

**Planning Committee****14 January 2014**

2013/403/PPF: Erect a 6kw wind turbine on a 9m high tower and excavation of associated trench for electricity cable, The Final Frontier, Noness, Sandwick by Mr & Mrs Alan Smith

Report Number : PL-01-14-F

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

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This report concerns an application to erect a 6kw wind turbine on a 9m high tower and excavation of associated trench for electricity cable at the Final Frontier, Noness, Sandwick.
- 1.2 This application is being presented to the Committee as the application involves a member of staff working for the Planning Service section involved in assessing the merits of applications.

2.0 Decision Required

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

3.0 Determination

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

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

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

Statutory Development Plan Policies:

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment
SPENG3 - Renewable Energy Sources
SPENG4 - Shetland Energy Plan

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

LPNE10 - Development and the Environment
LPBE13 - Design
LPENG6 - Energy Proposals
LPENG7 - Control of Potential Nuisance from Energy Generators
LPENG8 - Energy Proposals Affecting Designated Environmental Sites

Shetland Islands Council Local Development Plan

RE1 - Renewable Energy
NH4 - Local Designations

Safeguarding

30km Radius Scatsta - 30km Sumburgh Scatsta: 1

Civil Aviation Authority - CAA: Bird Strike Hazard 13km consultation zone around aerodrome

Civil Aviation Authority - CAA: All Applications involving tree planting, mineral extraction, quarrying, refuse tips, reservoirs, sewage disposal, bird sanctuaries, all applications connected with aviation use.

Core Paths - Core Paths: CPPS01

Decrofted - Decrofted: 18226

Land Capability Agriculture - code: 5.3

Land Capability Agriculture - code: 5.2

Shetland Local Landscape Area: No Ness and Mousa

4.0 Report

- 4.1 The proposal seeks to install a 6kw Kingspan wind turbine on land currently used for rough grazing, to the east of the property it seeks to serve, known as The Final Frontier which is located on the No Ness peninsula.
- 4.2 The supporting document submitted with the proposal considers that the siting of the proposed turbine is sufficiently remote from all adjoining neighbouring properties to ensure that residential amenities are safeguarded from unacceptable noise levels or shadow flicker.
- 4.3 The scaled site and location plans and supporting document provided, show that the proposed wind turbine will be located approximately 174 metres away from the property it seeks to serve and approximately 262 metres away from the nearest non-related sensitive receptor, a dwellinghouse located to the north west of the site.

- 4.4 One letter of objection has been received to the proposed development in respect of unknown health impacts that turbines may pose to people, pets, wildlife, livestock and other life forms; unacceptable cost to the economy due to increasing electricity bills required to support such developments and the negative impacts that turbines have upon tourism.
- 4.5 It is considered that this objection relates to commercial wind farm developments in general and does not raise any specific issues relating directly to the site proposed for development.
- 4.6 Shetland Local Plan Policy LPENG6 stipulates that domestic scale aerogenerators:
- a) do not have an unacceptable adverse affect on local residents or occupiers of neighbouring land;
 - b) are appropriately designed and located, and is not sited on the skyline if other suitable locations are available;
 - c) are located as close to the associated dwellinghouse as is safely and technically possible; and
 - d) do not conflict with any other Structure Plan or Local Plan policies.
- 4.7 The Council's Interim Planning Policy on renewable energy technologies for householders, recommends that the minimum separation distance to avoid shadow flicker for neighbouring properties, is 10 times the blade diameter of the proposed turbine. Given that the blade diameter is approximately 5.6 metres in length, the distance required to remove the risk of shadow flicker occurring for other residential properties would need to be a minimum of 56 metres away. As the nearest sensitive non-related noise receptor is situated approximately 262 metres away from the turbine, it is considered that there will be no adverse impact upon neighbouring residents in terms of shadow flicker or disturbance from noise.
- 4.8 The turbine is positioned 174 metres from the property it is intended to serve. No objections have been received from the Council's Environmental Health Service in relation to noise impacts on the nearest non-associated noise sensitive receptor which is located 262 metres from the proposed turbine location. Due to the proximity of the turbine to the property it is intended to serve being less than that at which a noise level below 35 dbA is achieved (recommended to avoid a noise nuisance), it is recommended that a personal permission be attached to any permission granted which requires the applicants to be in residence at this property while the turbine is functioning.
- 4.9 The proposed turbine site lies within an area which has been designated within Supplementary Guidance as a Shetland Local Landscape Area (LLA) - No Ness and Mousa within the Shetland Local Development Plan, which is the settled view of the Council and a material consideration in the determination of this proposal. LLAs have the potential to protect and enhance the character and quality of landscapes, which are valued locally. The creation of LLAs can increase awareness of the distinctive character and special qualities of

local landscapes and support outdoor recreation, physical activity and local tourism.

- 4.10 Development that affects a Local Nature Conservation Site or LLA will only be permitted where:
- It will not adversely affect the integrity of the area or the qualities for which it has been identified; or
 - Any such effects are clearly outweighed by social, environmental or economic benefit
- 4.11 Within the Supporting Statement which accompanies the application the applicant has identified that the need for such a development is to reduce the need to buy electricity and to benefit from the UK Government Feed In Tariff for renewable energy. The production of renewable energy is supported by Development Plan Policy and it is therefore considered that the proposal meets the criteria in terms of national environmental and localised economic benefits, because utilising renewable energy reduces demand for energy generated by non-renewable means.
- 4.12 Supplementary Guidance seeks to protect the largely undeveloped nature of the headland, as a contrast to the settled land to the west and the purpose of the LLA is to ensure sympathetic siting and design of new development within the LLA. Even though having designated the area as a LLA, it is not the intention of the Council to prevent development, but to encourage appropriate consideration of the landscape.
- 4.13 The applicant has provided a Supporting Statement that outlines that the proposed site has been chosen to reflect the status of the landscape both in terms of the turbine size and site location. The 9 metre domestic scale mast, coloured grey will minimise the impact within the landscape. The site of the proposed turbine is located fairly close to the building group of two dwelling houses and associated outbuildings that delineate the end of the developed area, and so avoids encroachment of development taking place onto the headland of the peninsula.
- 4.14 Policy supports the development of renewable energy systems and as such issues such as the protection of areas with landscape value and promoting sustainable energy have to be looked at carefully to ensure that an acceptable balance of interests can be achieved. It is clear that any new structure such as a wind turbine within an open landscape will be visible, as are the vast majority of turbines that have been recently approved in Shetland. What must particularly be considered in this case is the extent to which such a structure will impact adversely upon what is an otherwise unspoilt landscape.
- 4.15 The position of the turbine and its relationship with the surrounding landscape, means that it will be visible in views, including those that will be gained by visitors to the island of Mousa and its Broch, who will look towards the currently unspoilt east facing coastline of the No Ness headland. Taking into account the 9 metre mast height (which is lower than most for turbines that are proposed) and the finish in a light grey

colour, these are details that will serve to minimise the adverse visual impacts of accommodating the turbine in the location proposed. It is considered that by virtue of the proposed turbine being some 1.9 kilometres from the Mousa Broch, the adverse impact will be outweighed by the environmental and economic benefits.

- 4.16 Also by virtue of the turbine's location, scale, design and form, it is considered that the amenities of neighbouring properties will not be adversely affected given the fact that the siting of the turbine is sufficiently remote in terms of its proximity to other qualifying noise sensitive residencies in the surrounding area, and it will constitute no noise nuisance.

