

## Minute

### Local Review Body

Thursday, 18 December 2025, 12:00.

Council Chamber, Council Offices, School Place, Kirkwall.



### Present

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

### Clerk

- Katy Russell-Duff, Committees Officer.

### In Attendance

- Gavin Barr, Planning Advisor.
- Stuart Bevan, Legal Advisor (for Items 1 and 3).
- Paul Maxton, Legal Advisor (for Items 1 and 2).

### Apologies

- Councillor Janette A Park.
- Councillor Jean E Stevenson.

### Declarations of Interest

- Councillor David Dawson – Item 3.
- Councillor W Leslie Manson – Item 3.
- Councillor John A R Scott – Item 3.

### Chair

- Councillor Owen Tierney.

## 1. Planning Application 24/264/PIP

### Proposed Siting of House (Subdivision of Curtilage) at Roselea Croft, Blackhill Road, St Ola

After consideration of a report by the Head of Corporate Governance, copies of which had been circulated, and after hearing a presentation from the Planning Advisor, the Local Review Body:

Noted:

**1.1.** That planning permission in principle for the proposed siting of a house (subdivision of curtilage) at Roselea Croft, Blackhill Road, St Ola, was refused by the Appointed Officer on 1 September 2025, for the following reasons:

- 01. The application site is not ‘domestic curtilage’ as defined in paragraph 5.05 of Supplementary Guidance ‘Housing in the Countryside’ (2021). On that basis, the proposed development fails to meet the fundamental requirement of being ‘The Subdivision of a Dwelling House or its Residential Curtilage’, and therefore cannot be assessed under, Policy 5E(v) of the Orkney Local Development Plan 2017.
- 02. Policy 5E(v) of the Orkney Local Development Plan 2017 requires that, “...The curtilage to be sub-divided has served the host house for a period of 10 years or more. Evidence will be required to support the application, such as planning history or clean/documentary/photographic evidence.” Available evidence confirms the contrary, that the land is not domestic curtilage; therefore, there is no test required for how long it has served the host house. It is simply not curtilage. The development is contrary to Policy 5E(v) of the Orkney Local Development Plan.

**1.2.** That the applicant’s agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed, a summary of which was provided as part of the presentation from the Planning Advisor.

**1.3.** That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site at Roselea Croft, Blackhill Road, St Ola, at 10:30 on 18 December 2025, where the following was observed:

- Location of site.
- Site boundaries and fencing.
- Access point.
- Current appearance of the ground – being uneven and set to rough grass.
- The nearby house and steadings of Roselea.
- The location of neighbouring properties.
- The location of the nearby wind turbine.

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

On the motion of Councillor James R Moar, seconded by Duncan A Tullock, the Local Review Body resolved, in terms of delegated powers:

**1.4.** That the decision of the Appointed Officer, to refuse planning permission in principle for the proposed siting of a house (subdivision of curtilage) at Roselea Croft, Blackhill Road, St Ola, should be reversed.

**1.5.** That planning permission in principle be granted in respect of the proposed siting of a house (subdivision of curtilage) at Roselea Croft, Blackhill Road, St Ola, subject to conditions.

**1.6.** That the Local Review Body's reasons for granting planning permission in principle for the proposed siting of a house (subdivision of curtilage) at Roselea Croft, Blackhill Road, St Ola, were that, in the Committee's judgement:

- The proposed development:
  - Was sited and designed taking into consideration the location and the wider landscape.
  - Was appropriate to the location in terms of the proposed density.
  - Was not prejudicial to the effective development of, or existing use of, the wider area.
  - Would preserve the amenity of the surrounding area and would not result in any unacceptable adverse impacts on the amenity of adjacent/nearby properties/users.
  - Would not create an unacceptable burden on existing infrastructure and services that could not be resolved.
  - Did not result in an unacceptable level of risk to public health and safety.
  - Supported rural revitalisation.
- Accepting the evidence provided by the applicant that the application was for the subdivision of the property directly associated with an existing residential dwelling, the scale of which was in keeping with the character and infrastructure provision in the area, consequently the land was considered to be within the domestic curtilage of Roselea Croft.

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

- National Planning Framework 4:
  - Policy 3 – Biodiversity.
  - Policy 16 – Quality homes.
  - Policy 17(a)(vii) – Rural homes.
- Orkney Local Development Plan 2017:
  - Policy 1 parts (i) to (vi) – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 5E part (v) – Single Houses and new Housing Clusters in the Countryside.

**1.7.** That powers be delegated to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives to attach to the planning permission in principle for the proposed siting of a house (subdivision of curtilage) at Roselea Croft, Blackhill Road, St Ola, based on the following relevant matters:

- Duration of consent.
- Matters:
  - Site layout.
  - Site levels/sections.

- Design and appearance.
- Landscaping.
- Access and parking arrangements, including access drainage detailing to avoid water drainage onto the public road.
- Surface water drainage.
- Road access forward visibility.
- Water supply.
- Foul drainage.
- Refuse and recycling storage.
- Biodiversity enhancement.
- Hours of work.
- Informative:
  - Roads.

