



REPORT

To: Planning Committee

18 December 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 both 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 both applications is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2012/081/PPF	Site steel container for agricultural purposes, Hill Park, Trondra	Mrs Thelma Pottinger	Approve, with conditions	Planning authority is landowner
2012/368/PPF	Erection of bus stop and shelter ancillary to park and ride service between Sella Ness Industrial Estate and Sullom Voe Terminal, Sullom Voe Terminal, Mossbank, Shetland, ZE2 9TU	Total E&P UK Ltd.	Approve, with conditions	Planning authority is a landowner of part of the application site

- 1.6 In respect of both applications 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 both applications.

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 both applications, for the reasons that are set out in the related Report of Handling.

2012/081/PPF - Site steel container for agricultural purposes, Hill Park, Trondra by Mrs Thelma Pottinger

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.) Within 6 weeks of the date of this planning permission, the blue steel container shall be positioned in the location on the approved plan (ref 2012/081/PPF - 02) and painted in a green opaque finish.

Reason: To remove the container from the existing more visible location within the NSA and to more appropriately finish the container and better integrate its appearance within the landscape. To accord with the relevant provisions of the Shetland Islands Council Local Plan Policy LPBE13, and Shetland Islands Council Structure Plan Policy SPNE1 and SPNE2.

(4.) If any top soil, spoil or waste materials arising from any excavation of the site carried out as part of the development hereby permitted, and the construction of the development, 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.

2012/368/PPF - Erection of bus stop and shelter ancillary to park and ride service between Sella Ness Industrial Estate and Sullom Voe Terminal, Sullom Voe Terminal, Mossbank, Shetland, ZE2 9TU by Total E&P UK 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.

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(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.) 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.

(4.) If any top soil, spoil or waste materials arising from any excavation of the site carried out as part of the development hereby permitted, and the construction of the development, 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.

Report of Handling

Development: Site steel container for agricultural purposes

Location: Hill Park, Trondra.

By: Mrs Thelma Pottinger.

Application Ref: 2012/081/PPF

1. Introduction

The proposal is to site a steel container adjacent to existing store buildings on croftland at Hill Park, Trondra. The existing buildings are well established within the landscape and are of a steel sheet construction. The location forms a turning head and field access along a track from the main B9074.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

SPNE1 - Design

SPNE2 - National Scenic Areas

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

LPNE10 - Development and the Environment

LPBE13 - Design

3. Safeguarding

National Scenic Area

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

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 Shetland Structure and Local Plan Policies developers are encouraged to produce a high standard of design to ensure that new developments are sympathetic to the landscape and built environment of which they will form part. Furthermore, in the National Scenic Area (NSA) the conservation and enhancement of the landscape will be given prime consideration in the determination of development proposals. In particular the Council will refuse development proposals that would have a significant adverse effect on the integrity or character, as appropriate, of the NSA.

The proposal is for the siting of an old steel container (currently finished in blue) which is not purpose built for agriculture or of a high standard of design or finish. However, the siting of the container, being adjacent to existing small storage building/garage structures and outside of all clear public views, is sufficient to minimise any landscape and visual impact to such an extent that the presence of the container would not have any significant adverse effect on the integrity or character of the National Scenic Area. Furthermore, the applicant proposes to paint the container green as an attempt to further integrate the structure into the open crofting landscape.

Therefore in light of the above, the proposal is acceptable as being in accordance with the pertinent policies of the Shetland Structure and Local Plan.

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 Planning 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.) The container is located such that there would be no significant adverse impact upon the character or integrity of the National Scenic Area, being outside of clear public views and within a small building grouping at the end of a track. The proposal complies with the relevant provisions of the Shetland Islands Council Local and Structure Plan Policies.

10. List of approved plans:

- | | |
|------------------------------|------------|
| • Site Plan 2012/081/PPF-02 | 08.03.2012 |
| • Elevations 2012/081/PPF-03 | 08.03.2012 |

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.) Within 6 weeks of the date of this planning permission, the blue steel container shall be positioned in the location on the approved plan (ref 2012/081/PPF - .02) and painted in a green opaque finish.

