

## **Minute**

### **Planning Committee**

Wednesday, 8 March 2023, 09:30.

Council Chamber, Council Offices, School Place, Kirkwall.



### **Present**

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

### **Present via remote link (Microsoft Teams)**

Councillors Graham A Bevan and Mellissa-Louise Thomson.

### **Clerk**

- Angela Kingston, Committees Officer.

### **In Attendance**

- Roddy Mackay, Head of Planning and Community Protection.
- Nick Long, Service Manager (Environmental Health) (for Items 1 and 2).
- Jamie Macvie, Service Manager (Development Management).
- Susan Shearer, Service Manager (Development and Marine Planning).
- Nick Blowfield, Environmental Technical Officer/Environmental Health Officer (for Items 1 and 2).

### **In Attendance via remote link (Microsoft Teams)**

- Paul Maxton, Solicitor.
- Donald Wilson, Roads Authority Officer.

### **Observing**

- David Barclay, Senior Planner (Development Management) (for Items 1 to 6).
- Margaret Gillon, Senior Planner (Development Management).
- Rikki Lidderdale, Planning Control Officer (for Items 1 and 2).
- Ruth Craigie, Administrative Officer.

### **Observing via remote link (Microsoft Teams)**

- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.

### **Apology**

- Councillor Ivan A Taylor.

## **Declaration of Interest**

- Councillor Jean E Stevenson – Items 3, 5 and 6.

## **Chair**

- Councillor Owen Tierney.

## **1. Suspension of Standing Orders**

The Committee **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as a party had the right to be heard in person or through a representative and 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 21/266/PP**

### **Proposed Erection of Three Storey Block of 15 Flats and Alteration of Access and Associated Works at Great Western Road, Kirkwall**

Stephen Kemp, representing the applicant, Orkney Builders Limited, was present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**2.1.** That the Environmental Health service had objected to the application for planning permission in respect of the proposal for the erection of a three storey block of 15 flats and alteration of an access and associated works at Great Western Road, Kirkwall, on the grounds of noise affecting opening windows, in relation to the agent of change principle connected with the proximity of Fusion nightclub which, although currently not operating, retained planning status as a music venue.

**2.2.** That, as the application for planning permission in respect of the proposal for the erection of a three storey block of 15 flats and alteration of an access and associated works at Great Western Road, Kirkwall, had been called in by two Councillors, in accordance with the Scheme of Delegation, the application required to be reported to Committee for determination.

After hearing representations from Stephen Kemp, representing the applicant, Orkney Builders Limited, on the motion of Councillor Kristopher D Leask, seconded by Councillor Duncan A Tullock, the Committee:

Resolved, in terms of delegated powers:

**2.3.** That planning permission be refused in respect of the proposal for the erection of a three storey block of 15 flats and alteration of an access and associated works at Great Western Road, Kirkwall, for the following reason:

- The development is considered contrary to Policy 1: Criteria for All Development, as the development could result in an unacceptable level of risk to public health (from nuisance) and the development would be prejudicial to the existing use of the wider area surrounding the development site. The development is contrary to Policy 23 of National Planning Framework 4 which confirms that development which is likely to raise unacceptable noise issues will not be supported. The agent of change principle applies in this case, as the proposed development is a “noise sensitive development”. A Noise Impact Assessment has been submitted which concludes that the development as submitted is not acceptable.

Councillor Mellissa-Louise Thomson joined the meeting via Microsoft Teams at this point.

### **3. Planning Application 22/333/TPP**

#### **Proposed Erection of Wind Turbine at Swanbister House, Orphir**

Councillor Jean E Stevenson declared an interest in this item, her connection being that she was related to the applicant, and was not present during discussion thereof.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**3.1.** That a letter of objection relating to the application for planning permission in respect of the proposal for the erection of a wind turbine at Swanbister House, Orphir, had been received from Leslie Sinclair, 31A Broad Street, Kirkwall.

After hearing a statement from Leslie Sinclair, objector, which was read out by the Clerk, on the motion of Councillor P Lindsay Hall, seconded by Councillor James R Moar, the Committee:

Resolved, in terms of delegated powers:

**3.2.** That the objection received on material planning grounds was not considered to be of sufficient weight to merit refusal.

