

Item: 5.2

Planning Committee: 1 December 2021.

Erect Three Houses with Air Source Heat Pumps, Create Access and Install Services at Burnbank (land near), Burray.

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

1. Summary

1.1.

Approval of matters specified in conditions (AMC) is sought for the erection of three detached dwellings on land near Burnbank, Burray, following approval of planning permission in principle 20/301/PIP, by the Planning Committee on 20 January 2021. The site has a short-term housing allocation (BV-6) and is within the settlement boundary of Burray. One objection has been received which can be addressed by appropriate mitigation and conditions. It is considered that the development would comply with Policies 1, 2, 5A, 7C, 9, 10A, 13 and 14 of the Orkney Local Development Plan 2017 and relevant Supplementary Guidance. Therefore, the application is recommended for approval.

1.2.

Application Number:	21/269/AMC.
Application Type:	Approval of Matters Specified in Conditions.
Proposal:	Erect three houses with air source heat pumps (two with integral garage), create an access and install services (following permission in principle 20/301/PIP).
Location:	Burnbank (land near), Burray.
Applicant:	Mr Leo Kerr, Kerr Carpentry, The Workshop, Burray, KW17 2UG.
Agent:	Ms Di Grieve, Breck Designs, Kveldsro, Weyland Terrace, Kirkwall, KW15 1LS.

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).

2. Consultations

Consultation bodies have not objected or raised any issues which cannot be addressed by planning conditions. Roads Services has requested a condition be attached that requires all areas indicated on the 'Site Plan: Roads and Services

Maintenance' to be maintained in perpetuity in a safe and serviceable manner in conjunction with occupation of the development plots.

3. Representations

3.1.

One objection has been received from:

- John Orr, Skalivoe, Burray, KW17 2SS.

3.2.

The objection is based on the following matters, which have been considered in the assessment of the proposal:

- Flood risk.
- Impact on residential amenity.
- Piecemeal development.

4. Relevant Planning History

Application Reference.	Address	Proposal	Decision and date.
20/423/PP.	West Links (land near), Burray.	Install water and drainage pipes (part retrospective).	Grant subject to conditions. 19.03.2021.
20/301/PIP.	Burnbank (land near), Burray.	Siting of four houses.	Grant subject to conditions 26.01.2021.

5. Relevant Planning Policy and Guidance

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

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

The policies listed below are relevant to this application.

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5A – Housing in Settlements.
 - Policy 7C – All Renewables and Low Carbon Energy Developments.
 - Policy 9 – Natural Heritage and Landscape.

- Policy 10A – Core Paths and Access.
- Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
- Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance - Settlement Statements: Burray Village (2017).
- Supplementary Guidance – Natural Environment (2017).
- Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021)
- Amended Orkney Core Paths Plan (2018).

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. Proposal and Location

7.1.1.

It is proposed to erect three, one and a half storey dwellings, on land near Burnbank in the settlement boundary of Burray. The site is a short term allocated housing site (BV-6) as defined in the Orkney Local Development Plan 2017 and Supplementary Guidance: Settlement Statements (2017) ‘Burray Village’, where there is capacity for four dwellings, and as shown in the Site Plan attached as Appendix 1 to this report.

Planning permission in principle has been granted for four houses; the south of the approved site is not included in the current application.

7.1.2.

On the basis the principle of the development has already been established by the approval of 20/301/PIP, the current application is to assess details only.

7.2. Housing in Settlements

7.2.1.

There is a general presumption in favour of new housing developments within settlement boundaries under Policy 5A – Housing in Settlements. The site is allocated for housing and the development would not exceed the capacity of allocated site BV-06.

7.2.2. Objection

The objector raised concern regarding piecemeal development. Policy 5A states: “The development of housing sites must be planned as a whole to ensure that the long-term development of the wider allocation and/or adjacent sites is not compromised by any piecemeal development” and that “Allocated redevelopment sites are predominantly in residential locations and are therefore suitable for residential uses”. Whilst the planning permission in principle is for four houses, it is competent for the site area and/or number of houses proposed on a site to be reduced. Should an application be received in the future for the erection of a fourth house, this would be fully assessed at that time.

7.3. Design and Appearance

7.3.1.

The three proposed houses are of similar modern design, with two of the houses (Plots 2 and 3) having integral garages. The overall scale of the house on Plot 1 would be 14.113 metres by 8.100 metres and an overall height of 6.990 metres. The houses on Plots 2 and 3 (which includes the garage) would have a footprint of 14.113 metres by 13.100 metres each and a matching ridge height. The garage to the house on Plot 2 would have a pitched roof and the garage to the house on Plot 3 would have a mono-pitch roof. The proposed materials for all three houses include larch (to weather naturally) walls, black raised seam steel profiled sheeted roofs, dark grey windows and doors and dark rainwater goods.

7.3.2.

The scale, design, proposed materials and modern appearance of the proposed dwellings are considered acceptable in context with the location and would comply with Policy 2 – Design.

