



ORKNEY
ISLANDS COUNCIL

Item: 3

Local Review Body: 11 December 2024.

Proposed Erection of House with Air Source Heat Pump near North Church, Shapinsay (24/028/PP).

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

1. Overview

- 1.1. Planning application 24/028/PP in respect of the proposed erection of a house with an air source heat pump on land near North Church, Shapinsay, was granted by the Appointed Officer on 14 August 2024, subject to conditions.
- 1.2. Under the Town and Country Planning (Scotland) Act 1997 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.
- 1.3. The applicant has submitted a Notice of Review (see Appendix 1) requesting that the decision of the Appointed Officer, referred to at paragraph 1.1 above, be reviewed, specifically Condition 3 imposed on the consent by the Appointed Officer. The applicant has indicated that they think the most appropriate way for their review to be conducted is by the assessment of the review documents only, with no further procedure.
- 1.4. A letter from the Chief Planner, Scottish Government, issued 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.

- 1.5. Section 21 of the Scheme of Administration states that the Local Review Body will undertake unaccompanied site inspections for all planning applications subject to a local review, prior to meeting to consider the review. The purpose of the site inspection, together with the procedure to be adopted, are set out in section 21.2 of the Scheme of Administration. The applicant and interested parties have been advised that an unaccompanied site inspection to North Church (land near), Shapinsay, is due to be undertaken on 9 December 2024 at approximately 12:00.
- 1.6. The review procedure is set out in section 5 below.

2. Recommendations

- 2.1. The Local Review Body is required to:
 - i. Determine 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.
- 2.2. Should the Local Review Body determine that the decision is reversed or varied, it is required to:
 - i. Determine the reasons, and, if applicable, the relevant matters in respect of potential conditions to be attached to the decision notice.
- 2.3. Should the Local Review Body determine that the decision is reversed or varied, it is recommended that members of the Local Review Body:
 - i. Delegates powers to the Corporate Director for Strategy, Performance and Business Solutions, following consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions to attach to the Decision Notice.
- 2.4. Should the Local Review Body determine that it does not have sufficient information to proceed to determination of the review, it is required to:
 - i. Determine 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.

3. Planning Authority Decision

- 3.1. The Planning Handling Report, Planning Services file and the Decision Notice are attached as Appendices 2, 3 and 4 to this report.
- 3.2. On 14 August 2024, the Appointed Officer granted planning application 24/028/PP subject to conditions (see Decision Notice attached as Appendix 4). The Notice of Review relates specifically to Condition 3, attached to the approval, as noted below.

- No development shall commence until the existing passing place on Brecks Road, Shapinsay, has been upgraded in accordance with the Council's standard detail for passing place construction. Full details of the location and detailed design of the passing place shall be submitted to and approved, in writing, by the Planning Authority in consultation with Roads Services, and thereafter the works shall be completed fully in accordance with approved details.

Reason: In the interest of road safety.

4. Local 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 were received.
- 4.2. The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer.
- 4.3. All conditions should be in accordance with Planning Circular 4/1998 regarding the use of conditions in planning permissions. As a matter of policy, all conditions should only be imposed when they are:
 - Necessary.
 - Relevant to planning.
 - Relevant to the development to be permitted.
 - Enforceable.
 - Precise.

- Reasonable in all other respects.
- 4.4. Paragraph 85 of Planning Circular 4/1998 indicates that, in exceptional circumstances, conditions may be imposed to restrict further development which would normally be permitted by the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order or the Town and Country Planning (Use Classes) (Scotland) Order 1997.
 - 4.5. If the decision is varied, it is proposed that powers are delegated to the Corporate Director for Strategy, Performance and Business Solutions, following consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions.
 - 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 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 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.
- 5.3. 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.

5.4. It is for the Local Review Body to determine which policies are relevant to this application; however the policies listed below were referred to by the Appointed Officer in the Planning Handling Report:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5 – Housing.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- With regard to the applicable supplementary guidance, no specific guidance was referred to by the Appointed Officer, but they noted that the development complies with the applicable supplementary guidance.

5.5. With regard to National Planning Framework 4 (NPF4), no specific policies were referred to by the Appointed Officer, but they noted that the development complied with relevant policy provisions of NPF4.

For Further Information please contact:

Susan Shearer, Planning Advisor to the Local Review Body, extension 2433, Email: susan.shearer@orkney.gov.uk.

Implications of Report

1. **Financial:** All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing revenue budgets.
2. **Legal:** The legal implications are set out in the body of the report.
3. **Corporate Governance:** In accordance with the Scheme of Administration, determination of Notices of Review is delegated to the Local Review Body.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.

7. **Links to Council Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
 - Growing our economy.
 - Strengthening our Communities.
 - Developing our Infrastructure.
 - Transforming our Council.
8. **Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
 - Cost of Living.
 - Sustainable Development.
 - Local Equality.
9. **Environmental and Climate Risk:** None.
10. **Risk:** None.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Orkney Local Development Plan 2017, available [here](#).

National Planning Framework 4, available [here](#).

Planning Circular 4/1988, available [here](#).

Appendices

Appendix 1 – Notice of Review (pages 1 – 90).

Appendix 2 – Planning Handling Report (pages 91 – 95).

Appendix 3 – Planning Services File (pages 96-157).

Appendix 4 – Decision Notice (pages 158-166).

Pages 1 to 166 can be viewed [here](#), clicking on “Accept and Search” and inserting the planning reference”24/028/PP.”.

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	Miss	Ref No.	
Forename	Claire	Forename	
Surname	Pegrum	Surname	
Company Name		Company Name	
Building No./Name	Ardachy Barn	Building No./Name	
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City	Fort Augustus	Town/City	
Postcode	PH32 4BZ	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	Orkney Islands Council		
Planning authority's application reference number	24/028/PP		
Site address	North Church (Land Near), Shapinsay, Orkney, KW17 2EA		
Description of proposed development	Erect a house with an air source heat pump		

Date of application	05/02/24	Date of decision (if any)	14/08/24
<p><u>Note.</u> This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.</p>			
4. Nature of Application			
Application for planning permission (including householder application)			<input checked="" type="checkbox"/>
Application for planning permission in principle			<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)			<input type="checkbox"/>
Application for approval of matters specified in conditions			<input type="checkbox"/>
5. Reasons for seeking review			
Refusal of application by appointed officer			<input type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application			<input type="checkbox"/>
Conditions imposed on consent by appointed officer			<input checked="" type="checkbox"/>
6. Review procedure			
<p>The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.</p> <p>Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.</p>			
Further written submissions			<input type="checkbox"/>
One or more hearing sessions			<input type="checkbox"/>
Site inspection			<input type="checkbox"/>
Assessment of review documents only, with no further procedure			<input checked="" type="checkbox"/>
<p>If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.</p>			
7. Site inspection			
In the event that the Local Review Body decides to inspect the review site, in your opinion:			
Can the site be viewed entirely from public land?			<input checked="" type="checkbox"/>
Is it possible for the site to be accessed safely, and without barriers to entry?			<input type="checkbox"/>

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see accompanying document

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes No

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

24_028_PP Notice of Review Statement.pdf
 24_028_PP-Approved-509433
 Planning+circular+4-1998+The+use+of+conditions+in+planning+permissions.pdf
 Planning+circular+4-1998++model+planning+conditions+addendum.pdf
 developer_contributions_and_good_neighbour_agreements_supplementary_guidance
 _october_2013.pdf

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

Statement of your reasons for requesting a review

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature: Name: Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

Planning Application Ref 24/028/PP

I would like to appeal against Condition 3 (the provision of an off-site highway improvement) of the above planning permission, for the reasons set out below. The following documents are referred to (with the titles abbreviated as shown):

- Scottish Government Planning Circular 4/1998: The use of conditions in planning permissions (PC 4/98)
- Addendum to Scottish Government Planning Circular 4/1998: Model Planning Conditions (PC 4/98 MPC)
- Orkney Islands Council's Developer Contributions and Good Neighbour Agreements, Supplementary Guidance October 2013 (SG 10/13) deals with off-site highway works secured by planning condition (paras 4.1 and 5.3) and so would appear to be relevant.

I believe that requiring off-site highway improvements for the non-commercial development of a single dwelling with just two bedrooms is unduly onerous and not "reasonable" as required by PC 4/98 and does not, "Fairly and reasonably relate in scale and kind to the proposed development" as required by SG10/13. This document also says that, "applications for **multiple** [*my emphasis*] house sites out with the settlements may also be required to make developer contributions where appropriate". This application is for a single house.

SG 10/13 does refer to the cumulative impact of development. However one of the properties accessed using Brecks Road is a church. Given that the generally accepted maximum traffic generation periods of a house (weekday am and pm peaks) and a church (Sunday am) do not coincide, it cannot be argued that the traffic generated by a single house would have an unacceptable cumulative impact on the operation of Brecks Road.

The pre-application advice given before I bought the plot says that I would need to consider "suitable access arrangements from the public road". No mention was made of the possibility of requiring highway improvements away from the site. Although the advice does say that "Advice given is without prejudice to any decision that may be taken by the Council on receipt of a formal planning application", PC 4/1998 says that pre-application discussions can allow the applicant to "take full account of the requirements of the authority". Also, Section 2 of SG 10/13 says that, "Where contributions will be required toward infrastructure, facilities and services, or any other identified upgrade, the developer will be made aware at the earliest possible opportunity in the planning application process and will be provided with a reasoned justification for why the contribution is being sought." I should have been made aware of something as significant as off-site highway works at the pre-application advice stage, before I went ahead with purchasing the plot.

I feel that the reason given for the Condition of, "In the interest of road safety" does not meet the criterion of "a clear and precise reason for a condition must be given", required by PC 4/98. It is very similar to, "In the interests of traffic safety" which is an example of an *unsatisfactory* reason given in PC 4/98 MPC. Annex A, Para 15 of PC 4/98 says that, "Conditions should be tailored to tackle **specific problems** [*my emphasis*]" Brecks Road in its current condition provides access to three existing houses, farmland and Shapinsay's only church. As well as cars it is used by the refuse lorry, oil lorry and tractors and other farm vehicles, presumably without problems; data on the crashmap.co.uk website shows that there has never been a recordable accident on the road in the 24 years for which data is available.

GRANT PLANNING PERMISSION
DELEGATED DECISION



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act")

Ref: 24/028/PP

Miss Claire Pegrum
c/o Dean Campbell
13 Papdale Crescent
Kirkwall
Scotland
KW15 1JS

With reference to your application registered on 5th February 2024 for planning permission for the following development:-

PROPOSAL: Erect a house with an air source heat pump

LOCATION: North Church (Land Near), Shapinsay, Orkney, KW17 2EA

Orkney Islands Council in exercise of its powers under the above Act, hereby **Grants Planning Permission subject to the attached terms and conditions.**

The Council's reasoning for this decision is: The development complies with relevant policy provisions of National Planning Framework 4 and the Orkney Local Development Plan 2017 and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application. The development accords with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017.

(For further detail you may view the Planning Handling Report for this case by following the Application Search and Submission link on the Council's web page and entering the reference number for this application).

Please read carefully the Terms and Conditions on the following pages as failure to comply may result in enforcement action.

Decision date: 14th August 2024

Jamie Macvie MRTPI, Service Manager, Development Management, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY

TERMS AND CONDITIONS

TERMS

- A. The development hereby approved must be carried out in accordance with the terms and conditions attached to this planning permission and with the approved plans and details identified in Schedule 1.
- B. Failure to implement the permission in accordance with the approved details and attached planning conditions may render the development unauthorised and may result in enforcement action.
- C. No development shall commence on the development hereby approved until the developer has formally advised the Planning Authority in writing of the intended start date. This should be done as soon as practicable. Take note that **failure to submit such a Notice would be a breach of planning control** under section 123(1) of the Act and could result in enforcement action.
- D. To accord with the provisions of Section 27B of the Act, once the development hereby approved is completed, and prior to the development being brought into use, the developer shall submit a completion notice to the Planning Authority.

(To comply with C & D above please use and submit the attached forms to ensure compliance with all of the statutory requirements in this regard. These forms are also available from the planning page on the Council's web site.)

- E. If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the Planning Authority in advance of implementing any changes to establish whether the proposed changes require any further planning approval.
- F. It should be understood that this permission does not carry with it or supersede the need for any necessary consent or approval for the proposed development under any other statutory enactments, for example the Building (Scotland) Act, the Roads (Scotland) Act 1984, the Water (Scotland) Act 1980, and the Environmental Protection Act 1990.
- G. It is the responsibility of the developer to ensure that services including telephone and electricity lines, water mains and sewers are protected. You should contact the relevant service providers to check whether such services would be affected.

CONDITIONS

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. No other development shall commence until the access hereby approved with the public road has been constructed to the Council's Roads Services standard drawing 'SD-03 Access Over Verge for Single Dwelling', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

03. No development shall commence until the existing passing place on Brecks Road, Shapinsay, has been upgraded in accordance with the Council's standard detail for passing place construction. Full details of the location and detailed design of the passing place shall be submitted to and approved, in writing, by the Planning Authority in consultation with Roads Services, and thereafter the works shall be completed fully in accordance with approved details.

Reason: In the interest of road safety.

04. The biodiversity measures described in the submitted Biodiversity form (version published 13 March 2024) and shown on the Location and site plan hereby approved (dated January 2024) shall be implemented in full no later than the first planting season following occupation. Thereafter the biodiversity measures shall be permanently retained in accordance with the approved details, including replacement in the next planting season of any planting that does not survive, is removed, or is damaged.

Reason: To ensure biodiversity measures are implemented as required by National Planning Framework 4 policy 3 and to ensure adequate surface water drainage.

05. All surface water drainage provision within the application site(s) shall accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding

guidance prevailing at the time and shall be implemented and completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

06. Any exterior lighting employed shall be so positioned, angled and controlled to prevent any direct illumination, glare or light spillage outwith the site boundary. The use of automatic cut-out or sensor operated external lighting of limited timed illumination is advocated.

Reason: In order to ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

Informatives

01. Roads

It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to the development being brought into use, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

02. Scottish Water

This proposed development will be fed from Kirbuster Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow them to fully appraise the proposals it is advised that the developer completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via their Customer Portal or contact Scottish Water Development Operations.

03. Land outwith the development boundary

The development as approved involves the use of land outwith the application site to address roads matters pertaining to the approved development. This is secured by condition 03 of the planning permission hereby approved.

Ref: 24/028/PP

SCHEDULE 1 –PLANS, VARIATIONS AND ANY OBLIGATION**1. Plans and Drawings**

The plans and drawings to which this decision relates are those identified below:

Location & Site Plans	OIC-01	1
Elevations	OIC-02	1
Floor Plan	OIC-03	1

2. Variations

If there have been any variations made to the application in accordance with section 32A of the Act these are specified below:

Date of Amendment:

Reasons

3. Legal Obligation

Has any obligation been entered into under section 75 of the Act? –N

If such an obligation has been entered into, the terms of such obligation or a summary of such terms may be inspected by contacting Legal Services.

RIGHT TO SEEK A REVIEW

If you are unhappy with the terms of this decision you have a right to ask for a review of your planning decision by following the procedure specified below.

PROCEDURE FOR REQUESTING A REVIEW BY THE LOCAL REVIEW BODY

1. If the applicant is aggrieved by the decision of the Appointed Officer to:
 - a. Refuse any application, or
 - b. Grant permission subject to conditions.

In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations, the applicant may apply to the Local Review Body within three months from the date of this notice for a review of that decision.

2. Forms to request a review are available from either address below, or from <http://www.orkney.gov.uk/Service-Directory/D/appeal-a-decision.htm>.

Completed forms to request a review should be submitted to the address below:

Committee Services
Orkney Islands Council
Council Offices
School Place
KIRKWALL
Orkney
KW15 1NY

and at the same time a copy of the notice for a review should be sent to:

Service Manager (Development Management)
Orkney Islands Council
Council Offices
School Place
KIRKWALL
Orkney
KW15 1NY

Email: planning@orkney.gov.uk

3. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Act.

To:
Development Management
Orkney Islands Council
Council Offices
School Place
Kirkwall
KW15 1NY

Or by email to planning@orkney.gov.uk

Notification of Completion of Development

It is important that the planning authority is informed as soon as possible following completion of works.

Planning Application Reference: _____

In accordance with Section 27B of The Town and Country Planning (Scotland) Act 1997, as amended, the planning authority is hereby advised of the completion of the above development.

(a) Provide the date of completion of development. _____

(b) Provide full name and address, and email address if available, of the person submitting Notification of Completion. (Note that any correspondence relating to the Notification of Completion will be addressed to this person.)

Signed: _____ Applicant / Agent (delete as appropriate)

Print name: _____

Dated: _____

To:
 Development Management
 Orkney Islands Council
 Council Offices
 School Place
 Kirkwall
 KW15 1NY

Or by email to planning@orkney.gov.uk

Notification of Initiation of Development

IMPORTANT: Failure to notify the planning authority of initiation of development would constitute a breach of planning control under Section 123(1) of The Town and Country Planning (Scotland) Act 1997, as amended.

Planning Application Reference: _____

Date of planning permission: _____

In accordance with Section 27A of The Town and Country Planning (Scotland) Act 1997, as amended, the planning authority is hereby advised that it is intended to initiate the above development as follows:

(a) Provide the date of initiation. _____

(b) Provide full name and address, and email address if available, of the person(s) intending to carry out the development. (Note that in the first instance, any correspondence relating to the Notification of Initiation of Development will be addressed to this person.)

(c) If the person included at (b) above is the owner of the land to which the development relates, state 'OWNER'. If that person is not the owner, provide the full name and address of the owner.

(d) If a person is, or is to be, appointed to oversee the carrying out of the development on site, provide the name of that person and details of how that person to be contacted.

Signed: _____ Applicant / Agent (delete as appropriate)

Print name: _____

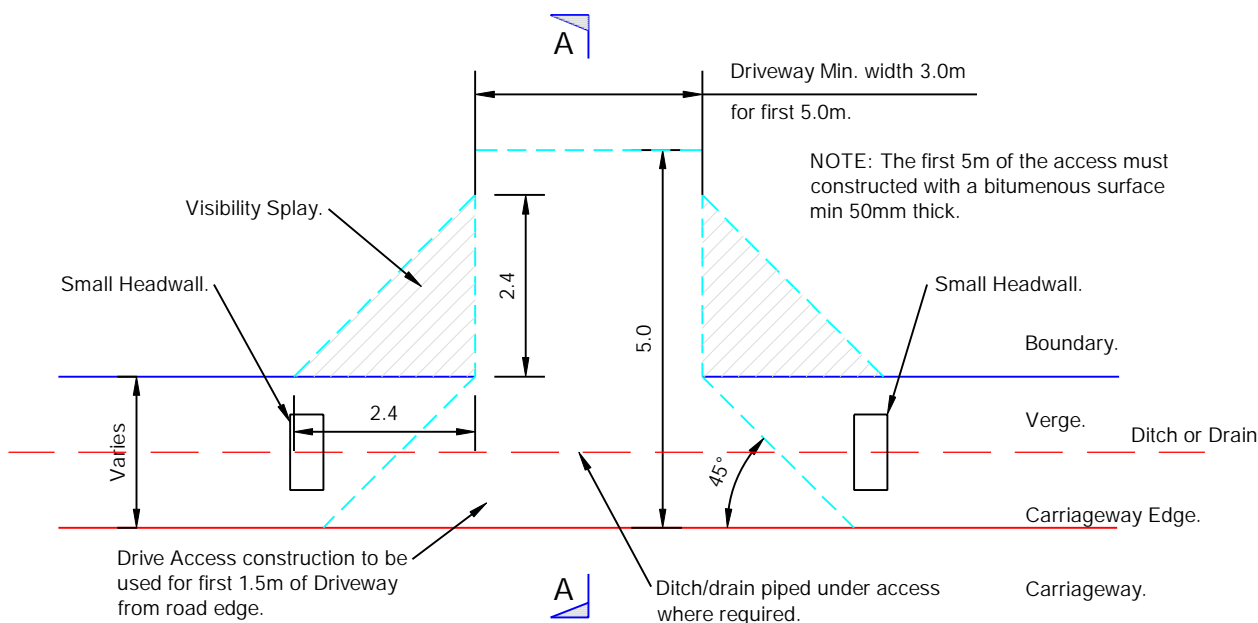
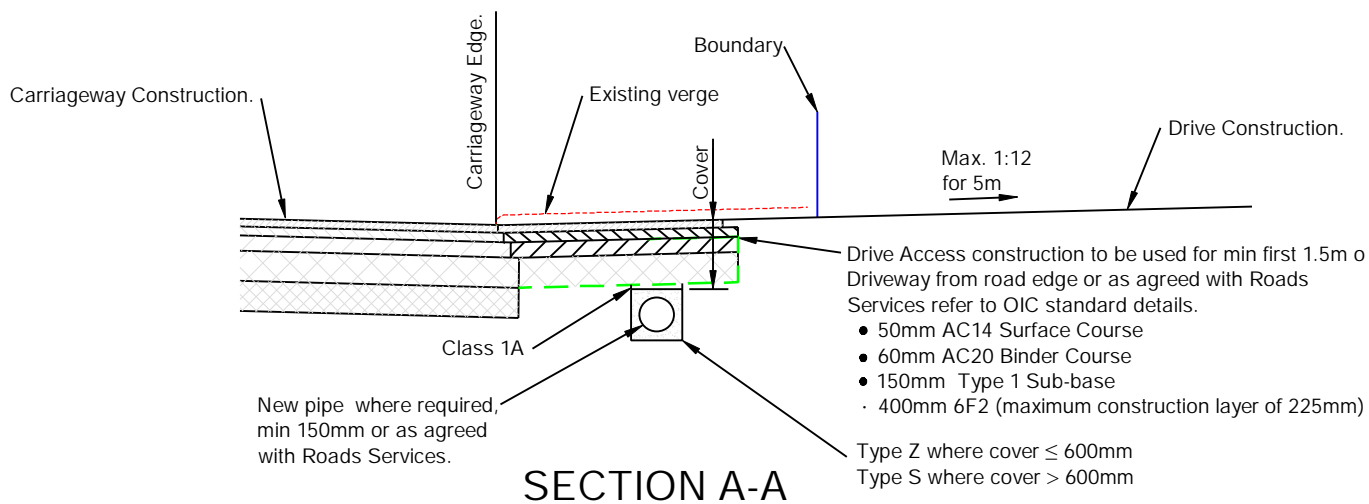
Dated: _____

NOTE: Planning conditions may be attached to a grant of planning permission. These form part of the permission, and limit and control the way in which the permission must be implemented and may include mitigation or a requirement for further information. **If pre-commencement conditions are attached to the decision, development cannot proceed until these conditions have been discharged.**

When development commences, the planning authority may check for compliance with all conditions. If implemented or carried out contrary to planning conditions, the development would be unauthorised and may be subject to formal enforcement action.

NOTES:

1. All dimensions are to be measured in meters, unless stated otherwise.
2. If obstructions within the visibility splay cannot be reduced in height to below 0.9m - walls, hedges, etc. - then 45° visibility splays of 2.4m x 2.4m are required for interservisibility between vehicles and pedestrians.
3. Driveway to property should be no steeper than 1:12, and must not be steeper than 1:12 for the first 5m from edge of carriageway.
4. Drive must be constructed in such a way to prevent any gravel or other loose material spilling onto the footway or carriageway.
5. Where new access crosses an existing ditch, or drain in the verge, pipe to be installed under access.
6. Prior to installation of pipe, confirmation of size must be obtained from the Roads Authority.
7. For drain Type Z, drain Type S and Small Headwall, refer to Orkney Islands Council's standard details.
8. All works carried out within the public road must be carried out by a Prescribed Contractor.



**TYPICAL ACCESS OVER VERGE
FOR SINGLE DWELLING**

Rev 1 14/12/20 DW Road construction detail amended

File Ref. R3.40.01	Drg. No. SD-03	ROAD SERVICES	NEIGHBOURHOOD SERVICES & INFRASTRUCTURE Council Offices, Kirkwall Orkney, KW15 1NY tel (01856) 873535 fax (01856) 876094 Corporate Director Hayley Green MBA (Public Service)	 ORKNEY ISLANDS COUNCIL
Revision 1	Drawn D.R.W.			
Date May 2022	Checked K.D.R.			
Scale N.T.S.				

Circular 4/1998: The use of conditions in planning permissions

This Circular supersedes SDD No. 18/1986 (except Appendices A and B)
The Chief Executive Local Authorities

Copy to: The Director of Planning
Our ref: PGC/3/13
27 February 1998

Contents

Introduction

1. This Circular and the accompanying Annex sets out Government policy on the use of conditions in planning permissions. It updates and revises the guidance in SDD Circular 18/1986, which (except for Appendices A and B - see paragraph 11 below) is now cancelled, to take account of:

- new legislation, in particular the consolidation of the Planning Acts;
- Court decisions, which are referred to at relevant sections of the Annex;
- additional topics, such as Environmental Assessment and Nature Conservation; and
- good planning practice in the use of conditions.

