

Item: 2

Planning Committee: 26 August 2026.

Proposed Extension of House at 3 Robertson Loan, Kirkwall.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application to extend a house at 3 Robertson Loan, Kirkwall. One valid representation has been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	26/158/HH.
Application Type:	Householder.
Proposal:	Extend a house.
Applicant:	Robert Lennie.
Location:	3 Robertson Loan, Kirkwall.

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

2. Recommendation

- 2.1. It is recommended that members of the Committee:
- i. Approve the application for planning permission in respect of the proposed extension of a house at 3 Robertson Loan, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Scottish Water.

- 3.1. No objection.

Roads Services.

3.2. No objection.

A standard informative to address roads matters would be appropriate.

4. Representation

4.1. One valid representation (objection) has been received from:

- Robert D Duncan, 12 Douglas Loan, Watersfield, Kirkwall.

4.2. The representation is on the following grounds:

- Conflict with the Orkney Local Development Plan.
- Design and appearance.
- Overlooking and loss of privacy.
- Impact on natural environment and biodiversity.
- Planning history.

5. Relevant Planning History

5.1. Planning applications

Reference	Proposal	Location	Decision	Date
25/100/HH	Extend a house and erect a fence.	3 Robertson Loan, Kirkwall, Orkney.	Refused by Local Review Body.	27.01.2026.
25/100/HH	Extend a house and erect a fence.	3 Robertson Loan, Kirkwall, Orkney.	Refused.	11.08.2025.
15/037/PP	Erect a house with an integral garage and an air source heat pump.	3 Robertson Loan (Plot 7) (Land Near), Kirkwall, Orkney.	Grant Subject to Conditions.	25.03.2015.

6. Relevant Planning Policy and Guidance

- 6.1. The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).
- 6.2. National Planning Framework 4 can be read on the Scottish Government website [here](#).
- 6.3. The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:
 - National Planning Framework 4:
 - o Policy 3: Biodiversity.
 - o Policy 14: Design, quality and place.
 - o Policy 16: Quality homes.
 - Orkney Local Development Plan 2017:
 - o Policy 1: Criteria for All Development.
 - o Policy 2: Design.
 - Planning Policy Advice:
 - o Amenity and Minimising Obtrusive Lighting (2021).
 - o Watersfield Development Brief (2011).

7. Legislative Position

- 7.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”
- 7.2. Annex A of Planning Circular 3/2013: ‘development management procedures’ provides advice on defining a material consideration, and following a House of Lords’ judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: “If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.”

7.3. Annex A continues as follows:

- The House of Lords' judgement also set out the following approach to deciding an application:
 - o Identify any provisions of the development plan which are relevant to the decision.
 - o Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
 - o Consider whether or not the proposal accords with the development plan.
 - o Identify and consider relevant material considerations for and against the proposal.
 - o Assess whether these considerations warrant a departure from the development plan.
- There are two main tests in deciding whether a consideration is material and relevant:
 - o It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
 - o It should relate to the particular application.
- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - o Scottish Government policy and UK Government policy on reserved matters.
 - o The National Planning Framework.
 - o Designing Streets.
 - o Scottish Government planning advice and circulars.
 - o EU policy.

- o A proposed local development plan or proposed supplementary guidance.
- o Community plans.
- o The environmental impact of the proposal.
- o The design of the proposed development and its relationship to its surroundings.
- o Access, provision of infrastructure and planning history of the site.
- o Views of statutory and other consultees.
- o Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

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

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

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

Status of the Local Development Plan

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

Status of National Planning Framework 4

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

8. Assessment

- 8.1. As noted in section 1 above, permission is sought for the extension to a house at 3 Robertson Loan, Kirkwall, as indicated in the Location Plan attached as Appendix 2 to this report. The application site, i.e. the existing house, is a modern detached house on Robertson Loan, where the development is bounded by Robertson Loan and Moar Drive. The house is single storey with external finishes including flat profile dark tiles, light dashing chips, and all windows, doors, facias and soffits finished in white UPVC, and black rainwater goods. The wider development is located on sloping ground, rising to the south.
- 8.2. It is proposed to extend at the back of the dwelling (north) and to the side elevation(east), using matching external finishes to that of the house. The north extension would have three windows on the gable facing north, with two windows on the east elevation and a door on the west adjacent to the relocated ground mounted air source heat pump. The east extension includes one window on the gable and a single window on the north and south elevations respectively. The ground level currently drops from the north to the boundary, and slightly to the east boundary to the road.

