

Item: 4.4

Planning Committee: 6 July 2022.

Convert Shop, Gallery and Music Venue to 14 Residential Units (Ten Houses and Four Flats), Install Four Air Source Heat Pumps, Replace Roof Slates, and Associated Works at 8 Laing Street, Kirkwall.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

This building/site has been vacant since the commercial use ceased during 2021 and planning permission is sought to convert the shop, gallery and music venue to 14 residential units, with associated works, at 8 Laing Street, Kirkwall. No representations have been received. Roads Services has objected in relation to insufficient parking provision. Given the implications of this position on the potential redevelopment of other town centre sites, in combination with the importance of the building in a town centre and historic cultural perspective, the Corporate Director of Neighbourhood Services and Infrastructure has opted not to exercise delegated powers. Accordingly, the application is submitted to the Planning Committee for determination. While the principle of the development is acceptable, based on Roads Services objection, the development is considered contrary to the Orkney Local Development Plan 2017 Policy 14B(iii). Accordingly, the application is recommended for refusal.

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| Application Number: | 22/119/PP. |
| Application Type: | Planning Permission. |
| Proposal: | Convert shop, gallery and music venue to 14 residential units (10 houses and 4 flats), install 4 air source heat pumps, replace roof slates and form window opening in original part of building, install door in side wing, install windows and doors in metal. |
| Applicant: | Neil Stevenson, 30 Albert Street, Kirkwall, Orkney, KW15 1HQ. |
| Agent: | Stephen Omand, 14 Victoria Street, Kirkwall, Orkney, KW15 1DN |

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

2.1. Roads Services

“When considering the parking requirement for a development using the National Roads Development Guide parking provision should be provided for all developments, although NRDG indicates that “Reductions of the standard may be considered if there is development within an urban area that has good links to sustainable transport” but doesn’t allow for the no parking to be provided.

As with several developments in and around the town centre area no parking is being provided with this development proposal, which if approved would further compound the parking problems in and around the town centre area. Therefore, Roads Services object to this development proposal on the ground of insufficient parking provision, as a parking provision of 14 parking spaces should be provided.”.

2.2. Other Consultation Bodies

Scottish Water and Environmental Health have not objected or raised any issues which cannot be addressed by planning conditions. Engineering Services did not object and requested further information; the agent responded and a further consultation response requested. At the time of writing this report, a final response had not been received from Engineering Services.

3. Representations

No representations have been received.

4. Relevant Planning History

| Reference | Proposal | Location | Decision | Date |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|----------|------------|
| 16/308/PP | Change of use of former library to shop, gallery, café bar and music venue, erect rear and side extensions, install air source heat pumps, demolish house to rear, erect outbuildings and widen access. | Old Library, 8 Laing Street, Kirkwall, Orkney, KW15 1NW | Approved | 01.09.2016 |
| 16/309/LB | Erect side extension with rendered walls, erect rear | Old Library, 8 Laing Street, | Approved | 31.08.2016 |

| | | | | |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|---------------------|------------|
| | extension with metal cladding and parapet wall, replace glazing in existing side extensions, paint windows and rendered walls, reinstate metal rainwater goods, minor internal alterations, display signage, and install air source heat pumps | Kirkwall, Orkney, KW15 1NW | | |
| 19/037/LB | Form an opening in internal partition | Old Library, 8 Laing Street, Kirkwall, Orkney, KW15 1NW | Approved | 04.03.2019 |
| 22/123/LB | Replace Norwegian roof slates, form opening in rear wall and install timber sash and case window, alter rear ground floor openings, install partitions to subdivide rooms, services and other internal alterations, and install doors, windows, air source heat pumps and other alterations to modern parts of building | 8 Laing Street, Kirkwall, Orkney, KW15 1NW. | Under consideration | n/a |

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.
 - Policy 5 – Housing.
 - Policy 9 – Historic Environment and Cultural Heritage.

- Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Historic Environment and Cultural Heritage (2017).
- Policy Advice (PPA): Amenity and Minimising Obtrusive Lighting (2021).

