

Item: 7

Development and Infrastructure Committee: 15 February 2022.

Proposed Stopping-Up of Section of Scapa Crescent, Kirkwall.

Report by Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.

1. Purpose of Report

To consider stopping-up part of Scapa Crescent, Kirkwall, in order to facilitate redevelopment of Garden House.

2. Recommendations

The Committee is invited to note:

2.1.

That, on 10 November 2020, when considering stopping up part of Scapa Crescent, Kirkwall, in order to facilitate redevelopment of Garden House, the Development and Infrastructure Committee recommended:

- That powers be delegated to the Executive Director of Development and Infrastructure to publish, serve and display the Stopping-Up Order.
- That, should no unresolved representations or objections be received, powers be delegated to the Executive Director of Development and Infrastructure to confirm the Stopping-Up Order in respect of a section of road at Scapa Crescent, Kirkwall.
- That, should unresolved representations or objections be received during the publication period, the Executive Director of Development and Infrastructure should submit a report, to a meeting of the Committee in early 2021, detailing the comments received for further consideration, prior to the proposed Stopping-Up Order in respect of a section of road at Scapa Crescent, Kirkwall, being submitted to the Scottish Government.

2.2.

That, as a result of the Order being published, served and displayed, as required by The Town and Country Planning (Scotland) Act 1997, as amended, unresolved objections, attached as Appendix 2 to this report, were received.

It is recommended:

2.3.

That, as unresolved objections have been received, the proposed Stopping-Up Order in respect of a section of road at Scapa Crescent, Kirkwall, be submitted to the

Scottish Government, to allow Scottish Ministers to determine whether to confirm the Order.

3. Background

3.1.

On 10 November 2020, when considering stopping up part of Scapa Crescent, Kirkwall, in order to facilitate redevelopment of Garden House, the Development and Infrastructure Committee recommended:

- That powers be delegated to the Executive Director of Development and Infrastructure to publish, serve and display the Stopping-Up Order.
- That, should no unresolved representations or objections be received, powers be delegated to the Executive Director of Development and Infrastructure to confirm the Stopping-Up Order in respect of a section of road at Scapa Crescent, Kirkwall.
- That, should unresolved representations or objections be received during the publication period, the Executive Director of Development and Infrastructure should submit a report, to a meeting of the Committee in early 2021, detailing the comments received for further consideration, prior to the proposed Stopping-Up Order in respect of a section of road at Scapa Crescent, Kirkwall, being submitted to the Scottish Government.

3.2.

Under Section 207 and Schedule 16 of The Town and Country Planning (Scotland) Act 1997, as amended, the Orkney Island Council (Scapa Crescent, Kirkwall) Stopping Up Order 2021, attached as Appendix 1 to this report, was advertised in the local press (The Orcadian) on 7 October 2021 and in the Edinburgh Gazette on 8 October 2021, allowing the statutory 28 days for the submission of any objections. On 7 October 2021, copies of the notice were displayed on the road to be stopped-up. Notices were also served on statutory undertakers who have apparatus in the road which is to be stopped-up.

3.3.

Noting that the stopped-up road would be used as a car park (not built development), one comment was received from a statutory undertaker confirming no objection subject to permissions being maintained to access and maintain, including digging down on, infrastructure within the site. No statutory undertaker objection was received.

3.4.

Four public objections have been received. The objections do not raise any new matters to those included in the report to the Planning Committee on 19 August 2020; these matters were considered in determination of the planning application. The objections are attached as Appendix 2 to this report.

4. Procedure

4.1.

On the basis unresolved representations or objections have been submitted, the Council, as planning authority, must submit the proposed Order to the Scottish Government for consideration.

4.2.

Following receipt by the Scottish Government, the case would be referred to the Planning and Environmental Appeals Division (DPEA), where it would be decided whether to consider the case by written submissions or a hearing process.

4.3.

In either process, the case would be considered by a Reporter, typically taking account of the background information, the Council's Statement of Reasons, attached as Appendix 3 to this report, original objections, written submissions and any other documents or information considered relevant by the Reporter, and where applicable, hearing statements and discussions at hearing sessions.

4.4.

The Reporter would prepare a report to the Scottish Ministers, which would include conclusions and a recommendation. It is a decision for Scottish Ministers whether to accept the Reporter's recommendation or not.

4.5.

If the Reporter's conclusions and recommendation were to confirm the Order (with or without modification), and those conclusions and recommendation were adopted by Scottish Ministers for the purposes of their own decision, the Order would be confirmed.

4.6.

For the avoidance of doubt, if the Order is not confirmed, redevelopment of Garden House could not commence/proceed in accordance with planning permission granted on 19 August 2020 (planning reference 19/365/PP).

5. Corporate Governance

This report relates to the Council complying with governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

6. Financial Implications

There are no financial implications arising directly as a result of the recommendations of this report.

7. Legal Aspects

7.1.

Pursuant to section 207 of The Town and Country Planning (Scotland) Act 1997, as amended, a planning authority may, by order, authorise the stopping up of a road if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with the planning permission granted.

7.2.

Following the procedure as detailed within the body of this report will ensure that the Council complies with Schedule 16 of the Town and Country Planning (Scotland) Act 1997, as amended. The Order is required to ensure lawful implementation of the planning permission which has been granted, but as there are unresolved objections, it must be submitted to Scottish Ministers for confirmation or otherwise.

8. Contact Officers

Gareth Waterson, Interim Executive Director of Finance, Regulatory, Marine and Transportation Services, Email gareth.waterson@orkney.gov.uk

Roddy Mackay, Head of Planning, Development and Regulatory Services, Email rodny.mackay@orkney.gov.uk

Jamie Macvie, Planning Manager (Development Management), Email jamie.macvie@orkney.gov.uk

9. Appendices

Appendix 1: Stopping-Up Order.

Appendix 2: Objections.

Appendix 3: Statement of Reasons.

ORKNEY ISLANDS COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
ORKNEY ISLANDS COUNCIL (SCAPA CRESCENT, KIRKWALL) STOPPING UP ORDER
2021

Orkney Islands Council in exercise of the powers conferred on them by Section 207 of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them in that behalf, and being satisfied that it is necessary to stop up the road specified in the Schedule to this Order to enable development to be carried out in accordance with planning permission 19/365/PP granted under Part III of the Town and Country Planning (Scotland) Act 1997 and being satisfied that suitable alternative access exists, hereby make the following Order:

- 1 This Order may be cited as the Orkney Islands Council (Scapa Crescent, Kirkwall) Stopping Up Order 2021 and shall come into operation on the date of confirmation of this Order.
- 2 The stopping up of the road specified in the Schedule to this Order is hereby ordered.
- 3 Where immediately before the date on which this Order comes into operation in terms of Article 1 above, there are any statutory undertakers having apparatus of theirs which is under, in, over, along or across the said stopped up road then any such statutory undertakers shall, without prejudice to the provisions of Section 224 of the Town and Country Planning (Scotland) Act 1997, have the same rights in respect of the apparatus as they had immediately before that date.

Given under the seal of Orkney Islands Council on the Twenty First day of September
Two Thousand and Twenty One



A handwritten signature in blue ink, appearing to read "Gavin Mitchell".

Gavin Mitchell
Head of Legal Services
Orkney Islands Council

This is the Schedule referred to in the foregoing Orkney Islands Council (Scapa Crescent, Kirkwall) Stopping Up Order 2021

SCHEDULE

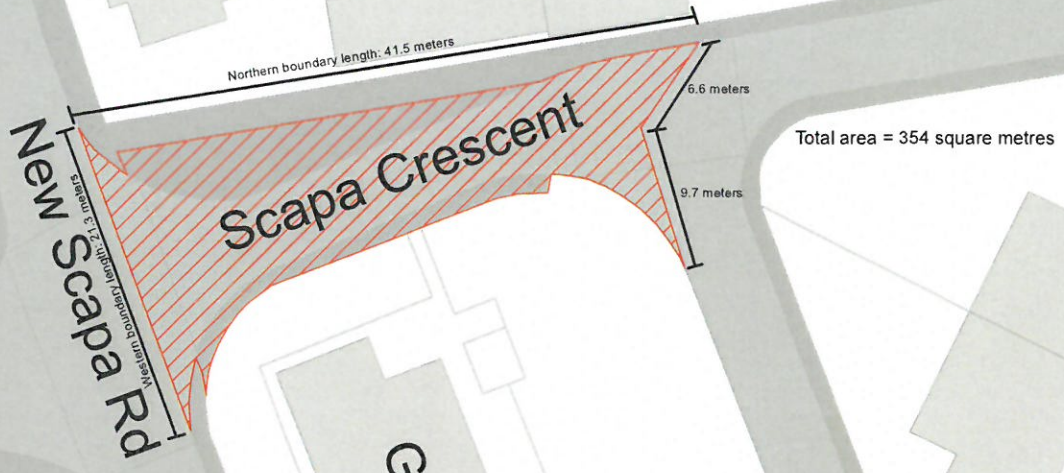
Road to be Stopped Up under Section 207 of the Town and Country Planning (Scotland) Act 1997

Part of the road known as Scapa Crescent, Kirkwall, currently one-way, from New Scapa Road towards the junction with the remainder of Scapa Crescent, a distance of 41.5 metres or thereby, being an area of 354 square metres and shown outlined and hatched in red on the Plan annexed and signed as relative hereto.



