

Item: 5.1

Local Review Body: 8 March 2022.

Proposed Reinstate and Extend House with Air Source Heat Pump and Upgrade Access at Campston Cottage, Toab (21/445/PP).

Report by Corporate Director for Strategy, Performance and Business Solutions.

1. Purpose of Report

To determine a review of the decision of the Appointed Officer, specifically in respect of Condition 4 attached to the approved planning permission to reinstate and extend a house with air source heat pump and upgrade an access at Campston Cottage, Toab.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission to reinstate and extend a house with air source heat pump and upgrade an access at Campston Cottage, Toab, was granted by the Appointed Officer on 24 January 2022, subject to conditions.

2.2.

That the applicant has submitted a Notice of Review requesting that the decision of the Appointed Officer, specifically in respect of Condition 4 attached to the approval, referred to at paragraph 2.1 above, be reviewed.

It is recommended:

2.3.

That the Local Review Body determines 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.
- In the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision notice.

2.4.

That, in the event the Local Review Body agrees that further information is required to determine the review, 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; and/or.
- By the holding of one or more hearing.

3. Background

3.1.

Planning application 21/445/PP relates to reinstate and extend a house with air source heat pump and upgrade an access at Campston Cottage, Toab.

3.2.

The Appointed Officer granted the planning application on 24 January 2022 subject to conditions.

3.3.

In terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the applicant has submitted a Notice of Review, which is attached as Appendix 1 to this report. The Notice of Review relates specifically to Condition 4 attached to the approval, as noted below:

3.3.1.

Notwithstanding the approved Floor and Elevation Plan, drawing number 1600/2/P2 dated October 2021, the roof covering of the element of the development consisting of the reinstated building shall be finished in a natural stone slate or a good slate substitute which should reflect the same riven surface, dressed edges, colour, relative dimensions and utilise the same traditional fixing methods as real slate.

Reason: To ensure that the development reinforces the distinctive identity of the original of Orkney's built environment and is sympathetic to the renovation of the traditional building component of the development as approved.

3.4.

The Planning Handling Report, Planning Services file and the Decision Notice, including the conditions attached to the approval, referred to in section 3.2 above, are attached as Appendices 2, 3 and 4 to this report.

4. 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. No further representations were received.

4.2.

In accordance with the Council's policy to undertake site inspections of all planning applications subject to a local review, prior to the meeting to consider the review, a site visit to Campston Cottage, Toab, was undertaken at 14:15 on 8 March 2022.

4.3.

The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. The full set of planning conditions which have been applied to the current planning consent are detailed in the Decision Notice, attached at Appendix 4.

4.4.

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; and/or.
- By the holding of one or more hearing(s).

5. Relevant Planning Policy and Guidance

5.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 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 at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5 – Housing.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.

6. Corporate Governance

This report relates to the Council complying with its statutory duties as a Planning Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

7. Financial Implications

All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing Planning Service revenue budgets.

8. Legal Aspects

8.1.

There are two options available to applicants to challenge any condition attached to a planning permission.

8.2.

Under Section 42 of the Town and Country Planning Scotland Act 1997 an application can be made to the planning authority for permission to develop the application site without complying with one or more of the conditions, subject to which the permission was granted. The planning authority can decide that the permission should be granted subject to the same conditions (ie application refused), or if the application is successful, permission will be granted without the condition(s) which has been contested.

8.3.

Alternatively, under the Planning etc (Scotland) Act 2006 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 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. The review process covers any conditions imposed on a planning permission.

8.4.

Scottish Government advice on the use of conditions in planning permissions is provided in Planning Circular 4/1998. As a matter of policy, conditions should only be imposed when they are:

- Necessary.
- Relevant to planning.
- Relevant to the development to be permitted.
- Enforceable.
- Precise.

- Reasonable in all other respects.

8.5.

The full text of Planning Circular 4/1998 can be found on the Scottish Government website at: <https://www.gov.scot/publications/planning-circular-4-1998-use-of-conditions-in-planning-permissions/>.

8.6.

The procedures to be followed in respect of the review are as detailed in section 4 above.

8.7.

A letter from the Chief Planner, Scottish Government, 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.

9. Contact Officers

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10. Appendices

Appendix 1 – Notice of Review (pages 1 – 25)

Appendix 2 – Planning Handling Report (pages 26 – 31)

Appendix 3 – Planning Services File (pages 32 – 69)

Appendix 4 – Decision Notice with Conditions (pages 70 – 80)

Pages 1 to 80 can be viewed at <https://planningandwarrant.orkney.gov.uk/online-applications/search.do?action=simple&searchType=Application> and inserting the planning reference “21/445/PP”.

All other documents can be viewed at <https://www.orkney.gov.uk/council-meetings.htm?postid=5071&postdiaryentryid=11318>.

