



REPORT

To: Planning Committee

27 September 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
2012/231/PPF	Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), Muckle Wirawil, Fetlar, Shetland, ZE2 9DJ	Mr Marvin Smith (Shetland Islands Council)	Approve, with conditions	Planning authority is applicant
2012/237/PPF	Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), Clate/Ward of Clett, Symbister, Whalsay, Shetland, ZE2 9TS	Mr Marvin Smith (Shetland Islands Council)	Approve, with conditions	Planning authority is applicant
2012/238/PPF	Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), South Ward, Skerries, Shetland, ZE2 9AS	Mr Marvin Smith (Shetland Islands Council)	Approve, with conditions	Planning authority is applicant
2012/280/PPF	Convert 3 no. garage lock-ups into a one bedroom residential flat, Adjacent to 31 Midlea, Firth, Mossbank	McKimm Ltd.	Approve, with conditions	Planning Authority is landowner

- 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: 27/9/2012

Appendix

2012/231/PPF - Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), Muckle Wirawil, Fetlar, Shetland, ZE2 9DJ by Mr Marvin Smith (Shetland Islands Council)

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.) No works on the development hereby approved shall take place between the 1st April and the 30th September inclusive.

Reason: To minimise the disturbance to breeding birds in the area and to comply with Shetland Structure Plan (2000) Policy SPNE7. It is an offence to disturb the breeding habitats of a species on Annex 1 of the E.C. Birds Directive and Schedule 1 of the Wildlife and Countryside Act 1981.

(4.) This permission, insofar as it allows the erection of a wind turbine, shall relate solely to the erection of a Rutland FM910-3 Furlmatic Windcharger wind turbine on a monopole no greater than the following dimensions:

- o Height to Hub of 8000mm
- o Blade Diameter 910 mm

Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(5.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(6.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(7.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed from the

site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG7 Non- Domestic Wind Turbines.

(8.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

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.

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.

2012/237/PPF - Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), Clate/Ward of Clett, Symbister, Whalsay, Shetland, ZE2 9TS by Mr Marvin Smith (Shetland Islands Council)

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.

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- (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.) This permission, insofar as it allows the erection of a wind turbine, shall relate solely to the erection of a Rutland FM910-3 Furlmatic Windcharger wind turbine on a monopole no greater than the following dimensions:

- o Height to Hub of 8000mm
- o Blade Diameter 910mm

Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 7 Non Domestic Wind Turbines.

(4.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other

advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(6.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed from the site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG6 Domestic Wind Turbines.

(7.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

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2012/238/PPF - Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter), South Ward, Skerries, Shetland, ZE2 9AS by Mr Marvin Smith (Shetland Islands Council)

Recommended Conditions

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- (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).

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Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 7 Non- Domestic Wind Turbines.

(4.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the

impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(6.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed from the site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG7 Non- Domestic Wind Turbines.

(7.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

Notes to Applicant:

Commencement of Development

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2012/280/PPF - Convert 3 no. garage lock-ups into a one bedroom residential flat, Adjacent to 31 Midlea, Firth, Mossbank by McKimm 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.

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(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.) In so far as this consent shall relate to the foul drainage to be constructed in association with the development it shall relate only to provision of a connection to the public sewer as specified in the plans and/or details approved under condition no. 1 of this permission. No part of the development shall be occupied until foul drainage works have been completed in accordance with the approved plans and/or details and are 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.

(4.) Prior to the commencement of development details of a surface water drainage system having a rainwater soakaway with sufficient attenuation to reduce flows to at least those during 1 in 10 year rainfall

event to a level which would have occurred before the development, to be constructed within the site and in accordance with BRE Digest 365, a minimum of 5 metres from any building or boundary, shall be submitted to and approved in writing by the Planning Authority. The dwellinghouse hereby permitted shall not be occupied until all the surface water from the dwellinghouse has been connected to the rainwater soakaway. The person carrying out the development should provide the Planning Authority with a written notice of completion of that phase of the development.

Reason: To reduce the potential adverse effects or hazards though flooding by reducing the rate which rainwater can travel across the site and onto neighbouring land or buildings in accordance with Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10, LPWD11 and LPWD12.

(5.) 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 seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seeds mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges) . 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.

(6.) If any top soil, spoil or waste materials arising from the development of the site carried out as part of the development hereby permitted, are to be removed from or disposed of outwith the site, details of the method of storage or 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:

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.

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.

Building Warrant:

You are advised to contact the Building Standards Service on 01595 744800 to discuss any building warrant requirements for your development.