Gavin Mitchell
Head of Legal Services
Orkney Islands Council

This is the Plan referred to in the foregoing Schedule
in the Orkney Islands Council (Scapa Crescent,
Kirkwall) Stopping Up Order 2021



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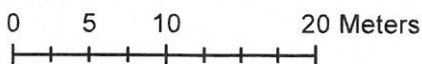
Measurements are displayed in metres, unless otherwise indicated, and based on Ordnance Survey Mapping. Map is for indicative purposes only and onsite measurements should be taken where necessary.



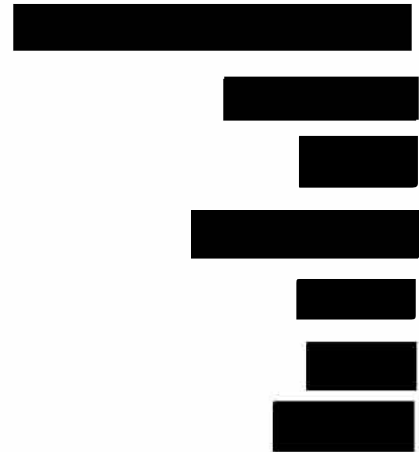
Section of road to be stopped up to vehicular traffic
Total area = 354 square metres



Scale 1:500



Based upon the Ordnance Survey mapping with the permission of the Controller of her Majesty's Stationery Office (C) Crown Copyright Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Orkney Islands Council 100021621. For reference purposes only. 2021
Development and Marine Planning: 20/09/2021



10th November 2021

Planning Manager

Development Management

Orkney Islands Council

School Place

Kirkwall

Orkney

KW15 1NY

Dear Mr J. W Mundell,

I am writing once again, in great disappointment that the Orkney Islands Council are going ahead and submitting a STOPPING UP ORDER for SCAPA CRESCENT and I once again, submit my strong opposition to this order.

I have repeatedly laid out in previous correspondence the detrimental impact that this road closure will have on my long standing business of 17 years, Orkney Hand Crafted Furniture.

My business is now starting to recover from the impact of the forced closure during the Covid-19 pandemic and from the lack of customers and visitors since the 2020 lockdown due to national restrictions and social distancing precautions in my small premises. This pandemic has hit my business hard with a decrease in customers and therefore a decrease in potential income. This has clearly highlighted the fact that my workshop relies on visitor footfall more than my online customers.

Most visitors prefer to see an Orkney Chair in person and actually sit in the various styles of Chairs I offer before committing to buying. I also offer made to measure, which is best done in person.

This road closure will hit my business even harder. I learnt that during the roadwork closure for the new hospital, many of my visitors could simply not find how to get to my premises and they just went to my competitors, Scapa Crafts, across the road instead. Some visitors actually phoned me and asked for further directions but many do not bother. I suffered a huge financial loss in that years income and I do not wish to suffer this again and lose valuable customers, especially after the hard year with the Covid pandemic.

I am utterly dismayed that the Orkney Islands Council has shown a complete lack of empathy and consideration to my long standing Orcadian business. If you, the Orkney Islands Council, continue forward with causing such disruption to my livelihood, I would like to ask if you will be providing my business with new signs and guaranteed planning permission for displaying these signs? The cost of additional signs is something I believe I should not have to pay for. Additional signs for my business will need to be placed at the other road leading into Scapa Crescent at Arcadia Park (double sided) and new signs will need to be placed within the garden at Dellovo, New Scapa Road to direct my customers to that road at Arcadia Park (double sided again). It would be essential that these signs were installed before any road closures to prevent further damages to my business.

I would also like to ask if my customers will be able to park in your new proposed car park? It was suggested at the last online meeting with councillors, regarding the closure and site visit in 2020, that my business might benefit from at least two dedicated car spaces for my visitors?

I implore, again, that the Orkney Islands Council reconsider the stopping up order of Scapa Crescent and look into alternative plans. Should your plans go ahead, I would appreciate clarification on new business signs and car park spaces.

Yours sincerely

[Redacted signature]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

Planning Manager
Development Management
Orkney Islands Council
Council Offices
Kirkwall



07 November 2021

Dear Sir/Madam

Application Ref 19/365/PP

I wish to object to this planning application on the following grounds:-

"Traffic, parking or access problems"

With the closure of the access off New Scapa Road traffic will only have access from Holm Branch Rd or opposite the Balfour Hospital. The current road is not wide enough to accommodate all the types of traffic at present i.e. rubbish and recycling trucks, delivery vehicles, gardening vehicles, post office vans collecting from the postbox, oil tankers delivering fuel etc. There will be an increased volume of traffic passing by my residence.

Although Garden House is empty now, it was only after one day of its closure before the former workers started parking back at Garden House because of lack of space at the Balfour (a perfect example of bad planning with not enough thought given to the real parking needs). Where will these former Garden House workers park when the building is allocated to the new lessee? Given that there is a large extension to be built, would it not suggest that there will be even more staff in the building causing even more parking problems.

I have had access problems ever since Garden House opened as the car park was inadequate and cars were parked right across from my drive. This meant on many occasions it was impossible to reverse into my drive. [REDACTED] asked if we were having parking issues and she e-mailed all the staff to stop parking on the main road. Within a week the cars were once again parking across our drive. I am not convinced that this situation will change when the new tenants are in place as I note from the plan that the drive into Garden House is to be made wider, further encroaching on my drive.

There is also a Health and Safety issue as Arcadia Park is now open and is being used by an increasing number of people, some using wheelchairs and scooters and walking dogs. The lower entrance to the park (not shown on your location plan) is sited near to the A963 and everyone using this entrance has to cross Scapa Crescent which will have a greatly increased volume of traffic. Surely this must be a potential accident scenario, especially for young children who often run across without checking on traffic.

I hope you will take into consideration the points I have raised in opposing this planning application.

Yours sincerely

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 08 November 2021 08:36
To: planning <planning@orkney.gov.uk>
Subject: Garden House extension etc

To whom it may concern,

I wish to object to the proposed extension and extra car parking spaces for Garden house.

The road outside my house had been getting used for parking for years with the garden house staff, this has on occasions caused my family to not be able to park outside my house and I am not fit to walk distance to get in vehicles.

Extending the building will be an eyesore to all around the property and turn a quiet corner of town into an industrial site.

It's a disgrace. And cutting down trees? Again a disgrace!

I am 81 years old and bought this house for the location, I built a conservatory and now you intend to build right in front of my windows!

The council have plenty of other properties they could convert, you took down the old bus station and replaced it with a bench?? Who makes these decisions? Ridiculous !!

You want businesses in the industrial estate so why not go there? You own plenty of yards and buildings up there. Convert your staff parking yard in Hatston and stop ruining the town.

What about the old Balfour hospital?

Please use your common sense and stop ruining Kirkwall. This has caused myself a lot of stress and none of the neighbours want it to go ahead.

But as someone said "the council just do what they want regardless" Even John Ross Scott told us on the day you had site meeting that "We're not allowed to talk to you"

I have already had to call ambulances to my house on 2 occasions as I have panic button, should this work go ahead and the road is blocked with any traffic which holds up emergency services this could be a life or death situation. It's a residential area !

Please let me know ASAP the benefits this proposed extension and businesses will bring to this area. Instead of the stress this is causing me and my neighbours.

Regards

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

03/11/2021

Orkney Island Council, Development Management

Ref – (Scapa Crescent, Kirkwall) Stopping up order 2021

To whom it may concern,

We are writing to seriously object about the proposed extension to Garden House especially the removal of the one way road and the creation of new parking spaces adjacent to our business.

