

Item: 4.4

Planning Committee: 1 June 2022.

Extend House at Kirraquoy, Nearhouse Road, Harray.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

A householder planning application is submitted to extend a house, comprising a single storey entrance porch. Consultation bodies have raised no concerns and no representations have been received. The application is made on behalf of a member of staff employed within Development Management and, in accordance with the Scheme of Administration, the application must be reported to Committee for determination. The proposed development is considered to accord with Policies 1 and 2 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	22/131/HH.
Application Type:	Householder Planning Permission.
Proposal:	Extend a house.
Applicant:	Steven Poke, Kirraquoy, Nearhouse Road, Harray, KW17 2JT.

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

No objections have been received from any statutory consultation body.

3. Representations

None.

4. Relevant Planning History

Reference	Proposal	Location	Decision	Date
18/006/PP	Demolish redundant agricultural building, erect a house with a detached garage and an air source heat pump and create an access (amendment to location approved under 17/081/PP)	Fursbreck Cottage (Land Near), Nearhouse Road, Harray, KW17 2JT.	Approved	18.03.2018

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.

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. Principle, Location and Siting

7.1.1.

The existing house is two storeys in height, based on an L-shaped plan, and a garage and parking area allocated to the side. The house fronts Nearhouse Road, set back approximately 10 metres from the public road, as indicated in the Location and Site Plan attached as Appendix 1 to this report.

7.1.2.

It is proposed to erect a single storey entrance porch to the front of the house. External finishes would be white rendered walls, black roof tiles and grey door and windows, all to match the existing property.

7.2. Design and Appearance

Given the small scale of the proposed porch, and matching materials and finishes, the design is considered sympathetic to the existing building and the local area, in accordance with Policy 2.

7.3. Residential Amenity

The house is relatively isolated, and the porch would have no impact on the amenity of any other residential properties, in accordance with Policy 1. Given the small scale of the proposed development and rural location, planning conditions regarding construction are not required.

7.4. Access and parking

The existing parking area would not be affected, and Roads Services has no objections.

8. Conclusion and Recommendation

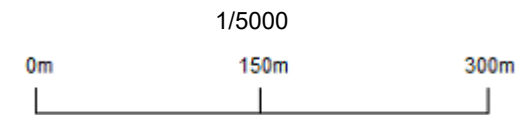
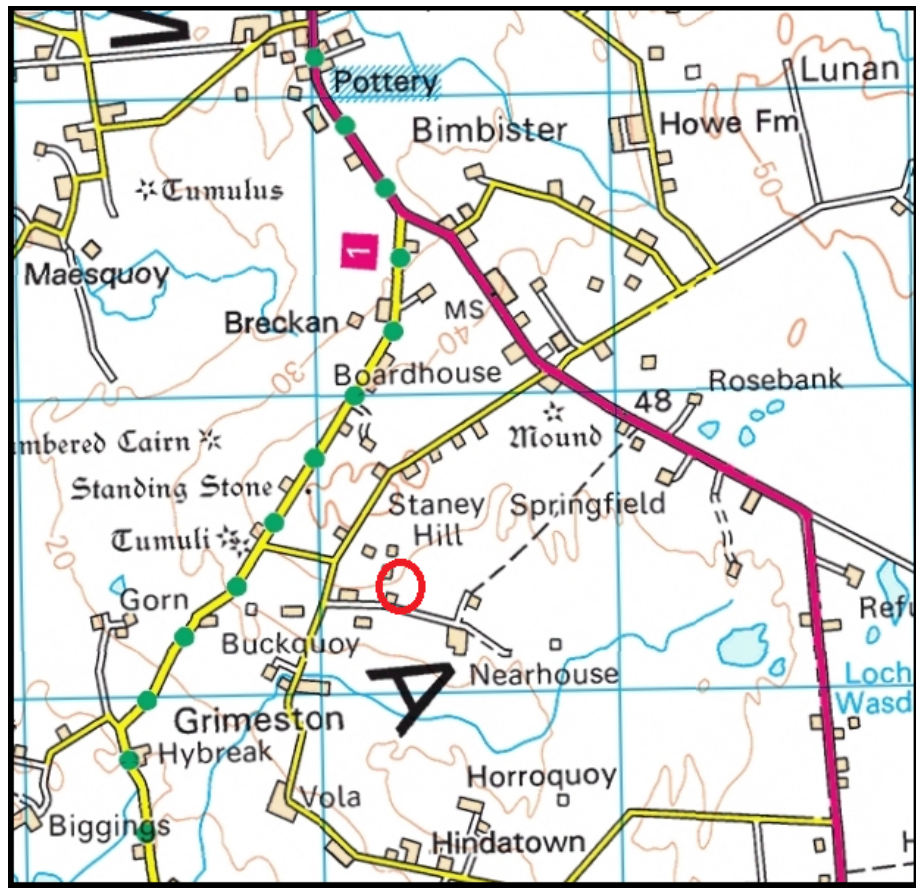
The design, including scale and materials, of the proposed development would integrate with the existing building and its surroundings, and residential amenity would be protected. The proposed development would accord with Policies 1 and 2 of the Orkney Local Development Plan 2017. Accordingly, the development is **recommended for approval**.

