

## Minute

### Planning Committee

Wednesday, 1 December 2021, 11:00.

Microsoft Teams.



### Present

Councillors Robin W Crichton, John A R Scott, Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Stephen Sankey, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

### Clerk

- Angela Kingston, Committees Officer.

### In Attendance

- Roddy Mackay, Head of Planning, Development and Regulatory Services.
- Jamie Macvie, Planning Manager (Development Management).
- Paul Maxton, Solicitor.
- Donald Wilson, Roads Authority Officer.

### Observing

- Susan Shearer, Planning Manager (Development and Marine Planning).
- Lorraine Stout, Press Officer.

### Not Present

- Councillor Magnus O Thomson.

### Declarations of Interest

- No declarations of interest were intimated.

### Chair

- Councillor Robin W Crichton.

## 1. Suspension of Standing Orders

The Committee **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as a party had the right to be heard in person or through a representative and the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

## 2. Form of Voting

The Committee resolved that, should a vote be required in respect of the planning applications to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the role (recorded vote).

## 3. Planning Application 19/014/PPMAJ

### **Proposed Construction of Access Roads and Other Housing Site Infrastructure including Surface Water Detention Basin and Landscaping at Corse West, Kirkwall**

Moira Sinclair, representing the objector, Michael and Lynda Grieve, was present during consideration of this item.

After consideration of a report by the Interim Executive Director of Finance, Regulatory, Marine and Transportation Services, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

**3.1.** That letters of objection relating to the application for planning permission in respect of the proposal for the construction of access roads with street lighting, footpaths, installation of boreholes and services, and drainage for 138 house sites, construction of a surface water detention basin, and associated landscaping, at Corse West, Kirkwall, had been received from the following:

- N and H Cooper, Eden, Soulisquoy Loan, Kirkwall.
- E Groat, Vara Hem, Soulisquoy Loan, Kirkwall.
- C Wishart, 1 Soulisquoy Loan, Kirkwall.
- Chris and Inga Rae, Rivendell, 8 Soulisquoy Loan, Kirkwall.
- Jennifer Macleod, Finmory, 4 Soulisquoy Loan, Kirkwall.
- Vina M Hume, 11 Soulisquoy Loan, Kirkwall.
- Alan E and Eileen D Cooper, 2 Soulisquoy Loan, Kirkwall.
- Eion and Sharon Ballantine, 3 Soulisquoy Loan, Kirkwall.
- Scott Milne, 7 Soulisquoy Loan, Kirkwall.
- David S Clark, 9 Soulisquoy Loan, Kirkwall.
- E Bews, Orcades Hostel, Muddisdale Road, Kirkwall.
- J and S Bews, Brekkness, Muddisdale Road, Kirkwall.
- C and E Mackay, Westlands, Muddisdale Road, Kirkwall.
- George and Margaret Peace, 5 Soulisquoy Loan, Kirkwall.
- John and Kay Scott, 10 Soulisquoy Loan, Kirkwall.
- E and H Smith, Ayre View, Muddisdale Road, Kirkwall.
- G and J Sinclair, Ichiban, Muddisdale Road, Kirkwall.
- Michael and Lynda Grieve, Brin-Novan, Muddisdale Road, Kirkwall.
- Moira King, Kinverdale, Muddisdale Road, Kirkwall.
- A Swannie, Shearwood, Muddisdale Road, Kirkwall.
- K and L Bruce, Glenavon, Muddisdale Road, Kirkwall.

- B and S Moodie, The Yard, Muddisdale Road, Kirkwall.
- M and M Scott, Norvana, Muddisdale Road, Kirkwall.
- N Stockan, Locksley, Muddisdale Road, Kirkwall.
- E Moodie, Muddisdale, Muddisdale Road, Kirkwall.

After hearing representations from Moira Sinclair, representing the objector, Michael and Lynda Grieve, Councillor Robin W Crichton, seconded by Councillor Barbara Foulkes, moved that consideration of the application for planning permission in respect of the proposal for the construction of access roads with street lighting, footpaths, installation of boreholes and services and drainage for 138 house sites, construction of a surface water detention basin and associated landscaping at Corse West, Kirkwall, be deferred to enable officers to engage in further discussions with the applicant in respect of road safety, with particular regard to considering the potential to restrict vehicular access to the proposed development from Muddisdale Road, Kirkwall, and, should vehicular traffic be restricted, to establish whether there would be an ability to accommodate a turning head for refuse and emergency vehicles within the site.