7.4. Residential Amenity

7.4.1. Objector's Concerns

Concerns have been raised regarding overlooking, car headlights and air source heat pump noise.

7.4.2.

With regard to Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021), requirements to protect amenity and residential amenity include:

- 2.02 When considering new development proposals, it is important to protect how existing users enjoy a location by ensuring there is no adverse disturbance between existing and proposed users and their activities, through one or any combination of noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, privacy, proximity, excessive traffic movement, loss of natural day lighting or any other form of disturbance.
- C1.01 All housing development is required to have dedicated outside space or garden ground to meet the recreational and domestic needs of the residents. This space should provide for passive and active recreational activity such as sitting out, entertainment, playing, gardening and clothes drying. These activities should generally be located in private enclosed garden ground at the rear of the property with the front garden ground generally having a more public character.
- C1.02 To create and maintain rear garden privacy, the minimum rear garden depth should be at least 10 metres as noted in picture 1. To maintain future residential amenity, if land is allocated for housing, or in the opinion of the planning authority has the potential for further housing development, this 10-metre requirement should be used. There may be material considerations why private garden ground cannot be created or protected in this manner. In these cases, the development will have to demonstrate how the existing private garden has been protected or recreated in another location within the curtilage, with consideration to direct overlooking from existing or proposed "main habitable room windows".
- C1.03 To maintain and create garden privacy consideration should be given in the design to existing site features of the site such as topography, trees and shrubs as well as the proposed use of new planting and appropriate fencing. Note that these features could negatively affect the provision of sunlight and daylight.
- C2.01 This criterion seeks to maintain and create privacy within the residential unit itself. Privacy in the home is a necessity; individual houses and flats must be designed and sited in such a way that provides maximum amount of privacy for the occupants and at the same time avoids over-shadowing.
- C2.02 Generally, this is achieved by not allowing any combination of main habitable room windows on any elevation, whether existing or proposed, on ground or first floors to directly face each other within 21 metres. For a third storey this distance increases to 28 metres. C2.03 This minimum distance between main habitable room windows may be reduced depending upon the angle of view.
- C3.01 Existing and proposed residential development should benefit from an appropriate level of daylight, sunlight and minimise overshadowing. The planning authority will not support development that have a detrimental effect on

daylighting, sunlighting or causes an unacceptable amount of overshadowing to another residential property's private outside space.

- All artificial lighting should be directed to the required task with minimal or no upward spread or light spill; with the brightness appropriate to the task that the lighting is required for. Artificial lighting should be designed to be turned off or dimmed when not required.

7.4.3.

As domestic, residential use only, no adverse impact on existing dwellings is anticipated from noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, excessive traffic movement or loss of natural day lighting. There would not be unacceptable increase in traffic in the area, at a domestic scale. This would be in line with the requirement set out in section 2.02 of Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.4.4.

With regards headlights of vehicles, it is likely that impact to Skalivoe, Sangar and Lynburn would likely be limited to cars accessing the properties and turning within the site. Again, this would be domestic in nature and infrequent. The sites of the proposed houses are on slightly lower ground than neighbouring houses. Post and wire fencing is proposed (this would not prevent alternative boundary treatments in future). The B6 – Burray Village Core Path, which provides public access for recreation purposes, runs between the rear gardens of the sites and the gardens of the houses at Skalivoe, Sangar and Lynburn which would provide a 'break' between the gardens of the existing houses and those proposed.

7.4.5.

The proposed houses would have rear garden depths exceeding 10 metres, as do the dwellings at Skalivoe, Sangar and Lynburn. This would also help to maintain garden privacy and would comply with the requirement set out in C1.02 of Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.4.6.

There is a separation distance of over 30 metres between the respective houses on Plots 1 to 3 and the corresponding dwellings facing them at Skalivoe, Sangar and Lynburn, and other third-party dwellings in the area are at a separation distance of over 40 metres. All proposed houses would be gable facing towards those existing properties, and the proposed houses would be of similar layout, with windows to a bedroom and utility facing towards the rear boundary and, in the case of the proposed houses on Plots 2 and 3, a garage window. Whilst the bedroom windows are to 'habitable rooms', they would be above the minimum requirement of 21 metres separation distance to maintain privacy between dwellings, in compliance with C2.02 of Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.4.7.

Due to the siting, orientation and separation distance of the proposed dwellings, it is considered unlikely that there would be unacceptable impact on the existing

dwellings at Skalivoe, Sangar and Lynburn or other third-party dwellings in the area through overshadowing or have a significant impact on daylight or sunlight of third-party properties, in compliance with C3.01 of Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.4.8.

The development includes an air source heat pump at each dwelling. A condition, limiting noise from the air source heat pumps, would be attached.

7.4.9.

The individual dwellings would not exceed one third of their respective plots and each plot would be of sufficient size to provide adequate outdoor amenity space and off-road parking for the occupants of the dwellings. The rear gardens would provide adequate space for passive and active recreational activity. This would accord with C1.01 of Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.4.10.

