

Item: 4.1

Planning Committee: 1 June 2022.

Demolish House, Erect Seven Houses with Air Source Heat Pumps, Associated Parking and Landscaping and Create Access (Part Retrospective) at Oakdene, Cairston Road, Stromness.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

It is proposed to erect seven houses comprising two terraces, with an associated access and infrastructure, on the site of the house 'Oakdene', Cairston Road, Stromness. The house has already been demolished, which is why the application is part retrospective. The site is within the settlement boundary and comprises redevelopment and so is acceptable in principle. The development is acceptable with regards technical considerations, but is unacceptable with regards design, namely density, site layout and the appearance of the houses. The application has been called in by two Councillors and, in accordance with the Scheme of Administration, the application must be reported to Committee for determination. The development is contrary to Policies 1 and 2 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for refusal.

Application Number:	21/346/PP.
Application Type:	Planning Permission.
Proposal:	Demolish a house, erect seven houses with air source heat pumps, associated parking and landscaping and create an access.
Applicant:	Orkney Builders Limited.
Agent:	Bracewell Stirling, c/o Lisa Balnave, 5 Ness Bank, Inverness, IV2 4SF.

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

Consultees have not objected or raised any issues which cannot be addressed by planning conditions, although Roads Services notes that the parking arrangement is not good practice.

3. Representations

None.

4. Relevant Planning History

There is no site history for the property of Oakdene; however, the current application site extends to the east and overlaps with the application site boundary of application site 19/376/PP, to erect 13 houses, upgrade an access and construct a road, now Yorston Drive. That street is largely complete, with some of the houses already occupied. An area of landscaping and visitor parking is approved at the entrance of that development, to the west of the access point. The current proposed application site area includes that approved landscaping area, visitor parking and part of the approved curtilage of one of the houses in the development.

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 policies listed below are relevant to this application:

- Orkney Local Development Plan 2017.
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5A – Housing and Settlements.
 - Policy 9G – Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14C – Road Network Infrastructure.

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.

7. Assessment

7.1. Background

7.1.1.

The application site is the house plot of Oakdene, Cairston Road, Stromness, as well as an open area of ground forming part of the approved landscaping and visitor parking for Yorston Drive, application 19/376/PP. The site fronts the public road to the north, housing development to the east and west and the Millennium Woodland to the south.

7.1.2.

It is proposed to clear the site and erect seven houses in the form of two terraces. Block 1 would comprise a terrace of four houses, backing immediately onto Cairston Road in the north-west corner of the site. Block 2 would be a terrace of three houses, to the south of and perpendicular to Block 1, with both blocks fronting an internal parking area. The remainder of the site comprises the access road, parking, bin storage and a strip of planting adjacent to the access, as shown in the Site Plan attached as Appendix 1 to this report.

7.1.3.

The house of Oakdene has already been demolished, and the site cleared and laid to hardcore. The site has been used as a site compound with site offices for the construction of Yorston Drive.

7.2. Principle

7.2.1.

On the basis the application site is within the settlement boundary of Stromness, and comprises the redevelopment of an existing site, the principle of the development is acceptable in accordance with Policy 5A: Housing and Settlements, which confirms “a presumption in favour of appropriate residential development outwith allocations where it consists of infill development, conversion, the redevelopment of derelict land /existing premises...”.

7.3. Access and Parking

7.3.1.

The development would take access from Yorston Drive, with a footpath crossing point. Following amendments, nine vehicle parking bays are proposed, including one electric vehicle parking bay. Roads Services has confirmed that the parking “should now be workable” and has no objection to parking provision.

7.3.2.

The application site area includes the approved visitor parking spaces for Yorston Drive, leaving that existing development with no dedicated visitor parking. In that regard, Roads Services notes that the proposed development would result in “the

loss of visitor parking that was to be provided with adjacent development approved under planning ref 19/376/PP...it is not considered good practice to remove visitor parking in favour of an adjacent development and then to rely on on-street parking as the alternative solution". Therefore, it is appropriate to consider parking provision in relation to the development as proposed, but also in terms of its impact on existing development, and the loss of dedicated visitor parking which was considered a key requirement in a recently approved development. This in turn relates to the density of the proposed development, which is addressed later in this report.

