

Item: 4.6

Planning Committee: 8 March 2023.

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

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

An application has 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. In this case, it is proposed to remove planning condition 07 attached to planning permission 22/060/PP, requiring the construction of a footway and associated services and works, which is approval to erect two houses with air source heat pumps and create an access (resubmission of 21/095/PP). The previous application (22/060/PP) was approved by the Planning Committee on 1 June 2022; given the previous Committee decision for the development, the Corporate Director for Neighbourhood Services and Infrastructure has opted not to exercise delegated powers. The effect of approval of the Section 42 application as submitted, would be to allow the approved housing development with no footway provision along the stretch of Wardhill Road from the junction with Downies Lane to the north-west boundary of the application site of 22/060/PP.

1.2.

Consideration of this application would not affect the principle of development as accepted by approval of application 22/060/PP, and that approval remains the fallback position should the current application be refused. The key consideration of this application is therefore whether the development would be acceptable if planning condition 07 for the installation of a footway and associated services and works was removed, ie the development as approved but without the footway and services, and the extent to which the subsequent development would comply with the Orkney Local Development Plan 2017 (OLDP 2017) and National Planning Framework 4 (NPF4) policies and other material considerations. Taking full consideration of the supporting statement from the applicant and relevant policies, it is considered that the infrastructure required by planning conditions attached to planning permission 22/060/PP is necessary for the proposed development. It is therefore considered that the application to remove condition 07 fails to accord with relevant principles and policies within the OLDP 2017 and NPF4 in respect of sustainable transport/travel and road network infrastructure, and the development would not address the road safety objections raised by Roads Services. Accordingly, the application is recommended for refusal.

Application Number:	22/456/VR.
Application Type:	Vary Condition(s) of Planning Consent.
Proposal:	Remove condition 07 (provision of footway) of planning permission 22/060/PP.
Applicant:	Wardhill Homes Limited.
Agent:	Stephen J Omand, 14 Victoria Street, Kirkwall, KW15 1DN.

1.3.

All application documents (including plans, consultation responses and representations) are available for members to view [here](#) (click on “Accept and Search” to confirm the Disclaimer and Copyright document has been read and understood, and then enter the application number given above).

2. Consultations

2.1. Roads Services

Roads Services objects to this application:

“As indicated in Roads Services consultation response to planning ref 22/060/PP, it is considered that given the scale of development in this area a new public footway with associated drainage and street lighting is required on Wardhill Road, between the property of Syradale and the north-western boundary of the development site.

It is however accepted that a reduced length of footway, drainage and streetlighting ducting between the north-western boundary of the site and Downies Lane was conditioned as a result of discussions at the Planning Committee meeting on 1 June 2022.

Therefore, Roads Services object to the removal of Condition 07 of planning ref 22/060/PP on the grounds of road safety and the unacceptable burden that removal of this condition could apply to Orkney Islands Council.”

2.2. Development and Marine Planning.

Development and Marine Planning objects to this proposed application:

“Under Policy 14 – Transport, part B - Sustainable Travel, ii) states that “Within settlements, all development must demonstrate how it will access and facilitate sustainable travel to minimise the need for independent car journeys. This requirement will be proportionate to the nature of the proposal and the size of the settlement; and may require sustainable travel infrastructure improvements within or outwith the site. Further detail and specific requirements for individual allocations will be provided in the settlement statements, masterplan and development briefs.” Note this location is not a formal allocation under the OLPD2017.

Stromness is Orkney's second largest settlement and although the original planning application of 22/060/PP is for two houses; within this location the developer has gained planning permission for 10 houses and other residential holiday accommodation. Therefore, 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 is considered to be proportionate and appropriate.

Through the review of the national planning system and the emerging National Planning Framework 4 all development requires to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduces the need to travel unsustainably.”

3. Representations

No representations have been received.

4. Relevant Planning History

Reference	Proposal	Location	Decision	Date
22/060/PP	Erect two houses with air source heat pumps and create an access (resubmission of 21/095/PP)	Plots 1A and 1B, Eastbrae, Wardhill Road, Stromness.	Grant Subject to Conditions	29.06.2022.
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

5.1.

The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website [here](#).

5.2.

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).
- National Planning Framework 4
 - Policy 13 – Sustainable Transport

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.
 - Designing Streets.
 - Scottish Government planning advice and circulars.
 - EU policy.
 - A proposed local development plan or proposed supplementary guidance.
 - 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.

