

Item: 5.2

Planning Committee: 19 August 2020.

Change of Use from Offices (Class 4) to Offices and Other Services (Class 2), Extend, Alter Existing Car Park and Stop Up Public Road to Form Car Parking at Garden House, New Scapa Road, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

It is proposed to change the use of the existing Garden House building on New Scapa Road, Kirkwall, which is currently vacant, to allow for visiting members of the public (the change of use to Class 2). Determination of this application was deferred by the Committee at its meeting held on 4 March 2020 in order that a site visit by members could be carried out. The proposal includes the extension of the building and, in order to provide additional car parking, the stopping up of an adjacent section of public road. Twenty-three letters of objection have been received but are not of sufficient weight to recommend refusal. The principle of the development is acceptable, on the basis adequate justification has been provided for the proposed use in that location. The design of the extension is high quality and would have no unacceptable impact on residential amenity. Works to the existing car parking would allow retention and protection of established trees around the site. Notwithstanding any potential disruption, the stopping up of the road would have no unacceptable impact on the safety of road users or pedestrians. The development accords with Policies 2, 3A, 9F and 14C of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	19/365/PP.
Application Type:	Planning Permission.
Proposal:	Change of use from offices (Class 4) to offices and other services (Class 2), extend, alter existing car park and stop up public road to form car parking.
Applicant:	Orkney Islands Council, c/o Ian Rushbrook.
Agent:	HRI Munro Architecture, c/o Alan Gray, Naver House, Naver Road, Thurso, KW14 7QA.

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.

3. Representations

3.1.

Twenty-three letters of objection have been received from:

- Mr Fraser Anderson, Orkney Hand Crafted Furniture, Giggs Cottage, New Scapa Road, Kirkwall, KW15 1BL.
- Brian Anderson, Margaret Anderson, and Tracy Russell, Dell'Ovo, New Scapa Road, Kirkwall, KW15 1BL.
- Susan Anderson-Leslie and Paul Harcus, West Lynn, Holm Branch Road, Kirkwall, KW15 1RT.
- Ruth Britten, 7 Kirk Park, Orphir, KW17 2RQ.
- Sam Britten, Asgard, Orphir, KW17 2RD.
- Kirsty Brown and Luke Brown, Oakhurst, Willow Road, Kirkwall, KW15 1NJ.
- Jacqui Bruce, 74 Liberator Drive, Kirkwall, KW15 1ZU.
- John Bruce, 4 Warrenfield Drive, Kirkwall, KW15 1QA.
- Karen Budge, Rohaven, Annfield Crescent, Kirkwall, KW15 1NS.
- Katrina Budge, 9 Jubilee Court, Kirkwall, KW15 1XR.
- Joy Butcher and Matthew Butcher, 1 Royal Oak Court, Holm Road, Kirkwall, KW15 1US.
- Chloe Farrer and David Farrer, Upper Misker, Deerness, KW17 2QL.
- Gillian C Farrer, Fern Valley Wildlife Centre, Tingwall House, Tingwall, Rendall, KW17 1HB.
- W S Flett, Edgeriggs, 1 Scapa Crescent, Kirkwall, KW15 1RL.
- Shenandoah Gills and Calum Miller, 13 Church Road, Stromness, KW16 3BA.
- Calum Grant and Lyndsay Grant, 27 Buttquoy Crescent, Kirkwall, KW15 1JH.
- Jackie Harrison and Keith Harrison, Reesterbrae, Orphir, KW17 2RB.
- Barbara Mackenzie and Tyler Mackenzie, Tonray, 10 Meadow Park, Kirkwall, KW15 1FN.
- Gina McMahon, Lower Bu, Holm, KW17 2SD.
- Mrs Ann Rendall, Iona, 3 Scapa Crescent, Kirkwall, KW15 1RL.
- Jacqui Robertson and Liam Robertson, Westermill, 24 Willowburn Road, Kirkwall, KW15 1NG.
- Mr Steven Russell, Dellovo Cottage, New Scapa Road, Kirkwall, KW15 1BL.
- Graham Scollay and Netsanet Sori, Muirdene, Orphir, KW17 2RB.

3.2.

It should be noted that, where more than one representation is received from a household, it is defined as one 'valid representation'. There are incidences of multiple letters from a single objector, and also separate representations from multiple individuals within a single household. So, whilst less than the total number of individual letters received, 23 is the correct number of valid representations.