Reason: To remove the container from the existing more visible location within the NSA and to more appropriately finish the container and better integrate its appearance within the landscape. To accord with the relevant provisions of the Shetland Islands Council Local Plan Policy LPBE13, and Shetland Islands Council Structure Plan Policy SPNE1 and SPNE2.

(4.) If any top soil, spoil or waste materials arising from any excavation of the site carried out as part of the development hereby permitted, and the construction of the development, 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.

11. Further Notifications Required

None

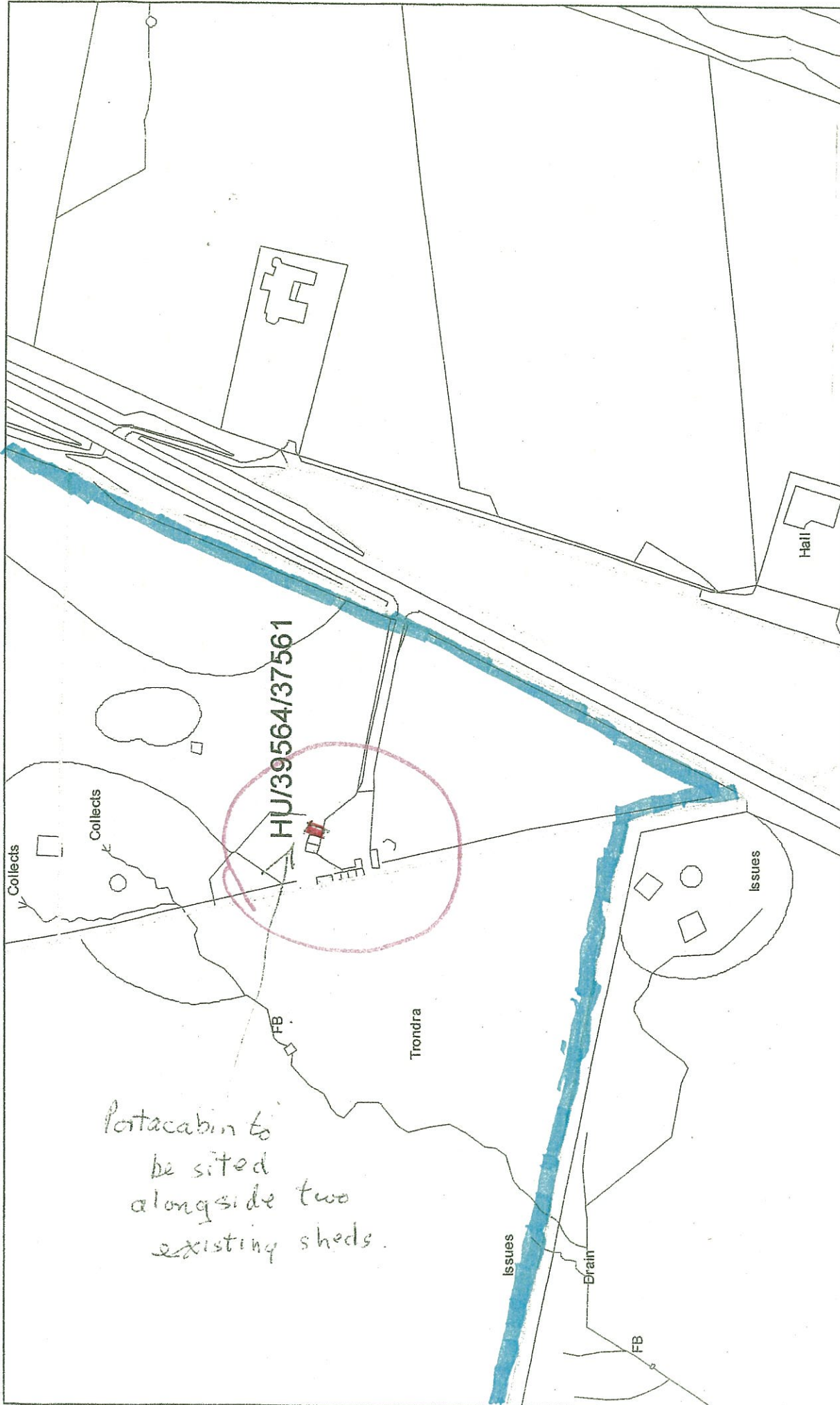
12. Background Information Considered

None

