

Item: 4.3

Planning Committee: 1 June 2022.

Erect Two Houses with Air Source Heat Pumps and Create Access (resubmission of 21/095/PP) at Plots 1A and 1B Eastbrae, Wardhill, Stromness.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

Planning permission is sought for the erection of two houses with air source heat pumps and creation of an access at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness. The application site is located to the south of Wardhill Road, on an area of ground within the Stromness town boundary. The site is within the Hoy and West Mainland National Scenic Area. One objection has been received on grounds of density, road safety concerns, privacy, overlooking, residential amenity and failure to accord with the development brief, Eastbrae, Stromness, Housing Development Brief Supplementary Guidance (2012) for the area. The objection is of insufficient weight to merit refusal. Roads Services raised concerns regarding the lack of footway provision within the area, connecting the development to the town; a condition is proposed to address this. On balance, the proposal is considered acceptable in terms of scale, design and layout and the proposed development accords with policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017. Accordingly, the application is recommended for approval, subject to conditions.

Application Number:	22/060/PP.
Application Type:	Planning Permission.
Location:	Plots 1A and 1B Eastbrae, Wardhill, Stromness.
Proposal:	Erect two houses with air source heat pumps and create an access (resubmission of 21/095/PP).
Applicant:	Wardhill Homes Limited, Eastbrae House, Wardhill Road, Stromness, KW16 3HS.
Agent:	Stephen J Omand, 14 Victoria Street, Kirkwall.

1.2.

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

https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm
(then enter the application number given above).

2. Consultations

2.1.

No objections have been received from any statutory consultation body which could not be addressed by planning condition.

2.2.

However, it should be noted that Roads Services has raised significant concerns in respect of road safety which states:

“Roads Services have concerns with this development proposal for a further two properties in this area. In the Eastbrae, Stromness, Housing Development Brief Supplementary Guidance dated July 2012, it indicates that an additional seven properties would be appropriate for this area. To date and with subdivision of two of the plots nine properties have already been constructed within this development area, should this development proposal be successful in gaining planning permission for what can only be described as family sized properties that would bring the total to eleven family sized properties.

Roads Services concerns are that had it been intimated in the beginning that eleven family sized properties were sought, in addition to the road widening that was carried out as part of planning ref 12/546/PP we would also have required the construction of a new 1.8 metre wide footway across the entire frontage of the development area and connecting to the existing footway at the junction of Wardhill Road and Hillside Road, and also extend the existing streetlighting over the same length.

Therefore, while it is accepted that this development proposal is for the construction of just two properties when taking into account that it is the same developer that has already constructed all of the existing properties, it doesn't appear to be unreasonable that a condition should be applied to construct a footway and extend the existing streetlighting over the area described above. In addition, a condition will also have to be applied in relation to the access to the site, but the style of condition will be entirely dependent on whether or not a condition is applied in relation to a new footway.”

2.3.

The requirement for a footway adjacent to the public road to improve connectivity/public access and road safety is not unusual for housing developments; this would normally be addressed, and are required by planning condition, at the outset of a development. However, in this case the number of houses now proposed is an increase in the number originally proposed; the development is now at a point where the level of pedestrian use is such that a footway is required. The creation of a footway from the sites to connect with the existing public footway network would be subject to planning condition which would require the work to be undertaken and completed at the developer's expense.

3. Representations

3.1.

One objection has been received from:

- Mr Kenneth Garrioch, Annandale, Stromness, KW16 3HS.

3.2.

The objection is on the grounds of overlooking, loss of privacy, impact on residential amenity and concerns regarding road safety given existing and proposed accesses at a blind summit. These matters have been considered in the assessment of the application.

3.3.

In addition, the objection states that the proposal does not follow the content of the Housing Development Brief, Supplementary Guidance (June 2012), and specifically the provision to provide "Open space free from built form", designed to provide a visual break.

4. Relevant Planning History

4.1.

