



REPORT

To: Planning Committee

20 September 2011

**From: Development Management
Planning
Development Services Department**

Applications for Planning Permission for Local Developments where Determination cannot be taken by Appointed Person under Approved Scheme of Delegation

1 Purpose of Report

- 1.1 The Planning Scheme of Delegations that has been approved by the Council, as well as the Scottish Ministers, identifies the appropriate level of decision making to ensure compliance with the 1997 Planning Act.
- 1.2 Applications for planning permission that fall within the category of Local Development under the hierarchy of development introduced by the Planning etc. (Scotland) Act 2006, which is at the heart of the modernised planning system, are expected to mainly be determined by officers as have been appointed by the planning authority. The approved Scheme of Delegations does however provide exceptions, both specified and statutory, where the determination of an application where the proposal is for a Local Development instead falls to be determined by the Planning Committee.
- 1.3 The exceptions that apply include applications where: a) the Council has an interest (and stands to benefit in some way from the development proceeding) and where there are objections (a specified exception); b) the planning authority or a member of the planning authority is the applicant; and c) the land to which the application relates is either in the ownership of the planning authority or the planning authority has a financial interest in it. In relation to interpretation of the latter two exceptions any part of the Council is regarded as being the planning authority.
- 1.4 With the agreement of the Chairperson and Vice-Chairperson of the Planning Board, applications for Local Development, where the exceptions that are set out in paragraph 1.3 above applied and so therefore the decision fell to be made by the Planning Board, were set out in a table that included the related officer recommendation.
- 1.5 The applications for Local Development that are set out in the table below, where exceptions apply, have each had a Report of Handling prepared by the officer detailing: the proposal; the assessment carried out; and recommended conditions or refusal reasons (as appropriate), as well as the reasons for such a decision, and this is available in the Member's Room at

the Town Hall. To meet with the Planning Committee's instruction of 26 July 2011 (Item Minute 10/11), the list of conditions or refusal reasons (as appropriate) relating to each application is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation
2011/110/PCD	Create a gas bottle filling and storage plant, with portacabin office and store, at the site of a former quarry; Red Pit Quarry, Northmavine	Shetland Gas Supplies	Approve, with conditions
2011/150/VCON	Vary condition 9 of planning permission 2010/256/PCD relating to car parking and temporary accommodation, Sellaness Industrial Estate, Graven, Mossbank	Maltus (UK) Ltd.	Approve, with conditions
2011/219/PPF	Erect temporary meteorological mast and associated bird diverters, Land at Scar Quilse, Voe	The Viking Energy Partnership	Approve, with conditions

- 1.6 In respect of each application a decision that accepts the officer's recommendation will, in the opinion of the Head of Planning, comply with Council planning policy. If Members are minded to determine an application contrary to the officer's recommendation, as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing to do so, contrary to the development plan policy and the officer's recommendation, be given and minuted in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and for the avoidance of doubt in the case of a subsequent planning appeal or judicial review. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed, and an award of costs being made against the Council, on the basis that it is not possible to mount a reasonable defence of the Council's decision. Notification to the Scottish Ministers is not required in the case of each application.

2. Recommendation

- 2.1 In compliance with Development Plan Policy it is recommended that the applications that have been received and which are set out in this report are determined in accordance with the officer's recommendations in the case of each application, for the reasons that are set out in the related Report of Handling.

planning board.doc
J R Holden
Planning Committee: 20/9/2011

2011/110/PCD - Create a gas bottle filling and storage plant, with portacabin office and store, at the site of a former quarry; Red Pit Quarry, Northmavine by Shetland Gas Supplies.

Recommended Conditions

(1) The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority:

- Location Plan (SIC Ref: 2011/110/ 00)
- Photo Montage Showing Containers & Bottle Filling & Storage Areaa (SIC Ref: 2011/110/ 02)
- Photo Showing Existing Site (SIC Ref: 2011/110/ 03)
- Photo Showing Standard 20' Shipping Container
- Photo Showing Interior of Container & Filling Equipment

received by the Planning Authority on 15 April 2011

- Site Plan and Compound Layout (SIC Ref: 2011/110/ 01)
- Site Plan Showing Fence Location Around Site (SIC Ref: (2011/110 – Fence Plan)
- Fire Risk Assessment

received by the Planning Authority on 09 August 2011

(2) The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006.

(3) The permission hereby granted shall be valid until 30 September 2014. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) all equipment and plant shall be removed from site, the use of the site shall cease and the site shall be restored in accordance with a scheme, which shall be submitted to the Planning Authority not later than 6 months before the expiry date. The scheme shall not be implemented until the Planning Authority has given its written approval. Works comprising the approved scheme shall be completed within 3 months of operations ceasing on site.

Reason: As the development is temporary in nature and to ensure the satisfactory reinstatement of the site when the use ceases in order to comply with Shetland Local Plan (2004) Policy LPNE10.

(4) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

(a) include the full name and address of the person intending to carry out the development;

- (b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- (c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and
- (d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(5) The land and area of the quarry site which is subject of this permission shall only be used by the company known as Shetland Gas Supplies. The land and area subject of this permission shall be used for no other use other than what is approved under this permission, notwithstanding the provisions of Class 5 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent replacement or amendment Order and the General Permitted Development Order (1992) or any subsequent replacement or amendment Order.

Reason: To ensure the intensification and use of the site is compatible with the wider area, and that the access and parking provisions are sufficient to serve the approved use, in the interest of public and road safety and in order to comply with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policies LPNE10, LP MIN8, LPIND5, and LPTP12.

(6) Development shall not commence until the following visibility splay is provided; thereafter the visibility splay shall be maintained throughout the lifetime of the development.

- A visibility splay of 2.5 metres by 215 metres shall be provided to the south of the junction of the access with the public road;
- A visibility splay of 2.5 metres by 215 metres shall be provided to the north of the junction of the access with the access road.
- The earth embankment to the north of the access shall be trimmed back from the road verge to allow the required visibility of 2.5 by 215 metres. This shall be done in consultation with Road Services and in accordance with a scheme approved in writing by the Planning Authority beforehand.

Reason: In the interests of road safety and to ensure a satisfactory standard of development in compliance with Policy LP TP12 of the Shetland Local Plan (June 2004).

(7) The depot site shall not be brought into use until the access road serving the development from the public road, has been constructed to a minimum of 6 metres in width for at least the first 10 metres from the edge of the public and has been completed in bitmac for at least the first 6 metres from the public road.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(8) At the junction of the development site with the access road:

- No fence, wall, bushes or other potential obstruction to visibility shall be permitted within 3 metres from the edge of the access road;
- The gradient of the access shall not exceed 5% (slope of 1 in 20) for the first six metres from the road edge.
- Any gate should be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy GDS4 and SPHOU2 and Shetland Local Plan (2004) Policy LPHOU4.

(9) As well as 8 car parking spaces and 1 goods vehicle parking space within the depot site, turning provision for cars shall be constructed within the development site in the form of a standard hammer head or a manoeuvring space at least 7.6m x 7.6m. A larger area for goods vehicles turning shall be constructed within the development site in the form of a T shaped turning head, with each section of the T being 12.5 metres by 5 metres. All spaces adjacent to any walls or fences shall be increased by 0.5 metres.

Reason: To allow adequate space for vehicles to turn and exit the site in forward gear in the interests of traffic safety and in order to comply with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(10) Further grassed earth bunding shall be installed as per the approved plan (SIC Ref: 2011/110 01) and shall not impact on the requirements set out in condition number 5 of this consent.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(11) Prior to commencement of development, details of the 2 metre high site security fence/screen shall be submitted and approved in writing by the Planning Authority. The fence shall be a close slatted fence painted a dark green in colour.

Reason: In order to shield views into the depot compound from the public road and to protect the amenity of the surrounding natural environment and in

compliance with Shetland Structure Plan (2000) policy GDS4 and Shetland Local Plan (2004) LP NE10 and LP BE13.

(12) A connection to the public water supply shall be made and maintained within the site compound.

Reason: For the provision of on-site staff welfare facilities and other appropriate site uses, and in compliance with Environmental Health legislation and Shetland Structure Plan (2000) policy GDS4 and Shetland Local Plan (2004) LP NE10.

(13) Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding season following the completion of the development. If the site is to be reinstated other than by seeding or turfing with grass a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

Reason: To ensure the reinstatement of land disturbed by the construction of the development in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPBE13.

(14) If any top soil, spoil or waste materials arising from the excavation of the site and the construction of the development are to be removed from or disposed of outwith the site, details of the method of disposal of any such materials, including details of the location of any storage or disposal sites, shall be submitted and approved in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure that any top soil or waste material arising from the construction of the development is disposed of to an authorised site and in an environmentally acceptable manner in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPBE13.

Note to Applicant:

Notice of Completion of Development:

To ensure both that the development is carried out in accordance with the approved documents, and compliance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended). Upon the completion of the development hereby permitted, and as soon as practicable, the person carrying out the development shall provide the Planning Authority with a written notice of that completion.

Road Opening Permit:

A Road Opening Permit must be obtained from the Roads Service prior to carrying out any works to form an access onto the public road. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick ZE1 0PX.