Taking the above into account, it is considered that any impact of the proposed development would be acceptable and would comply with Policy 1 – Criteria for All Development (criteria iv) and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

7.5. Sewerage and Drainage

The development would connect to the public sewer. Previous consultation has taken place between SEPA, Scottish Water and the applicant, and it was agreed that the houses on the site could connect private septic tanks to the Scottish Water outfall pipework. A detailed application, reference 20/423/PP, has been approved for a sewer pipe from the site boundary to the public sewer outfall. Provided the development can connect to the Scottish Water outfall, the proposed development would comply with Policy 13C – Waste Water Drainage.

7.6. Surface Water Drainage

It is a requirement that all developments incorporate Sustainable Drainage Systems (SuDS) and a standard condition would be attached to an approval to secure this requirement. This would comply with Policy 13B – Sustainable Drainage Systems (SuDS).

7.7. Flood Risk

7.7.1.

The lower part of the southern area of the development site, as approved under 20/301/PIP, is located within an area of flood risk and the Burn of Sutherland is to the western boundary of the site. There would be a buffer of over 30 metres between the houses proposed and the Burn of Sutherland. This would comply with Policy 9D – The Water Environment and Supplementary Guidance: Settlement Statements – Burray Village (2017). The development is already approved in principle.

7.7.2.

The upper part of the development site, where the three houses would be sited, is not within a high or medium area of flood risk, and the finished floor levels of the three dwellings are indicated as being 6.5, 7.3 and 8.4 metres Above Ordnance Datum (AOD). SEPA had no objection to the application in principle because "...the site is elevated above 4.25mAOD, which is higher than the 200 year coastal flood level, including an allowance for climate change and freeboard. As such, the site is not at risk of coastal flooding...The topographic information also demonstrates that each dwelling will be elevated above the banks of the Burn of Sutherland by more than 2m apart from the southernmost site, which is still elevated above by more than 1m. All dwellings are also well set back from the burn by more than 6m." Taking into consideration the freeboard requirement (overall finished floor level of a minimum of 5.36 metres AOD), the proposed houses would comply with SEPA requirements regarding flood risk.

7.7.3.

Engineering Services (Flood Prevention) has no objection to the proposed development on flood risk grounds. It is considered that the proposal complies with Policy 13A – Flood Risk.

7.8. Natural Heritage

7.8.1.

The site is located adjacent to and overlaps part of the Sutherland Links Local Nature Conservation Site (LNCS) and the Sutherland Burn runs through the western edge of the site. Appropriate conditions and mitigation requirements were attached to previous approvals. Two otter surveys, a species protection plan and a habitat protection plan were undertaken and submitted with the current application.

7.8.2.

It is known that the Burn of Sutherland is used by otters. There is a legal obligation on the developer that proposals do not have significant negative impacts on protected species or their habitat. In addition to otters, it was also required previously that other species including Orkney voles and other biodiversity be included within the species and habitat protection plans. The Policy Officer (Environment) was consulted during the current application and commented as follows on the submitted otter surveys, species and habitat protection plans:

- An initial otter survey was commissioned by the applicant in September 2020. A further otter survey was undertaken in March 2021 when vegetation growth was lower and at a time when there is likely to be more evidence of otter activity on land.
- Both surveys indicated that otter activity was focused on use of the burn, to access freshwater and as a transit route between Echna Loch / Echna Loch Bay (at the northern end) and Water Sound (at the southern end). Although neither survey found holts or resting sites in the long vegetation bordering the burn,

cavities were found alongside the burn that could be suitable for a holt or rest sites in the future.

- Otter Protection Plan – An otter protection plan, based on the findings of the surveys, has been submitted by the applicant. The plan is comprehensive and well-presented, and I suggest that, to minimise the risk of harm or disturbance to otters during the development, the recommendations included in Section 2 of the plan should form the basis of a set of conditions to be attached to any planning approval.
- Other species of conservation importance – When the otter surveys were undertaken, Orkney vole presence was also recorded, both within the proposed development site and in tussocky vegetation alongside the burn. The Orkney vole is identified as a priority species for conservation in both the Scottish Biodiversity List and the Orkney Local Biodiversity Action Plan (LBAP).
- Habitat Protection Plans – Habitat protection plans have also been prepared for the burn and associated wetland, as well as the adjacent links and lowland meadow. These plans outline a range of measures which, if fully implemented, would protect the burn habitat, and provide improved cover for otters. They would also help offset the loss of semi-natural habitat resulting from the proposed development. I recommend that implementation of these habitat protection plans should be included as a condition attached to any planning approval. An additional mitigation measure that the applicant might like to consider would be to collect seed heads from knapweed plants already growing on the proposed development site and spread the seed amongst the re-laid turves. This would further increase the likelihood of flower-rich habitat successfully establishing along the bunded margin of the burn. Knapweed plants are in flower now and will shortly begin to form dark brown seed heads. Once dried, the seed heads can quite easily be crumbled, releasing the seed.

