



Item: 7

Planning Committee: 25 March 2026.

Proposed Erection of Self-Catering Cabin at Baikies Noust, Evie.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers retrospective design amendments to an approved self-catering cabin with an air source heat pump at Baikies Noust, Evie Village. The existing planning permission, reference 23/380/PP, was approved on appeal and the design amendments proposed are not considered available as a non-material variation. The current application is therefore submitted to consider these amendments. Two objections have been received, citing amenity issues, overdevelopment and unsecured access. The development complies with relevant policies, and the objections and other material considerations do not merit refusal of the application.

Application Reference:	25/414/PP.
Application Type:	Full Planning Permission.
Proposal:	Erect a self-catering cabin with an air source heat pump, amendment to design (retrospective).
Applicant:	Mr Max Barratt.
Agent:	Cindy Mackenzie, 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:
- Approve the application for planning permission in respect of the proposed erection of a self-catering cabin, with an air source heat pump and retrospective design amendments, at Baikies Noust, Evie Village, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services

3.1. Roads Services has confirmed no objection.

Scottish Water

3.2. Scottish Water has confirmed no objection.

Environmental Health

3.3. Environmental Health has confirmed no objection subject to a planning condition to control the noise levels of the air source heat pump.

4. Representations

4.1. Two valid representations (objections) have been received from:

- Frances Eccles, Mistra, Evie, KW17 2PJ.
- Jane E Nelson, Quandale, 1 Hillside Road, Evie, KW17 2PJ.

4.2. The representations are on the following grounds:

- Overlooking and noise concerns due to the newly introduced door on southwest elevation.
- Potential works outside the development boundary.
- Unsightly and out of place development compared to the original approval.
- Overdevelopment within the property.
- Upcoming unsecured access directly from main road.

5. Relevant Planning History

5.1. Planning applications

Reference	Proposal	Location	Decision	Date
24/238/PP.	Erect a self-catering cabin with an air source heat pump.	Baikies Noust, Evie Village.	Withdrawn.	31.10.2024.
PPA-330-2034.	Erect a self-catering cabin with an air source heat pump.	Baikies Noust, Evie Village.	Appeal allowed.	25.10.2024.

Reference	Proposal	Location	Decision	Date
23/380/PP.	Erect a self-catering cabin with an air source heat pump.	Baikies Noust, Evie Village.	Refused.	31.05.2024.
23/317/HH.	Erect a self-catering unit with air source heat pump.	Baikies Noust, Evie Village.	Withdrawn	07.11.2023
22/296/HH.	Erect a domestic outbuilding (part retrospective).	Baikies Noust, Evie Village.	Grant Subject to Conditions.	03.11.2022.
21/454/HH.	Erect a domestic garage.	Baikies Noust, Evie Village.	Grant subject to conditions.	20.12.2021.
18/490/PP.	Erect a house with an air source heat pump and detached outbuilding (amendment to 18/336/PP).	Mistra (land near), Evie.	Grant subject to conditions.	14.01.2019.
18/336/PP.	Erect a house with an air source heat pump and detached outbuilding.	Mistra (land near), Evie.	Grant subject to conditions.	12.11.2018.
17/479/PIP.	Siting of a house.	Mistra (land near), Evie.	Grant subject to conditions.	20.12.2017.
05/305/PPF.	Erection of a house.	Mistra (land near), Evie.	Grant subject to conditions.	22.09.2005.

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 (NPF4):
 - Policy 3 - Biodiversity.
 - Policy 14 - Design, quality and place.
 - Policy 26 - Business and industry.
 - Policy 30 - Tourism.
- Orkney Local Development Plan 2017 (OLDP):
 - Policy 1 - Criteria for All Development.
 - Policy 2 - Design.
 - Policy 3 - Settlements, Town Centres and Primary Retail Frontages.
 - Policy 4 - Business, Industry and Employment.
- Guidance:
 - Supplementary Guidance: Settlement Statements (2017) – Evie Village.
 - Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

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 sets 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

Background and Proposal

- 8.1. Baikies Noust is within Evie Village settlement boundary, by the side of the A966, as indicated in the Site Plan attached as Appendix 2 to this report. Planning permission 23/380/PP, approved on appeal, comprises the subdivision of the curtilage of the host house, and the erection of a self-catering unit.
- 8.2. This planning permission has been initiated. During construction of the approved development, in part in response to amendments required to meet building regulation requirements, amendments have been carried out to the design including:
- Introduction of an emergency exit door in the southwest elevation, in substitution for a window.
 - Relocation of the air source heat pump to the southeast elevation.
 - Introduction of a sun pipe in the roof.
 - Relocation of the surface water soakaway within the development boundary.
- 8.3. Procedurally, the current application is for the whole development afresh. However, this application consideration does not prejudice the existing planning permission, and the current application and therefore has the effect of considering the acceptability of the proposed amendments.
- 8.4. It is stated in an objection that there is potential for work outside the development boundary. However, the application site boundary of the current application is unchanged. The application must be determined based on the proposed works as submitted, and any other development would be considered separately.

Principle

- 8.5. The proposed self-catering business development is within a settlement boundary, in accordance with the sequential approach set out in the 'Town Centre First Principle' of Policy 3A of the Orkney Local Development Plan and supported by

Policy 4A(iii). The development is also supported by the similar policy provisions of Policy 26 'Business and industry' and Policy 30 'Tourism' of NPF4.

- 8.6. A representation states that an original intention of domestic use has been amended to business; however, as confirmed above the existing application description is 'Erect a self-catering cabin with an air source heat pump'. The current application is therefore not a change of proposed use relative to the existing planning permission.

Design and Density

- 8.7. It is stated in a representation that there is overdevelopment within the existing wider property. The existing house was approved on a site within the settlement boundary, in accordance with the provisions of Supplementary Guidance 'Settlement Statements' (2017). A domestic garage and an outbuilding have subsequently been considered and approved. Separately, the existing planning permission for a self-catering unit was approved considering its compatibility in relation to the surrounding area. The current application including retrospective amendments does not include any additional site area and the proposal would not result in overdevelopment.
- 8.8. The self-catering unit is proposed (approximately 11.9 x 5.8 x 4.7 metres) parallel to the northwest boundary of the property. There would be two high-level horizontal windows to the bedroom and kitchen/living room on the southeast elevation (facing the house at Baikies Noust), and an emergency exit door at the southwest elevation substituting a currently approved window. The patio doors at the northeast elevation would open the view of the rear garden and the adjacent field.
- 8.9. The external finishes would not be altered relative to the original planning application, comprising a slate effect tile for the mono pitched roof with larch and profile sheeting for wall cladding, with anthracite windows, doors, fascias and soffits. A sunlight is proposed in the roof to gain natural light to the bathroom.
- 8.10. A representation raises concerns regarding design and appearance. Considered as submitted, and in relation to the design and approved, the development is not considered to create any unacceptable impact on the surrounding area and is considered to comply with Policy 14 'Design, quality and place' of NPF4 and Policy 1 'Criteria for All Development' and Policy 2 'Design' of the Orkney Local Development Plan 2017.

Access and Parking

- 8.11. The self-catering unit would be limited to two occupants, by virtue of its scale and bed provision. The anticipated increase in traffic to the site would have no significant impact on traffic volumes on the A966. The existing access would be shared for the self-catering unit, with vehicle parking provided. A concrete path would be introduced wrapping the northwest, northeast and southwest elevations for pedestrian movement. Roads Services has no adverse comments.
- 8.12. The representation states that there could be an upcoming unsecured access directly from the main road. This is not part of this current application consideration. Any subsequent or separate proposal for a new access would be considered on its own merits.

Water Supply and Drainage

- 8.13. The development would require new water connection from public mains. Wastewater would be discharged to the existing private septic tank and soakaway which serves the existing dwelling. The surface water would be directed to a proposed soakaway and managed within the development boundary and there would be no extra burden to the surrounding drainage. Scottish Water has no objection to the application.

Biodiversity Enhancement

- 8.14. The existing approved biodiversity enhancement measures would be implemented, and no amendment is proposed. Accordingly, the triangular shaped land portion facing the northeast elevation of the building would be turfed and *Escallonia* would be planted along northwest boundary edging the turfed area in compliance with Policy 3 'Biodiversity' of NPF4.

Residential Amenity

- 8.15. The amendments would not alter the approved scale or floor levels of the structure, therefore ensuring no additional overshadowing relative to the fallback position. Accordingly, the development would comply with the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).
- 8.16. In relation to the representation raised regarding overlooking and noise concerns due to the newly introduced door on southwest elevation, the door is not designed to be utilised as a principal entrance. In accordance with building warrant drawings, the door would be used as an emergency exit only (with no door handle/lock from outside). The glass door at the northeast elevation would operate

as the primary door. There would be limited user circulation at the northwest elevation and regardless, the door is not directly facing the neighbouring property and is unlikely to create any overlooking or privacy issues.