6.6. Status of the Local Development Plan

Although the Orkney Local Development Plan 2017 is “out-of-date” and has been since April 2022, it is still a significant material consideration when considering planning applications. The primacy of the plan should be maintained until a new plan is adopted. However, the weight to be attached to the Plan will be diminished where policies within the plan are subsequently superseded.

6.7. Status of National Planning Framework 4

6.7.1.

National Planning Framework 4 (NPF4) was adopted by Scottish Ministers on 13 February 2023, following approval by the Scottish Parliament in January 2023. The statutory development plan for Orkney consists of the National Planning Framework and the Orkney Local Development Plan 2017 and its supplementary guidance. In

the event of any incompatibility between a provision of NPF4 and a provision of the Orkney Local Development Plan 2017, NPF4 is to prevail as it was adopted later. It is important to note that NPF4 must be read and applied as a whole, and that the intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making.

6.7.2.

In the current case, there is not considered to be any incompatibility between the provisions of NPF4 and the provisions of the Orkney Local Development Plan 2017, to merit any detailed assessment in relation to individual NPF4 policies.

7. Assessment

7.1. Background

7.1.1.

Planning application 22/060/PP to 'Erect two houses with air source heat pumps and create an access (resubmission of 21/095/PP)' at Plots 1A and 1B Eastbrae, Wardhill Road, Stromness, was approved by the Planning Committee on 1 June 2022. The location plan is attached as Appendix 1 to this report, and the relevant committee report, which contains background information, is attached as Appendix 2. The Eastbrae, Stromness, Housing Development Brief, Supplementary Guidance (July 2012), indicated a figure of seven additional houses in the development brief area; although the relevance of the development brief has been diminished by the passage of time and the adoption of subsequent Local Development Plans, the consultation response from Development and Marine Planning notes that the developer has been granted planning permission for 10 houses and other residential holiday accommodation within the area.

7.1.2.

In consultation for application 22/060/PP, Roads Services raised concerns regarding the number of properties constructed or proposed within the original development brief area, given that no footway exists along the stretch of Wardhill Road from Syradale to the application site, which is approximately 470 metres. On the recommendation of Roads Services therefore, it was recommended to Planning Committee that the application be subject to the following planning condition, requiring a footway, associated works and services at the developer's expense, as included in Appendix 2 to this report:

"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.”

7.1.3.

It was included in the committee report, and contrary to the current position, that, “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.”

7.1.4.

At the meeting of the Planning Committee on 1 June 2022, it was resolved to amend the planning condition, as noted below, to reduce the distance of footway required, and as included in the decision notice attached as Appendix 3 to this report.

“07. No development shall commence until full details of a new footway, not less than 1.5 metres in width, and extending from the north-west boundary of the application site hereby approved with the public road, along Wardhill Road, to its junction with Downies Lane, are submitted to, and approved in writing by, the Planning Authority in conjunction with Roads Services. Including both plan form and specifications, these details shall include:

- A street lighting duct, the entirety of the length of the footway, and extending 1 metre to the north-east beyond the end of the section of footway, into Downies Lane.
- Drainage, including surface water drainage measures to manage the loss of roadside ditches (due to the footway).
- Property accesses crossing the footway along the entirety of the length of the footway.

No other development shall commence until the footway is installed in its entirety, wholly in accordance with all details as approved in writing by the Planning Authority.

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

7.1.5.

The amended planning condition reduced the length of footway required, to a stretch of Wardhill Road from Downies Lane to the furthest edge of the application site. It is this planning condition that is the subject of the current application, and which the applicant is requesting be removed from the planning permission.

7.2. Proposal

7.2.1.

Planning permission is sought to carry out the development approved under 22/060/PP, with condition 07 removed, ie to complete the two houses, but without provision of a footway as currently approved.

7.2.2.

The location is an infill site adjacent to the road. The area is developed to such a level that it is no longer detached from the town, and instead is seen as an extension to the settlement. However, there is no formal footway to the housing, and presently the public footway network concludes at Syradale at the end of Wardhill Road. Wardhill Road is largely single track with passing places with grass verges. A section of the road has previously been widened by the developer across the frontage of the site from just beyond the junction of Wardhill Road with Downies Lane to the west of Eastbrae Lodge, as required in conjunction with previous development. This is a similar section of road over which the footway is required by the condition attached to 22/060/PP.