Principle

- 8.3. Extending a residential property within a defined settlement boundary is generally acceptable in principle, subject to compliance with relevant policies relating to design, siting, amenity, and setting and context. In this instance, the acceptability of the proposal depends on whether the scale, positioning and design of the

extensions appropriately respond to the existing dwelling, surrounding character and neighbouring amenity.

Design and Appearance

- 8.4. The proposal has been subject to amendment from the previous application (25/100/HH) that was refused under delegated powers and upheld by the Local Review Body, in that the scale of the east extension has been reduced. This amendment has reduced the visual prominence of the extension when viewed from Moar Drive and ensures that it remains subordinate to the existing dwelling. The proposed external materials would match those of the existing dwelling, resulting in a cohesive appearance. Whilst the east extension projects beyond the existing building line, it is not considered that, following the amendments from the development as considered previously, it would appear unduly dominant within the streetscape.
- 8.5. The north extension would increase the overall footprint of the dwelling, however it remains subordinate to the host dwelling and would not appear visually intrusive when viewed from surrounding public areas. On balance, the proposal is considered to respect the character and appearance of the existing dwelling and surrounding area and complies with Policies 1 and 2 of the Orkney Local Development Plan 2017 and Policy 14 of National Planning Framework 4.

Amenity

- 8.6. Concerns have been raised regarding the relationship between the proposed north extension and the neighbouring property to the north. The proposal does not fully comply with the recommended rear garden depth set out within the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021). This guidance informs the assessment of residential amenity under Policies 1 and 2 of the Orkney Local Development Plan 2017 however, the guidance does not remove the requirement for proposals to be assessed having regard to the particular circumstances of the site and the overall impact of the development.
- 8.7. In this instance, although there is a departure from the recommended separation distance, the relative orientation and position of the neighbouring dwelling, together with the proposed mitigation measures, will ensure that the development does not result in an unacceptable impact on the neighbouring amenity. The combination of a proposed 1.8-metre boundary fence, use of obscured glazing and biodiversity planting will reduce opportunities for overlooking and improve privacy between the properties. These measures shall be secured by planning condition and maintained for the lifetime of the development.

- 8.8. Accordingly, whilst the proposal does not fully accord with the guidance relating to separation distance, the site-specific assessment demonstrates that the resulting impact on privacy, overlooking and daylight will remain acceptable. The proposal is therefore considered to comply with the amenity requirements of Policies 1 and 2 of the Orkney Local Development Plan 2017.
- 8.9. The proposed extension occupies an elevated position in relation to the neighbouring property, increasing the apparent height of the development when viewed from the north. Nevertheless, given the separation distance of approximately 16.6 metres, the orientation of the properties, and the fact that the neighbouring dwelling lies to the north-west rather than directly north, any additional overshadowing would primarily be limited to parts of the garden during the day. Significant overshadowing of the neighbouring dwelling or its principal habitable room windows is not anticipated.
- 8.10. The applicant has prepared a site section and supporting information which demonstrates the relative ground levels, average heights and potential lines of sight from the proposed development. This indicates that, whilst some views towards the neighbouring property may be possible, the opportunity for direct overlooking would be limited. Views from the upper sections of windows are unlikely to result in unacceptable overlooking of neighbouring private amenity areas, particularly when considered alongside the proposed boundary treatment and mitigation measures.
- 8.11. The objector has undertaken their own assessment of potential overlooking impacts, with acknowledgment that the assessment has an estimated accuracy of +/- 10% and uncertainty regarding the site gradients (estimated at between 10% and 20%). The assessment also does not appear to take account of the proposed boundary fence, which would provide additional screening and reduce potential opportunities for overlooking. Therefore, whilst the concerns raised are noted, the assessment is not considered sufficient to demonstrate that an unacceptable impact on neighbouring amenity would arise.
- 8.12. On balance the proposed extensions are considered consistent with National Planning Framework 4; Policy 14, Design, Quality and Place and Policy 16, Quality Homes and Policy 1, Criteria for All Development and Policy 2, Design of the Orkney Local Development Plan.