Principal Elevation:

The north west elevation of the dwellinghouse hereby approved shall be considered to be the principal elevation in terms of The Town and Country Planning (General Permitted Development) (Scotland) Order 2011.

Scottish Water

Scottish Water has advised that any planning approval granted by the Local Authority does not guarantee a connection to their infrastructure, which is dependant upon capacity being available at the time of an application being made to them. Scottish Water will only give approval for a connection upon receipt of an appropriate application and technical details. They have also advised that the Udhouse Mossbank Wastewater Treatment Works has limited capacity to serve this new demand and that there may be a requirement for the developer to carry out works on the local network to ensure there is no loss of service to existing customers. The applicant is advised to discuss their proposed development directly with Scottish Water (Tel 0141 355 5511 or www.scottishwater.co.uk for further information).

Report of Handling

Development: Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter)

Location: Muckle Wirawil, Fetlar, Shetland, ZE2 9DJ,

By: Mr Marvin Smith

Application Ref: 2012/231/PPF

1. Introduction

This is an application by Shetland Islands Council to erect a 12 metre high telecommunications mast and a small wind turbine (0.910 blade diameter) fixed on an 8 metre high pole, to provide power to the mast, on land at Muckle Wirawil, Fetlar. This location is on the east side of the island and approximately 1km north of Funzie, Fetlar.

The mast will have 4 No 900mm and 2 No 140mm dishes located on the structure.

The development proposed is intended to improve and enhance the existing broadband provision.

Under the Hierarchy of Developments the application is considered to be a Local Development.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment

SPNE1 - Design

SPNE7 - Nature Conservation

SPIND3 - Telecommunications Development

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

LPNE10 - Development and the Environment

LPENG6 - Energy Proposals

Shetland Islands Council Interim Planning Policy Guidance

LDP1 - All development General

SPG7 - Community non domestic Wind Turbines

SPNE1 - Design

SPENG3 - Renewable Energy Sources

3. Safeguarding

Land Capability Agriculture - code: 6.3

4. **Consultations**

Fetlar Community Council was consulted on the 16 August 2012. There was no response from this consultee at the time of report preparation.

The RSPB was consulted on the 16 August 2012. Their comments dated 30 August 2012 can be summarised as follows:

No objections. We consider that the installation of the mast and small wind turbine and any associated works is likely to cause significant disturbance to the breeding red-necked phalaropes and red throated divers in the area. No works should take place between 1st April and 30th September inclusive in order to minimise disturbance to breeding birds. The Council, with advice from the RSPB, may permit this condition to be waived to allow construction at other times in the event that protected breeding birds are not present.

Environmental Health was consulted on the 16 August 2012. Their comments dated 21 August 2012 can be summarised as follows:

Turbine and sound output details required to make an assessment.

Environmental Health was consulted on the 7 September 2012. Their comments dated 12 September 2012 can be summarised as follows:

The new information submitted is satisfactory. I have no objections to turbines of this size and do not require further noise data.

5. **Statutory Advertisements**

The application was advertised in the Shetland Times on 17.08.2012

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.

Shetland Structure Plan Policy SPIND3 supports proposals for telecommunications developments where there are no adverse impacts on the character or amenity of the area where they are located.

The use of a sustainable and renewable natural resource to provide power to the mast is considered compatible with the Development Plan policies on sustainable development.

The RSPB have asked for a condition restricting the time of year in which construction can take place and this is considered reasonable to protect breeding birds and comply with policies on the natural environment.

The landscape impact issue has not been assessed through a request for a formal visual assessment. There is no doubt that the development will introduce a new feature into the landscape of the area and in an elevated position on the island. However, given the small nature of the tower and the pole for the turbine it is considered that their presence will not result in an unacceptable adverse impact on the visual amenity of the area.

Environmental Health requested details of the noise level output from the turbine and given the low output and the distance of nearly 400 metres from the nearest sensitive receptor there are no concerns.

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. **Recommendation**

Grant subject to conditions

Reasons for Council's decision:

(1.) The proposal is for an antenna mast to provide for broadband and a domestic size wind turbine to provide renewable energy for the mast, sited in a suitable location on Fetlar. There are no known constraints preventing development and given the distance between the proposed wind turbine and noise sensitive receptors it has been demonstrated that the wind turbine will not constitute a noise nuisance. The proposal therefore complies with the relevant provisions of the Shetland Development Plan. Therefore by virtue of scale, location, distance from sensitive receptors and existing land uses there are no unacceptable detrimental impacts upon neighbouring land uses or the natural and built environment. As such the proposal complies with the policies GDS4 and SPIND3 of the Shetland Structure Plan (2000) and LPNE10 of the Shetland Local Plan (2004).

