

Minute

Development and Infrastructure Committee

Tuesday, 8 September 2020, 10:30.

Microsoft Teams.



Present

Councillors Graham L Sinclair, Andrew Drever, Norman R Craigie, Robin W Crichton, David Dawson, J Harvey Johnston, Rachael A King, W Leslie Manson, Stephen Sankey, James W Stockan and Duncan A Tullock.

Councillors Alexander G Cowie, John A R Scott and Owen Tierney, who had been invited for Item 2.

Clerk

- Hazel Flett, Senior Committees Officer.

In Attendance

- John W Mundell, Interim Chief Executive (for Items 1 to 6).
- Gavin Barr, Executive Director of Development and Infrastructure.
- James Buck, Head of Marine Services, Transport and Harbour Master.
- Darren Richardson, Head of Infrastructure and Strategic Projects (for Items 1 to 6).
- Roddy Mackay, Head of Planning, Development and Regulatory Services.
- Colin Kemp, Corporate Finance Senior Manager.
- Karen Bevilacqua, Solicitor.
- Stuart Allison, Economic Development Manager (for Items 3 to 12).
- Lorna Richardson, Strategic Policy and Projects Manager (for Items 2 to 6).
- Susan Shearer, Planning Manager (Development and Marine Planning) (for Items 1 to 8).
- James Green, Senior Policy Planner (Development and Marine Planning) (for Items 1 to 8).
- Michael Harvey, Policy Planner (Development and Marine Planning) (for Items 1, 2, 6 and 7).
- Angela Kingston, Committees Officer.

Observing

- Jamie Macvie, Planning Manager (Development Management) (for Items 1 and 2).
- Kenneth Roy, Road Support Manager (for Items 1 to 6).
- Anna Whelan, Strategy Manager (for Items 2 to 10).
- John Wrigley, Roads and Environmental Services Manager (for Items 2 to 12).

- David Hartley, Communications Team Leader (for Items 1 to 6).
- Zana Bayley, Burial Grounds Officer (for Items 5 and 6).
- Lorraine Stout, Press Officer (for Items 7 to 12).

Apology

- Councillor Barbara Foulkes (who had been invited for Item 2).

Declarations of Interest

- Councillor Robin W Crichton – Item 11.
- Councillor David Dawson – Item 11.
- Councillor Rachael A King – Item 11.
- Councillor Graham L Sinclair – Item 11.

Chair

- Councillor Graham L Sinclair.

1. Disclosure of Exempt Information

The Committee noted the proposal that the public be excluded from the meeting for consideration of Annex B of Item 11, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

2. Independent Review of Planning Service

After consideration of a joint report by the Chief Executive and the Executive Director of Development and Infrastructure, copies of which had been circulated, the Committee:

Noted:

2.1. That, in Spring 2020, following feedback received from stakeholders regarding aspects associated with planning services, the Interim Chief Executive commissioned an independent review of the Planning Service, which was undertaken by Jim Birrell.

2.2. That Mr Birrell was a highly experienced planning professional with significant senior experience as a Scottish Local Authority planner, who also advised and represented national professional agencies, including Heads of Planning Scotland.

2.3. That Mr Birrell established a method of interview and document review research, which included involvement of staff within the Planning Team, a sample of internal and external developer stakeholders and Elected Members.

2.4. Mr Birrell's final report, attached as Appendix 1 to the joint report by the Chief Executive and the Executive Director of Development and Infrastructure, which, after his broad assessment, concluded that the Planning Service was a high performing service, providing good outputs and examples of good practice, and identified a number of improvement areas which were recommended to further improve that position.

2.5. The Management Improvement Action Plan, attached as Appendix 2 to the joint report by the Chief Executive and the Executive Director of Development and Infrastructure, which had been developed to respond to the recommendations of Mr Birrell's report.

The Committee resolved to **recommend to the Council**:

2.6. That the report commissioned in respect of the independent review of the Planning Service, attached as Appendix 1 to this Minute, be endorsed.

2.7. That the Executive Director of Development and Infrastructure should provide regular updates, through the Planning and Regulatory Services Consultative Group, on delivery of the Management Improvement Action Plan, referred to at paragraph 2.5 above.

3. Revenue Expenditure Outturn

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Committee:

Noted:

3.1. The revenue expenditure outturn statement in respect of Development and Infrastructure for financial year 2019/20, attached as Annex 1 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, which indicated an overspend of £108,300.

The Committee scrutinised:

3.2. The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 2 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

4. Revenue Expenditure Monitoring

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Committee:

Noted:

4.1. The revenue financial summary statement, in respect of service areas for which the Development and Infrastructure Committee was responsible, for the period 1 April to 30 June 2020, attached as Annex 1 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, which indicated a budget overspend position of £385,900.

4.2. The revenue financial detail by service area statement, in respect of service areas for which the Development and Infrastructure Committee was responsible, for the period 1 April to 30 June 2020, attached as Annex 2 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance.

The Committee scrutinised:

4.3. The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

5. Road Asset Replacement Programme – Outturn

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Committee:

Noted:

5.1. The summary outturn position of expenditure incurred for financial year 2019/20 in respect of the Road Asset Replacement Programme, as detailed in section 4.1 of the report by the Head of Finance, which indicated an underspend of £109,912 as at 31 March 2020, against an approved budget of £1,398,000.

The Committee scrutinised:

5.2. The detailed analysis of expenditure figures and programme updates against the approved programme, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress made with delivery of the approved Road Asset Replacement Programme.

6. Burial Grounds

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Infrastructure and Strategic Projects, the Committee:

Noted:

6.1. That, on 12 November 2019, the Development and Infrastructure Committee noted that, as a result of proposed management actions arising from an internal audit report on memorial safety works within burial grounds, the Burial Grounds Code of Practice should be reviewed, with a final version presented to Committee in Spring 2020, including any financial implications in respect of resources to deliver the Code of Practice.

6.2. The revised Code of Practice for Burial Grounds, comprising the Code of Practice, the Burial Grounds Management Plan and the Customer Charter, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, which placed a number of additional obligations on the Council, most notably with regard to inspection and maintenance of memorials within burial grounds.

6.3. The options appraisal, including the necessary resources to deliver the proposed revised Code of Practice, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure, with the preferred option being Option 4, namely further increased resource.

Councillor Graham L Sinclair, seconded by Councillor David Dawson, moved that:

(1) In principle, the Development and Infrastructure Committee support Option 4, namely further increased resource to enable full compliance with the recommendations arising from the internal audit report on memorial safety works within burial grounds and thereafter implementation of the revised Code of Practice.

(2) The Executive Director of Development and Infrastructure should submit a report, to the Policy and Resources Committee, setting out the financial and other implications of Option 4.

(3) Subject to the necessary funding being identified and made available to the Development and Infrastructure Service, the revised Code of Practice be adopted.

Councillor W Leslie Manson, seconded by Councillor J Harvey Johnston, moved an amendment that:

(1) The Development and Infrastructure Committee support Option 2, namely maximising use of all available Service resources.

(2) The Executive Director of Development and Infrastructure should submit a report, to the Policy and Resources Committee, setting out the financial and other implications of Option 2.

(3) Subject to the necessary funding being identified and made available to the Development and Infrastructure Service, the revised Code of Practice be adopted.

(4) The Executive Director of Development and Infrastructure should review arrangements implemented as a result of adopting Option 2 no later than September 2022.

The result of a recorded vote was as follows:

For the Amendment:

Councillors J Harvey Johnston, W Leslie Manson and James W Stockan (3).

For the Motion:

Councillors Norman R Craigie, Robin W Crichton, David Dawson, Andrew Drever, Rachael A King, Stephen Sankey, Graham L Sinclair and Duncan A Tullock (8).

The motion was therefore carried and the Committee thereafter resolved to **recommend to the Council:**

6.4. That, in principle, the Development and Infrastructure Committee supported Option 4, namely further increased resource to enable full compliance with the recommendations arising from the internal audit report on memorial safety works within burial grounds and thereafter implementation of the revised Code of Practice.

6.5. That the Executive Director of Development and Infrastructure should submit a report, to the Policy and Resources Committee, setting out the financial and other implications of Option 4.

6.6. That, subject to the necessary funding being identified and made available to the Development and Infrastructure Service, the revised Code of Practice, attached as Appendix 2 to this Minute, be adopted.

7. Kirkwall Walliwall (K5) Development Brief

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Planning Manager (Development and Marine Planning), the Committee:

Noted:

7.1. That site K5, Kirkwall Walliwall, was designated as housing allocation in the Orkney Local Development Plan 2017, with further detail for the allocation noted in Supplementary Guidance: Settlement Statements.

7.2. That Supplementary Guidance: Settlement Statements stated a requirement to complete a Development Brief for the allocation referred to above.

7.3. The draft Kirkwall Walliwall (K5) Development Brief, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, which had been developed to consider further development of the allocated land, and in conjunction with key stakeholders, to ensure the overall development concept was achievable.

7.4. That, once approved, the Kirkwall Walliwall (K5) Development Brief would have status as a material consideration in planning decision making.

The Committee resolved to **recommend to the Council:**

7.5. That the Kirkwall Walliwall (K5) Development Brief, attached as Appendix 3 to this Minute, be approved as Development Management Guidance.

8. Orkney Harbours Masterplan Phase 1

Planning Policy Advice

After consideration of a report by the Executive Director of Development and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Senior Policy Planner (Development and Marine Planning), the Committee:

Noted:

8.1. That, in April 2019, the Council agreed that public consultation be undertaken on the draft Orkney Harbours Masterplan Phase 1.

8.2. That public consultation, including with stakeholders and industry, had been undertaken in respect of the draft Orkney Harbours Masterplan Phase 1.

8.3. The Consultation Report, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure, which recorded the steps taken to ensure full and proper consultation was undertaken, the comments raised by members of the public and stakeholders and the response by the Executive Director of Development and Infrastructure to those comments.

8.4. That, on 16 April 2020, the Council approved the Orkney Harbours Masterplan Phase 1, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure.

8.5. That, once approved as Planning Policy Advice, the Masterplan, referred to at paragraph 8.4 above, would have status as a significant material consideration in planning and works licence decision making.

The Committee resolved to **recommend to the Council:**

8.6. That the Orkney Harbours Masterplan Phase 1, referred to at paragraph 8.4 above, be approved as Planning Policy Advice.

Councillor Rachael A King left the meeting during discussion of this item.

9. Harbour Authority Sub-committee

After consideration of the draft Minute of the Meeting of the Harbour Authority Sub-committee held on 25 August 2020, copies of which had been circulated, the Committee:

Resolved:

9.1. On the motion of Councillor Graham L Sinclair, seconded by Councillor Andrew Drever, to approve the Minute of the Meeting of the Harbour Authority Sub-committee held on 25 August 2020 as a true record.

The Committee resolved to **recommend to the Council:**

9.2. That the recommendation at paragraph 7.5 of the Minute of the Meeting of the Harbour Authority Sub-committee held on 25 August 2020, attached as Appendix 4 to this Minute, be approved.

10. Orkney Islands Economic Review

After consideration of a joint report by the Chief Executive and the Executive Director of Development and Infrastructure, copies of which had been circulated, the Committee:

Noted:

10.1. That, in October 2019, the Our Islands Our Future/Constitutional Reform Programme Board identified a need to commission some economic analysis and modelling to support a number of prospective development projects, foremost among which was the Islands Deal.

10.2. That the Fraser of Allander Institute was commissioned to conduct the review and delivered their draft report, entitled Orkney Islands Economic Review, on 30 March 2020.

10.3. That the draft report was subsequently amended at no further cost in order to take account of the likely impact on Orkney's economy of the COVID-19 pandemic.

10.4. The final report, Orkney Islands Economic Review, attached as Appendix 1 to the joint report by the Chief Executive and the Executive Director of Development and Infrastructure, which would provide an important background resource to ongoing project development work, including the Islands Deal and the COVID-19 Recovery response.

Councillor Andrew Drever left the meeting during discussion of this item.

11. Economic Development Grants

Budget Outturn Statement and Delegated Approvals

Councillors Robin W Crichton and Rachael A King declared non-financial interests in this item, in that family members were employed by organisations which had received Economic Development Grant funding, however, as the specific applications were not discussed, they did not leave the meeting.

Councillor David Dawson declared a non-financial interest in this item, in that he was a non-executive board member of an organisation which had received Economic Development Grant funding, however, as the specific application was not discussed, he did not leave the meeting.

Councillor Graham L Sinclair declared a non-financial interest in this item, in that a family member had received Economic Development Grant funding, however, as the specific application was not discussed, he did not leave the meeting.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Economic Development Manager, the Committee:

Noted:

11.1. That, during financial year 2019/20, new spending commitments of £495,800 were approved which, relative to the revised Economic Development Grants budget of £495,800 including the capability to over-commit by 5%, resulted in a zero uncommitted amount for the year, as detailed in Annex A to the report by the Executive Director of Development and Infrastructure.

11.2. That the level of outstanding spending commitments held in the Economic Development Grants Fund, as at 31 March 2020, decreased by £36,750 to £1,083,251.

11.3. Grant and non-grant approvals made in the period 1 April 2019 to 31 March 2020, totalling £495,800, including grants approved under delegated schemes for the same period, totalling £384,286, as detailed in Annex B to the report by the Executive Director of Development and Infrastructure.

12. Conclusion of Meeting

At 15:15 the Chair declared the meeting concluded.

Signed: Graham L Sinclair.



AN INDEPENDENT, EXTERNAL REVIEW TO IDENTIFY THE HIGH-LEVEL CHALLENGES FACING THE COUNCIL IN DEVELOPMENT DELIVERY, CUSTOMER ENGAGEMENT AND OVERALL PERFORMANCE, EFFICIENCY AND REPUTATION.

**PART 1 REPORT – EXECUTIVE SUMMARY-
CONCLUSIONS AND RECOMMENDATIONS**

**Report to John Mundell OBE, Interim Chief Executive
Orkney Islands Council
March 2020**

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PREFACE

This is an independent, external review of elements and interactions in the Planning Service with a central focus on customer care aspects, performance levels, and relevant internal and external practices and procedures. It looks at timescales, best practice, complaints and concerns, and also looks at added value in negotiations. The staffing resources, salaries and planning workloads are also examined.

The outcomes from the report include 43 Topic Conclusions, 10 Key Conclusions and 19 Improvement Recommendations for consideration by the Council and a clear recognition of the issues raised around developer interactions and engagement and the current negotiating culture.

A critical part of the review is to assess the relationship between Council investment and delivery aspirations and the procedures for customer negotiations and timescales, project management and inter-service working.

The review is not an in-depth investigation, inspection or audit but a focused, high-level overview of the topics identified in the Project Brief, agreed with and finalised by the Interim Chief Executive. All of the topic areas included in the report would benefit from further detailed assessment and analysis, but I contend that the salient points and issues raised are sufficiently evidenced, robust and adequately covered off.

The assessment findings, conclusions and recommendations set out in the Report should be read within the wider context of the Brief which was necessarily selective and limited in the numbers of external and internal customers who were interviewed. There was also a time constraint of 4 weeks for the finalisation of the report which was challenging.

Quotes in **red** set out in the Report are real quotes made to me during my visits but none of them are attributed to any of the individuals I met, as I previously agreed with them.

I am particularly indebted to the applicants, professional agents, councillors and Orkney Council staff whom I met, who were all friendly, welcoming and both forthright and forthcoming in their conversations with me.

These conversations have provided a wealth of informed views and comments which I have attempted to capture. However, any errors or misinterpretations deduced from the individual comments made to me and included in the report are mine and mine alone.

I consider the Review to be fair, accurate, balanced and proportionate, and I hope it provides the required assessments and re-assurances the Council expected, and it suggests improvement actions for the Council to consider and reflect upon as it continues to advance its own ideas and aspirations for the next few years.

INITIAL OBSERVATIONS AND IMPRESSIONS

The initial observations and impressions which I formed at the very start of the project from the introductions and conversations I had were,

- Orkney Islands Council (OIC) is the smallest council and planning authority in Scotland with a population of 22,190 in June 2018¹, but its size and remoteness are significantly outweighed by its vision and ambitions to be a leading global player in the fields of marine engineering, technology and innovation, wind power and energy to name but a few
- The Council has substantial financial reserves for its size and compared to other Councils but still has to manage budget pressures and reductions and service efficiencies
- It is a Council which **“punches well above its weight”** in national and international matters.
- There is, however, a need to protect the reputational risk to the Council for **“over promising and under delivering”** in the context of reduced investment levels in the future for housing projects and other areas of spend within the Capital Plan
- The Council structure is set out on traditional lines, but it appears disproportionate to the scale of the services required in Orkney
- A supportive and collaborative political structure is evident and councillor/officer relationships are strong and positive
- Dedicated service teams and Directorates are operating within challenging financial and operating circumstances and budget disciplines.
- There are diseconomies of scale which can marginalise the impacts services can achieve
- The Planning Service is **“small in size but big on ambition”** with a clear focus on achieving successful environmental outcomes, which have been externally recognised at national level
- The Planning Service performs at a high level and provides an overall quality service to customers
- The geographical remoteness of the islands has led to difficulties in recruiting candidates at senior professional levels and filling vacant posts, and this is exacerbated by comparing the salary and grading differentials for mainland posts
- A very limited number of formal customer complaints are submitted annually

¹ www.nrsscotland.gov.uk -Population estimates time series data

- Concerns have been raised recently, directly with the Interim Chief Executive, relating to timescales, negotiations, consistency of advice and added - value benefits
- I detected an obvious desire from all parties to embrace identified improvement actions and a willingness to co-operate with the review process and contribute ideas and suggestions for consideration
- There is a perception within some parts of the Council that there is **“service separation”** and a **“lack of effective communication channels”**

1.0 INTRODUCTION

1.1 The focus of the review report is to identify the high-level challenges facing the Council in development delivery, customer engagement and overall performance, efficiency and reputation recently brought to the direct attention of the Interim Chief Executive (ICE)

1.2 The report is not about apportioning blame on any individual service or person but taking a broader, more holistic approach to set out Improvement Actions for consideration by the ICE and the Council.

1.3 Despite the short time allocated to the review and the relatively limited selection of case studies, and range of internal and external customers interviewed, the process has proved to be proportionate and balanced and it has provided a broad body of evidence to present robust and defensible conclusions and pinpoint business critical areas for Council consideration and improvement. This evidence base is presented in the Part 2 Report.

1.4 The clear, priority areas of concern identified by the ICE on behalf of Orkney Islands Council were,

- Delivery slippage on major council projects and outcomes, particularly in meeting housing targets and timescales
- Consequent threats to future funding and investment from Council partners and funders, including the Scottish Government
- Reputational risks to the Council and perceptions of under - performing
- A number of customer facing matters which raised concerns about timescales, negotiation tactics, re-working of details and associated costs
- Comparisons with other Councils in terms of resources, workloads, and processes and procedures
- Interpretation of planning advice, the benefits of negotiation and added - value, and the consistency of planning advice from planning officers

1.5 The simple methodology identified and jointly agreed to assess these concerns was clarified at the outset of the commission and included,

- Direct engagement with applicants, agents and councillors, including the Chair and Vice - Chair of Planning
- Direct engagement with selected senior staff in the council, and meetings with the Planning Service, and particularly the Development Management Team

- Desk- top study and research into areas of performance and quality, customer care and engagement, benchmarking comparisons with other appropriate councils, and reviews of nationally published data sets
- An assessment of case studies selected by the Council to provide an external view of the evidence to corroborate or challenge the issues identified by customers

1.6 Although the Part 2 report has been structured into separate topic sections to reflect the Project Brief, it is clear that this is a somewhat artificial approach in respect of the undoubted relationships and synergies between the single topics. The report therefore has to be read across in a comprehensive manner to appreciate the relationships between the cross-cutting issues and the cumulative impact of the proposed recommendations.

2.0 TOPIC CONCLUSIONS AND RECOMMENDATIONS:

2.1 The Conclusions and Recommendations summarised below have been informed by the helpful contributions and suggestions made by everyone I met. Their individual and collective contributions to this review process and their focus and honesty were very much appreciated.

A - Planning Staffing and Resourcing Conclusions

1. Planning services in Orkney are delivered by a small team of staff. The Development Management (DM) Team in particular has a staff headcount of only 9 carrying out all statutory work on planning applications and enforcement, as well as license, notifications, assessment applications and many other related processes.
2. The breadth of the workload is comprehensive and there are no specialist officers or teams to deal with complex major applications, council investment projects or Environmental Impact Statements etc. All applications are simply allocated within the team and there are obviously inherent limitations in this approach.
3. Overall, I consider that the Planning Service staffing levels are low, and this can inevitably compromise the workload allocations and leave the Service and Council vulnerable when staff vacancies and absences occur. It is also not a sustainable, long-term approach to delivering a high-quality service.
4. Staff numbers have been relatively stable over the last 5 years, but vacancies have proved difficult to fill, primarily due to geographical remoteness and salary differentials - the vacant Enforcement Officer post in particular has caused difficulties as workload has had to be absorbed by the Manager who is already operating beyond capacity.
5. Within a small team it is difficult to take time out of the office to engage with mainland authorities in areas of best practice, benchmarking and peer review, and this difficult situation can only partly be compensated for by video and audio conferencing, media blogs etc. Mandatory Continuous Professional Development (CPD) requirements are met but staff confirmed **“this is becoming increasingly challenging”**.
6. There is an increasing emphasis being placed within the Service on **“growing our own”** and this needs to be encouraged, together with clear career grades and progression routes to provide internal promotion

opportunities. This both motivates staff further and improves staff morale at a time when workload pressures are high and increasing.

7. Salary gradings and career progression spans are limited, and this adversely impacts on staff/team morale, and ultimately on career development opportunities for further professional and career advancement.
8. There are areas of workload pressures where the DM Team do not have the specialist experience to deal with matters in-house e.g. Environmental Impact Assessments, and these currently require to be contracted out to consultants. (This practice is not exclusive to Orkney)
9. Identifying existing gaps in skills and experience should be assessed as a matter of priority to reduce staff burdens and exposure – some staff are operating beyond their post remits and levels of responsibility, particularly at junior level. It may well be that a Training Needs Analysis or similar approach needs to be undertaken within the Development Management Team in consultation with the Human Resources Service in line with recommendation SAR1 outlined below on the Service Workforce Plan.
10. Serious matters raised by staff about excessive media exposure, adverse publicity, including the release of personal matters, need to be reported to senior management in writing and investigated formally in accordance with the relevant Council policies and procedures when they occur.

Improvement recommendations for Council consideration

SAR1 – The Planning Service needs to continue to further develop and expand the detailed Service Workforce Plan to fully include and consider:

- Future planning workforce needs
- Current and future capacity levels
- Competitive and proportionate career grades and salary levels and placings, compatible with overall council salary levels and grades
- Progression opportunities for all DM Staff
- Recruitment Processes
- Areas where specialist skills are not available

SAR2 - To explore the possibilities and opportunities for additional staff specifically in the following 3 priority areas:

- **Housing Applications** – Key Project Management Skills allied with RTPI Membership
- **Environmental Impact Assessment** – Short-term use of contracted specialist consultants to continue but consider appointment of environmental/specialist planner with appropriate experience and skill levels to assist with this area of work and to complement the specialist advice
- **Capital Plan Projects** - The appointment of an experienced planner to assist with Capital Plan Projects and major commercial investment proposal, including windfarms, located within the appropriate corporate team – I suggest this post should be located in the Infrastructure and Strategic Projects Team within the Development and Infrastructure Directorate to ensure separation of roles from the Planning Service to avoid any confusion or conflict.

SAR 3 - The DM Team should self-identify areas of workload where it can reduce or minimise workloads without compromising on the quality of outcomes or their professional and statutory duties e.g. the excessive use of Development Briefs, micro-managing housing applications

SAR4 - Planning staff, and indeed all other council staff, need to be advised of the informal and formal processes available to them when unjustified and inaccurate social media comments are posted online and in the newspapers and broadcast on radio from committee meetings. The staff need to be formally supported by senior management and the relevant council services when serious media issues are raised by staff.

B - Delivering the Capital Plan and Programme Conclusions

11. There is a clear recognition within the Council that effective management of the Capital Plan, and particularly the slippage trends, is a critical corporate issue which affects project delivery to communities and the reputation of the Council. It also runs the risk of losing future external funding.
12. The Planning Service has a key role to play in assisting and supporting internal Council processes prior to planning applications being submitted to ensure the successful delivery of Council projects.
13. The Council structure has been downsized in recent years, but it is similar to many other Councils, including much larger Councils, as it still requires to deliver the broad range of statutory and non-statutory duties and other specialist areas of activity disproportionate for its size as Scotland's smallest local authority.
14. There are only 3 Directorates involved in delivering the Capital Plan, but the relevant spans of control can lead to an impression of departmental **"silos"** which can hinder effective cross-service and partnership working, particularly in the overall project management of the Capital Plan.
15. I feel that the Council culture of development delivery is curtailed by a lack of prioritisation and **"ownership"** and to me there has to be a more shared and corporate "Team Orkney" approach on the processes around the Capital Plan, which is being successfully championed and promoted by the Interim Chief Executive in other areas of Council activity.
16. Areas such as early officer engagement, pre-application consultations, pragmatic and proportionate project management, senior management leadership of the Capital Plan and a holistic appreciation within the Council of realistic timescales for delivery and especially the obtaining of statutory consents, such as planning permission and building standards approval, are all critical elements for immediate attention.
17. Surprisingly, the Planning Service is seen by some other services and individual officers as a **"burden"** and **"unhelpful"** and is not recognised as the key element in the whole project and delivery process. The Council has to prioritise the need for an integrated approach and model its internal processes and relationships accordingly.

18. The wider corporate Council and Service Departments have to recognise and respect the discrete and separate roles performed by the Planning Service as an internal Council service, and the Council acting in its role as the Planning Authority.

Improvement recommendations for Council consideration

CPP1 - An internal, cross-service protocol needs to be introduced which clearly sets out the roles, relationships and responsibilities of the Council, where it is acting jointly or individually as developer, investor, applicant, agent and planning and building control authority. This should include, as a minimum standard,

- Formal record of pre-application discussions and preferably a formal Planning Application Consultation (PAC)
- Identification of Validation Requirements, both legal validation and professional validation, to ensure a timely, competent and quality submission is made by the council
- A combined Planning and Building Control Customer Checklist would assist in this process.

CPP2 – In addition to Recommendation **CPP1** above the Council needs to implement and incorporate the Internal Audit Recommendation 1² re pre-application advice and detailed requirements being included in agreed client specification documents.

CPP3 -The Senior Management Team (SMT) should have a focused Capital Plan meeting monthly to be aware of project progress and reasons for any slippage. Key officers, including the lead planning officer, should attend this meeting to advise SMT on remedial and intervention measures required to maintain progress and timescale targets.

CPP4 – The Council should carefully consider and assess who fulfils the role of the Chief Planning Officer (as set out in the new Planning Act as a statutory requirement) and maximise the opportunities for participating in the SMT discussions on capital projects and the wider corporate developments and environmental matters linked to community planning, place- making and health and well-being.

² Internal Audit Report- Capital Programme Slippage, 14 November 2019

C - Customer Care and Developer Engagement Conclusions

19. The Planning Service clearly runs a high - quality operation which is externally recognised. It is a small service in resource and staffing terms, but it is responsible for a wide range and complexity of applications.
20. My limited, personal experience of the Team finds that it is motivated, positive, professional, passionate about planning and importantly, operates within a **“self -supporting and self-motivating environment”**.
21. It is to the credit of the Service, which has no specialist staff at its disposal, that such high levels of professional standards have been set and achieved. Overall, my impression is a positive one and the Council has a Team which is energetic and thorough and evidently committed to achieving successful and positive environmental outcomes for the communities in Orkney.
22. Nevertheless, there are some operational and customer concerns about the over - use of Development Briefs and related supplementary guidance set out in the Local Development Plan. These concerns need to be clarified and streamlined to assist applicants and reduce unnecessary workloads for the planning staff.
23. There are clear and demonstrable elements of good practice within the Planning Service relating to customer accessibility and openness, and evidence of the added - value and benefits successfully achieved through negotiations with applicants.
24. Although the range of selected case studies was a small sample of the total application workload , they provided a wealth of detail about planning processes and culture, relationships between the parties and the common problems experienced in all planning authorities relevant to non-valid submissions, inadequate information, time delays in submitting requested information, and the time required to negotiate successful outcomes.
25. Relationships between Council services are based on different experiences, but a senior manager confirmed that, **“some inter-service relationships are poor as planning is seen as being negative and holding things up”**

26. The normal customer service levels provided to applicants by the Planning Service is high, but a few customers have raised relevant concerns about key aspects of the planning process, particularly different officer viewpoints being expressed, impractical suggestions being made for improvements to be made which were not feasible, the time taken for decisions to be issued and views on micro-management and the expression of seemingly **“personal rather than professional opinions”**. This allegation was specifically raised with the Interim Chief Executive in relation to the progress being made on the Cairston Road site, Stromness (Case Study 3) and senior management confirmed to him that the case officer involved was expressing a professional planning opinion and not a personal opinion. The Royal Town Planning Institute (RTPI) Code of Conduct makes it clear that other chartered planners may hold a different view and it is legitimate to do so.