3.3.

Of the 23 objections received, 18 are a pro forma letter. As each of the 18 is signed and dated by the objector and includes the objector's address, each is treated as an individual valid representation. The text within the pro forma objection letter is as follows: "I [objector name] regularly use the small side road at the foot of Scapa Crescent beside Garden House and Dellovo to drop off and collect my child from Tracy Russell and Margaret Anderson who are registered childminders. This road provides me with a safe place to put my child in and out of the car. If you were to close this road it would cause us disruption to our usual day and may impact the safety of our children."

3.4.

The objections are on the following grounds:

- The closure of the section of road affecting ease of access for visitors and deliveries of materials to the Orkney Hand Crafted Furniture workshop.
- The scale of the proposed extension.
- Impact of additional traffic on the adjacent road.
- Impact on access to neighbouring properties.
- Lack of availability of car parking.
- Loss of privacy.
- Pedestrian safety of users of Arcadia Park.
- Safety of children accessing and leaving an adjacent childcare business.

3.5.

Other objections have been received on non-material grounds, including:

- Impact on the profits of an adjacent business.
- Availability of other potential sites for the proposed development.
- Disruption during construction.
- Potential for development to exacerbate disruption caused during construction of the hospital.

3.6.

Objections have been received from the group of properties located immediately to the north of the application site - the domestic property of Dellovo Cottage; Tracy Russell and Margaret Anderson operating a childcare service from Dellovo; and Fraser Anderson operating Orkney Hand Crafted Furniture.

3.6.1.

The objection from the occupier of Dellovo Cottage includes that “the proposal will reduce our access to our property...our access for reversing into the drive is considerably reduced”. Dellovo Cottage was approved in September 2007, reference 07/388/PPF, and a planning condition was attached to that consent requiring, “That prior to the hereby approved dwellinghouse being brought into use, the existing access to be shared with the property Dellovo shall be upgraded in accordance with the stamped approved specification and to the satisfaction of the Planning Authority.” The access was not constructed in accordance with the planning condition. This matter was raised with the objector who provided a response that the developer of the house sought agreement from Roads Services to retain the access without the approved alterations. However, there is no record of any such agreement. It is considered that, should the access be constructed in accordance with the 2007 planning permission, some of the concerns raised now may be alleviated.

3.6.2.

Tracy Russell and Margaret Anderson operate a childcare business from Dellovo, which comprises up to 12 children in attendance. The letter of objection provides detail regarding the potential impact on the safety of the children, as well as how parents typically use the adjacent section of road which is proposed to be closed. The safety of road users and pedestrians is therefore critical. The business has also prompted the multiple pro forma objections. Given the potential significance of the childcare service as a neighbouring business which could be affected by the development, the planning status of that business must be confirmed. There is no planning history for the childcare business, and in its guidance for registering and running a childminding service the Care Inspectorate notes that “You should be aware that in some local authority areas you might need to apply for planning permission to care for more than six children, or to have more than one adult working in the childminding service...” This was raised with the operators of the childcare service, and it was noted by the operator that the Care Inspectorate allows for separately registered childminding services to work together in the home of one of the providers and confirms this is the case for this business. However, this provision for the business format does not prejudice the potential requirement for planning permission. This matter has yet to be concluded and the outcome would naturally affect the weight that is able to be put on objections relating to the business. Regardless, the potential impact on the safety of children being cared for at the premises, including in the surrounding road and footpath network, is considered within this report.

3.6.3.

The Orkney Hand Crafted Furniture uses the same access as Dellovo Cottage. There is no planning history for the furniture workshop; this was raised with the objector and operator of the business; in response, evidence has been provided which indicates that the business has operated in excess of ten years. Regardless of the planning status of the premises, relevant material planning considerations included in the objection are considered within this report.

4. Relevant Planning History

4.1.

Reference.	Proposal.	Location.	Decision.	Date.
19/241/PP	Extend a building and create an access and car parking.	Garden House, New Scapa Road, Kirkwall.	Withdrawn.	22.10.19.

4.2.

The withdrawn application did not include adequate car parking that could be laid out to the satisfaction of Roads Services and included the felling of most of the trees within the site. Following discussions with Road Services, that proposal was withdrawn, and the current application submitted, to include the stopping up of the adjacent section of road in order to provide the additional car parking required.