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

The site is located within the settlement boundary of Kirkwall. On the basis the development would comprise the conversion and redevelopment of an existing premises, residential development on this site is acceptable in principle. The use of the café and kitchen in the former archive building and librarian's house would remain in use with the walls blocked up for division. The application is acceptable in principle in accordance with Policy 5A: Housing in Settlements.

7.2. Impact on the Character and Appearance of the Conservation Area and Special Interest of the Listed Building

7.2.1.

Consideration of the works affecting the setting and special architectural and historic interest of the building, both externally and internally, are subject to a separate listed building application under reference 22/123/LB.

7.2.2.

The building is in a prominent position in the conservation area, and Laing Street in particular. The external appearance, especially the main frontage, has a significant contribution to the character and appearance of the conservation area. External alterations to the building would be kept to a minimum and there would be no increase in footprint. Publicly visible alterations to the external appearance would almost entirely be limited to existing modern additions to the building.

7.2.3.

The only exception, but a significant alteration, is the proposed replacement of the Norwegian slate with Welsh slate. Norwegian slate is an increasingly rare roof cladding material in Orkney and the combination of the material with the 'fish scale' pattern of how it is installed has a significant contribution to special architectural and historic interest of the building. While stripping the roof is acceptable in principle to enable other necessary works, the typical approach would be for all existing historic slates to be salvaged for re-use; accepting typical losses during the roofing works, salvaged slates would therefore be used on the principal roof plane and any other

roof planes where salvaged materials would allow, to minimise the resultant change after works. The finite resource of Norwegian slates, particularly of the shape required for the fish scale pattern, emphasises the need to protect and retain them whenever possible, but also means there are very few available to renew roofs when existing slates reach the end of their natural life. The replacement of the roof will be considered by the separate listed building consent application.

7.2.4.

The new apertures proposed on the extensions would be suitable for the modern nature of the existing modern additions and would facilitate natural lighting and access/egress to each individual unit. Modern plant would be in positions that would not be readily visible from the street and would be screened for the avoidance of doubt to maintain the consistent position that no modern or incongruous plant should be visible from any public place in the historic environment.

7.2.5.

Cutting back the modern extension to the rear would provide access to the row of rear housing units and would also provide separation from the historic building. This would emphasise the differentiation of old and new which is considered appropriate.

7.2.6.

Overall, the proposed external works are considered acceptable and appropriate to secure the long-term future of the building while protecting the special architectural and historic interest and would preserve the character and appearance of the conservation area, in accordance with Policy 8: Historic Environment and Cultural Heritage.

7.3. Amenity

7.3.1.

Although relatively large in scale and close to the existing third-party residential properties, there would be no impact in relation to daylight or overlooking into third party neighbours. As an entirely residential development, occupancy of the units would not introduce any activity to the area that would impact residential amenity. Environmental Health has no objections to the proposal as a whole and any noise during construction or operational noise in relation to plant and machinery could be controlled through planning condition as standard.

7.3.2. Dedicated amenity space

The development is relatively high-density. For all flatted residential development, it is expected that communal outside amenity space will be provided within the curtilage of the building for their sole use. Any such space facilitates passive and active recreational activities and should be located conveniently for occupants without having a negative effect on the visual amenity of the development. Properties to the east (12-14) would share a communal external space, while the north units (7-11) would be served by individual private external garden spaces accessed directly from each house. Both would also be served with a dedicated bin storage area away

from these spaces. This is considered acceptable and would allow private external amenity space in a dense town centre location.

7.3.3.

In the urban centres of Kirkwall and Stromness, the redevelopment of sites and the conversion of historic buildings to form flatted development does not always allow for dedicated outside amenity space. The Laing Street units (1-6) would be such an instance given the use of the existing historic building and side extensions, which have no space available between the building and the street. Provision would be limited to dedicated bin storage. The absence of dedicated external space at these six properties in a town centre location can be considered in context, and residents would have access to public open spaces within 300 metres. On balance, the proposed amenity space is not considered unacceptable, whilst achieving a viable use for the building.

