

Item: 4

Planning Committee: 4 December 2024.

Change of Use from Agriculture to Golf Driving Range and Erect Building with Four Bays at Swartland Farm, Twatt, Sandwick.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Overview

- 1.1. This report considers an application for the change of use of land from agriculture to a golf driving range and erection of a building with four bays on land by Swartland Farm, Twatt, Sandwick. No representations have been received. As the development is classified as a Major Development, as defined in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, in accordance with the Scheme of Delegation, the application must be reported to Planning Committee for determination. The development is informed by a Supporting Statement (dated 3 May 2024), a Biodiversity Plan (dated 30 June, received 4 November 2024) and an Operating and Emergency Plan (dated 20 September 2024). The development complies with relevant policies and other material considerations do not merit refusal of the application.

Application Reference:	24/198/PPMAJ.
Application Type:	Planning Permission Major.
Proposal:	Change of use from agriculture to a golf driving range and erect a building with four bays.
Applicant:	Mr and Mrs Steven Wylie.
Agent:	Stephen Omand, 14 Victoria Street, Kirkwall, KW15 1DN.

- 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. Recommendations

- 2.1. It is recommended that members of the Committee:
- i. Approve the application for planning permission in respect of the change of use from agriculture to a golf driving range and the erection of a building with four bays at land by Swartland Farm, Twatt, Sandwick, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Development and Marine Planning (Environmental Planner)

- 3.1. “Upon receipt of further information biodiversity measures proportionate to the nature and scale of the proposed development have been proposed. A condition is required to ensure that the proposed biodiversity measures are carried out and therefore contribute to meeting the requirements of National Planning Framework 4 (NPF4) policy 3 on biodiversity”.

Scottish Water

- 3.2. Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced.

Engineering Services

- 3.3. “The access track from Swartland Roadside is shown to be flooded almost in its entirety in the 1 in 10-year return period rainfall event (high chance or 10% probability of occurring in any year). Additionally, the access from the A967 is shown to be flooded at a short section where it crosses the Burn of Clett for an event of the same return period. The extents are not shown to be significantly worse for the 1 in 200-year return period with climate change uplift applied.

The operating plan provided with the application describes that booking will be carried out via the use of an app, and that the site will be open 12 hours a day on a semi-manned basis. The owner/operators of the proposed development are based on a working farm within a few minutes of the site. It is recommended that an emergency plan is requested from the applicant to mitigate against the risk of access routes being flooded. This should include (not exhaustive):

- Owners/operators signing up to SEPA Flood Alerts and Met Office weather warnings

- An emergency contact number for users being displayed clearly at the building
- Users providing phone numbers as part of the booking process”.

3.4. An updated operating plan reflecting the above recommendations was provided during the period of consideration. Engineering Services confirmed no objection on that basis, noting that the owners/operators should be signed up to receive Flood Alerts and weather warnings as a matter of course rather than ‘when potential flood risk becomes imminent’. The risk of flooding on the access track is current and flood alerts related to rainfall can come with little warning”.

Islands Archaeologist

3.5. “The proposal appears to avoid damage to the elements of the WW2 Skeabrae aerodrome that survive at this location, and it is important that it does so, in order to preserve these heritage assets as per NPF4 Policy 7(o) and LDP Policy 8A.

The proposed access routes follow existing tracks (parts of them instated in WW2 as part of the airfield) and should continue to do so in any future design iterations. The driving range itself is fitted neatly into an area between airfield runways and perimeter road and should continue to do so in any future design iterations. Should future iterations have adverse direct impacts upon these elements of the airfield, then mitigation strategies such as recording of assets to be impacted may be required, as per NPF4 Policy 7(o) and LDP Policy 8vi.

As the proposal currently stands, there will be no significant adverse impacts on historic environment assets at the site, nor on the HONO WHS Buffer Zone (Inner Sensitive Area), or on the Outstanding Universal Value of the World Heritage Site or its setting”.

Roads Services

3.6. “In general, the development is acceptable, however both of the access points from the public road are in need of upgrading. It is therefore requested that a condition and informative are applied to any planning permission that may be granted”.

Development and Marine Planning (Access)

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

4. Representations

4.1. No representations received.

5. Relevant Planning History

5.1. None.

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 26. Business and industry.
 - Policy 29. Rural development.
- Orkney Local Development Plan 2017:
 - Policy 1: Criteria for All Development.
 - Policy 2: Design.
 - Policy 4: Business, Industry and Employment.
 - Policy 11: Outdoor Sports, Recreation and Communities Facilities.
 - Policy 14: Transport, Travel and Road Network Infrastructure.
- Planning Policy Advice
 - Amenity and Minimising Obtrusive Lighting (2021).
- Development Management Guidance:
 - Business Development Outwith Town Centres (2023).

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.

