

Item: 3.1

Local Review Body: 24 April 2019.

Change of Use from Self-Catering to Domestic (Retrospective) at New Breck, Beaquoy Road, Birsay (18/325/PP).

Report by Chief Executive.

1. Purpose of Report

To determine a review of the decision of the Appointed Officer to refuse planning permission for the change of use from self-catering to domestic (retrospective) at New Breck, Beaquoy Road, Birsay.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission for the change of use from self-catering to domestic (retrospective), at New Breck, Beaquoy Road, Birsay, was refused by the Appointed Officer on 3 December 2018, for the reasons outlined in section 3.2 of this report.

2.2.

That the applicant has submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed.

It is recommended:

2.3.

That the Local Review Body determines 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.
- In the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision notice.

2.4.

That, in the event the Local Review Body agrees that further information is required to determine the review, 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; and/or.
- By the holding of one or more hearing.

3. Background

3.1.

Planning application 18/325/PP relates to the change of use from self-catering to domestic (retrospective) at New Breck, Beaquoy Road, Birsay.

3.2.

The Appointed Officer refused the planning application on 3 December 2018 on the following grounds:

3.2.1.

The proposed change of use does not accord with any of the eight policy provisions required to support single houses in the countryside on Mainland Orkney. The proposed change of use does not therefore accord with Policy 5E of the Orkney Local Development Plan 2017.

3.3.

In terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the applicant has submitted a Notice of Review and supporting information, which is attached as Appendix 1 to this report.

3.4.

The Planning Handling Report, Planning Services file and the Decision Notice, including the reason for refusal, referred to in section 3.2 above, are attached as Appendices 2, 3 and 4 to this report.

4. 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. No further representations were received.

4.2.

In accordance with the Council’s policy to undertake site inspections of all planning applications subject to a local review, prior to the meeting to consider the review, a site visit to New Breck, Beaquoy Road, Birsay, was undertaken at 10:15 on 24 April 2019.

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, draft planning conditions are attached at Appendix 5 for consideration.

4.4.

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; and/or.
- By the holding of one or more hearing(s).

5. Relevant Planning Policy and Guidance

5.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 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 at:

<http://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies and supplementary guidance listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 4B – Business, Industry and Employment – In the Countryside.
 - Policy 5E – Housing – Single Houses and New Housing Clusters in the Countryside.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Housing in the Countryside

6. Corporate Governance

This report relates to the Council complying with its statutory duties as a Planning Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

7. Financial Implications

All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing Planning Service revenue budgets.

8. Legal Aspects

8.1.

Under the Planning etc (Scotland) Act 2006 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 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.

8.2.

The procedures to be followed in respect of the review are as detailed in sections 4.3 and 4.4 above.

8.3.

A letter from the Chief Planner, Scottish Government, 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.

9. Contact Officers

Angela Kingston, Clerk to the Local Review Body, extension 2239, Email angela.kingston@orkney.gov.uk

Roddy MacKay, Planning Advisor to the Local Review Body, extension 2530, Email rodny.mackay@orkney.gov.uk

Peter Trodden, Legal Advisor to the Local Review Body, extension 2219, Email peter.trodden@orkney.gov.uk

10. Appendices

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

Appendix 2 – Planning Handling Report (pages 11 – 15)

Appendix 3 – Planning Services File (pages 16 – 27)

Appendix 4 – Decision Notice and Reasons for Refusal (pages 28 – 34)

Appendix 5 – Draft Planning Conditions (pages 35 – 36)

Pages 1 to 36, with the exception of pages 35 and 36, can be viewed at http://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm and inserting the planning reference "18/325/PP".

All other documents can be viewed at <http://www.orkney.gov.uk/Council/C/LRC2019.htm> and referring to the relevant meeting date.



Council Offices School Place Kirkwall KW15 1NY Tel: 01856 873 535 (ex 2504) Email: planning@orkney.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100154987-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	S J Omand		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stephen J	Building Name:	
Last Name: *	Omand	Building Number:	14
Telephone Number: *	01856876215	Address 1 (Street): *	Victoria Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Kirkwall
Fax Number:		Country: *	Orkney
		Postcode: *	KW15 1DN
Email Address: *	stephen@sjomand.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

2

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr & Mrs"/>	Building Name:	<input type="text" value="New Breck"/>
First Name: *	<input type="text" value="William"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Spence"/>	Address 1 (Street): *	<input type="text" value="Beaquoy Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Birsay"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="KW17 2HY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Orkney Islands Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="NEW BRECK"/>
Address 2:	<input type="text" value="BEAQUOY ROAD"/>
Address 3:	<input type="text" value="BIRSAY"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ORKNEY"/>
Post Code:	<input type="text" value="KW17 2HY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="1021513"/>	Easting	<input type="text" value="330155"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: * (Max 500 characters)

Change of use from self-catering to domestic (retrospective).

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See supporting documents.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

A1 Plan. A4 Location Plan. A4 Supporting statement.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

What date was the application submitted to the planning authority? *

What date was the decision issued by the planning authority? *

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

A site visit is necessary to fully understand the applicants' situation.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? * Yes No

Is it possible for the site to be accessed safely and without barriers to entry? * Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

- Have you provided the name and address of the applicant?. * Yes No
- Have you provided the date and reference number of the application which is the subject of this review? * Yes No
- If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? * Yes No N/A
- Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? * Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

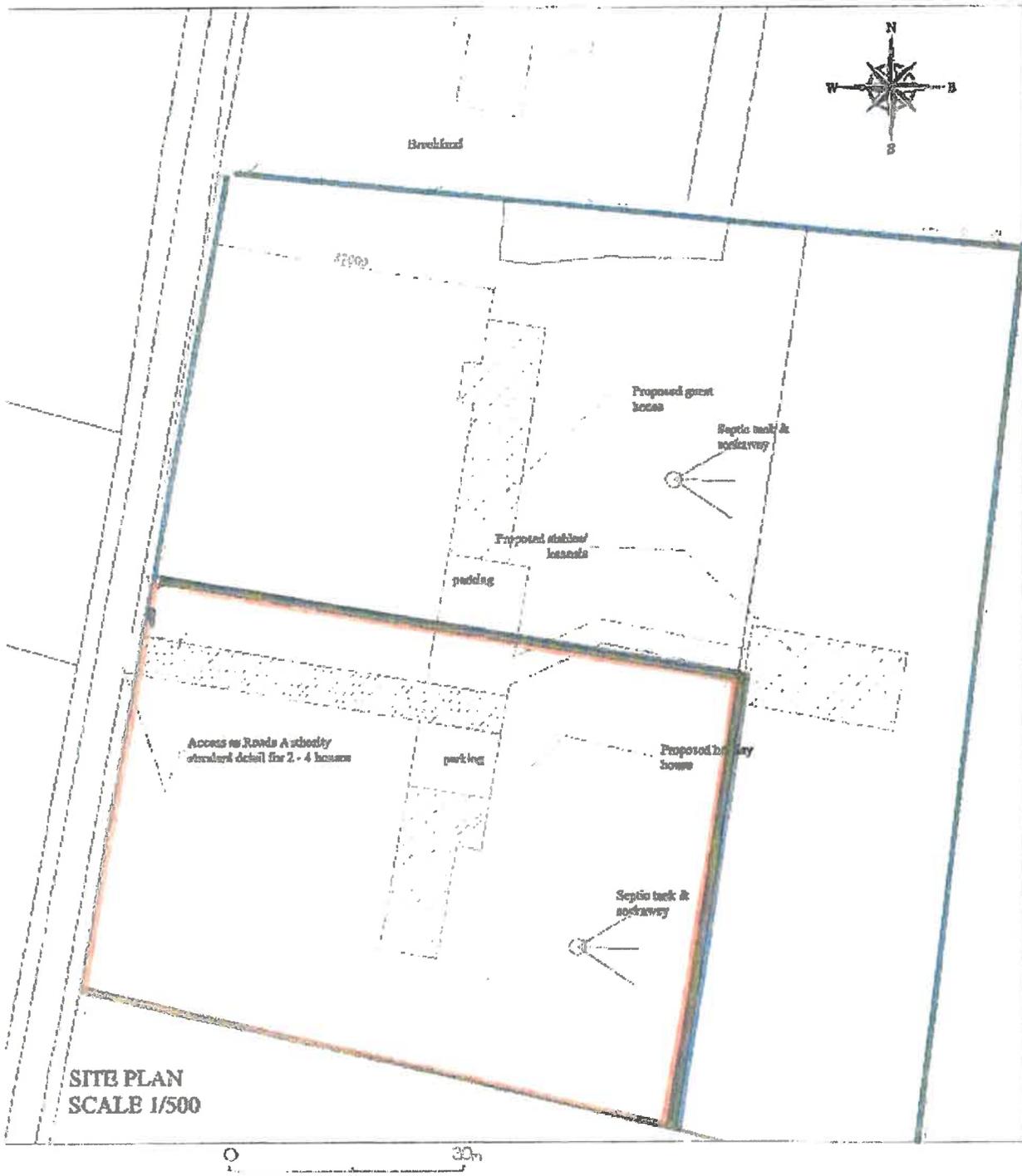
- Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review * Yes No