7.4. Foul and Surface Water Drainage

7.4.1.

Foul drainage would connect to an existing sewer within Yorston Drive.

7.4.2.

Surface water from the houses, parking and access would be treated on site in a filter trench, which would connect to an existing culvert through the site, which in turn discharges to the Mill Burn. Engineering Services has assessed the drainage calculations and has no objections, and the development accords with Policy 13.

7.5. Layout and Design

7.5.1.

Critical to the recommendation is compliance with Policy 1: Criteria for All Development and Policy 2: Design. Concerns regarding the design of the development were laid out in pre-application advice provided to the agent in May 2021, as follows:

"The non-domestic buildings opposite have been noted in the appraisal of the proposed development, but don't necessarily set a style or character that he would seek to repeat on the development side.

The key planning concerns are density and relationship to the public road.

In terms of building frontage, the houses along that side of the road generally face into the road and are set back from the back edge of the footway creating a general building line expected in an urban location. As proposed, the terrace would be tight to the footway and entrances would face away from the road, creating an elevation with no active pedestrian frontage to the street. Both of those details – of having no active pedestrian frontage and being set at the front edge of the site – would require amendment. (It is accepted that the non-domestic buildings opposite have a similar character, but for that reason the point was made that those should not be used as the basis of new residential development.)

Although that side of the street is mainly individual properties, the concept of a terrace of 3 or potentially 4 houses could be accepted, in planning terms. On the basis the units are so small, the scale and form of the building is similar to some of the larger individual houses. But as noted above, in order for that to be accepted as

a site layout as well as scale and frontage, it would have to be located more centrally within the plot, and facing into the street. It is excessive to have both terraces.

The site as proposed extends into part of the site already considered and approved for the neighbouring housing development. That would have an impact on the landscaping already agreed for that development, and would reduce the available shared soft landscaping adjacent to the entrance of that development and surrounding the communal parking. That is a symptom of the proposed density of the new site, and that could be resolved and the development contained within the established boundary by reducing the number of units proposed.”.

7.5.2.

Site context is key in determining the appropriateness of any proposed development. The south side of Cairston Road is a typical edge of town street layout, of individual houses of mixed scale and design, sitting relatively centrally within their plots, and fronting onto the public road. The combination of active frontages facing the street, and those houses being set back from the footway, is the key character of at least that side of the street. Indeed, in laying out the Yorston Drive development, the house at the front of the development facing Cairston Road was designed and orientated to continue this character, being set back from the road with a boundary wall to the footway and the front of the house facing the street.

7.5.3.

As proposed, Block 1 is immediately on the north boundary of the site, with the terrace effectively forming the back edge of the public footway in that location. As such, pedestrians using the footway would pass immediately adjacent to the kitchen and (only) shower room window in the properties. A detail of UPVC panelling is proposed in the footway elevation to create the character of a door, but this does not replicate the character or function of a front door facing the street. The combination of the alignment of the block immediately against the footway, the resultant lack of setback and garden ground between the footway and the building, lack of active frontage by being a shower room and kitchen window facing the street, exacerbated by the mass of the building, being a block of four houses, combine to the effect that the building would be out of character with the remainder of the street.

7.5.4.

Advice provided at the pre-application stage was that an increase in the number of units could be accepted, noting that the current application is to replace one house with seven houses. The option presented was for a terrace following the design approach of Block 1 but set back into the site to match the character of neighbouring houses and the remainder of the street, with an active frontage; although it would be an additional number of units, given that the individual units are small, the terrace would be similar in scale to some other individual houses. However, the effect of proposing the terrace in the location submitted, to fit a second terrace of three houses to the south, makes the layout and density unacceptable.

7.5.5.

It must be acknowledged that there are other buildings in the vicinity that do not follow the main character of the street, of individual houses located within their own plots and set back from the road, notably the long narrow buildings diagonally opposite. However, those were erected for non-domestic purposes, and part of that structure is still used by a boatbuilder. These should therefore not be used as the reference for new housing development. Even if those were used as a reference, they still retain a setback from the public road, with a grass strip. The issue of buildings being set back from the road is also addressed in the submitted Design Statement; however, the photograph included in the design statement as an example of the 'varying setbacks from main road' was demolished several years ago for the construction of the primary school.

