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## **REPORT**

**To: Planning Committee**

**28 August 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 of the last Council, 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 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	Type of Exception
2012/182/PPF	Re-instatement of land by filling with soil and stones, Site To West Of Scatsta Airport, Scatsta, Brae, Shetland, ZE2 9QP.	EMN Plant Ltd	Approve, with conditions	Planning authority is landowner
2012/218/PPF	Roof covering alterations, 3 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ.	Shetland Leasing And Property Developments Ltd	Approve, with conditions	Planning authority has a financial interest
2012/233/PPF	Permanent retention of emergency landing site, : Shetland Recreational Trust, Clickimin Centre, North Lochside, Lerwick, Shetland, ZE1 0PJ.	Ms Ingrid Gall	Approve, with conditions	Planning authority is applicant

- 1.6 In respect of each 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 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 committee.doc J R Holden  
Planning Committee: 28/8/2012

### Appendix

#### **2012/182/PPF - Re-instatement of land by filling with soil and stones, Site To West Of Scatsta Airport, Scatsta, Brae, Shetland, ZE2 9QP by EMN Plant Ltd**

#### 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 shall not commence until the junction of the public road leading to the development site from the road B9076 has been widened to at least 6.0 metres over the first 15 metres from the B9076 with

9 metre radii provided at the bellmouth, and the two bends on the public road around the north end of the Scatsta Airport runway have been widened to allow two Heavy Goods Vehicles to meet without obstruction. A scheme showing how the improvements to the public road shall be achieved shall be submitted to and approved in writing by the Planning Authority before the improvement works take place. Thereafter the works to the public road shall only be carried out in accordance with the approved scheme.

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 Shetland Local Plan (2004) Policy LPNE10.

(4.) Hours of working on the development hereby approved shall be restricted to the following periods unless otherwise agreed in writing by the Planning Authority:

07.30 to 18.00 Monday to Friday  
07.30 to 14.00 Saturday

Reason: In the interests of amenity and in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the details on the approved plans, no development shall commence until a route for the access to and use of the wheel washing facility on the adjacent quarry site has been submitted to and approved in writing by the Planning Authority. This should demonstrate clearly that no mud or dirt from the site would be transferred onto the public highway. No material shall be imported to or exported from the development hereby approved until the wheel washing facilities have been installed on the adjacent Quarry site the subject of Planning Permission 2010/94/PCD and these are fully operational.

Reason: To ensure that no mud or dirt from the site is transferred on to the public road in the interests of public safety and amenity in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(6.) No waste other than inert and non-hazardous wastes shall be imported to the site for the purpose of re-instatement/disposal unless otherwise approved in advance in writing by the Planning Authority.

Reason: In the interests of pollution control, public safety and amenity in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(7.) In the event that any archaeological remains are identified during the reinstatement period, the finds shall be notified to the Shetland Regional Archaeologist and reasonable access afforded to the Shetland Regional

Archaeologist (or their representative) to record the items of interest and finds.

Reason: Whilst the site was previously disturbed as peat workings and these are abandoned, the archaeological status of the surrounding area would indicate that the site might contain unexpected archaeological remains. The measures required are to protect any unexpected finds within the site in compliance with Shetland Structure Plan (2000) Policy SPBE1 and Shetland Local Plan (2004) Policy LPNE10, NPPG5 Archaeology and Planning and PAN 42 Archaeology.

(8.) No oil, petrol, diesel oil, lubricant, or paint shall be stored within the site. The discharge of such material to any settlement pond, ditch, stream, watercourse, or other culvert is not permitted. Unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that site is developed in an acceptable manner, to minimise environmental impact and impact on adjacent land uses in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(9.) No plant or machinery shall be used on site unless it is fitted with an effective silencer and has the doors or cowls of its engine(s) in the closed position. Pumps or generators at semi permanent or permanent locations shall be screened by acoustic barriers where appropriate. Plant shall have reversing bells in preference to sirens, but where sirens are used they shall operate in the high frequency range.

Reason: To ensure that noise emissions from site is minimised in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(10.) Unless otherwise agreed with the Planning Authority, the operator shall provide the Planning Authority with a biennial written report detailing progress on working and reinstatement at the site. The first report shall be due 2 years from the date of this permission and shall include volumes and types of the materials being imported and measures to manage, for example, any volume of peat. The report shall also identify any difficulties with operations and/or of complying with the planning requirements that may have been encountered at the site during the relevant period.

Reason: To ensure that development is carried out in an orderly manner and to monitor to progress of the site in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(11.) Notwithstanding the details on the approved plans, no development shall take place until a detailed working method statement is produced and submitted for written approval by the Planning Authority. The statement must: include and clearly define a working area (to be surveyed) to safeguard ornithological interests, which shall be managed for the handling of materials brought into the site during periods within the bird breeding season, with the initial import being outwith April - July Inclusive, and detail the procedure for the distribution and tipping of materials within the site

outwith the bird breeding season in a manner which takes account of the ornithological interests of the site and which utilises best practice to minimise any disturbance to breeding whimbrel or other species. The statement must also detail the measures to brief all staff on the site on the ecological importance and sensitivities of the area and the developer's obligations in this respect.

Reason: To safeguard the ecological interests of the site and to protect specific ornithological interests in the area in compliance with Shetland Islands Council Local Plan (2004) Policy LPNE10, LPNE13, and Shetland Structure Plan (2000) Policy SPNE7, SPNE8.

(12.) Notwithstanding the details on the approved plans and prior to the completion of the development, the grass swale and gravel filter trench to the north west boundary within the site shall be reinstated/removed in accordance with a scheme that shall first be submitted to and approved in writing by the Planning Authority.

Reason: To ensure the satisfactory reinstatement of the site in the interests of amenity and to ensure that drainage on the site returns to a more natural condition in compliance with Shetland Islands Council Local Plan (2004) Policy LPNE10 and Shetland Islands Council Structure Plan (2000) Policy GDS4.

(13.) In so far as this consent shall relate to the reinstatement of land within the area bounded in red on Drawing no 2061539-02 received by the Planning Authority on 16 May 2012, it is granted for a limited period only, commencing on the date of this decision and expiring 10 years thereafter, at or before which time, unless an extension of permission has previously been granted, the development shall cease operation and the site shall be finally reinstated in accordance with a restoration and aftercare plan that must be submitted to the Planning Authority no later than 6 months prior to the expiry of the 10 year period. Thereafter the reinstatement shall be completed in accordance with these approved details.

Reason: In order to retain control over the development and in order to secure appropriate reinstatement of the site when operations cease in compliance with Shetland Structure Plan (2000) SP GDS4, and Shetland Local Plan (2004) LPNE10.

#### **Notes to Applicant:**

Commencement of Development – The development hereby permitted must be commenced within 3 years of the date of this permission 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.

Notification of Completion – 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.

Scottish Water – There are water assets in the area that may be affected by the proposed development therefore it is essential that these assets are protected from the risk of contamination and damage. You must contact the Scottish Water Planning and Development team who will be able to provide you with detailed information on their requirements ([www.scottishwater.co.uk](http://www.scottishwater.co.uk)).

Public Road Improvements –The Shetland Islands Council Roads Service has advised that the works to the public will require Construction Consent from the Council's Roads Service prior to any works to the public road being undertaken. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick, Shetland ZE1 0NT.

Ecology – The developer must ensure that they operate with due account being taken of the current legal frameworks in place to safeguard the ecological interests in respect of UK and European protected species. They should seek independent advice and/or the views of SEPA, SNH and the Shetland Biological Records Centre if they have any doubt over their working practice.

**2012/218/PPF - Roof covering alterations, 3 North Ness Business Park, Lerwick, Shetland, Shetland, ZE1 0LZ by Shetland Leasing And Property Developments Ltd**

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.) If any spoil or waste materials arising from 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.

### **Notes to Applicant:**

#### Commencement of Development

To ensure compliance 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.

#### 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 to discuss any building warrant requirements for your development.

**2012/233/PPF - Permanent retention of emergency landing site, : Shetland Recreational Trust, Clickimin Centre, North Lochside, Lerwick, Shetland, ZE1 0PJ by Ms Ingrid Gall**

#### 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.) Notwithstanding the details on the approved application, the landing site shall be used for emergency transport only. The landing pad shall not be used for routine transport needs. By 1<sup>st</sup> June 2013, and at 12-month intervals thereafter, Shetland Islands Council Emergency Planning, in collaboration with other stakeholders, shall provide a register of use detailing the number and nature of landing pad use at the site during the preceding 12-month period concerned. This register shall be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the development continues as approved for emergency use, to limit non essential movements in order to protect the amenity of residential properties within the area, in compliance with the provision and intent of Policy LPCOM5, LPCSF4 of the Shetland Local Plan (June 2004).