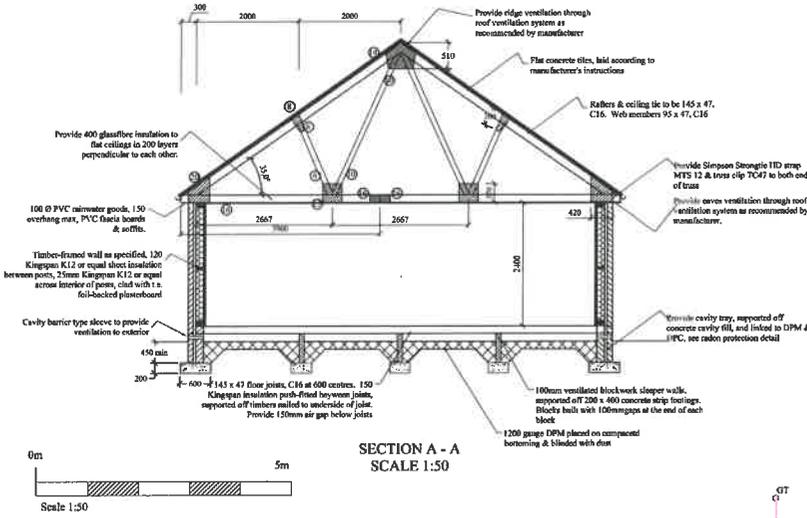
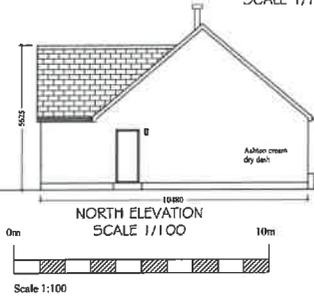
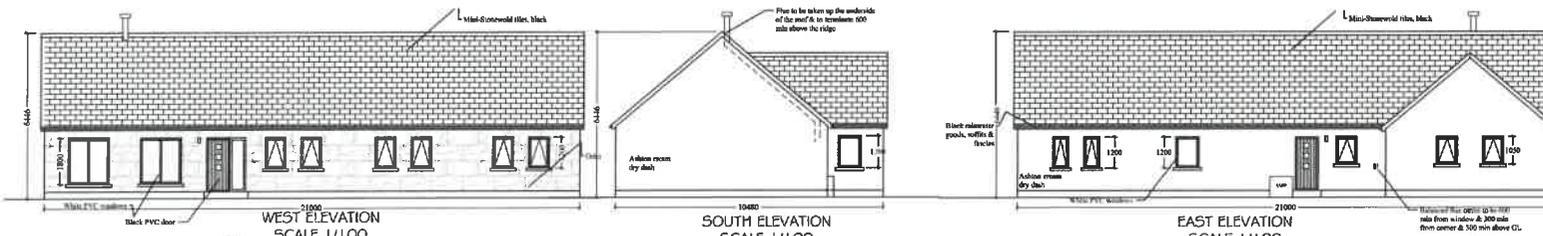
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Stephen J Omand
 Declaration Date: 23/02/2019





NOTES
Foundations & Ranges
 Excavate to firm strata. External wall footings to be 600 x 200, placed on firm strata. Sleeper walls to be placed on 450 x 200 footings. Concrete to be C20 or in accordance with the Small Buildings Structural Guide 1.C.3 grade 57/2 (4:2:1) or G3M1 in BS 8500-3:2002.

All ranges to comply with Building Regs 4.3.1.1 & 4.3.2, but not steeper than 1/12 or larger than 2.5m. Ridge projection of 100mm both as provided or any difference in level. Drip off-point to be provided in accordance with 4.1.2 & 4.1.4 to be 3.2m x 4.8m & surfaced in a firm, uniform non-slip material to permit ease of maintenance, leading to the access ramp. Path to surround house, 1.2m wide. External access maximum 170 rise, minimum going 250mm.

External Walls
 Underlayment to be 100 blockwork, 50 cavity, 150 blockwork, 70mm2 act in 3:3 mortar, cavity filled to ground level with lean mix concrete. Exterior walls to be 130 x 47, C16 timber frame work at 600 centres, double top & bottom rails, dwangs at 1200 from FFL, clad with breacher paper and 5mm ply, sealed to posts by 12mm dia. nails x 50mm long at 75 centres, and fixed to underlayment with 12mm bolts at 1800 centres or as otherwise stated on racking layout. DPC to be provided. Structural finish to be 120 x 195 x 47, C16 and 150 x 47 flat plate, cast on 150 x 47 upright studs, both sides of wall/or nailed to timber frame as racking schedule. Provide galvanized blockwork ground straps at 900mm centres unless otherwise stated.

Sleeper walls to be 1000k ventilated blockwork to support 145 x 47 ground floor joists at 600 centres. Provide ventilation to exterior walls of 1500mm2 per metre run.

Provide 50 x 38 firstnates at door & window openings, wallhead and external corners, DPC to be provided. Clad interior with 12.5mm l.e. foil-backed plasterboard, Dimplex or equal, 150mm Kingspan insulation between studs, 25mm Kingspan insulation across inner side of posts, clad with l.e. foil-backed plasterboard, seams taped & filled. U-value for floor to be 0.19w/m2K max.

Provide 50mm cavity and exterior walls to be 1000k blockwork, clad to timber frame with 90mm lins at 600 c-c horizontally and 225 c-c vertically & at 225 centres at sides of all openings, each fix fixed through plywood into post by 1m x 3.5 dia x 50mm long SFS ringed stanch nail. Cavity vents to be provided at 1200mm centres, just below damp proof course, as wallhead height and to public space. Walls to receive Ashion cream dry dash finish, smooth render finish to go. Provide builder's pre-cast RC lintels, over windows and pre-cast sills with water drip, with damp proof course to underside, code and rear spaced. All pre-cast products ordered from Cypre Aggregates. Provide expansion joints at 6m centres.

Roof
 Roof to be black Rollmat Mini-Showerwall concrete tiles, on 50 x 25 tiling battens on 25 x 12 counter-battens on rafterhead roofing felt on 12mm marking ply on roof structure association drawing. Provide vented ridge tiles as provided by manufacturer and soffits vents to ensure 50mm continuous air gap over insulation. Insulation to be 400mm Fibreglass insulation in flat ceilings. Code 5 conductive to all valley gutters. U-value for ceiling 0.13 w/m2K max. Fix black PVC fascia & soffit boards.

Partitions
 Ties 75 x 50 timber stud partitions, posts at 600 centres, always top & bottom & 1200 from FFL, clad with Gyproc Wallboard 10, 25mm mineral wool batts suspended within partitions between rooms to provide noise protection. Fix double layer Gyproc Wallboard 10 to bath/shower room with Rhom glassfibre panel/fixed between studs. Lowering partitions to be 100 x 50 posts at 600 centres, double runner top & bottom, dwangs 1200 from FFL.