General policy

2. Conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. Planning conditions should only be imposed where they are:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects

The Secretary of State attaches great importance to these criteria being met so that there is an effective basis for the control and regulation of development which does not place unreasonable or unjustified burdens on applicants and their successors in title.

3. Planning conditions must not, however, be applied slavishly or unthinkingly; a clear and precise reason for a condition must be given. While the use of standard conditions can be important to the efficient operation of the development control process, such conditions should not be applied simply as a matter of routine. Conditions should be used to achieve a specific end, not to cover every eventuality.

4. It is essential that the operation of the planning system should command public confidence. The sensitive use of conditions can improve the effectiveness of development control and enhance that confidence. Conditions imposed in an unreasonable way, so that it proves impracticable or inexpedient to enforce them, will damage such confidence and should be avoided.

5. The Annex to the Circular sets out the policy in greater detail.

Development plans

6. Where appropriate, development plans should specify the policies which the authority propose to implement regularly by means of planning conditions. Where applicants for planning permission are aware of such policies, they are more likely to incorporate appropriate details in their submissions, thus reducing the risk of delay in determining the applications and possibly avoiding the need to impose a specific condition.

Appeals

7. Paragraph 19 of Annex A to SODD Circular 13/1997 states that, in the case of planning inquiries, the statement submitted by the planning authority should include a list of conditions that it would wish to see imposed on any approval which may be given. A similar practice, which some authorities already follow, is also appropriate to cases proceeding by way of written submissions. The Secretary of State expects Reporters will be vigilant in ensuring that conditions imposed meet the criteria in paragraph 2 above and the detailed policy set out in the Annex.

Breach of condition notices

8. Since July 1992, planning authorities have been able to ensure compliance with many planning conditions by serving a breach of condition notice. Guidance about this type of notice is given in SOEnD Circular 36/1992. If a valid breach of condition notice is contravened, the resulting offence is open to summary prosecution. But the prosecution's case must always be proved on the criminal standard of proof ("beyond reasonable doubt"). Consequently, if the breach of condition notice procedure is to operate effectively, planning conditions must be formulated precisely. In the event of prosecution, Courts will then have no doubt about exactly what is required in order to comply with the terms of a planning condition.

Specialist subjects

9. This Circular does not include specific advice on the use of planning conditions for specialist subjects such as minerals workings or for developments relating to waste management.

Manpower and financial considerations

10. This Circular brings up to date existing advice, and should therefore have no effect on local government manpower or expenditure.

Model conditions

11. The Secretary of State is of the view that detailed guidance on model conditions should be provided. Further work with local authority representatives in this area will be undertaken and a list of model conditions will be issued in due course. This Circular should be read with the forthcoming guidance on model conditions. Until the new list of model conditions is published, authorities should continue to refer to these in Appendices A and B of SDD Circular 18/1986.

Enquiries and further copies

12. Enquiries about the content of this Circular should be addressed to Mr Stephen Bruce (Telephone 01312447065). Further copies of the Circular and a list of current planning circulars may be obtained from The Scottish Office Development Department, Planning Division, 2-H, Victoria Quay, Edinburgh, EH6 6QQ (Telephone 0131 244 7066 or 7825).

Annex A: The use of conditions in planning permissions

Powers

Summary of powers

1. Conditions on planning permissions may be imposed only within the statutory powers available. Advice on these powers is given below. This advice is intended to be a guide, and it must be stressed that it is not definitive. An authoritative statement of the law can only be made by the Courts. The principal powers are in sections 37 and 41 of the Town and Country Planning (Scotland) Act 1997 (referred to below as "the Act"). Sections 58 and 59 of the Act require the imposition of time-limiting conditions on most grants of planning permission (see paragraphs 45 to 52 below). Powers to impose conditions are also conferred on the Secretary of State or Reporters by sections 46, 48 and 133 and Schedule 4 of the Act. Unless the permission otherwise provides, planning permission runs with the land and conditions imposed on the grant of planning permission will bind successors in title.

General power

2. Section 37(1) of the Act enables the planning authority to grant planning permission "either unconditionally or subject to such conditions as they think fit". The power to impose conditions is not, however, as wide as it appears, and must be interpreted in the light of Court decisions.

Powers for conditions on land outside application site and temporary permissions

3. Section 41(1) amplifies the general power in section 37(1) in two ways. It makes clear that the planning authority may impose conditions regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application. (The Courts have held that the question whether land is under the control of an applicant is a matter to be determined according to the

facts of the particular case. It is only necessary to have such control over the land as is required to enable the developer to comply with the condition.) The section also makes clear that the planning authority may grant planning permission for a specified period only.

Power to vary or remove the effect of conditions

4. Section 33 of the Act provides, among other things, for planning applications to be made in respect of development which has been carried out without planning permission and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject. Special consideration may need to be given to conditions imposed on planning permissions granted under section 33. For example, the standard time-limiting condition will not be appropriate where development has begun before planning permission has been granted.

5. Section 42 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 42. This section will not apply if the period within which the development could begin, as specified in the previous condition, has expired without the development having begun.*

Other considerations

Policy and other considerations

6. The limits of the enabling powers are not the only constraints on the use of conditions. Conditions should normally be consistent with national planning policies, as expressed in Government Circulars, National Planning Policy Guidelines (NPPGs) and other published material. They should also normally be consistent with the provisions of development plans and other policies of planning authorities. However, where a certain kind of condition is specifically endorsed by a development plan policy it is still necessary to consider whether it is justified in the particular circumstances of the proposed development. In general, conditions which duplicate the effect of other legislation should not be imposed (see paragraphs 19-22).

Practice

Role of pre-application discussions

7. Even before an application is made, informal discussions between the applicant and the planning authority can be very helpful. They can allow the applicant to formulate the details of a project so as to take full account of the requirements of the authority and assist the authority in making sure that those requirements are reasonable in the light of the development proposed. Discussion can also reduce the need for conditions, enable the authority to explore the possible terms of conditions which remain necessary and ensure that these are tailored to the circumstances of the case.

"Standard conditions"

8. Lists of standard or model conditions can be of great benefit. They can improve consistency of decisions, make effective use of staff resources and increase the speed of processing of planning applications. They may also, however, encourage the use of conditions as a matter of routine, without the careful assessment of the need for a condition which every applicant should be able to expect. Slavish or uncritical application of conditions is wholly inappropriate. Lists of standard conditions can usefully be made available locally, so that developers can take account of possible conditions at an early stage in drawing up their proposals. Such lists should contain a warning that they are not comprehensive and that conditions will always be devised or adapted where appropriate to suite the particular circumstances of a case.

Reasons

9. It is for the planning authority, in the first instance, to judge on the facts of the case whether a particular development proposal should be approved subject to planning conditions. By virtue of Article 22(1)(a) of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992, an authority deciding to grant permission subject to conditions must state the reasons for their decision. Where a planning authority, by virtue of Article 15 of the General Development Procedure Order, has consulted other bodies in respect of a planning application and is disposed to grant planning permission subject to a condition suggested to them by another body, the authority should ensure that the body has provided clear reasons for suggesting the imposition of the condition. Such conditions should only be imposed where they will meet clear land use planning objectives; as stated in paragraph 6 above conditions should not be used to duplicate controls available under other legislation. Reasons must be given for the imposition of every condition. It may be that more than one condition will be justified on the same basis, in which case it will be acceptable that such conditions be grouped together and justified by one reason. Reasons such as "to comply with the policies of the Council", "to secure the proper planning of the area" or "to maintain control over the development" are vague, and can suggest that the condition in question has no proper justification. The phrase "to protect amenity" can also be obscure and will often need amplification. If the reasons for the imposition of conditions are clearly explained, developers will be better able to understand the need for them and to comply with them in spirit as well as in letter. The likelihood of proper and acceptable conditions being challenged on appeal, so that development proposals are held up, will also be diminished.

Notes for information

10. Sometimes planning authorities will wish to give guidance to an applicant for outline planning permission as to the kind of details of reserved matters which they would find acceptable. A planning authority may also wish to draw the attention of an applicant to other statutory consents (eg listed building or road construction consent) which must be obtained before development can commence. This should not be done by imposing a condition: instead a note may be appended to the planning permission. A note may also be desirable to draw the attention of the applicant to his

or her right to make an application to vary or remove a condition under section 42 of the Act, or indeed for other purposes.

Planning agreements

11. Problems posed by a development proposal may be solved either by imposing a condition on the planning permission or by concluding a planning agreement under section 75 of the Act or under other powers. The Secretary of State's policy on planning agreements is set out in SODD Circular 12/1996. This makes it clear that the planning authority should normally seek to regulate a development by a condition rather than through an agreement, since the imposition of restrictions by means of an agreement deprives the developer of the opportunity of seeking to have the restrictions varied or removed by an application or appeal under Part III of the Act if they are subsequently seen as being inappropriate or too onerous. Planning authorities should note that if a certain restriction is contrary to the advice contained in this Circular it is likely to be objectionable regardless of whether it is suggested that it should be implemented by a condition or an agreement. It is ultra vires to impose a condition in a planning permission requiring an applicant to enter into an agreement. Nor should conditions imposed on a grant of planning permission be duplicated in a planning agreement.

Tests

Six tests for conditions

12. On a number of occasions the Courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the Courts' criteria for validity, conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they are:

- necessary,
- relevant to planning,
- relevant to the development to be permitted,
- enforceable,
- precise, and
- reasonable in all other respects.

Test: need for a condition

13. In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. Planning authorities should also avoid imposing conditions through anxiety to guard against every possible contingency, however remote. The argument that a condition will do no harm is no justification for its imposition; as a matter of policy a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 33 or 42 of the Act; a condition should not be retained unless there are sound and clear-cut reasons for doing so.

14. In some cases a condition will clearly be unnecessary, such as where it would repeat provisions in another condition imposed on the same permission. In other cases the lack of need may be less obvious and it may help to ask whether it would be considered expedient to enforce against a breach- if not, then the condition may well be unnecessary.

15. Conditions should be tailored to tackle specific problems, rather than impose unjustified controls. In so far as a condition is wider in its scope than is necessary to achieve the desired objective, it will fail the test of need. For example, where an extension to a dwelling house in a particular direction would be unacceptable, a condition on the permission for its erection should specify that, and not simply remove all rights to extend the building. Permissions should not, however, be overloaded with conditions. It might be appropriate, for example, to impose on a permission in a conservation or other sensitive area a requirement that all external details and materials should be in complete accordance with the approved plans and specifications, rather than recite a long list of architectural details one by one.

Completion of development

16. Conditions requiring development to be carried out in its entirety, or in complete accordance with the approved plans, often fail the test of need by requiring more than is needed to deal with the problem they are designed to solve. If what is really wanted is simply to ensure that some particular feature or features of the development are actually provided or are finished in a certain way, specific conditions to this end are far preferable to a general requirement.

17. The absence of a specific condition does not prevent enforcement action being taken against development which differs materially from the approved design. However, it may well be easier for planning authorities to enforce compliance with a condition that has been breached, than to enforce on the basis of a material variation from the approved plans or description of development. Where an application includes information, for example on likely hours of working, which significantly influence the planning decision, it may be appropriate to include a specific condition to ensure compliance with the restrictions.

Test: relevance to planning

18. A condition which has no relevance to planning is ultra vires. A condition that the first occupants of dwellings must be drawn from the local authority's housing waiting list, for example, would be improper because it was meant to meet the ends of the local authority as housing authority and was not imposed for planning reasons. Although a condition can quite properly require the provision of open space to serve the approved development (as part of a housing estate, for example) it would be ultra vires if it required the open space to be dedicated to the public. Other conditions affecting land ownership (requiring, for example, that the land shall not be disposed of except as a whole) where there was no planning justification for such a constraint would similarly be ultra vires.

Other planning controls

19. Some matters are the subject of specific control elsewhere in planning legislation, for example advertisement control, listed building consent or tree preservation. If these controls are relevant to the development the planning authority should normally rely on them and not impose conditions on a grant of planning permission to achieve the purposes of a separate system of control (but on Trees note paragraphs 77 and 78 below).

Non-planning controls

20. Other matters are subject to control under separate legislation, yet are also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable. For example, a planning condition would not normally be appropriate to control the level of emissions from a proposed development where they are subject to pollution control legislation. However, such a condition may be needed to address the impact of the emissions to the extent that they might have land-use implications and/or are not controlled by the appropriate pollution control authority. (For further advice on this subject, see Planning Advice Note 51 Planning and Environmental Protection.) A condition cannot be justified on the grounds that the planning authority is not the body responsible for exercising a concurrent control and, therefore, cannot ensure it will be exercised properly. Nor can a condition be justified on the grounds that a concurrent control is not permanent but is subject to expiry and renewal (as, for example, with certain licences). Even where a condition does not actually duplicate or conflict with another control, differences in requirements can cause confusion and it will be desirable as far as possible to avoid solving problems by the use of conditions instead of, or as well as, by another more specific control.

21. Where other controls are also available, a condition may, however, be needed when the considerations material to the exercise of the two systems of control are substantially different, since it might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives. Conditions may also be needed to deal with circumstances for which a concurrent control is unavailable. A further case where conditions may be justified will be where they can prevent development being carried out in a manner which would be likely to give rise to onerous requirements under other powers at a later stage (eg to ensure adequate arrangements for the disposal of sewage and thus avoid subsequent intervention under the Sewerage (Scotland) Act 1968).

22. As a matter of policy, conditions should not be imposed in order to avoid compensation payments under other legislation (although such a condition would not be ultra vires if it could be justified on planning grounds). Although conditions which have the effect of restricting for planning purposes the activities in respect of which planning permission is granted may reasonably be imposed without any liability for compensation arising under planning legislation, great care should be taken with conditions which would have the effect of removing future liability for compensation which might arise under other legislation. For example, a condition requiring sound-proofing measures may be appropriate to a permission for residential development

near a major road where noise levels are high. But it will be inappropriate to impose such a condition with the aim of removing the roads authority's liability to install soundproofing when proposals for major road improvement are implemented. A condition of this sort is not relevant to the existing planning circumstances, but looks to future circumstances in respect of which other legislation provides compensation for those affected.

Test: relevance to the development to be permitted

23. Unless a condition fairly and reasonably relates to the development to be permitted, it will be ultra vires.

24. It is not, therefore, sufficient that a condition is related to planning objectives: it must also be justified by the nature of the development permitted or its effect on the surroundings. For example, if planning permission is being granted for the alteration of a factory building, it would be wrong to impose conditions requiring additional parking facilities to be provided for an existing factory simply to meet a need that already exists. It would similarly be wrong to require the improvement of the appearance or layout of an adjoining site simply because it is untidy or congested. Despite the desirability of these objectives in planning terms, the need for the action would not be created by the new development. On the other hand, it is proper for conditions to secure satisfactory access or parking facilities, for example, which are genuinely required by the users of a proposed development. Conditions can also be proper where the need for them arises out of the effects of the development rather than its own features; for example, where a permission will result in intensification of industrial use of a site, a condition may be necessary requiring additional sound-insulation in the existing factory buildings. It may even be justifiable to require by condition that an existing building be demolished- perhaps where to have both would result in the site being over-intensively developed.

Test: ability to enforce

25. A condition should not be imposed if it cannot be enforced. It is often useful to consider what means are available to secure compliance with a proposed condition. There are two provisions which authorities may use to enforce conditions; an enforcement notice under section 127 of the Act or a breach of condition notice under section 145. Precision in the wording of conditions is crucial when it comes to enforcement.

Practicality of enforcement

26. Sometimes a condition will be unenforceable because it is in practice impossible to detect an infringement. More commonly it will merely be difficult to prove a breach of its requirements. For example, a condition imposed for traffic reasons restricting the number of persons resident at any one time in a block of flats would be impracticable to monitor and pose severe difficulties in proving an infringement. However, where a condition is intended to prevent harm to the amenity of an area which is clearly likely to result from the development (for example, a condition requiring an amusement centre to close at a certain time in the evening), it will not usually be difficult to monitor compliance with the condition. Those affected by

contraventions of its requirements are likely to be able to provide clear evidence of any breaches.

Whether compliance is reasonable

27. A condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. If not, subsequent enforcement action is likely to fail on the ground that what is required cannot reasonably be enforced. One type of case where this might happen is where a condition is imposed requiring the carrying out of works (eg the construction of a means of access) on land within the application site but not, at the time of the grant of planning permission, under the control of the applicant. If the applicant failed to acquire an interest in that land and carried out the development without complying with the condition, the planning authority could enforce the condition only by taking action against the third party who owned the land to which the condition applied and who had gained no benefit from the development. Such difficulties can usually be avoided by framing the condition so as to require that the development authorised by the permission should not commence until the access has been constructed.

Enforcing conditions imposed on permission for operational development

28. An otherwise legally sound condition may prove unenforceable because it is imposed on a grant of planning permission for the carrying out of operations which have not been carried out in accordance with the approved plans. Authorities should take into account the Court of Appeal's judgement in the case of *Handoll and Others v Warner Goodman and Streat (A firm) and Others*, (1995) 25EG157, which held that the judgement of the Divisional Court in *KerrierDC v Secretary of State for the Environment and Brewer* (1980) 41P&CR284, had been wrongly decided. Both cases concerned a planning permission for the erection of a dwelling subject to an agricultural occupancy condition.**

Test: precision

29. The framing of conditions requires great care, not least to ensure that a condition is enforceable. A condition, for example, requiring only that "a landscaping scheme shall be submitted for the approval of the planning authority" is incomplete since, if the applicant were to submit the scheme and even obtain approval for it, but neglect to carry it out, it is unlikely that the planning authority could actually require the scheme to be implemented. In such a case, a requirement should be imposed that landscaping shall be carried out in accordance with a scheme to be approved in writing by the planning authority; and the wording of the condition must clearly require this. A condition of this kind also sets no requirement as to the time or the stage of development by which the landscaping must be done, which can similarly lead to enforcement difficulties. Conditions which require specific works to be carried out at a certain 'time' or stage should state clearly when this must be done.

Vague conditions

30. A condition which is not sufficiently precise for the applicant to be able to ascertain what he must do to comply with it is ultra vires and must not be imposed. Vague expressions which sometimes appear in conditions, for example "keep the

buildings in a tidy state" or "so as not to cause annoyance to nearby residents", give occupants little idea of what is expected of them. Furthermore, conditions should not be made subject to qualifications, such as "if called upon to do so" or "if the growth of traffic makes it desirable", because these do not provide any objective and certain criterion by which the applicant can ascertain what is required.

Discretionary or vetting conditions

31. Conditions which attempt to provide for an arbiter to interpret such expressions or qualifications do not avoid this difficulty. Conditions requiring that tidiness, for example, shall be "to the satisfaction of the planning authority" make the applicant no more certain of what is required. Conditions which are imprecise or unreasonable cannot be made acceptable by phrases such as "except with the prior approval of the planning authority" which purport to provide an informal procedure to waive or modify their effect. Similarly, conditions restricting the occupation of a building should not set up a vetting procedure for prospective occupiers. Conditions which raise these difficulties, however, are not to be confused with conditions which require the submission of a scheme or details for approval which will, when granted, provide the precise guidelines to be followed by the developer.

Clarity

32. Conditions should be not only precise but clear. Where the wording of a condition may be difficult to follow, it may be helpful to attach to the permission an illustrative plan (eg describing sight lines required at the entrance to an access road).

Test: reasonableness

33. A condition can be ultra vires on the grounds of unreasonableness, even though it may be precisely worded and apparently within the powers available.

Conditions invalid on grounds of unreasonableness

34. A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect the amenity of the neighbourhood. However, it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run his business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the Courts, then planning permission should be refused altogether.

Avoidance of onerous requirements

35. Even where a condition would not be so unreasonably restrictive as to be ultra vires, it may still be so onerous that as a matter of policy it should be avoided. For example, a condition which would put a severe limitation on the freedom of an owner

to dispose of his property, or which would obviously make it difficult to finance the erection of the permitted building by borrowing on mortgage, should be avoided on these grounds. An unduly restrictive condition can never be made acceptable by offering the prospect of informal relaxation of its effect.

Control over land

36. Particular care needs to be taken over conditions which require works to be carried out on land in which the applicant has no interest at the time when planning permission is granted. If the land is included in the site in respect of which the application is made, such conditions can in principle be imposed, but the authority should have regard to the points discussed in paragraph 3 above. If the land is outside that site, a condition requiring the carrying out of works on the land cannot be imposed unless the authority are satisfied that the applicant has sufficient control over the land to enable those works to be carried out.

Conditions depending on others' actions

37. It is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party. Similarly, conditions which require the applicant to obtain an authorisation from another body, such as the Scottish Environment Protection Agency, should not be imposed.

38. Although it would be *ultra vires* to require works which the developer has no powers to carry out, or which would need the consent or authorisation of a third party, it may be possible to achieve a similar result by a condition worded in a negative form, prohibiting development until a specified action has been taken. Whereas previously it had been understood that the test of whether such a condition was reasonable, was strict; to the effect that there were at least reasonable prospects of the action in question being performed, the House of Lords (in the *British Railways Board v the Secretary of State for the Environment and Hounslow LBC* [1994] JPL32; [1993] 3 PLR 125) established that the mere fact that a desirable condition, worded in a negative form appears to have no reasonable prospects of fulfilment does not mean that planning permission need necessarily be refused as a matter of law. Thus, while an authority will continue to have regard to all relevant factors affecting a planning application and whether it should be granted with or without conditions, there is no longer a legal requirement to satisfy a reasonable prospects test in respect of any negative condition they may decide to impose. For example, if it could be shown that improvements to sewerage facilities for a new housing development were planned but there was no clear indication that they would be built within the time limits imposed by the permission, it might still be possible to grant consent subject to a condition that the houses should not be occupied until the relevant sewerage works were completed. It might also be reasonable to use a condition requiring that a development should not commence until a particular road had been stopped up or diverted, even if the timing remained uncertain. Planning authorities should therefore note this recent House of Lords ruling and its implications for a less restrictive view in the use of negative conditions.

Consent of applicant to unreasonable conditions

39. An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms. The condition will normally run with the land and may, therefore, still be operative long after the applicant has moved on. It must always be justified on its planning merits.

Regulation of development

Outline permissions

40. An applicant who proposes to carry out building or other operations may choose to apply either for full planning permission, or for outline permission with one or more of the following matters reserved by condition for the subsequent approval of the planning authority: the siting, design or the external appearance of the building, the means of access, or the landscaping of the site ("reserved matters"). An applicant cannot seek an outline planning permission for a change of use alone.

Details supplied in outline applications

41. An applicant can, however, choose to submit as part of an outline application details of any of these "reserved matters". Unless he has indicated that those details are submitted "for illustrative purposes only" (or has otherwise indicated that they are not formally part of the application), the planning authority must treat them as part of the development in respect of which the application is being made. The authority cannot reserve that matter by condition for subsequent approval, unless the applicant is willing to amend the application by withdrawing the details.

Conditions relating to outline permissions

42. Once outline planning permission has been granted, it cannot be withdrawn except by a revocation order under section 65 of the Act, and any subsequent approval of reserved matters does not constitute the granting of a further planning permission. Any conditions relating to anything other than the reserved matters should be imposed when outline permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those matters. So, where certain aspects of the development are crucial to the decision, planning authorities will wish to consider imposing relevant conditions when outline permission is granted. For example, it may be considered necessary to require a building to be constructed within a specified "footprint" or to retain important landscape features which would affect the setting of the building and its neighbours.

43. If the planning authority consider that, whatever the precise form the development is to take, access to the buildings should be from a particular road (or, alternatively, that there should be no means of access from a particular road), then a condition to this effect must be imposed on the outline permission. Approval of the details of the means of access to the permitted buildings can be refused on the grounds that there should not be access to the site from a particular road only if the need for such a restriction arises from the details of the development which have

been submitted for approval (eg from the density which is indicated by submitted details of the design and siting of the buildings). It is desirable that, wherever possible, notes should be appended to an outline permission to give the developer guidance as to what precise form of development will be acceptable to the planning authority.

Conditions reserving other matters

44. Authorities should seek to ensure, where possible, that conditions other than those relating to reserved matters, are self-contained and do not require further approvals to be obtained before development can begin. Where necessary, however, a planning authority may also, when granting a full or outline planning permission, impose a condition requiring that details of a specified aspect of the development which was not fully described in the application (eg the provision of car parking spaces) be submitted for approval before the development is begun. In the case of full permission such a condition can relate to details (such as landscaping) which might have been reserved matters had the application been made in outline. The applicant has the same right of appeal to the Secretary of State under section 47 of the Act if he cannot get the authority's approval, agreement or consent to matters reserved under such a condition as he has in respect of applications for approval of reserved matters.

Time-limits on the commencement of development

Statutory time-limits

45. The imposition of time-limits on the commencement of development is, by virtue of section 58 of the Act, not required for temporary permissions (see paragraphs 104-109), for permissions for any development carried out before the grant of planning permission, or for permissions granted by a development order, an enterprise zone or simplified planning zone scheme.

Time-limits on full permissions

46. Other grants of planning permission (apart from outline permissions) should, under section 58 of the Act, be made subject to a condition imposing a time-limit within which the development authorised must be started. The section specifies a period of five years from the date of the permission. Where planning permission is granted without a condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the grant of permission.

