

Item: 4.3

Planning Committee: 6 July 2022.

Convert Redundant Buildings to House, Alter and Extend, incorporating Change of Use of Self-catering Unit and Agricultural Shed to Domestic, at Gerraquoy, South Ronaldsay.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

Planning permission is sought to convert existing redundant outbuildings into a house, alter and extend those buildings, incorporating the change of use of an existing self-catering unit and agricultural shed. No representations have been received. At the time of submission, the applicant was an elected member of the Orkney Islands Council. In accordance with the Scheme of Administration, any application made by or on behalf of an elected member of the Council cannot be determined under delegated powers, and the application must therefore be reported to Planning Committee for determination. It is considered that the proposal is acceptable in terms of scale, design and layout and that it accords with policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval, subject to conditions and terms requiring completion of a planning obligation.

Application Number:	22/043/PP.
Application Type:	Planning Permission.
Proposal:	Convert redundant buildings to a house, alter and extend, incorporating change of use of self-catering unit and agricultural shed to domestic.
Applicant:	Stephen Sankey, Gerraquoy, South Ronaldsay, KW17 2TH
Agent:	N/A

1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm
(then enter the application number given above).

2. Consultations

2.1. Environmental Health.

2.1.1.

Environmental Health initially objected, due to noise impact from existing wind turbines.

2.1.2.

This was subsequently resolved: "In light of the information you have provided, should the Planning Authority secure a section 75 agreement with the applicant which facilitates a shared financial benefit and operational control between the two properties, then Environmental Health would have no objection, should the proposal be recommended for approval."

2.2. Scottish Water and Roads Services.

These consultees have not objected or raised any issues which cannot be addressed by planning conditions.

3. Representations

No representations have been received.

4. Relevant Planning History

Reference	Proposal	Location	Decision	Date
10/509/PP	Amend planning consent 09/431/PP to erect two different turbines (max. height 18.15m).	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	03.05.2011
09/431/PP	Erect a wind turbine generator (max. height 18m).	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	26.11.2009
07/543/APN	Erect GP shed.	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	23.10.2007
05/536/PPF	Form self-catering unit including extension and wall-mounted wind turbine generator.	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	08.12.2005
04/518/PPF	Erection of a conservatory.	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	01.12.2004

98/196/PPF	Extension to a house.	Gerraquoy, South Ronaldsay, KW17 2TH	Approved	24.06.1998
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5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

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

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5 – Housing
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
 - Supplementary Guidance: Housing in the Countryside (2021).
 - Policy Advice (PPA): Amenity and Minimising Obtrusive Lighting (2021).

6. Legal Aspects

6.1.

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...”

6.2.

Annex A of Planning Circular 3/2013: ‘development management procedures’ provides advice on defining a material consideration, and following a House of Lord’s 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.”

6.3.

Annex A continues as follows:

- The House of Lord's 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.
 - Policy in the Scottish Planning Policy and Designing Streets.
 - Scottish Government planning advice and circulars.
 - EU policy.
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance.
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act.
 - 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.

6.4.

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.

6.5.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

6.6.

As detailed at paragraph 2.1.2 above, a Section 75 Agreement would be necessary to secure a shared financial benefit and operational control between the two properties and both existing turbines collectively. In order to achieve this, a condition of the Section 75 agreement would be that neither the existing farmhouse nor the new house could be sold individually - and without both turbines also being included in any sale. In effect, the new development, farmhouse and two turbines would form one unit that could not be sold off separately.

6.7.

Legal Services would prepare a Section 75 agreement. The applicant would require to pay the Council's legal fees as well as the cost of the registration dues of the Section 75 agreement.

7. Assessment

7.1. Principle

With regards the principle of converting redundant outbuildings into a house, incorporating the change of use of an existing self-catering unit and agricultural shed to domestic, Policy 5E(ii) supports the creation of a house through the conversion of a non-domestic building or structure that is redundant to a house. The inclusion of a small element of extension and the change of use of the self-catering unit to form one house is therefore acceptable in principle.

