

Item: 3.1

Planning Committee: 4 September 2019.

Erect 10 Houses (Amendment to 10/385/PP) at Breckan Brae (Land Near), St Mary's, Holm.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

This proposal seeks full planning permission to erect 10 houses, on plots previously approved under planning reference 10/385/PP at Breckan Brae in the St Mary's Housing Development, St Mary's, Holm. The principle of housing on the plots is therefore already accepted. One objection has been received on grounds of overlooking, loss of privacy and water run-off/flood risk. The issues raised can be mitigated. The proposed amendments to the house types accord with Policies 1, 2, 5A, 9G, 10A, 13B, 13C and 14C of the Orkney Local Development Plan 2017, relevant planning guidance and material planning considerations. Accordingly, the application is recommended for approval.

Application Number:	19/217/PP.
Application Type:	Planning Permission.
Proposal:	Erect 10 houses (amendment to 10/385/PP).
Applicant:	Mr Robert Blackburn, St Mary's Housing Limited, Mill House, By Old Mill, Tankerness, Orkney KW17 2QS.
Agent:	McAdam Design (Scotland) Limited, c/o Sue Stephen, 70 King Street, Peterhead AB42 1QJ.

1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm
(then enter the application number given above).

2. Consultations

2.1.

Roads Services – Due to the period of time since first approval of the plots, guidance with regards parking for new developments has changed, from 2010 guidance which required two parking spaces per dwelling, to the SCOTS National Roads Development Guide which requires three parking spaces for properties with four bedrooms or more, with the stipulation that parking be contained within the curtilage

of the sites. However, given the existing extant planning permission on the site, two spaces per dwelling is accepted.

2.2.

Scottish Water and Development and Marine Planning have no comments that cannot be addressed by planning conditions.

3. Representations

3.1.

One objection has been received from:

- Neil and Linsey Burns, Karona, West Greaves Road, St Mary's, Holm.

3.2.

The objection is based on the following matters, which have been considered in the assessment of the proposal:

- Overlooking and loss of privacy.
- Water run-off from the development and potential flood risk.

3.3.

The objector has also raised other concerns in relation to overlooking from the property at plot 34 and the style of the play park. Both that plot and the play park were assessed and approved under the previous application 10/385/PP and cannot be taken into account in the assessment of the current application.

4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
10/385/PP.	Erect 34 houses.	Breckan Brae (Land Near), Holm.	Grant subject to conditions.	10.09.10.
05/449/PPO	Siting of 40 houses and associated works.	LDP Site H5, St Mary's, Holm.	Grant subject to conditions.	25.01.06.

5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary 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 2 – Design.
 - Policy 5A – Housing in Settlements.
 - Policy 9G – Landscape.
 - Policy 10A – Core Paths and Access.
 - Policy 13B – Sustainable Drainage Systems (SuDS).
 - Policy 13C –Waste Water Drainage.
 - Policy 14C – Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Advice:
 - Planning Policy Advice ‘Development Quality within Settlements’ (March 2012).
 - Supplementary Guidance: Settlement Statements: St Mary’s (2017).
 - Amended Core Paths Plan (September 2018).

6. Legal Aspects

6.1.

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

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

6.3.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

7. Assessment

7.1. Location and Proposal

The plots are within the St Mary's Housing Development, a high-density housing area in St Mary's Village, Holm, as shown on the site plan attached as Appendix 1 to this report. The proposal is to erect 10 houses on plots 30 to 33 and 35 to 40. Houses have already been approved on these plots under planning permission 10/385/PP, and that consent remains extant. The principle of the development has therefore already been established, and this application is therefore to assess the amended design.

7.2. Housing in Settlements Policy

Policy 5A – Housing in Settlements – of the Orkney Local Development Plan 2017 provides a general presumption in favour of residential development within the settlement boundaries, provided that the proposed development also meets other policies of the Plan and any other material planning considerations. For the avoidance of doubt, should the current application be unsuccessful, a fallback position could be construction of the dwellings already approved under 10/385/PP.

7.3. Design and Appearance

7.3.1.

