

Item: 3.3

Planning Committee: 6 March 2019.

Change of Use from Retail (Class 1) to Cafe (Class 3), Install Windows and Rooflight, Paint Walls and Windows, and Install Air Source Heat Pump at 42 Broad Street, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

Full planning permission is sought for change of use from a shop to a café and associated alterations at 42 Broad Street, Kirkwall. The property is situated within the heart of the Kirkwall Conservation Area. External works would be sensitively specified. One objection has been received on the grounds of design and impact on the historic environment, but it is considered of insufficient weight to merit refusal. The development accords with Policies 1, 2, 3, 4 and 8 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval.

Application Number:	18/523/PP.
Application Type:	Planning Permission.
Proposal:	Change of use from retail (Class 1) to cafe (Class 3), install windows and rooflight, paint walls and windows, and install air source heat pump.
Applicant:	Mr and Mrs Brian Flett, 7 Thoms Street, Kirkwall, KW15 1PE.
Agent:	Cindy Mackenzie, Braeside, Ontoft Road, St Margaret's Hope, KW17 2TL.

1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

http://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:

- James Sinclair, 4 Erland Terrace, St Margaret's Hope, KW17 2TP.

3.2.

The objection is on the grounds of design and impact on the historic environment.

4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
86/336/PPF.	Proposed Alterations to a Shop.	42 Broad Street, Kirkwall, Orkney, KW15 1DG.	Approved.	20.01.1987.

5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<http://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 3 – Settlements, Town Centres and Primary Retail Frontage.
 - Policy 4 – Business, Industry and Employment.
 - Policy 8 – Historic Environment and Cultural Heritage
- Supplementary Guidance and Planning Policy Advice 2017:
 - Supplementary Guidance: Historic Environment and Cultural Heritage.
 - Planning Policy Advice: Historic Environment (Topics and Themes).

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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 sets a general duty as respects conservation areas in exercise of planning functions: “In the exercise, with respect to any buildings or other land in a conservation area, of any powers, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

6.3.

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.

6.4.

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 property is situated in a prominent location in the Kirkwall Conservation Area, at 42 Broad Street, defined as ‘Town Centre’ and identified as ‘Primary Retail Frontage’, as indicated on the site plan attached as Appendix 1 to this report. It is currently vacant, having last been used as a shop. Policy 3A of the Orkney Local Development Plan 2017 supports development that would enhance the vibrancy, vitality and viability of the town centre, and Policy 3B supports Use Class 3 – Food and Drink in primary retail frontage properties. As such, the principle of development is acceptable.

7.2. Design and Appearance

7.2.1.

The café would be contained within the existing building, with associated external works which seek to reinstate historic features. Three blocked windows in the west elevation, facing the Royal Bank of Scotland, would be reinstated, utilising the original apertures with new timber windows. Acceptable details have been submitted and the specification would reinstate the original character of the building and offer an overall improvement to the character and appearance of the vicinity.

7.2.2.

The public elevations, including walls, windows and doors, would be painted using a simple palette of appropriately specified colours. Those would be similar to the colours applied recently to Bruce's Stores in Victoria Street, which was subject to planning and listed building consents.

7.2.3.

The existing rooflight on the north elevation would be replaced with a conservation style unit. This would be readily visible from the north and therefore an appropriate specification would be secured by condition, for the avoidance of doubt.

7.2.4.

The proposed air source heat pump would be located in a valley in the roof at the bottom of the east roof plane, at the rear of the building. This would not be visible from any part of the public realm. It is therefore considered that timber screening is not necessary in this case, as the heat pump would have no impact on the appearance of the conservation area.

7.2.5.

The property has a prominent frontage facing Broad Street and Victoria Street with elevations readily visible from public realm. The proposed works are relatively minor and have been sensitively specified to ensure the development would be appropriate and preserve or enhance the character and appearance of the conservation area.

7.2.6.

Lettering is indicated as cut stainless steel; however, full details have still to be provided for proposed signage. That would be assessed under the provisions of the advertisement regulations. It is expected that the usual high-quality conservation area specification will be followed.

7.3. Residential Amenity

7.3.1.

This property is long established as commercial, based on generating footfall. Therefore, given the nature of this area, the proposed change of use to a café is not anticipated to adversely affect the residential amenity of the area. Hours of opening would be controlled by planning condition.

