

Item: 4

Planning Committee: 27 August 2025.

Proposed Erection of House with Air Source Heat Pump on Land near Seahaven, Ness Road, Stromness.

Report by Director of Infrastructure and Organisational Development.

1. Overview

- 1.1. This report considers an application to erect a house with an air source heat pump on land near Seahaven, Ness Road, Stromness. Three letters of objection have been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/096/PP.
Application Type:	Planning Permission.
Proposal:	Erect a house with an air source heat pump.
Applicant:	Robert and Sarah Murray.
Agent:	Mr Stephen Omand, 14 Victoria Street, Kirkwall, KW15 1DN.

- 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:
- Approve the application for planning permission to erect a house with an air source heat pump on land near Seahaven, Ness Road, Stromness, subject to the conditions detailed in Appendix 1 to this report.

3. Consultations

Roads Services

- 3.1. No objection and requested an informative relating to works to the public road.

Environmental Health

- 3.2. No objection subject to a condition relating to noise from the air source heat pump.

Scottish Water

- 3.3. No objection.

4. Representations

- 4.1. Three valid representations (objections) have been received from:

- Claudia Ferguson-Smyth, 8 Ness Road, Stromness, KW16 3DL.
- Ruta Noreika, 2 Ness Road, Stromness, KW16 3DL.
- Mark Summers, 51 Alfred Street, Stromness, KW16 3DF.

- 4.2. Representations are on the following grounds:

- Design.
- Impact on historic environment.
- Amenity.
- Parking.
- Biodiversity.

5. Relevant Planning History

- 5.1. Planning applications

Reference	Proposal	Location	Decision	Date
21/251/PP.	Erect a house with an air source heat pump.	Seahaven (Land Near), Ness Road, Stromness, KW16 3DL.	Approved.	25.10.21.

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 3. Biodiversity.
 - Policy 7. Historic assets and places.
 - Policy 8. Green belts.
 - Policy 13. Sustainable transport.
 - Policy 14. Design, quality and place.
 - Policy 15. Local Living and 20 minute neighbourhoods.
 - Policy 16. Quality homes.
 - Orkney Local Development Plan 2017:
 - Policy 1: Criteria for All Development.
 - Policy 2: Design.
 - Policy 3: Settlements, Town Centres and Primary Retail Frontages.
 - Policy 5: Housing.
 - Policy 8: Historic Environment and Cultural Heritage.
 - Policy 13: Flood Risk, SuDS and Waste Water Drainage.
 - Supplementary Guidance:
 - Settlement Statements (2017).

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 sets 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, planning permission is sought to erect a house with an air source heat pump on land near Seahaven, Ness Road, Stromness, as indicated in the Location Plan attached as Appendix 2 to this report. The house would replace an existing garage on the west side of Ness Road between the property known as Seahaven and the category C listed Ness Road fishing store, noting that a modern garage is located between. The proposed house is two storeys, with the gable facing onto the road. The house would be finished in cream render, anthracite windows and doors, natural slate roof and oiled red cedar panels on the front elevation.

Principle

- 8.2. The site is located within the Stromness settlement boundary where new housing development is supported by Policy 5 ‘Housing’ of the Local Development Plan. Therefore, the principle of the proposal is acceptable.

- 8.3. A matching proposal was approved in 2021, under reference 21/251/PP, under the same policy provision.

Design

- 8.4. The proposed house is modern in design with some traditional elements. The roof is proposed in natural slate and the building would be gable end to the road, in-keeping with a characteristic of Stromness. Modern materials including cream render and anthracite windows and doors are acceptable at the location. The surrounding properties are a mix of historic properties and more modern developments. Rather than a pastiche approach, the proposed development is modern with some reference to the surrounding historic environment. It should also be noted that the site is opposite, but not within, Stromness Conservation Area.
- 8.5. The design of the proposed house is acceptable and complies with Policy 2 'Design' of the Local Development Plan and Policies 14 'Design, quality and place' and 16 'Quality homes' of NPF4.

Residential Amenity

- 8.6. The proposal does not raise any unacceptable concerns with regards residential amenity for either future occupiers or neighbouring properties. No windows would directly overlook neighbouring properties. The proposed windows in the north elevation would look onto the garage at Seahaven. Any minor overlooking in other directions is as expected in an urban or residential environment. The development includes an area of amenity space to the rear of the proposed house.
- 8.7. Environmental Health has no objection to the proposal, subject to a condition relating to the air source heat pump. This condition would be attached.
- 8.8. Subject to condition, the proposal is acceptable with regards to neighbouring amenity and complies with Policy 1 'Criteria for all development' of the Local Development Plan.