10. **List of approved plans:**

•	Location Plan 2012/231/PPF-01	03.07.2012
•	Site Plan 2012/231/PPF-02	03.07.2012
•	Foundation Plan 1087SHT2	03.07.2012
•	General Arrangement 1087SHT1	03.07.2012
	Full Plan 2012/231/PPF-03	08.08.2012

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.) No works on the development hereby approved shall take place between the 1st April and the 30th September inclusive.

Reason: To minimise the disturbance to breeding birds in the area and to comply with Shetland Structure Plan (2000) Policy SPNE7. It is an offence to disturb the breeding habitats of a species on Annex 1 of the E.C. Birds Directive and Schedule 1 of the Wildlife and Countryside Act 1981.

- (4.) This permission, insofar as it allows the erection of a wind turbine, shall relate solely to the erection of a Rutland FM910-3 Furlmatic Windcharger wind turbine on a monopole no greater than the following dimensions:

- o Height to Hub of 8000mm
- o Blade Diameter 910 mm

Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(5.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(6.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(7.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed from the site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG7 Non- Domestic Wind Turbines.

(8.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

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.

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

None

2012/231/PPF_Report_of_Handling.doc

Officer: Mr Richard MacNeill

Date: 12th September 2012

2012/231/RP-01



Report of Handling

Development: Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter)

Location: Clate/Ward Of Clett, Symbister, Whalsay, ZE2 9TS,

By: Mr Marvin Smith

Application Ref: 2012/237/PPF

1. Introduction

This is an application by Shetland Islands Council to erect a 12 metre high telecommunications mast and a small wind turbine (0.910 blade diameter) fixed on an 8 metre high pole, to provide power to the mast, on land Clate/Ward Of Clett, Symbister, Whalsay. This location is on the south side of the island and approximately 1.2 km south east of Symbister, Whalsay.

The mast will have 4 No. 900mm and 2 No. 140mm dishes located on the structure.

The development proposed is intended to improve and enhance the existing broadband provision.

Under the Hierarchy of Developments the application is considered to be a Local Development

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

SPNE1 - Design

GDS4 - General Development Policy Natural and Built Environment

SPNE7 - Nature Conservation

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

LPNE10 - Development and the Environment

LPENG6 - Energy Proposals

Shetland Islands Council Interim Planning Policy Guidance

LDP1 - All development General

SPG7 - Community non domestic Wind Turbines

SPG2 - All Dev Energy Efficiency Conservation

SPG3 - All Dev Reducing Carbon Emmissions

3. Safeguarding

Land Capability Agriculture - code: 6.3

4. Consultations

Environmental Health was consulted on the 16 August 2012. Their comments dated 21 August 2012 can be summarised as follows:

Turbine and sound output details required to make an assessment.

Whalsay Community Council was consulted on the 16 August 2012. There was no response from this consultee at the time of report preparation.

Environmental Health was consulted on the 7 September 2012. Their comments dated 12 September 2012 can be summarised as follows:

The new information submitted is satisfactory. I have no objections to turbines of this size and do not require further noise data.

5. Statutory Advertisements

The application was advertised in the Shetland Times on 17.08.2012

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.

Shetland Structure Plan Policy SPIND3 supports proposals for telecommunications developments where there are no adverse impacts on the character or amenity of the area where they are located.

The use of a sustainable and renewable natural resource to provide power to the mast is considered compatible with the Development Plan policies on sustainable development.

The landscape impact issue has not been assessed through a request for a formal visual assessment. There is no doubt that the development will introduce a new feature into the landscape of the area and in an elevated position on the island. However, given the small nature of the tower and the pole for the turbine it is considered that their presence will not result in an unacceptable adverse impact on the visual amenity of the area.

Environmental Health requested details of the noise level output from the turbine and given the low output and the distance of nearly 400 metres from the nearest sensitive receptor there are no concerns.

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. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) The proposal is for an antenna mast to provide for broadband and a domestic size wind turbine to provide renewable energy for the mast, sited in a suitable location on Whalsay. There are no known constraints preventing development and given the distance between the proposed wind turbine and noise sensitive receptors it has been demonstrated that the wind turbine will not constitute a noise nuisance. The proposal therefore complies with the relevant provisions of the

Shetland Development Plan. Therefore by virtue of scale, location, distance from sensitive receptors and existing land uses there are no unacceptable detrimental impacts upon neighbouring land uses or the natural and built environment. As such the proposal complies with the policies GDS4 and SPIND3 of the Shetland Structure Plan (2000) and LPNE10 of the Shetland Local Plan (2004).