7.3.2.

Noise from the air source heat pump would be controlled by planning condition. Environmental Health has no objections.

7.3.3.

No external extraction vents or other plant or machinery is proposed. A planning condition would control any future installations, to allow assessment by Environmental Health in relation to noise and smells.

7.4. Parking and Road Safety

Although concerns have been expressed from Roads Services regarding the lack of parking provision, given the town centre location and availability of on-street parking, the requirements have been relaxed.

8. Conclusion and Recommendation

The proposed change of use is acceptable in principle in the town centre location and would have no adverse impact on amenity. External alterations have been sensitively considered and the overall character and appearance of the conservation area would be preserved and enhanced. The development accords with Policies 1, 2, 3, 4 and 8 of the Orkney Local Development Plan 2017. Accordingly, the application is **recommended for approval**, subject to the conditions attached as Appendix 2 to this report.

9. Contact Officer

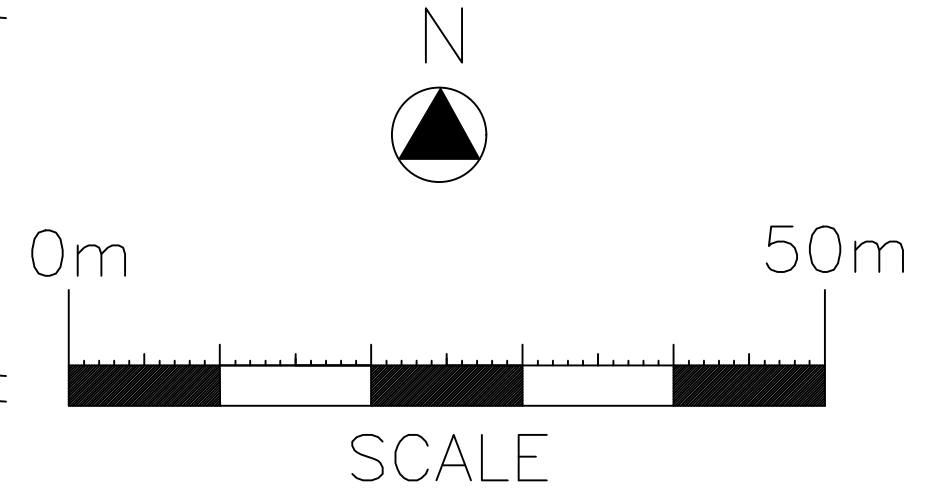
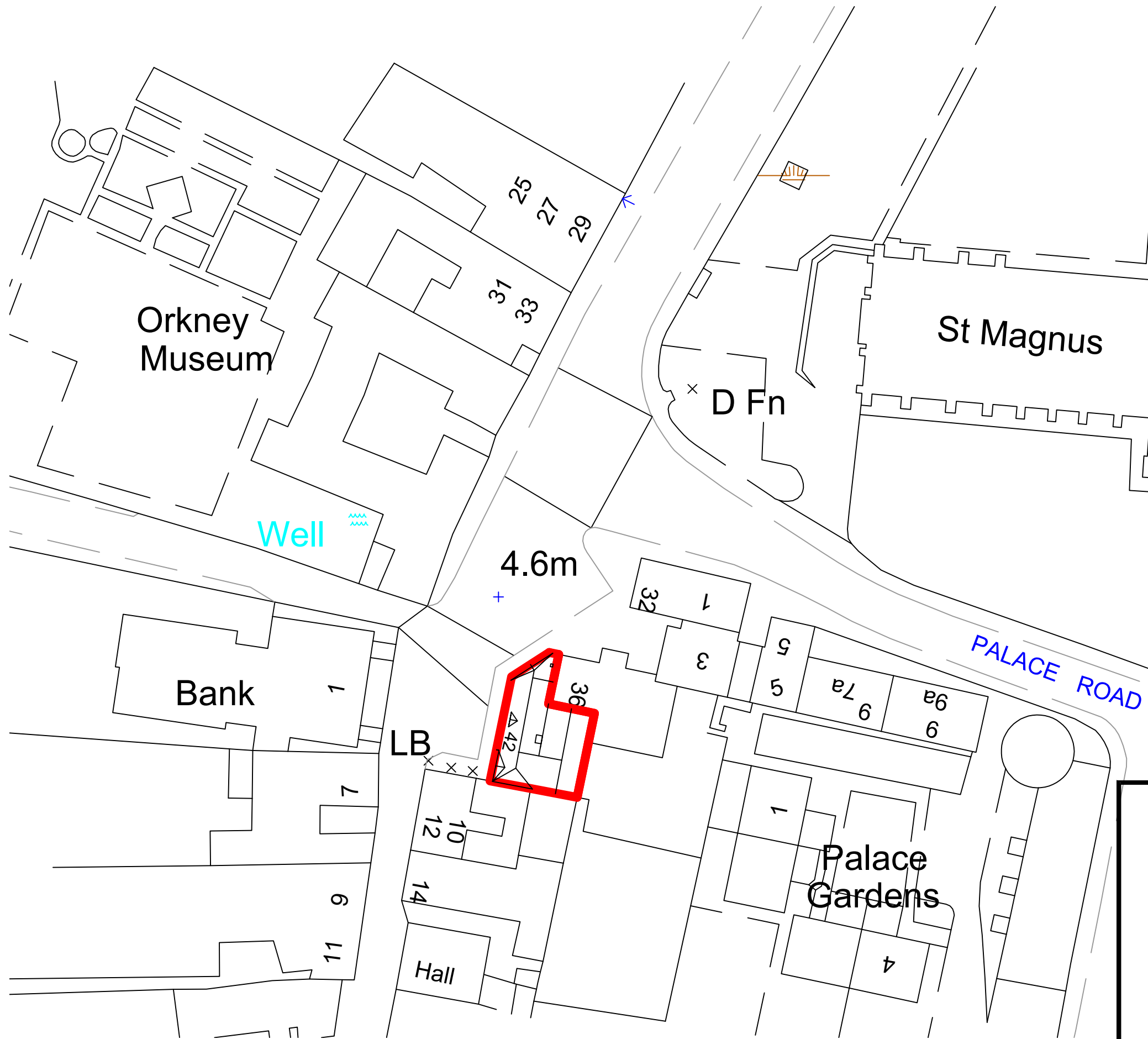
Dean Campbell, Graduate Planner / Planning Technician, extension 2528, Email dean.campbell@orkney.gov.uk