7.8.3.

The Species Protection Plan concluded that, “Since no holt site was found, construction of an artificial holt is not necessary.”

7.8.4.

Although the gardens of the proposed houses would be adjacent to the Sutherland Links Local Nature Conservation Site (LNCS), there would be over 20 metres from the houses themselves to the buffer zone and a further 10 metres to the burn. The siting of the three proposed dwellings at this distance from the LNCS would minimise impacts on the natural heritage interests adjacent to the site.

7.8.5.

All development works would be conditioned to be contained within the site area, as defined by the red outline on the Site Plan, and outwith the buffer zone from the Burn of Sutherland to ensure that there would be no encroachment on the LNCS.

7.8.6.

Taking into account the advice of the Policy Officer (Environment), having assessed the professionally produced otter surveys, species protection plan and habitat

protection plan, regarding the acceptability of the submitted information and the required conditions to mitigate any significant impacts upon the species within the area, the Burn of Sutherland and the LNCS, it is considered that the development would comply with Policies 1 – Criteria for All Development (criteria ix), 9A – Natural Heritage Designations, 9B – Protected Species, 9C – Wider Biodiversity and Geodiversity, 9D – The Water Environment and Supplementary Guidance: Natural Environment (2017).

7.9. Access and Road Safety

7.9.1.

The access to the site from the main road (A961) would be via an existing joint access track to Linne Beag and which extends further to other houses within the West Links area. The new access into the site would be created from the part of the joint access opposite Linne Beag and would extend east towards the site. The new access would include a burn crossing, the details of which have been submitted with the proposal.

7.9.2.

Roads Services previously commented that the joint access to the site from the A961, which is outwith the boundary of the development site, is unadopted and that all roads within the development site will also be unadopted. To overcome this concern, it was a requirement that the applicant provide details as to how the access roads would be maintained in perpetuity and evidence of permission to use the existing track. The developer has provided this information by way of a Site Plan: Roads and Service Maintenance, and the Site Development Statement states that “Maintenance of the existing track and new access will be addressed as part of the sale of sites, where the purchaser will have a condition added to the burdens in their title deed to inform that the maintenance of the track is to be shared between the owners of the houses, in perpetuity, and the track kept in a serviceable condition.” Appropriate conditions would be attached to the decision notice, should the application be approved.

7.9.3.

Roads Services raised no objection to the development regarding access or road safety and require a condition that “requires all areas indicated on ‘Site Plan: Roads and Services Maintenance’, to be maintained in perpetuity in a safe and serviceable manner by the owners of the development plots concerned...”.

7.9.4.

It is considered that the development site could be safely and conveniently accessed and that the development would comply with Policy 14C – Road Network Infrastructure.

7.10. Core Path

The proposed development site is located adjacent to the B6 – Burray Village Core Path, which runs to the northern, eastern and southern boundaries of the site. It is a

requirement that public access is maintained and that there is no obstruction to the use of the core path network by construction-related activities or by the development. As required by the Policy Officer, the core path condition(s) applied to the planning permission in principle would be attached; this would accord with Policy 10A – Core Paths and Access.

7.11. Landscape/Visual Amenity/Character of the Area

The site is on slightly lower ground than the houses that run along the A961 to the east (between Skalivoe and Braegarh). The three houses proposed would be on the upper part of the site, but due to the terrain would be required to be dug into the site. The dwellings do not exceed seven metres in height and would be viewed in context with other dwellings in the area. In terms of the character of the area, visual amenity and the wider landscape, it is considered that the impact would be acceptable. It is considered that the development would comply with Policy 1 – Criteria for All Development and Policy 9G – Landscape.

8. Conclusion and Recommendation

The site is an allocated housing development site within the settlement of Burray. Planning permission in principle has been approved. Assessment of the proposal has considered the objections received on material planning grounds. On balance, the impact of the development would be acceptable in terms of housing policy, design and appearance, residential amenity, sewerage, drainage, flood risk, natural heritage interests, access and road safety, the core path and landscape, in accordance with Orkney Local Development Plan 2017 Policies 1, 2, 5A, 7C, 9, 10A, 13 and 14, and Supplementary Guidance: Settlement Statements: Burray Village (2017) and Natural Environment (2017), Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021) and Amended Orkney Core Paths Plan (2018). The development is therefore **recommended for approval**, subject to the conditions attached as Appendix 2 to this report.