Councillor John A R Scott, seconded by Councillor Owen Tierney, moved an amendment that planning permission be granted in respect of the proposal for the construction of access roads with street lighting, footpaths, installation of boreholes and services and drainage for 138 house sites, construction of a surface water detention basin and associated landscaping at Corse West, Kirkwall, subject to conditions as proposed by officers.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Norman R Craigie, John A R Scott and Owen Tierney (3).

For the Motion:

Councillors Alexander G Cowie, Robin W Crichton, David Dawson, Barbara Foulkes, Stephen Sankey, Duncan A Tullock and Heather N Woodbridge (7).

The Motion was therefore carried.

The Committee thereafter resolved, in terms of delegated powers:

**3.2.** That consideration of the application for planning permission in respect of the proposal for the construction of access roads with street lighting, footpaths, installation of boreholes and services and drainage for 138 house sites, construction of a surface water detention basin and associated landscaping at Corse West, Kirkwall, be deferred to enable officers to engage in further discussions with the applicant in respect of road safety, with particular regard to considering the potential to restrict vehicular access to the proposed development from Muddisdale Road, Kirkwall, and, should vehicular traffic be restricted, to establish whether there would be an ability to accommodate a turning head for refuse and emergency vehicles within the site.

#### **4. Planning Application 21/269/AMC**

##### **Proposed Erection of Three Houses with Air Source Heat Pumps, Creation of Access and Installation of Services at land near Burnbank, Burray**

Leo Kerr, applicant, was present during consideration of this item.

After consideration of a report by the Interim Executive Director of Finance, Regulatory, Marine and Transportation Services, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

**4.1.** That a letter of objection relating to the application for planning permission in respect of the proposal for the erection of three houses with air source heat pumps, creation of an access and installation of services at land near Burnbank, Burray, had been received from John Orr, Skalivoe, Burray.

After hearing representations from Leo Kerr, applicant, on the motion of Councillor Robin W Crichton, seconded by Councillor John A R Scott, the Committee:

Resolved, in terms of delegated powers:

**4.2.** That planning permission be granted in respect of the proposal for the erection of three houses with air source heat pumps, creation of an access and installation of services at land near Burnbank, Burray, subject to conditions as proposed by officers, with the following exceptions:

- Condition 08, relating to the surfacing of the communal access road, being removed, in the interests of the protection of otters as a surfaced road may increase vehicle speeds, and as a permeable surface would be more appropriate in the location adjacent to a Local Nature Conservation Site.
- Condition 15 being amended to enable access for specific works within 6 metres of the Burn of Sutherland, as otherwise expressly granted planning permission.

**4.3.** That the conditions, attached as Appendix 1 to this Minute, incorporating the exceptions detailed at paragraph 4.2 above, should form part of the decision to grant planning permission for the erection of three houses with air source heat pumps, creation of an access and installation of services at land near Burnbank, Burray.

#### **5. Conclusion of Meeting**

At 13:07 the Chair declared the meeting concluded.

Signed: Rob Crichton.

## Appendix 1.

### **Proposed Erection of Three Houses with Air Source Heat Pumps, Creation of Access and Installation of Services at land near Burnbank, Burray (21/269/AMC)**

#### **Grant subject to the following conditions:**

01. Throughout the lifetime of the development hereby granted planning permission, surface water must be treated in accordance with the principles of Sustainable Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

All surface water shall be contained within the development site and there shall be no surface water drainage run-off onto the road or adjacent land.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B – Sustainable Drainage Systems (SuDS) of Orkney Local Development Plan 2017, Scottish Planning Policy, and in the interests of road safety.

02. All foundations must be excavated into and not built on top of any slope. No underbuilding to compensate for any gradient is permitted. The Finished Floor Levels of the dwellings shall be as indicated on Contour and Site Sections Plan OIC-04 hereby approved:

- Plot 1 (Burnbank 1) 8.4 metres AOD.
- Plot 2 (Burnbank 2) 7.3 metres AOD.
- Plot 3 (Burnbank 3) 6.5 metres AOD.

Reason: In the interests of the protection of the development from flood risk and in accordance with Orkney Local Development Plan 2017 Policy 13A – Flood Risk.

03. The approved sewage system for each house shall be connected and fully operational prior to the first occupation of each respective house hereby approved.

The sewerage system shall connect to the Scottish Water sewer and outfall by the pipework installed under planning reference 20/423/PP, and as indicated on Location and Site Plan OIC-01(2) stamped, approved and attached to the Decision Notice.

Reason: In the interests of environmental protection and to accord with Policy 13C – Waste Water Drainage of Orkney Local Development Plan 2017.

Note: The developer should consult the Scottish Environment Protection Agency (SEPA) with regard to authorisations required for discharges of sewerage effluent to land or water.

