

Minute

Local Review Body

Friday, 8 April 2022, 10:00.

Microsoft Teams.



Present

Councillors Robin W Crichton, Alexander G Cowie, Norman R Craigie, David Dawson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Roddy Mackay, Planning Advisor.
- Katharine McKerrell, Legal Advisor.

Apologies

- Councillor Barbara Foulkes.
- Councillor Stephen Sankey.
- Councillor John A R Scott.
- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Robin W Crichton.

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. Form of Voting

The Local Review Body resolved that, should a vote be required in respect of the Notice of Review to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

3. Planning Application 21/436/PIP

Proposed Siting of Replacement House (One for One) on land near Drunton, Russland Road, Harray

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:

3.1. That planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, was refused by the Appointed Officer on 5 January 2022, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

3.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer to refuse planning permission for the siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be reviewed.

3.3. That, as part of the Notice of Review, referred to at paragraph 3.2 above, the applicant had submitted information which, in terms of Section 43B of the Town and Country Planning (Scotland) Act 1997 as amended, was deemed as new information.

3.4. That, on 28 February 2022, the Local Review Body resolved that the new information, referred to at paragraph 3.3 above, namely new farming regulations, the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021, which came into force on 1 January 2022, and introduced measures regarding the storage of slurry, should be taken into account when determining the review.

3.5. That, on 28 February 2022, the Local Review Body further resolved that the review should not be determined without further procedure, and that the further procedure should comprise the following:

- An opportunity for relevant parties, including the Scottish Environment Protection Agency and the Council's Environmental Health Service, to make representations on the new information referred to at paragraph 3.4 above.
- Further information from the applicant's agent to clarify whether the application was being made under the criteria of Policy 5E iii – the replacement of an existing building or structure, or Policy 5E viii – the provision of a single dwelling house to allow for the retirement succession of a viable farm holding.

3.6. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Drunton, Russland Road, Harray, at 11:00 on 28 February 2022.

After hearing a report from the Planning Advisor, the Local Review Body:

Resolved, in terms of delegated powers:

3.7. That the review in respect of the decision of the Appointed Officer to refuse planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, should be determined without further procedure.

Councillor Duncan A Tullock, seconded by Councillor Owen Tierney, moved that the decision of the Appointed Officer to refuse the application for planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be reversed, as, in their opinion:

- (1) The siting of a replacement house (one for one) was acceptable in principle.
- (2) The proposed site location would reflect and maintain the local settlement pattern, which was of a scattered and low-density nature, and a house could be accommodated which would fit appropriately within the landscape with minimum visual and landscape impact on the surrounding area.
- (3) The proposed development would not have an unacceptable adverse impact on the amenity of adjacent properties, place an unacceptable burden on existing infrastructure, or result in an unacceptable level of risk to public health and safety.
- (4) Noting the requirement in Supplementary Guidance: Housing in the Countryside that the replacement building should be located on the same site unless an exceptional case could be made that there were demonstrable planning benefits for an alternative location, the exceptional circumstances were that, in terms of the site of the existing redundant building (a) the layout of the neighbouring farm buildings resulted in a site contained within an enclosed area and its proximity to a working farm made it unsuitable for a family home, and (b) it would require access via a working farm track resulting in potential conflict with agricultural traffic, compared to the proposed site which offered a more appropriate access directly onto the main road.

And, accordingly, the proposed development would comply with Policy 1 – Criteria for All Development, parts (ii) to (vi) and Policy 5E – Single Houses and New Housing Clusters in the Countryside, part (iii), of the Orkney Local Development Plan 2017, and Supplementary Guidance: Housing in the Countryside, Development Criteria 1, 2, 4 and 6.

Councillor Robin W Crichton, seconded by Councillor Alexander G Cowie, moved an amendment that the decision of the Appointed Officer to refuse the application for planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, be upheld.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie and Robin W Crichton (2).

For the Motion:

Councillors Norman R Craigie, David Dawson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge (5).

The Motion was therefore carried.

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

3.8. That the decision of the Appointed Officer to refuse planning permission in principle for the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, should not be upheld.

3.9. That planning permission in principle be granted in respect of the proposed siting of a replacement house (one for one) on land near Drunton, Russland Road, Harray, subject to the conditions attached as Appendix 1 to this Minute.

3.10. That the Local Review Body's reasons for granting planning permission in principle were that, in the Committee's opinion:

- The siting of a replacement house (one for one) was acceptable in principle.
- The proposed site location would reflect and maintain the local settlement pattern, which was of a scattered and low-density nature, and a house could be accommodated which would fit appropriately within the landscape with minimum visual and landscape impact on the surrounding area.
- The proposed development would not have an unacceptable adverse impact on the amenity of adjacent properties, place an unacceptable burden on existing infrastructure, or result in an unacceptable level of risk to public health and safety.
- Noting the requirement in Supplementary Guidance: Housing in the Countryside that the replacement building should be located on the same site unless an exceptional case could be made that there were demonstrable planning benefits for an alternative location, the exceptional circumstances were that, in terms of the site of the existing redundant building:
 - The layout of the neighbouring farm buildings resulted in a site contained within an enclosed area and its proximity to a working farm made it unsuitable for a family home.
 - It would require access via a working farm track resulting in potential conflict with agricultural traffic, compared to the proposed site which offered a more appropriate access directly onto the main road.

And, accordingly, the proposed development would comply with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development, parts (ii) to (vi).
 - Policy 5E – Single Houses and New Housing Clusters in the Countryside, part (iii).
- Supplementary Guidance: Housing in the Countryside, Criteria 1, 2, 4 and 6.

4. Conclusion of Meeting

At 10:28 the Chair declared the meeting concluded.

Signed: Rob Crichton.