Reference	Proposal	Location	Decision	Date
21/095/PP	Erect three houses with air source heat pumps and create an access.	Plots 1A, 1B and 1C, Eastbrae, Wardhill Road, Stromness.	Withdrawn	
15/554/PP	Erect a house and install an air source heat pump.	Eastbrae Plot 1 (formerly Plot 1d), Stromness.	Grant Subject to Conditions	28.01.2016
12/546/PP	Create 4 serviced house sites and associated works, including road widening (amendment to 11/299/PIP).	Eastbrae (Land Near), Stromness.	Grant Subject to Conditions	20.11.2012
11/299/PIP	Siting of 5 detached and 2 semi-detached houses.	Eastbrae (Land Near), Stromness.	Withdrawn	

5. Relevant Planning Policy and Guidance

The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website at:

The key policies, supplementary guidance and planning policy advice listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 5 – Housing in Settlements.
 - Policy 9 – Landscape.
 - Policy 13B – Sustainable Drainage Systems (SuDS).
 - Policy 13C – Waste Water Drainage.
 - Policy 14C – Road Network Infrastructure.
- Supplementary Guidance and Planning Policy Advice:
 - Planning Policy Advice 'Planning Policy Advice: Amenity and Minimising Obtrusive Lighting.
 - Eastbrae, Stromness, Housing Development Brief, Supplementary Guidance, (July 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.

Annex A of Planning Circular 3/2013: 'development management procedures' provides advice on defining a material consideration, and following a House of Lord's judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: "If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted."

6.3.

Annex A continues as follows:

- The House of Lord's judgement also set out the following approach to deciding an application:

- Identify any provisions of the development plan which are relevant to the decision.
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
- Consider whether or not the proposal accords with the development plan.
- Identify and consider relevant material considerations for and against the proposal.
- Assess whether these considerations warrant a departure from the development plan.
- There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
 - It should relate to the particular application.
- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy and UK Government policy on reserved matters.
 - The National Planning Framework.
 - Policy in the Scottish Planning Policy and Designing Streets.
 - Scottish Government planning advice and circulars.
 - EU policy.
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance.
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act.
 - Community plans.
 - The environmental impact of the proposal.
 - The design of the proposed development and its relationship to its surroundings.
 - Access, provision of infrastructure and planning history of the site.

- Views of statutory and other consultees.
- Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

6.4.

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.

6.5.

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. Location and Siting

7.1.1.

The application site is within the Stromness settlement boundary, to the north-west of the town, associated with an existing grouping of houses and buildings off Wardhill Road, as indicated in the Location Plan attached as Appendix 1 to this report. Multiple houses have been completed, or are under construction, in this area of Eastbrae/Wardhill, Stromness, in recent years.

7.1.2.

It is proposed to erect two houses on the site. This follows a previous application, reference 21/095/PP, which was withdrawn. The site extends to 1512 square metres, with the two plots split relatively evenly, and with a joint access located centrally from Wardhill Road.

7.2. Principle and Development Brief

7.2.1.

Policy 5A: Housing in Settlements provides a general presumption in favour of residential development within the settlement boundaries, where it consists of infill development, conversion, redevelopment of derelict land/existing premises or the sub-division of garden grounds. This development is considered infill and the principle is therefore acceptable.

7.2.2.

The original development brief for the area, Eastbrae, Stromness, Housing Development Brief, Supplementary Guidance (2012), indicated the current application site as 'open space free from built form', a point raised in the objection. However, the weight and relevance of the development brief has diminished by the passage of time, the adoption of the two subsequent Local Development Plans, and associated policies and allocations. The density of the area can now be described as medium density, rather than the low density and scattered density anticipated in 2012, which was the relevant Local Development Plan allocation at that time.

7.2.3.

In terms of the potential effects on the amenity of the area, there would be potential for short term impacts during the construction phase, but thereafter, and in relation to residential amenity, it is considered that the distance between the existing and proposed dwelling is such that there would be no significant impact. Therefore, it is considered that the proposed development accords with Policy 1: Criteria for All Development and Policy 2: Design.

7.3. Design and Appearance

7.3.1.

Both proposed houses have an identical, simple modern design. These three-bedroom houses would be single storey, like other houses in the surrounding area. The design of these dwellings would be unlikely to have a significant impact on the character of the area.

7.3.2.

Both houses would have external materials like others built recently within the immediate area, including black flat profile concrete roof tiles, light coloured dry dashed walls, dark grey windows and black rainwater goods. A single access would be provided for the sites, and each plot would include off-road parking and adequate amenity space. The proposed materials and amenity space are acceptable.

7.3.3.

These sites are located within the Hoy and West Mainland National Scenic Area (NSA). Given the designation and the elevated position of the houses within the wider landscape, it is important that the site layout and levels minimise the

landscape impacts. The houses therefore step down from each other, taking account of the existing ground level.