13. **Attachments**

Site Plan Ref 2012/081/PPF – 02
Elevations Ref 2012/081/PPF – 03

2012_081_PPF_Planning Committee Report.doc
Officer: Matthew Taylor
Date: 10th December 2012



161100
883/0069
MODF

Map 2E
INFRASTRUCTURE SERVICES

Please show correct boundaries

- 9 FEB 2012

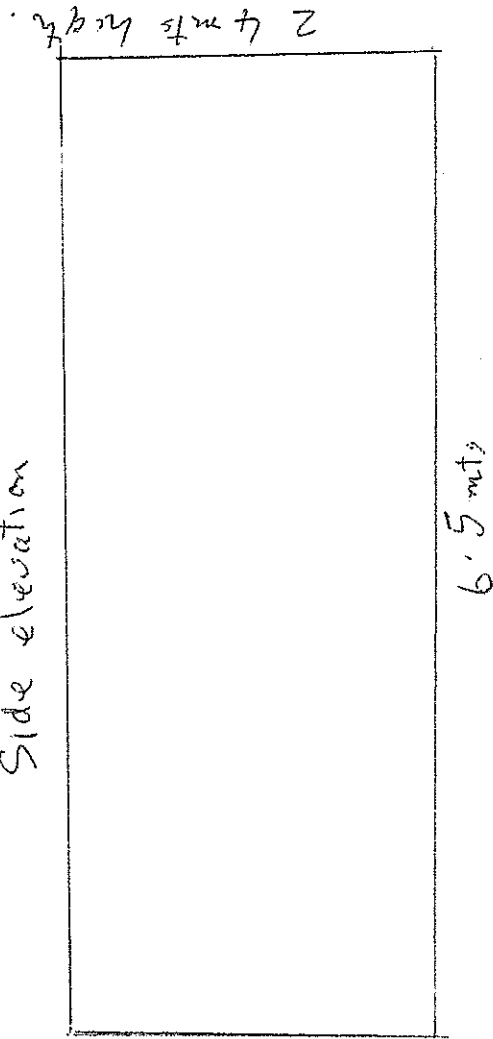
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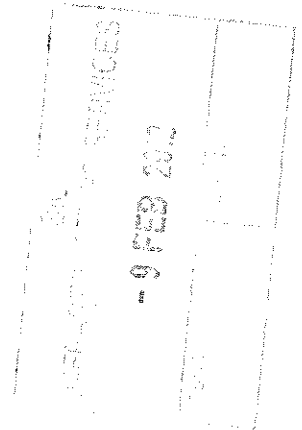
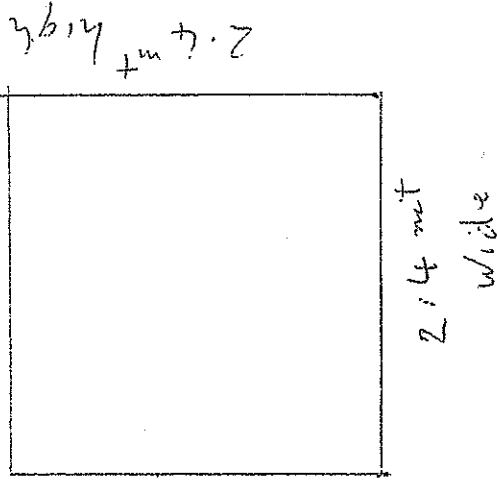


Measurements of portacabin
to be sited at Tondra

Side elevation



End Elevation



2012/081/PPC-03

Report of Handling

Development: Erection of bus stop and shelter ancillary to park and ride service between Sella Ness Industrial Estate and Sullom Voe Terminal

