

Item: 3.1

Planning Committee: 12 December 2018.

Convert Redundant Store to Four Flats at 42 Junction Road, Kirkwall.

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

Planning permission is sought to convert and extend the redundant store at 42 Junction Road, Kirkwall, to accommodate four self-contained flats. The proposal also includes the demolition of an existing lean-to shed. One objection has been received, on the grounds of impact on residential amenity and loss of car parking, and one other representation has been received regarding access and parking in the area. Objections have been received from SEPA and Engineering Services in respect of surface water flooding in the area and flood risk at the proposed development. Options to address flood risk objections were considered, including raising the finished floor level; however, the applicant considered the design changes required to facilitate that were such that the design was unacceptably compromised and wishes the application to be determined as submitted. The development as proposed therefore remains at an increased risk of flooding. The application has been called in by two Councillors and, in accordance with the Scheme of Delegation, the application must be reported to Committee for determination. On the grounds of flood risk and residential amenity issues the application is recommended for **refusal**.

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|---------------------|--|
| Application Number: | 18/267/PP. |
| Application Type: | Planning Permission. |
| Proposal: | Convert redundant store to four flats. |
| Applicant: | Mr W N Stevenson, Old Library, Laing Street, Kirkwall, KW15 1NW. |
| Agent: | S J Omand, 14 Victoria Street, Kirkwall, KW15 1DN. |

1.2.

All application documents (including plans, consultation responses and representations) are available for members 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).

2. Consultations

- SEPA – Objection on the grounds of risk of surface water flooding.
- Engineering Services – Objection on grounds of risk of surface water flooding.

Other consultation responses have been received, and no other consultees have raised any issues which cannot be addressed by planning conditions.

3. Representations

3.1.

One objection has been received from:

- Daniel Hutchinson, 4 Stewart's Buildings, Junction Road, Kirkwall.

3.2.

The objections are on the following grounds:

- Noise generated during the refurbishment and construction phase of the development, with reference to working pattern.
- Loss of parking during the construction phase.

3.3.

Such temporary impacts during construction only are not normally taken into account in consideration of a planning application, and any noise nuisance during construction is more appropriately addressed by Environmental Health. However, the development is in very close proximity to the objector's property, so the objection is considered as a valid representation.

3.4.

One further representation has been received from:

- Richard Wild, 6 Stewart's Buildings, Junction Road, Kirkwall.

3.5.

The representation confirms no objections to the development, subject to maintenance of vehicle access to his property and an associated store. The representation also notes an existing lack of parking in the local area.

4. Relevant Planning History

None.

5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5A – Housing, ‘Housing in Settlements’.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Guidance:
 - Supplementary Guidance ‘Settlement Statements’ Kirkwall (April 2017).
 - Planning Policy Advice ‘Development Quality within Settlements’ (March 2012).

6. Legal Aspects

6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) 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...”

6.2.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

6.3.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

7. Assessment

7.1. Site Description

The two buildings to be converted immediately gable on to Junction Road, as detailed in the site plan attached as Appendix 1 to this report. One gable is traditional stone construction and the other is modern and concrete block. The proposal includes raising the wall and ridge height of the modern building and demolition of a lean-to building which presently connects the stone building with adjacent sheds. Removal of this roofed area would reinstate the historic form and provide access to one of the proposed ground floor flats.

7.2. Proposed Development

It is proposed to redevelop and convert the two former storage buildings, with two flats in each. The modern building would be heightened, raising the ridge level by 0.41 metre and the wall head by 0.32 metre. All roofs would be clad with natural slate. The stone gable would be repointed with the existing first floor window opening retained, and other walls dry dashed. Windows would be formed in the dry dashed elevations. Access to three of the flats would be from the Junction Road elevation, with the one flat accessed from the newly created yard at the south of the building. Air source heat pumps were initially proposed; however, those have been removed from the proposal.

7.3. Principle

The site is located within the settlement boundary of Kirkwall, where there is a general presumption in favour of residential development, including infill development and the conversion and redevelopment of derelict buildings. The principle of the development is therefore acceptable, in accordance with Policy 5A(iii) 'Housing in Settlements'.

7.4. Residential Amenity

7.4.1.

The proposal would bring an unused storage building into use; however, conversion of buildings in relatively built-up areas can often result in residential amenity issues. Windows would be formed in the south elevation, facing into the space created by demolition of the lean-to structure. Windows in that elevation would face the houses in Baikie's Building, approximately 5 metres away, therefore obscure glazing would be required in some of those windows to avoid overlooking. The situation in the north elevation is similar, with a narrow access separating the development from existing residential properties at Stewart's Buildings. Again, obscure glazing would be required. Alterations to the design, including relocating windows, may allow a reduction in the number of windows which would require obscure glazing. As the application is recommended for refusal and is being considered as submitted, those potential amendments have not been exhausted.