9. Contact Officer

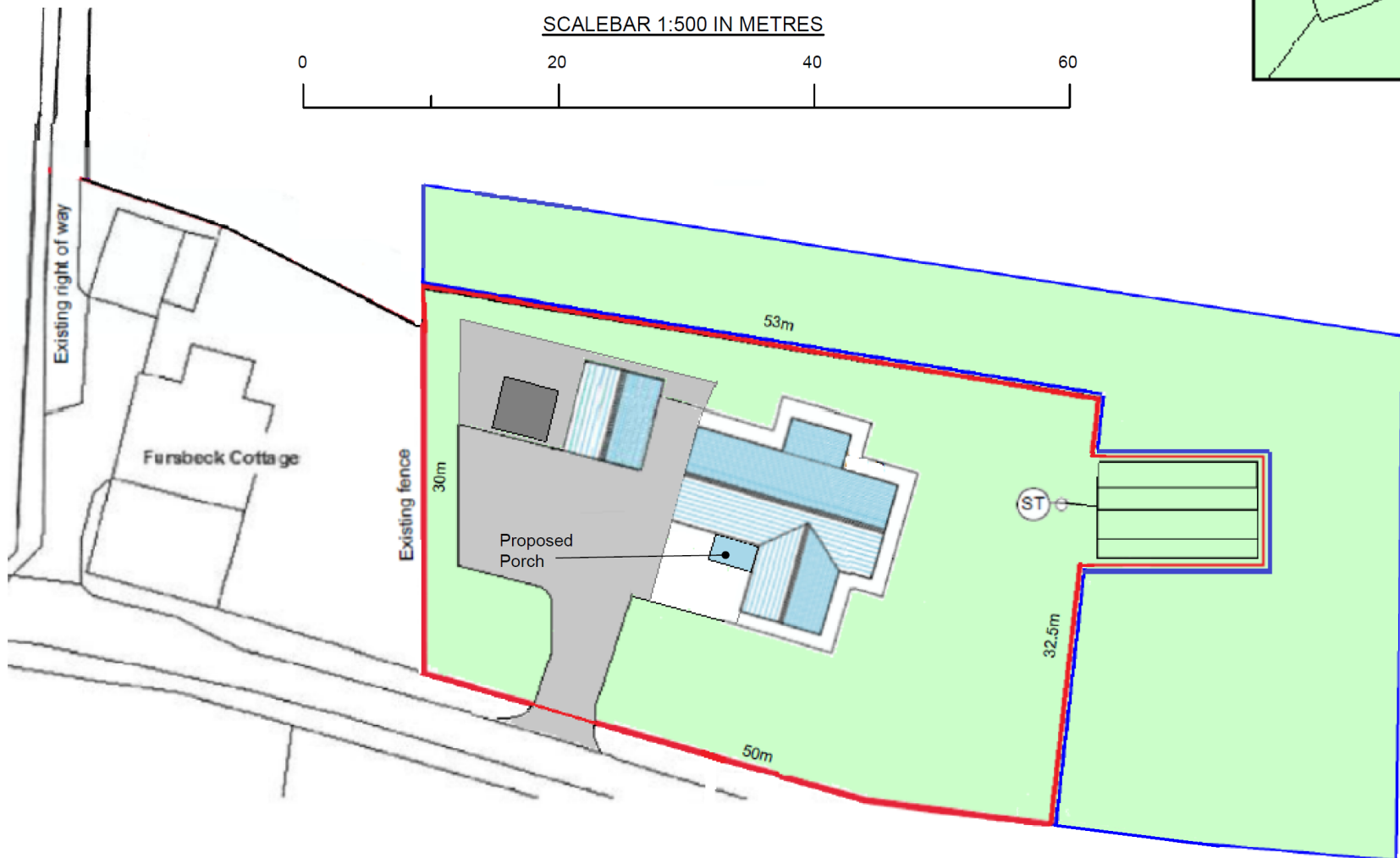
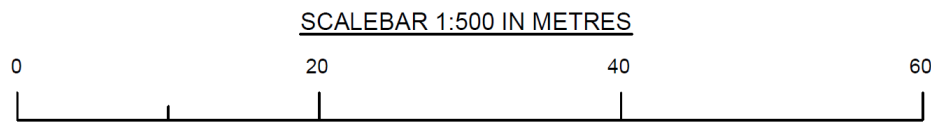
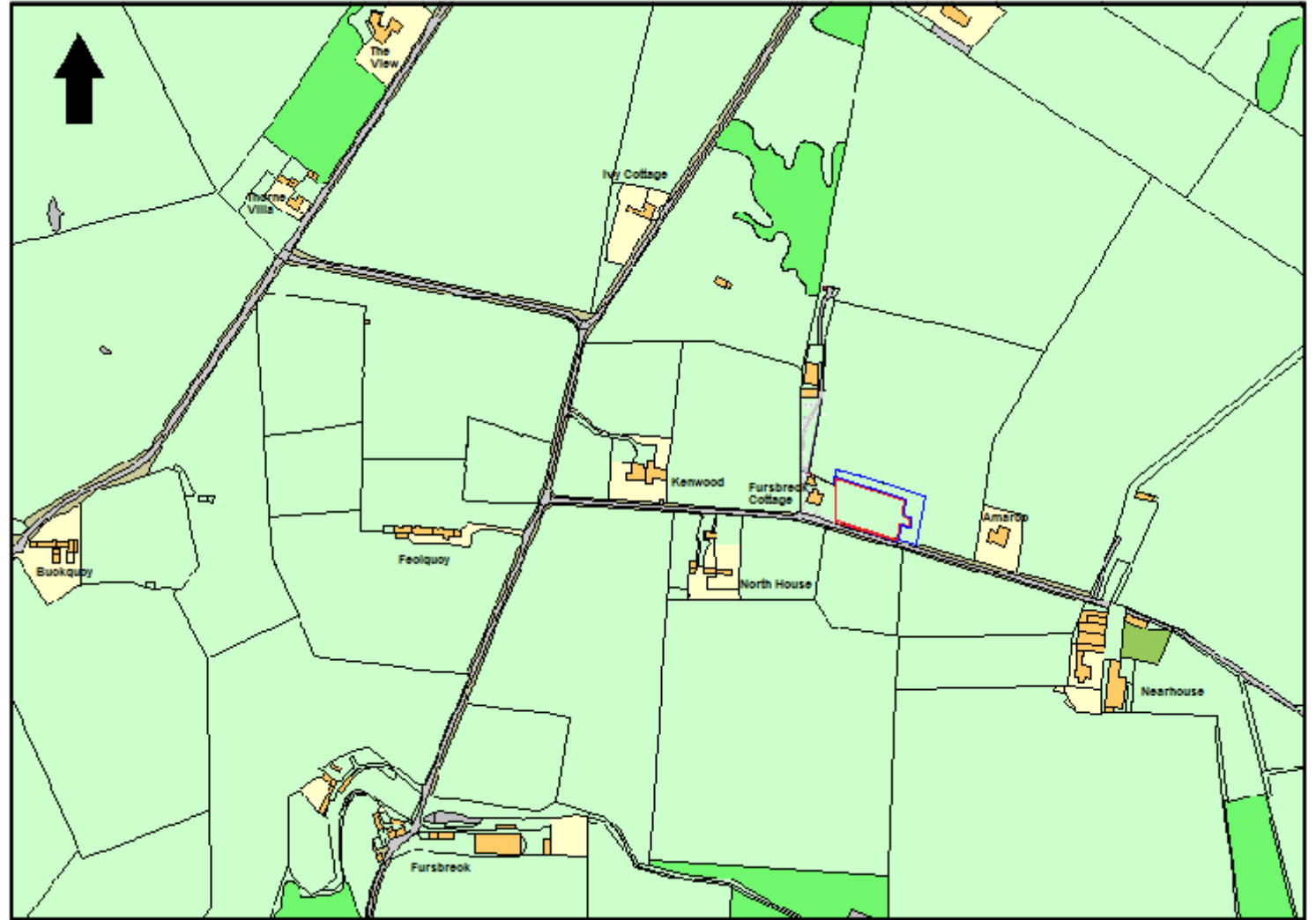
Jamie Macvie, Planning Manager, Email jamie.macvie@orkney.gov.uk

10. Appendix

Appendix 1: Location Plan and Site Plan.



Map Location Ref.
Easting - 332262
Northing - 1015296



CLIENT : MR & MRS S POKE		
PROJECT: PROPOSED PORCH EXTENSION.		
KIRRAQUOY, HARRAY, ORKNEY		
DRAWING: LOCATION & SITE PLAN		
SCALE : 1/500 & 1/5000	A3	
Drawn: SFP	001	rev A