Hierarchy Regulations

- 7.9. In accordance with the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, the proposed development is defined as a ‘Major Development’ and has been subject to Pre-Application Consultation.

8. Assessment

- 8.1. As noted in section 1 above, permission is sought for the change of use from agriculture to a golf driving range and erection of a building with four open covered bays for golfers with enclosed storage cupboard and accessible toilet facility, located by Swartland Farm in Twatt, Sandwick, as indicated in the Location Plan attached as Appendix 2 to this report. A parking area with seven bays is proposed, together with indication of septic tank and soakaway to serve the toilet and hand washing facilities. No connection to the public water supply is stated within the application form; it is however considered that connection would be pursued owing to public infrastructure in the wider area. An earthen screening berm is also

indicated to a height of 1.8 metres, located on the east boundary of the site. The site is accessed from both the A967 to the north of Bea Cottage and from the Swartland Road south of New Moan.

- 8.2. The proposed structure has a footprint of 18.1 by 5.258 metres, orientated on a south west to north east axis. The structure would have a monopitch roof with internal heights from floor to ceiling of 3.037 metres facing the range tapering to 2.611 metres. The structure would be finished in dark grey profile sheet with shuttered concrete to walls. The general appearance of the building would be a long, low and narrow profile utilitarian structure, not dissimilar from a distance to the form and appearance of buildings that would otherwise be viewed within the countryside for agricultural activities. Four individual floodlights are proposed, affixed to the building above each of the bays. Other floodlighting includes a single car park floodlight and a light over the entrance door.
- 8.3. The site is currently used for agricultural purposes by the nearby Swartland Farm; the applicant indicates that creating a golfing driving range is a form of agricultural diversification. The topography of the land is flat indicating suitability for the proposed development.
- 8.4. The proposed operational management of the site states the use of an online booking system for an hour slot, ensuring the operator is aware of use at any given time. A permanent on-site presence of staff is not indicated, albeit the proposed operator would generally be in proximity at Swartland Farm, and there is indication of possible part-time assistance as necessary.

Principle

- 8.5. The change of use is acceptable in principle, and Policy 4 'Business and Industrial Land' within the Local Development Plan supports the principle of diversification of an existing rural business, if there is a demonstrable locational requirement for the business that requires it not to be situated within a settlement.
- 8.6. Furthermore Policy 11 'Outdoor Sports, Recreation and Community Facilities' of the Local Development Plan supports the principle of new facilities outwith settlement boundaries where there are demonstrable functional and/or locational requirements. Development Management Guidance 'Business Development Outwith Town Centres' (2023) supports the principle of business development in the countryside where it is small scale and supports the following: homeworking; the diversification of an existing business; the reuse of a redundant or unused building or its curtilage; or the reuse of garden ground or brownfield land. A development proposal must only meet one of these descriptions, and whilst not

homeworking, related to agriculture to be regarded as diversification, or within garden ground or brownfield land as defined, the development at the scale proposed in terms of numbers of visitors is regarded as 'small scale'.

- 8.7. NPF4 Policy 29 (c) supports developments where it will support local employment, supports and sustains existing communities, and is suitable in terms of location, access, siting, design and environmental impact, and as interpreted by the Development Management Guidance.

Access and parking

- 8.8. Policy 14 of the Local Development Plan permits development only where the development is well connected to the existing network of roads, paths and cycleways and would not create a barrier to future development. Provision must also exist for development to be safely and conveniently accessed by service, delivery and other goods vehicles, as well as for design as to cause minimal impact on the character of the site and the surrounding area. Roads Services has stated that the two proposed access points must be upgraded to an acceptable standard.
- 8.9. Policy 14 permits new development when upgrades to an existing access, linking to the adopted road network, have been designed to an adoptable standard as defined by the National Roads Development Guide, and there are satisfactory arrangements to ensure that there is provision for the long-term maintenance. This matter can be secured by planning condition.

Residential Amenity

- 8.10. Swartland Farm is situated nearby, north-east of the proposed development. There is sufficient distance between the proposed development and the farm to raise no concerns for amenity. In that regard the development complies with Policy 1 'Criteria for All Development' of the Local Development Plan.
- 8.11. The issue of noise from golf activities and vehicles using the access would be limited to operational hours, adequately protecting the nearby farm and other residents.
- 8.12. Planning Policy Advice 'Amenity and Minimising Obtrusive Lighting' (2021) supports new development where it is demonstrated that the existing amenity value of a location and the surrounding area would be effectively preserved or enhanced. Development which has an unacceptable adverse impact on amenity will not be supported. Floodlighting on the building and for the car park is proposed; the nature, use and duration of such lighting can be controlled by

planning condition, including in the event of receipt of complaint by a third party. The driving range is adequately distant from any third-party properties that there would be no risk of direct impacts from golf balls straying outside the site boundary.

