



Item: 7

Planning Committee: 25 June 2025.

Proposed Change of Use from Offices to Boarding House (Class 7) at Garden House, New Scapa Road, Kirkwall.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers the proposed change of use of office accommodation to a boarding house (Class 7) at Garden House, New Scapa Road, Kirkwall. The property is within the Kirkwall settlement boundary. Three objections have been received, regarding the growth of short-term let properties in the area, impact on housing, and impact on amenity. The development complies with relevant policies, and the objections and other material considerations do not merit refusal of the application.

| | |
|------------------------|---|
| Application Reference: | 25/086/PP. |
| Application Type: | Full Planning Permission. |
| Proposal: | Proposed change of use from office accommodation to a boarding house (Class 7). |
| Applicant: | Orkney Island Hotels Ltd. |
| Agent: | Alan Gray, HRI Munro Architecture, Naver House, Naver Road, Thurso, KW14 7QA. |

- 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 proposed change of use from office accommodation to a boarding house (Class 7), at Garden House, New Scapa Road, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services

- 3.1. “Whilst Roads Services do not object to this development proposal it is noted that site plan provided does not indicate that any disabled parking will be provided as part of the development. Therefore, the applicant should be asked to provide and updated site plan that clearly indicates where disabled parking will be provided, as well as provision of suitable access from the car park to the building for disabled users.”
- 3.2. In response, an amended site plan has been provided. Roads Services has subsequently confirmed, “The amended site plan now includes an element of disabled parking as requested in Roads Services earlier consultation response. Therefore, as previously indicated Roads Services have no objection to this development proposal”.

Scottish Water

- 3.3. “Scottish Water has no objection to this planning application.”

Development and Marine Planning – Environmental Planner

- 3.4. As the post of Environmental Planner is currently vacant, Development Management has assessed the proposed biodiversity enhancement measures without internal consultation response.

4. Representations

- 4.1. Three valid representations (objections) have been received from:
- Donald and Jean Bain, 9, Scapa Court Kirkwall KW15 1BJ.
 - Keith and Maureen Moar, 2 Scapa Court, Kirkwall, Orkney, KW15 1BJ.
 - Leslie Sinclair, 31A Broad Street, Kirkwall, KW15 1DH.

4.2. One valid representation (neutral comment) has been received from:

- Robert Scott, Quoyloo, 4 Scapa Court, Kirkwall KW15 1BJ.

4.3. Representations are on the following grounds:

- Rapid growth of short-term let properties in Orkney.
- Impact on range and tenure of local housing.
- Impact on residential amenity.
- Impact on the amenity of the ‘Open Space 300 metre catchment area’ designated in Orkney Open Space Strategy: Planning for Open Space- Supplementary Guidance 2014.
- Impact on vehicular traffic, parking and road safety.
- Impact on pedestrians, cyclists, horse riders and dog walkers.

5. Relevant Planning History

5.1. Planning applications

| Reference | Proposal | Location | Decision | Date |
|------------|--|---|------------------------------|-------------|
| 23/157/VR. | Vary condition 03 (access and parking provision) of planning permission 19/365/PP. | Garden House, New Scapa Road, Kirkwall, Orkney, KW15 1BL. | Grant Subject to Conditions. | 16.09.2023. |
| 19/365/PP. | Change of use from offices (Class 4) to offices and other services (Class 2), extend, alter existing car park and stop up public road to form car parking. | Garden House, New Scapa Road, Kirkwall, Orkney, KW15 1BL. | Grant Subject to Conditions. | 15.09.2020. |
| 19/241/PP. | Extend a building and create an access and car parking. | Garden House, New Scapa Road, Kirkwall, | Withdrawn. | 22.10.2019. |

| Reference | Proposal | Location | Decision | Date |
|-------------|--|---|------------------------------------|-------------|
| | | Orkney, KW15 1BL. | | |
| 02/152/PPF. | Erection of a porch. | New Scapa Road, Kirkwall. | Grant Subject to Conditions | 06.06.2002. |
| 01/304/PPF. | Form new vehicle drop-off point. | Garden House, New Scapa Road, Kirkwall. | Subject to Conditions | 26.09.2001. |
| 01/277/PPF. | Vestibule extension and internal alterations. | New Scapa Road, Kirkwall, Orkney, KW15 1BL. | Grant Subject to Conditions. | 26.09.2001. |
| 88/173/PPF. | Proposed Erection of an Administration Block and Car Park. | Scapa Crescent, Kirkwall. | Grant Subject to Conditions. | 21.11.1988. |