10. List of approved plans:

- | | |
|---------------------------------|------------|
| • Location Plan 2012/237/PPF-01 | 03.07.2012 |
| • Site Plan 2012/237/PPF-02 | 03.07.2012 |
| • Foundation Plan 1087SHT2 | 03.07.2012 |
| • General Arrangement 1087SHT1 | 03.07.2012 |
| • Full Plan 2012/237/PPF-03 | 08.08.2012 |

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.) This permission, insofar as it allows the erection of a wind turbine, shall relate solely to the erection of a Rutland FM910-3 Furlmatic Windcharger wind turbine on a monopole no greater than the following dimensions:

- o Height to Hub of 8000mm
- o Blade Diameter 910mm

Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 7 Non Domestic Wind Turbines.

(4.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(6.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed

from the site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG6 Domestic Wind Turbines.

(7.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

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.

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

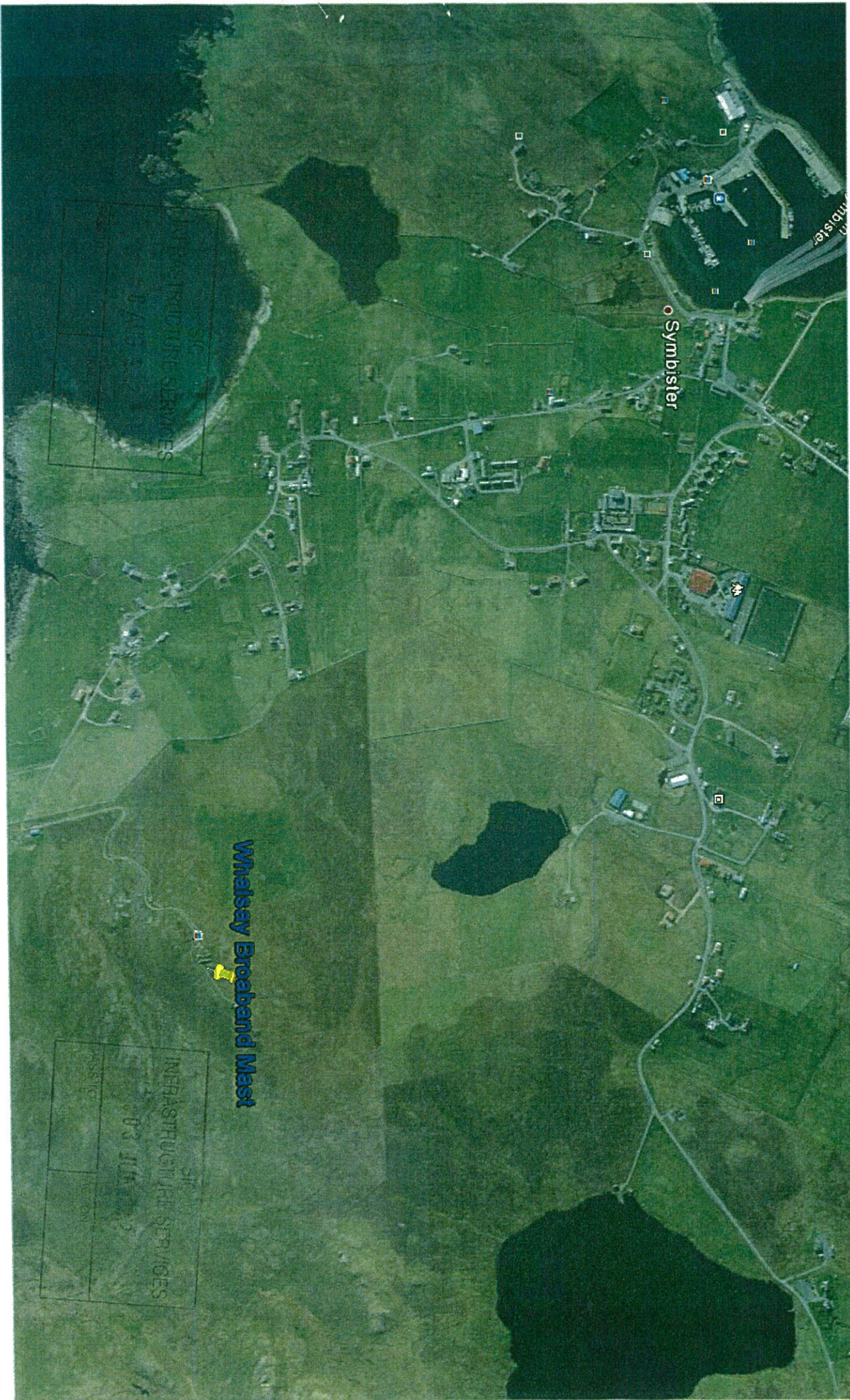
13. Background Information Considered

None

2012/237/PPF_Report_of_Handling.doc

Officer: Mr Richard MacNeill

Date: 12th September 2012



2012/237/PPF-01

Report of Handling

Development: Erect 12m high telecommunications mast with a wind turbine (8m pole, 0.910m blade diameter)