7.3.4. Privacy and overlooking

It is considered that there is sufficient natural lighting provided within rooms adjacent to the new rear lane given that these would be bedrooms. However, the siting of the windows directly opposite in the lane is unacceptable in terms of privacy. This element could be addressed by use of obscure glazing to one side; had the application been recommended for approval, this would have been clarified with the agent and addressed by planning condition. Although a dense development, no other privacy issues are deemed to arise from the proposal.

7.4. Lighting

7.4.1.

Listed buildings and conservation area designations provide additional controls over any external alterations, including locations where lighting may be acceptable, the design of any light fittings and the luminance of any external lighting. While external illumination is not generally supported within the conservation area, any instance where it is deemed acceptable should minimise light spill to any adjacent areas to preserve the character and appearance of the area, and to generally be limited to private courtyards, lanes and spaces.

7.4.2.

Several external lights are proposed which would appear to be downward facing. Full specification has not been provided, and no fitting would be required on the historic fabric of the listed building. Downward lighting in the proposed cutback area would be acceptable in principle for security and safety and would not affect the conservation area.

7.4.3.

However, the street facing lights have potential to cause greater impact. In this instance, while readily visible, the two proposed fittings would be located on the modern extensions in a slightly stepped back facade, provide lighting for entrance safety reasons and for domestic purposes only. These would also be situated away

from the main thoroughfare where external lighting has not previously been supported. On balance, the principle of this minimum lighting can be accepted.

7.4.4.

Full details have not been pursued with the agent, but lighting for security should be fitted with passive infrastructure detectors and / or timing devices to ensure nuisance to neighbours and surrounding users would be minimised and not triggered by passing traffic or pedestrians outside the proposed site. A full lighting plan is a matter that would be pursued prior to determination, or secured by condition, for applications that are recommended for approval.

7.5. Parking

7.5.1.

It is relevant to consider the proposed development in relation to the current lawful use of the building, and therefore the potential staff and customer parking demands, and any vehicle movements associated with the goods and services associated with the commercial use.

7.5.2.

Policy 14B (iii) requires that “Developments must accord with the car parking standards that are set in the National Roads Development Guide, which has been adopted as Planning Policy Advice.”.

7.5.3.

The National Roads Development Guide indicates that “Reductions of the standard may be considered if there is development within an urban area that has good links to sustainable transport” but does not provide for development which has no parking provision. Whilst Roads Services has applied a discretionary approach to parking standards in the historic town centre on previous occasions, Roads Services has objected to the current application on grounds of lack of parking provisions.

7.5.4.

Roads Services refers to ‘parking problems in and around the town centre area’ and objects on the grounds of insufficient parking provision. This position from Roads Services of objecting to development which does not include parking provision could have implications for many sites within the town centre which may otherwise be suitable for commercial or domestic redevelopment but which, like the current site, do not have adequate outside space for parking to be provided. Many vacant town centre premises have been approved for residential development, such as above the rear of ‘We Frame It’ which was built over a flat roof, above ‘Superdrug’, above ‘Poundland’ which included a new storey, and above the ‘Co-op’. If Roads Services objects to the development of any such properties due to a combination of parking problems in the town centre and an absence of dedicated parking spaces, these properties may remain without a viable re-use, which could result in vacant buildings and/or less footfall in the town centre.

7.5.5.

The Roads Services objection results in a conclusion that the development is contrary to Policy 14B (iii) as it does not accord with the car parking standards that are set in the National Roads Development Guide. This policy conclusion can be balanced against relevant material considerations, including that the site is within the defined Town Centre where long stay public car parking and other parking exists in the area (although no assessment has been made of the number and distance), the development would be well connected to an existing network of roads, paths and cycleways, that the development is in a building where the lawful planning use generates its own demand for parking and deliveries, and the benefits of securing a viable use for a currently vacant property which is of historic and cultural importance and where redevelopment is critical to its ongoing conservation.

7.5.6.

