

Item: 3.5

Planning Committee: 4 March 2020.

Erect Two Houses with Air Source Heat Pumps and Create Access at Akranes, East Road, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

Planning permission is sought for two houses to the west of the property of Akranes, accessed from East Road, Kirkwall. The proposed site is open ground to the rear of houses on East Road. One objection has been submitted on the grounds of impact on residential amenity through loss of daylight/sunlight and impact on retaining boundary wall. The objection is of insufficient weight to merit refusal. On balance it is considered that the development accords with Policies 1, 2, 5A, 9F, 13B and 14C of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	19/384/PP.
Application Type:	Planning Permission.
Proposal:	Erect two houses with air source heat pumps and create access.
Applicant:	Orkney Builders (Contractors) Ltd, c/o Mr S Craigie, 4 Crowness Road, Kirkwall, KW15 1RG.

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.

One objection has been received from:

- Barbara and Reginald Romeril, Eastmount, East Road, Kirkwall.

3.2.

The objection is on the following grounds:

- Impact on daylight/sunlight affecting flat adjacent to development.
- Stability of retaining wall given differences in ground level.

3.3.

Disruption during the construction phase due to the proximity of the site to an existing self-catering flat, and associated potential impact on visitors and business income, was also raised; however, this is not a material planning consideration as it relates to the construction phase only.

4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
14/239/PP	Change of use of part of existing house to a flat (retrospective).	Eastmount, East Road, Kirkwall, Orkney.	Grant	30.07.2014.

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 in Settlements.
 - Policy 9F – Trees and Woodland.
 - Policy 13B – Sustainable Drainage Systems.
 - Policy 14C – Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Guidance:
 - Supplementary Guidance: Settlement Statements, Kirkwall (April 2017).
 - Planning Policy Advice ‘Development Quality within Settlements’ (March 2012).

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.

7. Assessment

7.1. Site and Location

The application site is located to the west of the dwelling known as Akranes, and to the south of the properties of Eastgarth, Eastmount, Eastmount Self-Catering and Bank House, all East Road, as shown on the site plan, attached as Appendix 1 to this report. The site comprises an area currently part of the garden of Akranes, separated from a maintained lawn by a post and wire fence. The overall size of the site (including access and service strip) is 1900 square metres; proposed Plot 1 is 861 square metres; Plot 2 689 square metres; and the remainder of the site communal, providing the joint access, additional parking and landscaping. The site gently slopes down from south to north. Several large trees are located along the west boundary of the site. The boundaries comprise stone dykes to the south, west and a small section of the east, the north boundary is a concrete wall, and a post and wire fence along the remainder of the east boundary.

7.2. Principle

The site is located within the settlement boundary of Kirkwall. Orkney Local Development Plan 2017, Policy 5A – Housing in Settlements provides a general presumption in favour of residential development, including the sub-division of

garden ground. Therefore, the development of a dwelling on sub-divided garden ground is acceptable in principle.

7.3. Residential Amenity

7.3.1.

Given the proximity, siting and orientation of the proposed dwellings to the neighbouring property, potential residential amenity impacts on neighbouring properties must be assessed in detail. The existing flat at Eastmount, referred to as 'Eastmount Self-Catering' is located just 0.9 metres off its rear boundary wall, and the proposed house is 2.5 metres from the other side of the boundary wall, giving a separation distance of just over 3.5 metres. The change in ground level at the boundary wall would result in a finished floor level of the proposed property 800 millimetres higher than that of Eastmount Self-Catering. The existing boundary wall is approximately 1.9 metres high at the Eastmount Self-Catering side; bedroom and lounge/kitchen windows in the south elevation of the self-catering currently look onto this boundary wall, and the lounge/kitchen has an additional window and patio door facing east. It should be noted that the self-catering flat south-facing windows currently do not meet the standard 25-degree daylight rule due the height and location of the boundary wall. Therefore, whilst those windows are already compromised, in considering the proposed development, it is important that available daylight and sunlight is not further reduced.

7.3.2.

A daylight/sunlight assessment was in requested in accordance with the Building Research Establishment (BRE) guidance document 'Site Layout Planning for Daylight and Sunlight'. The following response was received:

"When the 25deg line to the horizontal was added to these drawings it was noted that the boundary wall as it currently stands obstructs this line therefore we are unable to provide a calculation to show that there is no impact in the daylight/sunlight to this window. It is also noted that the boundary wall has a significant impact on any daylight/sunlight to this window (see photos above).

