

## **Item: 4**

**Local Review Body: 15 February 2024.**

**Proposed Extension of House and Erection of Shed (resubmission of 23/028/HH) at 15 Hillside Road, Stromness (23/384/HH).**

**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 extension of a house and erection of a shed (resubmission of 23/028/HH) at 15 Hillside Road, Stromness (23/384/HH).

### **2. Recommendations**

The Local Review Body is invited to note:

#### **2.1.**

That planning permission for the proposed extension of a house and erection of a shed (resubmission of 23/028/HH) at 15 Hillside Road, Stromness, was refused by the Appointed Officer on 15 December 2023, 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 under the procedure set out in Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013; and/or.
- By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

## **2.5.**

That, should the decision of the Appointed Officer be reversed and the Local Review Body determine that the development be approved, 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 Decision Notice, based on the relevant matters as set out in section 4.3 of this report.

## **3. Background**

### **3.1.**

Planning application 23/384/HH relates to the proposed extension of a house and erection of a shed (resubmission of 23/028/HH) at 15 Hillside Road, Stromness.

### **3.2.**

The Appointed Officer refused the planning application on 15 December 2023 on the following grounds:

#### **3.2.1.**

The proposed extension is not sited and designed taking into consideration the location and wider townscape. As such, the development is contrary to Orkney Local Development Plan 2017 Policy 1 'Criteria for All Development' criterion (i) and National Planning Framework 4 Policy 16 'Quality Homes' part (g).

#### **3.2.2.**

The scale and siting of the extension would adversely impact on the visual and residential amenity of the adjacent and nearby properties/occupants. As such, the development is contrary to Orkney Local Development Plan 2017 Policy 1 'Criteria for All Development' criterion (iv) and National Planning Framework 4 Policy 16 'Quality Homes' part (g).

#### **3.2.3.**

The proposed siting, scale, massing and form of the extension is not considered sympathetic to the character of its local area and would have a negative effect on the appearance of the area. As such, the development is contrary to Orkney Local Development Plan 2017 Policy 2 'Design' criteria (i) and (ii) and National Planning Framework 4 Policy 16 'Quality Homes' part (g).

### **3.2.4.**

The built form of the extension forward of the neighbouring entrance would obscure views and direct accessibility for the neighbouring property. This is considered inconsistent with National Planning Framework 4 Policy 14 'Design, Quality and Place'.

### **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 representations have been received.

### **4.2.**

In accordance with the Council's policy to undertake site inspections of all planning applications subject to a review, prior to the meeting to consider the review, a site inspection to 15 Hillside Road, Stromness, is due to be undertaken at 09:30 on 15 February 2024.

### **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:

- Duration of consent.
- Construction method statement.
- Surface water drainage.
- Hours of construction work.

#### **4.3.1.**

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

#### **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, 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 under the procedure set out in Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013; and/or.
- By the holding of one or more hearing under the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

### **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](#). Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still a significant material consideration when considering planning applications. The primacy of the plan should be maintained until a new plan is adopted. However, the weight to be attached to the Plan will be diminished where policies within the plan are subsequently superseded.

##### **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 9 – Natural Heritage and Landscape.
  - Policy 13 – Flood Risk, Sustainable Drainage Systems (SuDS) and Waste Water Drainage.

- Planning Policy Advice:
  - Amenity and Minimising Obtrusive Lighting (2021).
- National Planning Framework 4:
  - Policy 14 – Design, Quality and Place.

### **5.2.2.**

National Planning Framework 4 was approved by Parliament on 11 January 2023 and formally adopted by Scottish Ministers on 13 February 2023. The statutory development plan for Orkney consists of the National Planning Framework and the Orkney Local Development Plan 2017 and its supplementary guidance. In the event of any incompatibility between a provision of National Planning Framework 4 and a provision of the Orkney Local Development Plan 2017, National Planning Framework 4 is to prevail as it was adopted later. It is important to note that National Planning Framework 4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in National Planning Framework 4 and can be used to guide decision-making.

## **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](mailto:karen.greaves@orkney.gov.uk)

Katy Russell-Duff, Clerk to the Local Review Body, extension 2208, Email [hazel.flett@orkney.gov.uk](mailto:hazel.flett@orkney.gov.uk)

Susan Shearer, Planning Advisor to the Local Review Body, extension 2533, Email [susan.shearer@orkney.gov.uk](mailto:susan.shearer@orkney.gov.uk)

Stuart Bevan, Legal Advisor to the Local Review Body, extension 2220, Email [stuart.bevan@orkney.gov.uk](mailto:stuart.bevan@orkney.gov.uk)

## **11. Appendices**

Appendix 1 – Notice of Review (pages 1 – 43).

Appendix 2 – Planning Handling Report (pages 44 – 50).

Appendix 3 – Planning Services File (pages 51 – 61).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 62 – 71).

All appendices can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference “23/384/HH”.