

## Item: 3.3

**Planning Committee: 30 October 2019.**

**Change of Use of Shed from Storage (Class 6) to Men's Shed (Class 10) and Extend (Part Retrospective) at Maitland Place, Finstown.**

**Report by Executive Director of Development and Infrastructure.**

### 1. Summary

#### 1.1.

It is proposed to change the use of a storage shed to Use Class 10, in this case for mainly social activities, at a building used by Orkney Men's Shed, and to extend the building. The application is part retrospective, as the change of use has already taken place. The application has been called in by two Councillors and, in accordance with the Scheme of Delegation, the application must be reported to Committee for determination. Three letters of objection have been received. Roads Services has objected, stating that the development would present an unacceptable road safety hazard. The proposed development is considered contrary to Policies 1 (vi) and 14C of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for refusal.

Application Number:	19/191/PP.
Application Type:	Planning Permission.
Proposal:	Change of use of shed from storage (Class 6) to Men's shed (Class 10) and extend (part-retrospective).
Applicant:	Mr Morgan Harcus, Newark, Rendall, KW17 2HF.

#### 1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

[https://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm)  
(then enter the application number given above).

### 2. Consultations

#### 2.1. Roads Services

##### 2.1.1.

"In addition to the lack of parking being provided, Roads Services also have a concern with regard to the potential for intensification of use of the substandard access to this development site. As it currently stands there is almost no forward visibility from the existing junction with the public road, with vehicle users having to

edge out and encroach onto the public in to exit the junction as safely as possible. Then there is the problem for vehicles trying to leave the public road using this access, as they cannot see if the access track is clear when approaching from either direction. Therefore an intensification of use could represent an unacceptable road safety hazard.”

#### **2.1.2.**

An Operating Plan was subsequently submitted, specifying the anticipated number of vehicle movements, and clarification of parking spaces that would be available. Roads Services provided an updated response, as below.

#### **2.1.3.**

“While the Operation Plan submitted gives details of how the number of vehicles using the access to the development site can be limited, it is difficult to see how this could be conditioned and enforced should there be a problem with the number of vehicles using the access present itself. With regard to the access itself and the junction with the A965, Roads Services still hold with the original consultation response that any intensification of use of the access could present an unacceptable road safety hazard.”

#### **2.2.**

Scottish Water has no objections, and Engineering Services did not provide a consultation response.

### **3. Representations**

#### **3.1.**

Three letters of objection have been received from:

- S De Rees, 2A Maitland Place, Finstown, KW17 2EQ.
- Marie Nicolson, Cruanbreck, Finstown, KW17 2NY.
- Steven and Mandy Ward, Laharna, Finstown, KW17 2EQ.

#### **3.2.**

The letters of objection relate to both the change of use and the proposed extension, and are on grounds of road safety, increased vehicle movements, parking availability, forward visibility in the parking area, and impact on residential amenity through noise and smell/fumes.

#### **3.3.**

Other issues raised including servitude rights, access rights, maintenance payments, and impacts on services are not material planning considerations.

## 4. Relevant Planning History

### 4.1.

Reference.	Proposal.	Location.	Decision.	Date.
13/187/PP.	Change of use of part of premises from storage (storing fishing gear) to fish processing.	Workshop, Maitland Place, Finstown, KW17 2EQ.	Approved (temporary approval).	05.09.2013.

### 4.2.

As noted above, a small part of the storage building extending to approximately one third of the floor area was approved for fish filleting, under application 13/1887/PP. Due to the very small scale of the proposed development, it was approved for a temporary period of two years.

## 5. Relevant Planning Policy and Guidance

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

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 11 – Outdoor Sports, Recreation and Community Facilities.
  - Policy 14C – Road Network Infrastructure.

## 6. Legal Aspects

### 6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”

### 6.2.

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

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

### **6.3.**

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

## **7. Assessment**

### **7.1. Background**

#### **7.1.1.**

The application site is located in Maitland Place in Finstown, as shown in the site plan attached as Appendix 1 to this report, accessed through a narrow access from the A965, and comprises an existing building and adjacent open area of gravel. The lawful planning use of the shed is storage or distribution, Use Class 6. The Orkney Men's Shed first occupied the building in July 2017 and has operated it as a men's shed since then. The original sales particulars for the building have been submitted with the current application, which describes it as both a 'store' and 'workshop', and also that it may be suitable for conversion "subject to the necessary planning consents".

#### **7.1.2.**

The Scottish Men's Sheds Association describes men's sheds as, "...a permanent meeting place for men where lots of good community and healthy 'self and group determined' experiences take place. They take place by 'everyday' men with 'time on their hands' willing to act with the skills they already have within their local community. The 'place'...which is used for many different activities is run by a volunteer group (Shed committee) for themselves and other men over the age of eighteen (usually) who have 'time on their hands', want to get out the house/flat to socialise (chat and put the world to rights, sometimes) and maybe also do something (build/repair,up-cycle/create/learn/mentor) in between the socialising in an alcohol free and welcoming environment."

#### **7.1.3.**

The Orkney Men's Shed falls within that general description, offering a meeting place, workshop and social hub. As a use within Use Class 10, non-residential institutions, it should be noted that the change of use, if approved, would be for that use class which includes creche, nursery, education and public worship. The application must be considered in that context.

## **7.2. Proposal**

### **7.2.1.**

The retrospective element of the application is to change the use of the building from a store to a non-residential institution, and to extend the building to the north, in the form of a lean-to structure along most of the length of the shed. The extension would be clad with timber, with a profiled metal sheet roof, and would be used for storage and to provide an accessible toilet facility. Parking would be retained on the open ground adjacent.