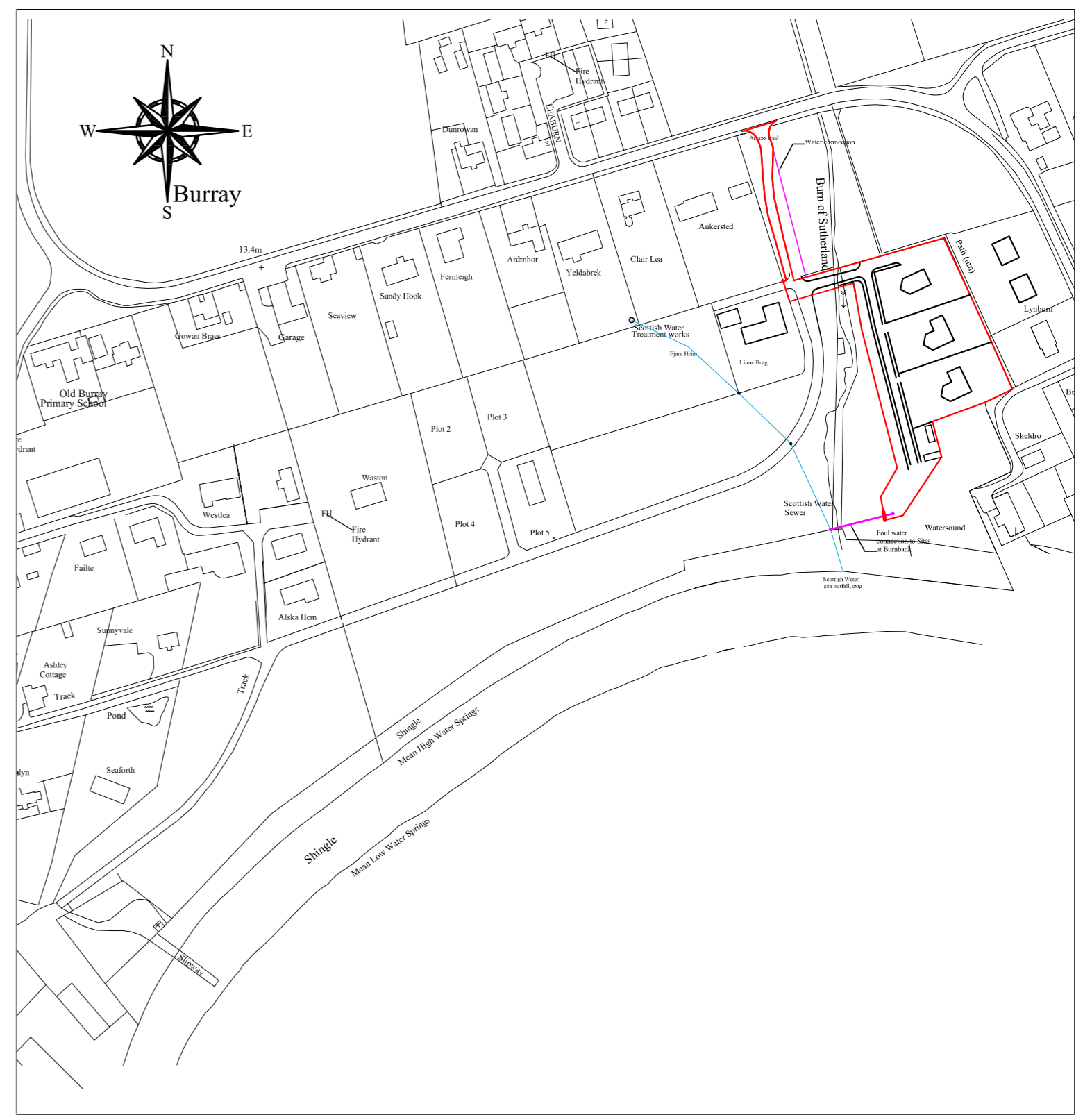
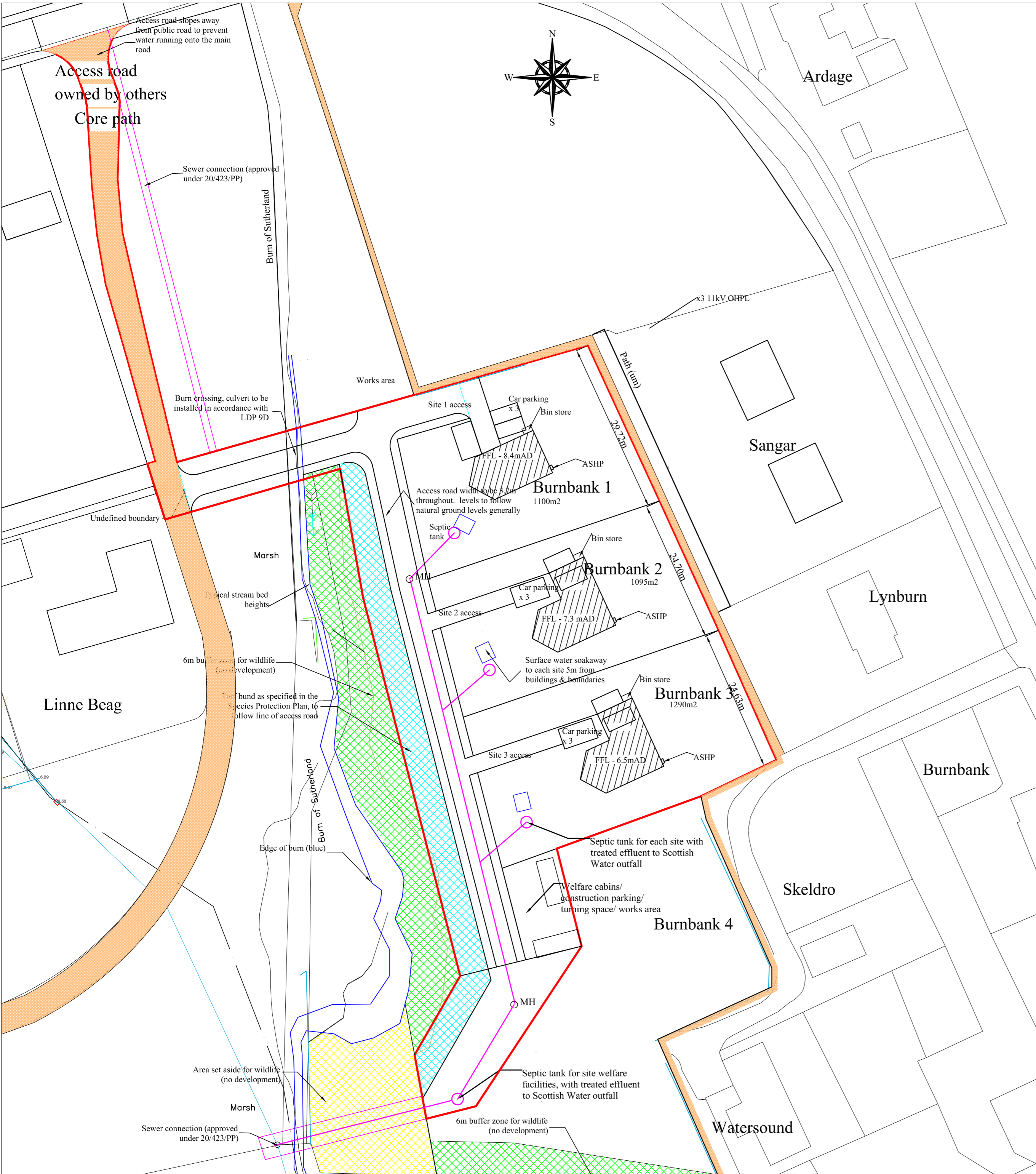
9. Contact Officer