The proposed changes to the house types/design from those previously approved under 10/385/PP are as follows:

Plot number.	House currently approved under 10/385/PP.	Amended house type proposed.
Plots 30-33	House Type A. 5 bedrooms. Total footprint not exceeding 100 square metres. Height to ridge 6.977 metres. Two small solar panels.	House type A5. Similar appearance to House type A, with 5 bedrooms. Amendment to layout and larger kitchen, dining and family area to the rear. One larger solar panel, additional rooflights, larger window to first floor rear elevation and additional patio doors to ground floor rear elevation. Total footprint not exceeding 122 square metres. Height to ridge 7.042 metres.
Plots 35-39		House type C5. More simple and compact design, with 4 Bedrooms, no rear extension, and dormer windows in roof. Total footprint not exceeding 102 square metres. Overall height to ridge 6.934 metres.
40	House Type B. 3 bedrooms. Total footprint not exceeding 82 square metres.	House type D5. 2 dormers to front elevation, 4 Bedrooms, patio doors to rear elevation. Total footprint not exceeding 95 square metres. Height to ridge 6.934 metres.

	Height to ridge 6.460 metres.	
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7.3.2.

The houses on plots 35 to 39 and 40 would have marginally larger footprints than the dwellings previously approved on the plots under 10/385/PP, and the dwelling on plot 40 would be 0.5 metres higher than the previously approved dwelling on that plot. It is considered that the changes to the design of these dwellings would be unlikely to have a significant impact on the character of the area or detract from other dwellings nearby. The house type proposed for plots 30 to 33 would be similar in height and appearance to the previously approved house type on these plots, with an increase in size of the family room/kitchen and dining area to the rear. Although there would be an increase in footprint by approximately 22 square metres, that change can be accommodated.

7.3.3.

All dwellings would have external materials similar to others within the housing development, including black Mini Stonewold flat profile concrete roof tiles, white dry dash walls, uPVC window frames in golden oak and black uPVC rainwater goods. Dormers would have fibre cement cladding in colour to match the windows. The materials are acceptable, and it is considered that the dwellings would integrate with the wider housing development.

7.3.4.

The dwellings would not exceed more than a third of their individual plot areas and the front of the dwellings would face out onto the internal street system. Each plot would provide off-road parking space and adequate amenity space for the occupiers of the dwellings.

7.3.5.

It is considered that the proposed development would comply with Policies 1 – Criteria for All Development, 2 – Design, 5A – Housing in Settlements, Planning Policy Advice ‘Development Quality within Settlements’ (March 2012) and Supplementary Guidance: Settlement Statements: St Mary’s (2017).

7.4. Residential Amenity

7.4.1.

The separation distance between directly facing windows to principle rooms of dwellings should not normally be less than 21 metres. However, this can be lessened by off-setting, non-principle rooms or facing blank elevations.

7.4.2.

The objector has raised overlooking and loss of privacy at their dwelling at Karona, which is across the track from the application site. Overlooking from the house in plot 34 is also raised, but as stated in section 3.3 above, this dwelling is previously approved and not relevant to the current application. For context, the separation

distance between the closest part of the dwelling at Karona and the dwelling on plot 34 is 34 metres, exceeding the required separation distance of 21 metres.

7.4.3.

The proposed dwellings on plots 30 to 33 would be closer than 21 metres, but windows would not be directly facing. Proposed plot 33 is the closest to third-party dwellings at Oravik, Karona and plot 34. The dwelling on plot 33 would be 18.5 metres from Oravik, 41 metres from Karona and 5 metres from the house on plot 34. Fencing 1.8 metres in height is proposed to the boundary between Oravik and plot 33 which would provide some screening, and due to the separation distance and off-setting of the dwelling on plot 33 from Karona, windows would not directly overlook this property. Plots 30 to 32 are between 26 and 52 metres from Oravik, the closest third-party property. The objector's property at Karona is between 66 and 88 metres from the dwellings on plots 30 to 32.

7.4.4.

The proposed dwelling within plots 35 to 39 closest to a third-party dwelling is plot 35, which is 5.8 metres from the dwelling on plot 34 and 35 metres from Karona, and would not directly overlook principal windows. Two rooflight windows are proposed to the rear elevation, which are over 40 metres from Karona. Existing fencing would be retained between plots 34 and 35 and a new 1.8 metre fence is proposed to the rear of plots 35 to 39.

7.4.5.

Taking the above into account, it is considered that the proposed change to the house types is unlikely to have a significant impact on residential amenity of third party dwellings, and therefore would comply with Policy 1.

7.5. Parking Provision, Access and Road Safety

Two off-road parking spaces are proposed within the plot of each dwelling. Although the parking provision would not comply with the SCOTS National Roads Development Guide, it would comply with the extant approval and is considered acceptable. In terms of compliance with Policy 14C, it is considered that each plot could be safely and conveniently accessed by service and delivery vehicles and therefore would comply with the policy.