It is also relevant that the nature of multiple one-bedroom units lends itself to a town centre location. In comparing the proposed multiple single occupancy units versus a potential alternative of a fewer number of larger units, the parking requirements generally remain constant and a change in this regard would not necessarily alleviate the concerns expressed by Roads Services.

7.5.7.

The weight afforded to these material considerations is a matter for the decision maker, in balance with policy provisions. It is relevant in this occasion that the policy consideration is based on an objection from Roads Services as the roads authority.

7.6. Surface and Foul Water

As a redevelopment with no additional floor area, there would be no change in existing surface water runoff because of the development, only an increase into the existing foul water infrastructure. The application has been subject to consultation with Engineering Services as the local flood risk authority and no objection was raised. Further information was requested including to investigate the use of water butts. Scottish Water has no objection and raises technical matters which would be provided as information to the developer had the recommendation been to approve.

8. Conclusion and Recommendation

The proposed use and conversion to residential development is acceptable in principle. The special interest of the listed building and character and appearance of the conservation area would be preserved, subject to planning control of the roofing finish. However, Roads Services as the roads authority, has objected due to the lack of parking provision, noting that the development would not accord with the car parking standards set out in the National Roads Development Guide and the development would therefore result in an unacceptable burden on existing infrastructure. The development is considered contrary to Policies 1(v) and 14B(iii) of the Orkney Local Development Plan 2017. Notwithstanding relevant material considerations, the application is recommended for **refusal**.

