

Item: 4.1

Planning Committee: 26 April 2023.

Extend House at Old Bank House, Front Road, St Margaret's Hope, South Ronaldsay.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

Householder planning permission is sought to extend a house at Old Bank House, Front Road, St Margaret's Hope, located within St Margaret's Hope Conservation Area. The works are to the rear of the traditionally constructed property, with limited visibility from public realm, and mainly comprise alteration and improvement to an existing modern extension. No public representations have been received, and the proposal has been amended in accordance with advice from Engineering Services and negotiation with Development Management. The application is made on behalf of a member of staff employed within the Planning Service (Development and Marine Planning) and, in accordance with the Scheme of Administration, the application must be reported to Committee for determination. It is concluded that the development would preserve or enhance the character and appearance of the conservation area and complies with relevant policy provisions of National Planning Framework 4 and the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	22/170/HH.
Application Type:	Householder.
Proposal:	Extend a house.
Applicant:	Ms Michaela Severin and Dr Shona Turnbull.
Agent:	May Banks, Peter Finnigan Architects, Mayfield, St Margaret's Hope, KW17 2TL.

1.2.

All application documents (including plans, consultation responses and 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. Consultations

2.1. Engineering Services

Engineering Services initially objected to the application, due to a lack of information submitted regarding flood risk. Advice was subsequently provided to the agent, and further information submitted including a Property Flood Protection Assessment Report. The objection was withdrawn.

2.2.

No consultation response was received from Orkney Heritage Society.

3. Representations

None.

4. Relevant Planning History

Reference	Proposal	Location	Decision	Date
88/246/PPF	Proposed alterations to a house	Old Bank House, Front Road, St Margaret's Hope.	Approve	25.08.1988.

5. Relevant Planning Policy and Guidance

5.1.

The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).

5.2.

The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - The Spatial Strategy.
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 8 – Historic Environment and Cultural Heritage.
 - Policy 13A – Flood Risk.
- Supplementary Guidance:
 - Historic Environment and Cultural Heritage (2017).
- National Planning Framework 4.

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.

Annex A of Planning Circular 3/2013: 'development management procedures' provides advice on defining a material consideration, and following a House of Lord's 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."

6.3.

Annex A continues as follows:

- The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision.
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal.
 - Assess whether these considerations warrant a departure from the development plan.
- There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
 - It should relate to the particular application.
- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the

development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy and UK Government policy on reserved matters.
 - The National Planning Framework.
 - Designing Streets.
 - Scottish Government planning advice and circulars.
 - EU policy.
 - A proposed local development plan or proposed supplementary guidance.
 - Community plans.
 - The environmental impact of the proposal.
 - The design of the proposed development and its relationship to its surroundings.
 - Access, provision of infrastructure and planning history of the site.
 - Views of statutory and other consultees.
 - Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

6.4.

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.

6.5.

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

6.6. Status of the Local Development Plan

Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still 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.

6.7. Status of National Planning Framework 4

6.7.1.

National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. The statutory development plan for Orkney consists of the National Planning Framework and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. It is important to note that NPF4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making.

6.7.2.

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.

7. Assessment

7.1. Background

The house is of traditional stone construction and two storeys, located within the conservation area, fronting onto Front Road and backing onto the sea. The rear garden is enclosed by a stone boundary wall, limiting visibility at ground floor level from the adjacent car park. The rear of the property has a relatively modern, lean-to, two-storey extension with modern windows and stained timber and has limited architectural merit. The extension includes an internal staircase.

7.2. Proposal

It is proposed to remodel the extension, across both storeys, as indicated in the Floor Plans and Elevations attached as Appendix 1 to this report. It would remain lean-to in form, with a Welsh slate roof, painted timber windows, metal rainwater goods and painted fibre cement cladding. An existing stone pillar would be repointed. The area of the extension is proposed to be reduced on the first floor, covering less of the rear wall of the property. A new proposed external steel staircase would land

at a balcony. Other external works proposed in conjunction with the extension are repointing of external walls and installation of rooflights in the seaward roof plane.

