

Minute

Local Review Body

Tuesday, 13 May 2025, 14:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Owen Tierney, David Dawson, James R Moar, John A R Scott, Jean E Stevenson, Ivan A Taylor and Duncan A Tullock.

Clerk

- Katy Russell-Duff, Committees Officer.

In Attendance

- Gavin Barr, Planning Advisor.
- Georgette Herd, Legal Advisor.

Apologies

- Councillor P Lindsay Hall.
- Councillor W Leslie Manson.
- Councillor Janette A Park.
- Councillor Raymond S Peace.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Owen Tierney.

1. Planning Application 24/108/PP

Proposed Erection of Two Houses with Air Source Heat Pumps and Integral Garages and Creation of Access at Plots 1 and 2, Hazelwood, Quoyloo, Sandwick

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 two houses with air source heat pumps and integral garages and the creation of an access at Plots 1 and 2, Hazelwood, Quoyloo, Sandwick, was granted by the Appointed Officer on 24 December 2024, subject to conditions.

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, specifically in respect of Conditions 02 and 03, 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 Hazelwood, Quoyloo, Sandwick, at 14:40 on 12 May 2025, where the following was noted and observed:

- The site was allocated in the Local Development Plan 2017 for housing development with capacity for up to 11 houses and, whilst there was no requirement for a development brief for the site, a site layout plan was included with the planning application which illustrated how the full site could be developed for six houses.
- The applicant was proposing two houses on the southeastern part of the site, stating that the remaining four plots had been sold as two separate parcels of land to two separate owners, and that neither owner intended to develop the remaining plots.
- The site access proposed to be taken off Bristol Road, with details of a 21 metre wide access point, which included provision for a small passing place, set out in the site layout plan.
- Within the site, the access road would include provision for a path link to the neighbouring plots to the west which could be joined should these ever be developed.
- Two identical one to one and a half storey detached properties were proposed on two plots, each with air source heat pumps and integral garages.
- Individual septic tanks and soakaways.
- Parking area for three cars at each property.
- Shared access leading to Bristol Road.
- The proposal to retain the existing stone boundary walls to the east and south boundaries, with post and wire fencing and planting to be created for the west and north.
- Although the site was located within the wider landscape areas of the Heart of Neolithic Orkney World Heritage Site, it was not located on a sensitive ridge line.

1.4. That, in accordance with Scottish Government advice on the use of conditions in planning permissions, conditions should only be imposed when they were:

- Necessary.
- Relevant to planning.
- Relevant to the development to be permitted.
- Enforceable.
- Precise.
- Reasonable in all other respects.

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 Ivan A Taylor, seconded by Councillor John A R Scott, the Local Review Body thereafter:

Resolved, in terms of delegated powers:

1.5. That the decision of the Appointed Officer, to grant planning permission for the proposed erection of two houses with air source heat pumps and integral garages and the creation of an access at Plots 1 and 2, Hazelwood, Quoyloo, Sandwick, subject to conditions, be varied, in that Condition 02 be amended and Condition 03 be removed.

1.6. That the Local Review Body's reasons for amending Condition 02 and removing Condition 03 were that, in the Local Review Body's opinion:

- References to Condition 03 in Condition 02 were not necessary.
- Condition 03 was not reasonable in all other respects.

1.7. That the reasons, referred to at paragraph 1.6 above, were supported by direct reference to the undernoted policies, whereby the Local Review Body concluded that, in the specific circumstances of this case, the impact of the proposed two house development could be satisfactorily mitigated by the development of the adoptable standard Typical Access for Single Development level of infrastructure which was considered appropriate to the scale of the development and to the transport needs and rural location of the development:

- National Planning Framework 4:
 - o Policy 17 Rural Homes.
 - o Policy 18 Infrastructure First.
- Local Development Plan 2017:
 - o Policy 14 Transport, Travel and Road Network Infrastructure.

1.8. That, accordingly, the conditions attached to the decision notice in respect of 24/108/PP should remain unchanged, with the exception of Condition 03, which should be removed, and Condition 02, which should be amended to read as follows:

02. No other development should commence until the access hereby approved with the public road has been constructed to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2-4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, and pipe required, and verge or footway. Thereafter the access shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise approved in writing by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

2. Planning Application 24/306/PP

Proposed Erection of Self-catering Pod with Associated Landscaping and Parking at Braehead, Ontoft Road, South Ronaldsay

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 for the proposed erection of a self-catering pod with associated landscaping and parking at Braehead, Ontoft Road, South Ronaldsay, was refused by the Appointed Officer on 4 March 2025, for the following reasons:

01. The proposed development would create a Noise Sensitive Receptors, in this instance the self-catering pod, which would be subject to excessive noise. This would contradict the principles of the Environmental Protection Act 1990, which seeks to protect the amenity of these users. Therefore, the proposal is contrary to Development Management Guidance 'Wind Energy: Definitions Associated with Noise Assessments' (2023).