5.2. The current use of the premises is offices (Use Class 4 – Business). Planning permission 23/157/VR was approved in September 2023 (as a variation of a planning condition attached to planning permission 19/365/PP). Planning permission 23/157/VR remains extant, for the change of use of the building from offices to a mixed-use development of offices and other services (Class 2), and to extend and alter the existing car park and stop up the public road to form car parking.

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 9 - Brownfield, vacant and derelict land and empty buildings.
 - Policy 14 - Design, quality and place.
 - Policy 15 - Local Living and 20-minute neighbourhoods.
 - 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.
 - Policy 9 - Natural Heritage and Landscape
 - Policy 14 - Transport, Travel and Road Network Infrastructure.
 - 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 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

Background and Proposal

- 8.1. Planning permission is sought for a change of use from office accommodation to a boarding house (Class 7). The two storey property is within the Kirkwall settlement boundary, surrounded by New Scapa Road and Scapa Crescent as indicated in the Location Plan attached as Appendix 2 to this report.
- 8.2. Internal alteration of the existing building is proposed to accommodate the proposed change of use. Externally, two windows on the north-east elevation would be combined and enlarged, uPVC framed windows would be made good as necessary, and all facias and soffits would be replaced with low maintenance boarding, coloured as existing plywood. The proposal would not create any adverse visual impact, in accordance with Policy 1 'Criteria for All Development' and Policy 2 'Design' of the Local Development Plan.
- 8.3. The description 'boarding house' relates to the various functions described within Use Class 7 'hotels and hostels' of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, which includes hotels, hostels, guesthouses, and boarding houses. In this case, the description relates to the proposed model of operation. The development is designed as visitor accommodation, comprising 22 rooms, each with an ensuite shower room. The design includes no reception area and would utilise self-check-in, and does not rely on a permanent staff presence, (so is not a hotel or guest house), and there would be no communal lounge, laundry or kitchen facilities (so is not a hostel). Therefore, the description is boarding house, as 22 rooms within a single premises.

- 8.4. Representations include concerns regarding the business model and the feasibility of the proposal. These are matters for the developer, and are not material to the planning decision.

Principle

- 8.5. Use Class 7 is a commercial use, in terms of Policy 4 ‘Business and Industrial Land’, part A ‘Within Settlements’, paragraph (iii) ‘Elsewhere Within Settlement Boundaries’ of the Local Development Plan, which supports the redevelopment of existing sites within the settlement boundary. The development complies with Policy 9 ‘Brownfield, vacant and derelict land and empty buildings’ of NPF4.
- 8.6. Policy 30 ‘Tourism’ of NPF4 supports new tourism-related developments, including accommodation. Notwithstanding the submitted objection regarding the extent of provision of additional tourist accommodation, the development is acceptable in principle.
- 8.7. The change of use would not result in any loss of residential properties, as stated in representations. No specific policy provision relates to or prohibits the conversion of office accommodation to short-term lets or visitor accommodation, and each case must be considered in terms of relevant policy provisions and other material planning considerations.

