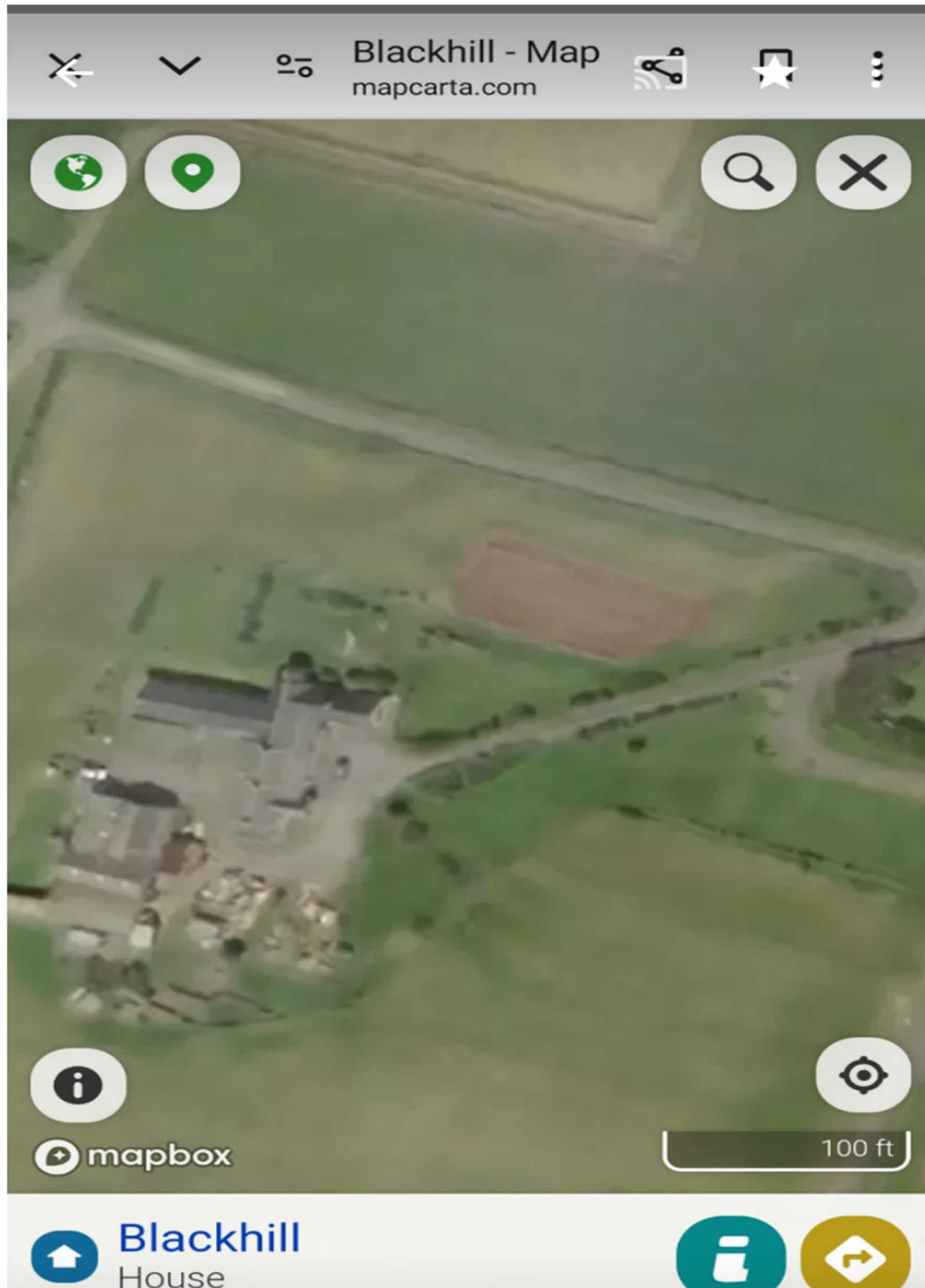
Since 2022 to the present day, the proposed site has continued to be used for horticulture and agricultural purposes with the vegetable patch becoming smaller and Mr McAdie's agricultural area becoming larger.

As shown on the present GOOGLE satellite map image, the area used for agricultural land by Mr McAdie can clearly be identified due to the colour of the crop in the surrounding area.







A search carried out on the mapcarta.com, mapbox satellite view currently shows the vegetable plot located in a different place from Google maps, again Mr McAdie's crops can be seen around the area of the landowners vegetable patch. Again the vegetable patch is large and is bigger than a nearby dwelling house.





A search on the 192.com shows another satellite image of the vegetable plot, again this is in a different area of the proposed site. Again Mr McAdie's agricultural land can clearly be seen and again the horticultural vegetable patch farmed by the landowner is large compared to nearby dwellings.