5. Relevant Planning Policy 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 2 – Design.
 - Policy 3A – The Town Centre First Principle.
 - Policy 9F – Trees and Woodland.
 - 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.

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.

6.3.

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

6.4.

The Council as Planning Authority has powers in terms of Section 207 of the Act to make an order authorising the stopping up of a road which is not a trunk road, or a special road provided by the Scottish Government under the Roads (Scotland) Act 1984, if they are satisfied that it is necessary to do in order to enable a development to be carried out in accordance with a planning permission granted in terms of the Act. The proposed development relies on and includes a section of public road that would be stopped up. Accordingly, in the event that planning permission is granted, it would be necessary to make an order authorising the stopping up of the relevant section of road.

7. Assessment

7.1. Background

Garden House was most recently used by NHS Orkney principally as offices with limited public access. The site comprises a two-storey office building located towards the north of the site with a car park to the south and landscaping including some mature and semi-mature trees around the edge of the site. The building fronts New Scapa Road, with the current main entrance porch diagonally opposite the pedestrian access to the Balfour Hospital. The building is mainly dry dashed and has

a profiled concrete tiled roof with the only feature of note the stone cladding used on both, asymmetrical gables. The site is bounded by public roads on all four sides.

7.2. Proposal

It is proposed to extend the building to the rear, extending approximately nine metres from the rear wall, as indicated on the site plan attached as Appendix 1 to this report. The proposed extension is single story, with a mix of render and timber cladding on the walls and a standing seam metal roof. The outer part would have a mono pitch roof, with a relatively shallow pitch to match the main building. It is proposed to accommodate Voluntary Action Orkney, the Orkney Food Bank and the Citizens Advice Bureau within the building as extended. The application was initially advertised as an extension to the building only; however, following clarification of the proposed uses and associated public areas within the building, the proposal was amended to include the change of use from Class 4 to Class 2, which includes financial, professional or any other services which are principally for visiting members of the public. This would omit any need to restrict by planning condition the parts of the building or opening hours that would be available to visiting members of the public. Some reconfiguration of the existing car park would be carried out. The final component of the proposed development is the stopping up of a one-way section of Scapa Crescent immediately to the north of the building in order to form additional car parking.

7.3. Principle

As is generally the case, critical to the principle of the development is not the list of organisations seeking to occupy the building, but rather the proposed use. Policy 3A(i) of the Orkney Local Development Plan 2017 applies the Town Centre First principle, whereby for any office or community facilities that attract significant footfall, the order of preference for location is: town centre, followed by edge of town centre, followed by elsewhere within a settlement boundary. Supporting information has been provided regarding the need for the organisations to relocate, and specific justification was sought and has been provided regarding the Food Bank in particular, and how its services may be affected by moving away from the town centre. Policy 3A(ii) confirms that “flexibility will be allowed to ensure that community, education and healthcare uses are located where they are easily accessible to the communities that they are intended to serve”. The Food Bank has confirmed that NHS Orkney and the Citizens Advice Bureau are the largest referrers of clients, so the proposed site is closer than the current situation. On balance, given the justification submitted, the flexibility provided by Policy 3A for community uses, and the fact that the development would ensure a new use for a currently redundant building, the proposed change of use to Use Class 2 is considered acceptable in principle. The principle being accepted, other alterations including the extension, car park reconfiguration and the stopping up of the road must be considered on their merits.

7.4. Residential Amenity

The building operated for many years as offices for NHS Orkney, which involved both staff and limited visiting members of the public. The increase in floor space and change of use would almost certainly increase the number of visitors to the building daily. The existing main entrance would be retained, with an additional public entrance to the south, facing the existing car park. The building is close to the edge of town, adjacent to a main road, and close to the Balfour Hospital. The building as extended and in the use proposed is not considered likely to have any unacceptable impact on residential amenity.

7.5. Design

The proposed extension is relatively small. However, the modern design and use of materials would provide some welcome interest to a building that has little architectural merit. The form and proportions would strike a balance between the introduction of modern design whilst adequately referencing parts of the existing building. Given the mixture of residential and other development in the area, in accordance with Policy 2, the development is considered to be sympathetic to the character of its local area and have a positive effect on the appearance of its surroundings.