7.3. Design

The key public view towards the extension is from the adjacent street/car park. There would be no change to the form of the extension from that existing. Materials, colours and finishes on the visible gable elevation are appropriate, including fixed windows painted green, and cladding in grey green, with black metal rainwater goods. The opening windows to the rear, proposed stainless steel staircase and, critically, the balcony, would be hidden from public view in a private space at the rear of the house, and therefore not impacting the character or appearance of the conservation area. An initially proposed stainless steel balustrade and balcony at first floor level, which would have projected further to the rear of the property and been visible from public realm, was removed during consideration of the application. The development is an improvement and would replace an extension of limited architectural merit. The application complies with Policies 2: Design and 8: Historic Environment and Cultural Heritage and would preserve and enhance the character and appearance of St Margaret's Hope Conservation Area.

7.4. Amenity

The only potential additional amenity impact is from use of an open balcony, rather than that space being enclosed within the existing building as it is currently. Reduction in the size and rear projection of this balcony, as described above, is critical in this regard, and the resultant limited area of balcony proposed would not result in any unacceptable overlooking or loss of privacy. The development therefore complies with Policy 1: Criteria for All Development.

7.5. Flood Risk

The external works are being carried out in conjunction with a general alteration and improvement to the property, including making the ground floor a more usable space. Following completion of a Property Flood Protection Assessment Report, various measures are proposed to make the property more resilient to flooding. These have been assessed and endorsed by Engineering Services. Accepting that the main property fabric and its use as a house are existing, subject to the resilience measures being carried out, the development is considered acceptable with regards risk of coastal flooding, in accordance with Policy 13A.

8. Conclusion and Recommendation

The proposed development is acceptable, in terms of scale, form, materials and colours. Given that visibility of the external stairs and balcony are limited from public realm, the development would preserve and enhance the character and appearance of St Margaret's Hope Conservation Area. Residential amenity would be protected. The proposed development would accord with the provisions of National Planning Framework 4 and Policies 1, 2, 8 and 13A of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for approval**, subject to the conditions attached as Appendix 2 to this report.