5.0 Implications (of Decision)

Strategic

- 5.1 Delivery On Corporate Priorities – A decision made on the planning application that accords with the development plan would contribute directly to the Single Outcome Agreement through the outcome that we live in well designed, sustainable places.
- 5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application.
- 5.2.1 RSPB have no objections.
- 5.2.2 Shetland Islands Council – the Environmental Health Service raised no objections to the proposal.
- 5.2.3 HIAL - Safeguarding checks triggered consultations with the Airport Manager at Sumburgh Airport. HIAL have confirmed that their calculations show that, at the given position and height, this development would not infringe the safeguarding surfaces. HIAL therefore has no objections to the proposal.
- 5.3 Policy And/Or Delegated Authority – The application is for a development falling within the category of Local Development. As the application is by a member of staff working for the Planning Service section involved in assessing the merits of applications, the decision is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.
- 5.4 Risk Management – If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being

overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 Taking the comments received into account and having assessed the proposed development, against Shetland Structure Plan (2000) and Shetland Local Plan (2004) policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with the development plan policy and is recommended for approval. The proposal accords with the relevant provisions of the Shetland Islands Council Local Plan Policies LPNE10; LPHOU4 general and zone 3; and Shetland Structure Plan Policies GDS3; GDS4; SPNE1; SPHOU2; SPNE2
- 6.3 Subject to the conditions listed in the schedule appended to the report this application is recommended for approval.

For further information please contact:

Richard MacNeill, Planning Officer – Development Management

Tel: 01595 744803 Email: Richard.macneill@shetland.gov.uk

07/01/2014

List of Appendices

1. Location Plan and Site Plan
2. List of recommended conditions

Background documents:

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

2013/403/PPF List of Planning 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 shall relate solely to the erection of an Kingspan KW6 6kW wind turbine on a monopole no greater than the following dimensions:

Height to Hub = 9.000 mm

Blade Diameter = 5.600 mm

Foundation base not to project above ground surface

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 neighbouring 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 (2009) SPG6 Domestic Wind Turbines.

(4) This permission takes effect only for as long as Mr & Mrs Alan Smith are the occupiers of The Final Frontier, Noness, Sandwick the dwellinghouse served by the wind turbine hereby approved. Should Mr & Mrs Alan Smith cease to be the occupiers of the dwellinghouse at The Final Frontier, Noness, Sandwick , for a continuous period exceeding 5 months the turbine and all associated plant and equipment shall be removed from the site and the site reinstated to its pre-development conditions, unless retention is otherwise granted on application made to the Planning Authority.

Reason: To ensure that the presence of the wind turbine does not create a statutory noise nuisance and in order to comply with the Shetland Local Plan (2004) policies LPENG7 and LPENG9, and the Shetland Islands Council Interim Planning Policy Guidance SPG6. Also, to ensure that when the turbine ceases to be operational the site is restored to its-predevelopment condition in the interests of visual amenity and in compliance with Shetland Islands Council's Local Plan Interim Planning Policy (December 2009) SPG6.

(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) 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 (2009) SPG6 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 that 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 (2009) SPG6 Domestic Wind Turbines.

(8.) The power cable shall be laid underground, and measures shall be taken to safeguard turfs removed for the power cable laying; these shall be replaced during site reinstatement works or the site shall be reinstated by a means otherwise agreed in writing by the Planning Authority prior to the commencement of development.

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.

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.

1. This drawing is to be read in conjunction with all other Engineering drawings and all other relevant drawings and Specifications
2. All dimensions are in mm unless stated otherwise
3. Ensure drawing has been printed to the correct size when scaling

Denotes Land Boundary Line. The parcel of land shown on this map directly around the associated property is owned by the Applicant, Mr & Mrs Smith, The Final Frontier, Honess, Sandwick. ZE2 9HW

... 20m offset from the Site Area

Extents of Shadow Flicker Area, which is defined as 10x the turbine rotor diameter. This gives $10 \times 5.6m = 56m$

Extents of 15dBA Noise Unit Area, which has a radius of 164m

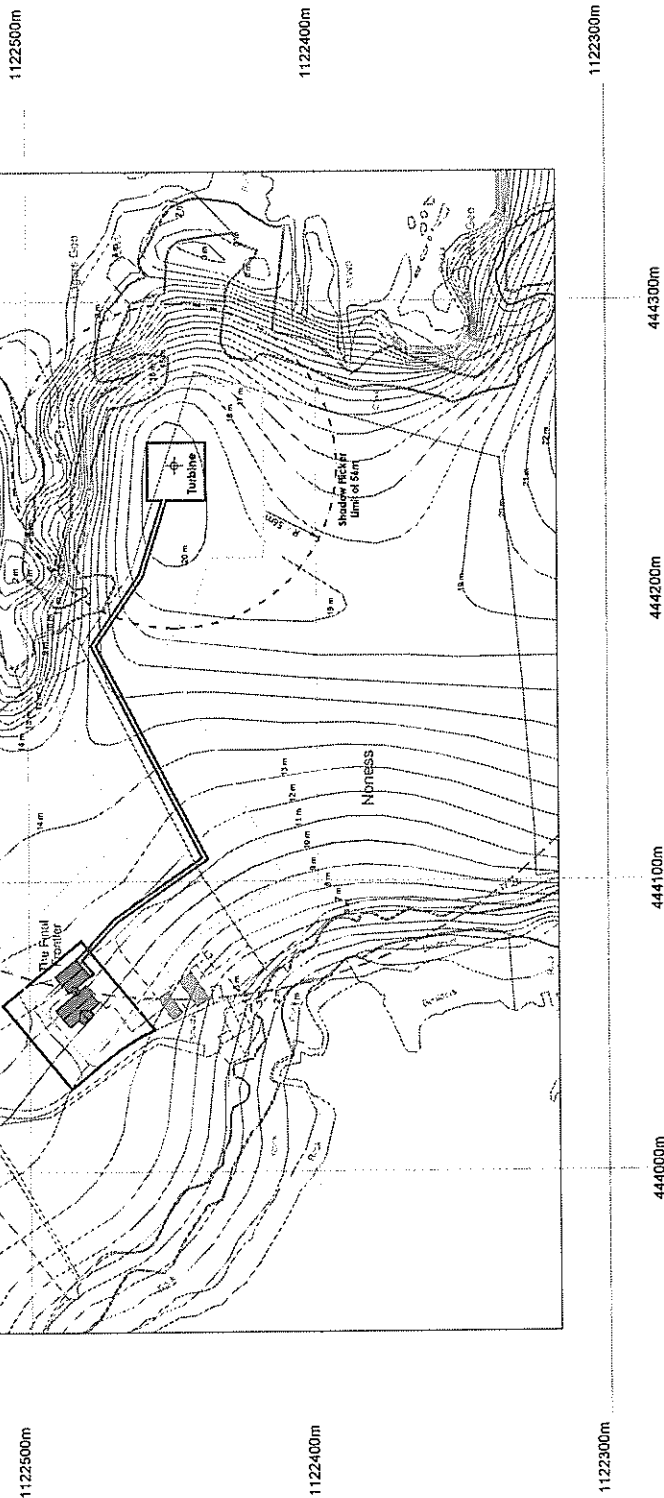
Denotes a property with a financial incentive in the project

The Site Area for the Wind Turbine Installation, which is delineated in REF; extends to 0.070 ha or thereby

NOTES:

Land within 20m of the proposed Site Area is delineated by the dashed yellow line. Some of this land falls within the blue boundary which delineates the plot Owned/Occupied by the Applicant, Janet Barclay, The Final Frontier, Ness, Sandwick.

