

Minute

Planning Committee

Wednesday, 18 December 2019, 10:30.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Robin W Crichton, John A R Scott, Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Stephen Sankey, Graham L Sinclair, Magnus O Thomson, Owen Tierney, Duncan A Tullock and Kevin F Woodbridge.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Roddy Mackay, Head of Planning, Development and Regulatory Services.
- Jamie Macvie, Planning Manager (Development Management).
- Georgette Herd, Solicitor.
- Donald Wilson, Roads Authority Officer.

Observing

- Stuart West, Planning Manager (Development and Marine Planning).
- David Hartley, Communications Team Leader.
- David Barclay, Senior Planner (Development Management).
- Susan Shearer, Senior Planner (Development and Marine Planning) (for Item 1).

Declaration of Interest

- Councillor Duncan A Tullock – Item 2.

Chair

- Councillor Robin W Crichton.

1. Planning Application 19/191/PP

Change of Use from Storage to Men's Shed and Extend (Part Retrospective) at The Shed, Maitland Place, Finstown

As Councillor Alexander G Cowie had not been involved in previous discussions at the Committee regarding this application, nor taken part in the site visit, in terms of Standing Order 31 he took no part in the discussion thereof.

Morgan Marcus, applicant, Andrew Swain, accompanying the applicant, and Marie Nicolson, objector, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

1.1. That letters of objection relating to the application for planning permission, part retrospective, in respect of change of use of a shed from storage to a Men's Shed and extend at Maitland Place, Finstown, had been received from the following:

- Marie Nicolson, Cruanbreck, Finstown.
- Steven and Mandy Ward, Laharna, Finstown.
- S De Rees, 2A Maitland Place, Finstown.

1.2. That, on 30 October 2019, the Planning Committee deferred consideration of the application for planning permission, part retrospective, in respect of change of use of a shed from storage to a Men's Shed and extend at Maitland Place, Finstown, to enable members of the Committee to undertake an unaccompanied site visit.

1.3. That the site visit, referred to at paragraph 1.2 above, had taken place at 09:15 on 18 December 2019.

After hearing representations from Marie Nicolson, objector, and from Morgan Marcus, applicant, Councillor Robin W Crichton, seconded by Councillor Kevin F Woodbridge, moved that the application for planning permission, part retrospective, in respect of change of use of a shed from storage to a Men's Shed and extend at Maitland Place, Finstown, be refused, for the reasons proposed by officers.

Councillor Owen Tierney, seconded by Councillor Duncan A Tullock, moved an amendment that the application for planning permission, part retrospective, be granted in respect of change of use of a shed from storage to a Men's Shed and extend at Maitland Place, Finstown, as, in their opinion, although the potential road safety hazard that could result from intensification of use of the access to the development site was a legitimate consideration, there were no recorded accidents on the public road either side of the access resulting from vehicles entering/exiting the development site and any resulting intensification of the access arising from the change of use was not of such significance that it could create an unacceptable road safety hazard to merit refusal of the application, and was outweighed by other material considerations in favour of the development, and conformed with the following policies within the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development, parts (i) to (vi).
- Policy 11 – Outdoor Sports, Recreation and Community Facilities, parts (i) and (ii).

On a vote being taken 4 members voted for the amendment and 6 for the motion, and the Committee:

Resolved, in terms of delegated powers:

1.4. That the application for planning permission, part retrospective, in respect of change of use of a shed from storage to a Men's Shed and extend at Maitland Place, Finstown, be refused for the following reason:

- Policy 1 – Criteria for All Development, part (vi) notes that development will only be supported where it “does not result in an unacceptable level of risk to public health and safety”. Policy 14C – Road Network Infrastructure states that development will only be permitted where “(ii) It can be safely and conveniently accessed by service, delivery and other goods vehicles, as appropriate to the development.”. The development and change of use of the building would result in an intensification in use of an existing substandard access, with no means of it being upgraded. Roads Services, as the Roads Authority, has advised that the development would create an unacceptable road safety hazard. On that basis, the development is contrary to Policies 1, part (vi) and 14C of the Orkney Local Development Plan 2017.

2. Planning Application 19/285/PP

Proposed Erection of Anemometer Mast for Temporary Period of Two Years on Land near Quanterness Farm, St Ola

Councillor Duncan A Tullock declared a non-financial interest in this item, in that a close family member was involved in the application, and was not present during discussion thereof.