7.3.4.

The proposed development would add to the density of housing in the vicinity, given the extent of development in recent years; this application site and its surroundings no longer appears detached from the town, and instead is seen as an extension to the settlement. In this context, the location of the sites within the Stromness town boundary, the development is considered appropriate and is not considered likely to have any significant impact on the character of the area. It is considered that the landscape quality of the NSA would be protected.

7.3.5.

It is considered that the proposed development complies with Policy 1: Criteria for All Development, Policy 2: Design, Policy 5A: Housing in Settlements and Policy 9: Natural Heritage and Landscape.

7.4. Residential Amenity

Given the distance between the proposed houses and to existing neighbouring properties, the potential for unacceptable overlooking or loss of privacy would be minimal, and the risk of overshadowing would be minimal due to the scale of the development. Planning conditions would control hours of construction. Air source heat pumps are proposed for each of the dwellings; a planning condition would control noise. A planning condition would also be attached to control light pollution and obtrusive lighting. It is considered that the proposed development is unlikely to have a significant impact on residential amenity and would therefore comply with Policy 1: Criteria for All Development and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting.

7.5. Parking Provision, Access and Road Safety

7.5.1.

Roads Services was consulted and raised significant concerns regarding the number of properties now constructed or proposed within this area, highlighting that the original development brief indicated that an additional seven properties would be appropriate for this area, and observing that there are currently nine houses completed, under construction or consented within the original development brief area. In addition, three further residential properties have been developed on an adjoining site to replace a single house. The proposed development is therefore regarded as adding two further houses to an area already subject to more houses than was originally anticipated, noting that original comments from Roads Services were based on the lower number.

7.5.2.

The existing public footway ends at Syradale, approximately 470 metres from the edge of the application site. The public road was widened by the developer along the stretch of road from Downies Lane to just beyond Wardhill, where most of the development has occurred. However, no footway was included in those works. The

road has also not been widened from Downies Lane down the slope towards Kyushu; this part of the road sits adjacent to the area of land referenced ST2, which has been allocated as long-term housing in the Local Development Plan. This land is understood to be in the ownership of Orkney Housing Association Limited and being considered for development. The simplest process to achieve infrastructure is to have this provided by a developer directly, and for a footpath, normally across the frontage of respective sites. However, the nature of the development in this area has meant the most distant development from the town has been developed first, which has resulted in housing with no footway or street lighting provision. In the interests of road safety, the provision of a footway and street lighting is required to enable appropriate pedestrian access into town, not necessarily waiting for any future development of allocation ST2.

7.5.3.

Roads Services has not objected to the proposed development, subject to appropriate conditions regarding road safety. The level of work required by conditions includes the provision of a 1.8 metre wide footway with lighting and drainage which is significant for two houses; however, the two houses proposed must be considered in context with the extent of development that has already taken place in the area. The roads authority is satisfied that the development accords with the aims of Policy 14: Transport, Travel and Road Network Infrastructure, as it could be safely and conveniently accessed and would be safe for all road users, subject to conditions being attached, requiring a footway to be constructed at the developer's expense.

7.5.4.

Following the consultation response from Roads Services regarding the requirement for the footway, the developer has confirmed a willingness to install a footpath from the application site to the junction of Wardhill Road with Downies Lane. This would comprise the western length of footway required by Roads Services. No confirmation has been provided regarding the continuation of the footpath to the east of the Downies Lane junction, to connect the development and confirmed footpath with the existing public footpath network to the east.

7.5.5.

Adequate space would be provided within each plot for three car parking spaces as well as manoeuvring space. A single joint access onto Wardhill Road would provide access to both plots. The access would be constructed to a Roads Services standard for the development proposed.

7.6. Sewerage

It is proposed to connect the houses to the Scottish Water public sewer. Scottish Water has not raised any objections to the application. Therefore, it is considered that the development can accord with Policy 13C: Wastewater Drainage.

7.7. Surface Water Drainage

7.7.1.

Soakaways are included for each proposed house plot; the surface water soakaways have been designed to accommodate the calculated surface water from the proposed houses.

7.7.2.

As surface water drainage would be managed on site, statutory consultation bodies have raised no objections to the development. A condition would be attached requiring surface water to be treated in accordance with the principle of Sustainable Drainage Systems (SuDS). It is considered that the development complies with Policy 13B: Sustainable Drainage Systems.

