

Minute

Local Review Body

Thursday, 19 November 2020, 12:00.

Microsoft Teams.



Present

Councillors Robin W Crichton, John A R Scott, Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Stephen Sankey, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Roddy Mackay, Planning Advisor.
- Katharine McKerrell, Legal Advisor.

Observing

- David Hartley, Communications Team Leader.

Not Present

- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Robin W Crichton.

1. Suspension of Standing Orders

The Local Review Body **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

2. Form of Voting

The Local Review Body resolved that, should a vote be required in respect of the Notices of Review to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll or recorded vote.

3. Planning Application (19/348/PIP)

Proposed Siting of House at Southview, Village Road, Burray

After consideration of a report by the Chief Executive, copies of which had been circulated, the Local Review Body:

Noted:

3.1. That planning permission in principle for the siting of a house at Southview, Village Road, Burray, was refused by the Appointed Officer on 24 January 2020, for the reasons outlined in section 3.2 of the report by the Chief Executive.

3.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 3.1 above, be reviewed.

3.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site, referred to at paragraph 3.1 above, at 10:00 on 19 November 2020.

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

Resolved, in terms of delegated powers:

3.4. That the review be determined without further procedure.

Councillor Duncan A Tullock, seconded by Councillor Owen Tierney, moved that the decision of the Appointed Officer to refuse the application for planning permission in principle for the siting of a house at Southview, Village Road, Burray, be upheld.

Councillor Robin W Crichton, seconded by Councillor David Dawson, moved an amendment that the decision of the Appointed Officer to refuse the application for planning permission in principle for the siting of a house at Southview, Village Road, Burray, be upheld but varied by removal of the following ground of refusal, as they did not consider that ground of refusal to be a key material consideration in determination of the application, and, in their opinion, a new dwelling could be accommodated on the proposed site whilst meeting an acceptable housing density and reflecting and maintaining the character of the surrounding area:

“Whilst there is presumption in favour of new housing development within the settlement boundaries under Orkney Local Development Plan 2017 Policy 5A, and that within the settlements there tends to be a variance in plot sizes, a material planning consideration is that new housing development should also reflect the density of the surrounding area and retain the local character. The immediate surrounding area of the proposed house plot is one of low density housing, with houses sitting on fairly large plots. The size of the plot within the Southview garden would not reflect the neighbouring density level or the immediate character of the area and would be overdevelopment of the property at Southview. Therefore, the proposed development would be contrary to Orkney Local Development Plan 2017 Policy 1, part (ii), and Planning Policy Advice: Development Quality within Settlements (March 2011).”

The result of a recorded vote was as follows:

For the Amendment:

Councillors Norman R Craigie, Robin W Crichton, David Dawson, Barbara Foulkes, Stephen Sankey, John A R Scott and Heather N Woodbridge (7).

For the Motion:

Councillors Alexander G Cowie, Owen Tierney and Duncan A Tullock (3).

The amendment was therefore carried.

The Local Review Body thereafter resolved, in terms of delegated powers:

3.5. That the decision of the Appointed Officer to refuse the application for planning permission in principle for the siting of a house at Southview, Village Road, Burray, be upheld but varied by removal of the following ground of refusal, as they did not consider that ground of refusal to be a key material consideration in determination of the application, and, in their opinion, a new dwelling could be accommodated on the proposed site whilst meeting an acceptable housing density and reflecting and maintaining the character of the surrounding area:

- “Whilst there is presumption in favour of new housing development within the settlement boundaries under Orkney Local Development Plan 2017 Policy 5A, and that within the settlements there tends to be a variance in plot sizes, a material planning consideration is that new housing development should also reflect the density of the surrounding area and retain the local character. The immediate surrounding area of the proposed house plot is one of low density housing, with houses sitting on fairly large plots. The size of the plot within the Southview garden would not reflect the neighbouring density level or the immediate character of the area and would be overdevelopment of the property at Southview. Therefore, the proposed development would be contrary to Orkney Local Development Plan 2017 Policy 1, part (ii), and Planning Policy Advice: Development Quality within Settlements (March 2011).”

And, accordingly, the application be refused for the following reason only:

- The shared access from the Village Road would not comply with Roads Services standard drawing SD-01 due to the lack of a verge. The effect of not having a verge or additional width to the access is that, given that the access is in between two buildings, drivers of vehicles would endeavour to maintain a separation distance from any building which would have the effect of narrowing the access, which would be unacceptable and would have safety implications. Without acceptable joint access, taking account that it would be used by two houses (the proposed house and the existing house at Southview) which would intensify its use, the access as it currently stands would be contrary to Orkney Local Development Plan 2017 Policies 1, part (vi), and 14C.

