

## **Item: 3.1**

**Local Review Body: 30 August 2019.**

**Proposed Siting of House at Myrtledene, Skiddy Road, Rendall (18/507/PIP).**

**Report by Chief Executive.**

### **1. Purpose of Report**

To determine a review of the decision of the Appointed Officer to refuse planning permission for the proposed siting of a house at Myrtledene, Skiddy Road, Rendall.

### **2. Recommendations**

The Local Review Body is invited to note:

#### **2.1.**

That planning permission for the proposed siting of a house at Myrtledene, Skiddy Road, Rendall, was refused by the Appointed Officer on 15 May 2019, for the reasons outlined in section 3.2 of this report.

#### **2.2.**

That the applicant has submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 2.1 above, be reviewed.

**It is recommended:**

#### **2.3.**

That the Local Review Body determines whether it has sufficient information to proceed to determination of the review, and if so:

- Whether to uphold, reverse or vary the decision of the Appointed Officer.
- In the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision notice.

#### **2.4.**

That, in the event the Local Review Body agrees that further information is required to determine the review, what further information is required, which parties are to be requested to provide the information, and whether to obtain further information by one or more of the following methods:

- By means of written submissions; and/or.
- By the holding of one or more hearing.

## **3. Background**

### **3.1.**

Planning application 18/507/PIP relates to the proposed siting of a house at Myrtledene, Skiddy Road, Rendall.

### **3.2.**

The Appointed Officer refused the planning application on 15 May 2019 on the following grounds:

#### **3.2.1.**

The application site does not meet the definition of curtilage as set out in Supplementary Guidance: Housing in the Countryside, as it is not “used and maintained as domestic space” and is not “demarked by a boundary wall or fence”. Historic and anecdotal information has been provided, but nothing which is conclusive that the land is domestic curtilage or that the non-domestic appearance of the land has only occurred within the past ten years. In the absence of evidence or planning history, the land cannot be legitimately regarded as curtilage. The Planning Authority must be without doubt that land proposed to be subdivided is legitimately curtilage, and not another parcel of land adjacent to a house. Accordingly, the development is contrary to Policy 5E (v) Housing – Single Houses and New Housing Clusters in the Countryside, of the Orkney Local Development Plan 2017.

### **3.3.**

In terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the applicant has submitted a Notice of Review and supporting information, which is attached as Appendix 1 to this report.

### **3.4.**

The Planning Handling Report, Planning Services file and the Decision Notice, including the reason for refusal, referred to in section 3.2 above, are attached as Appendices 2, 3 and 4 to this report.

## **4. Review Procedure**

### **4.1.**

In response to a Notice of Review “interested parties” are permitted to make a representation to the Local Review Body. “Interested parties” include any party who has made, and not withdrawn, a representation in connection with the application. No further representations were received.

### **4.2.**

In accordance with the Council’s policy to undertake site inspections of all planning applications subject to a local review, prior to the meeting to consider the review, a

site visit to Myrtledene, Skiddy Road, Rendall, was undertaken at 10:00 on 30 August 2019.

#### **4.3.**

The Local Review Body may uphold, reverse or vary the decision of the Appointed Officer. In the event that the decision is reversed, draft planning conditions are attached at Appendix 5 for consideration.

#### **4.4.**

If the Local Review Body decides that further procedure is required, it may decide to hold a pre-examination meeting to consider what procedures to follow in the review, or to obtain further information by one or more of the following methods:

- By means of written submissions; and/or.
- By the holding of one or more hearing(s).

### **5. Relevant Planning Policy and Guidance**

#### **5.1.**

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended 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...”

#### **5.2.**

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and other supplementary planning advice and guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies and supplementary guidance listed below are relevant to this application:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.
  - Policy 5E – Housing – Single Houses and New Housing Clusters in the Countryside.
  - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
  - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Housing in the Countryside.

## **6. Corporate Governance**

This report relates to the Council complying with its statutory duties as a Planning Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

## **7. Financial Implications**

All resources associated with supporting the review procedure, mainly in the form of staff time, are contained within existing Planning Service revenue budgets.

## **8. Legal Aspects**

### **8.1.**

Under the Planning etc (Scotland) Act 2006 and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 where an application for planning permission for local development has been determined by the Appointed Officer in accordance with the Council's Planning Scheme of Delegation, the applicant is entitled to seek a review of that decision by the Local Review Body.

### **8.2.**

The procedures to be followed in respect of the review are as detailed in sections 4.3 and 4.4 above.

### **8.3.**

A letter from the Chief Planner, Scottish Government, in July 2011 confirmed that a review by a Local Review Body should be conducted by means of a full consideration of the application afresh.

## **9. Contact Officers**

Angela Kingston, Clerk to the Local Review Body, extension 2239, Email [angela.kingston@orkney.gov.uk](mailto:angela.kingston@orkney.gov.uk)

Roddy MacKay, Planning Advisor to the Local Review Body, extension 2530, Email [rodny.mackay@orkney.gov.uk](mailto:rodny.mackay@orkney.gov.uk)

Katharine McKerrell, Legal Advisor to the Local Review Body, extension 2246, Email [katharine.mckerrell@orkney.gov.uk](mailto:katharine.mckerrell@orkney.gov.uk)

## **10. Appendices**

Appendix 1 – Notice of Review (pages 1 – 7)

Appendix 2 – Planning Handling Report (pages 8 – 13)

Appendix 3 – Planning Services File (pages 14 – 42)

Appendix 4 – Decision Notice and Reasons for Refusal (pages 43 – 49)

Appendix 5 – Draft Planning Conditions (pages 50 – 52)

Pages 1 to 52, with the exception of pages 36 to 42, and 50 to 52, can be viewed at [https://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm) and inserting the planning reference “18/507/PIP”.

All other documents can be viewed at <https://www.orkney.gov.uk/Council/C/LRC2019.htm> and referring to the relevant meeting date.