7.2.3.

In requesting that the requirement for the footway be removed from the planning decision, within the supporting statement it is stated that it is not financially viable to develop sites 1A and 1B if, along with other factors, compliance with condition 07 is required. This is stated in the context of the viability of two housing plots. As noted in the Development and Marine Planning consultation response, the same developer has developed multiple residential and commercial properties in the immediate vicinity, which is the development that has led to the requirement for the footway. It should also be noted that the road widening previously required, and the footway now required, are not planning gain or voluntary offerings of the developer but are the minimum infrastructure requirements deemed necessary by the roads authority, in order that the development can be delivered to safe and accessible standards.

7.2.4.

The developer has also advised that he has acquired the Council's traffic survey data for the area and notes that the data shows that this section of road is low traffic. Roads Services has based its comment on the part of the same survey data and maintains the requirement for the footway.

7.2.5.

The key planning issue in this case is whether removal of condition 07 of 22/060/PP, and therefore removal of the requirement for a footway, is appropriate, ie whether the development is acceptable without the inclusion of such a condition. Bearing in mind that one of the tests of a planning condition is whether it is 'necessary' to make a development acceptable, and, as it was previously concluded that it was necessary to attach the footway condition in this case, it follows that the development would not be acceptable without the condition and footway requirement.

7.3. Connectivity

7.3.1.

Policy 14: Transport, Travel and Road Network Infrastructure confirms that, “Any developments within settlements will be required to provide safe and convenient opportunities for walking and cycling, for both active travel and recreation, in order to encourage options for healthy living and positive aging”. Policy 14B: Sustainable Travel and 14C: Road Network Infrastructure, are particularly relevant in this case.

7.3.2.

Paragraph ii of Policy 14B: Sustainable Travel states: “ii. Within settlements, all development must demonstrate how it will access and facilitate sustainable travel to minimise the need for independent car journeys. This requirement will be proportionate to the nature of the proposal and the size of the settlement; and may require sustainable travel infrastructure improvements within or outwith site. Further detail and specific requirements for individual allocations will be provided in the settlement statements, masterplans and development briefs.”

7.3.3.

Policy 14C: Road Network Infrastructure lists five requirements that the proposed development must demonstrate; criterion i. is particularly relevant to this application and confirms that development should demonstrate that:

“i. It is well connected to the existing network of roads, paths and cycleways and will not create a barrier to future development.”

A key aim of the policy is to facilitate sustainable travel and improve the network of footways (and cycleways), which was a consideration in the determination of application 22/060/PP.

7.3.4.

Under the ‘Sustainable transport’ heading, NPF4 sets out the policy intent, which is:

“To encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.”

Policy 13(b) of the Local Development Plan notes that development will be supported where it is demonstrated that it would provide direct, easy, segregated, and safe links to local facilities via walking, wheeling and cycling networks before occupation of the development.

7.3.5.

The sustainability and travel policies in both the Local Development Plan and NPF4 are clear, with an aim to provide appropriate connection from development to existing footpaths to local facilities, and to facilitate walking etc.

7.3.6.

Policy 1: Criteria for All Development of the Local Development Plan is an overarching policy, setting out key guiding principles that are relevant in the assessment of all planning applications.

Paragraph vi. states that development will be supported where: “It does not result in an unacceptable level of risk to public health and safety”. The consultation response from Roads Services highlights the road safety concerns due to the combination of the number of properties in the area and the lack of footway. The development is therefore considered contrary to Policy 1.

8. Conclusion and Recommendation

8.1.

The effect of approving this planning application, submitted under the provisions of Section 42, is such that a new and separate permission would exist for the development, with different planning conditions attached, in this case the conditions would match those attached to 22/060/PP, but with condition 07 removed. As stated throughout this report, the key consideration is therefore whether the development is acceptable without condition 07, namely without the installation of a footway and associated services.

8.2.

The proposed development has been assessed in relation to the policy principles of National Planning Framework 4 with regards sustainable transport, and the relevant policies of the Orkney Local Development Plan 2017 in respect of sustainable travel and the road network. The development cannot be considered to contribute to sustainable development as it would result in the delivery of additional housing development, within an existing housing group at the edge of a settlement, with no provision of a footway as specified by the roads authority. Delivery of the development without a public footway would result in an unacceptable risk in terms of road safety. Accordingly, the application is **recommended for refusal**, the Reason for Refusal being specified below.