Sue Doyle, Planning Officer, Email sue.doyle@orkney.gov.uk

10. Appendices

Appendix 1: Site Plan.

Appendix 2: Planning Conditions.



LOCATION PLAN
SCALE 1/2500

0 100 200 metres

SITE PLAN:
SCALE 1/500

0 10 20 30 40 50 metres

- Wildlife area - no development
- Buffer zone - no development
- Access track
- Core paths

SITES (1), (2), (3) BURNBANK
BURRAY Total area 6039m² including access & services working area

Amended (C) Site boundaries amended
 Amended (E) Red line amended
 Amended (F) Site plan amended - note regarding prevention of water flowing onto main road

breckdesigns

D Grieve, B Eng (Hons)

KveKsro
Weyland Terrace
Kirkwall
KW15 1LS

Phone/Fax: (01856) 871362
E-mail: info@breckdesigns.com

Drawn by Di Grieve	Checked by	Approved by - date	File Number 2779	Date 23 June 2021	Scale as shown
Mr Leo Kerr Site at Burnbank, Burray			General Site & Location Plan		
			Drawing Number: 2779.10F	Revision	Sheet 1

Appendix 2.

01. Throughout the lifetime of the development hereby granted planning permission, 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, and in the interests of road safety.

02. All foundations must be excavated into and not built on top of any slope. No underbuilding to compensate for any gradient is permitted. The Finished Floor Levels of the dwellings shall be as indicated on Contour and Site Sections Plan OIC-04 hereby approved:

- Plot 1 (Burnbank 1) 8.4 metres AOD.
- Plot 2 (Burnbank 2) 7.3 metres AOD.
- Plot 3 (Burnbank 3) 6.5 metres AOD.

Reason: In the interests of the protection of the development from flood risk and in accordance with Orkney Local Development Plan 2017 Policy 13A – Flood Risk.

03. The approved sewage system for each house shall be connected and fully operational prior to the first occupation of each respective house hereby approved.

The sewerage system shall connect to the Scottish Water sewer and outfall by the pipework installed under planning reference 20/423/PP, and as indicated on Location and Site Plan OIC-01(2) stamped, approved and attached to the Decision Notice.

Reason: In the interests of environmental protection and to accord with Policy 13C – Waste Water Drainage of Orkney Local Development Plan 2017.

Note: The developer should consult the Scottish Environment Protection Agency (SEPA) with regard to authorisations required for discharges of sewerage effluent to land or water.