The one way road is used frequently every day by our childminding service. We can childmind for up to 12 children in one day as we are both registered childminders and have parents that park on the road that you are proposing to remove. The parents can park there and safely remove their children or babies out of the car and access our property by the side gate at the drive. This does not cause any disruption to the flow of cars or traffic management. In addition, it is a safe way to remove children from cars.

This paragraph is from our original letter from November 2019 and is still very relevant. After we sent this letter, we received an interrogating letter in response from Mr Jamie Macvie asking questions about the validity of our business. He made the following statements:

“To be clear, do each of you work from your own home to each childmind up to 12 children, does the childminding take place from a single building?”

“if more than one childminder operates from a single building, that has the potential to affect the use of that building as it may no longer be regarded as being incidental or ancillary to the residential use, i.e. a change of use may be required.”

“To be clear, your representation is a ‘valid objection’ in that it contains matters relevant to the proposed development. However, the above clarification is relevant to the proposed development. However, the above clarification is required in order to determine whether your objection is on behalf of one (or two) houses, within which childminding takes place by the respective householders with the objection relating to the impact on the house only. Or whether the objection is on behalf of a business operating from one building, in which case the use of the building would have to be confirmed.”

We responded to Mr Macvie’s fact-finding (scaremongering) letter with all of the facts that he required and answered all of his questions. We responded with the following statements.

“the childminding takes place from a single building to childmind up to 12 children. [REDACTED] is registered to childmind at the address [REDACTED]. We started childminding 14 years and 5 months ago and spoke to [REDACTED] who was our Care Inspectorate Officer and she was responsible for completing our registrations. She had no issues with two of us working from one home and there was certainly no need for a change of use to a business premises.”

“you state in your letter to us that childminding “may no longer be regarded as being incidental or ancillary” however, we do not think that childminding is more important than residing in the house or is more than a minor accompaniment. In fact, we only childmind for 36 hours in a week and [REDACTED] and [REDACTED] reside in the house for all 168 hours of the week, 132 of these are with no childminding occurring. So, we think residing in the house is more important than childminding in the house.”

“To be clear, to clarify the objection is on behalf of one house within which the childminding takes place. Our main concern is the safety of the children who attend our service and in our opinion child safety is paramount.”

We sent this letter to Mr Macvie on the 24th January 2020 and never heard anything back from him. However, we then received the Report by the Executive Director of Development and Infrastructure for the meeting dated 4th March 2020. In point 3.6.2, Mr Macvie mentions our childminding business stating that:

“Given the potential significance of the childcare service as a neighbouring business, which could be affected by the development, the planning status of that business must be confirmed. There is no planning history for the childcare business.”

Mr Macvie never asked us about our planning status in his original letter however in the report he continues-

“This was raised with the operators of the childcare service ... This matter has yet to be concluded and the outcome would naturally affect the weight that is able to be put on objections relating to the business.”

If Mr Macvie would have responded to our letter on 24th January 2020 asking for additional information regarding planning, we could have informed him that 15 years ago in September 2005 when we started our business, [REDACTED] (Husband/Father of the childcare operators) contacted [REDACTED] on the phone who was the Head of the planning department at OIC at the time. [REDACTED] asked if we needed planning permission at the time and [REDACTED] stated that we did not and as long as there were no traffic issues and our neighbours did not have any problems and did not complain, he was happy that we did not need planning permission. [REDACTED] has spoken to [REDACTED] a few months ago and he confirmed over the telephone that this conversation happened 15 years ago. All those years ago in Orkney, word of mouth was good enough so there is no paperwork. Mr Macvie jumped to conclusions and stated to all the Councillors and everyone that received a copy of the report that we were not complying with planning regulations. This report was sent to all of our parents that use our service too making us look very unprofessional. It was even referred to by Councillor Steve Sankey who stated, “I don’t have much sympathy for the childminders as they haven’t complied with the planning guidelines”. So, effectively, Mr Macvie’s attempt to discredit us worked. We had to speak to all of our parents that use our service to explain that Mr Macvie was intentionally trying to discredit us and we had followed all of the correct procedures and were doing nothing wrong.

However, the report did state that “the potential impact on the safety of children being cared for at the premises including in the surrounding road and footpath network, is considered within this report.” It is accepted that if parents are to park in a carpark it may be safer than the main road as indicated by Mr Macvie but only if it’s guaranteed that there will be spaces available when required. In the report, it states that “drop-off times for the childcare business will often be before the opening times of Garden House and therefore before all staff have arrived.” How can Mr Macvie predict this? In our original letter, we stated that most drop-offs are between 8.15am and 9.15am – that has now changed to 8.30am – 9.00am which we would assume is when most workers would start arriving for work, so would not allow much opportunity for our parents to park. It just seems very unfair to us as a business as the whole situation since we sent the letter of objection has felt very much like we were being bullied into silence. There will be no allocated spaces so we seriously doubt there will be a space for our parents and as stated in the OIC planning committee meeting held on the 19th August 2020 Mr Macvie himself stated that it be a matter for the occupants of Garden House to decide rather than the council. He stated:

“if its not a public car park and its not therefore a traffic order it would presumably become a private matter for the operator of the building to regulate who use those bays so that first issue, the enforceability of that, if it was used as a planning condition because its who would have responsibility for that bay being kept clear for the intended purpose.”

In addition, Mr Kenny Roy responded:

“with regards to the parking, obviously if it was left as a private car park for the sole use generally of the building, there would certainly be an enforcement issue. If it were to become a public car park, which at this present time which I would say I’m not entirely in favour of. The onus would fall on to ourselves (the council) to enforce the parking if an order was put in place.”

Due to the Covid-19 situation we never felt ready to take the issue further however, now there is the opportunity to object again we would like to object with the original objections but with the respect and fairness that we deserve rather than the underhand bullying tactics that we have been subjected to. So our original objection is this:

If you remove this road, we envisage parents parking on the main road – New Scapa Road. We know you will suggest that parents can access the public car park but for one, can you guarantee spaces for our parents? We feel this has been answered by the OIC that they have no say whether spaces can be allocated to ourselves and it is highly unlikely! At present, the car park at Garden House already has 10/15 cars in it every day so this option does not look promising. In addition, the parents are often in a hurry so it will take longer to access the car park so we predict that most parents will stop on the front road – New Scapa Road and leave the car there whilst they drop off/pick up which will be an inconvenience to other road users especially when this road is so busy with the new hospital. If the road is blocked by our parents this will stop the flow of traffic and disrupt your traffic management which is already disrupted by the additional zebra crossing.

We do school runs every day and sometimes it's a struggle to reverse into our driveway so I occasionally just go up the side road and park there which again is safe for the children to get out of the car – you will be removing this option for us. We also take the children over to look at the birds in the trees – which on the plans will be removed! We have seen frogs and hedgehogs in the grassy area across from our house so you are actually removing nature lessons from the children too. A car park filled with cars is not an interesting place to explore!

Health and Safety is another issue as New Scapa Road can be exceptionally busy at certain times of day and if parents have to stop there then the safety implications are huge, i.e. children stepping onto the main road in front of cars, speed of other cars, parents having to stand on the main road if the child's car seat is on the road side. The safety of children is paramount to our business and we are not happy with these proposed changes. We also use the wide part of the pavement to teach the children about road safety, i.e. green cross code, crossing the road and our children would miss this experience if you take away the pavement.

We strongly oppose the removal of the one way road as it greatly affects our business and the safety of the children in our care. Child safety is paramount and we feel that the OIC is not taking this into full consideration.

Yours sincerely



STATEMENT OF REASONS

For the making of

ORKNEY ISLANDS COUNCIL (SCAPA CRESCENT, KIRKWALL) STOPPING UP ORDER 2021

Planning permission 19/365/PP was granted by the Planning Committee on 19 August, 2020 and the Decision Notice issued on 15 September 2020 for the change of use, extension, alteration of car parking and the stopping up of a public road to form additional car parking at Garden House, New Scapa Road, Kirkwall.

Orkney Islands Council is satisfied that a stopping up order is necessary in order to enable the above development for which planning permission has been granted to be carried out.

The section of road to be stopped up is shown outlined and hatched in red on the attached plan.

Additional parking provision is required for the enhanced services to be provided at Garden House in order to comply with the parking standards set out in the National Roads Development Guide. It is the Council's view that the stopping up order is necessary to facilitate the additional car parking required.

