



ORKNEY
ISLANDS COUNCIL

Item: 4

Planning Committee: 28 May 2025.

Proposed Painting of Mural at 18 Bridge Street, Kirkwall.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application to paint a mural at 18 Bridge Street, Kirkwall. No representations have been received. However, given the link between this proposed development and wider redevelopment of the site where decisions have been made by Members, the application is reported to the Planning Committee for determination. The development complies with relevant policies, and other material considerations do not merit refusal of the application.

Application Reference:	25/098/PP.
Application Type:	Planning Permission.
Proposal:	Paint a mural.
Applicant:	Mr Wm Neil Stevenson.
Agent:	Stephen Omand, SJ Omand, 14 Victoria Street, Kirkwall, KW15 1DZ.

- 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 painting of a mural at 18 Bridge Street, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Orkney Heritage Society

- 3.1. No objection to the application.

4. Representations

4.1. No representations received.

5. Relevant Planning History

Reference	Proposal	Location	Decision	Date
25/083/PP.	Convert a former shop, bakery and store to a mixed use nightclub, bar, bowling alley and other indoor recreation (Use Class 11), and ancillary storage, install five air source heat pumps, extend to create covered fire exit and storage (shed), install glazed screens, doors, and panelled cladding in courtyard openings, re-roof part of roof, install roof ducts and solar panels, convert part of courtyard to event space/garden and seating, erect four hot food takeaway kiosks, a temporary stretch tent, and gates including on street boundary, and associated landscaping including a sheet	18 Bridge Street, Kirkwall.	Pending decision.	N/A.

Reference	Proposal	Location	Decision	Date
	pile wall, resurfacing with flagstones, and planting including trees and shrubs (temporary for 10 years) (part amendment to 23/422/PP) (part retrospective).			
23/422/PP.	Convert a former shop, bakery and store to a mixed use nightclub, bowling alley and other indoor recreation, and shop (Use Classes 1A and 11), extend to rear to create toilets, install four air source heat pumps, install glazed screens, doors, and panelled cladding in courtyard openings, install roof ducts and solar panels, convert part of courtyard to event space/garden and seating, erect two hot foot takeaway kiosks and a store, a temporary stretch tent, and gates including on street boundary, and associated landscaping including a sheet	18 Bridge Street, Kirkwall.	Granted subject to conditions.	15.02.2024.

Reference	Proposal	Location	Decision	Date
	pile wall, resurfacing with flagstones, and planting including trees and shrubs.			
22/221/PIP.	Conversion of a former shop, bakery, store and adjoined courtyards to a mixed use restaurant/cafe, bowling alley, music venues, nightclub, gymnasium, exhibition space, visitor centre and retail (Use Classes 1, 3, 10 and 11).	18 Bridge Street, Kirkwall.	Granted subject to conditions.	08.09.2022.
21/345/PP.	Change of use of car park to community events and activities (limited days per year).	18 Bridge Street, Kirkwall.	Granted subject to conditions.	04.10.2021.
21/191/PP.	Change of use from store to gymnasium (Class 11).	18 Bridge Street, Kirkwall.	Granted subject to conditions.	09.07.2021.

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.
- Orkney Local Development Plan 2017:
 - Policy 6: Advertisements and Signs
 - Policy 8: Historic Environment and Cultural Heritage.
- Supplementary Guidance:
 - Historic Environment and Cultural Heritage (2017).

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. Planning permission is sought to paint a mural at 18 Bridge Street, Kirkwall, annotated as 'Extent of mural' on the north side of the application site area in the Location Plan attached as Appendix 2 to this report. The site is located within Kirkwall Conservation Area and forms part of a larger redevelopment and regeneration of a site that includes a nightclub, bowling alley and public entertainment garden square.

Principle

- 8.2. The concept of a mural at the site was included amongst the package of drawings for planning permission 23/422/PP. Policy 6 of the Local Development Plan provides support for the display of advertisements and signage, subject to impact on the character and appearance of its surroundings. Therefore, whilst the detail of any such advertisement, including a large-scale mural such as that proposed, can be considered in detail, the application history and general policy position are such that the principle of a mural on the wall is acceptable.

Conservation Area

- 8.3. Orkney Local Development Plan Policy 8 'Historic Environment and Cultural Heritage' states that development which preserves or enhances the archaeological, architectural, artistic, commemorative or historic significance of cultural heritage assets, including their settings, will be supported.
- 8.4. NPF4 Policy 7 'Historic assets and places' states that development proposals in or affecting conservation areas will be supported where the character and appearance of the conservation area and its setting is preserved or enhanced.
- 8.5. As noted above, the mural is part of a larger regeneration development project. The mural would be on the north side of the site, placed on the wall alongside the approved nightclub entrance. Parts of the mural would be visible from the public realm, including the passing street; however, most of the mural would be contained within the site and would be partly obscured to public views by kiosks and fencing.
- 8.6. The mural is of a contemporary design, including animated and stylised images of objects with an Orkney connection. Whilst not typical in Kirkwall town centre, the mural can be viewed in the context of the wider regeneration project across the adjoining site. The mural would add vibrancy to the public space for which it would be visible. Colours have been provided for the different elements of the mural as

part of the application submission; however, a planning condition would secure precise colours for the avoidance of doubt.