Time-limits on outline permissions

47. Grants of outline planning permission must, under section 59 of the Act, be made subject to conditions imposing two types of time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. The periods specified for the submission of applications for approval of reserved matters are: the latest of three years from the

grant of outline permission; 6 months from the date of refusal of an earlier application; and 6 months from the date on which an appeal against such a refusal was dismissed. The periods specified for starting the development are either five years from the grant of permission or two years from the final approval of the last of the reserved matters, whichever is the longer.

Variation from standard time-limits

48. If the authority consider it appropriate on planning grounds, they may specify longer or shorter periods than those specified in the Act, and must give their reasons for so doing. In the absence of specific time-limiting conditions, permission is deemed to have been granted subject to conditions imposing the periods referred to in paragraphs 46 and 47. It may be particularly desirable to adopt a flexible approach to the fixing of time-limits where development is to be carried out in distinct parts or phases; section 59(6) of the Act provides that outline permissions may be granted subject to a series of time-limits, each relating to a separate part of the development. Such a condition must be imposed at the time outline planning permission is granted.

49. A condition requiring the developer to obtain **approval** of reserved matters within a stated period should not be used, since the timing of an approval is not within the developer's control. A condition, therefore, should set time-limits only on the **submission** of applications for approval of reserved matters.

Separate submission of different reserved matters

50. Applications for approval under an outline permission may be made either for all reserved matters at once, or for one at one time and others at another. Even after details relating to a particular reserved matter have been approved, one or more fresh applications may be made for approval of alternative details in relation to the same reserved matter. Once the time-limit for applications for approval of reserved matters has expired, however, no applications for such an approval can be made.

Effect of time-limit

51. After the expiry of the time-limit for commencement of development it would be ultra vires for development to be begun under that permission; a further application for planning permission must be made.

Renewal of permissions before expiry of time-limits

52. Developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 applications for such renewals may be made simply by letter, referring to the existing planning permission, although the planning authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:

a. there has been some material change in planning circumstances since the original permission was granted (eg a change in some relevant planning policy for the area,

or in relevant road considerations or the issue by the Government of a new planning policy which is material to the renewal application);

b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or

c. the application is premature because the permission still has a reasonable time to run.

Completion of development

Completion of whole development

53. A condition requiring that the whole of the development permitted be completed is likely to be difficult to enforce. If a development forming a single indivisible whole, such as a single dwelling house, is left half-finished, it may be possible to secure completion by a completion notice under section 61 of the Act. If, however, the reason for failure to complete is financial difficulties experienced by the developer, neither a completion notice nor the enforcement of conditions would be likely to succeed. In such circumstances, the only practical step open to the planning authority, if they wish to secure the completion of the development, would be to carry it out themselves following acquisition of the land. If a large development, such as an estate of houses is left half-complete, this may be due to market changes (for example, a shift in demand from four-bedroom to two-bedroom houses) and it would clearly not be desirable to compel the erection of houses of a type for which there was no demand. Conditions requiring the completion of the whole of a development should, therefore, not normally be imposed.

Completion of elements of a development

54. Conditions may be needed, however, to secure that a particular element in a scheme is provided by a particular stage or before the scheme is brought into use, or to secure the provision of an element of a kind a developer might otherwise be tempted to defer or omit. Thus it may be desirable to require that a new access to the site should be constructed before any other development is carried out; or, where an office scheme includes a car park, that the car park is completed before the offices are occupied; or, where the scheme includes both offices and housing, that the offices should not be occupied before the houses are complete. The approach adopted must, of course, be reasonable. Taking the last example, it could well be unacceptable to require that the houses should be completed before the offices are begun; this would be likely to be an unjustifiable interference with the way the development is carried out. Or, to take another example, it could well be unacceptable to demand that all the requirements of a landscape condition should be complied with before a building is occupied; this could involve the building lying empty for many months, since such a condition will often provide for a considerable maintenance period so that trees can become established.

Phasing

55. Conditions may also be imposed to ensure that development proceeds in a certain sequence where some circumstances of the proposal, for example the

manner of infrastructure provision, makes this necessary. A condition delaying development over a substantial period is a severe restriction on the benefit of the permission granted. If land is available for a particular purpose, its commencement should not be delayed by condition because the authority have adopted a system of rationing the release of land for development.

Traffic and transport

56. The Government is planning to publish a White Paper in 1998 setting out its new integrated transport policy. This will aim, for example, to offer genuine choice to the travelling public by promoting more integrated public transport systems and to address the problems of congestion and transport related pollution. New planning guidance and advice flowing from the new policy will be issued in due course and it is likely that this will have implications for the level of parking provision which it would be appropriate to prescribe in planning conditions. Subsequent paragraphs need to be read against this general background.

Parking, public transport, walking and cycling

57. Developments often generate extra traffic, usually in the form of haulage or delivery vehicles or cars of residents, visitors or employees. Unless this demand is minimal (as it might be, for example, in the case of some very small firms) and unlikely to cause obstruction, space may need to be provided for off-street parking. Any conditions specifying the number of parking spaces should be consistent with the development plan as well as transport policies for the area. They also need to be reasonable in relation to the size and nature of the development and to satisfy the tests referred to in paragraph 12.

58. Normally a parking site separate from the road will be needed. In this case, conditions should ensure, where necessary, that space is provided for the turning of vehicles so that they do not have to reverse on to the road. Where the authority decides that it is appropriate to require the provision of car parking spaces on other land under the control of the applicant, the development must be readily accessible from the car park.

59. In certain circumstances, developers may enter into a planning agreement with the planning authority to provide off-site parking or to contribute to other transport measures directly related to the development, for example to assist public transport or walking and cycling. The provisions of such agreements should reflect Government policy as set out in SODD Circular 12/1996.

Access

60. Where a service road is needed as part of a large development for which outline permission is to be granted, it may be necessary to impose a condition requiring all access to the main road to be by means of the service road. If such a condition is not imposed at outline stage it may not be possible to secure the objective at a later stage (see paragraph 42). Similarly, if it is desired that there should be no direct access on to a main road, or that access must be taken from a particular side road, a condition to that effect should be imposed on the outline permission, as without such

a condition these restrictions could not normally be introduced when details are being considered.

61. A condition may require the provision or improvement of a service road or means of access even if such works are not included in the application, provided that they can be undertaken on the site in respect of which the application is made, or on other land which is under the control of the applicant, and relates to the proposed development. The condition should be framed so as to require the laying out or improvement of the means of access on the relevant section of the service road on defined land before the relevant buildings are occupied.

62. In considering the imposition of conditions concerning "access", planning authorities should bear in mind the definition of "road" in section 277 of the Town and Country Planning (Scotland) Act 1997 which refers to the definition in section 151 of the Roads (Scotland) Act 1984:

"any way (other than a waterway) over which there is a public right of passage (by whatever means) and whether subject to a toll or not and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes and any reference to a road includes a part thereof."
Roads fall into 2 particular categories- "public roads" and "private roads", defined in section 151 of the Roads (Scotland) Act 1984. The former are those included in a list of public roads kept by the roads authority and such roads are managed and maintained by the authority. Private roads are those over which the public has a right of passage but whose maintenance is not the responsibility of a roads authority. Such roads are maintainable privately but they are not private in any other way. They are not included in the list of public roads but there is provision in the 1984 Act under which they can be added to the roads authority's list provided they are of adoptable standard. There is sometimes confusion as to what is a private road and that term is often associated in the public mind with, for example, driveways up to private houses. These are not "roads" in terms of the Roads (Scotland) Act as there is no public right of passage over them (anyone using them does so on the sufferance of the owner) and they are, in fact, private accesses. Planning authorities should ensure that prospective developers are fully aware of the significant difference between a private access and a private road. "Private road" marked on a plan indicates that the public will have a right of passage over the land comprising the road: the developer will be required to seek from the roads authority a separate written consent to build such a road and it must be constructed to the standard required by that authority.

Lorry routing

63. Planning conditions are not an appropriate means of controlling the right of passage over public roads. Although negatively worded conditions which control such matters might sometimes be capable of being validly imposed on planning permissions, such conditions are likely to be very difficult to enforce effectively. It may be possible to encourage drivers to follow preferred routes by posting site notices to that effect, or by requiring them to use a particular entrance to (or exit from) the site. But where it is judged essential to prevent traffic from using particular

routes, the appropriate mechanism for doing so is by means of an Order under section 1 of the Road Traffic Regulation Act 1984.

Cession of land

64. Conditions may not require the cession of land to other parties, such as the roads authority.

Development of contaminated sites

Contaminated land

65. Land formerly used for many purposes, including industry and waste disposal can be contaminated by substances that pose immediate or long-term hazards to the environment or to health, or which may damage buildings erected on such sites. Contaminants may also escape from the site to cause air and surface or groundwater pollution and pollution of nearby land. The emission of gas or leachate from a landfill site may be particularly hazardous. In these circumstances, appropriate conditions may be imposed in order to ensure that the development proposed for the site will not expose future users or occupiers of the site, buildings and services, or the wider environment to risks associated with the contaminants present. Planning authorities should, however, base any such conditions on a site-specific assessment of the environmental risks which might affect, or be affected by, the particular proposed development. Conditions should not duplicate the effect of other legislative controls. The contaminated land should be remediated to a standard which is suitable for the proposed use.

66. If it is known or strongly suspected that a site is contaminated to an extent which would adversely affect the proposed development or infringe statutory requirements, an investigation of the hazards by the developer and proposals for remedial action will normally be required before the application can be determined by the planning authority. Any subsequent planning permission may need to include planning conditions requiring certain remedial measures to be carried out.

67. In cases where there is only a suspicion that the site might be contaminated, or where the evidence suggests that there may be only slight contamination, planning permission may be granted subject to conditions that development will not be permitted to start until a site investigation and assessment have been carried out and that the development itself will incorporate any remedial measures shown to be necessary.

68. Conditions might also be imposed requiring the developer to draw to the attention of the planning authority the presence of significant unsuspected contamination encountered during redevelopment. The planning authority may then require the developer to take further remediation action under public health duties. Further guidance on contaminated land is contained in NPPG 10- Planning and Waste Management. PAN 33- Development of Contaminated Land and PAN 51- Planning and Environment Protection. A new regime for identifying and remediating contaminated land is being introduced through the provision of the Environmental Protection Act 1990, as amended by the Environment Act 1995. This uses a risk-

based approach in identifying contaminated land and applies the polluter pays and 'suitable for use' principles. The role of the planning system in addressing contamination will continue alongside the new regime.

Environmental assessment

69. For projects subject to environmental assessment, conditions attached to a grant of planning permission may incorporate monitoring and mitigation measures proposed in an environmental statement where such conditions meet the criteria summarised in paragraph 12. It may be appropriate to impose conditions on the grant of planning permission and in the light of the environmental assessment, to require a scheme of mitigation covering matters of planning concern to be submitted to and approved in writing by the planning authority before any development is undertaken. Again conditions should not duplicate the effect of other legislative controls. In particular, planning authorities should not seek to substitute their own judgement on pollution control issues for that of the bodies with the relevant expertise and the statutory responsibility for that control.

Noise

70. Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. The planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise and that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Where it is not possible to achieve such a separation of land uses, planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning agreements. (See SDD Circular 16/1973.)

Nature conservation and landscape

71. Nature conservation and landscape quality can be important material considerations in determining many planning applications. Planning authorities should not, however, refuse permission if development can be permitted subject to conditions that will prevent damaging impacts on particular species, wildlife habitats or important physical features. Moreover, for some types of development, such as mineral workings, conditions can be used to provide, on completion of operations, a natural heritage asset. Conditions can also be used, for example, to require areas to be fenced or bunded off to protect them, to restrict operations or uses at or to particular times of the year, to safeguard particular views or to reinforce particular landscape features. The views of Scottish Natural Heritage (SNH) will be particularly important in assessing the impact of development on the natural heritage of an area and in framing appropriate conditions.

72. Planning authorities should bear in mind that a number of areas valued for their landscape quality or nature conservation interest are afforded statutory protection. National Scenic Areas provide the national designation for landscape. For habitats, as well as national designations (primarily Sites of Special Scientific Interest), European Community Directives on nature conservation, most notably through

Special Areas of Conservation under the Habitats Directive and Special Protection Areas under the Wild Birds Directive, are being implemented. A number of sites have also been designated under the Ramsar Convention on Wetlands of International Importance. Conditions affecting such areas will need to be consistent with the provisions applicable for their protection. Scottish Office Environment Department Circulars 13/1991 and 6/1995 are particularly important sources of information and guidance.

73. Where the primary concern relates to land management or access to natural heritage resources, planning authorities should consider whether mechanisms other than those provided under planning legislation might provide the best means of securing their objectives. Countryside Management Agreements under the Countryside (Scotland) Act 1967 as amended by the Natural Heritage (Scotland) Act 1991 provide a mechanism for securing appropriate management of natural heritage assets. Access or Public Path Creation Agreements under the 1967 Act can be used to secure appropriate access for enjoyment of the natural heritage.

Design and landscape

74. The appearance of a proposed development and its relationship to its surroundings are material considerations in planning decisions. While planning authorities should not attempt to use conditions simply to impose matters of taste, there will be circumstances where it is important to secure a high quality of design in a proposal if this is to make a positive contribution to a site and its surroundings and show consideration for its local context. This could involve, for example, specifying in conditions the use of particular design features such as materials or finishes. The appearance and treatment of the spaces between and around buildings is also of great importance. Similarly, planning authorities may wish to use conditions to ensure that important vistas are preserved or that landscape features are provided to improve the overall setting of a development.

75. Landscape design may raise special considerations. The treatment of open space can vary greatly and the objective should be to ensure that the intended design quality is achieved in practice. It is, therefore, especially important for the authority to give some advance indication of the essential characteristics of an acceptable landscape scheme- always bearing in mind that such requirements should not be unreasonable. It is of equal importance to ensure that the design proposals are reflected in the quality of works and materials in the final product. The design and implementation stages of landscape treatment may, therefore, be addressed more successfully by separate conditions, occurring as they do at different stages and under variable circumstances. The visual impact of a development will often need to be assessed as a whole and this may well involve considering details of landscape design together with other reserved matters.

Enforcement of landscaping requirements

76. To ensure that a landscape design scheme is prepared, conditions may require that no development should take place until the scheme is approved, so long as this requirement is reasonable. Enforcing compliance with landscape schemes can pose problems, since work on landscaping can rarely proceed until building operations are

nearing completion. Only on permissions for a change of use would it be acceptable to provide that the development permitted should not proceed until the landscaping had been substantially completed. Where permission is being granted for a substantial estate of houses, it might be appropriate to frame the relevant condition to allow for landscape works to be phased in accordance with a programme or timetable to be agreed between the developer and the planning authority and submitted for approval as part of the landscape design proposals. Alternatively, the erection of the last few houses might be prohibited until planting had been completed in accordance with the landscape scheme. In relation to a permission for an industrial or office building, it would be possible to impose a condition prohibiting or restricting occupation of the building until such works had been completed.

Trees

77. Section 159 of the Act places an express duty on the planning authority, when granting planning permission, to ensure whenever appropriate that adequate conditions are imposed to secure the preservation or planting of trees, and that any necessary tree preservation orders are made under section 160 of the Act. When granting outline planning permission, the authority may consider it appropriate to impose a condition requiring the submission of particular details relating to trees to be retained on the site, such as their location in relation to the proposed development and their general state of health and stability. When granting detailed planning permission, conditions may be used to secure the protection of trees to be retained, for example by requiring the erection of fencing around trees during the course of development or restricting works which are likely to adversely affect them. The long-term protection of trees, however, should be secured by tree preservation orders rather than by condition. Such orders may also be expedient for the temporary protection of existing trees until details of the reserved matters are submitted and it becomes clear whether there is a need to retain the trees.

78. The planting and establishment of new trees may need work over several months or years and the authority may wish to ensure that they obtain details of those responsible for the management and maintenance of certain planted areas during that period of time. Where appropriate, a condition may require not just initial planting, but also that trees shall be maintained over a specified period of years and that any which die or are removed within that time shall be replaced.

Sites of archaeological interest

Archaeological sites

79. Monuments scheduled as of national importance by the Secretary of State are protected by Part I of the Ancient Monuments and Archaeological Areas Act 1979. Where its provisions apply, their effect should not be duplicated by planning conditions (see paragraphs 19-21), although authorities granting planning permission in such circumstances are advised to draw the attention of the applicant to the relevant provisions of the 1979 Act.

80. Where, however, planning permission is being granted for development which might affect the setting of a scheduled monument or a non-scheduled monument or its setting, the planning authority may wish to impose conditions designed to protect

the monument or its setting; to secure the provision of archaeological excavation and recording prior to development commencing; or, if the expectation of significant archaeological deposits is low, to ensure arrangements are made for a watching brief before and during the construction period. Further advice on archaeology and planning conditions is given in NPPG 5 Archaeology and Planning and Planning Advice Note⁴² Archaeology.

Maintenance conditions

81. A condition may be imposed, where appropriate, requiring some feature of a development to be retained- car parking spaces off the road, for example, or an area of open space in a housing scheme. A condition requiring something to be maintained, in the sense of being kept in good repair or in a prescribed manner, should be imposed only when the planning authority are fully satisfied that the requirement is both relevant to the development which is being permitted, reasonable in its effects and sufficiently precise in its terms to be readily enforceable. Maintenance conditions should not normally be imposed when granting permission for the erection of buildings, or for works other than works of a continuing nature such as minerals extraction.

Conditions requiring a financial or other consideration for the grant of permission

82. As a general proposition no payment of money or other consideration can be required when granting a permission or any other kind of consent required by a statute, except where there is specific statutory authority. Conditions requiring, for instance, the cession of land for road improvements or for open space, or requiring the developer to contribute money towards the provision of facilities not directly related to the proposed development, should accordingly not be attached to planning permissions. There may, however, be certain circumstances whereby the general proposition should not apply. The appropriateness of conditions involving financial or other considerations is dependent on the particular circumstances of the development for which the planning authority intends to grant planning permission and whether, in particular, the proposed conditions satisfy the criteria in paragraph 12. Thus conditions, involving financial considerations, but which meet the tests in paragraph 12 need not necessarily be ultra vires. Planning authorities should also bear in mind the advice in SODD Circular 12/1996 on Planning Agreements.

Conditions altering the nature of the development

Modifying proposed development

83. If some feature of a proposed development, or the lack of it, is unacceptable in planning terms, the best course will often be for the applicant to be invited to modify the application. If the modification is substantial, of course, a fresh application will be needed. It may however, depending on the case, be quicker and easier for the planning authority to impose a condition modifying the development permitted in some way. The precise course of action will normally emerge during discussion with the applicant. It would thus be legitimate to require by condition that a factory

proposal, for example, should include necessary car parking facilities, but wrong to grant permission for a development consisting of houses and shops subject to a condition that houses be substituted for the shops. Whether a modification would amount to substantial difference will depend upon the circumstances of the case. A useful test will be whether it would so change the proposal that: (i) those who have shown an interest in it would wish to comment on the modification; and (ii) those who, although they had a right to object to the original application and chose not to do so, would be prejudiced if they were not now given an opportunity to comment. A condition modifying the development, however, cannot be imposed if it would make the development permitted substantially different from that comprised in the application.

Regulation after development

84. Conditions which will remain in force after the development has been carried out always need particular care. They can place onerous and permanent restrictions on what can be done with the premises affected and they should, therefore, not be imposed without scrupulous weighing of where the balance of advantage lies. The following paragraphs give more detailed guidance.

Restrictions on use or permitted development

85. Exceptionally, conditions may be imposed to restrict further development which would normally be permitted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or to restrict changes of use which would not be regarded as development whether because the change is not a "material" change within the terms of section 26(1) of the Act, or by reason of section 26(2) and the provisions of The Town and Country Planning (Use Classes) (Scotland) Order 1997. Changes of use can be restricted either by prohibiting any change from the use permitted or by precluding specific alternative uses. It should be noted, however, that a condition restricting changes of use will not restrict ancillary or incidental activities unless it so specifies. Similarly, a general condition which restricts the use of land does not remove permitted development rights for that use unless the condition specifically removes those rights as well.

Presumption against such restrictions

86. Both the General Permitted Development Order and the Use Classes Order, however, are designed to give or confirm a freedom from detailed control which will be acceptable in the great majority of cases. Accordingly, save in exceptional circumstances, conditions should not be imposed which restrict either permitted development rights granted by the General Permitted Development Order or future changes of use which the Use Classes Order would otherwise allow. The Secretary of State would regard such conditions as unreasonable unless there were clear evidence that the uses excluded would have serious adverse effects on amenity or the environment, that there was no other forms of control and that the condition would serve a clear planning purpose.

87. To illustrate some exceptional circumstances, it may be possible to justify imposing a condition restricting permitted development rights allowed by Class 7 of the General Permitted Development Order so as to preserve an exceptionally

attractive open plan estate free of fences, or under Class 1 of the General Permitted Development Order so as to avoid over-development by extensions to dwelling houses in an area of housing at unusually high density. Similarly, changes of use may be restricted so as to prevent the use of large retail premises as a food or convenience goods supermarket, where such a use may generate an unacceptable level of additional traffic or have a damaging effect on the vitality of a nearby town centre. Conditions may also limit the storage of hazardous substances in a warehouse.

Specific conditions better than general ones

88. Because of the general presumption against such restrictions on permitted development or on changes of use which are not development, it will always be necessary to look carefully at the planning reasons for any restriction and to ensure that the condition imposed is no more onerous than can be justified (see paragraph 87 above). It would not be right to use a condition restricting uses where an alternative, more specific, condition would achieve the same end. For example, where it is necessary to restrict the volume of noise emitted from an industrial site and a condition addressing the problem expressly can be used, that condition should be imposed, rather than one restricting the permitted uses. Scrupulous care in the giving of proper, adequate and intelligible reasons for imposing conditions (see paragraph 9) can help authorities to ensure that the conditions they impose are not more onerous than is necessary to achieve their objective.

Restrictions on use

89. It will be preferable if a condition designed to restrict changes of use can be drafted so as to prohibit a change to a particular unacceptable use or uses (provided the list does not become too long), rather than in terms which prevent any change of use at all. However, in certain cases a condition confining the use only to the use permitted may be necessary. In appropriate circumstances, it might be reasonable to impose a condition limiting the intensification of use of small office or industrial buildings where intensification beyond a certain point would generate traffic and/or parking problems. Conditions designed to prevent the primary use of an office building being changed to use as shops are unnecessary, as this would involve a material change of use amounting to development of land which would require planning permission.

Ancillary uses

90. Conditions are sometimes imposed restricting ancillary or incidental activities which would not normally be material changes of use involving development. Conditions of this kind can be burdensome to some technologically advanced industries. They may have a need for higher than normal levels of ancillary office, research or storage uses, or for short-term changes in uses or the balance of uses. Such conditions should, therefore, not normally be imposed on permissions for manufacturing or service industry, except where they are designed to preclude or regulate activities giving rise to hazard, noise or offensive emissions.

Conditions restricting the occupancy of buildings and land

Occupancy: general considerations

91. Since planning controls are concerned with the use of land rather than the identity of the user, the question of who is to occupy premises for which permission is to be granted will normally be irrelevant. Conditions restricting occupancy to a particular occupier or class of occupier should only be used when special planning grounds can be demonstrated and where the alternative would normally be refusal of permission.

Personal permissions

92. Unless the permission otherwise provides, planning permission runs with the land and it is seldom desirable to provide otherwise. There are occasions relating, for example, to strong compassionate or other personal grounds, where the planning authority is minded to grant permission for the use of a building or land for some purpose which would not normally be allowed. In such a case the permission may be made subject to a condition that it shall enure only for the benefit of a named person—usually the applicant. A permission personal to a company is generally inappropriate. Conditions of this type will scarcely ever be justified in the case of a permission for the erection of a permanent building.

General undesirability of commercial and industrial occupancy conditions

93. Conditions are sometimes imposed to confine the occupation of commercial or industrial premises to local firms. Such conditions can act—undesirably—to protect local businesses against fair competition and may hinder the movement of industry in response to economic demand. If a service, or the employment it generates, is needed in an area, there is no planning reason why it should be provided by one firm rather than another. Commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted, nor will the expansion of a local firm necessarily lead to less pressure for further development (eg housing) than the arrival of a firm from outside. The Secretary of State therefore regards such conditions as undesirable in principle.

Conditions governing size of unit occupied

94. Conditions requiring that a large commercial or industrial building should be occupied either only as a single unit or, alternatively, only in suites not exceeding a certain area or floorspace, represent a significant interference with property rights which is likely to inhibit or delay the productive use of the buildings affected. Such conditions should, therefore, normally be avoided.