Location: Sullom Voe Terminal, Mossbank, Shetland, ZE2 9TU,

By: Total E & P UK Ltd

Application Ref: 2012/368/PPF

1. Introduction

This proposal is to provide a bus stop and erect a bus shelter, which comprises 3 No. bus shelter units, on land at Sullom Voe Oil Terminal in Mossbank, part of which is owned by the Shetland Islands Council.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS1 - General Development Policy Sustainable Development
GDS2 - General Development Policy Economic Competitiveness
GDS3 - General Development Policy Existing Settlements
SPENG1 - Sullom Voe and Oil Related Developments
SPIND1 - Development of the Economy

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

LPNE10 - Development and the Environment
LPCST5 - Coastal Development at Lerwick and Sullom Voe
LPIND4 - Business and Industry in Existing Rural Settlements

Shetland Islands Council Interim Planning Policy Guidance

SPG1 - All development Layout and Design

3. Safeguarding

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

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Health and Safety Executive - Code: HSE080

Site Name: Sullom Voe

Type: Hazardous Substances Consent

HSE Ref: H0620

Health and Safety Executive - Code: HSE081

Site Name: Sullom Voe

Type: Hazardous Substances Consent

HSE Ref: H0620

Health and Safety Executive - Code: HSE082
Site Name: Sullom Voe
Type: Hazardous Substances Consent
HSE Ref: H0620

Land Capability Agriculture - code: 6.3

Scatsta Safeguard - Height: 15m

4. **Consultations**

No consultations undertaken.

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.

This application is directly linked to the previously approved application (2011/370/PPF) to create a bus turning area at Sullom Voe Terminal in connection with the shuttle bus service from the Sella Ness accommodation area operated by the applicant.

The creation of a bus stop area and the 3 No. bus shelter units will cover a small area of land comprising a total of 42 square metres. The

shelters will provide a safe and weatherproof waiting area for users of the shuttle bus.

The proposed bus stop and shelters are compatible with the aim of keeping the roadway to the harbour area clear, and will not adversely impact upon the visual amenity of the area.

It is considered that the proposed development is an appropriate and sustainable use of the site as it is situated within an existing industrial zone and is close in proximity to existing operations at Sullom Voe Terminal. As such, the proposal complies with the policies outlined at paragraph 2 above.

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 Planning 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.) It is considered that the proposed development is an appropriate and sustainable use of the site as it is situated within an existing industrial zone and is close in proximity to existing operations at Sullom Voe Terminal. The proposed shelters are compatible with the aim of keeping the roadway to the harbour area clear and the works will have no adverse impact upon the natural and built environment, nor upon

the visual amenity of the area. As such, the proposal complies with Shetland Structure Plan (2000) Policies GDS1, GDS2, GDS3, GDS4, SPENG1 and SPIND1 and Shetland Local Plan (2004) Policies LPNE10, LPCSF5 and LPIND4.

10. List of approved plans:

- Location Plan SGP-GEN-00-C-LY-173654-001 R01
16.11.2012
- Site & Location Plan SGP-GEN-00-C-LY-173653-001 R01(A)
16.11.2012
- Specifications 2012/368/PPF_SIC001 16.11.12

11. Conditions:

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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.) 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.

(4.) If any top soil, spoil or waste materials arising from any excavation of the site carried out as part of the development hereby permitted, and the construction of the development, 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.

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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.