Sweyn Johnston and David Hannon, representing the applicant, Orkney Islands Council, and Jason McGray, representing the applicant's agent, TNEI, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

2.1. That letters of objection relating to the application for planning permission in respect of the proposal for the erection of an anemometer mast for a temporary period of two years on land near Quanterness Farm, St Ola, had been received from the following:

- Mrs C Lea, Spindrift, Northfield Road, Burray.
- Ms J Gray, Laithe, Tenston, Sandwick.
- Mrs L Lea, 44 Grieveship Brae, Stromness.
- Mrs N Dixon, 24 Coplands Drive, Stromness.
- Mr L Sinclair, 31A Broad Street, Kirkwall.

After hearing representations from Jason McGray, representing the applicant's agent, TNEI, and from Sweyn Johnston, representing the applicant, Orkney Islands Council, on the motion of Councillor Barbara Foulkes, seconded by Councillor John A R Scott, the Committee:

Resolved, in terms of delegated powers:

2.2. That planning permission be granted in respect of the proposal for the erection of an anemometer mast for a temporary period of two years on land near Quanterness Farm, St Ola, subject to the conditions attached as Appendix 1 to this Minute.

Councillor Graham L Sinclair joined the meeting at this point.

3. Planning Application 19/286/PP

Proposed Erection of Anemometer Mast for Temporary Period of Two Years on Land near Wee Fea, Hoy

Sweyn Johnston and David Hannon, representing the applicant, Orkney Islands Council, and Jason McGray, representing the applicant's agent, TNEI, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

3.1. That a letter of objection relating to the application for planning permission in respect of the proposal for the erection of an anemometer mast for a temporary period of two years on land near Wee Fea, Hoy, had been received from Leslie Sinclair, 31A Broad Street, Kirkwall.

After hearing representations from Jason McGray, representing the applicant's agent, TNEI, on the motion of Councillor Robin W Crichton, seconded by Councillor David Dawson, the Committee:

Resolved, in terms of delegated powers:

3.2. That planning permission be granted in respect of the proposal for the erection of an anemometer mast for a temporary period of two years on land near Wee Fea, Hoy, subject to the conditions attached as Appendix 2 to this Minute.

4. Planning Application 19/342/VAR

Proposed Removal of Condition 02 from Planning Permission 18/136/PP (Occupation of House) at Seaways, Firth

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

4.1. That a letter of objection relating to the application for planning permission in respect of the proposal to remove condition 02 of planning permission 18/136/PP (occupation of house) at Seaways, Firth, had been received from Edward Drever, Marsdene, Grimbister, Kirkwall.

4.2. That, although a representation had been received from the objector prior to the meeting, in terms of paragraph 18.3 of the Hearings Process for the Determination of Planning Applications, as the representation exceeded the 250 word limit, it was not permissible for the Clerk to read the representation to the Committee and, accordingly, the representation did not form part of the determination of the application.

On the motion of Councillor Barbara Foulkes, seconded by Councillor Norman R Craigie, the Committee resolved, in terms of delegated powers:

4.2. That planning permission be granted in respect of the proposal to remove condition 02 of planning permission 18/136/PP (occupation of house) at Seaways, Firth, subject to the following condition:

- Surface Water drainage provision within the application site shall accord with the principles of Sustainable Urban Drainage Systems (SUDS) and is designed to the standards outlined in Sewers for Scotland Second Edition (or any superseding guidance prevailing at the time).
 - Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

5. Planning Application 19/357/PP

Proposed Installation of Telecommunications Tower and Ancillary Equipment on Land north of Upper Stove, Stove Road, Deerness

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

5.1. That a letter of objection relating to the application for planning permission in respect of the proposal for the installation of a telecommunications tower and ancillary equipment on land north of Upper Stove, Stove Road, Deerness, had been received from Elizabeth Corsie, Upper Noltland, Deerness.

On the motion of Councillor David Dawson, seconded by Councillor Stephen Sankey, the Committee resolved, in terms of delegated powers:

5.2. That planning permission be granted in respect of the proposal for the installation of a telecommunications tower and ancillary equipment on land north of Upper Stove, Stove Road, Deerness, subject to the conditions attached as Appendix 3 to this Minute.

6. Conclusion of Meeting

At 12:15 the Chair declared the meeting concluded.

Signed: Rob Crichton.

Appendix 1.

Proposed Erection of Anemometer Mast for a Temporary Period of Two Years on land near Quanterness Farm, St Ola (19/285/PP)

Grant subject to the following conditions:

01. This planning permission shall expire and cease to have effect after a period of two years from the date of commencement of development. Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission and reinstated, in accordance with a Scheme of Decommissioning and Restoration as required by condition 02.

Reason: In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development over that temporary period, and to secure removal and restoration.

02. No development shall commence until a Scheme of Decommissioning and Restoration for the application site has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the site shall be cleared, and land reinstated in accordance with the approved Scheme of Decommissioning and Restoration.