Domestic occupancy conditions

95. Subject to the advice about affordable housing (paragraph 96), staff accommodation (paragraph 98-99), agricultural and forestry dwellings (paragraphs 100-102) and seasonal use (paragraphs 111-113), if the development of a site for housing is an acceptable use of the land, there will seldom be any good reason on

land use planning grounds to restrict the occupancy of those houses to a particular type of person (eg those already living or working in the area). To impose such a condition would be to draw an artificial and unwarranted distinction between new houses or new conversions and existing houses that are not subject to such restrictions on occupancy or sale. It may deter house-builders from providing homes for which there is a local demand and building societies from providing mortgage finance. It may also impose hardship on owners who subsequently need to sell. It involves too detailed and onerous an application of development control and too great an interference in the rights of individual ownership. Such conditions should, therefore, not be imposed save in the most exceptional cases where there are clear and specific circumstances that warrant allowing an individual house (or extension) on a site where development would not normally be permitted.

Affordable housing

96. The community's need for a mix of housing types- including affordable housing- is capable of being a material planning consideration. It follows that there may be circumstances in which it will be acceptable to use conditions to ensure that some of the housing built is occupied only by people falling within particular categories of need. Such conditions would normally only be necessary where a different planning decision might have been taken if the proposed development did not provide for affordable housing and should make clear the nature of the restriction by referring to criteria set out in the relevant development plan policy. Conditions should not normally be used to control matters such as tenure, price or ownership. Guidance on affordable housing is contained in NPPG 3: Land for Housing.

"Granny annexes"

97. Some extensions to dwellings are intended for use as "granny annexes". It is possible that a "granny annex" which provides independent living accommodation, could subsequently be let or sold off separately from the main dwelling. Where there are sound planning reasons why the creation of an additional dwelling would be unacceptable, it may be appropriate to impose a planning condition to the effect that the extension permitted shall be used solely as accommodation ancillary to the main dwelling house. The same is true for separate buildings (often conversions of outbuildings) intended for use as "granny annexes". In these cases it is even more likely that a separate unit of accommodation will be created.

Staff accommodation

98. The above considerations may equally apply to staff accommodation. Where an existing house is within the curtilage of another building and the two are in the same occupation, any proposal to occupy the two buildings separately is likely to amount to a material change of use, so that planning permission would be required for such a proposal even in the absence of a condition. Planning authorities should normally consider applications for such development sympathetically since, if the need for such a dwelling (for the accommodation of an employee, for example) disappears, there will generally be no justification for requiring the building to stand empty or to be demolished.

99. Conditions tying the occupation of dwellings to that of separate buildings (eg requiring a house to be occupied only by a person employed by a nearby garage) should be avoided. However, exceptionally, such conditions may be appropriate where there are sound planning reasons to justify them, eg where a dwelling has been allowed on a site where permission would not normally be granted. To grant an unconditional permission would mean that the dwelling could be sold off for general use which may be contrary to development plan policy for the locality. To ensure that the dwelling remains available to meet the identified need, it may therefore be acceptable to grant permission subject to a condition that ties the occupation of the new house to the existing business.

Agricultural and forestry dwellings

100. In many parts of Scotland planning policies impose strict controls on new residential development in the open countryside. There may, however, be circumstances where permission is granted to allow a house to be built to accommodate a worker engaged in bona fide agricultural or forestry employment on a site where residential development would not normally be permitted. In these circumstances, it will often be necessary to impose an agricultural or forestry worker occupancy condition.

101. Planning authorities will wish to take care to frame agricultural occupancy conditions in such a way as to ensure that their purpose is clear. In particular, they will wish to ensure that the condition does not have the effect of preventing future occupation by retired agricultural workers or the dependants of the agricultural occupant.

102. Where an agricultural occupancy condition has been imposed, it will not be appropriate to remove it on a subsequent application unless it is shown that circumstances have materially changed and that the agricultural need which justified the approval of the house in the first instance no longer exists.

Retail development

103. Out-of-centre retail developments, including retail parks, can change their composition over time. If such a change would create a development that the planning authority would have refused on the grounds of impact on vitality and viability of an existing town centre, it may be sensible to consider the use of planning conditions to ensure that these developments do not subsequently change their character unacceptably. Any conditions imposed should apply only to the main ranges of goods (eg food and convenience goods, hardware, electrical goods, furniture and carpets) and should not seek to control details of particular products to be sold. For further guidance see NPPG 8: Retailing.

Temporary permissions

104. Section 41(1)(b) of the Act gives power to impose conditions requiring that a use be discontinued or that buildings or works be removed at the end of a specified period. Where permission is granted for the development of the operational land of a statutory undertaker, however, this power does not apply except with the

undertaker's consent (see section 219 of the Act). Conditions of this kind are sometimes confused with conditions which impose a time-limit for the implementation of a permission (paragraphs 45 to 49) but they are quite distinct and different considerations arise in relation to them.

Principles applying to temporary permissions

105. In other cases, in deciding whether a temporary permission is appropriate, three main factors should be taken into account. Firstly, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provision of the development plan. Secondly, it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent. Lastly, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. Thus, the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenity of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard amenity. If it is not possible to devise such conditions and the damage to amenity cannot be accepted, then the proper course is to refuse permission. These considerations mean that a temporary permission will normally only be appropriate either where the applicant himself proposes temporary development or when a trial run is needed in order to assess the effect of the development on the area.

Short-term buildings or uses

106. Where, therefore, a proposal relates to a building or use which the applicant is expected to retain or continue only for a limited period, whether because he has specifically volunteered that intention or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an application to erect a permanent building on the land would normally be refused.

Trial runs

107. Again, where an application is made for permanent permission for a use which may be a "bad neighbour" to existing uses nearby but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. However, a temporary permission would not be justified merely because, for example, a building is to be made of wood rather than brick. Nor would a temporary permission be justified on the grounds that, although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change. In certain circumstances it may be possible to grant temporary permission for the provision of a

caravan or other temporary accommodation, where there is some evidence to support the grant of planning permission for an agricultural or forestry dwelling but it is inconclusive, perhaps because there is doubt about the sustainability of the proposed enterprise. This allows time for such prospects to be clarified.

108. A second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where road or redevelopment proposals have been postponed or in cases of hardship where temporary instead of personal permission has been granted for a change of use.

Restoration of sites

109. If the temporary permission is for development consisting of, or including, the carrying out of operations, it is important to make provision by condition for the removal of any buildings and works permitted- not merely for the cessation of the use- and for the reinstatement of the land when the permission expires. Where the permission is for temporary use of land as a caravan site, conditions may include a requirement to remove at the expiry of the permission any buildings or structures, such as toilet blocks, erected under Class 17 of the General Permitted Development Order.

Access for disabled people

110. Where a building is new or is being altered, it is usually sufficient to rely on building regulations to ensure adequate access for disabled people. However, some new development does not require building regulation approval, eg development affecting the setting of buildings (layout of estates, pedestrianisation etc) rather than the buildings themselves. Where there is a clear planning need, it may be appropriate to impose a condition to ensure adequate access for disabled people.

Seasonal use

Seasonal occupancy conditions

111. Occasionally it may be acceptable to limit the use of land for a particular purpose to certain seasons of the year. For example, where planning permission is being granted for a caravan site, the planning authority may think it necessary to impose a condition to ensure that during the winter months the caravans are not occupied and are removed for storage to a particular part of the site or away from the site altogether. Where such a condition is imposed, particular care should be taken to see that the condition allows a reasonable period of use of the caravans in each year. A similar approach may be taken where it is necessary to prevent the permanent residential use of holiday chalets, which by the character of their construction or design are unsuitable for continuous occupation. Seasonal occupancy conditions may also be appropriate to protect the local environment, or example, where the site is near a fragile habitat which requires peace and quiet to allow seasonal breeding or winter feeding to take place.

Holiday occupancy conditions

112. In recent years there has been an increased demand for self-catering holiday accommodation- whether new buildings (including mobile homes) or converted properties- which may be constructed to a standard that would equally support permanent residence in some comfort. But this accommodation may also be located in areas in which the provision of permanent housing would be contrary to national policies on development in the countryside or not in accordance with development plan policies, or both. The Secretary of State considers that the planning system should respond to these changes without compromising policies to safeguard the countryside.

113. There may be circumstances where it will be reasonable for the planning authority to grant planning permission for holiday accommodation as an exception to these policies, with a condition specifying its use as holiday accommodation only. For example, conversions of redundant buildings into holiday accommodation where conversion to residential dwellings would not be permitted may reduce the pressure on other housing in rural areas. A holiday occupancy condition would seem more appropriate in those circumstances than a seasonal occupancy condition. But authorities should continue to use seasonal occupancy conditions to prevent the permanent residential use of accommodation which by the character of its construction or design is unsuitable for continuous occupation, particularly in the winter months.

[Addendum to Circular 4/1998](#)

Planning series:

National Planning Policy Guidelines (NPPGs) provide statements of Government policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.

Circulars, which also provide statements of Government policy, contain guidance on policy implementation through legislative or procedural change.

Planning Advice Notes (PANs) provide advice on good practice and other relevant information.

Statements of Government policy contained in NPPGs and Circulars may, so far as relevant, be material considerations to be taken into account in development plan preparation and development control.

Planning circular 4/1998: Model Planning Conditions

Introduction

1. SODD Circular 4/1998, issued in February 1998, set out Government policy on The Use of Conditions in Planning Permissions. This superseded Circular 18/1986 although Appendices A and B to the 1986 Circular, which provided examples of acceptable and unacceptable planning conditions, were not cancelled. It was explained in Circular 4/1998 that further work on model conditions would be undertaken with local authority representatives and that further guidance would be issued in due course. This work has now been concluded and the Appendices to the 1986 Circular are now superseded.

2. The model conditions have been drawn up in association with development control officers from Glasgow, Inverclyde, Moray, Scottish Borders and West Dunbartonshire. They should always be read in conjunction with Circular 4/1998 and the following key elements of the Government's policy on the use of conditions are worth repeating:

- no condition should be imposed unless it meets the following tests -
 - necessary
 - relevant to planning
 - relevant to the development to be permitted
 - enforceable
 - precise, and
 - reasonable in all other respects.
- conditions must not be applied slavishly - a clear and precise reason must be given for each and every condition imposed.

3. The following points should be borne in mind when considering the use of the model conditions:

- the conditions which follow are intended as models only and may need to be adapted to the circumstances of particular cases;
- the list is not exhaustive;
- model reasons cannot be given for the imposition of the conditions shown - the reasons will vary according to the circumstances of each case.

Some examples of unacceptable conditions are included. On the right hand margin the reference, where appropriate, to the relevant paragraph in the Annex to Circular 4/1998 is given.

4. A list, again not exhaustive, of examples of satisfactory and unsatisfactory reasons for imposing planning conditions is also included.

A. TIME LIMIT FOR COMMENCEMENT

Circular Ref.: Time limits Paras 45-52 Planning Permissions Para 46 Outline Permissions Para 47

1. Planning Permissions

The development hereby permitted shall be commenced within [5]years from the date of this permission.

Note: Numbers put in square brackets as time periods can be varied with justification.

2. Outline Planning Permissions

a. Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), the means of access and the landscaping (collectively these are termed "reserved matters").

Note: This condition is appropriate in its entirety only where the outline application contained details of none of the items described as 'reserved matters' in Article 2 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992).

b. Plans and particulars of the reserved matters referred to in Condition 2 (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

c. Application for approval of reserved matters shall be made to the planning authority within [3] years from the date of this permission.

d. The development hereby permitted shall commence within [5] years from the date of this permission, or within [2] years from the date of approval by the planning authority of the last of the reserved matters to be approved.

Note: Numbers put in square brackets as time periods can be varied with justification.

Examples of unacceptable conditions

- To require that a development (except in the case of mineral workings) shall be completed within a time limit.

Explanation - This would not normally be acceptable on the grounds of unreasonableness. To be reasonable it would have to serve a clear planning objective.

- To require that development shall not be carried out until, for example, 5 years from the date of permission.
- Explanation - It would not normally be acceptable to grant permission on condition that the right to carry out development is deferred until some future

date. A suspensive condition could be useful if it served a clear planning purpose - see Model Condition A7 on page 3.

3. Details of Reserved Matters - Housing Estate

The subsequent application for the approval of reserved matters shall be accompanied by:

- i. a site layout plan at a scale of [specify] showing the position of all buildings, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
- ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
- iii. a landscaping plan at a scale of [specify] showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
- iv. details of the phasing of development;
- v. details of existing and finished ground levels, and finished floor levels, in relation to a fixed datum, preferably ordnance datum.

4. Reserving other matters

Before development commences, written approval from the planning authority must be obtained for the details of [specify].

5. Phasing of development

Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.

6. Completion of Elements of a Development

Prior to the occupation of [specify] the [specify the element] shall be completed in accordance with the approved details.

7. Conditions Depending on Others' Action

No development shall take place on the site until [specify off-site works on which implementation of the planning permission depends] have been carried out.

B. TEMPORARY PLANNING PERMISSIONS

Circular Ref: Reserving other Matters Para 44

1. The [specify development] hereby permitted shall cease on [specify date].

2. The [specify e.g. buildings/works] hereby permitted shall be removed or the use hereby permitted shall be discontinued and the land restored to [specify requirements]. Any such restoration works shall be carried out by [specify date].

C REGULATION OF DEVELOPMENT

Circular Ref: Regulation of Development Paras 40-44 Regulation after Development Paras 84-90

1. Uses

The land which is the subject of this permission shall be used for [specify use] and for no other use notwithstanding the provisions of Class [specify] of the Town and Country Planning (Use Classes) (Scotland) Order and the General Permitted Development Order [specify dates].

Note: This condition should only be used in exceptional circumstances to achieve clear planning objectives.

2. Permitted Development

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order(s) [specify relevant date(s)] no [specify development] shall be built on the site which is the subject of this application. Construction of [specify] cannot be carried out without planning permission being granted on an application made to the planning authority.

3. Hours of Use

The use hereby permitted shall not operate between [specify hours and days].

4. Hours of Operation

No machinery shall be operated, no process carried out and no deliveries received at or despatched from the site between [specify hours] from Monday to Saturday inclusive and at any time on Sundays.

5. Personal Permissions

The use hereby permitted shall be carried on only by [specify person].

Circular Ref: Personal Permissions Para 92

6. Occupancy

a. Housing related to agricultural and forestry employment

Occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed in the locality in [specify] or to a widow or widower of such a person and to any dependants.

Circular Ref: Conditions restricting occupancy of buildings and land Paras 91-103

b. Housing related to other employment

Occupation of the dwelling shall be limited to a person solely or mainly employed in [specify].

c. Granny 'Annexes'

The extension hereby permitted shall be used solely as part of the existing dwelling house, and at no time shall it be occupied as a separate dwelling.

Circular Ref: Granny 'Annexes' Paras 97

7. Restrictions on operations

a. Storage of Materials

No materials, including waste products, shall be stored on the site outwith the buildings.

b. Storage of Materials - Hazard

No [specify materials] shall be stored within [specify] metres of buildings on the site or within [specify] metres of the site boundary.

c. Stacking of Materials - Height

Stacking of [specify] on the site shall not exceed [specify] metres in height [specify datum].

d. Burning

There shall be no burning of materials outwith the building(s) on the site.

Example of an unacceptable condition

- To require that the site shall be kept tidy at all times.
- Explanation - This is vague and unlikely to be capable of enforcement.

8. Retail Development

The use of the retail units hereby permitted shall be limited to the sale of non-food goods of the following types [specify]. In any unit, the use of more than [specify percentage] of the net retail floor area for the sale of goods other than those specified shall not be permitted without the written approval of the planning authority.

9. Garages and Outbuildings

All garages and outbuildings shall be used solely for domestic purposes incidental to the use of the dwelling house.

D. DESIGN

1. Density

The development hereby permitted shall not exceed a density of [specify] dwellings per hectare, net of [specify what is excluded from the calculation of density].

Circular Ref: Design and Landscape Para 74-76

2. Materials

a. The type and colour of materials to be used in the development shall be as specified on the approved drawings/application form/letter dated [specify] unless the prior written approval of the planning authority is obtained for other materials.

b. Development shall not begin until samples of materials to be used (on external surfaces of the buildings) or (in construction of hard standings/walls/fences) have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

E. LANDSCAPE

1. Landscaping

Circular Ref Design and Landscape Paras 74-76

a. Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
- iii. location and design, including materials, of walls, fences and gates
- iv. soft and hard landscaping works
- v. existing and proposed services such as cables, pipelines, sub-stations
- vi. other artefacts and structures such as street furniture, play equipment
- vii. programme for completion and subsequent maintenance.

b. Details of the scheme of soft landscaping works shall include (as appropriate):

- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- ii. location of new trees, shrubs, hedges and grassed areas

iii. schedule of plants to comprise species, plant sizes and proposed numbers/density

iv. programme for completion and subsequent maintenance.

c. All hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the planning authority.

d. Development shall not begin until details of earthworks have been submitted to and approved in writing by the planning authority. Details shall include existing and proposed levels (in relation to a fixed datum, preferably ordnance) and contours in relation to surrounding vegetation and landform (with datum levels). Development shall be carried out in accordance with the approved details.

e. Existing trees and shrubs as shown on [specify drawing reference] on the site shall not be lopped, topped, felled, removed or disturbed in any way without the prior written consent of the planning authority.

f. Development on the site shall not begin until trees marked for retention on [specify drawing reference] have been protected by suitable fencing. Details of this fencing shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.

g. During construction work on the site, including the laying of services, no excavation shall be undertaken under the crowns of trees.

h. Before development begins a scheme for the maintenance of open space, including play areas, within the development shall be submitted to and approved in writing by the planning authority.

i. Any trees or shrubs, including hedges on the site which, in the opinion of the planning authority, are dying, severely damaged or diseased within [specify] years of planting shall be replaced by trees or shrubs of a similar specification to those originally planted.

2. Play Areas - Submission of Scheme

Before development begins a scheme for the provision of a play area as outlined [specify drawing reference] shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given. Details to be submitted include-

i. type and location of play equipment, seating, fences, walls and litter bins

ii. surface treatment of the play area

iii. proposals for the implementation/phasing of play area(s) in relation to the construction of houses on the site.

3. Play Areas - Implementation

All works required for the provision of play area(s) shall be completed in accordance with the scheme approved in writing by the planning authority.

Example of an unacceptable condition

- Provision of Dog Fouling Areas and/or a scheme shall be developed by the applicant.
- Explanation - This condition fails the test of relevance to planning.

F. NATURAL HERITAGE

1. Restrictions on Development

a. No development, including the deposit of materials during construction and the deposit of waste materials, shall take place in the area hatched [specify drawing reference].

Circular Ref: Nature Conservation and Landscape Paras 71-73

b. No construction or engineering operations shall take place on site between [specify dates], which period coincides with the breeding season of [specify].

2. Footpath Links

Before development on the site begins details of a footpath link between points A and B on [specify drawing reference] shall be submitted to and approved in writing by the planning authority. The footpath shall be constructed in accordance with the approved scheme within [specify] of the planning authority's written approval of the scheme.

3. Species Protection

Before development on the site begins, a scheme for the protection of [specify] shall be submitted to and approved in writing by the planning authority. Any [specify works or actions] shall thereafter be carried out in accordance with the approved scheme.

G. BUILT HERITAGE

1. Building Details

Details of the design of doors/windows [specify] and other architectural details [specify] shall be submitted to the planning authority in the form of drawings at a scale of [specify]. The drawings should include dimensions of doors/windows, materials [specify], etc. No work shall begin until written approval of the planning authority to the details has been given.

2. Stone Cleaning

Details of the justification for and proposed method of stone cleaning shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.

3. Stone Pointing

Details and specifications of the proposed stone pointing shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.

4. Harling

Details of the proposed harling shall be to the planning authority and no work shall begin until written approval of the planning authority has been given to these details.

5. Materials

Samples of materials [specify] to be used in the development shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.

6. Replacement of Natural Stone

The coursing and surface finish of the replacement stonework shall match, in terms of texture and appearance, the stone on the existing/adjoining building(s) [specify as appropriate]. A sample shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.

7. Archaeology

a. No development shall take place within the site until a scheme of archaeological investigation (including a timetable) has been submitted to and approved in writing by the planning authority.

Circular Ref: Archaeology Paras 79-80

b. No development shall take place until fencing has been erected in a manner and position to be agreed with the planning authority at [specify name of monument]; and no development shall take place within the fenced area until the prior written approval of the planning authority has been given.

c. The developer shall afford access at all reasonable times to any archaeologist nominated by the planning authority and shall allow him to observe work in progress and record items of archaeological interest.

Note: In relation to Model Condition G7c above, conditions should not require work to be held up while archaeological work takes place, although some developers may be willing to allow this.

H. TRANSPORT

1. Means of Access

The building/use [specify] hereby permitted shall not be occupied/commenced until vehicular, cycle and pedestrian access routes have been constructed in accordance with the approved plans.

Circular Ref: Traffic and Transport Paras 56-64

Examples of unacceptable conditions

- To require that the applicant shall construct an ancillary road as and when required by the planning authority.

Explanation - This is imprecise and unreasonable.

- To require that the land in front of the buildings shall be made available for future road widening.
- Explanation - There should be no requirement to make land available, although a condition could be framed to reserve land for future development.

2. Access for Disabled People

Development on the site shall not begin until a scheme indicating the provision to be made for disabled people to gain access to and within the site, including provision for parking, has been submitted to and approved in writing by the planning authority. The agreed scheme shall be implemented before the building/use is occupied/commenced.

Circular Ref. Access for Disabled People Para 110

3. Visibility Splays

No building or other structure or tree or shrub exceeding [specify] metres in height shall be allowed in the area shown on [specify drawing reference].

4. Parking

The car parking spaces shown on [specify drawing reference] shall be constructed and surfaced in accordance with the approved details before the building hereby permitted is occupied.

Example of an unacceptable condition

- To require that loading and unloading, and the parking of vehicles, shall not take place on the road at the front of the premises.
- Explanation - This condition seeks to exercise control in respect of a public road, which is not under the control of the applicant.

5. Cycle Racks

Before development on the site begins, details of a bicycle racking system for [specify number] bicycles shall be submitted to and approved in writing by the planning authority. The approved racking system shall be installed before the building is occupied.

6. Public Transport

Development shall not begin until details of the proposed bus/railway station(s) or stop(s) within the site have been submitted to and approved in writing by the planning authority. The development shall not be brought into operation until the station(s) or stop(s) have been constructed in accordance with the approved plans.

Circular Ref: Public Transport Paras 57-59

I. ENVIRONMENTAL CONTROLS

1. Noise

Circular Ref: Noise Para 70

a. Minimising the effect of noise on new noise sensitive development

Development shall not begin until a scheme for protecting [specify development] from noise from [specify sources] has been submitted to and approved in writing by the planning authority. The [specify development] shall not be brought into use until the measures in the approved noise prevention scheme operate to the satisfaction of the planning authority.

b. Restricting noise from industrial or commercial development

i. [Specify activities] should not take place within [specify where].

ii. The level of noise from the site shall not exceed [A] dB between [specify time] and [A] dB at any other time. The level of noise from the site is to be measured [specify location(s)].

Note: A - noise level expressed as $L_{Aeq,T}$ over a time period X (eg 1 hour). Conditions on noise must be tailored to particular circumstances and should be drawn up in consultation with environmental health officers.

2. Contaminated Land

Circular Ref: Development of Contaminated Sites Paras 65-68

Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:

i. the nature, extent and type(s) of contamination on the site

ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.

iii. measures to deal with contamination during construction works

iv. condition of the site on completion of decontamination measures.

Before any [specify e.g. residential/commercial/business/retail] unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

3. Drainage/Sewage Disposal

None of the dwellings shall be occupied until the drainage/sewage disposal works have been completed in accordance with the submitted plans.

4. Hot Food Shops

The hot food shop shall not start trading until the flue and ventilation systems are operational in accordance with details approved in writing by the planning authority.

Example of an unacceptable condition

- Certification by ventilation engineer that kitchen equipment will meet prescribed standards.

Explanation - This is not a matter for planning legislation.

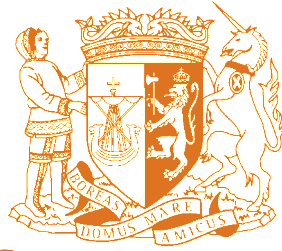
SATISFACTORY AND UNSATISFACTORY REASONS

Reasons should be specific and explain clearly but succinctly why the condition is being attached to the permission. It should not state the obvious, or simply repeat the terms of the condition. The following are examples of satisfactory and unsatisfactory reasons.

Subject	Issue	Unsatisfactory reasons	Satisfactory reasons
Regulation of use	Hours of opening	In the interests of residential amenity.	To protect occupants of nearby housing from noise/disturbance late in the evening.
Design	Materials	In the interests of visual amenity.	To ensure that the extension matches the external appearance of the existing building and thereby maintains the visual quality of the area.
Landscape	Tree	In the interests of	To maintain the contribution

	protection	visual amenity.	of existing trees to the landscape quality of the area.
Transport	Visibility splays	In the interests of traffic safety.	To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.
	Hard surface first (x) metres of driveway	In the interests of traffic safety.	To prevent loose material being carried onto the public highway/footpath in the interests of traffic safety.
	Turning circle	In the interests of traffic safety.	To allow adequate space for vehicles to turn and exit the site in forward gear in the interests of traffic safety.
Environmental Control	Road traffic noise	In the interests of residential amenity.	To protect local residents from traffic noise.
	Odours/ cooking	In order to safeguard the property itself and the amenity of the surrounding area.	To protect local residents from nuisance resulting due to the disposal of cooking odours.