19:20 VoLTE 4G


**1 9 2 .com**


[Help & Contact](#)
[Sign In | Register](#)

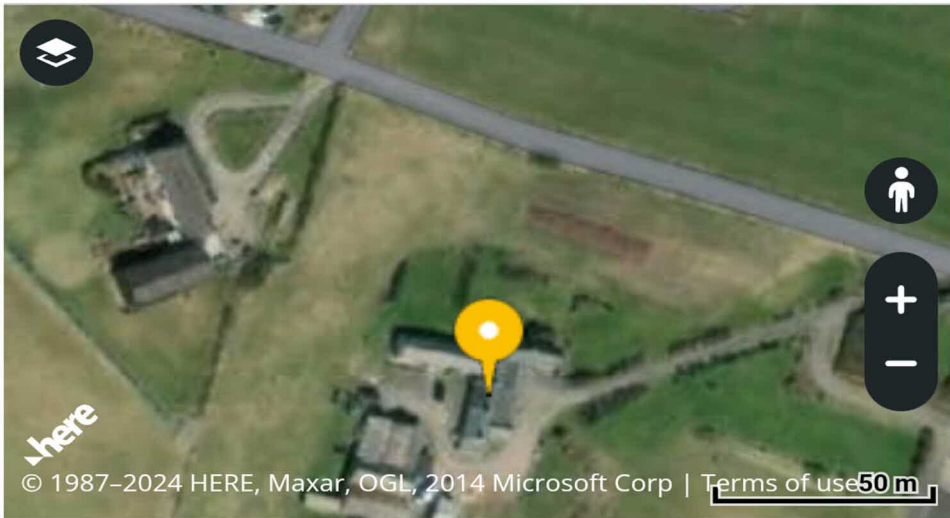


Click to view
OPEN >

Windward  
 Blackhill Road  
 Kirkwall  
 Orkney  
 KW15 1FP


Who Lives Here?

No recent property sale transactions

Map



© 1987–2024 HERE, Maxar, OGL, 2014 Microsoft Corp | Terms of use 50m



I'm sure you will agree that if this proposed site for a dwelling house had been used as a garden there are no secure bordering fences to keep out wildlife including pheasants, rabbits or hares. There are also no plants or seating areas showing a place to enjoy your garden. The applicant has in the last few weeks started to cut the rough patch of grass at the proposed site to make this into a new lawn and not fifteen years ago as stated in the application.

With regards to the evidence above, we clearly think this area cannot be classed as a 'garden' and wish to submit an official objection against the 'proposed sitting of a house' by Mr Graham Shearer.

Mr & Mrs Keith Marcus

## NEIGHBOURHOOD SERVICES AND INFRASTRUCTURE

**Corporate Director:** Hayley Green, MBA (Public Service)  
Council Offices, Kirkwall, Orkney, KW15 1NY

Tel: 01856 873535 Website: [www.orkney.gov.uk](http://www.orkney.gov.uk)  
Email: [planning@orkney.gov.uk](mailto:planning@orkney.gov.uk)



30th September 2024

Mr Graham Shearer  
c/o Christopher Omand  
14 Victoria Street  
Kirkwall  
Scotland  
KW15 1DN

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

Dear Sir/Madam

Ref No: 24/264/PIP  
Type: Planning in Principle  
Location: Roselea Croft, Blackhill Road, St Ola, Orkney KW15 1FP  
Proposal: Siting of a house (subdivision of curtilage)

I refer to the above application and would be grateful if you could submit to us the following additional information:

- **Noise Impact Assessment-** A wind turbine, approved under reference 11/332/TPP, is located within 250 metres of the application site area. As proposed development for a noise sensitive use it must be confirmed that this wind turbine would not cause any unacceptable amenity impacts to the occupants of the proposed development.
- **Biodiversity enhancement measures-** No biodiversity enhancement was submitted; this is required by NPF4 policy 3.c. Biodiversity measures should be proposed at the principle stage to ensure that measures proportionate to the nature and scale of development can be accommodated within the proposed development site.

Please note that this information is requested under Regulation 24 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and must be provided in writing within 14 days of the date of this letter.

Previous correspondence regarding the aforementioned information occurred on the 20/08/2024, to which a time scale of 21 days was mentioned in order to continue the application.

If you fail to meet this deadline, then your application may be recommended for refusal for reasons which include the information and details supplied with it being inadequate and fail to demonstrate that the proposed development accords with planning policy and/or other applicable material considerations.

The above information is given without prejudice to the formal consideration of the application by the Planning Authority.

Yours faithfully

Isla McLeod, Graduate Planner

9<sup>th</sup> September 2024

Isla McLeod,  
Graduate Planner,  
Development Management,  
Planning and Community Protection  
Neighbourhood Services and Infrastructure,  
Orkney Islands Council,  
Council Offices,  
Kirkwall,  
KW15 1NY.

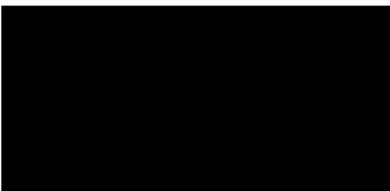
Dear Miss McLeod

**Response to objection received from Mr & Mrs Marcus.**  
**Planning Ref: 26/267/PIP**  
**Proposed: Siting of a house (subdivision of curtilage)**  
**At: Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1FP**

In response to the objection received from Mr & Mrs Marcus. We can confirm that the land has not been used as agricultural and have confirmation from SGRPID (Scottish Government Rural Payments and Inspections Directorate, Kirkwall department. See appendix 1. As per the applicants the area of land has not been used as agricultural for over 40 years.

Mr Shearers grandad has a vintage tractor, which he used to use to prepare the land for planting a selection of different vegetables for the family. The tractor was not used for any other purposes on the land.

