

Item: 3

Planning Committee: 25 March 2026.

Proposed Siting of House near Skeldro, Burray.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application for planning permission in principle for the siting of a house near Skeldro, Burray. One valid representation (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:	25/275/PIP.
Application Type:	Planning Permission.
Proposal:	Siting of a house.
Applicant:	Ryan Smith.
Agent:	Cindy Mackenzie Architectural Services, Braeside, Ontoft Road, St Margaret's Hope, KW17 2TL.

- 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 principle in respect of the proposed siting of a house near Skeldro, Burray, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services.

- 3.1. Roads Services has no objection and proposes an informative.

Development and Marine Planning – Access

3.2. “Core Path

Core Path B6 (Burray Village) is adjacent to the development site, and follows, in part, the shared access to the domestic dwellings of Skeldro and Watersound. Under the Land Reform (Scotland) Act 2003, local authorities had a duty to prepare a Core Paths Plan. The purpose of the plan was to identify a system of key routes for outdoor access in Orkney. Orkney Islands Council, under section 19 of the LRSA, have powers to keep a core path free from obstruction or encroachment. Therefore, core path B6, should remain open and free from obstruction before, during and after any groundworks. A condition regarding this would be required to be attached to the Decision Notice of any approval.

Rights of Way

According to the records held in the Planning & Economic Development Section there are no claimed rights of way on this area of land.”

Scottish Water

3.3. No objection.

4. Representation

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

- Pamela Smy, Skeldro, Burray KW17 2SS.

4.2. The representation is on the following grounds:

- Loss of privacy (including from the proposed parking area).
- Height of the house.
- Lack of information regarding waste water.
- Disruption to access road to Skeldro and Watersound.

5. Relevant Planning History

5.1. Planning applications

Reference	Proposal	Location	Decision	Date
06/564/PPO.	Siting of a house.	Skeldro (adjacent to), Burray.	Grant subject to conditions.	15.11.2006.

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 4. Natural places.
 - Policy 15. Local Living and 20 minute neighbourhoods.
 - Policy 16. Quality Homes.
 - Policy 20. Blue and green infrastructure.
 - Policy 22. Flood risk and water management.
 - Orkney Local Development Plan 2017:
 - Policy 1: Criteria for All Development.
 - Policy 5A: Housing in Settlements.
 - 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:
 - Natural Environment (2017).
 - Settlement Statements (2017).
 - Planning Policy Advice:
 - Amenity and Minimising Obtrusive Lighting (2021).

- National Roads Development Guide (2015).
- Development Management Guidance:
 - Considering and Including Biodiversity in Development (2023).
- Amended Orkney Core Paths Plan (2018).

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 site is located within the settlement of Burray Village, as indicated on the Location Plan attached as Appendix 2 to this report. The site is located along a shared access from the A961 that leads to the properties at Skeldro and Watersound and is on lower ground than the road. The site slopes down from the house at Burnbank to the track that runs past the site to the west towards Skeldro and Watersound. The site plan includes an indicative house location on higher ground to the east of the site.
- 8.2. The site previously formed part of the garden at Skeldro, and outline planning permission was previously approved for a house on the site, reference 06/564/PPO, although no development was implemented. It is understood that the site ownership is now separate from Skeldro.
- 8.3. The objector has raised concerns regarding the potential height of the house and elements of the proposal such as the location of the house and parking. The proposal is in principle only and does not include the layout of the site, height of development, or other details. Full details would follow any future application, should the current application in principle be approved.

Principle

- 8.4. Policy 5A of the Orkney Local Development Plan 2017 supports the erection of new dwellings within settlement boundaries, either on allocated sites or on other sites (including infill and sub-divided garden ground) provided that the development would also meet other policies of the plan and any other material planning considerations, including relevant Supplementary Guidance. It is considered that, in principle, the development of a house on the site would comply with Policy 5A – Housing in Settlements.

Twenty Minute Neighbourhood

- 8.5. Burray Village has mixed facilities and is on a bus route. The proposed development would therefore be well connected to services. It is considered that the proposed development complies with NPF4 Policy 15 ‘Local living and 20 minute neighbourhoods’.

Housing Density

- 8.6. It is considered that the site is of adequate size to accommodate a house and provide outside amenity space and the density of one house is appropriate and would comply with Orkney Local Development Plan 2017 Policy 1 ‘Criteria for All Development’.