7.2. Landscape/Visual Amenity/Character of the Area

The area of land is relatively flat and open with scattered housing accessed by single tracks. The building subject to conversion is single storey and is viewed within the landscape as part of an existing group of buildings, as shown in the Site Plan attached as Appendix 1 to this report. The existing shed and house would provide some context for the additional height of the proposed taller corner element joining the two buildings and which is not considered to be unduly dominant in the landscape. Any impact on the immediate and wider landscape, visual amenity and character of the area would therefore be minimal in this instance, in accordance with Policy 2: Design.

7.3. Design and Appearance

The design and appearance of the existing buildings would only be slightly altered by the proposed conversion, with a minimal increase in footprint to join the two buildings. The scale and massing are considered appropriate, and the taller element adds interest but does not dominate the design. This is common in traditional steadings, where a taller farmhouse is often adjoined by a series of other structures of differing heights and massing. The proposed use of materials is appropriate and mixes traditional and modern to achieve a high standard of finish. The development is considered acceptable in terms of design and appearance, in accordance with Policy 2: Design.

7.4. Services and Access

The proposed development would be adequately serviced through existing infrastructure. The intensification of the existing access from the B9044 would be acceptable and Roads Services has confirmed no objection subject to a planning condition regarding the specification of the access.

7.5. Amenity

7.5.1.

Although the proposed dwelling would be near the existing farmhouse, with the sensitive design, the use of obscure glazing along the southeast elevation, proposed intervening walls, the presence of an existing greenhouse and location of private garden spaces, it is considered that sufficient privacy would be retained. Both properties would be served with adequate amenity space to accommodate the development and, as a conversion and alteration of existing structures to residential

use, no unacceptable impact is anticipated from nuisances, loss of privacy, proximity, excessive traffic movement, loss of natural day lighting or any other form of disturbance. It is considered that the proposed development would comply with Policy 1: Criteria for All Development and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting.

7.5.2.

The development is close to two existing wind turbines, approved under application reference 10/509/PP, and in the control of the applicant. These currently serve the existing steading and farmhouse, with the proposed development in an intervening position, between the turbines and the farmhouse. The supporting statement confirms the applicant's preferred arrangement at the time of submission, to retain both turbines, with one serving the existing Gerraquoy farmhouse and the other serving the proposed development. Notwithstanding both turbines being under the ownership and control of the applicant, the proposed development would create a new residential planning unit. Both houses must be individually protected from noise nuisance from the turbines. Environmental Health initially objected to the proposal, including the applicant's preferred arrangement of one turbine serving each of the two resultant properties, due to the unacceptable noise impact on both properties. Any arrangement of both turbines serving the existing house, both serving the proposed house or both separately, resulted in an unacceptable noise impact.

7.5.3.

By means of explanation, Environmental Health confirmed that both turbines would be located within the guidance separation distance from noise sensitive buildings, of 140 metres. This is from the base of the turbine to the reasonable quiet amenity area (RQAA) of the garden of any noise sensitive receptor. Site-specific analysis and advice are necessary, given the presence of more than a single turbine, which must also consider the cumulative noise impact and may further extend the guidance separation shown above. A solution to resolving a noise constraint is to remove the source of the noise emitting element, ie remove the turbines, but this more radical solution is not desired by the applicant.

7.5.4.

In the absence of removing either or both turbines, the only arrangement whereby noise impact on both houses could be accepted would be if both houses had a financial involvement in, and control of, both turbines (both houses associated with both turbines equally, not one turbine per house). Given that the turbines and the farmhouse are existing, and do not form part of the current application, the only means of securing this financial involvement and control would be confirming a legal agreement. The applicant is willing to facilitate a shared financial benefit and operational control between the two properties and both existing turbines collectively. Environmental Health has confirmed acceptance of this arrangement and has no objection to the development on this basis.

7.5.5.

The consequence is that the recommendation is to approve the development, subject to completion of a planning obligation, which is a legal agreement between

the planning authority and the applicant/developer. This planning obligation would run with the land and is legally binding and enforceable. For the avoidance of doubt, should the recommendation be accepted, the decision would thereafter be issued only if/when the planning obligation is completed. On this basis, the development is considered acceptable in terms of immunity impact from the existing turbines, in relation to Policy 1: Criteria for All Development.

