

## Item: 3.4

Planning Committee: 12 December 2018.

**Amend Window Design, Extend Lift Overrun and Install Additional PV Roof Panels to Healthcare Facility (Retrospective) (Amendment to 16/295/AMCMAJ) at New Scapa Road (land near), Kirkwall.**

**Report by Executive Director of Development and Infrastructure.**

### 1. Summary

#### 1.1.

Planning permission is sought for a series of amendments to the design of the new healthcare facility at New Scapa Road, Kirkwall, as an amendment to approved planning permission 16/295/AMCMAJ. The amendments are those considered by the Planning Authority to be 'material variations' and comprise changes to:

- Ambulance entrance windows (three windows).
- Dental windows (five windows).
- First floor laboratory windows (two windows).
- An increase in the height of the lift overrun.
- Additional photovoltaic (PV) roof panels.

These amendments form part of a list of 104 amendments to the building since approval; 99 of those have been approved as non-material variations. The amendments were carried out without approval by the Planning Authority, resulting in this being a retrospective application. This is a major development and, as the previous applications were reported to Planning Committee for determination, it is considered appropriate that these amendments to that approved design are also reported to the Committee rather than determined under delegated powers. The amendments subject to the current application are considered to be to the detriment of the design of the building, notwithstanding justifications provided. In the absence of a willingness by the applicant to remedy the concerns, the application must be determined as submitted. No representations have been received, and on balance, the harm caused to the design overall is not considered so significant in relation to Orkney Local Development Plan Policies 1 and 2 that the application should be refused. Therefore, the application is recommended for **approval**.

Application Number:	18/441/PP.
Application Type:	Planning Permission.
Proposal:	Amend window design, extend lift overrun and install additional PV roof panels to healthcare facility (retrospective) (amendment to 16/295/AMCMAJ).
Applicant:	Robertson Construction Group, Robertson House, Castle Business Park, Stirling, FK9 4TZ.
Agent:	Laura McGowan, Keppie Planning, 160 West Regent Street, Glasgow, G2 4RL.

## 1.2.

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

[http://www.orkney.gov.uk/Service-Directory/D/application\\_search\\_submission.htm](http://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm)  
(then enter the application number given above).

## 2. Consultations

Consultees have not objected or raised any issues which cannot be addressed by planning conditions.

## 3. Representations

None.

## 4. Relevant Planning History

Reference.	Proposal.	Location.	Decision.	Date.
14/100/PIP MAJ	Erect a healthcare facility, associated infrastructure, landscaping and enabling works.	New Scapa Road (Land Near), Kirkwall.	Grant subject to conditions.	04.06.2014.
16/295/AMC MAJ.	Erect a healthcare facility, associated infrastructure, landscaping and enabling works (following permission in principle - 14/100/PIPMAJ)	New Scapa Road (Land Near), Kirkwall.	Grant subject to conditions.	06.12.2016.

#### **4.1.**

The application was approved in December 2016, and immediately post-decision the Planning Authority was in discussion with the agent and main contractor to discharge planning conditions. Those conditions required information and works at pre-commencement, pre-construction and pre-occupation stages. Agreed details included temporary construction arrangement as well as drainage, lighting, boundaries, cycle shelters and finishing materials. Works commenced in May 2017, and meetings and correspondence were ongoing, to agree outstanding details. Landscaping was the last main detail to be agreed, in December 2017.

#### **4.2.**

In March 2018, the Planning Authority was advised that some amendments had been made to the development. This was the first notification of these amendments, the majority of which had already been completed. A site meeting was carried out on 14 March 2018 to inspect the amendments. At that meeting, it was confirmed that the footprint and form of the building had been built in accordance with the approved plans, and using the agreed materials, and allowed assessment of the amendments.

#### **4.3.**

A package of amendments was provided, which totals 104 amendments to the approved design. Following discussions, it was advised that most of the amendments could be regarded as non-material, comprising changes to canopies, glazing, doors, louvres, downpipes, lighting, flues and similar works. Those non-material amendments were formally submitted, and a non-material variation acceptance approved on 17 October 2018, which is attached as Appendix 1 to this report.

#### **4.4.**

The current application seeks to regularise the residual amendments. The agent has stated with the submission that they “do not feel that the amendments are material”. However, that is a judgement of the Planning Authority.

