

Minute

Local Review Body

Thursday, 21 August 2025, 11:00.

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, Jean E Stevenson, Ivan A Taylor and Duncan A Tullock.

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

- Gavin Barr, Planning Advisor.
- Stuart Bevan, Legal Advisor (for Item 1).
- Paul Maxton, Legal Advisor.

Apology

- Councillor John A R Scott.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Owen Tierney.

1. Planning Application 23/304/PP

Proposed Erection of Five Self-catering Pods with Associated Landscaping and Parking near 6 Seafield, Finstown

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

Noted:

1.1. That planning permission for the proposed erection of five self-catering pods with associated landscaping and parking near 6 Seafield, Finstown, was refused by the Appointed Officer on 26 March 2025, for the following reasons:

01. The proposal is contrary to National Planning Framework 4, Policy 2(b) as the proposed development is not sited and designed to adapt to current and future risks of climate change.

02. The proposal is contrary to National Planning Framework 4, Policy 10 (a. i and ii) as a proposed development in a coastal area where there may be a need for further coastal protection measures, taking into account future sea level change and/or increases the risk to people of coastal flooding or coastal erosion, and as such is not supportable in the long term, taking into account projected climate change.

03. The proposal is contrary to National Planning Framework 4, Policy 22 as the proposed development would not strengthen resilience to flood risk nor reduce the vulnerability of future development at the site to coastal flooding.

04. The proposal is contrary to Policy 1 of the Orkney Local Development Plan 2017 as the proposed development would lead to an unacceptable level of risk to public health and safety as SEPA coastal flood risk mapping indicates that access and egress for the property would be restricted, including during a current 1 in 10 year event (10% probability any year before even considering climate change uplift) with users being considered as vulnerable. The development represents an unacceptable risk to persons.

05. The proposal is contrary to Policy 13 of the Orkney Local Development Plan 2017 as the proposed development is in a situation where there is a significant probability of being affected by flooding.

1.2. That the applicant 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 near 6 Seafield, Finstown, at 09:15 on 21 August 2025, where the following was observed:

- That the application site was located within Finstown village, with residential property to the south and the school across the Bridge to the north.
- Existing use of the land as a builder's yard/storage.
- Existing site levels and sea wall which sloped from west to east across the site; with the proposal to raise the land to allow for a finished ground level height of 4.23 metres above datum at the eastern most part of the site which would be marked by a raised sea wall. This would lead to raised elevation of 0.57 metre at the western part of the site and 1.15 metres at the western part of the site compared to existing levels.
- The proposed site layout, with reference to the site layout plan and artist impressions which included an access from the main road, communal car parking for five cars and landscaping.
- The Scheduled Monument located directly to the north of the site boundary, and that proposed landscaping was stepped back from this boundary.
- The two stone buildings on the site – one to the south west and one to the north west – which were to be retained as part of the development.

Although the applicant had requested that their review be conducted by way of a hearing, the Local Review Body determined that it had sufficient information to proceed to determination of the Review and that the Review be determined without further procedure.

On the motion of Councillor Owen Tierney, seconded by Councillor David Dawson, the Local Review Body, resolved, in terms of delegated powers:

1.4. That the Local Review Body should notify the Scottish Ministers of its intention to reverse the decision of the Appointed Officer and grant planning permission for the proposed erection of five self-catering pods with associated landscaping and parking near 6 Seafield, Finstown, subject to conditions.

1.5. That, should the review not be called in by Scottish Ministers for determination, powers be delegated to the Chief Executive, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, as appropriate, to attach to the planning permission for the proposed erection of five self-catering pods with associated landscaping and parking near 6 Seafield, Finstown, based on the relevant matters:

- Duration of consent.
- Access specification.
- Parking specification and provision.
- Restricted use – short term letting purpose only.
- Annual occupation limitation – 28 days.
- Biodiversity enhancement.
- Landscaping (hard and soft).
- External finishes.
- Surface water drainage.
- Foul drainage.
- Exterior lighting.
- Finished floor levels and ground levels.
- Single control and management of the units as a business operator.
- Hours of construction.
- Protection of scheduled monument.

1.6. That the Local Review Body's reasons for granting planning permission for the proposed erection of five self-catering pods with associated landscaping and parking near 6 Seafield, Finstown, were that, in the Committee's judgment:

- The proposed development:
 - Was sited and designed taking into consideration the location, the wider townscape and coastal character.
 - 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.
- Did not create an unacceptable burden on existing infrastructure and services that could not be resolved.
- Did not result in an unacceptable level of risk to public health and safety.
- Would have a positive or neutral effect on the appearance and amenity of the area.
- Would facilitate easy wayfinding to and around the development and was appropriately connected to pedestrian, vehicular and public transport routes, thereby encouraging and prioritising pedestrian access.
- Was for modular units that would be easy to remove if required.
- Was a short-term development.
- Would raise the ground level which would strengthen the resilience to flood risk.
- Would bring a net positive benefit to the community in terms of improving the quality of the area, such as the visual amenity of the area.
- Would contribute positively to tourism and the local economy.
- Whilst it was recognised that there was the risk of flooding, taking into account factors such as the land raising, the relatively sheltered area of the coast and uncertainties identified in the Notice of Review paperwork regarding the level of certainty which could be attached to flood modelling in this local context; against that background, the positive benefits of the proposal outweighed any flood risk associated with the proposed development.