All other land within the dashed yellow line is Owned/Deeded as follows
Owner - The Sumburgh Company, Sandlodge, Sandwick
Occupied - Janet Barclay, The Final Frontier, Noness, Sandwick



Location Plan

Scale: NT\$

Row	Date	Drawn By	Checked By	Description
A	08/11/13	EJA	MS	Minor Revisions for Planning Book
-	04/11/12	EJA	MS	Preliminary Draft Maps

Nordri Ltd

very mild
central (state
wide)
land
DNA

Project
 Mr & Mrs A Smith
 The Final Frontier, Nonness
 Draving Tide
 Proposed Wind Turbine
 Location Plan

Drawn By
 EJA
 Check By
 IAS
 Date
 Nov 2013
 Project Number
 130065
 Scale @ A2
 1:1250



REPORT

To: Planning Committee

14 January 2014

**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
2013/384/PPF	Erect an external PIR light to entrance at the rear of building, Annsbrae House, Annsbrae Place, Lerwick, Shetland, ZE1 0BP	Housing Development Services Department	Approve, with conditions	Planning authority is landowner and applicant
2013/374/PPF	Demolish existing offices and erect 12 no. one bedroomed flats, Fort Road, Lerwick, Shetland, ZE1 0LW	Hjaltland Housing Association	Approve, with conditions	Planning authority is landowner

- 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 2013 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 either 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 both applications, for the reasons that are set out in the related Report of Handling.

Appendix

2013/384/PPF - Erect an external PIR light to entrance at the rear of building, Annsbrae House, Annsbrae Place, Lerwick, Shetland, ZE1 0BP by Housing Development Services Department

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).

Notes to Applicant

Commencement of Development

To ensure compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006, the development hereby permitted shall be commenced within three years of the date of this permission.

Notice of Completion of Development

To ensure both that the development is carried out in accordance with the approved documents, and compliance with Section 27B of the Town and

Country Planning (Scotland) Act 1997 (as amended). Upon the completion of the development hereby permitted, and as soon as practicable, the person carrying out the development shall provide the Planning Authority with a written notice of that completion.

2013/374/PPF - Demolish existing offices and erect 12 no. one bedroomed flats, Fort Road, Lerwick, Shetland, ZE1 0LW by Hjaltland Housing Association

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.) Notwithstanding the submitted plans, the development hereby approved shall not commence until a surface water drainage scheme in the form of a Sustainable Urban Drainage Scheme (SuDS) has been submitted to and approved in writing by the Planning Authority. The scheme shall provide one level of treatment and shall include sufficient information, including SuDS methods and calculations, showing how the scheme is to be achieved and accommodated within the site. Thereafter no additional surface water drainage works shall be undertaken without the prior written permission of the Planning Authority.

Reason: To ensure the provision of adequate surface water drainage and treatment to ensure that no works are undertaken which have an unacceptable adverse impact on any neighbouring properties, landownership or the water environment in compliance with Shetland Structure Plan (2000) Policies SPGDS1 and SPGDS4 and Shetland Local Plan (2004) Policies LPNE10 and LPWD11.

(4.) Development shall not commence until details of the hours of working on the construction of the development have been submitted to, and approved in writing by, the Planning Authority.

Reason: In the interests of amenity and in order to prevent disturbance to adjoining properties and local residents arising from unsociable working hours during the construction of the dwellinghouses hereby approved in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(5.) Prior to the commencement of development details of any contractors working area and set down areas shall be submitted to and approved in writing by the Planning Authority This shall include details of access into the site, site security, any lighting proposed and any buildings, plant and machinery proposed.

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

(6.) 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.

(7.) The development hereby approved shall not be occupied until Fort Road, over the frontage of the site, has been widened to 5.2 metres in width with a 1.5 metre wide footway.

Reason: To ensure that there is sufficient road width, and in the interests of public safety, in compliance with Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(8) 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 local sewer main as specified in the

submitted plans and/or details approved under condition no. 1. No part of the development shall be brought into use until foul drainage works 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 and Shetland Local Plan (2004) Policy LPWD6.

Notes to Applicant:

Building Warrant

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

Scottish Water

You are advised to contact Scottish Water in order to discuss connectivity to their infrastructure. Contact: Scottish Water, Shetland Islands Area Office, PO Box 11660, Lerwick, Shetland, ZE1 0ZF Tel: 0345 437437.

Road Opening Permit

The Shetland Islands Council Roads Service have advised that the length of access that crosses the public road verge shall be constructed to their satisfaction. A Road Opening Permit must be obtained from the Roads Service prior to carrying out any works to form an access onto the public road. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick, Shetland ZE1 0PY.

Commencement of Development

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Notification of Completion

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

Development: Erect an external PIR light to entrance at the rear of building

Location: Annsbrae House
Annsbrae Place
Lerwick
Shetland
ZE1 0BP

By: Housing Development Services Department

Application Ref: 2013/384/PPF and 2013/383/LBC

1. Introduction

This Report of Handling to Members of the Planning Committee concerns both a planning application and listed building consent application submitted for the installation of an external light on the B listed Annsbrae House.

Under the terms of the Planning Scheme of Delegations (May 2011), both the planning application and listed building consent are presented to Members for their consideration, as Annsbrae House is owned by, and the applications are submitted by, the Shetland Islands Council – the Council therefore has an interest in this development.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment
SPBE1 - Built Heritage

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

LPNE10 - Development and the Environment
LPBE6 - Listed Buildings
LPBE8 - Development in Conservation Areas

Shetland Islands Council Local Development Plan

GP2 - General Requirements for All Development
HE2 - Listed Buildings
HE3 - Conservation Areas

3. Safeguarding

- Listed Building - Listed buildings: LERWICK, 1-4 ANNSBRAE HOUSE, PLACE AND LODGES
- Category of listing: B
- Conservation Areas - Conservation Area: Conservation Area

4. Consultations

No consultations were undertaken during the assessment of the two applications.

5. Statutory Advertisements

The listed building consent application (Ref: 2013/383/LBC) was advertised in the Shetland Times on 13 December 2013 and also the Edinburgh Gazette on 13 December 2013.

6. Representations

No representations were received in response to both applications.

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.

As briefly outlined in the introduction to this Report of Handling, this planning application and listed building consent application concerns the installation of an external passive infrared (PIR) light above a ground floor door located at the rear of the B listed Annsbrae House.

Annsbrae House dates from the late 18th Century and was listed in 1971, with the main elevations including the principal elevation and associated pavilions etc, remaining largely unaltered.

It is important that any new development does not detract from the character, appearance or setting of the listed building. In terms of the applications at hand, the proposed light will be located above a lower ground-floor door accessed at the rear of the building.

The proposed light will not be seen from any principle views towards the listed building and therefore the proposal is compliant with the aims of Shetland Structure Plan (2000) and Local Plan (2004) policies and also Local Development Plan (2012) Settled View policies listed in part two of this Report of Handling.

