

**Item: 1**

**Local Review Body: 30 April 2026.**

**Proposed Conversion of Office with Ancillary Accommodation to House  
at 43 Junction Road, Kirkwall.**

**Report by Head of Corporate Governance.**

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## **1. Overview**

- 1.1. Planning application 25/311/PP in respect of the proposed conversion of an office with ancillary accommodation to a house at 43 Junction Road, Kirkwall, was refused by the Appointed Officer on 18 December 2025.
- 1.2. Under the Town and Country Planning (Scotland) Act 1997 (the Act) and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations), where an application for planning permission for local development has been determined by the Appointed Officer in accordance with the Council's Planning Scheme of Delegation, the applicant is entitled to seek a review of that decision by the Local Review Body.
- 1.3. The applicant's agent has submitted a Notice of Review (see Appendix 1) requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed. The applicant's agent has indicated that the review can be determined by one or more hearing sessions.
- 1.4. A letter from the Chief Planner, Scottish Government, issued in July 2011, confirmed that a review by a Local Review Body should be conducted by means of a full consideration of the application afresh.
- 1.5. Section 21 of the Scheme of Administration states that the Local Review Body will undertake unaccompanied site inspections for all planning applications subject to a review, prior to the meeting to consider the review. The purpose of the site inspection together with the procedure to be adopted, are set out in section 21.2 of the Scheme of Administration. The applicant and interested parties have been advised that an unaccompanied site inspection to 43 Junction Road, Kirkwall, is due to be undertaken on 30 April 2026 at 11:00.
- 1.6. The review procedure is set out in section 4 below.

## **2. Recommendations**

- 2.1. The Local Review Body is required to:
  - i. Determine whether it has sufficient information to proceed to determination of the review, and if so whether to uphold, reverse or vary the decision of the Appointed Officer.
- 2.2. Should the Local Review Body determine that the decision is reversed or varied, it is required to:
  - i. Determine the reasons, and, if applicable, the relevant matters in respect of potential conditions and informatives, if appropriate, to be attached to the decision notice.
- 2.3. Should the Local Review Body determine that the decision is reversed or varied, it is recommended that members of the Local Review Body:
  - i. Delegate powers to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, to attach to the Decision Notice.
- 2.4. Should the Local Review Body determine that it does not have sufficient information to proceed to determination of the review, it is required to:
  - i. Determine what further information is required, which parties are to be requested to provide the information, and whether to obtain further information by one or more of the following methods:
    - By means of written submissions under the procedure set out in Regulation 15 of the Regulations; and/or
    - By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Regulations.

## **3. Planning Authority Decision**

- 3.1. The Planning Handling Report, Planning Services file and the Decision Notice are attached as Appendices 2, 3 and 4 to this report.
- 3.2. On 18 December 2025, the Appointed Officer refused planning application 25/311/PP on the following grounds:

- 01. The location is known to be at significant risk of surface water flooding, indicated through SEPA and Scottish Water modelling of flood extents and evidenced through historical flood events, and the proposed dwelling would be a more vulnerable use than the current office (with ancillary accommodation), and the development is therefore contrary to Policy 22(a) of National Planning Framework 4 and Policy 13A of the Local Development Plan.

## 4. Local Review Procedure

- 4.1. In response to a Notice of Review, “interested parties” are permitted to make a representation to the Local Review Body. “Interested parties” include any party who has made, and not withdrawn, a representation in connection with the application. A representation was received from Development Management and is attached as Appendix 5.
- 4.2. In instances where a representation is received from an “interested party”, the applicant is afforded the opportunity to make comments on any representation received. No further comment was received from the applicant’s agent.
- 4.3. The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, an indication of relevant matters, in respect of potential planning conditions and informatives, are as follows:
  - Conditions:
    - Duration of consent.
    - Hours of work.
  - Informative:
    - Flood Informative Measures.
- 4.4. All conditions should be in accordance with Planning Circular 4/1998 regarding the use of conditions in planning permissions.
- 4.5. If the decision is reversed and the development is approved, it is proposed that powers are delegated to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, and informatives, if appropriate, based on the relevant matters, agreed in terms of section 4.3 above.
- 4.6. If the Local Review Body decides that further procedure is required, it may decide to hold a pre-examination meeting to consider what procedures to follow in the review, or to obtain further information by one or more of the following methods:

- By means of written submissions under the procedure set out in Regulation 15 of the Regulations; and/or.
- By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Regulations.