Access and Parking

- 8.8. The proposal includes 22 property-owned parking spaces including two disabled parking spaces. Including in relation to the extant planning permission, and notwithstanding concerns raised in objections, the anticipated impact on traffic flow and the safety of road users is acceptable. Roads Services has no objection for the proposal. On that basis, the proposal would comply with Policy 14B ‘Sustainable Travel’ of the Local Development Plan in terms of parking provision.
- 8.9. The proposal would not affect existing pedestrian and active travel links surrounding the property, and enhancement of the biodiversity would improve the quality of the place. As such, no unacceptable impact is anticipated on pedestrians, cyclists, horse riders and dog walkers.
- 8.10. Representations include reference to the risk of neighbouring streets being impacted by vehicle parking. It is recognised that the area generally is subject to high parking demand, principally due to the proximity of the hospital. However, in reaching planning decisions, assessment must principally be made on the

provision of any specific development. In this case, as noted above, the parking provision is sufficient to serve the development proposed.

Water Supply and Drainage

- 8.11. Scottish Water has no objection to this planning application but noted that the combined sewer system within the area is under considerable pressure due to surface water entering the network. The development would not alter the existing hardstanding or permeable areas and would not result any additional burden in terms of surface water discharge.

Biodiversity Enhancement

- 8.12. The site has many existing well-established and mature trees and ground cover shrubs creating wildlife habitat, in combination with Arcadia Park adjacent. It is proposed to maintain and protect the existing biodiversity features and enhance those by introducing new screen hedging shrubs and bushes, which would be controlled by planning condition. The development is considered compliant with Policy 3C 'Biodiversity' of NPF4.

Residential Amenity

- 8.13. In relation to objections raised regarding impact on residential amenity, the developer has confirmed the scheme is for accommodation only, with no associated social or other potentially disruptive functions. The context is also relevant, at the edge of the town and close to the hospital which has a 24-hour function. As is common practice for managed residential properties, management measures would be in place to protect the amenity enjoyment of neighbouring properties, as well as other residents within the building itself. No unacceptable amenity concerns are anticipated. It is relevant that the entire premises would be converted to the boarding house use and would not create a situation of permanent accommodation and visitor accommodation at the same premises.
- 8.14. As window openings are existing, no additional overlooking or privacy issues would be created. External lighting would also be controlled.

Other Matters

- 8.15. Enhancement measures regarding biodiversity and management of the outside space surrounding the building generally would fulfil the vision of the 'Orkney Open Space Strategy 2014', as raised in objection.

- 8.16. In terms of Policy 15 ‘Local Living and 20 minute neighbourhoods’ of NPF4, this is of limited relevance as it principally relates to local living and therefore mainly in relation to development of housing.

9. Conclusion

- 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:

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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.

1. 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.

2. Occupation of (any part of) the boarding house 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 boarding house shall throughout the lifetime of the development maintain and shall make available to the Planning Authority, if requested, a register of occupiers of the boarding house to which this planning permission relates.

Reason: To ensure that the boarding house is occupied only on a short-term basis.

3. The development shall not be brought into use until the car park is laid out wholly in accordance with the site plan hereby approved. Throughout the lifetime of the development, all vehicle parking spaces shall be kept clear of obstruction and shall be available for vehicle parking.

Reason: To ensure the full parking provision is available for the business operation.

4. Throughout the lifetime of the development hereby approved, 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.

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.

5. The biodiversity enhancement measures identified on the 1:500 Proposed Site Plan (Dwg. No. 900) and described in the Biodiversity Enhancement Form (dated 25 April 2025) shall be implemented in full no later than the first planting season following commencement of development. Thereafter the biodiversity measures shall be permanently retained in accordance with the approved details, including replacement of any planting that does not survive, is removed, or is damaged, unless otherwise agreed, in writing, by the Planning Authority.

Reason: To ensure biodiversity measures are implemented as required by Policy 3 of National Planning Framework 4.

6. All existing trees and shrubs as identified in approved drawings shall be retained undamaged throughout the construction period, including no use of plant or machinery or storage of materials for a distance not less than two metres from any retained tree or shrub. Thereafter and throughout the lifetime of the development, all trees and shrubs shall be retained without removal or pruning, unless otherwise approved, in writing, by the Planning Authority.

Reason: To ensure the existing biodiversity is safeguarded as required by National Planning Framework 4 Policy 3.