Your sincerely



Christopher J Omand, BSc (Hons), M.R.I.C.S.,

## SERVICES INCLUDE:

Bank &  
Building  
Society  
Valuations

Residential &  
Commercial  
Property Surveys

Single  
Surveys

Energy  
Performance  
Certificates

SAP  
Certifications

Building  
Surveying  
Services

Rental &  
Insurance  
Valuations

Residential  
& Commercial  
Plans

Title Deed  
Plans

Overseeing  
New Builds

Planning  
& Building  
Warrant  
Applications

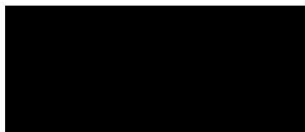
## Appendix 1

Emails below, which was received from SGRPID confirming the areas marked in blue and red on the site and location plan submitted, are not agricultural.

“Hi Audrey

I can confirm that the land outlined in blue below is not registered on our system and has therefore not been claimed for IACS purposes.

Kind regards



Paula Craigie | Office Manager

Northern Isles Area Office | Tankerness Lane | Kirkwall | Orkney | KW15 1AQ | Tel: 0300 244 9626 | Email: [SGRPID.kirkwall@gov.scot](mailto:SGRPID.kirkwall@gov.scot)



”

Hi David & Audrey

The area outlined in red is not mapped on our system so is therefore not claimed for IACS purposes.

Kind regards



Paula Craigie | Office Manager

Northern Isles Area Office | Tankerness Lane | Kirkwall | Orkney | KW15 1AQ | Tel: [0300 244 9626](tel:03002449626) | Email: [SGRPID.kirkwall@gov.scot](mailto:SGRPID.kirkwall@gov.scot)



Show trimmed content

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not

**London office**

1B(c) Yukon Road  
London  
SW12 9PZ

Tel: 0203 475 2280

**Manchester office**

Suite 34 Europa House  
Barcroft Street  
Bury BL9 5BT

Tel: 0161 850 2280

# Roselea Croft

Blackhill Road, St Ola, Orkney

7 March 2025

19584-NIA-01

Project Number  
19584

Issued For  
Graham Shearer & Cherise Wilson

## EXECUTIVE SUMMARY

---

This noise exposure assessment has been undertaken in order to investigate whether noise due to an existing wind turbine affecting a proposed residential development at Roselea Croft, Blackhill Road, St Ola, Orkney can meet certain Local Authority and British Standard requirements.

The assessment adheres to the Local Authority requirements, the principles provided by the Draft Fourth National Planning Framework: 2021 (Draft NPF4) and external noise criteria stated within BS 8233: 2014 'Guidance on sound insulation and noise reduction for buildings'.

The site currently comprises an unused plot of land close to existing farmland and residential properties. Proposals are to construct a new house on the land.

A noise model has been constructed as detailed in the report, in order to establish the anticipated noise levels affecting proposed sensitive areas due to the existing wind turbine installed at a nearby property.

The calculated levels of turbine noise apparent at the proposed residential boundary have been compared with the set limits established by Orkney Islands Council. Calculations demonstrate that full compliance with the set limits is anticipated at the closest proposed residential curtilage.

A subsequent detailed analysis has been carried out of anticipated noise levels in external amenity space, which has demonstrated that the site location is suitable to ensure an amenable level of noise in garden areas.

This report is designed to be suitable to discharge typical noise planning conditions, as per our original scope of work.

Clement Acoustics has used all reasonable skill and professional judgement when preparing this report. The report relies on the information as provided to us at the time of writing and the assumptions as made in our assessment.

## CONTENTS

1.0	INTRODUCTION .....	1
2.0	SITE DESCRIPTION .....	1
3.0	CRITERIA .....	1
3.1	LOCAL AUTHORITY REQUIREMENTS .....	1
3.2	DRAFT FOURTH NATIONAL PLANNING FRAMEWORK: 2021 [DRAFT NPF4] .....	2
3.3	EXTERNAL NOISE CRITERIA .....	2
4.0	ASSESSMENT ACCORDING TO LOCAL AUTHORITY REQUIREMENTS .....	3
4.1	CONSIDERATION OF TURBINE APPLICATION ASSESSMENT .....	3
4.2	NOISE MODELLING .....	5
5.0	ASSESSMENT OF NOISE LEVELS IN EXTERNAL AMENITY AREAS .....	6
5.1	DETERMINATION OF SOURCE NOISE AND MODELLING .....	6
6.0	CONCLUSION .....	7

## LIST OF ATTACHMENTS

19584-SP1	Indicative Site Plan
Appendix A	Glossary of Acoustic Terminology

Issue	Date of Issue	Author	Reviewed	Authorised
0	07/03/2025	[REDACTED]	[REDACTED]	[REDACTED]
		<b>Duncan Martin</b> Director BSc (Hons) MIOA		<b>John Smethurst</b> Director BSc (Hons) MIOA

Issue	Comments
0	First Issue



## 1.0 INTRODUCTION

---

Clement Acoustics has been commissioned by Graham Shearer & Cherise Wilson to assess the suitability of the site at Roselea Croft, Blackhill Road, St Ola, Orkney for residential development.

Proposals are to construct a single dwelling on a currently unused plot of land. An assessment has been undertaken in order to assess anticipated levels on the site due to an existing wind turbine, in accordance with the requirements of Orkney Islands Council.