7.6. Sewerage

The sewerage arrangements for the dwellings would be as previously approved under 10/385/PP, which require connection to the Scottish Water public sewer. Scottish Water has confirmed that the development would be serviced by the St Mary's Waste Water Treatment Works, in accordance with Policy 13C – Waste Water Drainage.

7.7. Drainage

7.7.1.

The site, and the objector's property at Karona, is located on higher ground above St Mary's and is not indicated as at flood risk on SEPA's Indicative Flood Risk Map. Surface water drainage soakaways for the whole development are already approved. A planning condition was attached to approval 10/385/PP requiring compliance with Sustainable Drainage (SuDS). Soakaways are also included for each proposed house plot. A Drainage Impact Assessment and percolation test carried out for application 10/385/PP has been attached to the current submission.

7.7.2.

Surface water run-off/flood risk was raised with the applicant during consideration, and the applicant has confirmed that during periodic inspections, the engineer has noted no evidence of water discharge from within the boundaries of properties or the publicly adopted areas, implying the drainage design is functioning as designed.

7.7.3.

The agent provided the following reassurance: "...If during construction, surface water run off was evidenced to be affecting neighbouring properties we would of course install a temporary drain, however, we consider excessive run off to be unlikely for the following reasons:

- The track at the rear of Plot 35-40 runs downhill and slopes away from the objector's boundary wall. It should be able to cope with any water discharge from the site and ultimately direct any discharge to a gully located at the foot of the track.
- The depression on the south side of the track falls away from the objector's boundary wall and would only in extreme rainfall events flood over the crown of the track which is covered in turf. The southerly depression on the track is 68cm wide and has a fall of 2.8cm giving a gradient of 4.1%. It follows a consistent camber straight into the gully at the foot of the track adjacent to West Grieves Road.
- The depression on the north side of the track, closer to the objector's boundary wall, has a fall of 19cm over 68cm giving a gradient of 27.9%. Again, it follows a consistent camber onto West Grieves Road and into the gully.
- A drainage impact assessment was prepared in 2005 for the entire development of H5 (the site reference in the previous Local Plans) which included trial pits to determine soil infiltration rates. The results were variable across the site but were on average about 2.3 to 3.8 x 10⁻⁵mm/sec. This effectively means the soil on site has reasonably good drainage characteristics."

7.7.4.

It is considered that the above measures, together with full compliance with Sustainable Drainage Systems (SuDS) which would be conditioned are sufficient to ensure the development complies with Policy 13B – Sustainable Drainage Systems (SuDS).

7.8. Core Path

A Core Path EM5 runs along Breckan Brae and the track adjacent to the eastern boundaries of the dwellings at plots 39 and 40. The western part of the Core Path runs along the track between West Greaves Road and Breckan Brae, between the dwelling at Karona and the St Mary's Housing Development, adjacent to the northern boundaries of plots 34 to 39. There is no impact anticipated on the Core Path and Public Right of Way. To reduce impact during the construction phase, a condition would ensure that works are contained within the development area with no dumping of spoil, tools, etc within the path. It is considered that the development would comply with Policy 10A – Core Paths and Access.

8. Conclusion and Recommendation

The principle of the development is established, and the current application is to amend the house designs only. The increases in footprint and changes to appearance are considered acceptable. The materials would be like those used nearby. Mitigation is included in the wider scheme including SuDS and drainage to prevent water-run off. Fencing and separation distances are adequate to address points of objection. The development is considered to comply with Policies 1, 2, 5A, 9G, 10A, 13B, 13C and 14C of the Orkney Local Development Plan 2017, Planning Policy Advice 'Development Quality within Settlements' (2012), Supplementary Guidance: Settlement Statements: St Mary's (2017) and Amended Core Paths Plan (2018). Accordingly, the application is recommended for approval, subject to the conditions attached as Appendix 2 to this report.