04. Throughout the life of the development, the total maximum noise from the Air Source Heat Pumps hereby granted planning permission and installed shall not exceed NR25 within any residential property outwith the development site, where NR25 is the Noise Rating Curve at 25, (noise measurements to be made with a window of any residential property outwith the development open no more than 50mm).

Note: This condition is applied to each individual dwelling where an air source heat pump is installed.

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pump.

05. Throughout the lifetime of the development hereby approved, the garages on Plots 2 and 3 shall be restricted to private use incidental to the enjoyment of the dwelling houses on those plots only, including use for the storage of vehicles and for domestic storage. No commercial activity shall be carried out in, or from, the garages.

Reason: In the interests of the protection of the residential amenity of the area.

06. All soft landscaping, including planting, seeding or turfing, of the development hereby approved shall be completed within two years of commencement of development within any respective plot, or prior to first occupation of the respective house, whichever is earlier. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species.

Reason: To ensure that a high standard of landscaping is achieved.

07. Throughout the lifetime of the development, any external lighting used on the dwellings and any outbuildings shall be downward facing only and shall comply with the Council's requirements of Policy 2 – Design (principle vi) that all external lighting shall minimise light pollution and shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1/E2 areas (Rural/Low District Brightness). The lighting shall be turned off when not required either by automatic sensor or manually.

Reason: To minimise obtrusive light, glare or distraction in the interests of safeguarding the amenity of the area and to accord with Orkney Local Development Plan 2017 Policy 2 – Design and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (March 2021).

08. Notwithstanding details included in the site plan hereby approved, all communal access road hereby approved, or existing and required to serve the development hereby approved, shall have a tarred surface. For the avoidance of doubt, this extends from the public road to the furthest point on the approved access track which would be used by more than a single dwelling. This tarred surfacing shall be completed prior to first occupation of any of the houses hereby approved.

Reason: To ensure an appropriate standard of access within a settlement.

09. All areas of the road/access indicated on Site Plan OIC-05 – Roads and Service Maintenance hereby approved shall be maintained in perpetuity in a safe and serviceable manner by the owners of the development plots.

Maintenance of new access, and relevant section of existing access, shall be applied to the burdens in the title deed of the dwellings to confirm that the maintenance of the access is shared between the houses (plots) in perpetuity, and the access maintained in a serviceable condition. A copy of this document shall be submitted to the Planning Authority, for consultation with Roads Services. No house hereby approved shall be occupied until this document has been approved in writing by the Planning Authority.

Reason: In the interests of the maintenance of the access and road safety.

10. 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.

11. Throughout the lifetime of the development hereby approved, the developer shall maintain unobstructed and without unreasonable damage, the stretch of the adjacent B6 – Burray Village Core Path network. Public access along the Core Path adjacent to the application site shall at no time be obstructed or deterred by construction-related activities or by the development, unless otherwise approved, in writing, by the Council's Access Officer. Prior to the first occupation of the first house within the development, this stretch of core path network shall be returned to a standard at least equal to that prior to the commencement of any works on the development site. The baseline condition of the core path shall be agreed, in writing, between the developer and the Planning Authority prior to the commencement of works in order to determine any works necessary during, and at the end of, the construction phase of the development. At the reasonable request of the Planning Authority, interim works shall be carried out to the path.

Reason: To maintain the core path network and in order to safeguard public access during the construction phase and the occupation of the development.

12. Throughout the construction phase of the development:

- All works shall be confined to the development site boundaries specified in the planning application and shall not spill out onto the margins of the Core Path to the north, east and south of the site.
- No dumping of spoil or building tools or materials, either temporarily or permanently, shall occur outside the site boundary or onto the margins of the Core Path to the north, east and south of the site.

Reason: In the interests of the protection of the B6 – Burray Village Core Path or Public Right of Way which runs along the north, east and south boundaries of the site, and to accord with Orkney Local Development Plan 2017 Policy 10A – Core Paths and Access.

13. Throughout the construction phase of the development, all works shall be confined to the planning application site boundaries. There shall be no dumping of spoil or building tools or materials, temporarily or permanently outside the planning application

site boundary, within the margins of the Burn of Sutherland or onto the margins of the Sutherland Links Local Nature Conservation Site (LNCS) which is adjacent to the site and no alterations shall be made to the Burn.

Reason: In the interests of the protection of the biodiversity of the Sutherland Links (West Links) LNCS and the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site, and to accord with Orkney Local Development Plan 2017 Policies 9A – Natural Heritage Designations, 9B – Protected Species and 9C – Wider Biodiversity and Geodiversity.

14. Throughout the lifetime of the development no alterations shall be made to Sutherland Burn, and the development shall not increase pre-development flows into the adjacent burn.

Reason: In the interests of the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site, to prevent any impact that would affect its stability, function and ability to drain, to prevent an increase in flood risk to the properties and others in the area, and to accord with Orkney Local Development Plan 2017 Policy 9D – The Water Environment.