## 2.0 SITE DESCRIPTION

---

The proposed development site is currently an empty plot of land in a largely rural area, surrounded by existing farms and farmland, and existing residential dwellings. Plans are to construct a single dwelling.

The site is in a remote location, with very few notable noise sources in the area.

An existing wind turbine is installed on land close to Casa Nuestra, to the southeast of the development site. The turbine is located approximately 155 m from the closest boundary of the proposed development site.

The site location relative to the existing turbine and surrounding area is shown in attached site plan 19584-SP1.

## 3.0 CRITERIA

---

### 3.1 Local Authority Requirements

In response to the application for Roselea Croft, the following comments were received from the Local Authority Environmental Health department:

“A wind turbine, approved under reference 11/332/TPP, is located within 250 metres of the application site area. As proposed development for a noise sensitive use it must be confirmed that this wind turbine would not cause any unacceptable amenity impacts to the occupants of the proposed development.”

In correspondence with representatives of the Environmental Health Department at Orkney Islands Council on previous projects, the following more detailed requirements have been established for this type of application:

“It is [the applicant’s] responsibility to evidence that noise emissions from the wind turbine(s) (including the application of any tonal penalty) should not exceed a sound pressure level not exceeding 35dB



LA90, 10 mins, within the curtilage of the indicated development, at wind speeds up to an including 10m/s, standardised/measured to a height of 10m or as otherwise specified within the noise emission conditions within the relevant application(s).”

### 3.2 Draft Fourth National Planning Framework: 2021 [Draft NPF4]

The Draft NPPF4, which was laid in Parliament in November 2021, outlines environmental, economic and social policies for Scotland. Part 3 of the Draft NPPF4, the National Planning Policy, contains detailed national policy on a number of planning topics.

Relevant paragraphs of the National Planning Policy are summarised as follows:

Policy 6: Design, quality and place

e) Proposals that are detrimental to the character or appearance of the surrounding area taking into account effects on daylight, sunlight, noise, air quality and privacy should not be supported, in order to protect amenity.

Policy 14: Health and wellbeing

d) Development proposals that would result in unacceptable levels of noise will not be supported. A noise impact assessment will be required where significant exposure to noise is likely to arise from the proposed development.

Policy 19 Green Energy

k) Specific considerations will vary relative to the scale of the proposal and area characteristics but development proposals for renewable energy developments must take into account:

- impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;’

### 3.3 External Noise Criteria

The guidance of BS 8233: 2014, with regards to external amenity spaces, is as follows:

“For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB  $L_{Aeq,T}$ , with an upper guideline value of 55 dB  $L_{Aeq,T}$  which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these

locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.”

The site is in an area that would be considered rural. We would therefore recommend the lower guideline value of  $L_{Aeq,T}$  50 dB(A) would be an appropriate target although exceedance of this may also be acceptable where unavoidable.

## 4.0 ASSESSMENT ACCORDING TO LOCAL AUTHORITY REQUIREMENTS

### 4.1 Consideration of Turbine Application Assessment

The existing wind turbine was installed under planning application 11/332/TPP. The available information for that application has been used in order to determine the source noise of the wind turbine.

The application for the turbine included a noise impact report for a Iskra Wind Turbine, type AT5-1, which is understood to be the turbine installed under this application.

The submitted information does not include a traditional noise label for the wind turbine, rather onsite noise measurements of an installed turbine are provided. The stated noise levels at different wind speeds are summarised in Table 4.1.

Wind Speed (m/s)	Measured Noise Level 20 m from Base of Turbine (dB(A))
4-5	48
5-6	49*
6-7	49
7-8	50

Table 4.1 Summary of stated turbine noise emission levels

\* Centre point of stated range at this wind speed

As the Local Authority requirements are to consider the noise level at 10 m/s wind speed, analysis has been carried out to determine a noise slope for the wind turbine, relative to wind speed.

The stated noise levels have been plotted against the stated wind speeds, in order to allow a line of best fit to be applied to the dataset. The resulting chart is shown in Figure 4.1.