Biodiversity

- 8.13. The proposed planting includes non-native species, recognising that the site is an established residential garden. The context of the proposal is such that the biodiversity enhancement expectations associated with larger developments are not applicable to a development of this scale. The proposed planting is therefore considered proportionate and would provide additional ecological and visual benefits. The proposed development is therefore considered acceptable in relation to National Planning Framework 4; Policy 3, Biodiversity

9. Conclusion

- 9.1. Whilst the previous application raised concerns regarding the scale and visual impact of the extensions, the amended proposal has reduced the prominence of the east extension and introduced mitigation measures to address neighbouring amenity concerns.
- 9.2. On balance, the proposed development is considered to comply with Policies 1 and 2 of the Orkney Local Development Plan 2017, Policies 3, 14 and 16 of National Planning Framework 4, and the relevant provisions of the Watersfield Development Brief 2011. While the proposal does not fully accord with the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021) in respect of the recommended rear garden depth, this is not considered, in the circumstances of this case, to result in an unacceptable impact on residential amenity or to amount to a conflict with Policies 1 and 2 of the Orkney Local Development Plan 2017. The proposal is therefore considered acceptable in terms of the principle of development, design, scale and appearance, and residential amenity. There are no material considerations, including those raised in the objection, which would outweigh this conclusion.

For Further Information please contact:

Isla McLeod, Planner (Development Management), Email isla.mcleod@orkney.gov.uk

Implications of Report

- 1. Financial:** None.
- 2. Legal:** Detailed in section 7 above.
- 3. Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
- 4. Human Resources:** None.
- 5. Equalities:** Not relevant.
- 6. Island Communities Impact:** Not relevant.

7. **Links to Council Plan:** Not relevant.
8. **Links to Local Outcomes Improvement Plan:** Not relevant.
9. **Environmental and Climate Risk:** None.
10. **Risk:** If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission on the basis of the proposal being contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to provide clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Orkney Local Development Plan 2017, available [here](#).
National Planning Framework 4, available [here](#).

Appendices

Appendix 1 – Planning Conditions.
Appendix 2 – Location Plan.

Appendix 1.

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

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

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

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

03. Prior to the installation of the windows on the north extension located on the north elevation hereby approved, full details of the proposed window design, including opening mechanisms and glazing specification, shall be submitted to and approved, in writing, by the Planning Authority. The windows shall be capable of opening only to a restricted degree and shall incorporate obscure glazing. The windows shall thereafter be installed and retained in accordance with the approved details for the lifetime of the development.

Reason: To safeguard the privacy and residential amenity of neighbouring properties by preventing unacceptable overlooking.