9. Reason for Refusal

01. 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.

10. Contact Officers

Jamie Macvie, Service Manager (Development Management), extension 2529, Email jamie.macvie@orkney.gov.uk

Margaret Gillon, Senior Planner (Development Management), Email margaret.gillon@orkney.gov.uk

11. Appendices

Appendix 1: Location Plan.

Appendix 2: Report to Planning Committee for application 22/060/PP.

Appendix 3: Decision notice for application 22/060/PP.

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.

GRANT PLANNING PERMISSION
COUNCIL or COMMITTEE DECISION



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act")

Ref: 22/060/PP

Wardhill Homes Ltd
c/o Mr Stephen J Omand
14 Victoria Street
Kirkwall
Orkney
KW15 1DN

With reference to your application registered on 23rd February 2022 for planning permission for the following development:-

PROPOSAL: Erect two houses with air source heat pumps and create an access (resubmission of 21/095/PP)

LOCATION: Plots 1A & 1B Eastbrae, Wardhill, Stromness, Orkney

Orkney Islands Council in exercise of its powers under the above Act, hereby **Grants Planning Permission subject to the attached terms and conditions and subject to the development hereby permitted commencing within three years of the date of this permission.**

The Council's reasoning for this decision is: 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 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.

(For further detail you may view the Report of Handling for this case by following the Online Planning link on the Council's web page and entering the reference number for this application).

Please read carefully the Terms and Conditions on the following pages as failure to comply may result in enforcement action.

Decision date: 29th June 2022

Jamie Macvie MRTPI, Planning Manager, Development Management, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY

TERMS AND CONDITIONS

TERMS

- A. The development hereby approved must be carried out in accordance with the terms and conditions attached to this planning permission and with the approved plans and details identified in Schedule 1.
- B. Failure to implement the permission in accordance with the approved details and attached planning conditions may render the development unauthorised and may result in enforcement action.
- C. No development shall commence on the development hereby approved until the developer has formally advised the Planning Authority in writing of the intended start date. This should be done as soon as practicable. Take note that **failure to submit such a Notice would be a breach of planning control** under section 123(1) of the Act and could result in enforcement action.
- D. To accord with the provisions of Section 27B of the Act, once the development hereby approved is completed, and prior to the development being brought into use, the developer shall submit a completion notice to the Planning Authority.

(To comply with C & D above please use and submit the attached forms to ensure compliance with all of the statutory requirements in this regard. These forms are also available from the planning page on the Council's web site.)

- E. If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the Planning Authority in advance of implementing any changes to establish whether the proposed changes require any further planning approval.
- F. It should be understood that this permission does not carry with it or supersede the need for any necessary consent or approval for the proposed development under any other statutory enactments, for example the Building (Scotland) Act, the Roads (Scotland) Act 1984, the Water (Scotland) Act 1980, and the Environmental Protection Act 1990.
- G. It is the responsibility of the developer to ensure that services including telephone and electricity lines, water mains and sewers are protected. You should contact the relevant service providers to check whether such services would be affected.

CONDITIONS

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. No development shall commence until full details of a new footway, not less than 1.5 metres in width, and extending from the north-west boundary of the application site hereby approved with the public road, along Wardhill Road, to its junction with Downies Lane, are submitted to, and approved in writing by, the Planning Authority in conjunction with Roads Services. Including both plan form and specifications, these details shall include:

- A street lighting duct, the entirety of the length of the footway, and extending 1 metre to the north-east beyond the end of the section of footway, into Downies Lane.
- Drainage, including surface water drainage measures to manage the loss of roadside ditches (due to the footway).
- Property accesses crossing the footway along the entirety of the length of the footway.

No other development shall commence until the footway is installed in its entirety, wholly in accordance with all details as approved in writing by the Planning Authority.

Reason: In the interests of road safety, and to improve 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.

Informatives

01. This application was subject to consultations with agencies and other interested parties. It would be helpful for you to look at the full terms of their response(s) as they include advice and contact details that are relevant to you. You can access these details by following the Online Planning link on the Council's website and then entering either the application address or the planning application number.

02. It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission from the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible.

During the period of construction, any temporary or incomplete access shall be maintained to a standard acceptable to the Council's Roads Services.

It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.