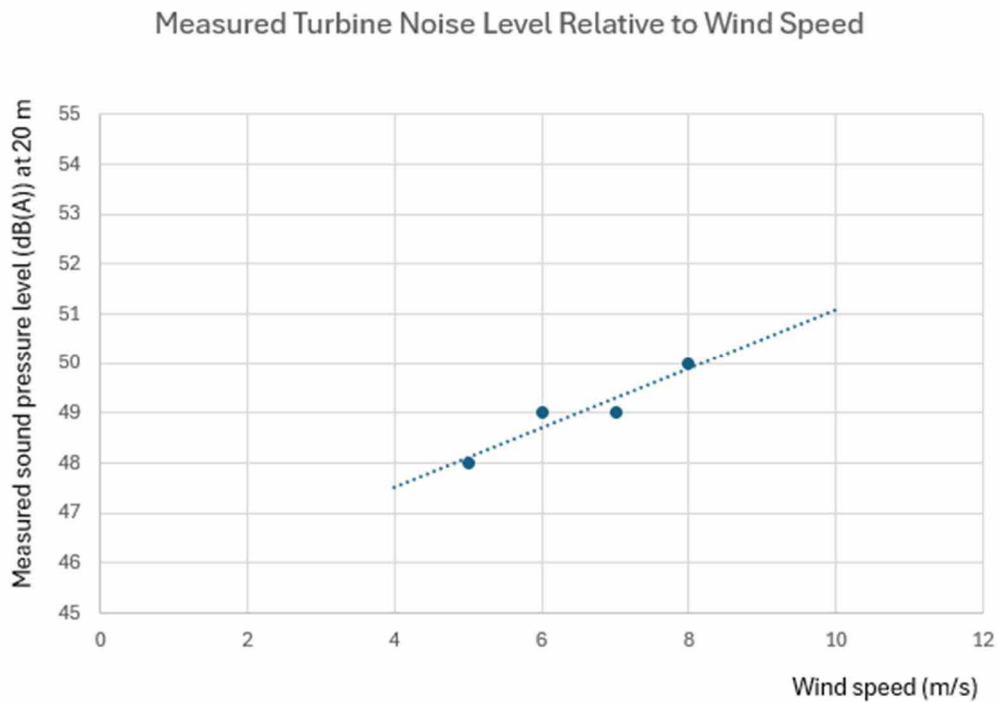


Figure 4.1 Chart showing line of best fit for turbine noise measurements

Analysis of the trendline indicates an expected noise emission level of 51 dB(A) at 20 m, when operating at 10 m/s wind speed. The equivalent calculated sound power level is therefore  $L_{W,10m/s}$  85.3 dB, accounting for the stated measurement distance and hemi-spherical radiation.

It is noted that no uncertainty is stated for the turbine noise emissions. In order to present a robust assessment, a typical uncertainty for wind turbines of this type of 1 dB has been assumed, resulting in an uncertainty correction of 1.645 dB (when multiplied by a factor of 1.645, as per the guidance of ETSU-R-97 'The assessment and rating of noise from wind farms').

A penalty for tonality is not stated as being required. The determined noise emission level of the turbine is therefore  $L_{W,10m/s}$  87 dB.

It should be noted that, as the source noise is given in terms of ' $L_W$ ' a -2 dB relaxation to convert noise levels to the  $L_{90}$  background level has been incorporated, in line with the standard.

The noise impact report includes a spectral shape for the turbine noise emissions, which has been shifted to match the overall calculated level. The spectral levels used in the noise model are summarised in Table 4.2.

Source	90 <sup>th</sup> Percentile Sound Power Level (dB) in each Frequency Band, Hz								
	63	125	250	500	1k	2k	4k	8k	dB(A)
Iskra Wind Turbine, type AT5-1	91	82	76	73	77	80	80	71	85

Table 4.2 Calculated sound power levels for existing wind turbine

## 4.2 Noise Modelling

A noise map has been created using the above determined source noise, using proprietary software CadnaA. The turbine has been modelled as a point source, placed at a height of 15 m in the existing turbine location, in line with the available elevation information for the turbine application.

The noise model was constructed utilising the following assumptions and parameters:

- Locations of obstacles such as proposed building envelopes
- Presence of reflecting surfaces
  - All buildings are assumed to be reflective
- Hardness of the ground between the sources and receivers
  - Although the ground is soft, ground absorption is set at 0.5, in accordance with guidance of ETSU
- Attenuation due to atmospheric absorption
- Land topography assumed flat
- Calculations are performed over single octave band from 63 Hz to 8 kHz.

The grid has been implemented to demonstrate contours where the 35 dB(A) threshold occurs, with the wind turbine operating. Noise contours have been placed at a height of 4 m in order to present a robust assessment, indicative of first floor windows.

Figure 4.2 shows a plan view of turbine noise propagation towards the development site, with contours indicating areas where the  $L_{90}$  35 dB(A) noise limit is reached.

