

Item: 3

Local Review Body: 30 April 2026.

**Proposed Erection of Self-catering Pod at Hyval, Howaback Road,
Sandwick.**

Report by Head of Corporate Governance.

1. Overview

- 1.1. Planning application 25/343/PP in respect of the proposed erection of a self-catering pod at Hyval, Howaback Road, Sandwick, was refused by the Appointed Officer on 1 March 2026.
- 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 that the review can be determined without any further procedure.
- 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 review, prior to the 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 Hyval, Howaback Road, Sandwick, is due to be undertaken on 30 April 2026 at 09:30.
- 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 and informatives, if appropriate, 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. Delegate powers to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions and informatives, if appropriate, 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 1 March 2026, the Appointed Officer refused planning application 25/343/PP on the following grounds:

- 01. Wind Turbine Noise is a material planning consideration.

Scottish Government advice and Development Management Guidance – Wind Energy: Definitions Associated with Noise Assessments (adopted by Orkney Islands Council in October 2023) defines holiday accommodation as a noise sensitive development.

The Orkney Islands Council Development Management Guidance – Wind Energy: Definitions Associated with Noise Assessments (adopted by Orkney Islands Council in October 2023) states the following: “Noise Sensitive Receptors are considered to be the land and buildings that fall into Classes 7 – Hotels and hostels, Class 8 – Residential institutions, Class 9 – Houses and Class 10 – Non-residential institutions; of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and sui generis uses where persons will sleep over night and use as accommodation for a period of time such as a short term holiday let. It is considered that users of these classes to be able to enjoy the amenity of these locations without the disturbance of excessive noise from a neighbouring user.”

The proposed development site is within 250 metres of three existing lawfully operating wind turbines. Both the existing lawful operation of the wind turbines and the proposed new holiday accommodation development has to be protected.

Although the applicant is the owner/operator and has financial involvement and control of one of the wind turbines (12/214//TPP), the other two wind turbines (both approved under 12/175/TPP) are owned/operated by third parties whereby the applicant does not have financial involvement or control over their operation. Cumulative noise impacts would affect the development, and complaints may arise from the holiday pod unit that would have a detrimental impact upon the operation at least two of the legally operating wind turbines.

The Clement Acoustics Noise Impact Assessment submitted with the application (Project Number: 20383, Ref: 20383-NIA-AA-01-R0, Dated: 3 September 2025) indicates that noise levels at the proposed location of the holiday pod accommodation would significantly exceed the limits required of 35dB(A). It is a matter for Environmental Health to assess any operation or activity that generates noise or any other nuisance (dust, smell, fumes, light glare) with regard to the legislation relevant to their duties in relation to any sensitive receptor identified, and to provide advice and comment to Development Management. Environmental Health concur with this and object to the proposal.

The Clement Acoustics Noise Impact Assessment submitted with the application (Project Number: 20383, Ref: 20383-NIA-AA-01-R0, Dated: 3 September 2025) states that “there is an area which may be below 35dB(A) and that “considerations should be given to ensure the camping/glamping operations are situated in a favourable noise contour”. This was not taken into consideration in the submitted planning application, and the current application can only be considered for the development of the site as submitted.

The holiday pod unit proposed on the current site would be contrary to OLDP 2017 Policy 1(iii) and Development Management Guidance: Wind Energy: Definitions Associated with Noise Assessments (October 2023).

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. A representation was received from Development Management and is attached as Appendix 5.
- 4.2. In instances where a representation is received from an “interested party”, the applicant is afforded the opportunity to make comments on any representation received. Comments from the applicant on the further representation received are attached as Appendix 6 to this report.
- 4.3. 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 and informatives, are as follows:
 - Conditions:
 - Duration of Consent.
 - Hours of work.
 - Occupation.
 - SuDS.
 - Sewerage System.
 - Parking.
 - External lighting.
 - Biodiversity.
 - Landscaping.
 - Informatives:
 - Compliance with Sections 56 and 95 of the Roads (Scotland) Act 1984.

- 4.4. All conditions should be in accordance with Planning Circular 4/1998 regarding the use of conditions in planning permissions.
- 4.5. If the decision is reversed and the development is approved, it is proposed that powers are delegated to the Head of Corporate Governance, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, and informatives, if appropriate, based on the relevant matters, agreed in terms of section 4.3 above.
- 4.6. 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 4 – Natural Places.
 - Policy 7 – Historic Assets and Places.
 - Policy 14 – Design, Quality and Place.
 - Policy 20 – Blue and Green Infrastructure.
 - Policy 22 – Flood Risk and Water Management.
 - Policy 30 – Tourism.
- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 4B – Business and Industrial Land (In the Countryside).
 - Policy 8B(i) – Historic Environment and Cultural Heritage (Heart of Neolithic Orkney World Heritage Site).
 - Policy 9B – Protected Species.
 - Policy 9C – Wider Biodiversity and Geodiversity.
 - Policy 9G – Landscape.
 - Policy 10A – Core Paths and Access.
 - Policy 13B – Sustainable Drainage Systems (SuDS)
 - Policy 13C – Waste Water Drainage.
 - Policy 14B(iii) – Sustainable Travel.
 - Policy 14C – Road Network Infrastructure.
- Supplementary Guidance:
 - Historic Environment and Cultural Heritage (2017).
 - Natural Environment (2017).
- Planning Policy Advice:
 - Historic Environment (Topics and Themes) (2017).
 - Heart of Neolithic Orkney World Heritage Site (2010).
 - Amenity and Minimising Obtrusive Lighting (2021).
 - National Roads Development Guide.