Location: South Ward, Skerries, Shetland, ZE2 9AS,

By: Mr Marvin Smith

Application Ref: 2012/238/PPF

1. Introduction

This is an application by Shetland Islands Council to erect a 12 metre high telecommunications mast and a small wind turbine (0.910 blade diameter) fixed on an 8 metre high pole, to provide power to the mast, on land located in the middle of this small island grouping.

The mast will have 4 No. 900mm and 2 No. 140mm dishes located on the structure.

The development proposed is intended to improve and enhance the existing broadband provision.

Under the Hierarchy of Developments the application is considered to be a Local Development.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment

SPNE1 - Design

SPNE7 - Nature Conservation

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

LPNE10 - Development and the Environment

LPENG6 - Energy Proposals

Shetland Islands Council Interim Planning Policy Guidance

LDP1 - All development General

SPG7 - Community non domestic Wind Turbines

SPG2 - All Dev Energy Efficiency Conservation

SPG3 - All Dev Reducing Carbon Emissions

3. Safeguarding

Land Capability Agriculture - code: 6.3

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. **Consultations**

Tingwall Airport was consulted on the 16 August 2012. There was no response from this consultee at the time of report preparation.

Environmental Health was consulted on the 16 August 2012. Their comments dated 21 August 2012 can be summarised as follows:

Noise data required to make an assessment.

Environmental Health was consulted on the 7 September 2012. Their comments dated 12 September 2012 can be summarised as follows:

The new information submitted is satisfactory. I have no objections to turbines of this size and do not require further noise data.

5. **Statutory Advertisements**

The application was advertised in the Shetland Times on 17.08.2012

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.

Shetland Structure Plan Policy SPIND3 supports proposals for telecommunications developments where there are no adverse impacts on the character or amenity of the area where they are located.

The use of a sustainable and renewable natural resource to provide power to the mast is considered compatible with the Development Plan policies on sustainable development.

The landscape impact issue has not been assessed through a request for a formal visual assessment. There is no doubt that the development will introduce a new feature into the landscape of the area and in an elevated position on the island. However, given the small nature of the tower and the pole for the turbine it is considered that their presence will not result in an unacceptable adverse impact on the visual amenity of the area.

Environmental Health requested details of the noise level output from the turbine and given the low output and the distance of nearly 260 metres from the nearest sensitive receptor there are no concerns.

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. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) The proposal is for an antenna mast to provide for broadband and a domestic size wind turbine to provide renewable energy for the mast, sited in a suitable location on Skerries. There are no known constraints preventing development and given the distance between the proposed wind turbine and noise sensitive receptors it has been demonstrated that the wind turbine will not constitute a noise nuisance.

The proposal therefore complies with the relevant provisions of the Shetland Development Plan. Therefore by virtue of scale, location, distance from sensitive receptors and existing land uses there are no unacceptable detrimental impacts upon neighbouring land uses or the natural and built environment. As such the proposal complies with the policies GDS4 and SPIND3 of the Shetland Structure Plan (2000) and LPNE10 of the Shetland Local Plan (2004).

10. List of approved plans:

- Location Plan 2012/238/PPF-001 03.07.2012
- Site Plan 2012/238/PPF-02 03.07.2012
- Section Plan 1087SHT2 03.07.2012
- Full Plan 2012/238/PPF-03 08.08.2012
- General Arrangement 1087SHT1 03.07.2012

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.) This permission, insofar as it allows the erection of a wind turbine, shall relate solely to the erection of a Rutland FM910-3 Furlmatic Windcharger wind turbine on a monopole no greater than the following dimensions:

- o Height to Hub of 8000mm
- o Blade Diameter 910mm

Notwithstanding the provisions of the Town and Country (General Permitted Development (Scotland) Order 1992 or any subsequent replacement or amendment Order, no other type or larger wind turbine shall be erected on the site hereby approved without planning permission being granted on an application made to the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of the adjacent properties as the impact of a different wind turbine has not been assessed, in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 7 Non- Domestic Wind Turbines.

