

**Planning Committee****10 January 2012**

2011/206/PPF: To Extend Cemetery, Improve Access and Provide Additional Parking; Voe Cemetery, by Shetland Islands Council, Environment and Building Services

PL-01-12-F

**Report Presented by Planning Officer –
Development Management, Planning**

Development Services Department

1.0 Summary

- 1.1 This report concerns a full (detailed) planning application for works to the Voe Cemetery. The works proposed include the extension of the existing burial plot area to the east of the existing cemetery, and the upgrading of the existing access road and car parking area.
- 1.2 This application is being presented to Members as the Shetland Islands Council is the applicant and has a financial interest in the project. Also, representations have been received from the Community Council and two letters and a 34-signature petition have been received objecting to the proposal.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved, subject to conditions.

3.0 Determination

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

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.

There are statutory development plan policies against which this application has to be assessed against. Those policies of significance are listed below. Unless material considerations indicate otherwise,

the determining issues to be considered is whether the proposal complies with development plan policies.

Statutory Development Plan Policies:

Shetland Islands Council Structure Plan (2000) Policies

- GDS4 Natural and Built Development
- SP NE1 Standard of Design, Scale & Materials

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

- LP NE10 - Development and the Environment
- LP NE11 - Local Protection Areas (LPAs)
- LP NE14 - Agricultural Land
- LP BE13 - Design
- LP WD11 - Surface Water Drainage Standards
- LP COM14 - Bad Neighbour Developments
- LP TP12 - Car Parking Standards and Guidelines
- LP CFS4 - Community Facilities
- LP CFS6 - Burial Grounds
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 1 All Development: General
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 2 All Development: Layout and Design
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 3 All Development: Location
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – SPG 1 Layout and Design
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – SPG 12 All Development: Access/Visibility Splay/Car Parking

Safeguarding

- Within a Local Protected Area
- Within Good Agricultural Land Class 4.2

4.0 Report

4.1 Site Location

The existing cemetery area at Voe is a well-established and historical burial site for the area; sited down at the shore at Olmafirth Voe, the cemetery is a visible landmark in a relatively undeveloped area. The existing cemetery sits adjacent to the old B listed Olmafirth Kirk (Circa 1700) and associated old kirkyard.

- 4.2 The access serving the existing cemetery is an established road off the main public highway that serves the Voe area; the road gives access to the Voe Kirk, several sheds, a residential property and nearer the shore – Scottish Water's sewage works.

4.3 Proposed Works

This is a detailed application for various improvement works to the existing cemetery. The works are primarily to provide further burial space, however, improvement works to the part of the access road that travels along Olnafirth shore are also proposed to be undertaken, which will include new passing places and structural repair works. An extension to the existing car parking area is also proposed.

- 4.4 The extension of the burial space will be sited to the east of the existing cemetery, and with a continuation of the walling a dry stone dyke will surround the new burial ground area. The car parking will also be extended to the east side of the existing parking area to provide eight spaces and associated manoeuvring space.

4.5 Current Council Policies

The main policies against which this application has to be assessed, are firstly the overarching environmental policies that seek to ensure that all new development does not detract from the setting of, or damage, the surrounding natural and built environment. Also relevant are the policies that seek to ensure a high quality and good standard of design. These policies are Shetland Structure Plan (2000) policies SP NE1 Standard of Design, Scale & Materials and GDS4 Natural and Built Environment and also Shetland Islands Council Local Plan (2004) Policies LP NE10 Development and the Environment and LP BE13 Design.

- 4.6 In response to the points of objection that are set out in paragraph 5.2.6 below, the correspondence from which they came is appended to this report; the land on which the cemetery extension is to be sited, is classed as Good Agricultural Land under the Macaulay land capability for agriculture. An assessment has been made and it is felt that this is the most suitable location for the extension of the cemetery.

- 4.7 The site lies within an area identified as a Local Protected Area (LPA). Delting Community Council Area Statement states that the LPA at Lower Voe is to protect important landscapes and public amenity from harmful development. Shetland Local Plan (2004) policy LP NE11 states that, only applications for the development of facilities, which benefit the community as a whole, will be considered. This is a community facility and therefore is an acceptable development within an LPA; also the aforementioned Area Statement highlights the proposed future extension to the Voe cemetery.

- 4.8 In response to the objectors points relating to the development detracting from the existing unspoilt scenic surroundings. Firstly the visual impact of using new tarmac and white parking space lines on the road was investigated due to the site being visible from many angles around the Voe area. It was subsequently agreed with the applicant that the road would be spray-tarred and chipped with a lighter and more natural looking surface, and that no white lining will be used. Good use of high quality dry stone walling will be used and all galvanised gating etc will be painted black. With that in mind, it is felt that this development will not have a detrimental impact on the natural or surrounding environment.

- 4.9 No objections were received from Road Services in response to the application and in particular, the safety of the existing junction and the road users accessing the cemetery.
- 4.10 Shetland Local Plan (2004) policy CFS6 states that there are many rural burial grounds around Shetland which are still in use, and several will require to be extended in the near future. Extending existing burial grounds is seen as the best option to expand provision to meet the needs of the community. This is the most sustainable way to provide further burial ground areas, as the infrastructure serving the cemetery is already in place and that visually, the site is already an established development within the countryside.

5.0 Implications (of Decision)

Strategic

- 5.1 Delivery On Corporate Priorities – A decision made on the planning application that accords with the development plan will contribute directly to the Single Outcome Agreement through the ‘Greener’ priority outcome.
- 5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application.
- 5.2.1 SEPA had no objections as the proposal in terms of waste and surface water disposal, follows accepted practices, in line with SEPA’s Policy 19 Groundwater Protection for Scotland. Drainage will be via a sea-outfall.
- 5.2.2 Shetland Islands Council’s Roads Drainage had no objections to the development; standard advice regarding surface water attenuation flows was received.
- 5.2.3 A pre-application ground evaluation was carried out as requested by Shetland Regional Archaeologists, due to evidence of possible unrecorded remains within the area. The ground survey suggests that there are no archaeological issues with this development, however a precautionary condition has been recommended by Shetland Regional Archaeologists, should any artefact or structure be encountered which is not part of the present pattern of landuse.
- 5.2.4 Delting Community Council objected to the proposal; its concerns included limited space to extend, limited parking and road deterioration. Delting Community Council also invited Mr Grant of the Council’s Environment and Building Services (the applicant) to attend a public meeting to give members of the community a chance to voice their concerns. Mr Grant has confirmed that a public meeting was held but was poorly attended, and that none of those who objected to the development were present at the meeting. Members of the Community Council, who attended the meeting, confirmed that they would not support the development, but would come forward with proposals for alternative sites within the parish of

Voe. Mr Grant has advised that it was explained to those present at the public meeting that he would continue with the application, however, he confirmed that the applicant would consider another site for a cemetery if that site provided a cheaper and more suitable alternative. At the time of writing this report, Mr Grant acting for the applicant, advised that the Community Council has not subsequently contacted him.