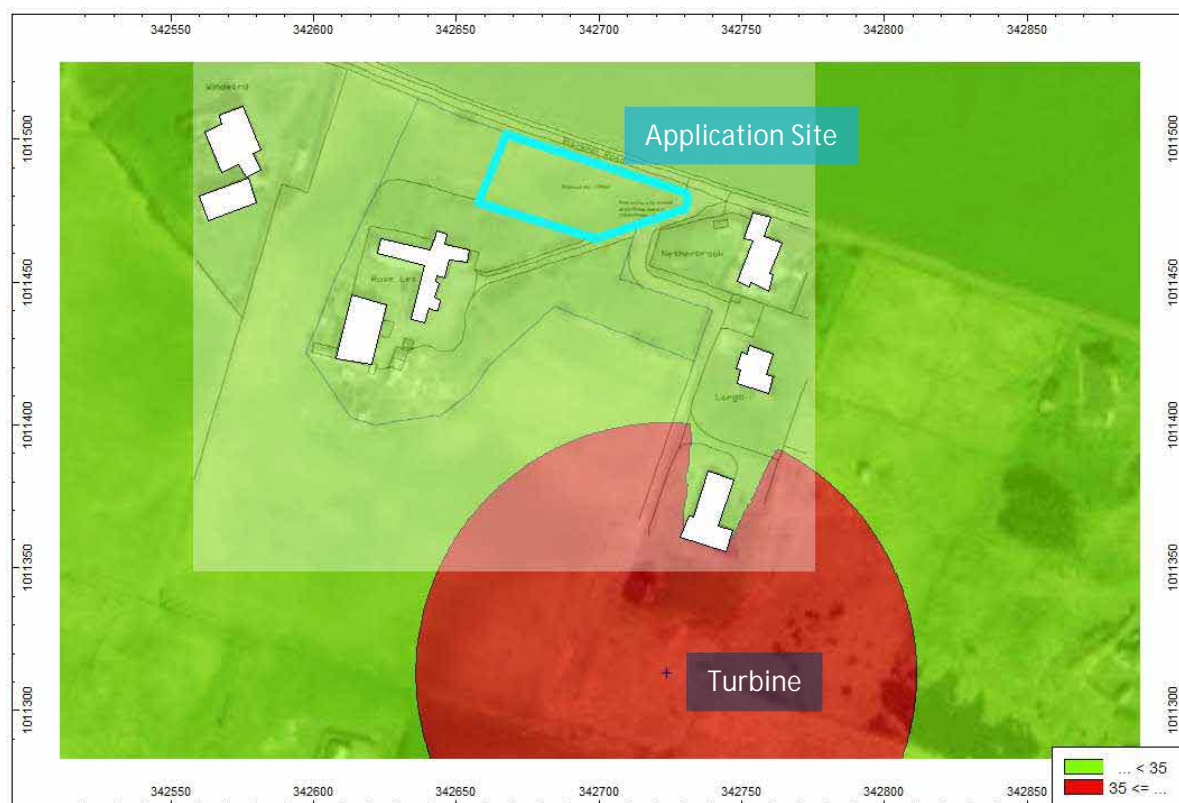


Figure 4.2 Plan view of turbine noise propagation towards proposed development site

As shown in Figure 4.2, the closest point of the site boundary is below the established noise limit, and full compliance with the Local Authority requirements is therefore demonstrated.

## 5.0 ASSESSMENT OF NOISE LEVELS IN EXTERNAL AMENITY AREAS

### 5.1 Determination of Source Noise and Modelling

As shown in Sections 3.1 and 4.1, the assessment to Local Authority criteria is carried based on the sound power level of the turbine at 10 m/s wind speed.

In order to assess anticipated levels of noise in external amenity areas, using the sound power level at 12 m/s wind speed is considered suitably robust. The guidance of ETSU is that assessments should typically be limited to wind speeds of 12 m/s at a height of 10 m. This is due to noise emissions at higher wind speeds being both unlikely, and difficult to predict reliably.

The calculated noise slope as derived from the trendline has again been used, resulting in a calculated sound power level of  $L_W$  88.2 dB(A) at 12 m/s wind speed (including the uncertainty correction).

No reduction to a  $L_{W90}$  background noise level has been applied, as BS 8233 considers ambient noise levels.

The noise map has then been recalculated, with contours placed at a height of 1.5 m, which is considered representative of a typical receiver height when relaxing in a garden.

Figure 5.1 shows the noise propagation from the turbine towards the development site, showing areas where the lower and upper guideline values are exceeded.



Figure 5.1 Plan view of turbine noise propagation towards proposed development site

As shown in Figure 5.1, the entire development site falls below the lower guideline value of  $L_{AeqT}$  50 dB(A).

Noise levels in proposed residential gardens due to the existing turbine are therefore expected to be suitable for typical relaxation and enjoyment activities, without the need for any particular mitigation in terms of site layout or orientation.

## 6.0 CONCLUSION

---

An environmental noise assessment has been undertaken for the proposed residential redevelopment at Roselea Croft, Blackhill Road, St Ola, Orkney.

Available information regarding an existing wind turbine has aided an assessment of the level of exposure to noise of the proposed development site to be made.

Calculations undertaken to consider the requirements of the Local Authority indicate that full compliance would be achieved, based on the information submitted with the turbine application.

Further calculations have demonstrated that noise levels due to the turbine in external amenity areas associated with the proposed residential development would be suitable, without the need for any particular mitigation measures.







Not to scale

Description:  
Indicate site plan showing location of proposed site

Date	07 March 2025
Reference	19584-SP1
Project Name	Roselea Cro#
Image ©	Google Earth

Key:	
	Existing Wind Turbine
	Site Location

# APPENDIX A

## GLOSSARY OF ACOUSTIC TERMINOLOGY

### dB(A)

The human ear is less sensitive to low (below 125Hz) and high (above 16kHz) frequency sounds. A sound level meter duplicates the ear's variable sensitivity to sound of different frequencies. This is achieved by building a filter into the instrument with a similar frequency response to that of the ear. This is called an A-weighting filter. Measurements of sound made with this filter are called A-weighted sound level measurements and the unit is dB(A).

### $L_{eq}$

The sound from noise sources often fluctuates widely during a given period of time. An average value can be measured, the equivalent sound pressure level  $L_{eq}$ . The  $L_{eq}$  is the equivalent sound level which would deliver the same sound energy as the actual fluctuating sound measured in the same time period.

### $L_{10}$

This is the level exceeded for not more than 10% of the time. This parameter is often used as a "not to exceed" criterion for noise.

### $L_{90}$

This is the level exceeded for not more than 90% of the time. This parameter is often used as a descriptor of "background noise" for environmental impact studies.

### $L_{max}$

This is the maximum sound pressure level that has been measured over a period.

### Octave Bands

In order to completely determine the composition of a sound it is necessary to determine the sound level at each frequency individually. Usually, values are stated in octave bands. The audible frequency region is divided into 10 such octave bands whose centre frequencies are defined in accordance with international standards.