8. **Policy and Delegated Authority**

Decisions to approve these applications comply with Council planning policy. The application for planning permission is for a proposed development falling within the category of Local Development. As the Council has an interest in the proposal, the decisions to determine both applications 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 an 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 relation to the application for planning permission this is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013 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

No notification required.

9. **Recommendation**

Grant subject to conditions

Reasons for Council's decision for applications Ref: 2013/383/LBC and 2013/384/PPF:

The installation of the external light will not have a detrimental impact on the setting or character of the listed building, and therefore the proposal complies with Shetland Structure Plan (2000) policies GDS4 and SPBE1, Shetland Local Plan (2004) policies LPNE10, LPBE6 and LPBE8 and also Shetland Local Development Plan (2012) Settled View policies GP2, HE2 and HE3.

10. **List of approved plans for application 2013/383/LBC:**

- Site & Location Plan L(0)1. 30.10.2013

Conditions for application 2013/383/LBC:

(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.) All light fixings shall be made of non-ferrous metals.

Reason: To protect the visual amenity of the Listed building and to protect Lerwick Outstanding Conservation Area, in compliance with Local Plan Policy BE6 Listed Buildings, LPBE8: Development in the Conservation Areas and Local Plan Policy NE10: Development and the Environment.

Notes to Applicant for application 2013/383/LBC:

The development hereby permitted must be commenced within three years of the date of this permission in order to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended.

List of approved plans for application 2013/384/PPF:

- Site & Location Plan L(0)1. 30.10.2013

Conditions for application 2013/384/PPF:

(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).

Notes to Applicant for application 2013/384/PPF:

Commencement of Development

To ensure compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006, the development hereby permitted shall be commenced within three years of the date of this permission.

Notice of Completion of Development

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

11. Further Notifications Required

None

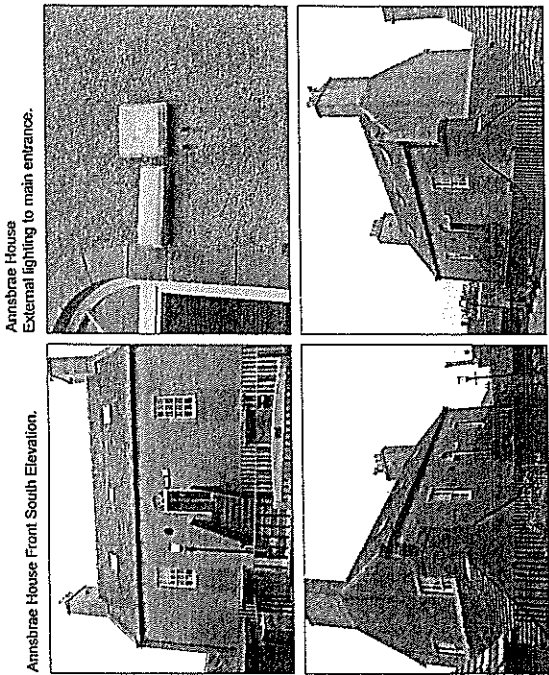
12. Background Information Considered

None

13. Attachments

Plan Ref: L(o)1 showing photographs, location and site plan and specification of proposed external light

Planning Committee Report.doc
Officer: Jonny Wiseman
Date: 12th December 2013



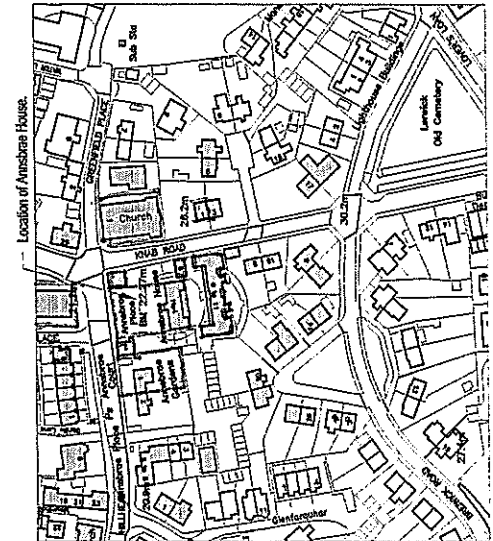
Annsbrae House
External lighting to main entrance.

Annsbrae House
Front South Elevation.

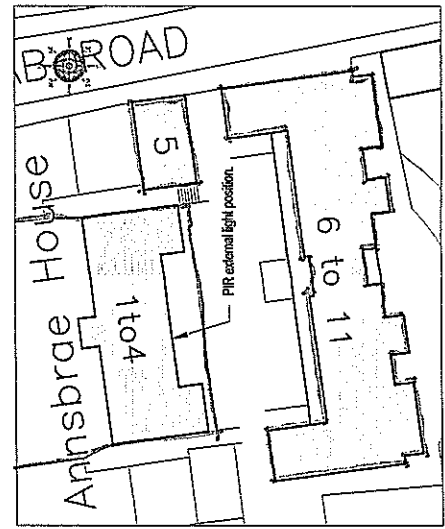
Annsbrae House
Front/Side South East Elevation.

Annsbrae House
Front/Side South West Elevation.

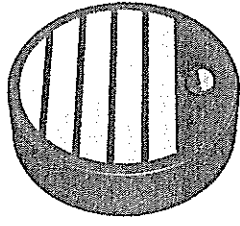
Proposed External PIR light.



Locality Plan Scale 1:2500



Site Plan Scale 1:500



Specification: Annsbrae House External PIR Bulkhead Light.

Linz PIR Wall Light - Anthracite

- Anthracite finish with opal polycarbonate diffuser
- Alternative, non-PIR and stainless steel finish options available
- PIR movement sensor with 10M, 180 degree detection range
- P44 Rated, protected against splashing water
- Complete with 18W Low Energy Screw Bulb
- Size: Dia 200 x D 100mm

PIR, Movement sensors

This product has a PIR movement sensor. Products with PIR movement sensors light automatically when sensing movement nearby. This option ensures a safe and secure environment and saves energy as the light source only activates when required rather than being permanently lit.

Weather resistant

With an IP44 rating you can be assured this light is built to last. Protected both against dust and splashing water, these lights can easily cope with British weather.

Bulb Requirements

This product is shown with and recommended for use with low energy bulbs. This light requires a max 18W low energy screw bulb.

**SIC
INFRASTRUCTURE SERVICES**

30 OCT 2013

PASS TO: _____ ACTION: _____

Rev	Description	Drawn	Chk'd	Date

Annsbrae House
 Housing Development Services Department,
 6 Northside Business Park,
 Lennick, 221 02Z,
 housing@annsbrae.gov.uk
 Telephone 01957 74 4340,
 Fax 01957 74 4341

Title: Proposed External Light to Annsbrae House.

Property: Annsbrae House.

Scale: 1:2500/1:500.	Drawn: BJA	Checked:		
Date: Oct. 2013.				

Rev: _____
 Drawing No: 1001.

Report of Handling

Development: Demolish existing offices and erect 12 no. one bedroomed flats

Location: Fort Road
Lerwick
Shetland
ZE1 0LW

By: Hjaltland Housing Association

Application Ref: 2013/374/PPF

1. Introduction

This is an application to demolish existing offices and erect 12 one bedroomed flats at Fort Road in Lerwick.

In terms of material colours and finishes it is proposed to use Spanish slate for the roof, larch cladding and wet dash render for the walls and galvanised steel barriers across the windows.