Enquiries about the contents of this document should be addressed to Susan Whitty, The Scottish Office, Planning Services Division, Room 2-H, Victoria Quay, Edinburgh EH6 6QQ (0131 244 7551) or by e-mail to susan.whitty@scotland.gov.uk. Further copies may be obtained by telephoning (0131 244 7066).



ORKNEY
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Developer Contributions and Good Neighbour Agreements



Supplementary Guidance
October 2013

Planning in Orkney

The Orkney Local Development Plan (the Plan), together with Supplementary Guidance sets out the policies and criteria against which planning applications submitted in Orkney will be considered. All of the policies in the Plan are afforded equal weight in the determination of planning applications. It is therefore important to ensure that your proposal accords with all relevant policies.

This guidance sets out detailed advice to help you meet the requirements of the Plan. It is therefore recommended that the document is read in conjunction with the policies contained within the Plan and any Supplementary Guidance relevant to the type of development proposed.

The Council's Development Management Officers deal with planning applications and they would welcome the opportunity to discuss development proposals before any application is submitted.

Copies of this document

This document is available as a hard copy or in digital format. Please see www.orkney.gov.uk

Telephone: 01856 873535

Email: planning@orkney.gov.uk

Website: www.orkney.gov.uk/Service-Directory/D/Development-Management.htm

A glossary of planning terms used within the Council's planning policy documents and supplementary guidance can be found online at:

<http://www.orkney.gov.uk/Service-Directory/G/Glossary-of-Planning-Terms.htm>

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Introduction



1.1 BACKGROUND

Orkney Islands Council is committed to the creation of sustainable communities and economic development within the County. In order to ensure that the quality of life enjoyed in an area is not compromised by new development, the Council consider it is essential that new and existing communities are supported by an appropriate level of infrastructure, facilities and services. In some situations development proposals will have adverse impact on these, either directly, or by the introduction of increased burdens or pressures on facilities or amenities. In such circumstances it will be appropriate for the developer to include proposals for the mitigation of any adverse effect. In order to facilitate development and preserve the quality of life it is good practice to apply a consistent and equitable policy for the basis for and the Council's expectations of developer contributions towards such mitigation.

Those development proposals identified as being potentially responsible for any increased burdens upon services, facilities or infrastructure must provide contributions towards the financial costs of enhancing them to a level commensurate with the increased burdens. Where the anticipated impacts of the development can be mitigated by planning conditions, these will be used in preference to any legal agreement. In other cases the developer may offer, or may be asked, to enter into a planning obligation in terms of section 75 of the TCPSA 1997.

Planning obligations entered into under section 75 may include payment of monies. It should be clearly understood that the provision of a financial payment or other 'in kind' contribution will never be used as a reason to approve a development proposal that is contrary to planning policy and is unacceptable on planning grounds. However, where a development is otherwise acceptable, developer contributions can provide a mechanism for applicants to fund or contribute to the provision, enhancement and/or maintenance of infrastructure, facilities and services to overcome constraints or to facilitate a given proposal, to the extent that the proposals may be rendered acceptable.

While this guidance establishes a process for developer contributions arising under the Planning Acts, this policy framework also provides guidance on developer contributions that may arise under other legislation.



1.2 PLANNING POLICY

This Supplementary Guidance is being promoted in connection with Policy SD3, Infrastructure Delivery and Developer Contributions, of the Orkney Local Development Plan. This guidance and policy SD3 should also be read in conjunction with the Settlement Statements within the Local Development Plan and any adopted Masterplans or Development Briefs, which outline those infrastructure constraints in each of the Towns, Villages and Rural Settlements, that are known to the Planning Authority.

Where planning obligations, as opposed to conditions, will be required the principles established in SG Circular 3/2012 – Planning Obligations and Good Neighbour Agreements are reflected in Policy SD3 and this Supplementary Guidance. In summary, the circular establishes the following policy tests for the appropriateness of a planning obligation by a developer; all of which should be met.

- Necessary to make the proposed development acceptable in planning terms
- Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should be relevant to development plans;
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area
- Fairly and reasonably relate in scale and kind to the proposed development
- Reasonable in all other respects

POLICY SD3

Infrastructure delivery and developer contributions

Development must be accompanied by the infrastructure, services and facilities required to support new or expanded communities and the scale and type of developments proposed and will be supported where;

1. The applicant makes a fair and reasonable contribution, in cash or in kind, towards the cost of public services, open space, community facilities and/or infrastructure and the mitigation of adverse environmental effects, which is directly related to the development proposal and where the need for the contribution arises from its implementation (this will include cumulative effects that can reasonably be predicted);
2. The applicant agrees, where necessary, to make a fair and reasonable contribution to the cost of infrastructure or of community facilities that have already been delivered by public sources, but which are directly related to the cumulative effect of the development; and
3. Such contributions are consistent with the scale and nature of the development and are based on the requirements set out in the settlement statements.

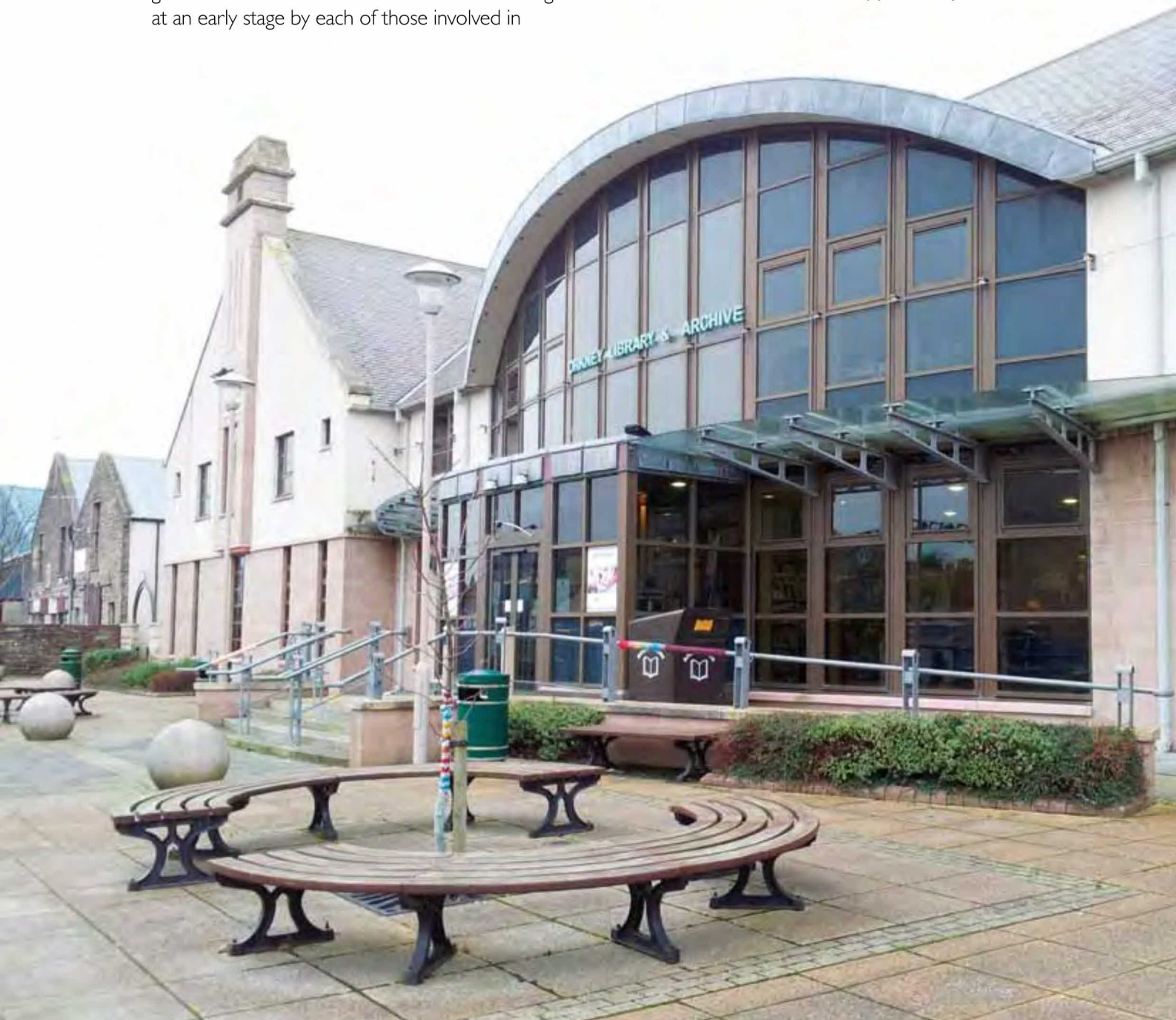
In all cases, the need for, and scale of, any contribution will be reviewed in the light of circumstances at the time the planning application is made and planning permission will only be granted following the establishment of a financial mechanism to secure the necessary funding (for example, a letter of credit or financial bond) or through conclusion of a Section 75 planning agreement. Further guidance is provided in them Supplementary Guidance Developer contributions.

I.3 HOW TO USE THIS GUIDANCE

This guidance provides an overview of the types of development from which contributions may be sought, and the infrastructure, facilities and services that it may be appropriate for them to contribute towards. It sets out the basis for a consistent and transparent approach to implementing Policy SD3 infrastructure Delivery and Developer Contributions. It should be noted however that this document serves only as a guide and that each application must be assessed on its own merits. A primary objective of this guidance is to facilitate informed decision making at an early stage by each of those involved in

the development process. This allows potential financial implications of any required developer contributions to be factored into development appraisals prior to any major commercial decisions being undertaken.

Whilst it is appreciated that certain levels of mitigation could potentially render a proposed development commercially unviable, and all steps should be taken to ensure that any mitigation is proportionate to the proposal, where a proposed development cannot deliver the level of mitigation to make it acceptable in planning terms, it will not be supported by the Council.







What contributions may be sought towards

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The following list (Page 6) exemplifies where developer contributions may be sought, and provides a broad indication of how need will be assessed in each case. The list is in no way exhaustive but it does serve to demonstrate the types of infrastructure toward which contributions would normally be sought. Further detail on the circumstances applicable to each of the areas below can be found within Part 5 Developer contributions of this guidance.

Where contributions will be required toward the above infrastructure, facilities and services, or any other identified upgrade, the developer will be made aware at the earliest possible opportunity in the planning application process and will be provided with a reasoned justification for why the contribution is being sought.


It is important to note that this guidance does not directly relevant to the provision of water and drainage, electricity and telecoms infrastructure as these services are controlled by public sector bodies and private supply companies and the specific standards, specification and requirements relating to each are out with the control of the Council.

Potential Developer Contributions	Basis of Assessment of Potential Need
Strategic Flood Risk Defences	Where the development of a site could/would not otherwise be supported without Strategic Flood Risk Defences being implemented prior to development taking place.
Affordable housing	As set out in the affordable housing supplementary guidance
Transport and Roads	The ability of the existing transportation infrastructure to absorb the effect of the new development without prejudice to traffic safety and traffic flows, including without prejudice to the generality whether it would increase congestion on the existing network and thereby lead to a requirement for new infrastructure for any modes of transport.
Open space, outdoor access and landscaping	The requirement for new or enhanced community open space provision, whether amenity or active; enhancements to the green network; or outdoor access nearby, taking account of the Core Path Plan and any required strategic landscaping.
Education and Library provision	The ability of the existing schools and education facilities and library provision to meet the needs of the community after the development
Recycling facilities and waste management	The capacity of existing Waste Transfer Stations and Waste Collection to absorb the waste outcomes of the development
Arts and Heritage	Whether there would be significant benefit from public art being an intrinsic element of the development proposal, or providing interpretation for Historic Monuments with public access.

TABLE 1 –Types of Developer Contributions







When contributions may be sought

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In principle, all applications of any size or type may generate the need for mitigation through developer contributions. However, those development types in Orkney where contributions are likely to be anticipated will include residential development, town centre mixed use development, business and industrial development associated with the Marine Renewables industry, and wind turbines. The Local Development Plan Settlement Statements and any adopted Masterplans or development briefs outline infrastructure constraints in each of the Towns, Villages, and Rural Settlements that are known to the Planning Authority. However, in addition, the development of windfall sites and proposals for non-domestic developments, and applications for multiple house sites out with the settlements may also be required to make developer contributions where appropriate.

Where land is in single private ownership, and a development brief is not a requirement, a planning obligation may be agreed at the Planning in Principle stage to ensure a holistic approach to the development of the entire site is achieved. This may relate directly to the phasing of the development process and will ensure that the landowner fully understands any financial implications, and that the Council appreciates the development economics, of the proposal at an early stage in order that they may be factored into any scheme and are included in the agreement.

All proposals, which are likely to result in the need for new or enhanced infrastructure, facilities or services, should make an appropriate contribution that is proportionate to the scale and anticipated duration, or length of lease, of the proposed development. The Local Development Plan Settlement Statements identify infrastructure upgrade requirements specific to each of the Towns, Villages and Rural Settlements and, in addition to this, Development Briefs and Masterplans will also be used to establish developer contribution requirements on sites of a key and strategic nature.

Requirements for developer contributions do not result exclusively from large scale developments and the cumulative impacts of small and medium scale developments may also necessitate developer contributions.

The key tests to establish whether or not a contribution may be sought are provided within Circular 3/2012 and are outlined below.

- Necessary to make the proposed development acceptable in planning terms
- Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should be relevant to development plans;
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area
- Fairly and reasonably relate in scale and kind to the proposed development
- Reasonable in all other respects

Developer contributions will only be sought where it is ascertained that the proposal satisfies each of these key tests.

Development Viability

The Council accepts that there may be circumstances when the application of contributions is not necessary, reasonable and/or

may adversely affect the viability of the proposed development. Any exemption, either in whole or in part is at the discretion of the Council. The Council has identified the following circumstances when it would consider exemptions from contributions.

- Exemptions relating to the redevelopment of a site where it is effectively demonstrated that the proposal would reduce the present demands on existing infrastructure, facilities and services –contributions to services, infrastructure, and facilities will not normally be sought from redevelopment schemes which result in a net decrease in development.
 - Concession for derelict and contaminated brownfield sites –the removal of dereliction and contamination is seen as a significant planning benefit. Exceptionally, where it can be demonstrated that the cost of such removal would render the development economically unviable, the council will require independent verification of the site development costs, prior to agreeing any such relaxation.

Whilst it is appreciated that certain levels of mitigation could potentially render a proposed development commercially unviable, and all steps should be taken to ensure that any mitigation is proportionate to the proposal, where a proposed development cannot deliver the level of mitigation

to make it acceptable in planning terms, it will not be supported by the Council.

Economic climate

Depending on the prevailing economic climate, housing markets and availability of development finance, commercial project viability can be significantly affected and as such the effective coordination of development costs with revenues can be critical to project viability. The contribution settlement points(s) within anticipated development programmes will be negotiated, agreed and factored into S. 75 legal agreements in a manner which will assist with facilitating the build out of proposed projects where it can be clearly demonstrated that developer contributions would render the development commercially unviable.

If an applicant can demonstrate to the Council on a confidential 'open book' basis that a strict application of policy would render an otherwise commercially viable development unviable, then contribution requests may, where appropriate, be negotiated and varied. In the instance where strategic upgrades had already been carried out, the council would require to agree to waive this requirement. Any variation would be at the discretion of the Council. Where there is a dispute between the Council and the applicant the Council may require the appraisal to be tested by an independent third party, appointed by the

Council (and subject to client confidentiality), at the applicants expense, in order to corroborate any commercial non viability.

Where the developer believes that any requested contribution will render the development unviable, applications should be supported by a viability assessment. It is important that these are supported by adequate comparable evidence. For this reason, it is important that these are prepared by a suitably qualified practitioner. This ensures that appropriate assumptions are adopted and judgement formulated in respect of inputs such as yields, rents, sales periods, costs, profit levels, and finance rates to be assumed in the appraisal. This should be carried out by an independent practitioner and a suitably qualified surveyor.

In the event a planning application needs to be reported to committee, any viability assessment would be available to committee members as a private report. The committee will determine the application on the basis of its specific merits and benefits of facilitating its delivery, weighted against the costs to the Council of reducing development contribution liability.

To facilitate the delivery of development, the Council are, in principle, open to phased payments of contributions and other more flexible methods of infrastructure delivery. This should be discussed with the Council at the earliest opportunity.



How contributions will be secured



Where a planning permission cannot be granted without some restriction or regulation, and before deciding to seek a planning obligation, the planning authority should consider the options at 4.1 - 4.3 below in sequence.

4.1 PLANNING CONDITIONS

Planning conditions are generally preferable to a planning or legal obligation, not least as they are likely to save time and money for all concerned. The guidance contained in Circular 4/98: The use of Conditions in Planning Permissions should be followed.

4.2 ALTERNATIVE LEGAL AGREEMENTS

For example, an agreement made under a different statute, such as the Local Government (Scotland) Act 1973, the Countryside (Scotland) Act 1967, the Sewerage (Scotland) Act 1968, the Roads (Scotland) Act 1984 etc. A planning obligation is not necessary where the obligations for a landowner or developer may be implemented, for example, by a one-off payment towards the cost of infrastructure provision or the maintenance of open space.

There should be a presumption that this option be used where contributions are being sought for community benefits which, while desirable, do not directly serve a planning purpose. Such benefits might include, for example, provision of infrastructure which is desirable but not essential.

While it would be for a planning authority to satisfy itself that a legal agreement was required, a legal agreement made under other legislative powers would not necessarily be required to meet all the policy tests required of planning obligations.

4.3 PLANNING OBLIGATIONS

Planning authorities should be clear that a planning obligation is only necessary where successors in title need to be bound by the required obligation, for example where phased contributions to infrastructure are required.

Planning Obligations are registered as a burden against the title to the application site. Negotiations should start early in the planning process in order to establish the heads of terms of a proposed

agreement in advance of the application being determined.

Unilateral Agreements

These are a new aspect of section 75 planning obligations introduced by 2006 Act providing that a person may unilaterally propose and draft a planning obligation in respect of land they own or control. If a developer proposes a unilateral obligation, the Development Management officer would consider this as part of the assessment of the planning application.

All planning obligations require to be fully agreed and legally completed as enforceable to the satisfaction of the Council and their legal advisers before any notice of planning permission can be issued. Unrecorded section 75 obligations involving the payment of monies will require an enforceable unilateral obligation, or the payment of funds, before release of the decision notice.

It should be noted that applicants will be liable for their own and the Council's legal expenses resulting from securing the planning applications.

It should also be noted that in some circumstances it may be appropriate and necessary to secure the delivery of development contributions in kind through the use of planning conditions dealing with the timing or phasing or commencement of operation of the development in addition to or in substitution for any section 75 or other obligation, and the Council reserves its right to do this in appropriate cases.

4.4 FINANCIAL BONDS

In certain situations a developer will be required to demonstrate evidence of a financial bond to be index linked to appropriate timescales to cover the cost of decommissioning or site reinstatement prior to the commencement of development. Such situations would be controlled through the use of suspensive conditions as opposed to legal agreements or planning obligations. Further information can be obtained by contacting Development Management.







Developer contributions

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It is anticipated that an overview of indicative costs for various infrastructure, facilities and service upgrades and maintenance will be produced by Orkney Islands Council on an annual basis and this will be made available to potential developers on request.

Where necessary, relevant council services will be consulted in relation to planning applications.

5.1 STRATEGIC FLOOD RISK DEFENCES

Strategic Flood Risk Defences are location specific to areas of Kirkwall, Stromness and St Margaret's Hope. Development Briefs, or associated guidance, will be produced to establish developer contribution requirements for these specific projects.

In those cases where the development of strategic flood risk defences are to be undertaken by the Council in order to release land for future development, the total cost of the delivery will be calculated and each subsequent development proposal within the area released will be expected to make a fair and equitable financial contribution toward the defences.

5.2 AFFORDABLE HOUSING

As a general rule, affordable housing should be delivered on site to support the creation of mixed sustainable communities. However, there may be special circumstances where this is not the best solution and either off site provision or a developer contribution (also referred to as a commuted payment) towards the provision of affordable housing will be appropriate.

Developer contribution requirements associated with Affordable Housing are set out in the Affordable Housing Supplementary Guidance.





5.3 TRANSPORT AND ROADS

Local Transport Strategy

The Local Transport Strategy establishes the Transport framework for Orkney. As the strategy was written to cover the period 2007–2010, the document is due to be reviewed once the National Transport Strategy has been updated. The strategy guides policy and investment on transport within Orkney Islands Council and also within partner bodies involved in the delivery of transport infrastructure and transport services in Orkney.

The Local Transport Strategy establishes the Land use Planning Strategy Intervention, which is intended to ‘ensure that all significant developments are accompanied by a Transport Assessment and a Travel Plan, and seek opportunities to obtain developer contributions

to enable improvements to the travel network’. The LDP contains details of roads infrastructure required to support development of allocated land and further information is provided in specific development briefs and Masterplans. Where this information is not already provided, contributions toward infrastructure improvements may still be required where deemed necessary by local conditions or as a result of a Transport Impact Assessment.

The Orkney Islands Council Roads Development Guide 2006 currently sets out infrastructure requirements that particular developments need to comply with. It should be noted that this document is due to be reviewed during 2013, and that the content of Designing Streets –A Policy Statement for Scotland (2010) is also of particular relevance in the determination of planning applications.

Roads Network and Infrastructure

New roads and infrastructure which is required to enable development of land will normally be designed and constructed by the Council, and developer contributions may be required towards these costs by the subsequent owners or occupiers of sites within this wider area. For example at Hatston and Lyness Enterprise Areas.

Where there is an identified impediment to development in the form of capacity, or another deficiency with an adopted road, it may be appropriate for developer contributions to be provided to upgrade a section of the road prior to the occupation or commencement of the development. These will be negotiated on a case by case basis. This may require the provision of new roads, footways, footpaths, cycle tracks, car parking or passing places and associated infrastructure including drainage and street lighting. In some circumstances it may only be necessary to carry out alterations or improvements to the existing infrastructure as previously mentioned.

Developers should engage with the council as Roads Authority at the earliest possible opportunity in order to identify potential works required to the road network and associated infrastructure. These works could be implemented either by the developer carrying out the works themselves in advance of consent being issued or through the Council seeking contributions in the form of a cash payment of bond in order to carry out the work. In the case of third party ownership of any land required for necessary upgrades, all parties may be required to enter a Planning Obligation.

Masterplans and Development Briefs will be used to establish any strategy for amendments to the existing roads network, and for infrastructure upgrades in key strategic locations. These will seek to establish a developer contributions strategy in these areas wherever possible.

Any person, other than a local roads authority, wishing to construct a new road or extend an existing requires construction consent from the local roads authority.

Public transport

Where it is anticipated that a proposed development would result in increased pressure on existing public transport infrastructure, a developer contribution may be required. To assess this, OIC Transportation, who work closely with the public service operators to monitor the usage and projected usage of public transport infrastructure, will be consulted when new development proposals are brought forward. In the case that one developer is responsible for the development of the site, they will be required to pay for the infrastructure upgrade in full.



Parking

Parking requirements for new developments across the County will vary depending on their location. In the centre of Kirkwall, Stromness and some of the other larger settlements, it may not be possible to deliver parking provision to the standards set out in the Roads Development Guide given the size of some sites. Whilst the requirement to deliver parking is waived within the County's conservation areas, where in the case of a town centre location it can be clearly demonstrated that it is not possible to deliver the required parking provision, but where the development is otherwise acceptable in planning terms, the requirement for onsite parking may be offset by the delivery of a developer contribution the alternative means below:

- Sustainable transport
- Traffic management
- New or improved public parking facilities within the settlements

Other location specific parking requirements will be established in Development Briefs and Masterplans wherever possible.



fund the necessary works at an appropriate alternative location.

o outdoor Access

Green networks are identified in the Settlement Statements to improve connectivity between areas of open space, trees and woodland and areas of high biodiversity value to improve the quality of life and sense of place within settlements. The retention of green networks will be required, and developer contributions toward the enhancement of the existing and future green networks, both within an application site and linking into the wider green network, may be required. Details of any upgrades will be agreed with the Council’s Environmental Policy Officer and Access Officer. Core path plans identify the location of all the core paths and wider access paths in Orkney. Any development proposal which will affect the path network, either by generating a need to divert the path or by intensification of use, will be expected to make contributions towards its diversion, upgrade or extension as appropriate. The specifications of any such works will be agreed with the Council’s Access Officer and reference should be made to the Fieldfare Trust Accessibility Standards as a common starting point.



5.4 OPEN SPACE, Ou TDOOR ACCE SSAND LANDSCAP ING

o pen space

The Orkney Open Space Audit, which forms part of the Orkney Open Space Strategy will indicate where there is a requirement for open space on a settlement by settlement basis. Development would not normally be supported where it would result in the loss of existing Open Space within the settlements. However, in such instances, a development may be acceptable where Open Space of an equal or greater quality is provided off site within the same settlement and where this is the subject of an appropriate planning obligation.