7.6. Trees

The application site contains many semi-mature trees, many likely to date from the construction of the building. These trees are important for integrating the development with its surroundings, and provide continuation of tree cover with other trees and green spaces nearby. A tree survey has been completed to the relevant British Standard, indicating the size, species and the Root Protection Area required for every tree to be retained. Policy 9F requires the retention of individual trees of landscape or shelter value unless an evaluation to an appropriate standard is carried out that concludes that any loss is acceptable. In this case all key edge trees would be retained. Two relatively small trees would be lost during the formation of additional car parking to the south of the building; however, a row of existing trees would be retained in an adjacent position at the edge of the site. Two trees would also be felled at the north edge of the site; again, these are adjacent to a retained group of established trees. A Tree Protection Plan has been submitted, in accordance with British Standard BS5837:2012, which would ensure protection of all roots and canopies during construction, which would be controlled by planning condition. Trees within the site are therefore considered to be adequately protected.

7.7. Parking

Roads Services objected to the now withdrawn planning application in relation to parking provision. The amended, current planning application includes provision of two disabled parking spaces and adequate parking spaces to meet the requirements of the National Road Development Guide, as well as cycle parking provision. The 34 car parking spaces proposed represents an increase of 11 spaces, including the two disabled spaces noted above. On that basis, Roads Services has no objections in relation to access or parking, and the development accords with Policy 14C as it could be safely and conveniently accessed and would be safe for all road users.

7.8. Stopping Up of Road

As noted above, a key component of the development is the stopping up of a short section of Scapa Crescent at the north end of the site to facilitate additional vehicle parking. This has been included in most representations. The section of road is one-way, from New Scapa Road towards the junction where this short section meets the remainder of Scapa Crescent. If stopped up, vehicles entering and leaving Scapa Crescent would use the existing two-way section of road to the south and east of the application site, and which has its junction to New Scapa Road between Garden House and Arcadia Park. Roads Services has no objection to this proposal and has not identified any works required to this existing section of road.

7.8.1.

The objections in relation to the adjacent childcare business are mainly twofold – firstly, inconvenience and disruption to the current routine, and secondly potential impact on the safety of children. In relation to disruption, it should be noted that the footway would be retained so there would be no impact on any children arriving on foot. In relation to children being dropped off by car, the difference would be the additional distance to travel around the application site, approximately 200 metres. The operator of the childcare business has indicated that drop-offs may occur on the main road; however, in the context of protecting child safety it would be a matter for any parties dropping off children to avoid unsafe situations. Speculation regarding the likelihood of vehicles stopping on the main road rather than driving around Garden House, and any resultant disruption, cannot outweigh the merits of the application.

7.8.2.

The critical consideration is the safety of children using the childcare business. At present, drop-offs occur along the section of one-way road, which is approximately 40 metres in length. Allowing for the 10 metres required at both ends of that road from the respective junctions (including the double yellow lines adjacent to New Scapa Road), approximately 20 metres or four car lengths, is available at any time for safe stopping or parking. Although safer than the main road for stopping or dropping off children, this is currently a through road to all traffic and may be busy at peak drop-off times. As proposed, although being developed as part of the works to Garden House, the car parking would be available to the public, whether for parking or drop-offs. Drop-off times for the childcare business will often be before the opening times of Garden House, and therefore before all staff have arrived. On the basis that the development would provide more parking spaces in the same area than are currently safely available within the public road, and on the basis that it would be an enclosed car park rather than a public through road, the proposed arrangement is not considered to create an additional safety risk. Provided any parties dropping off children can overcome any inconvenience of the approximate additional 200 metres to drive to the car park, it may in fact create a safer space.

7.8.3.

In relation to the house and furniture making business that use the existing access adjacent to the proposed section of road that would be stopped up, Road Services has no objection in relation to access or manoeuvring. Should the access be upgraded to the standard required by planning condition when Dellovo Cottage was approved, this would likely further improve the situation.

8. Conclusion and Recommendation

The principle of the development is acceptable, on the basis that adequate justification has been provided for the proposed use in that location. The design of the extension is high quality and would have no unacceptable impact on residential amenity. Works to the existing car parking would allow retention and protection of established trees around the site. Notwithstanding any potential disruption, the stopping up of the road would have no unacceptable impact on the safety of road users or pedestrians. Objections received on material planning grounds are not of sufficient weight to recommend refusal. The development accords with Policies 2, 3A, 9F and 14C of the Orkney Local Development Plan 2017. Accordingly, the development is **recommended for approval**, subject to the conditions attached in Appendix 2.

