

Item: 3.1

Local Review Body: 7 June 2022.

Proposed Erection of Three Glamping Pods and Associated Works at Inganess Cottage, Berstane Road, Kirkwall (21/369/PP).

Report by Corporate Director for Strategy, Performance and Business Solutions.

1. Purpose of Report

To determine a review of the decision of the Appointed Officer to refuse planning permission for the proposed erection of three glamping pods and associated works at Inganess Cottage, Berstane Road, Kirkwall.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission for the proposed erection of three glamping pods and associated works at Inganess Cottage, Berstane Road, Kirkwall, was refused by the Appointed Officer on 11 April 2022, 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 21/369/PP relates to the proposed erection of three glamping pods and associated works at Inganess Cottage, Berstane Road, Kirkwall.

3.2.

The Appointed Officer refused the planning application on 11 April 2022 on the following grounds:

3.2.1.

No demonstrable locational requirement has been provided for the development which requires it to be located in the countryside, or in that specific location, or meeting the other requirements and provisions of Policy 4B (i or ii). As a new business venture, the development is not diversification of a related existing business at the site. The development is therefore considered contrary to Policy 4: Business, Industry and Employment.

3.2.2.

The design of the proposed buildings and site layout do not take into consideration the wider landscape character and would not reinforce the distinctive identity of Orkney's built environment or be sympathetic to the character of the local area. The development would add to ribbon development in a prominent location, on the fringe of the settlement where the distinction between urban and rural must be maintained. By virtue of the design proposed, of a form not typical in its setting, the development is considered contrary to Policies 1: Criteria for All Development, 2: Design and 9G: Landscape 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 Inganess Cottage, Berstane Road, Kirkwall, was undertaken at 14:15 on 7 June 2022.

4.3.

The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, an indication of relevant matters, in respect of potential planning conditions, are as follows:

- Access to the public road.
- Access, manoeuvring and parking within the site.
- Relationship between Inganess Cottage and proposed development (due to access required through land outwith the application site).
- Design.
- Nature and purpose of use.
- Landscaping and boundary treatment.
- Surface water drainage, including no outfall to roadside ditch.
- Foul drainage, including no outfall to roadside ditch.
- External lighting.

4.3.1.

All conditions should be in accordance with Planning Circular 4/1998: the use of conditions in planning permissions: <https://www.gov.scot/publications/planning-circular-4-1998-use-of-conditions-in-planning-permissions/>

4.3.2.

The following Informatives should be considered for inclusion on the decision notice:

- Protection of underground services (Scottish Water infrastructure).

4.4.

If the decision is reversed and the development is approved, it is proposed that powers be delegated to the Corporate Director for Strategy, Performance and Business Solutions, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions, based on the relevant matters and informatives, if applicable, agreed in terms of section 4.3 above.

4.5.

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:

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

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 4 – Business, Industry and Employment.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.

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 section 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

Karen Greaves, Corporate Director for Strategy, Performance and Business Solutions, extension 2202, Email karen.greaves@orkney.gov.uk

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

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

Katharine McKerrell, Legal Advisor to the Local Review Body, Email katharine.mckerrell@orkney.gov.uk

10. Appendices

Appendix 1 – Notice of Review (pages 1 – 11).

Appendix 2 – Planning Handling Report (pages 12 – 18).

Appendix 3 – Planning Services File (pages 19 – 43).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 44 – 50).

Pages 1 to 50, can be viewed at https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm and inserting the planning reference "21/369/PP".

All other documents can be viewed at <https://www.orkney.gov.uk/council-meetings.htm?postid=5070&postdiaryentryid=11317>.