Where additional or enhanced open space provision is required in order to mitigate the impact of a proposed development, and where this will not be provided on site, the Council may require the developer to provide a financial contribution that will be used to



I andscaping

Strategic landscaping should be designed to ensure that all major developments integrate as fully as possible with their surroundings.

This will be specified in Development Briefs wherever possible. It is expected that strategic landscaping will normally be delivered as part of the development itself and it is therefore unlikely that the Council will seek developer contributions towards its delivery unless the site is within multiple ownership, although in some circumstances off site works may be appropriate and may require a developer contribution.

5.5 EDu CATION

If development is proposed in a school catchment area where the Council has no programmed expenditure for the development of the school, new development may not be supportable. To alleviate pressure on schools and other education facilities as a result of enhanced demand and wear and tear from new populations as a result of new housing, contributions could also be appropriate towards the refurbishment of school play areas, renewed or desirable equipment and learning materials for schools, IT, community education i.e. adult literacy programmes at the Learning Link, and Council run youth clubs. Similarly, outwith Council run services, developer contributions may be appropriate for enhancements to the facilities of community schools and halls run by community associations to reflect enhanced use.



5.7 REC yCLING AND WASTE MANAGE MENT

Where development would be likely to result in significant new pressure on waste management, contributions could be required towards upgrades to waste transfer station, recycling provision and towards refuse collection associated with increases in housing numbers.



5.8 ARTS AND HERITAGE

The requirement for Public Art and enrichment of heritage assets will be identified within site-specific Development Briefs or to offset the loss of open space within settlements and a developer contribution mechanism will be established where appropriate.



5.6 LIBRARIES

Where new development can be expected to place enhanced pressure on library facilities, contributions could be appropriate towards strengthening facilities and services to meet new demand, including adult learning, electronic equipment and staffing.



Process for negotiating and securing developer contributions



The process of negotiating and agreeing planning obligations and other legal agreements takes place in tandem with the Development Management procedures followed by the Council in the determination of planning applications.

Where any legal agreement is to be undertaken or unilateral undertaking tendered this will normally be undertaken as part of the planning application process by the Development Management Officer if necessary with legal advice at the council's sole discretion.

In those cases where the Council is to undertake infrastructure upgrades in advance of site specific works, the total cost of the delivery will be calculated and each subsequent development will be expected to make a fair and equitable contribution prior to the occupation of their development.

It is anticipated that financial negotiations will take place independently of Development Management but concurrently with the planning application process.



Good Neighbour Agreements



The provisions in the primary legislation and regulations in respect of Good Neighbour Agreements (GNA) broadly follow a similar approach to those set out for planning obligations, although there are a number of significant differences.

8.1 PARTIESTO A GNA

A GNA is entered into between a person, for example a landowner or developer, and a community body (as opposed to a planning authority). A community body is defined as being either:

- the community council for the area in which the land in question (or any part of that land) is situated; or,
- a body or trust whose members or trustees have a substantial connection to the land in question and whose object or function is to preserve or enhance the amenity of the local area where the land is situated.

In the case of a body or trust, other than a community council, the body must be recognised (and notified) by the planning authority as meeting the criteria set out in the second bullet point above.

There is no provision in the legislation for any person to propose or enter into a unilateral GNA.

8.2 SCOPE OF A GNA

A GNA may govern 'operations or activities relating to the development or use of land, either permanently or during such period as may be specified in the agreement'. A GNA may make provision, for example, that information is provided to the community body regarding the nature and progress of development on a site. It should be stressed, however, that a GNA may not require any payment of monies.

As with a planning obligation, a GNA (to which an owner of the land is a party) may be registered in the Land Register of Scotland or the General Register of Sasines, making it enforceable against future owners or occupiers of the land.

A GNA should not be viewed as an alternative to a planning obligation. A planning authority should not seek to make it a requirement for the grant of planning permission that a GNA be put in place.



Further information



COMMUNITY BENEFIT

The Council has a separate and independent approach to obtaining payments through contributions in cash or in kind in relation to Community Benefit which lies out with the scope of this document. Such payments may be made in relation to wind energy developments or other applications where there may be a degree of community disruption, for example relating to mineral extraction sites. Further information on Community Benefit can be found on the Council's website or in documents such as PAN 50 Minerals.

OTHER RELEVANT DOCUMENTS

Scottish Planning Policy
Scottish Government Circular 4/1998 –Planning Conditions
Scottish Government Circular 3/2012 –Planning Obligations and Good Neighbour Agreements.
www.scotland.gov.uk

Sewers for Scotland 2nd Edition
www.scottishwater.co.uk

SuDS Manual
SuDS for Roads Manual
www.ciria.org



Planning Handling Report

Determination under delegated powers

Planning Application No.:	24/028/PP
Application address:	North Church (Land Near), Shapinsay, Orkney, KW17 2EA
Proposal:	Erect a house with an air source heat pump

National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 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 NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. In the current case, there is not considered to be any incompatibility between the provisions of NPF4 and the provisions of the Orkney Local Development Plan 2017, to merit any detailed assessment in relation to individual NPF4 policies.

This proposal has been considered against relevant development plan policies and has been judged to comply. There have been no objections and any matters raised by consultees have been addressed by planning conditions. There are no other material considerations that warrant a decision other than approval. Full details of the proposal, plans and consultation replies can be viewed via the On Line Planning facility on the Orkney Islands Council web site.

Reasons for approval or refusal:	<p>This proposal seeks to erect a one- and three-quarter storey house with an air source heat pump with access onto Brecks Road. The site is within a distinct parcel of land adjacent and to the west of North Church. The application was accompanied by a Noise Impact Assessment in relation a wind turbine located 170 metres to the west of the site, a Biodiversity Enhancement form and correspondence from RSPB Scotland.</p> <p>As a house site on Shapinsay the 'Isles Approach' is pertinent as per Spatial Strategy SS.4 together with Policy 5C 'The Isles Approach for Housing' of the OLDP. These policies being generally in favour of development and specifically housing, in this instance. Noting the planning history of the site, this site has previously been subject to permission granted for the development of a house per 07/628/PPF which is considered to have lapsed.</p>
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The scale, orientation and form of the proposed development is considered as acceptable. The material finishes, appearance and setting within the site is also considered as acceptable for the proposed development. This is as detailed on plans subject to approval and as such can be adequately secured upon approval of such without need for additional planning conditions.

No adverse comments have been received from Road Services with regards roads matters subject to appropriate planning conditions for junction of access with the public road and works to passing place on the Brecks Road.

Consideration has been given to impacts arising from the wind turbine to the west of the site. Data as submitted has been accepted by Environmental Health with no objection arising.

Given separation distance from other properties no significant amenity concerns are considered to arise and no condition in relation to the proposed ASHP is indicated by Environmental Health. Given light pollution concerns and guidance per Amenity and Minimising Obtrusive Lighting advice a condition to secure appropriate external lighting is considered as appropriate.

Private foul and surface drainage are achieved on site. Secure by appropriate condition(s).

Water supply capacity to this site has previously been raised as a matter by Scottish Water. It is advised that the developer pursues confirmation of capacity to serve the site direct from Scottish water and as advocated within their response dated 12th March 2024.

Biodiversity measures proportionate to the nature and scale of the proposed development have been included, as described in the submitted Biodiversity form (version published 13 March 2024) and shown on the 1:200 Location and site plan drawing (dated January 2024). A condition is required to ensure the proposed biodiversity measures are carried out and therefore contribute to meeting the requirements of National Planning Framework 4 (NPF4) policy 3 on biodiversity.

Planning History

07/628/PPF - Erect house. Granted subject to conditions. It is noted that Scottish Water at the time of their consideration in 2007 that there may be insufficient capacity to serve the development.

Consultations

No adverse comments have been received from consultees with any matters arising being subject to condition(s) and/or informatives as necessary.

One third party comment noted. This comment is considered as neutral as it neither supports nor objects to the planning application as lodged. Three matters are raised in relation to refuse uplift and turning area for collection vehicle, access on the track adjacent to the site and biodiversity/soft landscaping.

	<p>It is stated within the representation that refuse bins from several properties are left in the area in which this development seeks to form an access. It is uncertain whether the refuse collection point, as stated, is by right or custom, and in any case is outwith the bounds of the development site and as such would be considered as a civil matter between parties. Similarly, the use of the area outwith the application site for the manoeuvring of refuse uplift vehicles is likewise considered as a civil matter in areas outwith the adopted highway. The site area neither extends into, nor is considered to impede the use of, the adjacent track, as this is outwith the application site. Other legislative controls exist were this access to be obstructed mindful of the Core Path SH1, Mill Dam Circular. The matter of biodiversity / soft landscaping appears to be advisory in relation to the prevailing climate and ground conditions.</p> <p>Conclusion The development complies with relevant policy provisions of National Planning Framework 4 and the Orkney Local Development Plan 2017 and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application. The development accords with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017.</p>
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Delegated decision:

RECOMMENDATION

GRANT WITH CONDITIONS

CONDITIONS:

- 01.** The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

- 02.** No other development shall commence until the access hereby approved with the public road has been constructed to the Council's Roads Services standard drawing 'SD-03 Access Over Verge for Single Dwelling', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

- 03.** No development shall commence until the existing passing place on the Brecks Road Shapinsay, has been upgraded in accordance with the council's detail for a passing place. Full details of the location and detailed design of the passing place shall be submitted to and agreed

in writing by the Planning Authority in consultation with Roads Services, and thereafter the works shall be completed fully in accordance with agreed details, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of road safety.

- 04.** The biodiversity measures described in the submitted Biodiversity form (version published 13 March 2024) and shown on the approved 1:200 Location and site plan drawing (dated January 2024), shall be implemented in full no later than the first planting season following occupation. Thereafter the biodiversity measures shall be permanently retained in accordance with the approved details, including replacement of any planting that does not survive, is removed, or is damaged, unless otherwise agreed in writing with the planning authority.

Reason: To ensure biodiversity measures are implemented as required by National Planning Framework 4 policy 3 and to ensure adequate surface water drainage.

- 05.** All surface water drainage provision within the application site(s) shall accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time and shall be implemented and completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

- 06.** Any exterior lighting employed shall be so positioned, angled and controlled to prevent any direct illumination, glare or light spillage outwith the site boundary. The use of automatic cut-out or sensor operated external lighting of limited timed illumination is advocated.

Reason: In order to ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

ADDITIONAL NOTES:

1. Roads

It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to the development being brought into use, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

2. Scottish Water

This proposed development will be fed from Kirbuster Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow them to fully appraise the proposals it is advised that the developer completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via their Customer Portal or contact Scottish Water Development Operations.

3. Land outwith the development boundary

The development as approved involves the use of land outwith the application site to address roads matters pertaining to the approved development. This is secured by condition 03 of the planning permission hereby approved.

David Barclay
Senior Planning Officer
Date: 06/08/24



Council Offices School Place Kirkwall KW15 1NY Tel: 01856 873 535 (ex 2504) Email: planning@orkney.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100658922-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erect a house with an air source heat pump

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place? Yes No
(Answer 'No' if there is no change of use.) *

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Dean

Building Name:

Last Name: *

Campbell

Building Number:

13

Telephone Number: *

07523253046

Address 1
(Street): *

Papdale Crescent

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Kirkwall

Fax Number:

Country: *

Scotland

Postcode: *

KW15 1JS

Email Address: *

campbell89@hotmail.co.uk

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:

Miss

You must enter a Building Name or Number, or both: *

Other Title:

Building Name:

Ardachy Barn

First Name: *

Claire

Building Number:

Last Name: *

Pegrum

Address 1
(Street): *

Ardachy Barn

Company/Organisation

Address 2:

Telephone Number: *

Town/City: *

Fort Augustus

Extension Number:

Country: *

Scotland

Mobile Number:

Postcode: *

PH32 4BZ

Fax Number:

Email Address: *

Site Address Details

Planning Authority:

Orkney Islands Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

North Church (Land Near) SHAPINSAY KW17 2EA

Northing

1017372

Easting

349609

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Discussion regarding the principle of a house on the proposed site.

Title:

Other title:

First Name:

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

01/08/2022

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

New/Altered septic tank.

Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).

Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

Discharge to land via soakaway.

Discharge to watercourse(s) (including partial soakaway).

Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Septic tanks and soakaway

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Within utility/workshop area and as indicated on site plan.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

How many units do you propose in total? *

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

≤ Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

≤ Yes No ≤ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

≤ Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes ≤ No

Is any of the land part of an agricultural holding? *

≤ Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Dean Campbell

On behalf of: Miss Claire Pegrum

Date: 28/01/2024

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
A Design Statement or Design and Access Statement. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
A Flood Risk Assessment. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
Drainage/SUDS layout. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
A Transport Assessment or Travel Plan	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
Contaminated Land Assessment. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
Habitat Survey. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A
A Processing Agreement. *	<input type="checkbox"/> Yes <input type="checkbox"/> N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Dean Campbell
 Declaration Date: 28/01/2024

Payment Details

Cheque: A, 1

Created: 28/01/2024 19:11

Dear Claire Pegrum,

Thankyou for your support of the RSPB and for contacting us regarding your planning application. Apologies I'm not super familiar with Shapinsay but I've done my best to pull a few things together for you below that may hopefully assist.

Broadly speaking, providing habitat offerings at multiple height strata can optimise garden space for wildlife use. Sourcing plants and seed locally from Orkney will be important for having the genetic components that will thrive here but also for preventing import of anything problematic like diseases etc... Going for plants that complement each other (nutritional/ condition needs) and offer prolonged or staggered flowering timings or foliage coverage etc...would be ideal.

If you happen to have a sizeable plot, and suitable conditions, then, depending on likelihood of use and/or disturbance from surrounding landscape, you might consider providing rough grasslands or heathland to help support populations of Orkney vole and the raptor species that rely upon them. Alternatively, wildflowers would be an option for large or small plots of land. I am pleased to hear you plan on including a wildflower garden.

We currently have some schemes for great yellow bumblebee (GYBB) and wildflower planting through the [Species On the Edge](#) project (I've attached a leaflet) so do keep an eye out for upcoming wildflower planting events and opportunities to learn more. If it would be of interest, the scheme also has the ability to help landowners with management plans for GYBB habitat enhancement so I could put you in touch with staff for this as your planning process progresses?

Advice for GYBB. Leaving some long grassy areas would be good for bee nesting and hibernation habitat. Aiming for a minimum of 25-50% Red Clover and for at least two other earlier species (e.g. yellow rattle, white clover) >10%. Yellow rattle parasitizes grasses so helps with transitioning areas to wildflower meadow, removing cuttings and stripping out nutrients will also help with this. Late flowering species will probably look after themselves (e.g., hybrid woundwort). Cut as late as possible. Red clover is a key food source and would be great for Great Yellow bumblebee so brilliant to have that in your veg bed rotation. An important issue to consider can be when red clover releases its nectar, this can be temperature triggered and plants from outside Orkney might not do this at low enough temperatures so best to source as local as possible. Tufted vetch is well used by GYBB. Other species to consider are white clover, meadow vetchling, knapweed, spear thistle, ragwort (perhaps not if your neighbours have horses), creeping thistle, self-heal, yellow rattle and bush vetch. Mixing in Orkney's ancient grain, Bere Barley, might further provide for invertebrates and passerines. It's particularly able to grow in alkaline soils with low metal micronutrients, such as manganese-deficient conditions often found in the Orkney Islands.


If you have soils with higher fertility or are unable to engage with nutrient stripping and establishment of native wildflower meadow then species such as hybrid woundwort and comfrey might provide an alternative approach to deliver for bee's. Small patches of Phacelia will likely grow well and could also provide. Sticking to native Orkney species would be preferable wherever possible but I do not think strict requirements tend to be made for residential planning applications.

The local Environmental planner, Nina at OIC is great so it might be worth a chat with her ahead of your application too as he'll be able to advise as to what's required and is suitable. For further advice there is also an Orkney wildflower Facebook group "[Seeds of the Isles](#)" for Island plant lists, information, asking questions and to see what other wildflower seed collectors are doing. Local seed can be bought or collected, landowners permission should be sought for collecting local seed and you should not collect in SSSI's. The [beekind tool](#) from BBCT may also help highlight some options.

Great to hear the dry-stone walls will be staying, they can be great for lichens and insects, sometimes providing nest sites. It might take a while for your hedge to develop as things can grow slow and I'd recommend considering shelter from prevailing winds etc..but I see fuchsia quite commonly used and it would no-doubt be heavily trafficked by pollinators. If it doesn't take, you could consider locally sourced willow or downy birch. Species such as honeysuckle, greater birds foot trefoil, meadow vetchling etc..trailing up fences or walls never goes a miss if you have the option. Ivy can also provide a late food supply for many pollinators, insects, and birds. A suitably sited rowan might provide you a manageable sized fruit and flower bearing tree. Waxwings, blackbirds etc..might also enjoy apple tree's. Other ideas might be dwarf willow, heather species, and combinations of day and night-time flowering plants (for moths) to add diversity and structure. While, as you note, there are not a lot of swift records on Orkney, boxes may be used by other local species so certainly wouldn't hurt. You might struggle with finding suitable volumes of driftwood for the log pile, but there are a couple woodlands or small patches of scrub here or there that might alternatively provide you some locally sourced trimmings if you speak to landowners.

Yours sincerely

Dr. Peter M. Haswell, PhD
Senior Conservation Officer, Orkney
Pete.Haswell@rspb.org.uk



London office

1B(c) Yukon Road
London
SW12 9PZ

Tel: 0203 475 2280

Manchester office

Suite 34 Europa House
Barcroft Street
Bury BL9 5BT

Tel: 0161 850 2280

Land Adjacent to Shapinsay Kirk

Balfour, Shapinsay, Orkney

24 April 2023

18008-NIA-01 RevA

Project Number
18008

Issued For
Claire Pegrum



EXECUTIVE SUMMARY

This noise exposure assessment has been undertaken in order to investigate whether noise due to an existing wind turbine affecting a proposed residential development at Land Adjacent to Shapinsay Kirk can meet certain Local Authority and British Standard requirements.

The assessment adheres to the Local Authority requirements, the principles provided by the Draft Fourth National Planning Framework: 2021 (Draft NPF4) and external noise criteria stated within BS 8233: 2014 '*Guidance on sound insulation and noise reduction for buildings*'.

The site currently comprises an empty plot of land adjacent to Shapinsay Kirk. Proposals include the construction of a new residential dwelling on the empty plot.

A noise model has been constructed as detailed in the report, in order to establish the anticipated noise levels affecting proposed sensitive areas due to an existing wind turbine installed at a nearby property.

The calculated levels of turbine noise apparent at the proposed residential boundary have been compared with the set limits established by Orkney Islands Council. Calculations demonstrate that full compliance with the set limits is anticipated.

A subsequent detailed analysis has been carried out of anticipated noise levels in external amenity space, which has demonstrated that the site location is suitable to ensure an amenable level of noise in garden areas.

This report is designed to be suitable to discharge typical noise planning conditions, as per our original scope of work. The report should not be relied upon for further reasons, such as the detailed design of mitigation measures.

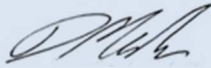


Clement Acoustics has used all reasonable skill and professional judgement when preparing this report. The report relies on the information as provided to us at the time of writing and the assumptions as made in our assessment.

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LIST OF ATTACHMENTS

18008-SP1	Indicative Site Plan
Appendix A	Glossary of Acoustic Terminology

Issue	Date of Issue	Author	Reviewed	Authorised
0	19/04/23			
RevA	24/04/23	Duncan Martin Director BSc (Hons) MIOA	Andrew Thomas Principal Consultant BSc (Hons) MIOA	John Smethurst Director BSc (Hons) MIOA

Issue	Comments
0	First Issue
RevA	Amended description of surroundings

1.0 INTRODUCTION

Clement Acoustics has been commissioned by Claire Pegrum to assess the suitability of the site at Land Adjacent to Shapinsay Kirk, Shapinsay, Orkney for residential development.

Proposals are to construct a new-build residential dwelling on a currently empty plot of land. An assessment has been undertaken in order to assess anticipated levels on the site due to an existing wind turbine, in accordance with the requirements of Orkney Islands Council.

2.0 SITE DESCRIPTION

The proposed development site is currently an empty plot of land, adjacent to the church and existing residential dwellings. The site is in a largely rural area, with the church and a small number of residential dwellings in the surrounding area. Plans are to construct a single new-build dwelling.

The site is in a remote location, with very few notable noise sources in the area.

An existing wind turbine is installed on land adjacent to Old School, to the west of the development site. The turbine is located approximately 170 m from the closest boundary of the proposed development site.

The site location relative to the existing turbine and surrounding area is shown in attached site plan 18008-SP1.

3.0 CRITERIA

3.1 Local Authority Requirements

In correspondence with representatives of the Environmental Health Department at Orkney Islands Council, the following Local Authority requirements have been established:

“It is [the applicant’s] responsibility to evidence that noise emissions from the wind turbine(s) (including the application of any tonal penalty) should not exceed a sound pressure level not exceeding 35dB LA90, 10 mins, within the curtilage of the indicated development, at wind speeds up to an including 10m/s, standardised/measured to a height of 10m or as otherwise specified within the noise emission conditions within the relevant application(s).”

3.2 Draft Fourth National Planning Framework: 2021 [Draft NPF4]

The Draft NPPF4, which was laid in Parliament in November 2021, outlines environmental, economic and social policies for Scotland. Part 3 of the Draft NPPF4, the National Planning Policy, contains detailed national policy on a number of planning topics.

Relevant paragraphs of the National Planning Policy are summarised as follows:

'Policy 6: Design, quality and place

e) Proposals that are detrimental to the character or appearance of the surrounding area taking into account effects on daylight, sunlight, noise, air quality and privacy should not be supported, in order to protect amenity.

Policy 14: Health and wellbeing

d) Development proposals that would result in unacceptable levels of noise will not be supported. A noise impact assessment will be required where significant exposure to noise is likely to arise from the proposed development.

Policy 19 Green Energy

k) Specific considerations will vary relative to the scale of the proposal and area characteristics but development proposals for renewable energy developments must take into account:

- impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;'*

3.3 External Noise Criteria

The guidance of BS 8233: 2014, with regards to external amenity spaces, is as follows:

"For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB $L_{Aeq,T}$, with an upper guideline value of 55 dB $L_{Aeq,T}$ which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited."

The site is in an area that would be considered rural. We would therefore recommend the lower guideline value of $L_{Aeq,T}$ 50 dB(A) would be an appropriate target although exceedance of this may also be acceptable where unavoidable.

4.0 ASSESSMENT ACCORDING TO LOCAL AUTHORITY REQUIREMENTS

4.1 Consideration of Turbine Application Assessment

The existing wind turbine was installed under planning application 12/745/TPP. The available information for that application has been used in order to determine the source noise of the wind turbine.

The application for the turbine included a 'noise analysis' report, titled 'Analysis of TR087 MCS noise data for comparison with ETSU guidelines: Issue 04' by Evance Wind Turbines Ltd [Evance Report]. This document includes various analyses undertaken for a R9000 wind turbine, which is understood to be the turbine installed under this application.

The first element to note is that Table 2 of the Evance Report states the estimated L_{A90} turbine noise at increasing slant distance from the turbine, at different wind speeds. At 10 m/s wind speed, the table states predicted noise levels of L_{90} **33.38 dB(A) at 160 m** and L_{90} **32.32 dB(A) at 180 m**.

With the proposed plot of land located a minimum of 170 m from the turbine, the corresponding noise level at 10 m/s wind speed would therefore be expected to be lower than L_{90} 35 dB(A), therefore compliance with the Local Authority requirements.

Further, Table 4 of the Evance Report states the distance from the turbine at which certain noise thresholds are expected to be met. The table states that for a single turbine (as is installed here) a level of L_{90} 35 dB(A) at 10 m/s wind speed is expected to be achieved at a slant distance of 134 m.

With the proposed plot of land located a minimum of 170 m from the turbine, this again indicates compliance with the Local Authority requirements.

4.2 Determination of Turbine Source Noise

In order to allow detailed calculations to be undertaken on behalf of the applicant for this development, Table 1 of the Evance Report, which states calculated sound power levels of the turbine, has been used.

This table states a calculated sound power level of L_{W90} **87.87 dB(A)** at 10 m/s wind speed.

It is noted that no uncertainty is stated for the turbine noise emissions. In order to present a robust assessment, a typical uncertainty for wind turbines of this type of 1.3 dB has been assumed, resulting in an uncertainty correction of 2.2 dB (when multiplied by a factor of 1.645, as per the guidance of ETSU).

A penalty for tonality is not stated as being required. The determined noise emission level of the turbine is therefore $L_{W90,10m/s}$ **90.07 dB**.

It should be noted that, as the source noise is given in terms of ' L_{W90} ' a -2 dB relaxation to convert noise levels to a background level has not been incorporated.

As the data does not include spectral noise levels, the spectral shape of a similar turbine has been used, shifted to match the overall calculated level. The spectral levels used in the noise model are summarised in Table 4.1.