(4.) In the event that the wind turbine affects radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the wind turbine shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Plan (2004) Policy LPNE10.

(5.) Notwithstanding the submitted plans, the exterior finish of the wind turbine hereby approved (including the blades) shall be of a light colour (light grey or white) and must not contain any product or other advertisement. Unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG 6 Domestic Wind Turbines.

(6.) Within six months of the wind turbine ceasing to be operational, the turbine and all associated plant and equipment shall be removed

from the site and the site reinstated to its pre-development condition. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to ensure that when the turbine ceases to be operational the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG7 Non- Domestic Wind Turbines.

(7.) When the mast and antenna hereby approved are no longer in use, they shall be removed from site and the site restored in accordance with a restoration scheme submitted to the Planning Authority prior to any restoration on site.

Reason: In order to comply with the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and in order to protect the visual environment and in compliance with Shetland Structure Plan Policy GDS4 and Shetland Local Plan Policy LP NE10

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.

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

None

2012/238/PPF Report_of_Handling.doc
Officer: Mr Richard MacNeill
Date:12.09.2012



Report of Handling

Development: Convert 3 No. garage lock-ups into a one bedroom residential flat

Location: Adjacent To 31 Midlea, Firth, Mossbank

By: McKimm Ltd

Application Ref: 2012/280/PPF

1. Introduction

This is a change of use application for the conversion of 3 existing attached lock up garages to a residential unit. The garages are located adjacent to No 31 Midlea, Firth, Mossbank, to the lower side of Midlea on the northern slope of Firth Voe facing south. The site is within a well established residential area comprising mostly of local authority housing, being of mixed types from terrace, semi and apartment buildings with garage buildings nearby. All are finished with grey roofing and beige or dark brown harl to the walls. The conversion will involve the alteration of the front (north facing) elevation to remove the 3 garage doors and install an entrance door and 2 windows. Internally the space will provide a one bedroomed residential unit with a shared kitchen/living area.

Planning permission was granted in December 2010 for the demolition of 8 derelict flats at 25-30 Midlea, Firth and the construction of a one and a half storey dwellinghouse on the site adjacent to this current site. The demolition has been completed, but construction of the dwellinghouse has yet to begin.

The development is on Shetland Islands Council land and therefore under the Scheme of Delegations that has been approved by the Scottish Ministers the decision to determine the application is delegated to the Planning Committee.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment

SPNE1 - Design

SPHOU3 - Housing Land Allocations

GDS3 - General Development Policy Existing Settlements

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

LPNE10 - Development and the Environment

LPHOU4 - General Requirements for all Dwellings

LPBE13 - Design

LPTP12 - Car Parking Standards and Guidelines

LPWD12 - Sustainable Drainage Systems (SUDS)

Shetland Islands Council Interim Planning Policy Guidance

LDP1 - All development General
SPG14 - General Requirements Dwellinghouses
SPG26 - General Requirements for All New Dev

3. Safeguarding

Scatsta 13km Zone - Scatsta 13km Zone: 13km Consultation Zone Bird Strike Zone

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Land Capability Agriculture - code: 5.3

Scatsta Safeguard - Height: 45m

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. Consultations

Roads Traffic were consulted on the 30 August 2012. Their comments dated 14 September 2012 can be summarised as follows:

This proposal will remove one parking space in front of the proposed building in order to form the access to the building. However, as most of the rest of the flats and houses in the area have been demolished there is sufficient parking close by.

Scottish Water Customer Connections were consulted on the 30 August 2012. Their comments dated 3 September 2012 can be summarised as follows:

Scottish Water does not object to this planning application but has advised that any planning approval granted by the Local Authority does not guarantee a connection to their infrastructure, which is dependant upon capacity being available at the time of an application being made to them. Scottish Water will only give approval for a connection upon receipt of an appropriate application and technical details. They have also advised that the Udhouse Mossbank Wastewater Treatment Works has limited capacity to serve this new demand and that there may be a requirement for the developer to carry out works on the local network to ensure there is no loss of service to existing customers. The applicant is advised to discuss their proposed development directly with Scottish Water (Tel 0141 355 5511 or www.scottishwater.co.uk for further information).

Delting Community Council were consulted on the 30 August 2012. Their comments dated 31 August 2012 can be summarised as follows:

No objections.

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 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 proposal is located within a Zone 1 area for housing whereby planning consent will normally be granted if the proposed development is sited to reflect the character, style, pattern and density of the surrounding area and all the general requirements are met. In this instance the proposed redevelopment of the site, comprising a detached property, is considered appropriate and well related to the established residential area, comprising of a mixture of residential types of varying sizes with material finishing within a limited pallet range.