- 8.7. Given the intrinsic link between the style of the mural and the regeneration of the site, its duration would be linked to the temporary planning permission for the wider use. Therefore, when the use ceases the mural would also require to be removed; it is not a permanent or non-reversible addition to the conservation area. A condition would be attached to link the duration of the mural to the temporary permission for the wider site.
- 8.8. The display of advertisements and painting works generally in the conservation area are strictly controlled. The mural would introduce a scale and style of mural not previously seen in Kirkwall. That is not, in itself, a reason to resist the introduction of the mural, but attention must be paid to ensuring a consistency of approach. That makes context critical in this case.
- 8.9. As noted above, the scale and contemporary design, including use of colour and style of the figures, would be seen in the context of a wider regeneration, to a mixed use site that would include a range of entertainment uses, including nightclub. The mural would have limited visibility from particular angles of the street, and critical in terms of the consistency of approach towards large painted walls in the conservation area, it is not designed to face directly into a public space and would not be visible in full, from an open position the street. As a relatively novel approach to the treatment of a large wall in the town centre, the mural may divide public thought in terms of 'taste'; however, in making a planning recommendation, it is an often-difficult balance of allowing artistic freedom whilst protecting the character and appearance of the conservation area and applying consistency in decision-making, which in itself creates a difficulty in terms of applying consistency in a development that is, in itself, unique in a Kirkwall context.
- 8.10. On balance, it is concluded that the proposed mural would have no unacceptable impact on the character or appearance of the conservation area, including in the context that it would not result in a permanent or non-reversible addition. The proposal complies with Local Development Plan Policy 8 and NPF4 Policy 7.

9. Conclusion

- 9.1. The proposal is acceptable in principle, and in terms of its impact on the character and appearance of the conservation area. The proposed development complies with Policy 8 of the Orkney Local Development Plan (2017), Policy 7 of National Planning Framework 4, and Development Management Guidance ‘Historic Environment and Cultural Heritage (2017)’ and is 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](#).

Appendix

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. Planning permission is hereby approved for a temporary period only, and the mural shall be retained for the duration of planning permission for use as a nightclub in the adjoining building only. The mural shall be removed at the cessation of use as a nightclub and the adjoining building, and the wall returned to a blank white finish.