Historic Environment

- 8.9. The site is outside the conservation area, albeit adjacent to the boundary. There are listed buildings located to the south and the east of the site. Given the mix of properties in the surrounding area, and the location at the edge of the conservation area where development style changes, the proposed house does not raise any unacceptable concerns regarding its impact on the historic environment.

The use of modern design, with references to the historic environment, is considered acceptable at this location.

- 8.10. The proposal would not adversely impact the historic environment and complies with Policy 8 ‘Historic Environment and Cultural Heritage’ of the Local Development Plan and Policy 7 ‘Historic assets and places’ of NPF4.

Roads

- 8.11. Roads Services has confirmed no objection to the proposal. An informative is required relating to works to the public road. It is proposed to utilise the two existing car parking spaces for the new development, which raise no concerns. Furthermore, any issues resulting from the construction stage are considered non-material with regards to assessing this application. Other traffic issues would be a matter for Police Scotland.
- 8.12. The proposal is acceptable with regards to roads, access and parking and complies with Policy 14 ‘Transport, Travel and Road Network Infrastructure’ of the Local Development Plan and Policy 13 ‘Sustainable transport’ of NPF4.

Biodiversity

- 8.13. No consultation response was received from Development and Marine Planning. It is proposed to utilise existing ground behind the garage as a garden for the house. The plans indicate that ‘flowering currant’ would be planted. This is a common garden plant and is acceptable with regards to this level of development, and relative to the existing site would result in enhancement.
- 8.14. The enhancement would be secured by planning condition, and the proposal complies with Policy 3 ‘Biodiversity’ of NPF4.

9. Conclusion

- 9.1. The proposal complies with the Orkney Local Development Plan 2017 and National Planning Framework 4. The proposal is acceptable in principle, design, its impact on road safety, the historic environment, amenity and biodiversity. There are no material considerations, including those raised in the objections, that outweigh this conclusion. The application is therefore recommended for approval, subject to the conditions attached as Appendix 1 to this report.

For Further Information please contact:

Murray Couston, Planning Officer (Development Management), Email
murray.couston@orkney.gov.uk

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](#).

Appendix

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. 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 pump.

03. The exterior of the development hereby approved shall be finished using the following materials and colours only:

- Walls - Cream wet harl or smooth render, with oiled red cedar in the east elevation.
- Roof - Natural slate.
- Windows - Dark grey.
- Doors - Dark grey.
- Rainwater goods - Black
- Handrail to external steps and balcony to rear - Black painted metal.
- Juliet Balcony - Glass and steel.

Reason: To protect the external appearance of the development, the visual amenity of the streetscape, and to protect the setting of adjacent listed buildings and the character and appearance of the adjacent conservation area.