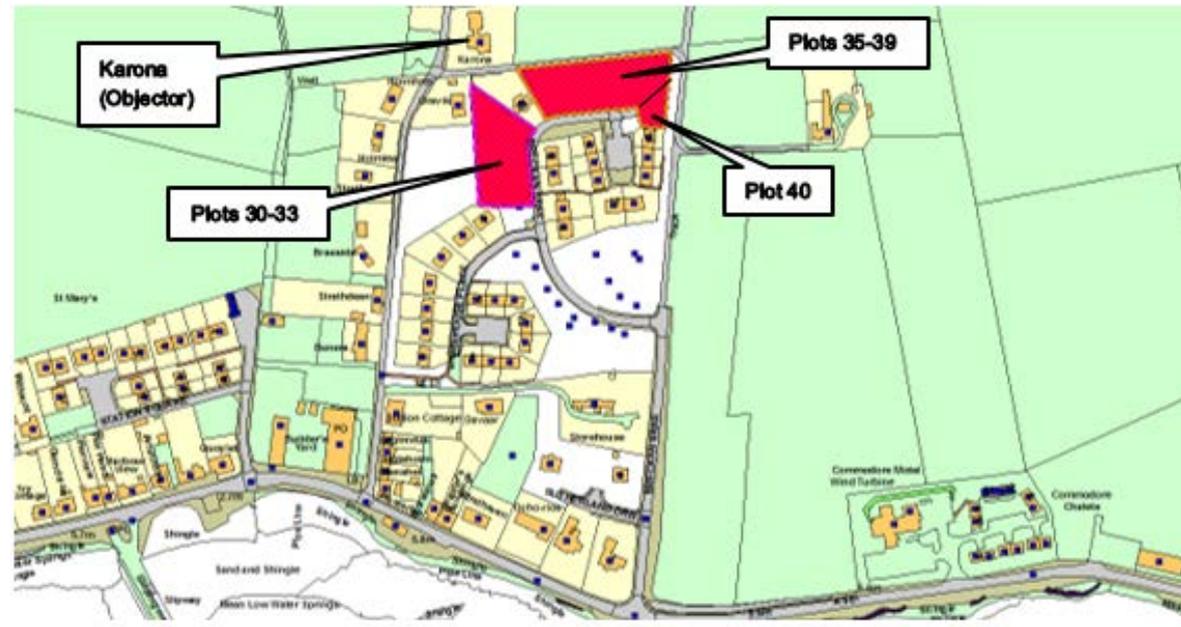
9. Contact Officer

Sue Doyle, Planning Officer, extension 2503, Email sue.doyle@orkney.gov.uk

10. Appendices

- Appendix 1: Site Plan.
- Appendix 2: Planning Conditions.

Appendix 1.



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Appendix 2

01. Throughout the lifetime of the development hereby granted planning permission, surface water must be treated in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

All surface water shall be contained within the development site and there shall be no surface water drainage run-off onto the road or adjacent land.

Uncontaminated surface water, including roof water, should be disposed of by the use of SUDS in accordance with General Binding Rules 10 and 11 of CAR. Further details regarding General Binding Rules and Controlled Activities Regulations (CAR) may be found on SEPA's website at:

https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf.

Further information on SUDs may be found on SEPA's website at: www.sepa.org.uk and http://www.susdrain.org/resources/SuDS_Manual.html.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B – Sustainable Drainage Systems (SuDS) of Orkney Local Development Plan 2017, Scottish Planning Policy - Managing Flood Risk and Drainage and in the interests of road safety.

02. All boundary treatments shall be installed as indicated on Site Plan OIC-02(2) hereby approved. All fencing shall be installed prior to the first occupation of the dwellings and thereafter shall be retained throughout the lifetime of the development.

Reason: In the interests of the protection of privacy and residential amenity between dwellings.

03. Throughout the lifetime of the development hereby approved, only the access points into the plots shown on Site Plan OIC-02(2) hereby approved shall be used for vehicular access to the plots, and the driveways from the road shall be tarmac/bituminous surfacing as indicated.

All works to the access and driveway to each plot shall be completed prior to the first occupation of the dwelling on that plot, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

04. All vehicular traffic and construction traffic from the A961 to the development hereby approved shall take access and egress via Breckan Brae only. No vehicular access or egress shall be taken off West Greaves Road, unless otherwise agreed, in writing, by the Planning Authority.

Reason: To ensure adequate access to the site and in the interests of the protection of the residential amenity of dwellings on West Greaves Road.

05. Prior to the dwellings hereby approved being occupied and brought into first use, they shall connect to the public foul sewer, as already approved under 10/385/PP.

Reason: In the interests of environmental protection and to accord with Policy 13C – Waste Water Drainage of Orkney Local Development Plan 2017.

06. Throughout the construction phase of the development all works shall be confined to the approved planning application site area and shall not spill out onto the margins of the Core Path or Public Right of Way. No dumping of spoil or building equipment or materials, either temporarily or permanently, shall occur outside the site boundary.

Reason: In the interests of the protection of the Core Path or Public Right of Way and to accord with Orkney Local Development Plan 2017 Policy 10A – Core Paths and Access.

07. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 Saturdays, not at all on Sundays, Christmas or New Year Public Holidays unless otherwise agreed, in writing, with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of residential amenity of the area and in order to reduce any possible nuisance arising to nearby residents during the construction of this development.