The stopping up order will not impact on pedestrian routes as the existing footway will be retained and there is an alternative route for vehicular traffic.

Orkney Islands Council's Roads Authority were consulted throughout the planning process. The Roads Authority objected to a previous, now withdrawn planning application to develop the site in relation to parking provision, specifically the arrangement and size of parking spaces. The planning authority also raised concerns as the proposed parking resulted in the removal of several semi-mature trees, to accommodate the parking spaces within the site boundary.

The amended, current planning application includes provision of two disabled parking spaces and adequate parking spaces to meet the requirements of the National Roads Development Guide, as well as cycle parking provision. The 34 car parking spaces proposed represents an increase of 11 spaces, including the two disabled spaces noted above. Noting that development must accord with the car parking standards that are set in the National Roads Development Guide, which is adopted as Planning Policy Advice, the Roads Authority was satisfied in relation to access and parking, and the development accorded with Policy 14C as it could be safely and conveniently accessed and would be safe for all road users. In addition, the amended layout allowed retention of semi-mature trees and established landscaping as required by Policy 9F.

Policy 14C 'Road Network Infrastructure' of the Orkney Local Development Plan 2017, confirms that development will only be permitted where it is demonstrated that, amongst other matters, it can be safely and conveniently accessed by service, delivery and other goods vehicles, any new access to the road network is designed to an adoptable standard in accordance with the National Roads Development Guide, and it is designed to cause minimal impact on the character of the site and the surrounding area.

Policy 9F 'Trees and Woodland' confirms that development that would result in the loss of, or damage to, individual trees of significant ecological, landscape, shelter or recreational value will not be permitted unless, amongst other matters, the development would achieve significant and clearly defined benefits that outweigh any potential loss, and an additional equivalent number of new trees would be planted on or near the site to an agreed standard and specification.

The Planning Committee report of 19 August 2020 for planning application 19/365/PP is included as Appendix 1.

The Minuted decision of the Planning Committee of 19 August 2020 for planning application 19/365PP is included as Appendix 2.

Date: 21 SEPTEMBER 2021

Interim Executive Director

Gareth Waters

Appendix 1

Appendix 2

Plan

Item: 5.2

Planning Committee: 19 August 2020.

Change of Use from Offices (Class 4) to Offices and Other Services (Class 2), Extend, Alter Existing Car Park and Stop Up Public Road to Form Car Parking at Garden House, New Scapa Road, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

It is proposed to change the use of the existing Garden House building on New Scapa Road, Kirkwall, which is currently vacant, to allow for visiting members of the public (the change of use to Class 2). Determination of this application was deferred by the Committee at its meeting held on 4 March 2020 in order that a site visit by members could be carried out. The proposal includes the extension of the building and, in order to provide additional car parking, the stopping up of an adjacent section of public road. Twenty-three letters of objection have been received but are not of sufficient weight to recommend refusal. The principle of the development is acceptable, on the basis adequate justification has been provided for the proposed use in that location. The design of the extension is high quality and would have no unacceptable impact on residential amenity. Works to the existing car parking would allow retention and protection of established trees around the site. Notwithstanding any potential disruption, the stopping up of the road would have no unacceptable impact on the safety of road users or pedestrians. The development accords with Policies 2, 3A, 9F and 14C of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	19/365/PP.
Application Type:	Planning Permission.
Proposal:	Change of use from offices (Class 4) to offices and other services (Class 2), extend, alter existing car park and stop up public road to form car parking.
Applicant:	Orkney Islands Council, c/o Ian Rushbrook.
Agent:	HRI Munro Architecture, c/o Alan Gray, Naver House, Naver Road, Thurso, KW14 7QA.

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
(then enter the application number given above).

Ciceth Waters

2. Consultations

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

3. Representations

3.1.

Twenty-three letters of objection have been received from:

- Mr Fraser Anderson, Orkney Hand Crafted Furniture, Giggs Cottage, New Scapa Road, Kirkwall, KW15 1BL.
- Brian Anderson, Margaret Anderson, and Tracy Russell, Dell'Ovo, New Scapa Road, Kirkwall, KW15 1BL.
- Susan Anderson-Leslie and Paul Harcus, West Lynn, Holm Branch Road, Kirkwall, KW15 1RT.
- Ruth Britten, 7 Kirk Park, Orphir, KW17 2RQ.
- Sam Britten, Asgard, Orphir, KW17 2RD.
- Kirsty Brown and Luke Brown, Oakhurst, Willow Road, Kirkwall, KW15 1NJ.
- Jacqui Bruce, 74 Liberator Drive, Kirkwall, KW15 1ZU.
- John Bruce, 4 Warrenfield Drive, Kirkwall, KW15 1QA.
- Karen Budge, Rohaven, Annfield Crescent, Kirkwall, KW15 1NS.
- Katrina Budge, 9 Jubilee Court, Kirkwall, KW15 1XR.
- Joy Butcher and Matthew Butcher, 1 Royal Oak Court, Holm Road, Kirkwall, KW15 1US.
- Chloe Farrer and David Farrer, Upper Misker, Deerness, KW17 2QL.
- Gillian C Farrer, Fern Valley Wildlife Centre, Tingwall House, Tingwall, Rendall, KW17 1HB.
- W S Flett, Edgeriggs, 1 Scapa Crescent, Kirkwall, KW15 1RL.
- Shenandoah Gills and Calum Miller, 13 Church Road, Stromness, KW16 3BA.
- Calum Grant and Lyndsay Grant, 27 Buttquoy Crescent, Kirkwall, KW15 1JH.
- Jackie Harrison and Keith Harrison, Reesterbrae, Orphir, KW17 2RB.
- Barbara Mackenzie and Tyler Mackenzie, Tonray, 10 Meadow Park, Kirkwall, KW15 1FN.
- Gina McMahon, Lower Bu, Holm, KW17 2SD.
- Mrs Ann Rendall, Iona, 3 Scapa Crescent, Kirkwall, KW15 1RL.
- Jacqui Robertson and Liam Robertson, Westermill, 24 Willowburn Road, Kirkwall, KW15 1NG.
- Mr Steven Russell, Dellovo Cottage, New Scapa Road, Kirkwall, KW15 1BL.
- Graham Scollay and Netsanet Sori, Muirdene, Orphir, KW17 2RB.

3.2.

It should be noted that, where more than one representation is received from a household, it is defined as one 'valid representation'. There are incidences of multiple letters from a single objector, and also separate representations from multiple individuals within a single household. So, whilst less than the total number of individual letters received, 23 is the correct number of valid representations.

3.3.

Of the 23 objections received, 18 are a pro forma letter. As each of the 18 is signed and dated by the objector and includes the objector's address, each is treated as an individual valid representation. The text within the pro forma objection letter is as follows: "I [objector name] regularly use the small side road at the foot of Scapa Crescent beside Garden House and Dellovo to drop off and collect my child from Tracy Russell and Margaret Anderson who are registered childminders. This road provides me with a safe place to put my child in and out of the car. If you were to close this road it would cause us disruption to our usual day and may impact the safety of our children."

3.4.

The objections are on the following grounds:

- The closure of the section of road affecting ease of access for visitors and deliveries of materials to the Orkney Hand Crafted Furniture workshop.
- The scale of the proposed extension.
- Impact of additional traffic on the adjacent road.
- Impact on access to neighbouring properties.
- Lack of availability of car parking.
- Loss of privacy.
- Pedestrian safety of users of Arcadia Park.
- Safety of children accessing and leaving an adjacent childcare business.

3.5.

Other objections have been received on non-material grounds, including:

- Impact on the profits of an adjacent business.
- Availability of other potential sites for the proposed development.
- Disruption during construction.
- Potential for development to exacerbate disruption caused during construction of the hospital.

3.6.

Objections have been received from the group of properties located immediately to the north of the application site - the domestic property of Dellovo Cottage; Tracy Russell and Margaret Anderson operating a childcare service from Dellovo; and Fraser Anderson operating Orkney Hand Crafted Furniture.

3.6.1.