15. No development shall be carried out and no alterations made, or other works carried out within 6 metres of the Burn of Sutherland.

Reason: In the interests of the protection of the Burn of Sutherland, to avoid damage to the aquatic and bankside habitats of the burn and deterioration of its water quality, to avoid flood risk, and to accord with Orkney Local Development Plan 2017 Policies 9C – Wider Biodiversity and Geodiversity, 9D – The Water Environment and 13A – Flood Risk.

16. Otters are known to be within the area. The animals alternate between the marine and freshwater environments of the Burn of Sutherland and the coast. Otter is classed as a European Protected Species (EPS) and is therefore afforded a strict level of protection under UK legislation.

Throughout the construction phase of the development:

- Access to open-water habitats should be safeguarded at all times and impacts to traditional routes between such areas (such as drainage ditches) during the construction phase should be minimised.
- To avoid the potential of physical disturbance to a resting otter, the development site shall be fenced to stop encroachment of people/vehicles into areas outside of the development site; this is particularly relevant to the vegetation along the eastern bank of the burn.
- The site should be securely fenced, eg Heras fencing, to deter access by otters. The site fencing does not need to be put in place until the access road is complete.
- To minimise disturbance, construction activity should be undertaken between sunrise and sunset only.

- Should an otter enter the site or be seen in the vicinity of the site while work is underway, activities should cease until the animal has moved on.
- Hazardous materials should be stored safely and not be accessible to otters. Hazardous materials (eg chemicals, fuel and waste products) could pose a threat to otters such as entrapment, injury, or poisoning.
- Any temporarily exposed open pipe system should be capped in such a way as to prevent otters gaining access, as may happen when contractors are off-site.
- Open pits should be covered at night, and exit ramps provided in steep-sided trenches. All excavations should be checked daily to ensure that no wildlife has become trapped.
- All personnel involved in the development should be made aware by the Site Foreman that otters may be present in the area, and of the requirement to follow the measures and procedures above that require adherence on a daily basis.

Reason: In order to avoid disturbance to, and the protection of, otters, a Protected Species, as the development site is located adjacent to the Sutherland Links LNCS an area of known otter activity, and to accord with policy 9B – Protected Species of the Orkney Local Development Plan 2017.

17. The culvert at the Burn of Sutherland shall be designed and constructed in such a way that it maintains access to otters. The culvert used shall be of as large a diameter or width as possible to allow water levels to remain shallow, speed of flow to remain relatively slow and blockages to occur less often.

Reason: To ensure that the free passage of otters in transit is not hindered, and in the interests of the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site to prevent any impact that would affect its stability, function and ability to drain, to prevent an increase in flood risk to the properties and others in the area, and to accord with Orkney Local Development Plan 2017 Policies 9B – Protected Species and 9D – The Water Environment.

18. An earth bund along the western edge of the new road shall be constructed. The creation of this earth bund alongside the access road shall protect the six metre buffer strip from damage during the construction phase and subsequently when the dwellings are occupied.

The bund shall be five metres in width and a minimum of 1.2 metres in height. It shall follow the route of the access road and be created using turves that have been removed during excavation of the new road.

The bund shall not be constructed and the access shall not be excavated until full details of its location, dimensions and construction, including protection of excavated turves, and management thereafter to ensure control of weeds, including planting of native willows in the eastern slope, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the bund shall be completed wholly in accordance with approved details.

The developer shall follow the further information, guidance and specifications to create a bund which causes the minimum of damage during its construction, within section 3 of the Habitat Protection Plan dated 25 May 2021, submitted in support of application 21/269/AMC.

Reason: In the interests of the protection of the burn and the vegetation along its banks and as a means of protecting habitat used by otters along the burn.

19. Individual knapweed plants shall be translocated from the development site (including Plots 1 to 3, the proposed access road and the area to be covered by the bund) and replanted in either the burn buffer zone or an alternative agreed location prior to commencement of excavations works, to the satisfaction of the Planning Authority. Knapweed plants should be replanted by hand. The developer shall follow the detailed methodology for undertaking these works included in section 3.3 of the Habitat Protection Plan dated 25 May 2021, submitted in support of application 21/269/AMC.

Reason: In the interests of the enhancement of vegetation and flower rich habitat along the margin of the burn.

Note: The developer may collect seed heads from knapweed plants already growing on the development site and spread the seed amongst the re-laid turves. This would further increase the likelihood of flower-rich habitat successfully establishing along the bunded margin of the burn.

20. The development site comprising Plots 1, 2 and 3 shall be fenced prior to occupation of any of the respective houses, affording some protection to the surrounding vegetation and the burn from dumping of garden waste and non-native plantings when the dwellings are occupied.

Reason: In the interest of the protection of the burn and the vegetation along its banks and as a means of protecting habitat.

21. 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 Monday to Friday, 08:00 to 13:00 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.