Building Warrant:

You are advised to contact the Building Standards Service on 01595 744800 as a building warrant is required for your development.

2011/150/VCON - Vary condition 9 of planning permission 2010/256/PCD relating to car parking and temporary accommodation, Sellaness Industrial Estate, Graven, Mossbank by Maltus (UK) Ltd.

Recommended Conditions

List of approved plans:

- Floor Plan BW_L(--)-009 17.05.2011
- Location Plan L(--)-132 17.05.2011
- Floor Plan BW_L(--)-010 C 27.04.2011

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2.) The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006.

(3.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

- (a) include the full name and address of the person intending to carry out the development;
- (b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- (c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and
- (d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(4.) The overspill car parking as approved under reference of planning permission 2011/2/PCD shall be provided and available for use in association with the accommodation block approved under reference of planning permission 2010/256/PCD upon the full occupation of phases 1, 1A, 2 and 3 of the accommodation block and prior to the occupation of phase 4 as shown on Drawing No BW_L(--)009.

Reason: In order to ensure that adequate overspill car parking is provided and in order to comply with Shetland Structure Plan (2000) policy GDS4 and SPTP7 and Shetland Local Plan (2004) LPNE10 and LPTP12.

Note to the Applicant

Notification of completion of development:

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

2011/219/PPF - Erect temporary meteorological mast and associated bird diverters, Land at Scar Quilse, Voe by The Viking Energy Partnership.

Recommended Conditions

List of approved plans:

Ground Anchor Details	2011/219/PPF 01	26.05.2011
Elevation	2011/219/PPF 02	26.05.2011
Bird Diverter Details	2011/219/PPF 03	26.05.2011
1:50,000 Location Plan	2011/219/PPF 04	26.05.2011
1:10,000 Location Plan	2011/219/PPF 05	26.05.2011
1:1250 Site Plan	2011/219/PPF 06	26.05.2011

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2.) The development hereby permitted shall be commenced within three years of the date of this permission.

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(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(4.) The permission hereby granted shall be valid until 30 September 2014. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the mast shall be removed, the use of the site shall cease and the site shall be restored in accordance with a scheme, which shall be submitted to the Planning Authority not later than 6 months before the expiry date. The scheme shall not be implemented until the Planning Authority has given its written approval.

Reason: As the development is temporary in nature and to ensure the satisfactory reinstatement of the site when the use ceases in order to comply with Shetland Local Plan (2004) Policy LPNE10.

(5.) Development shall not commence until a construction method statement for the proposed works, including construction and decommissioning, and including access to the site (which shall address when such works will and will not be allowed to take place, including timing) has been submitted to and approved in writing by the Planning Authority. Thereafter during construction, decommissioning and access the approved methodology shall be followed at all times, unless the prior written approval of the Planning Authority, following consultation as appropriate, is granted.

Reasons: To ensure that best practice working methods are used at all times in the interests of environmental amenity and to limit disturbance to breeding birds and in compliance with Shetland Structure Plan (2000) Policy SPNE7 and Shetland Local Plan (2004) policy LPNE10.

(6.) The guy wires of all masts erected shall be marked with bird deflectors as soon as they are erected on site.

Reason: To limit potential bird strikes on the guy wires and in compliance with Shetland Islands Council Structure Plan (2000) Policy SP NE7.

(7.) In the event that any archaeological remains (artefact or structure) are identified during the excavation and construction period, work shall cease and both the Planning Authority and Shetland Regional Archaeologist shall be notified

immediately, after which reasonable access shall be afforded to the Shetland Regional Archaeologist (or their representative) to record the items of interest and finds and allow for appropriate action to be taken.

Reason: Although there is nothing evident in the immediate vicinity, there is a general background of archaeology in the area. The measures proposed are in order to protect any unexpected finds within the site in compliance with Shetland Structure Plan (2000) Policy SPBE2, Shetland Local Plan (2004) Policy LPNE10.

Notes to Applicant:

Duty of Care: It is requested that a general duty of care is shown when working in this area and that the applicant ensures that all personnel involved in working on this site are briefed on the need to avoid unnecessary disturbance to breeding birds in the area and damage to blanket bog vegetation. This is to ensure that workers are aware of the reasons for restrictions on their operations and so that they can take steps to minimise environmental damage.

Notice of completion of development: As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Report of Handling

Development: Erect temporary meteorological mast and associated bird diverters

Location: Land At Scar Quilse, Voe, Shetland, ZE2 9PX.

By: Mr Andrew Sloan, The Viking Energy Partnership.

Application Ref: 2011/219/PPF

1. Introduction

The proposal is for a 3 year temporary planning consent to erect a single 60m tall meteorological mast with associated bird diverters on land near Scar Quilse within Shetland.

The application is submitted by The Viking Energy Partnership as the masts are required to provide a detailed study of the wind regime across the proposed wind farm site that is subject to a separate Section 36 application under the Electricity Act.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS1 - General Development Policy Sustainable Development

GDS4 - General Development Policy Natural and Built Environment

SPNE1 - Design

SPNE7 - Nature Conservation 3

Shetland Islands Council Local Plan (2004) (As Amended) Policies

LPNE10 - Development and the Environment

LPENG6 - Energy Proposals

3. Safeguarding

None applicable.

4. Consultations

SNH were consulted on the 26 July 2011. There was no response from this consultee at the time of report preparation.

Delting Community Council were consulted on the 22 July 2011. Their comments dated 29 August 2011 can be summarised as follows: No objection.

The Regional Archaeologist was consulted on the 26 July 2011. Their comments dated 1 August 2011 can be summarised as follows: There is a general background of archaeology in the area although nothing evident in the immediate vicinity. Archaeology requests that the

following condition be applied: Should anything (whether artefact or structure) be encountered which is not part of the present pattern of land use, work should cease and the Regional Archaeologist should be notified immediately in order that appropriate action can be taken.

RSPB were consulted on the 26 July 2011. Their comments dated 1 August 2011 can be summarised as follows: In order to reduce the potential for flying birds to collide with the guys and avoid disturbance to breeding birds, the RSPB suggest that the following conditions should be placed on any planning consent:

1. Marking of the guy wires with suitable tags is essential to avoid birds colliding with the wires.

2. No construction or erection work should take place between 1st April and 31st August unless approved by SNH, in order to reduce disturbance to birds breeding in the area.

5. Statutory Advertisements

The application was advertised in the Shetland Times on 20.07.2011

A site notice was not required to be posted.

6. Representations

There are no representations to report.

7. Report

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that:

Where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan, unless material considerations indicate otherwise.

There are statutory Development Plan Policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Development Plan Policy, or there are any other material considerations which would warrant the setting aside of Development Plan Policy.

By virtue of its appearance, location, and low impact ground anchoring, the proposed mast is considered to have a relatively low environmental impact. A construction method statement is proposed to be attached to any permission seeking details of access etc, typically components are delivered to the site using "Argo Cat" or quad vehicles to negate the need for a track construction. The construction method statement will

control this aspect and ensure that best practice is being used to minimise environmental damage both during construction and decommissioning of the structures and reinstatement of the sites. This will enable ornithological interests and ground stability/condition to be safeguarded.

Whilst the mast will be visible and is on high ground within the landscape with limited man made developments nearby, it will mostly be viewed from a distance and is of a relatively small scale within a large and expansive landscape. The main view will be from the A970 roadway which transects the area. Furthermore the proposal would be granted temporary consent for 3 years only. On this basis therefore visual impact is considered limited and acceptable.

In respect of the consultation comments the Community Council have no objection and the RSPB and archaeology do not object to the proposal subject to appropriate conditions. Conditions are considered sufficient to ensure that the impact of the mast on natural heritage and archaeological interests in the area is controlled.

8. Policy and Delegated Authority

A decision to approve this application complies with Council planning policy. As the application is for a proposed development falling within the category of Local Development and the Council has an interest in the proposal, the decision to determine the application is delegated to the Planning Committee under the Scheme of Delegation that has been approved by the Scottish Ministers.

If members are minded to refuse the application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008 and for the avoidance of doubt in the case of a subsequent planning appeal or judicial review. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed, and an award of costs being made against the Council, on the basis that it is not possible to mount a reasonable defence of the Council's decision.

Notification to Scottish Ministers

Not required on this occasion.

9. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) By virtue of location, appearance, and methods of erection, and subject to appropriate controlling conditions, the proposed meteorological mast accords with the relevant provisions of the following policies of the Shetland Islands Council Structure Plan (2000) and the Shetland Local Plan (2004): GDS1 Sustainable Development; GDS4 Natural and Built Environment; SPNE2 Landscape and Design; SPNE7 Nature Conservation; LPNE10 Development and the Environment; and LPENG6 Energy Proposals.

10. List of approved plans:

Ground Anchor Details	2011/219/PPF 01	26.05.2011
Elevation	2011/219/PPF 02	26.05.2011
Bird Diverter Details	2011/219/PPF 03	26.05.2011
1:50,000 Location Plan	2011/219/PPF 04	26.05.2011
1:10,000 Location Plan	2011/219/PPF 05	26.05.2011
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Conditions:

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Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2.) The development hereby permitted shall be commenced within three years of the date of this permission.