5.2.5 Road Services were consulted at the outset of the application's processing, as the proposal includes structural repair, realignment of the road's vertical alignment and the inclusion of passing places. Road Services considered the works would enhance the safety and convenience of users, therefore Road Services did not object to the proposed development.

5.2.6 Two letters of objection were received in response to the application; attached to the objection letters was a 34-signature petition against the extending of the cemetery. A summary of the main points of objection is as follows:

- Loss of good agricultural land
- Within a protected non-development area
- Will detract from the untouched, unspoiled, scenic surroundings of Voe
- Area along the beach is eroding and will need to be armoured with the new development
- Road safety at the junction of the main road has serious health and safety concerns

5.3 Policy And/Or Delegated Authority – The application is for a development falling within the category of Local Development. As the Shetland Islands Council is the applicant, and the Community Council has objected to the development, the decision to determine the application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.

5.4 Risk Management – If Members are minded to refuse the application, 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. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

6.1 This proposal is compliant with the aims of Shetland Structure Plan (2000) and Local Plan (2004) policies as listed in paragraph 3.1. This proposal is the extension of an existing well-established cemetery and

will not have a detrimental impact on the visual amenity of the surrounding area and will not have a detrimental impact on the setting of the B listed Kirk. The proposal will use well-chosen materials for the construction of the gate and stone boundary wall and will match the existing cemetery.

- 6.2 Taking the comments and objections received into account, having assessed the proposed development, against Shetland Structure Plan (2000) and Local Plan (2004) policies listed in paragraph 3.1, it is found to be compliant with their aims.
- 6.3 The proposed development complies with the aims of Local Plan (2004) policy LP CFS6, where the Council encourages the extension of existing cemeteries. This is the most sustainable approach to the provision of further burial grounds.
- 6.4 Therefore, the proposal is recommended for approval subject to the conditions (the schedule for which is appended to the report).

For further information please contact:

Jonny Wiseman, Planning Officer – Development Management

Tel: 01595 744830 Email: jonny.wiseman@shetland.gov.uk

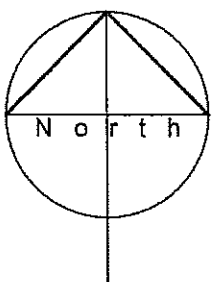
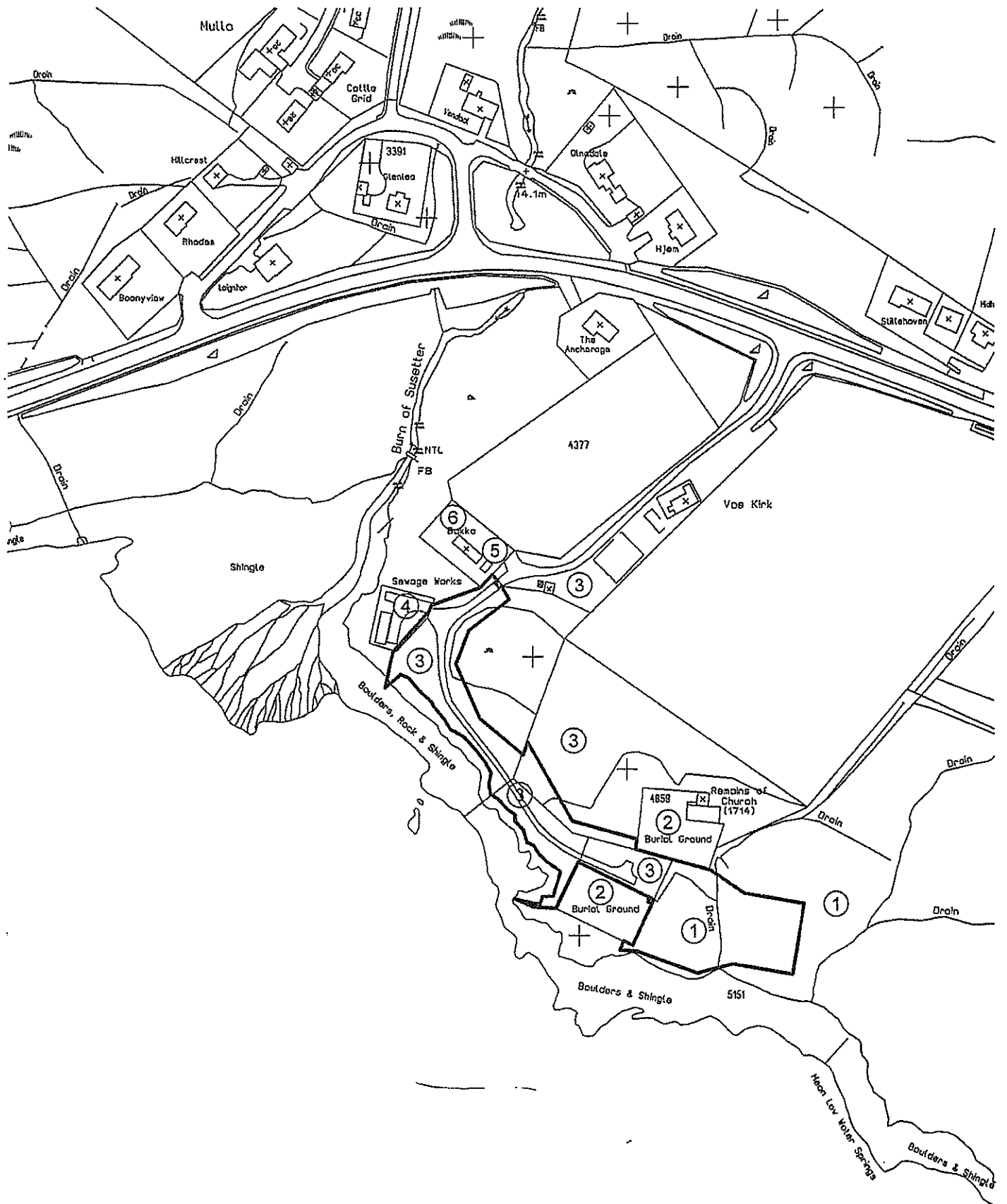
21 December 2011

List of Appendices

- Location Plan
- Site Plan
- Objection letter from Mr Mathew Jamieson, Venndal, Voe
- Objection letter from Mr Peter Jamieson, Tagon Farm, Voe
- Petition signed by 34 persons
- Schedule of recommended conditions

Background documents:

- [Shetland Structure Plan \(2000\)](#)
- [Shetland Local Plan \(2004\) \(as amended\)](#)
- [Interim Planning Policy on Sustainable Construction \(2009\)](#)



Olna Firth

SIC INFRASTRUCTURE SERVICES	
10 AUG 2011	
PASS TO JH 153016	ACTION

Matthew Jamieson
Venndal
Voe
Shetland
ZE2 9PT
09/08/11

Ref: 2011/206/PCD

Dear Sir/Madam

I object to the proposal to extend the Voe Cemetery. I have listed reasons to support my feelings and have enclosed names and signatures of people who also have the same views.