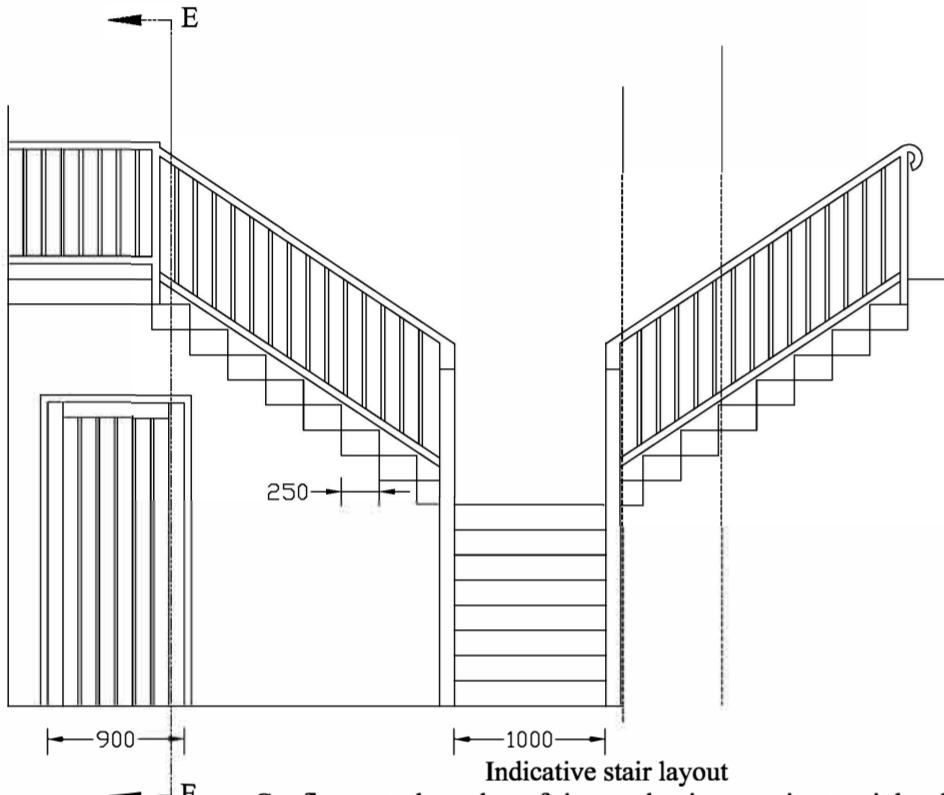
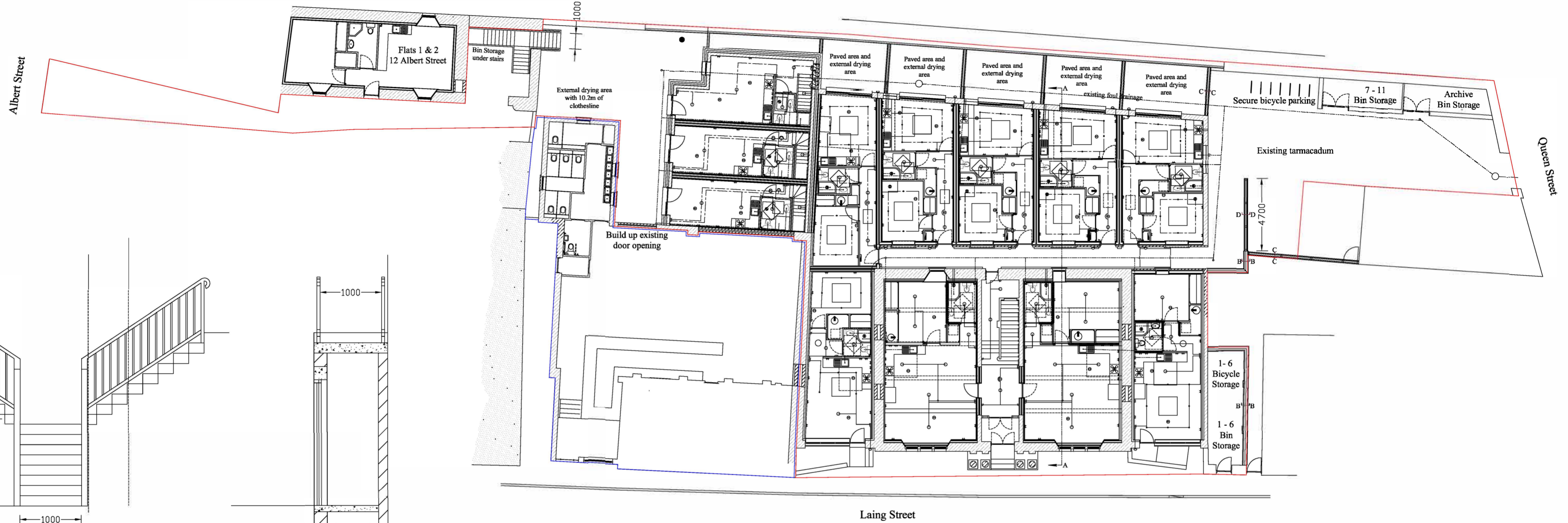
9. Contact Officers

Dean Campbell, Planning Officer, Email dean.campbell@orkney.gov.uk

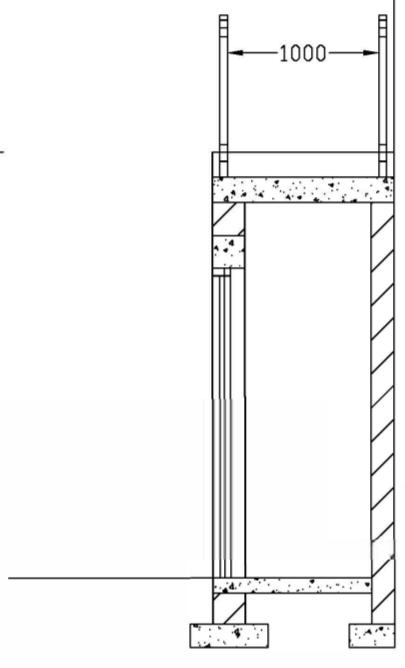
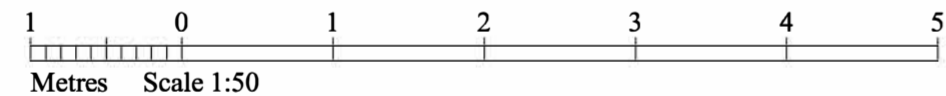
Jamie Macvie, Planning Manager, Email jamie.macvie@orkney.gov.uk

