

## Item: 3.2

**Planning Committee: 4 March 2020.**

### **Reinstate and Extend House, Erect Outbuilding and Create Access at Sunnybraes (Land Near), Houton Road, Orphir.**

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

## **1. Summary**

### **1.1.**

Full planning permission is sought for the reinstatement and extension of a derelict property, together with the erection of an outbuilding and creation of an access, on land near Sunnybraes, Houton, Orphir. A tree survey has been included with the application as supporting information. The property is situated in a secluded coastal location on Houton Head, accessed from the private road linking with the unclassified public road serving properties towards Houton Head east of the pier. Two objections have been received on the grounds of access, land use, flood risk and loss of a tree on site and wider impacts to the Hoy and West Mainland National Scenic Area. The objections are of insufficient weight to merit refusal. The development accords with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017 and relevant Supplementary Guidance. Accordingly, the application is recommended for approval.

Application Number:	19/345/PP.
Application Type:	Planning Permission.
Proposal:	Reinstate and extend a house, erect an outbuilding, and create an access (resubmission of 19/248/PP).
Applicant:	Mr S Veale, The Office, Woodgate Farm, Clifford's Mesne, Newent, Gloucestershire GL18 1JU.
Agent:	Mr Leslie Burgher, Roebank, High Street, Kirkwall, Orkney KW15 1AZ.

### **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**

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

### 3. Representations

#### 3.1.

Two objections have been received from:

- Fiona Gould, Sunnybraes, Houton, Orphir, KW17 2RD.
- Simon Strachan and Sophia Anterriotti, The Pier House, Hall of Tankerness, Tankerness, KW17 2QS.

#### 3.2.

The objections are based on the following grounds:

- Nature and use of access leading to the property beyond the public road.
- Formation of an access.
- Nature and use of the land including crofting interests.
- Flood risk.
- Impacts to trees on site.
- Impact on the integrity of the National Scenic Area.

#### 3.3.

Other matters have been raised within the objections including right of access, maintenance of access, potential for future commercial uses and works on the site including vegetation clearance and site servicing, which are not material planning matters.

### 4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
03/251/PPF.	Erection of a new house (one for one replacement).	Houton Head (Land Near), Orphir.	Grant subject to conditions.	01.10.2003
08/454/PPF.	Erect a replacement house (renewal of application 03/251/PPF).	Houton Head, Orphir.	Grant subject to conditions.	04.11.2008

13/360/VR.	Vary condition 1 of planning permission 08/454/PPF to extend consent to erect a replacement house and retain existing building as an outbuilding.	Houton Head (Land Near), Orphir, Orkney.	Grant subject to conditions.	05.11.2013
19/248/PP.	Erect a replacement house (one for one) with an outbuilding, retain part of existing building and create an access.	Sunnybraes (Land Near), Houton Road, Orphir, Orkney, KW17 2RD.	Withdrawn.	26.09.2019

## 5. Relevant Planning Policy and 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 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 5 – Housing.
  - Policy 9 – Natural Heritage and Landscape.
  - Policy 13 – Flood Risk, SUDS and Waste Water Drainage.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Advice 2017:
  - Supplementary Guidance: Housing in the Countryside.
  - Supplementary Guidance: Natural Environment.

## **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.

## **7. Assessment**

### **7.1. Principle**

The property is situated in a secluded location at Houton Head within the countryside and could be considered in relation to a combination of elements of the Orkney Local Development Plan Policy 5E – Single Houses and New Housing Clusters in the Countryside, notably parts (i) and (ii). Critically, the derelict remains of a building, believed previously to have been a house, meets the minimum criteria, as stated in Supplementary Guidance: Housing in the Countryside, to be considered applicable for development as a replacement building. The site is largely overgrown and is relatively unusual in an Orkney context that it is partly wooded. Whilst one of the established trees is identified for removal, the other mature trees on site would be retained which shall retain a significant component of the existing character of the site.

### **7.2. Design and Appearance**

#### **7.2.1.**

The proposed development has two significant elements, comprising redevelopment of the remains of the stone built cottage on the site, together with an ancillary building, which is noted in submitted plans as either ‘garden building’ or ‘garage’, as

indicated in the site plan attached as Appendix 1 to this report. Given the nature of the application, irrespective of what this structure is to be called, it is considered a domestic building ancillary to the use and enjoyment of the dwelling and can be conditioned as such.