- As heir to Tagon Farm, this development will take good agricultural land from current and future livestock. If this development is to go ahead, we will be forced to cut livestock numbers because of loss in prime grazing land. The only way we could sustain current numbers is to use other areas year round. This would unfortunately affect the future of 'The Voe Show'. A family event that is enjoyed by many locals and visitors to Shetland. This would have a devastating blow to the community.
- This precious land has been in the family for two generations. My family has worked very hard on this land and is irreplaceable. If the council is to steal this land, it would be an absolute moral crime.
- This is, for many years, been a protected, non-development area. In recent years, a number of family members of Tagon Farm have applied to build dwelling houses and the council has refused because this has been a non-development area and because the area is of good agricultural value. Why can the council have complete disregard for the rules and develop on this land and at the same time refuse the development of family homes on family ground? Surely the council must abide by rules placed by the council? Or is the council exempt from all rules and are a law to themselves?
- This development will detract from the untouched, unspoiled, scenic surroundings of Voe. This area is one of the last remaining locations that has not been raped and destroyed by modern development. We have many visitors, local and abroad that enjoy the picturesque views that Voe has to offer. The extension will be visible from almost all view points and most shore facing dwelling houses.
- The area along the beach is eroding and will need to be armoured with this new development. The cost of the aggregate needed should be reason enough to use and alternative site.
- The total cost of this development will run into the millions. Has anybody investigated cost estimates? Contractors costs for excavation of very uneven, poor building grounds, landscaping, new roads, tar, aggregate and rock armour, construction of new grave yard, drainage, labour costs, architects fees, lawyers fees, etc, etc. There are other financially attractive and sustainable sites available,

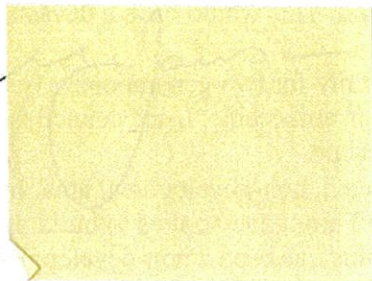
for example, a site at the Vidlin junction would be perfect for many reasons. The land is of poor agricultural value, easy access, flat ground, easily extended in the future, could be incorporated with Vidlin, Gonfirth, North Nesting, Laxo, Aith etc, etc.

- The junction at the main road in Voe has serious health and safety concerns. Currently it is a fast bend with a very poor view of north oncoming traffic. If the development were to be accepted, there will be potential for a fatal incident with increased usage.
- Current access and roads is unsuitable for heavy construction equipment. Considerable sums of money would need to be invested before the council could even get to the proposed site.

I hope you will consider other suitable locations for the Cemetery. I understand everybody needs to bury their loved ones but at what cost? This proposal is a lazy, thoughtless solution to a sensitive subject.

Regards

Matthew Jamieson



INFRASTRUCTURE SERVICES
28 JUL 2011
PASS TO JH
152854

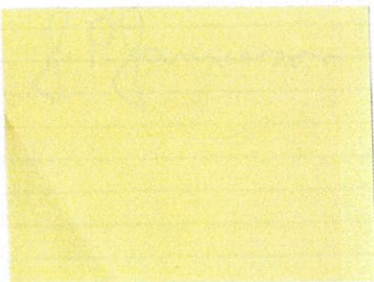
Shetland Islands Council,
Development Management
Infrastructure Services Department.
Grantfield ,
Lerwick.
ZE1 ONT.

Tagon Farm,
Voe,
ZE2 9PT
27-07-11

Ref: 2011/206/PCD

Dear Sir/Madam, I **object** to the proposal to extend Voe cemetery.
My reasons are : 1. This area is a valuable part of my agricultural operation and I can not afford to loose it, in-by agricultural land is not infinite and is irreplaceable.
2. I think this area is unsuitable as this area along the beach erodes and has nearly reached the corner of the existing cemetery.
3. Access to this area is very poor and unsuitable for heavy construction equipment.
4. I believe that this area is designated a non development area and any development would detract from the amenity of the area. The area below the road in Voe has remained more or less unchanged and I know that there are not many places in Shetland left with its original view and it would be great loss to everyone , local and visitor, for Voe to loose its original appearance.
5. There are more suitable areas for a cemetery at the Vidlin junction for instance, with easy access , large areas for parking and future extensions, easier and cheaper I would think to develop .
I hope you will consider the above and look for a more suitable place for a cemetery.

Yours,
Peter Jamieson.



I OBJECT TO THE PROPOSAL TO EXTEND VOE CEMETERY

SIGNITURE

PRINT NAME

ADDRESS

M. JAMIESON	VENNDAL VOE
N. JAMIESON	CARRBORO VOE
D. WILLIAMSON	NORDAAL, WADISTER
D. SPARKS	HANDCLIFF LANE LERWICK
S. McQUINN	VACDAUGER, UPPER SOUND, LERWICK
G. McNab	SCAVIEW WEISDALE
F. MERCKEL	Mulla Voe
R. Dorn - Merckel	Mulla Voe
R. SMITH	LESLIE ROAD, LERWICK
D. JAMIESON	VENNDAL, VOE
S. BLACK	LESLIE ROAD LERWICK
E. JOHNSON	BRIMMA BURRA.
T. JOHNSON	BRIMMA BRIDGE - END
C. JOHNSON	BRIMMA BURRA.
R. ANDERSON	Aith
J. JAMIESON	TAGON VOE
M. JAMIESON	TAGON VOE
C. GARRICK	STILLEHAVN VOE
S. GARRICK	STILLEHAVN VOE
J. CHAPMAN	WALGIMOR VOE
G. CHAPMAN	WALGIMOR VOE

[illegible]

I OBJECT TO THE PROPOSAL TO EXTEND VOE CEMETERY

SIGNATURE

PRINT NAME

ADDRESS

A. HASSEL	SUMRA ESHANESS
A. RHODICK	HAMAR, SULLOM,
Ben Wilcock	The Smithy Hills Switz
L. SUTHERLAND	Carradale, Voe.

SIGNATURE

ADDRESS[illegible]

I OBJECT TO THE PROPOSAL TO EXTEND VOE CEMETERY

SIGNATURE

PRINT NAME

ADDRESS

[illegible]

