



Case reference	NA-ORK-028
Application details	Convert redundant agricultural building to a house
Site address	Quivals, Sanday
Applicant	Stephen Oliver
Determining Authority	Orkney Islands Council
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by SEPA) who maintained objection to the application when considered by the council's Local Review Body
Representations	Nil
Date notified to Ministers	17 April 2019 but not fully documented until 18 April 2019
Date of recommendation	17 May 2019
Decision / recommendation	Call in

Description of Proposal and Site:

- Planning permission is sought for the conversion of a redundant agricultural building to a house. The building is ancillary to the adjacent Quivals Farmhouse, and covered by a Category B listing.
- The site is located on Sanday, where, following the 'Isles Approach' set out in the Orkney Local Development Plan, there is a general presumption in favour of development where it accords with relevant LDP policies and where it does not place unacceptable burden on existing infrastructure and services.
- The planning application was refused under delegated powers, and following the applicant's submission of a Notice of Review, the Orkney Islands Council Local Review Body resolved to approve the application.



Fig. 1: The application site (Bing maps)

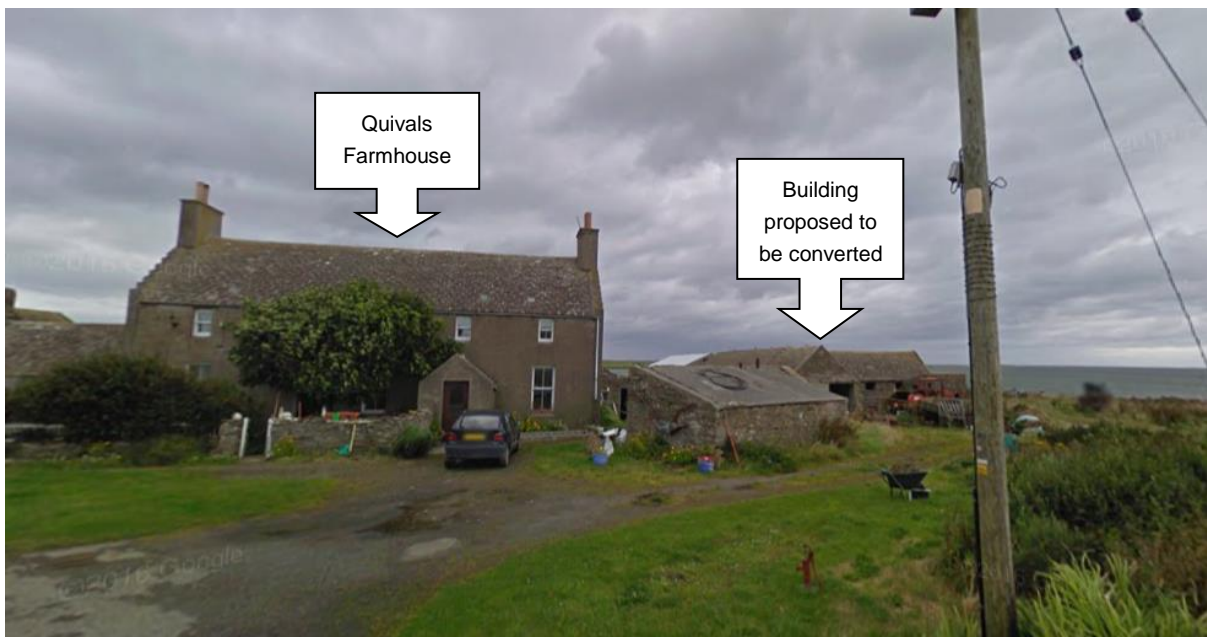


Fig. 2: Quivals Farmhouse and the building proposed to be converted (Google Street View)

EIA Development:

- The proposal can be regarded as an 'urban development project' in terms of the relevant EIA Regulations, but is below the screening threshold of 0.5ha. The site is not located within a sensitive area. Therefore the proposal does not need to be the subject of an EIA screening opinion.

Consultations and Representations:

- Scottish Environment Protection Agency (SEPA) objects to the proposed development on flood risk grounds. They advise that the proposed finished floor level of 3.5mAOD would not be sufficient to ensure that the property is free of flood risk up to the 1 in 200 year flood event as required by Scottish Planning Policy (SPP). SEPA advises that the risk of flooding to the existing building is such that they do not consider it is suitable for conversion from an agricultural building to a residential dwelling.
- The Scottish Government Flood Risk Management Team notes that the decision of the Local Review Body goes against the advice in Scottish Planning Policy. The team has seen no evidence to support the view that the benefit of conversion of an agricultural building outweighs flood risk in this case and have recommended call-in.