The objection from the occupier of Dellovo Cottage includes that “the proposal will reduce our access to our property...our access for reversing into the drive is considerably reduced”. Dellovo Cottage was approved in September 2007, reference 07/388/PPF, and a planning condition was attached to that consent requiring, “That prior to the hereby approved dwellinghouse being brought into use, the existing access to be shared with the property Dellovo shall be upgraded in accordance with the stamped approved specification and to the satisfaction of the Planning Authority.” The access was not constructed in accordance with the planning condition. This matter was raised with the objector who provided a response that the developer of the house sought agreement from Roads Services to retain the access without the approved alterations. However, there is no record of any such agreement. It is considered that, should the access be constructed in accordance with the 2007 planning permission, some of the concerns raised now may be alleviated.

3.6.2.

Tracy Russell and Margaret Anderson operate a childcare business from Dellovo, which comprises up to 12 children in attendance. The letter of objection provides detail regarding the potential impact on the safety of the children, as well as how parents typically use the adjacent section of road which is proposed to be closed. The safety of road users and pedestrians is therefore critical. The business has also prompted the multiple pro forma objections. Given the potential significance of the childcare service as a neighbouring business which could be affected by the development, the planning status of that business must be confirmed. There is no planning history for the childcare business, and in its guidance for registering and running a childminding service the Care Inspectorate notes that “You should be aware that in some local authority areas you might need to apply for planning permission to care for more than six children, or to have more than one adult working in the childminding service...” This was raised with the operators of the childcare service, and it was noted by the operator that the Care Inspectorate allows for separately registered childminding services to work together in the home of one of the providers and confirms this is the case for this business. However, this provision for the business format does not prejudice the potential requirement for planning permission. This matter has yet to be concluded and the outcome would naturally affect the weight that is able to be put on objections relating to the business. Regardless, the potential impact on the safety of children being cared for at the premises, including in the surrounding road and footpath network, is considered within this report.

3.6.3.

The Orkney Hand Crafted Furniture uses the same access as Dellovo Cottage. There is no planning history for the furniture workshop; this was raised with the objector and operator of the business; in response, evidence has been provided which indicates that the business has operated in excess of ten years. Regardless of the planning status of the premises, relevant material planning considerations included in the objection are considered within this report.

4. Relevant Planning History

4.1.

Reference.	Proposal.	Location.	Decision.	Date.
19/241/PP	Extend a building and create an access and car parking.	Garden House, New Scapa Road, Kirkwall.	Withdrawn.	22.10.19.

4.2.

The withdrawn application did not include adequate car parking that could be laid out to the satisfaction of Roads Services and included the felling of most of the trees within the site. Following discussions with Road Services, that proposal was withdrawn, and the current application submitted, to include the stopping up of the adjacent section of road in order to provide the additional car parking required.

5. Relevant Planning Policy Guidance

The full text of the Orkney Local Development Plan 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:

- Orkney Local Development Plan 2017:
 - Policy 2 – Design.
 - Policy 3A – The Town Centre First Principle.
 - Policy 9F – Trees and Woodland.
 - Policy 14C – Road Network Infrastructure.

6. Legal Aspects

6.1.

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

6.2.

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

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

6.3.

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

6.4.

The Council as Planning Authority has powers in terms of Section 207 of the Act to make an order authorising the stopping up of a road which is not a trunk road, or a special road provided by the Scottish Government under the Roads (Scotland) Act 1984, if they are satisfied that it is necessary to do in order to enable a development to be carried out in accordance with a planning permission granted in terms of the Act. The proposed development relies on and includes a section of public road that would be stopped up. Accordingly, in the event that planning permission is granted, it would be necessary to make an order authorising the stopping up of the relevant section of road.

7. Assessment

7.1. Background

Garden House was most recently used by NHS Orkney principally as offices with limited public access. The site comprises a two-storey office building located towards the north of the site with a car park to the south and landscaping including some mature and semi-mature trees around the edge of the site. The building fronts New Scapa Road, with the current main entrance porch diagonally opposite the pedestrian access to the Balfour Hospital. The building is mainly dry dashed and has

a profiled concrete tiled roof with the only feature of note the stone cladding used on both, asymmetrical gables. The site is bounded by public roads on all four sides.

7.2. Proposal

It is proposed to extend the building to the rear, extending approximately nine metres from the rear wall, as indicated on the site plan attached as Appendix 1 to this report. The proposed extension is single story, with a mix of render and timber cladding on the walls and a standing seam metal roof. The outer part would have a mono pitch roof, with a relatively shallow pitch to match the main building. It is proposed to accommodate Voluntary Action Orkney, the Orkney Food Bank and the Citizens Advice Bureau within the building as extended. The application was initially advertised as an extension to the building only; however, following clarification of the proposed uses and associated public areas within the building, the proposal was amended to include the change of use from Class 4 to Class 2, which includes financial, professional or any other services which are principally for visiting members of the public. This would omit any need to restrict by planning condition the parts of the building or opening hours that would be available to visiting members of the public. Some reconfiguration of the existing car park would be carried out. The final component of the proposed development is the stopping up of a one-way section of Scapa Crescent immediately to the north of the building in order to form additional car parking.

7.3. Principle

As is generally the case, critical to the principle of the development is not the list of organisations seeking to occupy the building, but rather the proposed use. Policy 3A(i) of the Orkney Local Development Plan 2017 applies the Town Centre First principle, whereby for any office or community facilities that attract significant footfall, the order of preference for location is: town centre, followed by edge of town centre, followed by elsewhere within a settlement boundary. Supporting information has been provided regarding the need for the organisations to relocate, and specific justification was sought and has been provided regarding the Food Bank in particular, and how its services may be affected by moving away from the town centre. Policy 3A(ii) confirms that "flexibility will be allowed to ensure that community, education and healthcare uses are located where they are easily accessible to the communities that they are intended to serve". The Food Bank has confirmed that NHS Orkney and the Citizens Advice Bureau are the largest referrers of clients, so the proposed site is closer than the current situation. On balance, given the justification submitted, the flexibility provided by Policy 3A for community uses, and the fact that the development would ensure a new use for a currently redundant building, the proposed change of use to Use Class 2 is considered acceptable in principle. The principle being accepted, other alterations including the extension, car park reconfiguration and the stopping up of the road must be considered on their merits.

7.4. Residential Amenity

The building operated for many years as offices for NHS Orkney, which involved both staff and limited visiting members of the public. The increase in floor space and change of use would almost certainly increase the number of visitors to the building daily. The existing main entrance would be retained, with an additional public entrance to the south, facing the existing car park. The building is close to the edge of town, adjacent to a main road, and close to the Balfour Hospital. The building as extended and in the use proposed is not considered likely to have any unacceptable impact on residential amenity.

7.5. Design

The proposed extension is relatively small. However, the modern design and use of materials would provide some welcome interest to a building that has little architectural merit. The form and proportions would strike a balance between the introduction of modern design whilst adequately referencing parts of the existing building. Given the mixture of residential and other development in the area, in accordance with Policy 2, the development is considered to be sympathetic to the character of its local area and have a positive effect on the appearance of its surroundings.

7.6. Trees

The application site contains many semi-mature trees, many likely to date from the construction of the building. These trees are important for integrating the development with its surroundings, and provide continuation of tree cover with other trees and green spaces nearby. A tree survey has been completed to the relevant British Standard, indicating the size, species and the Root Protection Area required for every tree to be retained. Policy 9F requires the retention of individual trees of landscape or shelter value unless an evaluation to an appropriate standard is carried out that concludes that any loss is acceptable. In this case all key edge trees would be retained. Two relatively small trees would be lost during the formation of additional car parking to the south of the building; however, a row of existing trees would be retained in an adjacent position at the edge of the site. Two trees would also be felled at the north edge of the site; again, these are adjacent to a retained group of established trees. A Tree Protection Plan has been submitted, in accordance with British Standard BS5837:2012, which would ensure protection of all roots and canopies during construction, which would be controlled by planning condition. Trees within the site are therefore considered to be adequately protected.

7.7. Parking

Roads Services objected to the now withdrawn planning application in relation to parking provision. The amended, current planning application includes provision of two disabled parking spaces and adequate parking spaces to meet the requirements of the National Road Development Guide, as well as cycle parking provision. The 34 car parking spaces proposed represents an increase of 11 spaces, including the two disabled spaces noted above. On that basis, Roads Services has no objections in relation to access or parking, and the development accords with Policy 14C as it could be safely and conveniently accessed and would be safe for all road users.

