

**Item: 4**

**Planning Committee: 12 February 2025.**

**Proposed Installation of New and Replacement Lighting, Fencing and Gate, Felling One Tree and Landscaping Works at The Robert Rendall Building, Orkney Research and Innovation Campus, Franklin Road, Stromness.**

**Report by Corporate Director for Neighbourhood Services and Infrastructure.**

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## 1. Overview

- 1.1. This report considers an application for the installation of new and replacement lighting, fencing, and a gate, felling of a small tree and landscaping works at The Robert Rendall Building, Orkney Research and Innovation Campus (ORIC), Franklin Road, Stromness. The site comprises two parts – the Robert Rendall Building (former primary school) in relation to the lighting element of the proposed development, and the former playground adjacent and to the north of the building in terms of landscaping works to allow use of the space by ORIC. The site is situated adjacent to but outside Stromness Conservation Area. During consideration of the application, bat and tree surveys have been undertaken and the nature of tree works proposed has been amended from the felling of nine trees and pruning works to the removal of a single small tree. 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:	24/039/PP.
Application Type:	Planning Application.
Proposal:	Install new and replacement lighting, a fence above retaining wall, and a gate, fell one tree and landscaping works.
Applicant:	Orkney Research and Innovation Campus (ORIC).
Agent:	Leslie Burgher.

- 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 installation of new and replacement lighting, fencing, and a gate, felling of a tree, and landscaping works at The Robert Rendall Building, ORIC, Franklin Road, Stromness, subject to the conditions detailed in Appendix 1 to this report.

## **3. Consultations**

### **Development and Marine Planning (Environment)**

- 3.1. Further information was sought in relation to biodiversity enhancement, tree survey, tree plan and a bat survey. Upon receipt of further information, advice was provided that, subject to appropriate conditions, the proposed development was considered acceptable.

### **Development and Marine Planning (Access)**

- 3.2. No evidence of general access rights or an unclaimed right of way existing on site.

## **4. Representations**

- 4.1. One valid representation (objection) has been received from:
- Jenny Taylor, 25 Grieveship Brae, Stromness.
- 4.2. Representation is on the following grounds:
- Impact upon townscape.
  - Consideration of impacts upon trees and biodiversity.
  - The presence of bats.
  - Public access to site.

4.3. It should be noted that the issues raised in the representation have been addressed by the amendments made to the proposal since original submission. In terms of townscape impact, the works are relatively small scale and largely within a walled area, and in terms of trees, and potential townscape impacts and impacts on bats, except for removal of one small tree, no tree works are now proposed.

## 5. Relevant Planning History

Reference	Proposal	Location	Decision	Date
90/465/PPF.	Proposed Alterations to a School.	Stromness Primary School, Franklin Road, Stromness.	Granted.	04.12.1990.
96/161/RPF.	Alterations to a Primary School.	Stromness Primary School, Franklin Road, Stromness.	Deemed Consent.	17.05.1996.
99/428/RPF.	Extension to a primary school.	Stromness Primary School Franklin Road Stromness.	Deemed Consent.	22.11.1999.
17/177/PP.	Change of use from a school (Class 10) to education institution and offices (Class 2, 4 and 10), install external cladding, reconfigure windows, other minor alterations, and create parking spaces.	Former Stromness Primary School, Franklin Road, Stromness.	Granted subject to conditions.	05.06.2017.
23/458/PP.	Alter and extend office building (Block 3) including three storey extension with roof terrace, and change of use, to create a mixed-use food and drink (Class 3), office (Class 4) and education (Class 10) facility, install six air source heat pumps, install external wall	ORIC LLP, The Charles Clouston Building, Orkney Research and Innovation Campus, Back Road, Stromness, Orkney, KW16 3AW.	Pending.	

Reference	Proposal	Location	Decision	Date
	insulation and air source heat pumps (Charles Clouston Building), reconfigure and construct car parking, install electric vehicle charging infrastructure, associated hard and soft landscaping including construction of a ramp and steps, and install air source heat pumps (Robert Rendall Building).			

## 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 1. Tackling the climate and nature crises.
    - Policy 3. Biodiversity.
    - Policy 6. Forestry, woodland and trees.
    - Policy 9. Brownfield, vacant and derelict land and empty building.
    - Policy 14. Design, quality and place.
    - Policy 27. City, town, local and commercial centres.
  - Orkney Local Development Plan 2017:
    - Policy 1: Criteria for All Development.
    - Policy 2: Design.
    - Policy 9: Natural Heritage and Landscape.
    - Policy 10: Green Infrastructure.
    - Policy 11: Outdoor Sports, Recreation and Communities Facilities.
    - Policy 13: Flood Risk, SuDS and Waste Water Drainage.

- Supplementary Guidance:
  - Natural Environment (2017).
  - Settlement Statements (2017).
- Planning Policy Advice:
  - Trees and Woodland (2014).
  - Urban Conservation Areas Management Plan (2013).
  - Amenity and Minimising Obtrusive Lighting (2021).
- Development Management Guidance:
  - Considering and Including Biodiversity in Development (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.