27. This is always a disputed area in planning discussions, but it is worth remembering that all chartered town planners must follow a specific Code of Conduct which requires RTPI members to adhere to five core principles, namely:

- **Competence, honesty and integrity** – Members must take all reasonable steps to maintain their professional competence throughout their career; and should be honest and informed by appropriate technical inputs in carrying out their duties;
- **Independent professional judgement** – Members must exercise fearlessly and impartially their independent professional judgement to the best of their skill and understanding;
- **Due care and diligence** – Members must discharge their duty to their employers, clients, colleagues and others with due care and diligence;
- **Equality and respect** – Members must not discriminate on grounds including but not limited to race, nationality, gender, sexual orientation, religion, disability or age;
- **Professional behaviour** – Members are expected at all times to conduct themselves in such a manner that does not prejudice their professional status or the reputation of the RTPI.

28. Planning is often a controversial area to work in and deliver successful outcomes and every decision made can satisfy some parties and upset

other parties in equal measure. Sometimes matters cannot be satisfactorily resolved to everyone's satisfaction despite all the efforts made and there always will be differences of opinion and interpretation, especially on design proposals, and matters can get complicated and frustrating where there are differences of opinion and interpretation and the Planning Service has the final deciding position.

29. One applicant confirmed to me that **“I do not feel like I am being treated as a customer as the Planning Service dictated to me and did not listen to my viewpoint”**.

30. None of the planning- related issues I was asked to assess, and the evidence provided to me, indicates that there are major or critical Council interventions to be made. This is not a failing service, quite the opposite, but it does need some fine - tuning adjustments to be made to some practices and procedures and it needs to rebuild confidence levels with some regular customer interactions and relationships.

Improvement recommendations for Council consideration

CCS1 - The focus in future Planning Performance Frameworks (PPFs) should continue to feature effective progress being made in the areas of “Quality of Service and Engagement” and “Culture of Continuous Improvement”. This focus would be strengthened by taking an inclusive, not internal, approach with selected, key stakeholders involved in formulating future improvement actions.

CCS2 - The Planning Service should introduce a Planning Customer Survey so that applicants can formally comment on quality of decision- making and raise any issues they experienced with their applications. This should then provide a focus for future service changes and improvements to accommodate the concerns raised.

CSS3 - The Royal Town Planning Institute (RTPI) has recently published guidance on “Probity and the Professional Planner”² to help planners confidently use their independent professional judgment and I recommend that this practical advice is disseminated to the chartered planning staff to guide and support them in negotiating situations with applicants.

² Probity and the Professional Planner, RTPI, April 2020

D - Planning Performance and Quality Conclusions

31. Overall the Planning Service operates a high- quality and a high - performing service as demonstrated by recent national awards and published planning performance data.
32. Measured against all the Scottish Government’s performance targets and key markers Orkney performs well and often performs better than the Scottish average.
33. The council approval rates - 96%, and delegation levels - 94% for planning applications are high and further demonstrate the importance of delivering positive planning outcomes in a timely fashion.
34. There is a real and demonstrable emphasis placed on aspects of design, detail, place-making and protection of the built and natural environment.
35. This, however, has to be proportionate and balanced as some customers refer to excessive detail requirements and elements of “**micro-managing**” applications.

Improvement recommendations for Council consideration

PAQ1 – Overlapping with Recommendation CCS1, continue to further develop and expand the elements set out in the PPF process with particular focus on Quality of Service and Engagement and Culture of Continuous Improvement to include and consider:

- A better balanced and proportionate approach to pre-application discussions and processes
- Use of Added - Value Codes or similar when assessing planning outcomes on each decision made

E - Evidence Base - Assessment of Case Studies - Conclusions

36. The Case Studies have proved to be very informative in obtaining a selective picture of the interactions between applicants and the Council and providing clear evidence of the benefits, added- value, proportionality of requests and demands, and also the healthy tensions which exist between the council and applicants when in negotiating and comprising territory.
37. The Council's elected members are strong supporters of policy and the Planning Service focus is on achieving positive and enhanced outcomes for the environment and the communities within Orkney. Housing in the Countryside policies were raised by all parties as an example of a need for clarity and design guidance, which was previously provided but was subsequently withdrawn.
38. There are a small number of instances when the planning process can appear to break down and timescales become elongated and outcomes become less predictable. Reasons for this can lie with the council and also the applicant, so that effective and clear communication becomes paramount.
39. Existing design guidance is too complex and complicated and consumes unnecessary resources for both the Council staff and applicants, and lengthens the planning process.
40. The applicants and agents I met each represented 30 years of experience in working in Orkney with successive planning officers. The key concerns they raised with me, with examples, included,
- Changes in planning advice and approaches over the last 3/4 years
 - Over-use of Development Briefs- 16 Kirkwall sites provided as an example- all require Development Briefs
 - A sense of too much early focus on detailed requirements, including application validation tests - seen as too excessive
 - Often conflicts between Roads Construction Consents (RCC) requirements and design requirements and aspirations
 - Officer requirements/intentions are more aspirational than enabling
 - Unusually, applicant issues were elevated to Chief Executive level as no tangible progress was being made and there was **“no certainty re critical deadlines to ensure job security/continuity”**

- Developers have increasingly been taking a pragmatic approach to pre-application discussions and negotiations and settling for “second best” to obtain consent. This can lead to lost opportunities for added - value and planning gain in terms of design, landscaping and plan making in terms of design, landscaping,
- A lack of proportionality being applied by officers and little or no account being taken of professional consultant’s experience and expertise when assessing proposals.

41. As we have seen from the Case Studies and the assessments in the other sections of the report there are documented Planning Service responses to these matters. e.g. the introduction by the planning authority of the HOPS national to ensure clarity and consistency.

42. Also, in relation to added - value, this has to be a joint process agreed between the applicant and the planning officer to ensure that a balance is struck between any aspirational aspects and the need to be pragmatic and deliver a technically appropriate solution.

43. My reading of the various documents referred to me and available to me online confirms that sometimes discussions and positions can become entrenched, but consultants submitted reports are consistently used to ensure that the proposed development complies with the Local Development Plan and the relevant policies and other related requirements. Indeed, consultants’ reports can often be used to substantiate a case for approval where development may otherwise be regarded as unacceptable or non-compliant with the LDP and its policies.

Improvement recommendations for Council consideration

CS1 – There is a need to review the current Design Guidance and hierarchy of advice to provide a coherent and simplified approach without sacrificing national and local aspirations for high quality designs and placemaking.

CS2 - The Council needs to produce an overall Design Guide or similar for Housing in the Countryside, which should be jointly prepared between the Council and applicants/agents.

CS3 - The Council and Developers would benefit from the publication of a jointly agreed document on Planning and Developer Guidelines to set out the key parameters, details and specifications required.

CS4 - The Council should reinstate the annual Developer and Stakeholders Forum to provide a focus for discussion and issue raising to jointly develop improvements and efficiencies. The need for a separate House Builders Forum should also be considered as I know that this operates well in other parts of Scotland and can help to build on and improve relationships and behaviours (This Review Report can assist in setting an agenda for these meetings).

CS5 - The Planning Service should review its communication channels with applicants to ensure that planning advice is clear and succinct and provided at the earliest opportunity, including the role and effectiveness of pre-application advice and consultation.

CS6 – A user- friendly, simplified Validation Checklist, extracted from the Heads of Planning Scotland (HOPS) national version, which has already been adopted by the Council, should be published and made available to all applicants, both internal and external, to confirm the specific requirements for submitting a legally valid planning application.

CS7 – Briefs for external environmental consultants contracted by the Planning Service, on behalf of Orkney Islands Council, should not be solely restricted to EIAs, but they need to be extended to include a wider planning assessment covering other aspects of environmental and related legislation e.g. Extractive Waste regulatory requirements.

CS7 – A follow - up meeting with the applicants and agents interviewed during this Review should be convened as early as possible to discuss the higher - level implications of the Review and its Conclusions and Improvement Recommendations. This should involve senior planning management and

should preferably be convened and chaired by an independent and impartial party.

3.0 OVERALL CONCLUSIONS AND COMMENTS

3.1 It has been my pleasure to carry out this short, focused review for Orkney Islands Council and I will be happy to brief relevant members of staff, councillors and customers on the key findings and proposed improvement areas as directed by the Interim Chief Executive.

3.2 I would also be pleased to offer any further support and guidance to OIC on further developing any of the aspects I have identified for improvement or any other related topics which may subsequently be identified by OIC.

1. Planning staff had been made aware that a few applicants had been in direct contact with the Interim Chief Executive and they felt that the information provided on several occasions regarding timescales and performance levels had been adequate to address any industry concerns.
2. The planning staff were originally concerned about the content and nature of the review which was undertaken at short notice and they felt it was not communicated to them properly and this affected staff morale. At the start of the review the Interim Chief Executive met with the planning staff and senior management to set out the terms of the review and he answered questions posed by the staff. The timing and detail of the review process was obviously outwith my direct control, but I adopted a personal, open and honest approach from the outset to put everyone at their ease.
3. Despite the initial staff wariness and concerns, I hope I have managed to allay these fears during the conversations we held and to present a fair and balanced review of some elements of their positive work ethic and approaches, including how well they perform overall, the quality and added - value they bring to the planning outcomes they achieve and their passion and commitment to working in a challenging workload context.
4. For applicants and agents, their frustrations with the planning process and individual transactions resulting in delays and re-working and additional costs, are understood and appreciated. Although these applications are not the norm in terms of timescales or approaches, I hope I have accurately identified the concerns and frustrations from these planning customers which were brought to the direct attention of the Interim Chief Executive.
5. The Improvement Actions I have identified will, individually and collectively, assist in better project management of OIC applications, better targeted focus on housing applications, and resources support for

the Planning Service. In addition, better staff/customer interactions are highlighted, coupled with some process and procedural adjustments to further enhance existing areas of good practice.

6. I consider that immediate attention needs to be paid to the updating and review of the Service Workforce Plan to pick up on the earlier issues raised on salary scales, career progression spans, and recruitment processes within the Planning Service.
7. For the Council moving forward I see the key challenges as continuing to foster and develop the “Team Orkney” culture and approach initiated by the Interim Chief Executive, which is achieved by services working better together, even within the same Directorate, and not against each other, with an effective senior management and leadership clarity of focus on the OIC project ambitions and aspirations.
8. The customer relationships between planning staff and a few of the regular applicants/agents needs to be reset to the behaviours and standards which were previously achieved and referred to by all of those I met.
9. Regular opportunities for joint dialogue and wider stakeholder forums can assist in this rebuilding process and give improved confidence to both parties. Improved approaches to documentation on Design Guidance, Housing Layouts, and Pre-Consultation opportunities will assist in this important change process, particularly if this involves joint discussions with selected applicants and agents.
10. It is obvious to me that everyone is attempting to work effectively together for the benefit of Orkney and its communities but there will always be instances when matters take a different turn to what is expected. Although some of the cases examined were extreme in terms of the timescales taken, details requested and relationships appear to have broken down in part, it is clear to me in the wider view that thankfully these occurrences are rare and can be better managed in the future with appropriate support and collaborative working. All the participants I spoke with want this outcome to be achieved.

Finally, I would like to extend a thank you to all the participants who assisted me in the review process for their clarity, clear views and evidence, and their collective wish and desire to improve processes, procedures and relationships which ultimately made by job a lot easier to carry out.

The full review Report report, including the evidence base, case studies, conclusions and improvement actions is formally submitted in the separate Part 2 Report, for the careful consideration and assessment by the Orkney Islands Council. In particular, I hope that the recommended Improvement Actions will find support and endorsement and will be implemented in due course to further strengthen the clearly articulated aspirations and ambitions of the Council

APPENDIX 1- THE AGREED PROJECT BRIEF

1.1 The agreed brief is to work directly to the Interim Chief Executive who is seeking an independent and external review of elements of the planning service, primarily associated with developer interactions, in order to validate the approaches taken and to identify any areas for potential improvement in the context of experiences and best practice identified in other parts of the country.

Methodology to be adopted

1.2 Specifically, the brief had to include the following assessment areas:

- Direct engagement and meetings with key developers/applicants and agents — list provided at inception meeting
- Direct engagement with key planning officers
- Direct engagement with the chair and vice chair of the Planning Committee
- Review of planning applications to consider the approach adopted in engaging with developers in terms of proportionality and outcomes which were achieved. Case studies to include major applications e.g. Cairston Road, Stromness, Sub-station, Finstown (national), Carness housing development, Kirkwall, Stronsay Fish farm sites, Costa Head windfarm, Hesta windfarm, Balfour Hospital
- Consider planning advice provided to applicants in terms of consistency of opinion and advice provided to applicants. Access to key documents will be provided, including groups engaged by the Planning Service
- Review of the interpretation of development brief planning guidance to advise on whether this is proportionate or whether it could be streamlined. A case list for review to be agreed.
- Review of approach to preparing and engaging with developers/applicants on development briefs through case studies
- Review of the engagement by the planning team to engage and other council services in the delivery of project outcomes e.g. the house build,

including Carness, quarry extension, community wind project, Glaitness Primary school extension, and former bus station demolition

- Review of the approach to pre-application advice and interaction with developers/applicants including comment on the value which is added through this process, including the provision of the total number of pre-application advice cases, and case study of Walliwall, Kirkwall
- DESK top study of planning performance levels/trends for last 5 years as evidenced in published Planning Performance Frameworks and covering letters from SG to CEOs. e.g. Is Orkney performing well on paper against national targets and the Scottish average
- Details of Orkney Councils self-identified improvement measures, with an assessment of how well they have been fully implemented?
- A comparison of performance and service quality with other Councils
- A review of the services resourcing levels in comparison to other councils to establish if the service is appropriately resourced for the known workplan, in relation to recruitment and retention of staff, including comparison of salaries for equivalent posts in other councils, and whether the posts allow for career progression

Expected Outcomes

1.3 The outcomes from the research and interview phases is to be a concise report providing an opinion on the overall approach of the Orkney planning team in terms of its interaction with the development sector and other council departments and producing evidence of any strengths and/or weaknesses in the approaches adopted. The report includes recommendations for the Council to consider for any necessary improvement actions and procedural changes.

Timeframe

1.4 The project brief was discussed orally in February and the key issues were itemised. The main research phase commenced on 2 March 2020 following a first meeting with the Interim Chief Executive and the report is to be completed by no later than Monday 30 March 2020.

APPENDIX 2 - READING AND REFERENCE LIST

Orkney Best Value Assessment Report, Accounts Commission/Audit Scotland, December 2017

Local Government Benchmarking Framework Report, 2019

Orkney Local Development Plan, Adopted, April 2017

Development Briefs and Design Statements, Planning Policy Advice, June 2017

Orkney and other Scottish Council's annual Planning Performance Frameworks

Internal Audit Report-Capital Programme Slippage, 14 November 2019

Planning Committee- Agenda Papers and Reports

National Benchmarking Overview Report 2018/19

Planning Authority Performance Statistics, Scottish Government Annual reports

National Records of Scotland (NRS) Council Area Projections, February 2019

NRS- Mid Year Population Estimates Mid 2018

Workforce Planning, Report to the HR Sub-Committee, May 2018

Housing Land Audit, Orkney Islands Council, 2019

Strategic Housing Investment Plan (SHIP) 2018/2019 – 2022/2023, August 2017

Complaints Handling Procedure, Version 1.7, December 2018

Key Facts and Figures, Orkney Islands Council, 2019-2020

Letter from Kevin Stewart, Minister for Local Government, Housing and Planning to Chief Executive “Planning Performance Feedback”, 11 February 2020.

Workforce Planning – Report to the Policy and Resources Committee May 2018

Probity and the Professional Planner, RTPI, April 2020

APPENDIX 3 – ACKNOWLEDGEMENTS AND LIST OF INDIVIDUAL CONTACTS AND CONVERSATIONS

I am grateful to the councillors and staff of the Orkney Islands Council who were very welcoming and supporting. Their knowledge and insights were much appreciated, and they have brought a reality and authenticity to the report.

The customers of the planning service who spoke to me were forthright and challenging and their comments and issues were articulated well.

All of the conversations I had were open and honest and showed a strong commitment to Orkney and a desire to getting things done.

Jointly there was an obvious and collective passion and commitment to work together in partnership in a positive manner and for the benefit of the Orkney communities.

I appreciated the candour and rigour shown by these contacts which have contributed to a rounded and balanced report.

I extend my grateful thanks to all the following participants,

Orkney Islands Councillors

James Stockan, Council Leader

Rob Crichton, Chair, Planning Committee

John Ross Scott, Vice - Chair, Planning Committee

Orkney Islands Council Staff

John Mundell, Interim Chief Executive

Gavin Barr, Executive Director, Development and Infrastructure

James Wylie, Executive Director, Education, Leisure and Housing

Roddy Mackay, Head of Planning, Development and Regulatory Services

Jamie Macvie, Planning Manager

Margaret Gillon, Senior Planner

David Barclay, Senior Planner

Sweyn Johnston, Strategic Project Director

Planning Customers

Stephen Kemp, Orkney Builders

Richard Flett, Development and Properties Manager, Orkney Housing Association

Sam Sweeney, Bracewell Stirling, Architectural Practice

Stephen Omand, Chartered Valuation Surveyor

Craig Macinnes, Property Manager

APPENDIX 4 – Jim Birrell Independent Consultancy Services

Jim Birrell provides an independent consultancy service, specialising in planning and environmental services, public sector management, service reviews, research and survey work for the public and government sectors, and also staff training and development requirements.

Separate consultancy services manage these activities where he is the sole operator. He does however have personal access to an extensive network of professional contacts and contributors who can assist in any specialist work areas.

Jim has a proven track record of achievements in these fields based on 45 years' experience in local and central government environments. He is well respected amongst his peers and his views and comments are often sought out from other organisations and researchers.

Prior to retirement in 2015 Jim has held a variety of senior posts in Fife, including Director of Planning and Building Control, Depute Chief Executive and Head of Planning. In addition, Jim has held a host of professional and voluntary roles across a variety of interests and disciplines.

8 years ago, Jim was the lead architect of the Planning Performance Framework which is nationally recognised and used by all Scottish Planning Authorities and endorsed by the Scottish Government.

In the last 3 years Jim has produced a series of influential research and survey reports for both Scottish Government and Heads of Planning Scotland, including Planning Fees, Planning Performance, the Impact of Increased Fees for Major Applications, and Planning Reforms, including the Planning Bill.

Jim is a chartered town planner by profession, and he sits on the Royal Town Planning Institute (RTPI) Scottish Executive Committee. He is also a Director and Board member of Fife Historic Buildings Trust and currently he sits on the Scottish Government/COSLA Ministerial High-Level Group on planning performance.

Currently Jim is contracted to Heads of Planning Scotland (HOPS) as a part-time Project Manager dealing with the planning reforms agenda and new Planning Act and related workstreams. He is also Lead Officer on a research survey for the Scottish Government looking at the relationships and liaison between planning and education services in Scottish councils which is ongoing.



AN INDEPENDENT, EXTERNAL REVIEW TO IDENTIFY THE HIGH-LEVEL CHALLENGES FACING THE COUNCIL IN DEVELOPMENT DELIVERY, CUSTOMER ENGAGEMENT AND OVERALL PERFORMANCE, EFFICIENCY AND REPUTATION.

PART 2 REPORT – EVIDENCE REPORT AND CASE STUDIES - CONCLUSIONS AND RECOMMENDATIONS

**Report to John Mundell OBE, Interim Chief Executive
Orkney Islands Council
March 2020**

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PREFACE

This is an independent, external review of elements and interactions in the Planning Service with a central focus on customer care aspects, performance levels, and relevant internal and external practices and procedures. It looks at timescales, best practice, complaints and concerns, and also looks at added value in negotiations. The staffing resources, salaries and planning workloads are also examined.

The outcomes from the report include 43 Topic Conclusions, 10 Key Conclusions and 19 Improvement Recommendations for consideration by the Council and a clear recognition of the issues raised around developer interactions and engagement and the current negotiating culture.

A critical part of the review is to assess the relationship between Council investment and delivery aspirations and the procedures for customer negotiations and timescales, project management and inter-service working.

The review is not an in-depth investigation, inspection or audit but a focused, high level overview of the topics identified in the Project Brief, agreed with and finalised by the Interim Chief Executive. All of the topic areas included in the report would benefit from further detailed assessment and analysis, but I contend that the salient points and issues raised are sufficiently evidenced, robust and adequately covered off.

The assessment findings, conclusions and recommendations set out in the Report should be read within the wider context of the Brief which was necessarily selective and limited in the numbers of external and internal customers who were interviewed. There was also a time constraint of 4 weeks for the finalisation of the report which was challenging.

Quotes in *red* set out in the Report are real quotes made to me during my visits but none of them are attributed to any of the individuals I met, as I previously agreed with them.

I am particularly indebted to the applicants, professional agents, councillors and Orkney Council staff whom I met, who were all friendly, welcoming and both forthright and forthcoming in their conversations with me.

These conversations have provided a wealth of informed views and comments which I have attempted to capture. However, any errors or misinterpretations deduced from the individual comments made to me and included in the report are mine and mine alone.

I consider the Review to be fair, accurate, balanced and proportionate, and I hope it provides the required assessments and re-assurances the Council expected, and it suggests improvement actions for the Council to consider and reflect upon as it continues to advance its own ideas and aspirations for the next few years.

INITIAL OBSERVATIONS AND IMPRESSIONS

The initial observations and impressions which I formed at the very start of the project from the introductions and conversations I had were,

- Orkney Islands Council (OIC) is the smallest council and planning authority in Scotland with a population of 22,190 in June 2018¹ but its size and remoteness are significantly outweighed by its vision and ambitions to be a leading global player in the fields of marine engineering, technology and innovation, wind power and energy to name but a few
- The Council has substantial financial reserves for its size and compared to other councils but still has to manage budget pressures and reductions and service efficiencies
- It is a Council which *“punches well above its weight”* in national and international matters.
- There is, however, a need to protect the reputational risk to the Council for *“over promising and under delivering”* in the context of reduced investment levels in the future for housing projects and other areas of spend within the Capital Plan
- The Council structure is set out on traditional lines, but it appears disproportionate to the scale of the services required in Orkney
- A supportive and collaborative political structure is evident and councillor/officer relationships are strong and positive
- Dedicated service teams and Directorates are operating within challenging financial and operating circumstances and budget disciplines.
- There are diseconomies of scale which can marginalise the impacts services can achieve
- The Planning Service is *“small in size but big on ambition “with* a clear focus on achieving successful environmental outcomes, which have been externally recognised at national level
- The Planning Service performs at a high - level and provides an overall quality service to customers
- The geographical remoteness of the islands has led to difficulties in recruiting candidates at senior professional levels and filling vacant posts, and this is exacerbated by comparing the salary and grading differentials for mainland posts
- A very limited number of formal customer complaints are submitted annually

¹ www.nrsscotland.gov.uk – Population estimates time series data

- A small number of concerns have been raised recently, directly with the Interim Chief Executive, relating to timescales, negotiations, consistency of advice and added - value benefits
- I detected an obvious desire from all parties to embrace identified improvement actions and a willingness to co-operate with the review process and contribute ideas and suggestions for consideration
- There is a perception within some parts of the Council that there is *“service separation”* and a *“lack of effective communication channels”*

1.0 INTRODUCTION

1.1 The focus of the review report is to identify the high-level challenges facing the Council in development delivery, customer engagement and overall performance, efficiency and reputation recently brought to the direct attention of the Interim Chief Executive (ICE).

1.2 The report is not about apportioning blame on any individual service or person but taking a broader, more holistic approach to set out Improvement Actions for consideration by the ICE and the Council.

1.3 Despite the short time allocated to the review and the relatively limited selection of case studies, and range of internal and external customers interviewed, the process has proved to be proportionate and balanced and it has provided a broad body of evidence to present robust and defensible conclusions and pinpoint business critical areas for Council consideration and improvement. This evidence base is presented in the Part 2 Report.

1.4 The clear, priority areas of concern identified by the ICE on behalf of Orkney Islands Council were,

- Delivery slippage on major Council projects and outcomes, particularly in meeting housing targets and timescales
- Consequent threats to future funding and investment from Council partners and funders, including the Scottish Government
- Reputational risks to the Council and perceptions of under - performing
- A number of customer facing matters which raised concerns about timescales, negotiation tactics, re-working of details and associated costs
- Comparisons with other Councils in terms of resources, workloads, and processes and procedures
- Interpretation of planning advice, the benefits of negotiation and added value, and the consistency of planning advice from planning officers

1.5 The simple methodology identified and jointly agreed to assess these concerns was clarified at the outset of the commission and included,

- Direct engagement with applicants, agents and councillors, including the Chair and Vice Chair of Planning
- Direct engagement with selected senior staff in the Council, and meetings with the Planning Service, and particularly the Development Management Team

- Desk- top study and research into areas of performance and quality, customer care and engagement, benchmarking comparisons with other appropriate councils, and reviews of nationally published data sets
- An assessment of case studies selected by the Council to provide an external view of the evidence to corroborate or challenge the issues identified by customers

1.6 Although the Part 2 report has been structured into separate topic sections to reflect the Project Brief, it is clear to me on reflection that this is a somewhat artificial approach in respect of the undoubted relationships and synergies between the single topics. The report therefore has to be read across in a comprehensive manner to appreciate the relationships between the cross-cutting issues and the cumulative impact of the proposed recommendations.

2.0 PLANNING STAFFING AND RESOURCES

Scope of Brief

2.1 A review of the Planning Service resourcing levels in comparison to other Councils to establish if the Service is appropriately resourced for its known workplan, in relation to recruitment and retention of staff, including comparisons of salaries for equivalent posts in other councils and whether the posts allow for career progression

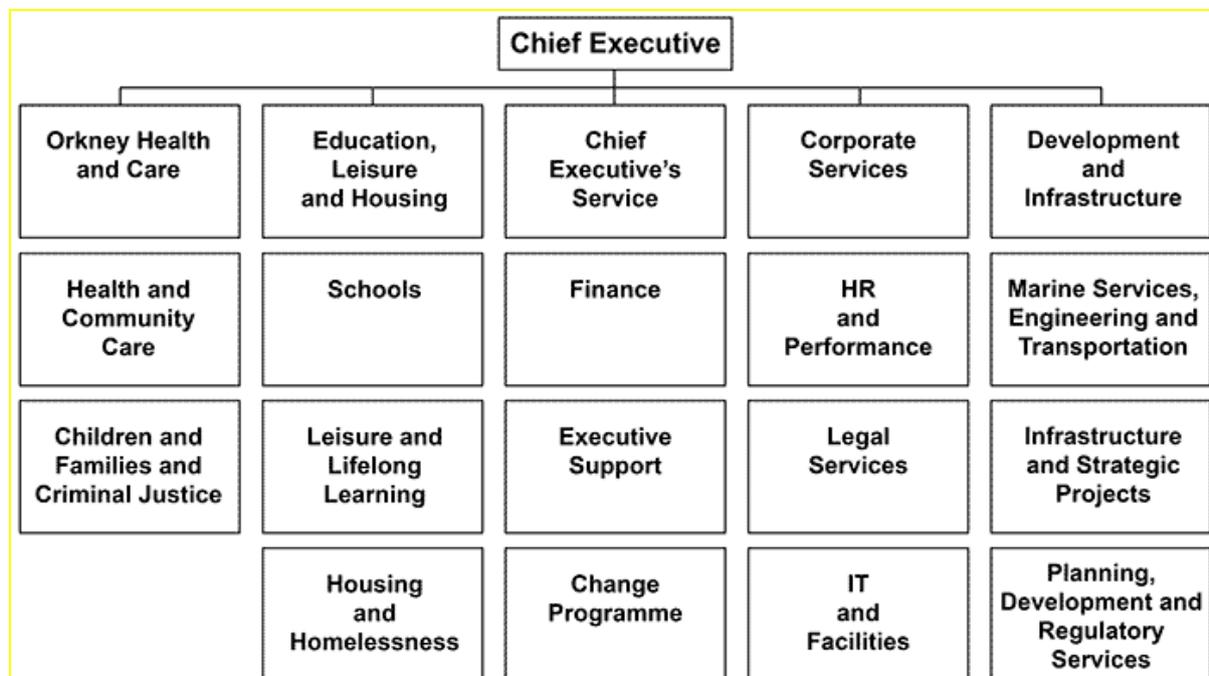
Methodology

2.2 A desktop study of relevant papers and external reports, interviews with planning staff, and comparative statistics from other councils.

Key Findings

2.3 The Planning Service is incorporated within the Planning, Development and Regulatory Service, which also includes Building Standards, Environmental Health, Economic Development, Business Gateway, EU and Leader Programme, Regeneration and Trading Standards.