11. Further Notifications Required

None

12. Background Information Considered

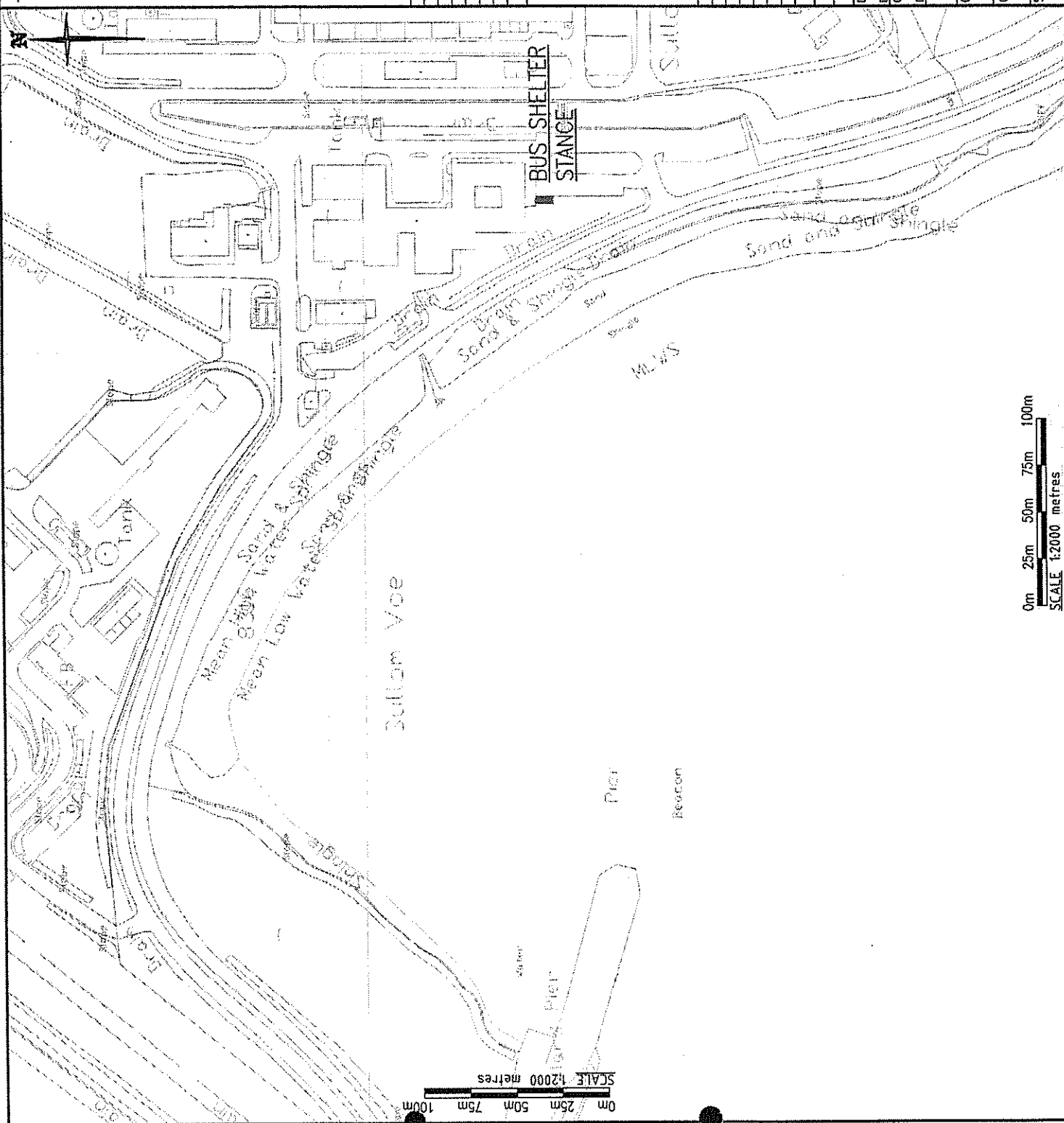
2011/370/PCD

2012/368/PPF- Report_of_Handling.doc

Officer: Mr Richard MacNeill

Date: 18th December 2012

NOTES



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SCALE 1:2000 metres

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REPORT

To: Planning Committee

18 December 2012

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

Applications for Listed Building Consent where Determination cannot be taken by Appointed Person under Approved Scheme of Delegations