Design

- 8.13. The scale of the building is modest in its agricultural landscape. The character and form of the proposed structure is not considered to be out of keeping with other structures in the wider local area. The combination of proposed nature and extent of the driving range, modest building and ancillary features are acceptable regarding Policy 2 ‘Design’ of the Local Development Plan.
- 8.14. The potential for rural urbanisation and the loss of land from current agricultural production are material considerations and of some concern; however, on balance, and subject to appropriate conditions in relation to the nature, use and extent of the proposed development mindful of Policies 26 and 29 of NPF4, the proposal is considered acceptable.

Biodiversity

- 8.15. Biodiversity enhancement measures are included in the proposed site layout, which the Environmental Planner has confirmed are proportionate to the nature and scale of the proposed development. Implementation of these measures would be controlled by planning condition, and the development is therefore considered compliant with Policy 3 of NPF4.

9. Conclusion

- 9.1. The proposed development complies with Policies 3, 26 and 29 of National Planning Framework 4, Policies 4, 11 and 14 of the Orkney Local Development Plan 2017, Development Management Guidance ‘Business Development Outwith Town Centres’ (2023), and Planning Policy Advice ‘Amenity and Minimising Obtrusive Lighting’ (2021). The proposal is acceptable in principle, and in terms of siting, scale and design. There are no material considerations that outweigh this conclusion.

For Further Information please contact:

David Barclay, Senior Planner (Development Management), Email
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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. The hours of operation of the golf driving range shall be limited to 09:00 to 21:00 daily, and not at all on Christmas Day.

Reason: To safeguard the residential amenity of the area.

03. All external lighting (four discrete floodlights affixed to the building above each of the bays, as shown in drawing no. 1705/2/P), together with the single floodlight directed over the car park and sensor light at entrance door, shall be sufficiently screened and aligned so that there is no direct illumination of neighbouring land and no light spillage beyond the site boundary.

Reason: To ensure that any lighting installed within the application site does not spill beyond the intended target area, to protect the amenity of adjacent properties and to prevent 'sky glow'.

04. No external lighting for the golf driving range shall operate outside the hours of 08:30 to 21:30 hours daily and all external lighting shall be controlled so that lighting is operational when the facility is in use only, and as otherwise stated in accordance with the submitted Operating and Emergency Plan, dated 20 September 2024.

Reason: To ensure that any lighting installed within the application site is only operated when the facility is in use, to minimise impacts on the wider area from the presence of floodlighting.

05. Within two months of receipt of a written request from the Planning Authority, following a substantiated light complaint from a sensitive property, the operator shall, at their own expense, employ an appropriate consultant approved by the Planning Authority to carry out an assessment of light from the development. The required assessment shall be submitted to and approved, in writing, by the Planning Authority. The assessment must identify any mitigation measures required if appropriate. Any mitigation measures identified shall be implemented on site in accordance with a timescale agreed, in writing, by the Planning Authority.

Reason: To safeguard the residential amenity of the area.

06. No development shall commence until the accesses hereby approved with the public roads (A967 and Swartland Road) have 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 accesses shall be constructed and completed wholly in accordance with these details prior to any 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.

07. The proposed biodiversity measures described in the submitted Biodiversity form (version published 4 November 2024, dated 30 June 2024) and shown on the 1:50 site and layout plan drawing (undated, version published 6 June 2024, reference 1705/3/P) 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 measure that does not survive, is removed, or is damaged, unless otherwise agreed, in advance and in writing, with the Planning Authority.

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

08. No development shall commence until full details of all foul drainage infrastructure (including treatment plant and soakaway locations) have been submitted to and approved, in writing, by the Planning Authority. Thereafter, the approved foul drainage shall be installed and operational wholly in accordance with approved details prior to first use of the development.

Reason: To ensure that appropriate foul drainage infrastructure is carefully managed, situated and provided timeously, in the interests of public health and environmental protection.

09. 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.

10. Notwithstanding other uses included within Use Class 11 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, or any subsequent or superseding Orders, the development hereby approved shall be used as a golf driving range only, and for no other purpose or use.