Figure 1 - Orkney Council Structure



Source – Orkney Council website

2.4 Recent discussions and decisions to introduce the statutory role of Chief Planning Officer in the Planning Act (Scotland) 2019 re-emphasise the critical

corporate role which planning, and the Chief Planning Officer should be involved in. It is a leadership and enabling role at the “top table” to lead, challenge and innovate on key Council visions and project areas to ensure effective land use and infrastructure co-ordination with an overall emphasis on quality of place and design.

2.5 Although revenue spend on the planning account is a relatively small amount of overall Council spend, this is a strategically important area for the Council in terms of the future development of and use of land across Orkney. An efficient, well-functioning planning service plays an important role in facilitating sustainable economic growth and delivering high quality development in the right places, in both rural and urban environments.

2.6 Although there has been a modest increase in the number of posts over the last 2 years, staff numbers remain relatively low with a total headcount of 19, excluding the Head of Planning. The planning structure operates along traditional lines with 2 main teams, covering Development Management (DM) and Development and Marine Planning.

2.7 I noted that in previous years there have been budget cuts and staff savings made and in these times of austerity and the budget challenges facing all councils it is difficult to maintain never mind increase staffing levels.

TABLE 1 Planning Staffing Levels, 2014-2019

Planning Activity	2014/15	2015/16	2016/17	2017/18	2018/19
Development Management	9	9	9	5	10
Development Planning	10	9	9	5	9
TOTALS	19	18	18	19	19

Source: Planning Performance Frameworks, 2014-2019

2.8 The Council’s small-scale staffing resource 1743 FTEs² in the last quarter in 2020 has inherent staffing challenges. For all Council services it is self-evident that the loss of a few staff can have an amplified effect on the capacity of teams and the skills range, particularly when individual officers have the sole lead and knowledge of an area of work. This is particularly acute in the DM team where the Planning Manager is responsible for a very wide workload span. The current approach to “growing your own” is to be encouraged and supported. This approach can be strengthened by reviewing salary levels and grades and

² Orkney Council HR and Performance, Corporate Services

considering lengthening the grade spans to encourage professional career aspirations from assistant planner, to planner, to senior planner etc. but any such review has to be undertaken within the existing overall corporate context and hierarchical tiers and structures, taking cognisance of relevant policies and procedures set out by COSLA, Single Status and Equal Pay requirements.

2.9 Although it is not within my remit to undertake a detailed review of staffing structures it is immediately clear to me that the DM team, which is my primary focus in this review, operates at a minimal level and this raises serious concerns,

- Limited capacity for staff to participate in external/mainland discussions as days away from the office have to be protected to maintain service and customer standards. This also holds true for being able to “share services” with other adjacent planning authorities
- All chartered planners have an annual 50 -hour commitment to Continuing Professional Development and opportunities to fulfil this must be maximised by the Council
- The staff work in a small, integrated team environment, which has many advantages for knowledge sharing, mutual support and briefings but does not have the breadth of experience or expertise for specialist work, such as Environmental Impact Assessments
- The Service now uses an environmental consultant for the larger more complex cases particularly involving EIA applications, and I would advocate that this specialist resource is retained, even if staffing levels are increased as per my recommendations
- The workload for the senior officers is high and runs the risk of “professional burnout” and absences from work
- There is no scope for differentiating application types, such as Minor, Major, Fast Track and Council Projects, which is common in other councils as the workload is distributed amongst the single Team.
- Junior staff are carrying out duties above their pay grade

2.10 Notwithstanding the above concerns, as set out in the Performance and Quality section, the Council performance levels are maintained at a high level and match or better the Scottish averages.

2.11 There are substantial and fluctuating variations in planning costs across Scotland, ranging from £1,048 to £8,817 in 2018/19. While rural authorities continue to spend less on average than urban and semi-urban authorities, this

difference is no longer statistically significant (£3,686 compared to £4,733 and £4,420 respectively).³

Salary comparisons

2.12 Comparisons of salary ranges and differentials is always an area fraught with difficulty both internally within the Council, and also with external comparisons with other councils. Salary differential and fairness issues have been raised by the staff and although I have not evidenced significant variations in comparing salary grades across Scotland, Orkney is placed at the bottom of similar salary grades. There are obvious constraints on Orkney, due primarily to its small population base, and its relative remoteness from the mainland. This leads to a situation where all the Council salaries are set lower than the national averages for equivalent posts and the recruitment levels, in terms of both numbers and quality can be artificially compromised.

TABLE 2 Comparison of recent external council salary levels

Council	Post	Starting salary	Top salary
Dundee	Principal Planning Officer	£42,215	£46,206
Orkney	Planning Manager	£41,170	£44,984
Inverclyde	Senior Town Planner	£38,603	£40,976
Orkney	Senior Planner	£34,454	£37,154
Highland	Planner	£35,362	£38,656
Western Isles	Planning Officer	£35,068	£38,256
Shetland	Natural Heritage Officer	£34,967	£36,531
Glasgow	Woodland Project Co-ordinator	£34,842	£40,978
Scottish Borders	Planning Officer	£34,545	£37,757
Midlothian	Planning Officer	£34,376	£37,588
Angus	Strategic Policy and Planning Officer	£33,170	£37,820
Fife	Planner	£32,944	£36,473
West Dunbartonshire	Planning Officer	£31,096	£33,943
Edinburgh	Planning Officer	£30,563	£36,499
Orkney	Planning Officer	£30,184	£33,961
Highland	Ecology Assistant	£27,518	£31,012
Fife	Planning Assistant	£25,980	£32,944
Cairngorms	Graduate Planner	£25,823	£30,209
Edinburgh	Assistant Planning Officer	£25,623	£30,563
Scottish Borders	Assistant Planning Officer	£25,001	£31,571
Highland	Graduate Planner	£24,133	£27,118
Orkney	Planning Policy Support Officer	£18,851	£20,585

Source: Survey data from Planning Service – advertised posts in media-2019/2020

³ National Benchmarking Overview Report, 2018 /2019

2.13 Further to this national snapshot of salaries it is more relevant to look at the comparative salary levels within the Island Councils as set out in Table 3 below.

TABLE 3 - Similar salary comparisons with Islands Councils

Technician/Business Support/Support - Validation, consultations, representations, document management, decisions.	
Orkney	£18,851 - £21,761
Shetland	£24,500 - £25,600
Western Isles	£24,103 - £27,127
Graduate Planner/Planner - Planning graduate but no experience, other degree with some experience, not chartered planner	
Orkney	£26,790 - £29,709
Shetland	£31,411 - £32,898
Western Isles	£27,527 - £30,944
Senior Planner/Chartered Planner - Significant experience, chartered planner (MRTPI)	
Orkney	£34,436 - £37,064
Shetland	£38,632 - £40,428
Western Isles	£34,839 - £38,027
Planning Control/Enforcement	
Orkney	£26,790 - £29,709
Shetland	£31,411 - £32,898
Western Isles.	No current post equivalent

Source: Planning Services, Orkney Islands Council

2.14 Obviously, I am not in a position to review any single post in the Planning Service as I do not have access to the detailed job profiles and job descriptions. During discussions with the staff, however, I was made aware of a recent review within the Directorate for the post of Engineering Services Manager on a salary scale of £52,229-£57,886. On the face of it the job purpose and details look very similar to the post of Planning Manager which has a salary grade of £41,151-£44,966 but this is entirely a matter for the Council to consider within the wider corporate context.

2.15 It also has to be emphasised that the technical staff on Orkney carry out planning application casework, which is not the case elsewhere and there is a far greater disparity in their salary levels.

2.16 The structure of these services is different, and the duties carried out by staff do not match exactly across all 3 planning authorities but comparing the job specifications does enable fair comparisons to be made.

2.17 The important point to be made here is that all 3 Island councils face the same issues around staff recruitment and retainment set against similar workloads, but both Shetland and Western Isles Councils reacted to that situation by reviewing salary structures and career gradings.

TABLE 4 - Workload comparisons with similar councils

Council	Local	Household	Housing	Major	EIAs
Orkney	237	108	119 (66%)	2	3
Shetland	110	54	60 (18%)	0	2
W/Isles	253	68	120 (63%)	1	0

Source: Latest Council Planning Performance Frameworks, 2018/2019

Staff recruitment

2.18 A recurring theme running through my conversations with planning staff was staff recruitment. For example, the Planning Control Officer Post (Enforcement) is currently vacant and has been for the past 2 years. ***“our geographical remoteness and lower salary levels have been key reasons for the lack of interest in advertised posts”***

2.19 Recognising the unusually high workload pressures experienced over the last few years a 2- year temporary Planning Officer/Senior Planner post was established in September 2019 but after 3 rounds of recruitment this crucial post remains vacant.

2.20 I noted that the planning Service recently advertised for 3 posts in a national UK publication⁴ for planners and there are candidates suitable to be interviewed. Some of these posts are re-advertisements e.g. Enforcement Officer post which has been vacant for some time. This followed on from an instruction from the Interim Chief Executive following discussions with senior management about delays in the processing of certain major applications and the need to identify additional resources.

⁴The Planner Magazine, February 2020

Social media impacts

2.21 Due to the intimate, small scale nature of the Islands and the fact that there is a level of familiarity and close ties and relationships which is particularly keenly felt in the Development Management Team, the practices of the press and within social media have provided challenges for the staff particularly when they are placed under the spotlight and erroneous allegations are made and personalised. As one member of staff told me,

” It feels like we are under the microscope all the time. The Team sometimes feels threatened and undermined when personalities are identified and erroneous rumours are put in the public domain ”

2.22 These types of experiences can undermine the morale of the Team and the individual staff concerned and management and the wider Council needs to be supportive and take formal action where necessary.

2.23 The recent addition of audiocasting at all Committees can exacerbate this issue when third parties’ comments are broadcast on Orkney radio without any context or ability for responses to be made.

2.24 I would expect all such issues to be raised in writing and discussed with senior management levels in a timely manner as appropriate.

Planning Staffing and Resourcing Conclusions

1. Planning services in Orkney are delivered by a small team of staff. The Development Management (DM) Team in particular has a staff headcount of only 9 carrying out all statutory work on planning applications and enforcement, as well as license, notifications, assessment applications and many other related processes.
2. The breadth of the workload is comprehensive and challenging and there are no specialist officers or teams to deal with complex major applications, Council investment projects or Environmental Impact Statements etc. All applications are simply allocated within the team and there are obviously inherent limitations in this approach.
3. Overall, I consider that the Planning Service staffing levels are low, and this can inevitably compromise the workload allocations and leave the Service and Council vulnerable when staff vacancies and absences occur. It is also not a sustainable, long-term approach to delivering a high-quality planning service.
4. Staff numbers have been relatively stable over the last 5 years, but vacancies have proved difficult to fill, primarily due to geographical

remoteness and salary differentials - the vacant Enforcement Officer post in particular has caused difficulties as the workload has had to be absorbed by the Manager who is already operating beyond capacity.

5. Within a small team it is difficult to take time out of the office to engage with mainland authorities in areas of best practice, benchmarking and peer review and this difficult situation can only partly be compensated for by video and audio conferencing, media blogs etc. Mandatory professional Continuous Professional Development (CPD) requirements are being met but staff confirmed *“this is becoming increasingly challenging”*.
6. There is an increasing emphasis being placed within the Service on *“growing our own”* and this needs to be encouraged together with clearer career grades and progression routes to provide internal promotion opportunities. This both motivates staff further and improves staff morale at a time when workload pressures are high and increasing.
7. Salary gradings and career progression spans are limited, and this adversely impacts on staff/team morale, and ultimately on career development opportunities for further professional and career advancement.
8. There are areas of workload pressures where the DM Team do not have the specialist experience to deal with matters in - house e.g. Environmental Impact Assessments, and these currently require to be contracted out to consultants. (This practice is not exclusive to Orkney)
9. Identifying existing gaps in skills and experience should be assessed as a matter of priority to reduce staff burdens and exposure – some staff are operating beyond their post remits and levels of responsibility, particularly at junior level. It may well be that a Training Needs Analysis or similar approach needs to be undertaken within the Development Management Team in consultation with the Human Resources Service in line with recommendation SAR1 outlined below on the Service Workforce Plan.
10. Serious matters raised by staff about excessive media exposure, adverse publicity, including the release of personal matters, need to be reported to senior management in writing and investigated formally in accordance with the relevant Council policies and procedures when they occur.

Improvement recommendations for Council consideration

SAR1 – The Planning Service needs to continue to further develop and expand the detailed Planning Service Workforce Plan to fully include and consider as requested in the Council’s Workforce Planning Report⁵

- Future planning workforce needs
- Current and future capacity levels
- Competitive and proportionate career grades and salary levels and placings, compatible with overall Council salary levels and grades
- Progression opportunities for all DM Staff
- Recruitment Processes
- Areas where specialist skills are not available

SAR2 – The Council needs to assess and consider the possibilities and opportunities for additional staff specifically in the following 3 priority areas:

- **Housing Applications** – Key Project Management Skills allied with RTPI Membership
- **Environmental Impact Assessment** – Short term use of contracted specialist consultants to continue but consider appointment of environmental/specialist planner with appropriate experience and skill levels to assist with this area of work and to complement the specialist advice.
- **Capital Plan Projects** - The appointment of an experienced planner to assist with Capital Plan Projects and major commercial investment proposal, including windfarms, located within the appropriate corporate team – I suggest this post should be located in the Infrastructure and Strategic Projects Team within the Development and Infrastructure Directorate to ensure separation of roles from the Planning Service to avoid any confusion or conflict.

SAR3 - The DM Team should self-identify areas of workload where it can reduce or minimise workloads without compromising on the quality of outcomes or professional and statutory duties e.g. the excessive use of Development Briefs and micro-managing housing applications

⁵ Workforce Planning – Policy and Resources May 2018

SAR4 - Planning staff, and indeed all other Council staff, need to be advised of the informal and formal processes available to them when unjustified and inaccurate social media and comments are posted online and in the newspapers and broadcasts on the radio from committee meetings. The staff need to be formally supported by senior management and the relevant Council services, when serious media issues are raised by staff

3.0 DELIVERING THE CAPITAL PLAN AND PROGRAMME

Scope of Brief

3.1 Review the engagement of the planning team and other Council services in delivery of project outcomes

Methodology

3.2 Interviews with senior Council officers, desk study of relevant Council papers and external reports and review of submitted case studies.

Case Studies

3.3 The following case studies were agreed by the Council to assist in the identification of different forms of engagement and the issues identified during the various planning processes

House build projects, including Carness
 Quarry extension
 Community wind project
 Glaitness PS extension
 Garden House extension
 Former bus station demolition

Key Findings

3.4 Orkney Island Council (OIC) has benefited from a strong financial position for many years but the Council is acutely aware of its changing position and challenging financial position and the need to manage its Strategic Reserve Fund in a longer term, sustainable manner.

3.5 The Council is ambitious, with clear strategic and regional goals coupled with high expectations for the timeous delivery of Council projects, encouraging innovation and investment in new technology. Its primary aim is to deliver efficient and effective services and facilities to the communities within Orkney.

3.6 There is however a serious mismatch between these high-level ambitions and the recent record of delivery on the ground, particularly in relation to housing targets. This has had consequences and negative impacts in terms of the continuation of external housing investment streams and it **runs the risk for the Council of a negative and reputational risk environment being created and sustained.**

3.7 This position was well summarised in the Best Value Assessment Report by Audit Scotland in 2017⁶ which stated that,

“The Council’s comfortable financial position has allowed it to be ambitious in agreeing its capital programme for a number of years. However, the desire to invest heavily in capital projects, including new buildings and transportation infrastructure, has been difficult to fulfil due to limited capacity. This has resulted in the Council having a history of slippage that is not completing (or commencing) capital projects and applying the budgets within the planned timeframes”

3.8 A recent internal audit report⁷ on Capital Plan Slippage in November 2019 however reports that,

“the audit provides adequate assurance that the processes and procedures relating to Capital Programme Slippage are well controlled and managed”

but despite this assurance, the report goes on to say that the Planning and Design Stage (Stage 1 of 6 stages, and the crucial first stage in the project management cycle) **accounts for a staggering 80% of the Council’s slippage.**

3.9 The report sets out the common factors identified at this initial planning stage leading to an under-estimation of the time and requirements to carry out and fulfil Council projects. These were,

- Preparation of detailed planning applications with various required statements
- Reports and assessments
- Building Regulation approval
- Landowner negotiations
- Public consultation
- Adequate scoping of the overall project
- Designs completed later than expected
- Formal permission to start being received from the appropriate funder
- Awaiting completion of dependent pre-project work

3.10 Obtaining planning permission and building warrant approval are key statutory consents which the Council as applicant require to obtain. **Early discussions and engagement with both teams is an essential pre-requisite in**

⁶ Best Value Assurance Report, Accounts Commission- Audit Scotland, December 2017

⁷ Orkney Council Internal Audit Report, November 2019

any project planning process and needs to be both encouraged and promoted as best practice and formally included in Council processes.

3.11 I was particularly pleased to note that the recent audit report included a recommendation relating to seeking pre-application advice and requirements from the Planning Service and these should be detailed within the agreed client specification documents where planning consent will be required. I will expand on that and will set out recommendations for further improvements to service joint working for the Council to consider at the end of this section.

Delivering the Capital Plan and Programme Conclusions

1. There is a clear recognition within the Council that effective management of the Capital Plan, and particularly the slippage trends, is a critical corporate issue which affects project delivery to communities and the reputation of the Council. It also runs the risk of losing future external funding.
2. The Planning Service has a key role to play in assisting and supporting internal Council processes prior to planning applications being submitted to ensure the successful delivery of Council projects.
3. The Council structure has been downsized in recent years, but it is similar to many other Councils, including much larger Councils, as it still requires to deliver the broad range of statutory and non-statutory duties and other specialist areas of activity disproportionate for its size as Scotland's smallest local authority.
4. There are only 3 Directorates involved in delivering the Capital Plan, but the relevant spans of control can lead to an impression of departmental **“silos”** which can hinder effective cross-service and partnership working, particularly in the overall project management of the Capital Plan.
5. I feel that the Council culture of development delivery is curtailed by a lack of prioritisation and **“ownership”** and to me there has to be a more shared and corporate “Team Orkney” approach on the processes around the Capital Plan, which is being successfully championed and promoted by the Interim Chief Executive in other areas of Council activity.
6. Areas such as early officer engagement, pre-application consultations, pragmatic and proportionate project management, senior management

leadership of the Capital Plan and a holistic appreciation within the Council of realistic timescales for delivery and especially the obtaining of statutory consents, such as planning permission and building standards approval, are all critical elements for immediate attention.

7. Surprisingly, the Planning Service is seen by other services and individual officers as a *“burden”* and *“unhelpful”* and is not recognised as the key element in the whole project and delivery process. The Council has to prioritise the need for an integrated approach and model its internal processes and relationships accordingly.

8. The wider corporate Council and Service Departments have to recognise and respect the discrete and separate roles performed by the Planning Service as an internal Council service, and the Council in its role as the Planning Authority.

Improvement recommendations for Council consideration

CPP1 - An internal, cross-service protocol needs to be introduced which clearly sets out the roles, relationships and responsibilities of the Council, where it is acting jointly or individually as developer, investor, applicant, agent and planning and building control authority. This should include, as a minimum standard,

- Formal record of pre-application discussions and preferably a formal Planning Application Consultation (PAC)
- Identification of Validation Requirements, both legal validation and professional validation, to ensure a timely, competent and quality submission is made by the Council
- A combined Planning and Building Control Customer Checklist would assist in this process.

CPP2 – In addition to Recommendation CPP1 above, the Council needs to implement and incorporate the Internal Audit Recommendation 1⁸ re pre-application advice and detailed requirements being included in agreed client specification documents.

CPP3 -The Senior Management Team (SMT) should have a focused Capital Plan meeting monthly to be aware of project progress and reasons for any

⁸ OIC Internal Audit Report, Capital Programme Slippage, 14 November 2019

slippage. Key officers, including the lead planning officer, should attend this meeting to advise SMT on remedial and intervention measures required to maintain progress and timetable targets.

CPP4 – The Council should carefully consider and assess who fulfils the role of the Chief Planning Officer (as set out in the new Planning Act as a statutory requirement) and maximise the opportunities for participating in the SMT discussions on capital projects and wider corporate developments and environmental matters linked to community planning, place- making and health and well-being.

4.0 CUSTOMER CARE AND DEVELOPER ENGAGEMENT

Scope of Brief

Review of the interpretation of Development Brief Guidance
 Review of the approach to pre-application advice and developer interactions
 Overall customer care standards and approaches

Methodology

A desktop study of relevant papers and external reports, interviews with senior planning officers, and a few agents and applicants.

Key Findings

Customer Care

4.1 The Council has a strong commitment to providing guidance to all applicants at the earliest stages in the planning process. This includes officer availability in person at the planning reception desk, Monday to Thursday 09.00-10.00 and 16.00-17.00. Several other councils have removed this level of service in recent years, and although it is temporarily suspended due to the COVID-19 situation, it is a service which should be retained by the Planning Service as the face to face contact is advantageous to both staff and applicants and helps with early application advice and guidance.

4.2 Pre-application discussions are promoted by the service and last year the level of pre-application discussions was 63% for all applications, which was slightly lower than the previous year at 68%.

4.3 The Council has a Complaints Handling Procedure which provides a standard approach for dealing with customers who are unhappy with the service that they have received.

4.4 In 2018/19 the Council received 3 formal complaints about the Planning Service, two relating to possible maladministration in the planning process (neither upheld) and one relating to the Council not taking appropriate enforcement action following a possible breach of a planning condition (upheld). Formal complaints to the Scottish Public Services Ombudsman (SPSO) over the last few years have been at a very minimal level.

4.5 Elsewhere in the report references are made to some recent informal complaints, raised directly with the Interim Chief Executive, from the development sector relating to several planning applications. On the face of it these issues appear to me to be relatively minor in nature and reference differences in professional opinion, protracted timescales and too much

attention to fine detail. They are assessed in more detail in Section 8 - Case Studies. Ultimately, and despite difficulties and delays negotiations between the parties have ultimately proved successful in the main and planning permission has been granted.

4.6 I was pleased to note in the current Planning Performance Framework document for 2018-2019, which is submitted to the Scottish Government on an annual basis as the Council's "planning report card" further elements being introduced by the Service to further improve customer quality and care e.g.

- To aid quality of written pre-application submissions to Development Management, a pre- application form has been developed with a specific page created on the Council website. The form is in an accessible format, and guidance is provided on the multiple ways for the information to be provided.
- A "Validation Checklist" is also provided for applicants, which covers the majority of information required to be submitted with a planning application in order to try to reduce the number of invalid applications being submitted.
- A proposal to provide validation training for local agents has been delayed due to "staffing pressures" but **I see this as a priority area for the service to further enhance its engagement with customers and to clarify information requirements in advance.**
- 6 monthly Development & Infrastructure Managers Away Days are held to improve cross- service communication and awareness of cross cutting projects and professional capabilities.
- Since June 2015, the Council audio casts committee meetings through its website, increasing the community's access to the Council's decision-making processes. Committee agendas, reports, minutes and audio files are all available on the Council's website.

Development Briefs and Design Statements

4.7 The Council has set out a structured approach for assisting applicants in submitting applications for planning permission.

1. The Orkney Local Development Plan (OLDP) provides the policy framework and land allocations for dealing with planning applications efficiently and with certainty.
2. Supplementary Guidance is produced for given policy areas and subjects when highlighted in the OLDP.
3. Planning Policy Advice (PPA) provides further information and advice on policies and issues. This includes Development Briefs and the following related guides

- Design Statements for Individual Buildings
 - Site Development Statements-Informing document prepared by the applicant
 - Development Briefs-Submitted in advance of planning application and approved by Elected Members. Notified to the Scottish Government and if satisfied becomes Supplementary guidance.
 - Masterplans
4. Development Management Guidance (DMG) provides advice on technical issue and the interpretation of given policies. These are generally prepared by Development and Marine Planning staff and require Committee approval.

4.8 This hierarchical approach seems to be quite complex and complicated for customers to comprehend fully and it relies on the applicants and agents engaging with Planning Services at the earliest opportunity to identify what level of detail is required for submitting a particular planning application.

Customer Care and Developer Engagement Conclusions

1. The Planning Service clearly runs a high - quality operation which is externally recognised. It is a small service in resource and staffing terms, but it is responsible for a wide range and complexity of applications.
2. My limited, personal experience of the Team finds that it is motivated, positive, professional, passionate about planning and importantly, operates within a ***“self-supporting environment”***.
3. It is to the credit of the Planning Service, which has no specialist staff at its disposal, that such high levels of professional standards have been set and achieved. Overall, my impression is a positive one and the Council has a Team which is energetic and thorough and evidently committed to achieving successful and positive environmental outcomes for the communities in Orkney.
4. Nevertheless, there are some operational and customer concerns about the over - use of Development Briefs and related supplementary guidance set out in the Local Development Plan. These concerns need to be clarified and streamlined to assist applicants and reduce unnecessary workloads for the planning staff.
5. There are clear and demonstrable elements of good practice within the Planning Service relating to customer accessibility and openness,

and evidence of the added -value and benefits successfully achieved through negotiations with applicants.

6. Although the range of selected case studies was a small sample of the total application workload , they provided a wealth of detail about planning processes and culture, relationships between the parties and the common problems experienced in all planning authorities relevant to non-valid submissions, inadequate information, time delays in submitting requested information, and the time required to negotiate successful outcomes.
7. Relationships between Council services are based on different experiences, but a senior manager confirmed that, *“some inter-service relationships are poor as planning is seen as being negative and holding things up”*
8. The normal customer service levels provided to applicants by the Planning Service is high, but a few customers have raised relevant concerns about key aspects of the planning process, particularly different officer viewpoints being expressed, impractical suggestions being made for improvements to be made which were not feasible, the time taken for decisions to be issued and views on micro-management and the expression of seemingly *“personal rather than professional opinions”*. This allegation was specifically raised with the Interim Chief Executive in relation to the progress being made on the Cairston Road site, Stromness (Case Study 3) and senior management confirmed to him that the case officer involved was expressing a professional planning opinion and not a personal opinion. The Royal Town Planning Institute (RTPI) Code of Conduct makes it clear that other chartered planners may hold a different view and it is legitimate to do so.
9. This is always a disputed area in planning discussions, but it is worth remembering that all chartered town planners must follow a specific Code of Conduct which requires RTPI members to adhere to five core principles, namely:
 - **Competence, honesty and integrity** – Members must take all reasonable steps to maintain their professional competence throughout their career; and should be honest and informed by appropriate technical inputs in carrying out their duties;

- **Independent professional judgement** – Members must exercise fearlessly and impartially their independent professional judgement to the best of their skill and understanding;
- **Due care and diligence** – Members must discharge their duty to their employers, clients, colleagues and others with due care and diligence;
- **Equality and respect** – Members must not discriminate on grounds including but not limited to race, nationality, gender, **sexual orientation, religion, disability or age**;
- **Professional behaviour** – Members are expected at all times to conduct themselves in such a manner that does not prejudice their professional status or the reputation of the RTPI.

10. Planning is often a controversial area to work in and deliver successful outcomes and every decision made can satisfy some parties and upset other parties in equal measure. Sometimes matters cannot be satisfactorily resolved to everyone's satisfaction. Despite all the efforts made and there always will be differences of opinion especially on design proposals, and matters can get complicated and frustrating where there are differences of opinion and interpretation and the Planning Service has the final deciding position.
11. One applicant confirmed that ***“I do not feel like I am being treated as a customer as the Planning Service dictated to me and did not listen to my viewpoint”***.
12. None of the planning - related issues I was asked to assess, and the evidence provided to me, indicates that there are major or critical Council interventions to be made. **This is not a failing service, quite the opposite, but it does need some fine - tuning adjustments to be made to some practices and procedures and it needs to rebuild confidence levels with some regular customer interactions and relationships.**

Improvement recommendations for Council consideration

CCS1 - The focus in future Planning Performance Frameworks (PPFs) should continue to feature effective progress being made in the areas of “Quality of Service and Engagement” and “Culture of Continuous Improvement”. This focus would be strengthened by taking an inclusive, not internal, approach with selected, key stakeholders involved in formulating future improvement actions.

CCS2 - The Planning Service should introduce a Planning Customer Survey so that applicants can formally comment on quality of decision- making and raise any issues they experienced with their applications. This should then provide a focus for future service changes and improvements to accommodate the concerns raised.

CSS3 - The Royal Town Planning Institute (RTPI) has recently published guidance on “Probity and the Professional Planner”⁹ to help planners confidently use their independent professional judgment and I recommend that this practical advice is disseminated to the chartered planning staff to guide and support them in negotiating situations with applicants.

⁹ Probity and the Professional Planner, RTPI
www.rtpi.org.uk/probity

5.0 PLANNING PERFORMANCE AND QUALITY

Scope of Brief

5.1 What are the planning performance levels and trends over the last 5 years as evidenced in the published Planning Performance Frameworks and covering letters from the Scottish Government to the Chief Executive?

Is Orkney performing well on paper against national performance targets and the Scottish average?