7.5.6.

In combination with the principle of housing development being acceptable, it would be possible to increase the density of the plot from the original, single house, and advice was provided that a terrace could be accommodated within the plot, which could be set back in line with neighbouring houses (including the new houses in Yorston Drive) and with an active frontage to the road. Whilst this would impact the second block of houses to the rear, it would be an appropriate balance of allowing redevelopment within the site, providing additional houses, whilst protecting the character of the area. As proposed, the development would be incongruous and out of character with neighbouring development.

7.5.7.

Therefore, in a policy context, the proposed development is not considered to be 'sited and designed taking into consideration the location and wider townscape character' and it is considered that the 'proposed density of development is not appropriate to the location'. In that regard, the development is contrary to Policy 1. Furthermore, it is considered that the development does not 'reinforce the distinctive identity of Orkney's built environment and is not sympathetic to the character of the local area' and that the development would not have 'a positive effect on the appearance and amenity of the area'. The development is therefore considered contrary to Policy 2.

8. Conclusion and Recommendation

8.1.

Development of housing is acceptable in principle within the application site, as a former house site within the settlement boundary. The focus of this report is therefore not whether it is appropriate to allow housing development on the site; instead, the key considerations are the density of development, the related layout of the site and the overall design and its potential impact on its surroundings. Design of development is a material planning consideration. The development is not town centre and the character and density of development should reflect that of surrounding houses, particularly on that side of the road.

8.2.

It is accepted that there is demand for housing in Stromness, including the small, one-bedroom units proposed and this development would therefore deliver seven units. Delivery of housing is a material planning consideration. However, that is balanced against the other consideration of design, and critically the relevant policies of the Local Development Plan. Consideration of design and the character and appearance of an area should not be diminished in the name of delivering housing, particularly when a willingness to increase the density of the original development has been expressed by the planning authority, balanced against protection of the streetscape.

8.3.

Technical matters could be addressed, including protection of amenity from noise, access, parking, foul drainage connection and treatment of surface water. Roads Services has not objected, although the loss of dedicated visitor parking and therefore the loss of a feature of the approved landscaping and layout of Yorston Drive would be regrettable.

8.4.

On balance, design concerns are of such weight that the application cannot be supported. The density of development, and critically the proposed siting of a block of four houses immediately against the footway, with bathroom and kitchen windows and no pedestrian access from the houses, would have a negative impact on the established character of the area. The development is considered contrary to Policies 1 and 2 of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for refusal**.

9. Reasons for Refusal

01. By virtue of the location of the proposed Block 1 within the application site, the number of houses proposed and the proposed site layout, the development is not considered to be 'sited and designed taking into consideration the location and wider townscape character' and it is considered that the 'proposed density of development is not appropriate to the location'. The development is therefore contrary to Policy 1: Criteria for All Development of the Orkney Local Development Plan 2017.