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(3.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

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(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(4.) The permission hereby granted shall be valid until 30 September 2014. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the mast shall be removed, the use of the site shall cease and the site shall be restored in accordance with a scheme, which shall be submitted to the Planning Authority not later than 6 months before the expiry date. The scheme shall not be implemented until the Planning Authority has given its written approval.

Reason: As the development is temporary in nature and to ensure the satisfactory reinstatement of the site when the use ceases in order to comply with Shetland Local Plan (2004) Policy LPNE10.

(5.) Development shall not commence until a construction method statement for the proposed works, including construction and decommissioning, and including access to the site (which shall address when such works will and will not be allowed to take place, including timing) has been submitted to and approved in writing by the Planning Authority. Thereafter during construction, decommissioning and access the approved methodology shall be followed at all times, unless the prior written approval of the Planning Authority, following consultation as appropriate, is granted.

Reasons: To ensure that best practice working methods are used at all times in the interests of environmental amenity and to limit disturbance to breeding birds and in compliance with Shetland Structure Plan (2000) Policy SPNE7 and Shetland Local Plan (2004) policy LPNE10.

(6.) The guy wires of all masts erected shall be marked with bird deflectors as soon as they are erected on site.

Reason: To limit potential bird strikes on the guy wires and in compliance with Shetland Islands Council Structure Plan (2000) Policy SP NE7.

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Reason: Although there is nothing evident in the immediate vicinity, there is a general background of archaeology in the area. The measures proposed are in order to protect any unexpected finds within the site in compliance with Shetland Structure Plan (2000) Policy SPBE2, Shetland Local Plan (2004) Policy LPNE10.

Notes to Applicant:

Duty of Care: It is requested that a general duty of care is shown when working in this area and that the applicant ensures that all personnel involved in working on this site are briefed on the need to avoid unnecessary disturbance to breeding birds in the area and damage to blanket bog vegetation. This is to ensure that workers are aware of the reasons for restrictions on their operations and so that they can take steps to minimise environmental damage.

Notice of completion of development: As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

11. Further Notifications Required

None.

12. Background Information Considered

None.

13. Attachments

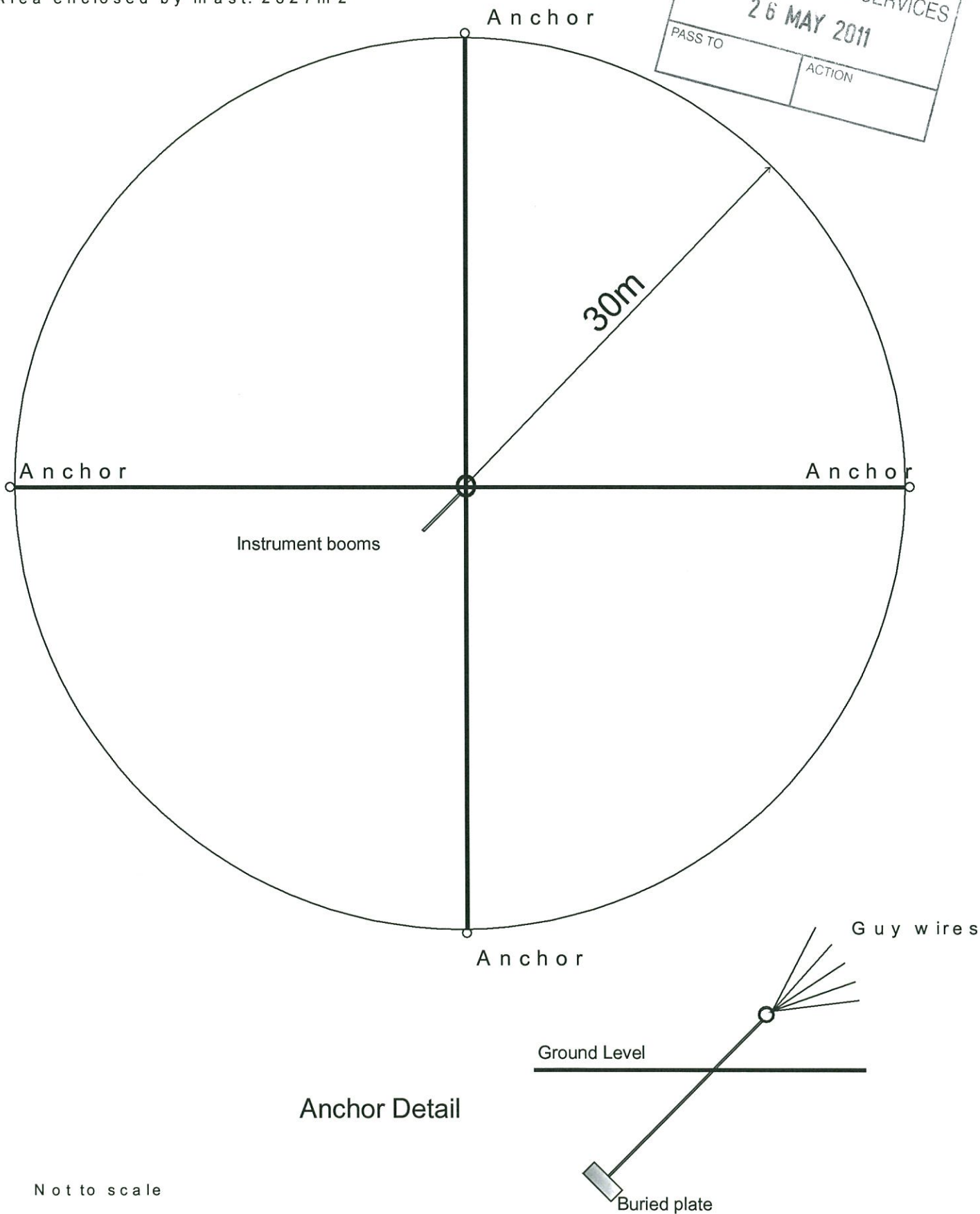
Ground Anchor Details.	2011/219/PPF 01.	26.05.2011
Elevation.	2011/219/PPF 02.	26.05.2011
Bird Diverter Details.	2011/219/PPF 03.	26.05.2011
1:50,000 Location Plan.	2011/219/PPF 04.	26.05.2011
1:10,000 Location Plan.	2011/219/PPF 05.	26.05.2011
1:1250 Site Plan.	2011/219/PPF 06.	26.05.2011

Planning Committee Report.doc

Officer: Matthew Taylor
Date: 12th September 2011

Chillwind 60m mast, Plan View

Mast diameter: 168mm
Guying radius: 30m
Area enclosed by mast: 2827m²



Not to scale

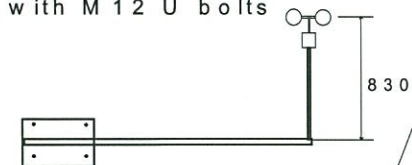
Chillwind 60m mast

Specification

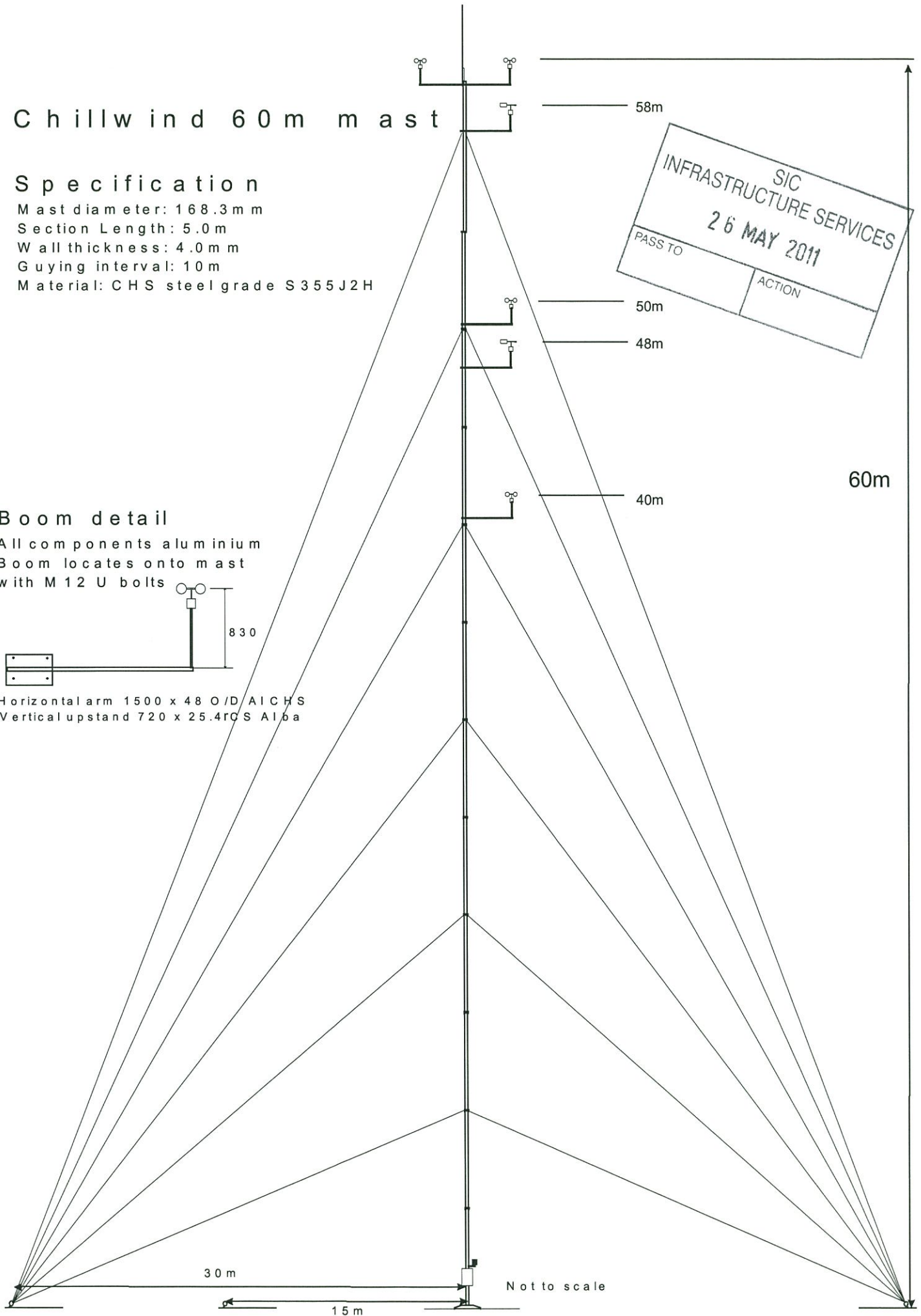
Mast diameter: 168.3mm
Section Length: 5.0m
Wall thickness: 4.0mm
Guying interval: 10m
Material: CHS steel grade S355J2H

