

**Item: 6**

**Planning Committee: 8 October 2025.**

**Proposed Removal of Lighting Head and Associated Works at  
80 Victoria Street, Stromness.**

**Report by Director of Infrastructure and Organisational Development.**

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## **1. Overview**

- 1.1. This report considers an application for listed building consent to remove a lighting head, bracket and cabling, and point fixing holes with lime mortar at 80 Victoria Street, Stromness. One letter of objection has been received. The development complies with relevant policies, and objections and other material considerations do not merit refusal of the application.

Application Reference:	25/189/LB.
Application Type:	Listed Building Consent.
Proposal:	Remove lighting head, bracket and cabling, and point fixing holes with lime mortar.
Applicant:	Orkney Islands Council, c/o David Work, Roads Support, Council Offices, Kirkwall, KW15 1NY.
Agent:	N/A.

- 1.2. All application documents (including plans, consultation responses and valid representations) are available for members to view [here](#) (click on “Accept and Search” to confirm the Disclaimer and Copyright document has been read and understood, and then enter the application number given above).

## **2. Recommendation**

- 2.1. It is recommended that members of the Committee:
- Approve the application for listed building consent to remove a lighting head, bracket and cabling, and point fixing holes with lime mortar at 80 Victoria Street, Stromness, subject to the conditions detailed in Appendix 1 to this report.

### **3. Consultations**

#### **Orkney Heritage Society**

3.1. No objection to the proposal.

### **4. Representation**

4.1. One valid representation (objection) has been received from:

- Mr Kristopher Bevan, Springbank, 33 Franklin Road, Stromness, KW16 3DZ.

4.2. The representation is on the following grounds:

- Cultural and heritage impact.
- Conflict with Stromness Place Plan.
- Loss of light and public safety risk.
- Health and safety implications.

### **5. Relevant Planning History**

No relevant planning history.

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

6.1. The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).

6.2. National Planning Framework 4 can be read on the Scottish Government website [here](#).

6.3. The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:

- National Planning Framework 4:
  - Policy 7. Historic assets and places.
- Orkney Local Development Plan 2017:
  - Policy 8: Historic Environment and Cultural Heritage.
- Supplementary Guidance:
  - Historic Environment and Cultural Heritage (2017)
- National Planning Policy:
  - Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## 7. Legislative Position

- 7.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) 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...”
- 7.2. Annex A of Planning Circular 3/2013: ‘development management procedures’ provides advice on defining a material consideration, and following a House of Lords’ judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: “If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.”
- 7.3. Annex A continues as follows:
  - The House of Lords’ judgement also set out the following approach to deciding an application:
    - Identify any provisions of the development plan which are relevant to the decision.
    - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
    - Consider whether or not the proposal accords with the development plan.
    - Identify and consider relevant material considerations for and against the proposal.
    - Assess whether these considerations warrant a departure from the development plan.
  - There are two main tests in deciding whether a consideration is material and relevant:
    - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
    - It should relate to the particular application.
  - The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the

decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy and UK Government policy on reserved matters.
  - The National Planning Framework.
  - Designing Streets.
  - Scottish Government planning advice and circulars.
  - EU policy.
  - A proposed local development plan or proposed supplementary guidance.
  - Community plans.
  - The environmental impact of the proposal.
  - The design of the proposed development and its relationship to its surroundings.
  - Access, provision of infrastructure and planning history of the site.
  - Views of statutory and other consultees.
  - Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

7.4. Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
  - Reaching a decision without reasonable planning grounds for doing so.
  - Not taking into account material considerations.
  - Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.
- 7.5. An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

### **Status of the Local Development Plan**

- 7.6. Although the Orkney Local Development Plan 2017 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.

### **Status of National Planning Framework 4**

- 7.7. National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. The statutory development plan for Orkney consists of NPF4 and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. It is important to note that NPF4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making.
- 7.8. In the current case, there is not considered to be any incompatibility between the provisions of NPF4 and the provisions of the Orkney Local Development Plan 2017, to merit any detailed assessment in relation to individual NPF4 policies.