- Development Management Guidance:
 - Considering and Including Biodiversity in Development.
 - Business Development Outwith Town Centres (2023).
- Management Guidance: Wind Energy: Definitions Associated with Noise Assessments (October 2023).
- Amended Core Path Plan (2018).

For Further Information please contact:

Gavin Barr, Planning Advisor to the Local Review Body, extension 2530, Email: gavin.barr@orkney.gov.uk.

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.
 - Improving Population Health.
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 4/1998, available [here](#).

Appendices

Appendix 1 – Notice of Review (pages 1 – 10).

Appendix 2 – Planning Handling Report (pages 11 – 27).

Appendix 3 – Planning Services File (pages 28 – 58).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 59-64).

Appendix 5 – Representation from Interested Party [Development Management] (page 65).

Appendix 6 – Response from Applicant to Representation from Interested Party (page 66).

Pages 1 to 64 can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference “25/343/PP”.

INFRASTRUCTURE AND ORGANISATIONAL DEVELOPMENT



ORKNEY
ISLANDS COUNCIL

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Website: www.orkney.gov.uk

Planning Application: 25/343/PP
Proposal: Erect a self-catering pod
Location: Hyval, Howaback Road, Sandwick KW17 2JA

Notice of Review

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Regulation 10 – Representation as an Interested Party

The application sought planning permission for the siting of a single self-catering pod including parking provision within the domestic curtilage of the house at Hyval. Scottish Government advice and Development Management Guidance - Wind Energy: Definitions Associated with Noise Assessments (October 2023) defines holiday accommodation (which includes pods) as a noise sensitive development.

The planning application was refused on grounds of noise exceeding the requirement of 35dB(A) at noise sensitive receptors, due to the proximity of the wind turbines to the site of the pod and after fully considering the results of the noise impact assessment submitted with the application and Environmental Health advice.

The single wind turbine at Hyval was approved in June 2012 and the two third-party wind turbines at the neighbouring property at Ashleigh were approved in May 2012. The house at Hyval was approved in April 2015 and was constructed after the wind turbines for Hyval and Ashleigh were erected.

When the house at Hyval was approved, the current requirement for a noise impact assessment for developments within 250 metres of wind turbines was not a requirement. Applications must be considered in relation to relevant planning policies at the time the proposal was submitted and assessed, regarding expert advice/technical knowledge and on the information submitted. Environmental Health assesses operations and activities that generate noise or any other nuisance under legislation relevant to their duties and provide advice to Development Management. Environmental Health has objected to the proposal on noise grounds.

Whilst the pod and the single wind turbine at Hyval would be in the same ownership and the applicant would have financial involvement in the wind turbine and would have direct control and could turn off the wind turbine and change how it operates, for the two wind turbines which are in third-party ownership of the property at Ashleigh this is not the case, and the noise impact assessment submitted with the application indicates that the noise from the wind turbines would exceed 35dB(A) at the proposed pod site.

New information

The Notice of Review indicates that the pod is for farm diversification: *“We had hoped that the Scottish Government’s support for farm diversification would have been a consideration in favour of our proposal.”* As a material consideration, this was not specified in the application and no documentation submitted in support of the application indicates that the development would be ‘farm diversification’. (Other material considerations raised in the Notice of Review including tourism, landscape, residential amenity and business, were assessed in the delegated report.

Development Management
27 March 2026

Hazel Flett

From: Andrew <andrewjohnston44@btinternet.com>
Sent: 11 April 2026 21:11
To: Hazel Flett
Subject: Re: Planning App 25.343.PP - Hyval, Howaback Road, Dounby, Notice of Review

-- External e-mail: **Think before you Click.**--

Dear Hazel

I write in response to the Notice of Review relating to Planning Application 25/343/PP for the proposed self-catering pod at Hyval, Howaback Road, Sandwick.

I note that the primary reason for refusal relates to predicted noise levels exceeding 35dB(A) at a noise-sensitive receptor, attributed to the proximity of third-party wind turbines. However, I would ask that further consideration be given to the operational context and practical use of the site. The proposed development is small-scale, single-unit accommodation intended to support farm diversification and rural business sustainability. Such development aligns with Scottish Government policy encouraging appropriate rural diversification.

The turbines referenced are existing features within the landscape, and the dwelling at Hyval was approved and constructed after the turbines were erected. This establishes that residential use in this noise environment has already been considered acceptable. The proposed pod would be located within the domestic curtilage, closer in character to ancillary residential use than standalone holiday accommodation in an undeveloped setting.

In addition, the 35dB(A) threshold is a guideline and should be applied proportionately, taking account of local rural conditions, background noise levels, and the limited occupancy and seasonal nature of the proposal. Visitors choosing rural accommodation often expect and accept typical countryside noise sources, including wind-related turbine noise.

The development would deliver modest but important economic benefits through farm diversification, supporting local tourism and contributing to the rural economy without significant landscape or infrastructure impacts.

I respectfully request that these factors be given further weight in the review and that the decision be reconsidered in light of the scale, context, and policy support for rural diversification.

Yes the guidance has changed, but it is just that, Guidance. As stated in my previous letter, on occasion the guidance has been waved and planning permission has gone ahead. That was for a 15kw turbine.

Just next door we have a self catering house with a 15kw turbine within 50m of the house.

Yours sincerely,
A& S Johnston

Sent from [Outlook for Android](#)
