

Minute

Local Review Body

Friday, 8 April 2022, 10:00.

Microsoft Teams.



Present

Councillors Robin W Crichton, Alexander G Cowie, Norman R Craigie, David Dawson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Roddy Mackay, Planning Advisor.
- Katharine McKerrell, Legal Advisor.

Apologies

- Councillor Barbara Foulkes.
- Councillor Stephen Sankey.
- Councillor John A R Scott.
- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Robin W Crichton.

1. Suspension of Standing Orders

The Local Review Body **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

2. Form of Voting

The Local Review Body resolved that, should a vote be required in respect of the Notice of Review to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

3. Planning Application 21/436/PIP

Proposed Siting of Replacement House (One for One) on land near Drunton, Russland Road, Harray

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, the Local Review Body:

Noted:

3.1. That planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, was refused by the Appointed Officer on 5 January 2022, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

3.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer to refuse planning permission for the siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be reviewed.

3.3. That, as part of the Notice of Review, referred to at paragraph 3.2 above, the applicant had submitted information which, in terms of Section 43B of the Town and Country Planning (Scotland) Act 1997 as amended, was deemed as new information.

3.4. That, on 28 February 2022, the Local Review Body resolved that the new information, referred to at paragraph 3.3 above, namely new farming regulations, the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021, which came into force on 1 January 2022, and introduced measures regarding the storage of slurry, should be taken into account when determining the review.

3.5. That, on 28 February 2022, the Local Review Body further resolved that the review should not be determined without further procedure, and that the further procedure should comprise the following:

- An opportunity for relevant parties, including the Scottish Environment Protection Agency and the Council's Environmental Health Service, to make representations on the new information referred to at paragraph 3.4 above.
- Further information from the applicant's agent to clarify whether the application was being made under the criteria of Policy 5E iii – the replacement of an existing building or structure, or Policy 5E viii – the provision of a single dwelling house to allow for the retirement succession of a viable farm holding.

3.6. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Drunton, Russland Road, Harray, at 11:00 on 28 February 2022.

After hearing a report from the Planning Advisor, the Local Review Body:

Resolved, in terms of delegated powers:

3.7. That the review in respect of the decision of the Appointed Officer to refuse planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, should be determined without further procedure.

Councillor Duncan A Tullock, seconded by Councillor Owen Tierney, moved that the decision of the Appointed Officer to refuse the application for planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be reversed, as, in their opinion:

- (1) The siting of a replacement house (one for one) was acceptable in principle.
- (2) The proposed site location would reflect and maintain the local settlement pattern, which was of a scattered and low-density nature, and a house could be accommodated which would fit appropriately within the landscape with minimum visual and landscape impact on the surrounding area.
- (3) The proposed development would not have an unacceptable adverse impact on the amenity of adjacent properties, place an unacceptable burden on existing infrastructure, or result in an unacceptable level of risk to public health and safety.
- (4) Noting the requirement in Supplementary Guidance: Housing in the Countryside that the replacement building should be located on the same site unless an exceptional case could be made that there were demonstrable planning benefits for an alternative location, the exceptional circumstances were that, in terms of the site of the existing redundant building (a) the layout of the neighbouring farm buildings resulted in a site contained within an enclosed area and its proximity to a working farm made it unsuitable for a family home, and (b) it would require access via a working farm track resulting in potential conflict with agricultural traffic, compared to the proposed site which offered a more appropriate access directly onto the main road.

And, accordingly, the proposed development would comply with Policy 1 – Criteria for All Development, parts (ii) to (vi) and Policy 5E – Single Houses and New Housing Clusters in the Countryside, part (iii), of the Orkney Local Development Plan 2017, and Supplementary Guidance: Housing in the Countryside, Development Criteria 1, 2, 4 and 6.

Councillor Robin W Crichton, seconded by Councillor Alexander G Cowie, moved an amendment that the decision of the Appointed Officer to refuse the application for planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be upheld.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie and Robin W Crichton (2).

For the Motion:

Councillors Norman R Craigie, David Dawson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge (5).

The Motion was therefore carried.

The Local Review Body thereafter resolved, in terms of delegated powers:

3.8. That the decision of the Appointed Officer to refuse planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, should not be upheld.

3.9. That planning permission in principle be granted in respect of the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, subject to the conditions attached as Appendix 1 to this Minute.

3.10. That the Local Review Body's reasons for granting planning permission in principle were that, in the Committee's opinion:

- The siting of a replacement house (one for one) was acceptable in principle.
- The proposed site location would reflect and maintain the local settlement pattern, which was of a scattered and low-density nature, and a house could be accommodated which would fit appropriately within the landscape with minimum visual and landscape impact on the surrounding area.
- The proposed development would not have an unacceptable adverse impact on the amenity of adjacent properties, place an unacceptable burden on existing infrastructure, or result in an unacceptable level of risk to public health and safety.
- Noting the requirement in Supplementary Guidance: Housing in the Countryside that the replacement building should be located on the same site unless an exceptional case could be made that there were demonstrable planning benefits for an alternative location, the exceptional circumstances were that, in terms of the site of the existing redundant building:
 - The layout of the neighbouring farm buildings resulted in a site contained within an enclosed area and its proximity to a working farm made it unsuitable for a family home.
 - It would require access via a working farm track resulting in potential conflict with agricultural traffic, compared to the proposed site which offered a more appropriate access directly onto the main road.