What further improvement actions have been identified by the Council?

A comparison of performance and service quality with other councils

Methodology

5.2 A desktop study of relevant performance papers and external reports, interviews with senior planning officers, and a few agents and applicants.

Case Studies

5.3 A wide variety of case studies are submitted in the annual Planning Performance Frameworks and these will be referred to where appropriate to evidence planning achievements and outcomes on the ground and what added value and negotiations have been delivered on behalf of the Council and its communities.

Key Findings

5.4 The Council operates an efficient and high performing Planning Service which is consistently operating at or beyond the Scottish national average for planning application determinations.

5.5 The key performance indicators measured by the Scottish Government clearly show,

- Consistently high approval rates (96%) and delegated levels (94%) averaged over the last 5 years, resulting in faster decision making and demonstrating a positive pro-development attitude.
- A real and demonstrable emphasis on aspects of design, place making, protection of the historic environment and attention to detail.
- Customer use of pre- application services operate at a high level – 5- year average of 67% of all planning applications received.

5.6 It is a well-respected service which has won both Scotland and UK wide national awards and external recognition. The Council won the overall award at the 2017 Scottish Awards for Quality in Planning for its Team Stromness project which featured a Council-wide task force to coordinate several distinct

regeneration projects within the historic core of the town. The feedback from the judging panel was that:

"Team Stromness was an exemplary Urban Design Framework delivering on the ground. The Council's passion to see Stromness modernise whilst maintaining its historical elegance was to be congratulated."

It won in all 4 categories of Partnership, Place Plans and Process confirming the integrated teamwork undertaken by the Planning Service.

5.7 The Council also won the Excellence in Planning for a Successful Economy category and the overall award of the Silver Jubilee Cup at the RTPI Awards for Planning Excellence in 2018 for its Team Stromness project. **This is recognised as the highest level of planning award in the UK.** The judges' citation read,

"This innovative, collaborative approach to regeneration has successfully delivered high-quality public realm works and landmark civic buildings. The distinctive architectural language established through the modern works has successfully influenced private developments out with the initial project area and the endeavors of 'Team Stromness' has culminated in the recent multi-million-pound investment to create the Orkney Research and Innovation Campus on another redevelopment opportunity site identified within the Local Development Plan. When considered against the wider accomplishments of 'Team Stromness', the delivery of a new primary school and new commercial pier, the regeneration effort has been a great success"

5.8 The winning of these national planning awards, confirms that, despite its small size, the staff in the planning team with their Council colleagues and community partners can deliver projects of excellence and high quality

5.9 The Scottish Government provides independent, annual feedback on each council's planning performance levels in terms of statistics and outcomes. In February this year SG provided its formal response on the year 2018-2019 in a letter to the Interim Chief Executive and Head of Planning which is very positive. Under the Red, Amber, Green (RAG) assessment ratings Orkney had 11 Green indicators and 2 Amber indicators and no Red indicators. The positive areas covered,

- Decision-making timescales
- Use of processing agreements
- Early interactions and pre-application service with applicants and consultees
- Continuous improvement

- Regular and proportionate policy advice
- Corporate working across council services

5.10 Some of these areas do feature in this review for assessment and confirm the position that overall planning service provision is in good order, but there will always be events and occurrences at the micro - level which raise specific issues and concerns.

TABLE 4 - KEY PERFORMANCE STATISTICS 2014-2019

	2014/15	2015/16	2016/17	2017/18	2018/19
Major Applications	1	1	0	0	2
Av timescale weeks	7	24	N/A	N/A	32.6
Major Housing	1	0	0	0	0
Local housing/2 months	67	60	68	68	79
Local housing weeks	6.7	6.7	6.5	6.3	6.8
Local housing 2 months+	51	50	35	44	40
Local housing weeks	12.6	12.5	12.6	12.7	11.5
Pre- Applications	68%	71%	67%	68%	63%
Delegated Rate	92%	92%	93%	96%	96%
Approval Rate	97%	95%	96%	96%	96%

Source - The data has been extracted from the Council's annual Planning Performance Frameworks (PPFs)

Planning Performance and Quality Conclusions

1. Overall the Planning Service operates a high-quality and a high-performing service as demonstrated by recent national awards and published planning performance data.
2. Measured against all the Scottish Government's performance targets and key markers Orkney performs well and often performs better than the Scottish average.
3. The Council approval rates - 96%, and delegation levels - 96% for planning applications are high and further demonstrate the importance of delivering positive planning outcomes in a timely fashion.
4. There is a real and demonstrable emphasis placed on aspects of design, detail, place-making and protection of the built and natural environment.

5. This, however, has to be proportionate and balanced as some customers refer to excessive detail requirements and elements of “*micro-managing*” applications.

Improvement recommendations for Council consideration

PAQ1 – Overlapping with Recommendation CCS1, continue to further develop and expand the elements set out in the PPF process with particular focus on Quality of Service and Engagement and Culture of Continuous Improvement to fully include and consider:

- A better balanced and proportionate approach to pre-application discussions and processes
- Use of Added - Value Codes or similar when assessing planning outcomes on each decision made

6.0 EVIDENCE BASE – OVERALL ASSESSMENT OF THE CASE STUDIES

6.1 The project brief requires a series of 14 case studies to be assessed which were identified for me by Orkney Islands Council. In addition, I decided to add in a further 2 case assessments identified by me following an accompanied walk about tour in central Kirkwall. These were identified by me because I was impressed by the quality of design achieved and I wanted to identify the role of the Planning Service in negotiations and also the key discussions and negotiations with the applicant. Coincidentally, both sites were developed by the applicants/agents I have interviewed.

6.2 A total of 16 case studies have therefore been identified to inform this report and to set out achievements, outcomes and issues raised. In the time period for the brief I have not been able to visit all the case study sites but I have visited, the Gin Distillery, Former Free Library, Carness, Walliwall, Cairston Road, the former bus station, Balfour Hospital, new Orkney hospital, Garden House and other housing sites and areas.

6.3 I have viewed all the applications online and discussed the relevant details and history with staff and applicants/agents I have also had copies of Council documents, including letters and e-mails, between planning staff and applicants. The overview approach is limited in as much it does not enable me to gauge the live interactions, frustrations conversations and phone calls which took place during the processing of these applications.

6.4 This assessment section is therefore not a “blow by blow “account of each application or a forensic assessment of the planning application file and correspondence. I did receive detailed correspondence and e mail trails from applicants/agents and whilst I have had regard to them the primary purpose of the assessment is to take a broad overview of the case files and assess the key issues which were identified and any relevant implications for both the Council and the applicant/agent.

6.5 The Case Studies are intended to evidence key elements of the concerns outlined by planning customers, applicants, agents, developers and the Council relating to,

- Engagement with developers and services
- Degree of proportionality
- Outcomes and Added Value achieved

- Consistency of officer advice and opinions
- Value of pre-application advice
- Quality of application submissions

Personally Selected Case Studies

1. Craft Distillery and Visitors Centre, Kirkwall – Application 16/162PP
2. Kirkwall Free Library

Council Selected case Studies

3. Erect 13 houses at Cairston Road, Stromness – private sector housing
4. The Finstown substation - 19/113/NATEIA
5. Carness housing - 15/461/PPMAJ and 18/533/PP – OIC housing application
6. Walliwall Housing applications – private sector housing
7. Stronsay fish farms - 19/124/MAR - private sector commercial
8. Costa Head wind farm - 16/580/TPPMAJ -
9. Balfour Hospital - 16/295/AMCMAJ
10. Cursiter Quarry extension - 19/143/PPMAJ – OIC industrial
11. Quanterness wind farm - 20/037/TPPMAJ
12. Glaitness Primary School extension - (19/381/PP - withdrawn) - 20/067/PP - OIC education
13. Garden House extension - (19/241/PP - withdrawn) - 19/365/PP -
14. Former bus station demolition - (19/271/PP - withdrawn) - 20/048/PP - OIC transportation

6.6 A standard summary template has been used to assess the 12 sites identified by the Council identified in the Project Brief and all the case studies are set out below.

Case Study 1

Planning Application 16/514/PP

Erect a building to house craft distillery, visitor centre and associated storage sheds, Ayre Road, Kirkwall

Site Overview:

A new gin distillery was proposed at a former warehouse site in central Kirkwall, within the designated Town Centre and close to the boundary of Kirkwall Conservation Area. The warehouse was located between relatively modern flats to the east, another warehouse, a nightclub and a hotel to the west. The site is in a prominent, harbourfront location on one of the main routes into Kirkwall town centre.

The site is at risk of surface water flooding, requiring a raised floor level, above that of the adjoining footway. However, it was a planning requirement that the building was located immediately at the back edge of the footway to maintain the existing historic building line, so there was no space for a ramp or steps.

It was also a planning requirement that the building be of a simple form, and proportions of narrow gables and steep pitched roofs to reflect existing neighbouring buildings. Innovative or contemporary materials and detailing were encouraged, within that more traditional building envelope, including materials that would reflect the former industrial use of the site. It was apparent that the quality of design of this site could influence any future redevelopment of the adjacent site.

Planning Goals:

- Facilitate redevelopment of a redundant site in the town centre.
- Encourage new development following strict design principles of building lines, and building form and proportions
- Encourage the use of innovative design and materials, in conjunction with traditional form.
- Create a facility for residents and visitors, within the town centre.
- Create employment, through production and staffing the visitor experiences.
- Improve the public realm.

Planning Gain and Added Value Outcomes:

The building was designed immediately on the back edge of the footway, as required.

To overcome the height difference with the footway, a solution was negotiated with the roads authority that a parking bay was removed immediately in front of the building, allowing a section of the footway to be graded up to door threshold level, and as part of the negotiation of allowing that, the footway was widened and the remainder laid with flagstones to match the footways in the adjacent conservation area. Level access was therefore achieved without affecting the building footprint, and whilst improving public realm.

The scale relates to neighbouring buildings, and is based on a main gabled section, with the roof line continuing to the rear, but with a different cladding material to emphasise the traditional gable shape. A through-coloured fibre sheeting was used to clad the walls, with extensive glazing, dark framed windows and doors, and a black corrugated metal roof. Storage buildings to the rear were also clad on walls and roof with the same corrugated metal, echoing the former industrial use of the site.

- The rear yard has been enclosed with a stone boundary wall, and planting has been carried out.
- An electric car charging point was also installed, adding to the network of points in Orkney.
- The development has resulted in a building of high-quality architecture on a redundant site in the centre of Kirkwall, creating employment and an additional facility for residents and visitors.
- It sets a high bar for quality of development on neighbouring sites, and has achieved level

Photo 1 – The Orkney Distillery



Source: Planning Application File

Report Assessment: An excellent example of positive engagement between Council services, and the applicant/agent to create a modern building in a sensitive historic environment. Positive response to the Development Brief from the applicant and clear public realm benefits. A proportionate response to the range of issues and clear added value and benefits. Applicant, agent and planning staff worked well together to deliver an excellent modern building which sets the standard for other such redevelopment opportunities in this area of Kirkwall.

Case Study 2

Planning Application 16/308/PP

Change of use to form gallery, café and restaurant, music venue and erect side extension, internal and external alterations, Former Library, Kirkwall

Site Overview:

This application comprised the former Kirkwall Free Library, modern flat roofed extensions, demolish house to the rear and refurbish the library and librarians house. The proposal also included change of use of the former library to a shop with gallery spaces

Planning Goals:

- Traditional and sympathetic re use of existing Listed Building
 - Modern, well designed extensions which do not detract
 - Accommodate a music venue and restaurant at rear with no impact on frontage and minimum impact on neighbours at rear.
- The physical alterations to the former library

Planning Gain and Added Value Outcomes:

The physical alterations to the former library are executed in great detail and attention to historical heritage features, including replacement of Norwegian slated roof, metal signs, black iron rainwater goods.

A disused, former library building on a prominent frontage has been successfully restored

Report Assessment:

This is an excellent example of appropriate and proportionate attention to design detailing. Full compliance with LDP Policies and the requirements set out in the Supplementary Guidance - Urban Conservation Areas Management Plan and Listed Buildings and the Orkney Local List.

Design Statement by applicant.

This building and its sensitive design sets a high standard for others to follow.

PHOTO 2 – Former Free Library redevelopment, Kirkwall



PHOTO 3 – Extension to former Free Library, Kirkwall



Case Study 3

Planning Application 19/376/PP

Erection of 13 houses at Cairston Road, Stromness

Site Overview:

The site is identified in the LDP for housing with a notional capacity for 5 houses. It is a vacant site within the established settlement pattern of Stromness. No obvious physical features or external constraints to development. The site is in an identified Flood Risk Area and required the submission of a Site Development Statement to comply with the Stromness Urban Design Framework.

Planning Goals:

Professional planning assessment of the planning application
 Provision of much needed housing within Stromness
 Resolution of all technical and policy issues
 Compliance with the LDP and related supplementary guidance
 Acceptable levels of residential amenity

Planning Gain and Added Value Outcomes:

No significant planning gain or added value. The time taken to negotiate on this application and the correspondence became excessive.
 Resulted in unresolved dispute between the Council and the applicant/agent

Report Assessment:

On the face of it this was a simple and straightforward site to develop for housing with very few design and layout alternatives available to the applicant.

The site was allocated in the LDP for a notional capacity for 5 houses, but the site is physically capable of taking between 10 and 15 houses depending on house types and density.

There were 3 houses formed a grouping at the south end of the site laid out in an offset manner to take advantage of harbour views which proved to be contentious with the Planning Service.

The Developer chose to design the site layout to ensure, as far as is practicable, a sea view for the 3 properties at the end of the cul-de-sac but the case officer decided that this was unacceptable preferring re-orientation of these houses towards the access road. The Developer disagreed because the potential “off-plan” buyers were only interested in purchasing subject to the sea view and this therefore created a risk of withdrawal from purchase/loss of sales.

It is worth noting that pre-application advice was provided in line with a subsequent request for amendment and it was an applicant decision not to follow that advice. This issue became an unresolved issue between the developer and the planning case officer which led to the removal of the 3 houses from the original application.

This was a reasonable compromise to reach in all the circumstances, but it simply delays the resolution of the 3 houses - indicated by the red dotted line in the Indicative Site Plan below.

The timescale to determine the application was not considered to be excessive.

I anticipate the submission of an additional application for the remaining 3 houses which will require to be separately assessed and presumably considered by the Planning Committee. If the application is refused the applicant will have a formal right of appeal to the Department of Planning and Environmental Appeals

Referral to the Chief Executive and senior leadership levels should not have been required to resolve matters but it was a serious matter for the applicant to raise.

There should have been an opportunity for an open and honest discussion between the parties on the possibilities of accepting the additional 3 houses, which I believe were already pre- ordered by customers off-plan from the planned layout to achieve views of the bay.

I consider that an alternative design solution may well be possible and feasible. It could actually benefit the overall residential layout by making a design statement at the end of the internal road, subject to any technical constraints on that part of the site and having interesting elevations on all sides.

PLAN 1 - INDICATIVE SITE PLAN AND LAYOUT, CAIRSTON ROAD, STROMNESS



Source: Planning Application file

Case Study 4

Planning Application 19/113/NATEIA

Erection and operation of a 220/132KV substation – a platform area, electrical infrastructure and buildings, plant, landscaping and construction compound area

Site Overview:

The development site lies to the south west of Finstown
Agricultural land

Planning Goals:

Professional planning assessment of the planning application
Compliance with the National Planning Framework 3 and the LDP
Protection of the site and local environmental quality

Issues raised:

A variety of planning issues identified, including,
Complexity of the application
Assessment of the technical and environmental data, including Environmental Scoping and Screening
Public meetings required
Assessment of 10 objections

Planning Gain and Added Value Outcomes:

Always seen as a balance between economic and environmental factors
Boost to the Orkney economy without compromising the quality and integrity of the landscape and wider environment

Report Assessment:

This was a complex and contentious proposal to assess and required expert inputs and specialist services coordinated by the planning staff.

It was a nationally important development and a crucial project for Orkney in both economic and energy terms

**As this was a National Project it required robust and forensic assessment
The decision had to be taken by the Full Council and it was granted conditional approval by 10 votes to 4.**

A particular feature of this application is the limited capacity within the Planning Team to deal with an application of this complexity without sacrificing time and capacity for other workloads. Despite this the application was very effectively project managed by the planning staff

Case Study 5

Planning Applications 15/461/PPMAJ and 18/533/PP Erection of 46 houses at Carness, Kirkwall

Site Overview:

Former agricultural land on the outskirts of Kirkwall.

Allocated for housing development in the LDP- 35 houses- notional capacity
OIC ownership and housing proposal, via a Design and Build tender process
OIC is the applicant

Planning Goals:

Professional planning assessment of the planning application
Compliance with the LDP policies and supplementary guidance
Delivery of Orkney Council housing as part of the Capital Plan and Strategic
Housing Investment Plan (SHIP)
Negotiate planning gain and added value where possible

Issues raised:

Timescale to resolve the site layout issues relating to an adjacent Scottish Water
Pumping Station – submitted in September 2015 but not yet determined- 4 years
plus

Noise and residential amenity issues

Inability to comply with normal residential noise levels at edge of site housing

Land ownership on the site- it was not all owned by the Council

Planning Gain and Added Value Outcomes:

No decision taken as yet so application is still being assessed

Housing layout and house designs are all acceptable and create a good quality
local environment

Successful negotiations took place with the planning officers who were able to
allow the construction of some houses prior to the noise issues being alleviated
in order to fulfil part of the housing land release for the Council.

The phased approach adopted to the layout initially but may need to change the
final housing numbers if the noise attenuation solution is not totally resolved.

Report Assessment:

**There was an excellent Design Brief prepared for the site by planning staff
with a clear focus on placemaking principles and connectivity**

**I am not sure why the critical noise issue was not detected an earlier stage
in the planning process or even at project inception stage - No indications
are provided on the online file.**

**If the negotiations here prove to be impracticable or become unresolved an
alternative housing layout to mitigate the noise issue may be required**

which will further escalate the time this project has taken and may also reduce the number of houses proposed.

I remain unsure as to who actually has the ultimate responsibility to resolve the situation with Scottish Water, but I assume it is a joint SW/OIC improvement which should have been prioritised earlier to meet housing and housing investment targets.

There was also an issue relating to separate land ownership interests within the site, which should never have occurred at the planning application stage. This was entirely a matter for the legal input to the Capital Plan project team to resolve.

Case Study 6

Planning Application 19/071/PP

Erection of 15 houses, roads and Associated landscaping, Old Finstown Road, Kirkwall

Site Overview:

Redundant farmland

Allocated in the LDP for housing- part of site K5

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Residential environment and design of houses and layout- integrated design solution

Landscaping and SUDS provisions

Issues raised:

Part of a wider residential allocation in the LDP

Different sites developed out by different developers

No apparent overall Masterplan for the entire site – this is Phase 6

Legitimate non -valid letters issued re scale and site boundary- requirement for a solid red line application site boundary on the plans

No pre-application discussions with OIC as applicant found the process unhelpful

Looks like a “catch up “process as sites all developed separately

Different advice from different officers

Officer preferences for active road frontages

“Too much planner interference and use of personal design preferences”

Planning Gain and Added Value Outcomes:

Application not yet determined

Report Assessment:

This was a straightforward site to develop, allocated in the LDP, but lengthy timescales were experienced and there was detailed conversations and correspondence on design and layout matters

No recent activity appears online on the file since March 2019- Applicant preparing a Development Brief – but correspondence has taken place.

Appears to be delays by the applicant between March and December 2019

Case Study 7**Planning Application 19/124/MAR****Create salmon fish farming site, Mill Bay, Stronsay****Site Overview:**

Mill Bay is a large and relatively shallow bay open to the North Sea
900 metres off the coast of the Bay

Planning Goals:

Professional planning assessment of the planning application which is a specialist area of expertise
Compliance with the LDP and related policies and guidance
Protection of the site and local environmental quality
Special marine environmental and nature interests
Minimise landscape and visual impacts

Issues raised:

Formal screening and scoping-17/477/MARSS- November-December 2017
Compliance with National Marine Plan and 14 related policies and Scottish Planning Policy
Detailed EIA report by specialist consultants- Cooke Aquaculture Scotland
Objections from Orkney Fisheries Association and RSPB
Habitat Regulations Appraisal required to be carried out by Planning Service

Planning Gain and Added Value Outcomes:

Sensitively located fish farm
Detailed controls for wildlife and vermin
Possible future need for on shore facilities

Report Assessment:

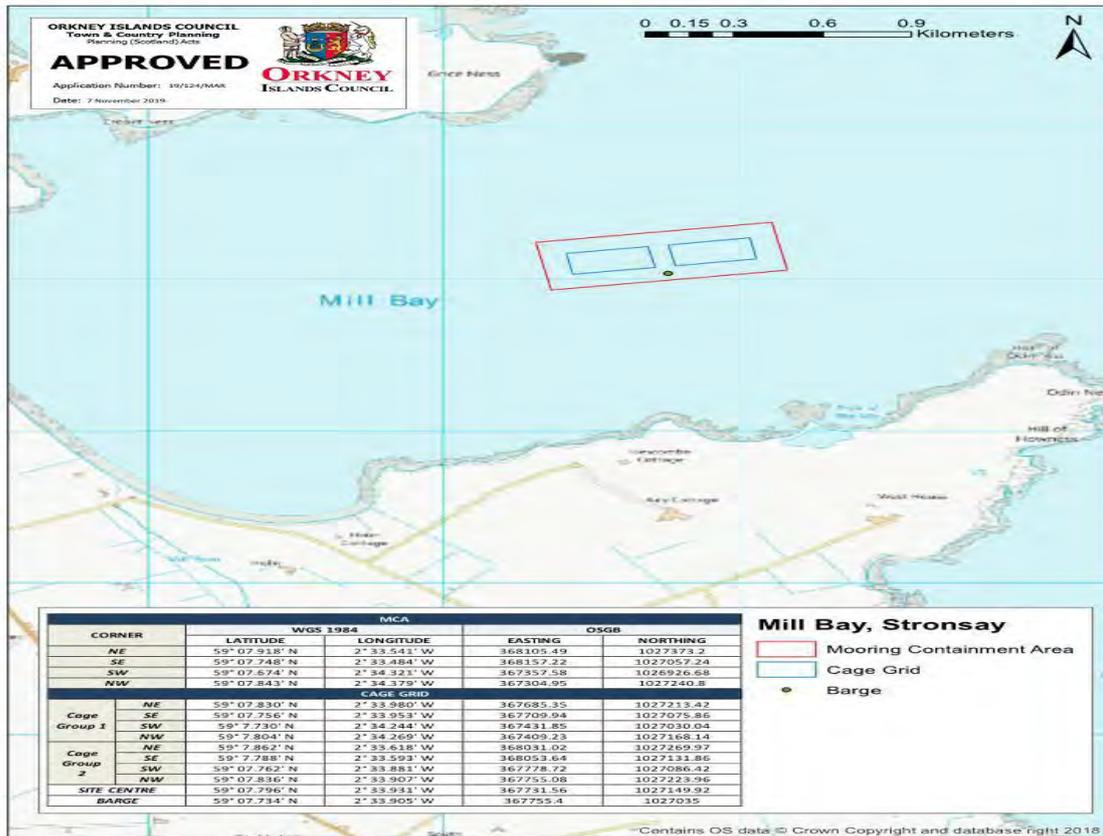
This application was validated in March 2019 and determined in November 2019, with a start on site of March 2020.

It was a Planning Committee decision which supported the officer's recommendation for conditional approval.

Specialist consultations were involved including, European Sites and Habitat Regulations but the application was thoroughly and comprehensively assessed by officers

A very thorough, comprehensive and competent assessment of a specialist application

PLAN 2 – Site Plan for Stronsay Fish Farm



Source: Planning Application file

Case Study 8**Planning Application 17/083/TPPMAJ****Siting of 5 wind turbines and associated roads and infrastructure, Hesta Head, South Ronaldsay****Site Overview:**

Agricultural land

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Protection of the site and local environmental quality

Landscape and visual amenity considerations

Issues raised:

Assessment of major planning application – 358 documents on file to be assessed

Subject to EIA

Environmental Statement assessed

Letters of objection and support

Officer recommendation for refusal

Planning Committee decision to refuse application

Applicant appealed to DPEA and application was conditionally approved

DPEA concluded that the proposal accorded with the LDP and there were no other material considerations to alter that decision

There were significant impacts, but they were considered to be acceptable

Positive net economic benefits

The planning officer report confirmed that the recommendation was a finely balanced one between the economic benefits and adverse environmental and residential impacts

Different weightings could be applied by the decision maker i.e. The Planning Committee

Planning Gain and Added Value Outcomes:

Minimal environmental impacts

Net economic benefits

Report Assessment:

This application is similar to the Costa Head application for 4 wind turbines at 125 metres high- 16/580/TPPMAJ except planning officers recommended conditional approval and the Planning Committee refused the application.

The application was appealed to the DPEA who conditionally approved the application. Again, the judgment was one of significant but acceptable impacts and compliance with the LDP.

The application was validated 6 March 2017, determined by Council on 21 September 2018 and a decision issued by DPEA on 18 April 2019 - 2- year process from start to finish

This was a major, complex application with lots of supporting information and data to assess and consult others on.

Full consideration of all the issues was undertaken by the Planning Service and a proportionate and balanced approach commensurate with the status and complexity of the proposal was taken.

Ultimately a balanced assessment was taken by all parties, albeit with different final outcomes by the DPEA.

Plan 3 – Site Plan for Hesta Head Windfarm



Case Study 9

Planning Application 16/295/AMCMAJ

Erection of a health care facility, associated infrastructure and landscaping, New Scapa Road, Kirkwall

Site Overview:

Edge of settlement boundary

Agricultural land

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Minimise residential amenity issues

A modern, well designed facility

Issues raised:

Major application for assessment

152 documents submitted on planning file

29 policy constraint considerations

2 objections to resolve

Previously agreed in principle - 14/100/PIPMAJ

Design considerations were paramount

Architectural and Design Scotland submitted detailed design comments for consideration

Planning Committee report on 9 November 2016 - validated 18 July 2016 and decision issued on 6 December 2016. Very fast and efficient processing time

Planning Gain and Added Value Outcomes:

A new modern health facility for Orkney

Report Assessment:

This was a very detailed assessment of the design and impact issues and it certainly benefitted from the work carried out by planning staff on the earlier Planning in Principle consent.

The final outcome is a very positive one providing a modern, well - designed health facility for the Orkney community.

The whole application process was handled quickly and efficiently despite the complex nature of the proposal.

Plan 4 – Site plan for proposed health care facility, Kirkwall



Photo 4 – Photo image of proposed new health care



Case Study 10

Planning Application 19/143/PPMAJ

Extend quarry, continued extraction of stone and landscaping, Cursiter Quarry, Firth

Site Overview:

Existing operational quarry

Lengthy legacy of quarrying activity established on the site

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Protection of the site and local environmental quality

Effective noise and pollution controls

Traffic controls and management

Ensure adequate controls for protected species

Minimise adverse environmental impacts

Safeguarded area for minerals and waste facility

Issues raised:

Planning history back to May 2017

Operation of tar plant without planning permission

82 documents accompanying the planning application

Full EIA submission by AECOM

Complex major planning application

Resubmission application validated on 11 April 2019 and still awaiting a decision

Deficient noise information

Formal Stage 2 complaint to OIC from Director of AECOM on behalf of OIC, the applicant

Scheduled to be determined at March 2020 Committee but withdrawn by officers to resolve outstanding/overlooked issue re Extractive Waste legislation

“Inter Council liaison was considered to be poor”

Planning Gain and Added Value Outcomes:

Continuity of employment and important local source of quarry stone

Devonian Flagstone in much demand locally

Retain 90,000 tonnes per annum production

Report Assessment:

The application was complex and complicated in the sense of the detail to be assessed and understood.

Mineral extraction applications are always difficult to analyse due to their technical nature and consultation responses are critical to the planning assessment.

The principle of the proposal was straightforward and supported by the policies in the LDP, but it does appear to demonstrate yet another example of a lack of “Team Orkney” approach and attitude to this particular project.

The application was unfortunately delayed at the last minute and removed from the March 2020 Planning Committee agenda to investigate the implications of the Extractive Waste legislation and requirements, which should have been identified much earlier in the process and before a planning application was submitted.