8. Conclusion and Recommendation

The density of development and the design and appearance of the houses are considered acceptable in this location. The objection received on material planning grounds are not considered of sufficient weight to merit refusal. The current lack of footway provision has been raised as a concern by Roads Services; this would be addressed by a planning condition, requiring installation of a footway. The developer has confirmed willingness to install at least part of the footway required. The development accords with Policies 1, 2, 5, 9, 13 and 14 of the Orkney Local Development Plan 2017, Supplementary Guidance: Settlement Statements and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting. Accordingly, the application is recommended for **approval**, subject to the conditions attached as Appendix 2 to this report.

9. Contact Officer

Margaret Gillon, Senior Planner, Email margaret.gillon@orkney.gov.uk

10. Appendices

Appendix 1: Location Plan.

Appendix 2: Planning Conditions.

Appendix 2

01. The dwellings hereby approved shall be finished externally using the following materials and colours:

- Roof – 'Mini Stonewold' flat profile concrete tiles, colour black.
- Walls – Light render.
- Rainwater goods – Colour black.
- Doors and windows – Colour anthracite.
- Site boundary – Post and wire fencing. No boundary treatment adjacent to the public road shall exceed 1 metre in height.

Reason: To protect the landscape setting of the development.

02. Throughout the life of the development hereby approved, the total maximum noise from the Air Source Heat Pumps hereby granted planning permission and installed shall not exceed NR25 within any residential property outwith the development site, 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 50mm).

Note: This condition is applied to both individual dwellings where an air source heat pump is installed, namely those on Plots 1A and 1B approved under reference 22/060/PP.

Reason: In the interests of residential amenity, to protect nearby residents from excessive noise disturbance from the air source heat pumps.

03. Throughout the lifetime of the development hereby approved, surface water must be treated in accordance with the principles of Sustainable Drainage Systems (SUDS) and be compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

All surface water shall be contained within the development site and there shall be no surface water drainage run-off onto the road or adjacent land.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B: Sustainable Drainage Systems of Orkney Local Development Plan 2017, Scottish Planning Policy - Managing Flood Risk and Drainage, and in the interests of road safety.

04. Neither dwelling hereby approved shall be occupied or brought into use until it is connected to the Scottish Water public waste water system.

Reason: In the interests of environmental protection and to accord with Policy 13C: Waste Water Drainage of Orkney Local Development Plan 2017.

05. Throughout the lifetime of the development hereby approved, any external lighting used on the dwellings and any outbuilding(s) shall be downward facing only and shall comply with the requirements of Policy 2 (principle vi) that all external lighting shall minimise light pollution and shall meet the requirements specified by the Institution of Lighting Professionals for Zone E1/E2 areas (Rural/Low District Brightness). The lighting shall be turned off when not required either by automatic sensor or manually.

Reason: To minimise obtrusive light, glare or distraction in the interests of safeguarding the amenity of the area and to accord with Policy 2: Design of Orkney Local Development Plan 2017 and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (March 2021).

06. Hours of construction work on site involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall only take place between the hours of 07:30 and 19:00 Mondays to Fridays, 09:00 to 13:00 Saturdays, and not at all on Sundays or the Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of residential amenity of the area and in order to reduce any possible nuisance arising to nearby residents during the construction of the development.

07. Full details of a new 1.8 metre-wide footway, extending from the north-western boundary of the application site hereby approved with the public road to the current extent of public footway outside the property Syradale, Wardhill Road, shall be submitted to, and approved in writing by, the Planning Authority in conjunction with Roads Services. These details shall include associated streetlighting, drainage and property accesses.

No other development shall commence until these details are submitted and approved as specified, and thereafter until this footway is installed in its entirety, and wholly in accordance with all details as approved by the Planning Authority.

Reason: In the interests of road safety, and to ensure connectivity between the proposed development and the existing public footpath network.

08. No development shall commence until a Landscaping and Planting Plan has been submitted to, and approved in writing by, the Planning Authority. This Plan shall include the number, size, density and species of all trees or shrubs, and details of all hard and soft landscaping within the development. Thereafter, and no later than the first planting season following first occupation of either house, the development shall be completed wholly in accordance with details included in the approved Landscaping and Planting Plan.

Reason: In the interest of visual amenity.