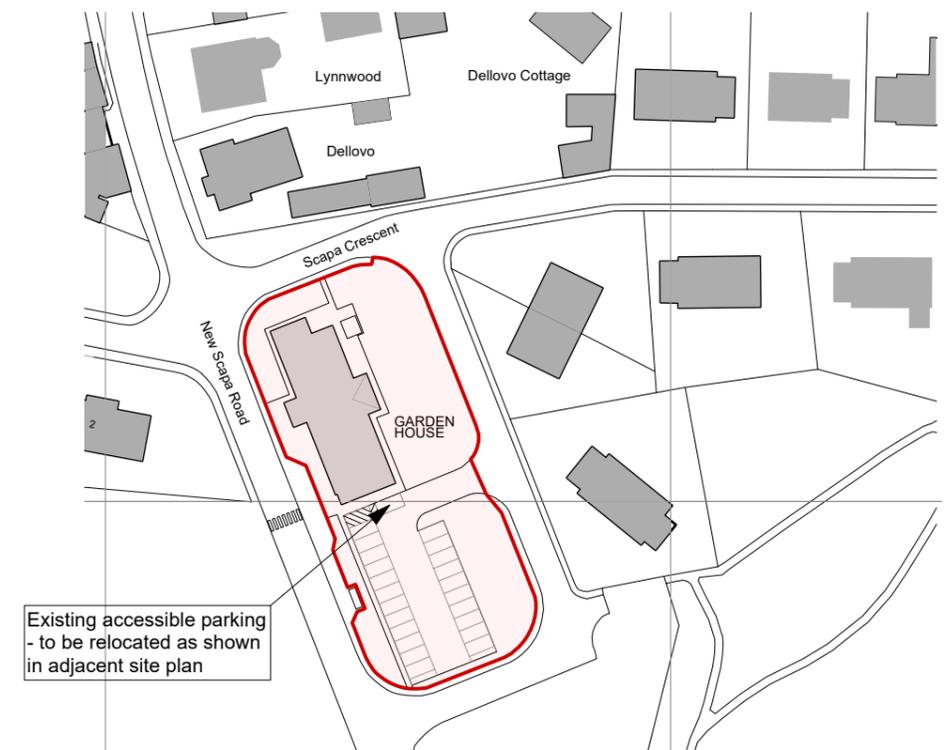
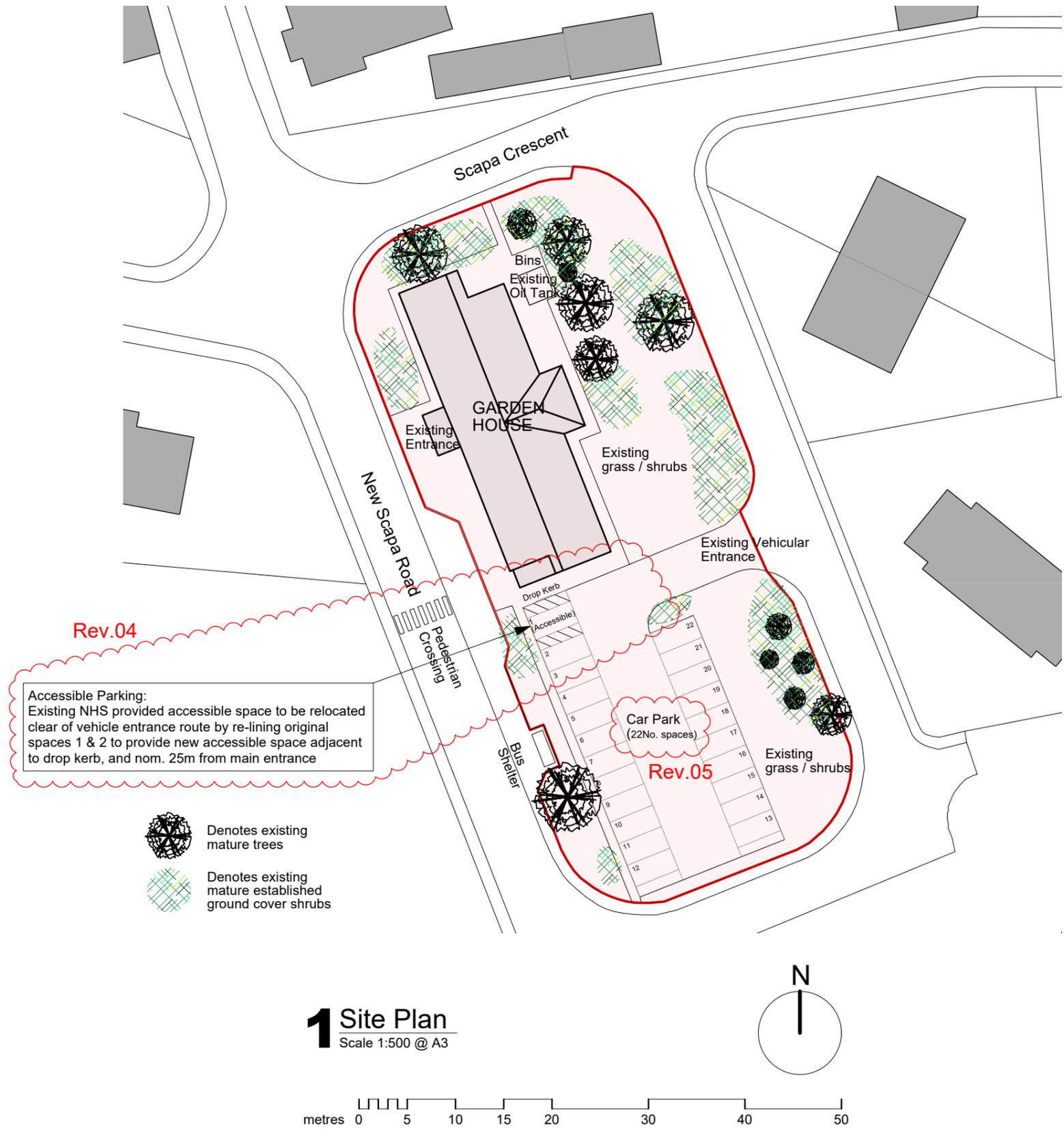
7. Throughout the lifetime of the development, any exterior lighting employed on the development shall be so positioned, angled and controlled to prevent any direct illumination, glare or light spillage outwith the site boundary. External lighting on the building shall meet the requirements for Zone E3/E4 areas (Medium Brightness/High District Brightness) as defined by the Institution of Lighting Professionals.