Boom detail

All components aluminium
Boom locates onto mast
with M12 U bolts



Horizontal arm 1500 x 48 O/D A1CHS
Vertical upstand 720 x 25.4 O/S A16a



Elevation 2011/219 I/PF 02

CLYDESDALE

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INFRASTRUCTURE SERVICES
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26 MAY 2011

Bird Flight Diverter

These diverters really do work, perhaps despite of their unusual appearance, by causing birds, especially Swans, to veer upwards in flight. Large birds lack the manoeuvrability to avoid overhead power lines, the Bird Flight Diverter simply makes the line look bigger, so that it really is giving the bird more opportunity to change direction and hence save its life and your power line.

The BFD can be fitted from the ground using switching rods using the special adapter shown. This saves both time and cost, in that there is no need for an outage at any stage. The clamp itself is designed to securely grip all conductors up to a diameter of 70mm, so almost all Overhead lines from LV to EHV can be protected.

Greatly improved recently, we now use stainless steel rings to attach the roundel, gripper hands have been added to aid opening of the jaws, as well as many other new features that have improved this unbeatable nature preserver.

Part No.	Descriptions	Weight
CLY KL 70 FASTE	Bird Flight Diverter	0.2kg
CLY E06 683 301	BFD Operating Tool	0.4kg

Staywire Markers

Ideal for use on stays that cross public footways or golf courses, both types of Clydesdale staymarker can be easily fitted and clearly identify the location of stays. This helps to avoid injury to both employees as well as the public and warns hedge trimmers of the possible hazard.

The Clydesdale staymarker consists of a pack of eight markers (2 small yellow, 2 small black, 2 large yellow & 2 large black) that just simply snap over the stay. The advantage of this type of staymarker is threefold – easy to store (both in the vehicle and at the warehouse), easy to use and its low cost (approx. 1/3 of a traditional staymarker).

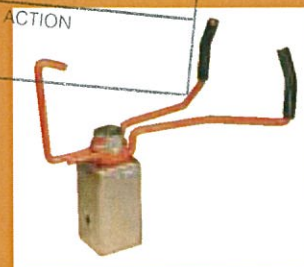
The American or more traditional staymarker consists of a single yellow 8 foot length that snaps over the stay and then is tightened in place by either the means of a cable tie or nut and bolt assembly.

Part No.	Descriptions
970 000	Clydesdale Staymarker (Pack of 8)
970 OCPU PV-01H	American Staymarker 8' Bolt Type
970 OCPU PV-01T	American Staymarker 8' Tie Type

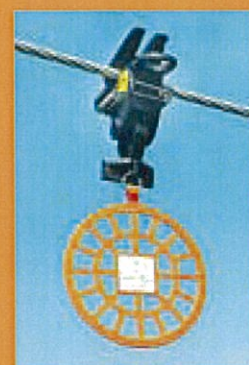
Line Markers

Used to make an overhead line more visible to aircraft on distribution voltage overhead lines. The sphere is positioned on the line by the use of a shotgun or grip all stick. Simply attach the stick to the hook and screw the piercing connector onto the conductor. As with the Clydesdale Bird Flight Diverter the Line Marker can be installed under live conditions.

Part No.	Colour	Diameter	Weight
CLY 212 02-01	Red	200mm	0.4kg
CLY 212 02-10	White	200mm	0.4kg
CLY 212 02-11	Red / White	200mm	0.4kg
CLY 212 06-01	Red	600mm	7.0kg
CLY 212 06-10	White	600mm	7.0kg
CLY 212 06-11	Red / White	600mm	7.0kg



Operating Tool



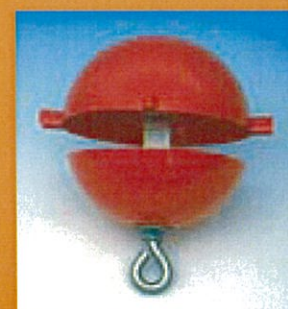
Bird Flight Diverter



Clydesdale



American



212 02-01



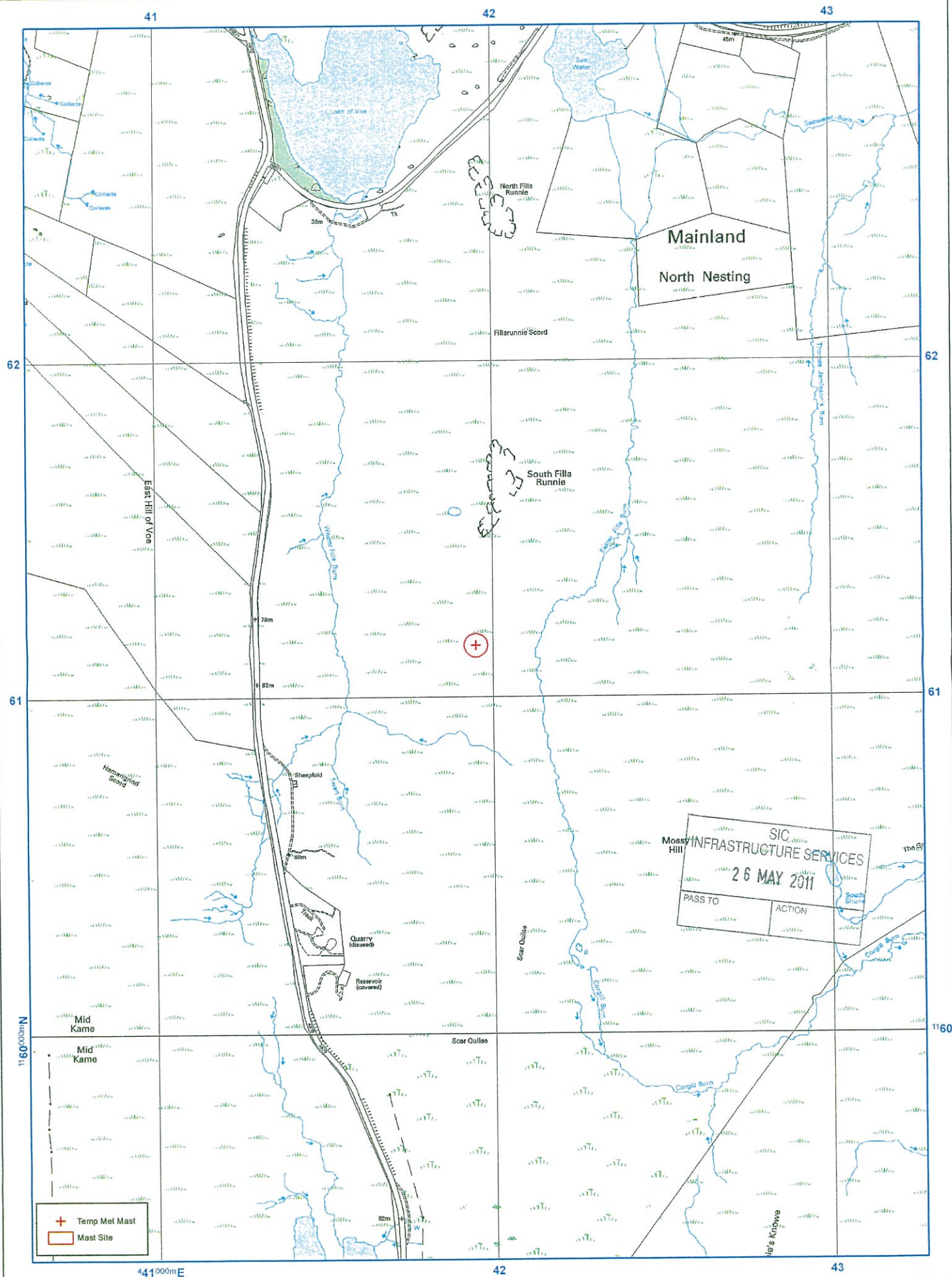
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1:50 000