Residential Amenity

- 8.7. The Site Plan is indicative only and no finalised site layout is available at this stage. Due to the slope of the site, it is likely any buildings would be required to be dug in with no underbuilding. Taking reference from neighbouring houses, a single storey house would be most appropriate which would reduce impacts of overshadowing. Any such details would follow in a future application.
- 8.8. The objector has raised concerns regarding loss of privacy and that “the area designated for parking on the proposed site, and directly next to the adjoining fence and within a few feet of my living room window. It will rob me of any privacy in my own home...”. As above, the layout of the site and design of the house and any future application would be assessed in relation to the relevant policies, including those which protect residential amenity. Whilst the concerns are therefore material, the detail of any impact cannot be assessed at this stage of a planning permission in principle.
- 8.9. Due to Skeldro being a neighbouring third party property within 20 metres of the application site, that property would be notified of any future planning application and would have normal rights to make representations.
- 8.10. Based on the information required to be available at this stage of planning permission in principle, there is no indication that the proposed development would have significant impact on residential amenity. It is considered the development would comply with Orkney Local Development Plan 2017 Policies 1 ‘Criteria for All Development’, 14B ‘Sustainable Travel’, NPF4 Policy 16 ‘Quality homes’, Supplementary Guidance ‘Settlement Statements’ (2017), and Planning Policy Advice ‘Amenity and Minimising Obtrusive Lighting’ (2021).

Sewerage

- 8.11. The objector has raised concern regarding waste water disposal. Whilst the proposed development site is located within a settlement boundary, where ordinarily it would be expected that the development would connect to the public sewer under Policy 13C ‘Waste Water Drainage’ of the Orkney Local Development

Plan 2017, the exception is where “a) The proposed development is in a settlement where there is no, or a limited collection system, or b) The proposed development is in a village or town where there are infrastructure constraints that prevent connection and a temporary private system is proposed”.

- 8.12. In consultation response, Scottish Water confirms “there is no public waste water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options”. It is therefore proposed that the development would include a private foul drainage treatment plan with a connection to the Scottish Water outfall. This arrangement would be similar to that for four houses approved and currently under construction at Burnbank to the west of the site. It is a matter for any future applicant/developer to seek consent from Scottish Water for that connection. Full details of the sewerage system would be required in any future planning application. On the basis of information available, the development is considered to comply with Orkney Local Development Plan 2017 Policy 13C ‘Waste Water Drainage’.

Surface Water Drainage

- 8.13. It is a requirement that sustainable drainage is incorporated in all development to prevent flood risk and surface water run-off, to comply with Orkney Local Development Plan 2017 Policy 13B ‘Sustainable Drainage Systems (SuDS)’ and National Planning Framework 4 Policy 22 - ‘Flood Risk and Water Management’. The site plan indicates that there would be a surface water soakaway within the site. Details of surface water drainage measures would be included in any future application.

Access

- 8.14. The representation includes concerns regarding access, including potential disruption to the joint access track to the properties, stating that “The access road itself is an unmade road and somewhat fragile. I seriously object to any plant or machinery involved with building work being used on the road. It will not stand up to the weight of such heavy plant, without disintegrating. Any disruption of access, either through damage or parking, would be completely unacceptable.”.
- 8.15. Roads Services has assessed the proposal and, during consideration of the application, further information/an amended plan was submitted to address queries and Roads Services has no objection. Full details of the access with the public road would be required within a future application.

- 8.16. With regards concerns raised, there would undoubtedly be some activity on the access track during the construction of the development; in relation to residential amenity and normal planning measures to control activities related to construction works within a settlement, details including a Construction Management Plan could be requested as required in relation to any future development of the site.
- 8.17. Taking account of the above, there is no indication that the development as proposed, or the future development of the site, would necessarily be contrary to Orkney Local Development Plan 2017 Policies 1 'Criteria for All Development' or 14C 'Road Network Infrastructure', or Planning Policy Advice 'SCOTS National Roads Development Guide'.

Core Path

The B6 (Burray Village) Core Path runs from the A961 to the shore at the head of Watersound and runs along the shared access to the proposed site and onwards past the houses at Skeldro and Watersound. The Development and Marine Planning, Rural Planner (with access remit) has assessed the proposal and has no objection; a condition would ensure the Core Path remains free from obstruction during construction works, noting that a legal framework exists to protect the core path generally. This ensures compliance with Orkney Local Development Plan 2017 Policy 10A 'Core Paths and Access', the 'Amended Orkney Core Paths Plan' (2018) and National Planning Framework 4 Policy 20 'Blue and Green Infrastructure'

Landscape

- 8.18. The site is located on lower ground from the A961 and on slightly higher ground than Plot 4 Burnbank, and the coast. The house would not be prominent in its context, or on the skyline, as above subject to full details that would be submitted with a future application. It is therefore considered that the development would comply with Orkney Local Development Plan 2017 Policy 9G 'Landscape'.