The application is referred to the Planning Committee as the land 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
GDS3 - General Development Policy Existing Settlements
GDS4 - General Development Policy Natural and Built Environment
GDS5 - General Development Policy Social Inclusion
SPNE1 - Design
SPBE1 - Built Heritage

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

LPNE10 - Development and the Environment
LPBE5 - Protection and Enhancement of Buildings
LPBE8 - Development in Conservation Areas
LPBE9 - Demolition in Conservation Areas
LPBE13 - Design

Shetland Islands Council Interim Planning Policy Guidance

LDP1 - All development General
LDP2 - All development Layout and design
LDP3 - All development Location
LDP4 - All Housing Development Location
LDP5 - All Dev Historic Built Environment
SPG14 - General Requirements Dwellinghouses

3. **Safeguarding**

Main Areas of Best Fit - Main Areas of Best Fit: Lerwick

Land Capability Agriculture - code: 888

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. **Consultations**

Roads Drainage was consulted on the 22 October 2013. Their comments dated 22 October 2013 can be summarised as follows:

Background

This is an application for demolition of the existing building and construction of a block of flats at Fort Road, Lerwick..

The application does not include any details of proposed drainage.

Comments

To comply with the Water Framework Directive the drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred before the development.

There are various SUDs devices which could be used to achieve this attenuation.

SUDs device

No drainage details or SUDs proposals are shown on the submitted plans. The application form states that the proposal is to connect to an existing surface water sewer, but no details are shown.

If it is intended to connect to a public sewer then Scottish Water should confirm that the design details are acceptable to them, and that their system can accommodate the flows from the site. All drainage works should then be carried out to Scottish Water standards.

If it is intended to connect to a private surface water sewer or drain, then the owner should confirm their acceptance of the proposals and the capacity of their system to accept the additional water without creating a flood risk.

The amount of water which the drain can accept will influence the amount of attenuation required on the site. It is possible that the sewer system will be able to accommodate 1 in 10 year flows without attenuation, but providing the attenuation may still be the easiest option for preventing flood risk during extreme rainfall events, as discussed below.

The normal requirement is for any SUDs device should (*sic*) be at least 5m from any site boundary, house or public road. This does not appear to be practical on the site shown, so, if used, a SUDs device should be selected which does not use infiltration and particular care should be taken to ensure that no flood risk is created.

Flood risk

During extreme rainfall events surface water flows may exceed the capacity of the SUDs system and/or other drainage systems and back up, or flow over the ground.

Care should be taken to ensure that the landscaping, building and ground levels on the site are designed so that these potential overland flows of water would not cause a flooding problem to the proposed building or to surrounding property.

Water flowing on the site should be guided away from the proposed building and towards a suitable place for it to re-enter a drainage system, without ponding against the building or somewhere it may create flooding problems.

Particular care should be taken to ensure that suitable drainage is provided for the garden area behind the building and that the drainage is designed so that predictable failure or blockage of drains would not create a risk of flooding the building.

Roads Traffic was consulted on the 22 October 2013. Their comments dated 5 November 2013 can be summarised as follows:

I have no objection to the development as I believe there to be sufficient parking within the area to accommodate this development given the nearby Fort Road car park.

Fort Road, adjacent to the development shall be widened to 5.2 metres and footway width of 1.5 metres provided alongside the building to match the improvement done as part of the previous flats development on the adjacent site.

These works will require to be done under Construction Consent.

Scottish Water Customer Connections were consulted on the 22 October 2013. Their comments dated 29 October 2013 can be summarised as follows:

Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found at www.scottishwater.co.uk.

Water Network - Our initial investigations have highlighted 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 Developer should discuss the implications directly with Scottish Water.

Wastewater Network - Our initial investigations have highlighted 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 Developer should discuss the implications directly with Scottish Water.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

Scottish Water is funded to provide capacity at Water and Waste water Treatment Works for domestic demand.

Funding will be allocated to carry out work at treatment works to provide growth in line with the Local Authority priorities. Developers should discuss delivery timescales directly with us.

Developers should discuss delivery timescales directly with us.

If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules. Costs can be reimbursed by us through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

If the connection to public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel - 0845 601 8855.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website: www.scottishwater.co.uk.

Lerwick Community Council were consulted on the 22 October 2013. Their comments dated 5 November 2013 can be summarised as follows:

No objection.

5. **Statutory Advertisements**

The application was advertised in the Shetland Times on 25.10.2013

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 site is currently occupied by a two storey painted block office with two storey prefabricated units to the rear. The site was formerly the SIC Housing offices but is currently being used as the site offices for the contractor building Excelsior Place. To the rear of the site (west) there is a former quarry face which runs north to south between Fort Road and Market Street; to the north there is a blank rendered wall of the Robertson and Peterson premises, and to the south there is the Hjaltland Housing Association development of Excelsior Place.

Excelsior Place was given permission under planning application 2008/373/PPF, and also Conservation Area Consent under application 2008/109/CAC. The current proposal does not require Conservation Area Consent as it lies just outside of the boundary of the Conservation Area.

When the planning application for Excelsior Place was first submitted in January 2008 there were significant concerns about the design proposed in terms of the scale, massing, material finishes and extent of underbuilding proposed. The approved development represents a complete redesign of the proposals for the site after the earlier concerns were taken into account.

The proposal the subject of this planning application will form an extension to the already permitted Excelsior Place, with the same materials being used and the same design carried through onto these new flats. This application proposal utilises gables which face onto the street rather than the eaves elevation to reflect the early development of Commercial Street, the lodberries and the lanes within Lerwick.

It is considered that due to the scale, design and that the proposed material finishes are to match that of the already constructed Excelsior Place, the proposal will not have an adverse impact upon the built environment or upon the nearby Conservation Area.

This site is within in Zone 1 for housing. In Zone 1, in addition to fulfilling the general requirements, proposals should reflect the character and density of the surrounding development. Under the emerging Local Development Plan the site is within an Area of Best Fit. The Areas of Best Fit (AoBF) have been identified to provide a focus for growth within and adjacent to the largest community in each locality and the large islands in Shetland, whilst recognising the dispersed settlement pattern of Shetland. Both the Zoning and the Area of Best Fit encourage housing in this area and therefore siting 12 flats on this site complies with current and emerging policy.

The Council's Road Service was consulted on this application. No objections were raised and it has been noted that the Roads Service believes there is sufficient parking within the area to accommodate this development given the nearby Fort Road car park.

It is considered that the development, comprising both the demolition of the existing office and the rebuilding of 12 flats, will have no adverse impact upon the natural and built environment or upon the visual amenity of the surrounding area given that all external material colours and finishes proposed are to match that of the existing development to the south and that the proposed development is appropriate in terms of scale, form and design. As such, the proposal complies with the policies outlined in section 2 above.

8. Policy and Delegated Authority

A decision to grant 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 2013 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 development, comprising both the demolition of the existing office and the rebuilding of 12 flats, will have no adverse impact upon the natural and built environment or upon the visual amenity of the surrounding area given that all external material colours and finishes proposed are to match that of the existing development to the south and that the proposed development is appropriate in terms of scale, form and design. As such, the proposal complies with the: Shetland Islands Council Structure Plan (2000) policies GDS1, GDS3, GDS4, GDS5, SPNE1 and SPBE1; Shetland Islands Council Local Plan (2004) (As Amended) policies LPNE10, LPBE5, LPBE8, LPBE9 and LPBE13; and Shetland Islands Council Interim Planning Policy Guidance policies LDP1, LDP2, LDP3, LDP4, LDP5, SPG14 and SPG15.

