

Item: 5

Planning Committee: 9 October 2024.

Temporary Extension to Travel Centre to include Bus Stances, Associated Infrastructure and Hoarding (Five Years) at Kirkwall Travel Centre, West Castle Street, Kirkwall.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Overview

- 1.1. This report considers an application for the temporary extension to the travel centre grounds (the stances), including associated infrastructure for five years at the Travel Centre, Kirkwall. One objection has been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/055/PP.
Application Type:	Planning Permission.
Proposal:	Temporary extension to travel centre to include bus stances, associated infrastructure and hoarding (five years).
Applicant:	Orkney Islands Council Harbour Authority, Mr Paul Olvhoj, Harbour Authority Building, Scapa, Kirkwall, KW15 1SD.
Agent:	None.

- 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 temporary extension to the travel centre to include bus stances, associated infrastructure and hoarding at Kirkwall Travel Centre, West Castle Street, Kirkwall, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

3.1. Roads Services.

No adverse comment.

3.2. Scottish Water.

No objection.

3.3. Health and Safety Executive (HSE).

HSE “has no comment to make on the planning application provided that the development is not a vulnerable building.”

4. Representations

4.1. One valid representation (objection) has been received from:

- Mr Leslie Sinclair, 31A Broad Street, Kirkwall, Orkney KW15 1DH.

4.2. The valid representation is on the following grounds:

- Repeated temporary applications, noting, “...why should there be any reasonable expectation that the applicant will not return with another application for “temporary” use another five years into the future?”

4.3. Other matters are raised that are not material planning considerations.

5. Relevant Planning History

Reference	Proposal	Location	Decision	Date
18/512/PP	Temporary extension to travel centre site to include bus stances, associated infrastructure and hoarding.	The Travel Centre, West Castle Street, Kirkwall.	Grant subject to conditions.	07.03.2019.
05/416/RPF	Erect a new travel centre with bus station.	The Travel Centre, West Castle Street, Kirkwall.	Deemed consent.	29.11.2005.

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 13. Sustainable transport.
 - Policy 22. Flood risk and water management.
 - Orkney Local Development Plan 2017:
 - Policy 1: Criteria for All Development.
 - Policy 3: Settlements, Town Centres and Primary Retail Frontages.
 - Policy 4: Business, Industry and Employment.
 - Policy 6: Advertisements and Signage.
 - Policy 9G: Landscape.
 - Policy 13: Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14: Transport, Travel and Road Network Infrastructure.

- Supplementary Guidance:
 - Settlement Statements (2017).
- Planning Policy Advice:
 - National Roads Development Guide (2015).

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.

8. Assessment

Proposal and Site.

- 8.1. The proposed development is continuation of use of extended bus stances and land at the travel centre and associated works, previously approved for a temporary period under application 18/512/PP, for a further period of five years. The development site is adjacent to the travel centre building, located on West Castle Street, Kirkwall as indicated in the Location Plan attached as Appendix 2. In terms of development of the type proposed, the location would comply with Policy 4A 'Business and Industrial Land (Within Settlements)'.

Temporary Period.

- 8.2. The current application was submitted on 15 February 2024, before the previous temporary planning permission 18/512/PP lapsed, on 28 February 2024.
- 8.3. At the time of consideration of the previous application, it was confirmed that if permanent, the proposed density of the development would not be appropriate, contrary to Policy 1 (ii), and would be prejudicial to the effective development of the wider area, contrary to Policy 1 (iii). The development creates and adds to existing non-recreational open space in the town centre, undermining the built form and strong building lines of streets in the vicinity and if a permanent proposal, the development would not reinforce the distinctive identity of Orkney's built environment, contrary to Policy 2 (i) and would have a negative effect on the appearance and amenity of the area, contrary to Policy 2 (ii).
- 8.4. As a temporary proposal only, designed as "a temporary installation, while longer term options for the area and for volume tourism can be considered and developed", on balance, the benefits were considered to outweigh the policy concerns. Submitted as a temporary development only, and not appropriate for a period longer than the five years proposed, the application was approved with the temporary period controlled by planning condition.
- 8.5. The supporting statement with the current application notes, "Since the implementation of the shuttle bus service the numbers of passengers visiting Orkney via cruise has increased to over 200,000 (although not all call at Hatston and avail themselves of this service). There is currently no alternative to transporting cruise visitors into Kirkwall in such a safe manner and no alternative location where they can access the bus currently. It is also noted that an increased number of private coach companies use the extended stances for their operations to drop off and pick up their guests and enable them to access the visitor centre

and Kirkwall centre”. It is also notable that the previous five-year temporary period included the Coronavirus pandemic, which affected development of alternative solutions for cruise passengers and other volume tourism.