## **2. Planning Application 24/123/PIP**

### **Proposed Siting of House and Detached Garage for Agricultural Worker and Create Access on Land South East of Sharalee, Sandwick**

After consideration of a report by the Head of Corporate Governance, copies of which had been circulated, and after hearing a presentation from the Planning Advisor, the Local Review Body:

Noted:

**2.1.** That planning permission in principle for the proposed siting of a house and a detached garage for an agricultural worker and creation of an access on land south east of Sharalee, Sandwick, was refused by the Appointed Officer on 16 October 2025, for the following reasons:

- 01. The development is contrary to Policy 5E of the Orkney Local Development Plan 2017, and Supplementary Guidance 'Housing in the Countryside' (2021), specifically provision 5E(viii) 'The Provision of a Single Dwelling House for a Rural Business' and is not acceptable in principle, on the basis the longevity of the current business model has not been demonstrated, the need for 'additional' 24 hour supervision has not been demonstrated, relative to the business as it operates currently, the employment status of the applicant confirms a shift pattern, which conflicts with the applicant and development providing 24 hour supervision, and the proposed development is not located with other buildings associated with the business, and does not form part of a building group.
- 02. The development is contrary to Policy 1 'Criteria for all development' on the basis it is not sited taking into consideration the location and landscape character, and Policy 2 'Design' on the basis the development would not have a positive effect on the appearance and amenity of an area.

**2.2.** That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed, a summary of which was provided as part of the presentation from the Planning Advisor.

**2.3.** That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site south east of Sharalee, Sandwick, at 09:45 on 18 December 2025, where the following was observed:

- Site location and context which included a number of other houses including Sharalee and Rango along the Scarataing Road.
- The open aspect of the site and the landscape setting.
- The nearby Harray Loch and the ditch between the fence lines which could be the subject of biodiversity considerations.
- The site access which was a gravel track leading from the main A class road.
- The site boundaries which were unfenced, forming part of an existing agricultural field on two sides and a post and wire field boundary to the south and west.
- The location of the farm steading at Bain which was not visible from the application site.
- The farm steading at Bain, and the new house (17/510/PP) which was currently under construction, also observed en route.

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

On the motion of Councillor Duncan A Tullock, seconded by Councillor David Dawson, the Local Review Body resolved, in terms of delegated powers:

**2.4.** That the decision of the Appointed Officer, to refuse planning permission in principle for the proposed siting of a house and a detached garage for an agricultural worker and creation of an access on land south east of Sharalee, Sandwick, should be reversed.

**2.5.** That planning permission in principle be granted in respect of the proposed siting of a house and a detached garage for an agricultural worker and creation of an access on land south east of Sharalee, Sandwick, subject to conditions.

**2.6.** That the Local Review Body's reasons for granting planning permission in principle for the proposed siting of a house and a detached garage for an agricultural worker and creation of an access on land south east of Sharalee, Sandwick, were that, in the Committee's judgement, the proposed development:

- Was for a viable rural farming business where it was evidenced that 24 hour supervision was an operational requirement and where there was an essential need for a worker to live permanently near their place of work; noting the proximity of the application site to agricultural lands which formed part of Bain, but were not visible from the main farm steading site.
- Was sited and designed taking into consideration the location and the wider landscape.
- Was appropriate to the location in terms of the proposed density.
- Would preserve the amenity of the surrounding area and would not result in any unacceptable adverse impacts on the amenity of adjacent/nearby properties/users.

- Would not create an unacceptable burden on existing infrastructure and services that could not be resolved.
- Did not result in an unacceptable level of risk to public health and safety.
- Would contribute to the viability, sustainability and diversity of rural communities and support the local rural economy, including farms.
- Was suitably scaled, sited and designed to be in keeping with the character of the area.
- Would take into account the transport needs of the development which were considered appropriate for the rural location.
- Was a necessary sustainable building, at or near the place of work.

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

- National Planning Framework 4:
  - Policy 17(a, part v) – Rural homes.
- Orkney Local Development Plan 2017:
  - Policy 1, parts (i) to (vi) – Criteria for All Development.
  - Policy 5E, part (vii) – Single Houses and new Housing Clusters in the Countryside.

**2.7.** That powers be delegated to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives to attach to the planning permission in principle for the proposed siting of a house and a detached garage for an agricultural worker and creation of an access at land south east of Sharalee, Sandwick, based on the following relevant matters:

- Duration of consent.
- Matters:
  - Site layout.
  - Site levels/sections.
  - Design and appearance.
  - Landscaping.
  - Access and parking arrangements.
  - Surface water drainage.
  - Road access forward visibility.
  - Water supply.
  - Foul drainage.
  - Refuse and recycling storage.
  - Biodiversity enhancement.
  - Otter survey.
- Hours of work.
- Agricultural occupation.