10. Appendices

Appendix 1: Site Plan.

Appendix 2: Planning Conditions.

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cindy mackenzie Bsc(Hons) architectural services Braeside St. Margaret's Hope Orkney KW17 2TL Tel: 01856 831717 Mob: 07719864957 email: cindy.mackenzie@talktalk.net			CLIENT : MR& MRS BRIAN FLETT		
PROJECT: PROPOSED CONVERSION OF SPENCES SHOP TO ICE CREAM PARLOUR AND CAFE. 42 BROAD STREET, KIRKWALL, ORKNEY			DRAWING: SITE LOCATION		
SCALE : 1:500		A3			
NOVEMBER 2018		001		rev -	

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Appendix 2.

01. Hours of opening to the public at the development hereby approved shall be limited to 08:00 to 20:00 on any day, unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interest of residential amenity.

02. For the avoidance of doubt, all proposed windows shall be constructed from timber in accordance with the details hereby approved, with a painted finish, unless otherwise agreed, in writing, with the Planning Authority.

Reason: In the interest of visual amenity and to protect the character and appearance of the conservation area.

03. The materials, finishes and colours used on the external finishes of the development hereby approved shall be as detailed in the approved plans, unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interest of visual amenity and to protect the character and appearance of the conservation area.

04. The proposed rooflight hereby approved shall conform to conservation specifications being top hung with recessed installation, finished in black and have a vertical glazing bar located centrally, unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interest of visual amenity and to protect the character and appearance of the conservation area.

05. No mechanical extraction or other ventilation, or other plant or machinery, shall be installed in, or attached to, the exterior of the building, unless otherwise agreed, in writing, by the Planning Authority.

Reason: To protect the residential amenity of the area.

06. Total noise from the air source heat pump installed shall not exceed NR25 within any residential property outwith the development, where NR25 is the Noise Rating Curve at 25 (noise measurements to be made with a window of any residential property outwith the development open no more than 50 mm).

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pumps.

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.

Reason: To protect the residential amenity of the area during the construction of this development.