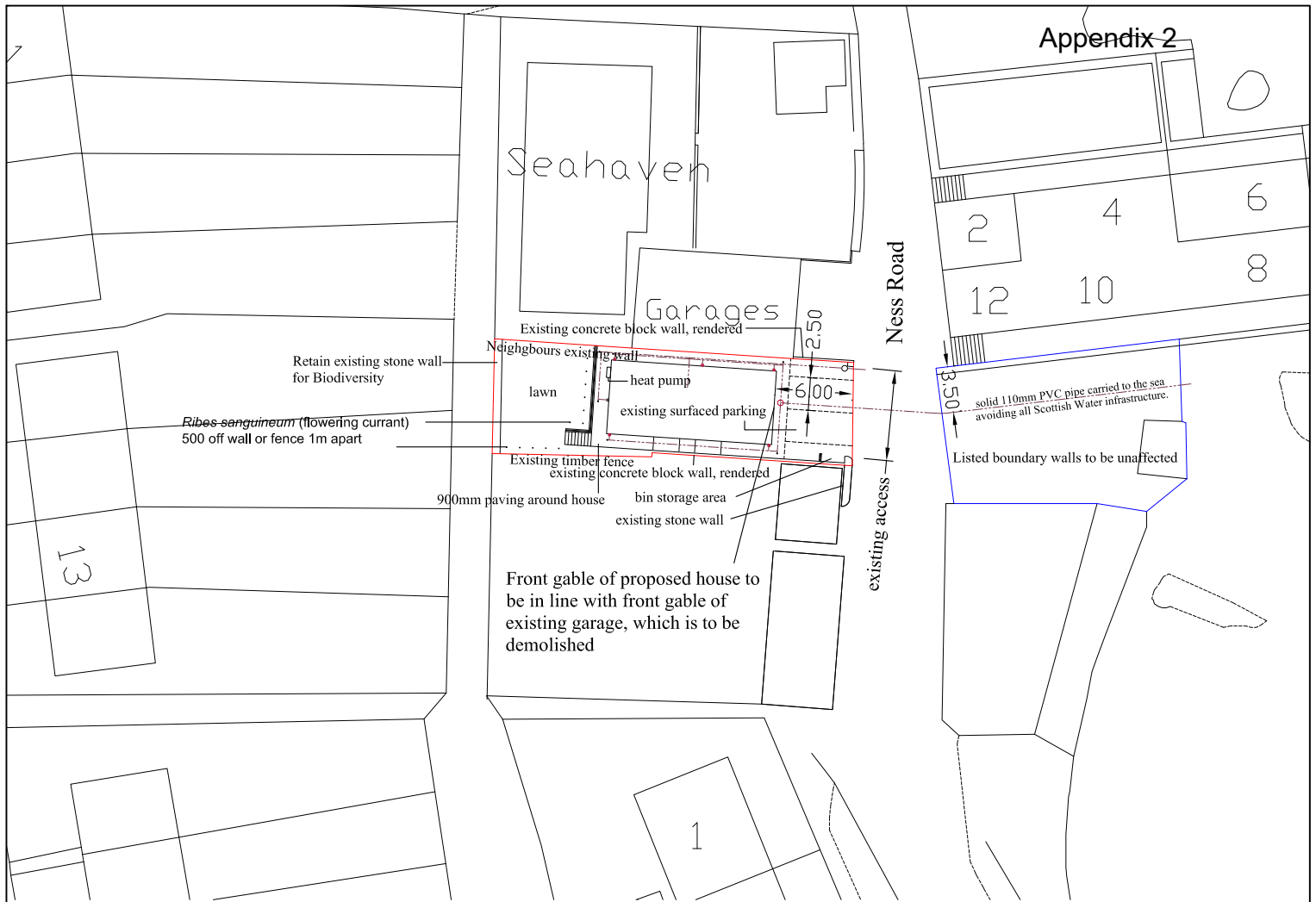
04. The biodiversity measures described in the submitted Biodiversity form and site plan shall be implemented in full no later than the first planting season following commencement of development. Thereafter, the biodiversity measures shall be permanently retained in accordance with the approved details, including the replacement of any planting that does not survive, is removed, or is damaged, unless otherwise approved, in writing, by the Planning Authority.

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

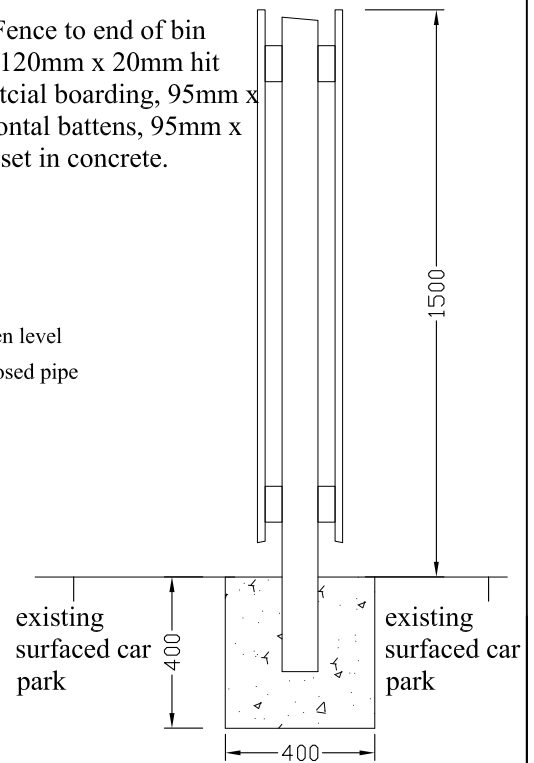
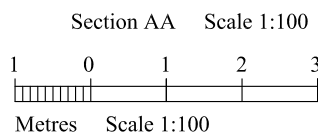
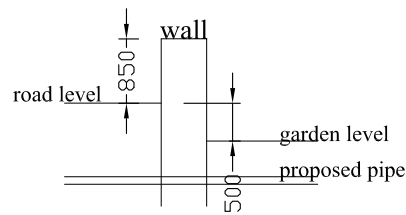
05. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Mondays to Fridays, 08:00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



Scale 1:20- Fence to end of bin storage area 120mm x 20mm hit and miss vertical boarding, 95mm x 45mm horizontal battens, 95mm x 95mm posts set in concrete.



Proposed Demolition of Garage and Erection of House with Air Source Heat Pump.
At 10 Ness Road,
Stromness.

Drwg No- 1604/1/P Rev A. Plan Size A4. OS Licence No- ES100003740.