Source	90 th Percentile Sound Power Level (dB) in each Frequency Band, Hz								
	63	125	250	500	1k	2k	4k	8k	dB(A)
Evance R9000 Turbine	61	69	74	82	84	84	84	64	90

Table 4.1 Calculated sound power levels for existing wind turbine

4.3 Noise Modelling

A noise map has been created using the above determined source noise, using proprietary software CadnaA. The turbine has been modelled as a point source, placed at a height of 15 m in the existing turbine location.

The noise model was constructed utilising the following assumptions and parameters:

- Locations of obstacles such as proposed building envelopes
- Presence of reflecting surfaces
 - All buildings are assumed to be reflective
- Hardness of the ground between the sources and receivers
 - Although the ground is soft, ground absorption is set at 0.5, in accordance with guidance of ETSU
- Attenuation due to atmospheric absorption
- Land topography assumed flat
- Calculations are performed over single octave band from 63 Hz to 8 kHz.

The grid has been implemented to demonstrate contours where the 35 dB(A) threshold occurs. Noise contours have been placed at a height of 4 m in order to present a robust assessment, indicative of first floor windows.

Figure 4.1 shows a plan view of turbine noise propagation towards the development site, with contours indicating areas where the L_{90} 35 dB(A) noise limit is reached.

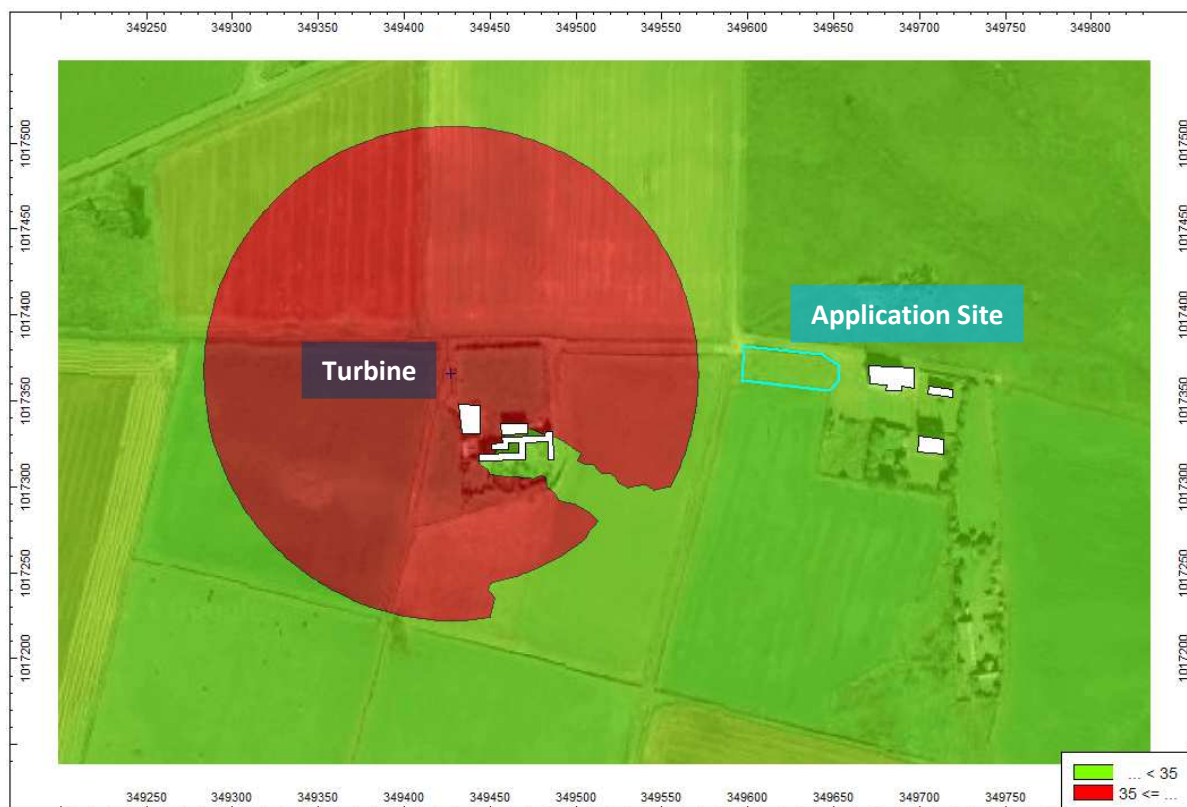


Figure 4.1 Plan view of turbine noise propagation towards proposed development site

As shown in Figure 4.1, the closest point of the site boundary is below the established noise limit, and full compliance with the Local Authority requirements is therefore demonstrated.

5.0 ASSESSMENT OF NOISE LEVELS IN EXTERNAL AMENITY AREAS

5.1 Determination of Source Noise and Modelling

As shown in Sections 3.1 and 4.2, the assessment to Local Authority criteria is carried based on the sound power level of the turbine at 10 m/s wind speed.

In order to assess anticipated levels of noise in external amenity areas, using the sound power level at 11 m/s wind speed, the most onerous sound power level stated in the Evance Report, is considered suitably robust. The guidance of ETSU is that assessments should typically be limited to wind speeds of 12 m/s at a height of 10 m. This is due to noise emissions at higher wind speeds being both unlikely, and difficult to predict reliably.

Table 1 of the Evance Report, which states calculated sound power levels of the turbine, has again been used. This table states a calculated sound power level of L_{W90} **90.62 dB(A)** at 11 m/s wind speed.

The same corrections and spectral assumptions as detailed in Section 4.2 have been applied to the stated sound power level at 11 m/s.

The noise map has then been recalculated, with contours placed at a height of 1.5 m, which is considered representative of a typical receiver height when relaxing in a garden.

Figure 5.1 shows the noise propagation from the turbine towards the development site, showing areas where the lower and upper guideline values are exceeded.



Figure 5.1 Plan view of turbine noise propagation towards proposed development site

As shown in Figure 5.1, the entire development site falls below the lower guideline value of L_{AeqT} 50 dB(A).

Noise levels in proposed residential gardens due to the existing turbine are therefore expected to be suitable for typical relaxation and enjoyment activities, without the need for any particular site layout or orientation.

6.0 CONCLUSION

An environmental noise assessment has been undertaken for the proposed residential redevelopment at Land Adjacent to Shapinsay Kirk, Shapinsay, Orkney.

Available information regarding an existing wind turbine has aided an assessment of the level of exposure to noise of the proposed development site to be made.

Calculations undertaken to consider the requirements of the Local Authority indicate that full compliance would be achieved, based on the information submitted with the turbine application.

Further calculations have demonstrated that noise levels due to the turbine in external amenity areas associated with the proposed residential development would be suitable, without the need for any particular mitigation measures.





Not to scale

Description:

Indicative site plan showing proposed development site and existing turbine

Date	24 April 2023
Reference	18008-SP1
Project Name	Land Adjacent to Shapinsay Kirk
Image ©	Microsoft 2023

Key:	
	Existing Turbine Location
	Proposed Development

APPENDIX A

GLOSSARY OF ACOUSTIC TERMINOLOGY

dB(A)

The human ear is less sensitive to low (below 125Hz) and high (above 16kHz) frequency sounds. A sound level meter duplicates the ear's variable sensitivity to sound of different frequencies. This is achieved by building a filter into the instrument with a similar frequency response to that of the ear. This is called an A-weighting filter. Measurements of sound made with this filter are called A-weighted sound level measurements and the unit is dB(A).

L_{eq}

The sound from noise sources often fluctuates widely during a given period of time. An average value can be measured, the equivalent sound pressure level L_{eq}. The L_{eq} is the equivalent sound level which would deliver the same sound energy as the actual fluctuating sound measured in the same time period.

L₁₀

This is the level exceeded for not more than 10% of the time. This parameter is often used as a "not to exceed" criterion for noise

L₉₀

This is the level exceeded for not more than 90% of the time. This parameter is often used as a descriptor of "background noise" for environmental impact studies.

L_{max}

This is the maximum sound pressure level that has been measured over a period.

Octave Bands

In order to completely determine the composition of a sound it is necessary to determine the sound level at each frequency individually. Usually, values are stated in octave bands. The audible frequency region is divided into 10 such octave bands whose centre frequencies are defined in accordance with international standards.

Addition of noise from several sources

Noise from different sound sources combines to produce a sound level higher than that from any individual source. Two equally intense sound sources operating together produce a sound level which is 3dB higher than one alone and 10 sources produce a 10 dB higher sound level.

Attenuation by distance

Sound which propagates from a point source in free air attenuates by 6dB for each doubling of distance from the noise source. Sound energy from line sources (e.g. stream of cars) drops off by 3 dB for each doubling of distance.

APPENDIX A

Subjective impression of noise

Sound intensity is not perceived directly at the ear; rather it is transferred by the complex hearing mechanism to the brain where acoustic sensations can be interpreted as loudness. This makes hearing perception highly individualised. Sensitivity to noise also depends on frequency content, time of occurrence, duration of sound and psychological factors such as emotion and expectations. The following table is a reasonable guide to help explain increases or decreases in sound levels for many acoustic scenarios.

Change in sound level (dB)	Change in perceived loudness
1	Imperceptible
3	Just barely perceptible
6	Clearly noticeable
10	About twice as loud
20	About 4 times as loud

Barriers

Outdoor barriers can be used to reduce environmental noises, such as traffic noise. The effectiveness of barriers is dependent on factors such as its distance from the noise source and the receiver, its height and its construction.

Reverberation control

When sound falls on the surfaces of a room, part of its energy is absorbed and part is reflected back into the room. The amount of reflected sound defines the reverberation of a room, a characteristic that is critical for spaces of different uses as it can affect the quality of audio signals such as speech or music. Excess reverberation in a room can be controlled by the effective use of sound-absorbing treatment on the surfaces, such as fibrous ceiling boards, curtains and carpets.

Orkney Islands Council Biodiversity Form for Planning Applications To be completed and submitted alongside planning applications	
Planning reference or address of development:	
Date of form completion:	
Person/company completing form:	
Baseline - what's there	
<p>– Please provide photographs to give an overview of the habitats and features present on site, and, referring to the photographs, describe below the dominant habitat type and most recent land use. If the land use has recently changed please also describe the previous known land use. List any species of note that use the site. (Example level of information: grass, grazed field, brown hare and curlew; coastal heath, rough grazing for sheep, Arctic skua; heather moorland, unmanaged, short eared owl; livestock fodder crops, agricultural field, geese; unmanaged meadow, previously livestock grazing field until farm changed hands last year, unknown; urban brownfield site previously with flats on it (demolished 5 years ago) within existing settlement, none as it's a concrete slab; etc).</p> <p>– Please provide a site layout plan that shows the location of existing broad habitat types and biodiversity features such as wetter/drier areas, ditches, watercourses, trees and shrubs, stone walls, ditches, invasive plant species, etc, both within and adjoining the proposed development site. The biodiversity features should be marked on a site layout plan that shows all elements of the proposed development, including infrastructure such as roads, paths, services, drainage, electricity lines, etc. (This is to enable assessment of how the existing biodiversity features might be affected by the construction and use of the proposed development. It can also be helpful to include photographs of the biodiversity features and their context within the site.)</p>	
Please submit referenced files alongside this form	

Baseline - what's there

Minimising effects on existing biodiversity (conserving and restoring)

- Referring to the plan provided above, please describe below how you have minimised adverse effects on existing biodiversity through siting, design and layout that retains existing habitats and features of biodiversity value, and where this has not been possible, please explain why.
- Where relevant, please also describe how degraded existing biodiversity features are going to be restored. (Restoration will not be applicable to all sites.)

Enhancement of biodiversity

- Please list below what enhancement measures have you intend to include and explain what they are seeking to achieve. Please include common and latin names of plant species and where the plants or seeds will be sourced from. (This is to check that species appropriate to the site and Orkney conditions are used.)
- Please provide a site layout plan that shows the location of enhancement measures. The enhancement measures should be marked on a site layout plan that shows all elements of the proposed development, including infrastructure such as roads, paths, services, drainage, electricity lines, etc. (This it to enable assessment of how the construction and use of the proposed development might interact with the proposed enhancement measures.)

Monitoring and maintenance of biodiversity retained and enhanced

- Please describe below how will the retained and enhanced biodiversity features and measures be monitored and maintained in the longer term to ensure they continue to benefit biodiversity, and who will be responsible for monitoring and maintenance. (Where detailed information on monitoring and maintenance will be provided in a landscaping or other site management plan to be submitted with the planning application, please provide the document title, author and date, and summarise the information below.)

Advice

- If you have sought or received advice about what is present on or makes use of the proposed development site and / or how to safeguard, restore and enhance biodiversity, please list below who has given you advice. (For example, an ecological consultant, others with relevant local knowledge, etc.)
- Where advice has been received, please summarise it below and provide a copy if advice was given in writing.

– Please describe how have you incorporated any advice you received into the proposed development, and if not, please explain why not.

AQUAREA HIGH PERFORMANCE

BI-BLOC SINGLE PHASE

HEATING AND COOLING - SDC



The Aquarea SDC range adapts well in an existing installation with a boiler backup, and in a new application with underfloor heating, low temperature radiators or even fan-coil heaters

This range can also be connected to a solar kit in order to increase efficiency and minimise the impact on the ecosystem. Finally, it is possible to connect a thermostat for better heating and cooling control and management.

Technical focus

- New remote control functions
- Efficient control of room temperature based on the outdoor temperature, indoor temperature using the Aquarea Manager.
- Optional Smartphone control
- Range from 7 to 16kW
- Maximum hydraulic module output temperature: 55°C
- Works at temperatures as low as -20°C
- Maximum 30 m rise between the outdoor unit and the hydraulic module
- Cooling temperature range 5 ~ 20°C

		Single Phase (Power to indoor)			
Kit		KIT-WC07F3E5	KIT-WC09F3E5	KIT-WC12F6E5	KIT-WC16F6E5
Heating capacity at +7°C (heating water at 35°C)	kW	7.00	9.00	12.0	16.00
COP at +7°C (heating water at 35°C)	W/W	4.46	4.13	4.74	4.28
Heating capacity at +2°C (heating water at 35°C)	kW	6.55	6.70	11.40	13.00
COP at +2°C (heating water at 35°C)	W/W	3.34	3.13	3.44	3.28
Heating capacity at -7°C (heating water at 35°C)	kW	5.15	5.90	10.00	11.40
COP at -7°C (heating water at 35°C)	W/W	2.68	2.52	2.73	2.68
Cooling capacity at 35°C (cooling water at 7/12°C)	kW	6.00	7.00	10.00	12.20
EER at 35°C (cooling water at 7/12°C)	W/W	2.63	2.43	2.81	2.56
Energy Efficiency Class at 35°C		A++			
Energy Efficiency Class at 55°C		A++			
Indoor Unit		WH-SDC07F3E5	WH-SDC09F3E5	WH-SDC12F6E5	WH-SDC16F6E5
Sound pressure level	Heating / Cooling	dB(A)		33 / 33	
Dimensions / Weight	H x W x D	mm / kg		892 x 502 x 353 / 43	
Water pipe connector		R 1 1/4			
Pump	Number of speeds	7			
	Input power (Min / Max)	W	34 / 114	40 / 120	34 / 110
Heating water flow (ΔT=5 K, 35°C)		l/min	20.1	25.8	34.4
Capacity of integrated electric heater		kW	3		6
Recommended Fuse		A	30 / 30		
Recommended cable size, supply 1 & 2		mm²	3 x 4.0 or 6.0 / 3 x 4.0		
Outdoor Unit		WH-UD07FE5	WH-UD09FE5	WH-UD12FE5	WH-UD16FE5
Sound pressure level	Heating / Cooling	dB(A)		50 / 48	
Dimensions / Weight	H x W x D	mm / kg		795 x 900 x 320 / 66	
Refrigerant (R410A)		kg		1.45	
Pipe diameter	Liquid / Gas	Inch		1/4 / 5/8	
Pipe length range / Elevation difference (in/out)		m		3 ~ 30 / 20	
Pipe length for additional gas / Additional gas amount		m / g/m		10 / 30	
Operation range	Outdoor ambient	°C			
Water outlet	Heating / Cooling	°C			

Accessories		Accessories	
PAW-TE18C2E3HI-UK	Tank 180L Slimline HP Tank	PA-AW-WIFI-1TE	Wifi interface
PAW-TE18E3STD-UK	Tank 180L Standard Heat Pump Tank	PAW-A2W-BIV	Bivalent controller
PAW-TE30E3STD-UK	Tank 300L Standard Heat Pump Tank	PAW-FLWMTR-KIT	Connection kit with flow indicator, strain filter and isolation valves
CZ-TK1	Temperature sensor for 3rd party tank	PAW-A2W-RTWIRED	Wired Thermostat
PAW-BTANK50L	Buffer tank 50L		

COP classification is at 230 V only in accordance with EU directive 2003/32/EC. Sound pressure measured at 1m from the outdoor unit and at 1.5m height. Heating sound pressure measured at +7°C (heating water at 55°C). Performance in agreement with EN14511.



A++
E_{sp} 95°C

A++
E_{sp} 35°C

INVERTER+
7 SPEEDS

A CLASS
WATER PUMP
HIGH PERFORMANCE

4.84
COP

DHW

HEATING MODE
-20°C

BOILER CONNECTION

SOLAR KIT

INTERNET CONTROL
CONNECTIVITY

BMS
CONNECTIVITY

5 YEARS
COMPRESSOR
WARRANTY

7 YEAR
WARRANTY

APPROVED PRODUCT
MCS
CERTIFIED

INTERNET CONTROL: Optional. 5 YEARS COMPRESSOR WARRANTY AND EXTENDED 7 YEARS COST OPTION: Exclusively for PRO Partners. MCS APPROVED PRODUCT: For full MCS approved product list please go to www.microgenerationcertification.org/consumers or www.aircon.panasonic.co.uk/GB_en/downloads/others.

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INTERNAL MEMORANDUM TO: Development & Marine Planning - Environment

Date of Consultation	14th February 2024
Response required by	6th March 2024
Planning Authority Reference	24/028/PP
Nature of Proposal (Description)	Erect a house with an air source heat pump
Site	North Church (Land Near) SHAPINSAY KW17 2EA
Proposal Location Easting	349622
Proposal Location Northing	1017371
Area of application site (Metres)	940
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 24/028/PP
PA Office	Development Management
Case Officer	Mrs Alison Poke
Case Officer Phone number	01856 873535 EX 2536
Case Officer email address	alison.poke@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

Advice provided by:

Nina Caudrey,
Environmental
Planner

**Date of
assessment:**

14 February 2024

Is the advice final or interim?

(if interim then further information is needed, see detailed advice)

interim

SUMMARY ADVICE (must be read in conjunction with detailed advice)

Unfortunately not all of the required biodiversity information has been provided and there are some issues that need to be addressed. **Further information is therefore required.**

Are condition(s) required/ recommended in the detailed advice?

no

Separate consideration of need for a Habitat Regulations Appraisal required? (9.A.1 / NPF4 4.b)

no

If yes, which European site(s) may need further consideration?

n/a

DETAILED ADVICE

Which natural heritage interests have the potential to be significantly affected by the proposed development? Is further information or survey work required before final advice can be given? Are conditions required?

– SSSIs

(9.A.2 / NPF4 4.c)

- **Local Nature Conservation Site, Local Nature Reserve,**
(9.A.3 / 4.d)
- **Protected species**
(9.B / NPF4 4.f)
- **Wider biodiversity**
(9.C / NPF4 3)

Wider biodiversity

While the submitted Biodiversity form (dated 21 January 2024) includes a wide variety of different measures that could benefit biodiversity, which is welcome, unfortunately there are some issues that require to be addressed:

- Unfortunately some of the required information is missing. No site photographs have been provided, so it is not possible to confidently assess the current biodiversity value of the site or the appropriateness of the proposed biodiversity measures/opportunities for enhancement. Site photographs are required, showing the site from different angles and existing biodiversity features, as described in the OIC Considering and including biodiversity in development guidance available via <https://www.orkney.gov.uk/Service-Directory/B/Biodiversity.htm>.
- A site plan is also required, showing where existing biodiversity features are located, the location of the proposed development and associated infrastructure (access, parking, drainage, waste water treatment system, etc), and where proposed biodiversity measures would be located.
- In the enhancement of biodiversity section of the form, latin as well as common species names required. This is because the common names of some plant species can include many different species of the same type of plant – for example, ‘willow’ may be used to refer to several different species of willow, not all of which are suitable for Orkney conditions. Therefore latin and common names are required to ensure that appropriate species are used.
- Some of the measures proposed such as the bird boxes and log pile are identified in the OIC guidance as being unlikely to be effective in Orkney and should not be included in the form. Measures that require daily human input from people (bird feeders) or are for human rather than biodiversity benefit (such as vegetable plots) should also not be included. This is because they are unlikely to contribute to biodiversity in the long term, as they are liable to be damaged or destroyed in stormy Orkney weather and/or are unlikely to be maintained in the long term by future owners or occupants of the proposed development. (That does not mean to say that the applicant should

not try and implement such measures, just that they cannot be considered as biodiversity measures for the purposes of the planning application as there is limited confidence that they would remain functional and in place over the lifetime of the proposed development.)

- Biodiversity measures are secured by planning condition and are required to deliver long term biodiversity benefits for the lifetime of the proposed development. So requiring the retention of the measures that could impede on the use and enjoyment of the main garden ground by future owners or occupiers would not be appropriate. Because there is no site plan, it is difficult to provide advice on whether or not there are measures located in positions that may not be suitable for inclusion for the purposes of the planning application. The applicant should consider this issue when revising the Biodiversity form, to make sure that measures are not included that could be problematic locations. (That does not mean to say that the applicant should not try and implement such measures, just that they cannot be considered as biodiversity measures for the purposes of the planning application.)

The Environmental Planner would be happy to provide informal advice on a draft revised form (with associated site photographs and site plan) prior to resubmission, should the applicant find that useful.

Once the above information has been submitted then it should be possible to provide further advice on the appropriateness of the proposed biodiversity measures.

- **Water environment**
(9.D / NPF4 20, 22.e, 3.d)
- **Peat and soils**
(9.E / NPF4 5)
- **Trees or woodlands of significant ecological, landscape, shelter or recreational value**
(9.F / NPF4 6, 3.d)
- **Natural coastal resources**
(12.A.ii / NPF4 10)
- **Coastal and marine ecosystems, geomorphology**
(12.A.iii / NPF4 10)
- **Aquaculture habitats and species, designated**

**sites, biodiversity,
PMFs**
(12.D.i.a / NPF4 32.d)

- **SUDS in relation to ecology and habitat enhancement**
(13.B.ii.e / NPF4 22.c, 22.e, 3.d)
- **Have any opportunities been included in the proposed development to enhance biodiversity and promote ecological interest?** (9.C.ii, 9.D.i.b / NPF4 3)

See above advice for **Wider biodiversity**.

From: Sam Walker <Sam.Walker@orkney.gov.uk>
Sent: Wednesday, February 14, 2024 2:57 PM
To: planningconsultation <planningconsultation@orkney.gov.uk>
Subject: 24/028/PP

Classification: OFFICIAL

**24/028/PP Erect a house with an air source heat pump
North Church (Land Near) Shapinsay KW17 2EA**

Having considered the information provided by the applicant Environmental Health has no adverse comments.

Regards

Sam Walker
Environmental Health Officer
Environmental Health | Planning and Community Protection
Neighbourhood Services and Infrastructure
Orkney Islands Council
School Place
KIRKWALL
KW15 1NY

Tel: 01856 873535 ext 2802



North East Corner



North West corner



South East corner



South West Corner



Road End

Orkney Islands Council Biodiversity Form for Planning Applications To be completed and submitted alongside planning applications	
Planning reference or address of development:	
Date of form completion:	
Person/company completing form:	
Baseline - what's there	
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Please submit referenced files alongside this form	

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Advice

- If you have sought or received advice about what is present on or makes use of the proposed development site and / or how to safeguard, restore and enhance biodiversity, please list below who has given you advice. (For example, an ecological consultant, others with relevant local knowledge, etc.)
- Where advice has been received, please summarise it below and provide a copy if advice was given in writing.

– Please describe how have you incorporated any advice you received into the proposed development, and if not, please explain why not.

INTERNAL MEMORANDUM TO: Development & Marine Planning - Environment

Date of Consultation	4th March 2024
Response required by	11th March 2024
Planning Authority Reference	24/028/PP
Nature of Proposal (Description)	Erect a house with an air source heat pump
Site	North Church (Land Near) SHAPINSAY KW17 2EA
Proposal Location Easting	349622
Proposal Location Northing	1017371
Area of application site (Metres)	940
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 24/028/PP
PA Office	Development Management
Case Officer	Mrs Alison Poke
Case Officer Phone number	01856 873535 EX 2536
Case Officer email address	alison.poke@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

Advice provided by:

Nina Caudrey,
Environmental
Planner

**Date of
assessment:**

6 March 2024

Is the advice final or interim?

(if interim then further information is needed, see detailed advice)

interim

SUMMARY ADVICE (must be read in conjunction with detailed advice)

Unfortunately not all of the previously requested biodiversity information has been provided - **further information is therefore required.**

Are condition(s) required/ recommended in the detailed advice?

no

Separate consideration of need for a Habitat Regulations Appraisal required? (9.A.1 / NPF4 4.b)

no

If yes, which European site(s) may need further consideration?

n/a

DETAILED ADVICE

Which natural heritage interests have the potential to be significantly affected by the proposed development? Is further information or survey work required before final advice can be given? Are conditions required?

