



Item: 3

Planning Committee: 11 February 2026.

**Proposed Alteration of Shop Front (Amendment to 24/233/PP) at 50
Albert Street, Kirkwall.**

Report by Director of Infrastructure and Organisational Development.

1. Overview

1.1. This report considers an application to alter a shop front, including metal and glazed panels, metal sculptural features, replacement windows and doors, rendered walls, a covered terrace, and installation of roof lights, as an amendment to 24/233/PP, at 50 Albert Street, Kirkwall. One letter of objection has been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/269/PP.
Application Type:	Planning Permission.
Proposal:	Alter shop front including metal and glazed panels, install metal sculptural features and replacement windows and doors, render walls, create a covered terrace, and install roof lights (amendment to 24/233/PP).
Applicant:	Sheila Fleet Jewellery.
Agent:	Jason Forrester, Helen Lucas Architects, 31-35 Marchmont Road, Edinburgh, EH9 1HU.

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. Recommendations

2.1. It is recommended that members of the Committee:

- i. Approve the application for planning permission in respect of the proposed alteration to a shop front, including metal and glazed panels, installation of

metal sculptural features and replacement windows and doors, rendering walls, creating a covered terrace, and installation of roof lights, at 50 Albert Street, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services

3.1. “The application as submitted fails to meet the requirements of Section 3.7 Parking Standards for Use Classes of the NRDG, as no parking is being provided as required.

However, it is recognised that NPF4, Policy 13 Sustainable Transport would take precedence on this occasion, therefore in this instance Roads Services do not object to planning permission being granted.

Whilst giving recognition to NPF4, Policy 13 Sustainable Transport, it must be recognised that the cumulative effect of developments being granted planning permission with either no parking, or a reduced level of parking within the town centre area is already having a negative impact on the surrounding streets.”

Engineering Services

3.2. “Flood Risk

The proposed development is in an area at medium risk (0.5% annual probability) of flooding according to existing surface water flood risk mapping. However, there is no change of use class, and it therefore qualifies as an exemption for development in a flood risk area under NPF4 Policy 22a.

We have no objection to this application but recommend that the applicant investigate the range of flood resistance and recoverability measures available to protect against the impacts of flooding.

Further information on steps that can be taken to improve property flood resilience and other resources can be found on the Flooding Information page on OIC’s website: <https://www.orkney.gov.uk/your-council/emergency-planning/flooding-information/> .”

Orkney Heritage Society

3.3. “OHS has no objection to this application. We have every confidence that Sheila Fleet will make a stunning addition to Kirkwall’s streetscape.”

4. Representation

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

- The Architectural Heritage Society of Scotland, AHSS National Office, 15 Rutland Square, Edinburgh, EH21 2BE.

4.2. Representation is on the following grounds:

- Impact on the conservation area.

5. Relevant Planning History

Reference	Proposal	Location	Decision	Date
24/233/PP.	Alter shop front including sculpted metal and create a balcony.	50 Albert Street, Kirkwall, Orkney KW15 1HQ.	Approved subject to conditions.	18.10.2024.

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:
 - Policy 7: Historic assets and places.
 - Policy 13: Sustainable transport.
 - Policy 22: Flood risk and water management.
- Orkney Local Development Plan 2017:
 - Policy 3: Settlements, Town Centres and Primary Retail Frontages.
 - Policy 8: Historic Environment and Cultural Heritage.
 - Policy 13: Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14: Transport, Travel and Road Network Infrastructure.

- Supplementary Guidance:
 - Historic Environment and Cultural Heritage (2017).
- National Planning Policy:
 - Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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:
 - 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.

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. The application site is a retail premises at 50 Albert Street, Kirkwall, as indicated on the Location Plan attached as Appendix 2 to this report. Planning permission is sought to alter the shop including sculpted bronze cladding, aluminium cladding, glazing, stained glass, new window openings to rear and an enclosed roof terrace. The site is located within Kirkwall Conservation Area and designated as Prime Retail Frontage.
- 8.2. A previous scheme was approved in October 2024 under reference 24/233/PP, and remains extant, and the fallback position in relation to the current application.