10. List of approved plans:

- | | |
|----------------------------------------------|------------|
| • Location Plan 1772-00-00 | 21.10.2013 |
| • Site, Floor and Elevations Plan 1772-00-01 | 21.10.2013 |
| • Design Statement 2013/372/PPF - 01 | 21.10.2013 |

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.) Notwithstanding the submitted plans, the development hereby approved shall not commence until a surface water drainage scheme in the form of a Sustainable Urban Drainage Scheme (SuDS) has been submitted to and approved in writing by the Planning Authority. The scheme shall provide one level of treatment and shall include sufficient information, including SuDS methods and calculations, showing how the scheme is to be achieved and accommodated within the site. Thereafter no additional surface water drainage works shall be undertaken without the prior written permission of the Planning Authority.

Reason: To ensure the provision of adequate surface water drainage and treatment to ensure that no works are undertaken which have an unacceptable adverse impact on any neighbouring properties, landownership or the water environment in compliance with Shetland Structure Plan (2000) Policies SPGDS1 and SPGDS4 and Shetland Local Plan (2004) Policies LPNE10 and LPWD11.

(4.) Development shall not commence until details of the hours of working on the construction of the development have been submitted to, and approved in writing by, the Planning Authority.

Reason: In the interests of amenity and in order to prevent disturbance to adjoining properties and local residents arising from unsociable working hours during the construction of the dwellinghouses hereby approved in compliance with Shetland Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(5.) Prior to the commencement of development details of any contractors working area and set down areas shall be submitted to and approved in writing by the Planning Authority. This shall include details of access into the site, site security, any lighting proposed and any buildings, plant and machinery proposed.

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

(6.) 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.

(7.) The development hereby approved shall not be occupied until Fort Road, over the frontage of the site, has been widened to 5.2 metres in width with a 1.5 metre wide footway.

Reason: To ensure that there is sufficient road width, and in the interests of public safety, in compliance with Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(8) 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 local sewer main as specified in the submitted plans and/or details approved under condition no. 1. No part of the development shall be brought into use until foul drainage works 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 and Shetland Local Plan (2004) Policy LPWD6.

Notes to Applicant:

Building Warrant

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

Scottish Water

You are advised to contact Scottish Water in order to discuss connectivity to their infrastructure. Contact: Scottish Water, Shetland Islands Area Office, PO Box 11660, Lerwick, Shetland, ZE1 0ZF Tel: 0345 437437.

Road Opening Permit

The Shetland Islands Council Roads Service have advised that the length of access that crosses the public road verge shall be constructed to their satisfaction. A Road Opening Permit must be obtained from the Roads Service prior to carrying out any works to form an access onto the public road. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick, Shetland ZE1 0PY.

Commencement of Development

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Notification of Completion

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

11. Further Notifications Required

None.

12. Background Information Considered

2008/34/PCD
2008/109/CAC
2008/373/PCD
2012/362/PPF

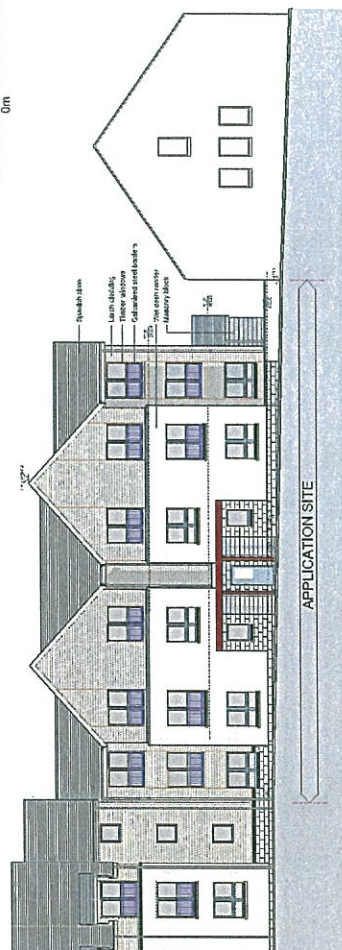
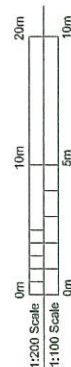
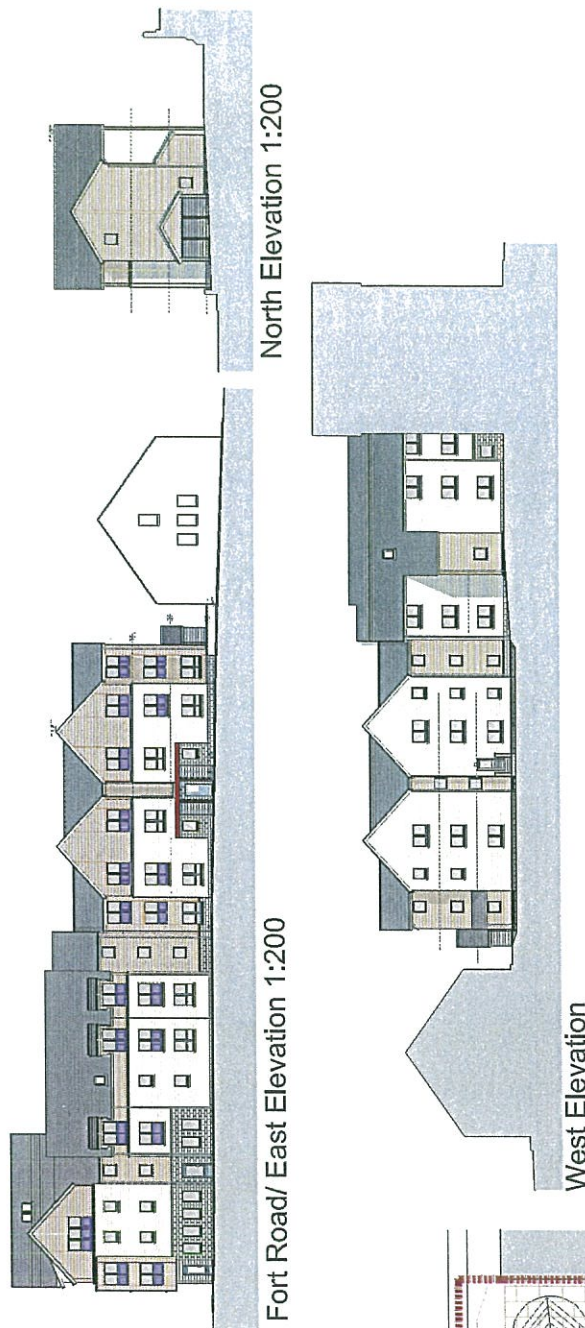
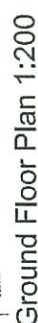
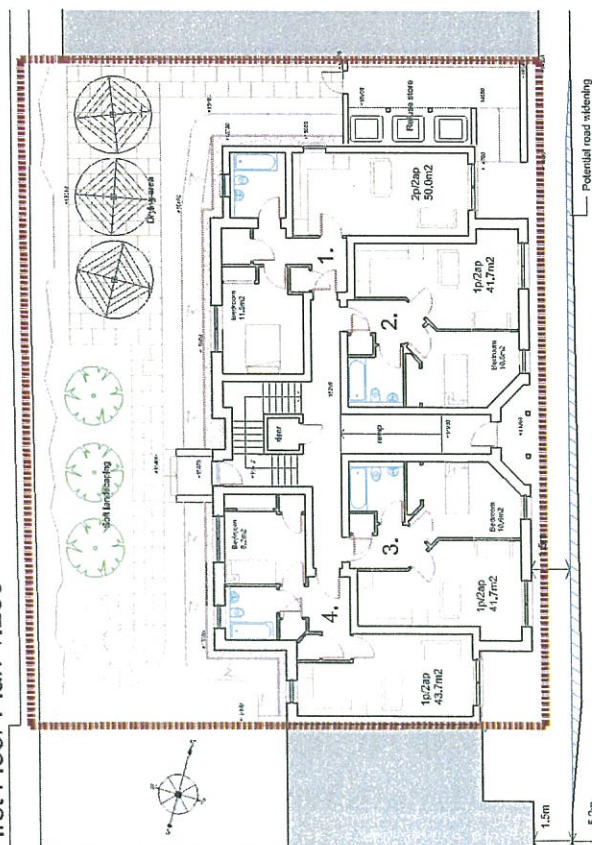
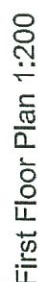
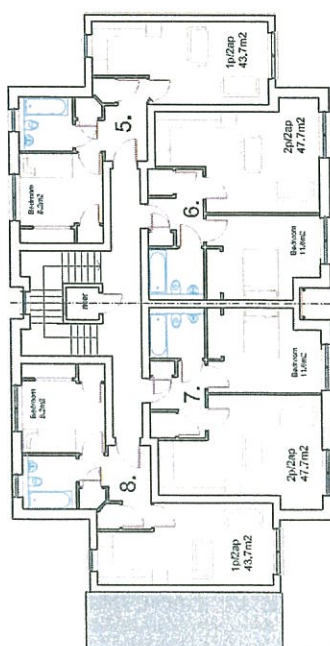
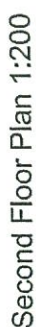
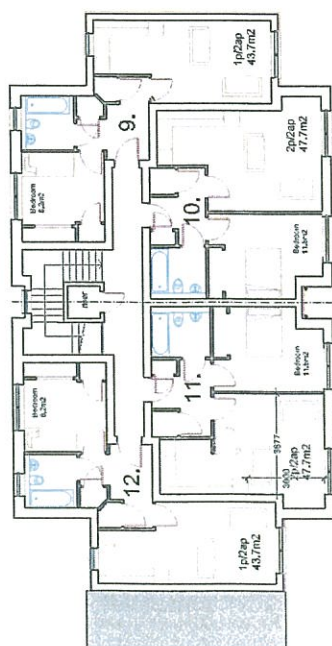
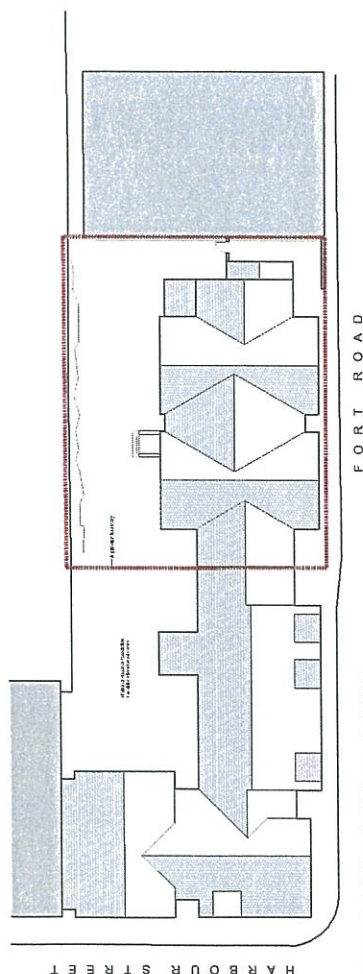
13. **Attachments**