8. Conclusion

The development is acceptable in principle. Noise impact from existing turbines would be addressed by a planning obligation. No representations have been received. The development is therefore considered to accord with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017, Supplementary Guidance: Housing in the Countryside and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting.

9. Recommendation

9.1.

The application is recommended for approval, subject to the terms listed at section 9.2 below, and planning conditions attached as Appendix 2 to this report.

9.2. Terms

9.2.1.

Conclusion of a planning obligation between Orkney Island Council and the applicant to secure a shared financial benefit and operational control between the two properties and both existing turbines collectively.

9.2.2.

The effect of the planning obligation would be that neither the existing farmhouse nor the new development could be sold individually and without both turbines also being included in any sale. The new development, farmhouse and two turbines would form one unit that could not be sold off separately.

10. Contact Officers

Dean Campbell, Planning Officer, Development Management, Email dean.campbell@orkney.gov.uk

Jamie Macvie, Service Manager, Development Management, Email jamie.macvie@orkney.gov.uk

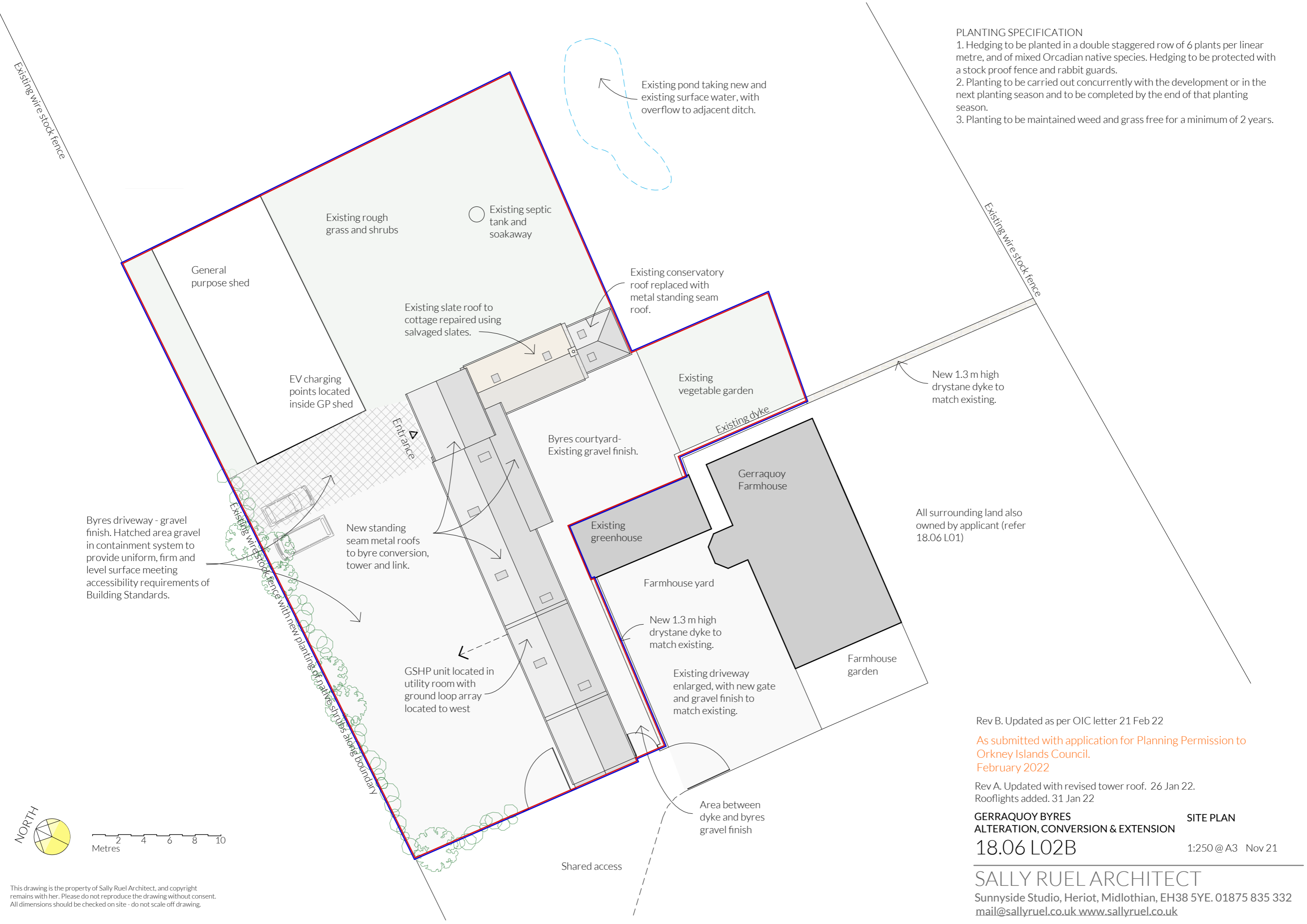
11. Appendices

Appendix 1: Site Plan.

Appendix 2: Planning Conditions.

Existing wire stock fence

- PLANTING SPECIFICATION**
1. Hedging to be planted in a double staggered row of 6 plants per linear metre, and of mixed Orcadian native species. Hedging to be protected with a stock proof fence and rabbit guards.
 2. Planting to be carried out concurrently with the development or in the next planting season and to be completed by the end of that planting season.
 3. Planting to be maintained weed and grass free for a minimum of 2 years.



New 1.3 m high drystone dyke to match existing.

All surrounding land also owned by applicant (refer 18.06 L01)

Byres driveway - gravel finish. Hatched area gravel in containment system to provide uniform, firm and level surface meeting accessibility requirements of Building Standards.

New standing seam metal roofs to byre conversion, tower and link.

GSHP unit located in utility room with ground loop array located to west

Existing pond taking new and existing surface water, with overflow to adjacent ditch.

Byres courtyard- Existing gravel finish.

New 1.3 m high drystone dyke to match existing.

Existing driveway enlarged, with new gate and gravel finish to match existing.