(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 (Drw No 1. Rev C)
- Site Survey (Drw No 2)
- Site Layout as Proposed (Drw No 3. Rev A)
- Drainage Layout (Drw No 5. Rev C)
- Sections Sheet 1 (Drw No 6. Rev A)
- Sections Sheet 2 (Drw No 7. Rev A)
- Drawings Refs & Section Lines (Drw No 8. Rev A)
- Car Park as Proposed (Drw No 9. Rev C)
- Standard Lair Arrangement (Drw No 101)
- Standard Cill Types (Drw No 102)
- Double Gate Detail (Drw No 104)
- Double Gate Pillars (Drw No 105)
- Gate Latch & Hinge Details (Drw No 106)
- Headstone Beam Details (Drw No 107)
- Manhole and Paving Details (Drw No 108)
- Stone Wall Details (Drw No 109)
- Access Road Site Survey & Location Plan (Drw No 1205/01 Rev T(1))
- Access Road – Horizontal & Vertical Alignment (Drw No 1205/02 Rev T(1))
- Access Road – X Sections (0-100) (Drw No 1205/03 Rev T(1))
- Access Road – X Sections (120 – 160) (Drw No 1205/04 Rev T(1))
- Access Road – Typical Details (Drw No 1205/05 Rev T(1))
- Existing Services (Drw No 1205/06 Rev T(1))
- Access Road – X Sections (120 – 160) (Drw No 1205/06 Rev T(1))
- Land Interest Plan Access Road (Drw No 1205/07 Rev D)

received by the Planning Authority on 03 December 2010.

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

(2) 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).

- (3) Should any artefact or structure be found during excavation works which is not part of the present pattern of landuse, all works shall cease and the Regional Archaeologist shall be notified immediately in order that appropriate action can be taken. Notification of any finds shall also be made in writing to the Planning Authority within two weeks of any find.

Reason: To protect any any archaeological interests in or around the development site and in compliance with Shetland Structure Plan (2000) policy GSD4 and SP BE1 and also Shetland Local Plan (2004) policy LP NE10.

- (4) Lair drainage shall be designed and installed as per the approved plan (Drw No. 5 Rev C).

Reason: To prevent any surface water entering the burial lair and to avoid pollution of the surrounding ground water, and in compliance with Shetland Structure Plan (2000) policies GDS4 and SP NE1 and also Shetland Local Plan (2004) policies LP NE10, LP WD11 and LP WD12.

- (5) In so far as this consent shall relate to the surface water drainage to be constructed in association with the development it shall relate only to provision of:

- a connection to a surface water sea outfall as detailed on Drw No. 5 Rev C. received on 03 June 2011.

No part of the development shall be brought into use until the surface water drainage is fully operational.

Reason: For the avoidance of doubt as to what is being authorised and to ensure the provision of adequate means of drainage in the interests of public health and the control of pollution in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPWD6.

- (6) Construction works shall not commence on the boundary wall, until a sample of the stone work has been submitted and approved in writing by the Planning Authority.

Reason: To match the existing stone wall boundary, to protect the surrounding visual environment and the setting of the B Listed Olnafirth Kirk. In compliance with Shetland Structure Plan (2000) policies GDS4, SP BE1 and Shetland Local Plan (2004) policies LP NE10, LP BE13 and LP BE6.

(7) Development shall not commence until a risk assessment for the B listed Olnafirth Kirk has been carried out, and subsequently a method statement shall be submitted to and approved in writing by the Planning Authority, within a minimum of 2 months before the approved development commences. The risk assessment shall assess the risks to the structural integrity of the B Listed Olnafirth Kirk from the construction operations, and its results shall inform the preparation of the method statement. The method statement shall outline how operations are to be undertaken in a manner that mitigates and safeguards the structural integrity of the the B Listed Olnafirth Kirk.

Reason: To protect the structural integrity of the B Listed Olnafirth Kirk from any groundworks and/or construction works, and in compliance with Shetland Structure Plan (2000) policies GDS4, SP BE1 and Shetland Local Plan (2004) policies LP NE10, LP BE13 and LP BE6.

(8) The access road and parking area shall be spray tarred and chipped with a suitable natural coloured chip. A photograph or sample of the chips shall be supplied and approved in writing by the Planning Authority before the tarring and chipping takes place. There shall be no white markings on the road or car parking area.

Reason: To protect the surrounding visual environment and the setting of the B Listed Olnafirth Kirk. In compliance with Shetland Structure Plan (2000) policies GDS4, SP BE1 and Shetland Local Plan (2004) policies LP NE10, LP BE13 and LP BE6.

(9) The proposed double gates shall be painted black.

Reason: To protect the surrounding visual environment and the setting of the B Listed Olnafirth Kirk. In compliance with Shetland Structure Plan (2000) policies GDS4, SP BE1 and Shetland Local Plan (2004) policies LP NE10, LP BE13 and LP BE6.

(10) 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.

(11) 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:

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, the development hereby permitted must be commenced within three years of the date of this permission.

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.

Building Warrant:

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

**Planning Committee****10 January 2012****2011/305/PPF: Installation of Biomass Heat Cabin; Land at Rear of Mid Yell Leisure Centre, Mid Yell by Northfish (Shetland) Ltd****PL-02-12-F****Report Presented by Planning Officer –
Development Management, Planning****Development Services Department**

1.0 Summary

- 1.1 This report concerns a full (detailed) planning application for the installation of a cabin and plant to provide heating produced by biomass to the Mid Yell Leisure Centre and School.
- 1.2 This application is presented to the Planning Committee, as an objection has been raised by the Yell Community Council in response to this proposed development.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved, subject to conditions.

3.0 Determination

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

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.

There are statutory development plan policies against which this application has to be assessed against. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issues to be considered is whether the proposal complies with development plan policies.

Statutory Development Plan Policies:

Shetland Islands Council Structure Plan (2000) Policies

- GDS1- Sustainable Development
- GDS2 - Economic Competitiveness
- GDS4 - Natural and Built Development
- SP NE1 - Standard of Design, Scale & Materials
- SP ENG3 - Renewable Energy Sources

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

- LP NE10 - Development and the Environment
- LP BE13 - Design
- LP IND4 - Business and Industry in Existing Rural Settlements
- LP IND8 - Buildings and Plant
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 1 All Development: General
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 2 All Development: Layout and Design
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – LDP 3 All Development: Location
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – SPG 1 Layout and Design
- Interim Planning Policy Towards Sustainable Construction Better Design In Shetland (2009) – SPG 12 All Development: Access/Visibility Splay/Car Parking

Safeguarding

- None applicable to this development

4.0 Report

4.1 Location & Site

This proposal is for the siting of a small unmanned biomass heating cabin to be run using suitable imported fuel sources from the mainland, or in association with the provision of locally processed wood pellets via a proposed drying and processing facility at Gremista in Lerwick (application Ref: 2011/304/PPF). There will be monthly deliveries of wood chips or suitable fuel sources.

