

Minute

Local Review Body

Thursday, 3 April 2025, 10:30.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

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

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

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

Declaration of Interest

- Councillor Ivan A Taylor – Item 2.

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

Councillors Janette A Park, John A R Scott, Jean E Stevenson and Ivan A Taylor advised that, as they had not been involved in previous discussions in relation to this item at the meetings of the Local Review Body held on 13 December 2024 or 4 March 2025, in accordance with section 21 of the Scheme of Administration, they could not take part in the deliberations of the Local Review Body, and were not present during discussion thereof.

After consideration of a report by the Chief Executive, 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 (resubmission of 23/213/PP) 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 comment 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, on 4 March 2025, the Local Review Body was advised:

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

- 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.

1.7. That the Local Review Body subsequently resolved:

- 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 1.6 above, should be allowed into process.
- 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.

1.8. That comments in response to the Procedure Notice Response were received from Orkney Islands Council's Engineering Services and SEPA, a summary of which was provided as part of the presentation from the Planning Advisor.

The Local Review Body determined that it had sufficient information to proceed to determination of the review and that the review be determined without further procedure.

On the motion of Councillor Duncan A Tullock, seconded by Councillor W Leslie Manson, the Local Review Body:

Resolved, in terms of delegated powers:

1.9. That the Local Review Body should notify Scottish Ministers of its intention to reverse the decision of the Appointed Officer and grant 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, subject to conditions.

1.10. That, should the review not be called in by Scottish Ministers for determination, powers be delegated to the Chief Executive, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, to attach to the 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 (resubmission of 23/313/PP) at 10 Bridge Street Wynd, Kirkwall, based on the following relevant matters:

- Duration of consent.
- Occupation as self-catering accommodation.
- Air source heat pump noise.
- Air source heat pump housing.
- Replacement window and door specification.
- Replacement window and door implementation.

1.11 That the Local Review Body's reasons for granting 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 (resubmission of 23/213/PP) at 10 Bridge Street Wynd, Kirkwall, were that, in the Committee's opinion:

- The proposed density of the development was appropriate to the location.
- The amenity of the surrounding area was preserved and there were no unacceptable adverse impacts on the amenity of adjacent and nearby properties/users.
- The proposed development:
 - was sited and designed taking into consideration the location and the wider townscape.
 - was not prejudicial to the effective development of, or existing use of, the wider area.
 - did not create an unacceptable burden on existing infrastructure and services that could not be resolved.
 - did not result in an unacceptable level of risk to public health and safety.
 - was located within a defined settlement and would have no significant adverse environmental impacts or any adverse impacts on the amenity of surrounding users.
 - was a commercial development which was appropriate to the scale and function of the settlement, and which would contribute and improve the vibrancy, vitality and viability of the town centre.
 - would preserve and enhance the archaeological, architectural, artistic, commemorative and historic significant of cultural heritage assets, which the town centre is, including their settings.
 - was an alteration which was outwith the scope of Policy 13 of the Orkney Local Development Plan 2017, as it would not have a significant effect on any identified local flooding problems.
 - was a redevelopment of a previously used site in a built up area where the Local Development Plan had identified a need to bring these into positive use.
 - was an alteration to an existing building and would therefore not significantly increase the flood risk.

And accordingly, the proposed development complied with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1, parts (i), (ii), (iii), (iv), (v) and (vi) – Criteria for All Development.
 - Policy 3 – Settlements, Town Centres and Primary Retail Frontages.
 - Policy 8A – Historic Environment and Cultural Heritage.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
- National Planning Framework 4:
 - Policy 22 – Flood risk and water management.
 - Policy 27 – City, town, local and commercial centres.

2. Planning Application 24/351/PIP

Proposed Siting of House and Creation of Access near Seaview, Annfield Road, Tankerness

Councillor Ivan A Taylor declared an interest in this item, his connection being that the applicant was a family friend. Councillor Ivan A Taylor 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 Chief Executive, 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 in principle for the proposed siting of a house and creation of an access near Seaview, Annfield Road, Tankerness, was refused by the Appointed Officer on 28 November 2024, for the following reasons:

01. Under Orkney Policy Local Development Plan Policy 5E(vi) – Single House Infill Development within Existing Housing Groups and Supplementary Guidance: Housing in the Countryside (2021), infill development is defined and is required to be located within a housing group and “located in between two of the occupied and independent dwelling houses with the infill site sharing boundaries with these two dwelling houses.”

Under Orkney Policy Local Development Plan Policy 5E(vi) – Single House Infill Development within Existing Housing Groups and Supplementary Guidance: Housing in the Countryside (2021) these definitions are:

Existing Housing Group – “where there are four or more occupied and independent dwelling houses which relate to each other and are viewed as a group, meaning two or more of the houses share domestic curtilage boundaries”.

Infill Development – “Be located in between two of the occupied and independent dwelling houses with the infill site sharing boundaries with these two dwelling houses”.