(3.) Notwithstanding the details on the approved plans, should the site no longer be required for emergency transport use, the site shall be reinstated as a car park to serve the Clickimin Leisure Centre in accordance with details that shall first be submitted and approved in writing by the Planning Authority, unless a planning application is otherwise submitted for an alternative use.

Reason: To ensure that the site is maintained and managed for a beneficial use and to avoid any reduction in the visual amenity of the area. In compliance with Shetland Islands Council Local Plan (2004) Policy I.PNE10.

#### **Notes to Applicant:**

##### 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:** Re-instatement of land by filling with soil and stones

**Location:** Site To West Of Scatsta Airport, Scatsta, Brae, Shetland, ZE2 9QP.

**By:** EMN Plant Ltd

**Application Ref:** 2012/182/PPF

### **1. Introduction**

The proposal is to infill an area of former peat cuttings at Scatsta. The site is located to the west of Scatsta Airport. The materials to be imported are stated to be inert materials arising from excavations such as soils and clays over a 10 year period.

The site is at this time not in use, with spoil heaps indicating some fly tipping. The peat walls forming the boundary of the site show signs of deterioration. It is proposed to reinstate the upper section of the peat cuttings as it is in worse condition with minimal reinstatement having been undertaken, and contains fly tipping on site. It is proposed to use topsoil material in the final layer for re-seeding.

The site has an area of 18,825m<sup>2</sup> which could potentially hold up to 37,650m<sup>3</sup> of fill.

An application for exemption under the Waste Management Licensing Regulations has been applied for and granted by SEPA.

It is proposed to manage traffic through the site using the facilities provided at the nearby consented Quarry to be operated by the applicant (2010/94/PCD). This would allow vehicles to be weighed in and out and to pass through a wheel wash facility.

It is proposed to fence off the area of works using a stock proof fence.

The applicant considers that the works would provide an agricultural benefit as following reinstatement the land would then be available for grazing. They also consider that there would be a marked visual improvement as the area has been left abandoned and is subject to fly tipping. A further benefit cited by the applicant is that the site could accept inert clay and soils reducing the haulage requirements and take up for materials at the nearest licensed facility at Gremista.

### **2. Statutory Development Plan Policies**

**Shetland Islands Council Structure Plan (2000) Policies**

GDS1 - General Development Policy Sustainable Development

GDS2 - General Development Policy Economic Competitiveness  
GDS4 - General Development Policy Natural and Built Environment  
SPNE1 - Design  
SPNE7 - Nature Conservation  
SPNE9 - Environmental Enhancement  
SPTP5 - External Air Links  
SPTP6 - Road Networks

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

LPNE10 - Development and the Environment  
LPNE13 - Biodiversity  
LPWD11 - Surface Water Drainage Standards  
LPWD12 - Sustainable Drainage Systems (SUDS)  
LPIND4 - Business and Industry in Existing Rural Settlements  
LPIND5 - Business and Industry Proposals in the Open Countryside  
LPTP11 - Airports and Airfields  
LPBE13 - Design

**Shetland Islands Council Interim Planning Policy Guidance**

SPG1 - All development Layout and Design  
SPG26 - General Requirements for All New Dev

**3. Safeguarding**

Scatsta 13km Zone: 13km Consultation Zone Bird Strike Zone  
Land Capability Agriculture - code: 6.3  
Scatsta Safeguard - Height: 45m  
Scatsta Safeguard - Height: 15m  
30km Radius Scatsta

**4. Consultations**

Scatsta Airport was consulted on the 13 July 2012. Their comments dated 27 July 2012 can be summarised as follows: No objection.

SEPA Dingwall was consulted on the 21 May 2012. Their comments dated 5 July 2012 can be summarised as follows:

First response 30 May 2012: We object to this planning application on the grounds of a lack of information on waste management proposals. We will remove this objection if it is demonstrated that the proposals could gain a suitable exemption or licence from us.

We note that the submitted plans do not take into consideration the small watercourse which runs through the area to be worked. This will need to be kept in its current location with restoration occurring around it, or be located around the worked area.

We are unclear as to the purpose of the swale and clarification of this is requested. Is it being considered as construction SUDs and will be

removed once the works are completed? If this is the case then such a proposal is acceptable to us, but we recommend that removal be covered by condition. If it is proposed as land drainage to be there in perpetuity then we would suggest a less engineered solution to be put in place which excludes the need for hard engineering such as the concrete manhole proposed.

Second response 5 July 2012: Following our previous objection the applicant has been in contact with us and we are able to withdraw our objection if a condition is applied to ensure that redundant surface water drainage structures are not left on site and to return the water environment to a more natural condition.

Delting Community Council was consulted on the 21 May 2012. Their comments dated 4 June 2012 can be summarised as follows: No objection.

Roads Traffic was consulted on the 21 May 2012. Their comments dated 21 June 2012 can be summarised as follows:

In consideration of the likely use and pattern of vehicle movements I consider that similar conditions should be applied to this development as have been placed on others served by the same access route, namely:

1. The public road leading to the site from the B9076 requires some minor improvements; widening the two bends around the north end of the runway to allow HGVs to meet without obstruction. The existing poor camber of the corners shall require to be assessed. A suitable design for these improvements has already been completed.
2. The road beyond the cattle grid at the airport in to the development is a private road and is currently in a poor state of repair. This private road is mainly narrow single track with some localised widening that can be used as passing places, however, these are generally unsurfaced. Given that there is some public usage along this road, the onus should be on the developer to maintain the private road between the cattle grid and the site to a suitable standard.

In addition to the formal consultations, the RSPB submitted comments and suggestions dated 11 June 2012. These can be summarised as follows:

As there are a small number of wading birds breeding in this area, and it is important to protect watercourses there, we should ask that the following conditions be placed on this development:

1. No works should be carried out between April and July inclusive in order to avoid disturbance to breeding birds in the area.
2. A plan for the careful disposal of soil/stones should be prepared in consultation with SNH and SEPA.

3. No peat should be disposed in this area unless approved in advance by SNH and SEPA.
4. All watercourses leading from construction areas should be protected from increased turbidity from suspended silt particles.
5. A detailed method statement should be agreed with the SIC, in consultation with SNH and SEPA, that includes the following:
6. Briefings should be given to all site staff on the ecological importance and sensitivities of the area adjacent to the site
7. Working areas should be clearly defined so that workers and vehicles do not stray into areas where sensitive species may be breeding.

Shetland Amenity Trust (Shetland Biological Records Centre) submitted comments dated 6 June 2012. These can be summarised as follows:

The area subject to the proposed infill may indeed be degraded blanket bog but it is still of some ornithological interest - far more so than it will be when it becomes an 'agriculturally improved field'. I assume the site has been selected purely on the basis that it is a convenient spot to dump overburden and spoil once the new quarry opens, rather than for any major agricultural benefit. I am curious that the developer decided to advise SIC that SBRC stated that the area was blanket bog but failed to indicate the ornithological interest that was detailed in the same report. Lapwing, Oystercatcher and Redshank all breed in the area and two pairs of Whimbrel (Schedule 1 of the Wildlife and Countryside Act 1981) bred nearby in the last survey undertaken there in 2006.

I recommend that no (initial) dumping of spoil etc. occurs during the bird breeding season (April to July inc.) and that all operations are undertaken sensitively so as to avoid disturbance to nearby breeding Whimbrel.

**5. Statutory Advertisements**

The application was advertised in the Shetland Times on 25.05.2012

**6. Representations**

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 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.

Under Development Plan Policies the expansion of existing and new industry is encouraged in locations that do not conflict with the other policies, aims and goals of the Plan. However, all developments must protect environmental assets as defined in the Structure and Local Plan, use and conserve resources wisely, and minimise environmental impacts.

The proposed development is considered to be sympathetic to the landscape in which it will form part, and subject to an acceptable reinstatement will enhance the visual qualities and landscape character of the open land in this area.