**3.3.** That the proposed development was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - The Spatial Strategy.
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 7 – Energy.
  - Policy 8 – Historic Environment and Cultural Heritage.
  - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Energy (2017).

- Supplementary Guidance: Historic Environment and Cultural Heritage (2017).
- Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).
- Development Management Guidance: Energy.
- National Planning Framework 4.

**3.4.** That planning permission be granted in respect of the proposal for the erection of a wind turbine at Swanbister House, Orphir, subject to the conditions attached as Appendix 1 to this Minute.

#### **4. Planning Application 22/367/PP**

##### **Proposed Erection of House with Integral Garage and Air Source Heat Pump and Creation of Access (Amendment to 22/047/PP) at Eastra, Stromness**

Corrine Sinclair, applicant, and Stephen Omand, agent for the applicant, were present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**4.1.** That the proposed erection of a house with an integral garage and an air source heat pump and creation of an access at Eastra, Stromness, followed the character of extant approval, application 22/047/PP, previously approved by the Planning Committee, with no fundamental change in the design approach or placement of the house within the site, and no change in the personal circumstances of the applicant in the application as submitted, but with several minor amendments resulting in a material change to the proposal.

**4.2.** That, as the previous application, application 22/047/PP for the proposed erection of a house with an integral garage and an air source heat pump and creation of an access at Eastra, Stromness, was determined by Committee, the Corporate Director for Neighbourhood Services and Infrastructure had opted not to exercise delegated powers.

After hearing representations from Stephen Omand, agent for the applicant, on the motion of Councillor Owen Tierney, seconded by Councillor Kristopher D Leask, the Committee:

Resolved, in terms of delegated powers:

**4.3.** That the proposed development was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - The Spatial Strategy.
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 9 – Natural Heritage and Landscape.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.

- Supplementary Guidance: Housing in the Countryside (2021).
- National Planning Framework 4.

**4.4.** That, although the proposed development was contrary to Policy 5E – Single Houses and New Housing in the Countryside of the Orkney Local Development Plan 2017, the material weight of the extant approval on the site outweighed the policy consideration.

**4.5.** That planning permission be granted in respect of the proposal for the erection of a house with an integral garage and an air source heat pump and creation of an access (amendment to 22/047/PP) at Eastra, Stromness, subject to the conditions attached as Appendix 2 to this Minute.

## **5. Planning Application 22/430/HH**

### **Proposed Erection of Timber Fence, Pave Courtyard and Erection of Polyunnel (Part Retrospective) at 80 Victoria Street, Kirkwall**

Councillor Jean E Stevenson declared an interest in this item, her connection being that the applicant was known to her, and was not present during discussion thereof.

Stephen Omand, agent for the applicant, Anne-Marie MacGregor, and John Foulis, Advocacy Orkney, representing the objector, Ashley Brown, were present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**5.1.** That a letter of objection relating to the application for planning permission in respect of the proposal for the erection of a timber fence, paving a courtyard and erection of a polyunnel (part retrospective) at 80 Victoria Street, Kirkwall, had been received from Ashley Brown, 76 Victoria Street, Kirkwall.

After hearing representations from John Foulis, Advocacy Orkney, representing the objector, Ashley Brown, and from Stephen Omand, agent for the applicant, Anne-Marie MacGregor, on the motion of Councillor Kristopher D Leask, seconded by Councillor P Lindsay Hall, the Committee:

Resolved, in terms of delegated powers:

**5.2.** That the objection received on material planning grounds was not considered to be of sufficient weight to merit refusal.

**5.3.** That the proposed development was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - The Spatial Strategy.
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.

- Policy 8 – Historic Environment and Cultural Heritage.
- Supplementary Guidance: Historic Environment and Cultural Heritage (2017).
- National Planning Framework 4.

**5.4.** That planning permission be granted in respect of the proposal for the erection of a timber fence, paving a courtyard and erection of a polytunnel (part retrospective) at 80 Victoria Street, Kirkwall, subject to the conditions attached as Appendix 3 to this Minute.

