



**ORKNEY**  
ISLANDS COUNCIL

## **Item: 4**

**Local Review Body: 4 March 2025**

**Proposed Siting of Replacement House (One for One) and Create Access at Hillbanks, Burray (24/250/PIP).**

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

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### **1. Overview**

- 1.1. Planning application 24/250/PIP in respect of the proposed siting of a replacement house and creation of an access at Hillbanks, Burray, was refused by the Appointed Officer on 29 November 2024.
- 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 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 has indicated their preference, in terms of further procedures, that a site inspection be undertaken to help conduct the determination of the review. A site inspection will be undertaken as set out in section 1.5 below.
- 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 local review, prior to 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 Hillbanks, Burray, is due to be undertaken on 4 March 2025 at approximately 14:00.

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 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. Delegates powers to the Corporate Director for Strategy, Performance and Business Solutions, following consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions 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 29 November 2024, the Appointed Officer refused planning application 24/250/PIP on the following grounds:

01. The proposed development is not within the non-linked isles, does not provide an identified local housing outcome and is not suitable in terms of location as matters relative to 'remote rural areas'. The proposed development is contrary to National Planning Framework 4 -Policy 17 – Rural Homes.

02. The proposed site location does not reflect the character of the surrounding rural 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', parts i and ii, of the Orkney Local Development Plan 2017.

03. The proposed development is groundless as it seeks to use a building within the curtilage of Hillbanks as the rationale for a replacement house. Further to which the proposed site is also removed from the site of the shed. The proposed development is contrary to Policy 5E 'Housing – Single Houses and new Housing Clusters in the Countryside' (iii) 'The replacement of an existing building or structure', of the Orkney Local Development Plan 2017.

04. The proposed house site is not situated to minimise negative impacts on the local landscape. The proposed site location has the potential to add to incongruous single house development in the countryside with the potential to lead to the suburbanisation of Littlequoy Road. Given the location of the development and prominence within the local landscape, the proposed development is considered contrary to Policy 9 'Natural Heritage and Landscape', part G i and ii of the Orkney Local Development Plan 2017.

05. The proposed development does not accord with all Development Criteria (DC), as required and as stated with 'Supplementary Guidance 'Housing in the Countryside' 2021, specifically in relation to DC2 and DC4 on the basis that 'The proposed site is not located nor situated to fit into the landscape nor does it minimise landscape and visual impacts of the development' and nor does it avoid the suburbanisation of Littlequoy Road.

## **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. No representations were received.
- 4.2. 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, are as follows:
  - Duration of consent.
  - Access upgrades.
  - Existing structure (status, removal, use of land thereafter).

- Matters specified: scale; design and materials; access; layout; site sections; means of enclosure; landscaping, drainage foul and surface); refuse bin storage and collection; external lighting; water supply; biodiversity enhancement.
- 4.3. All conditions should be in accordance with Planning Circular 4/1998 regarding the use of conditions in planning permissions.
- 4.4. If the decision is reversed and the development is approved, it is proposed that powers are delegated to the Corporate Director for Strategy, Performance and Business Solutions, following consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, based on the relevant matters, agreed in terms of section 4.2 above.
- 4.5. 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 [here](#). 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 3 – Biodiversity.
  - Policy 9 – Brownfield, vacant and derelict land and empty building.
  - Policy 17 – Rural homes.
- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 5 – Housing.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance:
  - Housing in the Countryside (2021).

**For Further Information please contact:**

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**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.
- 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 4/1988, available [here](#).

#### **Appendices**

Appendix 1 – Notice of Review (pages 1 – 13).

Appendix 2 – Planning Handling Report (pages 14 – 26).

Appendix 3 – Planning Services File (pages 27 – 86).

Appendix 4 – Decision Notice (pages 87 – 90).

Pages 1 to 90 can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference “24/250/PIP”.