9. Contact Officer

Jamie Macvie, Planning Manager, Development Management, extension 2529,
Email jamie.macvie@orkney.gov.uk

10. Appendices

Appendix 1: Site Plan.

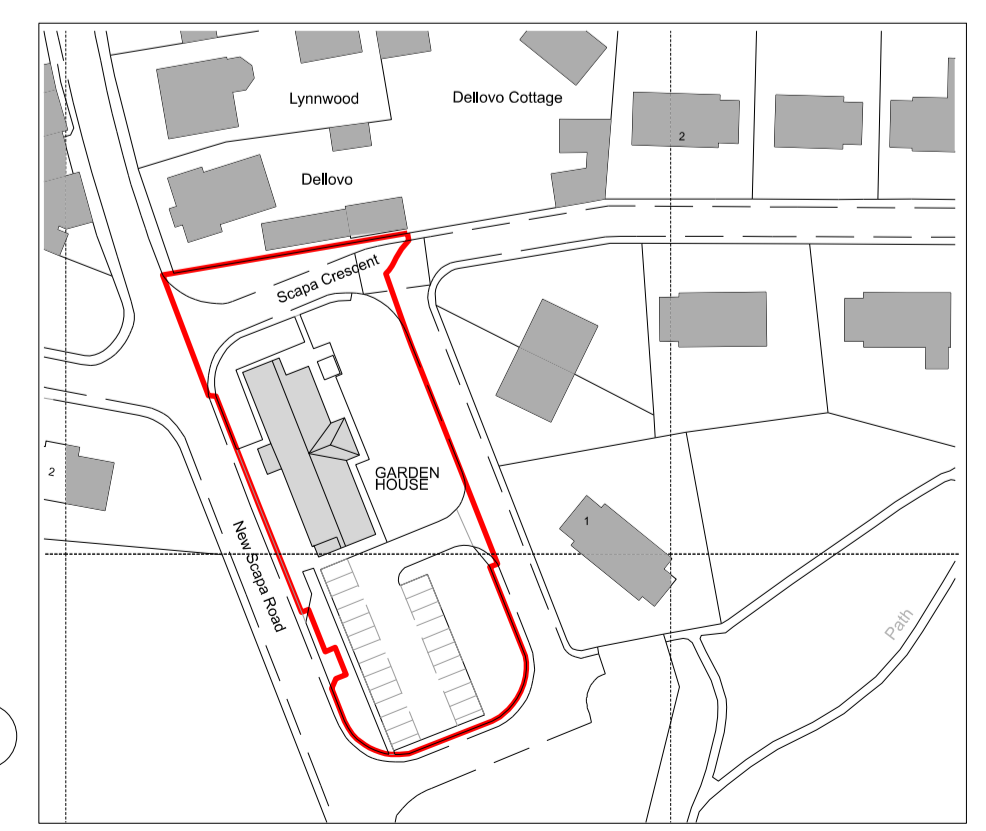
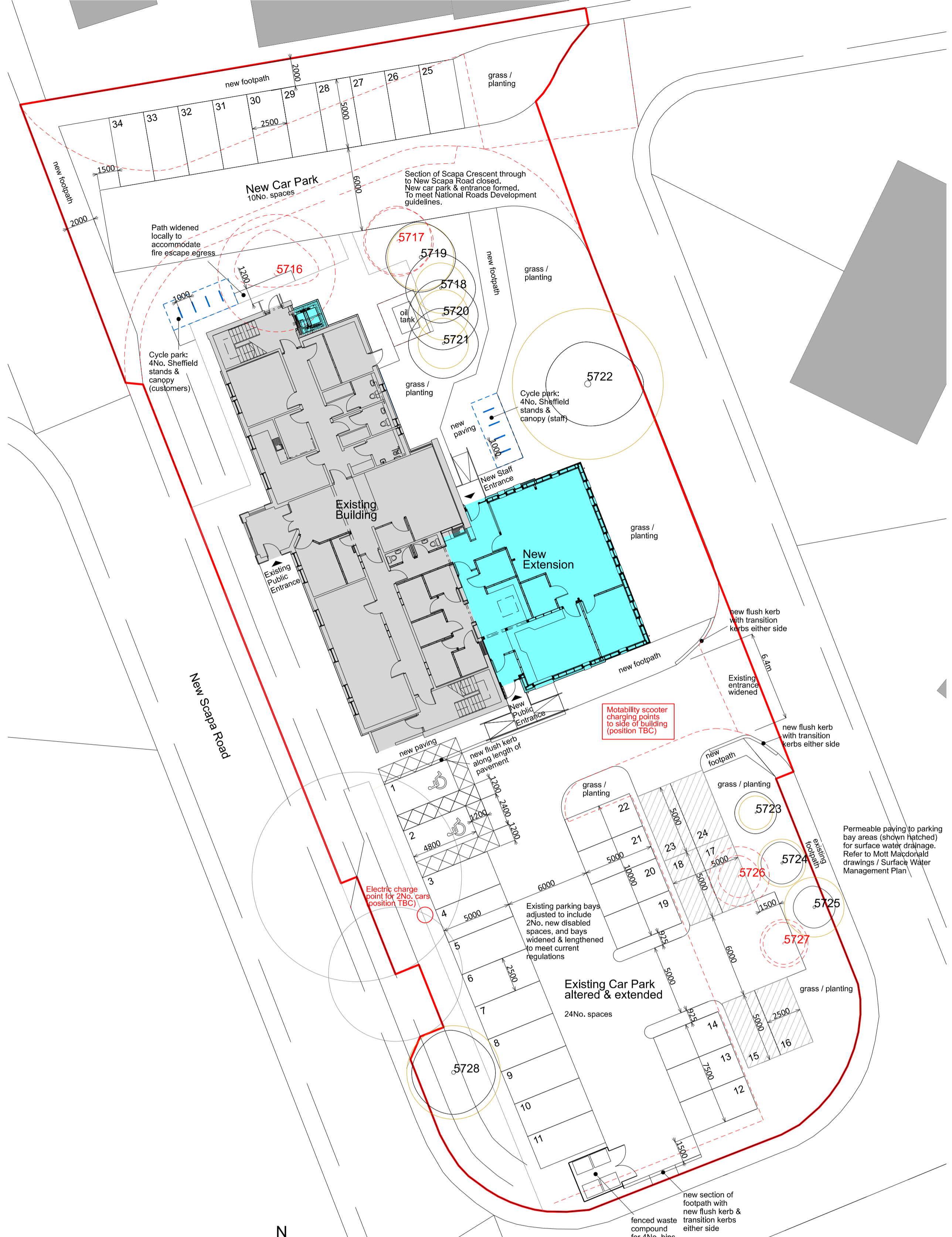
Appendix 2: Planning Conditions.