## **8. Assessment**

- 8.1. As noted in section 1 above, listed building consent is sought to remove a lighting head, bracket and cabling, and point fixing holes with lime mortar at 80 Victoria Street, Stromness, as indicated on the Location Plan attached as Appendix 2 to this report. The site is a category C listed building and is located within Stromness Conservation Area.

- 8.2. As an application for listed building consent, consideration relates to the impact on the desirability of preserving the listed building and its setting and the impact on its special architectural and historic interest and the impact on the character and appearance of the conservation area. These determining factors are set out in Section 14 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended.

### **Listed building**

- 8.3. The proposal is for minor works that would result in the removal of a non-historic and non-original light, including its bracket and cabling. A condition would control the repair with lime mortar. Notwithstanding comments in the representation regarding the historic environment, the proposal would not have a detrimental impact on the historic architectural features and will therefore not adversely impact on the special architectural or historic interest of the listed building.
- 8.4. The proposal would not impact on the special architectural or historic interest of the listed building and is acceptable with regards to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and complies with Policy 8 'Historic Environment and Cultural Heritage' of the Local Development Plan and Policy 7 'Historic assets and places' of NPF4.

### **Conservation area**

- 8.5. As noted above, the works are of a minor nature to remove non-original lighting. By virtue of the size, location and materials, the works have regard to the desirability of preserving or enhancing the character or appearance of the conservation area. In terms of the conservation area designation, the development is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and complies with Policy 8 'Historic Environment and Cultural Heritage' of the Local Development Plan and Policy 7 'Historic assets and places' of NPF4.

### **Public comments**

- 8.6. Comments raised in the representation regarding the impact on the historic environment are addressed above. Other comments received are non-material in the determination of an application for listed building consent (being matters that would be addressed in a planning application determination) and it would not be appropriate to comment further on those matters or take them into account in this report.

## 9. Conclusion

- 9.1. The proposal complies with National Planning Framework 4, the Orkney Local Development Plan 2017, and Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended. The proposals have special regard to the desirability of preserving the building and its setting and would not adversely impact on its special architectural and historic interest. The proposals would preserve the character and appearance of the conservation area. There are no material considerations including those raised in the objection that outweigh this conclusion. The application is therefore recommended for approval, subject to the conditions attached as Appendix 1 to this report.

### For Further Information please contact:

Murray Couston, Planning Officer (Development Management), Email  
[murray.couston@orkney.gov.uk](mailto:murray.couston@orkney.gov.uk)

### Implications of Report

1. **Financial:** None.
2. **Legal:** Detailed in section 7 above.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of this application is delegated to the Planning Committee.
4. **Human Resources:** None.
5. **Equalities:** Not relevant.
6. **Island Communities Impact:** Not relevant.
7. **Links to Council Plan:** Not relevant.
8. **Links to Local Outcomes Improvement Plan:** Not relevant.
9. **Environmental and Climate Risk:** None.
10. **Risk:** If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission on the basis of the proposal being contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to provide clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.
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](#).

**Appendices**

Appendix 1 – Planning conditions.

Appendix 2 – Location Plan.