#### **7.2.2.**

The cottage is comprised a single bedroom, bathroom, study, hall and open plan kitchen/living space. The redeveloped cottage would retain the general form and massing of the original single storey building and seeks to utilise the stone-built element of the east gable end of the existing building, with transition to walls finished externally, with vertically orientated timber cladding on the south elevation and west gable, with horizontal orientation above eaves height on the gable. The north elevation of the building would have an even split from the central doorway of rebuilt stone on the east half and sinusoidal metal cladding to the west. Significant glazing is included on the south elevation. Roof materials have been confirmed as a zinc standing seam on the roof of the cottage.

#### **7.2.3.**

The proposed detached garden building is similarly single storey, set perpendicular to the north west end of the cottage. This building would be open ended at both gables to act as covered space/car port with the central section noted as a workshop. Proposed external finishes reflect those of the cottage except for the roofing material, which is proposed as sinusoidal metal cladding. In relation to groundworks, a parking and turning area is to be formed which will require an element of retaining wall, as well as a foul treatment system to be situated between the cottage and shoreline in the south of the site with outfall to beach.

#### **7.2.4.**

The form, scale, massing and placement of the buildings on site is considered acceptable and are not considered to have any significant wider impacts in relation to amenity nor setting within the landscape. Whilst there are a variety of external materials proposed, in both materials employed, textures and colours, these are acceptable in context. In the absence of design guidance there are no local detailed policy guidance documents to refer to. Given the secluded nature of the site, allied with the retention of most of the mature trees on site, the single storey form and external finishes of the proposed development, no wider visual or landscape impacts are considered to arise. There would be no significant impact on the integrity of the Hoy and West Mainland National Scenic Area.

### **7.3. Amenity**

The proposed development stands within its own grounds and, upon retention of the majority of mature trees on the site, shall be screened from the nearest neighbouring property at Sunnybraes. No significant amenity concerns are considered to arise.

## **7.4. Parking and Road Safety**

### **7.4.1.**

The site is served by a private track leading from the unclassified road to the west of Houton pier. To achieve access from the site onto this private track, a new access is proposed which would cross a parcel of land which has been identified as in crofting tenure and not in the ownership of the applicant. The matter of access to the site has been subject to comment from objectors, as the existing private track is narrow with limited opportunities for passing or awareness of vehicles approaching from the opposite direction, and the formation of track across the parcel of croft land. Roads Services has recommended that the junction of the private track with the public road should be upgraded to conform with existing standards. This can be secured by planning condition. With reference to the private track, this currently serves the existing house at Sunnybraes with occasional agricultural use. The proposed development of a single house is not considered to substantially or significantly alter the nature of this access. Issues over maintenance, rights of use or ability to form a new access are civil matters and not material planning considerations.

### **7.4.2.**

The formation of an access over croft land has been subject to consultation with the Crofting Commission, who confirmed that the parcel of land adjacent and to the north of the site is under crofting tenure. It was noted at the time of site visits that this parcel of land appeared uncultivated and unused with significant shrub growth throughout. The objectors raising this matter have not indicated their current or intended future agricultural use of this land, beyond highlighting it was in their ownership and that they had advised the applicant of such. The agent thereafter submitted a revised land ownership certificate, acknowledging this parcel of land is not in the ownership of the applicant and is under crofting tenure. Critically, the applicant has advised that they have a right of access across this parcel of land to their development site. Irrespective of discussions between parties regarding access, the area of ground under crofting tenure should remain accessible and not obstructed as a consequence of development. An appropriate planning condition can be applied to ensure that access to the land under crofting tenure can be maintained, separate to legal discussions regarding the nature and use of the access.

## **7.5. Drainage**

In the absence of public drainage provision, it is proposed to install a private drainage system for both foul and surface water. The extent of the site area is deemed adequate to provide an appropriate solution for surface water drainage. In consideration of foul drainage, it is noted the subsequent discharge from the proposed biodisc treatment plant is an outfall to the beach. This element of the development has been subject to additional consultation with SEPA; no objection was raised, noting that the developer must construct a proposed foul drainage system which is adequate for Building Warrant and SEPA requirements. The private waste water drainage system would also require prior authorisation from SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (as amended).

