

## Minute

### Planning Committee

Wednesday, 20 March 2024, 09:30.

Council Chamber, Council Offices, School Place, Kirkwall.



### Present

Councillors Owen Tierney, Kristopher D Leask, Graham A Bevan, Alexander G Cowie, P Lindsay Hall, James R Moar, Raymond S Peace, Jean E Stevenson, Ivan A Taylor and Duncan A Tullock.

### Clerk

- Katy Russell-Duff, Committees Officer.

### In Attendance

- Roddy Mackay, Head of Planning and Community Protection.
- Hazel Flett, Service Manager (Governance).
- Jamie Macvie, Service Manager (Development Management).
- Derek Manson, Team Manager (Development Planning).
- Paul Maxton, Solicitor.
- Donald Wilson, Roads Authority Officer.

### Observing

- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.

### Apologies

- Councillor John A R Scott.
- Councillor Mellissa-Louise Thomson.

### Declarations of Interest

- No declarations of interest were intimated.

### Chair

- Councillor Owen Tierney.

## 1. Planning Application 23/223/PP

### Proposed Change of Use of Land from Agricultural to Domestic and Alter Ground Levels (Part Retrospective) at St Columba's House, Lower Whitehall Road, Stronsay

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, the Committee:

Noted:

**1.1.** That a letter of objection relating to the application for planning permission in respect of the proposal to change the use of land from agricultural to domestic and alter ground levels (part retrospective) at St Columba's House, Lower Whitehall Road, Stronsay, had been received from G L Flett, Redhouse, Stronsay.

After hearing a report from the Service Manager (Development Management), the Committee:

Resolved, in terms of delegated powers:

**1.2.** That the concerns of the objector had been considered in the assessment of the proposal but were of insufficient weight to warrant refusal.

**1.3.** That the proposed development had been fully assessed and was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - The Spatial Strategy.
  - Policy 1 – Criteria for All Development.
  - Policy 9C – Natural Heritage and Landscape (Wider Biodiversity and Geodiversity).
  - Policy 9G – Natural Heritage and Landscape (Landscape).
  - Policy 13A – Flood Risk.
  - Policy 13B - Sustainable Drainage Systems (SuDS).
  - Policy 14C – Road Network Infrastructure.
- Guidance:
  - Supplementary Guidance: Natural Environment (2017).
  - Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).
- National Planning Policy Framework 4:
  - Policy 3 – Biodiversity.
  - Policy 16 (g, ii) – Quality Homes
  - Policy 22 – Flood Risk and Water Management.

**1.4.** That planning permission be granted in respect of the proposal for the change of use of land from agricultural to domestic and alter ground levels (part retrospective), at St Columba's House, Lower Whitehall Road, Stronsay, subject to the conditions attached as Appendix 1 to this Minute.

## **2. Planning Application 23/295/TPP**

### **Proposed Erection of Wind Turbine, Extension of Crane Pad and Creation of Temporary Access at Ludenhill, Birsay**

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, the Committee:

Noted:

**2.1.** That, in accordance with the Scheme of Delegation, the planning application in respect of the proposed erection of a wind turbine, extension of a crane pad and creation of a temporary access at Ludenhill, Birsay, required to be determined by the Planning Committee, as the application was accompanied by an Environmental Impact Assessment Report

After hearing a report from the Service Manager (Development Management), the Committee:

Resolved, in terms of delegated powers:

**2.2.** That the proposed development had been fully assessed and was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 7C – Energy – All Renewables and Low Carbon Energy Developments.
  - Policy 7D – Energy – Onshore Wind Energy Development.
  - Policy 8A – Historic Environment and Cultural Heritage – All Development.
  - Policy 8B - Historic Environment and Cultural Heritage – Specific Policy Considerations.
  - Policy 9A – Natural Heritage and Landscape - Natural Heritage Designations.
  - Policy 9B – Natural Heritage and Landscape – Protected Species.
  - Policy 9C – Natural Heritage and Landscape – Wider Biodiversity and Geodiversity.
  - Policy 9G – Natural Heritage and Landscape – Landscape.
  - Policy 14 – Transport, Travel and Road Network Structure.
- Guidance:
  - Supplementary Guidance – Energy (9 March 2017).
  - Development Management Guidance: Energy (2021).
  - Supplementary Guidance – Historic Environment and Cultural Heritage (9 March 2017).
  - Supplementary Guidance – Natural Environment (2017).
  - Planning Policy Advice - Heart of Neolithic Orkney World Heritage Site (2010).
  - Planning Policy Advice – Landscape Capacity Assessment for Wind Energy in Orkney (2015).
  - Supplementary Guidance: Natural Environment (2017).
  - Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).
- National Planning Framework 4:
  - Policy 3 – Biodiversity.
  - Policy 4 – Natural places.

- Policy 7 – Historic assets and places.
- Policy 11 – Energy.

**2.3.** That planning permission be granted in respect of the proposal for the erection of wind turbine, extension of a crane pad and creation of a temporary access, at Ludenhill Birsay, subject to the conditions attached as Appendix 2 to this Minute.

### **3. Planning Application 23/366/HH**

#### **Proposed Installation of Replacement Windows and Door at Alladale, Back Road, St Margaret's Hope**

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, the Committee:

Noted:

**3.1.** That letters of objection relating to the application for planning permission in respect of the proposal to install two replacement windows and a door at Alladale, Back Road, St Margaret's Hope, had been received from the following:

- Orkney Heritage Society.
- The Architectural Heritage Society of Scotland, AHSS National Office, 15 Rutland Square, Edinburgh.

After hearing a report from the Service Manager (Development Management), the Committee:

Resolved, in terms of delegated powers:

**3.2.** That the concerns of the objectors had been considered in the assessment of the proposal but were of insufficient weight to warrant refusal.

**3.3.** That the proposed development had been fully assessed and was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 8 – Historic Environment and Cultural Heritage.
- National Planning Framework 4:
  - Policy 7 – Historic Assets and Places.
- Planning Policy Advice:
  - Historic Environment (Topics and Themes).
- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

**3.4.** That planning permission be granted in respect of the proposal to install replacement windows and a door, at Alladale, Back Road, St Margaret's Hope, subject to the following condition:

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

#### **4. Conclusion of Meeting**

At 10:05 the Chair declared the meeting concluded.

Signed: Owen Tierney.

## Appendix 1.

### **Proposed Change of Use of Land from Agricultural to Domestic and Alter Ground Levels (Part Retrospective) at St Columba's House, Lower Whitehall Road, Stromness (23/223/PP)**

#### **Grant, subject to the following conditions:**

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. Throughout the lifetime of the development hereby approved, surface water shall be managed in accordance with the principles of Sustainable Drainage Systems (SuDS) and the guidance set out in CIRIA's SuDS Manual C753. Requisite surface water drainage measures shall be operational prior to the development being brought into use and shall be maintained as operational thereafter and throughout the lifetime of the development.

All surface water shall be contained within the application site and shall be managed to avoid flow into any adjacent road or other land.

Reason: To ensure appropriate management of surface water drainage, in accordance with Policy 13B 'Sustainable Drainage Systems (SuDS)' of the Orkney Local Development Plan 2017, Policy 22 'Flood Risk and Water Management' of National Planning Framework 4, and to protect road safety.

03. Within three months of the date of the decision notice, ground levels between the raised platform hereby approved and the boundary wall to the property 'Red House' adjacent shall be finished to the levels and profiles indicated in the Proposed (Post Development) Topographical Plan (drawing reference: 1052/2 Revision A, dated 21 September 2022).

Reason: For the avoidance of doubt and to ensure overland flow from the development site and adjoining gardens would be directed towards the basin in the agricultural land adjacent rather than between gardens.