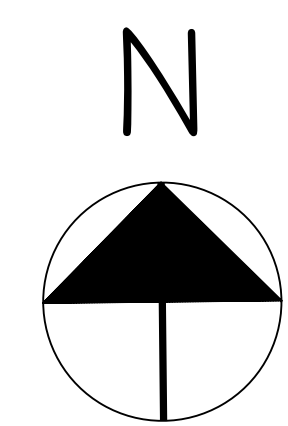
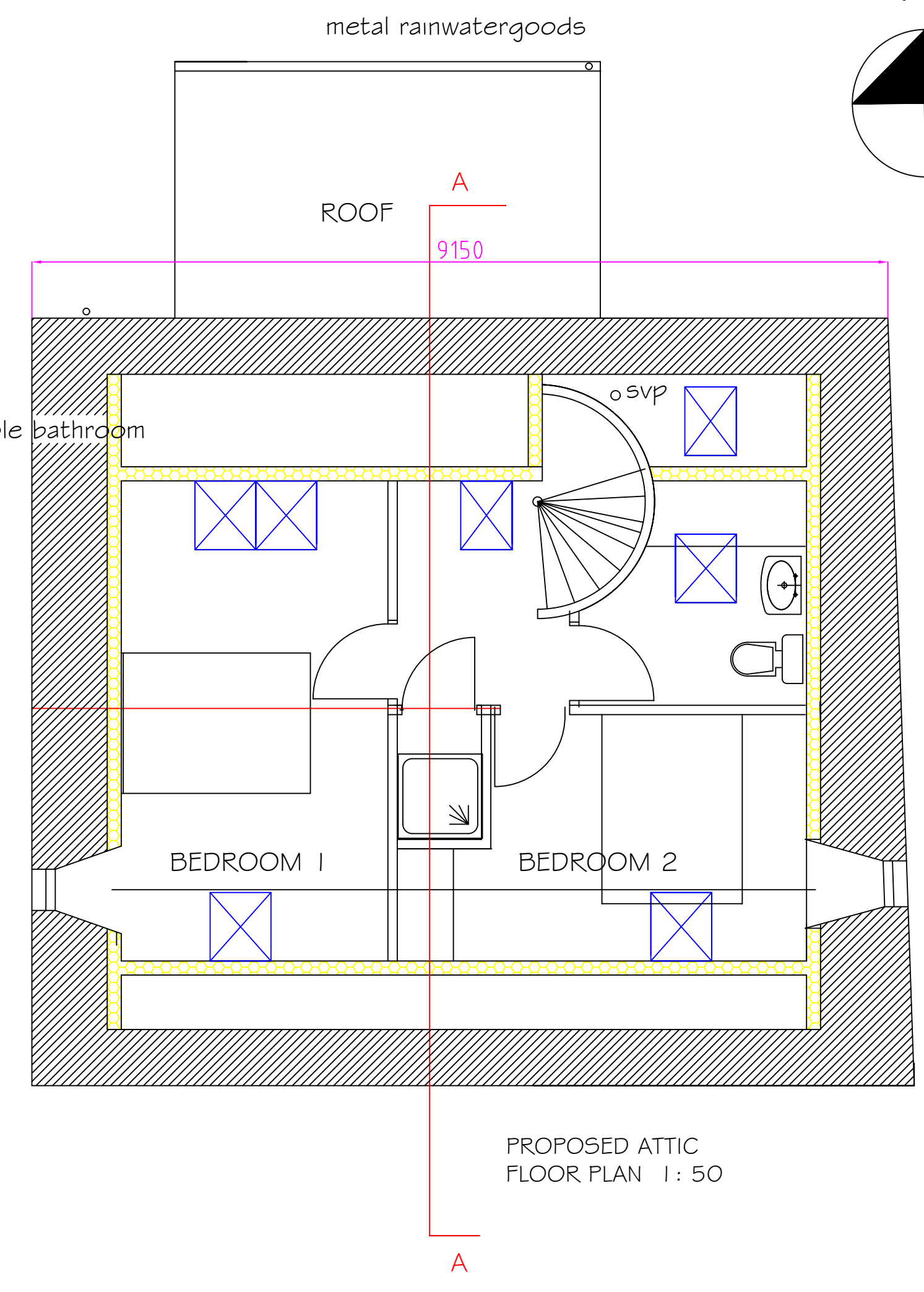