Whilst it is recognised that the reinstatement of the site would not necessarily improve its biodiversity potential, in respect of legislative, policy, and conservation objectives to protect habitats, species and biodiversity interests, the proposal is not considered to be unacceptably detrimental to flora and fauna. This is subject to appropriate controlling conditions identifying a 'material handling area' to stockpile imported materials for later reinstatement across the site at a time outwith the bird breeding season. A further condition requiring the submission of a working method statement to include a briefing to all staff on the ecological importance and sensitivities of the area surrounding the site, and their obligations in this respect, is appropriate. It should be noted that neither the RSPB nor Shetland Amenity Trust (Shetland Biological Records Centre) object to the proposal, and that SNH have provided no opinion following the routine publication of the development via the weekly list. An otter survey is provided and it is considered that the development is unlikely to impact upon otters in the area.

Scatsta Airport where consulted and they have no objection to the development. Therefore Scatsta Airport operational capability is not compromised.

In relation to access and traffic management, the projected frequency and number of vehicle movements is expected to be low over the lifetime of the development, with higher movements over shorter periods in response to operational needs. It will be appropriate that a condition is imposed to improve the existing public road access arrangements; this is to address the existing standards and road widening to allow large vehicles to pass from the airport area to the public road. Furthermore as the applicant has stated that vehicle

movements will be logged through the facilities at the adjacent quarry, including weighing and wheel washing, a condition is proposed for details to be submitted before the site is brought into use.

There are no nearby residential dwellings, and the proposal is compatible with the existing commercial and agricultural uses nearby. Therefore there are no unacceptable impacts upon the amenity of neighbours.

In respect of surface and groundwater, a swale is proposed to prevent sedimentation from the site. This is to be removed following the final reinstatement to allow for more natural surface and groundwater movement. It is not considered that there would be any detrimental impact upon the nearby Special Area of Conservation. SEPA have no objection.

The use of the redundant peat extraction site for inert waste disposal leading to reinstatement of the land and agricultural improvement is considered a practicable and sustainable option. A time limit for the duration of the consent, being 10 years (subject to any application to renew or extend), is proposed to manage the final reinstatement.

There are no Listed Buildings, Conservation Areas, Scheduled Ancient Monuments or Historic Gardens and Designed Landscapes nearby.

A waste management exemption from SEPA has been applied for and granted. SEPA confirm that the exemption is based on development details which are consistent with those contained within this planning application.

## **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 Delegations 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.) Subject to appropriate controlling conditions, the proposed development does not conflict with the Development Plan policies, and by virtue of its location, scale, and re-use of an existing abandoned peat working area, the environmental assets as defined in the Structure and Local Plan are protected. The proposed development is of a use that is compatible with surrounding land uses, and will conserve resources wisely. Furthermore the reinstatement of the site will improve its agricultural potential, and by utilising facilities at the nearby consented quarry environmental impacts will be minimised. The development accords with the relevant provisions and intent of the Shetland Islands Council Structure Plan (July 2000), Shetland Islands Council Local Plan (June 2004), and Shetland Islands Council Interim Planning Policy "Towards Sustainable Construction and Better Design in Shetland" (December 2009).

#### **10. List of approved plans:**

- |   |   |            |
|---|---|------------|
| • | Location Plan and Sections 2061539-01 B | 16.05.2012 |
| • | Location Plan 2061539-02 A              | 16.05.2012 |
| • | Fence Details 758-01                    | 16.05.2012 |
| • | Fence Details 758-02                    | 16.05.2012 |
| • | Drainage Layout SCATSTA/D/7             | 16.05.2012 |
| • | Drainage Layout SCATSTA/D/6             | 16.05.2012 |

#### **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 shall not commence until the junction of the public road leading to the development site from the road B9076 has been widened to at least 6.0 metres over the first 15 metres from the B9076 with 9 metre radii provided at the bellmouth, and the two bends on the public road around the north end of the Scatsta Airport runway have been widened to allow two Heavy Goods Vehicles to meet without obstruction. A scheme showing how the improvements to the public road shall be achieved shall be submitted to and approved in writing by the Planning Authority before the improvement works take place. Thereafter the works to the public road shall only be carried out in accordance with the approved scheme.

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 Shetland Local Plan (2004) Policy LPNE10.

(4.) Hours of working on the development hereby approved shall be restricted to the following periods unless otherwise agreed in writing by the Planning Authority:

07.30 to 18.00 Monday to Friday

07.30 to 14.00 Saturday

Reason: In the interests of amenity and in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the details on the approved plans, no development shall commence until a route for the access to and use of the wheel washing facility on the adjacent quarry site has been submitted to and approved in writing by the Planning Authority. This should demonstrate clearly that no mud or dirt from the site would be transferred onto the public highway. No material shall be imported to or exported from the development hereby approved until the wheel washing facilities have been installed on the adjacent Quarry site the subject of Planning Permission 2010/94/PCD and these are fully operational.

Reason: To ensure that no mud or dirt from the site is transferred on to the public road in the interests of public safety and amenity in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(6.) No waste other than inert and non-hazardous wastes shall be imported to the site for the purpose of re-instatement/disposal unless otherwise approved in advance in writing by the Planning Authority.

Reason: In the interests of pollution control, public safety and amenity in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(7.) In the event that any archaeological remains are identified during the reinstatement period, the finds shall be notified to the Shetland Regional Archaeologist and reasonable access afforded to the Shetland Regional Archaeologist (or their representative) to record the items of interest and finds.

Reason: Whilst the site was previously disturbed as peat workings and these are abandoned, the archaeological status of the surrounding area would indicate that the site might contain unexpected archaeological remains. The measures required are to protect any unexpected finds within the site in compliance with Shetland Structure Plan (2000) Policy SPBE1 and Shetland Local Plan (2004) Policy LPNE10, NPPG5 Archaeology and Planning and PAN 42 Archaeology.

(8.) No oil, petrol, diesel oil, lubricant, or paint shall be stored within the site. The discharge of such material to any settlement pond, ditch, stream, watercourse, or other culvert is not permitted. Unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that site is developed in an acceptable manner, to minimise environmental impact and impact on adjacent land uses in

compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(9.) No plant or machinery shall be used on site unless it is fitted with an effective silencer and has the doors or cowls of its engine(s) in the closed position. Pumps or generators at semi permanent or permanent locations shall be screened by acoustic barriers where appropriate. Plant shall have reversing bells in preference to sirens, but where sirens are used they shall operate in the high frequency range.

Reason: To ensure that noise emissions from site is minimised in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(10.) Unless otherwise agreed with the Planning Authority, the operator shall provide the Planning Authority with a biennial written report detailing progress on working and reinstatement at the site. The first report shall be due 2 years from the date of this permission and shall include volumes and types of the materials being imported and measures to manage, for example, any volume of peat. The report shall also identify any difficulties with operations and/or of complying with the planning requirements that may have been encountered at the site during the relevant period.

Reason: To ensure that development is carried out in an orderly manner and to monitor to progress of the site in compliance with Shetland Structure Plan (2000) Policy GDS4, and Shetland Local Plan (2004) Policy LPNE10.

(11.) Notwithstanding the details on the approved plans, no development shall take place until a detailed working method statement is produced and submitted for written approval by the Planning Authority. The statement must: include and clearly define a working area (to be surveyed) to safeguard ornithological interests, which shall be managed for the handling of materials brought into the site during periods within the bird breeding season, with the initial import being outwith April - July Inclusive, and detail the procedure for the distribution and tipping of materials within the site outwith the bird breeding season in a manner which takes account of the ornithological interests of the site and which utilises best practice to minimise any disturbance to breeding whimbrel or other species. The statement must also detail the measures to brief all staff on the site on the ecological importance and sensitivities of the area and the developer's obligations in this respect.

Reason: To safeguard the ecological interests of the site and to protect specific ornithological interests in the area in compliance with Shetland Islands Council Local Plan (2004) Policy LPNE10, LPNE13, and Shetland Structure Plan (2000) Policy SPNE7, SPNE8.

(12.) Notwithstanding the details on the approved plans and prior to the completion of the development, the grass swale and gravel filter trench to the north west boundary within the site shall be reinstated/removed in accordance with a scheme that shall first be submitted to and approved in writing by the Planning Authority.

Reason: To ensure the satisfactory reinstatement of the site in the interests of amenity and to ensure that drainage on the site returns to a more natural condition in compliance with Shetland Islands Council Local Plan (2004) Policy LPNE10 and Shetland Islands Council Structure Plan (2000) Policy GDS4.