#### **4.5.**

Despite the detailed and protracted discussions carried out to reach the point that the non-material variation package was approved, and the current application submitted, with failings in due process acknowledged, further, more recent works have been carried out to the building, most notably the installation of condensing plant on the south elevation, close to the western site entrance. These works neither form part of the approved non-material variation package, nor the current application to regularise unauthorised works. These works will therefore be actioned separately.

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

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

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

The policies listed below are relevant to this application:

- Orkney Local Development Plan 2017:
  - Policy 1 – Criteria for All Development.
  - Policy 2 – Design.

## **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.**

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.

### **6.3.**

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.**

Understanding the context is critical in this case to assessing each of the amendments. The healthcare facility building is now largely complete externally and this application is retrospective, so the amendments are clear to see. It is, of course, a large building in a prominent edge-of-town site, and design was a key consideration when the building was originally approved, in combination with protecting residential amenity and clinical functionality, amongst other considerations. Key to the design was simplicity, particularly given the unusual curved form of the building. The crisp white render contrasts against the dark colour of the roof and doors and windows, and the design uses simple lines following the curve of the walls.

## **7.2 Ambulance Entrance Windows**

Due to the curve of the wall partly following the curve of Foreland Road, combined with the scale of the building, there are passing views of significant lengths of the building. Windows are therefore critical to the overall design as they are viewed over a great length. A detail of the design which was considered favourably when approved was the consistency in the height of the windows in the main elevations, ensuring a vertical emphasis and a simplicity, even in windows with a ventilation panel. Located on the south elevation, the proportion and height of the Emergency Department resuscitation room windows have been amended, so they are higher than the lintel height of adjacent windows and have a horizontal (letterbox) format. The agent has confirmed this is to provide a balance of suitable daylighting to the space whilst maintaining privacy for patients, and to ensure adequate radiation protection was installed in the external wall lining. The amendment follows a review of the final equipment, user and emergency flows and staff management of the area by NHS Orkney.

## **7.3. Dental Windows**

These are a row of windows on the ground floor of the south-west elevation, facing Foreland Road. The agent notes that this elevation would be “viewed primarily by travelling members of the public” on the road, and not by stationary receptors. As with the ambulance entrance windows, the proportions of the windows have been amended, to have a horizontal emphasis at odds with the majority of windows. The agent has confirmed the amendment was made to suit the functional internal equipment layouts, specifically the dental chair and surrounding cabinetry, and to ensure privacy is maintained at all time.

## **7.4. First Floor Laboratory Windows**

The amendments to these two windows are like the others, with the proportions changed to a horizontal emphasis. Although only two windows, they are in a prominent first floor position and therefore not able to be screened by landscaping, and, although partly overlooking the facilities management compound and partially screened by the external plant building, the windows are visible travelling along Foreland Road on approach to the building from the west. The agent provided a layout for the room which shows equipment and a worktop running to the full perimeter of the room. It is stated that “it was not deemed appropriate to have the worktop running past the windows and therefore cannot be amended to maintain the previous window type”. This amendment is of most concern of the five amendments under consideration. The functional restrictions are noted, but had due process been followed and the practical difficulties been provided to the Planning Authority at an earlier stage, and certainly before the windows were installed, an alternative solution may have been possible, to address both functional and design requirements. At the time of the site meeting in March 2018, the wall panel within which the windows are located had recently been rendered, so there was reluctance on the part of the main contractor to make any amendments as it would have required re-rendering works.

## **7.5. Lift Overrun**

A lift overrun was included in the drawings originally approved, but that has been increased. The agent has confirmed that it was “necessary to alter the roof structure locally at Lift 5 to meet the lift manufacturer’s overrun requirements which were not fully known at submission stage...to ensure that the necessary access to the Level 2 Plant room is maintained”. Whilst not significant relative to the overall design, it does break the simple lines of the roof. The statement by the agent that the lift overrun “would not be perceivable from ground level” is not correct, and it breaks the ridge of the building when viewed from the road and footpath along the western end of Foreland Road.

## **7.6. Additional Photovoltaic (PV) Roof Panels**

PV panels were included in the approved design, in the central roof and over the ‘horseshoe’ part of the building towards the northern, rear of the site. Further detailed design to meet building regulations has necessitated an increase in the roof area where the PV panels are mounted, now covering roof space on the south-west elevation of the building, facing Foreland Road. Such technology is an accepted part of the roof of many buildings and in this case, whilst a material change to the appearance, is an acceptable amendment. The Airfield Superintendent has been consulted and has no concerns regarding the risk of additional glare from the increased resultant area of reflective materials.