SCHEDULE 1 – PLANS, VARIATIONS AND ANY OBLIGATION

1. Plans and Drawings

The plans and drawings to which this decision relates are those identified below:

Location & Site Plans	OIC-01	1
Floor & Elevation Plans	OIC-02	1

2. Variations

If there have been any variations made to the application in accordance with section 32A of the Act these are specified below:

Date of Amendment:
Reasons

3. Legal Obligation

Has any obligation been entered into under section 75 of the Act? – N

If such an obligation has been entered into, the terms of such obligation or a summary of such terms may be inspected by contacting Law and Administration.

RIGHT TO LODGE AN APPEAL

If you are unhappy with the terms of this decision you have a right to lodge an appeal by following the procedure specified below.

PROCEDURE FOR APPEAL BY THE SCOTTISH MINISTERS

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice.
2. Any notice of appeal should be sent to or submitted on line at <https://eplanning.scotland.gov.uk/WAM/> - or addressed to:

Planning and Environmental Appeals Division
Hadrian House
Callendar Business Park
Falkirk
FK1 1XR

and at the same time a copy of the notice of appeal and **all** supporting documents should be sent to:

Planning Manager (Development Management)
Orkney Islands Council
Council Offices
School Place
KIRKWALL
Orkney
KW15 1NY

Email: planning@orkney.gov.uk

3. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 as amended.

DEVELOPMENT AND INFRASTRUCTURE

Head of Planning, Development and Regulatory Services: Roddy MacKay, Council
Offices, Kirkwall, Orkney, KW15 1NY

Tel: 01856 873535 Website: www.orkney.gov.uk
Email: planning@orkney.gov.uk



NOTIFICATION OF COMPLETION OF DEVELOPMENT

The Town and Country Planning (Scotland) Act 1997
Section 27B Planning etc (Scotland) Act 2006

It is important that Development and Infrastructure are informed as soon as practicable upon completion of the works. To enable you to do this, please complete and return this form.

Planning Application Reference Number:

Address of Development:

.....

Name (Block Caps):.....

Contact Address:.....

.....

I hereby confirm that works as detailed under the above planning application are now complete.

Signed:.....

Date:.....

Please return this form, duly completed, to

Development Management
Council Offices
School Place
Kirkwall
Orkney
KW15 1NY

DEVELOPMENT AND INFRASTRUCTURE

Head of Planning, Development and Regulatory Services: Roddy MacKay
Council Offices, Kirkwall, Orkney, KW15 1NY

Tel: 01856 873535 Website: www.orkney.gov.uk
Email: planning@orkney.gov.uk



ORKNEY
ISLANDS COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

The Town and Country Planning (Scotland) Act 1997 (as amended)
Regulations 40 and 41 of the Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2013

IMPORTANT - It is a requirement of your planning consent to inform Development & Infrastructure when you propose to start work. Please complete and return this form. Failure to do so would constitute a breach of planning control under section 123 (1) The Town and Country Planning (Scotland) Act 1997

Planning Application Reference Number: Date Issued:

Address of Development:

Name of Person intending to carry out development (Block Caps):

Contact Address:

Is the person named above the owner of the land on which the development is taking place: YES/NO?

If NO then please provide the full name and address of the landowner below:

Contractor/Agent (If Applicable)(Block Caps):

Contact Details:

Date work to commence (or date work commenced):

Signed: Dated:

Please return this form, duly completed to:

Development Management
Council Offices
School Place
Kirkwall
Orkney
KW15 1NY or via email: planning@orkney.gov.uk

See **NOTE TO APPLICANT** overleaf

NOTE TO APPLICANT

Further to the submission of your recent planning application to Orkney Islands Council, please find enclosed the formal decision notice duly granting planning permission, together with a set of approved plans.

Your attention is drawn in particular to the planning conditions imposed on the enclosed decision notice, which should be read carefully and fully complied with. Such planning conditions are imposed as an integral part of the grant of planning permission. You are advised that any development carried out in breach of pre development conditions (requiring details to be submitted and approved before any development starts) is unauthorised development.

Once development commences the planning authority's enforcement officer will ensure that all planning conditions are observed. In the event that planning conditions are not complied with this may result in Legal Action in the form of an Enforcement Action or a Breach of Condition Notice to rectify any breach established.

Should you envisage any particular problems in this regard you should contact the department (tel. 01856 873535), in the first instance to discuss the matter further, quoting the planning reference number stipulated on the decision notice.