(13.) In so far as this consent shall relate to the reinstatement of land within the area bounded in red on Drawing no 2061539-02 received by the Planning Authority on 16 May 2012, it is granted for a limited period only, commencing on the date of this decision and expiring 10 years thereafter, at or before which time, unless an extension of permission has previously been granted, the development shall cease operation and the site shall be finally reinstated in accordance with a restoration and aftercare plan that must be submitted to the Planning Authority no later than 6 months prior to the expiry of the 10 year period. Thereafter the reinstatement shall be completed in accordance with these approved details.

Reason: In order to retain control over the development and in order to secure appropriate reinstatement of the site when operations cease in compliance with Shetland Structure Plan (2000) SP GDS4, and Shetland Local Plan (2004) LPNE10.

#### **Notes to Applicant:**

Commencement of Development – The development hereby permitted must be commenced within 3 years of the date of this permission 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.

Notification of Completion – 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.

Scottish Water – There are water assets in the area that may be affected by the proposed development therefore it is essential that these assets are protected from the risk of contamination and damage. You must contact the Scottish Water Planning and Development team who will be able to provide you with detailed information on their requirements ([www.scottishwater.co.uk](http://www.scottishwater.co.uk)).

Public Road Improvements –The Shetland Islands Council Roads Service has advised that the works to the public will require Construction Consent from the Council's Roads Service prior to any works to the public road being undertaken. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick, Shetland ZE1 0NT.

Ecology – The developer must ensure that they operate with due account being taken of the current legal frameworks in place to safeguard the ecological interests in respect of UK and European protected species. They should seek independent advice and/or the views of SEPA, SNH and the Shetland Biological Records Centre if they have any doubt over their working practice.

**11. Further Notifications Required**

None.

**12. Background Information Considered**

Planning permission 2010/94/PCD.

**13. Attachments**

Location Plan Drawing No. 2061539-02

Planning Committee Report 2012/182/PPF.doc

Officer: Matthew Taylor

Date: 13 August 2012







## **Report of Handling**

**Development:** Roof covering alterations

**Location:** 3 North Ness Business Park, Lerwick, Shetland, Shetland, ZE1 0LZ

**By:** Shetland Leasing And Property Developments Ltd

**Application Ref:** 2012/218/PPF

### **1. Introduction**

This is a detailed application (PPF) for various works to the existing Solar Hus office at 3 North Ness Business Park in Lerwick.

### **2. Statutory Development Plan Policies**

#### **Shetland Islands Council Structure Plan (2000) Policies**

SPNE1 - Design

GDS4 - General Development Policy Natural and Built Environment

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

LPNE10 - Development and the Environment

LPBE13 - Design

LPIND6 - Class 4 Business Uses in Lerwick

#### **Shetland Islands Council Interim Planning Policy Guidance**

LDP2 - All development Layout and design

### **3. Safeguarding**

None applicable to the assessment of this application.

### **4. Consultations**

None

### **5. Statutory Advertisements**

A notice was not required to be published in the local newspaper.

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.

The works include the removal of the existing fully glazed areas on the roof of the building on its west elevation (entrance side), to that of a smaller ridgeline glazed roofing system on the seaward side end of the west elevation, and the addition of three double set standard rooflights. Also on the west elevation, a new window will be installed and more noticeably, a shelter canopy will be erected over the entrance door.

On the east elevation, the existing ridgeline roof lights will be removed and replaced with a similar smaller glazing system to that proposed on the west elevation, and again, a double set of standard rooflights will also be installed. Additional windows will also be installed on the east elevation.

The north and south gable elevations will see a slight reconfiguration of the existing large glazed area; this reconfiguration will include the addition of opening windows.

Currently the entrance door to the building appears like a side fire exit point, making it confusing for visitors unfamiliar with the building. Therefore the addition of the shelter canopy over the entrance door is welcomed; this will give some weather protection to users of the building, and will also help visually lead visitors to the front door and reception point of the building.

The proposed works will not have a detrimental impact on the visual setting of the existing Solar Hus building, nor will it have a detrimental impact on the overall setting of the designed North Ness business area. The proposal complies with the aims of Structure Plan (2000) and Local Plan (2004) policies listed in part two of this Report of Handling.

## **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 Delegations 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. Notification to Scottish Ministers**

None.

**10. Recommendation**

Grant subject to conditions

**Reasons for Council's decision:**

The works will not have a detrimental impact on the visual setting of the building nor will the works have a detrimental impact on the setting of the designed North Ness Business Park, therefore the proposal complies with Shetland Structure Plan (2000) policies GDS4, SPNE1 and Local Plan (2004) policies LPNE1, LPBE13, LPIND7 and Interim Policy LDP3.

**11. List of approved plans:**

- Existing Elevations 05 23.06.2012
- Existing Elevations 06 23.06.2012
- Site & Location Plan 324/P/10 23.06.2012
- Elevations 324/P/11 23.06.2012
- Elevations 324/P/12 23.06.2012
- Photograph 23.06.2012

**12. 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.) If any spoil or waste materials arising from 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.

#### **Notes to Applicant:**

#### **Commencement of Development**





To ensure compliance 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.

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 to discuss any building warrant requirements for your development.

**13. Further Notifications Required**

None

**14. Background Information Considered**

None

**15. Attachments**

Location & Site Plan  
Elevations Drawings

218\_Delegated\_Report\_of\_Handling.doc  
Officer: Mr Jonny Wiseman  
Date: 09 August 2012



North Ness  
LERWICK

4 NORTH NESS  
BUSINESS PARK

6 NORTH NESS  
BUSINESS PARK

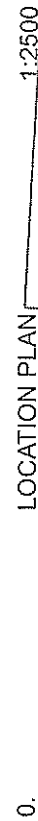
GUTTER'S HUT

SOLAR HUT  
3 NORTH NESS  
BUSINESS PARK

MALCOLM  
YOUNGER

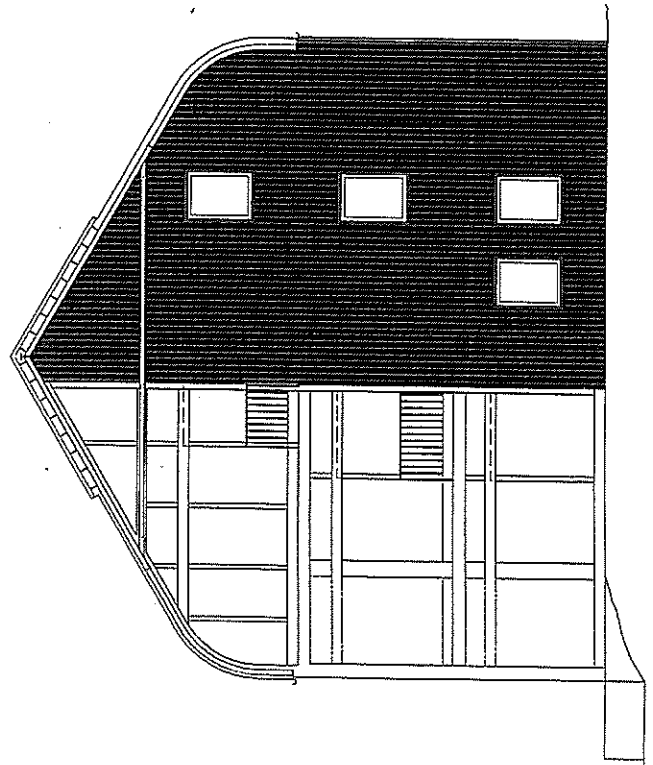
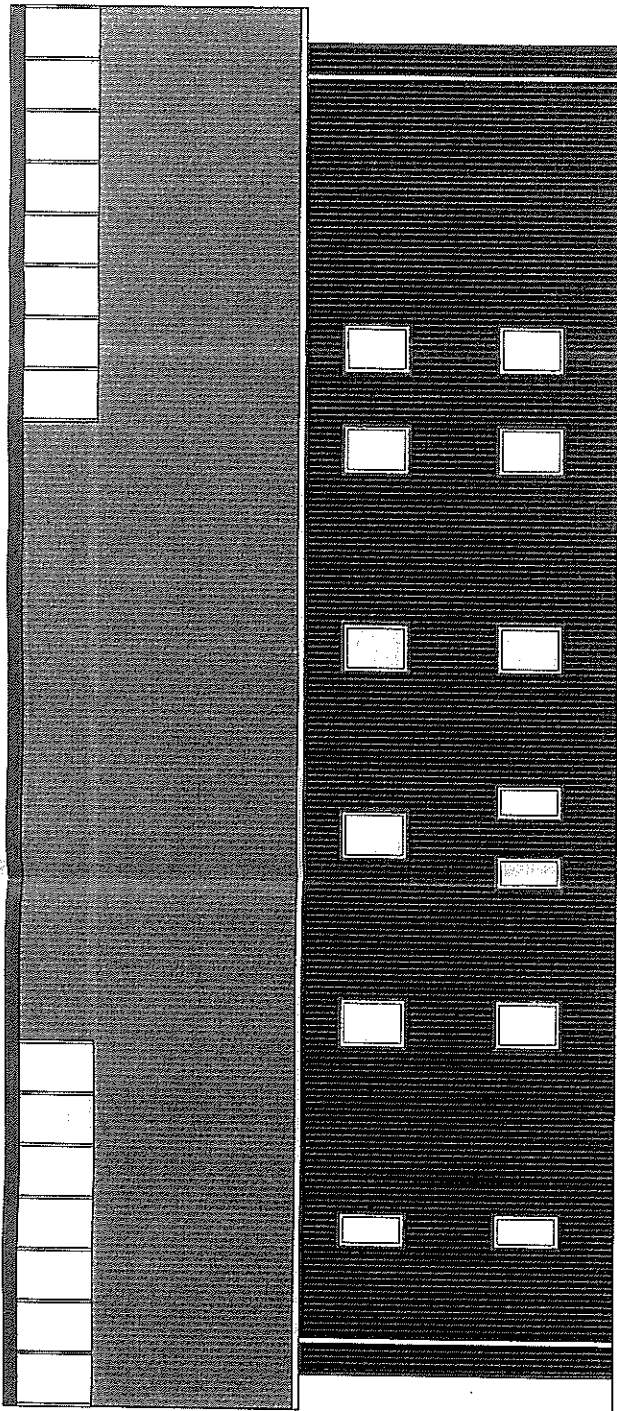
Tanks