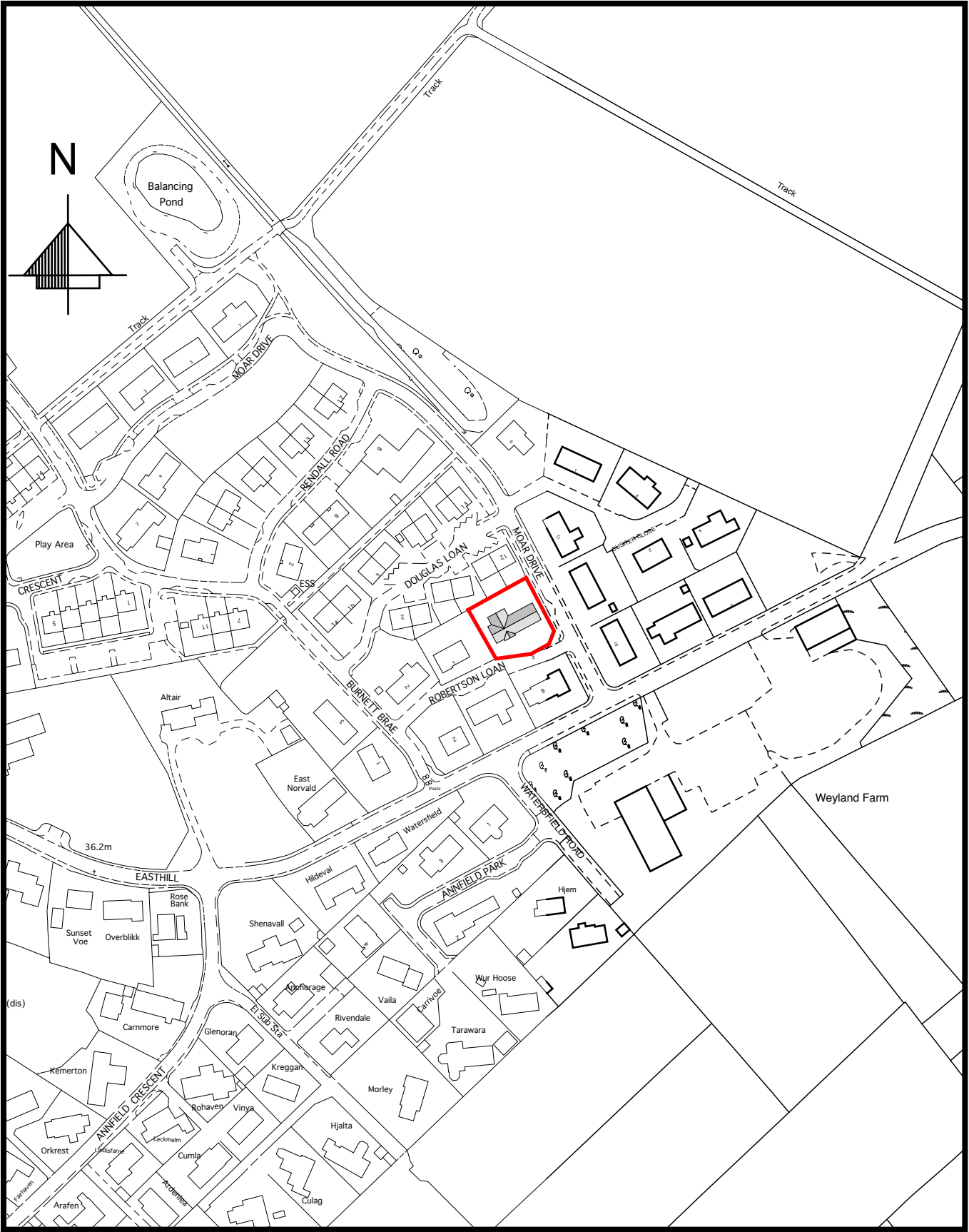
04. The timber fence and Rosa Caesia planted along the northern boundary of the site shall be retained and maintained at a height of 1.8 metres above existing ground level and shall not be removed or reduced in height without the prior written approval of the Planning Authority.

Reason: To safeguard the privacy and residential amenity of neighbouring properties.

05. The biodiversity measures described in the submitted Biodiversity form dated 15 July 2026 and Biodiversity Plan 'Proposed site Layout & Biodiversity Measures Drwg. -005(B)' dated 18 April 2026 shall be implemented in full no later than the first planting season following commencement of development. Thereafter, the biodiversity measures shall be permanently retained in

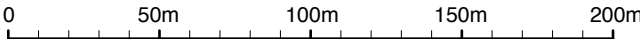
accordance with the approved details, including replacement of any planting that does not survive, is removed, or is damaged, unless otherwise agreed, in writing, with the Planning Authority.