04. The biodiversity measures described in the submitted Biodiversity form (dated 25 July 2023) and shown on the site plan contained within the form shall be implemented in full no later than the first planting season following the date of this decision notice. Thereafter the biodiversity measures shall be retained throughout the lifetime of the development in accordance with the approved details, unless otherwise agreed in writing with the planning authority.

Reason: To ensure biodiversity measures are implemented as required by Policy 3 'Biodiversity' of National Planning Framework 4.

05. All landscaping works shall be carried out in accordance with the Proposed Site/Landscaping Plan hereby approved (drawing reference JDC-1690-A300-PL) no later than the first planting season following the date of this decision notice. Any trees, bushes, shrubs or plants which, within a period of five years from the completion of the development, die, or for any reason are removed or damaged, shall be replaced in the next planting season with others of the same size and species. Thereafter the landscaping measures shall be retained throughout the lifetime of the development in accordance with the approved details, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure appropriate landscaping of the development.

06. Hours of work during construction of the development hereby approved, 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 Mondays to Fridays, 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays unless otherwise agreed, in writing, with the Planning Authority.

Throughout the demolition works and 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 construction of the development.

## Appendix 2.

### **Proposed Erection of Wind Turbine, Extension of Crane Pad and Creation of Temporary Access at Ludenhill, Birsay (23/295/TPP)**

#### **Grant, subject to the following conditions:**

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. This planning permission will expire and cease to have effect after a period of 25 years, counted from 12 months after the date of commencement of works, or from the 'First Export Date' (the date when electricity is first exported from the approved wind turbine to the electricity grid network), whichever is earlier. At the end of this period, unless planning permission is granted for the retention and continued operation of the wind turbine, the development will be decommissioned and removed from the site together with all ancillary infrastructure. Confirmation of the First Export Date, within the period 12 months from the date of commencement, shall be submitted in writing to the Planning Authority, within one month of the First Export Date.

Reason: In recognition of the stated lifespan of the development and to allow the Planning Authority to calculate the date of expiry of the consent.

03. Any temporary trackway required to facilitate development or decommissioning will comprise overlain matting, the specification of which shall be agreed, in writing, by the Planning Authority prior to commencement of works and shall not be formed in a way that would allow permanency. All temporary trackway shall be removed on completion of construction / decommissioning phases.

Reason: In the interests of safety, amenity and environmental protection.

04. No development shall commence until a timetable for the construction period has been agreed, in writing, by the Planning Authority.

Reason: To ensure proper planning and other environmental control of the development.

05. Prior to the commencement of development, detailed construction drawings with full details of the dimensions and colour(s) of the wind turbine, including the tower, blades and nacelle, shall be submitted to, and agreed in writing by, the Planning Authority. Thereafter, the wind turbine shall be erected and retained in accordance with the approved details throughout the lifetime of the development.

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

06. The overall height of the wind turbine shall not exceed 76 metres (to the tip of the blades) when the turbine is in the vertical position as measured from the natural ground conditions immediately adjacent to the turbine base.



Reason: To ensure proper planning and other environmental control of the development.

07. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended), and unless there is a demonstrable health and safety or operational reason, the wind turbine shall not display any name, logo, sign or other advertisement without express advertisement consent having been granted on application to the Planning Authority.

Reason: To ensure that the turbine is not used for advertising, in the interests of visual amenity.

08. Hours of operation for the removal of the existing turbine and the construction work on site, involving the use of machinery and powered tools, or any other operation that would be audible from any noise-sensitive receptor, and all HGV movements to and from the site, shall only take place between the hours of 07:00 and 19:00 Mondays to Fridays, 07:00 and 13:00 on Saturdays and not at all on Sundays or the Christmas or New Year Public Holidays, unless otherwise agreed, in writing, by the Planning Authority. Outwith these specified hours, development on the site shall be limited to maintenance, emergency works, dust suppression and the testing of plant and equipment, unless otherwise approved in advance, in writing, by the Planning Authority.

Reason: In the interests of local amenity.