The domestic curtilage of the proposed site does not adjoin/share the domestic curtilage boundary with the house at Craigmaddie as there is non-domestic land between them and due to the separation distance between Craigmaddie and Seaview, Craigmaddie would not form part of a ‘housing group’.

The development site is not located within a housing group or an infill development as defined under Orkney Local Development Plan Policy 5E(vi) – Single House In-Fill Development within Existing Housing Groups and Supplementary Guidance: Housing in the Countryside (2021).

02. The development of a house on the site would result in a coalescence of the wider housing group at Annfield and the existing dwellings set in relation to the A960 (including Craigmaddie and the properties across the road at Ingawood and Gleneagles which do not meet the criteria of a housing group) and the proposed site would be ‘lined up’ with other houses to address the road which would lead to suburbanisation of countryside and impacts upon the landscape and visual amenity.

The development would not comply with Orkney Local Development Plan 2017 Policies 1 (i and ix) – Criteria for All Development. 5E(vi) – Single Houses In-fill Development within Existing Housing Groups, 9G – Landscape and Supplementary Guidance: Housing in the Countryside (2021).

03. The Location and Site Plans submitted with the application include an area of land to the west that is roadside verge to the rear of a passing place that was approved under condition 9 attached to planning ref 22/215/PP for a development of a house on a different site in Annfield and upgrading of the junction and installation of a passing place on Annfield Road by a separate developer and which is not in the ownership of the applicant. By including this area, changes to the current red outlined site area cannot be processed as a working amendment and the acceptability of the location of the proposed access therefore cannot be fully assessed and the development would not comply with OLDP 2017 Policy 14C – Road Network Infrastructure.

2.2. That the applicant 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 near Seaview, Annfield Road, Tankerness, at 09:40 on 3 April 2025, where the following was observed:

- The grouping of both old and new houses.
- The passing place on the public road.

The Local Review Body thereafter determined that it had sufficient information to proceed to determination of the review and that the review be determined without further procedure.

Councillor Raymond S Peace, seconded by Councillor W Leslie Manson, moved that the decision of the Appointed Officer be reversed.

Councillor Owen Tierney, seconded by Councillor David Dawson, moved an amendment that the decision of the Appointed Officer be upheld.

On a vote being taken 2 members voted for the amendment and 8 for the motion, and the Local Review Body:

Resolved, in terms of delegated powers:

2.4. That the decision of the Appointed Officer, to refuse planning permission in principle for the siting of a house and creation of an access near Seaview, Annfield Road, Tankerness, should be reversed.

2.5. That planning permission in principle be granted in respect of the proposed siting of a house and creation of an access near Seaview, Annfield Road, Tankerness, subject to conditions.

2.6. That the Local Review Body's reasons for granting planning permission in principle for the proposed siting of a house and creation of an access near Seaview, Annfield Road, Tankerness, were that, in the Committee's opinion:

- The proposed development was sited and designed taking into consideration the location and the wider landscape.
- The proposed density of the development was appropriate to the location.
- The proposed development was not prejudicial to the effective development of, or existing use of, the wider area.
- The amenity of the surrounding area was preserved and there were no unacceptable adverse impacts on the amenity of adjacent and nearby properties.
- The proposed development would not create an unacceptable burden on existing infrastructure and services that could not be resolved.
- The proposed development did not result in an unacceptable level of risk to public health and safety.
- The proposed development was designed to improve the quality of an area.
- With regard to Policy 17(c) of National Planning Framework 4, Orkney was fragile and, by extension, the communities that make up Orkney were fragile. As a result, the proposed development would support and sustain existing fragile communities. A national housing emergency had been declared, and the existing housing documents alluded to the large number of houses that had to be provided in Orkney which would support identified local housing outcomes. The location of the proposed development was acceptable and matters associated with access and environmental impacts could be suitably addressed via conditions.

And accordingly, the proposed development complied with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1, parts (i), (ii), (iii), (iv), (v), (vi) – Criteria for All Development.
- National Planning Framework 4:
 - Policy 14(a) – Design, Quality and Place.
 - Policy 17(c) – Rural Homes.

2.7. That powers be delegated to the Chief Executive, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, to attach to the planning permission in principle for the proposed siting of a house and creation of an access near Seaview, Annfield Road, Tankerness, based on the following relevant matters:

- Duration of consent.
- Matters:
 - Site layout.
 - Site levels/sections.
 - Design and appearance.
 - Landscaping.
 - Access and parking arrangements.
 - Passing place approved under reference 22/215/PP.
 - Surface water drainage.

- Forward visibility.
- Water supply.
- Foul drainage.
- Refuse and recycling storage.
- Electric vehicle charging.
- Biodiversity enhancement.
- Hours of work.

3. Conclusion of Meeting

At 11:50 the Chair declared the meeting concluded.

Signed: Owen Tierney.