Design and impact on the conservation area

- 8.3. Policy 3 'Settlements, Town Centres and Primary Retail Frontages' of the Local Development Plan supports development that reinforces the distinctive identity of Orkney's built environment and is sympathetic to the character of its local area that has a positive effect on the appearance and amenity of the area. Policy 8 'Historic Environment and Cultural Heritage' of the Local Development Plan and NPF4 Policy 7 'Historic assets and places' seek to protect the character and appearance of conservation areas.
- 8.4. Whilst within a historic setting, the part of the building affected is relatively modern, with limited architectural or historic merit. Alongside the appropriate management of historic and traditional buildings in the conservation area, relevant policies support the use of contemporary design and materials for new development sites and where alterations are proposed to relatively modern buildings, subject to the use of high-quality materials. This avoids a pastiche and allows innovation and development of unique and interesting shopfronts within a key town centre area. In this case, the frontage is redesigned using modern materials and detailing, reflecting the function of the applicant in use of metal cladding, and creating a simplicity through continuity of material in the windows, doors, fascia, and barrier above.
- 8.5. The objection received states that whilst the existing building "...does not contribute positively to the Conservation Area, its design does not significantly intrude upon or compete with the historic streetscape" and states that the proposed works "would fundamentally change this balance" due to the extent of glazing, sculpted metal features and the covered terrace. The design is also described as "overtly modern and eye catching, rather than quiet and well-mannered". As stated above, the use of modern design is welcomed in the conservation areas, particularly in the key commercial streets, provided alterations

make use of high-quality design and materials. It is deliberate that the design is overtly modern, and not an attempt to mimic historic buildings adjacent. And whilst modern materials, the palette is relatively limited, in terms of glazing frames, panelling, and cladding, and the metal features. Notwithstanding the objection therefore, the works are not considered 'too assertive' or 'overly dominant'.

- 8.6. The creation of a roof terrace or any form of balcony is relatively rare within the conservation area, partly as this is not a traditional feature in historic buildings, and in modern architectural additions, including contemporary design, built form generally retains a solid character to reflect traditional form, avoiding incongruous projections. In this case, the development forms part of an existing flat roofed building and critically the terrace would be enclosed by a covered roof structure above and a perforated screen barrier to the front and side which matches the material of the shopfront below, and thereby having the character of an outside space within the simple form of the building, rather than a projection beyond that.
- 8.7. As noted, notwithstanding the design comments included in the representation in relation to the impact on its setting, the proposal is considered to reinforce the distinctive identity of Orkney's built environment and would not negatively impact on the character and appearance of the conservation area, and therefore complies with NPF4 Policy 7, and Policies 3 and 8 of the Local Development Plan.

Roads

- 8.8. Roads Services has no objection to the proposal. Whilst no parking is proposed, the premises is existing within the town centre and Policy 13 'Sustainable transport' of NPF4 would take precedence. The proposal complies with NPF4 Policy 13 and Policy 14 'Transport, Travel and Road Network Infrastructure' of the Local Development Plan.

Flood Risk

- 8.9. Engineering Services has confirmed no objection to the proposal. Whilst the site is in an area at medium risk (0.5% annual probability) of flooding according to existing surface water flood risk mapping, the building as existing and no change of use is proposed and is exempted in relation to flood risk under Policy 22 'Flood risk and water management' of NPF4.
- 8.10. It is recommended by Engineering Services that the applicant investigate the range of flood resistance and recoverability measures available to protect against the impacts of flooding.

8.11. The proposal complies with NPF4 Policy 22 and Policy 13 'Flood Risk, SuDS and Waste Water Drainage' of the Local Development Plan.

9. Conclusion and Recommendation

9.1. The proposal complies with relevant policies of National Planning Framework 4 and the Orkney Local Development Plan 2017. The proposal is acceptable with regards design, and impact on the character and appearance of the conservation area. There are no material considerations that outweigh this conclusion. The application is therefore recommended for approval, subject to the conditions attached as Appendix 1 to this report.

For Further Information please contact:

Murray Couston, Planning Officer (Development Management), Email
murray.couston@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.