Kilometres

Produced by J McDougall
SSE Renewables Developments (UK) Ltd
Dated: 13 May 11
Task No: VIKING_034_Scar Quilse Application 50k

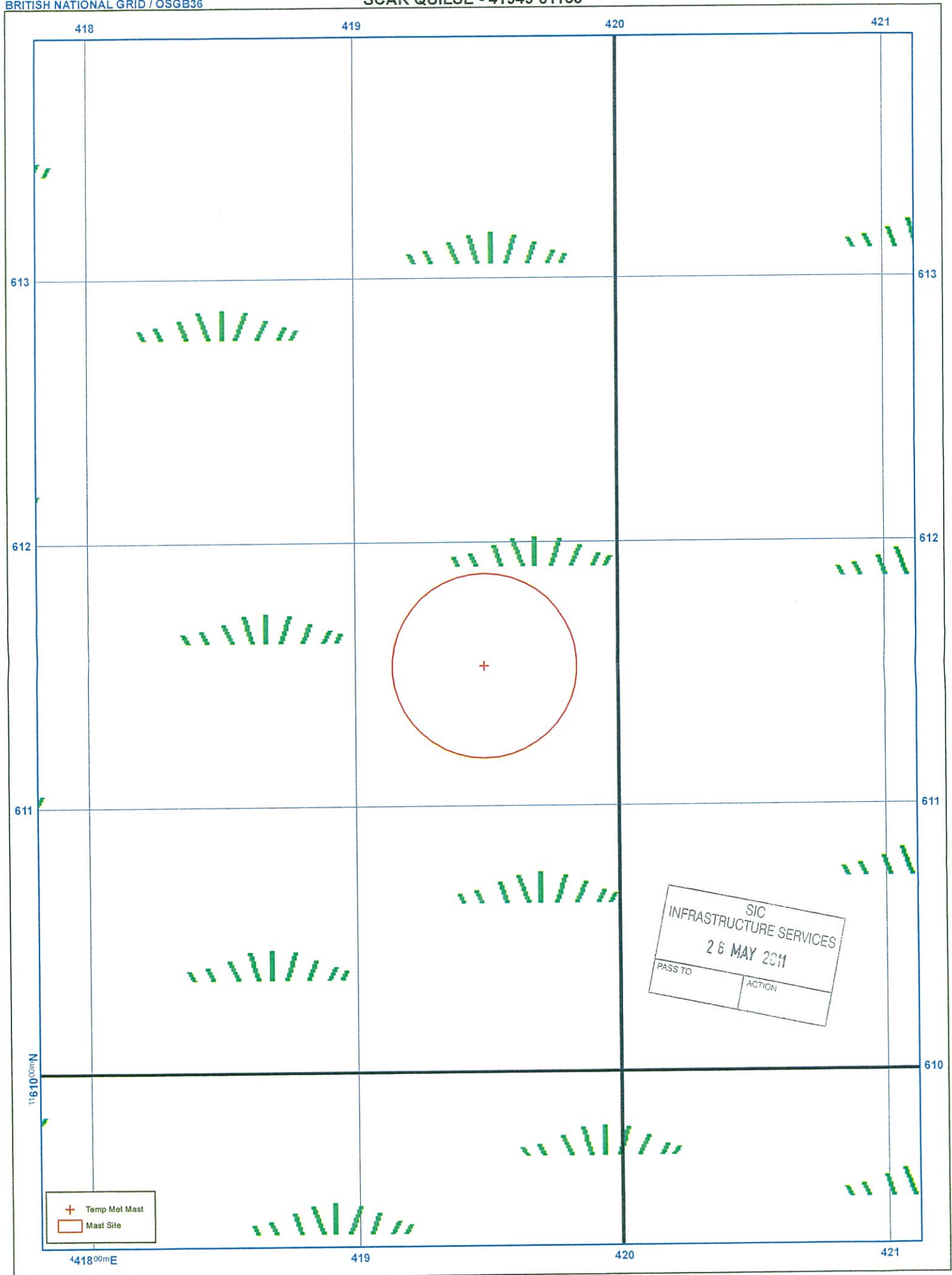
Location Plan 1:50,000 2011/219/PPF 04



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Produced by J McDougall
SSE Renewables Developments (UK) Ltd
Dated: 27 Apr 11
Task No: VIKING_034_Scar Quilse Application

Location Plan 1:10,000 2011/219/PPF 05



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Produced by J McDougall
SSE Renewables Developments (UK) Ltd
Dated: 13 May 11
Task No: VIKING_034_Scar Quilse Application 1250

Site Plan 1:1250 2011/2A/PPF 06

Report of Handling

Development: Vary condition 9 of planning permission 2010/256/PCD relating to car parking and temporary accommodation

Location: Sellaness Industrial Estate
Graven
Mossbank
ZE2 9UR

By: Maltus (UK) Ltd

Application Ref: 2011/150/VCON

1. Introduction

This is an application to vary condition no 9 of planning permission 2011/150/PCD to allow the partial occupation of the temporary accommodation block at Sellaness Industrial Estate approved under permission ref 2010/256/PCD in advance of the overspill car park adjacent to the site being available for use.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment

SPTP7 - Car Parking Standards

Shetland Islands Council Local Plan (2004) (As Amended) Policies

LPNE10 - Development and the Environment

LPTP12 - Car Parking Standards and Guidelines

3. Safeguarding

Health and Safety Executive - Code: HSE080

Site Name: Sullom Voe

Type: Hazardous Substances Consent

HSE Ref: H0620

Special Areas of Conservation - SAC: Sullom Voe

Scatsta Safeguard - Height: 10m

4. Consultations

Roads Traffic were consulted on the 31 May 2011. Their comments dated 11 July 2011 can be summarised as follows:

No objections in principle provided that 25 spaces are available in the overspill car park prior to the occupation of Phase 4 of the development.

Airport Manager - Scatsta were consulted on the .Their comments dated 20 May 2011 can be summarised as follows:

No objections.

5. Statutory Advertisements

The application was advertised in the Shetland Times on 03.06.2011

A site notice was not required to be posted.

6. Representations

Representations were received from the following properties:

None.

7. Report

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that:

Where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan, unless material considerations indicate otherwise.

There are statutory Development Plan Policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Development Plan Policy, or there are any other material considerations which would warrant the setting aside of Development Plan Policy.

Condition no 9 of the accommodation block permission states:

"No development shall commence until an area adjacent to the development site has been identified for overspill car parking, and a plan submitted showing this area has been submitted to and approved in writing by the Planning Authority. The accommodation block shall not be occupied until the area is available to accommodate overspill car parking.

Reason: To ensure that there is provision of adequate space for vehicles to park in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (20004) Policy LPTP12."

This condition was attached to the permission following concerns from Roads Services that although the level of parking provided within the accommodation block site itself is acceptable given the use and

operation of the building proposed, there could be a need for overspill parking if there is extra demand for residents with vehicles.

The accommodation block is being built in 5 phases. The applicants have indicated that the area identified and approved for overspill parking is currently being used to provide additional temporary accommodation for the Pioneer Camp that was constructed to provide accommodation for the construction workers building the actual accommodation block. The applicants have asked for a variation to the overspill parking condition to allow the partial occupation of the first 4 phases of the development, with the overspill parking being provided and available for use before the occupation of the final phase of the accommodation block.

Roads Services has indicated that this is acceptable. Given this and given that the car park will be provided before the full occupation of the accommodation block, it is proposed to allow the variation of condition no 9 of permission reference 2010/256/PCD.

8. Policy and Delegated Authority

A decision to approve this application complies with Council planning policy. As the application is for a proposed development falling within the category of Local Development and the Council has an interest in the proposal, the decision to determine the application is delegated to the Planning Board under the Scheme of Delegation that has been approved by the Scottish Ministers.

If members are minded to refuse the application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008 and for the avoidance of doubt in the case of a subsequent planning appeal or judicial review. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed, and an award of costs being made against the Council, on the basis that it is not possible to mount a reasonable defence of the Council's decision.

Notification to Scottish Ministers

None.

9. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) The proposal to vary condition no 9 of permission reference 2010/256/PCD to allow the overspill car park to be provided for use upon the full occupation of phases 1, 1A, 2 and 3, of the accommodation block, and prior to the occupation of phase 4 as shown on Drawing No BW_L(--)-009, is acceptable given the proposed operation of the accommodation block and will not result in an unacceptable detrimental impact on the natural or built environment in the vicinity of the site. The proposal therefore complies with Shetland Structure Plan (2000) policy GDS4 and SPTP7 and Shetland Local Plan (2004) LPNE10 and LPTP12.

