

Item: 2

Planning Committee: 25 March 2026.

**Proposed Change of Use from Retail to Guest House/Hostel and
Associated Works at 11 Victoria Street, Kirkwall.**

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application for the change of use from retail (Class 1) to a guest house/hostel (Class 7), extend the premises, create window and door openings, install new and replacement windows and doors, and rainwater goods at 11 Victoria Street, Kirkwall. One letter of objection has been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/238/PP.
Application Type:	Planning Permission.
Proposal:	Change of use from retail (Class 1) to a guest house/hostel (Class 7), extend, create window and door openings, install new and replacement windows and doors, and rainwater goods.
Applicant:	Mr Norman McLennan.
Agent:	Crawford Architecture, 72 New Wynd, Montrose, Angus, DD10 8RF.

- 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 retail (Class 1) to a guest house/hostel (Class 7), extension of the premises, creation of window and door openings, and installation of new and replacement windows and doors, and rainwater goods at 11 Victoria Street, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services

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

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

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

Engineering Services

3.2. “Flood Risk

We provided advice on this proposal in September when we advised a flood risk assessment would not be required alongside the application.

The development proposal represents an increase in vulnerability classification, and there is known flood risk on both Victoria Street and Junction Road. However, topographical analysis of the area indicates that the residential portion of the development is sufficiently elevated above predicted flooding indicated on SEPA mapping and Scottish Water modelling to the south (Victoria Street), west (Junction Road) and north (Broad Street). It is therefore not considered to be at elevated risk of flooding.

The access to Junction Road which is within the redline application boundary is at risk of surface water flooding, but as the primary access appears to be from Victoria Street which at this section is indicated to be clear of flood risk, this is not considered to be a significant issue.

We do not object to this application.”

Orkney Heritage Society

3.3. “OHS has no objection to this application.”

Scottish Water

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

4. Representation

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

- Leslie Sinclair, 31A Broad Street, Kirkwall, KW15 1DH.

4.2. The representation is on the following grounds:

- The suitability of the use at this location.
- Legitimacy of statements made in support of the application.

5. Relevant Planning History

5.1. No recent relevant planning history.

6. Relevant Planning Policy and Guidance

6.1. The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).

6.2. National Planning Framework 4 can be read on the Scottish Government website [here](#).

6.3. The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:

- National Planning Framework 4:
 - Policy 7: Historic assets and places.
 - Policy 13: Sustainable transport.

- Policy 22: Flood risk and water management.
- Policy 30: Tourism.
- Orkney Local Development Plan 2017:
 - Policy 3: Settlements, Town Centres and Primary Retail Frontages.
 - Policy 8: Historic Environment and Cultural Heritage.
 - Policy 13: Flood Risk, SuDS & Waste Water Drainage.
 - Policy 14: Transport, Travel & Road Network Infrastructure
- 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. The application site is a retail unit at 11 Victoria Street, Kirkwall, as indicated in the Location Plan attached as Appendix 2 to this report. Planning permission is sought for the change of use from retail (Class 1) to a guest house/hostel (Class 7), extend, create window and door openings, install new and replacement windows and doors, and rainwater goods. The site is located within Kirkwall Conservation Area and the Town Centre.
- 8.2. The rear of the site is in use as letting rooms, approved under planning permission 16/507/PP.

Principle

- 8.3. Policy 3 of the Orkney Local Development Plan 2017 supports commercial development which is appropriate to the scale and function of individual settlements, and which contributes to the vibrancy and vitality of our town centres. NPF4 Policy 30 states that development proposals for the reuse of existing buildings for short-term holiday letting will not be supported where the proposal will result in an unacceptable impact on local amenity or the character of a neighbourhood or area or the loss of residential accommodation.
- 8.4. The site is located within the town centre, where a mix of uses is supported. The proposal will not adversely impact amenity and is a compatible use at this location.
- 8.5. The proposal complies with OLDP Policy 3 and NPF4 Policy 30 and is therefore acceptable in principle.

Conservation Area

- 8.6. The site is located within Kirkwall Conservation Area. The proposed physical alterations are acceptable and would preserve or enhance the character and appearance of the conservation area. The addition of a door and windows on the front elevation is a positive addition that would open and provide an active frontage to a currently blank elevation, albeit there is one window at first floor level. The changes are in-keeping with the general character of the street. The proposed replacement roof is on a like for like basis. Alterations to the rear are

hidden from public view, and therefore the normal pragmatic approach can be taken with regards to the materials, on the basis any alterations in that location have no impact on the appearance of the area from public realm.

- 8.7. In terms of the character of the conservation area, as noted above, the site is within the town centre and the use as short-term lets is a compatible use.
- 8.8. The proposal complies with Policy 8 of the Orkney Local Development Plan 2017 and NPF4 Policy 7.

Roads

- 8.9. Following consultation, Roads Services offered no objection to the proposal. It was noted in the consultation response that as no parking has been provided, the development does not comply with the National Roads Development Guide. However, in the proposed location, NPF4 Policy 13 'Sustainable transport' can take precedence, and the proposal is acceptable.
- 8.10. The proposal complies with Policy 14 of the Orkney Local Development Plan 2017 and NPF4 Policy 13.