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

- National Planning Framework 4:
 - Policy 1 – Sustainable Places.
 - Policy 2 – Climate mitigation and adaptation.
 - Policy 9(a) – Brownfield, vacant and derelict land and empty buildings.
 - Policy 10(a) – Coastal development.
 - Policy 22 - Flood risk and water management.
- Orkney Local Development Plan 2017:
 - Policy 1 parts (i), (ii), (iii), (iv), (v) and (vi) – Criteria for All Development.
 - Policy 2 parts (ii) and (iii) – Design.
 - Policy 13 (A)(iii)– Flood Risk, SuDS, and Waste Water Drainage

2. Planning Application 24/449/PIP

Proposed Siting of House for Retiring Farmers near Upper Ellibister, Rendall

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

Noted:

2.1. That planning permission in principle for the proposed siting of a house for retiring farmers near Upper Ellibister, Rendall, was refused by the Appointed Officer on 3 June 2025, for the following reasons:

01. The proposed site location would not reflect the character of the surrounding area and would appear incongruous and intrusive due to inappropriate siting within the landscape. The development fails to comply with Policy 1 “Criteria for All Development, points i and ii, of the Orkney Local Development Plan 2017.

02. The proposed site location does not reflect the local settlement pattern, nor would it reinforce the distinctive identity of Orkney’s rural built environment and is not sympathetic to the character of the local area. The development fails to comply with Policy 2 “Design”, points i and ii, of the Orkney Local Development Plan 2017.

03. The proposed development fails to meet policy requirements for a new house in the countryside. Insufficient justification is provided in relation to Policy 5E (viii) for the Provision of a Single Dwelling House to allow for Retirement and Succession of a Farm. For a planning application to benefit from the provisions of this policy, it must be located with existing buildings at the business. The principle and the location sit together, and it would be contrary to the policy for the principle to be accepted and the requirements of the policy to be abandoned. The development is therefore contrary to Policy 5E ‘Housing – Single Houses and new Housing Clusters in the Countryside’ of the Orkney Local Development Plan 2017.

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, a summary of which was provided as part of the presentation from the Planning Advisor.

2.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied site inspection to the site near Upper Ellibister, Rendall, at 09:45 on 21 August 2025, where the following was noted and observed:

- The site location with reference to existing farm buildings at Ellibister located to the north of the application site.
- The open aspect of the site which was at a distance from the main cluster of farm buildings and also other houses in the area.
- The shared access track.
- The property known as Keldabrae located to the south of the site which was referred to in the Notice of Review as relevant previous planning history as a one-for-one replacement site located at a distance from the original farm buildings at Ellibister.

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 Jean E Stevenson, seconded by Councillor W Leslie Manson, 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 for retiring farmers near Upper Ellibister, Rendall, should be reversed.

2.5. That planning permission in principle be granted in respect of the proposed siting of a house for retiring farmers near Upper Ellibister, Rendall, 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 for retiring farmers near Upper Ellibister, Rendall, were that, in the Committee's judgement, the proposed development:

- Would result in provision of a single home for retirement succession of a viable farm holding.
- Would enable the closer location of retiring farmers to the family farm, supporting succession and also future potential to contribute to positive effects on health and sustainable living in the area.
- Fitted in with the local landscape area and coastal character, being scattered housing, which was considered appropriate in this rural countryside location.
- Reinforced the local area identity and fitted in with other developments.

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

- National Planning Framework 4:
 - Policy 3 – Biodiversity.
 - Policy 5 – Soils.
 - Policy 14 – Design, quality and place.
 - Policy 15 – Local Living and 20 minute neighbourhoods.
 - Policy 17 (vi) – Rural homes.
 - Policy 22 – Flood risk and water management.
 - Policy 23 – Health and safety.
- Orkney Local Development Plan 2017:
 - Policy 1 parts (i) and (ii) – Criteria for All Development.
 - Policy 2 parts (i) and (ii) – Design.
 - Policy 5 – Housing.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.

2.7. That powers be delegated to the Chief Executive, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, to attach to the planning permission in principle for the proposed siting of a house for retiring farmers near Upper Ellibister, Rendall, based on the following relevant matters:

- Duration of consent.
- All matters to be specified, to be subject to further application.
- Agricultural occupation linking the property to the farm business.

3. Conclusion of Meeting

At 12:07 the Chair declared the meeting concluded.

Signed: Owen Tierney.