Photo 5 -Existing Cusiter Quarry



Source: Planning application file – AECOM submission

Case Study 11

Planning Application 20/037/TPPMAJ

Erection of 6 turbines (149.9 metres max), Quarterness, north of Kirkwall

Site Overview:

Agricultural land to the north west of Kirkwall – see Site Location Plan
41 policy constraints listed in LDP

Planning Goals:

Professional planning assessment of the planning application
Major application status
Compliance with the LDP policies and related guidance
Protection of the site and local environmental quality
Nature conservation interests
Balanced assessment between the economic benefits and visual and environmental quality
Landscape impacts

Issues raised:

Pre application discussion took place – ITP Energise consultants for OIC
Subject to EIA scoping process
Several design iterations
Invalid application at submission- no scale or dimensions shown on plans- legal and planning challenges by OIC consultants
Letters of objection and support submitted
A Processing Agreement is currently being discussed but not signed as yet between the applicant (OIC) and the Planning Service (OIC)
Concerns about the discharge of conditions for temporary meteorological masts on the site
Planning delays at conception stage of project - *“planning perceived as very slow and unhelpful- seen as a road-block in the progress of the project”*

OIC decision to refer application to the Scottish Government for determination on the grounds that the development is of national importance

Planning Gain and Added Value Outcomes:

This is a recently submitted application – January 2020- and is currently being assessed
Will be income generation for the local community
Currently generating 120% of grid capacity meaning some turbines are switched off

Report Assessment:

This was a Community Windfarm Project where OIC is the applicant and it is considered crucial to the case for the New Transmission Connector which is vital to the local economy and enables surplus energy generated to be exported.

Excellent publicity notes and information for the general public was published by OIC as applicant and the complex details were simplified in easy to understand graphic form.

This is the first application out of 3 to be submitted by OIC, others to be in Hoy and Faray in the North Isles.

This is a nationally significant and strategic set of applications which demand a truly effective and efficient “Team Orkney” approach without compromising the statutory duties of the Council as Planning Authority. I would also expect applications of this magnitude to be identified at the outset within the Planning Service as significant corporate projects which require to be led by the Head of Planning and his staff and afforded the highest level of priority. Monthly progress monitoring is essential as timescales are business critical.

There is no evidence in the planning files of whether there was prior consultation with the Planning Service before these Council sponsored sites were chosen but I would like to think that this joined up approach had been undertaken, even although there are different roles and responsibilities for the Council acting as Planning Authority. This is another essential component of a “Team Orkney” approach.

Plan 5: Site plan and indicative photo montage, Quaterness windfarm



View from Wideford Hill



- Turbine Tip Height:** 149.9 m
- Hub Height:** 82 m
- Rotor Diameter:** 136 m
- OS reference:** 341197 E 1011674 N
- Eye level:** 222.61 m AOD
- Direction of view:** 8°
- Nearest turbine:** 1.751 km
- Horizontal field of view:** 53.5° (planar projection)



Orkney's Community Wind Farm Project



Case Study 12**Planning Application 20/067/PP****Extension to Glaitness Primary School, Kirkwall****Site Overview:**

Existing primary school building and complex

Restricted curtilage

Resubmission of previous application 19/381/PP due to proposed material changes

Design Statement submitted by agent- HRI Munro Architecture – on behalf of OIC

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP policies and any supporting guidance

Preserve local environmental quality

High standard of design

Protection of residential amenity

Issues raised:

Initial pre-application with Planning policy staff - April 2019- to discuss the general form and character of the proposed buildings

Unusual in itself as Development Management staff would usually advise on a planning application?

Planning Gain and Added Value Outcomes:

Application not determined at this stage

Proposed extensions required to comply with education requirements and new legislation

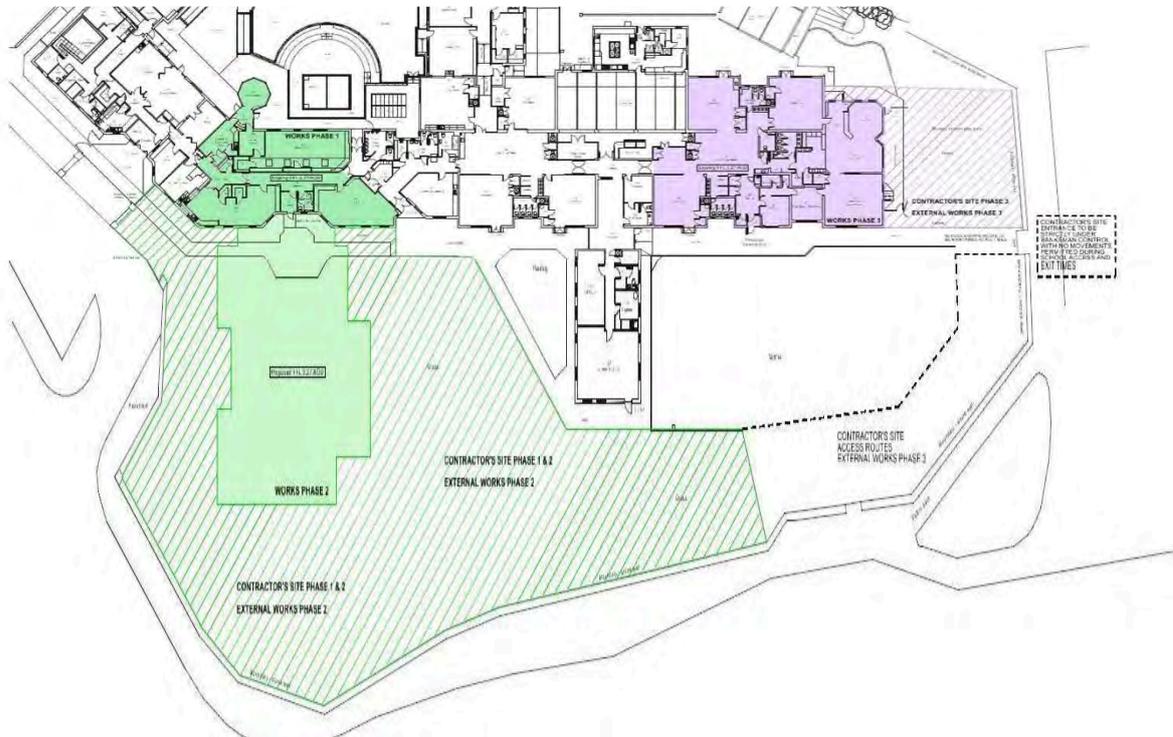
Report Assessment:

Proposal appears to be straightforward with no policy or detailed design issues

Raises issues of inter-service liaison and cooperation levels - Team Orkney approach

Another example of an OIC project in the Capital Plan which takes longer to determine than appears necessary at first glance.

Plan 6 – Site Plan for Carness Primary



Source: Planning application file

Case Study 13

**Planning Application 19/365/PP Garden House, New Scapa Road, Kirkwall
Change of Use from Offices (Class 4) to offices and Class 2 uses, alter car
park and stop up public road**

A similar proposal 19/241/PP was withdrawn

Site Overview:

Existing office building complex

Sloping site with existing trees and car parking area

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Protection of the trees on the site and maintaining local environmental quality

Safe and appropriate car parking to meet OIC standards

Issues raised:

Previously withdrawn application did not provide sufficient car parking spaces for the extended uses

Existing trees on site were adversely affected with the loss of trees.

Planning Gain and Added Value Outcomes:

The application is a current application still to be determined but it was discussed in full at the Planning Committee on 4 March 2020 who continued the application for a site visit to look at the closure of the public road and road safety concerns

The officer recommendation is for conditional approval with conditions including saving the existing trees and the provision of adequate car parking, agreed with Roads Service

Report Assessment:

The application has been delayed due to the unacceptability of the original proposals and the decision to delay for a Planning Committee site visit

The resubmitted application is acceptable in planning terms but as there are 23 objections the application has to be thoroughly assessed

Planning officer advice was consistent with LDP policies and proportionate to the proposal

Case Study 14

Planning Application 20/048/PP

Demolition of former bus station and change of use of land to form car park, Kirkwall

Site Overview:

Demolition of former bus depot and resurfacing and redesigning the car park layout

Resubmission of earlier application 19/271/PP which was validated on 22 July 2019 and withdrawn/returned on 18 February 2020

Planning Goals:

Professional planning assessment of the planning application

Compliance with the LDP and related policies and guidance

Local environmental quality and residential amenity

Safe accesses and acceptable details

Issues raised:

Issue of non-valid letter- minor matter re red line boundary and lack of scale shown on drawings

Design and impact assessments which were not supported by Roads and Transportation services who objected to the proposal

Objections from adjacent house re amenity and noise considerations

Previous planning application 19/271/PP was withdrawn to renegotiate the proposal, but no correspondence retained online to assess the issues raised in any detail

Concerns about use as a lorry park

Planning Gain and Added Value Outcomes:

Planning application not determined

Demolition of unsightly building

Reinstatement with traditional building materials

Report Assessment:

Straightforward proposal which needed joined up Council effort across services

Internal Council services submitted objections against the proposal

There is no evidence online of any pre-application processes or discussions

It is not obvious to me what the reasons for delay actually are

Plan 7 – Location and Site plan, former bus depot, Kirkwall





Key Findings

6.7 As stated earlier, the Case Studies have been used to evidence the concerns raised by planning staff and applicants, both private sector applicants and OIC applications. The assessments have included a desktop assessment of all the relevant planning files via the Council's online system, but they are not a detailed examination of all the components and supporting documents set out in the planning files. They do however reflect on the high-level concerns cited at the outset by the Interim Chief Executive.

6.8 I have restricted my analysis and comments to assist in putting the concerns into context and to suggest improvements to process and procedures to improve some of the contentions which have been identified.

6.9 The Planning Service deals with a complex and varied workload, including national, major and large- scale proposals which can impact on their internal capacity and experience and specialist areas of knowledge and awareness

6.10 Formal and informal pre-application consultations and conversations are varied in their quality and can be over-demanding and too detailed.

6.11 Timescale delays are evident in the work of both applicants and planning staff for various reasons e.g. late consultation responses, lack of sufficient detail submitted with applications, invalid applications being submitted etc.

6.12 The submission of details by OIC as the internal applicant can be sub-standard to the point of not being "legally valid" and external legal and planning consultants then debate the finer points.

6.13 Council applications do not appear to be given any special status or treatment and can be over-managed, with no real relationships between the service departments, even within the same Directorate.

6.14 All applicants require to be treated in exactly the same manner but there is a view that the Council applications are unduly penalised in order to ensure that the Council is protected from legal challenge or judicial review processes. This is an approach which can adversely affect the timescales which the Council is anticipating to progress projects. Inevitably conflicts can arise between the views held by individual services and individual staff members.

Evidence Base – Assessment of the Case Studies

- 6.15 The Case Studies have proved to be very informative in obtaining a selective picture of the interactions between applicants and the Council and providing clear evidence of the benefits, added - value, proportionality of requests and demands, and also the healthy tensions which exist between the Council and applicants when in negotiating and comprising territory.
- 6.16 The Council's elected members are strong supporters of policy and the Planning Service focus is on achieving positive and enhanced outcomes for the environment and the communities within Orkney. Housing in the Countryside policies were raised by all parties as an example of a need for clarity and design guidance, which was previously provided but was subsequently withdrawn.
- 6.17 There are a small number of instances when the planning process can appear to break down and timescales can become elongated and outcomes become less predictable. Reasons for this can lie with the Council and also the applicant, so that effective and clear communication between the parties becomes paramount.
- 6.18 Existing design guidance is too complex and complicated, and it consumes unnecessary resources for both the Council staff and the applicant and lengthens the planning process.
- 6.19 The applicants and agents I met each represented 30 years of experience in working in Orkney with successive planning officers. The key concerns they raised with me, with examples, included,
- Observed changes in planning advice and approaches over the last 3/4 years
 - Over-use of Development Briefs - 16 Kirkwall sites provided as an example- all require Development Briefs
 - A sense of too much early focus on detailed requirements, including application validation tests - seen as too excessive
 - Often conflicts between Road Construction Consent (RCC) requirements and design requirements and aspirations
 - Officer requirements/intentions are more aspirational than enabling
 - Unusually, applicant issues were elevated to Chief Executive level as no tangible progress was being made and there was ***“no certainty re critical Committee deadlines to ensure job security/continuity”***

- Developers have increasingly been taking a pragmatic approach to pre-application discussions and negotiations and settling for “second best” to obtain consent. This can lead to lost opportunities for added value and planning gain in terms of design, landscaping and plan making.
- A lack of proportionality being applied by officers and little or no account taken of professional consultant’s experience and expertise when assessing proposals.

6.20 As we have seen from the Case Studies and the assessments in the other sections of the report there are documented Planning Service responses to these matters. e.g. the introduction by the planning authority of the HOPS national to ensure clarity and consistency.

6.21 Also, in relation to added value, this has to be a joint process agreed between the applicant and the planning officer to ensure that a balance is struck between any aspirational aspects and the need to be pragmatic and deliver a technically appropriate solution.

6.22 My reading of the various documents referred to me and available to me online confirms that sometimes discussions and positions can become entrenched, but consultants submitted reports are consistently used to ensure that the proposed development complies with the Local Development Plan and the relevant policies and other related requirements. Indeed, consultants’ reports can often be used to substantiate a case for approval where development may otherwise be regarded as unacceptable or non-compliant with the LDP and its policies.

Improvement recommendations for Council consideration

CS1 – There is a need to review the current Design Guidance and hierarchy of advice to provide a coherent and simplified approach without sacrificing national and local aspirations for high- quality designs and placemaking.

CS2 – The Council needs to produce an overall Design Guide or similar for Housing in the Countryside, which should be jointly prepared between the Council and applicants/agents.

CS3 – The Council and Developers would benefit from the publication of a jointly agreed document on Planning and Developer Guidelines to set out the key parameters, details and specifications required.

CS4 – The Council should reinstate the annual Developer and Stakeholder Forum for discussion and issue raising to jointly develop improvements and efficiencies. The need for a separate House Builders Forum should also be considered as I know that this operates well in other parts of Scotland and can help to build on and improve relationships and behaviours. (This Review Report can assist in setting an agenda for these meetings).

CS5 – The Planning Service should review its communication channels with applicants to ensure that planning advice is clear and succinct and provided at the earliest opportunity, including the role and effectiveness of pre-application advice and consultation.

CS6 – A user friendly, simplified Validation Checklist extracted from the Heads of Planning Scotland (HOPS) national version, which has already been adopted by the Council, should be published and made available to all applicants, both internal and external, to confirm the specific requirements for submitting a legally valid application submission.

CS7 – Briefs for external environmental consultants contracted by the Planning Service, on behalf of Orkney Islands Council, should not be solely restricted to EIAs, but they need to be extended to include a wider planning assessment covering other aspects of environmental and related legislation e.g. Extractive Waste regulatory requirements.

CS7 – A follow-up meeting with the applicants and agents interviewed during this Review should be convened as early as possible to discuss the higher - level implications of the Review and its Conclusions and Improvement Recommendations. This should involve senior planning management and should preferably be convened and chaired by an independent and impartial party.

3.0 OVERALL CONCLUSIONS AND COMMENTS

3.1 It has been my pleasure to carry out this short, focused review for Orkney Islands Council and I will be happy to brief relevant members of staff, councillors and customers on the key findings and proposed improvement areas as directed by the Interim Chief Executive.

3.2 I would also be pleased to offer any further support and guidance to OIC on further developing any of the aspects I have identified for improvement or any other related topics which may be identified by OIC.

1. Planning staff had been made aware that a few applicants had been in direct contact with the Interim Chief Executive and they felt that the information provided on several occasions regarding timescales and performance levels had been adequate to address any industry concerns.
2. The planning staff were originally concerned about the content and nature of the review which was undertaken at short notice and they felt it was not communicated to them properly and this affected staff morale. At the start of the review the Interim Chief Executive met with the planning staff and senior management to set out the terms of the review and he answered questions posed by the staff. The timing and detail of the review process was obviously outwith my direct control, but I adopted a personal, open and honest approach from the outset to put everyone at their ease.
3. Despite the initial staff wariness and concerns, I hope I have managed to allay these fears during the conversations we held and to present a fair and balanced review of some elements of their positive work ethic and approaches, including how well they perform overall, the quality and added - value they bring to the planning outcomes they achieve and their passion and commitment to working in a challenging workload context.
4. For applicants and agents, their frustrations with the planning process and individual transactions resulting in delays and re-working and additional costs, are understood and appreciated. Although these applications are not the norm in terms of timescales or approaches, I hope I have accurately identified the concerns and frustrations from these planning customers which were brought to the direct attention of the Interim Chief Executive.
5. The Improvement Actions I have identified will, individually and collectively, assist in better project management of OIC applications, better targeted focus on housing applications, and resources support for the Planning Service. In addition, better staff/customer interactions are highlighted, coupled with some process and procedural adjustments to further enhance existing areas of good practice.

6. I consider that immediate attention needs to be paid to the updating and review of the Service Workforce Plan to pick up on the earlier issues raised on salary scales, career progression spans, and recruitment processes within the Planning Service.
7. For the Council moving forward I see the key challenges as continuing to foster and develop the “Team Orkney” culture and approach initiated by the Interim Chief Executive which is achieved by services working better together, even within the same Directorate, and not against each other, with an effective senior management and leadership clarity of focus on the OIC project ambitions and aspirations.
8. The customer relationships between planning staff and a few of the regular applicants/agents needs to be reset to the behaviours and standards which were previously achieved and referred to by all of those I met.
9. Regular opportunities for joint dialogue and wider stakeholder forums can assist in this rebuilding process and give improved confidence to both parties. Improved approaches to documentation on Design Guidance, Housing Layouts, and Pre-Consultation opportunities will assist in this important change process, particularly if this involves joint discussions with selected applicants and agents.
10. It is obvious to me that everyone is attempting to work effectively together for the benefit of Orkney and its communities but there will always be instances when matters take a different turn to what is expected. Although some of the cases examined were extreme in terms of the timescales taken details requested and some relationships appear to have temporarily broken down in part, it is clear to me in the wider view that thankfully these occurrences are rare and can be better managed in the future with appropriate support and collaborative working. All the participants I spoke with want this outcome to be achieved.

3.3 Finally, I would like to extend a thank you to all the participants who assisted me in the review process for their clarity, clear views and evidence, and their collective wish and desire to improve processes, procedures and relationships which ultimately made by job a lot easier to carry out.

3.4 The full Review Report, including the evidence base, case studies, conclusions and improvement actions is formally submitted for the careful consideration and assessment by the Orkney Islands Council. In particular, I hope that the recommended Improvement Actions will find support and endorsement and will be implemented in due course to further strengthen the clearly articulated aspirations and ambitions of the Council.

APPENDIX 1

1. The Agreed Project Brief

1.1 The agreed brief is to work directly to the Interim Chief Executive who is seeking an independent and external review of elements of the planning service, primarily associated with developer interactions, in order to validate the approaches taken and to identify any areas for potential improvement in the context of experiences and best practice identified in other parts of the country.

Methodology to be adopted

1.2 Specifically, the brief had to include the following assessment areas:

- Direct engagement and meetings with key developers/applicants and agents — list provided at inception meeting
- Direct engagement with key planning officers
- Direct engagement with the chair and vice chair of the Planning Committee
- Review of planning applications to consider the approach adopted in engaging with developers in terms of proportionality and outcomes which were achieved. Case studies to include major applications e.g. Cairston Road, Stromness, Sub-station, Finstown (national), Carness housing development, Kirkwall, Stronsay Fish farm sites, Costa Head windfarm, Hesta windfarm, Balfour Hospital
- Consider planning advice provided to applicants in terms of consistency of opinion and advice provided to applicants. Access to key documents will be provided, including groups engaged by the Planning Service
- Review of the interpretation of development brief planning guidance to advise on whether this is proportionate or whether it could be streamlined. A case list for review to be agreed.
- Review of approach to preparing and engaging with developers/applicants on development briefs through case studies
- Review of the engagement by the planning team to engage and other Council services in the delivery of project outcomes e.g. the house build,

including Carness, quarry extension, community wind project, Glaitness Primary school extension, and former bus station demolition

- Review of the approach to pre-application advice and interaction with developers/applicants including comment on the value which is added through this process, including the provision of the total number of pre-application advice cases, and case study of Walliwall, Kirkwall.
- DESK top study of planning performance levels/trends for last 5 years as evidenced in published Planning Performance Frameworks and covering letters from SG to CEOs. e.g. Is Orkney performing well on paper against national targets and the Scottish average
- Details of Orkney Councils self-identified improvement measures, with an assessment of how well they have been fully implemented?
- A comparison of performance and service quality with other Councils
- A review of the services resourcing levels in comparison to other councils to establish if the service is appropriately resourced for the known workplan, in relation to recruitment and retention of staff, including comparison of salaries for equivalent posts in other councils, and whether the posts allow for career progression

Expected Outcomes

1.3 The outcomes from the research and interview phases is to be a concise report providing an opinion on the overall approach of the Orkney planning team in terms of its interaction with the development sector and other council departments and producing evidence of any strengths and/or weaknesses in the approaches adopted. The report includes recommendations for the Council to consider for any necessary improvement actions and procedural changes.

Timeframe

1.4 The project brief was discussed orally in February and the key issues were itemised. The main research phase commenced on 2 March 2020 following a first meeting with the Interim Chief Executive and the report is to be completed by no later than Monday 30 March 2020.

APPENDIX 2 - READING AND REFERENCE LIST

Orkney Best Value Assessment Report, Accounts Commission/Audit Scotland, December 2017

Local Government Benchmarking Framework Report, 2019

Orkney Local Development Plan, Adopted, April 2017

Development Briefs and Design Statements, Planning Policy Advice, June 2017

Orkney and other Scottish Council's annual Planning Performance Frameworks

Internal Audit Report-Capital Programme Slippage, 14 November 2019

Planning Committee- Agenda Papers and Reports

National Benchmarking Overview Report 2018/19

Planning Authority Performance Statistics, Scottish Government Annual reports

National Records of Scotland (NRS) Council Area Projections, February 2019

NRS- Mid Year Population Estimates Mid 2018

Letter from Kevin Stewart, Minister for Local Government, Housing and Planning to Chief Executive "Planning Performance Feedback", 11 February 2020.

Workforce Planning – Report to the Policy and Resources Committee May 2018

Probity and the Professional Planner, RTPI, April 2020

APPENDIX 3 – ACKNOWLEDGEMENTS AND LIST OF INDIVIDUAL CONTACTS AND CONVERSATIONS HELD

I am grateful to the councillors and staff of the Orkney Islands Council who were very welcoming and supporting. Their knowledge and insights were much appreciated, and they have brought a reality and authenticity to the report.

The customers of the planning service who spoke to me were forthright and challenging and their comments and issues were articulated well.

All of the conversations I had were open and honest and showed a strong commitment to Orkney and a desire to getting things done.

Jointly there was an obvious and collective passion and commitment to work together in partnership in a positive manner and for the benefit of the Orkney communities.

I appreciated the candour and rigour shown by these contacts which contributed to a rounded and balanced report.

I extend my grateful thanks to all the following participants,

Orkney Islands Councillors

James Stockan, Council Leader

Rob Crichton, Chair, Planning Committee

John Ross Scott, Vice - Chair, Planning Committee

Orkney Islands Council Staff

John Mundell, Interim Chief Executive

Gavin Barr, Executive Director, Development and Infrastructure

James Wylie, Executive Director, Education, Leisure and Housing

Roddy Mackay, Head of Planning, Development and Regulatory Services

Jamie Macvie, Planning Manager

Margaret Gillon, Senior Planner

David Barclay, Senior Planner

Planning Customers**Stephen Kemp, Orkney Builders****Richard Flett, Development and Properties Manager, Orkney Housing Association****Sam Sweeney, Bracewell Stirling, Architectural Practice****Stephen Omand, Chartered Valuation Surveyor****Craig Macinnes, Property Manager**

APPENDIX 4 – JIM BIRRELL INDEPENDENT CONSULTANCY SERVICES

Jim Birrell provides an independent consultancy service, specialising in planning and environmental services, public sector management, service reviews, research and survey work for the public and government sectors, and also staff training and development.

He runs separate consultancy services to manage these activities where he is the sole operator. He does however have personal access to an extensive network of professional contacts and contributors who can assist in any specialist work areas.

Jim has a proven track record of achievements in these fields based on 45 years' experience in local and central government environments. He is well respected amongst his peers and his views and comments are often sought out from other organisations and researchers.

Prior to retirement in 2015 Jim has held a variety of senior posts in Fife, including Director of Planning and Building Control, Depute Chief Executive and Head of Planning. In addition, Jim has held a host of professional and voluntary roles across a variety of interests and disciplines.

8 years ago, Jim was the lead architect of the Planning Performance Framework which is nationally recognised and used by all Scottish Planning Authorities and endorsed by the Scottish Government.

In the last 3 years Jim has produced a series of influential research and survey reports for both Scottish Government and Heads of Planning Scotland, including Planning Fees, Planning Performance, the Impact of Increased Fees for Major Applications, and Planning Reforms, including the Planning Bill.

Jim is a chartered town planner and sits on the Royal Town Planning Institute (RTPI) Scottish Executive Committee. He is a Director and Board member of Fife Historic Buildings Trust and currently he sits on the Scottish Government/COSLA Ministerial High-Level Group on planning performance.

Currently Jim is contracted to Heads of Planning Scotland (HOPS) as a part time Project Manager dealing with the planning reforms agenda and new Planning Act. He is also Lead Officer on a research survey for the Scottish Government looking at the relationships and liaison between planning and education services in Scottish councils.

Orkney Islands Council

Code of Practice

for the

Management of Burial Grounds

Foreword by the Chair of the Development and Infrastructure Committee

Our burial grounds are an important part of Orkney's history and our communities. They reflect a time when communities were smaller and burial grounds were a local asset; cared for and maintained to a high standard locally. The Council is now the custodian for 47 burial grounds across the mainland and isles.

The growth and management of burial grounds is a key part of our work within the Development and Infrastructure team, and this includes ensuring our burial grounds can meet the needs of our communities and are safe and pleasant places for people to visit.

Orkney Islands Council, like many other councils, has responsibilities to uphold and must be compliant with national legislation relating to burials and burial grounds in the Burial and Cremation (Scotland) Act 2016. This has meant some changes to the ways we work and how burials are recorded and undertaken.

This Code of Practice and the associated Management Plan and Customer Charter explain how we manage our burial ground assets, what standards we work to and the contractors who work within our sites such as masons and grave diggers, and the rights and responsibilities of our local communities when they are owners of a right of burial in our burial grounds.

Managing and maintaining our burial grounds is not without challenge in terms of the available resources and given the annual financial pressures local government faces. It is also important that we continue to consider all options for community involvement, to keep our unique heritage and communities at the heart of all we do. However, through this Code of Practice we endeavour to bring best practice and industry through approved approaches to our work while continuing to cherish and protect these critically important community assets.

Chair – Development and Infrastructure Committee

Picture

Graham Sinclair

1) Introduction

- i) Orkney Islands Council, through the requirements of the Burial and Cremation (Scotland) Act 2016, is responsible for the overall management of council owned burial grounds. The Council provides its burials service to the public and to undertakers through the council's registrars, administered locally by burial clerks in some areas. The physical assets are currently managed by the Development and Infrastructure Directorate, within the Development and Infrastructure Committee Governance structure
- ii) All aspects of policy, strategy and operational approach are managed through the Infrastructure and Strategic Projects Service as part of an Environmental Services burial grounds function. This includes the duties and responsibilities as "Burial Grounds Authority" including all matters relating to the lair provision, maintenance and management of all assets contained in each burial ground
- iii) The Code of Practice for the management of burial grounds in Orkney, and the accompanying Burial Ground Management Plan, outlines the procedures and practices for interments and the management and operation of burial grounds. Earlier versions of the rules and regulations which apply to individual burial grounds are superseded by this Code of Practice

2) Interpretation of Terms

In this Code of Practice, the following words and expressions have been used with the following meanings assigned to them:

- i) "The Burial Authority" and "The Council" refers to Orkney Islands Council
- ii) "Lair" refers to the piece of ground within the cemetery under the control of the Council in which the Exclusive Rights of Burial are granted by a certificate
- iii) "Certificate" refers to the Certificate of Right of Burial granted by the Council or its statutory predecessors
- iv) "Owner" refers to the person to whom the Certificate of Right of Burial is granted and his/her heirs
- v) "Memorial" refers to any headstone, monument, tombstone or grave marker placed on a lair

3) Roles and Responsibilities – Policy approach

The parties with the day to day management of burials and burial grounds have different roles and responsibilities. Set out below are the key functions managed through the Code of Practice and the principal roles of each party with regards to;

- a) Developing, implementing, reviewing and monitoring all aspects of policies, strategy and operational procedures relating to provision and upkeep of the asset
- b) Ensuring that all burial grounds are safe and accessible, and any work therein is undertaken to appropriate standards
- c) Ensuring that prescribed inspections are undertaken and any subsequent necessary action taken to ensure public safety
- d) Ensuring where possible, lair owners are contacted in advance of any required maintenance work
- e) Ensuring the process of undertaking a burial is done in accordance with Council guidelines and in line with prevailing legislation, regulation or guidance

These functions are fulfilled by several parties both internal and external to the council;

Environmental Services - Burial Grounds team

- (a) Asset management – Lair provision, major and general maintenance, associated operational management policy and strategies
- (b) Compliance with legislation, regulation, statutory guidance or advisory best practice
- (c) Fees and Charges – pricing for purchase of right of burial and any other interment cost issues
- (d) To manage queries from the general public through the Burial Grounds Officer
- (e) To ensure the accurate electronic recording of burials, purchasing and amendments of certificates of right of burial, and applications for erections of memorials
- (f) To ensure the ongoing inspections of burial grounds and memorials to address public safety and coordination of all associated maintenance works
- (g) To ensure Historic Environment Scotland is contacted in relation to any works required to memorials in line with Class V of the Class Consent Order 1996 (relating to urgent works on historic monuments)
- (h) Communication and engagement with Council departments, Community Councils and other organisations wishing to work within the burial grounds.
- (i) Setting the terms and conditions for sale of rights of burial
- (j) To ensure any mason commissioned to erect a memorial or memorial is appropriately qualified, trained and approved to do so.