COUNCIL  
OFFICES



**REDMAN + SUTHERLAND ARCHITECTS**  
 Main Street 1111 Southview 1111 Studio 1111 ZATUHR  
 1111 Main Street 1111 Southview 1111 Studio 1111 ZATUHR  
 1111 Main Street 1111 Southview 1111 Studio 1111 ZATUHR





# EXISTING ELEVATIONS

VIEWS 01

SIC INFRASTRUCTURE SERVICES	
23 JUN 2012	
PASS TO:	ACTION:

All rights reserved - Copy and passing to third are not permitted.  
All dimensions to be confirmed on site!



JB & Son Ltd  
Becher & Hill

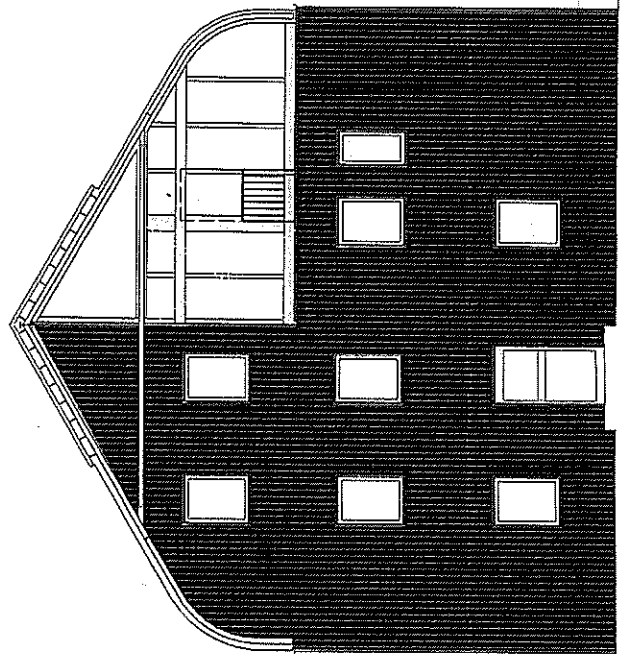
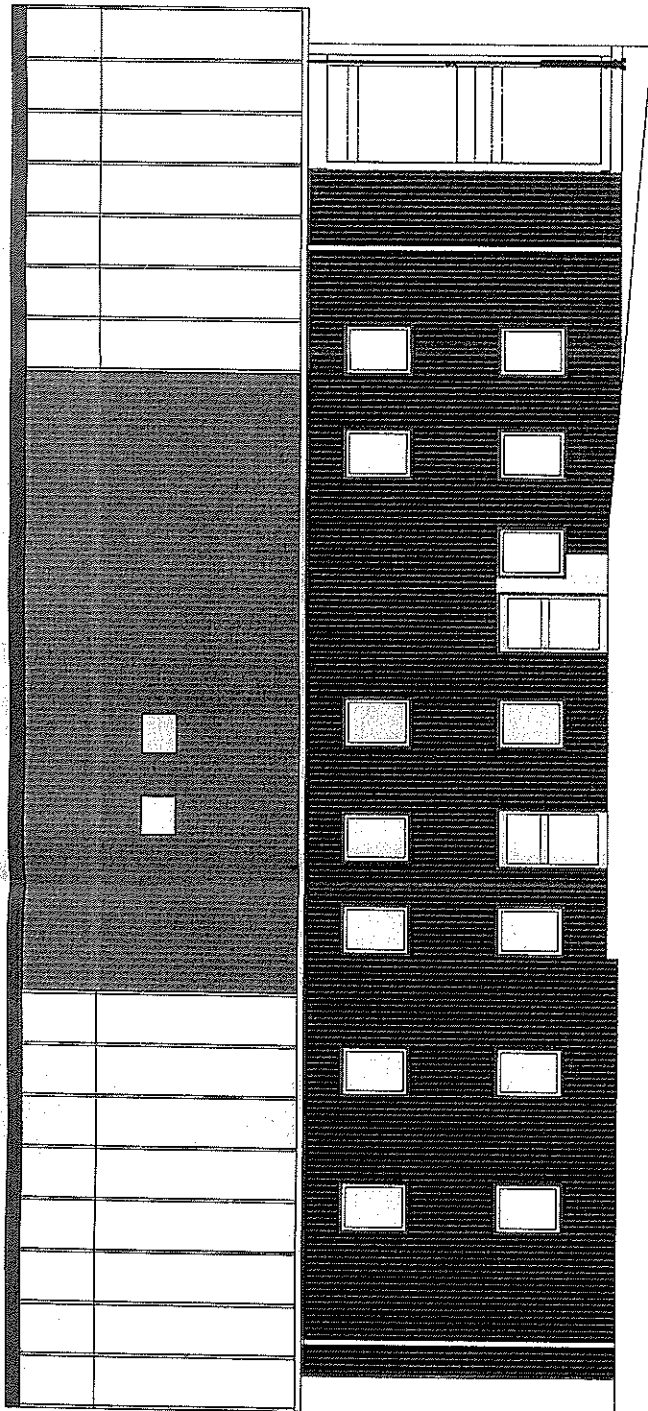
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3 North Ness Business Park  
Lerwick, Shetland

Scale: 1:100  
Date: 19.06.2007

Sheet Nr.:

05





EXISTING ELEVATIONS

VIEWS 02

SIC INFRASTRUCTURE SERVICES	
23 JUN 2012	
PASS TO	ACTIVITY

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All dimensions to be confirmed on site!