And, accordingly, the proposed development would comply with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development, parts (ii) to (vi).
 - Policy 5E – Single Houses and New Housing Clusters in the Countryside, part (iii).
- Supplementary Guidance: Housing in the Countryside, Criteria 1, 2, 4 and 6.

4. Conclusion of Meeting

At 10:28 the Chair declared the meeting concluded.

Signed: Rob Crichton.

Appendix 1.

Proposed Siting of Replacement House (one for one) on land near Drunton, Russland Road, Harray (21/436/PIP).

Grant subject to the following conditions:

01. Within three years of the date of this permission, an application for approval of the following matters shall be submitted to, and approved by, the Planning Authority:

- (a) The final design and external appearance of the house and any other buildings.
- (b) The layout and surface finishes of the site, including all roads, accesses and parking areas.
- (c) The design and location of any boundary walls and fences.
- (d) The provision of drainage works.
- (e) The disposal of sewage, noting the advice provided by SEPA and its consultation response, including that the discharge from the waste water drainage system should be to either a soakaway without overflow or mound soakaway.
- (f) The landscaping of the site (including details of species, sizes, number, type).
- (g) Detailed cross sections of the house on the site, including existing and proposed ground levels, and proposed finished floor levels, specifying that the finished floor level is not above existing ground level.

No development shall commence until all of these matters have been approved and, thereafter, the development shall be carried out in accordance with the approved details, unless agreed otherwise in writing by the Planning Authority.

Reason: To accord with the Town and Country Planning (Scotland) Act 1997 as amended, and because the approval is in principle only.

02. The access hereby approved with the public road shall be constructed to the Council's Roads Services standard drawing 'SD-05 (Typical Access Over Verge With Service Bay)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on of the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed 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.

03. Prior to the first occupation of the development hereby approved in principle, the sewage system approved under the subsequent AMC/Full Planning Application shall be connected and fully operational and prior to the commencement of the development, the developer shall consult the Scottish Environment Protection Agency (SEPA) with regard to authorisations required for discharges of sewerage effluent to land or water.

SEPA (Orkney) can be contacted at Norlantic House, Hatston, Kirkwall (Telephone: 01856 871080). Further information may also be found on SEPA's website at: <https://www.sepa.org.uk/> .

Reason: In the interests of environmental protection and to accord with Policy 13C – Waste Water Drainage of Orkney Local Development Plan 2017.

04. Throughout the lifetime of the development hereby granted planning permission, surface water must be treated in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

All surface water shall be contained within the development site and there shall be no surface water drainage run-off onto the road or adjacent land.

Uncontaminated surface water, including roof water, should be disposed of by the use of SUDS in accordance with General Binding Rules 10 and 11 of CAR. Further details regarding General Binding Rules and Controlled Activities Regulations (CAR) may be found on SEPA's website at: https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf .

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13 of Orkney Local Development Plan 2017, Scottish Planning Policy and in the interests of road safety.

05. No development shall commence until the existing building indicated as 'Redundant Farm Building' on Location Plan OIC-01 and Site Plan OIC-02 is entirely demolished and the material disposed of. All material resulting from demolition not required in the construction of the replacement dwelling shall be removed from site and disposed of in a licensed waste disposal facility or used for purposes for which planning permission is either not needed or has been granted.

Reason: To protect the appearance of the area and as the demolition of the structure is required to establish the principle of the replacement house to comply with Orkney Local Development Plan 2017 Policy 5E(iii) – Replacement of an Existing Building or Structure and Supplementary Guidance: Housing in the Countryside (2021).

06. Hours of work during the demolition of the Redundant Farm Building and construction of the development hereby approved in principle, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 Saturdays, not at all on Sundays, Christmas or New Year Public Holidays unless otherwise agreed in writing with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of residential amenity of the area and in order to reduce any possible nuisance arising to nearby residents during the demolition works and construction of the development.

07. Throughout the lifetime of the development hereby approved in principle, any external lighting used on the dwelling and any outbuilding(s) shall be downward facing only and shall comply with the Council's requirements of Orkney Local Development Plan 2017 Policy 2 (principle vi) that all external lighting shall minimise light pollution and shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1/E2 areas (Rural/Low District Brightness). The lighting shall be turned off when not required either by automatic sensor or manually.

Note: Further information regarding the control of light pollution and obtrusive light can be viewed online at www.theilp.org.uk/documents/obtrusive-light/ (Institution of Lighting Professionals (Guidance Notes for the Reduction of Obtrusive Light GN01:2011) and www.scotland.gov.uk/Publications/2007/03/14164512/0 Scottish Executive (Transport Scotland) Guidance Note (Controlling Light Pollution and Reducing Lighting Energy Consumption).

Reason: To minimise obtrusive light, glare or distraction in the interests of safeguarding the amenity of the area and to accord with Orkney Local Development Plan 2017 Policy 2 – Design.