Given the design and layout for the proposed unit with no windows on the gable end, the proposal will have no impact on the adjacent site in terms of overlooking and as the building is existing there will be no additional impact in terms of over-shadowing.

Roads Services have confirmed that there is sufficient parking in the area to accommodate the proposal. On the application form it is stated that surface water is to be directed into a sustainable drainage system. Although this is not shown on the drawings, there would appear to be adequate space to provide this in a location where it would not cause

any significant detrimental impact to adjacent land. A condition will be attached requiring these details to be provided prior to the development commencing.

By virtue of scale, design, finish, colour, and location, the proposal is in keeping with settlement pattern and style of the area and there would be no unacceptable adverse impact upon the visual amenity of the area. A safe and convenient access can be provided and a satisfactory water connection is available nearby. There are no known unacceptable impacts upon the natural or built environment and residential amenity remains safeguarded. Therefore the proposal accords with the relevant provisions of the Shetland Islands Council Local Plan (2004) and Shetland Structure Plan (2000).

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

Not required.

9. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) By virtue of scale, design, finish, colour, and location, the proposal is in keeping with settlement pattern and style of the area and there would be no unacceptable adverse impact upon the visual amenity of the area. A safe and convenient access can be provided and a satisfactory water connection is available nearby. There are no

known unacceptable impacts upon the natural or built environment and residential amenity remains safeguarded. Therefore the proposal accords with the relevant provisions of the Shetland Islands Council Local Plan (2004) and Shetland Structure Plan (2000).

10. List of approved plans:

- Floor Plan 697.01 22.08.2012
- Existing Elevations 697.02 22.08.2012
- Proposed Elevation 697.02 22.08.2012
- Site Plan 697.10 22.08.2012
- Location Plan and Neighbour Notification 697.11
22.08.2012

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.) In so far as this consent shall relate to the foul drainage to be constructed in association with the development it shall relate only to provision of a connection to the public sewer as specified in the plans and/or details approved under condition no. 1 of this permission. No part of the development shall be occupied until foul drainage works have been completed in accordance with the approved plans and/or details and are 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.

(4.) Prior to the commencement of development details of a surface water drainage system having a rainwater soakaway with sufficient attenuation to reduce flows to at least those during 1 in 10 year rainfall event to a level which would have occurred before the development, to be constructed within the site and in accordance with BRE Digest 365, a minimum of 5 metres from any building or boundary, shall be submitted to and approved in writing by the Planning Authority. The dwellinghouse hereby permitted shall not be occupied until all the surface water from the dwellinghouse has been connected to the rainwater soakaway. The person carrying out the development should provide the Planning Authority with a written notice of completion of that phase of the development.

Reason: To reduce the potential adverse effects or hazards though flooding by reducing the rate which rainwater can travel across the site and onto neighbouring land or buildings in accordance with Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10, LPWD11 and LPWD12.

(5.) 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 seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seeds mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges). 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.

(6.) If any top soil, spoil or waste materials arising from the development of the site carried out as part of the development hereby permitted, are to be removed from or disposed of outwith the site, details of the method of storage or 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:

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.

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.

Building Warrant:

You are advised to contact the Building Standards Service on 01595 744800 to discuss any building warrant requirements for your development.

Principal Elevation:

The north west elevation of the dwellinghouse hereby approved shall be considered to be the principal elevation in terms of The Town and Country Planning (General Permitted Development) (Scotland) Order 2011.

Scottish Water

Scottish Water has advised that any planning approval granted by the Local Authority does not guarantee a connection to their infrastructure, which is dependant upon capacity being available at the time of an application being made to them. Scottish Water will only give approval for a connection upon receipt of an appropriate application and technical details. They have also advised that the Udhouse Mossbank

Wastewater Treatment Works has limited capacity to serve this new demand and that there may be a requirement for the developer to carry out works on the local network to ensure there is no loss of service to existing customers. The applicant is advised to discuss their proposed development directly with Scottish Water(Tel 0141 355 5511 or www.scottishwater.co.uk for further information).

12. Further Notifications Required

None.

13. Background Information Considered

Planning permission 2010/260/PCD for the development of the adjacent site.

