

## Item: 4.2

**Planning Committee: 29 May 2019.**

**Install Air Source Heat Pump, Create Access and Erect Fence (Retrospective) (resubmission of 19/043/HH) at 2 Ingale, Kirkwall.**

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

### 1. Summary

#### 1.1.

This is a retrospective planning application for the installation of a ground mounted air source heat pump, situated to the rear of 2 Ingale, Kirkwall, the formation of a private driveway to facilitate off street parking from Marwick Drive, and the erection of 'hit and miss' horizontally boarded timber fencing on top of an existing masonry wall, to the rear and side of the property. One objection has been received citing impacts on amenity through loss of light to the property at 3 Ingale situated to the south, and appearance of the streetscape. The proposed development is considered to accord with Policies 1, 2, 3, 7 and 14C of the Orkney Local Development Plan 2017 and Planning Policy Advice – 'Development Quality Within Settlements' (March 2012). Accordingly, the application is recommended for approval.

Application Number:	19/087/HH.
Application Type:	Planning Permission.
Proposal:	Install an air source heat pump, create an access and erect a fence (retrospective) (resubmission of 19/043/HH).
Applicant:	Mrs Kathleen Keldie, 2 Ingale, Kirkwall, KW15 1UY.

#### 1.2.

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

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

### 2. Consultations

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

### 3. Representations

#### 3.1.

One objection has been received from:

- Mrs J Rorie, c/o Advocacy Orkney, 46 Victoria Street, Kirkwall, KW15 1DN.

#### 3.2.

The objection is on the grounds of impact of the fence on the amenity of 3 Ingale, through loss of light to property.

### 4. Relevant Planning History

19/043/HH	Install an air source heat pump and create an access (retrospective).	2 Ingale, Kirkwall	Withdrawn.	06.03.19
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The above application was similar to the current application, but for the air source heat pump and access only. Following comments received from a neighbour, the application was withdrawn and resubmitted to include the fence.

### 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:

<http://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 3 – Settlements, Town Centres and Primary Retail Frontages.
  - Policy 7 – Energy.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Advice:
  - Planning Policy Advice ‘Development Quality within Settlements’ (March 2012).

### 6. Legal Aspects

#### 6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, “Where, in making any determination under the Planning Acts, regard is

to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”

## **6.2.**

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

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

## **6.3.**

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

# **7. Assessment**

## **7.1. Description of Development**

2 Ingale is a single storey semi-detached property typical of those within the surrounding housing development. The property is located on Marwick Drive, adjacent and to the north-west of the electricity sub-station, with public access between the sub-station to the south-west, as shown on the location plan attached as Appendix 1 to this report.

## **7.2. Proposal**

The application seeks retrospective approval for the installation of an air source heat pump, formation of the access onto Marwick Drive and heightening the existing boundary through use of a horizontally boarded timber fence atop the existing masonry wall.

## **7.3. Principle**

The nature of development is highly localised. It is however acknowledged that such development can have an impact on a neighbourhood and the environment in its local setting. Where such development exceeds permitted development rights it is subject to regulatory control. Orkney Local Development Plan 2017 policies provide a general presumption in favour of householder developments, provided that the development meets other policies of the Plan and any other material planning considerations.

## **7.4. Residential Amenity**

### **7.4.1. Fence**

Planning Policy Guidance 'Development Quality Within Settlements' (March 2012) states that: "It is important within built up areas to ensure that an appropriate level of amenity is maintained for existing residents" and that "...there must be no significant loss of amenity of existing neighbouring buildings, such as loss of privacy or daylight as a result of overlooking or overshadowing."

### **7.4.2.**

The addition of the horizontally timber boarded fence to the existing masonry wall results in it exceeding 2 metres in height, measured from the lowest point immediately adjacent to the boundary. As the masonry wall is in part a retaining wall, with the ground level outside of the curtilage of the house being higher than that within the garden area, the impact of this fence is considered of greater significance to the applicant than to either the public realm of the pedestrian access or to neighbouring properties. The elevated nature of ground levels to the rear of the property, combined with the low nature of the pre-existing boundary wall adjacent to the footway, could reasonably be stated as decreasing the privacy of the rear of 2 Ingale. As such, it is not considered unreasonable that the householder has sought to enhance the privacy and amenity of their property. This action has exceeded permitted development provisions and has led to the requirement for an application to regularise the works. The total height of the boundary wall and fence combined at its highest point is 2.37 metres, as measured from the curtilage of 2 Ingale in the south corner.

### **7.4.3.**

The objector's property, 3 Ingale, is set at 90 degrees to the rear of 2 Ingale and on higher ground. Owing to the change in levels, the fence is 1.73 metres in height when measured from the public footway that separates the two properties. The properties are set at an angle to each other, and as such the fence is set at an angle to the rear garden of 3 Ingale and not directly facing the windows. Given the distance of the fence from the property at 3 Ingale, its total height in relation to this property, and the intervening public footway, it is considered that the property at 3 Ingale will suffer little or no substantive loss of daylight. Whilst the fence has introduced visual change and lessens the open aspect to the original design and layout of the streetscape, this is not considered to be sufficient as to merit refusal.

### **7.4.4. Air Source Heat Pump**

Class 6H of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) has provision for an air source heat pump as installed, as permitted development. However, the installation was carried out prior to legislative changes and as such is subject to regularisation by this application. The air source heat pump has been subject to consultation with Environmental Health and, subject to condition, Environmental Health has no concerns regarding noise from the air source heat pump.