- Informative:
  - Roads.

### **3. Planning Application 25/100/HH**

#### **Proposed Extension of House and Erection of Fence at 3 Robertson Loan, Kirkwall**

Councillor David Dawson declared an interest in this item, his connection being that he had engaged in significant contact with the applicant on issues that were pertinent to the applicant's property, and that this connection would reasonably be regarded as being so significant that it would be considered as being likely to influence the discussion or decision-making. Councillor David Dawson also confirmed that he had not taken part in the unaccompanied site inspection and left the meeting at this point.

Councillor W Leslie Manson declared an interest in this item, his connection being that he engaged in significant contact with the applicant on issues that were pertinent to the applicant's property, and that this connection would reasonably be regarded as being so significant that it would be considered as being likely to influence the discussion or decision-making. Councillor W Leslie Manson also confirmed that he had not taken part in the unaccompanied site inspection and left the meeting at this point.

Councillor John A R Scott declared an interest in this item, his connection being that he had engaged in contact with the applicant, and that this connection would reasonably be regarded as being so significant that it would be considered as being likely to influence the discussion or decision-making. Councillor John A R Scott 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 Head of Corporate Governance, copies of which had been circulated, and after hearing a presentation from the Planning Advisor, the Local Review Body:

Noted:

**3.1.** That planning permission for the proposed extension of a house and erection of a fence at 3 Robertson Loan, Kirkwall, was refused by the Appointed Officer on 11 August 2025, for the following reasons:

- 01. The proposal is contrary to Policy 1 of the Orkney Local Development Plan 2017, as the development is not sited and designed taking into consideration the location and the wider landscape and density of the development. This is due to the extent of the proposed extensions, the density of these compared to the surrounding dwellings and the proposed fence height, which together result in an inappropriate and overdeveloped form of development.
- 02. The proposal is contrary to Policy 2 of the Orkney Local Development Plan 2017 and Policy 14 [of] the National Planning Framework 4, as the development is not sympathetic to the character of the local area, and does not provide a positive or neutral effect on the amenity of the area as required. The design, massing, and siting of the extensions break the general building line for houses of that scale and would introduce a dominant and overbearing feature at a key roadside location, which is visually incongruous within the wider streetscape.

- 03. The proposal is contrary to Planning Policy Advice 'Amenity and Minimising Obtrusive Lighting' (2021) which requires minimum rear garden depth to be at least 10 metres, to maintain rear garden privacy.
- 04. The proposal is contrary to Policy 14 of National Planning Framework 4, as the proposal has a detrimental impact on the amenity of the surrounding area, including risk of overlooking arising from the north extension and the visual impact of the fencing, impacting the enjoyment and privacy of neighbouring dwellings.

**3.2.** That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 3.1 above, be reviewed, a summary of which was provided as part of the presentation from the Planning Advisor.

**3.3.** That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site at 3 Robertson Loan, Kirkwall, at 11:00 on 18 December 2025, where the following was observed:

- The application site, including its garden area, site levels and boundary fencing.
- The neighbouring properties and their garden areas, which were rear gardens with car parking to the front.
- The general character of houses in the area, which included varied sizes and types.
- The general profile of building massing in the area.
- The height of garden fencing in the area, which was generally lower level fencing.
- Site appraisal, including elevations and placement of windows with reference to neighbouring properties.

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

On the motion of Councillor Owen Tierney, seconded by Councillor P Lindsay Hall, the Local Review Body resolved, in terms of delegated powers:

**3.4.** That the decision of the Appointed Officer, to refuse planning permission for the proposed extension of a house and erection of a fence at 3 Robertson Loan, Kirkwall, be upheld, in that planning permission for the proposed extension of a house and erection of a fence at 3 Robertson Loan, Kirkwall, be refused, for the following reasons:

- 01. The proposal is contrary to Policy 1 of the Orkney Local Development Plan 2017, as the development is not sited and designed taking into consideration the location and the wider landscape and density of the development. This is due to the extent of the proposed extensions, the density of these compared to the surrounding dwellings and the proposed fence height, which together result in an inappropriate and overdeveloped form of development.
- 02. The proposal is contrary to Policy 2 of the Orkney Local Development Plan 2017 and Policy 14 of the National Planning Framework 4, as the development is not sympathetic to the character of the local area, and does not provide a positive or neutral effect on the amenity of the area as required. The design, massing, and siting of the extensions break the general building line for houses of that scale and would introduce a dominant and overbearing feature at a key roadside location, which is visually incongruous within the wider streetscape.

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- 04. The proposal is contrary to Policy 14 of National Planning Framework 4, as the proposal has a detrimental impact on the amenity of the surrounding area, including risk of overlooking arising from the north extension and the visual impact of the fencing, impacting the enjoyment and privacy of neighbouring dwellings.

#### **4. Conclusion of Meeting**

At 13:22 the Chair declared the meeting concluded.

Signed: Owen Tierney.