10. List of approved plans:

- Floor Plan BW_L(--)-009 17.05.2011
- Location Plan L(--)-132 17.05.2011
- Floor Plan BW_L(--)-010 C 27.04.2011

Conditions:

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2.) The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006.

(3.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

- (a) include the full name and address of the person intending to carry out the development;
- (b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- (c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and

- (d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(4.) The overspill car parking as approved under reference of planning permission 2011/2/PCD shall be provided and available for use in association with the accommodation block approved under reference of planning permission 2010/256/PCD upon the full occupation of phases 1, 1A, 2 and 3 of the accommodation block and prior to the occupation of phase 4 as shown on Drawing No BW_L(--)009.

Reason: In order to ensure that adequate overspill car parking is provided and in order to comply with Shetland Structure Plan (2000) policy GDS4 and SPTP7 and Shetland Local Plan (2004) LPNE10 and LPTP12.

Note to the Applicant

Notification of completion of development:

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

11. Further Notifications Required

None.

12. Background Information Considered

Planning permission ref: 2010/256/PCD - To erect temporary residential accommodation (424 bedrooms) with ancillary accommodation including reception, dining room, recreation area, reading/quiet room, gymnasium, computer room, convenience shop, laundry, prayer room, bar and external football pitch, at Sellaness Industrial Estate.

13. Attachments

None.

Report of Handling

Development: Create a gas bottle filling and storage plant, with portacabin office and store, at the site of a former quarry; Red Pit Quarry, Northmavine

By: Shetland Gas Supplies

Application Ref: 2011/110/PCD

1. Introduction

- 1.1 This is an application for detailed or full planning permission (FPP) for the temporary siting for three years of a small propane gas cylinder filling depot/plant, within a currently disused small quarry at Northmavine.
- 1.2 The proposal also includes use of an area for storage for full and empty cylinders with a vehicle parking area and a site for the location of a portacabin/office, welfare facilities and a generator to provide electricity for the site and site safety systems.
- 1.3 The development the subject of the application falls within the category of Local Development, and because the site it relates to is owned by the Shetland Islands Council the decision is delegated to the Planning Committee.

2. Statutory Development Plan Policies

- 2.1 **Shetland Islands Council Structure Plan (2000) Policies**
 - GDS2 Economic Competitiveness
 - GDS4 Natural and Built Environment
 - SP NE1 Siting, Scale & Design
 - SP IND1 Availability of Land for Industrial Development
- 2.2 **Shetland Local Plan (2000) Policies**
 - LP NE10 Development and the Environment
 - LP BE13 Design
 - LP MIN8 Use of Former Quarries for Other Uses
 - LP IND5 Business and Industry Proposals in the Open Countryside
 - LP TP12 Car Standards and Guidelines
 - Appendix D Car Parking Standards

3. Safeguarding

- 3.1 Within Scatsta Airport's 'All Development' Safeguarding Zone.

4. Consultations

- 4.1 Shetland Islands Council: Road Services – no objections. Road Services had concerns regarding the proposed depot's location

adjacent to the main arterial road, however, after submission of a site Emergency Action Plan and Risk Assessment, Roads withdrew its objection to the development.

- 4.2 Shetland Islands Council: Roads Drainage – no objections
- 4.3 Shetland Islands Council: Environmental Health – no objections as basic facilities are available and are being made available on site, and the development is for a temporary period of 3 years.
- 4.4 Scottish Environmental Protection Agency: No objections.
- 4.5 Community Council: No objections – the location is appropriate and the development is welcomed.

5. **Statutory Advertisements**

- 5.1 Advertised under Section 20(1)(d) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, as contrary to the approved Development Plan – Policies LP MIN8 & LP IND5.

6. **Representations**

- 6.1 None.

7. **Report**

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 states that:

Where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan, unless material considerations indicate otherwise.

- 7.2 The Statutory Development Plan Policies against which this application has to be assessed are listed at paragraphs 2.1 and 2.2 above. The determining issues to be considered are whether the proposal:

- complies with Development Plan Policy; or
- there are any other material considerations which would warrant the setting aside of Development Plan Policy.

7.3 The Proposal and Location

As briefly outlined in paragraph 1.1, the proposal is for the siting of a new propane gas bottle filling depot with associated equipment and facilities and also on-site laydown and parking areas.

- 7.4 The depot will be sited within a presently disused small quarry owned by the Shetland Islands Council which was used for road maintenance purposes, known locally as the Red Pit Quarry. The quarry is located just off the public road A970 (10-13 metres distant) and is just north of Glusdale Water and is directly adjacent to Sinna Water (50 metres approx). The nearest residential property can be found to the southeast and is some 1500 metres (approx) as the crow flies, with the Burrland croft house being some 1700 (approx) metres to the northeast.
- 7.4 Site Layout
The site compound will house: propane storage tanks; a converted shipping container that will be used for filling the empty cylinders – this will be connected to the 5 x 2 tonne propane storage tanks; and three cylinder storage areas for filled and empty cylinders.
- 7.5 The compound will also house a trailer parking area, with a portalo and generator. The proposal also includes a site portacabin to be used for on-site staff welfare facilities and office accommodation, which will be sited outside the compound.
- 7.6 Use of Former Quarries
Under the aims of Shetland Local Plan (2004) policy LP MIN8 - Use of Former Quarries for Other Uses, proposals to use worked out or abandoned quarries for alternative uses will not normally be given consent as the Council is keen to encourage the restoration of all former quarries. The predominant locations of these types of sites are within undeveloped countryside, where restoration would be beneficial to the natural environment and would also be a visual improvement.
- 7.7 The applicants in this case require the site of the business to be within the Northmavine area, where much of their customer base is located and is where the applicant company's owners reside and operate other existing businesses. The use of existing industrial estates is the Council's preference for light industry such as the proposed gas bottle depot; these industrial areas have been identified and approved within Local Plan area statements, and are areas where the Council would wish to see developments such as this proposal sited.
- 7.8 Proposals such as this depot should be located within existing industrial estates, close to developed areas, and should avoid unspoilt countryside. This strengthens their viability and vitality, reduces transport costs, makes use of existing infrastructure and public investment, and minimises impact on the environment. However, the applicants in this case have made the case that they have exhausted all avenues in terms of locating the proposal the subject of the application at appropriate sites within the existing industrial areas within the north mainland, such as

Sellaness, Ollaberry and Weathersta. They are currently on the waiting list for Weathersta Industrial Estate.

- 7.9 Local Plan policy LP MIN8, as mentioned above, also states that applicants should demonstrate to the Council that the proposed use is needed at that location and that no other suitable sites are available. It is considered that the applicants for this proposal have demonstrated a willingness to utilise an existing industrial estate, however, none have sites that are currently available and suitable within the Northmavine area; running their business in the north of Shetland would also make sense logistically and socially.

7.5 Visual Impact

The reasons for keeping industrial process away from open countryside are as indicated in paragraph 7.8; light or heavy industry should be located within existing built-up areas so as to minimise the visual disturbance and environmental impact large industrial sites could introduce to the countryside. However, this small depot is to be sited within an existing small quarry, which has already introduced some visual disturbance to the countryside. It has already seen Council vehicles entering and exiting the site during road maintenance etc, so there will not be any perception of a change of use or visual change that would have further negative impacts on the natural environment of the surrounding area.

- 7.6 The Red Pit Quarry is mostly visible for a few seconds as you travel north on the A970 public road. The existing site has a large grassed bund that borders the site along the public road. This has mostly shielded from view the Council operations that have gone on within the quarry site historically. The applicants have agreed to continue/add two small sections of the earth bunding at the opening of the site access and again at the end of the site; both bunds taken off at angles from the existing bund adjacent to the public road.

- 7.7 This proposed extended earth bunding will go a long way to eliminate most views into the compound as you travel along the public road; further into the site there will be a 2 metre high tight slatted security fence, again eliminating any views into the compound. In terms of visual disturbance within the open countryside, the bunding and fencing works as proposed will go some way to improve the site's appearance and stop the workings of the depot being seen from regular areas of public view.

7.10 Consultation Response

As listed in paragraph 4, several bodies were consulted at the outset of the application – most of which had no concerns regarding the development. Environmental Health required both information regarding the safe storage of explosives (although

the amount proposed to be stored does not trigger COMAH regulations), and that required safety provisions will be put in place for the operation and storage of the propane tanks and bottles. Concerns were also raised by Environmental Health regarding staff welfare provision, and electricity generation for the running of safety systems within the compound. There is currently water available on site, and to meet their concerns a portaloo and a generator with sufficient capacity to run the depot and the depot's safety systems will also be provided, and more importantly, the site will be for a temporary time period.

7.11 Due to the depot's proximity to the public road, and the fact that this road is the only arterial road through the area with there being no alternative route serving the north mainland, Road Services was initially concerned regarding the omission of any Emergency Plan or Risk Assessment, should any incident occur on the site that would warrant the closure of the public road.

7.12 With that in mind the applicants submitted to Road Services their action plan for emergencies and the site Risk Assessment, which details safety plans and procedures for equipment and site personnel. This Emergency Plan and Risk Assessment was approved by Road Services and it consequently withdrew its concerns regarding the development.