7.8. Stopping Up of Road

As noted above, a key component of the development is the stopping up of a short section of Scapa Crescent at the north end of the site to facilitate additional vehicle parking. This has been included in most representations. The section of road is one-way, from New Scapa Road towards the junction where this short section meets the remainder of Scapa Crescent. If stopped up, vehicles entering and leaving Scapa Crescent would use the existing two-way section of road to the south and east of the application site, and which has its junction to New Scapa Road between Garden House and Arcadia Park. Roads Services has no objection to this proposal and has not identified any works required to this existing section of road.

7.8.1.

The objections in relation to the adjacent childcare business are mainly twofold – firstly, inconvenience and disruption to the current routine, and secondly potential impact on the safety of children. In relation to disruption, it should be noted that the footway would be retained so there would be no impact on any children arriving on foot. In relation to children being dropped off by car, the difference would be the additional distance to travel around the application site, approximately 200 metres. The operator of the childcare business has indicated that drop-offs may occur on the main road; however, in the context of protecting child safety it would be a matter for any parties dropping off children to avoid unsafe situations. Speculation regarding the likelihood of vehicles stopping on the main road rather than driving around Garden House, and any resultant disruption, cannot outweigh the merits of the application.

7.8.2.

The critical consideration is the safety of children using the childcare business. At present, drop-offs occur along the section of one-way road, which is approximately 40 metres in length. Allowing for the 10 metres required at both ends of that road from the respective junctions (including the double yellow lines adjacent to New Scapa Road), approximately 20 metres or four car lengths, is available at any time for safe stopping or parking. Although safer than the main road for stopping or dropping off children, this is currently a through road to all traffic and may be busy at peak drop-off times. As proposed, although being developed as part of the works to Garden House, the car parking would be available to the public, whether for parking or drop-offs. Drop-off times for the childcare business will often be before the opening times of Garden House, and therefore before all staff have arrived. On the basis that the development would provide more parking spaces in the same area than are currently safely available within the public road, and on the basis that it would be an enclosed car park rather than a public through road, the proposed arrangement is not considered to create an additional safety risk. Provided any parties dropping off children can overcome any inconvenience of the approximate additional 200 metres to drive to the car park, it may in fact create a safer space.

7.8.3.

In relation to the house and furniture making business that use the existing access adjacent to the proposed section of road that would be stopped up, Road Services has no objection in relation to access or manoeuvring. Should the access be upgraded to the standard required by planning condition when Dellovo Cottage was approved, this would likely further improve the situation.

8. Conclusion and Recommendation

The principle of the development is acceptable, on the basis that adequate justification has been provided for the proposed use in that location. The design of the extension is high quality and would have no unacceptable impact on residential amenity. Works to the existing car parking would allow retention and protection of established trees around the site. Notwithstanding any potential disruption, the stopping up of the road would have no unacceptable impact on the safety of road users or pedestrians. Objections received on material planning grounds are not of sufficient weight to recommend refusal. The development accords with Policies 2, 3A, 9F and 14C of the Orkney Local Development Plan 2017. Accordingly, the development is **recommended for approval**, subject to the conditions attached in Appendix 2.

9. Contact Officer

Jamie Macvie, Planning Manager, Development Management, extension 2529,
Email jamie.macvie@orkney.gov.uk

10. Appendices

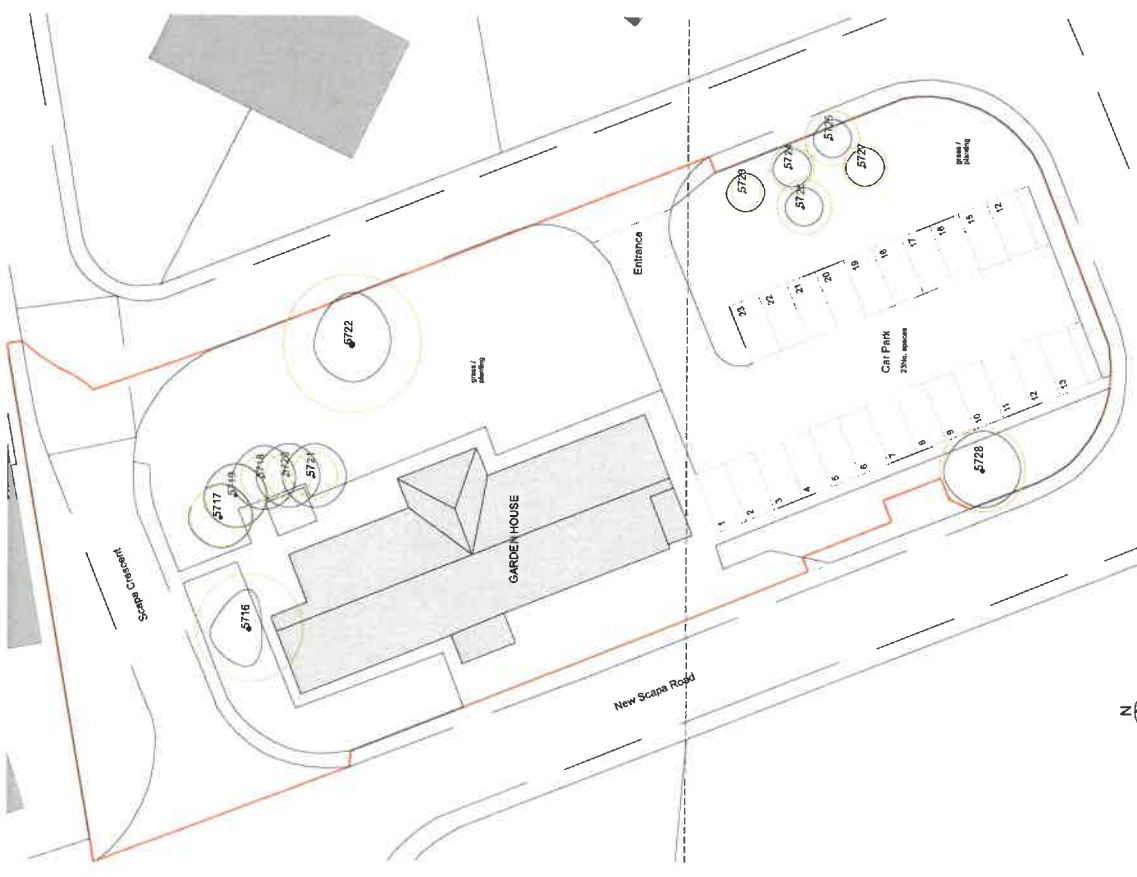
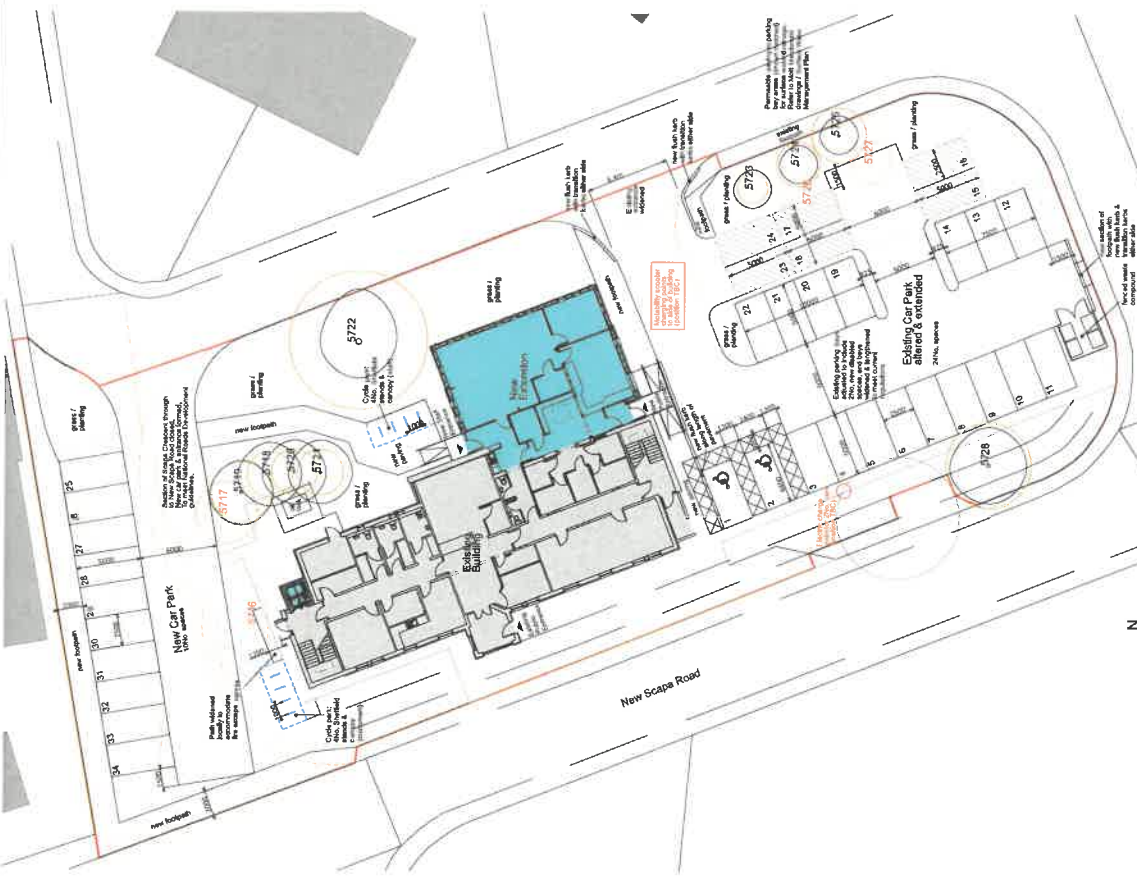
Appendix 1: Site Plan.