Floors
 Excavate to 450 mm below FFL, place 1200 gauge DPM on 150 mm layers of compacted hardcore, bladed with dust. DPM to extend with double-sided sticky tape @ 150mm overlap to provide adequate radon gas protection, see detail, ensure gas gaps are left around posts & services. DPM taken into cavity tray, supported off cavity fill & linked to DPC. Floor joists to be 145 x 47, C16 at 600 centres, supported off 1000k blockwork sleeper walls. Push fit 145 Kingspan insulation between joists, supported off dwangs. U-value for floor to be 0.11w/m2K max.

Windows & Doors
 Install all PVC double-glazed doors & windows, to comply with 1.6 w/m2K, opening lights as shown on elevations, 1200mm2 trickle vents to apartments, 1000mm2 to rooms provided with extract fans. Windows & exterior doors to be tested by a notified body & comply with BS7412:2007; windows to have have removable key-type locks & doors to have multi-point locking. All glazing below 800mm from FFL to be toughened safety glass & to ground level to be laminated to protect against forced entry. Sliding doors to have anti-fift ridges. Doors stee as indicated on plan.

Ceilings
 Ceilings to be 12.5 l.e. foil-backed plasterboard, Dimplex or equal, seams taped & filled.

Woodwork
 Doors, skirtings and woodwork to clients choice.

Plumbing
 New plumbing system to suit requirements, all pipework to be lagged, bath/shower room units, fittings approximately as shown. All work to be carried out by a competent contractor and to comply with NewSWA by-laws 2006. Bath tap/shower to be thermostatically controlled to 48 deg maximum.

Drainage
 Final drainage layout as shown in discharge to 100 dia. PVC drain laid to falls 1/80 min, 150 bedding & surround of 12mm chips, rodding eye provided at changes of direction & gradient and at 48m lengths max. All to discharge to new septic tank (3000 or equal), 2800 litres, installed in accordance with the manufacturer's instructions, 5m from house boundaries, to comply with Building Standards (Scott) 2004. Treated effluent to be disposed to land via soakaway, certificate to be provided by others.

Provide a sampling chamber, 300 diameter with a secure lid, laid 150 above base of chamber to extend 75mm, suited to be level with base of chamber, all to comply with 3.8.3. A label with regards to use of septic tank should be displayed beside the entrance into the property, and read as follows: "The drainage system from this property discharges to a septic tank. The owner is legally responsible for routine maintenance and to ensure the system complies with any discharge consent issued by SEPA and that it does not present a health hazard or a nuisance."

Internal drainage to pipe sizes shown on plan, falls 1/100 min, all appliances to be fitted with a 75mm water and trap, kitchen sitting sink to have grease trap. WC to discharge to SVT, terminating through roof vent file.

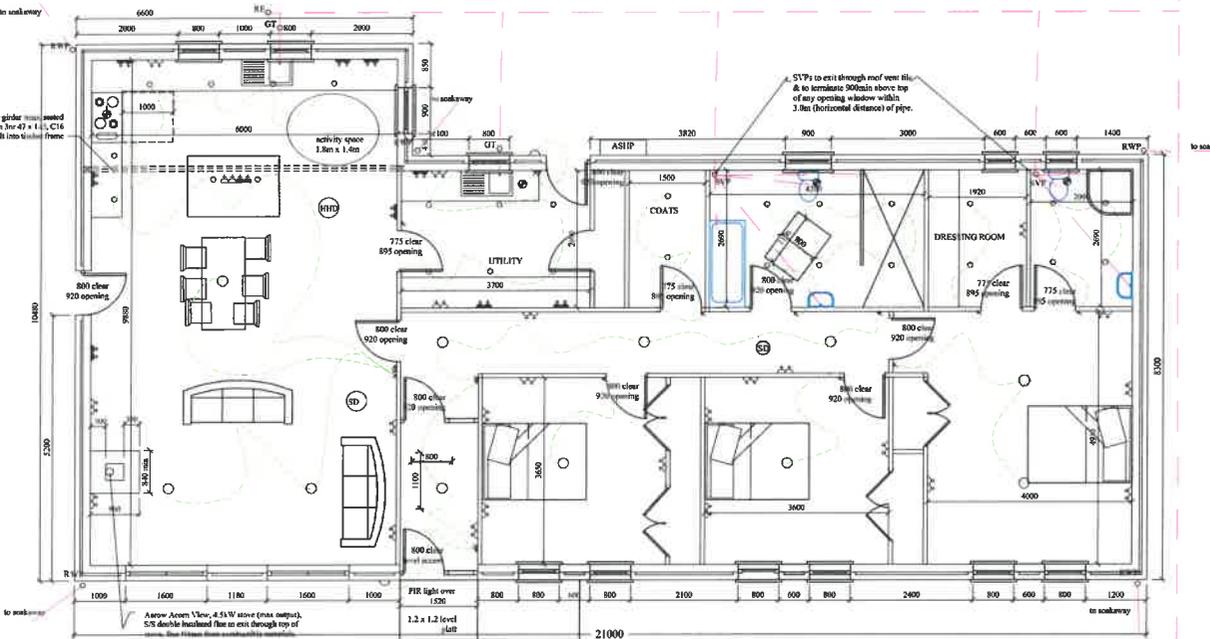
Rainwater goods to be 100 dia. PVC gutters on PVC fascia board, to 60mm downpipes to discharge to ditch.

Electrical, Heating, Ventilation & Miscellaneous
 Electrical layout approximately as shown on plan. Light switches to be between 900 and 1.1m from FFL, sockets to be 400 mm from FFL & other switches 150 mm above worktops. Any switch or socket to be a minimum of 350 from internal corners. Where co-ordinated outlets are provided, a separate switched outlet must be provided to include appliances. Electrical installation to be carried out by competent electrician and to comply with Building Standards (Scott) 2004, section 4.5.5, IEE Regs 176.5b & BS7671:2008. A Certificate of Electrical Compliance to be provided. Lighting to be 80% low energy lighting.

Mains wind smoke detectors to be installed main-wired & linked with battery back-up in accordance with ci 2.11.1, & to comply with BS 5839: Part 6: 2004, smoke detector to each principal room & hallway, plus heat detector in kitchen, 300mm from light fittings. Smoke detectors to be 3m away from all bedroom study doors & 7m max from living room/kitchen doors.

Provide indoor & outdoor clothes drying facilities each to provide 7m2 open of 12m, utility room or house clothes area. Provide steel waste bin with lid & recycling facilities in garage, concrete plant to exterior 1.2m x 1.2m for the collection of waste.

Mechanical ventilation to be provided by extraction fans 15 l/s to shower/bathroom, 30 l/s to utility room & 60 l/s to kitchen, all extracted air to be expelled through roof vent file.



ELECTRICAL LEGEND

Power Light	○
Step Light	○
Wall Light	○
Recessed Spot Light	○
Light Switch	○
Double Socket - Low Level	⊕
Single Socket - High Level	⊕
Cooker Switch	⊕
Timber Water Detector	⊕
Extraction Fan	⊕
Consumer Unit	⊕

rooms & 60 l/s to kitchen, all extracted air to be expelled through roof vent file.

Air infiltration assumed to be 15m3/m2h @ 50Pa.

Heating system to be capable of heating, and maintaining, a temperature of at least 21 degrees to one apartment, and 18 degrees elsewhere, when the outside temperature is minus 1 degree. All to be installed in accordance with manufacturer's instructions by a qualified heating engineer.

Multi-Put smoke, SKW max, to be installed in sitting room ensure non-combustible material anywhere within 300mm of stove. Balcony metal double-glazed fire connected to stove to follow the profile to exit through the roof, terminating 600 above the ridge, all to comply with Building Standards (Scott) 2004, section 3.18.5. Plus to be 50mm from non-combustible materials. Floor to be 150mm concrete non-combustible material laid on a firm base, extending a minimum of 150 to sides of appliance & 300mm to front, to comply with Building Standards (Scott) 2004, section 3.19.5 & 3.19.8.

Air to air source heat pump to provide secondary heating.

A Bronze Active Sustainability Label to be provided prior to completion.