Site Plan, Plans and Elevations 1772-00-01

2013/374/PPF Planning Committee Report.doc

Officer: Amy Maclean

Date: 06/01/13





REPORT

To: Planning Committee

14 January 2014

**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 a decision on an application for listed building consent falls to be made 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, as well as the reasons for such a decision, and this is available in the Member's Room at the Town Hall. The list of conditions being recommended is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2013/383/LBC	Erect an external PIR light to entrance at the rear of building, Annsbrae House, Annsbrae Place, Lerwick, Shetland ZE1 0BP	Housing Development Services Department	Approval with conditions	Planning authority is landowner and applicant

- 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 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: 14/1/2014

2013/383/LBC - Erect an external PIR light to entrance at the rear of building, Annsbrae House, Annsbrae Place, Lerwick, Shetland, ZE1 0BP by Housing Development Services Department

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.) All light fixings shall be made of non-ferrous metals.

Reason: To protect the visual amenity of the Listed building and to protect Lerwick Outstanding Conservation Area, in compliance with Local Plan Policy BE6 Listed Buildings, LPBE8: Development in the Conservation Areas and Local Plan Policy NE10: Development and the Environment.

Notes to Applicant

The development hereby permitted must be commenced within three years of the date of this permission in order to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended.

Development: Erect an external PIR light to entrance at the rear of building

Location: Annsbrae House
Annsbrae Place
Lerwick
Shetland
ZE1 0BP

By: Housing Development Services Department

Application Ref: 2013/384/PPF and 2013/383/LBC

1. Introduction

This Report of Handling to Members of the Planning Committee concerns both a planning application and listed building consent application submitted for the installation of an external light on the B listed Annsbrae House.

Under the terms of the Planning Scheme of Delegations (May 2011), both the planning application and listed building consent are presented to Members for their consideration, as Annsbrae House is owned by, and the applications are submitted by, the Shetland Islands Council – the Council therefore has an interest in this development.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment
SPBE1 - Built Heritage

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

LPNE10 - Development and the Environment
LPBE6 - Listed Buildings
LPBE8 - Development in Conservation Areas

Shetland Islands Council Local Development Plan

GP2 - General Requirements for All Development
HE2 - Listed Buildings
HE3 - Conservation Areas

3. Safeguarding

- Listed Building - Listed buildings: LERWICK, 1-4 ANNSBRAE HOUSE, PLACE AND LODGES
- Category of listing: B
- Conservation Areas - Conservation Area: Conservation Area

4. Consultations

No consultations were undertaken during the assessment of the two applications.

5. Statutory Advertisements

The listed building consent application (Ref: 2013/383/LBC) was advertised in the Shetland Times on 13 December 2013 and also the Edinburgh Gazette on 13 December 2013.

6. Representations

No representations were received in response to both applications.

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.

As briefly outlined in the introduction to this Report of Handling, this planning application and listed building consent application concerns the installation of an external passive infrared (PIR) light above a ground floor door located at the rear of the B listed Annsbrae House.

Annsbrae House dates from the late 18th Century and was listed in 1971, with the main elevations including the principal elevation and associated pavilions etc, remaining largely unaltered.

It is important that any new development does not detract from the character, appearance or setting of the listed building. In terms of the applications at hand, the proposed light will be located above a lower ground-floor door accessed at the rear of the building.

The proposed light will not be seen from any principle views towards the listed building and therefore the proposal is compliant with the aims of Shetland Structure Plan (2000) and Local Plan (2004) policies and also Local Development Plan (2012) Settled View policies listed in part two of this Report of Handling.