- 4.2 In terms of location and siting; the cabin is appropriately sited at the rear of the Mid Yell Leisure Centre, which is also adjacent to the Mid Yell School. This gives the biomass plant cabin suitable access to the existing heating connections of both the Leisure Centre and the School.

4.3 Building Design

The cabin is to be 12 metres by 3.5 metre vertical wooden clad structure, with a vent pipe that stands 8 metres high from ground level. The building will be clad in Siberian Larch and will be left to naturally weather; this is to provide some design harmony with the adjacent new school, which is clad in the same material. The biomass cabin will sit

directly adjacent to the existing Leisure Centre's plant room, which already houses a double exhaust pipe/chimney for the diesel generator, therefore this development will not introduce any new visual impact or environmental impact on the existing adjacent school.

4.4 Current Council Policies

The main policies, against which this application has been assessed, are firstly the overarching policies that seek to protect the natural and built environment and ensure that developers submit designs of a high standard. These policies are Shetland Structure Plan (2000) policies GDS4 Natural and Built Development and SP NE1 Standard of Design, Scale & Materials and also Shetland Local Plan (2004) policies LP NE10 Development and the Environment and LP BE13 Design.

4.5 As this development is a company selling a heat source to the Leisure Centre and School, Structure Plan (2000) policy GDS2 is also applicable to the consideration of this development. GDS2 seeks to encourage the expansion of existing and new industry, by ensuring that there is sufficient land and premises for business and industry to meet local needs in existing settlements throughout Shetland. This development is also compliant with the aims of Local Plan (2004) LP IND4 Business and Industry in Existing Rural Settlements, as the development would not erode the residential character of the area, nor will it adversely affect local residents, through an increase in traffic levels, noise, fumes or hours of operation.

4.6 This type of heat source complies with the Council's policy on promotion and support of sustainable development; the fuel for this type of heating system is to be sourced through sustainable forest management and re-planting programmes. Fuel used in the heating process will be sourced from managed forests for processing locally, or supplied in pellet form from certified producers on the mainland. This type of heating should lessen the reliance on fuel sources such as diesel currently used to heat the Leisure Centre and School. The proposed development is therefore compliant with Shetland Structure Plan (2000) policy GDS1 Sustainable Development and SP ENG3 Renewable Energy Sources.

4.7 The Community Council's role in seeking to protect and enhance the future viability and health of the Yell community is to be acknowledged and appreciated. However the Planning Authority seeks to do the same through current Structure Plan (2000), Local Plan (2004) and Interim Planning Policies (2009), and in doing so, assesses all applications against current Council policy on their own merits without bias or favour. It is not the role of the planning system to protect businesses, or in this case a future business, from unwanted competition.

5.0 **Implications (of Decision)**

Strategic

5.1 Delivery On Corporate Priorities – A decision made on the planning application that accords with the development plan will contribute directly to the Single Outcome Agreement through the 'Greener' priority outcome.

- 5.2 Community/Stakeholder Issues - An objection has been received from the Yell Community Council in response to this application.
- 5.2.1 The Yell Community Council requested further information regarding the ownership and maintenance of the proposed building, emissions, cost and future biomass installations. The applicant answered these queries; in response to this further information being provided the Yell Community Council raised a letter of objection. The grounds of objection can be summarised as follows:
- Yell Community Council object to this application on the grounds that the biomass installation would jeopardise the future plans of the Mid Yell Development Council, who have been working on a project to install a district-heating scheme using alternative energy in Mid Yell, for several years.
 - As the role of the Community Council is to help and support community development, it is unanimously agreed that Yell Community Council cannot approve this application, as it would be detrimental to the ongoing project by Mid Yell Development Council, and is therefore detrimental to the Yell community.
- 5.2.2 Environmental Health were consulted at the beginning of the application's processing, as it was identified that materially relevant to the assessment of this application was the possible emissions and/or noise nuisance to users of the adjacent school playgrounds. Environmental Health responded with no objections to the proposal.
- 5.3 Policy And/Or Delegated Authority – The application is for a development falling within the category of Local Development. As the Yell Community Council has objected to the development, the decision to determine the application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.
- 5.4 Risk Management – If Members are minded to refuse the application, 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. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 This is a new type of heating system for the Shetland Islands that is operated using a sustainably sourced fuel. This development complies

with the Development Plan's policies in terms of good location and design, and also within its policies on sustainable development and renewable energy sources.

- 6.2 The proposed cabin is appropriately sited and will sit mainly unseen at the rear of the existing Leisure Centre; the site is self contained and well designed in terms of access and vehicle manoeuvring space. The cabin is well designed, and thought has been given to external material finishes.
- 6.3 This development complies with Council policies listed in paragraph 3.1 and is therefore recommended for approval, subject to conditions the schedule of which is appended to the report.

For further information please contact:

Jonny Wiseman – Planning Officer – Development Management

Tel: 01595 744830 Email: jonny.wiseman@shetland.gov.uk

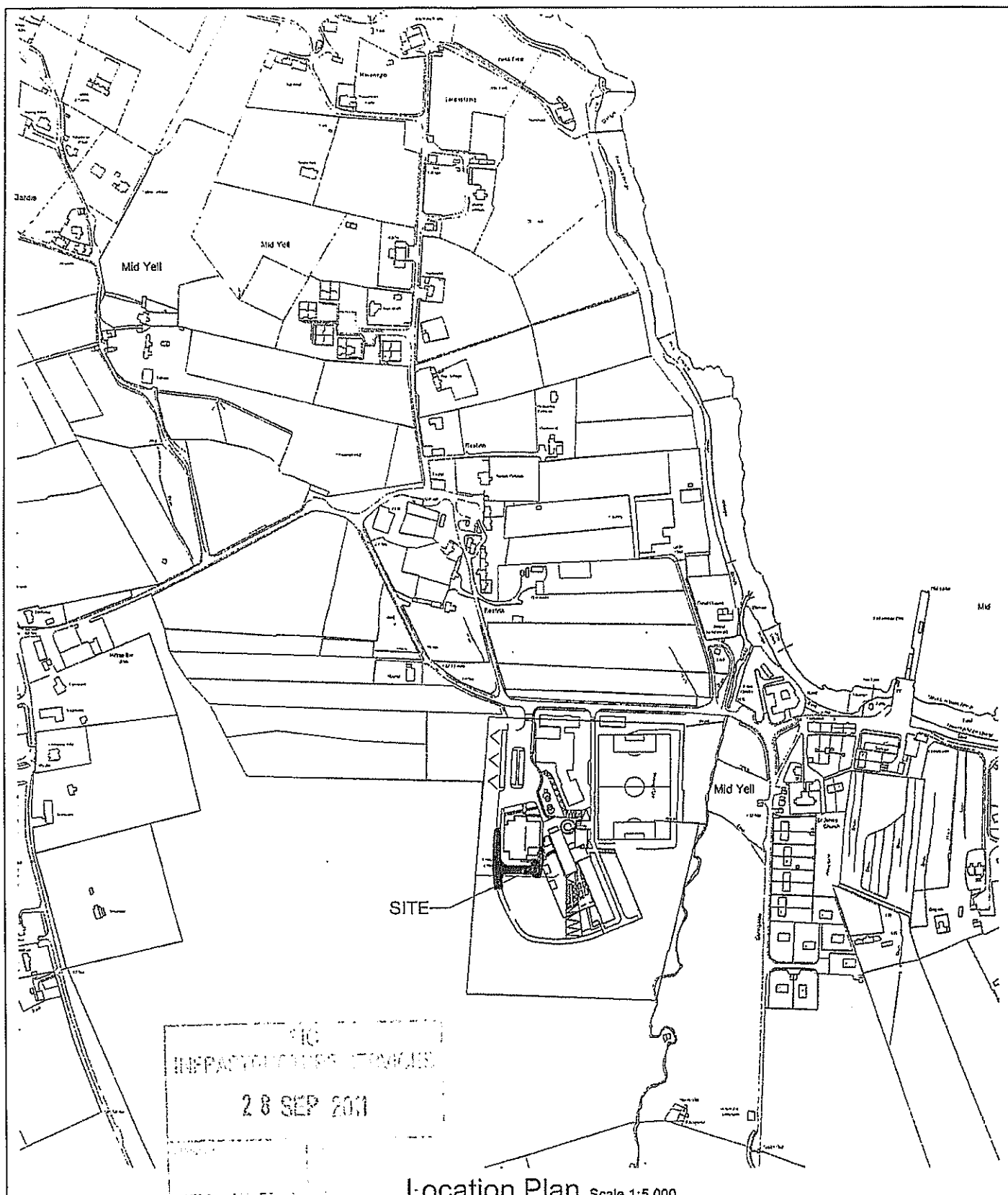
21 December 2011

List of Appendices

- Location Plan
- Site Plan
- Elevation Drawings
- Schedule of recommended conditions
- Letter of support from Shetland Recreational Trust

Background documents:

- [Shetland Structure Plan \(2000\)](#)
- [Shetland Local Plan \(2004\) \(as amended\)](#)
- [Interim Planning Policy Toward Sustainable Construction \(2009\)](#)



Location Plan Scale 1:5,000

Planning Issue



**Design
Services**

Building Design & Consultancy Services

Greg Burgess BSc (Hons) MBEng
55 Burgh Road, Lerwick, Shetland, ZE1 0HJ
Tel/Fax: 01595 694382 e-mail: enquiries@gbdesignservices.co.uk



The Association of
Building Engineers

Project: Proposed Bio-Mass Heating Unit
Mid Yell
Yell
Shetland

Description: Location Plan

Client: Northfish (Shetland) Ltd
Gronnack
South Whiteness
Shetland

Drawing No:
11/033/01

Scale:
1:5,000

Date:
Sept 2011

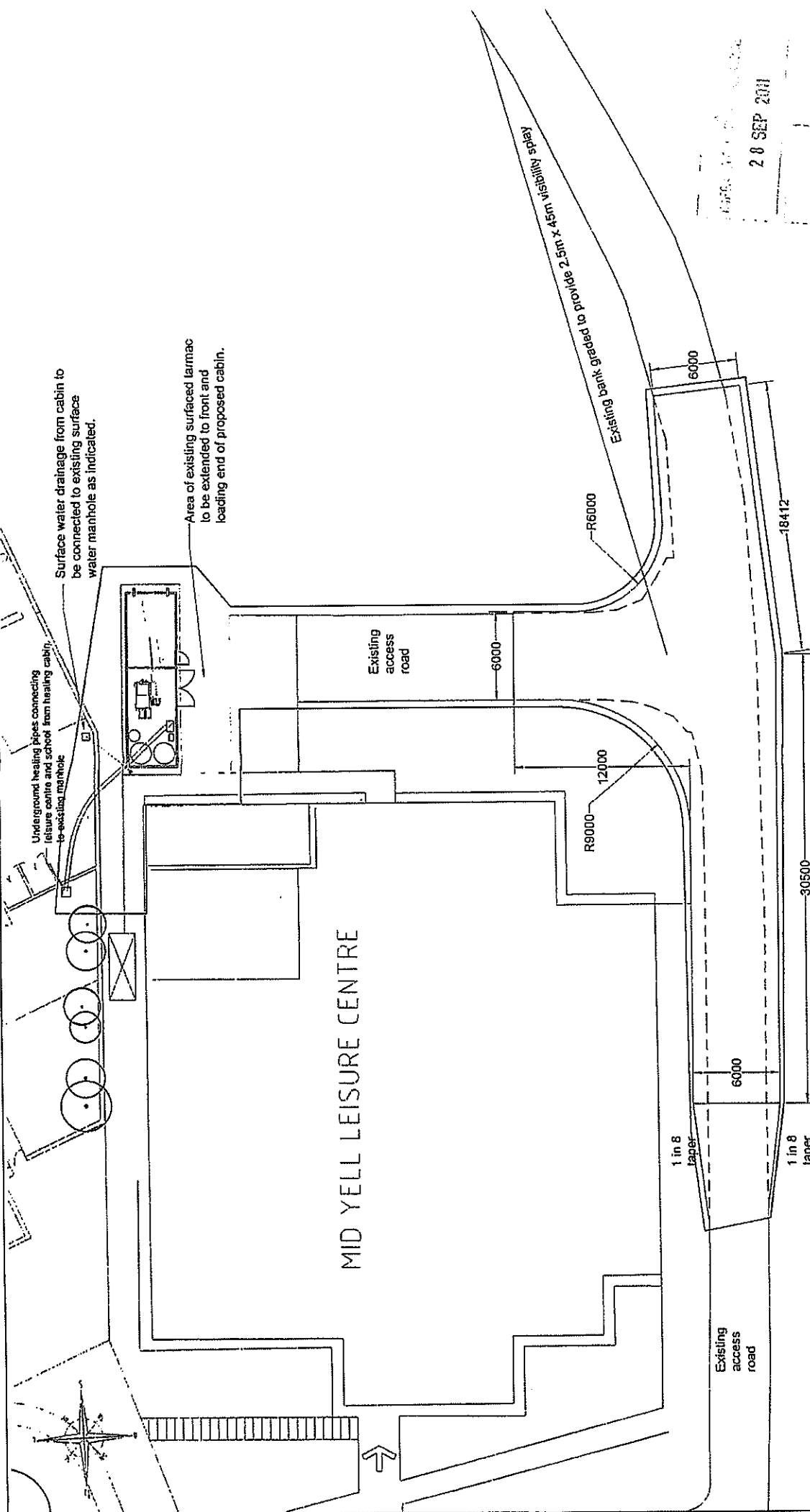
Revision:
A

Drawn:
GB

Checked:



Approved:

Paper Size:
A3



28 SEP 2011

Planning Issue

 Design Services Building Design & Consultancy Services Greg Burgess BSc (Hons) MEng 55 Bugh Road, Limerick, Shetland, ZE1 6HJ Tel/Fax: 01295 654382 e-mail: enquiries@designservices.co.uk		 Proposed Bio-Mass Heating Unit Mid Yell Yell Shetland	
Client: Northfish (Shetland) Ltd Grounack South Whiteness Shetland		Description: Site Plan	
Drawing No: 11/03302		Scale: 1:250	
Drawn: GB		Checked: Approved:	
Date: Sept 2011		Revision: A	
Paper Size: A3			

Site Plan Scale 1:250

(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 (Drw No. 11/033/01 Rev A)
 - Site Plan (Drw No. 11/033/02 Rev A)
 - Elevations & Floor Plan (Drw No. 11/033/03 Rev A)
- received by the Planning Authority on 28 September 2011.

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

(2) 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).

(3) 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 45 metres shall be provided to the south of the junction of the access with the service road (this is not available at present);
- A visibility splay of 2.5 metres by 45 metres shall be provided to the north of the junction of the access with the service road (this is available at present).

Reason: In the interests of road safety and to ensure a satisfactory standard of development in compliance with Policy LP HOU4 of the Shetland Local Plan (June 2004).

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

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.

(8) Notwithstanding the approved plans cladding shall be finished with Siberian Larch to match the existing Mid Yell School and shall be left to weather naturally.

Reason: To ensure that the development does not have an adverse impact on the visual amenity of the area or the amenity of any neighbouring properties in compliance with Shetland Local Plan (2004) Policies LP NE10 and LPBE13.

Note to applicant

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, the development hereby permitted shall be commenced within three years of the date of this permission

Visibility Splays

It appears that the required visibility splays can be achieved from the present access location and within the indicated site boundaries, if the embankment to the south is trimmed back.

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.

Building Warrant:

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

SIC INFRASTRUCTURE SERVICES	
16 DEC 2011	
PASS TO <i>JW</i> <i>154606</i>	ACTION

14 December 2011

Shetland Recreational Trust
Clickimin Leisure Complex
Lochside
Lerwick
SHETLAND
ZE1 0PJ

Telephone: +44(0)1595 741000

Mr Jonny Wiseman
Planning Department
Shetland Islands Council
Grantfield
Lerwick

Dear Jonny

Planning application 2011/305/PPF

Installation of biomass heat cabin at Mid Yell Leisure Centre, Mid Yell, Yell, Shetland, ZE2 9BN

North Fish (Shetland) Ltd

At the trustee meeting of Shetland Recreational Trust on Tuesday 13 December 2011, it was agreed to proceed with the proposal for the installation of biomass heating facilities at Mid Yell Leisure Centre.

The Trust will be using North Fish (Shetland) Ltd, as main contractor and heat energy provider, within an Energy Supply Contract (ESCo).

Please accept this letter as a submission of support to the planning application, reference above.

Yours sincerely



Mr James Johnston
General Manger
Shetland Recreational Trust



REPORT

To: Planning Committee

10 January 2012

**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 Committee, applications for Local Development, where the exceptions that are set out in paragraph 1.3 above apply and so therefore the decision falls to be made by the Planning Committee, are set out in a table that includes the related officer recommendation. To meet with the Planning Committee's instruction of 20 September 2011 the table details the reason why the proposal falls to be determined by the Planning Committee.
- 1.5 The application for Local Development that is set out in the table below, where exceptions apply, has had a Report of Handling prepared by the officer detailing: the proposal; the assessment carried out; and

recommended conditions 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 relating to the application is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2011/280/PPF	To alter existing space within building to provide class 4 office space, Mareel, North Ness, Lerwick, Shetland, ZE1 0LX	Shetland Arts Development Agency	Approve, with conditions	Planning authority has a financial interest

- 1.6 In respect of the application a decision that accepts the officer's recommendation will, in the opinion of the Executive Manager - Planning, comply with Council planning policy. If Members are minded to determine the 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 the application concerned.

2. Recommendation

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

planning committee.doc J R Holden
Planning Committee: 10/1/2012

2011/280/PPF - To alter existing space within building to provide class 4 office space, Mareel, North Ness, Lerwick, Shetland, ZE1 0LX by Shetland Arts Development Agency

Recommended 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 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).

(3.) The development hereby approved shall not be occupied by the public until the risk to the public from the flammable substances stored at the North Ness Depot, Lerwick has been addressed either by:

- The removal of the development site from the large-scale petrol storage site safeguarding zone as advised by the HSE; or
- The removal of the large-scale petrol storage site safeguarding zone as advised by the HSE.

Reason: In order to comply with Shetland Islands Council Structure Plan Policy GDS4 as although the development site lies within the Health &

Safety Executive's safeguarding zone for Large Scale Petrol Storage Sites due to the flammable substances stored at the North Ness Depot, Lerwick, indications have been given that the risk could be removed or the degree of risk lowered by modification works to the tank or by other means.

Notes to Applicant:

Commencement of development

In order 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 the development hereby permitted must be commenced within three years of the date of this permission.

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: To alter existing space within building to provide class 4 office space.

Location: Mareel, North Ness, Lerwick, Shetland, ZE1 0LX,

By: Shetland Arts Development Agency

Application Ref: 2011/280/PPF

1. Introduction

This application concerns the change of use of existing void space within the Mareel cinema and music venue to form an office with meeting room/teaching space. Approximately 112 m² of office space is proposed.

Given that the Council has an interest in the building in that it provided some funding for the development of the cinema and music venue this application requires to be determined by the Council's Planning Committee given the approved Scheme of Delegation set out in section 8 of this report.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS1 - General Development Policy Sustainable Development

GDS2 - General Development Policy Economic Competitiveness

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

LPNE10 - Development and the Environment

3. Safeguarding

Health and Safety Executive - Code: HSE104

Site Name: Shetland Islands

Type: Large-Scale Petrol Storage Site

HSE Ref: H3821

Health and Safety Executive - Code: HSE105

Site Name: Shetland Islands

Type: Large-Scale Petrol Storage Site

HSE Ref: H3821

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. Consultations

Roads Traffic was consulted on the 12 September 2011. Their comments dated 1 November 2011 can be summarised as follows:

The earlier application for the cinema and music venue (2007/363) had the area that is now proposed to be developed shown as void space due to the lack of space available on-site to meet the required parking standards.

This proposal is to develop 112.2 sq m of existing space to a 13 desk office with meeting room and teaching space which will significantly increase the number of staff based in this building and requiring parking during the working day. From experience of this development area it is expected to see some 28 to 30 spaces filled with staff during the day. Evening staff parking requirements will be at a higher percentage due to the lack of suitable public transport.

It continues to be the opinion of the Roads Service that this development is too large for its site, with an inadequate servicing provision and too little on-site parking. To add more parking intensive functionality into the building places too great a burden on the infrastructure provided by the development. This will increase the reliance of the development on overspill parking in the adjacent area which is already fairly fully subscribed during the working week. Therefore a significant degree of comfort requires to be supplied by the applicant demonstrating that the proposed additional working week demand that would arise out of this proposal can be accommodated without impact on the adjacent areas.

Full details of the opening hours/hours of operation for each function to be delivered in the building and the numbers of staff/visitors/customers expected to attend the facility, and at what time(s) are required in order to be able to assess the impact of the proposal.

Following the submission of a detailed spreadsheet showing projected staffing models for Mareel the Roads Service remained concerned and indicated that there was a change in the pattern of peak staff numbers to be on site with peaks expected through the working day because of the addition of office based administrative and management staff.

Lerwick Community Council was consulted on the 12 September 2011. Their comments dated 5 October 2011 can be summarised as follows:

No objections.

Health And Safety Executive was consulted on the 9 November 2011. Their comments dated 9 November 2011 can be summarised as follows:

The HSE does not advise, on safety grounds, against the granting of planning permission in this case. However HSE emphasise that this does not mean that the risks at the proposed development are negligible. If the proposed development had been a development in its

own right i.e. if there was no existing facility, then HSE would have advised against the granting of planning permission.

5. Statutory Advertisements

The application was advertised in the Shetland Times on 18.11.2011

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 (as amended) states that:

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.

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.

This proposal is to alter existing void space within the Mareel building to provide 112 square metres of office space which is to be used to provide class 4 office space and which would be occupied by Shetland Arts Creative Industries. The main issue in relation to the consideration of this application relates to car parking.

In terms of the current Shetland Local Plan (2004) 6 car parking spaces would be required for this proposed office space. A degree of flexibility is built into the policy in certain circumstances where it can be demonstrated either that the parking requirement can be met by existing car parks, demand for parking will not coincide with the peak demand from other users, or the development is adjacent to and well served by public transport and pedestrian links. The Council's car parking standards seek to attain a balance between car parking needs, the capacity of the road network and environmental quality.

The Mareel building has an associated car park that provides parking for 58 cars and 10 bicycles. The applicant has put forward a case in support of this application which proposes no additional car parking for the office development on the basis that the main use of the offices will be outwith the normal peak use of the venue, and that on the rare

occasions that peak times may clash, Shetland Arts will actively manage staff use of parking facilities to ensure priority for patrons attending the venue. Shetland Arts have also indicated that staff will actively be encouraged to reduce car journeys through the provision of bike racks and the showering and changing facilities that have been approved within the building. Shetland Arts also provided an updated spreadsheet showing staffing models for Mareel, the conclusion of which showed that even with the additional office space proposed it was projected that staff numbers in the building would never exceed 28 at any one time.

The Roads Service remain concerned about parking in this area and indicate that there is a change in the pattern of peak staff numbers to be on site with peaks expected through the working day because of the addition of office based administrative and management staff. However on balance, given the flexibility inbuilt within the Council's parking policy that allows individual circumstances to be accommodated; the proximity of the development to the existing public car parking and to the hub of public transport within Lerwick Town Centre; the encouragement that will be given to staff to use alternative methods of transport; the fact that peak times for the office based use will mainly be outwith the main peaks associated with the use of the cinema and music venue; and that 58 parking spaces and bicycle parking is to be in place for the building, it is felt that this gives sufficient material consideration to approve this application for 112 square metres of office space as a minor departure from the Council's parking policy as indicated in Policy SPTP7 of the Shetland Structure Plan (2000) and LPTP12 of Shetland Local Plan (2004).

The only other issue relating to this application is the proximity of the site to the fuel tanks at the North Ness and the comments received from the HSE which indicated that if the proposed development had been a development in its own right i.e. if there had been no existing facility, then the HSE would have recommended against the granting of permission for the proposed office. Given this it is proposed to attach the same planning condition as was attached to the original permission for the Mareel building which would restrict the occupation of the offices until the risk to the public from the flammable substances stored at the North Ness Depot has been addressed.

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.

9. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) Due to the location of the proposed development close to existing public car parks and close to the main public transport links in Lerwick, and due to the fact that the peak use of the proposed office space will mostly be outwith the main peak use times of the cinema and music venue and that 58 car parking spaces and parking for 10 bicycles is to be provided for the building as a whole, the development of this office space without additional parking is acceptable as a minor departure from the Council's parking policy as indicated in Policy SPTP7 of the Shetland Structure Plan (2000) and LPTP12 of Shetland Local Plan (2004). Subject to the controlling conditions listed below the proposed development complies with the Development Plan in all other respects.

10. List of approved plans:

- | | | |
|-------------------------------------|---|------------|
| • Site & Location Plan LCM P(LP)001 | B | 06.09.2011 |
| • Supporting Statement | | 06.09.2011 |
| • Second Floor Plan LCM P(GA)103 | E | 06.09.2011 |
| • Proposed Plan 730 01 | | 06.09.2011 |

11. 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 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).

(3.) The development hereby approved shall not be occupied by the public until the risk to the public from the flammable substances stored at the North Ness Depot, Lerwick has been addressed either by:

- The removal of the development site from the large-scale petrol storage site safeguarding zone as advised by the HSE; or
- The removal of the large-scale petrol storage site safeguarding zone as advised by the HSE.

Reason: In order to comply with Shetland Islands Council Structure Plan Policy GDS4 as although the development site lies within the Health & Safety Executive's safeguarding zone for Large Scale Petrol Storage Sites due to the flammable substances stored at the North Ness Depot, Lerwick, indications have been given that the risk could be removed or the degree of risk lowered by modification works to the tank or by other means.

Notes to Applicant:

In order 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 the development hereby permitted must be commenced within three years of the date of this permission.

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.

12. Further Notifications Required

None.

13. Background Information Considered

Planning permission 2007/363/PCO - To erect cinema and music venue, North Ness, Lerwick.

005_Delegated_Report_of_Handling.doc

Officer: Janet Barclay Smith

Date: 20th December 2011

LCM #1	SHELTLAND ARTS DEVELOPMENT AGENCY		DEVELOPER/OWNER #	SM
2007-02	LCM #1/P1001	SITE LOCATION PLAN	B	
2007	JULY 2007	FOR CONSTRUCTION	TOTAL	1:1250 at A3



Existing Plant Room