- 8.17. The development would use an air source heat pump to provide heat and hot water and the outdoor unit would be fixed on the wall of the southeast elevation. Environmental Health has no adverse comments. A planning condition would be attached to protect any nearby residents from excessive noise disturbance from the heat pumps.

9. Conclusion and Recommendation

- 9.1. The proposed development complies with relevant policies of National Planning Framework 4 and the Orkney Local Development Plan 2017. The proposal is acceptable in principle, and in terms of design and impact on the residential amenity. 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 attached as Appendix 1 to this report.

For Further Information please contact:

Shankha Weerasekara, Graduate Planner (Development Management), Email Shankha.Weerasekara@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. Occupation of the self-catering unit hereby approved shall not exceed a maximum of 28 days by any person or group of persons, between the dates of 1 March and 31 October (inclusive) in any calendar year. To facilitate the enforcement of such control, the operators of the self-catering unit shall throughout the lifetime of the development maintain and shall make available to the Planning Authority, if requested, a register of occupiers of the self-catering unit to which this planning permission relates.

Reason: To ensure that the self-catering unit is occupied only on a short-term basis.

03. The self-catering unit hereby approved shall be retained in the same ownership and control of the owner of the adjacent dwelling, "Baikies Noust", throughout the lifetime of the development and shall not be disposed of or operated independently.

Reason: To protect the amenity of the occupants of all buildings, by ensuring a single management, given the proximity of the existing residential setting.

04. Total noise from the air source heat pump installed shall not exceed NR25 within any residential property outwith the development, 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 50 mm).

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

05. Surface water shall be managed in accordance with the principles of Sustainable Drainage Systems (SuDS) and the guidance set out in CIRIA's SuDS Manual C753 throughout the lifetime of the development hereby approved,

Requisite surface water drainage measures shall be operational prior to the development being brought into use and shall be maintained as operational thereafter and throughout the lifetime of the development.

All surface water shall be contained within the application site and shall be managed to avoid flow into any adjacent road or other land.

Reason: To ensure appropriate management of surface water drainage, in accordance with Policy 13B 'Sustainable Drainage Systems (SuDS)' of the Orkney Local Development Plan 2017, and to protect road safety.

06. The approved sewerage system shall be connected and fully operational prior to the first use of the development hereby approved.

Reason: In the interests of environmental protection.

07. The development hereby approved shall not be occupied or brought into use until the parking area shown on the 1:200 Site Plan hereby approved (reference 002 Rev A dated August 2023) has been provided, and thereafter this parking area shall be retained throughout the lifetime of the development for the use of the self-catering unit only.

Reason: To ensure adequate parking provision for the development.

08. Throughout the lifetime of the development hereby approved, any external lighting used shall be downward facing only and shall comply with the Council's requirements of Orkney Local Development Plan 2017 Policy 2 (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.

09. The biodiversity measures identified on the 1:200 Site Plan hereby approved (reference 002 Rev A dated August 2023) and described in the submitted biodiversity form (dated 10 October 2023) shall be implemented in full during the first planting season following the development being first brought into use. Thereafter, the biodiversity measures shall be permanently retained in accordance with the approved details unless otherwise agreed in writing with the Planning Authority.