8. **Policy and Delegated Authority**

Decisions to approve these applications comply with Council planning policy. The application for planning permission is for a proposed development falling within the category of Local Development. As the Council has an interest in the proposal, the decisions to determine both applications 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 an 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 relation to the application for planning permission this is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013 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

No notification required.

9. **Recommendation**

Grant subject to conditions

Reasons for Council's decision for applications Ref: 2013/383/LBC and 2013/384/PPF:

The installation of the external light will not have a detrimental impact on the setting or character of the listed building, and therefore the proposal complies with Shetland Structure Plan (2000) policies GDS4 and SPBE1, Shetland Local Plan (2004) policies LPNE10, LPBE6 and LPBE8 and also Shetland Local Development Plan (2012) Settled View policies GP2, HE2 and HE3.

10. **List of approved plans for application 2013/383/LBC:**

- Site & Location Plan L(0)1. 30.10.2013

Conditions for application 2013/383/LBC:

(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.) All light fixings shall be made of non-ferrous metals.

Reason: To protect the visual amenity of the Listed building and to protect Lerwick Outstanding Conservation Area, in compliance with Local Plan Policy BE6 Listed Buildings, LPBE8: Development in the Conservation Areas and Local Plan Policy NE10: Development and the Environment.

Notes to Applicant for application 2013/383/LBC:

The development hereby permitted must be commenced within three years of the date of this permission in order to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended.

List of approved plans for application 2013/384/PPF:

- Site & Location Plan L(0)1. 30.10.2013

Conditions for application 2013/384/PPF:

(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).

Notes to Applicant for application 2013/384/PPF:

Commencement of Development

To ensure compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc. (Scotland) Act 2006, the development hereby permitted shall be commenced within three years of the date of this permission.

Notice of Completion of Development

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

11. Further Notifications Required

None

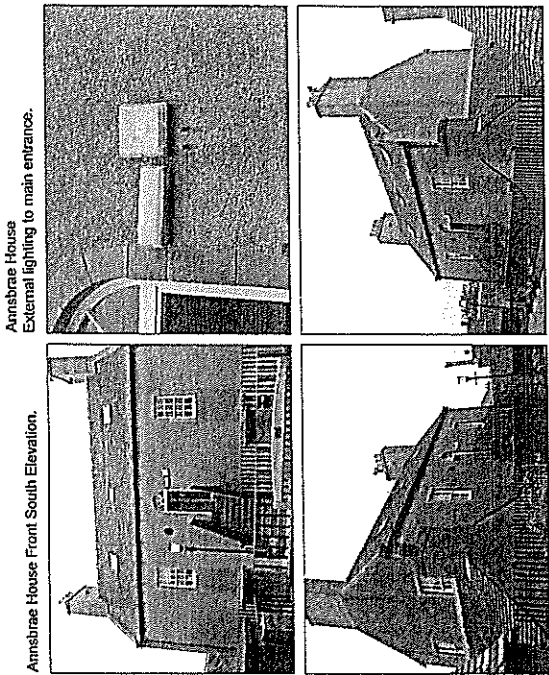
12. Background Information Considered

None

13. Attachments

Plan Ref: L(o)1 showing photographs, location and site plan and specification of proposed external light

Planning Committee Report.doc
Officer: Jonny Wiseman
Date: 12th December 2013

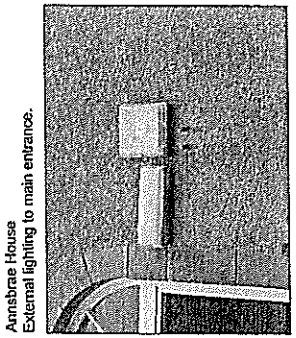


Annsbrae House
Front South Elevation.

Annsbrae House
Front/Side South West Elevation.

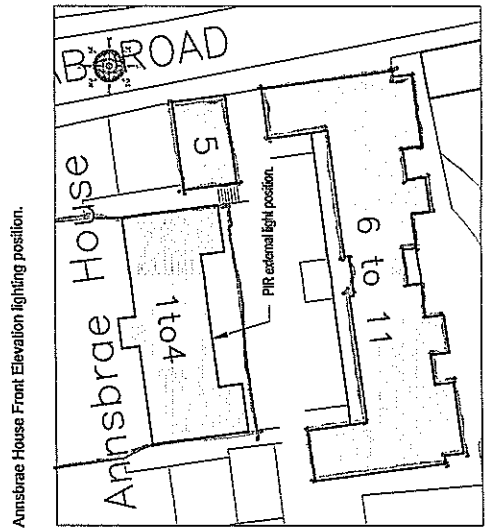
Annsbrae House
Front East Elevation.

Annsbrae House
Front/Side South Elevation.

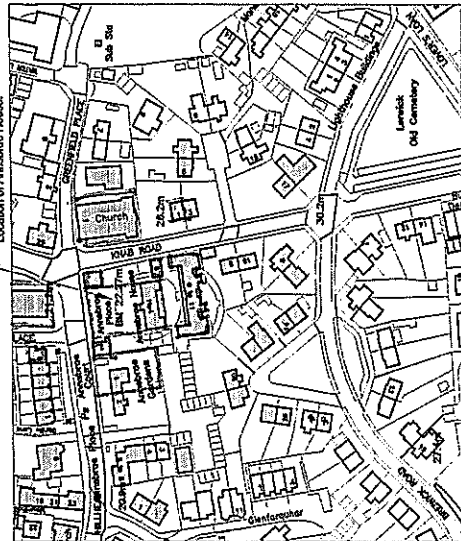


Annsbrae House
External lighting to main entrance.

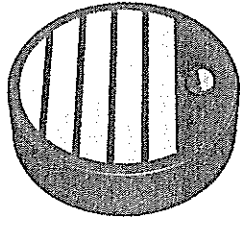
Proposed External PIR light.



Site Plan Scale 1:500



Locality Plan Scale 1:2500



Specification: Annsbrae House External PIR Bulkhead Light.

Linz PIR Wall Light - Anthracite

- Anthracite finish with opal polycarbonate diffuser
- Alternative, non-PIR and stainless steel finish options available
- PIR movement sensor with 10M, 180 degree detection range
- P44 Rated, protected against splashing water
- Complete with 18W Low Energy Screw Bulb
- Size: Dia 200 x D 100mm

PIR, Movement sensors

This product has a PIR movement sensor. Products with PIR movement sensors light automatically when sensing movement nearby. This option ensures a safe and secure environment and saves energy as the light source only activates when required rather than being permanently lit.

Weather resistant

With an IP44 rating you can be assured this light is built to last. Protected both against dust and splashing water, these lights can easily cope with British weather.

Bulb Requirements

This product is shown with and recommended for use with low energy bulbs. This light requires a max 18W low energy screw bulb.

**SIC
INFRASTRUCTURE SERVICES**

30 OCT 2013

PASS TO ACTION

Rev	Description	Drawn	Chk	Date

Annsbrae House
 Housing Development Services Department,
 6 Northside Business Park,
 Lennick, 221 02Z,
 Housing@lennick.gov.uk
 Telephone 01957 74 4340,
 Fax 01957 74 4341

Title: Proposed External Light to Annsbrae House.

Property: Annsbrae House.

Scale: 1:2500/1:500.	Drawn: BJA	Checked:		
Date: Oct. 2013.				

Rev: 1
 Drawing No: 1001.
 Survey: