

Item: 4.2

Local Review Body: 6 October 2022.

**Proposed Erection of Replacement House (One for One) and
Creation of Access at Hewing, Redland Road, Firth (21/477/PP).**

**Report by Corporate Director for Strategy, Performance and
Business Solutions.**

1. Purpose of Report

To determine a review of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a replacement house (one for one) and the creation of an access at Hewing, Redland Road, Firth (21/477/PP).

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission for the proposed erection of a replacement house (one for one) and the creation of an access at Hewing, Redland Road, Firth, was refused by the Appointed Officer on 10 June 2022, for the reasons outlined in section 3.2 of this report.

2.2.

That the applicant has submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed.

It is recommended:

2.3.

That the Local Review Body determines whether it has sufficient information to proceed to determination of the review, and if so:

- Whether to uphold, reverse or vary the decision of the Appointed Officer.
- In the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision notice.

2.4.

That, in the event the Local Review Body agrees that further information is required to determine the review, what further information is required, which parties are to be requested to provide the information, and whether to obtain further information by one or more of the following methods:

- By means of written submissions; and/or.
- By the holding of one or more hearing.

3. Background

3.1.

Planning application 21/477/PP relates to the proposed erection of a replacement house (one for one) and the creation of an access at Hewing, Redland Road, Firth.

3.2.

The Appointed Officer refused the planning application on 10 June 2022 on the following grounds:

3.2.1.

The access junction with the public road does not meet the necessary visibility splay in a northerly direction in accordance with roads authority requirements. Roads Services has objected to the development. The proposed development would not protect the safety of road users and is therefore considered contrary to Policy 14 – Transport, Travel and Road Network Infrastructure, part C, ii and iii, of the Orkney Local Development Plan 2017.

3.2.2.

The building to be replaced is not redundant, as during consideration of the application, it was found to be in active agricultural use, with livestock being kept within the building. A building must be "empty, unoccupied and not in an active use" to be defined as redundant, and therefore eligible to be replaced, which is not the case. The development therefore fails to comply with Policy 5E (iii) of the Orkney Local Development Plan 2017 and, including by failing to meet the definition of redundancy, Supplementary Guidance: Housing in the Countryside (2021).

3.2.3.

The proposed site location would not reflect the character of the surrounding rural area and would appear incongruous and intrusive due to inappropriate siting within the landscape. The development fails to comply with Policy 1 – Criteria for All Development, parts i and ii, of the Orkney Local Development Plan 2017.

3.2.4.

The proposed replacement house is not on the same site as the existing building, with no material planning benefits provided to allow an exception. The development is therefore contrary to Policy 5E (iii) – Housing – Single Houses and new Housing Clusters in the Countryside, of the Orkney Local Development Plan 2017.

3.2.5.

The proposed house site is not considered to be situated to minimise negative impacts on the local landscape. The proposed site location has the potential to add to incongruous single house development in the countryside. Given the location of

the development and prominence within the local landscape, the proposed development is considered contrary to Policy 9 – Natural Heritage and Landscape, part G i and ii, of the Orkney Local Development Plan 2017.

3.2.6.

The proposed development does not accord with all relevant Development Criteria (DC), as required and as stated within Supplementary Guidance: Housing in the Countryside (2021), specifically in relation to DC2 on the basis that 'The proposed site is not located nor situated to fit into the landscape nor does it minimise landscape and visual impacts of the development'.

3.3.

In terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the applicant has submitted a Notice of Review and supporting information, which is attached as Appendix 1 to this report.

3.4.

The Planning Handling Report, Planning Services file and the Decision Notice, including the reason for refusal, referred to in section 3.2 above, are attached as Appendices 2, 3 and 4 to this report.

4. Review Procedure

4.1.

In response to a Notice of Review “interested parties” are permitted to make a representation to the Local Review Body. “Interested parties” include any party who has made, and not withdrawn, a representation in connection with the application. No further representations were received.

4.2.

In accordance with the Council’s policy to undertake site inspections of all planning applications subject to a local review, prior to the meeting to consider the review, a site visit to Hewing, Redland Road, Firth, was undertaken at 09:30 on 5 October 2022.

4.3.

The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, an indication of relevant matters, in respect of potential planning conditions, are as follows:

- Access.
- Landscaping.
- Demolition.
- Underbuild.

- Surface water drainage.
- Foul drainage.
- External lighting.

4.3.1.

All conditions should be in accordance with [Planning Circular 4/1998](#): the use of conditions in planning permissions.

4.4.

If the decision is reversed and the development is approved, it is proposed that powers be delegated to the Corporate Director for Strategy, Performance and Business Solutions, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, based on the relevant matters, agreed in terms of section 4.3 above.

4.5.

If the Local Review Body decides that further procedure is required, it may decide to hold a pre-examination meeting to consider what procedures to follow in the review, or to obtain further information by one or more of the following methods:

- By means of written submissions; and/or.
- By the holding of one or more hearing(s).

5. Relevant Planning Policy and Guidance

5.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended 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...”

5.2.

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and other supplementary planning advice and guidance can be read on the Council website [here](#).

5.2.1.

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5E(iii) – Housing in the Countryside – The Replacement of an Existing Building or Structure.

- Policy 9G – Landscape.
- Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
- Policy 14C – Road Network Infrastructure.
- Supplementary Guidance:
 - Housing in the Countryside (2021).

6. Corporate Governance

This report relates to the Council complying with its statutory duties as a Planning Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

7. Financial Implications

All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing Planning Service revenue budgets.

8. Legal Aspects

8.1.

Under the Planning etc (Scotland) Act 2006 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 where an application for planning permission for local development has been determined by the Appointed Officer in accordance with the Council's Planning Scheme of Delegation, the applicant is entitled to seek a review of that decision by the Local Review Body.

8.2.

The procedures to be followed in respect of the review are as detailed in section 4 above.

8.3.

A letter from the Chief Planner, Scottish Government, in July 2011 confirmed that a review by a Local Review Body should be conducted by means of a full consideration of the application afresh.

9. Contact Officers

Karen Greaves, Corporate Director for Strategy, Performance and Business Solutions, extension 2202, Email karen.greaves@orkney.gov.uk

Angela Kingston, Clerk to the Local Review Body, Email angela.kingston@orkney.gov.uk

Roddy MacKay, Planning Advisor to the Local Review Body, extension 2530, Email rodny.mackay@orkney.gov.uk

Georgette Herd, Legal Advisor to the Local Review Body, Email georgette.herd@orkney.gov.uk

10. Appendices

Appendix 1 – Notice of Review (pages 1 – 32).

Appendix 2 – Planning Handling Report (pages 33 – 42).

Appendix 3 – Planning Services File (pages 43 – 83).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 84 – 91).

Pages 1 to 91, can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference “21/477/PP”.