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

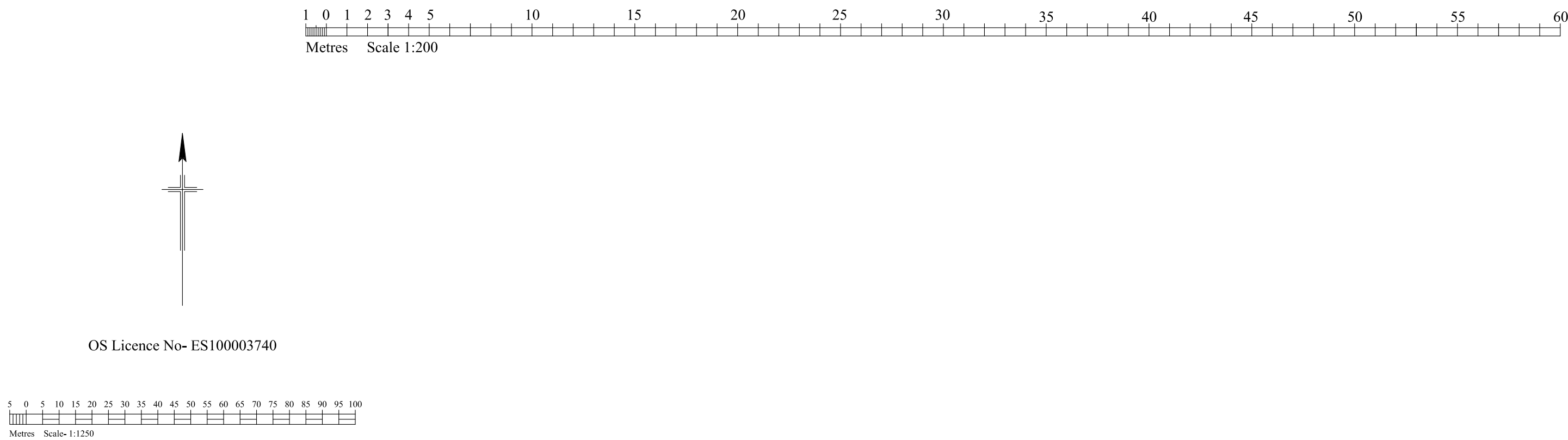
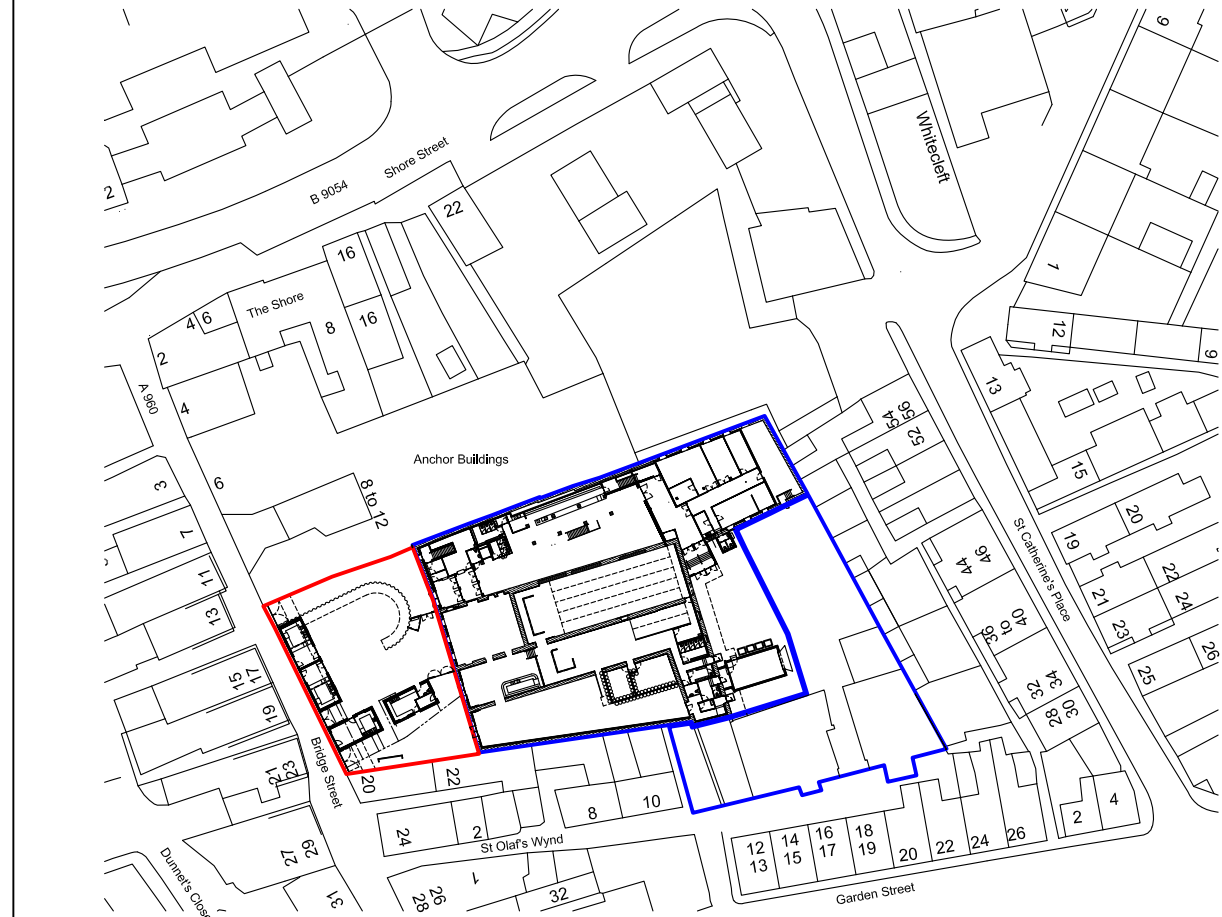
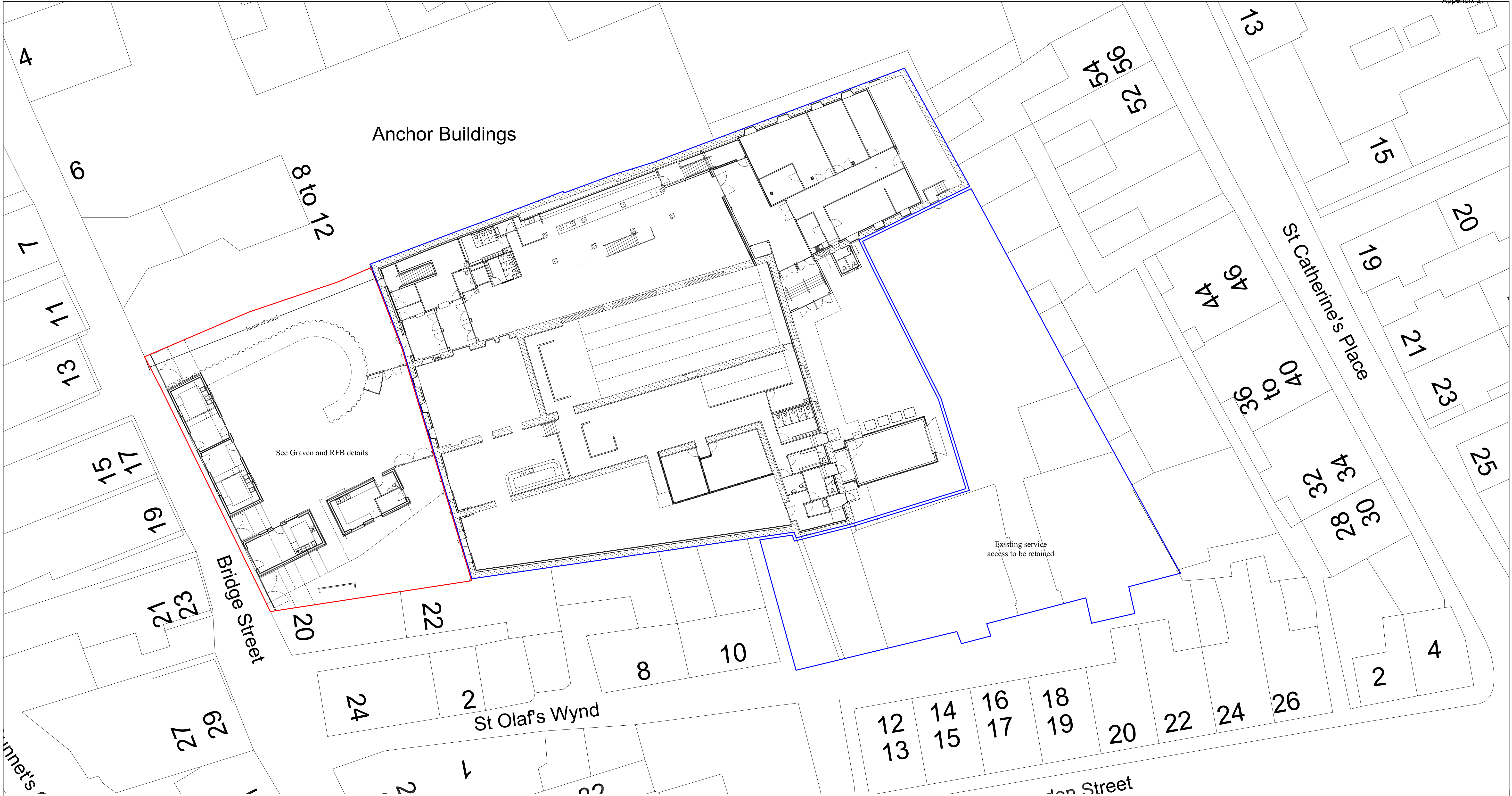
03. The mural shall be the following colours only, unless otherwise approved, in writing, by the Planning Authority:

