

Minute

Local Review Body

Friday, 19 May 2023 at 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, Ivan A Taylor and Duncan A Tullock.

Present via remote link (Microsoft Teams)

Councillors Jean E Stevenson and Mellissa-Louise Thomson.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

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

Declarations of Interest

- No declarations of interest had been intimated.

Chair

- Councillor Owen Tierney.

1. Planning Application (22/274/PP)

Proposed Erection of Replacement House (One for One) and Upgrade Access at (Land Near) Skerryvoe, Evie

As Councillor James R Moar had not taken part in the site visit, in terms of Standing Order 8.6, he could not take part in the deliberations of the Local Review Body, and was not present during discussion thereof.

As Councillors Jean E Stevenson and Owen Tierney had not been involved in previous discussions at the Committee regarding this application, and had not taken part in the site visit, in terms of Standing Order 8.6 they could not take part in the deliberations of the Local Review Body, and left the meeting at this point.

Signed: Owen Tierney.

Councillor Kristopher D Leask, Vice Chair, took the Chair for the remainder of the meeting.

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:

1.1. That planning permission for the proposed erection of a replacement house (one for one) and upgrading an access at Skerryvoe, Evie, was refused by the Appointed Officer on 18 January 2023, for the reasons outlined in section 3.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions.

1.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer to refuse planning permission for the erection of a replacement house (one for one) and upgrading an access at Skerryvoe, Evie, be reviewed.

1.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Skerryvoe, Evie, at 09:35 on 31 March 2023.

1.4. That, on 31 March 2023, the Local Review Body resolved that the review should be deferred, to enable the following:

- A further written submission from the Roads Authority providing clarification on the term “intensification”, as given in the reason for refusal, being explicit to the National Roads Development Guide.
- A representative from the Roads Authority being invited to attend the meeting of the Local Review Body at which the Notice of Review would be determined.

1.5. That written submissions were requested from the Roads Authority on 7 April 2023, with a response received on 18 April 2023 which was subsequently forwarded to all interested parties.

1.6. That, on 23 April 2023, the applicant’s agent provided a written response to the Roads Authority’s written submission.

After seeking advice from Stuart Bevan, Legal Advisor, the Local Review Body:

Noted:

1.7. That, although the Local Review Body had resolved that a representative from the Roads Authority be invited to attend this meeting, attendance could be construed as constituting a hearing, which would have required the Hearing Session Rules, under the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, to have been adhered to.

1.8. That notice of such a hearing had not been given and, as a result, representatives from Roads Services had been advised not to attend this meeting.

The Local Review Body determined that it had sufficient information before it to consider its decision and thereafter resolved, in terms of delegated powers:

1.9. That the review in respect of the decision of the Appointed Officer to refuse planning permission for the proposed erection of a replacement house (one for one) and upgrading an access at Skerryvoe, Evie, should be determined without further procedure.

After hearing a report from the Planning Advisor, on the motion of Councillor Duncan A Tullock, seconded by Councillor Alexander G Cowie, the Local Review Body:

Resolved, in terms of delegated powers:

1.10. That the decision of the Appointed Officer to refuse planning permission for the proposed erection of a replacement house (one for one) and upgrading an access at Skerryvoe, Evie, should not be upheld.

1.11. That planning permission be granted in respect of the proposed erection of a replacement house (one for one) and upgrading an access at Skerryvoe, Evie, subject to conditions.

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

- Although noting the concerns raised by the Roads Authority, the roads under consideration were not sufficiently busy to preclude this development, and therefore there would not be any significant intensification of traffic on the road.

And, accordingly, the proposed development complied with the following:

- Orkney Local Development Plan 2017:
 - Policy 1(i-vi) – Criteria for All Development.
 - Policy 2(ii) – Design.
 - Policy 5E(iii)– Single Houses and New Housing Clusters in the Countryside.
 - Policy 14C(i-iv) – Road Network Infrastructure.

1.13. That powers be delegated to the Corporate Director for Strategy, Performance and Business Solutions, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions to attach to the planning permission for the proposed erection of a replacement house (one for one) and upgrade an access at Skerryvoe, Evie, based on the following relevant matters:

- Access specification.
- Surface water drainage.
- External lighting.
- Air source heat pump noise.
- Demolition of existing building and use of materials.

- Landscaping notwithstanding submitted details.
- Hours of construction work.

2. Planning Application (22/396/PP)

Proposed Erection of Replacement House (One for One) with Integral Garage and Air Source Heat Pump at Rennibister, Firth

As Councillors Jean E Stevenson and Owen Tierney had not been involved in previous discussions at the Committee regarding this application, and had not taken part in the site visit, in terms of Standing Order 8.6, they could not take part in the deliberations of the Local Review Body, and had already left the meeting.

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 the Appointed Officer had failed to determine the application for planning permission for the proposed erection of a replacement house (one for one) at Rennibister, Firth, within the two month period allowed for determination of the application.

2.2. That the applicant had submitted a Notice of Review in light of the failure by the Appointed Officer, referred to at paragraph 2.1 above, to determine the application.

2.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site at Rennibister, Firth, at 10:30 on 31 March 2023.

2.4. That, on 31 March 2023, the Local Review Body resolved that the review should be deferred, to enable an assessment of the application for planning permission for the proposed erection of a replacement house (one for one) at Rennibister, Firth, to be carried out by an independent planning advisor, with all costs being met by the Council.

2.5. That the independent planning report, received on 25 April 2023, was shared with interested parties on 26 April 2023, requesting that any comments to be received no later than 9 May 2023.

2.6. That no further representations were received in relation to the independent planning report.

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

Resolved, in terms of delegated powers:

2.7. That the review in respect of planning permission for the proposed erection of a replacement house (one for one) at Rennibister, Firth, should be determined without further procedure.

On the motion of Councillor Duncan A Tullock, seconded by Councillor Kristopher D Leask, the Local Review Body:

Resolved, in terms of delegated powers:

2.8. That planning permission be granted in respect of the proposal for the erection of a replacement house (one for one) at Rennibister, Firth, subject to conditions.

2.9. That powers be delegated to the Corporate Director for Strategy, Performance and Business Solutions, in consultation with the Planning Advisor and the Legal Advisor, to determine the necessary conditions to attach to the planning permission for the proposed erection of a replacement house (one for one) at Rennibister, Firth, which took into account the following relevant matters referred to in the Independent Planner's Assessment:

- Roads Authority related conditions.
- Environmental Health related conditions.
- Scottish Water related conditions.
- Archaeology related conditions.
- Any standard planning conditions considered appropriate by the Local Review Body or those that were routinely attached to every decision notice issued by the Council.

3. Conclusion of Meeting

At 09:49 the Vice Chair declared the meeting concluded.

Signed: Kristopher D Leask.