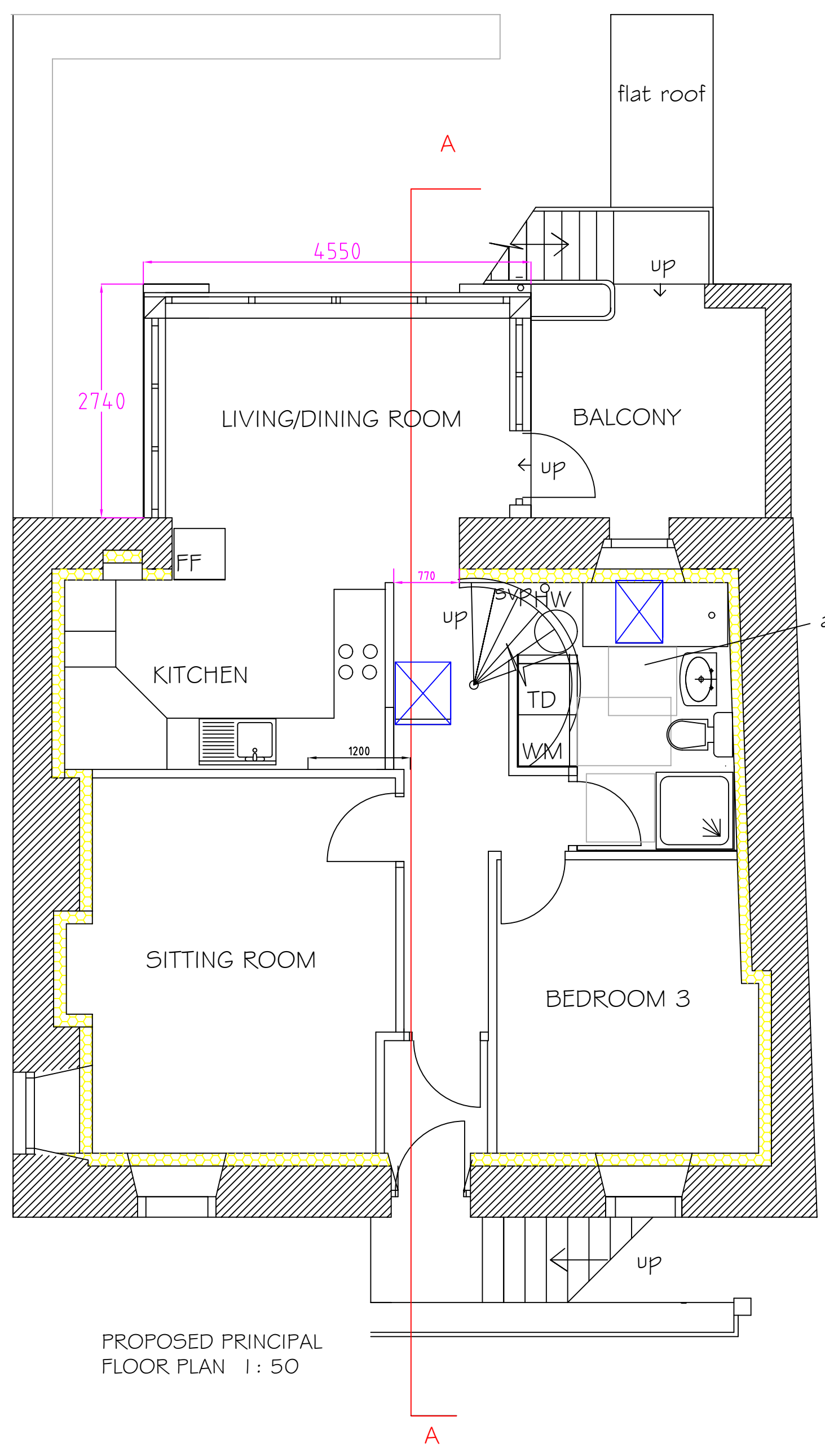
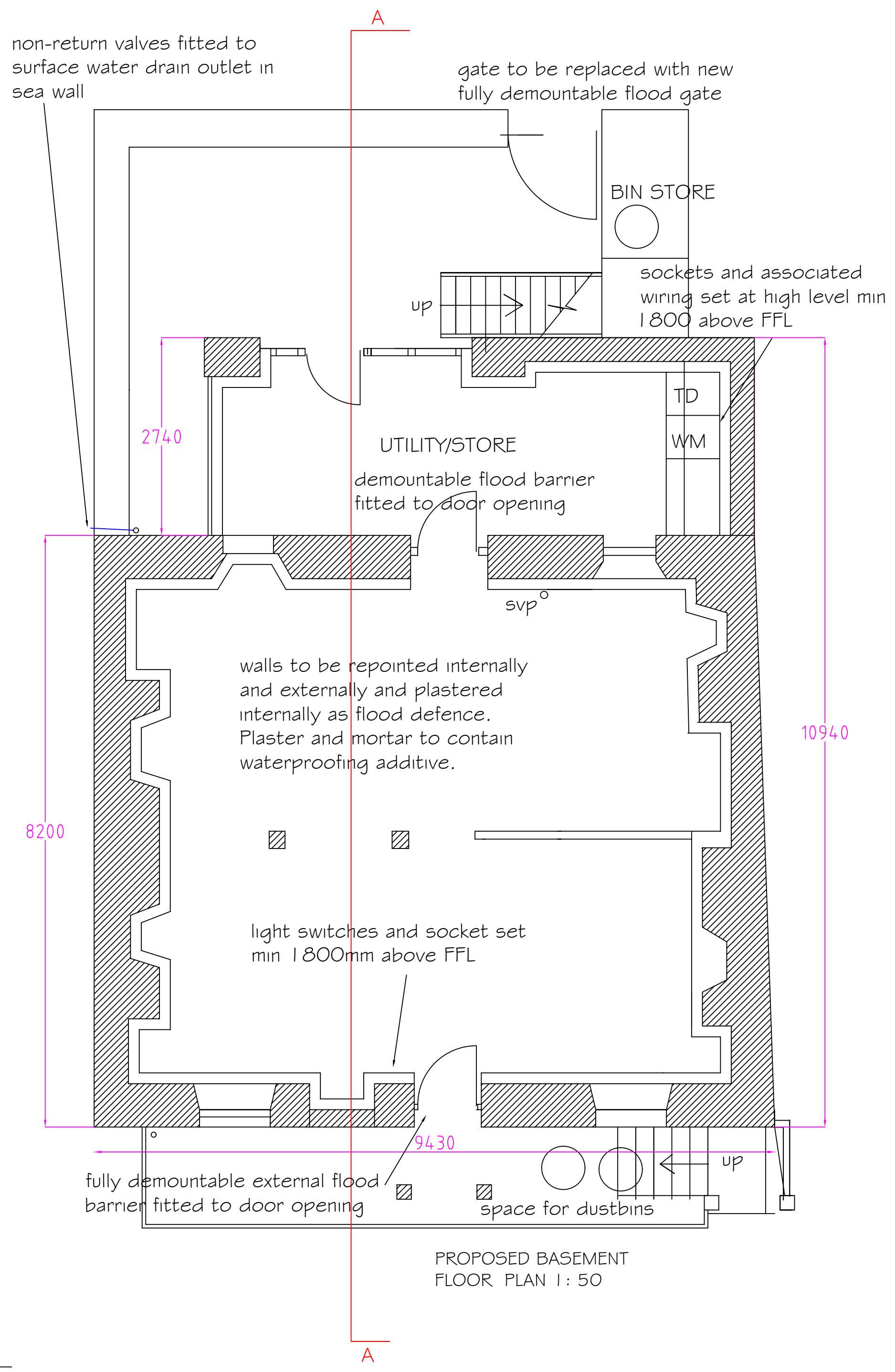
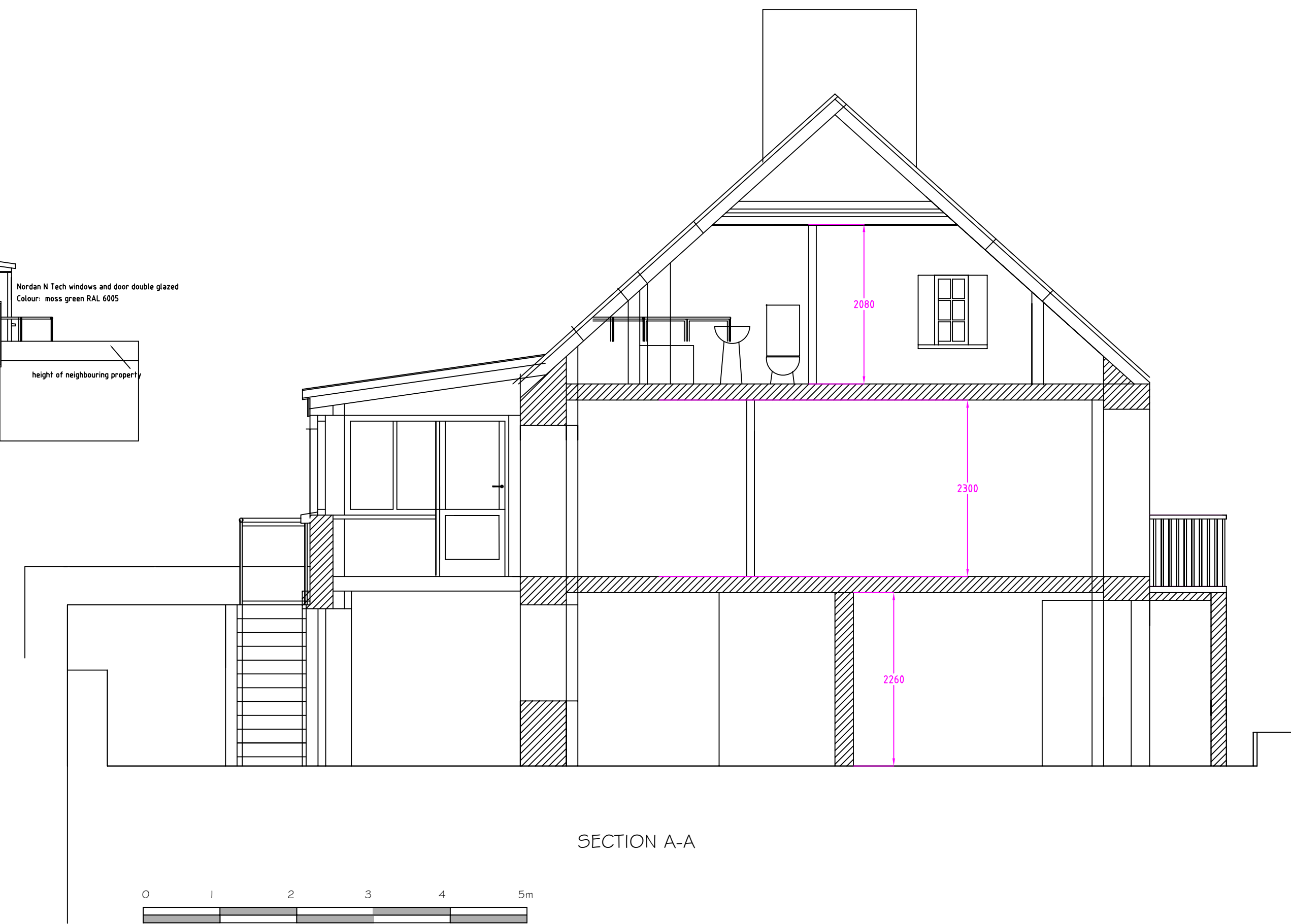