Reason: To ensure that restoration of the site is carried out in an appropriate and environmentally acceptable manner.

03. Bird flight deflectors shall be fitted to all meteorological mast guy wires, fitted at five metre intervals. Stops or clamps shall be fitted to the guy wires to prevent the deflectors slipping. The mast shall be inspected and maintained biannually to ensure the deflectors remain in place, with any damaged or lost deflectors replaced. These biannual inspections shall be carried out once during the month of March and once during the month of September on any annual basis.

Reason: The use of bird flight deflectors will make the mast guy wires more visible to birds, thereby reducing the risk of collision which could lead to their injury or death. This condition ensures a biannual inspection before and after the bird breeding season.

04. All site works associated with the development, including erection and removal of the mast and associated infrastructure hereby approved, shall be undertaken outwith the main bird breeding season, namely 1 April to 31 August inclusive.

Reason: Due to the proximity to protected sites and bird features that may utilise the area near the coast.

05. The developer shall provide a record, to the Planning Authority, of any bird carcasses found in the surrounding area during the period of this consent, following site surveys to be undertaken in conjunction with the biannual inspections required by condition 03.

Reason: To monitor the risk of bird collision with the mast or guy ropes.

06. No development, including site clearance, shall commence until full details of an archaeological watching brief are submitted to, and approved in writing by, the Planning Authority. The watching brief shall be carried out during all groundbreaking and excavation works. Thereafter, the watching brief shall be implemented wholly in accordance with approved details.

Reason: To protect the archaeological interest in the area.

07. The developer shall notify the Civil Aviation Authority (CAA), NATS and Ministry of Defence (MoD) Defence Infrastructure Organisation prior to installation of the mast and shall provide to those bodies:

- The precise location, including grid co-ordinates, of the development.
- Anticipated date of commencement of construction.
- Anticipated date of completion of construction.
- The height above ground level of the tallest structure.
- The maximum extension height of any construction equipment.

If aviation warning lighting is required by any of these bodies, full details of that aviation warning lighting shall be submitted to, and approved in writing by, the Planning Authority prior to its installation. No development shall commence until the CAA, NATS and MoD Defence Infrastructure Organisation provide confirmation of no objection to the development, and all confirmations are provided to the Planning Authority. Any mitigation or other measures shall be submitted to, and approved in writing by, the Planning Authority prior to being carried out.

Reason: To ensure that the CAA, NATS and MoD are made aware of the development and any aviation warning lighting required is identified and agreed, in the interests of aviation safety.

08. Prior to entering the site, all personnel involved in the development should be made aware that otters may be present in the area. The following measures shall be carried out to avoid disturbance:

- Access to open-water habitats shall be safeguarded at all times and impacts on traditional routes between such areas, such as drainage ditches, during the construction phase shall be minimised.
- Any temporarily exposed open pipe system shall be capped in such a way as to prevent otters gaining access, as may happen when contractors are off-site.
- Open pits shall be covered at night, and exit ramps provided in steep-sided trenches. All excavations shall be checked daily to ensure that no wildlife has become trapped.

Reason: To ensure measures are taken to protect a European Protected Species.

Appendix 2.

Proposed Erection of Anemometer Mast for a Temporary Period of Two Years on land near Wee Fea, Hoy (19/286/PP)

Grant subject to the following conditions:

01. This planning permission shall expire and cease to have effect after a period of two years from the date of commencement of development. Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission and reinstated, in accordance with a Scheme of Decommissioning and Restoration as required by condition 02.

Reason: In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development over that temporary period, and to secure removal and restoration.

02. No development shall commence until a Scheme of Decommissioning and Restoration for the application site has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the site shall be cleared, and land reinstated in accordance with the approved Scheme of Decommissioning and Restoration.

Reason: To ensure that the restoration of the site is carried out in an appropriate and environmentally acceptable manner.

03. No development shall commence until a natural heritage survey for all protected species and associated habitats has been undertaken and a report of the survey submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 100 metres in all directions from the boundary of the application site. The survey report shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. This shall also be undertaken upon cessation of development. Thereafter, the development shall be carried out in accordance with any mitigation measures contained within the approved survey report and associated timescales.

Reason: To ensure that the site and its environs are surveyed, and the development has no adverse impact on protected species or habitat.

04. All site works associated with the development, including erection and removal of the mast and associated infrastructure hereby approved, shall be undertaken outwith the main bird breeding season, namely 1 April to 31 August inclusive.

Reason: Due to the proximity to protected sites and bird features that may utilise the area near the coast.