## **6. Planning Application 22/431/LB**

### **Erection of Timber Fence (Part Retrospective) at 80 Victoria Street, Kirkwall**

Councillor Jean E Stevenson declared an interest in this item, her connection being that the applicant was known to her, and was not present during discussion thereof.

Stephen Omand, agent for the applicant, Anne-Marie MacGregor, and John Foulis, Advocacy Orkney, representing the objector, Ashley Brown, were present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**6.1.** That a letter of objection relating to the application for listed building consent in respect of the erection of a timber fence (part retrospective) at 80 Victoria Street, Kirkwall, had been received from Ashley Brown, 76 Victoria Street, Kirkwall.

John Foulis, Advocacy Orkney, confirmed that he had not received any instruction from his client, Ashley Brown, objector, regarding the application for listed building consent. After hearing representations from Stephen Omand, agent for the applicant, Anne-Marie MacGregor, on the motion of Councillor John A R Scott, seconded by Councillor Kristopher D Leask, the Committee:

Resolved, in terms of delegated powers:

**6.2.** That the objection received on material planning grounds was not considered to be of sufficient weight to merit refusal.

**6.3.** That the proposed development was in accordance with the undernoted policies:

- Orkney Local Development Plan 2017:
  - The Spatial Strategy.
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 8 – Historic Environment and Cultural Heritage.

- Supplementary Guidance: Historic Environment and Cultural Heritage (2017).
- National Planning Framework 4.

**6.4.** That listed building consent be granted in respect of the erection of a timber fence (part retrospective) at 80 Victoria Street, Kirkwall, subject to the conditions attached as Appendix 4 to this Minute.

## **7. Planning Application 22/456/VR**

### **Proposed Removal of Condition 07 (Provision of Footway) of Planning Permission 22/060/PP at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness**

Stephen Omand, agent for the applicant, Wardhill Homes Limited, was present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

**7.1.** That the application for planning permission in respect of the proposal for the removal of condition 07 (provision of footway) of planning permission 22/060/PP, previously approved by the Planning Committee, at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, had been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, to carry out development without complying with conditions subject to which a previous planning permission was granted.

**7.2.** That Roads Services had objected to the application for planning permission in respect of the proposal for the removal of condition 07 (provision of footway) of planning permission 22/060/PP at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, on the grounds of road safety and the unacceptable burden that removal of the condition could apply to Orkney Islands Council.

**7.3.** That Development and Marine Planning had objected to the application for planning permission in respect of the proposal for the removal of condition 07 (provision of footway) of planning permission 22/060/PP at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, on the grounds that requiring a footpath to allow existing and proposed residents as well as visitors in the location to be able to walk safely to other parts of Stromness was considered to be proportionate and appropriate.

**7.4.** That, as the previous application, application 22/060/PP for the proposed erection of two houses and creation of an access at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, was determined by Committee, the Corporate Director for Neighbourhood Services and Infrastructure had opted not to exercise delegated powers.

After hearing representations from Stephen Omand, agent for the applicant, on the motion of Councillor Duncan A Tullock, seconded by Councillor Kristopher D Leask, the Committee:

Resolved, in terms of delegated powers:

**7.5.** That planning permission be refused in respect of the proposal for the removal of condition 07 (provision of footway) of planning permission 22/060/PP at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, for the following reason:

- Construction of a footway was considered necessary for the approval of planning application 22/060/PP. Accordingly, a planning condition was attached to the consent requiring the footway construction and associated works. Removal of condition 07, and therefore removal of the provision of a footpath and associated services and works, would result in the development of housing which would have an unacceptable impact on road safety and pedestrian safety, and would not deliver the necessary footpath provision or connectivity within Stromness, contrary to the sustainable travel/transport aims of policy. The development proposed to remove condition 07 is therefore contrary to the Sustainable Transport provisions and Policy 13 of National Planning Framework 4, and Policy 1: Criteria for All Development and Policy 14: Transport, Travel and Road Network Infrastructure of the Orkney Local Development Plan 2017.

## **8. Conclusion of Meeting**

At 12:35 the Chair declared the meeting concluded.

Signed: Owen Tierney.