

Item: 5.1

Local Review Body: 28 April 2021.

Proposed Change of Use from Self-Catering Accommodation to House at Brecklands, Rendall (20/370/PP).

Report by Chief Executive.

1. Purpose of Report

To determine a review of the decision of the Appointed Officer to refuse planning permission for the proposed change of use from self-catering accommodation to a house at Brecklands, Rendall.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission for the proposed change of use from self-catering accommodation to a house at Brecklands, Rendall, was refused by the Appointed Officer on 19 January 2021, 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.

2.3.

That, in accordance with policy, the Local Review Body undertook an unaccompanied visit to the site, referred to at paragraph 2.1 above, on 11 March 2021.

2.4.

That, on 11 March 2021, the Local Review Body resolved that the review should not be determined without further procedure and, noting the definition of “redundant” provided in the Supplementary Guidance on Housing in the Countryside and referred to in the reason for refusing the planning application, the further procedure should comprise further written information from the Legal Advisor, in respect of case law to establish the definition of “redundant” with regard to redundant buildings.

It is recommended:

2.5.

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.

2.6.

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 20/370/PP relates to the proposed change of use from self-catering accommodation to a house at Brecklands, Rendall.

3.2.

The Appointed Officer refused the planning application on 19 January 2021 on the following grounds:

3.2.1.

Proposed housing in the countryside is considered in relation to Policy 5E, and the only relevant provision under which the development could be considered is Policy 5E(ii) for the conversion of a redundant building or structure.

3.2.2.

The property was approved as self-catering tourist accommodation under a business policy. The property is not redundant, by the definition in Supplementary Guidance: Housing in the Countryside (2017): "Redundant is when a building or structure is no longer suitable for its previous use by virtue of its size and location; and the building or structure is empty, unoccupied and not in an active use..." The building remains suitable for its current use, irrespective of current occupation.

3.2.3.

COVID-19 has impacted tourist accommodation businesses during 2020, however, this does not affect the core policy provision. The applicant declined a temporary change of use of the building, for a period exceeding two years to allow for continued effects of COVID-19.

3.2.4.

The proposed change of use of the purpose-built self-catering holiday accommodation to a permanent dwelling would not comply with Orkney Local Development Plan 2017 Policy 5E(ii) 'Housing in the Countryside', for conversion of

a redundant building or structure, and Supplementary Guidance 'Housing in the Countryside' (2017).

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.

3.4.

The applicant's Notice of Review, the Planning Handling Report, Planning Services file and the Decision Notice, including the reason for refusal, referred to in section 3.2 above, were issued with the papers for the meeting of the Local Review Body held on 11 March 2021. Further copies are available on request to Committee Services.

4. Further Information

4.1.

At its meeting on 11 March 2021, the Local Review Body requested further information from the Legal Advisor in respect of case law to clarify the definition of "redundant" with regard to redundant buildings.

4.2.

The Legal Advisor and Planning Officers have located no specific case law in relation to the definition of "redundant", stated in Supplementary Guidance: Housing in the Countryside (2017), the wording of which is specific to the Orkney Local Development Plan 2017.

5. Review Procedure

5.1.

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 Brecklands, Rendall, was undertaken at 10:00 on 11 March 2021.

5.2.

The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, there are no planning conditions proposed but draft informatives were attached at Appendix 5 in the papers previously issued for consideration.

5.3.

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).

6. Relevant Planning Policy and Guidance

6.1.

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...”

6.2.

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 at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 5E(ii) – Housing in the Countryside – conversion of a redundant building or structure.
 - Policy 9G - Landscape.
 - Policy 14C – Road Network Structure.
- Supplementary Guidance:
 - Housing in the Countryside (2017).

7. 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.

8. 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.

9. Legal Aspects

9.1.

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.

9.2.

The procedures to be followed in respect of the review are as detailed in sections 5.2 and 5.3 above.

9.3.

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.

10. Contact Officers

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