- 8.6. Temporary permissions would not normally be run back-to-back, as the acceptability of a development would normally be known after the first temporary period. This is raised by the objector, that the effect of being temporary is reduced if allowed to be renewed. As noted above, the Coronavirus pandemic affected use of the facility during the first temporary period, as well as affecting consideration and alternative development. On this occasion, further temporary extension can therefore be accepted in principle as a single further period, with the applicant noting, “It is understood that the future plans for the town centre preclude the permanent use of this site and the extension, so it is expected to use the temporary planning period to define a new location for the cruise shuttle bus activities”.

Road Safety/Access.

- 8.7. Roads Services has confirmed no objection or adverse comment regarding the development.
- 8.8. The travel centre provides public transport services. It is considered that the proposed extension to the previous permission would be unlikely to have a significantly increased impact on the area than already exists and the allocated/mixed use land nearby would be unlikely to be significantly prejudiced by the five year extension. The development is considered to comply with Policies 1(iii) ‘Criteria for All Development’ and 14 ‘Transport, Travel and Road Network Structure’, NPF4 Policy 13 ‘Sustainable Transport’ and Planning Policy Advice ‘National Roads Development Guide’.

Flood Risk and Drainage.

- 8.9. The site is located within an area of surface water flood risk. The drainage (gully, ditch) would be similar to the drainage proposed under 18/512/PP, which Engineering Services was satisfied with and had no objection to that earlier application on flood risk grounds. As the existing infrastructure would be maintained, during the assessment of the current development, Engineering Services therefore confirmed that further consultation was not required.
- 8.10. Nonetheless, due to hardstanding works and drainage, and the site being located within an area of surface water flood risk, a condition would be attached requiring accordance with Sustainable Drainage Systems (SuDS) requirements in

compliance with 2017 Policy 13A 'Flood Risk, SuDS and Waste Water Drainage' and NPF4 Policy 22 'Flood Risk and Water Management'.

Signage/Hoardings.

- 8.11. Hoarding would be 2.4 metres high, in colour black, and there would be traffic signs on the site, which would be acceptable. Unauthorised advertisements have been installed above the hoardings, but those can be investigated separately and do not prejudice consideration of the current application. The proposed hoardings and signage would comply with Policy 6 'Advertisements and Signs'.

Character of the Area, Visual Amenity and Landscape.

- 8.12. As a town centre site, the works proposed would be unlikely to have a significant increased impact on the character of the immediate area, visual amenity or the wider landscape. It is therefore considered that the proposal would comply with Policy 9G 'Landscape'.

Residential Amenity.

- 8.13. The site is located within a town centre location and is development relating to the travel centre, and there are other businesses and uses within the immediate area, including car parks, garages, the Fire Station and the Police Station. Whilst there are some dwellings within the area, it is considered that the proposal would not significantly increase impacts on the residential amenity of these than already exists and therefore the development would comply with Policy 1(iv) 'Criteria for All Development'.

9. Conclusion

- 9.1. The proposed development complies with Policies 1, 3A, 4A, 6, 9G, 13B and 14 of the Orkney Local Development Plan (2017), Policies 13 and 22 of National Planning Framework 4, Supplementary Guidance: Settlement Statements – Kirkwall (2017) and Planning Policy Advice: National Roads Development Guide (2015). The proposal is acceptable in principle, and in terms of the above matters. There are no material considerations, including those raised in the objection, that outweigh this conclusion.

For Further Information please contact:

Sue Doyle, Planning Officer, extension 2503, Email sue.doyle@orkney.gov.uk

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](#).

Appendix

Appendix 1 – Planning conditions.
Appendix 2 – Location Plan.

Appendix 1.

01. Planning permission is hereby granted for a temporary period only and shall cease to have effect on 30 September 2029 (the 'cessation date'). No later than the cessation date, or an earlier cessation of the development, whichever is earlier, all activities related to the collection, dropping off or other movement of bus passengers shall stop, and all ancillary works, infrastructure, fixtures, fittings or other works hereby approved shall be removed, and a boundary shall be formed between the existing Travel Centre operational area and the extended area hereby approved.