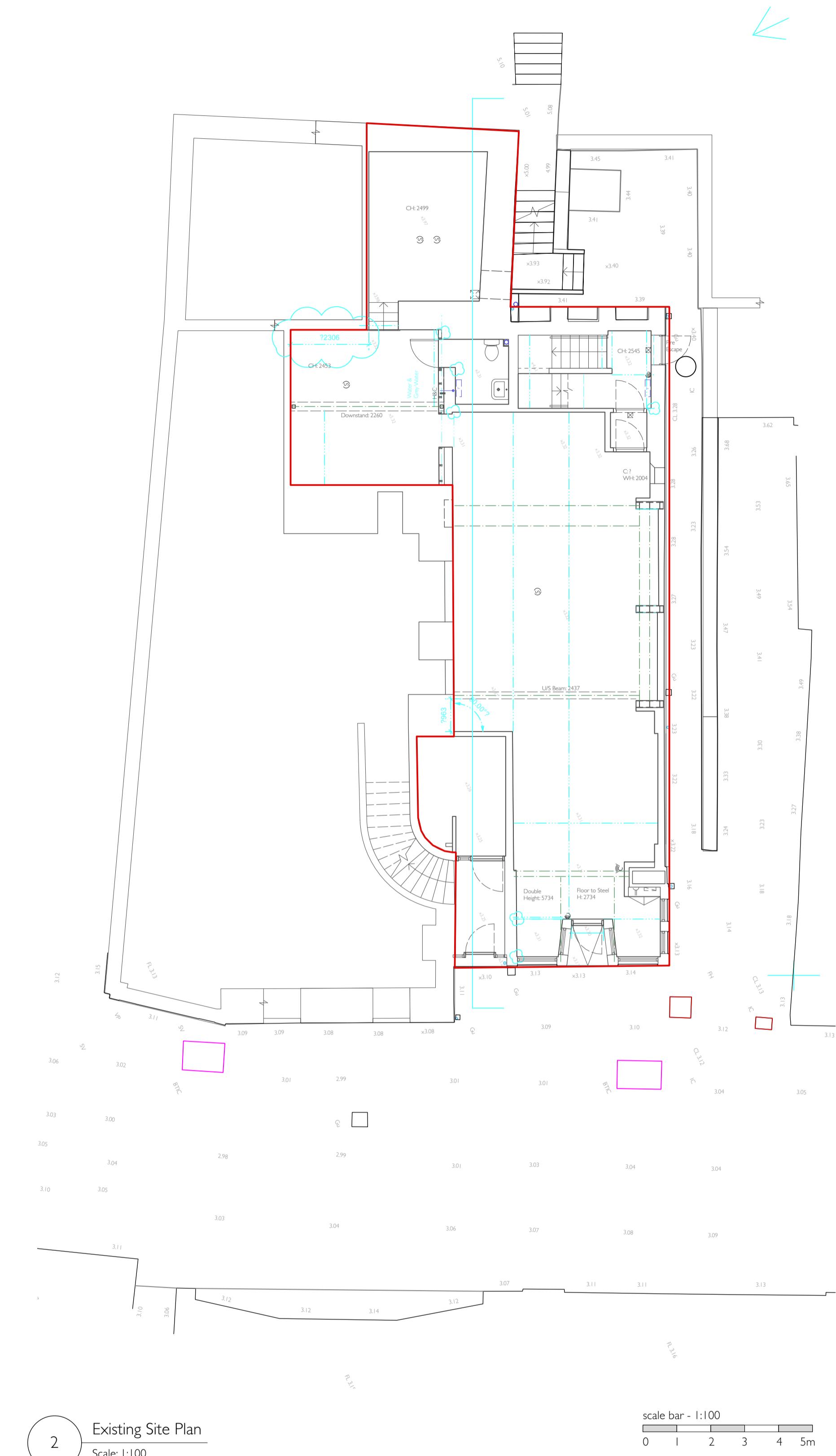
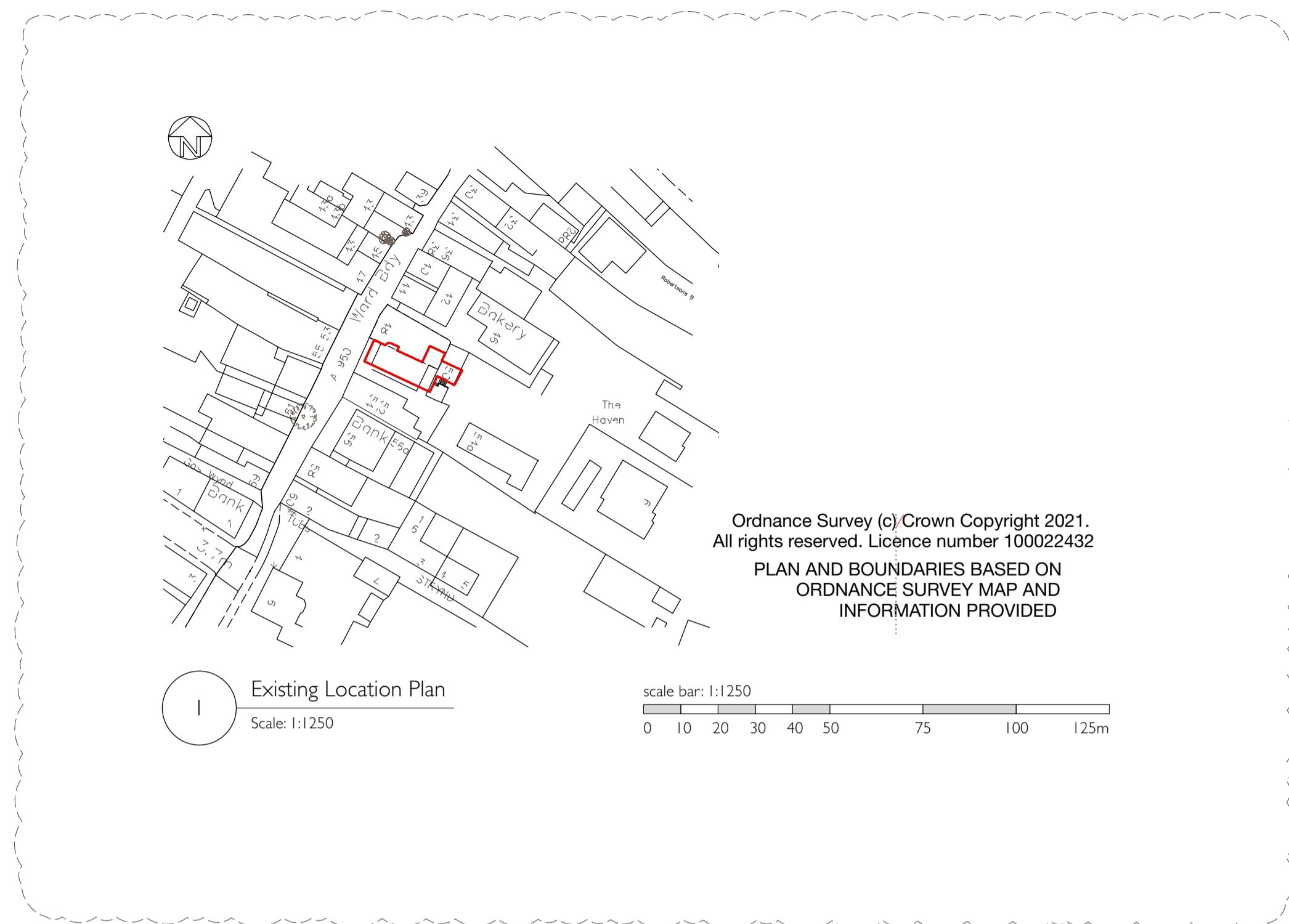
02. No development shall commence until full details of the following, including samples and/or construction details, have been submitted to and approved, in writing, by the Planning Authority:

- Bronze cladding panels.
- PPC aluminium panels, window frame and door details, and barrier.
- Windows W-F6 and W-03, on elevation 3 of drawing no. 1490 ASK P 310 Rev.A.
- Stained-glass window.
- Rooflights.

Thereafter, the development shall be carried out wholly in accordance with these approved details only.

Reason: To protect the character and appearance of the conservation area.

KEYS
 - - - site boundary ownership
 - - - site boundary



helen lucas
ARCHITECTS

mail@helenlucas.co.uk
31-35 MARCHMONT ROAD EDINBURGH EH9 1HU
+0131 478 8880

RETAIL ALTERATIONS
50 ALBERT STREET, KIRKWALL
AS PROPOSED
SITE AND LOCATION PLAN

1490-ASK P 001 Rev. A

ORIGINAL SHEET SIZE ISO A1 SCALE @ A1 As Noted

1. Do not scale from drawings. Request from Architect any dimensions not provided.
 2. All dimensions to be checked on site prior to starting work.
 3. Any discrepancies to be reported to Architect.
 4. Drawings to be read in conjunction with structural engineer's and consultant's drawings, specifications and schedules.
 5. Location of stud in partitions are indicative only.