– **SSSIs**
(9.A.2 / NPF4 4.c)

– **Local Nature Conservation Site, Local Nature Reserve,**
(9.A.3 / 4.d)

– **Protected species**
(9.B / NPF4 4.f)

– **Wider biodiversity**
(9.C / NPF4 3)

Wider biodiversity

The previous advice has largely been taken into account in the revised Biodiversity form (published 4 March 2024), which is welcome. Unfortunately one key issue remains to be addressed:

- In the enhancement of biodiversity section of the Biodiversity form, latin as well as common species names are required for the “..new hedge comprising species such as fuchsia, willow and downy birch”, also described as “mid level bushes (fuchsia, willow and downy birch)” on the site plan (shown as measure number 3 running along the southern boundary, plus short lengths separating the driveway from the garden ground to the south west and to the north east of the driveway).

Both latin and common names are needed because the common names of some plant species can include many different species of the same type of plant. For example, ‘willow’ may be used to refer to several different species of willow, not all of which are suitable for Orkney conditions. In addition, it is not sufficient to say that “there would be no use of any invasive, non-native species of as listed in Annex B” (of the NatureScot guidance <https://www.nature.scot/doc/developing-nature-guidance#annex-b>). This is because the species need to be known at this stage in the planning process to enable assessment of the suitability and sufficiency of the planting as a biodiversity enhancement measure, to prevent inadvertent use of invasive non-native species at the planting stage, and also because biodiversity measures are secured by planning condition to deliver long term biodiversity benefits for the lifetime of the proposed development, so it must be clear what species should be planted and retained on site.

A revised Biodiversity form that includes the latin and common names of the proposed hedging plants is therefore required.

Once the above information has been submitted then it should be possible to provide further advice on the appropriateness of the proposed biodiversity measures in relation to NPF4 policy 3.c.

– **Water environment**
(9.D / NPF4 20, 22.e, 3.d)

- **Peat and soils**
(9.E / NPF4 5)
- **Trees or woodlands of significant ecological, landscape, shelter or recreational value**
(9.F / NPF4 6, 3.d)
- **Natural coastal resources**
(12.A.ii / NPF4 10)
- **Coastal and marine ecosystems, geomorphology**
(12.A.iii / NPF4 10)
- **Aquaculture habitats and species, designated sites, biodiversity, PMFs**
(12.D.i.a / NPF4 32.d)
- **SUDS in relation to ecology and habitat enhancement**
(13.B.ii.e / NPF4 22.c, 22.e, 3.d)
- **Have any opportunities been included in the proposed development to enhance biodiversity and promote ecological interest?** (9.C.ii, 9.D.i.b / NPF4 3)

See above advice for **Wider biodiversity**.

From: Paul Evans <[REDACTED]>
Sent: Wednesday, March 6, 2024 1:33 PM
To: planning <planning@orkney.gov.uk>
Subject: Application Ref: 24/028/PP North Church (Land Near) Shapinsay

I am writing in connection with application ref: 24/028/PP for construction of a new house on land near North Church, Shapinsay. I am the owner and resident of a neighbouring property, Old School.

I have no objection to the application, but would like to make the following comments/observations for consideration, which I hope will also be of some help to the applicant.

1. The area immediately adjacent to the length of dry stone wall proposed to be removed for access to the site is the designated collection point for refuse and re-cycling for the 3 properties in the locality, Old School, The Manse and Brecks. The refuse collection vehicle requires sufficient space to be able to load and turn round at this point. If the bins were left for collection just around the corner on the north wall, I'm not sure if sufficient space would be available for manoeuvring. If not, I would suggest provision of hardstanding immediately to the south of the proposed access point, (to the west of the applicants proposed bin storage area) for the collection point as a possible solution.
2. The access track to our property, (which is also part of the OIC designated core footpath network), the track to the Kirk, The Manse and Brecks as well as the road linking us to the main road are all single track. I would therefore request a condition be applied to any planning consent requiring that these accesses are kept free from obstruction by construction traffic or construction related activity at all times. I would also request the application of a condition to ensure that any damage made to these access tracks resulting from the construction be made good by the applicant.
3. The applicants desire to enhance biodiversity is very welcome. However, this is a very exposed site and in common with our own property, the bedrock is very close to the surface. My wife, Karen is a keen horticulturalist and nature lover and is currently secretary of the Shapinsay Horticultural Association. Based on our experience here in Shapinsay, unfortunately, Rowan does not thrive well and certainly not as a feature tree. The closely related Whitebeam which is equally as beneficial for wildlife is much more successful as is Alder. In any event, the key to establishing any of the proposed shrub/tree/hedge planting will be the necessity to construct substantial windbreak fencing before planting. Karen would be very happy for the applicant to contact her to discuss planting etc if the applicant wishes to.

I would be grateful if you could acknowledge receipt of this email and I should also make clear, particularly in the light of my comments at (3), that I am happy for our contact details to be provided to the applicant.

Paul Evans
Old School, Balfour, Shapinsay, KW17 2EA



Sent from [Mail](#) for Windows

Tuesday, 12 March 2024



Local Planner
Development Management, Development and Infrastructure
Orkney Islands Council
Kirkwall
KW15 1NY

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk



Dear Customer,

Land near North Church, Shapinsay, Orkney, KW17 2EA
Planning Ref: 24/028/PP
Our Ref: DSCAS-0105362-MMP
Proposal: Erect a house with an air source heat pump.

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ This proposed development will be fed from Kirbuster Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via [our Customer Portal](#) or contact Development Operations.

Waste Water Capacity Assessment

- ▶ Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.
-

Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.
-

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
 - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
-

Next Steps:

▶ All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

▶ Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ Trade Effluent Discharge from Non-Domestic Property:

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 5kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Ruth Kerr.

Development Services Analyst

PlanningConsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

INTERNAL MEMORANDUM TO: Development & Marine Planning - Environment

Date of Consultation	4th March 2024
Response required by	11th March 2024
Planning Authority Reference	24/028/PP
Nature of Proposal (Description)	Erect a house with an air source heat pump
Site	North Church (Land Near) SHAPINSAY KW17 2EA
Proposal Location Easting	349622
Proposal Location Northing	1017371
Area of application site (Metres)	940
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 24/028/PP
PA Office	Development Management
Case Officer	Mrs Alison Poke
Case Officer Phone number	01856 873535 EX 2536
Case Officer email address	alison.poke@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

Advice provided by:

Nina Caudrey,
Environmental
Planner

**Date of
assessment:**

13 March 2024

Is the advice final or interim?

(if interim then further information is needed, see detailed advice)

final

SUMMARY ADVICE (must be read in conjunction with detailed advice)

Biodiversity enhancement measures proportionate to the nature and scale of the proposed development have been included and should be secured by condition.

Are condition(s) required/ recommended in the detailed advice?

yes

Separate consideration of need for a Habitat Regulations Appraisal required? (9.A.1 / NPF4 4.b)

no

If yes, which European site(s) may need further consideration?

n/a

DETAILED ADVICE

Which natural heritage interests have the potential to be significantly affected by the proposed development? Is further information or survey work required before final advice can be given? Are conditions required?

– **SSSIs**
(9.A.2 / NPF4 4.c)

- **Local Nature Conservation Site, Local Nature Reserve,**
(9.A.3 / 4.d)
- **Protected species**
(9.B / NPF4 4.f)
- **Wider biodiversity**
(9.C / NPF4 3)

Wider biodiversity

A revised Biodiversity form (published 13 March 2024) has been submitted, which is welcome.

Biodiversity measures proportionate to the nature and scale of the proposed development have been included, as described in the submitted Biodiversity form (version published 13 March 2024) and shown on the 1:200 Location and site plan drawing (dated January 2024). A condition is required to ensure the proposed biodiversity measures are carried out and therefore contribute to meeting the requirements of National Planning Framework 4 (NPF4) policy 3 on biodiversity:

Condition: That the biodiversity measures described in the submitted Biodiversity form (version published 13 March 2024) and shown on the 1:200 Location and site plan drawing (dated January 2024), are implemented in full no later than the first planting season following occupation. Thereafter the biodiversity measures shall be permanently retained in accordance with the approved details, including replacement of any planting that does not survive, is removed, or is damaged, unless otherwise agreed in writing with the planning authority.

Reason: To ensure biodiversity measures are implemented as required by National Planning Framework 4 policy 3.

- **Water environment**
(9.D / NPF4 20, 22.e, 3.d)
- **Peat and soils**
(9.E / NPF4 5)
- **Trees or woodlands of significant ecological, landscape, shelter or recreational value**
(9.F / NPF4 6, 3.d)
- **Natural coastal resources**
(12.A.ii / NPF4 10)
- **Coastal and marine ecosystems, geomorphology**
(12.A.iii / NPF4 10)
- **Aquaculture habitats and species, designated sites, biodiversity,**

PMFs

(12.D.i.a / NPF4 32.d)

- **SUDS in relation to ecology and habitat enhancement**
(13.B.ii.e / NPF4 22.c, 22.e, 3.d)
- **Have any opportunities been included in the proposed development to enhance biodiversity and promote ecological interest?** (9.C.ii, 9.D.i.b / NPF4 3)

See above advice for **Wider biodiversity**.

INTERNAL MEMORANDUM TO: Roads Services

Date of Consultation	14th February 2024
Response required by	6th March 2024
Planning Authority Reference	24/028/PP
Nature of Proposal (Description)	Erect a house with an air source heat pump
Site	North Church (Land Near) SHAPINSAY KW17 2EA
Proposal Location Easting	349622
Proposal Location Northing	1017371
Area of application site (Metres)	940
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 24/028/PP
PA Office	Development Management
Case Officer	Mrs Alison Poke
Case Officer Phone number	01856 873535 EX 2536
Case Officer email address	alison.poke@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

No adverse comment provided the undernoted conditions and informative are applied to any planning permission that may be granted.

CONDITION

The access hereby approved with the public road shall be constructed to the Council's Roads Services standard drawing 'SD-03 Access Over Verge for Single Dwelling', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

CONDITION

The existing passing place on the Brecks Road, Shapinsay, shall be upgraded in accordance with the councils detail for a passing place prior to commencement of any works within the hereby approved development site.

Reason: In the interest of road safety.

INFORMATIVE

It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to the development being brought into use, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

D.W.



ORKNEY
ISLANDS COUNCIL

GRANT PLANNING PERMISSION

DELEGATED DECISION

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act")

Ref: 24/028/PP

Miss Claire Pegrum
c/o Dean Campbell
13 Papdale Crescent
Kirkwall
Scotland
KW15 1JS

With reference to your application registered on 5th February 2024 for planning permission for the following development:-

PROPOSAL: Erect a house with an air source heat pump

LOCATION: North Church (Land Near), Shapinsay, Orkney, KW17 2EA

Orkney Islands Council in exercise of its powers under the above Act, hereby **Grants Planning Permission subject to the attached terms and conditions.**

The Council's reasoning for this decision is: The development complies with relevant policy provisions of National Planning Framework 4 and the Orkney Local Development Plan 2017 and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application. The development accords with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017.

(For further detail you may view the Planning Handling Report for this case by following the Application Search and Submission link on the Council's web page and entering the reference number for this application).

Please read carefully the Terms and Conditions on the following pages as failure to comply may result in enforcement action.

Decision date: 14th August 2024

Jamie Macvie MRTPI, Service Manager, Development Management, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY

Ref: 24/028/PP

TERMS AND CONDITIONS

TERMS

- A. The development hereby approved must be carried out in accordance with the terms and conditions attached to this planning permission and with the approved plans and details identified in Schedule 1.
- B. Failure to implement the permission in accordance with the approved details and attached planning conditions may render the development unauthorised and may result in enforcement action.
- C. No development shall commence on the development hereby approved until the developer has formally advised the Planning Authority in writing of the intended start date. This should be done as soon as practicable. Take note that **failure to submit such a Notice would be a breach of planning control** under section 123(1) of the Act and could result in enforcement action.
- D. To accord with the provisions of Section 27B of the Act, once the development hereby approved is completed, and prior to the development being brought into use, the developer shall submit a completion notice to the Planning Authority.

(To comply with C & D above please use and submit the attached forms to ensure compliance with all of the statutory requirements in this regard. These forms are also available from the planning page on the Council's web site.)

- E. If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the Planning Authority in advance of implementing any changes to establish whether the proposed changes require any further planning approval.
- F. It should be understood that this permission does not carry with it or supersede the need for any necessary consent or approval for the proposed development under any other statutory enactments, for example the Building (Scotland) Act, the Roads (Scotland) Act 1984, the Water (Scotland) Act 1980, and the Environmental Protection Act 1990.
- G. It is the responsibility of the developer to ensure that services including telephone and electricity lines, water mains and sewers are protected. You should contact the relevant service providers to check whether such services would be affected.

CONDITIONS

01. The development hereby approved to which this planning permission relates must be begun not later than the expiration of three years, beginning with the date on which the permission is granted, which is the date of this decision notice. If development has not commenced within this period, this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended, which limits the duration of planning permission.

02. No other development shall commence until the access hereby approved with the public road has been constructed to the Council's Roads Services standard drawing 'SD-03 Access Over Verge for Single Dwelling', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required, and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed in writing by the Planning Authority.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

03. No development shall commence until the existing passing place on Brecks Road, Shapinsay, has been upgraded in accordance with the Council's standard detail for passing place construction. Full details of the location and detailed design of the passing place shall be submitted to and approved, in writing, by the Planning Authority in consultation with Roads Services, and thereafter the works shall be completed fully in accordance with approved details.

Reason: In the interest of road safety.

04. The biodiversity measures described in the submitted Biodiversity form (version published 13 March 2024) and shown on the Location and site plan hereby approved (dated January 2024) shall be implemented in full no later than the first planting season following occupation. Thereafter the biodiversity measures shall be permanently retained in accordance with the approved details, including replacement in the next planting season of any planting that does not survive, is removed, or is damaged.

Reason: To ensure biodiversity measures are implemented as required by National Planning Framework 4 policy 3 and to ensure adequate surface water drainage.

05. All surface water drainage provision within the application site(s) shall accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding

guidance prevailing at the time and shall be implemented and completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

06. Any exterior lighting employed shall be so positioned, angled and controlled to prevent any direct illumination, glare or light spillage outwith the site boundary. The use of automatic cut-out or sensor operated external lighting of limited timed illumination is advocated.

Reason: In order to ensure that any lighting installed within the application site does not spill beyond the intended target area, does not impact adversely upon the amenity of adjacent properties and does not result in 'sky glow'.

Informatives

01. Roads

It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to the development being brought into use, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

02. Scottish Water

This proposed development will be fed from Kirbuster Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow them to fully appraise the proposals it is advised that the developer completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via their Customer Portal or contact Scottish Water Development Operations.

03. Land outwith the development boundary

The development as approved involves the use of land outwith the application site to address roads matters pertaining to the approved development. This is secured by condition 03 of the planning permission hereby approved.

Ref: 24/028/PP

SCHEDULE 1 – PLANS, VARIATIONS AND ANY OBLIGATION**1. Plans and Drawings**

The plans and drawings to which this decision relates are those identified below:

Location & Site Plans	OIC-01	1
Elevations	OIC-02	1
Floor Plan	OIC-03	1

2. Variations

If there have been any variations made to the application in accordance with section 32A of the Act these are specified below:

Date of Amendment:

Reasons

3. Legal Obligation

Has any obligation been entered into under section 75 of the Act? – N

If such an obligation has been entered into, the terms of such obligation or a summary of such terms may be inspected by contacting Legal Services.

RIGHT TO SEEK A REVIEW

If you are unhappy with the terms of this decision you have a right to ask for a review of your planning decision by following the procedure specified below.

PROCEDURE FOR REQUESTING A REVIEW BY THE LOCAL REVIEW BODY

1. If the applicant is aggrieved by the decision of the Appointed Officer to:
 - a. Refuse any application, or
 - b. Grant permission subject to conditions.

In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations, the applicant may apply to the Local Review Body within three months from the date of this notice for a review of that decision.

2. Forms to request a review are available from either address below, or from <http://www.orkney.gov.uk/Service-Directory/D/appeal-a-decision.htm>.

Completed forms to request a review should be submitted to the address below:

Committee Services
Orkney Islands Council
Council Offices
School Place
KIRKWALL
Orkney
KW15 1NY

and at the same time a copy of the notice for a review should be sent to:

Service Manager (Development Management)
Orkney Islands Council
Council Offices
School Place
KIRKWALL
Orkney
KW15 1NY

Email: planning@orkney.gov.uk

3. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Act.

To:
 Development Management
 Orkney Islands Council
 Council Offices
 School Place
 Kirkwall
 KW15 1NY

Or by email to planning@orkney.gov.uk

Notification of Completion of Development

It is important that the planning authority is informed as soon as possible following completion of works.

Planning Application Reference: _____

In accordance with Section 27B of The Town and Country Planning (Scotland) Act 1997, as amended, the planning authority is hereby advised of the completion of the above development.

- (a) Provide the date of completion of development. _____
- (b) Provide full name and address, and email address if available, of the person submitting Notification of Completion. (Note that any correspondence relating to the Notification of Completion will be addressed to this person.)

Signed: _____ Applicant / Agent (delete as appropriate)

Print name: _____

Dated: _____

To:
 Development Management
 Orkney Islands Council
 Council Offices
 School Place
 Kirkwall
 KW15 1NY

Or by email to planning@orkney.gov.uk

Notification of Initiation of Development

IMPORTANT: Failure to notify the planning authority of initiation of development would constitute a breach of **planning control** under Section 123(1) of The Town and Country Planning (Scotland) Act 1997, as amended.

Planning Application Reference: _____

Date of planning permission: _____

In accordance with Section 27A of The Town and Country Planning (Scotland) Act 1997, as amended, the planning authority is hereby advised that it is intended to initiate the above development as follows:

(a) Provide the date of initiation. _____

(b) Provide full name and address, and email address if available, of the person(s) intending to carry out the development. (Note that in the first instance, any correspondence relating to the Notification of Initiation of Development will be addressed to this person.)

(c) If the person included at (b) above is the owner of the land to which the development relates, state 'OWNER'. If that person is not the owner, provide the full name and address of the owner.

(d) If a person is, or is to be, appointed to oversee the carrying out of the development on site, provide the name of that person and details of how that person to be contacted.

Signed: _____ Applicant / Agent (delete as appropriate)

Print name: _____

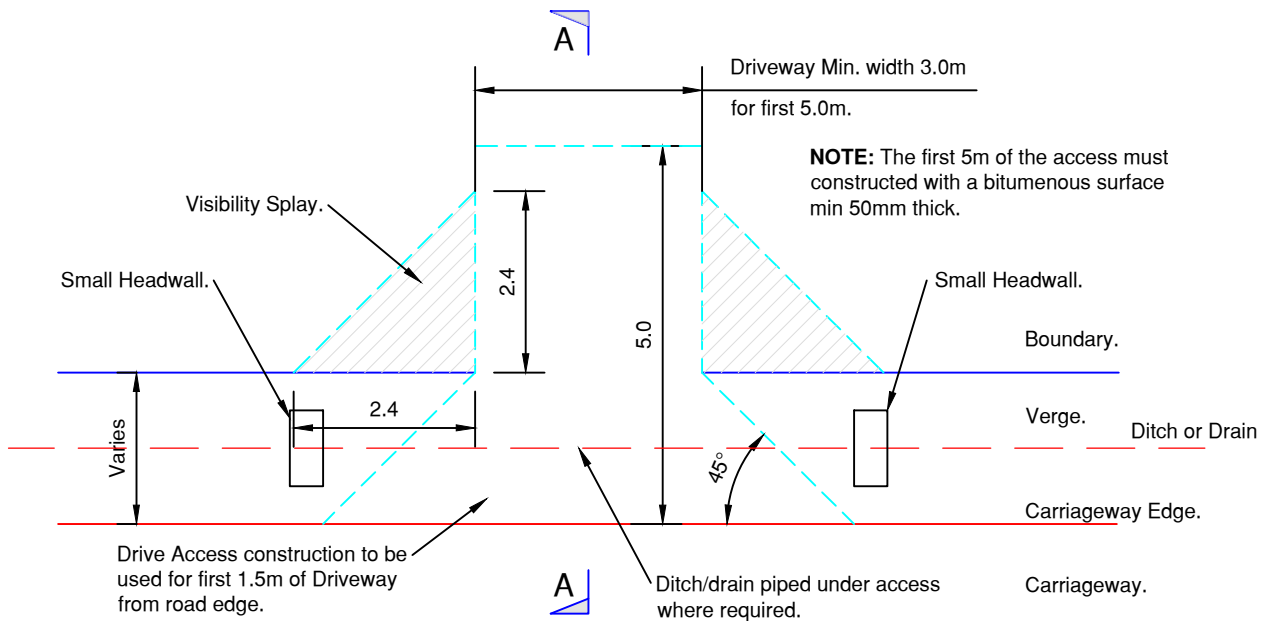
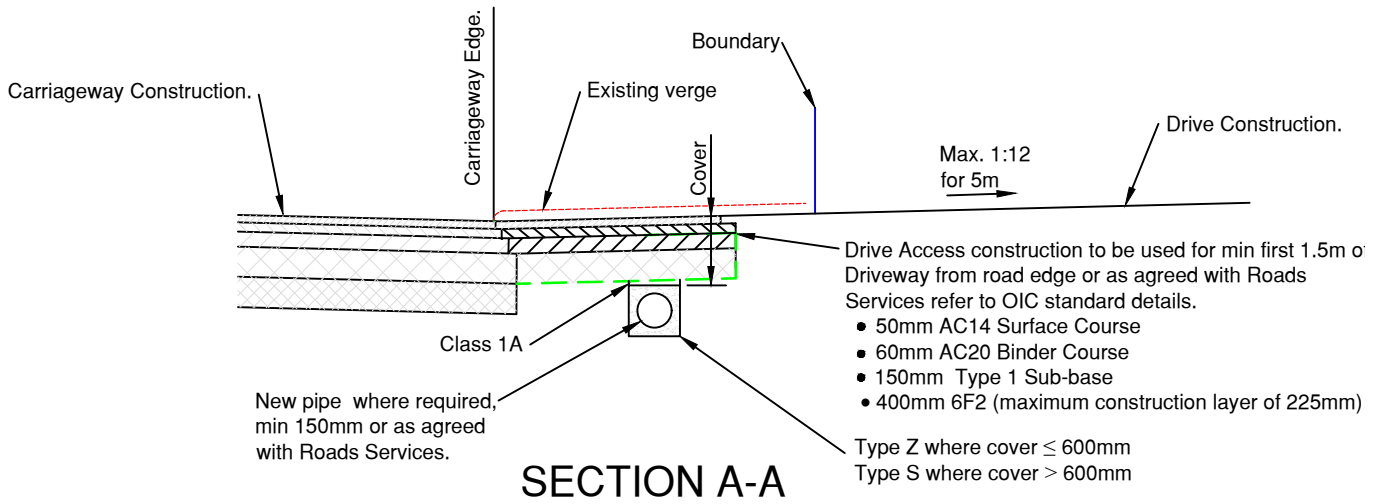
Dated: _____

NOTE: Planning conditions may be attached to a grant of planning permission. These form part of the permission, and limit and control the way in which the permission must be implemented and may include mitigation or a requirement for further information. **If pre-commencement conditions are attached to the decision, development cannot proceed until these conditions have been discharged.**

When development commences, the planning authority may check for compliance with all conditions. If implemented or carried out contrary to planning conditions, the development would be unauthorised and may be subject to formal enforcement action.

NOTES:

1. All dimensions are to be measured in meters, unless stated otherwise.
2. If obstructions within the visibility splay cannot be reduced in height to below 0.9m - walls, hedges, etc. - then 45° visibility splays of 2.4m x 2.4m are required for interservisibility between vehicles and pedestrians.
3. Driveway to property should be no steeper than 1:12, and must not be steeper than 1:12 for the first 5m from edge of carriageway.
4. Drive must be constructed in such a way to prevent any gravel or other loose material spilling onto the footway or carriageway.
5. Where new access crosses an existing ditch, or drain in the verge, pipe to be installed under access.
6. Prior to installation of pipe, confirmation of size must be obtained from the Roads Authority.
7. For drain Type Z, drain Type S and Small Headwall, refer to Orkney Islands Council's standard details.
8. All works carried out within the public road must be carried out by a Prescribed Contractor.



**TYPICAL ACCESS OVER VERGE
FOR SINGLE DWELLING**

Rev 1 14/12/20 DW Road construction detail amended

File Ref. R3.40.01	Drg. No. SD-03	ROAD SERVICES	NEIGHBOURHOOD SERVICES & INFRASTRUCTURE	
Revision 1			Council Offices, Kirkwall Orkney, KW15 1NY tel (01856) 873535 fax (01856) 876094	
Date May 2022	Drawn D.R.W.		 ORKNEY ISLANDS COUNCIL	
Scale N.T.S.	Checked K.D.R.			