### Addition of noise from several sources

Noise from different sound sources combines to produce a sound level higher than that from any individual source. Two equally intense sound sources operating together produce a sound level which is 3dB higher than one alone and 10 sources produce a 10 dB higher sound level.

### Attenuation by distance

Sound which propagates from a point source in free air attenuates by 6dB for each doubling of distance from the noise source. Sound energy from line sources (e.g. stream of cars) drops off by 3 dB for each doubling of distance.



# APPENDIX A

## Subjective impression of noise

Sound intensity is not perceived directly at the ear; rather it is transferred by the complex hearing mechanism to the brain where acoustic sensations can be interpreted as loudness. This makes hearing perception highly individualised. Sensitivity to noise also depends on frequency content, time of occurrence, duration of sound and psychological factors such as emotion and expectations. The following table is a reasonable guide to help explain increases or decreases in sound levels for many acoustic scenarios.

Change in sound level (dB)	Change in perceived loudness
1	Imperceptible
3	Just barely perceptible
6	Clearly noticeable
10	About twice as loud
20	About 4 times as loud

## Barriers

Outdoor barriers can be used to reduce environmental noises, such as traffic noise. The effectiveness of barriers is dependent on factors such as its distance from the noise source and the receiver, its height and its construction.

## Reverberation control

When sound falls on the surfaces of a room, part of its energy is absorbed and part is reflected back into the room. The amount of reflected sound defines the reverberation of a room, a characteristic that is critical for spaces of different uses as it can affect the quality of audio signals such as speech or music. Excess reverberation in a room can be controlled by the effective use of sound-absorbing treatment on the surfaces, such as fibrous ceiling boards, curtains and carpets.

**Consultee List**

Application Number 24/264/PIP

- Environmental Health

**From:** Carolyn Charles <Carolyn.Charles@orkney.gov.uk>  
**Sent:** Wednesday, May 7, 2025 12:56 PM  
**To:** Isla McLeod <Isla.McLeod@orkney.gov.uk>; planningconsultation <planningconsultation@orkney.gov.uk>  
**Subject:** RE: 24/264/PIP

**Classification: NOT PROTECTIVELY MARKED**

Good afternoon

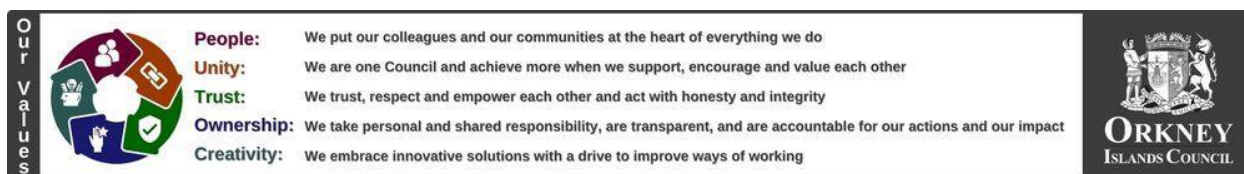
**24/264/PIP | Siting of a house (subdivision of curtilage) | Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1FP.**

Having looked at the application and the noise impact assessment supplied, we agree with the conclusion given therein, in that if the proposed development were to be approved it would have no impact on the turbine (11/332/TPP) and we offer no further comments.

Kind regards

Carolyn

Carolyn Charles  
 Environmental Health Technical Officer / Port Health Officer  
 Environmental Health | Planning and Community Protection  
 Neighbourhood Services and Infrastructure  
 Orkney Islands Council  
 Council Offices, Kirkwall, Orkney. KW15 1NY  
[Environmental.health@orkney.gov.uk](mailto:Environmental.health@orkney.gov.uk)  
 Tel : 01856 873535 Extension 2806



**INTERNAL MEMORANDUM      TO:    Roads Services**

Date of Consultation	1st August 2024
Response required by	22nd August 2024
Planning Authority Reference	24/264/PIP
Nature of Proposal (Description)	Subdivision of a domestic curtilage for siting of a new house
Site	Roselea Croft, Blackhill Road, St Ola, Orkney KW15 1FP
Proposal Location Easting	342638
Proposal Location Northing	1011451
Area of application site (Metres)	1470
Supporting Documentation URL	<a href="http://planningandwarrant.orkney.gov.uk/online-applications/">http://planningandwarrant.orkney.gov.uk/online-applications/</a>  Please enter - 24/264/PIP
PA Office	Development Management
Case Officer	Isla McLeod
Case Officer Phone number	
Case Officer email address	
PA Response To	planningconsultation@orkney.gov.uk

**Comments:**

A condition should be applied to any planning permission that may be granted, that requires the applicant to provide details of the access to the development site for approval. The details of the access should also include measures to prevent surface water drainage from the access flowing onto the public road.

The undernoted informative should also be applied to any planning permission that may be granted.

**INFORMATIVE**

It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

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

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

D.W.



**REFUSE PLANNING PERMISSION IN PRINCIPLE  
DELEGATED DECISION**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act")  
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

**Ref: 24/264/PIP**

Mr Graham Shearer  
c/o Christopher Omand  
14 Victoria Street  
Kirkwall  
Scotland  
KW15 1DN

With reference to your application registered on 1st August 2024 for planning permission for the following development:-

**PROPOSAL:** Siting of a house (subdivision of curtilage)

**LOCATION:** Roselea Croft, Blackhill Road, St Ola, Orkney KW15 1FP

Orkney Islands Council in exercise of its powers under the above Act and Regulations, hereby **REFUSE Planning Permission in Principle for the reason(s) outlined on the next page.**

The plans to which this decision relates are those identified in Schedule 1 attached.