## 7.6. Flood Risk

The site has been subject to consultation with SEPA in relation to coastal flooding, noting it adjoins the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map. Comments provided by SEPA make reference to the withdrawn application on the site, 19/248/PP, which provided a more detailed assessment of flood risk and demonstrated that the development would be situated on ground levels above 4.0 metres Above Ordnance Datum (AOD) which is higher than the 1 in 200 year flood level for the area (3.75 metres AOD). SEPA confirmed no objection on flood risk grounds, and noted the finished floor levels were previously proposed to be raised to a level of 6.25 metres AOD, and assumed this remained the case for the current application, which would be above the 1 in 200 year flood level plus recommended additional height. This was clarified through submission of additional information, confirming a finished floor level of 5.3 metres AOD. This remains acceptable to SEPA.

## 7.7. Natural Environment and National Scenic Area

In relation to the Hoy and West Mainland National Scenic Area, in which this application site is located, development has to be assessed on whether it would have an impact on the integrity of the NSA or qualities for which it has been designated, as set out in Policy 9, Natural Heritage and Landscape, section G, part (iii). Whilst it is accepted the mature trees on site provide a key site characteristic in the locality, as identified in the submitted tree survey report, the extent of this tree group is highly localised which would not be considered to significantly impact the overall integrity of the NSA. It is also of note that the mature trees on site are most likely to have been planted as an element of the historic domestic use of the site and the development as proposed seeks to retain the majority of the trees with the loss of a single tree in relation to the main body of the development. Some tree works will be required in terms of both appropriate tree husbandry as the site is returned to domestic use, and to avoid damage to either the retained trees or the proposed buildings. These matters can be controlled by appropriate planning conditions.

## 8. Conclusion and Recommendation

The proposal seeks to redevelop a derelict house site which would accord with Supplementary Guidance: Housing in the Countryside. As a redevelopment site, it is considered to be sensitively sited within the landscape and at a scale and form which is appropriate to the location without any detrimental impacts on the National Scenic Area. Whilst objections have been made in relation to planning matters, with emphasis on access and impacts upon the environment, these points are not considered to have sufficient material weight to merit refusal. The development accords with Policies 1, 2, 5, 9, 12, 13 and 14 of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for approval**, subject to the conditions attached as Appendix 2.