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 The approved Scheme of Delegations identifies the circumstances under which an application for listed building consent falls to be determined by the Planning Committee ("the exceptions") as opposed to being determined by officers as have been appointed by the planning authority (defined as the Appointed Person).
- 1.3 The exceptions that apply include applications where: a) application is made by the planning authority or a member of the planning authority; b) the application relates to land in the ownership of the planning authority or to land in which the planning authority has a financial interest; c) a consultee (Scottish Natural Heritage, the Scottish Environment Protection Agency, Historic Scotland, the Health and Safety Executive, Scottish Water or the Community Council) has specifically objected to a proposal, and conditions cannot address those issues, and the recommendation is for approval; or d) the Appointed Person proposes to refuse an application. In relation to interpretation of the first two exceptions any part of the Council is regarded as being the planning authority.
- 1.4 With the agreement of the Chairperson and Vice-Chairperson of the Planning Committee, applications for listed building consent, 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.
- 1.5 The application for listed building consent that is set out in the table below, where an exception applies, has had a Report of Handling prepared by the officer detailing: the proposal; the assessment carried out; and recommendation for refusal of consent, as well as the reasons for such a decision, and this is available in the Member's Room at the Town Hall. The reason for recommending refusal of the application is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2007/290/LBC	Install air conditioning units at high level at rear of building, Clydesdale Bank, 106 Commercial Street, Lerwick, ZE1 0EX	National Australia Group	Refuse consent	Appointed Person proposes to refuse consent

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

2. Recommendation

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

planning committee.doc J R Holden
Planning Committee: 18/12/2012

**2007/290/LBC - Install air conditioning units at high level at rear of building,
Clydesdale Bank, 106 Commercial Street, Lerwick, ZE1 0EX**

Recommended Reason for Refusal

(1.) Due to the lack of information on the air conditioning units it cannot be proved: that the noise emissions of the units will be of an acceptable level; that there will not be an adverse effect on the built heritage; that the development will preserve and enhance the character or amenity of the Conservation Area or that a high level of design in terms of siting, layout, scale, colour, materials and form will be executed. As such the proposal fails to meet the requirements of: Shetland Islands Council Structure Plan (2000) policies GDS4, SPNE1 and SPBE1; Shetland Islands Council Local Plan (2004) (As Amended) policies LPBE8, LPNE10, LPBE6 and LPBE13; and Shetland Islands Council Interim Planning Policy Guidance policies LDP5 and SPBE1.

Report of Handling

Development: Install air conditioning units at high level at rear of building

Location: Clydesdale Bank
106 Commercial Street
Lerwick
ZE1 0EX

By: National Australia Group

Application Ref: 2007/290/LBC

1. Introduction

This is an application for listed building consent that was submitted in 2007 to install external air conditioning units at a high level to the rear of the Clydesdale Bank at 106 Commercial Street in Lerwick.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment

SPNE1 - Design

SPBE1 - Built Heritage

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

LPBE8 - Development in Conservation Areas

LPNE10 - Development and the Environment

LPBE6 - Listed Buildings

LPBE13 - Design

Shetland Islands Council Interim Planning Policy Guidance

LDP5 - All Dev Historic Built Environment

SPBE1 - Built Heritage

3. Safeguarding

Conservation Areas - Conservation Area: Conservation Area

Listed Building - Listed buildings: LERWICK, 106 COMMERCIAL STREET, CLYDESDALE BANK

Category of listing: C(S)

Land Capability Agriculture - code: 888

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. Consultations

The Conservation Officer was consulted on 16 July 2007. Their comments dated 24 July 2007 can be summarised as follows:

I have had some pre-application discussions with the agent regarding this proposal and I feel that the location now being proposed is likely to be the best in terms of the non-visibility of the units.

I would suggest however that you ask for a dimensioned drawing of the proposed units, and also details of the colour of the units (can they be 'painted' a colour that will blend in with the background?). We may also need details of any auxiliary fittings, for example ducting or vent, if they will affect the character of the building.

The application states that listed building consent is not required for the internal works. I understand that these works generally involve the reconfiguration of existing modern fittings, which I agree is unlikely to require consent. We do not, however, have sufficient information to confirm this and you may wish to ask for further details to allow a formal decision to be made.