**The Council's reasoning for this decision is:** Fundamentally, the proposed development does not meet any of the policy provisions for housing in the Orkney countryside and is contrary to both the Orkney Local Development Plan 2017, Policy 5E, and Supplementary Guidance 'Housing in the Countryside' (2021). Although presented as a subdivision of curtilage application, which would normally then require assessment of the relevant policy requirements under that provision, in this case the application site is not domestic curtilage, and so there is no further assessment required. This is based on the definitions provided in the Supplementary Guidance, for the specific purpose of applying the relevant policy test.

(For further detail you may view the Planning Handling Report for this case by following the Application Search and Submission link on the Council's web page and entering the reference number for this application).

**Please read carefully the Terms and Conditions on the following pages as failure to comply may result in enforcement action.**

Decision date: 1st September 2025

Jamie Macvie MRTPI, Service Manager, Development Management, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY

**Ref: 24/264/PIP**

## **REASONS FOR REFUSAL**

01. The application site is not 'domestic curtilage' as defined in paragraph 5.05 of Supplementary Guidance 'Housing in the Countryside' (2021). On that basis, the proposed development fails to meet the fundamental requirement of being 'The Subdivision of a Dwelling House or its Residential Curtilage', and therefore cannot be assessed under, Policy 5E (v) of the Orkney Local Development Plan 2017
02. Policy 5E (v) of the Orkney Local Development Plan 2017 requires that, "...The curtilage to be sub-divided has served the host house for a period of 10 years or more. Evidence will be required to support the application, such as planning history or clean documentary/photographic evidence." Available evidence confirms the contrary, that the land is not domestic curtilage; therefore, there is no test required for how long it has served the host house. It is simply not curtilage. The development is contrary to Policy 5E (v) of the Orkney Local Development Plan 2017

Ref: 24/264/PIP

**SCHEDULE 1 – PLANS, VARIATIONS AND ANY OBLIGATION****1. Plans and Drawings**

The plans and drawings to which this decision relates are those identified below:

Location & Site Plans	OIC-01	1
Biodiversity Plan	OIC-02	1

**2. Variations**

If there have been any variations made to the application in accordance with section 32A of the Act these are specified below:

Date of Amendment:

Reasons



## RIGHT TO SEEK A REVIEW

If you are unhappy with the terms of this decision you have a right to ask for a review of your planning decision by following the procedure specified below.

### PROCEDURE FOR REQUESTING A REVIEW BY THE LOCAL REVIEW BODY

1. If the applicant is aggrieved by the decision of the Appointed Officer to:
  - a. Refuse any application, or
  - b. Grant permission subject to conditions.

In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations, the applicant may apply to the Local Review Body within three months from the date of this notice for a review of that decision.

2. Forms to request a review are available from either address below, or from [Appeal a Decision](#)

Completed forms to request a review should be submitted to the address below:

Committee Services  
Orkney Islands Council  
Council Offices  
School Place  
KIRKWALL  
Orkney  
KW15 1NY

and at the same time a copy of the notice for a review should be sent to:

Service Manager (Development Management)  
Orkney Islands Council  
Council Offices  
School Place  
KIRKWALL  
Orkney  
KW15 1NY

Email: [planning@orkney.gov.uk](mailto:planning@orkney.gov.uk)

3. whether by the planning authority or by the Scottish Ministers, 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 Act.

## INFRASTRUCTURE AND ORGANISATIONAL DEVELOPMENT

**Director:** Hayley Green, MBA (Public Service)  
Council Offices, Kirkwall, Orkney, KW15 1NY

Tel: (01856) 873535 extension 2504  
Email: [planning@orkney.gov.uk](mailto:planning@orkney.gov.uk)

Website: [www.orkney.gov.uk](http://www.orkney.gov.uk)



---

Planning Application:	24/264/PIP
Applicant:	Graham Shearer
Proposal:	Siting of a house (subdivision of curtilage)
Location:	Roselea Croft, Blackhill Road, St Ola, Orkney, KW15 1FP

### Notice of Review

#### **Procedure Notice under Regulation 10 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**

Given the extent of discussion prior to decision, the statement accompanying the Notice of Review does not introduce new information. The Development Management response will therefore follow in suit, and simply confirm points previously made.

The basic question is whether the land is domestic, forming part of the lawful domestic curtilage of the host property.

In relation to comments made, not all agricultural land is registered with the North Isles Area office or is claimed for IACS purposes. That confirmation can therefore be disregarded. Even in a scenario that was a test, simply because land is not agricultural, does not then mean it is domestic.

Similarly, the fact that the land has been used for growing vegetables or having a vegetable patch for over 15 years as stated, does not necessarily make it part of the lawful domestic curtilage.

Managing a part of a field for purposes normally associated with a garden does not make it domestic, just the same as taking a tractor into a garden would not make it agricultural. The question of land use must go deeper than simply how it currently appears or has recently been used but goes to the heart of the lawful planning use.

The detailed assessment of the site history in the handling report, in line with the statement from objectors, comfortably confirm that the land is not part of the garden.

### **Development Management**

5 November 2025