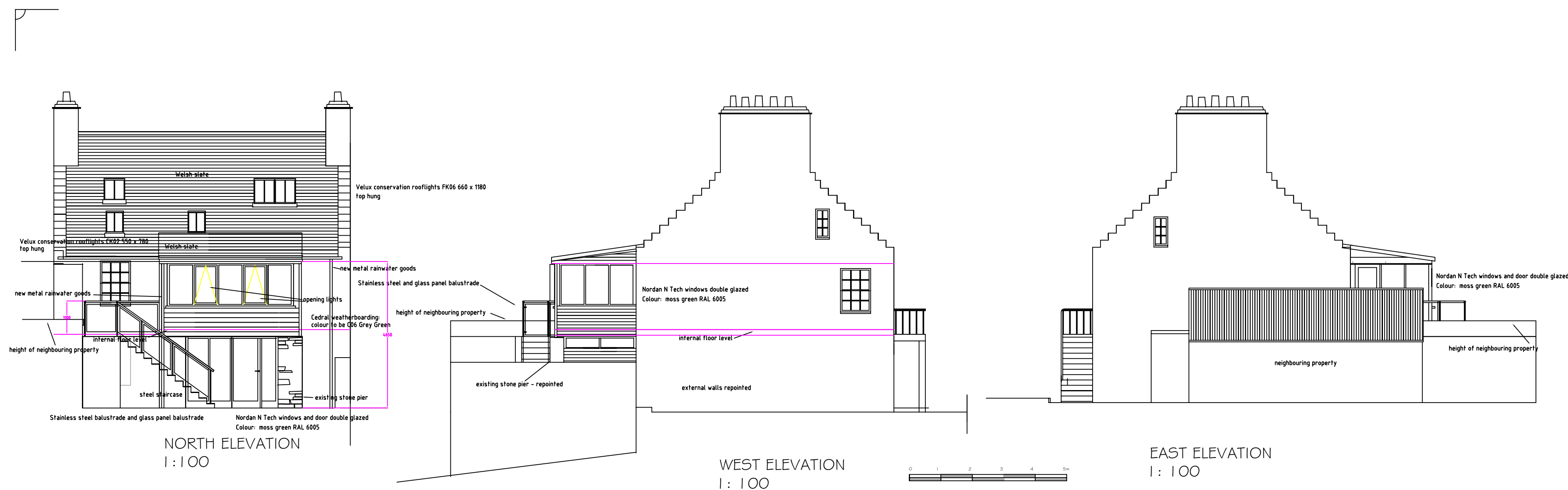
9. Contact Officer

