

Minute

Local Review Body

Tuesday, 4 March 2025, 15:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Owen Tierney, David Dawson, P Lindsay Hall, W Leslie Manson, James R Moar, Raymond S Peace, Jean E Stevenson and Duncan A Tullock.

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

- Susan Shearer, Planning Advisor.
- Stuart Bevan, Legal Advisor.

Apologies

- Councillor Janette A Park.
- Councillor John A R Scott.
- Councillor Ivan A Taylor.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Owen Tierney.

1. Planning Application 23/465/PP

Proposed Conversion of Meeting Room to Two Self-catering Units, Install Replacement Windows and Doors and Two Air Source Heat Pumps with Housing (Resubmission of 23/213/PP) at 10 Bridge Street Wynd, Kirkwall

Councillor Jean E Stevenson advised that, as she had not been involved in previous discussions in relation to this item at the meeting of the Local Review Body held on 13 December 2024, in accordance with section 21 of the Scheme of Administration, she could not take part in the deliberations of the Local Review Body, and was not present during discussion thereof.

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, and after hearing a report from the Legal Advisor, the Local Review Body:

Noted:

1.1. That planning permission for the proposed conversion of a meeting room to two self-catering units and the installation of replacement windows and doors and two air source heat pumps with housing at 10 Bridge Street Wynd, Kirkwall, was refused by the Appointed Officer on 22 August 2024, for the following reasons:

- The proposal does not comply with National Planning Framework 4 Policy 22 – Flood risk and water management as it may increase the risk of surface water flooding to others, or itself be at risk.
- The proposal does not comply with Orkney Local Development Plan 2017 Policy 13 – Flood Risk, SuDS & Waster Water Drainage as it would result in a situation where development would have a significant probability of being affected by flooding.

1.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above be reviewed, a summary of which was provided as part of the presentation from the Planning Advisor.

1.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site at 10 Bridge Street Wynd, Kirkwall, at 14:30 on 11 December 2024, where the site and its surrounding urban context was observed.

1.4. That, on 13 December 2024, the Local Review Body determined:

- That it had insufficient information in order to proceed to determine the review.
- That the review should not be determined without further procedure.
- That the further procedure should comprise:
 - The further written submissions procedure under Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 to ensure that the applicant provided clarification as to the difference in height between the pavement level and internal floor level given the changes made to the Flood Risk Assessment submitted as part of the Notice of Review.
- That the undernoted parties be included in the procedure notice, required in terms of the written submission procedure referred to above, in order that they were afforded the opportunity to comments on the information provided by the applicant:
 - Orkney Islands Council's Engineering Services.
 - Scottish Environment Protection Agency (SEPA).

1.5. That a Procedure Notice was issued to the applicant's agent on 28 January 2025 with a request that the further information be provided no later than 10 February 2025.

1.6. That a Procedure Notice Response had not been received from the applicant's agent by 10 February 2025.

1.7. That a Procedure Notice Response was, however, received from the applicant's agent on 3 March 2025, with the agent stating that the deadline of 10 February 2025 had been missed as the Procedure Notice had been issued when they were on holiday.

The Local Review Body resolved, in terms of delegated powers:

1.8. That, as the response from the applicant's agent included information which was important to determining this Review, the late Procedure Notice Response, referred to at paragraph 1.7 above, should be allowed into process.

1.9. That, accordingly, the parties identified in paragraph 1.4 above, namely Orkney Islands Council's Engineering Services and SEPA, should be afforded two weeks from 4 March 2025 to submit comments in response to the Procedure Notice Response.

2. Planning Application 24/250/PIP

Proposed Siting of Replacement House (One for One) and Create Access at Hillbanks, Littlequoy Road, Burray

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, and after hearing a report from the Planning Advisor, the Local Review Body:

Noted:

2.1. That planning permission in principle for the proposed siting of a replacement house (one for one) and creation of an access at Hillbanks, Littlequoy Road, Burray, was refused by the Appointed Officer on 29 November 2024, for the following reasons:

- The proposed development is not within the non-linked isles, does not provide an identified local housing outcome and is not suitable in terms of location as matters relative to 'remote rural areas'. The proposed development is contrary to National Planning Framework 4 – Policy 17 – Rural Homes.
- The proposed site location does 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.
- The proposed development is groundless as it seeks to use a building within the curtilage of Hillbanks as the rationale for a replacement house. Further to which the proposed site is also removed from the site of the shed. The proposed development is contrary to Policy 5E 'Housing – Single Houses and new Housing Clusters in the Countryside' (iii) 'The replacement of an existing building or structure', of the Orkney Local Development Plan 2017.
- The proposed house site is not 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 with the potential to lead to the suburbanisation of Littlequoy Road. 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.

- The proposed development does not accord with all Development Criteria (DC), as required and as stated with 'Supplementary Guidance 'Housing in the Countryside' 2021, specifically in relation to DC2 and DC4 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' and nor does it avoid the suburbanisation of Littlequoy Road.

2.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to a paragraph 2.1 above, be reviewed, a summary of which was provided as part of the presentation from the Planning Advisor.

2.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site at Hillbanks, Littlequoy Road, Burray, at 14:00 on 4 March 2025, where the following was observed:

- The dwelling, curtilage and ground of Hillbanks, including the Nissen hut at Hillbanks which was the proposed building/structure to be replaced
- Viewing the site within its rural context, where there was a loose scattering of houses.

The Local Review Body determined that it had sufficient information to proceed to determination of the Review and the Local Review Body thereafter:

Resolved, in terms of delegated powers:

2.4. That the decision of the Appointed Officer, to refuse planning permission in principle for the proposed siting of a replacement house (one for one) and creation of an access at Hillbanks, Littlequoy Road, Burray, be varied to take account of a typographical error in the Decision Notice dated 29 November 2024, whereby the Council's reasoning for the decision to refuse planning permission in principle was that the proposed development was contrary to Policy 7 of National Planning Framework 4, rather than Policy 17.

2.5. That, accordingly, planning permission in principle for the proposed siting of a replacement house (one for one) and creation of an access at Hillbanks, Littlequoy Road, Burray be refused, for the following reasons:

- The proposed development is not within the non-linked isles, does not provide an identified local housing outcome and is not suitable in terms of location as matters relative to 'remote rural areas'. The proposed development is contrary to National Planning Framework 4 – Policy 17 – Rural Homes.
- The proposed site location does 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.
- The proposed development is groundless as it seeks to use a building within the curtilage of Hillbanks as the rationale for a replacement house. Further to which the proposed site is also removed from the site of the shed. The proposed development is contrary to Policy 5E 'Housing – Single Houses and new Housing Clusters in the Countryside' (iii) 'The replacement of an existing building or structure', of the Orkney Local Development Plan 2017.

- The proposed house site is not 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 with the potential to lead to the suburbanisation of Littlequoy Road. 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.
- The proposed development does not accord with all Development Criteria (DC), as required and as stated with Supplementary Guidance 'Housing in the Countryside' 2021, specifically in relation to DC2 and DC4 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' and nor does it avoid the suburbanisation of Littlequoy Road.

3. Conclusion of Meeting

At 15:27 the Chair declared the meeting concluded.

Signed: Owen Tierney.