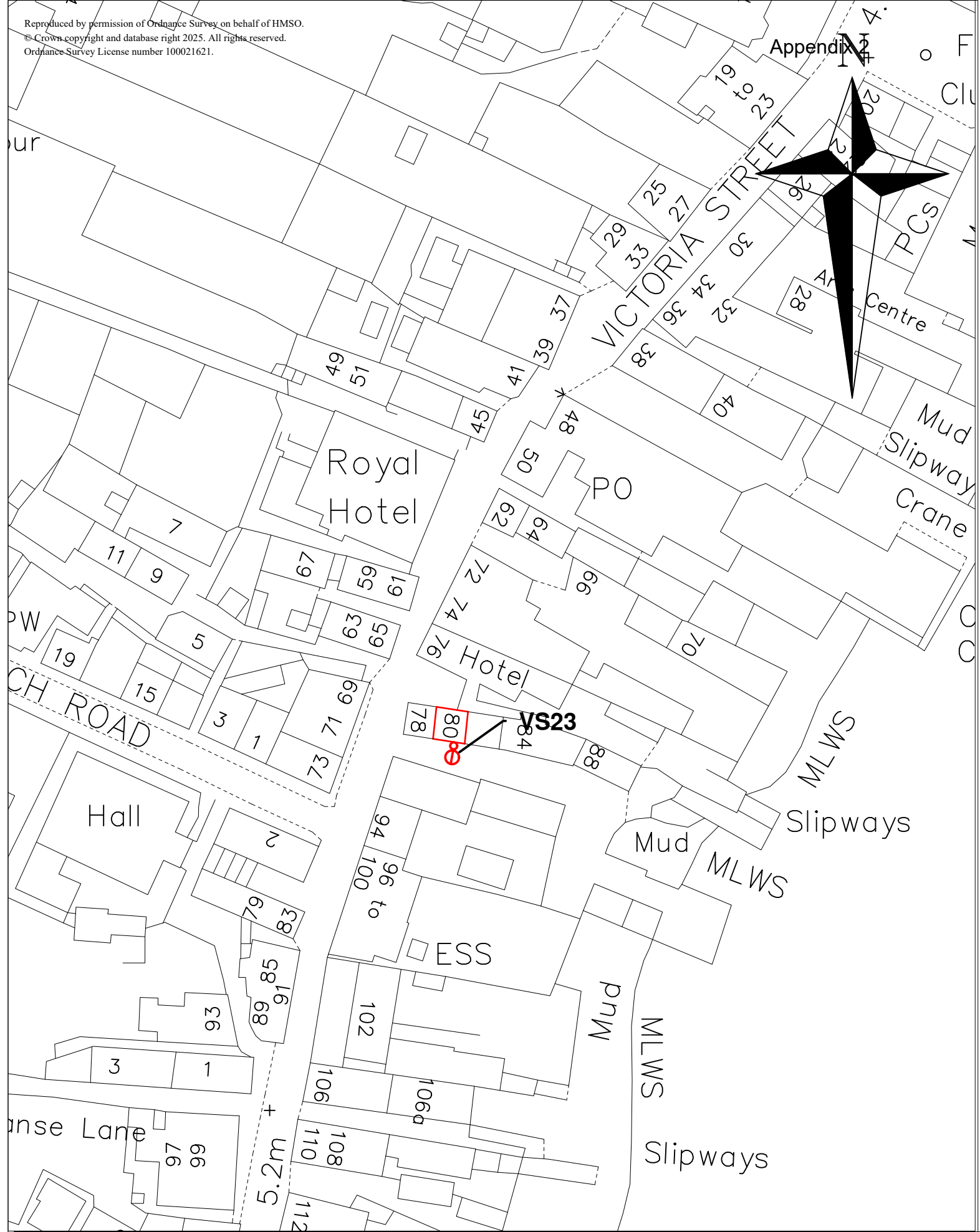
## **Appendix 1.**

01. The works permitted by this listed building consent shall be commenced within three years, beginning with the date of the grant of listed building consent, which is the date of this decision notice. If the works have not commenced within this period, this listed building consent shall lapse.

Reason: In accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, which limits the duration of listed building consent.

02. The mortar used for fixing of the walls shall use a lime mortar only (including no cement).

Reason: To protect the fabric, integrity, and special interest of the listed building.



File Ref. R3.47.04.0125				Drawing No. VS23				<b>No: 80 VS23 Removal - Affected Property (Marked in Red Outline)</b>	<b>Roads Services</b>	<b>INFRASTRUCTURE &amp; ORGANISATIONAL DEVELOPMENT</b>				 <b>ORKNEY ISLANDS COUNCIL</b>
Revision							Council Offices, Kirkwall Orkney, KW15 1NY tel (01856) 873535 fax (01856) 876094							
Date 30/04/2025		Drawn <i>D-Work</i>								Corporate Director :- Hayley Green MBA (Public Service)				
Scale 1:500 at A3		Checked <i>M-Wylie</i>												