GENERAL NOTES:

DO NOT SCALE FROM THIS DRAWING
This drawing is to be used in conjunction with consultants drawings, where appropriate, and the specification / construction notes.
Any discrepancies are to be referred to the CA.
ANY AND ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO ORDERING MATERIALS AND GOODS

LEGEND:

- Removals
- 5723 Tree No. & canopy
- 5717 Tree to be removed
- Tree root protection areas



PLANNING

Revision	Description	Date
G	Location scale bar corrected	31/10/19
F	Application Boundary revised to omit bus stop area by others	21/10/19
E	New car park position re-located to closed section of Scapa Crescent.	03/10/19

**GARDEN HOUSE
KIRKWALL
ORKNEY**

**LOCATION PLAN,
EXISTING SITE PLAN
& PROPOSED SITE PLAN**

Scale:	Date:	Lead:	Drawn:	Checked:
As noted @A1	12.02.19	MW	GF	XX

Project Number:	Drawing:	Revision:
I.7115c	001	G

Appendix 2.

01. 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 – Managing Flood Risk and Drainage, and in the interests of road safety.

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 on Mondays to Fridays, 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

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. All access and parking provision and alterations hereby approved shall be constructed and completed wholly in accordance with approved details prior to first occupation of 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.

04. All tree protection shall be implemented wholly in accordance with the sequence of works and specifications included in the 'Tree Protection Plan' hereby approved. No excavation works shall be carried out within the site until all protective fencing is erected in accordance with the tree protection plan and is inspected on site and confirmed as acceptable by the Planning Authority.

Reason: To ensure adequate protection of trees, including roots, throughout the construction of the development.