## **9. Contact Officer**

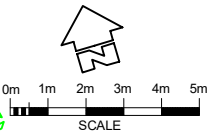
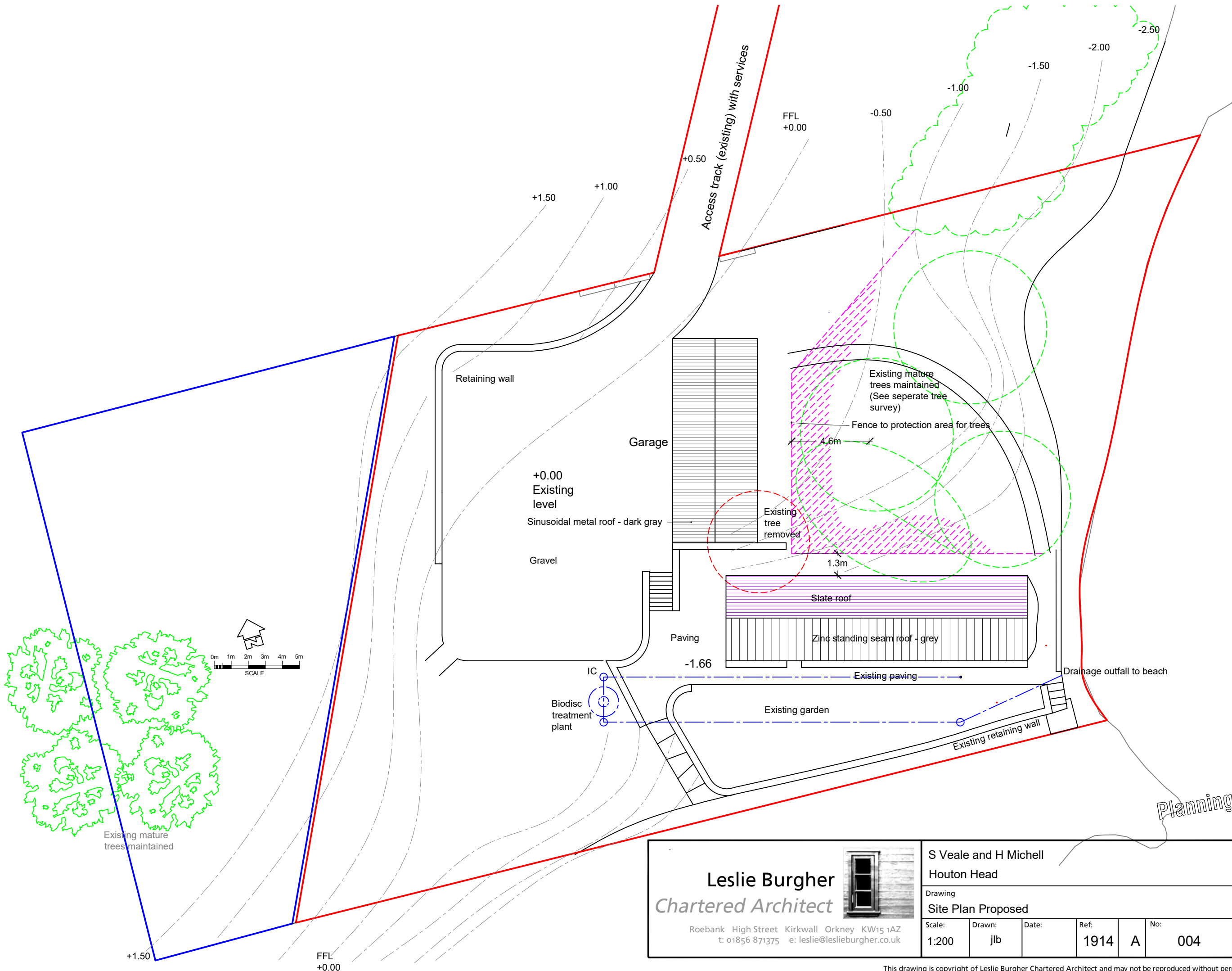
David Barclay, Senior Planner, extension 2502, Email [david.barclay@orkney.gov.uk](mailto:david.barclay@orkney.gov.uk)

## **10. Appendices**


Appendix 1: Site Plan.

Appendix 2: Planning Conditions.





Planning

<b>Leslie Burgher</b> <i>Chartered Architect</i>				S Veale and H Michell Houton Head		<b>A3</b>	
Roebank High Street Kirkwall Orkney KW15 1AZ t: 01856 871375 e: leslie@leslieburgher.co.uk				Drawing <b>Site Plan Proposed</b>			
Scale:	Drawn:	Date:	Ref:	A	No:	Amd:	
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## Appendix 2.

01. The access with the public road hereby approved shall be constructed to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2 to 4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these 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.

02. No trees within the application site, other than those which are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, both during construction and thereafter.

03. No development, site excavation or groundwork shall commence until all retained trees have been protected against construction damage using protective barriers located beyond the Root Protection Area (in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction, or any superseding guidance prevailing at that time). These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, both during construction and thereafter.

04. The garage/workshop hereby approved shall be used solely for purposes incidental to the enjoyment of the dwelling house, and for no other purpose or use.

Reason: To accord with the permission applied for and for the avoidance of doubt in the interest of residential amenity.

05. No development shall commence until full details of the foul drainage infrastructure have been submitted, to, and approved in writing by, the Planning Authority. This shall fully accord with the detail provided to the satisfaction of Building Standards and the Scottish Environment Protection Agency. Thereafter, development shall progress in accordance with the approved details.

Reason: In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

06. The access to the application site across croft land shall not impede nor prevent the continuing use of the croft land that is otherwise not directly utilised by the access.

Reason: To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of, croft land not directly impacted upon by the development.

07. Throughout the lifetime of the development hereby granted planning permission, surface water must be treated in accordance with the principles of Sustainable Urban 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.

Further information on SUDs may be found on SEPA's website at: [www.sepa.org.uk](http://www.sepa.org.uk) and [http://www.susdrain.org/resources/SuDS\\_Manual.html](http://www.susdrain.org/resources/SuDS_Manual.html).

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.

08. 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.

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

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