09. No development shall commence until a Construction and Operational Environmental Management Plan (COEMP) outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, and operational environmental monitoring, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authority. The COEMP shall thereafter be implemented as approved.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on amenity and the environment, and that mitigation measures proposed are fully implemented.

10. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Planning Authority, in consultation with Roads Services. The CTMP shall thereafter be implemented as approved.

Reason: To maintain safety for road traffic and the traffic moving to and from the development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.

11. No ground preparation, decommissioning of the existing turbine, construction or any other works associated with the proposed development shall commence during March to August (inclusive), or (if during these months) until a pre-start walkover of the site and inspection of the existing buildings, structures and vegetation has been completed by a suitably experienced (and licensed) ecologist, to identify signs of breeding birds and until an appropriate Breeding Bird Protection Plan has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall be carried out wholly in accordance with the approved Breeding Bird Protection Plan.

Reason: To avoid adverse effects on breeding birds (including those from the Loch of Swannay Local Nature Conservation Site) and to comply with protected species legislation.

12. No development shall commence until a Shadow Flicker Protocol has been submitted to, and approved in writing by, the Planning Authority. This Protocol shall include details of light level sensors and set out mitigation and management for addressing any complaint received from a nearby residential receptor. Operation of the turbine shall take place in accordance with the approved Shadow Flicker Protocol and any mitigation measures that have been agreed through the Protocol shall be implemented.

Reason: In the interest of local residential amenity.

13. Prior to commencing construction of the wind turbine, or deploying any construction equipment or temporal structure(s) 15.2 metres or more in height (above ground level), an aviation lighting scheme shall be submitted to, and approved in writing by, the Planning Authority, in conjunction with the Civil Aviation Authority and the Ministry of Defence. The aviation lighting scheme shall define how the development will be lit throughout its life to maintain civil and military aviation safety requirements as required under the Air Navigation Order 2016 determined necessary for aviation safety by the Civil Aviation Authority. This shall set out:

- a) Details of any construction equipment and temporal structures with a total height of 15.2 metres or greater (above ground level) that will be deployed during the construction of the wind turbine generator and details of any aviation warning lighting that it will be fitted with.
- b) The location and height of the wind turbine generator, identifying the position of the light on the wind turbine generator; the type of light that will be fitted and the performance specification of the lighting type to be used.

Thereafter, the developer must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: To maintain aviation safety.

14. The developer shall notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) The date of the commencement of the erection of the wind turbine generator.
- b) The maximum height of any construction equipment to be used in the erection of the wind turbine.
- c) The date the wind turbine generator is brought into use.
- d) The latitude and longitude and maximum height of the wind turbine generator and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

15. Throughout the life of the development, noise generated by the wind turbine hereby permitted, shall not exceed 35dB(A) L90, 10 min at wind speeds not exceeding 10 m/s as measured not less than 10m from the façade of the nearest noise sensitive property. Measurements shall be made in accordance with the guidance in the supplementary guidance notes to the planning application, chapter 8 of the publication “The Assessment and Rating of Noise from Wind Farms” (ETSU-R-97, Department of Trade and Industry, September 1996).

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

Note: The property of Ludenhill Farm, Swanney, Birsay is not considered as a noise sensitive property in relationship to the turbine hereby approved due to the owner’s financial interest in the turbine. Any separation of the ownership of the house and the turbine, including occupation of the house by an individual or party without a financial interest in the turbine, is likely to cause noise issues which may result in the turbine no longer being able to comply with this condition.

16. Should any complaints be received in respect of noise levels, the developer shall fully investigate these complaints and, to establish noise levels at any affected property, shall undertake noise monitoring which shall be carried out by a suitably qualified noise expert or consultancy previously agreed, in writing, by the Planning Authority and which shall be carried out by the method stated in section 2.0 “Procedure to be followed in the event of a complaint” page 102 of the publication “The Assessment and Rating of Noise from Wind Farms” (ETSU-R-97, Department of Trade and Industry, September 1996).