Flooding

- 8.11. Engineering Services has raised no objection to the proposal. The development represents an increase in vulnerability classification, and whilst there is known flood risk in parts of Victoria Street and Junction Road, topographical analysis of the area indicates that the residential portion of the development is sufficiently elevated above predicted flooding, as indicated on SEPA mapping and Scottish Water modelling to the south (Victoria Street), west (Junction Road) and north (Broad Street). The development is therefore not considered to be at risk of flooding.
- 8.12. The access to Junction Road which is within the red line application boundary is at risk of surface water flooding, but as the access appears from Victoria Street is indicated to be clear of flood risk, this is not considered to be a significant issue.
- 8.13. The proposal complies with Policy 13 of the Orkney Local Development Plan 2017 and NPF4 Policy 22.

Public comments

- 8.14. One letter of objection has been received, with comments received that focus on proposed development summarised as regarding the suitability of the proposal and change of use at this location. The suitability in policy terms is addressed above in the sections on principle and in the context of the conservation area.
- 8.15. Further comments received relate to content within the submitted supporting statement, including that the development would accommodate ‘incoming essential workers’ and including reference to the benefits of bringing empty homes back into use; the objector states that there would be no strict requirement for the occupants to be incoming and/or key workers, and also notes that the existing premises are commercial and not an empty home.
- 8.16. The statements made are a position presented by an applicant or agent and are not necessarily regarded by the Planning Authority as statements of fact. Supporting information was considered by the Planning Authority in conjunction with the content of the objection. In this case, whilst a material consideration, it is not critical to the conclusion whether the accommodation would be used by key workers or others, and it is accepted the property is not an empty home and any supporting statement in that regard can be dismissed. Ultimately, in assessment of any such planning application, only appropriate weight can be given to statements made. Notwithstanding any supporting information made in submitted documents, the application is assessed in accordance with the process set out in paragraph 7.1. above.

9. Conclusion

- 9.1. The proposal complies with the Orkney Local Development Plan 2017 and National Planning Framework 4. The proposal is acceptable in principle, would preserve and enhance the character and appearance of the conservation area, and is acceptable in terms of roads and flood risk. There are no material considerations that outweigh this conclusion, including matters raised in the representation. The application is recommended for approval, subject to the conditions set out in Appendix 1.

For Further Information please contact:

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

Implications of Report

1. **Financial:** None.
2. **Legal:** Detailed in section 7 above.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
4. **Human Resources:** None.
5. **Equalities:** Not relevant.
6. **Island Communities Impact:** Not relevant.
7. **Links to Council Plan:** Not relevant.
8. **Links to Local Outcomes Improvement Plan:** Not relevant.
9. **Environmental and Climate Risk:** None.
10. **Risk:** If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission, on the basis of the proposal being contrary to the development plan policy and the officer's recommendation, be given and minuted. This is in order to provide clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Orkney Local Development Plan 2017, available [here](#).
National Planning Framework 4, available [here](#).

Appendices

Appendix 1 – Planning Conditions.
Appendix 2 – Location Plan.

Appendix 1.

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. 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 or the Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

Reason: In the interest of residential amenity of the area and in order to reduce any possible nuisance arising to nearby residents during the construction of this development.

03. The pitched roof shall be finished using a traditionally profiled sinusoidal corrugated sheeted roof. No development shall commence until full details of the proposed galvanised steel roof, including trade names where applicable, have been submitted to and approved, in writing, by the Planning Authority. Thereafter, only these approved details shall be used on the development hereby approved.

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

04. All rainwater goods and the soil vent pipe (SVP) hereby approved shall be constructed from metal with a black painted finish.

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

05. Notwithstanding the details included in the door elevation and section hereby approved, the new entrance door facing into Victoria Street shall comprise four flat (not raised) panels, with raised mouldings. No development shall commence until full details of the proposed door, including sections, have been submitted to and approved, in writing, by the Planning Authority. Thereafter, only these approved details shall be used on the development hereby approved.

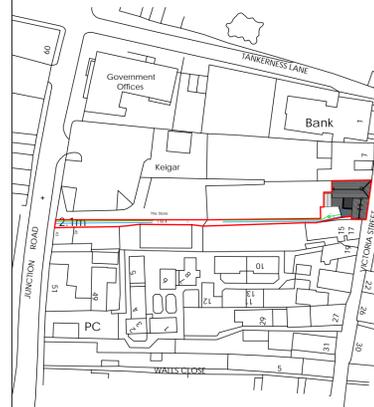
Reason: To protect the character and appearance of the conservation area.

06. Following completion of external alterations to Victoria Street including the addition of window and door openings, the development hereby approved shall not be occupied until the wall finish facing into Victoria Street, across both parts/heights of the building, is uniform in finish and appearance, with no visible areas of repair or patching. Should this uniform finish require application of a replacement render or paint or other covering, such works shall not be carried out until full details are submitted to and approved, in writing, by the Planning Authority, and thereafter any such works shall be carried out wholly in accordance with approved details.