- Light Green – RAL 6019.
- Medium Green – RAL 6000.
- Dark Green – RAL 6009.
- Blue – RAL 5015.
- Light Pink – RAL 3015.
- Dark Pink – RAL 3016.
- Red – 67 Hardangerrod.
- Yellow – Book 10 Solgul.
- White.

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

04. No development shall commence until the dark grey background wall colour has been submitted to and approved, in writing, by the Planning Authority. Thereafter, the background wall shall be painted in the approved colours, only.

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



<div>S J Omand, Chartered Surveyors, 14 Victoria Street, Kirkwall, KW15 1DN. Tel- 01856 876215 Email- stephen@sjomand.co.uk</div> <div>Drawings prepared for Planning Purposes only. DO NOT SCALE. If in doubt, ask. Copyright S J Omand, Chartered Surveyors.</div> <div>Project 18 Bridge Street, Kirkwall, KW15 1HR.</div> <div>Title Amendment to Change of Use from Retail, Bakery and Storage to Nightclub, Bowling Alley and Family Entertainment Centre.</div> <div>Sub-Title Location Plan- Painting of Wall (Mural).</div> <div>Client Wm Neil Stevenson, 30 Albert Street, Kirkwall, KW15 1HQ.</div> <div>Date 2nd April 2025.</div> <div>Drawn By SJO</div> <div>Plan Size A1</div> <div>Scale As shown.</div> <div>Dwg No 1684/1/Mural.</div> <div>Rev A</div>		
--	--	--