7.13 Applicable Policies

When assessing this development proposal, the relevant policies that seek to guide quality development and ensure that it does not have a detrimental impact on the surrounding built and natural environment are firstly Shetland Structure Plan (2000) policies GDS4 Natural and Built Environment and SP NE1 Siting, Scale & Design, and then Shetland Local Plan (2004) policies LP NE10 Development and the Environment and LP BE13 Design. For the reasons stated above it is considered that the re-use of an old quarry as is proposed will not bring about any new environmental and/or visual disruption to add to that which the site has already experienced over the years. Also, with the additional earth bunding and fencing as mentioned in paragraphs 7.6 and 7.7, the working compound will in effect be shielded from areas subject of regular public view, meaning therefore that the development is compliant with the aims of policies GDS4, SP NE1 and LP NE1 and LP BE13.

7.14 Further applicable Structure (2000) and Local Plan (2004) policies that are more specific to this type of development are, firstly, Structure Plan policy GDS2 Economic Competitiveness, where encouragement is given to existing, and in this case new industry, by ensuring that there is sufficient land and premises for business and industry to meet local needs in existing settlements in Shetland. For industry that cannot be appropriately sited in existing settlements, locations should be found that do not conflict with other policies.

- 7.15 As has been mentioned already in this report, the applicants have demonstrated that there is not a suitable site within an industrial estate within the Northmavine area that can be reasonably developed. Also Structure Plan policy SP IND1 Availability of Land for Industrial Development recognises the need for locally-based employment generating initiatives that can diversify the economic base of the rural areas; therefore it is considered that the development complies with the aims of policies GDS2 and SP IND1.
- 7.16 For the reasons stated in paragraphs 7.6 to 7.9, this development complies with Local Plan (2004) policy LP MIN8 Use of Former Quarries for Other Uses. Local Plan (2004) policy LP IND5 Business and Industry in the Open Countryside states that proposals for the development of new or extensions to existing business and industrial development in the open countryside should adhere to certain criteria when considering this type of development. Included in these are that the applicant should demonstrate that the proposed development cannot be located within an existing settlement, and that the possibility of re-using suitable existing redundant buildings and brownfield sites has been considered and proven not to exist to the satisfaction of the Planning Authority. It is considered that the applicants have satisfied these important criteria regarding the siting of new industrial processes in the open countryside.
- 7.17 As the applicants have secured a two year lease of the site the subject of the application from the Shetland Islands Council, should Members be minded to approve this application, then it will be appropriate that permission is granted for a temporary period of three years; this will allow monitoring of the site and will allow the applicants time to establish the business with a view of moving to a more appropriate location within one of Northmavine's industrial estates.

8. Conclusions

- 8.1 As indicated at paragraph 7.2 above, the determining issues with regard to this development are whether the proposal:
- complies with Development Plan Policy; or whether
 - there are any other material considerations which would warrant the setting aside of Development Plan Policy.
- 8.2 For the reasons set out above, the proposed depot will not have a detrimental impact on the visual amenity or the natural environment of the surrounding countryside; the applicants have investigated other industrial estates which currently do not have any sites that are available or suitable for the proposed depot use, and it is appropriate that the applicants submission for a temporary use of the quarry only, which will allow a

reassessment of acceptability of the site's use after this time period, is met.

9. Policy and Delegated Authority

9.1 A decision to approve this application with the relevant conditions ensures that the development complies with Council planning policy. As the application is for a proposed development falling within the category of Local Development and the Council has an interest in the proposal, the decision to determine the application is delegated to the Planning Committee under the Scheme of Delegation that has been approved by the Scottish Ministers.

9.2 If Members are minded to refuse the application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, and for the avoidance of doubt in the case of a subsequent planning appeal or judicial review. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed, and an award of costs being made against the Council, on the basis that it is not possible to mount a reasonable defence of the Council's decision.

9.3 Notification to Scottish Ministers

Not considered necessary on this occasion.

10. Recommendation

10.1 In compliance with Development Plan Policy it is recommended that this application be approved subject to the following conditions.

(1) The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority:

- Location Plan (SIC Ref: 2011/110/ 00)
 - Photo Montage Showing Containers & Bottle Filling & Storage Areaa (SIC Ref: 2011/110/ 02)
 - Photo Showing Existing Site (SIC Ref: 2011/110/ 03)
 - Photo Showing Standard 20' Shipping Container
 - Photo Showing Interior of Container & Filling Equipment
- received by the Planning Authority on 15 April 2011

- Site Plan and Compound Layout (SIC Ref: 2011/110/ 01)
- Site Plan Showing Fence Location Around Site (SIC Ref: (2011/110 – Fence Plan)
- Fire Risk Assessment

received by the Planning Authority on 09 August 2011

(2) The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006.

(3) The permission hereby granted shall be valid until 30 September 2014. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) all equipment and plant shall be removed from site, the use of the site shall cease and the site shall be restored in accordance with a scheme, which shall be submitted to the Planning Authority not later than 6 months before the expiry date. The scheme shall not be implemented until the Planning Authority has given its written approval. Works comprising the approved scheme shall be completed within 3 months of operations ceasing on site.

Reason: As the development is temporary in nature and to ensure the satisfactory reinstatement of the site when the use ceases in order to comply with Shetland Local Plan (2004) Policy LPNE10.

(4) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

- include the full name and address of the person intending to carry out the development;
- state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and
- include the date of issue and reference number of the notice of the decision to grant planning permission for such development

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(5) The land and area of the quarry site which is subject of this permission shall only be used by the company known as Shetland Gas Supplies. The land and area subject of this permission shall be used for no other use other than what is approved under this permission, notwithstanding the provisions of Class 5 of the Town and Country Planning (Use Classes) (Scotland) Order

1997 or any subsequent replacement or amendment Order and the General Permitted Development Order (1992) or any subsequent replacement or amendment Order.

Reason: To ensure the intensification and use of the site is compatible with the wider area, and that the access and parking provisions are sufficient to serve the approved use, in the interest of public and road safety and in order to comply with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policies LPNE10, LP MIN8, LPIND5, and LPTP12.

(6) Development shall not commence until the following visibility splay is provided; thereafter the visibility splay shall be maintained throughout the lifetime of the development.

- A visibility splay of 2.5 metres by 215 metres shall be provided to the south of the junction of the access with the public road;
- A visibility splay of 2.5 metres by 215 metres shall be provided to the north of the junction of the access with the access road.
- The earth embankment to the north of the access shall be trimmed back from the road verge to allow the required visibility of 2.5 by 215 metres. This shall be done in consultation with Road Services and in accordance with a scheme approved in writing by the Planning Authority beforehand.

Reason: In the interests of road safety and to ensure a satisfactory standard of development in compliance with Policy LP TP12 of the Shetland Local Plan (June 2004).

(7) The depot site shall not be brought into use until the access road serving the development from the public road, has been constructed to a minimum of 6 metres in width for at least the first 10 metres from the edge of the public and has been completed in bitmac for at least the first 6 metres from the public road.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(8) At the junction of the development site with the access road:

- No fence, wall, bushes or other potential obstruction to visibility shall be permitted within 3 metres from the edge of the access road;
- The gradient of the access shall not exceed 5% (slope of 1 in 20) for the first six metres from the road edge.

- Any gate should be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy GDS4 and SPHOU2 and Shetland Local Plan (2004) Policy LPHOU4.

(9) As well as 8 car parking spaces and 1 goods vehicle parking space within the depot site, turning provision for cars shall be constructed within the development site in the form of a standard hammer head or a manoeuvring space at least 7.6m x 7.6m. A larger area for goods vehicles turning shall be constructed within the development site in the form of a T shaped turning head, with each section of the T being 12.5 metres by 5 metres. All spaces adjacent to any walls or fences shall be increased by 0.5 metres.

Reason: To allow adequate space for vehicles to turn and exit the site in forward gear in the interests of traffic safety and in order to comply with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(10) Further grassed earth bunding shall be installed as per the approved plan (SIC Ref: 2011/110 01) and shall not impact on the requirements set out in condition number 5 of this consent.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Structure Plan (2000) Policy SPGDS4 and Shetland Local Plan (2004) Policy LP TP12.

(11) Prior to commencement of development, details of the 2 metre high site security fence/screen shall be submitted and approved in writing by the Planning Authority. The fence shall be a close slatted fence painted a dark green in colour.

Reason: In order to shield views into the depot compound from the public road and to protect the amenity of the surrounding natural environment and in compliance with Shetland Structure Plan (2000) policy GDS4 and Shetland Local Plan (2004) LP NE10 and LP BE13.

(12) A connection to the public water supply shall be made and maintained within the site compound.

Reason: For the provision of on-site staff welfare facilities and other appropriate site uses, and in compliance with Environmental Health legislation and Shetland Structure Plan (2000) policy GDS4 and Shetland Local Plan (2004) LP NE10.

(13) Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding season following the completion of the development. If the site is to be reinstated other than by seeding or turfing with grass a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

Reason: To ensure the reinstatement of land disturbed by the construction of the development in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPBE13.

