

Minute

Local Review Body

Friday, 13 December 2024, 11:00.

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, Ivan A Taylor and Duncan A Tullock.

Present via remote link (Microsoft Teams)

Councillor Janette A Park.

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

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

Apologies

- Councillor John A R Scott.
- Councillor Jean E Stevenson.

Declaration of Interest

- Councillor W Leslie Manson – Item 3.

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 23/313/PP) at 10 Bridge Street Wynd, Kirkwall

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 presentation from the Planning 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 & Waste Water Drainage as 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, including that the terms of the applicant's flood risk assessment had changed from the time of the original planning application and submission of the notice of review.

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.

The Local Review Body thereafter determined that, in their opinion, there was insufficient information in order to proceed to determine the review, and thereafter resolved, in terms of delegated powers:

1.4. That the review in respect of the decision of the Appointed Officer to refuse 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, should not be determined without further procedure.

1.5. That the further procedure, referred to at paragraph 1.4 above should comprise further information by means of written submissions, as set out in Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, from the applicant, with the undernoted parties named on the Procedure Notice, so that they might comment on the information provided by the applicant:

- Orkney Islands Council's Engineering Services
- Scottish Environment Protection Agency (SEPA).

1.6. That the further information should comprise clarification from the applicant 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.

2. Planning Application 24/156/PP

Proposed Erection of House with Air Source Heat Pump at 1 Lynnside, Lynn Road, Kirkwall

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 presentation from the Planning Advisor, the Local Review Body:

Noted:

2.1. That planning permission for the proposed erection of a house with an air source heat pump at 1 Lynnside, Lynn Road, Kirkwall, was refused by the Appointed Officer on 3 October 2024, for the following reasons:

- By sub-dividing the garden/amenity space at 1 Lynnside to facilitate the proposed development of the currently proposed house, whilst providing an adequate area of amenity space for the currently proposed dwelling, would result in little outside private dedicated space/garden ground to meet the recreational and domestic needs of the house at 1 Lynnside.

Whilst there is a communal area (paved with central planting) between the houses at 1, 2 and 3 Lynnside, this area is not dedicated to 1 Lynnside alone or private to that property and is overlooked by the dwellings and although 2 and 3 Lynnside share the communal area, they also have private gardens/dedicated amenity space of their own (as would 1 Lynnside prior to subdivision). The proposed development would result in the replacement dwelling at 1 Lynnside (approved under 23/022/PP) being out of character with the neighbouring properties at 2 and 3 Lynnside in terms of available residential private amenity space.

The significantly reduced area of dedicate private residential amenity space/garden at 1 Lynnside due to the subdivision of the garden to facilitate the currently proposed house development under 24/156/PP would not be sufficient for the 2 bedroom replacement house that was proposed at 1 Lynnside under 23/022/PP, would result in detrimental impact to the amenity of 1 Lynnside and would result in overdevelopment.

The development would be contrary to OLDP 2017 Policy (ii, iv) – Criteria for All Development. NPF4 Policy 14(c) – Design, Quality and Place and Planning Advice: Amenity and Minimising Obtrusive Lighting (2021) – Residential Amenity Criterion 1 – The Creation and Protection of Dedicated Outside Space.

2.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at 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 1 Lynnside, Lynn Road, Kirkwall at 14:15 on 11 December 2024, where the following was observed:

- The site itself.
- Other houses in the surrounding area.
- Outside spaces at Lynnside, St Ola.
- Edge of town location.

The Local Review Body thereafter determined that it had sufficient information to proceed to determination of the review and, on the motion of Councillor Owen Tierney, seconded by Councillor W Leslie Manson, the Local Review Body:

Resolved, in terms of delegated powers:

2.5. That the decision of the Appointed Officer, to refuse planning permission for the proposed erection of a house with air source heat pump at 1 Lynnside, Lynn Road, Kirkwall, should be upheld, for the following reasons:

- By sub-dividing the garden/amenity space at 1 Lynnside to facilitate the proposed development of the currently proposed house, whilst providing an adequate area of amenity space for the currently proposed dwelling, would result in little outside private dedicated space/garden ground to meet the recreational and domestic needs of the house at 1 Lynnside.

Whilst there is a communal area (paved with central planting) between the houses at 1, 2 and 3 Lynnside, this area is not dedicated to 1 Lynnside alone or private to that property and is overlooked by the dwellings and although 2 and 3 Lynnside share the communal area, they also have private gardens/dedicated amenity space of their own (as would 1 Lynnside prior to subdivision). The proposed development would result in the replacement dwelling at 1 Lynnside (approved under 23/022/PP) being out of character with the neighbouring properties at 2 and 3 Lynnside in terms of available residential private amenity space.

The significantly reduced area of dedicate private residential amenity space/garden at 1 Lynnside due to the subdivision of the garden to facilitate the currently proposed house development under 24/156/PP would not be sufficient for the 2 bedroom replacement house that was proposed at 1 Lynnside under 23/022/PP, would result in detrimental impact to the amenity of 1 Lynnside and would result in overdevelopment.

The development would be contrary to OLDP 2017 Policy (ii, iv) – Criteria for All Development. NPF4 Policy 14(c) – Design, Quality and Place and Planning Advice: Amenity and Minimising Obtrusive Lighting (2021) – Residential Amenity Criterion 1 – The Creation and Protection of Dedicated Outside Space.

3. Planning Application 22/382/PP

Proposed Erection of Ten Houses with Air Source Heat Pumps and Associated Infrastructure on Land near Cairston Road, Stromness

Councillor W Leslie Manson declared an interest in this item, his connection being that he had social and recreational contact with the applicant. Councillor W Leslie Manson also confirmed that he had not taken part in the unaccompanied site inspection and left the meeting at this point.

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 presentation from the Planning Advisor, the Local Review Body:

Noted:

3.1. That planning permission for the proposed erection of ten houses with air source heat pumps, construction of a road and associated landscaping and infrastructure on land near Cairston Road, Stromness, was granted by the Appointed Officer on 28 June 2024, subject to conditions.

3.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 3.1 above, specifically in respect of Condition 07, be reviewed.

3.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Cairston Road, Stromness, at 09:30 on 13 December 2024, where the following was observed:

- The context of the site within Stromness, including additional housing allocations in the location.
- Existing footpaths and pedestrian connections.
- Reference to the location of schools, places of work and location of other services.

3.4. That, in accordance with Scottish Government advice on the use of conditions in planning permissions, conditions should only be imposed when they were:

- Necessary.
- Relevant to planning.
- Relevant to the development to be permitted.
- Enforceable.
- Precise.
- Reasonable in all other respects.

The Local Review Body thereafter determined that it had sufficient information to proceed to determination.

Councillor P Lindsay Hall, seconded by Councillor Owen Tierney, moved that the decision of the Appointed Officer be varied, in that Condition 07 be amended to align with "Plan C" as submitted by the applicant's agent as part of the Notice of Review.

Councillor Duncan A Tullock, seconded by Councillor James R Moar, moved an amendment that the decision of the Appointed Officer be upheld.

On a vote being taken 6 members voted for the amendment and 2 for the motion, and the Local Review Body:

Resolved, in terms of delegated powers:

3.5. That the decision of the Appointed Officer, to grant planning permission for the erection of ten houses with air source heat pumps, construction of a road and associated landscaping and infrastructure on land near Cairston Road, Stromness, subject to conditions, be upheld.

4. Conclusion of Meeting

At 11:50 the Chair declared the meeting concluded.

Signed: Owen Tierney.