Assessment:

1. As SEPA objects to the proposed development on flood risk grounds, this application has been notified to Scottish Ministers to ascertain whether there are any issues of national importance to warrant them calling in the application for their own determination.
2. SEPA advises that the proposal represents an increase in vulnerability to flood risk, to a “highly vulnerable” use. The 1 in 200 year flood level for the location is 3.49m Above Ordnance Datum (AOD), which SEPA does not consider to be an overestimate and which is a ‘still water’ level which does not include any allowance for wave action. SEPA advises that a freeboard of at least 0.6m above this flood level is required, to account for the effects of climate change, wave action, funnelling or local bathymetry, and as a precaution to account for uncertainties in flood level estimates. Adding this freeboard would mean that development design levels should be at least 4.09mAOD.
3. The proposed finished floor level of the development is 3.5mAOD which SEPA considers is insufficient to ensure that the property would be free of flood risk up to the 1 in 200 year event as required by Scottish Planning Policy (SPP). SEPA also advises that ground levels immediately outside the building are such that dry access and egress would not be secured. They conclude that the flood risk to the existing building is such that they do not consider it is suitable for conversion from an agricultural building to a residential dwelling.
4. SPP states that areas of medium to high risk of flooding (where the annual probability of coastal or watercourse flooding is greater than 0.5% or 1:200 years) are generally not suitable for additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons (e.g. for navigation and water-based recreation) and an alternative, lower risk location is not available. This proposed development is in a sparsely developed area, at medium to high risk of flooding, and its location is not essential for operational reasons. The proposal is therefore contrary to SPP.
5. The Council’s Engineering Services objected to the proposal on the grounds of risk to the building and occupants during predicted coastal flooding events. They advise that at times of extreme high tides when the wind is in an unfavourable

direction for the site, the site is no less exposed than a nearby section of road and seawall (less than 3km away) which were washed away in 2005.

6. The application was refused under delegated powers on flood risk grounds. The reason for refusal refers to Orkney Local Development Plan 2017 Policy 13 which “seeks to avoid situations where development would have a significant possibility of flooding” and Policy 1, which does not support development that would result in an unacceptable level of risk to public health and safety. It also refers to SPP paragraph 256: “the planning system should prevent development which would have a significant probability of being affected by flooding.”
7. Following refusal of the application, the applicant submitted a Notice of Review and the council’s Local Review Body (LRB) reviewed the case. The LRB resolved that should Scottish Ministers not call in the application, planning permission should be granted. The LRB’s reasons for granting planning permission are (in summary):
 - The principle of development is acceptable and accords with the ‘Isles Approach’ to support development within the (non-linked) islands that support resident populations and are served by public transport services.
 - The conversion of the redundant building (an building ancillary to the farmhouse at Quivals and Category B listed) would bring it back into use and secure its long term future.
 - The design would preserve and enhance the building and its setting, and the proposed conversion would not cause unacceptable adverse impacts on the amenity of the adjacent property nor cause unacceptable burden on existing infrastructure and services.
 - “Acknowledging that the application site was located within the medium likelihood (1 in 200 year) flood extent of the SEPA Flood Map, and noting that the applicant’s Flood Risk Statement indicated no history of flooding at the site, and the proposed finished floor level at 3.5m AOD, it was not considered that the development would have a significant probability of being affected by flooding.”
 - “The conversion of a redundant building into a residential use took precedence over and outweighed the objections raised by the Scottish Environment Protection Agency and the Council’s Engineering Service.”
8. The Scottish Government Flood Risk Management Team (FRMT) has noted the advice from SEPA and also expressed concern that the decision of the LRB goes against the advice in SPP, and appears to disregard the advice from SEPA and the council’s Engineering Services.
9. Whilst the LRB did not consider that the development would have a “significant probability of being affected by flooding”, there appears to be little or no evidence to support this view.
10. Based on the information submitted, the proposal gives rise to significant concerns over flood risk. It is considered that the proposal would not comply with national policy on flooding, and inadequate justification has been given for departing from national policy in this instance.
11. In conclusion, while the scale of the proposal would not normally warrant national attention, for the reasons set out above: the potential level of flood risk

to life and property; and the nature of the proposals, this case raises issues that would benefit from further scrutiny by Scottish Ministers.

Decision/Recommendation:

- Call in the application to allow further consideration of the suitability of the site for the proposed use, in view of the predicted level of flood risk.