Do not scale drawing, scale bar for planning purposes only

breckdesigns
 D Orlino, B Eng (Hons)

Drawn by: []
 Checked by: []
 Approved by: []
 File Name: []
 Date: []
 Status: []

Project: []
 Client: []
 Drawing Number: []

Kevan
 Wayland
 Verence
 CEM
 NWS 15.5
 Phone/Fax: (01608) 871982
 E-mail: info@breckdesigns.com

- (A) BW Drawing
- (B) HW amendments
- (C) Position of fire termination point shown on drawing
- (D) HWC removed
- (E) Client amendments
- (F) Client amendments



Supporting Statement for Review Committee

Change of use from self-catering to domestic (retrospective)

At

**New Breck,
Beaquoy Road,
Birsay,
KW17 2HY.**

For

**Mr & Mrs William Spence,
New Breck,
Beaquoy Road,
Birsay,
KW17 2HY.**

Planning Application Reference- 18/325/PP

Date of Refusal 3rd December 2018.

**SERVICES
INCLUDE:**

Bank &
Building
Society
Valuations

Residential &
Commercial
Property Surveys

Single
Surveys

Energy
Performance
Certificates

SAP
Certifications

Building
Surveying
Services

Rental &
Insurance
Valuations

Residential
& Commercial
Plans

Title Deed
Plans

Overseeing
New Builds

Planning
& Building
Warrant
Applications

A list of partners is available at the above address

LOCAL KNOWLEDGE ■ NATIONAL COVERAGE

Offices throughout Scotland

Each member firm of First Surveyors Scotland is an independent entity and no partnership implies or otherwise exists between the firms by reason of their membership of First Surveyors Scotland. First Surveyors Scotland is the trading name of First Surveyors Scotland Limited a company registered in Scotland Company No 201050. Registered Office: 57 Albany Street, Edinburgh, EH1 3QF



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Address: New Breck,
Beaquoy Road,
Birsay,
KW17 2HY.

Applicant: Mr & Mrs William Spence,
New Breck,
Beaquoy Road,
Birsay,
KW17 2HY.

Application Description: Change of Use from Self-catering to Domestic
(retrospective).

Application Reference: 18/325/PP.

Date of Refusal: 3rd December 2018.

Planning History: Erect a guest house with integral garage and install
an air source heat pump, erect a self-catering unit
an install an air source heat pump, erect associated
stable/kennel block, create an access and install two
septic tanks.
Registered 8th February 2013.
Reference 13/056/PP.
Date approved 29th March 2013.
Non-Material Variation approved 1st May 2013.
Condition 2 details accepted 28th June 2013.
Amendment to Condition 2 details accepted 16th
September 2013.

Supporting Statement: Mr & Mrs Spence originally applied for erection of
a guest house and self-catering unit with stable and
kennels as part of their retirement plan. The
proposal was to include a stable and kennel block,
along with the guest house, which their niece would
run with Mrs Spence's sister helping run the
guesthouse. They decided to erect the self-catering
unit first to allow them to live in it, temporarily,
until such time the guesthouse was complete.
Unfortunately, over that period, their circumstance
changed quite drastically. Mrs Spence's sister
passed away, their niece moved south to live and
both Mr & Mrs Spence's health deteriorated. They
had planned to fund the project from the sale of
their then home, but it took over two years to sale
and, in that time, the cost of the building works
started to exceed their original budget. In addition
to this they had spent [REDACTED] servicing the site for
the guesthouse. Much of the work to the guesthouse
would have been undertaken by Mr Spence but, due
to his deteriorating health, that was no longer
possible.

It truly was a Catch 22 situation. Mr and Mrs Spence had sold their home to help finance their retirement project but, due to unforeseen circumstances, that project was no longer viable or feasible and they were homeless. They had no alternative than to move into the self-catering unit.

They now find themselves in an horrendous situation. They have spent their live savings, nearly [REDACTED], erecting the property they now occupy. Their health is such that neither can work. If they are refused permission to occupy the property as a house, they will be homeless and left with a property that is neither a house nor a self-catering unit, if the reasoning of the refusal is to be accepted.

PLANNING HANDLING REPORT

Planning Application:	18/325/PP
Application address:	New Breck, Beaquoy Road, Birsay, Orkney, KW17 2HY
Proposal:	Change of use from self-catering to domestic (retrospective)
Applicant:	Mr William Spence
Agent:	n/a

1. BACKGROUND

All application documents (including plans, consultation responses and representations) are available to view at the following website address: http://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm (then enter the application number given above).

The proposal seeks to change the use of a building approved as a self-catering business to a domestic dwelling. This element was a component of a larger development, per 13/056/PP, which included a guest house, stables and kennels - components of a wider rural business development which have not been developed to date – although it is noted that this latter element of the wider site is currently marketed for sale. The location of the building under consideration is on the Beaquoy Road, approximately 550 metres north east from the defined settlement boundary of Dounby. Noting the planning history, the justification for development at this site was based on the creation of a rural business which provided the policy rationale for approval of development. The building under consideration for a change of use has never been used as a self-catering unit. No information has been supplied by the applicant as justification of the use of this building in relation to planning policy or supplementary guidance relative thereto as a house, other than the personal circumstance of the applicant. Other ancillary structures exist on site which given the nature of the permission as originally granted, strictly speaking, would similarly require to be covered by this application. However, as the application site covers the extent of the site incorporating these ancillary domestic structures it is considered prudent to consider them in the same context as the primary building.

2. CONSULTATIONS

OIC Development and Marine Planning

The application has been reviewed together with the site's planning history (13/056/PP). The proposal through application 18/325/PP is not supported by the policies of the Orkney Local Development Plan, April 2017 or Supplementary Guidance: Housing in the Countryside (SG).

Within the SG there are 8 policy provisions that allow for the creation of new houses in the countryside. The 2nd provision considers the conversion of a redundant building or structure. For a development proposal to be successful it requires to be non-domestic and redundant. The building erected is now been lived in as a house. It is newly erected, and no evidence has been provided to show that it has been used at as a self-contained holiday accommodation since completion.

OIC Roads Services

Lodged objection as access conditions applied to previous planning applications 08/404/PPR and 08/405/PPR to be addressed. Concerns are also expressed at the overall parking situation to adequately address parking associated with the existing house and that which may arise from the change of use. No adverse comment subject to the road access being formed in accordance with

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Road Services requirements which could be subject to appropriate planning condition(s) were the application to be subject to approval.

3. PRE-APPLICATION ADVICE

n/a.

Note: The current application arose from Planning Enforcement given that the use of the development had not been in accordance with the planning permission granted per application 13/056/PP. This came to light as a consequence of the marketing of part of the overall site for sale.

4. PLANNING HISTORY

13/056/PP Erect a guest house with integral garage and install an air source heat pump, erect a self-catering unit and install an air source heat pump, erect associated stable/kennel block, create an access and install two septic tanks. Granted subject to conditions.

Based on evidence provided to date the building has never been used for the purpose(s) as permitted by the above permission. Its use as a house, which this application seeks to regularise, is also in direct contravention of condition no. 03 of the above planning permission;

03. The guesthouse and self-catering unit hereby approved shall be made available for their intended purpose for not less than 40 weeks in any calendar year. **At no time shall either accommodation unit be used as a separate dwelling house.**

Reason: As the development is intended to provide tourist accommodation in the countryside and has been sought under policy C2 of the Modified Proposed Orkney Local Development Plan (December 2002)

5. REPRESENTATIONS

None received.

6. ASSESSMENT

5.1. Principle of Development.

The development seeks to regularise the use of building approved as a self-catering business for private residential use. There is no evidence as provided within the application to indicate that the building has been used for any other purpose other than as a private dwelling since completion. Development Plan Policy at time of determination of the original planning application, dating from 2013, and current adopted Orkney Local Development Plan Policy would not support the development of a house without compliance one or more of the policy provisions covering housing in the countryside outwith the settlements, on the Mainland and linked South Isles, being met. The original proposal presented a justification for development as a rural business met the policy requirements at the time of determination and would, as part of the wider development as originally proposed, likely be subject to support currently. It is also noted that planning history is a material planning consideration.

Regrettably no planning case is discernible for the application as currently submitted, as the rationale presented is wholly based on the personal situation and circumstance of the applicant(s). Furthermore, the use of the development as approved was not established in the period of permission granted which would bring the wider permission, as originally granted, into question

suggesting that a substantive element of the proposal as granted permission would now be considered to have lapsed.