Natural Heritage

- 8.19. The site is not located within a natural heritage designation, but the southern part of the Sutherland Links Local Nature Conservation Site (LNCS Reference: 210) is within 46 metres of the site. The houses at Watersound and Skeldro lie between the site and the LNCS, and it is therefore considered unlikely that the proposed development would have any direct impact on the designation and that the development would comply with Orkney Local Development Plan 2017 Policies 1

‘Criteria for All Development’, 9A ‘Natural Heritage Designations’, 9C ‘Wider Biodiversity and Geodiversity’, and NPF4 Policy 4 ‘Natural places’.

Biodiversity

- 8.20. A biodiversity enhancement form outlining biodiversity enhancement measures has been submitted. As an application for planning permission in principle, full details of biodiversity enhancement measures would be amongst matters specified in condition, to be submitted with a future application and proportionate to the scale of development ultimately proposed.

9. Conclusion

- 9.1. The proposed development complies with relevant policies of National Planning Framework 4, the Orkney Local Development Plan 2017, and relevant Supplementary Guidance and Development Management Guidance. The proposal in principle for a single house within the settlement boundary is acceptable, and in terms of housing density, residential amenity, sewerage and water connections, surface water drainage, access, protection of a core path, landscape, natural heritage interests and biodiversity. There are no material considerations including those raised in the objections that outweigh this conclusion. The application is therefore recommended for approval, subject to the conditions set out in Appendix 1.

For Further Information please contact:

Sue Doyle, Planning Officer (Development Management), extension 2503, Email sue.doyle@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 in principle relates must be begun not later than the expiration of five years, beginning with the date on which the permission in principle is granted, which is the date of this decision notice. If development has not begun at the expiration of this period, the planning permission in principle lapses.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

02. No development shall commence until all matters specified below have been approved on application to the Planning Authority:

- i. A detailed layout of the site of the proposed development including all roads, footways, and parking areas.
- ii. Site levels as existing and proposed, based on a fixed datum point.
- iii. Detailed cross sections of the house on the site, including existing and proposed ground levels, and proposed finished floor level(s), including that all structures be excavated into existing contours without requirement for underbuilding.
- iv. The design and external appearance of the proposed development (all buildings and structures) including details of materials and colours. The total area of buildings shall not exceed one third of the site area, and no building shall exceed six metres to ridge height above existing ground level.
- v. All hard and soft landscaping proposals for the site of the proposed development (including boundary treatments). Full details of the landscaping of the site (including details of species, sizes, number, type) shall be indicated on a Landscape Plan.
- vi. Details of access and parking arrangements.
- vii. Details of the proposed water supply arrangements.
- viii. Details of the treatment of foul drainage, including route to connection to the Scottish Water outfall if proposed.
- ix. Details of the management of surface water, including in relation to the access. 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.
- x. Details of refuse and recycling bin storage, including for collection.
- xi. The design and location of all boundary walls and fences. Any boundary wall or fence adjacent to the track shall not exceed 1 metre in height.
- xii. A Biodiversity Enhancement Form, including full details of measures that will be implemented on the site, photographs, and site layout plan showing biodiversity measures including location, size and number of plants/trees/bushes. Names of all plants/trees/bushes should be given both their English and Latin names. This is to ensure that biodiversity measures are implemented as required by National Planning Framework 4 Policy 3.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to commencement of development.

03. The B6 (Burray Village) Core Path runs south from the A961 and along the track past the site and towards the shore at the head of Watersound.

Throughout the construction phase of the development hereby approved in principle, works shall not interrupt public use of the B6 (Burray Village) Core Path adjacent to the application site and at no time shall the Core Path be obstructed by construction-related activities.