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

17. Should any noise monitoring undertaken in accordance with condition 16 above demonstrate that the noise thresholds in condition 15 are being exceeded, the developer shall submit a scheme of mitigating measures to the Planning Authority for written agreement within three months of the breach being identified. The agreed mitigating measures shall be implemented within three months of the written agreement or within any alternative timescale agreed in writing by the Planning Authority and thereafter retained throughout the life of the development unless otherwise agreed in writing by the Planning Authority.

Reason: To protect the residents of nearby residential properties from disturbance as a result of noise generated during operation of the development.

18. Where noise measurements are carried out in accordance with condition 17 above, the assessment of measured noise emission levels should be referenced to derived (not measured) 10m height above ground level wind speeds. The article “Prediction and assessment of wind turbine noise” from the Institute of Acoustics bulletin April 2009 Vol. 34 should be referred to in regard to this matter.

Reason: For the avoidance of doubt regarding a technical matter and to follow recognised current good practice.

19. Should any complaints be received in respect of disruption to radio/television reception, the developer shall fully investigate these complaints and provide a satisfactory solution within a timescale specified, in writing, by the Planning Authority, details of which shall be submitted to the Planning Authority for approval. The approved details shall thereafter be implemented in accordance with the terms specified by the Planning Authority and retained throughout the life of the development unless otherwise agreed, in writing, by the Planning Authority.

Reason: To protect the residents of nearby residential properties from unacceptable levels of disruption to radio/TV reception.

20. During construction and operation, should any archaeological features be revealed, works shall cease until re-commencement is confirmed, in writing, by the Planning Authority, and the features shall be reported, in writing, to the Planning Authority.

Reason: To ensure the protection or recording of archaeological features on the site.

21. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the application site has been submitted to, and approved in writing by, the Planning Authority.

Thereafter, and no later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the Planning Authority.

For the avoidance of doubt, the DRP shall include the removal of all above-ground redundant elements of the wind turbine development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. This shall include the decommissioning of the existing wind turbine currently on site and timescale for completion of such works in advance of the first operational use of the wind turbine hereby approved. The developer shall also demonstrate that an appropriate mechanism, including funding, is put in place to undertake the Decommissioning Plan. It should be made clear whether costs are estimated on the decommissioning statement. All costs shall be met by the developer and the following points addressed:

(i) Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures, outlined in the approved decommissioning, restoration and aftercare strategy, has been submitted to, and approved in writing by, the Planning Authority.

(ii) Confirmation, in writing, by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority.

(iii) Documentary evidence that the bond or other financial provision approved under parts (i) and (ii) above is in place, has been submitted to, and confirmation, in writing, that the bond or other financial provision is satisfactory, has been issued by the Planning Authority.

Thereafter, the developer shall:

(iv) Ensure that the bond or other financial provision is maintained throughout the duration of this permission.

(v) Pay for the bond or other financial provision to be subject to review five years after the commencement of development and every five years thereafter until the wind turbine is decommissioned and the site restored.

Each review shall be:

(a) Conducted by a suitable qualified independent professional.

(b) Published within three months of each five year period ending, with a copy submitted upon its publication to both the landowner(s) and the Planning Authority.

(c) Approved, in writing, by the Planning Authority without amendment or approved, in writing, by the Planning Authority following amendment to their reasonable satisfaction.

Where a review approved under part (c) above recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, the Wind Turbine Operator shall do so within one month of receiving that written approval, or another timescale as may be agreed, in writing, by the Planning Authority, and in accordance with the recommendations contained therein.

Thereafter the detailed Decommissioning and Restoration Plan shall be implemented as approved.

Reason: To ensure that the wind turbine and associated development is appropriately removed from the site; in the interests of safety, amenity and environmental protection and that an appropriate financial security for the cost of restoration of the site to the satisfaction of the Planning Authority is secured.

22. Prior to the commencement of operation, an operational safety plan shall be submitted to, and approved in writing by, the Planning Authority. This plan shall be implemented for the lifetime of the development.

Reason: To ensure safe and effective operation during the lifetime of the development.