# **8. Conclusion and Recommendation**

## **8.1.**

The agent makes a statement regarding windows, but which applies in some regard to all the amendments, that “in the design of a major Hospital with such varying types of spaces it is not always practical or possible to maintain a single window style for the elevations entirety, however the building and designers have managed to maximise this approach across the building where possible, minimising any such alterations required to achieve the optimum functionality for the building internally whilst staying true to the aesthetic intent”. The practical challenges of designing such a scale of building are acknowledged. However, when a development is of such a scale, particularly when it is a public building, that should be a reason to prioritise good design, rather than use the complexities as a reason for design to be compromised. The weight provided to the simplicity and crispness of the design at the time of approval cannot be overstated, but that is undermined by incremental amendments to that design even if those are ‘true to the design intent’ as suggested, bearing in mind the amendments under consideration now are not five isolated amendments but follow a package of amendments affecting all elevations of the building.

## **8.2.**

The complexity of a project cannot be used as justification for a failure to follow due process. The number of amendments carried out without prior notification to the Planning Authority in this case is unprecedented for a single development in Orkney. However, that cannot prejudice consideration of the current application to regularise

those unauthorised works; a more negative view cannot be formed because the works have been carried out without consent, but equally works considered unacceptable cannot be supported simply because they are already completed. The amendments must be considered on their own merits. However, it is an unwelcome situation, and this application process may have to be repeated if the recently installed condensing plant on the south-west elevation is to be retained.

### **8.3.**

There has been resistance to any physical amendments to the building to complete the building as approved, so the development must be considered as submitted. It is considered that the window amendments have a negative impact on the design of the building, particularly the windows in the first floor. It is finely balanced, but the amendments are not considered so harmful to the design to merit refusal of the application. The development is therefore considered to adequately take into consideration the location and wider townscape, in accordance with Policy 1(i), and have a neutral effect on the appearance of the area, in accordance with Policy 2(ii), of the Orkney Local Development Plan 2017. No representations have been received, and accordingly, the application is **recommended for approval**. As this is a retrospective application with the works being complete, conditions are not required.

## **9. Contact Officer**

Jamie Macvie, Planning Manager, extension 2529, Email [jamie.macvie@orkney.gov.uk](mailto:jamie.macvie@orkney.gov.uk)

## **10. Appendix**

Appendix 1: Non-Material Variation Approval.

# DEVELOPMENT AND INFRASTRUCTURE

**Executive Director:** Gavin Barr, BSc Hons, MSc URP, MRTPI  
Council Offices, Kirkwall, Orkney, KW15 1NY

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**ORKNEY**  
ISLANDS COUNCIL

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17th October 2018

Keppie Planning Ltd  
C/o Chris Mitchell  
160 West Regent Street  
Glasgow  
G2 4RL

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997 (as amended) ("The Act") NON-MATERIAL VARIATION ACCEPTANCE**

Dear Keppie Planning Ltd

Ref No: 16/295/AMCMAJ  
Type: App Matters Specified in Conditions MAJ  
Location: New Scapa Road (Land Near), Kirkwall, Orkney  
Proposal: Erect a healthcare facility, associated infrastructure, landscaping and enabling works  
(following permission in principle - 14/100/PIPMAJ)

I acknowledge receipt of your application for a non-material variation dated 26th July 2018, (further supplemented 16<sup>th</sup> October 2018) to the planning permission that has been granted for the proposal detailed above.

I hereby enclose formal notice of **ACCEPTANCE** of the non-material variation and would encourage you to retain this notice with the documentation relating to the original permission for legal purposes.

Yours sincerely

Mr Dean Campbell  
Graduate Planner / Planning Technician

**NOTE:** It should be understood that this letter of acceptance does not carry with it any necessary consent or approval for the proposed development under any other statutory enactments, for example Building (Scotland) Act, Roads (Scotland) Act, The Water (Scotland) Act, Environmental Protection Act, etc. If you have a Building Warrant that has either been determined or is in the process of being determined, you should contact Building Standards to notify them of the amendment.