Notwithstanding this and aware that it does not comply with BRE 209 we have looked at the visible part of the bedroom window and how Plot 1 may impact on it and generated a section (see below) on a line 25 deg from the horizontal at 45 deg from the perpendicular to the bedroom window and found that no part of Plot 1 impacts on this where it intersects the bungalow therefore we feel there is no requirement to provide an assessment on loss of any daylight/sunlight to the bedroom window."

7.3.3.

The house on Plot 1 is offset to the east of the windows in the self-catering, and it is therefore accepted that there would be no impact from the east or south. The remaining consideration is any impact when the sun is in the south-west, particularly during winter months. The statement provided by the applicant confirms no unacceptable impact. Nevertheless, following negotiation with Development

Management to minimise any potential impact, the applicant has lowered the finished floor level of the house by 500 millimetres. All matters considered together, it is concluded that there would be no unacceptable loss of daylight or sunlight to an extent that could justify refusal of the application.

7.3.4.

In relation to any potential overbearing impact of the house, views of the gable of the proposed house would be obscured by the existing boundary wall when viewing the site in a south-westerly direction from the self-catering windows. The house in Plot 1 would be evident from the garden of the neighbouring house. However, given the lowered floor levels of both proposed houses, it is considered there would be no unacceptable impact on either the self-catering or the proposed house.

7.3.5.

Given the proximity of the self-catering flat to the boundary and the difference in ground levels as noted above, if approved, a planning condition would be attached to remove particular permitted development rights, as provided under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. This would affect Plot 1 only, to ensure that no structures, fences or extensions could be constructed within that plot which could impact the amenity of the neighbouring property, without being assessed fully through a planning application.

7.3.6.

Disruption arising during the construction period, such as noise, dust, vehicles, power tools, has been raised by the objector, particularly in relation to the impacts on the self-catering flat which is used as a holiday accommodation. Construction disruption is not a material planning consideration; nonetheless, a planning condition would be attached to the consent to limit works to standard hours of construction and for the provision of a site-specific construction method statement, to minimise potential impacts on residential amenity.

7.4. Housing Density

East Road is located towards the east of the main core of the town. Houses in the vicinity stand in relatively large plots; however, several subdivisions of garden ground and redevelopment of sites have been carried out within the area, many of which have smaller plot sizes. This site is relatively constrained given the proposed scale of houses and layout of the site; however, it is considered that the development would not impact on the overall character of the area.

7.5. Design and Appearance

The site is in a residential area and would be screened from the main road by existing houses, trees and vegetation. The stone boundary walls noted above are generally tall. On that basis, it is unlikely that either house would be prominent from public vantage points on East Road or the adjacent sites. Given the difference in ground level between the properties on East Road and the application site, the agreed lowered floor levels will help further minimise the visual impacts. In relation to

design, the scale and form of both houses relate to other buildings in the vicinity, in accordance with Policy 2. A range of building designs exists in the locality, both domestic and non-domestic. Therefore, it is considered that the development would not have a significant impact on the character or appearance of the area.

7.6. Trees on the Site

Mature trees along the west boundary of the site provide a boundary treatment and screening. The trees have no statutory protection, but the application provides an opportunity to safeguard the trees as part of the development. Evidence on site indicates that one tree has been felled relatively recently, and several other trees have been pruned. The trees add to the character of the site and aid privacy and should therefore be retained. The application submission includes an Arboricultural Method Statement, which in turn includes a Tree Protection Plan. This sets out all measures which would be carried out to protect the trees during construction. On that basis, the tree works would accord with Policy 9 – Natural Heritage and Landscape.

7.7. Sewerage and Drainage

The development would be required to connect to the public sewer and include surface water drainage that would be compliant with Sustainable Drainage Systems, in accordance with Policy 13B.

7.8. Parking Provision, Access and Road Safety

7.8.1.

Full details of access, parking provision and footpaths have been submitted, which indicate adequate space within the plots for parking and turning, and a further two car parking spaces within the communal area of the development.

7.8.2.

A new access, via an existing private access which leads to Little Alton, would be created in order to access the development. Roads Services has no objections to the development provided the access onto East Road is upgraded to a standard suitable for two to four houses, and that the surface water drainage is incorporated as included in submitted details. Roads Services has no objections in relation to road safety. The application accords with Policies 1(vi) and 14C.

8. Conclusion and Recommendation

The principle of the development is acceptable. Residential amenity and the character and appearance of the area can be adequately protected. Adequate measures are in place for access, surface water drainage and protection of existing trees. The objection submitted is not of sufficient weight to merit refusal. The development accords with Policies 1, 2, 5A, 9F, 13B and 14C of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for approval**, subject to the conditions listed in Appendix 2.

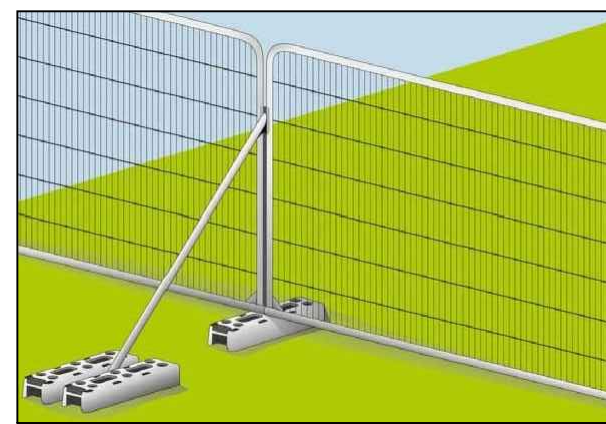
9. Contact Officer

Margaret Gillon, Senior Planner, extension 2505, Email margaret.gillon@orkney.gov.uk

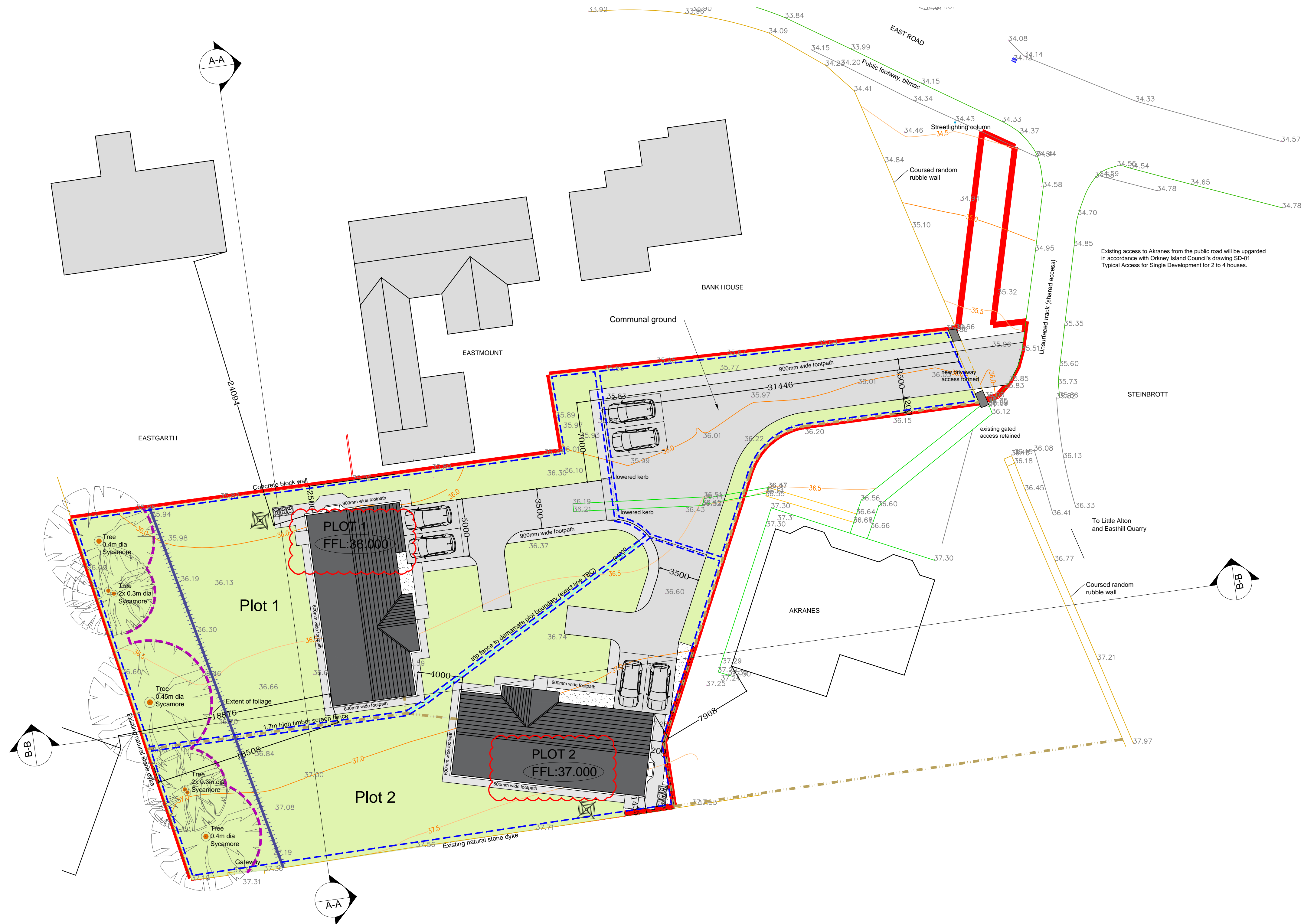
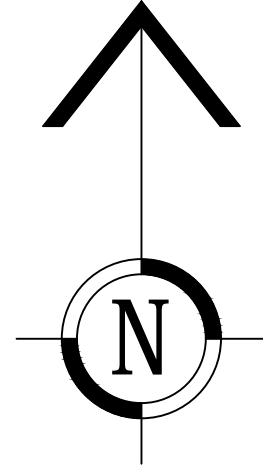
10. Appendices

Appendix 1: Site Plan.

Appendix 2: Planning Conditions.



Proposed tree protective barrier



HOUSE TYPE MIX		
Name	m2	02
Plot 1 - 2 bed bungalow	91.52	984.76
Plot 2 - 3 bed bungalow	85.08	915.46
Total Site area	0.19ha	0.47 acres
Parking spaces (2 spaces per 2/3 bed dwelling)	4	
Visitor Parking spaces	2	

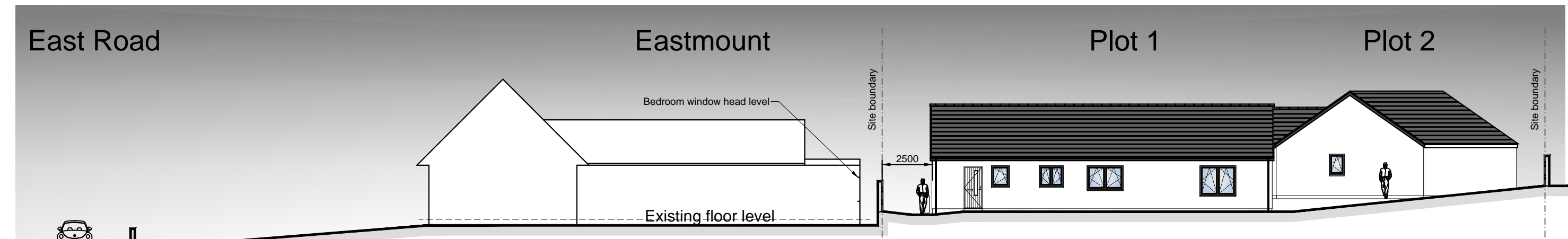
- Hardworks**
- Existing trees to be retained
 - Extent of root protection zone (RPZ)
 - Tree protection fencing

Arboricultural Method Statement

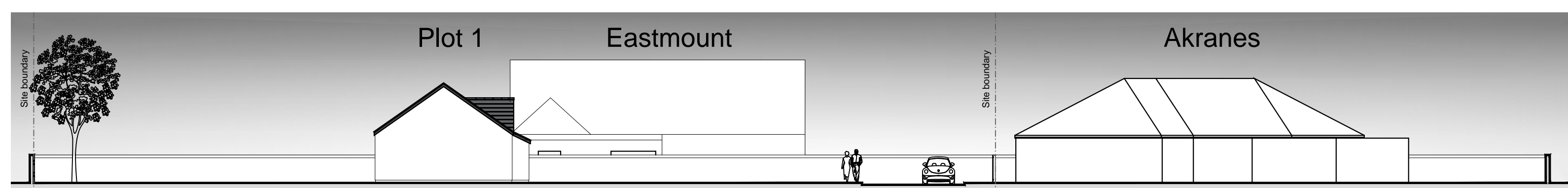
General - Construction in proximity to trees

1. Temporary protective fencing in accordance with BS5837:2012 will be placed in position as shown on the Tree Protection Plan around the whole of the extrapolated Root Protection Zone to protect the Root Protection Areas of all trees at the commencement of construction works on site and will remain in position until all construction works are completed on site.
2. No excavation, level changes, trenching, storage of materials, fires, machinery or personnel access will take place within the area enclosed by the protective fencing.
3. Roots exposed during excavation of parking areas that are smaller than 25mm diameter will be pruned back, making a clean cut with a sharp tool, except where occurring in clumps; where roots occur in clumps or are of 25mm diameter and over, they should be severed only following consultation with an arboriculturist.
4. All roots over 25mm diameter to be retained intact.
5. Roots, while exposed, will immediately be wrapped or covered to prevent desiccation and to protect them from rapid temperature changes; any wrapping will be removed prior to backfilling, which will be undertaken as soon as possible.
6. Prior to backfilling, retained roots will be surrounded with topsoil or uncompacted sharp sand (builder's sand will not be used) or other loose inert granular fill, before soil is replaced. Material for backfilling will be free from contaminants and foreign objects that are potentially injurious to tree roots.

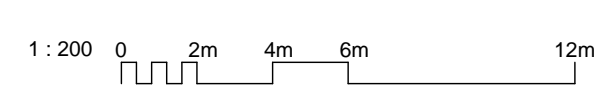
- Hardworks**
- 1700mm high timber screen fence
 - 300mm low marker fence
 - Tarmac road
 - Tarmac footpaths/concrete paving slab footpaths
 - Gravel
 - Grass turf
 - Rotary Drier



SECTION A-A



SECTION B-B



F	11/02/2020	FFL's amended as requested by Planning.	IL
E	10/02/2020	FFL's added and footpath at entrance to site extended to unsurfaced track.	IL
D	16/01/2020	Turning heads added to each driveway, cross sections added in both directions and note added re upgrading of existing access to Akranes to public road.	IL
C	09/12/2019	Planning boundary line amended as requested by Planning	IL
B	25/11/2019	Various amendments as requested by Planning	IL
A	16/10/19	Various amendments as requested by client.	IL
REV	DATE	DESCRIPTION	DRN

Bracewell Stirling CONSULTING

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

AKRANES, EASTHILL, KIRKWALL, ORKNEY
 2NO . PROPOSED BUNGALOWS
 ORKNEY BUILDERS LIMITED

PROPOSED DEVELOPMENT PLAN

STATUS:	PLANNING		
SCALE:	1 : 200	DRAWN:	IL
PAPER SIZE:	A1	DATE:	Sep 2019
DWG No.	4608-01-002	REV:	F

Appendix 2.

01. The junction of the existing access with the public road shall be upgraded to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2-4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these 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.

02. Construction of the access road and the junction of the access road with the public road as specified in Condition 01 above shall include surface water drainage provision within the application site which accords with the principles of Sustainable Urban Drainage Systems and is designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of Sustainable Drainage Systems, in order to protect the water environment.

03. Prior to the commencement of any works, a detailed Scheme of Landscaping, including all hard and soft landscaping works within the site, shall be submitted to, and approved in writing by, the Planning Authority. These details shall include:

- All earthworks and existing and finished ground levels in relation to an identified fixed datum point.
- A plan showing existing features and vegetation to be retained, including existing structural planting along the boundary, other than the minimum required to be removed to facilitate access requirements.
- The location and design, including materials, of any existing or proposed walls, fences and gates.
- A plan showing all soft landscaping and planting works, as well as schedules including the location, number, density, species and size of each individual tree and/or shrub.

Landscaping works shall be carried out wholly in accordance with the approved Scheme of Landscaping. All landscaping works shall be carried out and completed in the first planting season following the commencement of development, unless otherwise stated in an approved Scheme of Landscaping.

Any trees or plants which, within a period of five years from completion of the development, die, or for any other reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site and for the avoidance of doubt.

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.

05. 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.

Throughout the construction phase of the development there shall be no burning of waste material on site.

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.