Appendix 2: Planning Conditions.

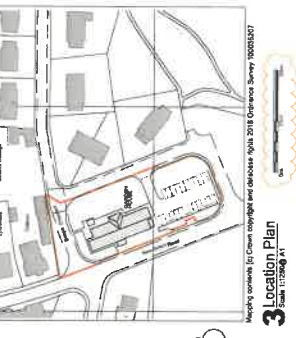
GENERAL NOTE:
DO NOT SCALE FROM THIS DRAWING.
This drawing is a site plan and should not be used for construction purposes. All dimensions and notes are for information only. Any dimensions are to be verified by the client. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

LEGEND:

- Removable
- 5728 Tree No. & canopy
- 5717 Tree to be removed
- Tree root protection areas



2 Proposed Site Plan
Scale: 1/200 @ A1



3 Location Plan
Scale: 1/2500 @ A1

PLANNING	
Location Code for approval:	311019
Application Reference Number:	211019
One line site name for street:	
Site name for planning purposes:	031019
Revision Description:	Date
GARDEN HOUSE KIRKWALL ORKNEY	
LOCATION PLAN, EXISTING SITE PLAN & PROPOSED SITE PLAN	
Scale:	DWG: 1:2500 L1: 1:2500 M1: 1:2500 A1: 1:2500
Project Number:	1.7115c
Drawing:	001
Revision:	G

Appendix 2.

01. Throughout the lifetime of the development hereby approved, surface water must be treated in accordance with the principles of Sustainable Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

All surface water shall be contained within the development site and there shall be no surface water drainage run-off onto the road or adjacent land.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B – Sustainable Drainage Systems (SuDS) of Orkney Local Development Plan 2017, Scottish Planning Policy – Managing Flood Risk and Drainage, and in the interests of road safety.

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

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

03. All access and parking provision and alterations hereby approved shall be constructed and completed wholly in accordance with approved details prior to first occupation of the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

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

Reason: In the interests of road safety.

04. All tree protection shall be implemented wholly in accordance with the sequence of works and specifications included in the 'Tree Protection Plan' hereby approved. No excavation works shall be carried out within the site until all protective fencing is erected in accordance with the tree protection plan and is inspected on site and confirmed as acceptable by the Planning Authority.

Reason: To ensure adequate protection of trees, including roots, throughout the construction of the development.

Ciceth Watson

Minute

Planning Committee

Wednesday, 19 August 2020, 10:30.

Microsoft Teams.



Present

Councillors Robin W Crichton, John A R Scott, Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Stephen Sankey and Owen Tierney.

Clerk

- Hazel Flett, Senior Committees Officer.

In Attendance

- Roddy Mackay, Head of Planning, Development and Regulatory Services.
- Jamie Macvie, Planning Manager (Development Management).
- Susan Shearer, Senior Planner (Development and Marine Planning).
- Georgette Herd, Solicitor.
- Kenneth Roy, Team Leader Roads Support (for Item 4).
- Donald Wilson, Roads Authority Officer.

Observing

- Gavin Barr, Executive Director of Development and Infrastructure (for Items 1 to 3).
- David Barclay, Senior Planner (Development Management) (for Items 1 to 3).
- David Hartley, Communications Team Leader.
- Angela Kingston, Committees Officer.
- Sandra Craigie, Committees Officer (for Items 1 to 3).

Apology

- Councillor Duncan A Tullock.

Not Present

- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Robin W Crichton.

1. Suspension of Standing Orders

The Committee **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as a party had the right to be heard in person or through a representative and the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

2. Form of Voting

The Committee resolved that, should a vote be required in respect of the planning applications to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll or recorded vote.

3. Planning Application 19/143/PPMAJ

Proposed Extension of Quarry, Continued Extraction of Stone, Restoration and Landscaping at Cursiter Quarry, Old Finstown Road, Firth

As Councillor Duncan A Tullock had not taken part in the site visit, he had tendered his apologies, as in terms of Standing Order 8.6 he was therefore precluded from taking part in further discussion of this application.

Fraser Blackwood, agent representing the applicant, Orkney Islands Council, was present during consideration of this item.

Darren Richardson, David Custer and Steve Killeen, representing the applicant, Orkney Islands Council, were present during consideration of this item.

George Brown, John Grimond and Kenny Slater, objectors, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

3.1. That letters of objection relating to the application for planning permission in respect of the proposal for the extension of a quarry, continued extraction of stone, restoration and landscaping at Cursiter Quarry, Old Finstown Road, Firth, had been received from the following:

- George Brown, Rohallion, Grimbister.
- Andrew Giggle, Rossmyre, Grimbister.
- John Grimond, Old Manse of Firth, Grimbister.
- K A Slater, The Glebe, Grimbister.

3.2. That, on 9 June 2020, the Planning Committee deferred consideration of the application for planning permission in respect of the proposal for the extension of a quarry, continued extraction of stone, restoration and landscaping at Cursiter Quarry, Old Finstown Road, Firth, to enable members of the Committee to undertake an unaccompanied site visit.

3.3. That the site visit, referred to at paragraph 3.2 above, had taken place at 14:00 on 13 August 2020.

After hearing representations from Kenny Slater, John Grimond and George Brown, objectors, and from Fraser Blackwood, agent for the applicant, Orkney Islands Council, Councillor John A R Scott moved that the application for planning permission in respect of the proposal for the extension of a quarry, continued extraction of stone, restoration and landscaping at Cursiter Quarry, Old Finstown Road, Firth, be approved, subject to conditions as proposed by officers.

On receiving no seconder, his motion fell.

On the motion of Councillor David Dawson, seconded by Councillor Owen Tierney, the Committee resolved, in terms of delegated powers:

3.4. That the application for planning permission in respect of the proposal for the extension of a quarry, continued extraction of stone, restoration and landscaping at Cursiter Quarry, Old Finstown Road, Firth, be refused.

3.5. That the Committee's reasons for refusing planning permission against the recommendation of the Executive Director of Development and Infrastructure were that, in the Committee's opinion:

- The scale and extent of the proposed extension to the quarry, which extended beyond the defined Minerals Safeguard Area, was not justified and, in particular, the case had not been made that future need and demand for aggregate could not be met within a defined Minerals Safeguard Area.
- The proximity of the proposed extension to residential properties would result in significant adverse cumulative impacts on the residential amenity of the neighbouring properties as a result of noise, dust and vibration from blasting.
- There would be an adverse impact on the landscape character and visual amenity of the local area.
- There were potential adverse impacts on cultural and natural heritage assets.
- Measures proposed were not sufficient to satisfactorily mitigate the impact of the quarry extension on the amenity of neighbouring residents and the wider environment.

And, accordingly, the proposed development was contrary to the following policies of the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development, parts (iii), (iv), (vi), (ix) and (x).
- Policy 2 – Design, parts (i) and (ii).
- Policy 4 – Business, Industry and Employment, section E – Minerals.
- Policy 9 – Natural Heritage and Landscape, section A – Natural Heritage Designations, parts (2) and (3).
- Policy 9 – Natural Heritage and Landscape, section G – Landscape, parts (i) and (ii).

The Committee noted:

3.6. That, in terms of Standing Order 15.6, Councillor John A R Scott wished his dissent recorded in respect of the decision outlined at paragraph 3.5 above.

