

Item: 5.1

Local Review Body: 6 October 2021.

**Proposed Extension of House at 16 Hermaness, Kirkwall
(21/030/HH).**

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 extension of a house at 16 Hermaness, Kirkwall.

2. Recommendations

The Local Review Body is invited to note:

2.1.

That planning permission for the proposed extension of a house at 16 Hermaness, Kirkwall, was refused by the Appointed Officer on 8 July 2021, 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 21/030/HH relates to the proposed extension of a house at 16 Hermaness, Kirkwall.

3.2.

The Appointed Officer refused the planning application on 8 July 2021 on the following grounds:

3.2.1.

The extension would represent overdevelopment of the site, in particular reference to site coverage and in combination with the area of garden ground already covered by built development. The development would not be consistent with and would be detrimental to the character of the area. As such, the development is contrary to Orkney Local Development Plan 2017 Policies 1 and 2, and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

3.2.2.

The scale and location of the proposed extension would adversely impact the residential amenities of the neighbouring property, by virtue of impact of overbearing impact, proximity and potential for overlooking, contrary to Orkney Local Development Plan 2017 Policies 1 and 2, and Planning Policy Advice: Amenity and Minimising Obtrusive Lighting (2021).

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 16 Hermaness, Kirkwall, will be undertaken at 09:30 on 6 October 2021.

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, a draft planning condition is 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 listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
- Planning Policy Advice:
 - Amenity and Minimising Obtrusive Lighting (2021).

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 section 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, Email
angela.kingston@orkney.gov.uk

Roddy MacKay, Planning Advisor to the Local Review Body, extension 2530, Email
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Paul Maxton, Legal Advisor to the Local Review Body, Email
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10. Appendices

Appendix 1 – Notice of Review (pages 1 – 6).

Appendix 2 – Planning Handling Report (pages 7 – 12).

Appendix 3 – Planning Services File (pages 13 – 25).

Appendix 4 – Decision Notice and Reasons for Refusal (pages 26 – 32).

Appendix 5 – Draft Condition (page 33).

Pages 1 to 33, with the exception of page 33, can be viewed at https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm and inserting the planning reference “21/030/HH”.

All other documents can be viewed at <https://www.orkney.gov.uk/Council/C/LRC2021.htm> and referring to the relevant meeting date.

Appendix 5

21/030/HH – Notice of Review

Proposed Condition

01. 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 this development.