### **7.2.2.**

Operating hours of two days per week, totalling 16 hours, has been submitted. There is no clarification of any proposed change to these hours.

## **7.3. Principle**

Uses within Use Class 10, including creche, nursery, education and public worship as noted above, would often be described as facilities which help to support and enhance general community interests, and the Orkney Men's Shed would fall into that description. In that regard, Policy 11 'Outdoor Sports, Recreation and Community Facilities' is relevant, which confirms that the development is acceptable in principle in that location. It follows that the extension to the premises is also acceptable in principle, subject to other policies in the Local Development Plan.

## **7.4. Design and Appearance**

The proposed materials are appropriate in the context and would maintain the non-domestic character of the existing building. The development therefore complies with Policy 1 'Criteria for All New Development' parts (i) and (ii), and Policy 2 'Design'.

## **7.5. Residential Amenity**

The property is long established as non-domestic. It is anticipated that noise would be generated by the construction activities within the building, including the use of power tools. That noise and activity would not occur under the lawful planning use of the building for storage. However, noise-generating activities could be controlled by planning condition to daytime hours and limited to weekdays if a change of use was supported. No issues of residential amenity are anticipated from the general gathering of users of the facility, for meetings or other activities that do not generate noise. None of the windows would have an unacceptable impact on privacy. Planning conditions could limit activities, and storage of goods if required, to inside the shed only to avoid activities in the yard, and also control hours of construction. The development is therefore considered to comply with Policy 1 'Criteria for All New Development', part (iv).

## **7.6. Parking and Road Safety**

### **7.6.1. Parking**

Parking and road safety are the key issues affecting the proposed development. In relation to parking provision, some minor works are proposed to the yard and the

current eight spaces would be maintained. However, based on the National Roads Development Guide, Roads Services notes that the parking requirement for the proposed use is greater than for the current lawful planning use of the shed as storage. The applicant has suggested limiting the number of users who can park in the yard or limiting it to users with a 'blue badge' or mobility issues. However, it would not be possible to condition or enforce this.

#### **7.6.2.**

Critical is the risk to road users due to vehicles using the access. The existing access is historic and is substandard in relation to road safety. Roads Services states that there is almost no forward visibility from the existing junction with the public road, and notes that vehicle users are required to edge out and encroach into the public road to exit the junction. In addition, vehicles visiting the development site from the public road cannot see if the access track is clear when approaching from either direction.

#### **7.6.3. Road safety**

It must be acknowledged that the building already exists and has a lawful planning status as a storage building. However, for all development, whether a new building or a change of use, the impact of that proposed development on any existing situation must be considered. The proposed change of use to use Class 10, including the specific proposed function as a men's shed, represents an intensification of an access that is already a road safety hazard. As noted in relation to parking, there is no planning condition or other means of regulatory control to limit the number or timing of vehicle movements, or the users of the access, so the development must be considered in relation to the total number of users.

#### **7.6.4.**

Policy 1 'Criteria for All New Development', part (vi), notes that development will only be supported where it "does not result in an unacceptable level of risk to public health and safety". Policy 14C 'Road Network Infrastructure' states that development will only be permitted where "(ii) It can be safely and conveniently accessed by service, delivery and other goods vehicles, as appropriate to the development."

#### **7.6.5.**

Irrespective of the proposed extension, the development and change of use of the building would result in an intensification in use of an existing substandard access, with no means of it being upgraded. Roads Services as the Roads Authority has advised that the development would create an unacceptable road safety hazard. On that basis, the development must be considered contrary to Policies 1 (vi) and 14C of the Orkney Local Development Plan 2017.

## **8. Conclusion and Recommendation**

### **8.1.**

The principle of the development is acceptable. Subject to control of materials and operations, the appearance and residential amenity of the area could be adequately protected.

### **8.2.**

Part of the proposed development has already taken place, by the unauthorised change of use of the shed. The current application must be considered and determined in the usual way, not prejudiced by the unauthorised nature of the site at present. But equally, any commitment made by the applicant to the site cannot influence the appropriate consideration of the proposal in relation to relevant policies and other material considerations.

### **8.3.**

The merits of the Orkney Men's Shed are not disputed and should be applauded as a valuable resource and service for Orkney. Like any development though, that resource must be provided in the correct location, protecting amenity and safety amongst other issues. The operators of the Orkney Men's Shed acknowledge that support is increasing, which demonstrates its success. However, the dichotomy in this location is that, as attendance and associated benefits increase, so does the potential hazard.

### **8.4.**

Whilst acceptable in principle, the development would create an unacceptable road safety hazard. The development is contrary to Policies 1 (vi) and 14C of the Orkney Local Development Plan 2017, and there are no material considerations that outweigh this fundamental issue. It is therefore recommended that the application be **refused**.

## **9. Reasons for Refusal**

01. Policy 1 'Criteria for All New Development', part (vi), notes that development will only be supported where it "does not result in an unacceptable level of risk to public health and safety". Policy 14C 'Road Network Infrastructure' states that development will only be permitted where "(ii) It can be safely and conveniently accessed by service, delivery and other goods vehicles, as appropriate to the development." The development and change of use of the building would result in an intensification in use of an existing substandard access, with no means of it being upgraded. Roads Services, as the Roads Authority, has advised that the development would create an unacceptable road safety hazard. On that basis, the development is contrary to Policies 1 (vi) and 14C of the Orkney Local Development Plan 2017.

## **10. Contact Officer**

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## **11. Appendix**

Appendix 1: Site Plan.