5.2. Policy Consideration.

The proposed development seeks to change the use of a self-catering unit to a domestic dwelling. For the purposes of determining the application, consideration is centred on the justification for the proposed development within the identified site in relation to the adopted planning policies as stated within the Orkney Local Development Plan 2017, (OLDP). The central policy of relevance is Policy 5 E : Single Houses and new Housing Clusters in the Countryside.

5.3. Policy 1 – Criteria for All Development.

All developments are required to be sited and designed in consideration of the setting and character of the area in which they are proposed. Of particular relevance to this application as stated in the OLDP are points i and iii of Policy 1;

Policy 1

Development will be supported where:

- i. It is sited and designed taking into consideration the location and the wider townscape, landscape and coastal character;*
- iii. It is not prejudicial to the effective development of, or existing use of, the wider area;*

In consideration of the above Policy and points therein it is accepted that the scale and design of the building lends itself to residential use is generally in accordance with the policy.

5.4. Policy 2 – Design

This policy is considered pertinent as consideration of the character and amenity of the local area are elements within points i and ii of this policy;

- i. it reinforces the distinctive identity of Orkney's built environment and is sympathetic to the character of its local area;*
- ii. it has a positive or neutral effect on the appearance and amenity of the area;*

It is recognised that there would be no significant physical alteration externally to the existing building and as such, visually, no change would occur because of this development were it to be subject to approval.

5.5. Policy 4 – Business, Industry & Employment

B In the Countryside

- i. In line with the sequential approach set out in the Town Centre First Principle, commercial developments, excluding Use Class 5 – General Industrial and Use Class 6 – Storage or Distribution, at or adjacent to an existing dwelling (home working); or the redevelopment of existing buildings or a brownfield site to form a new business, (where the application site falls entirely within the confines of the redevelopment area), will be supported subject to relevant plan policies.
- ii. The development of a new business in the countryside, including the diversification of an existing rural business, will be supported where there is a demonstrable locational requirement for the business that requires it not to be situated within a settlement or on a site described at i. above.

Whilst the loss of a rural business would be of concern, the issue in this case is that although approved as such, this development has never in fact ever been used for business purposes.

5.6. Policy 5 Housing, E, Single Houses and new Housing Clusters in the Countryside

There are 8 different provisions within this policy under which, outwith the settlements on the Mainland and Linked South Isles, developments of single houses would be supported were such development to conform to any of the noted provisions. No evidence or justification for the change of use of the building has been provided by the applicant within their submission that could be used to relate the proposed change of use to any of the policy provisions specified under Policy 5 E. It is noted that the applicant has presented a case based on personal circumstance in support of the application citing finances and ill health.

The development is not considered to satisfy the requirements of Policy 5, Housing, section E – Single Houses and new Housing Clusters in the Countryside and as such is considered to be contrary to this policy of the OLDP.

5.7 Policy 14 – Transport, Travel & Road Network Infrastructure

The access junction with the public road has not been completed in accordance with Planning Condition 04 of conditional permission granted per application 13/056/PP. This condition stated;

04. Throughout the lifetime of the development hereby approved, access to the development shall be constructed to the Council's Road Services specifications SD-01 'Typical Access for Single Development' attached to and forming part of this Decision Notice. This access shall be constructed and completed in accordance with these details prior to the commencement of any works within the application site hereby approved, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure a suitable standard of access provision in the interests of road safety.

The development has not therefore been built in accordance with the conditional planning permission granted per application 13/056/PP. This matter could be addressed by condition were the current application be subject to approval. An appropriate planning condition has been indicated by OIC Road Services as The Roads Authority. The access serving the site is not currently considered to be of an acceptable standard, contrary to Policy 14 C iii of the OLDP. It is however recognised that improvement of the road junction could be secured by appropriate planning condition.

6. CONCLUSION

The development as constructed has never been used in accordance with the permission granted per 13/056/PP. The building has not been constructed in accordance with the approved plans for application no. 13/056/PP nor subsequent approved non-material variation as granted 1st May 2013. Such changes to the building and uncompleted site access could have been addressed by this application however the nature of use cannot be addressed under current policies of the Orkney Local Development Plan 2017 as no case nor adequate justification for a change of use has been presented which could be used to align the use of the building as a house with current policies. It is also considered that as the development has never been used in accordance with the permission as applied for, nor built in accordance with the permission granted, the original permission granted in 2013 is considered to be void.

There are no material considerations evident either in the merits of the application as presented, or apparent on site which would outweigh the relevant Orkney Local Development Plan policies. The proposal does not accord with the provisions of the Orkney Local Development Plan 2017, and relevant supplementary guidance and there are no material considerations which would warrant an outcome other than refusal of the application. The development is considered contrary to Policy 5 E of the Orkney Local Development Plan, 2017.

6. RECOMMENDATION

APPLICATION REFUSED

1. The proposed change of use does not accord with any of the 8 policy provisions required to support single houses in the countryside on Mainland Orkney. The proposed change of use does not therefore accord with Policy 5 E of the Orkney Local Development Plan 2017.

Contact Officer

Mr David Barclay, Senior Planner.
01856 873535 EXT 2502 david.barclay@orkney.gov.uk

Date: 01.11.2018

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	<input type="text" value="MR"/>	Ref No.	<input type="text"/>
Forename	<input type="text" value="WILLIAM"/>	Forename	<input type="text"/>
Surname	<input type="text" value="SPENCE"/>	Surname	<input type="text"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text" value="New Breck"/>	Building No./Name	<input type="text"/>
Address Line 1	<input type="text" value="BEAQUOY"/>	Address Line 1	<input type="text"/>
Address Line 2	<input type="text"/>	Address Line 2	<input type="text"/>
Town/City	<input type="text" value="DOUNBY"/>	Town/City	<input type="text"/>
Postcode	<input type="text" value="KN17 2HY"/>	Postcode	<input type="text"/>
Telephone	<input style="background-color: black; color: black;" type="text"/>	Telephone	<input type="text"/>
Mobile	<input style="background-color: black; color: black;" type="text"/>	Mobile	<input type="text"/>
Fax	<input style="background-color: black; color: black;" type="text"/>	Fax	<input type="text"/>
Email	<input style="background-color: black; color: black;" type="text"/>	Email	<input type="text"/>
3. Postal Address or Location of Proposed Development (please include postcode)			
<input style="width: 100%; height: 100%;" type="text" value="NEW BRECK
DOUNBY
KN17 2HY"/>			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission	<input checked="" type="checkbox"/>		
Planning Permission in Principle	<input type="checkbox"/>		
Further Application*	<input type="checkbox"/>		
Application for Approval of Matters Specified in Conditions*	<input type="checkbox"/>		
Application for Mineral Works**	<input type="checkbox"/>		
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	<input type="text" value="13/056/PP"/>	Date:	<input type="text" value="x/03/13."/>
**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.			

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5. Description of the Proposal

Please describe the proposal including any change of use:

CHANGE OF USE FROM SELF CATERING CHALGE TO RESIDENTIAL HOME

Is this a temporary permission?

Yes No

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes No

If yes, please state date of completion, or if not completed, the start date:

Date started: SEPT. - 2013

Date completed:

If yes, please explain why work has already taken place in advance of making this application

SEE ATTACHED SHEET.

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes No

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: Date: Ref No.:

JASON TAYLOR VISITED ON 3/7/18 TO SAY I WAS IN REGARD OF THE PLANNING CONDITIONS AND ADVISED HE WOULD NEED A CHANGE OF USE

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha): Square Metre (sq.m.) 4500

8. Existing Use

Please describe the current or most recent use:

GRAZING FOR HORSES BEFORE SITE

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? 8

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces) 8

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements? Yes No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

- Yes, connecting to a public drainage network
No, proposing to make private drainage arrangements
Not applicable - only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

- Discharge to land via soakaway
Discharge to watercourse(s) (including partial soakaway)
Discharge to coastal waters

Please show more details on your plans and supporting information

- What private arrangements are you proposing?
Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
Other private drainage arrangement (such as a chemical toilets or composting toilets)

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water? Yes No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network?

Yes No

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding?

Yes No

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes No Don't Know

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site?

Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats?

