

Minute

Local Review Body

Thursday, 24 August 2023, 09:30.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Owen Tierney, Kristopher D Leask, Graham A Bevan, Alexander G Cowie, P Lindsay Hall, James R Moar, Raymond S Peace, John A R Scott, Jean E Stevenson, Ivan A Taylor and Duncan A Tullock.

Present via Remote Link (Microsoft Teams)

Councillor Mellissa-Louise Thomson.

Clerk

- Hazel Flett, Servicer Manager (Governance).

In Attendance

- Susan Shearer, Planning Advisor.
- Stuart Bevan, Legal Advisor.
- Georgette Herd, Legal Advisor.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Owen Tierney.

1. Suspension of Standing Orders

The Local Review Body **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

2. Planning Application 22/453/HH

Proposed Extension of House and Other Works and Erection of Boundary Wall (Part Retrospective) at Ferndale, Willow Road, Kirkwall

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, the Local Review Body:

Noted:

2.1. That planning permission for the proposed extension of a house, removal of chimney stacks, re-roofing with Spanish slate, installation of rooflights, UPVC rainwater goods, aluminium-clad windows and a composite door, painting walls and erection of a boundary wall (part retrospective) at Ferndale, Willow Road, Kirkwall, was refused by the Appointed Officer on 21 April 2023, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

2.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed.

2.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Ferndale, Willow Road, Kirkwall, at 11:30 on 23 August 2023.

After hearing a report from the Planning Advisor, Councillor Duncan A Tullock, seconded by Councillor Raymond S Peace, moved that, in their opinion, there was insufficient information in order to proceed to determine the review.

Councillor Kristopher D Leask, seconded by Councillor Owen Tierney, moved an amendment that, in their opinion, there was sufficient information and therefore the Committee should proceed to determine the review.

On a vote being taken 5 members voted for the amendment and 7 for the motion, and the Local Review Body:

Resolved, in terms of delegated powers:

2.4. That the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed extension of a house, removal of chimney stacks, re-roofing with Spanish slate, installation of rooflights, UPVC rainwater goods, aluminium-clad windows and a composite door, painting walls and erection of a boundary wall (part retrospective) at Ferndale, Willow Road, Kirkwall, should not be determined without further procedure.

2.5. That the further procedure, referred to at paragraph 2.4 above should comprise:

- A further written submission from the Roads Authority providing clarification on the reason(s) for objecting to application 22/453/HH, but not an earlier application (21/364/HH), when the drawings submitted with both applications were identical.

3. Planning Application 23/028/HH

Proposed Extension of House at 15 Hillside Road, Stromness

The Local Review Body noted that this item had been withdrawn.

4. Planning Application 23/083/PP

Proposed Erection of Replacement House with Integral Garage (One for One) incorporating Existing Outbuilding at Littlequoy, Burray (Amendment to 22/222/PP)

As Councillor Mellissa-Louise Thomson had not taken part in the site visit, in terms of Standing Order 8.6, she could not take part in the deliberations of the Local Review Body and left the meeting at this point.

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, the Local Review Body:

Noted:

4.1. That planning permission for the proposed erection of a replacement house with an integral garage (One for One), incorporating an existing outbuilding, at Littlequoy, Burray (Amendment to 22/222/PP), was granted by the Appointed Officer on 21 June 2023, subject to conditions.

4.2. That the applicant's agent had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 4.1 above, specifically in respect of Condition 02 attached to the approval, be reviewed.

4.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Littlequoy, Burray, at 14:30 on 23 August 2023.

After hearing a report from the Planning Advisor, on the motion of Councillor John A R Scott, seconded by Councillor Owen Tierney, the Local Review Body:

Resolved, in terms of delegated powers:

4.4. That the review in respect of the decision of the Appointed Officer to grant planning permission for the proposed erection of a replacement house with an integral garage (One for One), incorporating an existing outbuilding, at Littlequoy, Burray (Amendment to 22/222/PP), subject to conditions, should be determined without further procedure.

On the motion of Councillor Owen Tierney, seconded by Councillor John A R Scott, the Local Review Body resolved, in terms of delegated powers:

4.5. That the decision of the Appointed Officer to grant planning permission for the proposed erection of a replacement house with an integral garage (One for One), incorporating an existing outbuilding, at Littlequoy, Burray (Amendment to 22/222/PP), subject to conditions, be varied by amending Condition 02.

The Local Review Body noted:

4.6. That, in accordance with Scottish Government advice on the use of conditions in planning permissions, conditions should only be imposed when they were:

- Necessary.
- Relevant to planning.
- Relevant to the development to be permitted.

- Enforceable.
- Precise.
- Reasonable in all other respects.

The Local Review Body resolved, in terms of delegated powers:

4.7. That the Local Review Body's reason for granting planning permission, subject to conditions, but with one condition varied, was that, in the Committee's opinion:

- The original Condition 02 attached to the decision notice in respect of 23/083/PP was neither necessary, enforceable nor reasonable.

4.8. That, accordingly, the conditions attached to the decision notice in respect of 23/083/PP should remain unchanged, with the exception of Condition 02, which should be amended to read as follows:

"02. No other development shall commence until the junction of the existing access track with the public road is constructed to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2-4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required and verge or footway.

Thereafter the access 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 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 interest of road safety."

5. Conclusion of Meeting

At 10:00 the Chair declared the meeting concluded.

Signed: Owen Tierney.