## **8. Assessment**

- 8.1. As noted in section 1 above, permission is sought for the installation of new and replacement lighting, fencing, felling a small tree, and landscaping works at The Robert Rendall Building, ORIC, Stromness, as indicated in the Location Plan attached as Appendix 2 to this report.

### **Principle**

- 8.2. The proposed development is adjacent to the boundary of Stromness Conservation Area and comprises small scale works to The Robert Rendall Building in relation to replacement and new external lighting. The adjacent former playground, which is now a component of the ORIC campus, is proposed to undergo revitalisation and maintenance works including the removal of redundant structures including a play 'ship', an oil tank and bike sheds together with landscaping works to enhance access. The works retain the area as open, largely green, space within the urban fabric albeit it is not openly accessible greenspace for the public. The principle of upgraded lighting and retention and revitalisation of greenspace is considered acceptable.

### **Access**

- 8.3. In the context that the application site is not formal public open space, and terms of access considerations raised in the objection, no public access concerns are considered to arise. The consideration of this application neither removes nor confers any access rights as may exist in other legislation.

### **Residential Amenity**

- 8.4. Works are considered small scale and limited in duration; therefore, amenity impacts to residents locally would be minimal. Appropriate planning conditions can be used to minimise light pollution in accordance with the Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021), and control construction hours to cover both demolition and other works on site.



## **Design**

- 8.5. Appropriate lighting to ensure a safe and welcoming environment around the exterior of The Robert Rendall Building is an understandable requirement for a building of its nature and use. The proposed units are generally discrete and do not detract from the character of the building nor wider townscape, including the setting of the conservation area. Planning condition(s) can be used to minimise obtrusive lighting effects.
- 8.6. The redundant nature of aged structures in the former playground, associated with the former school use, lends an air of disuse and dereliction to the site which detracts from the otherwise positive effects of this space within the townscape generally. The nature and design of the proposed new gate and timber fence is considered acceptable, subject to clarification of finished colour of these elements. Enhancements and improved maintenance of the open space surrounding the building are viewed positively and safeguard the future use and appreciation of this site within the townscape.

## **Biodiversity**

- 8.7. The nature of works proposed have been subject to clarification and amendment during consideration of the application, with revised information clarifying that the initial proposed removal of multiple trees related to historic works on site and not current proposals. Proposed tree works are limited to the removal of one approximately 1.5-metre-high tree situated on a stump of a previous tree. The removal of this single small tree has not been considered as significant in relation to the safeguarding or enhancement of biodiversity on the site. Protection measurements for tree roots can be achieved to facilitate the opening of an access in the boundary and installation of a gate in the westernmost corner of the site and can be safeguarded by appropriate condition.
- 8.8. A bat survey was undertaken at the request of the Planning Authority with review of the findings by the Environment Planner, as submitted and reviewed in December 2024. No evidence of bats was found on the site; however, the proposed development site is in an area where bat activity has been regularly recorded and the building housing the oil tank offers roost potential and as such a condition has been advised to require a pre-demolition inspection to ensure that no bats are present. This also responds to the issue of bats as raised in the representation.

- 8.9. Wider biodiversity matters have been considered with measures proposed being considered as proportionate to the nature and scale of the proposed development, comprising new ground cover planting and maintenance of the existing biodiversity within the site. This can be safeguarded by appropriate planning conditions.

## 9. Conclusion

- 9.1. The proposed development complies with relevant policies of National Planning Framework 4, the Orkney Local Development Plan 2017, Supplementary Guidance, and Planning Policy Advice. The proposal is acceptable in principle and detailed design. There are no material considerations including those raised in the objection that outweigh this conclusion.

### For Further Information please contact:

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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 building housing the oil tank within the ship structure identified on the 1:200 'Robert Rendall building works – playground' drawing (reference 2222 A, number 103, revision B) shall be inspected by a suitably experienced bat surveyor, following NatureScot guidance, no longer than 28 days prior to demolition works or any associated preparatory clearance or other works. If evidence of bat activity is identified, all works shall cease until a species protection plan identifying appropriate mitigation measures and a licence have been approved, in writing, by NatureScot and evidence of this submitted to and approved, in writing, by the Planning Authority.

Reason: To minimise the risk of adverse effects on European Protected Species and comply with protected species legislation.

Note: NatureScot guidance is available at: <https://www.nature.scot/doc/standing-advice-planning-consultations-bats>

03. The biodiversity measures described in the submitted Biodiversity form (dated 19 November 2024) and shown on the 1:200 'Robert Rendall building works – playground' drawing (reference 2222 A, number 103, revision B, undated, version published 19 December 2024) 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 planting that does not survive, is removed, or is damaged, unless otherwise agreed, in writing, by the Planning Authority.