## **5. Relevant Planning Policy and Guidance**

- 5.1. Section 25 of the Act as amended states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise ... to be made in accordance with that plan...”
- 5.2. The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and other supplementary planning advice and guidance can be read on the Council website. Although the Orkney Local Development Plan is “out-of-date” and has been since April 2022, it is still a significant material consideration when considering planning applications. The primacy of the plan should be maintained until a new plan is adopted. However, the weight to be attached to the Plan will be diminished where policies within the plan are subsequently superseded.
- 5.3. National Planning Framework 4 was approved by Parliament on 11 January 2023 and formally adopted by Scottish Ministers on 13 February 2023. The statutory development plan for Orkney consists of the National Planning Framework and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of National Planning Framework 4 and a provision of the Orkney Local Development Plan 2017, National Planning Framework 4 is to prevail as it was adopted later. It is important to note that National Planning Framework 4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in National Planning Framework 4 and can be used to guide decision-making.
- 5.4. It is for the Local Review Body to determine which policies are relevant to this application; however the policies listed below were referred to by the Appointed Officer in the Planning Handling Report:
- National Planning Framework 4:
    - Policy 9 – Brownfield, vacant and derelict land and empty building.
    - Policy 13 – Sustainable transport.
    - Policy 14 – Design, quality and place.
    - Policy 16 – Quality homes.
    - Policy 18 – Infrastructure first.
    - Policy 22 – Flood risk and water management.

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 3 – Settlements, Town Centres and Primary Retail Frontages.
  - Policy 5 – Housing.
  - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance:
  - Settlement Statements (2017).
- Planning Policy Advice:
  - Amenity and Minimising Obtrusive Lighting (2021).

**For Further Information please contact:**

Gavin Barr, Planning Advisor to the Local Review Body, extension 2530, Email: [gavin.barr@orkney.gov.uk](mailto:gavin.barr@orkney.gov.uk).

**Implications of Report**

1. **Financial:** All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing revenue budgets.
2. **Legal:** The legal implications are set out in the body of the report.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of Notices of Review is delegated to the Local Review Body.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.
7. **Links to Council Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
  - Growing our economy.
  - Strengthening our Communities.
  - Developing our Infrastructure.
  - Transforming our Council.
8. **Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
  - Cost of Living.
  - Sustainable Development.
  - Local Equality.
  - Improving Population Health.

- 9. Environmental and Climate Risk:** None.
- 10. Risk:** None.
- 11. Procurement:** None.
- 12. Health and Safety:** None.
- 13. Property and Assets:** None.
- 14. Information Technology:** None.
- 15. Cost of Living:** None.

### **List of Background Papers**

Orkney Local Development Plan 2017, available [here](#).

National Planning Framework 4, available [here](#).

Planning Circular 4/1998, available [here](#).

### **Appendices**

Appendix 1 – Notice of Review (pages 1 – 9).

Appendix 2 – Planning Handling Report (pages 10 – 18).

Appendix 3 – Planning Services File (pages 19 – 37).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 38 – 41).

Appendix 5 – Representation from Interested Party [Development Management] (page 42).

Pages 1 to 41 can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference “25/311/PP”.

## INFRASTRUCTURE AND ORGANISATIONAL DEVELOPMENT



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Planning Application: 25/311/PP  
Proposal: Convert an office with ancillary accommodation to a house  
Location: 43 Junction Road, Kirkwall, KW15 1AR

### Notice of Review

#### The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

#### Regulation 10 – Representation as an Interested Party

The current application sought change of use to a dwellinghouse of an existing commercial unit, comprising an office with ancillary accommodation. Notwithstanding this ancillary provision within the commercial unit, it is a critical implication that the proposal would change the use of the premises to a house and thereby increasing the vulnerability, including that the ground floor would form part of the dwellinghouse.

Supporting information submitted by the applicant refers to historic planning permission 09/322/PPF. That was approved for five residential units within the building. As noted in the submission, four of the approved units were located at upper levels, with one unit occupying part of the ground floor. Flood risk was a consideration for that application, in the context of modelling and other flood risk information available at that time. Consultation responses received in relation to the site in 2009 are not necessarily relevant now.

Any current application must be considered in relation to the current technical knowledge and relevant planning policies. Engineering Services (the flood risk authority for Orkney) has objected and confirmed the proposed development is in an area known to be at significant risk of surface water flooding, identified in Scottish Environment Protection Agency (SEPA) and Scottish Water modelling and evidenced through flood events.

The reasons for refusal including in relation to Policy 22 of National Planning Framework 4 are set out in the officer's delegated report.

It should be noted that during the assessment of the application, SEPA was not consulted in terms of flood risk. The Engineering Services flood risk authority objection, and the resultant conclusion that the development was at risk of flooding, was sufficient to support the decision to refuse. In any event of LRB being minded to approve the development, contrary to policy, consultation with SEPA for additional advice on flood risk grounds would be available. This would ensure consistency with other applications.

### Development Management

**10 March 2026**