4. Planning Application 20/167/HH

Proposed Extension of House and Air Source Heat Pump at Norhaven, Cromwell Drive, Kirkwall

After consideration of a report by the Chief Executive, copies of which had been circulated, the Local Review Body:

Noted:

4.1. That planning permission for the proposed extension of a house and an air source heat pump at Norhaven, Cromwell Drive, Kirkwall, was refused by the Appointed Officer on 1 September 2020, for the reasons outlined in section 3.2 of the report by the Chief Executive.

4.2. That the applicant had submitted a Notice of Review requesting that the decision of the Appointed Officer, referred to at paragraph 4.1 above, be reviewed.

4.3. That, in accordance with policy, the Local Review Body had undertaken an unaccompanied visit to the site, referred to at paragraph 4.1 above, at 10:50 on 19 November 2020.

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

Resolved, in terms of delegated powers:

4.4. That the review be determined without further procedure.

Councillor Barbara Foulkes, seconded by Councillor John A R Scott, moved that planning permission be granted in respect of the proposed extension of a house and an air source heat pump at Norhaven, Cromwell Drive, Kirkwall, as, in their opinion:

(1) The site of the proposed development was in an urban, built-up area, where an element of overlooking was inevitable.

(2) Any overlooking to immediate neighbouring properties would be onto garden ground only, rather than into habitable rooms, and was therefore considered less sensitive with regard to impact on their amenity.

(3) There would be no significant impact caused on the privacy of the occupants of the adjoining properties.

(4) The scale and form of the proposed extension was sympathetic to the existing building and did not result in an unacceptable overbearing effect on the adjacent properties and garden ground.

And, accordingly, the proposed development would comply with the following policies of the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development.
- Policy 2 – Design.

Councillor Owen Tierney, seconded by Councillor Duncan A Tullock, moved an amendment that the decision of the Appointed Officer to refuse the application for planning permission for the proposed extension of a house and an air source heat pump at Norhaven, Cromwell Drive, Kirkwall, be upheld.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie, Owen Tierney and Duncan A Tullock (3).

For the Motion:

Councillors Norman R Craigie, Robin W Crichton, David Dawson, Barbara Foulkes, Stephen Sankey, John A R Scott and Heather N Woodbridge (7).

The motion was therefore carried.

The Local Review Body thereafter resolved, in terms of delegated powers:

4.5. That planning permission be granted in respect of the proposed extension of a house and an air source heat pump at Norhaven, Cromwell Drive, Kirkwall, subject to the conditions attached as Appendix 1 to this Minute.

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

- The site of the proposed development was in an urban, built-up area, where an element of overlooking was inevitable.
- Any overlooking to immediate neighbouring properties would be onto garden ground only, rather than into habitable rooms, and was therefore considered less sensitive with regard to impact on their amenity.
- There would be no significant impact caused on the privacy of the occupants of the adjoining properties.
- The scale and form of the proposed extension was sympathetic to the existing building and did not result in an unacceptable overbearing effect on the adjacent properties and garden ground.

And, accordingly, the proposed development would comply with the following policies of the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development.
- Policy 2 – Design.

5. Conclusion of Meeting

At 12:48 the Chair declared the meeting concluded.

Signed: Rob Crichton.

Appendix 1.

Proposed Extension of House and Air Source Heat Pump at Norhaven, Cromwell Drive, Kirkwall (20/167/HH)

Grant subject to the following conditions:

01. No development shall commence until full details of the boundary treatment along the west boundary of the site has been submitted to, and approved in writing by, the Planning Authority. This boundary treatment shall be so designed to provide privacy to both the ground floor bedrooms in the extension hereby approved and the neighbouring property and garden.

Reason: In order to protect the privacy of the occupants of the approved development and that of the adjoining property and garden.

02. The stair window facing south shall be fitted with obscured glazing and maintained as such in perpetuity.

Reason: In order to protect the privacy of the occupants of adjoining properties and gardens.

03. The external finish materials used in the development shall be consistent with those used on the original building.

Reason: To ensure that the development is sensitive to, and compatible with, its context and for the avoidance of doubt.

04. Throughout the life of the development, total noise from the Air Source Heat Pump hereby granted planning permission 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 50 mm).

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pump.

05. Hours of work during the construction of the development hereby approved, 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 be restricted to 07:30 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

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.