Environmental Services – Operational Services (Roads)

- (a) To liaise with the registrars and funeral directors on grave digging, filling requirements and associated timings
- (b) To provide maintenance services as directed by the Burial Grounds Officer

Registrars – Corporate Services Directorate

- (a) The administrative process of getting approval to carry out a burial, including liaison with funeral directors to achieve this in a timely manner
- (b) The administrative processes in managing lair ownership including keeping accurate records, amendments, cancellations and renewals of certificates
- (c) Keeping accurate records of all purchases and any subsequent amendments of Right of Burial Certificates and burials including updating burial grounds plans

Democratic Services – Chief Executives Service

The administration of appropriate community-based works

Funeral Directors

- (a) To liaise closely with the registrars regarding details of burial requirements. To agree with the operational team regarding grave digging and filling
- (b) To ensure any guidance or advice supplied to customers is in line with Orkney Islands Council Customer Charter

4) Policy Drivers and Operational Procedures

- i) The Development and Infrastructure Directorate Service holds responsibility for the provision of lairs and major and minor improvements. The service is the custodianship of the policies, strategies and procedures relating to the general provision and upkeep of the burial grounds. This is discharged by the Environmental Services team, principally through the Burial Grounds Officer
- ii) Our approach ensures that we comply with current legislation, regulation and relevant guidance. In addition, our associated delivery policies, strategies and operational procedures address all aspects of compliance. This Code of Practice and associated documents are available for reference on the Council's website and clearly set out our approach across several function areas, including but not limited to;
 - (a) Regular inspections of burial grounds including memorials adopting a rolling 5-year programme
 - (b) Follow-on processes to address a memorial risk (e.g. marking up, cordoning, possible repair, communication etc.)
 - (c) Set standards for placement, maintenance and repair of memorials
 - (d) Setting lair owner's rights and responsibilities (e.g. on notification of an issue their need to act) or, if being unable to make contact, noting the action has needed to be taken in accordance with current Scottish Government guidance
 - (e) The Customer charter –The conditions of sale requirements for the owner of right of burial, but also the service they can expect from the council in their management of the burial grounds
 - (f) Pricing schedule to reserve or purchase a right of burial in a lair
 - (g) Setting maintenance standards, subject to available funding, for contracted works such as grass cutting (cuts per year, height etc). This includes supporting community councils that may manage and set their own maintenance standards for a specified burial ground.
 - (h) Managing the records system for lair occupancy and associated information e.g. owner details, required works etc
 - (i) Managing and facilitating reporting processes for damages, deterioration, depreciation and other issues that may need investigation including remedial works
 - (j) Access and egress requirements for vehicles entering a burial ground (i.e. normally restricted to the hearse, maintenance vehicles or in special circumstances vehicles for disabled persons)
 - (k) Access and egress requirements for pedestrians entering a burial ground
- iii) The day to day administration of these policies and operational procedures are managed by the Burial Grounds Officer, in close liaison with others noted in section 3 above
- iv) The burial ground clerk is the first point of contact for the reservation and or allocation of lairs. The clerk maintains the plan of the burial ground by recording the use or reservation of lairs. This is made available to the Burial Grounds Officer who liaises closely with the registrars to ensure that records are up to date and accessible

v) The Council is responsible for the provision of burial grounds and for the maintenance of the assets within, excluding memorials which remain the property and responsibility of the burial rights holder. This is a maintenance function to ensure that such assets are safe and fit for purpose. This does not include replacement unless beyond economical repair and does not necessarily include any betterment (upgrade). If replaced that will be on a “like for like” basis. Maintenance may include, but is not exclusive to:

- (1) Grass Cutting
- (2) Access Paths
- (3) Boundary Walls
- (4) Fences
- (5) Car Parks
- (6) Any buildings (unless formally taken over by other parties)
- (7) Digging and refilling of graves (including topping up over time)
- (8) Settlement (depressions or hollows forming)
- (9) Signage (including warnings or other advice on access)
- (10) Pest Control
- (11) Drainage Systems
- (12) Lighting (where present)
- (13) Gates

5) Exclusive Right of Burial

- i) Reservation of a lair or lairs is made through application to the clerk responsible for the preferred burial ground. On receipt of the completed form and the prescribed fee as determined by the Council, the clerk shall issue a certificate giving the named person and his or her heirs the Exclusive Right of Burial in the reserved lair or lairs. The fees are published on the council's website and reviewed periodically.
- ii) Currently, the Exclusive Right of Burial applies in perpetuity. However, the Burial and Cremation (Scotland) Act 2016 requires that rights can only be sold for an initial period of 25 years. This requirement is not yet in place but will be adopted by Orkney Island Council in accordance with national guidance and direction of travel at an appropriate time.
- iii) Lairs will be issued by the burial clerk of the cemetery, in full consideration of the available capacity remaining. Requests for specific lairs will only be accommodated in exceptional circumstances following written request to the Burial Grounds Officer
- iv) Joint ownership of the right of burial in any lair is prohibited and only one person shall be registered as the proprietor of any one lair. The proprietor is not be entitled to sell any right of burial belonging to them except to the Council, through cancelling their ownership with the relevant clerk for that burial ground. The council is to be informed of any changes to lair detail and kept up to date of who is responsible should contact need to be made.
- v) Owners shall not for pecuniary or any other reason allow any person other than members of their family to be interred in the lair unless with the consent of the Council
- vi) The owner is permitted to request a change to the lair for which a certificate has been issued by applying to the appropriate burial clerk
- vii) The burial ground clerks will, as requested, and quarterly as a minimum, submit to the Council a record of all burials, including the interment of ashes and the scattering of ashes, together with a list of any lairs which have been reserved during the period. The Burial Grounds Officer will ensure records are maintained appropriately for this purpose
- viii) To ensure lairs are available for immediate burials it may be necessary to reserve capacity in cemeteries with insufficient long-term lair space. In this situation advice will be given on where there are alternate locations with space. If this is not preferred the request may need to be placed on a waiting list for any reservation. The reserved lair can be paid for at the current price (i.e. full pre-payment)
- ix) Enquiries regarding the interment of a cremation urn or casket, or the scattering of ashes must be made to the clerk for that burial ground. A certificate is required in respect of the interment of a cremation urn or casket, which can be for a lair that is already in use, or through purchasing a right of burial for the ashes. Scattering of ashes will be recorded by the clerk in the register of the respective burial ground

- x) Owners of the right of burial are responsible for any memorial that is erected on their land and are therefore responsible for the maintenance of that memorial. The owner needs to act within 3 months once a risk has been identified by either themselves or through the Council inspection programme. The owner must appoint a suitably qualified, trained and certified specialist to undertake any repairs deemed necessary, who has the required permit to work on memorials within our burial grounds

6) Burial Record Procedure

- i) An undertaker is usually engaged for individual funeral arrangements. The burials clerk will liaise with the undertaker to ensure all funeral details are communicated and recorded. In some circumstances, a relative or friend of the deceased may assume this responsibility, in which case some of the obligations of the undertaker described in this document, would apply to that person
- ii) A burial can be recorded by the burial ground clerks once a Right of Burial has been established for the required lair. This may have been purchased in advance or will be purchased at the time of arranging the burial
- iii) Requests for burial must be made by the undertaker or family member arranging the funeral on completion of the appropriate form which is emailed to burial@orkney.gov.uk
- iv) Requests for burials will be processed Monday – Friday 8am-8pm. Requests can be sent via email at weekends, and will be picked up by the duty officer on Monday. However, urgent requests can be accommodated if necessary.
- v) Requests for burials must have all relevant information included on the application. Funeral dates will not be agreed until all required information is supplied
- vi) Burials can normally take place Monday-Saturday with times agreed depending on availability of resources. Burials outwith these times can be arranged in the case of urgency, and with the consent of the appropriate officer.
- vii) At the time of burial, the undertaker or person acting in this role should give a Certificate of Registration of Death (Form 14) to the burial ground clerk and in the case of stillborn child, a Certificate of Registration of Stillbirth (Form 8). In the case of interment of a cremation urn or casket, the original Certificate of Cremation should be submitted to the burial ground clerk as soon as possible
- viii) It is the responsibility of the Burial Grounds Officer to ensure that the Certificate of Registration of Death and the certificate of Right of Burial are kept for retention by the Council as a complete record of the burial

7) Lair Requirements

- i) Each burial ground is divided into sections and further sub-divided into lairs which can accommodate one or more burials. Details of these sections are recorded in a burial ground plan. In the newer burial grounds, lairs identified by plinths on the ground, measure nine feet by four feet (2750mm by 1200mm). In older burial grounds dimensions of lairs will generally vary
- ii) Graves will be excavated in accordance with health and safety requirements. Where private contractors are engaged to excavate graves, they will be required to submit appropriate risk assessments to the Burial Grounds Officer and ensure that the lair is excavated in accordance with Orkney Islands Council procedures. In some circumstances technical requirements may restrict access and an alternative may be considered. In the rare situation this arises, the owner of the right of burial should discuss with the burial clerk for an alternative at no additional cost.
- iii) Burial of a deceased person must include the use of a suitable coffin
- iv) No coffin shall be laid nearer to the surface than three feet (900mm). When two interments are intended in the same grave, the first coffin shall be at a depth of six feet (1800mm). A second burial can then be made at a depth of four feet six inches (1400mm). No coffin shall be removed from any grave with a view to making room for an additional interment
- v) The grave must be identified and marked out in accordance with the location specified on the certificate
- vi) Personnel attending a burial for the purpose of re-filling the grave shall wear suitable clean attire and while waiting to complete the burial, staff and their equipment shall remain as unobtrusive as practicable in terms of their physical presence and that of tools, equipment and/or vehicles from the proximity of the graveside
- vii) Owners have the right of burial in the specified lair.
- viii) The first burial in a lair confers the right of a subsequent burial in the lair, subject to ground conditions and conditions relating to the minimum depth of burial. The right of consequent burial is not subject to further charges other than those relating to the re-excavation of the grave. The details of such charges are published on the council's website and reviewed periodically
- ix) Owners must note that to maintain the appearance of the burial ground, withered floral tributes shall be removed by the Council. All tributes left on the grave shall be removed after a one-month period.
- x) Kerbs, copes, railing, fences, gravel, corner stones or any other such ornamental additions to the lair will only be permitted at the discretion of the Burial Authority and on application to the Burial Grounds Officer. Any unauthorised memorials, artefacts, vases or planting are liable to be removed by the Council and the costs recovered from the lair owner

- xi) Any memorials which are erected on a lair must be done in accordance with the requirements set out in the Burial Grounds Management Plan. All memorials remain the responsibility of the lair owner.

8) Appendices

List of Burial Grounds

Application form for Certificate for Right of Burial

Application form for renewal of Certificate for Right of Burial

Amendment/Cancellation form for Certificate for Right of Burial

Information Leaflet for Lair Owners

Application form for Permission to Erect or Repair a Memorial

Notification of Burial form

This is a list of our burial grounds throughout Orkney:

No.	Burial Ground	Location
1	North Ronaldsay	Main Road, North Ronaldsay
2	St Boniface Cemetery	Central Road, Papa Westray
3	Ladykirk Cemetery	The Quarry Road, Pierowall, Westray
4	Scar Cemetery	Burness, Sanday
5	Cross Kirk	Tuquoy Road, Westray
6.	Rapness Cemetery	Rapness, Westray
7.	Lady Kirkyard	Nr Overbister, Sanday
8.	Faray Cemetery	Faray Island, Eday
9.	St Johns Cemetery	Kirk Road, Eday
10.	Old Eday Cemetery	Kirk Road, Eday
11.	Wasbister Cemetery	Wasbister Road, Rousay
12.	St Magnus Church	Pier Road, Egilsay
13.	St Peter's Cemetery	Whitehall Road, Whitehall, Stronsay
14.	Brinian Cemetery	Brinian Road, Rousay
15.	St Magnus Cemetery	The Palace, Birsay
16.	Birsay Cemetery	Birsay
17.	Old Evie Cemetery	Aikerness Road, Evie
18.	Evie Cemetery	Evie
19.	Chapel Cemetery	Russness Road, Wyre
20.	Lady Cemetery	Bay Road, Bay, Stronsay
21.	St Nicholas Cemetery	Holland Road, Holland, Stronsay
22.	Sandwick Cemetery	Sandwick
23.	Rendall Old Cemetery	Hinderayre Road, Rendall
24.	Rendall Cemetery	Gorseness Road, Rendall
25.	St Michael's Church	Church Road, Harray
26.	Shapinsay Cemetery	Sands Road, Shapinsay
27.	Firth Cemetery	Firth, Finstown
28.	Stennes Cemetery	Churchyard Road, Stennes
29.	St Magnus Cathedral	Broad Street, Kirkwall
30.	St Olaf's Cemetery	Orquil Road, St Ola

31.	Hall of Tankerness Cemetery	Tankerness Hall Road, Tankerness,
32.	Warbeth Cemetery	Warbeth Road, Stromness
33.	St Andrews Tankerness	Churchyard Road, Tankerness
34.	Deerness Cemetery	Deerness
35.	Round Church	Gyre Road, Orphir
36.	Graemsay Cemetery	Kirk Road, Graemsay
37.	North Hoy Cemetery	North Hoy
38.	St Nicholas Cemetery	Cornquoy Road, Holm
39.	St Laurence	Ness Road, Burray
40.	Flotta Cemetery	Church Road, Flotta
41.	St Johns Cemetery	B9047 Hoy
42.	St Peters	Kirkhouse Road, South Ronaldsay
43.	Osmandwall Cemetery and Peedie Kirk	Cantick Road, Hoy
44.	Flaws Cemetery	Halcro Road, South Ronaldsay
45.	St Marys	Burwick, South Ronaldsay
46.	Lyness Royal Naval Cemetery	Hoy
47.	Cross cemetery	Sanday

Orkney Islands Council

Burial Grounds

Management Plan

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1) Introduction

- a) This document is intended to be read in conjunction with the Burial Grounds Code of Practice and Burial Grounds Customer Charter to clarify and inform all parties using any of the 47 burial grounds currently being managed by the Council.
- b) This maintenance standard includes details on lair requirements, which can also be found in the Burial Grounds Code of Practice. There then follows specific guidance on maintenance standards and procedures which includes memorial maintenance and safety.

2) Lair Requirements

- a) Each burial ground is divided into sections and further sub-divided into lairs which can accommodate one or more burials. Details of these sections are recorded in a burial ground plan. In the newer burial grounds, lairs identified by plinths on the ground, measure nine feet by four feet (2750mm by 1200mm). In older burial grounds dimensions of lairs will generally vary.
- b) Graves will be excavated in accordance with health and safety requirements. Where private contractors are engaged to excavate graves, they will be required to submit appropriate risk assessments to the Burial Grounds Officer and ensure that the lair is excavated in accordance with Orkney Islands Council procedures. In some circumstances technical requirements may restrict access and an alternative may be considered. In the rare situation this arises, the owner of the right of burial should discuss with the burial clerk for an alternative at no additional cost.
- c) Burial of a deceased person must include the use of a suitable coffin.
- d) No coffin shall be laid nearer to the surface than three feet (900mm). When two interments are intended in the same grave, the first coffin shall be at a depth of six feet (1800mm). A second burial can then be made at a depth of four feet six inches (1400mm). No coffin shall be removed from any grave with a view to making room for an additional interment.
- e) The grave must be identified and marked out in accordance with the location specified on the certificate.
- f) Owners of the right of burial have the exclusive right of burial in a specified lair.
- g) The first burial in a lair confers the right of a subsequent burial in the lair, subject to ground conditions and conditions relating to the minimum depth of burial. The right of consequent burial is not subject to further charges other than those relating to the re-excavation of the grave. The details of such charges are published on the council's website and reviewed periodically.
- h) All tributes left on a lair shall be removed after a one-month period, to maintain the appearance of the burial ground. For ease of maintenance and grass cutting, adornments should be placed at the concrete plinth/headstone base. Requests for any variation from the normal grass/turf finish such as

fences, rails, kerbs, stone chips, trees, shrubs etc. should be raised to the Burial Grounds Officer in the first instance, noting that these additions pose substantial operational risks and that maintenance will remain the full responsibility of the burial rights owner. In addition, they may be asked to absolve the Council of any liability regarding accidental damage.

- i) Trees, shrubs or flowers planted prior to the introduction of this Code of Practice will not be allowed to encroach on neighbouring ground and the Council reserve the right to cut back all such plants or to remove them permanently.

3) Burial Grounds Maintenance Standard

- a) The Council is responsible for maintaining burial grounds in a fit and proper condition. This responsibility may, by agreement, be discharged in whole or in part to other groups such as a local Community Council. This would be accommodated within agreed revenue and/or capital budgets. War graves are managed through the Commonwealth War Graves Commission.
- b) The standards of maintenance required in a burial ground are dependent upon the frequency of visitors and the general use of the burial ground.
- c) The minimum standards which apply to historic or low-use burial grounds are for grass paths to be cut and the grass on graves to be cut twice a year.
- d) The higher standard required in other burial grounds involves more frequent grass cutting, weeding of paths, and the trimming of established trees and shrubs. Grass should not be allowed to grow longer than four inches (100mm) over graves and no longer than three inches (75mm) on paths.
- e) Trees, shrubs or flowers planted prior to the introduction of this management plan will not be allowed to encroach on neighbouring lairs and the Council reserve the right to cut back all such plants or to remove them permanently.
- f) Levelling of graves will be carried out periodically when reported through the inspection process. Where resources permit this work may be addressed at time of inspection or planned when resources become available. The Council aims to address such issues in the financial year the report is raised or within the inspection cycle (i.e. rolling 5-year inspection programme). This may be accelerated if deemed a public safety. All works of a non-urgent nature are planned against a fixed annual budget.
- g) Personnel attending a burial for the purpose of re-filling the grave shall wear suitable clean attire and while waiting to complete the burial, staff and their equipment shall remain as unobtrusive as practicable in terms of their physical presence and that of tools, equipment and/or vehicles from the proximity of the graveside
- h) Maintenance work to all walls, fences and gates will be programmed and implemented as resources permit. Boundary walls or fences will be kept intact and in good order to prevent entry to the burial ground by livestock or vermin. Gates will be painted or treated as required, hinges and catches will be oiled

to ensure ease of use and wire mesh will be provided to prevent access by rabbits where necessary.

- i) With mutual agreement between the Council and any Community Council, the Community Council may, on behalf of the Council, undertake the tendering process, award contracts and supervise burial grounds maintenance works such as grass cutting. The agreed scope of works will be invoiced and paid from the fixed annual budget, noting that such tender would need to be accommodated within the agreed revenue budget with any shortfall being met by the community council, or the specification changed to meet available funding.
- j) Where other routine maintenance is requested and is not within the scope of works agreed for the Community Council to fund and undertake, this will be reported to the Burial Grounds Officer and scheduled for action within the financial year subject to its priority and availability of funding.
- k) The Council will use contractors for specific works on the basis that those contractors are trained and qualified to undertake the work and have appropriate equipment, risk assessments and safe ways of working documentation in place.
- l) Substantial items of plant and equipment may be required at burial ground sites for ongoing maintenance such as repairs, drainage, and excavation of lairs. Works will be undertaken carefully and sympathetically by the Council and contractors, particularly in relation to protecting adjacent lairs.
- m) In the event that damage arises through the actions of the Council of an unintentional nature the lair owner can contact the Burial Grounds Officer by email burialgrounds@orkney.gov.uk and all attempts will be made to remedy the damage at no cost to the lair owner.

4) Burial Grounds Inspection Procedure

- a) Each of the 47 Orkney Islands Council managed burial grounds are formally inspected in accordance with the requirements laid out in the Burial Grounds Inspection Programme. This is a rolling programme over a 5-year period. This inspection considers public safety risks associated with any unstable memorial as detailed in the memorial procedure within this document.
- b) All burial grounds are regularly visited for inspections and every memorial is tested in accordance with published guidance. Inspections also include vegetation, walls, fencing, access gates, drainage systems, vehicle access, parking and lighting where applicable.
- c) The record system will note all inspections and subsequent actions for each location. These records will include full details including photographs of before and after works have been completed by the qualified team attending.

5) Memorial Procedure

- a) The erection of a memorial shall only be permitted on purchased lairs, and lair owners must request permission from the Council. No artefacts, painting or other erection work of any kind will be permitted.
- b) Memorials should be constructed in accordance with BS 8415:2018. Those undertaking the work should be suitably trained, qualified and certified to the COSVR 194 SQA Unit HA1J-04 Fix and Secure Memorial Masonry Award or equivalent. In addition, they should have appropriate public liability insurance and obtained a permit for erecting memorials from the Council.
- c) Any memorial should have the section and plot number of the lair cut plainly on the left side of the memorial at the expense of the person erecting the memorial. No other method of marking e.g. painting is allowed.
- d) All memorials must be erected on the concrete plinth, where such is provided.
- e) The owner of the right of burial for a lair is the owner of any memorial on that lair and must maintain their memorial in a safe and proper condition, in good order and repair, of which the Council will be sole judge. The owner is responsible for the upkeep and maintenance of the memorial. They are therefore also liable for any incident or damage arising from failure to maintain, or any damage sustained to the memorial e.g. through vandalism or acts of nature.
- f) The Council will notify the owner if the memorial on the lair is considered unsafe and requiring attention. The owner has 21 days in which to respond to the notification, and three months in which to arrange appropriate works. If the Council does not receive any communication from the owner after 21 days, or the required works have not been completed within three months of the notification, the Council will be entitled at the owner's expense to carry out either the repair of the memorial, removal or memorial, or laying down of memorial and recover such costs from the owner. Additional efforts to ensure that owners are aware of any potential issues will include publishing a list of unsafe memorials on the Council website and working with the relevant Community Councils to attempt to trace the owners. Local funeral directors may also be approached for their help.
- g) Memorials will be categorised as no risk found, or risk may be noted as low, medium or high in terms of public safety. In this case the interventions are;
 - i) High Risk Cordon off, make safe if appropriate, attempt to identify and notify family
 - ii) Low-Medium Risk Mark, attempt to identify and notify family
- h) If the Council considers in their judgement that a memorial is in a dangerous condition, the Council will be entitled to, without notice, take any action deemed necessary to make it safe. The owner of the memorial will be liable for any costs incurred by the Council. If the Council, after due and diligent enquiry, cannot ascertain the contact address of the owner, the Council can, without prejudice to its right to recover any costs associated with safety works undertaken, repair, remove or lay flat the memorial.

- i) Any works undertaken by the Council must be appropriately recorded including before and after photographs.
- j) Kerbs, copes, railing, fences, gravel, corner stones or any other such ornamental additions to the lair will only be permitted at the discretion of the Burial Authority and on application to the Burial Grounds Officer. Any unauthorised memorials, artefacts, vases or planting are liable to be removed by the Council and the costs recovered from the lair owner.
- k) The owner shall not remove a memorial or part thereof from the cemetery without notification to the Council, and the appointment of an authorised and trained specialist who has the required permit from the Council. This protects all parties from challenge of theft or risk of injury.

Orkney Islands Council
Burial Grounds
Customer Charter

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Introduction

This document sets out various aspects of the maintenance standards for the public burial grounds managed by Orkney Islands Council.

There is a current list of all the managed burial grounds within Orkney, including historic sites that are no longer in active use.

The service level agreements of the Council are defined in relation to the 47 burial grounds that it manages in the role of keeper, as defined in the Burial and Cremation (Scotland) Act 2016, including the legal responsibilities of the Council to maintain those sites.

This document also clarifies the rights and responsibilities for owners of rights of burials in lairs within those burial grounds, and specific guidance on the management and maintenance of memorials that are erected in our burial grounds.

The document ends with an extensive FAQs relating to burials and burial ground management.

Our Burial Grounds

Orkney Islands Council is responsible for 47 burial grounds throughout the county, including grounds which are no longer in active use and heritage sites. The burial grounds are managed by Development and Infrastructure. To arrange the purchase of the right of burial, or to discuss the erection of a memorial, the registration office can supply the details of the burial clerk for a specific burial ground.

This is a list of our burial grounds throughout Orkney:

No.	Burial Ground	Location
1	North Ronaldsay	Main Road, North Ronaldsay
2	St Boniface Cemetery	Central Road, Papa Westray
3	Ladykirk Cemetery	The Quarry Road, Pierowall, Westray
4	Scar Cemetery	Burness, Sanday
5	Cross Kirk	Tuquoy Road, Westray
6.	Rapness Cemetery	Rapness, Westray
7.	Lady Kirkyard	Nr Overbister, Sanday
8.	Faray Cemetery	Faray Island, Eday
9.	St Johns Cemetery	Kirk Road, Eday
10.	Old Eday Cemetery	Kirk Road, Eday
11.	Wasbister Cemetery	Wasbister Road, Rousay
12.	St Magnus Church	Pier Road, Egilsay
13.	St Peter's Cemetery	Whitehall Road, Whitehall, Stronsay
14.	Brinian Cemetery	Brinian Road, Rousay
15.	St Magnus Cemetery	The Palace, Birsay
16.	Birsay Cemetery	Birsay
17.	Old Evie Cemetery	Aikerness Road, Evie
18.	Evie Cemetery	Evie
19.	Chapel Cemetery	Russness Road, Wyre

20.	Lady Cemetery	Bay Road, Bay, Stronsay
21.	St Nicholas Cemetery	Holland Road, Holland, Stronsay
22.	Sandwick Cemetery	Sandwick
23.	Rendall Old Cemetery	Hinderayre Road, Rendall
24.	Rendall Cemetery	Gorseness Road, Rendall
25.	St Michael's Church	Church Road, Harray
26.	Shapinsay Cemetery	Sands Road, Shapinsay
27.	Firth Cemetery	Firth, Finstown
28.	Stennes Cemetery	Churchyard Road, Stennes
29.	St Magnus Cathedral	Broad Street, Kirkwall
30.	St Olaf's Cemetery	Orquil Road, St Ola
31.	Hall of Tankerness Cemetery	Tankerness Hall Road, Tankerness,
32.	Warbeth Cemetery	Warbeth Road, Stromness
33.	St Andrews Tankerness	Churchyard Road, Tankerness
34.	Deerness Cemetery	Deerness
35.	Round Church	Gyre Road, Orphir
36.	Graemsay Cemetery	Kirk Road, Graemsay
37.	North Hoy Cemetery	North Hoy
38.	St Nicholas Cemetery	Cornquoy Road, Holm
39.	St Laurence	Ness Road, Burray
40.	Flotta Cemetery	Church Road, Flotta
41.	St Johns Cemetery	B9047 Hoy
42.	St Peters	Kirkhouse Road, South Ronaldsay
43.	Osmandwall Cemetery and Peedie Kirk	Cantick Road, Hoy
44.	Flaws Cemetery	Halcro Road, South Ronaldsay
45.	St Marys	Burwick, South Ronaldsay
46.	Lyness Royal Naval Cemetery	Hoy
47.	Cross cemetery	Sanday

Our Commitment to You

Our burial grounds are maintained to set standards which can be found in our Burial Grounds Management Plan. This includes grass cutting, maintaining pathways, entrances, boundaries, any vegetation or buildings that are owned by the Council, pest control, litter and lighting (where applicable).

One of the main purposes of this maintenance is to ensure all our burial grounds are pleasant and safe places for anyone visiting. This means we undertake regular inspections for health and safety which includes the memorials. The Council must ensure all memorials are safe and secure with no risk of any falling over and causing injury. This often means liaising with a lair owner to ensure work is undertaken to make a memorial safe.

Any queries, comments, complaints or compliments about the maintenance of the burial grounds can be directed to the Burial Grounds Officer by email burialgrounds@orkney.gov.uk or calling 01856 873535.

Ownership of Right of Burial – Rights and Responsibilities

When someone requires a lair, they can buy a Certificate of Right of Burial from the burial ground clerk responsible for their choice of burial ground. This means the person owns the rights to burial within the lair in perpetuity. The right to a subsequent burial in the same lair may be possible subject to ground conditions for that specific lair.

Buying the right of burial in a lair means the owner also has the right to erect a memorial, subject to it meeting safety standards and being supplied and erected by a qualified and approved stonemason, who has received permission from the Council to undertake the work.

An owner has some responsibilities when they take up the right of burial. The owner must make sure the lair is maintained to the standards explained when they buy the certificate. This means following the guidelines on what can and cannot be placed on a lair and maintaining any memorial. Memorials may over time need maintenance, for example cleaning, repairing or refitting due to wear and tear, weather or ground movement. This would be the owner's responsibility to ensure work is undertaken by a qualified person, and the Council is notified prior to any works.

