

## Minute

### Local Review Body

Wednesday, 26 October 2022 at 11:30.

Council Chamber, Council Offices, School Place, Kirkwall.



### Present

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

### Clerk

- Angela Kingston, Committees Officer.

### In Attendance

- Roddy Mackay, Planning Advisor.
- Georgette Herd, Legal Advisor.

### Apologies

- Councillor James R Moar.
- Councillor Mellissa-Louise Thomson.
- Councillor Duncan A Tullock.

### Declarations of Interest

- No declarations of interest had been intimated.

### Chair

- Councillor Owen Tierney.

## 1. Planning Application (22/096/PP)

### Proposed Erection of House at Plot 1 Castlehame, Carness Road, St Ola

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

Noted:

**1.1.** That planning permission for the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola, was refused by the Appointed Officer on 5 August 2022, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

**1.2.** That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer to refuse planning permission for the erection of a house at Plot 1 Castlehame, Carness Road, St Ola, be reviewed.

**1.3.** That, as part of the Notice of Review, referred to at paragraph 1.2 above, the applicant had submitted two new visualisations which, in terms of Section 43B of the Town and Country Planning (Scotland) Act 1997 as amended, was deemed as new information.

**1.4.** That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Plot 1 Castlehame, Carness Road, St Ola, at 10:30 on 26 October 2022.

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

Resolved, in terms of delegated powers:

**1.5.** That the new information referred to at paragraph 1.3 above, namely the visualisations, should not be taken into account when determining the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola.

**1.6.** That the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola, should be determined without further procedure.

On the motion of Councillor Kristopher D Leask, seconded by Councillor Graham A Bevan, the Local Review Body:

Resolved, in terms of delegated powers:

**1.7.** That the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola, should not be upheld.

**1.8.** That planning permission be granted in respect of the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola, subject to conditions.

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

- The extensive planning history of the site, which included the granting of planning permission for the extension of access tracks, seven serviced plots and drainage in August 2016, a development which had subsequently been initiated and completed, should be afforded significant material weight in the determination of the application.
- That, although the proposed development site was now located outwith the Kirkwall settlement boundary, given the fact that the sites had now been serviced for housing development, the site should be considered in association with the adjacent housing and, as such, it constituted a single house infill within an existing housing group.
- The proposal was sited and designed taking into consideration the location and the wider landscape and coastal character, with the land raising proposed to lift the finished floor level of the house above coastal flood levels considered acceptable, and was

sympathetic to the character of its local area and would have a positive effect on the appearance and amenity of the area.

And, accordingly, the proposed development complied with the following:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 5E (vi) – Housing, Single House Infill Development within Existing Housing Groups.
- Supplementary Guidance: Housing in the Countryside (2021).

**1.10.** 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 to attach to the planning permission for the proposed erection of a house at Plot 1 Castlehame, Carness Road, St Ola, based on the following relevant matters:

- Access track.
- Flood risk escape route.
- Floor level.
- Landscaping.
- Surface water drainage.
- Foul drainage.
- External lighting.
- Deed of conditions.

## **2. Planning Application (22/135/PP)**

### **Proposed Erection of House (Sub-division of Curtilage) and Alteration of Access at Kelda Ber, Tankerness**

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

Noted:

**2.1.** That planning permission for the proposed erection of a house (sub-division of curtilage) and alteration of an access at Kelda Ber, Tankerness, was refused by the Appointed Officer on 29 July 2022, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

**2.2.** That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer to refuse planning permission for the erection of a house (sub-division of curtilage) and alteration of an access at Kelda Ber, Tankerness, be reviewed.

**2.3.** That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Kelda Ber, Tankerness, at 09:30 on 26 October 2022.

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

Resolved, in terms of delegated powers:

**2.4.** That the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house (sub-division of curtilage) and alteration of an access at Kelda Ber, Tankerness, should be determined without further procedure.

On the motion of Councillor Alexander G Cowie, seconded by Councillor Graham A Bevan, the Local Review Body:

Resolved, in terms of delegated powers:

**2.5.** That the decision of the Appointed Officer to refuse planning permission for the proposed erection of a house (sub-division of curtilage) and alteration of an access at Kelda Ber, Tankerness, be upheld, for the following reasons:

- The curtilage to be subdivided fails to comply both with the definition of curtilage, and the requirement that the curtilage to be subdivided has served the host house for a period of ten years or greater as stated in the Supplementary Guidance: Housing in the Countryside (2021). The host house in this case is the adjacent Kelda Ber, which has been separate from the application site since 2017, with use prior to this dating from 2012. The proposed development is considered contrary to Policy 5E – Single Houses and new Housing Clusters in the Countryside, part v: the subdivision of a dwelling house or its residential curtilage, of the Orkney Local Development Plan 2017.
- The development is not designed taking into consideration provisions of overarching Policy 1 in relation to local site context, density and layout of development or relationship to the host house, Kelda Ber and as such the development fails to comply with Policy 1 (i, ii and iii) of the Orkney Local Development Plan 2017.
- The proposed private foul drainage is not acceptable as the soakaway discharges to the roadside ditch to the potential detriment of the environment and public health, recognising potential impact to road workers. The development fails to comply with Policy 13 C (ii) – Flood Risk, SuDS and Waste Water Drainage of the Orkney Local Development Plan 2017, as the proposed foul drainage system is considered to pose a risk of detrimental effect, including cumulative effect to the natural environment and surrounding uses.
- The proposed development does not accord with all relevant Development Criteria (DC), as required and as stated within Supplementary Guidance: Housing in the Countryside (2021), specifically in relation to DC3 and DC7 as the overall proposal does not reflect the scale and character of neighbouring sites and does not deal with the foul drainage soakaway appropriately, with discharge to the roadside ditch being considered as unacceptable.

### **3. Conclusion of Meeting**

At 12:15 the Chair declared the meeting concluded.

Signed: Owen Tierney.