04. Throughout the life of the development, the total maximum noise from the Air Source Heat Pumps hereby granted planning permission and installed shall not exceed NR25 within any residential property outwith the development site, 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 50mm).

Note: This condition is applied to each individual dwelling where an air source heat pump is installed.

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

05. Throughout the lifetime of the development hereby approved, the garages on Plots 2 and 3 shall be restricted to private use incidental to the enjoyment of the dwelling houses on those plots only, including use for the storage of vehicles and for domestic storage. No commercial activity shall be carried out in, or from, the garages.

Reason: In the interests of the protection of the residential amenity of the area.

06. All soft landscaping, including planting, seeding or turfing, of the development hereby approved shall be completed within two years of commencement of development within any respective plot, or prior to first occupation of the respective house, whichever is earlier. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species.

Reason: To ensure that a high standard of landscaping is achieved.

07. Throughout the lifetime of the development, any external lighting used on the dwellings and any outbuildings shall be downward facing only and shall comply with the Council's requirements of Policy 2 – Design (principle vi) that all external lighting shall minimise light pollution and shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1/E2 areas (Rural/Low District Brightness). The lighting shall be turned off when not required either by automatic sensor or manually.

Reason: To minimise obtrusive light, glare or distraction in the interests of safeguarding the amenity of the area and to accord with Orkney Local Development Plan 2017 Policy 2 – Design and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (March 2021).

08. All areas of the road/access indicated on Site Plan OIC-05 – Roads and Service Maintenance hereby approved shall be maintained in perpetuity in a safe and serviceable manner by the owners of the development plots.

Maintenance of new access, and relevant section of existing access, shall be applied to the burdens in the title deed of the dwellings to confirm that the maintenance of the access is shared between the houses (plots) in perpetuity, and the access maintained in a serviceable condition. A copy of this document shall be submitted to the Planning Authority, for consultation with Roads Services. No house hereby approved shall be occupied until this document has been approved in writing by the Planning Authority.

Reason: In the interests of the maintenance of the access and road safety.

09. 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.

10. Throughout the lifetime of the development hereby approved, the developer shall maintain unobstructed and without unreasonable damage, the stretch of the adjacent B6 – Burray Village Core Path network. Public access along the Core Path adjacent to the application site shall at no time be obstructed or deterred by construction-related activities or by the development, unless otherwise approved, in writing, by the Council's Access Officer. Prior to the first occupation of the first house within the development, this stretch of core path network shall be returned to a standard at least equal to that prior to the commencement of any works on the development site. The baseline condition of the core path shall be agreed, in writing, between the developer and the Planning Authority prior to the commencement of works in order to determine any works necessary during, and at the end of, the construction phase of the development. At the reasonable request of the Planning Authority, interim works shall be carried out to the path.

Reason: To maintain the core path network and in order to safeguard public access during the construction phase and the occupation of the development.

11. Throughout the construction phase of the development:

- All works shall be confined to the development site boundaries specified in the planning application and shall not spill out onto the margins of the Core Path to the north, east and south of the site.
- No dumping of spoil or building tools or materials, either temporarily or permanently, shall occur outside the site boundary or onto the margins of the Core Path to the north, east and south of the site.

Reason: In the interests of the protection of the B6 – Burray Village Core Path or Public Right of Way which runs along the north, east and south boundaries of the site, and to accord with Orkney Local Development Plan 2017 Policy 10A – Core Paths and Access.

12. Throughout the construction phase of the development, all works shall be confined to the planning application site boundaries. There shall be no dumping of spoil or building tools or materials, temporarily or permanently outside the planning application site boundary, within the margins of the Burn of Sutherland or onto the margins of the Sutherland Links Local Nature Conservation Site (LNCS) which is adjacent to the site and no alterations shall be made to the Burn.

Reason: In the interests of the protection of the biodiversity of the Sutherland Links (West Links) LNCS and the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site, and to accord with Orkney Local Development Plan 2017 Policies 9A – Natural Heritage Designations, 9B – Protected Species and 9C – Wider Biodiversity and Geodiversity.

13. Throughout the lifetime of the development no alterations shall be made to Sutherland Burn, and the development shall not increase pre-development flows into the adjacent burn.

Reason: In the interests of the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site, to prevent any impact that would affect its stability, function and ability to drain, to prevent an increase in flood risk to the properties and others in the area, and to accord with Orkney Local Development Plan 2017 Policy 9D – The Water Environment.

14. No development shall be carried out and no alterations made, or other works carried out within 6 metres of the Burn of Sutherland, except for works expressly granted planning permission including the burn crossing.