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

10. Appendices

Appendix 1: Floor Plans and Elevations.

Appendix 2: Planning Conditions.



REV C upvc rw goods and roof terrace omitted Mar 23
 REV B Basement rooms omitted; to be non-habitable Jan 23
 REV A Notes and dims added for Planin June 22

PROJECT: PROPOSED ALTERATIONS TO THE OLD BANK HOUSE, ST MARGARETS HOPE
 DRAWING: PROPOSED FLOOR PLANS, SECTION AND ELEVATIONS

SCALES: 1:50, 1:100
 DRAWN BY: MARCH 2022 MB

P.J. FINNIGAN ARCHITECTS
 MAYFIELD ST. MARGARETS HOPE
 ORKNEY KW17 2TL
 TEL: 01856 831 675
 FAX: 01856 831 796

524 / L / 03 C

Appendix 2

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. All repointing of existing stonework shall be carried out using a lime mortar only, with no cement. No repointing shall be carried out until full details of the mortar content, methodology and after-care for the works are submitted to, and approved in writing by, the Planning Authority. Thereafter, all repointing shall be carried out wholly in accordance with approved details.

Reason: To preserve and enhance the character and appearance of the conservation area, and to protect the integrity of the traditional building material.

03. External finishes shall comprise the following materials and colours only:

- Roof: Welsh slate.
- Rainwater goods: half round metal, black.
- Wall cladding: fibre cement, grey green ('Cedral C06').
- Windows: timber, painted moss green (RAL 6005). All windows in the west elevation of the extension shall be fixed frame, with glazing beads entirely colour-matched to the painted timber.
- Rooflights in existing house: black, flush, conservation specification, fixed or top-hung only.

Reason: To preserve and enhance the character and appearance of the conservation area.

04. The development shall be specified and constructed to include the recommendations of the submitted Property Flood Protection Assessment Report (July 2022) and all flood mitigation measures included in the floor plans hereby approved, including non-return valves to surface water drain outlet, demountable flood gate, demountable flood barrier to door opening, plastering and repointing, and light switch and sockets heights.

Reason: To maximise property flood resilience in conjunction with proposed works, and in accordance with the aims of Policy 13A: Flood Risk of the Orkney Local Development Plan 2017.

05. 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.

There shall be no burning of waste or any other materials on site at any time during the construction phase of the development.

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.