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**ACCEPTANCE OF NON-MATERIAL VARIATION TO PLANNING CONSENT**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)**

**PLANNING APPLICATION REFERENCE:**

16/295/AMCMAJ

**PROPOSAL:**

Erect a healthcare facility, associated infrastructure, landscaping and enabling works (following permission in principle - 14/100/PIPMAJ)

**LOCATION:**

New Scapa Road (Land Near)  
Kirkwall  
Orkney

**Applicant:**

Robertson Construction Group  
Robertson House  
Castle Business Park  
Stirling  
FK9 4TZ

**Agent:**

Keppie Planning Ltd  
C/o Chris Mitchell  
160 West Regent Street  
Glasgow  
G2 4RL

**This notice relates to your application dated 17th October 2018 for a non-material variation to the above planning permission. The details of the non-material variation are as follows:**

**DESCRIPTION OF VARIATION:**

Approved Drawing ref.	Amendment no.	Amendment Description
OIC-52	1	Update to canopy design
	2	Glazing to hub wall replaced with cladding panels
OIC-53	3	Update to canopy design
	4	Window removed
OIC-54(2)	5	Perforated screen added
OIC-55	6	Double door changed to single
	7	Downpipe location amended
	8	Extent of glazing reduced
OIC-56	9	Downpipe locations amended
	10	Window alterations
OIC-57	11	Downpipe locations amended
	12	Dimensions of windows reduced
OIC-58	13	Over panels introduced on doors
	14	Downpipe locations amended
	15	Dimensions of windows reduced

OIC-59	16	Mental Health garden structure extended
	17	Extent of glazing reduced
OIC-61(2)	18	Window removed
	19	Louvres introduced
OIC-62	20	Stonework to recess
OIC-63(2)	21	Smoke hatch introduced
	22	Louvre dimensions increased
	23	Stonework to recess
	24	Downpipe introduced
	25	Window alterations
OIC-64(2)	26	Flue removed
	27	Louvre dimensions increased
	28	Window alterations
	29	Downpipe introduced
OIC-65(3)	30	Louvres introduced
	31	Door introduced
	32	Downpipe introduced
	33	Wicket doors introduced on roller doors
	34	Window alterations
OIC-66(3)	35	End section lowered and extended
	36	Flue design amended
	37	Roller door moved with wicket door introduced
	38	Downpipes introduced
	39	Single door introduced
OIC-67(3)	40	End section lowered and extended
	41	Flue relocated
	42	Window removed
	43	Downpipes introduced
	44	Louvre introduced
	45	Smoke hatch introduced
OIC-68(4)	46	End section lowered and extended
	47	Flue design amended
	48	Downpipes introduced
	49	Wall fixed floodlight introduced
OIC-69(4)	50	Door alterations
	51	Louvre panel alterations
	52	Smoke hatch introduced
	53	Downpipes introduced
	54	Wall fixed floodlight introduced
OIC-70(3)	55	End section lowered and extended
	56	Flue relocated
OIC-71(2)	57	Ridge height increased by 80mm
	58	Door alterations
	59	Downpipes introduced
	60	Gates introduced
OIC-72	61	Louvre panel alterations
	62	Window alterations
	63	Door alterations
	64	Downpipe location alterations
	65	Smoke hatch introduced
OIC-73	66	Louvre panel extended to roofline
	67	Curtain walling alterations
	68	Downpipe removed
	69	Smoke hatch introduced
OIC-74	70	Curtain wall alterations
	71	Window alterations
	72	Louvre introduced
	73	Ventilation duct introduced
OIC-75	74	Curtain walling alterations
	75	Window alterations
	76	Relocation of downpipes

	77	Louvre introduced
	78	Ventilation duct introduced
OIC-76(2)	79	Curtain wall replaced with spandrel panels
	80	Door alterations
	81	Roofline increased
OIC-77	82	Window alterations
	83	Door removed
	84	Louvre introduced
	85	Roofline increased
OIC-78(2)	86	Curtain wall alterations
OIC-79(2)	87	Window alterations
	88	Door alteration
OIC-80(2)	89	Window alterations
	90	Curtain wall reduced height and alterations
	91	Internal roof line increased by 337mm
OIC-81(3)	92	Window alterations
	93	Curtain wall alterations
	94	Internal roof line increased by 337mm
	95	Flue height increased
OIC-83	96	External compound building introduced
OIC-03	97	As per above
	98	Introduction of kitchen extract flue
OIC-07	99	As per above

In exercise of its powers under the above Act, the Council determines that the variation is not material and hereby **ACCEPT** the variation to the said planning permission. The conditions imposed on the original planning permission are unaffected by this variation and continue to apply to the development. It should be noted that this notice, constitutes part of the planning permission for the said development, and should be retained with any documentation pertaining to the original permission.

**Dated: 17th October 2018**

**Jamie Macvie MRTPI, Planning Manager**