Reason: In the interests of the protection of the Burn of Sutherland, to avoid damage to the aquatic and bankside habitats of the burn and deterioration of its water quality, to avoid flood risk, and to accord with Orkney Local Development Plan 2017 Policies 9C – Wider Biodiversity and Geodiversity, 9D – The Water Environment and 13A – Flood Risk.

15. Otters are known to be within the area. The animals alternate between the marine and freshwater environments of the Burn of Sutherland and the coast. Otter is classed as a European Protected Species (EPS) and is therefore afforded a strict level of protection under UK legislation.

Throughout the construction phase of the development:

- Access to open-water habitats should be safeguarded at all times and impacts to traditional routes between such areas (such as drainage ditches) during the construction phase should be minimised.
- To avoid the potential of physical disturbance to a resting otter, the development site shall be fenced to stop encroachment of people/vehicles into areas outside of the development site; this is particularly relevant to the vegetation along the eastern bank of the burn.
- The site should be securely fenced, eg Heras fencing, to deter access by otters. The site fencing does not need to be put in place until the access road is complete.
- To minimise disturbance, construction activity should be undertaken between sunrise and sunset only.
- Should an otter enter the site or be seen in the vicinity of the site while work is underway, activities should cease until the animal has moved on.
- Hazardous materials should be stored safely and not be accessible to otters. Hazardous materials (eg chemicals, fuel and waste products) could pose a threat to otters such as entrapment, injury, or poisoning.
- Any temporarily exposed open pipe system should be capped in such a way as to prevent otters gaining access, as may happen when contractors are off-site.
- Open pits should be covered at night, and exit ramps provided in steep-sided trenches. All excavations should be checked daily to ensure that no wildlife has become trapped.
- All personnel involved in the development should be made aware by the Site Foreman that otters may be present in the area, and of the requirement to follow the measures and procedures above that require adherence on a daily basis.

Reason: In order to avoid disturbance to, and the protection of, otters, a Protected Species, as the development site is located adjacent to the Sutherland Links LNCS an area of known otter activity, and to accord with policy 9B – Protected Species of the Orkney Local Development Plan 2017.

16. The culvert at the Burn of Sutherland shall be designed and constructed in such a way that it maintains access to otters. The culvert used shall be of as large a diameter or width as possible to allow water levels to remain shallow, speed of flow to remain relatively slow and blockages to occur less often.

Reason: To ensure that the free passage of otters in transit is not hindered, and in the interests of the protection of the Burn of Sutherland, that runs adjacent to the western edge of the site to prevent any impact that would affect its stability, function and ability to drain, to prevent an increase in flood risk to the properties and others in the area, and to accord with Orkney Local Development Plan 2017 Policies 9B – Protected Species and 9D – The Water Environment.

17. An earth bund along the western edge of the new road shall be constructed. The creation of this earth bund alongside the access road shall protect the six metre buffer strip from damage during the construction phase and subsequently when the dwellings are occupied.

The bund shall be five metres in width and a minimum of 1.2 metres in height. It shall follow the route of the access road and be created using turves that have been removed during excavation of the new road.

The bund shall not be constructed and the access shall not be excavated until full details of its location, dimensions and construction, including protection of excavated turves, and management thereafter to ensure control of weeds, including planting of native willows in the eastern slope, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the bund shall be completed wholly in accordance with approved details.

The developer shall follow the further information, guidance and specifications to create a bund which causes the minimum of damage during its construction, within section 3 of the Habitat Protection Plan dated 25 May 2021, submitted in support of application 21/269/AMC.

Reason: In the interests of the protection of the burn and the vegetation along its banks and as a means of protecting habitat used by otters along the burn.

18. Individual knapweed plants shall be translocated from the development site (including Plots 1 to 3, the proposed access road and the area to be covered by the bund) and replanted in either the burn buffer zone or an alternative agreed location prior to commencement of excavations works, to the satisfaction of the Planning Authority. Knapweed plants should be replanted by hand. The developer shall follow the detailed methodology for undertaking these works included in section 3.3 of the Habitat Protection Plan dated 25 May 2021, submitted in support of application 21/269/AMC.

Reason: In the interests of the enhancement of vegetation and flower rich habitat along the margin of the burn.

Note: The developer may collect seed heads from knapweed plants already growing on the development site and spread the seed amongst the re-laid turves. This would further increase the likelihood of flower-rich habitat successfully establishing along the bunded margin of the burn.

19. The development site comprising Plots 1, 2 and 3 shall be fenced prior to occupation of any of the respective houses, affording some protection to the surrounding vegetation and the burn from dumping of garden waste and non-native plantings when the dwellings are occupied.

Reason: In the interest of the protection of the burn and the vegetation along its banks and as a means of protecting habitat.

20. 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 Monday to Friday, 08:00 to 13:00 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.