Yes No

If yes how many units do you propose in total?

1

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace? Yes No
If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes No N/A

Signature: Name: Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

LAND OWNERSHIP CERTIFICATES

Planning (Listed Buildings and Conservation Areas)
(Scotland) Act 1997

The Town and Country Planning (Listed Buildings and Buildings in Conservation Areas)
(Scotland) Regulations 1987

CERTIFICATE A, B, OR CERTIFICATE C MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than myself was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application.
- (2) None of the land to which the application relates constitutes or forms part of agricultural land.

Signed:

On behalf of:

Date:

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land

or

- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:

Change of Use

We are applying for change of use for a number of reasons, when we submitted our original application this was for a guest house and a chalet, as according to a submitted business plan we intended to run in our retirement.

We based our funding on the specifications of the previous house we built in 2000, but the spec had gone up quite considerably since then, so the cost to build the chalet was more than we had anticipated, also our house which we were using as collateral took over 2 years to sell, which again ate into our capital.

Since selling the house we have moved into the chalet as our home. My husband is not as fit and healthy as he was 5 years ago and is unable to do most of the work, which again was one of the cost factors.

Therefore we have reluctantly come to the conclusion that we are unable to fund the building of the guest house and we would require the change of use for the chalet to enable us to continue living in our home.

We would wish to sell the plot for the guest house which is serviced and cost nearly £15,000 for it to be made so, which involved the installation of a new transformer to upgrade the electricity supply to cope with the demands of the guest house.

DEVELOPMENT AND INFRASTRUCTURE

Executive Director: Gavin Barr, BSc Hons, MSc URP, MRTPI
Council Offices, Kirkwall, Orkney, KW15 1NY

Tel: 01856 873535 Website: www.orkney.gov.uk
Email: planning@orkney.gov.uk



30th August 2018

Mr William Spence
New Breck
Beaquoy Road
Birsay
Orkney
KW17 2HY

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013
INCOMPLETE APPLICATION**

Dear Mr William Spence

Ref No: 18/325/PP
Type: Planning Permission
Location: New Breck, Beaquoy Road, Birsay, Orkney, KW17 2HY
Proposal: Change of use from self catering to domestic (retrospective)

Your application was assessed as deficient on 30th August 2018.

A deficient application is one where the information submitted has not met the requirements necessary to register an application, as stipulated in the The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

In this case, the application was determined to be deficient in the following respect(s):

01. Location and Site Plan and Elevations do not scale to indicated scale. Please provide amended drawings or PDF copy of original.

Note that the application cannot be registered as valid until all information is provided in accordance with statutory requirements. To avoid further delay, all required information should be submitted as soon as possible. If the information is not submitted within 28 days of this correspondence, the application and all associated documents (and fee) will be returned.

Yours sincerely

Development Management
Development and Infrastructure
Council Offices
School Place
Kirkwall
Orkney
KW15 1NY

Tel: 01856 873535 ext. 2504 Email: planning@orkney.gov.uk

Neighbour Notification List

From the 3rd August 2009 the responsibility for Neighbour Notification transferred from the applicant to Orkney Islands Council. The Council will send out Notices to those having an interest in land coterminous with or within 20 metres of the boundary of the land for which development is proposed. Where there are no premises on this land and where the Council is unable to identify a relevant address to which notification can be sent, it will advertise this in the local press.

Below is a list of the properties notified for this application.

Application Number 18/325/PP

- Skeraiven, Beaquoy Road, Birsay, Orkney Islands, KW17 2HY

Number of neighbours notified: 1

Consultee List

Application Number 18/325/PP

- Roads Services

INTERNAL MEMORANDUM TO: Roads Services

Date of Consultation	24th September 2018
Response required by	15th October 2018
Planning Authority Reference	18/325/PP
Nature of Proposal (Description)	Change of use from self catering to domestic (retrospective)
Site	New Breck, Beaquoy Road, Birsay, Orkney, KW17 2HY
Proposal Location Easting	330155
Proposal Location Northing	1021513
Area of application site (Metres)	4220
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 18/325/PP
PA Office	Development Management
Case Officer	Mr David Barclay
Case Officer Phone number	01856 873535 Ex2502
Case Officer email address	david.barclay@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

The access to the property should be to Roads Services specification and the following condition and informative should be included in the decision notice.

CONDITION

The access hereby approved with the public road shall be constructed to the Council's Roads Services standard drawing 'SD-02 Alternative Typical Access for Two Dwellings', 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 first occupation 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.

INFORMATIVE

One or more separate consents may be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

During the period of construction, any temporary or incomplete access shall be maintained to a standard acceptable to the Council's Roads Services.

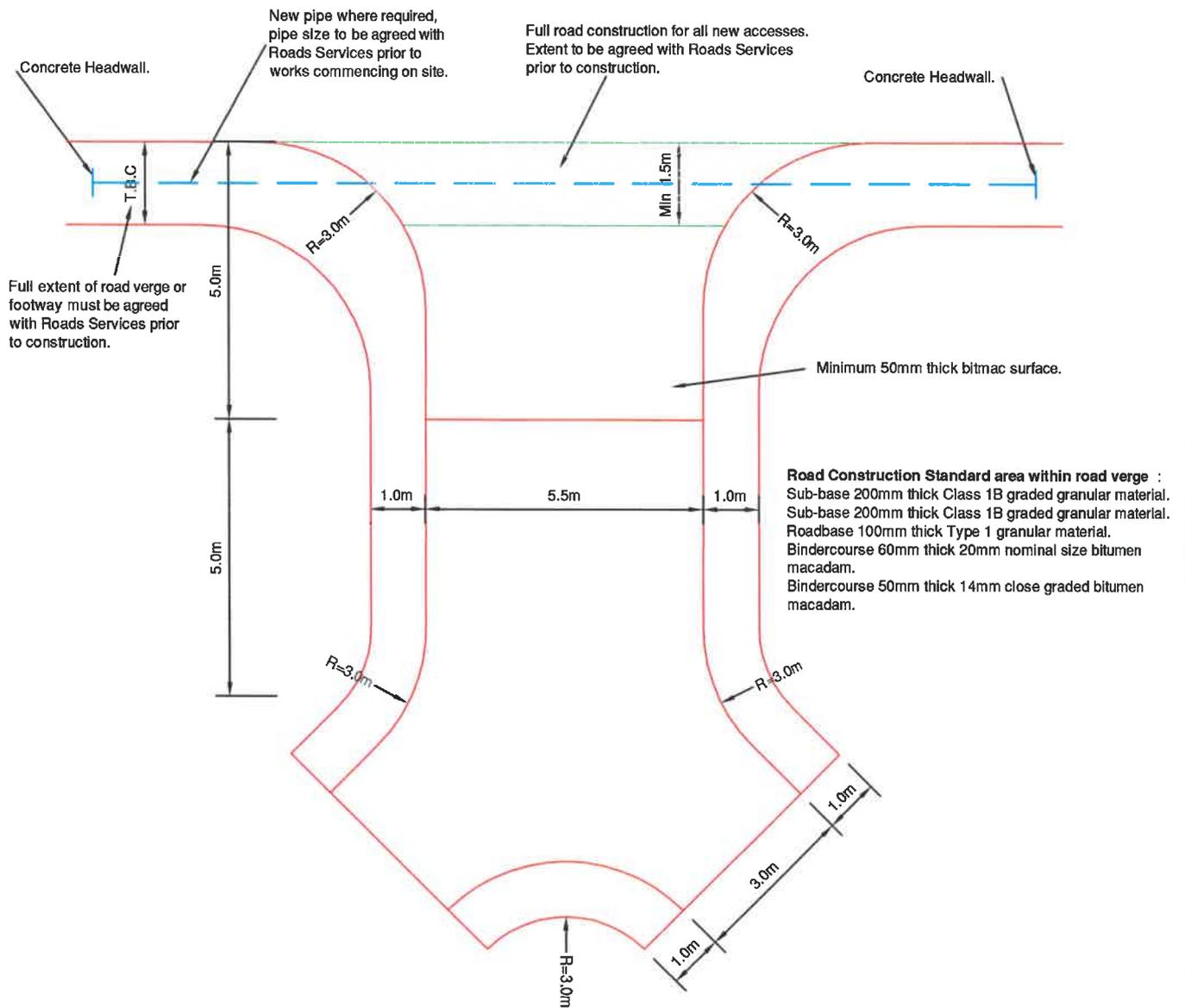
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It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