5. Statutory Advertisements

The application was advertised in the Edinburgh Gazette on 20.07.2007

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.

This is an application that was submitted in 2007 to install external air conditioning units at 106 Commercial Street in Lerwick.

Further to comments from the Conservation Officer a request was made for dimensioned drawings of the proposed units, details of colours and also details of any auxiliary fittings. These details have never been received by the Planning Authority.

In October of this year a site visit was undertaken to establish whether or not the installation of the air conditioning units had gone ahead. It was established that the units have not been installed, and the bank building's occupiers indicated that there is now no intention of doing so.

As the application proposal is not now to be progressed the named Agent was contacted and asked to withdraw the application, however, the Agent's contract with the applicant has now ended and so the Agent is unable to withdraw the application. Further to this a letter was sent to Clydesdale Bank Headquarters requesting it to either progress the application or withdraw it. No response has been received by the Planning Authority to this letter.

Due to the time elapsed since the submission of this application and the lack of response from the applicant, the application is being recommended for refusal.

Due to the lack of information on the air conditioning units it cannot be proved: that the noise emissions of the units will be of an acceptable level; that there will not be an adverse effect on the built heritage; that the development will preserve and enhance the character or amenity of the Conservation Area or that a high level of design in terms of siting, layout, scale, colour, materials and form will be executed. As such the proposal fails to meet the requirements of the policies set out in section 2 above.

8. Policy and Delegated Authority

A decision to refuse this application complies with Council planning policy. As the Appointed Person proposes to refuse the application, the decision to determine the application is delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.

If members are minded to approve the application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the approval 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

Refuse consent

Reasons for Council's decision:

(1.) Due to the lack of information on the air conditioning units it cannot be proved: that the noise emissions of the units will be of an acceptable level; that there will not be an adverse effect on the built heritage; that the development will preserve and enhance the character or amenity of the Conservation Area or that a high level of design in terms of siting, layout, scale, colour, materials and form will be executed. As such the proposal fails to meet the requirements of: Shetland Islands Council Structure Plan (2000) policies GDS4, SPNE1 and SPBE1; Shetland Islands Council Local Plan (2004) (As Amended) policies LPBE8, LPNE10, LPBE6 and LPBE13; and Shetland Islands Council Interim Planning Policy Guidance policies LDP5 and SPBE1.

10. List of refused plans:

- Location Plan Drawing No. 5224/06 Stamped Received. 03.07.2007
- Site Plan Drawing No. SCAN 001 Stamped Received. 03.07.2007
- Floor Plan Drawing No. 5224/01 Stamped Received. 03.07.2007
- Floor Plan Drawing No. 5224/02 Stamped Received. 03.07.2007
- Floor Plan Drawing No. 5224/20 Stamped Received. 03.07.2007
- Floor Plan Drawing No. 5224/04 C Stamped Received. 03.07.2007
- Elevations Drawing No. 5224/10 Stamped Received. 03.07.2007

11. **Further Notifications Required**

None.

12. **Background Information Considered**

None.