The owner of the right of burial also needs to ensure the Council has the correct contact details on file, so they can contact the owner, for example to notify of any damage to a memorial. If the Council is unable to contact the lair owner, they have the authority to undertake any maintenance works that is necessary to make a memorial safe, but this work would be chargeable to the owner.

Owner Guidance - Terms and Conditions

Buying the right of burial in a lair means you are agreeing to the following terms and conditions as an owner:

You agree to take ownership of the right of burial in the assigned lair which is detailed on the Certificate issued with ownership.

If you wish to amend or cancel your ownership this can be discussed with the burial ground clerk.

The owner must ensure the burial ground clerk has relevant and up to date contact details throughout the term of the ownership.

Ownership of the right of burial in a lair permits the owner to erect a memorial. This must meet specified safety standards and be installed by a qualified and approved specialist. It must have the lair location inscribed on the side of the memorial.

Any other memorials, ornamentation, fencing or other objects on the lair can only be installed following specific permission from the Council. Requests for such additions should be made to the Burial Grounds Officer in the first instance.

Lair grass cutting will be managed by Orkney Island Council.

The memorial must be managed by the owner. If the memorial requires repair, renovation or removal the owner is required to arrange this using a qualified and approved stonemason. The Council needs to be notified of any works prior to taking place.

The Council will notify the owner if they determine a memorial is unsafe and needs repair. The owner will then be required to arrange the repair as stated above.

Memorials and Memorial Safety

Memorial safety is especially important due to some serious accidents in burial grounds.

Memorials remain the property of the owner of right of burial, which means the owner must ensure they are maintained and safe to be in our burial grounds.

Orkney Islands Council has a responsibility to check every memorial is safe and ensure any dangerous memorials are made safe.

This means if a memorial is unsafe, we will ask you to arrange for it to be made safe by using a qualified and approved specialist, who has obtained a permit to undertake the work. The Council must be informed before and after it has been carried out.

If you cannot arrange the work to be undertaken, the Council will make the memorial safe for you, but there will be a charge for this service.

Visitor Guidance

People are welcome at our burial grounds at any time.

We ask visitors to be respectful and use bins where provided or take any litter home.

Visitors are not allowed to bring dogs into the burial grounds, unless they are assistance dogs.

Visitors are not allowed to bring vehicles into the burial grounds but are requested to use parking spaces where present or roadside parking. Visitors with disabled blue badge permits may drive into the site if necessary, but please be aware that the Council accepts no liability for any vehicles which are on or parked next to burial grounds.

Please be aware some memorials may be unsafe so take care and maintain a safe distance where possible.

FAQs

Who maintains the burial grounds?

The Council has overall responsibility for all the burial grounds, but some of the maintenance work is undertaken by contracted services either through the Council or the regional community council.

When are the burial grounds open?

The sites have open access for visitors.

How do I purchase a lair?

You actually purchase the right of burial in a lair, not the lair itself. This can be done by contacting the relevant clerk for your preferred burial ground.

When purchasing a lair does the ground belong to the lair owner?

No, it gives exclusive right of burial and erection of memorial only.

Who owns the lair?

The Council continue to own the lair. Purchasing a lair means purchasing the right to burial within a lair, not the land itself.

If a right of burial in a lair is not used, what happens to it?

The owner of the right of burial can sell the lair rights back to the Council through the burial clerk for that burial ground.

Can I pass ownership to another person?

Yes you can. This can be arranged by the clerk responsible for the burial ground where the lair is located.

Can my family choose a specific lair within a burial ground?

This is not possible, except in very specific cases for which requests must come through to the Burial Grounds Officer for consideration.

Can I see a plan of the burial ground where I have a lair?

The burial ground clerks have access to plans which they can show anyone who owns, or is considering purchasing, a lair.

How do I arrange a burial?

This is normally done through the funeral directors, but families can arrange a funeral independently if they wish and can contact the relevant services direct (any religious organisation, council registrars etc.)

Can cremated remains be buried in the burial grounds?

This can be accommodated by purchasing a right to burial certificate from the burial ground clerk. Cremated remains can also be interred in an existing lair that is in use with permission from the owner of the rights of burial in that lair.

Can pets be buried in the burial grounds?

Pets are not allowed to be interred in the burial grounds.

How long do floral tributes remain on a lair?

Flowers can be left on a lair for up to a maximum of one month. The Council has the right to remove any withered or deteriorated flowers, wreaths etc. Placing of flowers and wreaths on a grave is done at the persons own risk and the Council is not liable for any loss or damage due to weather, vermin, theft etc.

How do I get a memorial erected?

Only a recognized, accredited specialist can be used to erect memorials in our burial grounds. The specialist should seek permission from the Council for erecting memorials by contacting the Burial Grounds Officer.

Who owns the memorial?

A memorial is owned by the owner of the right of burial in the lair where it is erected. The Council do not own any memorials on a lair.

Can I be held responsible for my memorial?

Owners of the right of burial in a lair are held responsible for memorials on that lair, and for the cost of any remedial work required to make the memorial safe should it become damaged, weathered etc.

Can I inspect and fix my own memorial?

Members of the public are not allowed to inspect or carry out any works on memorials unless they are qualified specialists who has received permission from the Council authorising them to undertake such works. This is because it is dangerous and specialized work which requires training. The Council must be notified if any work is to be carried out on a memorial within a burial ground.

Can I re-erect my deceased relatives' memorial?

Yes, this is possible. The Council must be informed and assured that a qualified specialist will undertake the work.

Who is responsible for the memorial once it is erected?

The owner of right of burial is responsible for the memorial including any future maintenance. If the memorial needs repairing due to weathering, damage etc. The owner must arrange this with a qualified specialist and notify the Council.

Why does the Council carry out safety inspections within its burial grounds?

The Council is required by law to ensure that the burial grounds are safe places to visit and work, and regular inspections help us to maintain that legal requirement.

What happens if a memorial is identified as unsafe?

Memorials are inspected by trained staff. Should a memorial be identified as dangerous, then the Council needs to make it safe immediately to prevent any accidents. This can include staking and tying memorials as a temporary measure, or other methods deemed necessary such as ditching in (sheughing). Owners would be notified of this and their responsibilities to repair the memorial.

What happens to a memorial if there are no family, or owners cannot afford to carry out the repairs?

Staking and tying is a temporary measure. The Council would continue to inspect and monitor all memorials, and if necessary, stake and tie, sheugh, lay flat, or any other remedial work that would need to be carried out to any memorials which have not had any repair work undertaken.

What if the owner cannot be traced and a memorial is unsafe?

The Council will make every reasonable effort to make the memorial safe.

Are memorials removed from the burial ground?

The Council does not remove memorials; however the Council reserves the right to remove any dangerous memorials from a burial ground if necessary, for safety.

Can I have more than one memorial or vase on a lair?

Please contact the Burial Grounds Officer to discuss this request.

Can I plant flowers or shrubs on a lair?

This is generally not permitted on lairs but please contact the Burial Grounds Officer to discuss. Owners of older lairs which have vegetation are responsible for its maintenance, and the Council has the right to cut back or remove any vegetation if it is not being maintained by the lair owner.

Can I section off part of the lair with a fence or kerb?

Please contact the Burial Grounds Officer to discuss.

Can I place a seat in the cemetery?

This is not permitted.

Why has the ground sunk on some lairs?

This is due to soil movement after the interment etc. The Council levels lairs after a period following an interment, and all lairs are inspected and monitored regularly as part of ongoing burial ground maintenance.

Can I walk my dog in the burial ground?

Dogs are not permitted unless they are assistance dogs.

Can I drive into a burial ground?

This is not permitted except for visitors with disability requirements, and for funeral vehicles such as hearse and cortege.

Where can I complain or comment about any problems relating to the burial ground?

Any complaints, comments or compliments can be directed to the burial grounds officer by emailing burialgrounds@orkney.gov.uk

Development Brief – Kirkwall Walliwall (K5)

October 2020



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1. Introduction

1.1.

This development brief has been prepared to inform the development of housing allocation K5 from the Orkney Local Development Plan 2017 (OLDP2017). This allocation is located in the north west of Kirkwall and to the south of Kirkwall Golf Course; as noted in Figure 1. K5 is 6.5 hectares in size and is noted in Supplementary Guidance: Settlement Statements as having a capacity for 45 houses.

1.2.

This Development Brief has been drafted by Development and Marine Planning with input from key stakeholders.

1.3.

This Development Brief will be approved as Development Management Guidance and will be a material in the consideration of planning applications on this site. It provides a clear development concept and development criteria on what is acceptable for the development of this allocation.

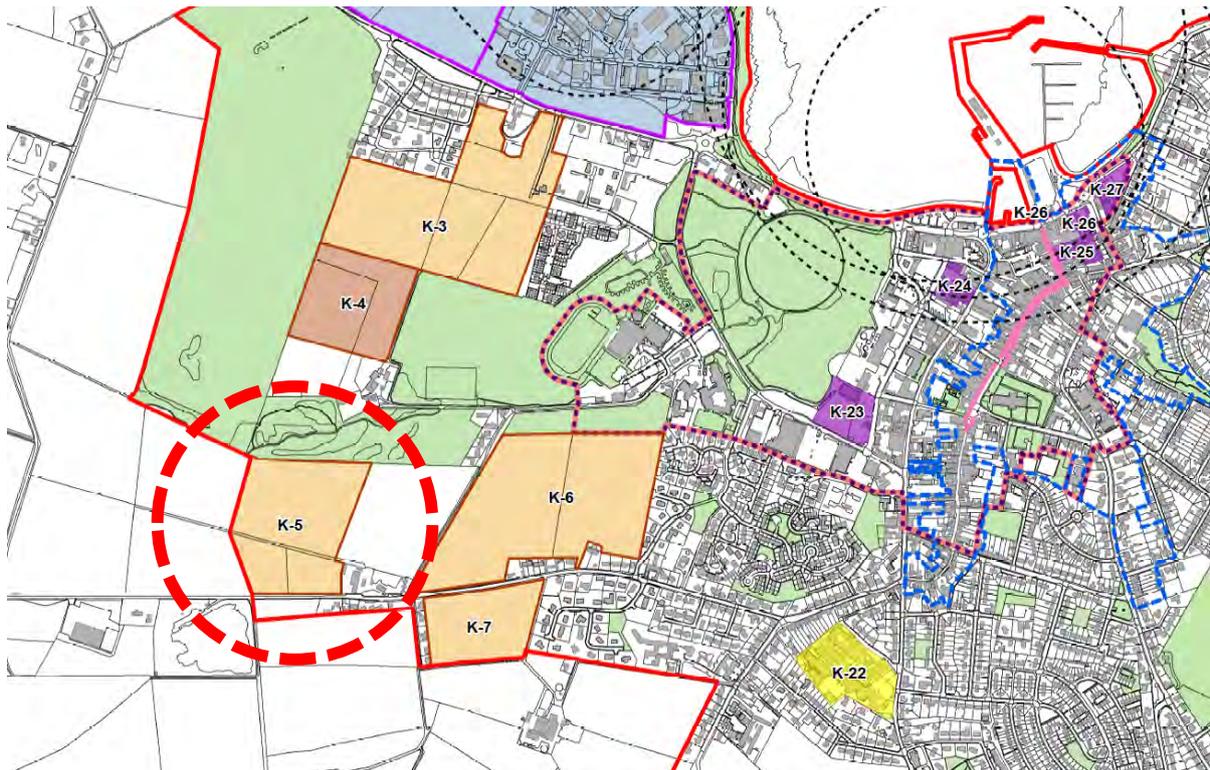


Figure 1: OLPD 2017 Proposals Map showing location of K5 site.

2. Policy Context

2.1. National Policy Context

The value and importance of good design to the creation of successful places is outlined within National Policy documents Creating Places, Designing Places and Designing Streets.

Creating Places – a policy statement for Scotland notes that “good design is not merely how a building (or development) looks, it is an innovative and creative process that delivers value.”

The other policy statements on architecture, place and street design, Designing Places and Designing Streets are both underpinned by the 6 qualities of successful places, these being:

- Distinctive.
- Safe and pleasant.
- Easy to move around.
- Welcoming.
- Adaptable.
- Resource efficient.

These guiding principles underpin successful places, and this development brief has therefore been prepared in order to promote, and help developers to achieve, these outcomes. These documents are also material considerations in the determination of planning applications.

2.2. Local Policy Context.

Housing Allocation K5 was adopted for housing through the OLDP2017. Policy 5 – Housing, part A – Housing in Settlements, of the OLDP2017, states that the development of housing allocations or redevelopment sites will be supported where it accords with the relevant settlement statement and any adopted Development Brief, Masterplan or Urban Design Framework. The development of housing sites must be planned as a whole to ensure that the long-term development of the wider allocation and / or adjacent sites is not compromised by any piecemeal development.

Supplementary Guidance: Settlement Statements notes the requirement for a Development Brief to be completed for this allocation.



In 2018, Your Kirkwall – A Place Plan for Kirkwall was approved by the Council. Within Your Kirkwall there are a number of Strategic Town-Wide Objectives (STWO). Four of these objectives are relevant to this Development Brief. They are:

STWO 1 – Concentrate future residential development within a reasonable walking distance (20 minutes of the town centre – to make best use of brownfield land and reduce demand for car use in new development). This is illustrated at Figure 2.



Figure 2 – Strategic Town Wide Objective 1 diagram (Your Kirkwall).

K5 is partly within the 20-minute and partly within the 25-minute walk into the town centre, as illustrated at Figure 3. High quality active travel is required within this development.

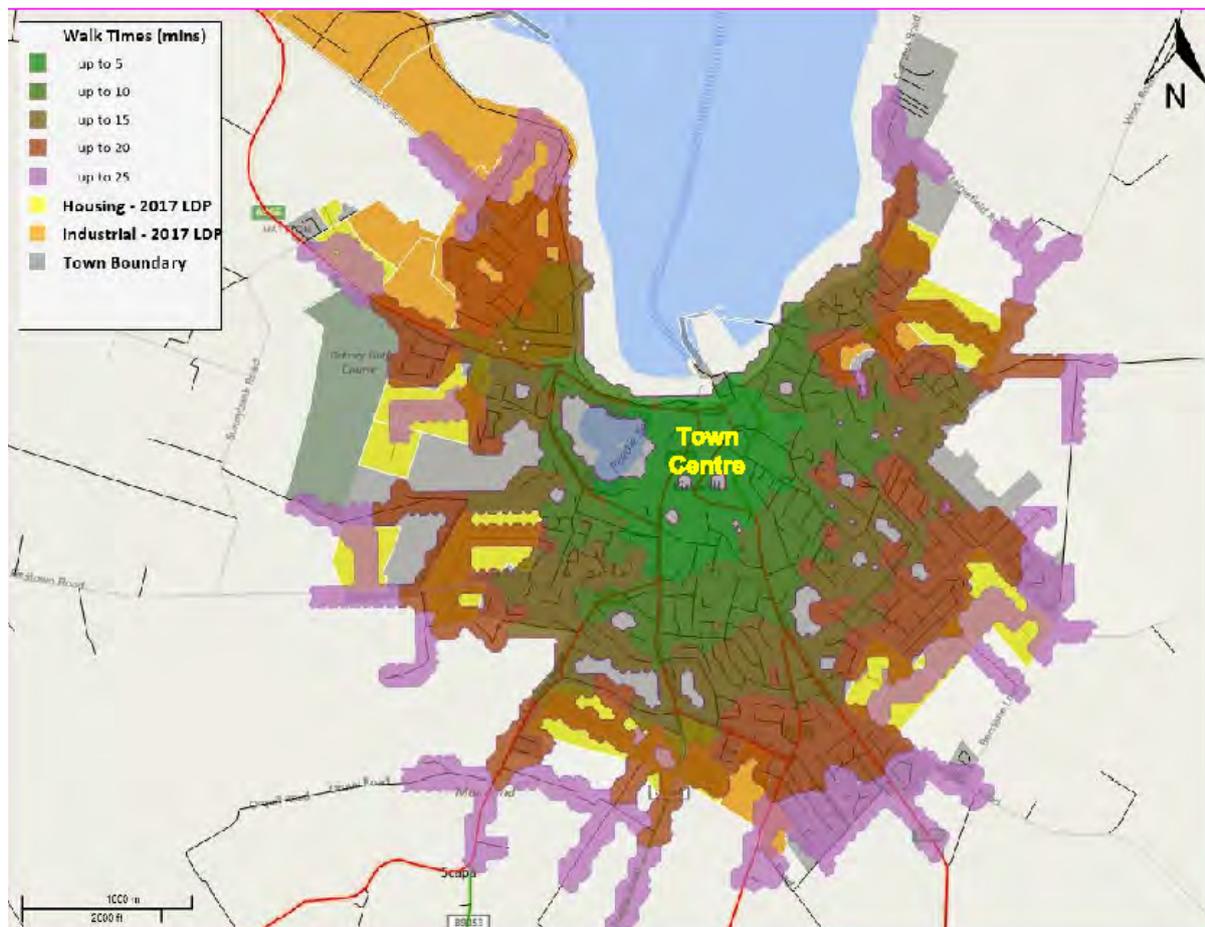
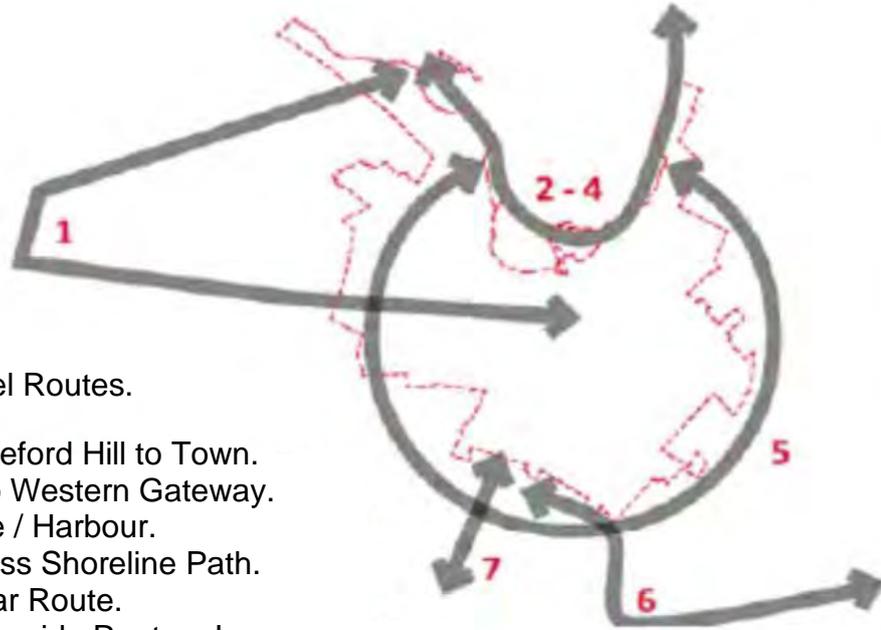


Figure 3 – Walking times diagram.

STWO 4 – Reduce the demand for short journeys by car and manage visitor numbers sustainably within Kirkwall.

K5 is located in close proximity to Strategic Route 1 (Hatston to Wideford Hill to Town) via Muddisdale, as illustrated at Figure 4.

If improved in future through a separate project, there is an opportunity to access the Picky Centre, Supermarkets, Glaitness Primary school and town centre from the site via this route.



Strategic Active Travel Routes.

1. Hatston to Wideford Hill to Town.
2. Hatston Pier to Western Gateway.
3. Town Frontage / Harbour.
4. Town to Carness Shoreline Path.
5. Kirkwall Circular Route.
6. Town to Countryside Route – Inganess.
7. Town to Countryside Route – Scapa.

Figure 4 – Strategic Active Travel Routes (Your Kirkwall).

K5 is located in close proximity to the core path K4 of Muddiesdale, an active travel route that links the town centre to recreational locations and the countryside beyond. This development will be required to link in with this core path via the Liberator Drive development to encourage active travel movement. At such time in future that Strategic Active Travel Route 1 is delivered as a separate project, the K5 site will be connected into it.

The active travel network, including core path provision is identified at Figure 5.



Figure 5 – Active Travel diagram incorporating core paths (Your Kirkwall).

STWO 5 – Put in place measures to sustainably manage surface water drainage across the town.

A Green Infrastructure Network (GIN) incorporating green networks, open space and active travel routes should be used to assist surface water management and drainage issues around Kirkwall. A GIN will require to be designed and developed in the Muddisdale area to ensure the development of the K5 site responds accordingly to this vision.

STWO 6 – Provide better connected functional green space.

This objective can be achieved through the above noted GIN.

STWO 7 – Make Kirkwall a better place to live where streets are designed to encourage a positive walking experience for all ages and capabilities.

There will be a need to develop better neighbourhoods built on well-designed streets and social spaces which protect and enhance the distinctive character of the historic environment, with buildings fronting onto streets.

3. Site Context



Figure 6 – Site context.

3.1.

K5 is located on the west side of Kirkwall. At present K5 is considered on the edge of Kirkwall in a location that is open and predominantly green. Directly to the west is farmland and to the north is open recreational land (the Muddisdale core path K4, burn and recreational land, the Pickaquoy Centre and outside sports facilities, the Orkney Rugby Club and the Kirkwall Golf Course).

To the east is the newly completed housing development that is locally known as Liberator Drive. This development comprises of approximately 100 residential properties with a centrally located open space. To the south and over the Old Finstown Road is a construction site that has planning permission for the creation of 5 houses. This is next to the former Walliwall Quarry and the Orkney Pony Club; with farmland beyond. See Figure 6 above.



Image 1 - From Sunnybank Road looking East over the Site.

4. Site Description.

At present the site is mainly agricultural grassed land. The south east corner of the site is presently used as a construction compound for the Liberator Drive development. The site has stone dykes forming the northern and southern boundary treatments with the others being post and wire and wooden. The site has a gentle slope from the south to the north.

Located on the site is a 6 kilowatt wind turbine with another just one located off the site on the eastern boundary. See Figure 7 below.

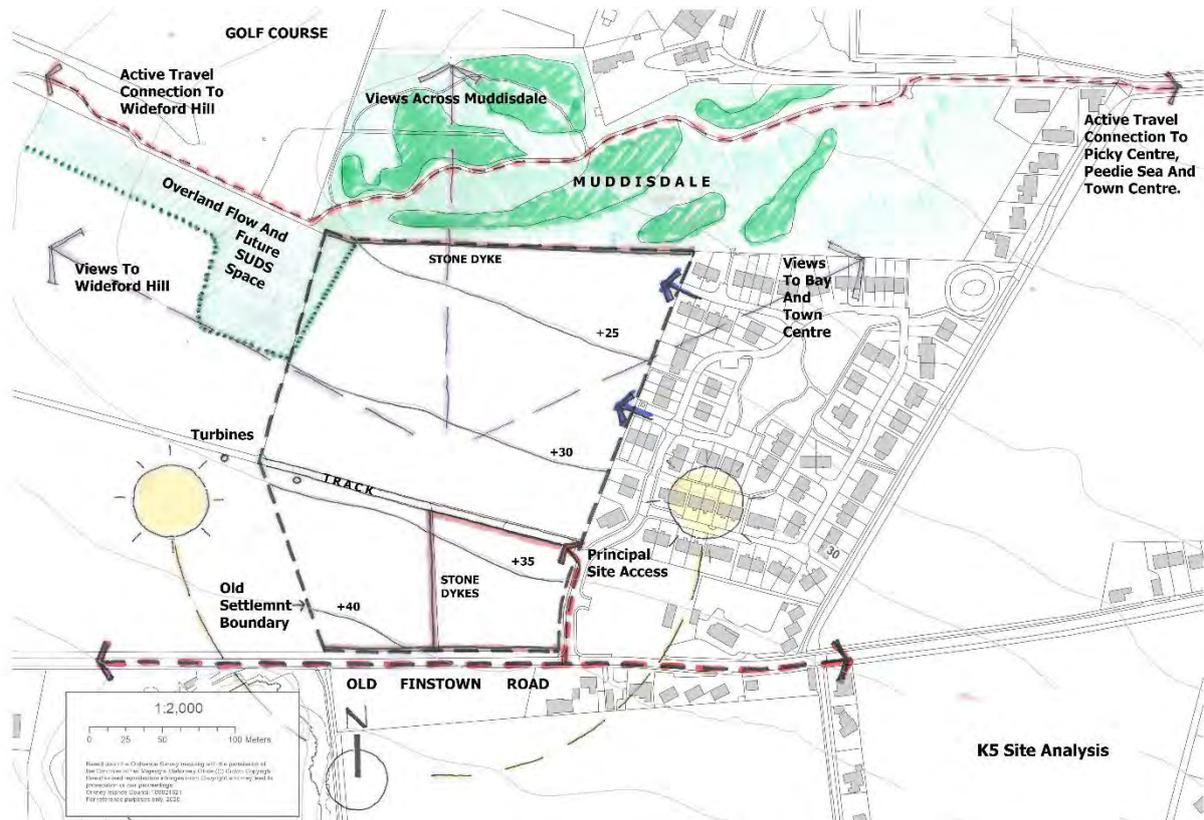


Figure 7 – Site Analysis Plan.

5. Constraints and Opportunities.

5.1. Linkages

On the southern boundary of the site is the Old Finstown Road that links Kirkwall to the West Mainland. Just on the eastern boundary of the site is Liberator Drive that provides access to this new development. On the Liberator Drive development there are 3 roads that link to the development site. To the north of the site is the core path K4, burn and recreational area of Muddisdale. This core path links the Peedie Sea area of Kirkwall to Wardhill in St Ola.

5.2. Open Spaces

The site is located within close proximity (to the northeast) to the Pickaquoy Centre and associated outside sports facilities (running track, football, rugby and hockey pitches), Orkney Rugby Club with its associated outside practise pitches and the Muddisdale core path, burn and recreational area. Centrally located in the Liberator Drive Development is a landscaped open space feature.

5.3. Water and Flooding

A small part of the lower north west corner of the site is recognised as being at risk from surface water flooding. It is also noted in Supplementary Guidance: Settlement Statements that there is a potential that the development of K5 and in particular the lower part of the site could contribute to flooding elsewhere. On the southern boundary to the site, on the Old Finstown Road, there is evidence of a historic culverted watercourse.

Located to the south of the site is the Muddisdale Burn that is located in recreational land. To the south west of the site and over the Old Finstown Road is the former quarry of Walliwall. At present the former quarry is permanently full of water.

5.4. Natural Environment

On the site or in the vicinity of the site there are no natural heritage designations. The developer has completed an otter survey on the site and the nearby Muddisdale Burn, to the satisfaction of the planning authority. The survey concluded that there is no evidence of otters on the site.

5.5. Historic Environment

On the site or in the vicinity of the site there are no historic environment assets of note. These assets include listed buildings, conservation areas, schedule ancient monuments, other noted archaeology or inventory gardens or design landscapes.

5.6. Uses and Builtform

The predominant use in this location is housing and in this location they are of mixed tenure and sizes. Other uses are recreation and leisure; and agriculture. Residential units in the location tend to be gable ended and range in height from one storey to two storeys. Materials are natural in colour, with the use of a range of material types ranging from natural (slate, stone and timber) to manmade concrete tiles and

cladding materials. The builtform associated with the Pickaquooy Centre and the Orkney Pony Club are larger in nature.

6. Development Brief Strategy

6.1.

The development brief strategy emerges from the relevant Strategic Town Wide Objectives (STWO) of the Your Kirkwall Place Plan.

6.2.

Principally, there is a need for an improved Green Infrastructure Network (GIN) in the area to address the management of surface water flooding, improve active travel infrastructure, connect areas of sheltered green space and improve biodiversity.

6.3.

The development of this GIN will ensure that STWO's 4, 5 and 6 are delivered.

6.4. The Muddisdale Green Infrastructure Network

6.4.1. The GIN diagram at Figure 8 has been developed to illustrate a vision for how the existing Muddisdale Green Space could be extended in future, with paths realigned and upgraded to create an environment suitable and fully accessible for active travel.

6.4.2. The development of this GIN would be subject to a separate project being initiated, however the space required for this will have an impact on the layout of the K5 site because it is necessary that a fillet of land in the north west corner of the allocation remains undeveloped to accommodate overland flow of surface water. Taking this approach will achieve a natural solution which works with the existing

environmental characteristics of the site within its context, thus reducing the need for engineered solutions.

6.4.3. Potential future development to the west would also be required to avoid the GIN space and this therefore impacts on the necessary access, roads and movement strategy for the K5 site.

6.4.4. Examples of similar projects which manage flooding and provide multi-functional benefits are found at East Tullos Burn Wetlands and Seaton Park Wetlands in Aberdeen.