Reason: To ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow' and to accord with Orkney Local Development Plan 2017 Policy 2 - Design and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

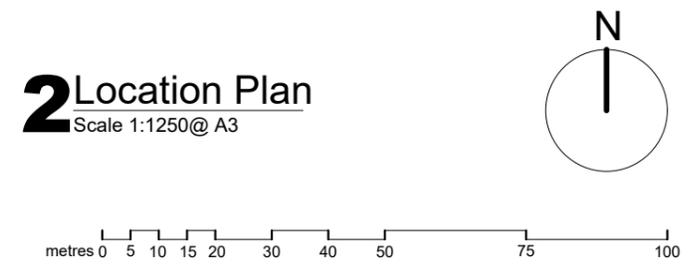
8. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Mondays to Fridays; 08:00 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.



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| No. | Date | Revision |
|-----|------------|-------------------------------|
| 6 | 03/06/25 | Parking numbers corrected |
| 5 | 28/05/25 | Accessible space relocated |
| 4 | 23/05/25 | Accessible Parking Identified |
| 3 | 27/03/2025 | Building Warrant |

Scale bar

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Project Title
Garden House

Project Address
Garden House Kirkwall

Project Stage
Building Warrant

Project No
T.7358

Drawing No
001

Drawing Title
Location Plan

Date
23/01/25

Rev No.
06

Scale @ A3
1:500

Project Lead By
AG

Drawn By
RG

Checked By
AG