Area between dyke and byres gravel finish

Shared access

Rev B. Updated as per OIC letter 21 Feb 22

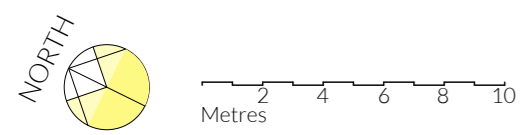
As submitted with application for Planning Permission to Orkney Islands Council. February 2022

Rev A. Updated with revised tower roof. 26 Jan 22. Rooflights added. 31 Jan 22

GERRAQUOY BYRES ALTERATION, CONVERSION & EXTENSION
18.06 L02B

SITE PLAN
1:250 @ A3 Nov 21

SALLY RUEL ARCHITECT
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Appendix 2

01. No other development shall commence on site until the site access with the public road has been constructed to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2-4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

02. The three windows on the south-east elevation closest to the existing farmhouse shall be installed with obscure glazing as indicated in the hereby approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, or any subsequent superseding legislation, these windows shall remain obscure glazed for the lifetime of the development.

Reason: In the interest of residential amenity.

03. The new boundary wall attached to the existing greenhouse subdividing both properties hereby approved shall be constructed prior to first occupation of the new dwelling.

Reason: In the interest of residential amenity and to establish the boundary divide between the two properties.

04. Throughout the lifetime of the development hereby approved, surface water must be treated in accordance with the principles of Sustainable Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

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.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B – Sustainable Drainage Systems (SuDS) of Orkney Local Development Plan 2017, Scottish Planning Policy and in the interests of road safety.

05. Throughout the lifetime of the development, any external lighting used on the dwelling and any outbuildings 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. Lighting shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1

areas (Rural) and 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 and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (March 2021).

06. Hours of construction (including conversion) work on site 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 only take place between the hours of 07:30 and 19:00 Mondays to Fridays, 09:00 to 13:00 Saturdays, and not at all on Sundays or the 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: To safeguard the amenity of nearby residents.