New Offices  
3 North Ness Business Park  
Lerwick, Shetland

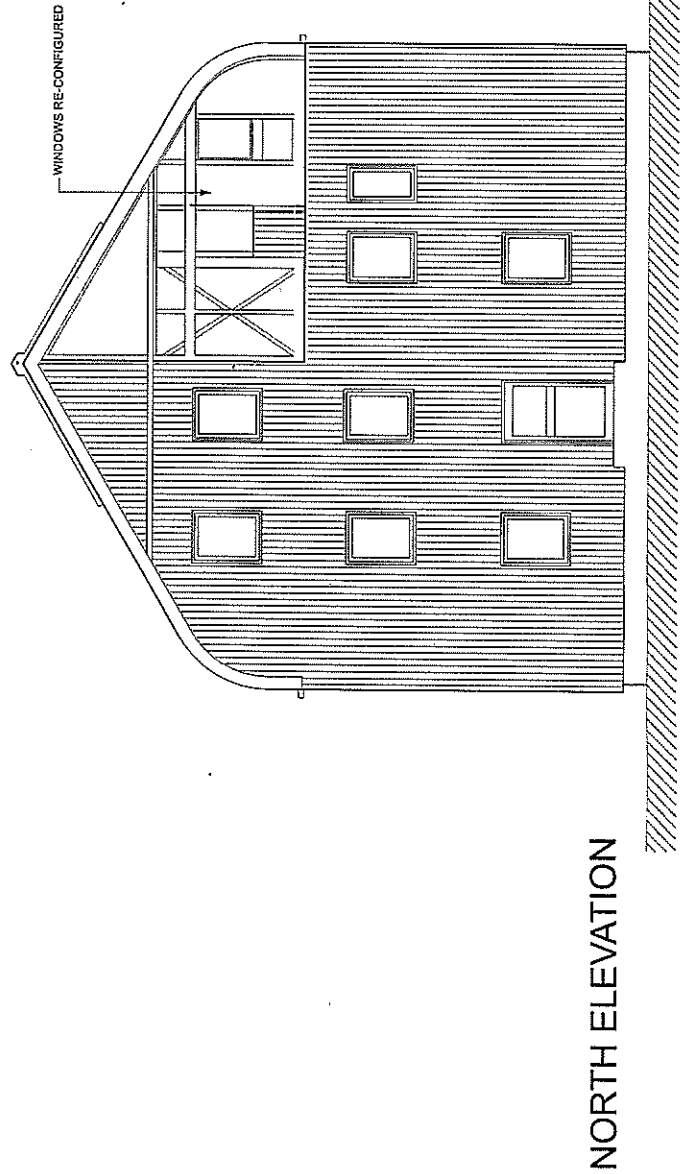
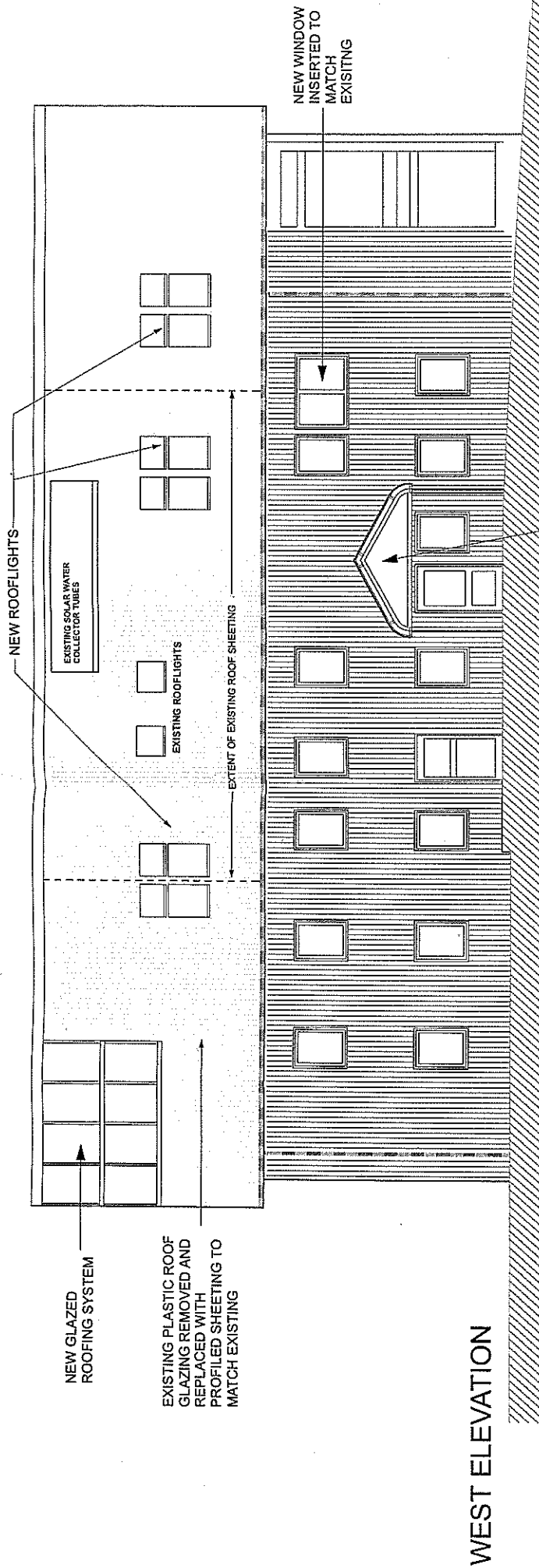
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Date:  
19.06.2007

Sheet Nr.:

06





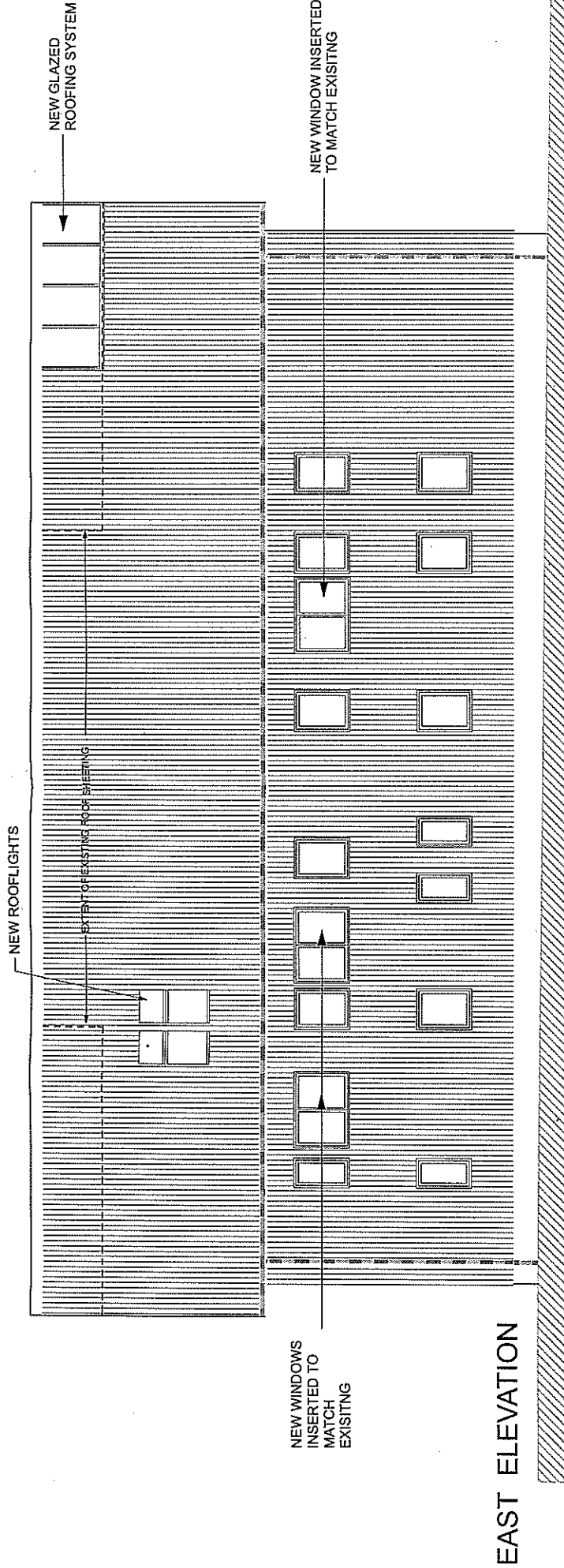


## PROPOSED ELEVATIONS

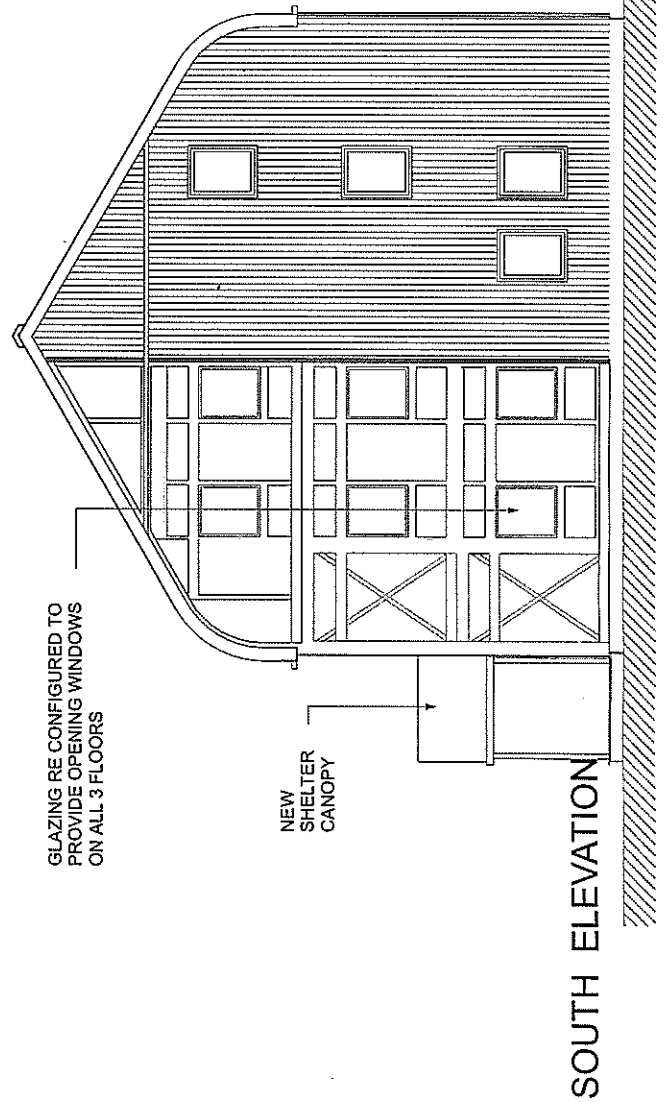
SIC  
INFRASTRUCTURE SERVICES  
23 JUN 2012  
PASS TO ACTION

REDMAN + SUTHERLAND ARCHITECTS		Drawn by	JS	Date	JUN 12
Main Street	: Scalloway	: Shetland	: ZE1 0TR		
tel: 01455 500655 www.shetlandarchitecture.co.uk redman@sutherland.com Tel: 01455 500155					
SHEPHERD ISLANDS COUNCIL					
SOLAR HUS, 3 NORTH NESS BUSINESS PARK		DRAWING SCALE(S) 1:100 @ A3			
ELEVATIONS 1		DRAWING NUMBER 324/P/11			
		Revision			





PROPOSED ELEVATIONS



SIC  
INFRASTRUCTURE SERVICES  
23 JUN 2012  
PASS TO ACTION

REDMAN + SUTHERLAND ARCHITECTS Main Street :: Scalloway :: Shetland :: ZE1 0TR t: 01795 308855 www.shetlandarchitecture.co.uk redman@redman.co.uk		Drawn by JS	Date JUN 12
SHEPHERD ISLANDS COUNCIL		DRAWING SCALE(S) 1:100 @ A3	Revision
SOLAR HUS, 3 NORTH NESS BUSINESS PARK		DRAWING NUMBER 324/IP/12	
ELEVATIONS 2			



## **Report of Handling**

**Development:** Permanent retention of emergency landing site

**Location:** Shetland Recreational Trust, Clickimin Centre, North Lochside, Lerwick, Shetland, ZE1 0PJ.

**By:** Ms Ingrid Gall

**Application Ref:** 2012/233/PPF

### **1. Introduction**

SIC Emergency Planning has applied for the permanent retention of the dedicated helicopter emergency landing site, located to the rear of the Clickimin Leisure Centre, Lerwick. The site was granted temporary planning consent in November 2009 for a period of 3 years to allow the monitoring of emergency movements to be undertaken.

The proposal is to retain a fit for purpose landing facility within close proximity of the Gilbert Bain Hospital. The alternative dedicated landing sites are 7 miles away at Tingwall, with Sumburgh Airport being 27 miles south of Lerwick. Before the 2009 consent was granted the helicopter landed on the nearby sports field.

According to the applicant an earlier dedicated emergency landing site within Lerwick was lost to the community when the Clickimin running track was redeveloped for the Island Games in 2005, and consequently the Shetland Emergency Planning Forum (SEPF) had met several times since 2002 to seek to locate a replacement site close to the Gilbert Bain Hospital but with no success. The consented site was chosen following feasibility studies in 2008, details of which were provided in the supporting document attached to the 2009 report.

The re-surfacing and infrastructure alterations have been carried out under the 2009 approval, consisting of two layers of asphalt with marked landing area to the NW corner. There is a provision of a windsock and strobe light. A barrier prevents access to the hard standing other than when it is required as overspill car parking to the Clickimin Leisure Centre during large events. A staggered fence maintains pedestrian access along the footpath with the public right of way protected.

The Shetland Emergency Planning Forum has submitted a supporting statement as a background paper citing the statutory requirement of a 'duty of care' towards communities. Further submissions of support form part of the application documents from the Acting Area Service Manager (Islands) of the NHS Scotland Ambulance Service, The Area Commander of the Northern Constabulary, The Director of Public Health (NHS Shetland), The Executive Manager of SIC Sport and

Leisure, the Group Manager, Highlands and Islands Fire and Rescue Service, and The RCC Manager Shetland Coastguard.

The application seeks permanent retention of the facility with an allowance for 'utility' services to utilise the facilities at times of emergency, this is in addition to the 'medical' emergency transport needs. This is in response to a situation where electrical engineers might seek rapid transit following a power outage, for example on the west side of Shetland in adverse weather conditions.

## **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

SPBE1 - Built Heritage

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

LPNE10 - Development and the Environment

LPBE6 - Listed Buildings

LPBE13 - Design

LPWD11 - Surface Water Drainage Standards

LPWD12 - Sustainable Drainage Systems (SUDS)

## **3. Safeguarding**

Land Capability Agriculture - code: 6.3

Military Unclassified - Military Unclassified info: ammo dump military b

MOD Area: Meteorological Station Lerwick: Any new construction or extensions >150ft in height (45.7m) above ground level

Zone 1 Modified: Housing Zone 1

## **4. Consultations**

Environmental Health were consulted on the 13 July 2012. Their comments dated 19 July 2012 can be summarised as follows:

I have no objection to the permanent retention of this facility.

Lerwick Community Council were consulted on the 13 July 2012. There was no response from this consultee at the time of report preparation.

## **5. Statutory Advertisements**

The application was advertised in the Shetland Times on 13.07.2012

## **6. Representations**

None at the time of reporting.

## 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 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.

When considering a proposal of this nature, the planning authority must determine those aspects of the proposal that are within the control of planning legislation, and which could be legitimately assessed for determination under the planning process. In this case it is important to note that the emergency transport movements themselves fall outwith the scope of planning control, and in fact the emergency operation may have continued as was previously the case on the nearby sports field without recourse to the need for a planning application; alternatively, and in times of emergency, air transport may utilise any site or area within Lerwick where it is safe to land as prescribed under separate controls, i.e. under the auspices of the Civil Aviation Authority (CAA). This however was not preferred to a dedicated site that was considered more fit for purpose, and which limits health and safety risk to service users and the public. As such planning permission was granted for the dedicated site in 2009.

In relation to the proposal's impact on residential amenity, and in particular noise, again it is important to recognise that emergency air transport movements cannot be limited through planning legislation and it is outwith the remit of the Planning and Environmental Health services to seek noise assessments or preventative measures. Notwithstanding this, during the period of active use of the landing site following the granting of planning permission, the applicant has provided a register of use clearly showing that all transport movements to the site have been in response to medical evacuations. The register has shown that over a 24 month period there were 92 landings, with 59 day time, 31 night time and 2 day/night time.

The proposal was consented for use only under those circumstances that emergency transport is required. This would be for occasional use throughout the year. It should be noted that the CAA governs Aircraft noise, and as the site is for emergency use only it does not require a license from the CAA. The Council's Environmental Health Service had originally confirmed both this as the case and that it does not require a

noise assessment as the proposal is outwith its scope of control and remit for assessment. As part of this application consultation the Environmental Health Service have no objection.

The permanent retention of the site would be for occasional use throughout the year where it is considered that the additional time and transport from Tingwall or Sumburgh could have serious implications, for example, leaving the crew vulnerable to looking after potentially life threatening cases, with the additional concern of taking the aircraft out of service for search and rescue whilst it waits for ambulance transit, which SEPF state at times has been rerouted for 999 call response leaving the patient more vulnerable to delay. Furthermore, the use of the site for the transit of engineers in response to power outages during adverse weather would require a judgment to be made at the time of the incident. Provided that the transport is considered to be necessary in response to an emergency situation, then that use would be deemed to fall within the restricted use.