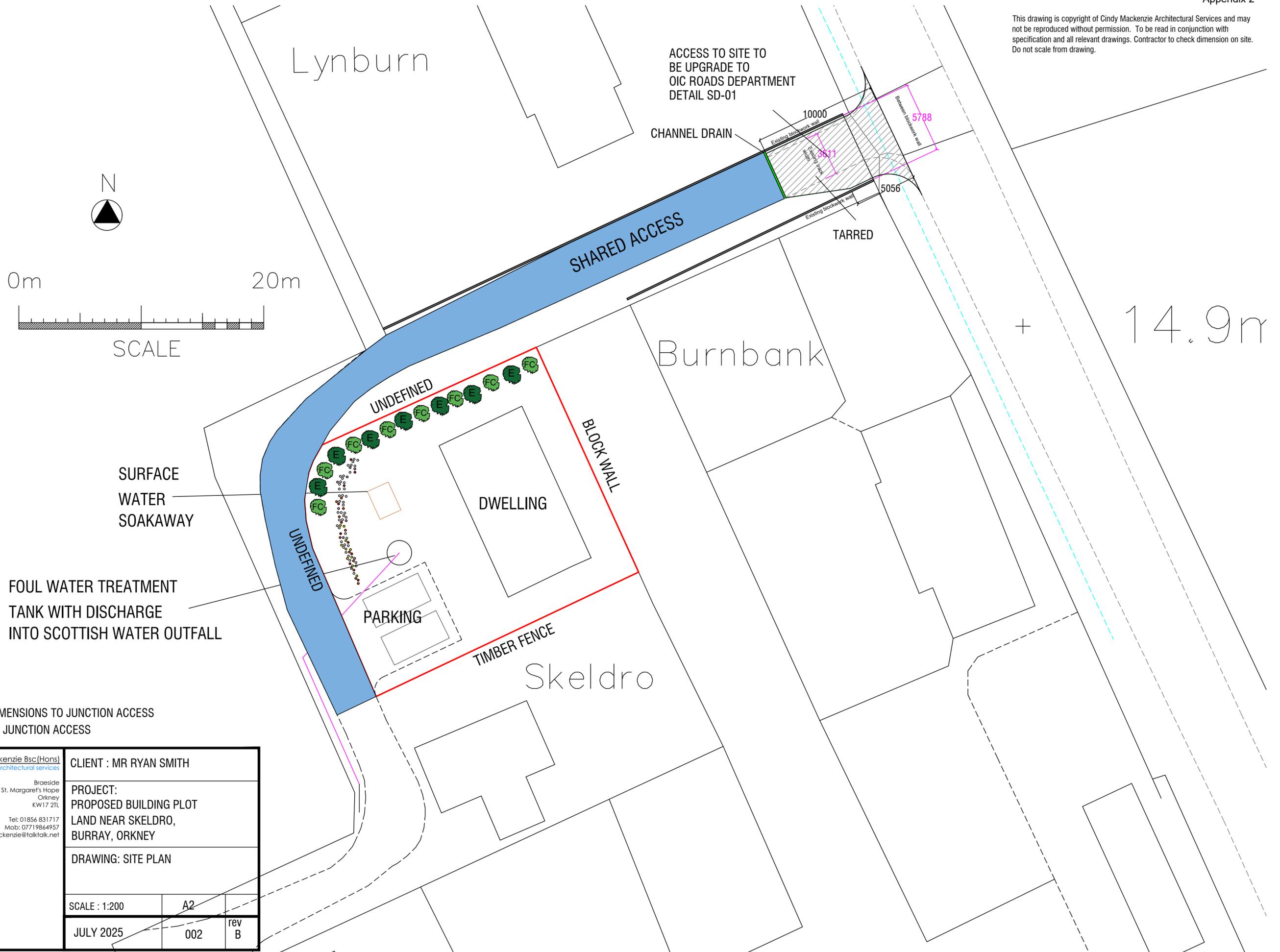
Reason: To safeguard public access during the construction phase and during the use of the development in the interest of safety and to accord with Orkney Local Development Plan 2017 Policy 10A – Core Paths and Access, National Planning Framework 4 Policy 20 – Blue and Green Infrastructure and the Amended Core Path Plan (2108).

04. Hours of work during construction works related to the development hereby approved in principle, 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.

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 to reduce any possible nuisance arising to nearby residents during the construction of this development.

This drawing is copyright of Cindy Mackenzie Architectural Services and may not be reproduced without permission. To be read in conjunction with specification and all relevant drawings. Contractor to check dimension on site. Do not scale from drawing.



B : ADDED DIMENSIONS TO JUNCTION ACCESS
 A : AMENDED JUNCTION ACCESS

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PROJECT: PROPOSED BUILDING PLOT LAND NEAR SKELDRO, BURRAY, ORKNEY			DRAWING: SITE PLAN
SCALE : 1:200	A2		
JULY 2025	002	rev B	