## 7.5. Access and Parking

Roads Services has no adverse comment to the access as formed. The access is therefore considered to accord with Policy 1 'Criteria for All Development' part (vi) and Policy 14C 'Road Network Infrastructure' of the Orkney Local Development Plan 2017.

## 8. Conclusion and Recommendation

The minor works subject to regularisation by this application are considered acceptable both individually and cumulatively and are not considered to negatively impact amenity, privacy or the appearance of the surrounding streetscape. The objection is not of sufficient weight to merit refusal. Noise output from the air source heat pump can be controlled by condition. The development accords with Orkney Local Development Plan 2017 policies 1, 2, 3, 7 and 14C, and Planning Policy Advice 'Development Quality within Settlements' (March 2012). Accordingly, the application is **recommended for approval**, subject to the condition attached as Appendix 2 to this report.

## 9. Contact Officer

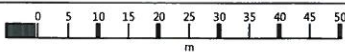
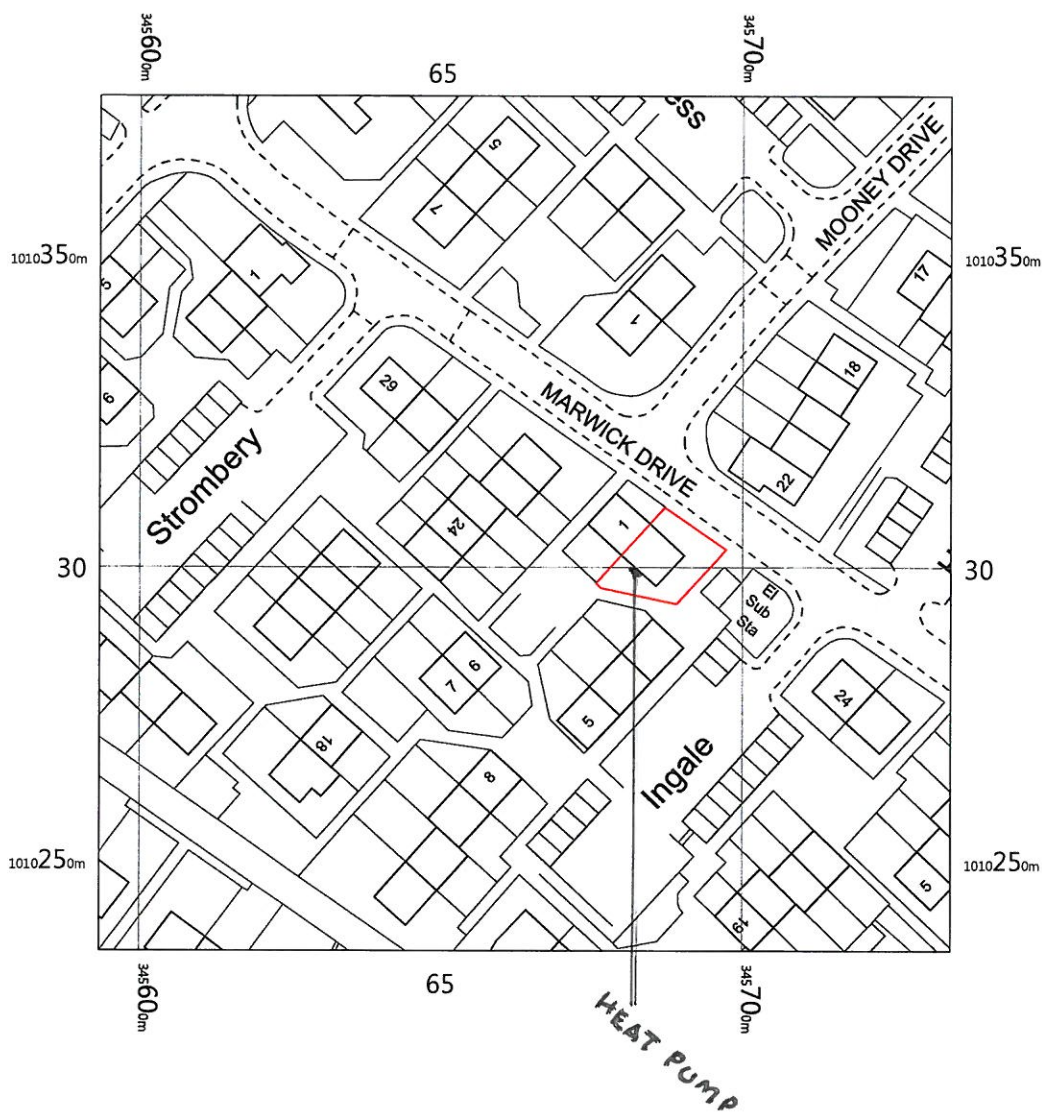
David Barclay, Senior Planner, extension 2502, Email [david.barclay@orkney.gov.uk](mailto:david.barclay@orkney.gov.uk)

## 10. Appendices

Appendix 1: Location Plan.

Appendix 2: Planning Condition.

2 Ingale, KW15 1UY



2 Ingale,  
Kirkwall,  
Orkney Islands  
KW15 1UY

OS MasterMap 1250/2500/10000 scale  
Wednesday, February 6, 2019, ID: MPMBW-00775919  
[www.blackwellmapping.co.uk](http://www.blackwellmapping.co.uk)

1:1250 scale print at A4, Centre: 345664 E, 1010307 N

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## **Appendix 2.**

01. Total noise from the air source heat pump installed shall not exceed NR25 within any residential property outwith the development, where NR25 is the Noise Rating Curve at 25, (noise measurements to be made with a window of any residential property outwith the development open no more than 50 mm.)

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pump.