10. Appendix

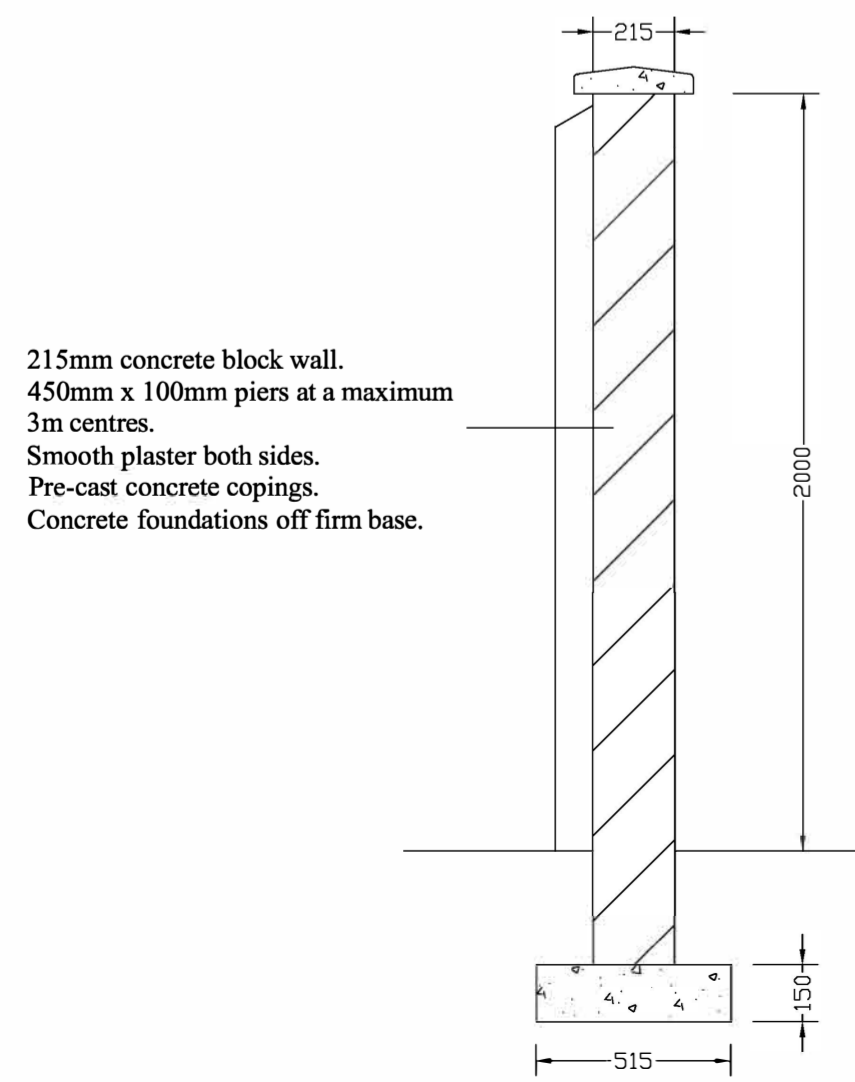
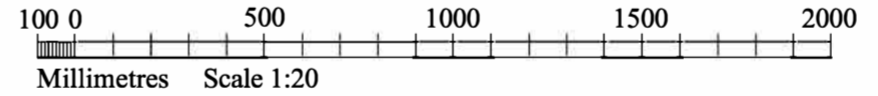
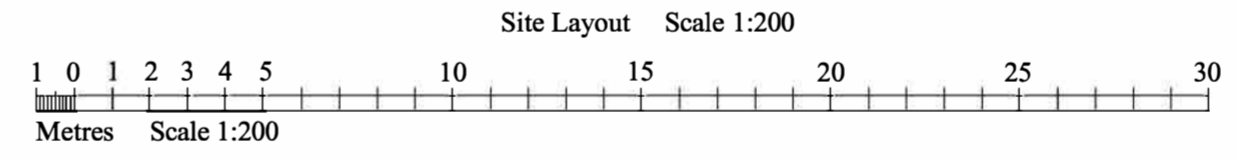
Appendix 1: Location Plan.