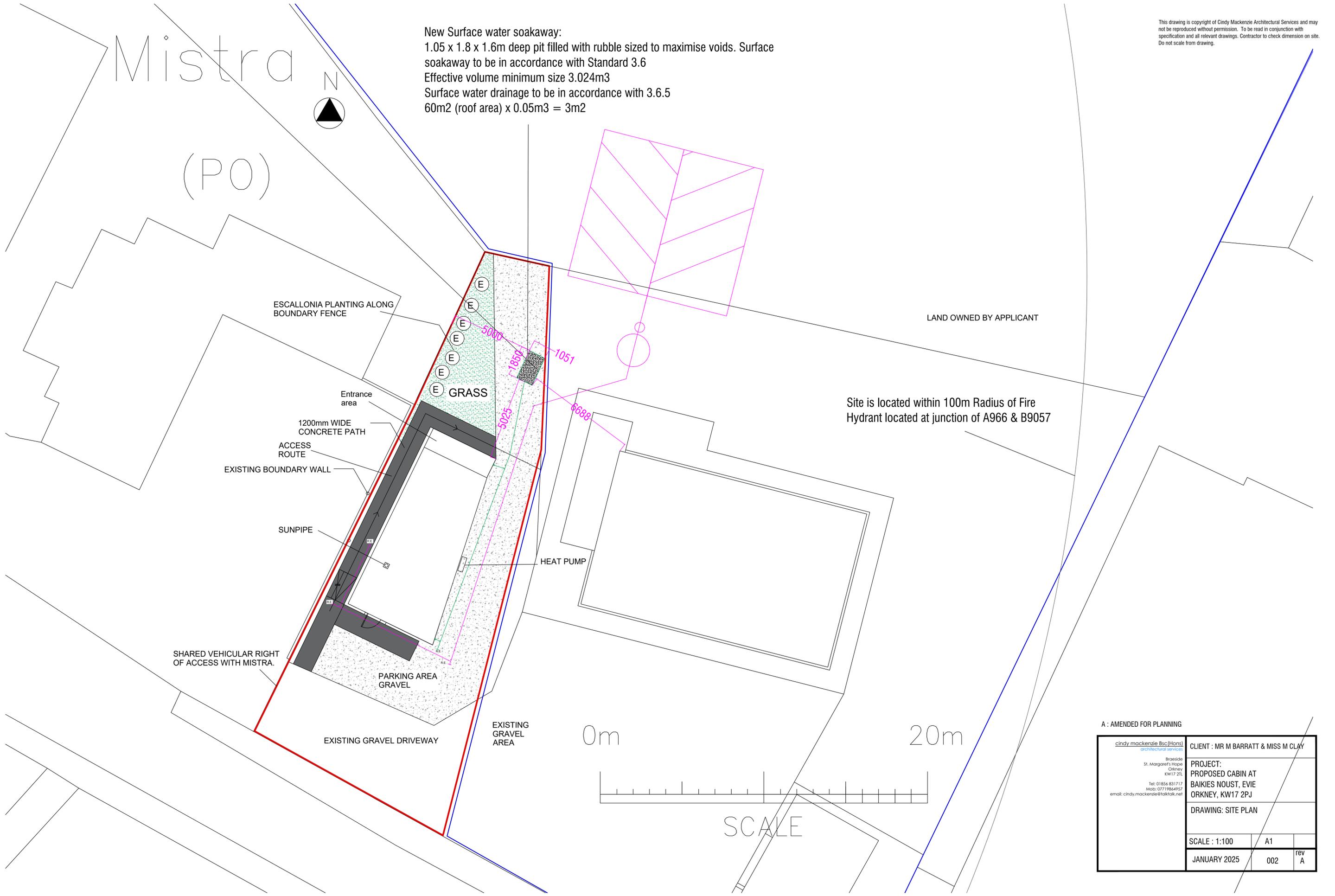
Reason: To ensure the proposed biodiversity measures are implemented.

10. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Mondays to Fridays; 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays unless otherwise agreed, in writing, with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of the amenity of the area and to reduce any possible nuisance arising to nearby residents/properties during the construction of the development.

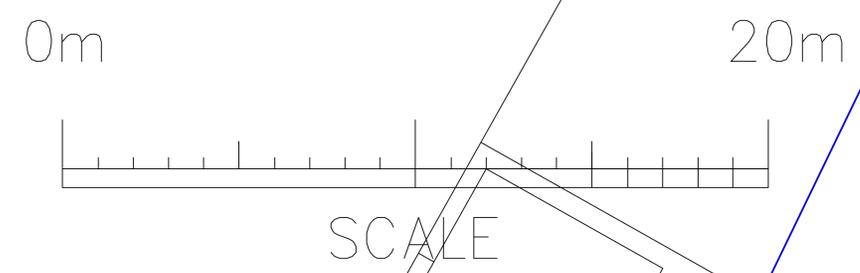
This drawing is copyright of Cindy Mackenzie Architectural Services and may not be reproduced without permission. To be read in conjunction with specification and all relevant drawings. Contractor to check dimension on site. Do not scale from drawing.



New Surface water soakaway:
 1.05 x 1.8 x 1.6m deep pit filled with rubble sized to maximise voids. Surface soakaway to be in accordance with Standard 3.6
 Effective volume minimum size 3.024m³
 Surface water drainage to be in accordance with 3.6.5
 60m² (roof area) x 0.05m³ = 3m²

LAND OWNED BY APPLICANT

Site is located within 100m Radius of Fire Hydrant located at junction of A966 & B9057



A : AMENDED FOR PLANNING

cindy mackenzie Bsc(Hons) architectural services Braeside St. Margaret's Hope Orkney KW17 2JL Tel: 01856 831717 Mob: 07719864957 email: cindy.mackenzie@talktalk.net	CLIENT : MR M BARRATT & MISS M CLAY		
	PROJECT: PROPOSED CABIN AT BAIKIES NOUST, EVIE ORKNEY, KW17 2PJ		
	DRAWING: SITE PLAN		
	SCALE : 1:100	A1	
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