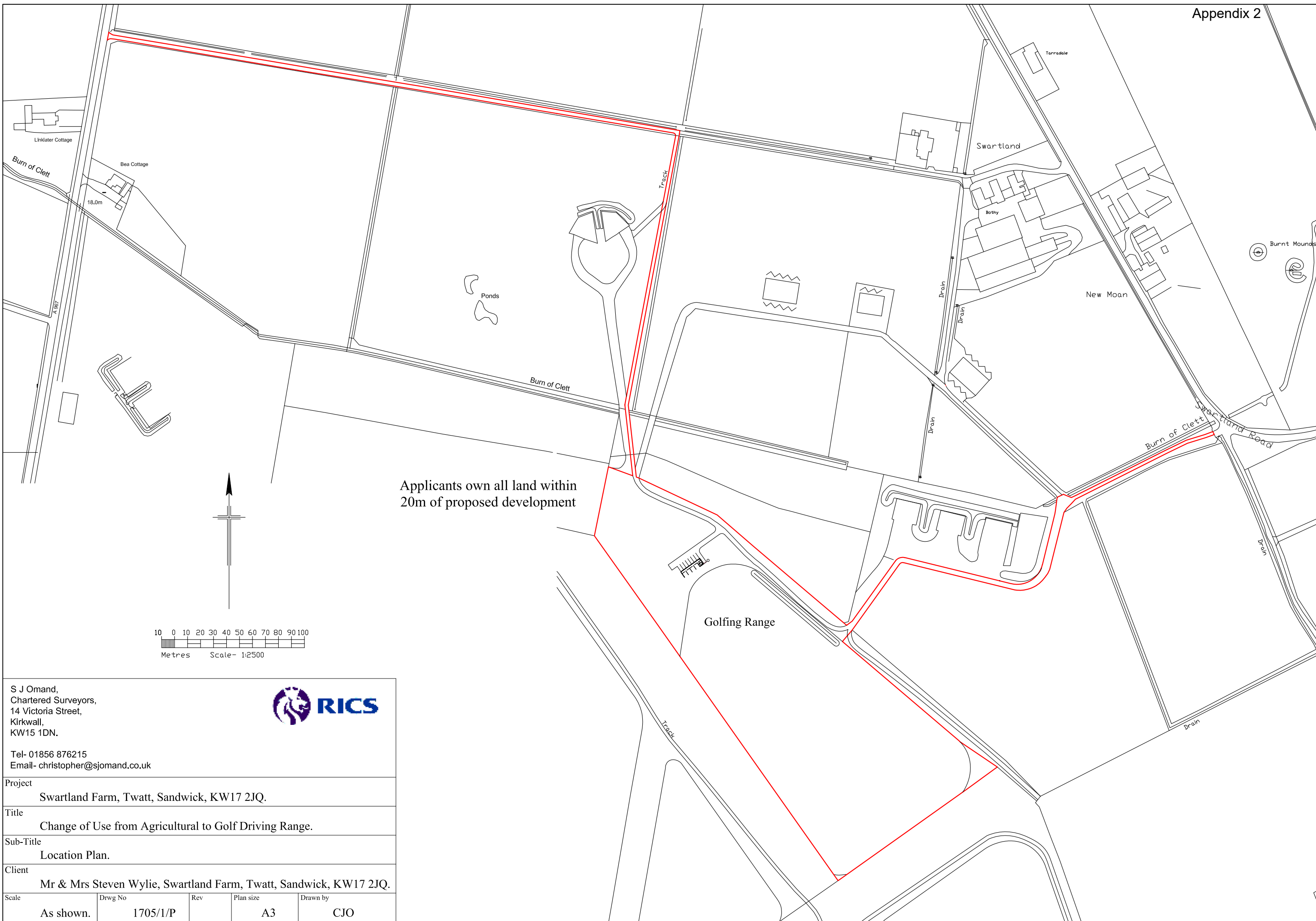
Reason: To enable the Planning Authority to retain effective control over future development within the application site so it does not result in overdevelopment or create an adverse impact on the amenity of the area, and in recognition of the development as applied for.

11. The development hereby approved shall endure for the benefit of the agricultural operation of Swartland Farm only.

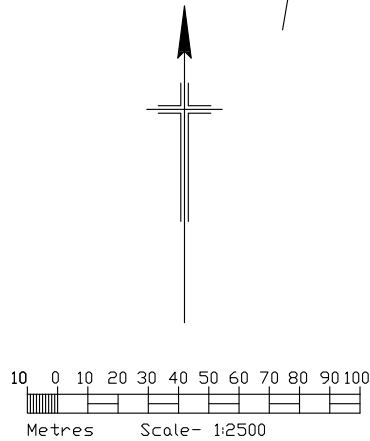
Reason: The nature of the development could give rise to operational conflict if the immediately surrounding agricultural land was not in the same control as the operator of the driving range, and in recognition that the development is submitted as part of a diversification initiative for the farm.

12. The management and operation of the site shall, at all times, be in full accordance with the Operating and Emergency Plan dated 20 September 2024, unless otherwise approved in advance, in writing, by the Planning Authority.

Reason: To ensure appropriate management of operation.



Applicants own all land within 20m of proposed development



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Project				
Swartland Farm, Twatt, Sandwick, KW17 2JQ.				
Title				
Change of Use from Agricultural to Golf Driving Range.				
Sub-Title				
Location Plan.				
Client				
Mr & Mrs Steven Wylie, Swartland Farm, Twatt, Sandwick, KW17 2JQ.				
Scale	Drwg No	Rev	Plan size	Drawn by
As shown.	1705/1/P		A3	CJO