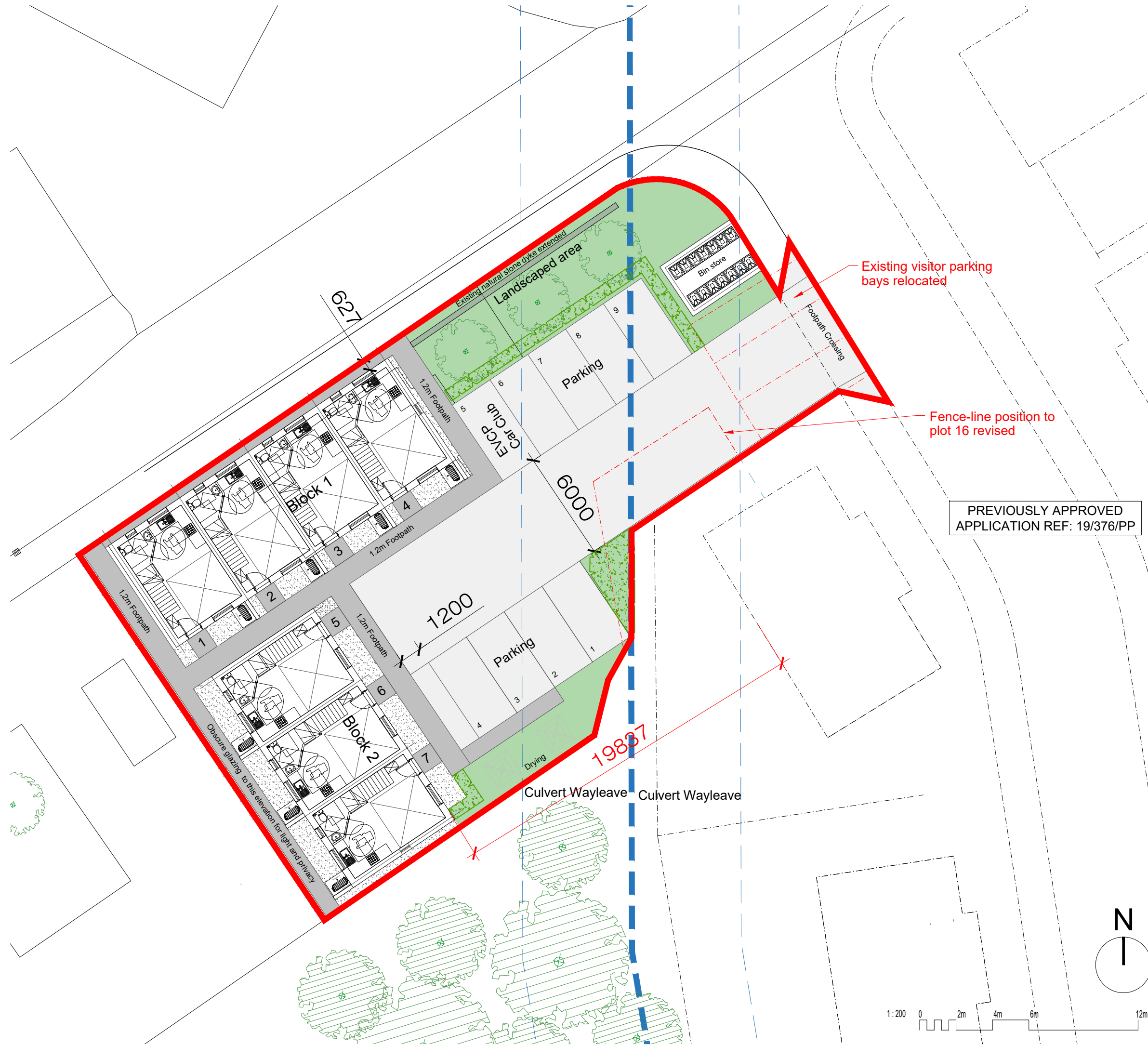
02. The proposed design would not 'reinforce the distinctive identity of Orkney's built environment', is not 'sympathetic to the character of the local area' and the development would not have 'a positive effect on the appearance and amenity of the area'. The development is therefore contrary to Policy 2: Design of the Orkney Local Development Plan 2017.

10. Contact Officer

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

11. Appendix

Appendix 1: Site Plan.



Existing visitor parking bays relocated

Fence-line position to plot 16 revised

PREVIOUSLY APPROVED APPLICATION REF: 19/376/PP

REV	DATE	DESCRIPTION	DRN
C	20.01.22	PARKING COURT UPDATED	LB
B	23.11.21	LAYOUT REVISED TO ADDRESS COMMENTS FROM ROADS SERVICES	LB
A	20.09.21	POSITION OF ASHP'S INDICATED	LB

Bracewell Stirling CONSULTING

38 WALKER TERRACE, TILlicOUNTRY, FK13 6EF 01259 750301
5 NESS BANK, INVERNESS, IV2 4SF 01463 233760
15 LOCHSIDE STREET, OBAN, PA34 4HP 01631 359054

HOUSING DEVELOPMENT AT OAKDENE
CAIRSTON ROAD, STROMNESS
ORKNEY BUILDERS LTD

PROPOSED SITE LAYOUT

STATUS: **PLANNING**

SCALE: 1:200 DRAWN: --
PAPER SIZE: A3 DATE: Jan 2022

DWG No. **4751-02-002** REV. **C**