

Item: 4.1

Local Review Body: 6 October 2022.

Proposed Siting of Replacement House (One for One) and Creation of Access at Midtown, Hoxa Road, South Ronaldsay (21/267/PIP).

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 in principle for the proposed siting of a replacement house (one for one) and the creation of an access at Midtown, Hoxa Road, South Ronaldsay.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission in principle for the proposed siting of a replacement house (one for one) and the creation of an access at Midtown, Hoxa Road, South Ronaldsay, was refused by the Appointed Officer on 13 June 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 21/267/PIP relates to the proposed siting of a replacement house (one for one) and the creation of an access at Midtown, Hoxa Road, South Ronaldsay.

3.2.

The Appointed Officer refused the planning application on 13 June 2022 on the following grounds:

3.2.1.

The existing structure fails to comply with the definition of a 'building or structure' as included in Supplementary Guidance: Housing in the Countryside (2021), as it does not retain the majority of walls to wallhead height (1.6 metres). This discounts recent construction works to the structure, of which there is no planning record. The proposal is therefore contrary to Policy 5 – Housing, part E: Single Houses and New Housing Clusters in the Countryside, provision (iii): The Replacement of an Existing Building or Structure, of the Orkney Local Development Plan 2017 and Supplementary Guidance: Housing in the Countryside (2021).

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. One representation, attached as Appendix 5 to this report, has been received from Sue and Malcolm Graves, who have expressed concerns with regard whether the proposal meets the criteria for one for one replacement and the impact on road traffic in their neighbourhood.

4.2.

The further representation, referred to above, has been made available to the applicant, via their agent, for comment. The applicant's response to the representation from Sue and Malcolm Graves is detailed in Appendix 6 to this report.

4.3.

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 Midtown, Hoxa Road, South Ronaldsay, was undertaken at 10:45 on 5 October 2022.

4.4.

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:

- All Principle matters:
 - Siting.
 - Design.
 - Surface finishes.
 - Boundary treatment.
 - Drainage.
 - Sewage.
 - Cross sections.
 - Refuse bin storage.
 - Hard and soft landscaping.
 - External lighting.
- Access.
- Demolition.
- Hours of construction work.
- SUDS.
- External Lighting.

4.4.1.

All conditions should be in accordance with [Planning Circular 4/1998](#): the use of conditions in planning permissions.

4.5.

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 agreed in terms of section 4.4 above.

4.6.

If the Local Review Body decides that further procedure is required, it may decide to hold a pre-examination meeting to consider what procedures to follow in the review, or to obtain further information by one or more of the following methods:

- By means of written submissions; 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 [here](#).

5.2.1.

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5E(iii) – Housing in the Countryside – The Replacement of an Existing Building or Structure.
 - Policy 9G – Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14C – Road Network Infrastructure.
- Supplementary Guidance:
 - Housing in the Countryside (2021).

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

Georgette Herd, Legal Advisor to the Local Review Body, Email georgette.herd@orkney.gov.uk

10. Appendices

Appendix 1 – Notice of Review (pages 1 – 8).

Appendix 2 – Planning Handling Report (pages 9 – 19).

Appendix 3 – Planning Services File (pages 20 – 39).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 40 – 45).

Appendix 5 – Further Representation from Interested Party (page 46).

Appendix 6 – Response from Applicant to Further Representation (page 47).

Pages 1 to 45, can be viewed at [here](#), clicking on “Accept and Search” and inserting the planning reference “21/267/PIP”.

From: [Sue and Malcolm](#)
To: [Committees](#)
Cc: [Angela Kingston](#)
Subject: Re: Planning App 21.267.PIP - Notice of Review
Date: 09 September 2022 13:03:12

Dear Angela

Thank you for sending the Notice of Review for this planning application. We would like to submit an additional statement as follows:

Siting of a replacement house (one for one) and creation of an access at Midtown, Hoxa Road, South Ronaldsay

The applicant seeks approval to replace a small, ruined implement shed with a much larger house / outbuildings and create a new road access onto Hoxa Road, a narrow single-track road near our house. This application was made under the Council's policy for the replacement of an existing building or structure as set out in Supplementary Guidance: Housing in the Countryside (March 2021).

We have lived at Midtown, Hoxa since May 1980.

The existing building, referred to in this application, of concrete block construction fell down many years ago leaving only one wall standing to original wall-head level. Over the years it has lain in ruins, and no attempt had been made to reconstruct the building until application for Planning in Principle was made in 2018. Council officers have in their reports to committee, documented the attempts to initially prop up, then partially re-build the walls of the building after planning was refused in March 2019.

A second application was rejected by the Council in June 2022 and the applicant is now seeking a review of this decision.

We continue to have serious concerns about these proposals. We believe the application will have a significant impact on road traffic in our neighbourhood and affect the outlook from our house. This application is also out-with the spirit of Council policy, and would urge the Committee to reject this review.

Many thanks

Malcolm & Sue Graves



PLANNING APPEAL**REF 21/267/PIP****Siting of a replacement house (one for one) and creation of an access at Midtown, Hoxa Road, South Ronaldsay**

This statement is in response to further objections raised by Malcolm and Sue Graves, Midtown, Hoxa, South Ronaldsay.

1. My client informs me that he had met with Jamie Macvie in person prior to any application being made for this site, who confirmed that there was sufficient extant building to be considered for replacement under the Council's one-for-one policy.
2. The tops of the walls had been damaged by unknown persons and the building left in a ruinous state. My client has merely rebuilt the upper part of three of the walls to min. 1.800m height to satisfy the planning guidance. The objectors appear to suggest that the building has 'lain in ruins' and 'only one wall was left standing'. My client informs me that this was very clearly not the case.
3. The impact of traffic caused by one dwelling is insignificant when compared to that generated by the nearby Hoxa tearoom and Hoxa Tapestry Gallery.