7.4.2.

The existing building already causes some overshadowing of ground floor windows in flats in the adjacent Stewart's Buildings, which breaches the 25-degree rule. The proposed raising of the wall head and ridge height is likely to cause additional overshadowing and loss of daylight, relative to existing levels. Amendments could potentially overcome these daylight concerns. However, as the application is recommended for refusal and is being considered as submitted, those potential amendments have not been exhausted and a formal study of daylight has not been carried out.

7.4.3.

Concerns have been raised by the objector regarding noise during the construction phase, highlighting that he works shift patterns and must sleep during the day. A construction site would inevitably create noise, the hours of which would be controlled by conditions to limit working hours, and although not necessarily siting a shift pattern, most residents would benefit from limiting works to standard working hours. Construction noise is provided minimal weight in consideration of the application, and no unacceptable operational noise is anticipated.

7.4.4.

Although the principle of the development is acceptable in terms of conversion and making use of redundant buildings within the settlement boundary, the uncertainty over loss of daylight and potential privacy impact due to windows in the south elevation are such, based on information available, that residential amenity cannot necessarily be safeguarded. The development is therefore contrary to Policy 1, and Supplementary Guidance 'Development Quality Within Settlements'.

7.5. Design and Density

The changes and improvements to the buildings would result in a development which would relate to other buildings in the immediate and wider area, including retention and repair of the historic fabric of the gable facing the street. The development would result in relatively constrained flatted accommodation, with limited outside space and no parking provision. However, it is recognised as a town centre location and many historic and modern flatted developments are similar in setting and amenities provided. Indeed, that is the case for neighbouring flats. Public open space exists in the wider area.

7.6. Sewerage and Drainage

The development would be required to connect to the public sewer and to the public water supply, and to include surface water drainage to ensure compliance with Sustainable Drainage Systems. A condition would secure compliance with SuDS, in accordance with Policy 13B 'Sustainable Drainage Systems (SuDS)', mindful that the development would largely occupy an existing building footprint.

7.7. Flood Risk

7.7.1.

The application site is located within the medium likelihood flood extent for coastal flooding and surface water flooding, and the area has a history of flooding from a combination of surface water and small watercourses which are culverted through parts of the town and can surcharge during heavy rain events. SEPA has considered the protection against coastal flooding provided by the Kirkwall Flood Protection Scheme and has no objection in that regard.

7.7.2.

SEPA has objected, and concerns are raised by Engineering Services, on the basis that there remains a risk in that location of combined surface water and fluvial (small watercourse) flooding. SEPA's current understanding is that a 1 in 200 year flood event from that source would be likely to flood the area to a level of 2.6 metres Above Ordnance Datum (AOD). Flooding of that severity was experienced in October 2006 and smaller floods have occurred on numerous other occasions. SEPA recommends a free board of 0.20 metres, and Engineering Services, on behalf of the Council as Flood Prevention Authority, has confirmed that, for the development to be free from flood risk, finished floor levels would have to be a minimum of 2.8 metres AOD. The proposed finished floor level of the development is 2.25 metres AOD. In some situations, the re-use of an existing building which is at risk of flooding is acceptable, but that would rely on the proposed use being of equal or less vulnerability to flood risk. In this case, the proposed development of four flats is classed as 'highly vulnerable' in SEPA's Flood Risk and Land Use Vulnerability Guidance, relative to most recent use as storage buildings which are classed as 'least vulnerable'. As the proposed use is more vulnerable than the existing use, and due to risk of combined surface water and fluvial flooding, SEPA objects to the application on grounds of flood risk.

7.7.3.

Policy 13A "seeks to avoid situations where development would have a significant probability of flooding" and Policy 1 does not support development that would result in an unacceptable level of risk to public health and safety. Scottish Planning Policy states in paragraph 256, that "the planning system should prevent development which would have a significant probability of being affected by flooding".

7.7.4.

Discussions were undertaken with the applicant's agent to achieve a design that would meet the recommended finished floor level of 2.80 metres AOD. Draft plans were prepared, and comments from SEPA and Engineering Services indicated that objections to the development could be adequately addressed. Those works involved alterations to the floor plan to accommodate the raised floor level, however, the applicant has continued with the original plans. The amendments would inevitably have had some impact on the exterior of the building, and ultimately it is a decision of the applicant whether to make amendments to resolve key issues, whilst accepting any design consequences of those amendments, or whether to proceed

without such amendments. The application must therefore be considered and determined as submitted.

7.7.5.

Engineering Services has confirmed that a Surface Water Management Plan for Kirkwall is scheduled to be published in June 2019. That plan would identify actions required to reduce the risk of surface water flooding in Kirkwall, although it is not yet known when identified actions would be carried out, or the implications in terms of advice to developers. It is hoped that a Surface Water Management Plan would ultimately allow management of surface water in Kirkwall in such a way that agencies could support development of the type proposed, or at least reduce the likelihood of development being affected by flooding. Such a study would be prepared in conjunction with Scottish Water, and there may be opportunities for financial or other contributions from the building industry. However, that process must be carried out in a planned and strategic way, and it would be inappropriate and premature to allow piecemeal development contrary to current surface water and fluvial flood risk advice and before the Surface Water Management Plan has been produced.