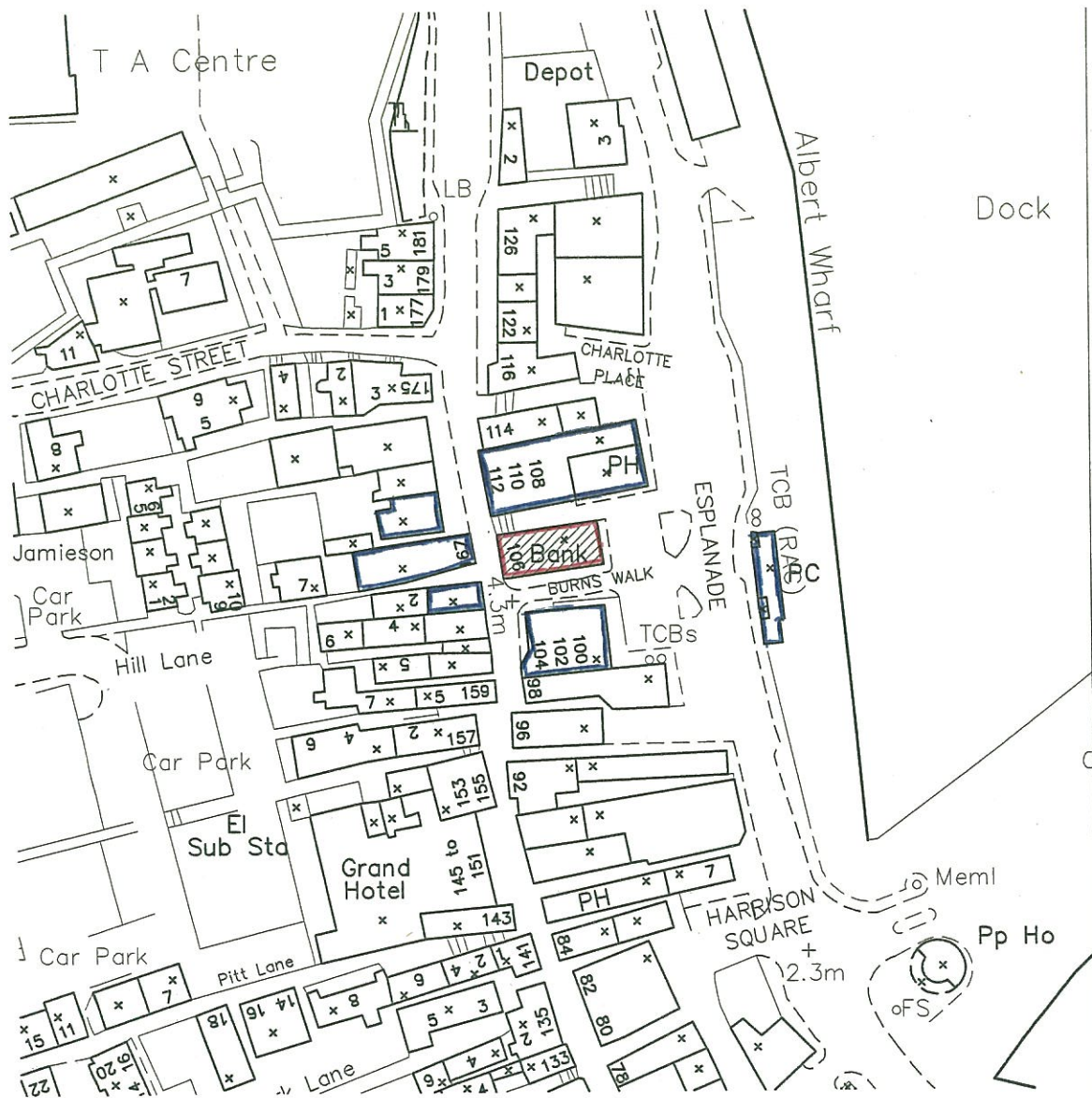
13. **Attachments**

Location Plan Drawing No. 5224/06

2007/290/LBC Planning Committee Report.doc

Officer: Amy Maclean

Date: 10 December 2012



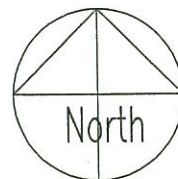
Location Plan

SIC INFRASTRUCTURE
SERVICES DEPARTMENT

03 JUL 2007

RECEIVED

Scale 1:1250



PROJECT
NATIONAL AUSTRALIA GROUP
Clydesdale Bank, 106 Commercial St, Lerwick

DRAWING TITLE
Lerwick Branch
Location Plan

scale
1:1250

drawn
HC

date
27/04/07

HONEYMAN JACK & ROBERTSON

CHARTERED ARCHITECTS
20 PARK CIRCUS
GLASGOW G3 6BA

tel. 0141-332-4206
fax. 0141-332-8363

rev. sfx.