

Minute

Local Review Body

Wednesday, 3 July 2024, 12:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

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

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

- Hazel Flett, Service Manager (Governance).
- Susan Shearer, Planning Advisor.
- Stuart Bevan, Legal Advisor.

Observing

- Erica Niven, Rural Planner.
- Maya Tams-Gray, Committees Officer.

Declaration of Interest

- Councillor W Leslie Manson – Items 1 and 2.

Chair

- Councillor Owen Tierney.

1. Planning Application 22/179/PIP

Proposed Siting of Two Houses and Creation of Access near Thorne Villa, Harray

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

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, the Local Review Body:

Noted:

1.1. That planning permission in principle for the proposed siting of two houses and creation of an access near Thorne Villa, Harray, was refused by the Appointed Officer on 30 November 2023, for the following reasons:

- Policy 5E(vi) of the Orkney Local Development Plan 2017 provides for "...the creation of one housing plot within an existing housing group during the lifetime of the Orkney Local Development Plan..." The planning application is submitted in principle for two housing plots, therefore exceeding and contrary to the provision of Policy 5E(vi) of the Orkney Local Development Plan 2017.
- The application site is not within an 'existing housing group' as defined in paragraph 3.19 of Supplementary Guidance 'Housing in the Countryside' (2021). The proposed development therefore fails to meet the requirement of point 1, of paragraph 3.20 of Supplementary Guidance 'Housing in the Countryside' (2021), and is therefore contrary to Policy 5E(vi) of the Orkney Local Development Plan 2017.
- The application site does not 'share boundaries with two existing independent dwelling houses'. The proposed development therefore fails to meet the requirement of point 2, of paragraph 3.20 of Supplementary Guidance 'Housing in the Countryside' (2021), and is therefore contrary to Policy 5E(vi) of the Orkney Local Development Plan 2017.
- On the basis the application site is not within a 'housing group' as defined for the purposes of new housing in the countryside, the development cannot accord with and enhance a housing group. The plot shape and development density are not similar to houses nearby. The proposed development therefore fails to meet the requirement of point 3, of paragraph 3.20 of Supplementary Guidance 'Housing in the Countryside' (2021), and is therefore contrary to Policy 5E(vi) of the Orkney Local Development Plan 2017.
- No provision exists within Policy 17 'Rural homes' of National Planning Framework 4 for infill housing development in the countryside. The proposed development is therefore contrary to Policy 17 of National Planning Framework 4.

1.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed.

1.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site near Thorne Villa, Harray, at 10:30 on 3 July 2024.

After hearing a report from the Planning Advisor, on the motion of Councillor Duncan A Tullock, seconded by Councillor David Dawson, the Local Review Body:

Resolved, in terms of delegated powers:

1.4. That the Committee had insufficient information in order to proceed to determine the review.

1.5. That the review in respect of the decision of the Appointed Officer to refuse planning permission in principle for the proposed siting of two houses and creation of an access near Thorne Villa, Harray, should not be determined without further procedure.

1.6. That the further procedure, referred to at paragraph 1.5 above, should comprise:

- The further written submissions procedure under Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 to ensure the applicant was afforded the opportunity to provide updated submissions on their Notice of Review now that new Development Management Guidance in respect of Housing in the Countryside was in force.

1.7. That Development Management be included in the procedure notice, required in terms of the written submissions procedure referred to at paragraph 1.6 above, in order that Development Management was afforded the opportunity to make comments on the applicant's updated submissions.

2. Planning Application 22/473/PP

Proposed Erection of House with Integral Garage and Air Source Heat Pump and Upgrade Access at Yairsay, St Ola

Prior to leaving the meeting, Councillor W Leslie Manson had also declared an interest in this item, his connection being that he had social and recreational contact with the applicant, as well as acting on behalf of prospective purchasers of the site by responding to planning related matters. Councillor W Leslie Manson also confirmed that he had not taken part in the unaccompanied site inspection.

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, the Local Review Body:

Noted:

2.1. That planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, was refused by the Appointed Officer on 9 February 2024, for the following reason:

- Based on site specific traffic survey data and subsequent assessment by the roads authority, it is concluded that the proposed development would have unacceptable impact on road safety due to insufficient forward visibility from the access junction. Roads Services has objected to the application on these grounds of road safety. The development is contrary to Policy 1 'Criteria for All New Development' part (vi) of the Orkney Local Development Plan 2017 as it would 'result in an unacceptable level of risk to public health and safety'. The development is also contrary to Policy 14C 'Road Network Infrastructure' of the Orkney Local Development Plan 2017 part (iii) is the upgrade to an existing access fails to meet the requirements of the National Roads Development Guide and would not 'safe for all road users'.

2.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed.

2.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to Yairsay, St Ola, at 11:15 on 3 July 2024.

After hearing a report from the Planning Advisor, the Local Review Body:

Resolved, in terms of delegated powers:

2.4. That, as the Local Review Body determined it had sufficient information, the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, should be determined without further procedure.

Councillor Owen Tierney, seconded by Councillor John A R Scott, moved that the decision of the Appointed Officer, to refuse planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, should be reversed.

Councillor David Dawson moved an amendment that the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, be upheld. On receiving no seconder his amendment fell.

The Local Review Body thereafter resolved, in terms of delegated powers:

2.5. That the decision of the Appointed Officer, to refuse planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, should be reversed.

2.6. That planning permission be granted for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access at Yairsay, St Ola, subject to conditions.

2.7. That the Local Review Body's reasons for granting planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, were that, in the Committee's opinion:

- The proposed development was sited and designed taking into consideration the location and the wider townscape, landscape and coastal character.
- The proposed density of the development was appropriate to the location.
- The proposed development was not prejudicial to the effective development of, or existing use of the wider area.
- The amenity of the surrounding area was preserved and there were no unacceptable adverse impacts on the amenity of adjacent and nearby properties/users.
- The proposed development would not result in an unacceptable burden on existing infrastructure and services.
- The proposed development did not result in an unacceptable level of risk to public health and safety.

Further, notwithstanding the results of the desktop study undertaken by the Roads Service, together with the adoptable standards defined by the National Roads Development Guide, having carried out the site inspection, the Local Review Body did not agree with the concerns raised in the objection by the Roads Service, did not agree with the nature of the objection on the grounds of road safety, noted that it was a desktop study and decided not to follow the guidance in the National Roads Development Guide.

Accordingly, the Local Review Body determined that the proposed development complied with the following policies of the Orkney Local Development Plan 2017:

- Policy 1(i), (ii), (iii), (iv), (v) and (vi) – Criteria for All Development.
- Policy 5(E)(i) and (ii) – Single Houses and new Housing Clusters in the Countryside.

2.8. That powers be delegated to the Corporate Director for Strategy, Performance and Business Solutions, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions to attach to the planning permission for the proposed erection of a house, with an integral garage and an air source heat pump, together with upgrading an access, at Yairsay, St Ola, based on the following relevant matters:

- Duration of consent.
- Access construction including visibility splays.
- Tree protection.
- Breeding birds.
- Biodiversity enhancement.
- Japanese knotweed management.
- Surface water drainage.
- Demolition of existing buildings.
- External lighting.
- Landscaping.
- Hours of construction.
- Construction traffic management plan.

3. Conclusion of Meeting

At 12:47 the Chair declared the meeting concluded.

Signed: Owen Tierney.