14. Attachments

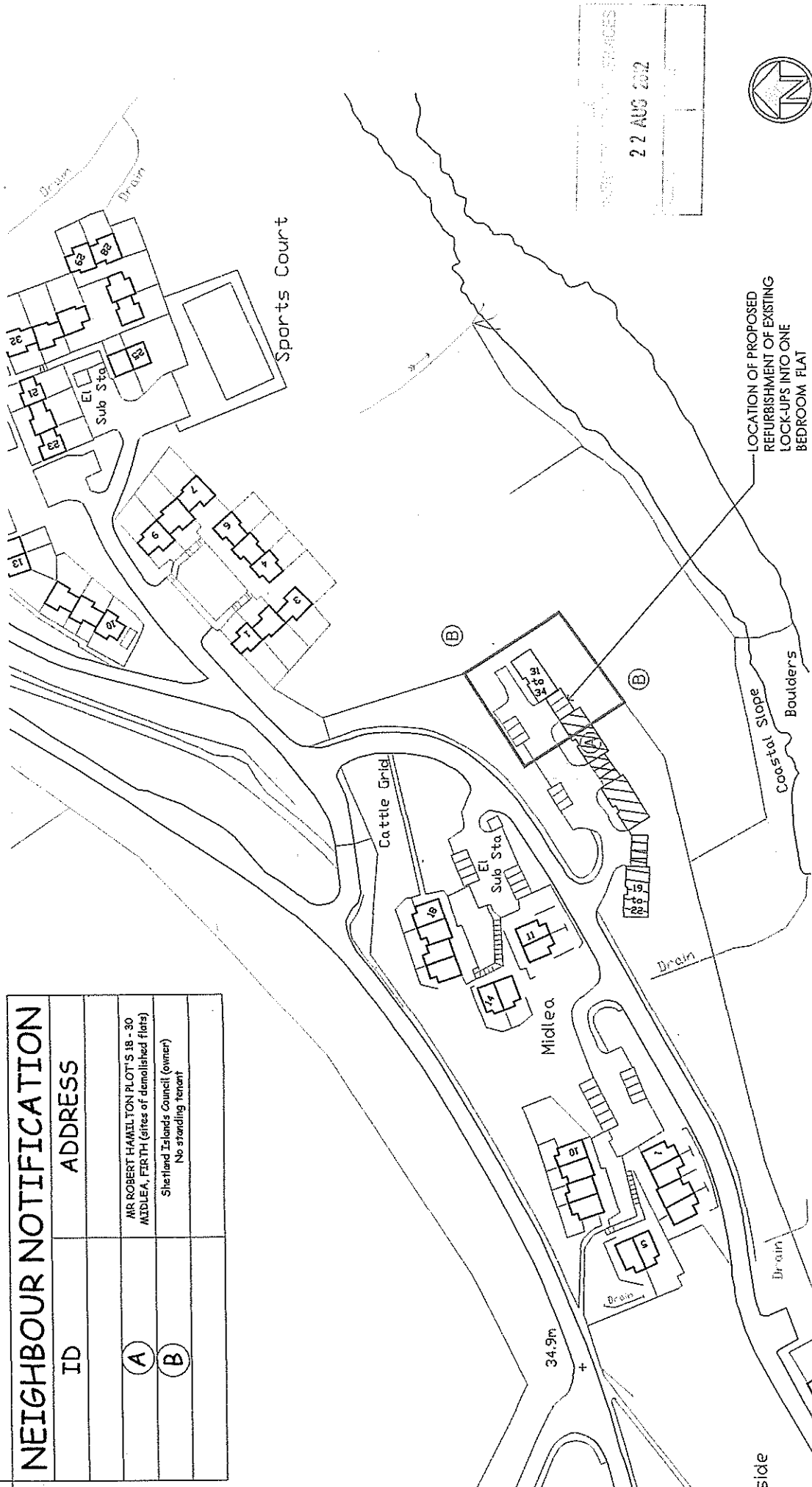
Location Plan, Drawing No 697.11

Planning Committee Report.doc

Officer: Janet Barclay Smith

Date: 17th September 2012

NEIGHBOUR NOTIFICATION	
ID	ADDRESS
(A)	MR ROBERT HAMILTON PLOT'S 18 - 30 MIDLEA, FIRTH (sites of demolished flats)
(B)	Sherland Islands Council (owner) No standing tenant



LOCATION PLAN PLAN Scale 1:1250

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VEGA TECHNICAL SERVICES
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Project	PROPOSED CONVERSION OF 3 No. LOCK-UP GARAGES INTO ONE BEDROOM APARTMENT
Drawing Title	Location plan and neighbour notification
Drawing Status	PLANNING
Drawing Number	697.11
Date Drawn	10.9.11
Scale(s) & A3	1:1250
Revision	-

Rev	Date	Description