7.8. Parking Provision/Access/Road Safety

No parking would be provided on site, however there is public parking relatively close to the development and due to the town centre location and existing provision for car parking nearby, dedicated parking is not required. Although a provision of one parking space per flat would normally be required, for the above reasons Roads Services has no objection to the development, although concerns are noted regarding further developments of this nature in this location due to insufficient parking.

8. Conclusion and Recommendation

The development would bring two redundant buildings in the town centre back into use and create four flats. In terms of appearance, the development would enhance the locality. However, the development would be at risk of surface water and fluvial flooding. The development is contrary to Policies 1, 9,13 and 14 of the Orkney Local Development Plan 2017, Supplementary Guidance 'Development Quality Within Settlements', and Scottish Planning Policy. Accordingly, the application is recommended for **refusal**.

9. Reasons for Refusal

01. The 1 in 200 year flood level for the site is 2.6 metres Above Ordnance Datum (AOD). SEPA recommends a free board of 0.20 metres, and the Flood Prevention Authority requires finished floor levels to be a minimum of 2.8 metres AOD. The proposed finished floor level of the development is 2.25 metres AOD. The proposed development of four flats is classed as 'highly vulnerable' in SEPA's Flood Risk and Land Use Vulnerability Guidance, relative to most recent use as storage buildings which are classed as 'least vulnerable'. As the proposed use is more vulnerable than the existing use, and due to risk of combined surface water and fluvial flooding, SEPA objects to the application on grounds of flood risk. The development is

contrary to Policy 13A 'Flood Risk' and Policy 1(vi) 'Criteria for All Development' of the Orkney Local Development Plan 2017, and Scottish Planning Policy, which states in paragraph 256 that "the planning system should prevent development which would have a significant probability of being affected by flooding."

02. Uncertainty over loss of daylight due to the proposed raising of the height of part of the building, and potential privacy impact due to windows in the south elevation are such, based on information available, that residential amenity cannot necessarily be safeguarded. The development is therefore contrary to Policy 1 (iv) 'Criteria for All Development' of the Orkney Local Development Plan 2017, and Supplementary Guidance 'Development Quality Within Settlements'.

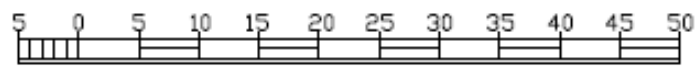
10. Contact Officer

Margaret Gillon, Senior Planner, extension 2505, Email margaret.gillon@orkney.gov.uk

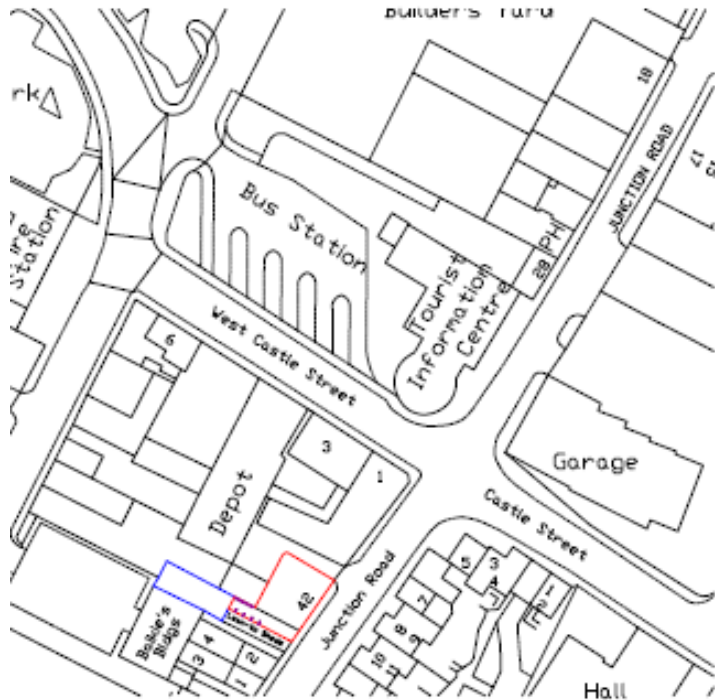
11. Appendix

Appendix 1: Location/Site Plan.

Appendix 1



Metres Scale- 1:500



Metres Scale- 1:1250

Conversion of Store to Four Flats at 42 Junction Road, Kirkwall.
 For Wm Neil Stevenson.
 Drwg No- 1524/3/P1 & BW 1
 OS Licence No- ES100003740
 June 2018.