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

04. No development shall commence until a Tree Protection Plan designed in accordance with 'BS 5837 (2012): Trees in Relation to Design, Demolition and Construction' has been submitted to and approved, in writing, by the Planning Authority. This shall include the root protection area measures indicated in the site plan hereby approved and shall include the location and specification of all protective fences or barriers, and the location and specification of all ground protection. Thereafter, the Tree Protection Plan shall be implemented and maintained throughout all demolition and construction works.

Reason: To protect retained trees from above and below ground damage, including soil compaction, during demolition and construction works.

05. Any exterior lighting employed on the development hereby approved shall be so positioned, angled and controlled to prevent any direct illumination, glare or light spillage outwith the site boundary.

Reason: To ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow', in accordance with Planning Policy Advice 'Amenity and Minimising Obtrusive Lighting' (2021).

06. No development shall commence until full details of the finish of the fencing hereby approved has been submitted to and approved, in writing, by the Planning Authority, including colour.

Reason: To protect the setting of the conservation area.

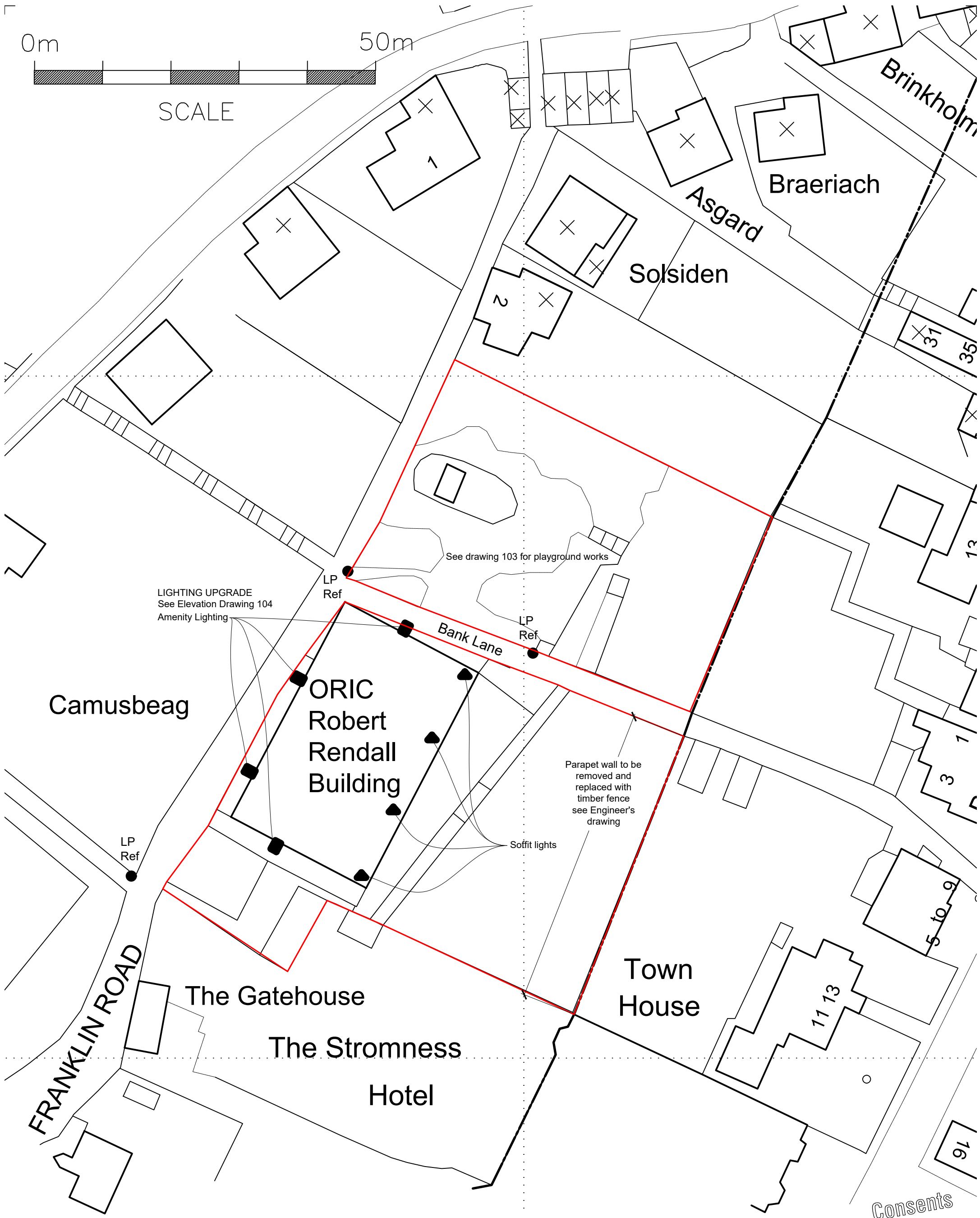
07. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Mondays to Fridays, 08:00 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.

There shall be no bonfires or other open fires on site at any time.


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.

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SCALE



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<b>Leslie Burgher</b> <i>Chartered Architect</i>				HIE ORIC External Works		<b>A3</b>	
Drawing <b>Robert Rendall Building works - Site Plan</b>							
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