Reason: To protect the character and appearance of the conservation area, by ensuring the exterior of the building is not characterised by patches in render resulting from damage to or loss of render during works to form new openings.

This drawing is solely for the purposes of obtaining Planning Approval. The drawing may be suitable for constructional purposes but it may be necessary to augment/and or amend this information. No liability will be accepted for any omission should the drawing be used for constructional purposes.

Do not scale this drawing for construction purposes.

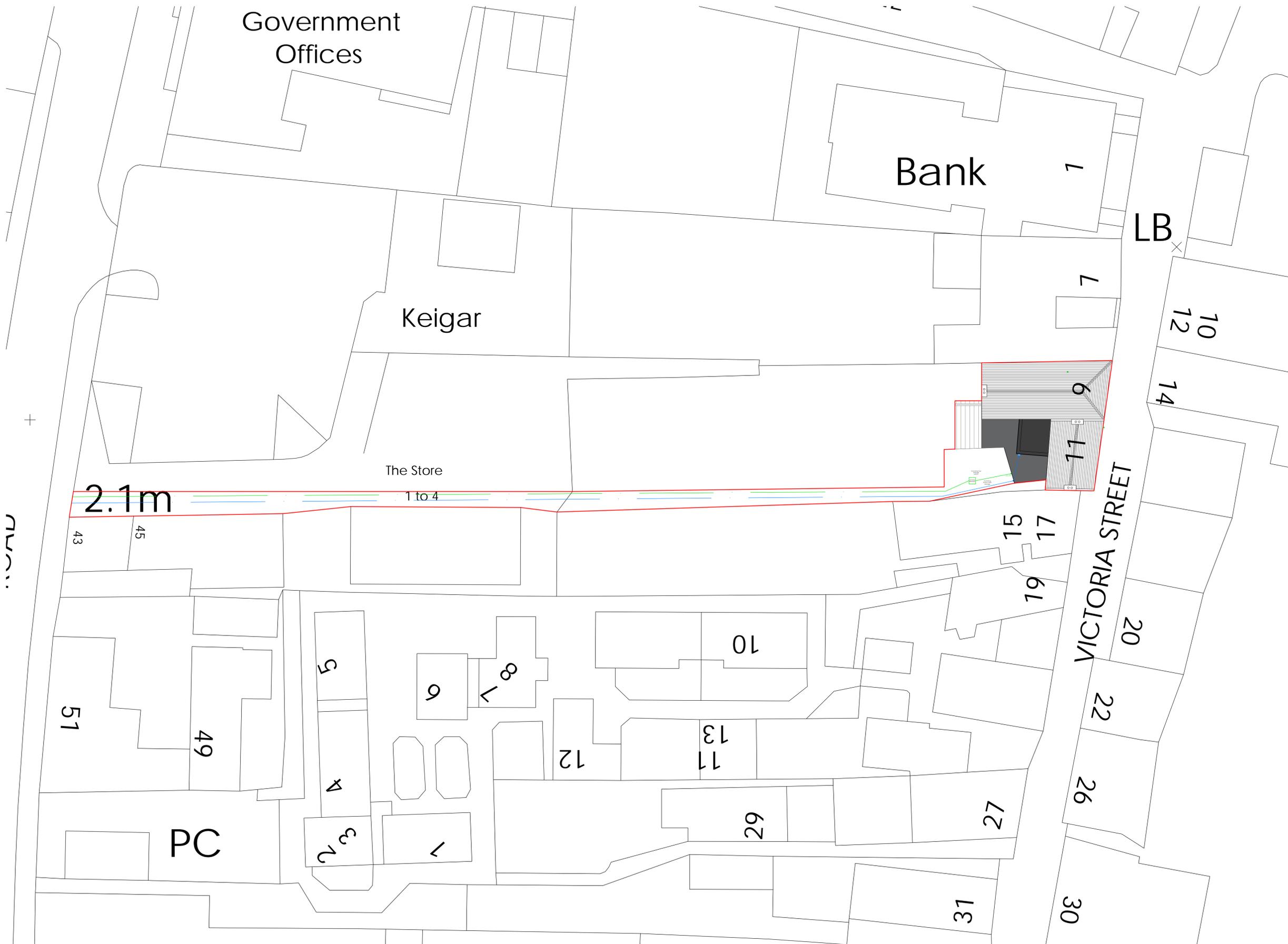


Proposed Location Plan
1:1250



SCALE 1:1250

Drainage -
All Drainage both foul and rainwater into existing systems.



Proposed Site Plan
1:200 @ A1



SCALE 1:200

A1	REVISION:	A	DRAWN BY:	CHECKED BY:
	ISSUED:	14.08.25	CP	DP

CLIENT: Mr N McLennan

PROJECT: Change of use from Class 1 to short term let facility with 6no bedrooms at The Old Printworks, Junction Road, Kirkwall, KW15 1TQ

TITLE: Proposed Site Plan

DRAWING REF: JDC-3039 -300-PL



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