02. The proposal cannot conclude the financial involvement of future occupants of the pod, namely that occupants would have no control of turbine operations to mitigate noise impacts. Without financial involvement, the proposal is contrary to Development Management Guidance 'Wind Energy: Definitions Associated with Noise Assessments' (2023).

03. The proposed development is prejudicial to the operation of an existing wind turbine, reference 12/152/TPP, as the proposed site would place the wind turbine in breach of conditions. Therefore, the proposal does not comply with Orkney Local Development Plan 2017, Policy 1(iii).

04. The proposed development would have a negative effect on the amenity of the area as the noise levels from wind turbine 12/152/TPP would cause unacceptable amenity impacts and would cause the wind turbine to be in breach of conditions. Therefore, the proposal is contrary to the Orkney Local Development Plan 2017, Policy 2 (ii).

05. The proposed site would result in detrimental impacts on the amenity of users due to noise levels from the existing wind turbine 12/152/TPP as noise levels would be over the 35 dB(A) requirement. Therefore, the proposal is contrary to National Planning Framework 4 Policy 14C.

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 at Braehead, Ontoft Road, South Ronaldsay, at 16:00 on 12 May 2025, where the following was noted and observed:

- The application involved demolition of a small existing metal shed in the south western corner of the site on land which was currently used for farming activity but considered part of the curtilage of the existing dwelling.

- The proposed development comprised a one-bedroom self-catering accommodation pod with associated parking, landscaping and outdoor amenity space.
- Drainage would be directed to the nearby sewer via a new pipe system extending into neighbouring land owned by the applicants to the east of the site.
- Access would be taken off the existing track which was shared with the applicants' main property.
- The comprehensive design statement, alongside a biodiversity statement, which detailed the site layout to include permeable access and car parking area, provision of shrubs and areas of stone chips, paving and grass.
- A proposed bike rack and electric vehicle charger.
- Proposed boundaries, which would be timber fencing screened with shrubs, and retaining the existing stone wall which bordered the neighbouring property to the south.
- The nearby C&F 15 wind turbine, located approximately 140 metres to the north of the site, which was visible from the site.
- The close proximity of the main farm buildings owned by the applicants which confirmed the curtilage association of the site.
- The height of the wall between the site and the neighbouring property.

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.

Councillor Owen Tierney, seconded by Councillor Duncan A Tullock, moved that the decision of the Appointed Officer be upheld.

Councillor Jean E Stevenson, seconded by Councillor James R Moar, moved an amendment that the decision of the Appointed Officer be reversed.

On a vote being taken, 5 members voted for the amendment and 2 for the motion.

The amendment was therefore carried and the Local Review Body thereafter:

Resolved, in terms of delegated powers:

2.4. That the decision of the Appointed Officer, to refuse planning permission for the proposed erection of a self-catering pod with associated landscaping and parking, at Braehead, Ontoft Road, South Ronaldsay, be reversed.

2.5. That, accordingly, planning permission be granted in respect of the proposed erection of a self-catering pod with associated landscaping and parking at Braehead, Ontoft Road, South Ronaldsay, subject to conditions.

2.6. That the Local Review Body's reasons for granting planning permission for the proposed erection of a self-catering pod with associated landscaping and parking at Braehead, Ontoft Road, South Ronaldsay, were:

- The identified noise impact on the proposed self-catering accommodation pod, whilst only partially complying with prescribed noise sensitive measure thresholds, was not sufficiently significant to warrant refusal.

- The Local Review Body took into account the Consultant's Noise Impact Assessment report and the Council's Development Management Guidance Wind Energy Definitions, together with relevant policy provisions of the Local Development Plan 2017.
- The Local Review Body considered that appropriate mitigation could be secured through the fact that the applicant owned both the wind turbine and the pod and that any possible impact on visiting residents would be self-regulating through interaction between customers and the applicant/owners.
- The applicant could, therefore, take action to respond to any potential detrimental impacts if they were to arise in relation to the operation of the wind turbine or the accommodation pod, with any significant issues which were not addressed to the satisfaction of visiting residents expected to be the subject of customer self-regulation, for example accommodation reviews or complaints processes.
- The provision of self-catering accommodation on the site would have positive benefits to the local economy, including contributing to the diversification of the existing farm business at this location.
- The proposal would improve the local amenity of the area.

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

- Orkney Local Development Plan 2017:
 - o Policy 1, parts (iii) and (v) – Criteria for All Development.
 - o Policy 2, part (ii) – Design.
 - o Policy 4, part Bii – Business and Industry in the Countryside.
 - o Policy 14 – Transport, Travel and Road Network Infrastructure.
- National Planning Framework 4:
 - o Policy 14 – Design, Quality and Place.
 - o Policy 29 – Rural Development.

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 for the proposed erection of a self-catering pod with associated landscaping and parking at Braehead, Ontoft Road, South Ronaldsay, based on the following relevant matters:

- Duration of consent.
- Hours of work.
- Occupation (Short term letting).
- Demolition affecting breeding birds.
- Biodiversity enhancement.
- Surface water drainage.
- Access.

3. Conclusion of Meeting

At 14:45 the Chair declared the meeting concluded.

Signed: Owen Tierney.