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

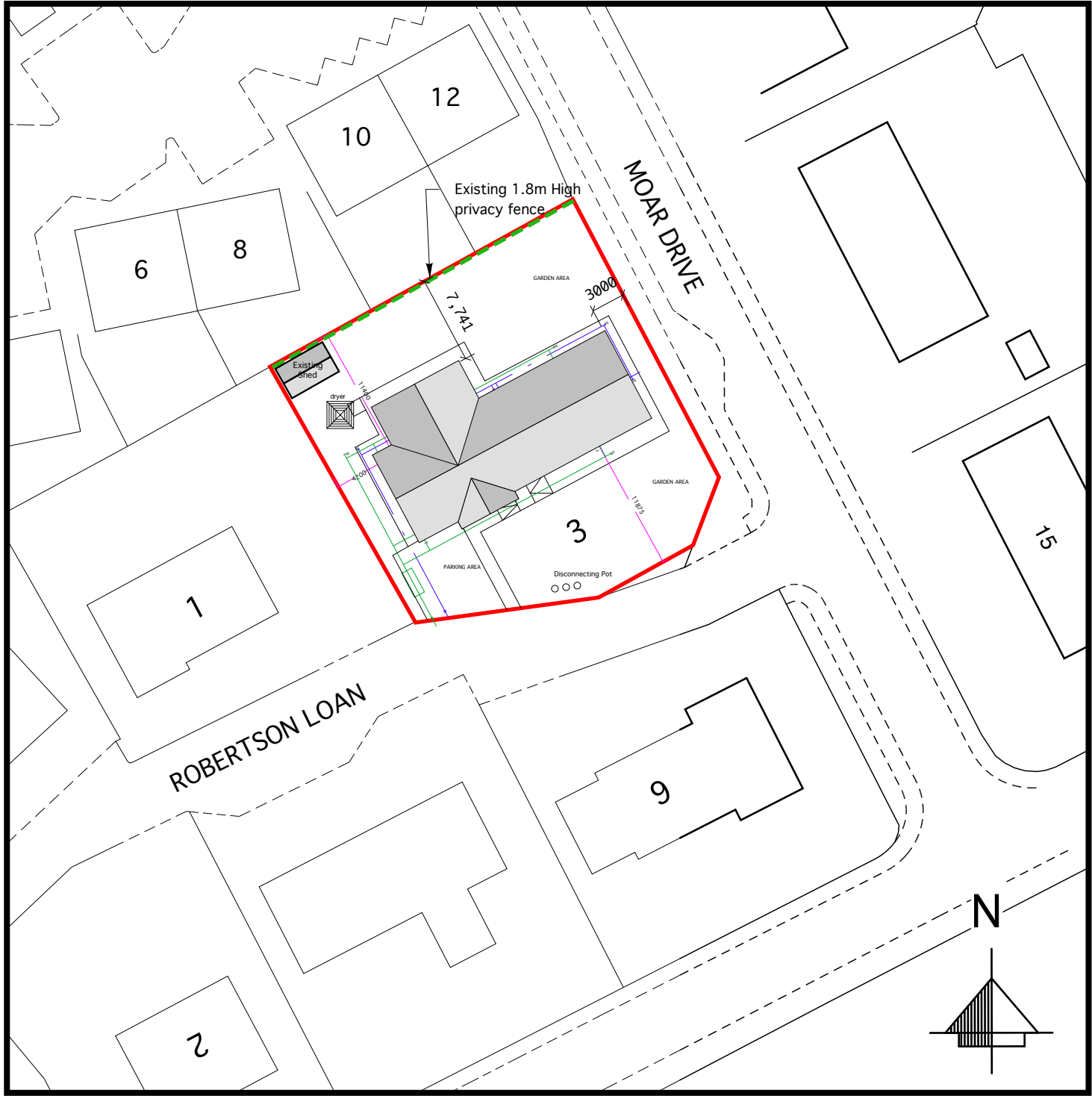


SITE LOCATION PLAN

SCALE: 1:2500

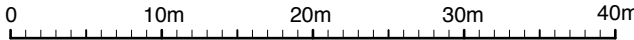


ALL DIMENSIONS/ AREAS ARE "OR THEREBY"



SITE PLAN

SCALE: 1:500



Project: Proposed House Extension's 3 Robertson Loan Kirkwall	Title: Proposed Site Location & Site Layout	Scale: 1:2500/500
		Date: 03/05/2026
Client: Mr R Lennie	Drwg. - 001(A)	