05. Bird flight deflectors shall be fitted to all meteorological mast guy wires, fitted at five metre intervals. Stops or clamps shall be fitted to the guy wires to prevent the deflectors slipping. The mast shall be inspected and maintained biannually to ensure the deflectors remain in place, with any damaged or lost deflectors replaced. These biannual inspections shall be carried out once during the month of March and once during the month of September on any annual basis.

Reason: The use of bird flight deflectors will make the mast guy wires more visible to birds, therefore reducing the risk of collision which could lead to their injury or death. This condition ensures a biannual inspection, before and after the bird breeding season.

06. Prior to entering the site, all personnel involved in the development should be made aware that otters may be present in the area. The following measures shall be carried out to avoid disturbance:

- Access to open-water habitats shall be safeguarded at all times and impacts to traditional routes between such areas, such as drainage ditches, during the construction phase shall be minimised.
- Any temporarily exposed open pipe system shall be capped in such a way as to prevent otters gaining access, as may happen when contractors are off-site.
- Open pits shall be covered at night, and exit ramps provided in steep-sided trenches. All excavations shall be checked daily to ensure that no wildlife has become trapped.

Reason: To ensure measures are taken to protect a European Protected Species.

07. Should statutorily protected species be found within or within 100 metres of the application site at any time during the construction stage, including site clearance prior to the cessation date, all work shall cease immediately, and written notification shall be provided by the developer to both the Planning Authority and Scottish Natural Heritage. Development shall only recommence once approval for commencement has been issued, in writing, by the Planning Authority and any mitigation measures required as conditions of such approval shall be implemented in full and in accordance with the approved timescales.

Reason: To ensure that the development does not have an adverse impact on protected species.

08. No development shall commence until a peatland management plan, supported by an appropriate peat survey, has been submitted to, and approved in writing by, the Planning Authority. The plan should clearly demonstrate how any unnecessary disturbance, degradation or erosion of peat, soils, or damage to or loss of sensitive habitat, will be avoided and, where this is not possible, minimised and mitigated. This plan shall also provide details of project timing; how the mast and ancillary equipment will be transported to the site; and the type of machinery to be used. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: To minimise disturbance to nature conservation interests within the application site and ensure the protection of protected species and habitats.

09. The developer shall notify the Civil Aviation Authority (CAA), NATS and Ministry of Defence (MoD) Defence Infrastructure Organisation prior to installation of the mast and shall provide to those bodies:

- The precise location, including grid co-ordinates, of the development.
- Anticipated date of commencement of construction.
- Anticipated date of completion of construction.
- The height above ground level of the tallest structure.
- The maximum extension height of any construction equipment.

If aviation warning lighting is required by any of these bodies, full details of that aviation warning lighting shall be submitted to, and agreed in writing by, the Planning Authority prior to its installation. No development shall commence until the CAA, NATS and MoD Defence Infrastructure Organisation provide confirmation of no objection to the development, and all confirmations are provided to the Planning Authority. Any mitigation or other measures shall be submitted to, and agreed in writing by, the Planning Authority prior to being carried out.

Reason: To ensure that the CAA, NATS and MoD are made aware of the development, and so any aviation warning lighting required is identified and agreed, in the interests of aviation safety.

10. The developer shall provide a record, to the Planning Authority, of any bird carcasses found in the surrounding area during the period of this consent, following site surveys to be undertaken in conjunction with the biannual inspections required by condition 05.

Reason: To monitor the risk of bird collision with the mast or guy ropes.

Appendix 3.

Proposed Installation of Telecommunications Tower and Ancillary Equipment on land north of Upper Stove, Stove Road, Deerness (19/357/PP)

Grant subject to the following conditions:

01. The development hereby approved shall be constructed using the following design and materials:

- Lattice Tower – Galvanised steel, matt.
- Cabinets – Metal, painted grey, matt.
- Waterproof enclosure – Grey.

Thereafter, the development shall be maintained in accordance with those approved materials throughout the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

Reason: To minimise the visual impact of the development and to protect the amenity of the area.

02. If the communications mast hereby approved and/or any attached or associated equipment becomes redundant or is not operational for a period of one year, it shall be removed entirely from the site. If the tower and all equipment become redundant, the site shall be cleared and reinstated to its previous condition within six months of the date of removal of the last item of equipment, to the satisfaction of the Planning Authority.

Reason: To protect the visual amenity of the area.

03. The consent hereby approved shall not be utilised in conjunction with any development consented under 19/019/PP, to install a 15 metre telecommunications tower with antennae and ancillary equipment including cabinets and generator at Diamonds Farm, Stove Road, Deerness.

Reason: The nature of this application is for one mast only, and the current consent supersedes the requirement for the development consented under 19/019/PP.