K Roy
05/10/18

Verge

Public Road



**ALTERNATIVE TYPICAL ACCESS FOR TWO HOUSES
(NON-ADOPTED)**

File Ref. R3.40.01	Drg. No. SD-02	ROADS SERVICES	DEVELOPMENT & INFRASTRUCTURE	
Revision			Council Offices, Kirkwall Orkney, KW15 1NY tel (01856) 873535 fax (01856) 876094	 ORKNEY ISLANDS COUNCIL
Date January 2013	Drawn D R W		Director :- Gavin Barr BSc Hons MSc URP MRTPI	
Scale Not to Scale	Checked K D Roy			



**REFUSE PLANNING PERMISSION
DELEGATED DECISION**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act")
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Ref: 18/325/PP

Mr William Spence
New Breck
Beaquoy Road
Birsay
Orkney
KW17 2HY

With reference to your application registered on 5th September 2018 for planning permission for the following development:-

PROPOSAL: Change of use from self catering to domestic (retrospective)

LOCATION: New Breck, Beaquoy Road, Birsay, Orkney, KW17 2HY

Orkney Islands Council in exercise of its powers under the above Act and Regulations, hereby **REFUSE Planning Permission for the reason(s) outlined on the next page.**

The plans to which this decision relates are those identified in Schedule 1 attached.

The Council's reasoning for this decision is: The development as constructed has never been used in accordance with the permission granted per 13/056/PP. The building has not been constructed in accordance with the approved plans for application no. 13/056/PP nor subsequent approved non-material variation as granted 1st May 2013. Such changes to the building and uncompleted site access could have been addressed by this application however the nature of use cannot be addressed under current policies of the Orkney Local Development Plan 2017 as no case nor adequate justification for a change of use has been presented which could be used to align the use of the building as a house with current policies. It is also considered that as the development has never been used in accordance with the permission as applied for, nor built in accordance with the permission granted, the original permission granted in 2013 is considered to be void.

There are no material considerations evident either in the merits of the application as presented, or apparent on site which would outweigh the relevant Orkney Local Development Plan policies. The proposal does not accord with the provisions of the Orkney Local Development Plan 2017, and relevant supplementary guidance and there are no material considerations which would warrant an outcome other than refusal of the application. The development is considered contrary to Policy 5 E of the Orkney Local Development Plan, 2017.

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(For further detail you may view the Report of Handling for this case by following the Online Planning link on the Council's web page and entering the reference number for this application).

Decision date: 3rd December 2018

Jamie Macvie MRTPI, Planning Manager, Development Management, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY

REASONS FOR REFUSAL

01. The proposed change of use does not accord with any of the 8 policy provisions required to support single houses in the countryside on Mainland Orkney. The proposed change of use does not therefore accord with Policy 5 E of the Orkney Local Development Plan 2017.

SCHEDULE 1 – PLANS, VARIATIONS AND ANY OBLIGATION

1. Plans and Drawings

The plans and drawings to which this decision relates are those identified below:

Site, Location and Elevation Plans	OIC-01	1
Section, Elevation & Floor Plan	OIC-02	1

2. Variations

If there have been any variations made to the application in accordance with section 32A of the Act these are specified below:

Date of Amendment:

Reasons

RIGHT TO SEEK A REVIEW

If you are unhappy with the terms of this decision you have a right to ask for a review of your planning decision by following the procedure specified below.

PROCEDURE FOR REQUESTING A REVIEW BY THE LOCAL REVIEW BODY

1. If the applicant is aggrieved by the decision of the Appointed Officer to:
 - a. Refuse any application, or
 - b. Grant permission subject to conditions.

In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulation 2008, the applicant may apply to the Local Review Body within three months from the date of this notice for a review of that decision.

Forms to request a review are available from either address below, or from <http://www.orkney.gov.uk/Service-Directory/D/appeal-a-decision.htm>

2. Completed forms to request a review should be submitted to the address below:

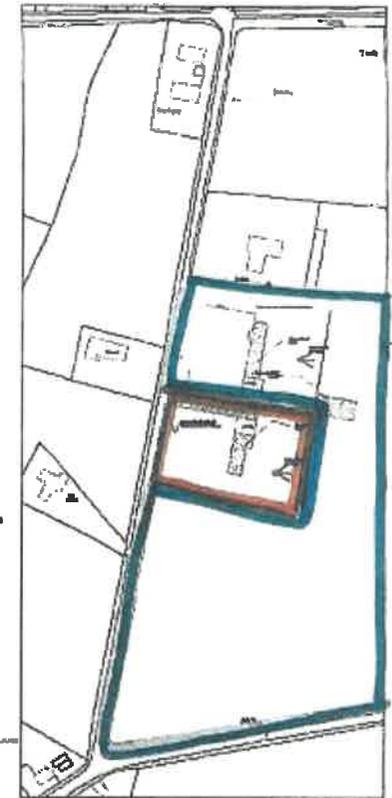
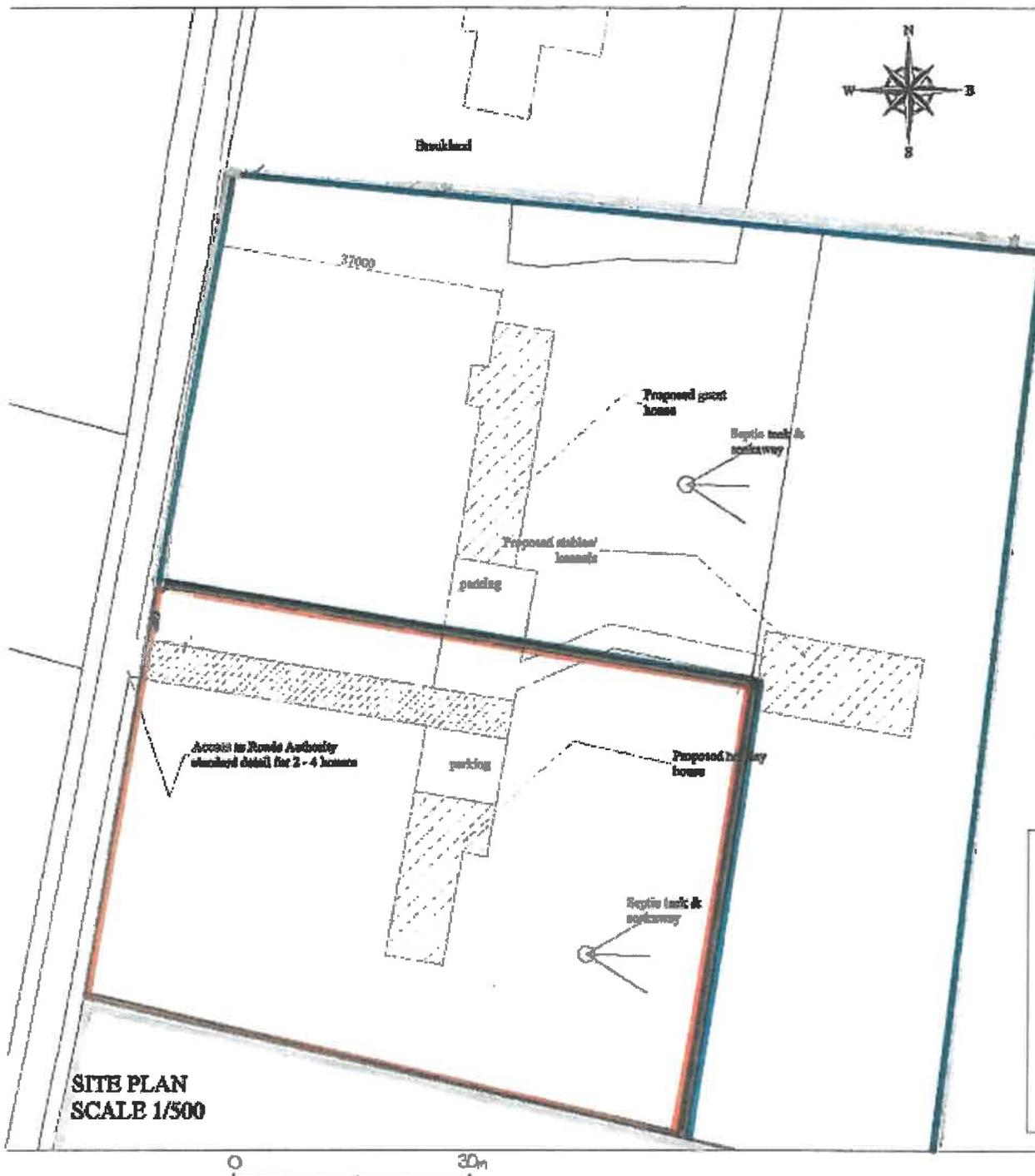
Committee Services
 Chief Executive's Service
 Orkney Islands Council
 Council Offices
 School Place
 KIRKWALL
 Orkney
 KW15 1NY

and at the same time a copy of the notice for a review should be sent to:

Planning Manager (Development Management)
 Development and Infrastructure
 Orkney Islands Council
 Council Offices
 School Place
 KIRKWALL
 Orkney
 KW15 1NY

Email: planning@orkney.gov.uk

3. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Act.



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LOCATION PLAN
SCALE 1/2500

ORKNEY ISLANDS COUNCIL
Town & Country Planning
Planning (Scotland) Acts



REFUSED

ORKNEY
ISLANDS COUNCIL

Application Number: 18/325/PP

Date: 03 December 2018

Appendix 5.

Proposed Conditions – 18/325/PP

01. The building hereby approved shall be used as a domestic dwelling only, and for no other purpose or use.

Reason: For the avoidance of doubt and in accordance with the use as applied for.

02. The junction of the access hereby approved with the public road shall be constructed to the Council's Roads Services standard 'SD-03 Typical Access Over Verge for Single Development ', 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 within 6 months of the date of this decision, 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. Total noise from the Air Source Heat Pump(s) installed shall not exceed NR25 within any residential property outwith the development, where NR25 is the Noise Rating Curve at 25, (noise measurements to be made with a window of any residential property outwith the development open no more than 50 mm.)"

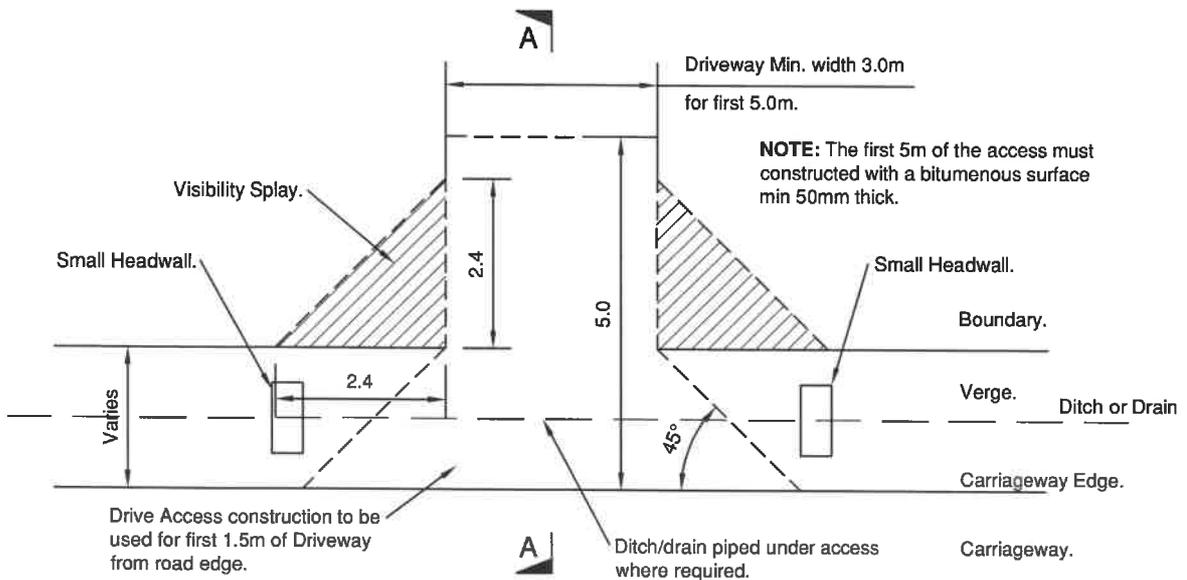
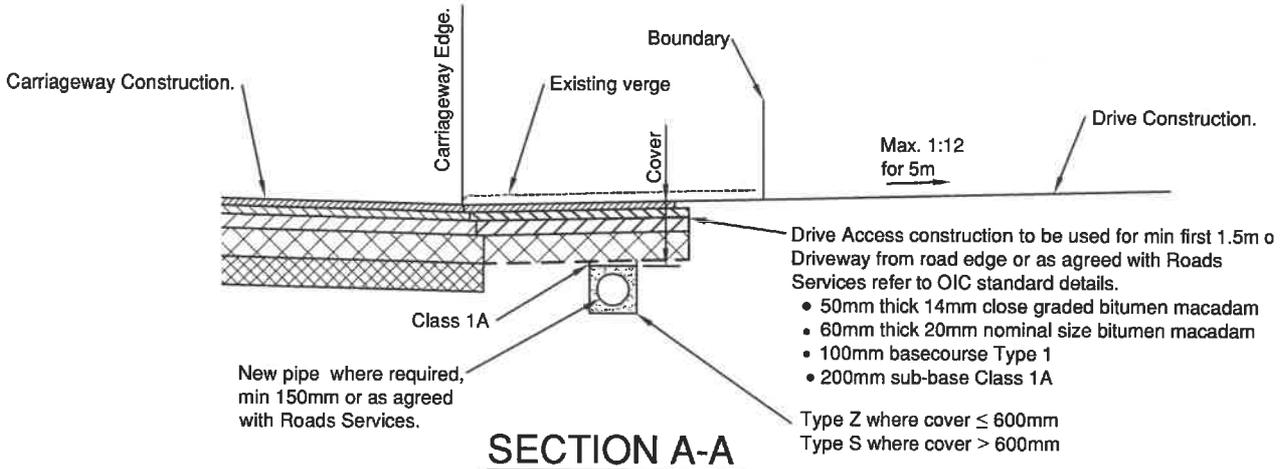
Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pumps.

Informative

Development on the site is not considered to have been carried out in accordance with the previously approved planning application, 13/056/PP, granted 8 February 2013, to erect a guest house, erect a self-catering unit, erect an associated stable/kennel block and create an access. As such, that previously approved planning permission has lapsed, and no other part of that consent can be carried out.

NOTES:

1. All dimensions are to be measured in meters, unless stated otherwise.
2. If obstructions within the visibility splay cannot be reduced in height to below 0.9m - walls, hedges, etc. - then 45° visibility splays of 2.4m x 2.4m are required for interservisibility between vehicles and pedestrians.
3. Driveway to property should be no steeper than 1:12, and must not be steeper than 1:12 for the first 5m from edge of carriageway.
4. Drive must be constructed in such a way to prevent any gravel or other loose material spilling onto the footway or carriageway.
5. Where new access crosses an existing ditch, or drain in the verge, pipe to be installed under access.
6. Prior to installation of pipe, confirmation of size must be obtained from the Roads Authority.
7. For drain Type Z, drain Type S and Small Headwall, refer to Orkney Islands Council's standard details.
8. All works carried out within the public road must be carried out by a Prescribed Contractor.



**TYPICAL ACCESS OVER VERGE
FOR SINGLE DWELLING**

File Ref. ???????. ?????	Drg. No. SD-03	ROAD SERVICES	DEVELOPMENT AND INFRASTRUCTURE Council Offices, Kirkwall Orkney, KW15 1NY tel (01856) 873535 fax (01856) 876094 Executive Director Gavin Barr, BSc Hons, MSc URP, MRTPI	 ORKNEY ISLANDS COUNCIL
Revision				
Date January 2013	Drawn D.R.W.			
Scale N.T.S.	Checked K.D.R.			