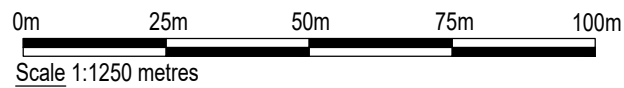
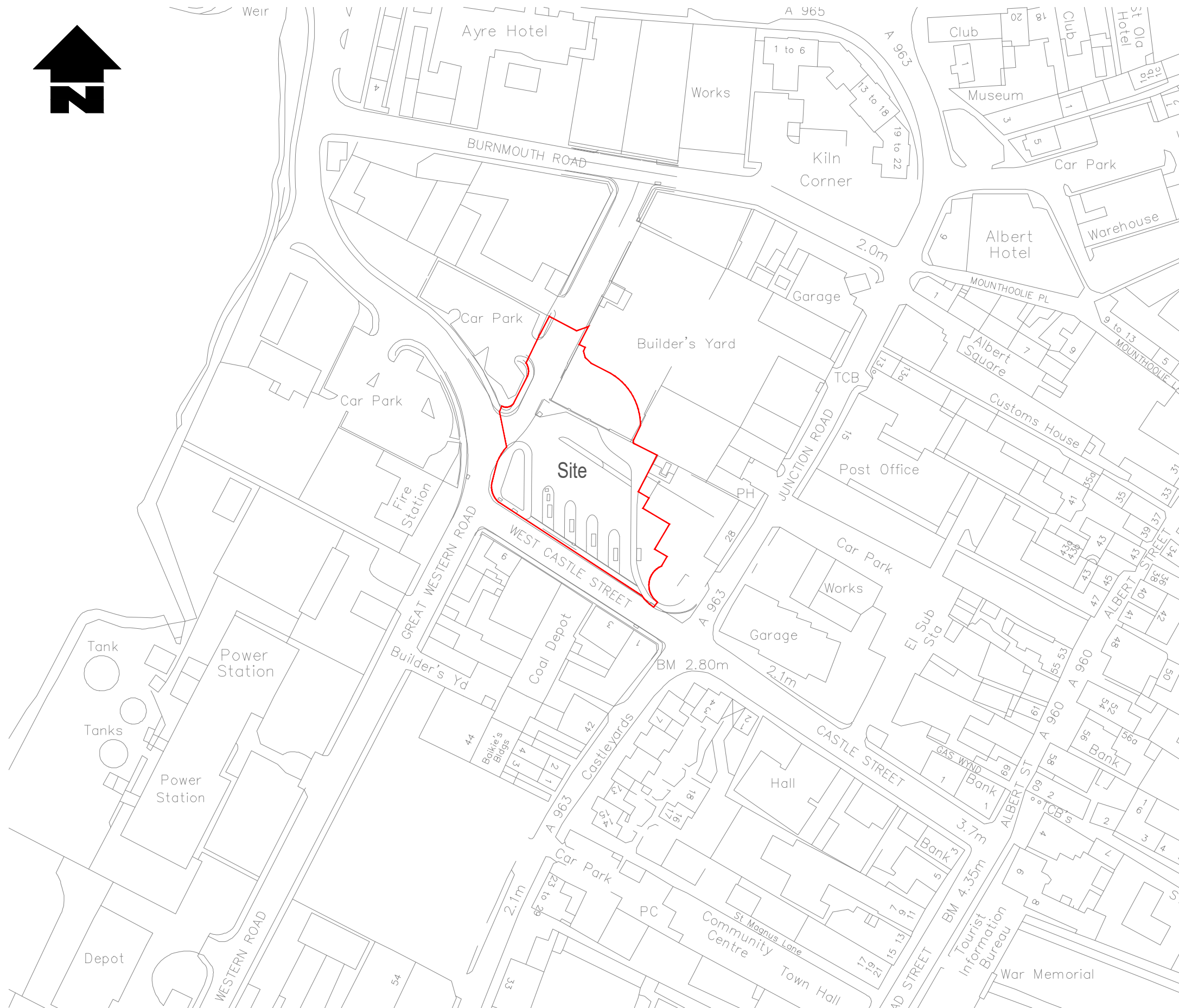
Reason: In accordance with the time limit applied for and to safeguard the vitality and viability of the town centre, and so the appropriate development of allocated land is not prejudiced.

02. No later than 30 September on an annual basis, beginning 30 September 2025 and on a repeated basis thereafter throughout the duration of the temporary consent, or until earlier cessation of the development, whichever is earlier, a report shall be provided to the Planning Authority confirming either how demand for the use of the temporary extended facility is anticipated to reduce or stop by the cessation date, or confirm updated consideration and development of alternative, permanent options to which the temporary development could be relocated.

Reason: To ensure monitoring of the temporary use of land, so any plans and timescales for the development of the allocated mixed-use land is not prejudiced.

03. 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, National Planning Framework 4, and to protect road safety.



2	Scale bar resized to correct scale for drawing.	01/03/24	JMA/JMA
1	Hatching Removed from Drawing. Blue Boundary Line Removed.	30/11/18	JMA/JMA
	INITIAL ISSUE	29/11/18	KDF/KDF
Rev	AMENDMENTS	Date	By Eng

This drawing to be read in conjunction with:

Drawing Nos.	
Bar Schedule Nos.	

Temporary Extension of Travel Centre to Create Bus Stances.

Orkney Builders

Location Plan
Scale 1:1250 @ A3

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Drawn by	KDF	Contract No.	180670	Drawing No.	901	Rev.	2
Checked by	KDF						
Engineer	KDF						