4. Planning Application 19/365/PP

Proposed Change of Use from Offices to Offices and Other Services, Extension, Alterations to Car Park and Stopping-Up of Public Road to form Car Parking at Garden House, New Scapa Road, Kirkwall

As Councillor Norman R Craigie had not been involved in previous discussions at the Committee regarding this application, nor taken part in the site visit, in terms of Standing Order 8.6 he was therefore precluded from taking part in further discussion of this application and left the meeting at this point.

As Councillor Duncan A Tullock had not been involved in previous discussions at the Committee regarding this application, nor taken part in the site visit, he had tendered his apologies, as in terms of Standing Order 8.6 he was therefore precluded from taking part in further discussion of this application.

Alan Gray, agent representing the applicant, Orkney Islands Council, Ian Rushbrook, representing the applicant, Orkney Islands Council, and Fraser Anderson, objector, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

4.1. That letters of objection relating to the application for planning permission in respect of the proposal for the change of use from offices to offices and other services, extension, alterations to the car park and stopping-up of the public road to form car parking at Garden House, New Scapa Road, Kirkwall, had been received from the following:

- Fraser Anderson, Orkney Hand Crafted Furniture, Giggs Cottage, New Scapa Road, Kirkwall.
- Brian Anderson, Margaret Anderson and Tracy Russell, Dell'Ovo, New Scapa Road, Kirkwall.
- Susan Anderson-Leslie and Paul Harcus, West Lynn, Holm Branch Road, Kirkwall.
- Ruth Britten, 7 Kirk Park, Orphir.
- Sam Britten, Asgard, Orphir.
- Kirsty Brown and Luke Brown, Oakhurst, Willow Road, Kirkwall.
- Jacqui Bruce, 74 Liberator Drive, Kirkwall.
- John Bruce, 4 Warrenfield Drive, Kirkwall.
- Karen Budge, Rohaven, Annfield Crescent, Kirkwall.
- Katrina Budge, 9 Jubilee Court, Kirkwall.
- Joy Butcher and Matthew Butcher, 1 Royal Oak Court, Holm Road, Kirkwall.
- Chloe Farrer and David Farrer, Upper Misker, Deerness.
- Gillian Farrer, Fern Valley Wildlife Centre, Tingwall House, Tingwall, Rendall.
- W Flett, Edgeriggs, 1 Scapa Crescent, Kirkwall.
- Shenandoah Gills and Calum Miller, 13 Church Road, Stromness.

- Calum Grant and Lyndsay Grant, 27 Buttquoy Crescent, Kirkwall.
- Jackie Harrison and Keith Harrison, Reesterbrae, Orphir.
- Barbara Mackenzie and Tyler Mackenzie, Tonray, 10 Meadow Park, Kirkwall.
- Gina McMahon, Lower Bu, Holm.
- Ann Rendall, Iona, 3 Scapa Crescent, Kirkwall.
- Jacqui Robertson and Liam Robertson, Westermill, 24 Willowburn Road, Kirkwall.
- Steven Russell, Dellovo Cottage, New Scapa Road, Kirkwall.
- Graham Scollay and Netsanet Sori, Muirdene, Orphir.

4.2. That, on 4 March 2020, the Planning Committee deferred consideration of the application for planning permission in respect of the change of use from offices to offices and other services, extension, alterations to the car park and stopping-up of the public road to form car parking at Garden House, New Scapa Road, Kirkwall, to enable members of the Committee to undertake an unaccompanied site visit.

4.3. That the site visit, referred to at paragraph 4.2 above, had taken place at 13:30 on 19 August 2020.

After hearing representations from Fraser Anderson, objector, on the motion of Councillor Robin W Crichton, seconded by Councillor Barbara Foulkes, the Committee:

Resolved, in terms of delegated powers:

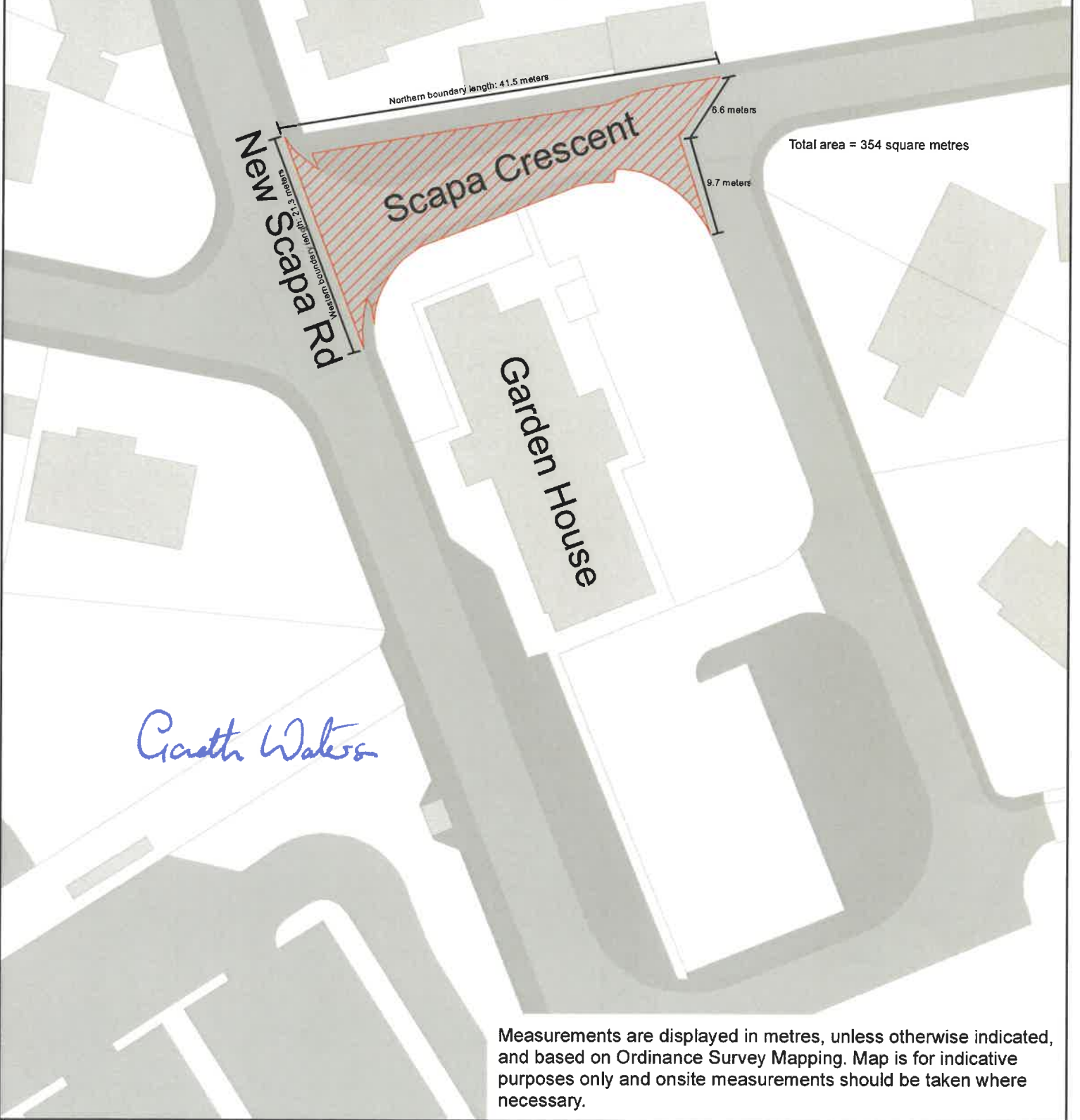
4.4. That the application for planning permission in respect of the proposal for the change of use from offices to offices and other services, extension, alterations to the car park and stopping-up of the public road to form car parking at Garden House, New Scapa Road, Kirkwall, be granted, subject to the conditions attached as Appendix 1 to this Minute.

5. Conclusion of Meeting

At 15:40 the Chair declared the meeting concluded.

Signed: Rob Crichton.

This is the Plan referred to in the foregoing Schedule in the Orkney Islands Council (Scapa Crescent, Kirkwall) Stopping Up Order 2021



Measurements are displayed in metres, unless otherwise indicated, and based on Ordnance Survey Mapping. Map is for indicative purposes only and onsite measurements should be taken where necessary.



Section of road to be stopped up to vehicular traffic

Total area = 354 square metres



Scale 1:500

0 5 10 20 Meters

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Development and Marine Planning: 20/09/2021