Indicative stair layout
Confirm actual number of rises and goings on site to suit levels
Scale 1:50

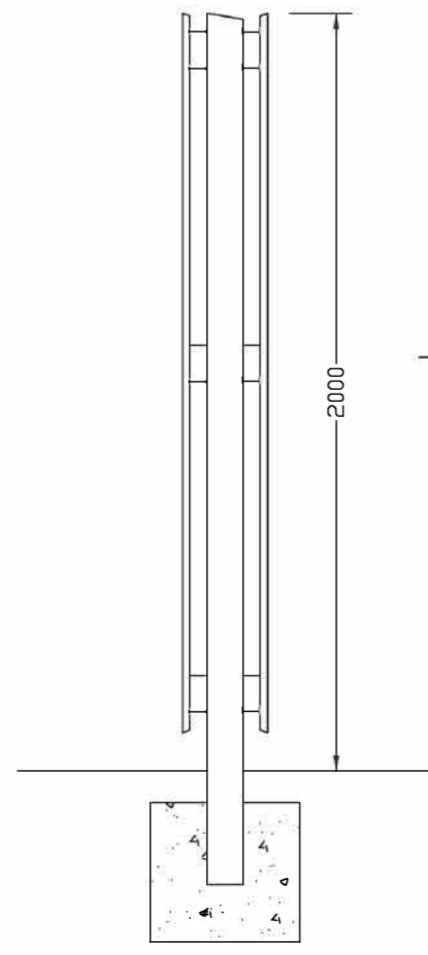


Section EE Scale 1:50



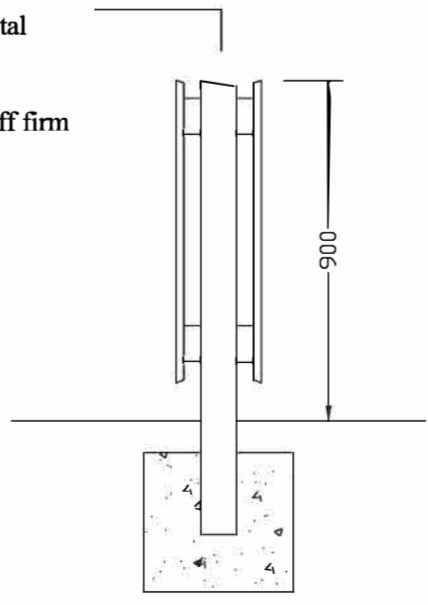
Section BB Scale 1:20

215mm concrete block wall.
450mm x 100mm piers at a maximum
3m centres.
Smooth plaster both sides.
Pre-cast concrete copings.
Concrete foundations off firm base.



Section CC Scale 1:20

20mm x 110mm vertical hit
and miss boards, 50mm apart,
both sides.
45mm x 95mm horizontal
battens.
95mm x 95mm posts.
Concrete foundations off firm
base.



Section DD Scale 1:20

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| S J Omand, Chartered Surveyors, 14 Victoria Street, Kirkwall, KW15 1DN. Tel- 01856 876215 Fax- 01856 876199 Email- stephen@sjomand.co.uk | | |
| Project Former Library Building, Laing Street, Kirkwall. | | |
| Title Change of use from shop, gallery and music venue to 10 One Bedroom Houses and 4 One Bedroom Flats with Heat Pumps. | | |
| Plan Title Site Details | | |
| Client Wm Neil Stevenson, 30 Albert Street, Kirkwall, KW15 1HQ. | | |
| Date | March 2022. | Drawn By |
| Scale | 1:100 | SJO |
| DO NOT SCALE- CONFIRM ALL SIZES ON SITE. If in doubt ASK. | | Drwg No |
| | | 1617/6/P1 & LB1 |
| | | Plan Size |
| | | A1 |
| To comply with The Building (Scotland) Regs 2004, as amended. | | |