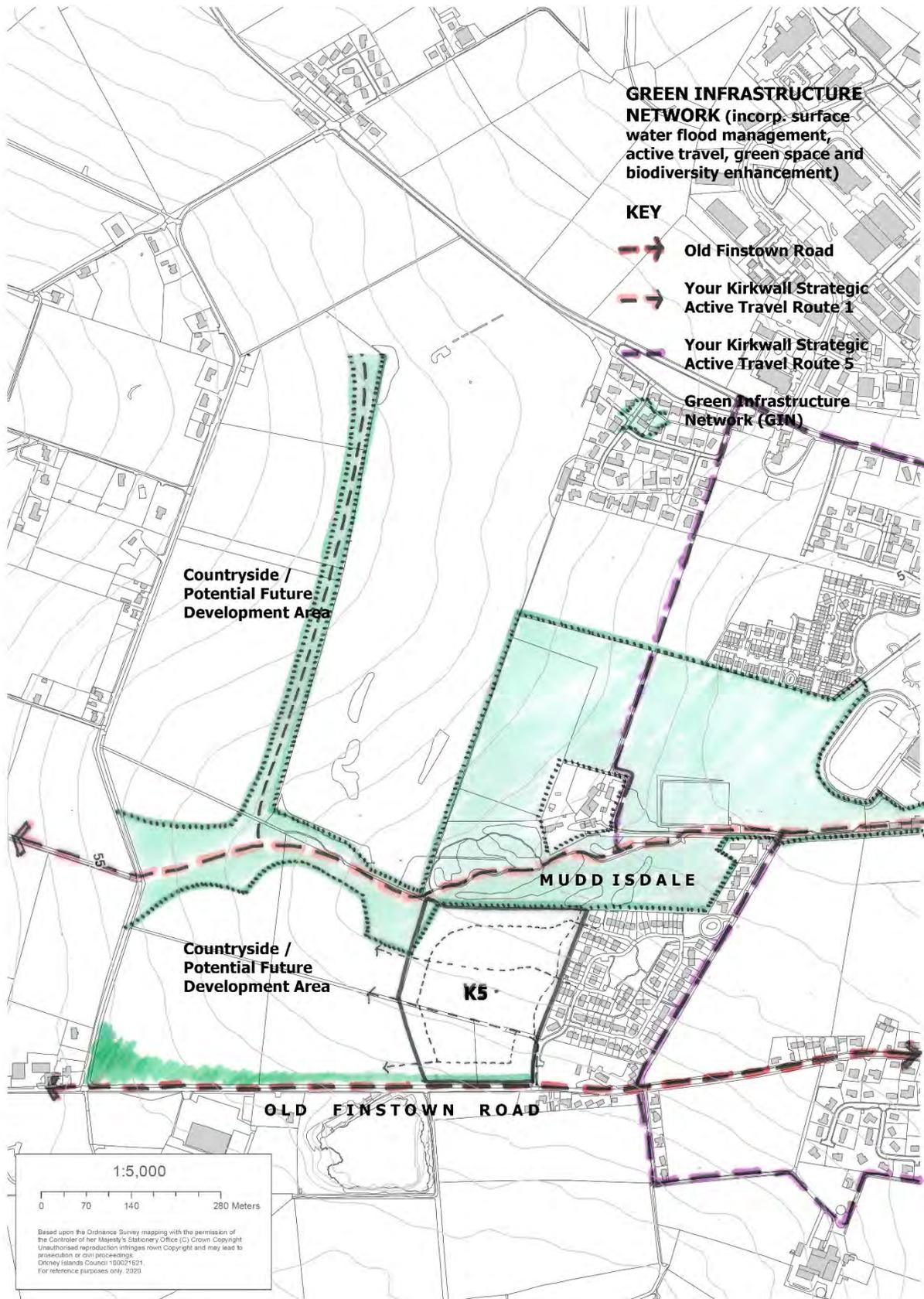


Figure 8 - The Muddisdale Green Infrastructure Network.

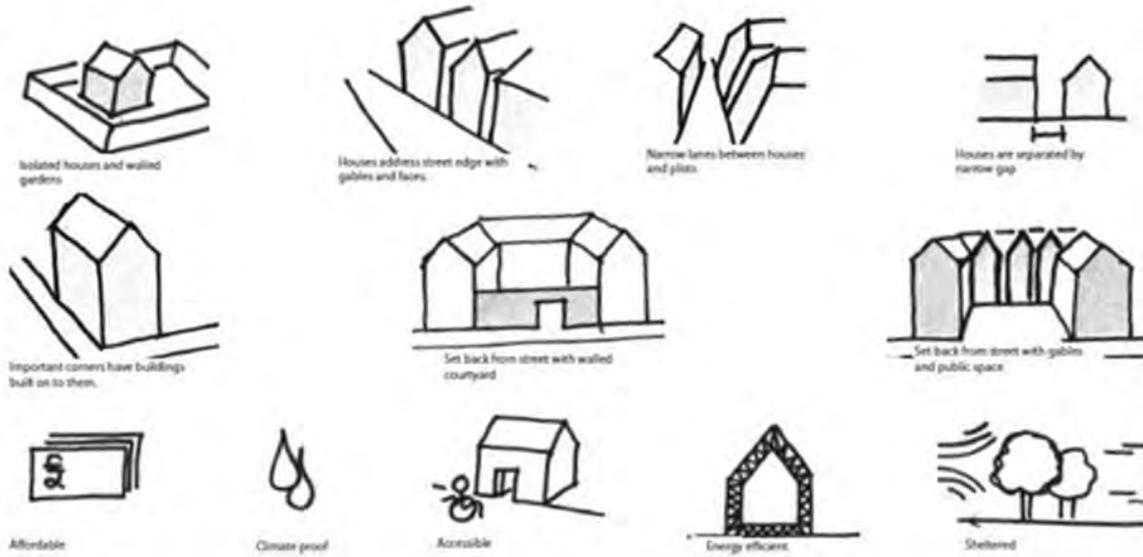


Figure 9 – Housing Design Principles (Your Kirkwall).

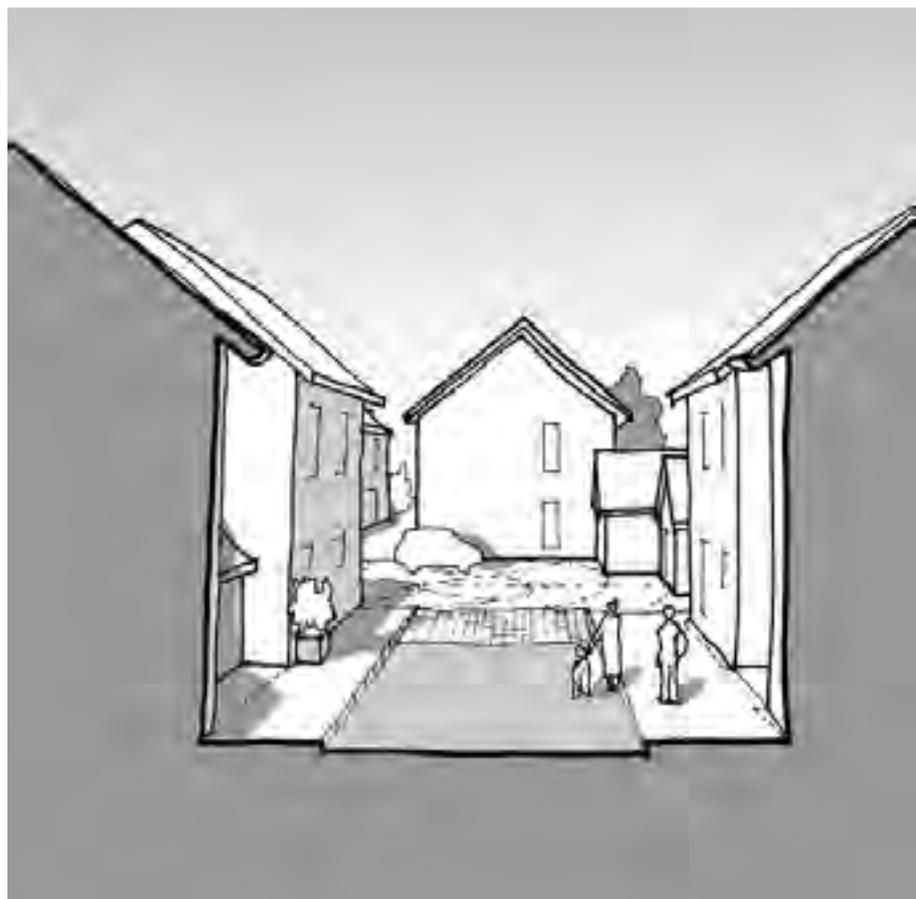


Figure 10 – Illustration of Housing Design Principles concept (Your Kirkwall).

6.5. The K5 Site

6.5.1. With Strategic Town Wide Objectives 4, 5 and 6 met by the future development of the GIN, the development of the K5 site addresses the remaining objectives, 1 and 7.

6.5.2. The Your Kirkwall vision for new housing in Kirkwall focuses on learning from the town core, creating distinctive new homes, great streets and social spaces.

6.5.3. Kirkwall streets are built on a distinctive combination of mixed materials, simple forms and carefully placed buildings. The diagrams at Figure 9 and 10 above illustrates key urban design features of Kirkwall and how they may be interpreted in new housing development.

6.5.4. Taking these characteristics into account, new housing should consider the following principles in its layout:

- **Make an entrance:** consider the character and experience of entering the site as a pedestrian, cyclist and in vehicles. Bring bigger housing onto the entrance corner, use open space, walls and hedges to define the entrance space and ensure housing overlooks the area.
- **Create streets and spaces:** define the street space, consider the street width, creating shelter and definition. Use ancillary elements such as garages, walls and hedges to help create enclosure.
- **Consider sensitive parking:** parking at the side of houses frees up the front garden and allows the house to address the street. Any communal parking could be integrated within the street.
- **Considerate edges:** consider the edges of the development and make the most of them, housing should front the surrounding streets and make the most of the views. Gable ends of development will front the active travel route along the east boundary of the site and from the approach to Kirkwall from the west, new housing on this site will be making an new edge to the town. Consider how to make these edges visibly appealing with positive building facades.
- **Make most of natural resources:** consider the physical features of the site and how to use them to best effect by working with the contours of the land and integrating landscape and green space. Orientating towards the sun and toward views will add value to houses and integrating water sensitively will reduce long term cost. Ensure you integrate shelter into the design through use of buildings, stone boundary walls, trees and hedges.
- **Create a focus:** give the streets a hierarchy, important streets and public spaces linking to more private streets. Use the houses to make identifiable space, potentially with uses such as home working, neighbourhood facilities or a small shop if demand exists.
- **Connect to the surrounding:** ensure that every opportunity is taken to connect new housing to the surroundings. Leave space for future connections to adjacent potential future housing sites and consider how to tie into the existing surrounding uses.

- **Use colour:** consider the careful use of colour within a development, to provide variety, assist with way finding and create distinctive places.

6.5.5. The development brief strategy plan at Figure 11 below has been prepared to show how these principles can be used to create a place valued by the residents of the site.

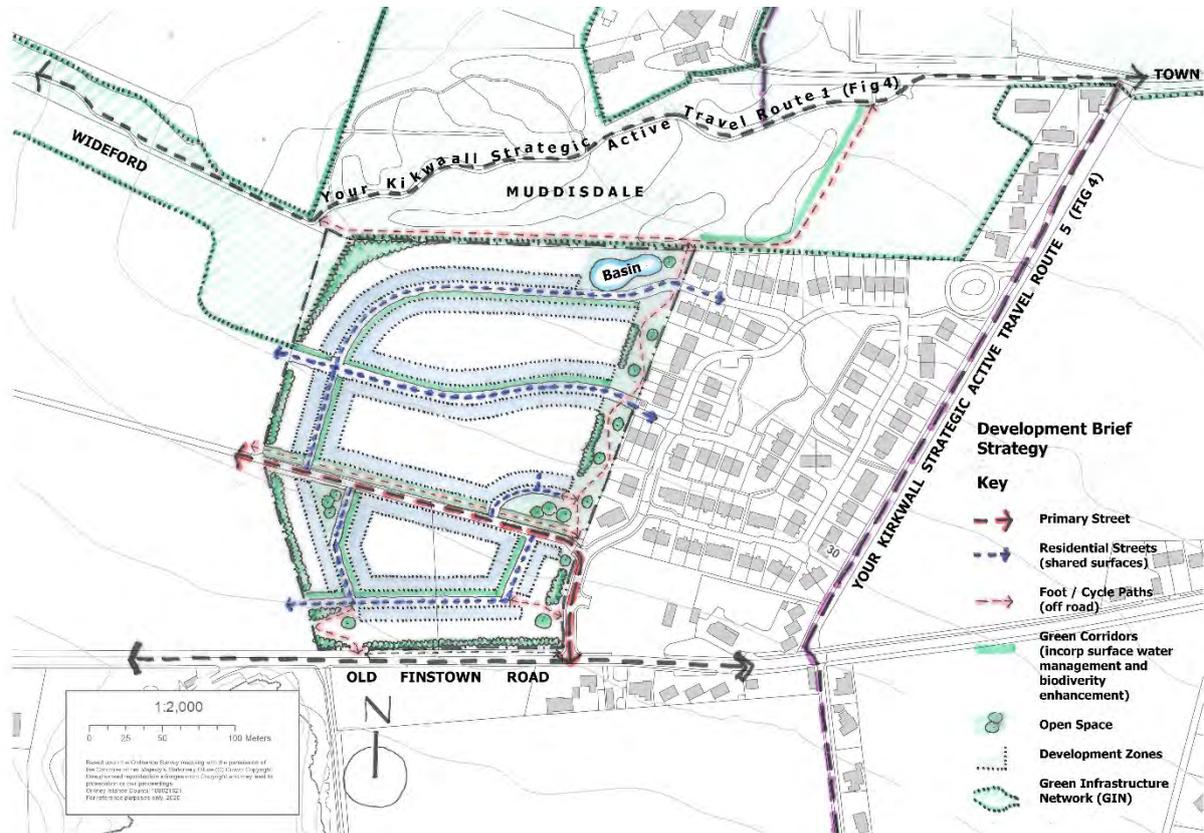


Figure 11 - Development Brief Strategy.

6.5.6. The strategy is underpinned by the following principles;

- Creating a welcoming arrival and navigational point at the entrance.
- Creating streets and social spaces.
- Creating a focus for the site.
- Connecting to surrounding sites.
- Creating a distinctive rural edge.
- Creating a continuous route suitable for active travel from the top of the site to the bottom.
- Creating streets with integrated surface water management.

7. Design Criterion

The following design criterion have been prepared to support this strategy

7.1 Buildings and placemaking

7.1.1. Development should be good quality, sustainable design. Innovative, contemporary design, relating to its location, is encouraged.

7.1.2. Variety and richness of size and shape of houses and material use is required, ensuring that building shapes reflect the principles and proportions of traditional housing in the area. Alternating building heights are acceptable from 1 to 2 storeys. Consideration should be given to the topography of the land and the surrounding built development to determine building heights.

7.1.3. The development brief strategy creates opportunity for three typologies/character types of development (some photographs of successful examples are included for inspiration);

- Curves and edges.
- Development fronting green space.
- Streets.



Image 2 - Curves and Edges (positive building facades, relationship to street and countryside).



Image 3 - Development Fronting Green Space.



Image 4 – Streets (Historic characteristics and an example of contemporary interpretation).

7.1.4. Natural materials such as stone, render and timber with slate or metal roofing finishes are preferred, but are not exclusive and should not preclude innovative design.

7.1.5. Your Kirkwall Place Plan called for more colour to be integrated into new development. Reference to the recent housing developments on the periphery of the town, with white walls and black roofs were regularly criticised throughout the community engagement process.

7.1.6. Some buildings within the development will be more visible than others. Consider how material and colour could be used to provide variety, assist with wayfinding and create distinctive, high quality places.

7.1.7. Material and colour choices should be clearly explained in a design statement.



Image 5 – Colour examples (providing variety, assisting with wayfinding, creating distinctive places).

7.2. Open space, landscaping and linkages



Image 6 - Open Space, landscaping, linkages and biodiversity enhancement.

7.2.1. The allocation should be developed to include a comprehensive series of landscaped open spaces, all linked by a footpath and cycle network to the rest of the town via the wider road and path network.

7.2.2. The design of these open spaces and the landscaping associated with route networks should consider opportunities to deliver biodiversity enhancement.

7.2.3. The main active travel route towards town will be taken from the three street connections into Liberator Drive until such time as the GIN project is completed.

7.2.4. Connection will be made to the core path K4 via the north east corner of the site.

7.2.5. An Active Travel route along the east boundary of the site with associated planting/seating will be required, however it is not expected to be of a fully accessible gradient given the gradient of the land.

7.2.6. Landscaped and planted open space should be set out along roadsides and edge boundaries to help reduce the visual impact of development, provide enhanced biodiversity benefits and preserve the rural character of the area, helping to connect the town visually with the countryside beyond.

7.2.7. Developers are required to provide a Planting and Landscaping Plan that will detail the design, specification and onward management and maintenance for all areas of open space, planting and landscaping.

7.2.8. This plan will incorporate the use of a variety of types of plants using a mix of species native to Orkney.

7.3. Boundaries and edges



Image 7 - Boundaries and Edges (woodland edge and suitable boundary treatments within the site).

7.3.1. Boundary planting will provide a strong and substantial green edge along the south and west boundaries to reinforce transition to countryside character. Along the south boundary in particular this will include the use of trees to create a woodland edge which over time will screen development from the road.

7.3.2. Existing stone dykes should be repaired and retained. A section of existing stone dyke will be removed to create the site access. This section should be re-built and integrated into the design of the green space as a feature at this point

7.3.3. Good boundary treatments consisting predominantly of stone dykes, with hedge planting or timber fencing should be used on the site edges and internal boundaries.

7.3.4. There may be potential in future, through the implementation of the GIN project, to realign the stone dyke which currently defines the boundary between the

Muddisdale green space and the K5 site, as well as the farmland situated further west. This would see the fillet of land left undeveloped in the north west corner of the K5 site physically defined as part of the GIN.

7.4 Access, Roads and Movement



Image 8 - Access, Roads and Movement (creating streets with prioritised pedestrian/cycle access).

7.4.1. The approach to access, roads and movement, and in turn, how buildings relate to this, should be underpinned by the principles of Designing Streets.

7.4.2. The primary site access will be taken from the first spur of the route into Liberator Drive from Old Finstown Road.

7.4.3. A route from the top of the site to the bottom, which is suitable for active travel within the carriageway, will be required.

7.4.4. A Primary Street will connect the main site access towards potential future development to the west of the site. Alongside this street will run a green space with an off-road active travel route.

7.4.5. This will be complemented by a series of connected Residential Streets of shared surface design.

7.4.6. All route networks should support Active Travel. Pedestrian and cycle permeability should be prioritised, with development laid out for ease of way finding

7.4.7. The use of culs-de-sac and turning heads should be minimised, and where required, designed as part of a multi-purpose public space.

7.4.8. Coherently-designed building frontages should be used to enhance the quality of streets and open space.

7.4.9. Gardens, open space and housing should be of higher visual prominence than roads and car parking.

7.4.10. Shared external spaces or other landmarks act as markers in the development, providing orientation, social space and enhanced relationships to adjacent housing.

7.5 Water resource management



Image 9 – Existing flooding issues within the Muddisdale/Glaitness sub-catchment.

7.5.1. The emerging Kirkwall Surface Water Management Plan indicates that there is a known flood risk problem in the Muddisdale/Glaitness sub-catchment.

7.5.2. The Muddisdale/Glaitness sub-catchment is also an important contributor to the Peedie Sea catchment.

7.5.3. Storage in the Peedie Sea is limited and to protect Central Kirkwall, capacity needs to be maintained by minimising contributing flow rates and volumes such that pre-development values for all rainfall events up to 1:200 year return period are not exceeded.

7.5.4. Within the Muddisdale/Glaitness sub-catchment important social and educational establishments are at risk of surface water flooding.

7.5.5. The developer must demonstrate that the development of the K5 site will not result in an increase in flood risk within the sub-catchment and wider Peedie Sea catchment and ideally offer a reduction.



Image 10 - Water Resource Management (creating multi-functional spaces for people and nature).

7.5.6. It is therefore important that measures are integrated into the design and layout of the K5 site to mitigate this risk.

7.5.7. Any risk of surface water flooding within a site should be appropriately mitigated through the design of the development, in accordance with Policy 13 (Flood Risk, SuDS and Waste Water Drainage) of the OLDP 2017, and other relevant guidance including CIRIA's The SuDS Manual C753.

7.5.8. Flood risk assessments require to be provided by the developer. Each assessment should cover the entire Muddiesdale/Glaitness sub-catchment.

7.5.9. Communal SuDS areas should be the focus of open space and recreational areas with footpath and cycleway connections and biodiversity enhancement.

7.5.10. An appropriate development-free buffer zone should be established alongside any watercourses in the area. To be determined by a site-specific flood risk assessment and reference should be made to the SEPA Background Planning Paper Water Environment.

7.5.11. The development brief strategy illustrates that;

7.5.11.1. A small fillet of land in the north west corner of the K5 site which is at risk of flooding should be avoided and it should be retained as open space/wetland areas and designed as part of the SuDS and landscape strategy for the area as a whole.

7.5.11.2. Surface water management should be integrated into the streets.

7.5.11.3. A SuDS basin, possibly incorporating a pond, should be provided at the north east corner of the site.

7.5.12. New water and drainage connections will be required.

7.5.13. All new development should connect to the Public Sewer.

7.6 Environmental management

7.6.1. The developer will be required to integrate nature-based solutions to the design of SuDS, buffer strips beside any watercourses, wetlands and wild spaces to

create multi-functional spaces that connect people with nature and provide enhanced biodiversity.

7.6.2. Development of the area will result in the generation of surplus topsoil. A method statement and, where necessary, a soil management plan, should be submitted in support of planning applications. This should include proposals for the sustainable disposal of surplus topsoil.

7.6.3. A plan detailing how construction phase SuDS will be provided to prevent an increase in flood risk and to protect existing water bodies.

7.7. Services

7.7.1. Provision of high-speed broadband, or the future capability of such network would be expected as part of any development.

7.7.2. Where any part of the development features communal parking, EV charge points to be provided.

7.7.3. The development will gain a connection to the Scottish Water foul drainage system and the Scottish Water clean water system before the proposed houses are occupied.

7.8 Phasing

7.8.1. Where development is to be phased, it is expected that the layout of the allocation as a whole will be provided to demonstrate that the initial phase compliments the vision for the wider area.

8. Submitting a planning application

8.1.

In preparing a proposal, developers are advised to hold pre application discussions with the planning authority. Compliance with this brief should not be interpreted as ensuring automatic approval of a proposal. Any application will be assessed on its merits.

8.2.

A design statement should be submitted alongside appropriate drawings. A suggested check list for the design statement is as follows:

- Design principles.
- Street design proposals including materials palette.
- House design proposals including materials palette.
- Landscape plan.
- Management and Maintenance plan.
- Services information including SUDS proposal and Scottish Water correspondence.
- Flood risk information.

- Transport statement including TIA and parking provision proposed.
- Ecology and ground water statement.
- Archaeology statement.
- Affordable housing statement.
- Construction method statement and phasing plan.

9. Further information

9.1.

Designing Streets: A Policy Statement for Scotland.

<http://www.gov.scot/publications/designing-streets-policy-statement-scotland/>

9.2.

Creating Places: A Policy on Architecture and Place for Scotland.

<http://www2.gov.scot/Publications/2013/06/9811>

9.3.

Cycling by Design.

https://www.transport.gov.scot/media/14173/cycling_by_design_2010_rev_1_june_2011_.pdf

9.5.

Your Kirkwall Place Plan.

<http://www.yourkirkwall.com>

9.6.

A woodland guide: Selecting and establishing trees for woodland projects in Orkney.

<http://www.orkneylibrary.org.uk/OBRC/html/leaflets.htm>

9.7.

SEPA Planning Background Paper – Water Environment.

<https://www.sepa.org.uk/media/219894/lups-bp-gu2b-water-environment-planning-background-paper.pdf>

Minute

Harbour Authority Sub-committee

Tuesday, 25 August 2020, 10:30.

Microsoft Teams.



Present

Councillors Graham L Sinclair, Andrew Drever, Robin W Crichton, David Dawson, Magnus O Thomson and Owen Tierney.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Gavin Barr, Executive Director of Development and Infrastructure.
- James Buck, Harbour Master.
- David Sawkins, Deputy Harbour Master: Strategy and Support.
- Colin Kemp, Corporate Finance Senior Manager.
- Georgette Herd, Solicitor.

Observing

- Paul Olvhoj, Business Development Manager.
- Hazel Flett, Senior Committees Officer.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Graham L Sinclair.

1. Form of Voting

The Sub-committee resolved that, should a vote be required in respect of the business to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll or recorded vote.

2. Revenue Expenditure Outturn

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Sub-committee:

Noted:

2.1. The revenue expenditure outturn statement in respect of the Scapa Flow Oil Port and Miscellaneous Piers for financial year 2019/20, attached as Annex 1 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, which indicated the following:

- An income surplus of £2,419,400 against an income budget of £1,310,900 in respect of Scapa Flow Oil Port.
- An income surplus of £1,379,300 against an income budget of £1,030,200 in respect of Miscellaneous Piers.

The Sub-committee scrutinised:

2.2. The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 2 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

3. Revenue Expenditure Monitoring

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Sub-committee:

Noted:

3.1. The revenue financial summary statement in respect of the Scapa Flow Oil Port and Miscellaneous Piers and Harbours for the period 1 April to 30 June 2020, attached as Annex 1 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, which indicated a budget deficit position of £1,118,600.

3.2. The revenue financial detail by Service Area statement, in respect of the Scapa Flow Oil Port and Miscellaneous Piers and Harbours for the period 1 April to 30 June 2020, attached as Annex 2 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance.

The Sub-committee scrutinised:

3.3. The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the joint report by the Executive Director of Development and Infrastructure and the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

4. Miscellaneous Piers and Harbours

Revenue Maintenance Programme

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Sub-committee:

Noted:

4.1. The summary outturn position of expenditure incurred for financial year 2019/20, in respect of the Miscellaneous Piers and Harbours revenue maintenance programme, as detailed in section 5.1 of the report by the Head of Finance.

The Sub-committee scrutinised:

4.2. The detailed analysis of expenditure figures and programme updates, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress made with delivery of the approved Miscellaneous Piers and Harbours revenue maintenance programme.

5. Miscellaneous Piers and Harbours

Revenue Maintenance Programme – Expenditure Monitoring

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Sub-committee:

Noted:

5.1. The summary position of expenditure incurred, as at 30 June 2020, against the approved Miscellaneous Piers and Harbours revenue maintenance programme for financial year 2020/21, as detailed in section 5.1 of the report by the Head of Finance.

The Sub-committee scrutinised:

5.2. The detailed analysis of expenditure figures and programme updates, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress made with delivery of the approved Miscellaneous Piers and Harbours revenue maintenance programme.

6. Minor Capital Improvement Programmes

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Corporate Finance Senior Manager, the Sub-committee:

Noted:

6.1. The summary outturn position of capital expenditure incurred for financial year 2019/20 in respect of the minor capital improvement programmes for Piers and Harbours and Scapa Flow Oil Port, as detailed in section 4 of the report by the Head of Finance.

The Sub-committee scrutinised:

6.2. The detailed analysis of expenditure figures against the approved programmes, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress made with delivery of the approved Miscellaneous Piers and Harbours revenue maintenance programme.

7. Kirkwall Pier

Proposed New Waiting Room and Offices

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Deputy Harbour Master: Strategy and Support, the Sub-committee:

Noted:

7.1. That the existing passenger waiting room on Kirkwall Pier was not in the correct location or up to modern standards regarding persons with reduced mobility.

7.2. The proposal to construct a purpose-built passenger waiting room, Harbour Authority office/messroom, together with the provision of new offices for marine businesses, to address the concerns outlined above.

7.3. That the cost of constructing the new waiting room and office space at Kirkwall Pier was estimated at £470,000, to be funded as follows:

- Scottish Government's Regeneration Capital Grant Fund – £300,000.
- HIE Business Gateway – £10,000.
- North Isles Landscape Partnership Scheme – £5,000.
- Miscellaneous Piers and Harbours Account – £155,000.

7.4. The Stage 1 Capital Project Appraisal in respect of the proposed construction of a new waiting room, Harbour Authority offices/messroom and offices/work area to rent or lease, attached as Appendix 1 to the report by the Executive Director of Development and Infrastructure.

The Sub-committee resolved to **recommend to the Council:**

7.5. That, subject to the Regeneration Capital Grant Fund application being successful and, as an exception to the Capital Project Appraisal process, due to the need to carry out further feasibility work and to be able to start construction during 2021/22, in accordance with Regeneration Capital Grant Fund obligations, the Executive Director of Development and Infrastructure should submit, to the Policy and Resources Committee, a Stage 2 Capital Project Appraisal in respect of the proposed new waiting room and offices on Kirkwall Pier.

8. Conclusion of Meeting

At 11:45 the Chair declared the meeting concluded.

Signed: Graham L Sinclair.