In this respect it is considered that the proposal for the retention of the landing site is justified appropriately, with the register of use demonstrating an infrequent disturbance to residents of Lerwick, thus creating little additional disturbance to the residential amenity of the area above and beyond that which already exists. This is on account of emergency transport already having been landing in the nearby field for some time prior to the submission that resulted in the 2009 consent.

In relation to visual amenity the amount of physical alteration is limited and the tarmac resurfacing is seen as an improvement to the visual amenity of the area. There is considered to be no detrimental impact upon the amenity of the site, and visually the site is very unobtrusive.

It has been proven since 2009 that the loss of car parking to the Clickimin Leisure Centre is not significant. The space can also be made available to parking should a major event be scheduled. Under the 2009 proposal the Shetland Recreational Trust had examined its utilisation of the application site declaring that it was used infrequently on a day-to-day basis. In addition the SRT will notify emergency services of planned events when the car park may be required so that alternative temporary landing sites may be identified on those rare, but possible, occasions the event may coincide with an emergency.

The proposal is of a minimal impact, located sufficient distance from, and is of such a limited scope, that there will be no impact upon the Clickimin Broch listed building or its setting.

Public access around the loch and to/from the leisure centre remains unobstructed; lighting will also be maintained so that there is no reduction in light levels for pedestrians.

It is considered that, given the proven infrequent use, there will be no amenity issue relating to the nearby camping fields, and again the



safety of helicopter operations is controlled via CAA policy, and is outwith the scope of planning control.

It is considered the permanent retention of the landing site would not lead to a significant intensification of use, and that the dedicated surface for emergency landing at the site provides an important service to the community, improving the safety potential for operations without any detrimental impacts of concern arising. A condition is proposed requiring the submission of an annual log of use of the facility to ensure that it continues to be used only for emergency transport.

## **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**

None

## **9. Recommendation**

Grant subject to conditions

### **Reasons for Council's decision:**

(1.) The landing site is for emergency helicopter use only and is not intended for routine transport needs. As emergency landings were previously established nearby, and have operated successfully from the dedicated site since May 2010, it is proven that the facility does not introduce any significant intensification of use or additional amenity

impact. The resurfacing of the site has had no negative visual amenity impact, and the additional infrastructure is minimal. By virtue of: the type, extent and use of the site; surface treatment, enclosure and drainage; and subject to appropriate controlling conditions limiting the use of the site only in 'emergency' situations, the proposal accords with Policy LPWD11, LPWD12, LPNE10, and LPBE6 and LPBE13 of the Shetland Local Plan (June 2004).

**10. List of approved plans:**

- Existing Plan R/L/A-14-001                      03.07.2012

**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.) Notwithstanding the details on the approved application, the landing site shall be used for emergency transport only. The landing pad shall not be used for routine transport needs. By 1<sup>st</sup> June 2013, and at 12-month intervals thereafter, Shetland Islands Council Emergency Planning, in collaboration with other stakeholders, shall provide a register of use detailing the number and nature of landing pad use at the site during the preceding 12-month period concerned. This register shall be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the development continues as approved for emergency use, to limit non essential movements in order to protect the amenity of residential properties within the area, in compliance with the provision and intent of Policy LPCOM5, LPCSF4 of the Shetland Local Plan (June 2004).

(3.) Notwithstanding the details on the approved plans, should the site no longer be required for emergency transport use, the site shall be reinstated as a car park to serve the Clickimin Leisure Centre in accordance with details that shall first be submitted and approved in writing by the Planning Authority, unless a planning application is otherwise submitted for an alternative use.

Reason: To ensure that the site is maintained and managed for a beneficial use and to avoid any reduction in the visual amenity of the

area. In compliance with Shetland Islands Council Local Plan (2004) Policy LPNE10.

**Notes to Applicant:**

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**

Planning application and approval under 2009/215/PCD.

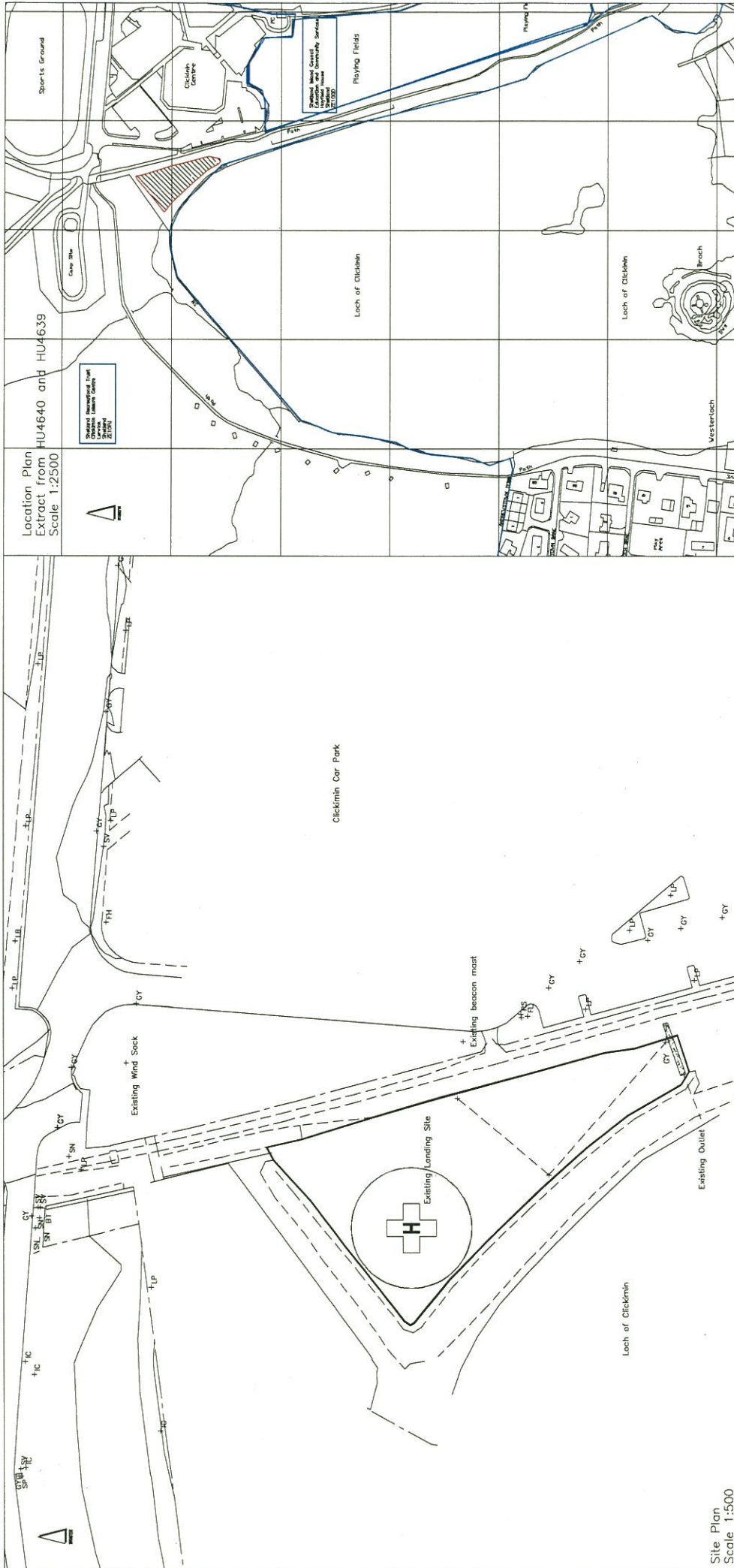
**13. Attachments**

Site and Location Plan. Drg No. R/L/A-14-01

Planning Committee Report 2012/233/PPF.doc

Officer: Matthew Taylor

Date: 14th August 2012



SIC  
INFRASTRUCTURE SERVICES

03 JUL 2012

PASS TO ACTION

Rev.	Date	By	Revision	CH'd
Scheme				
Emergency Helicopter Landing Site				
Title				
Planning Application Renewal				
Shetland Islands Council Infrastructure Services Roads Service Crumla, Lerwick, Shetland, ZE1 0PX Telephone: Lerwick (01595) 74685 Fax: Lerwick (01595) 74685				
Date: June 2012 Drawn: MHG CH'd: As Shown Scale: As Shown				
File No: R/L/A-14-01 Rev.				



Existing Site