(14) If any top soil, spoil or waste materials arising from the excavation of the site and the construction of the development are to be removed from or disposed of outwith the site, details of the method of disposal of any such materials, including details of the location of any storage or disposal sites, shall be submitted and approved in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure that any top soil or waste material arising from the construction of the development is disposed of to an authorised site and in an environmentally acceptable manner in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPBE13.

Note to Applicant:

Notice of Completion of Development:

To ensure both that the development is carried out in accordance with the approved documents, and compliance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended). Upon the completion of the development hereby permitted, and as soon as practicable, the person carrying out the development shall provide the Planning Authority with a written notice of that completion.

Road Opening Permit:

A Road Opening Permit must be obtained from the Roads Service prior to carrying out any works to form an access onto the public road. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick ZE1 0PX.

Building Warrant:

You are advised to contact the Building Standards Service on 01595 744800 as a building warrant is required for your development.

11. Attachments

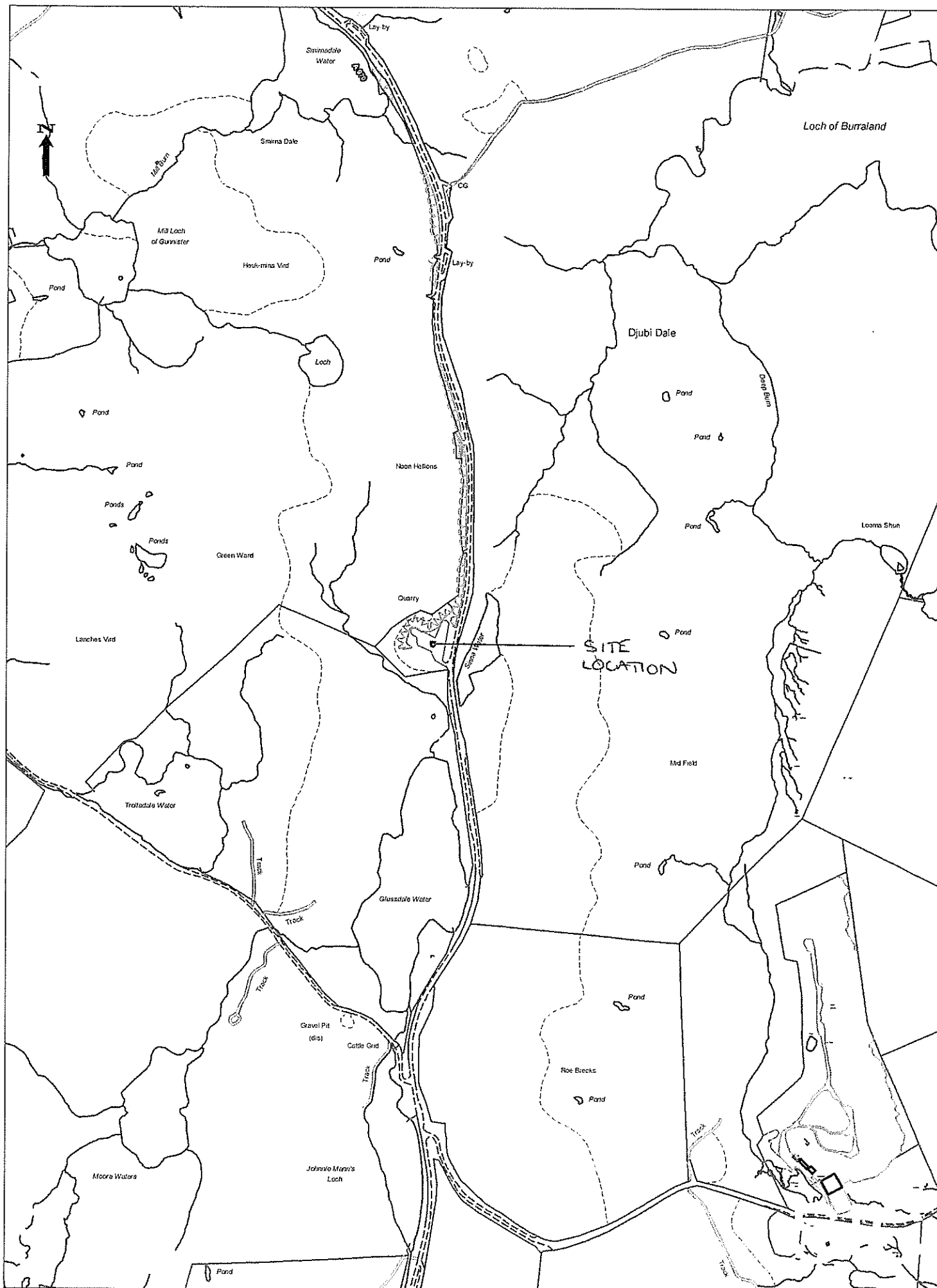
11.1 Location Map

11.2 Site Plan

12. **Background Papers**

12.1 None

Report Ref: 2011/110/PCD
Officer: Jonny Wiseman



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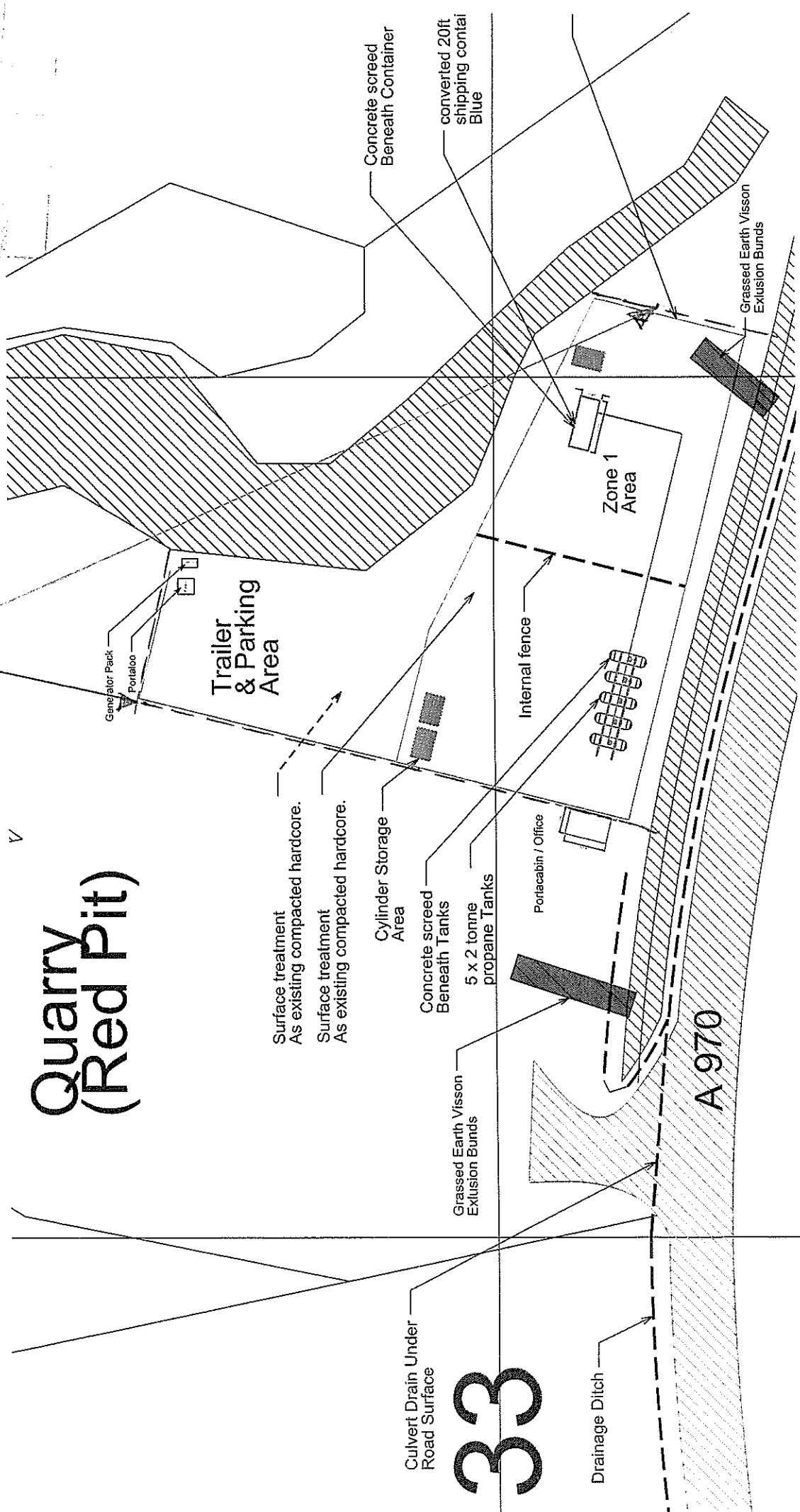
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Date 05/09/2011

PB: TA

6'(2m) CLOSE SLATED FENCE

DIFFERENTIAL FENCE
- 9 AUG 2017



Quarry (Red Pit)

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SIC DEF (GAILIN) - FENCE PLAN