



REPORT

To: Planning Committee

13 May 2014

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

Application for Planning Permission for Local Development 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 application for Local Development that is set out in the table below, where exceptions apply, has had a Report of Handling prepared by the officer detailing: the proposal; the assessment carried out; and

recommended conditions as well as the reasons for such a decision, and this is available in the Member's Room at the Town Hall. To meet with the Planning Committee's instruction of 26 July 2011 (Item Minute 10/11), the list of conditions relating to the application is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2014/007/PPF	Landscape over the old existing A970 road, Hamar, Northmavine, Shetland	Roads Maintenance (Shetland Islands Council)	Approve, 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 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 the application concerned.

2. Recommendation

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

planning committee.doc J R Holden
Planning Committee: 13/5/2014

2014/007/PPF - Landscape over the old existing A970 road, Hamar, Northmavine, Shetland, by Roads Maintenance (Shetland Islands Council)

Recommended Conditions

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

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

(2.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

(a) include the full name and address of the person intending to carry out the development;

(b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;

(c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and

(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(3.) Prior to the commencement of development details of the measures to be taken to ensure that mud/spoil from vehicles leaving the area is not deposited on the highway shall be submitted to and approved in writing by the Planning Authority.

Reason: In order to protect the interests of vehicular safety in compliance with Shetland Islands Council Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(4.) Notwithstanding the details on the submitted application, the development shall take place outside the period May to August inclusive.

Reason: To protect bird interests during the bird breeding season in accordance with Local Plan Policy LPNE10 and Structure Plan Policy

SPIND3.

(5.) Prior to the commencement of any seeding being undertaken on site, details of the seed/heather mix to be used shall be provided to and approved in writing by the Planning Authority. Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded, turfed 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).

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) Policies LPNE10 and LPBE13.

(6.) There shall be no processing or crushing on site of any rock or other materials either derived from the site during excavation or imported onto the site unless otherwise agreed in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and as this aspect has not been assessed as part of this development in compliance with Shetland Islands Council's Structure Plan (2000) Policies GDS4 and SPNE1 and Shetland Local Plan (2004) Policy LPNE10.

(7.) Development shall not commence until the site has been enclosed with a stock-proof fence. Details of the specification and location of the fencing shall be submitted to and approved in writing by the Planning Authority prior to the fence being erected on site.

Reason: For the avoidance of doubt as to what is being authorised by this permission; to prevent accidental access to the site and to prevent fly tipping occurring in this location in the interests of safety in compliance with Shetland Structure Plan (2000) Policy GDS4.

(8.) Site drainage shall be designed, provided and maintained such that no surface water from the site or the access into the site shall drain or run onto adjoining land in a manner so as to cause flooding of land and damage to property. Prior to the phased removal of any section of bitmac from the old A970, existing and proposed drainage details shall be submitted to, and approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and to ensure that there is no adverse impact on any neighbouring properties or landownership in compliance with Shetland Structure Plan (2000) Policies GDS1 and GDS4 and Shetland Local Plan (2004) Policies LPNE10 and LPWD11.

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.

Drainage

Landscaping, soiling and any associated ditching works should be carried out in such a manner so as to minimise wash-off or erosion of material during the deposition of the material and in the longer term.

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: Landscape over the old existing A970 road

Location: Hamar, Northmavine, Shetland

By: Roads Maintenance

Application Ref: 2014/007/PPF

1. Introduction

This planning application proposal seeks to landscape over the old existing A970 road at Hamar, Northmavine, to cover the old road with inert materials to a depth of 1 metre and to seed on completion.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS4 - General Development Policy Natural and Built Environment
SPNE1 – Design

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

LPNE10 - Development and the Environment
LPBE13 – Design
LPNE13 - Biodiversity

3. Safeguarding

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

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Crofting Apportionments - Croft: 15117

Grazing - Grazings Farm Code: 880/0317

Land Capability Agriculture - code: 6.3

Scatsta Safeguard - Height: 90m

Shetland Local Landscape Designations - Shetland Local Landscape Designations: Nibon and Mangaster

4. Consultations

Roads Traffic was consulted on the 28 January 2014. Their comments dated 7 February 2014 can be summarised as follows:

No objections.

SEPA Aberdeen was consulted on the 28 January 2014. Their comments dated 11 February 2014 can be summarised as follows:

We object to this planning application on the grounds of a lack of information relating to the waste management aspects of the proposals and surface water drainage. We will remove this objection if the issues detailed in Section 1 below are adequately addressed.

1. Environmental management

1.1 We have considered the documents submitted in support of this planning application. However, insufficient information has been submitted to enable an appropriate review of the environmental implications arising from the proposed development and advice to be given on the consentability of any licences required. We therefore object to the application on the grounds of a lack of information.

1.2 To enable us to consider removing our objection, we ask that the applicant submits additional detailed information, in particular, relating to the nature and source of the proposed materials. This should include a clear breakdown (including quantities) of the nature of the materials comprising the "inert materials from road maintenance". We also ask that the volumes and depths of topsoil are clarified, and whether or not the profile restoration includes the final deposit of topsoil. In addition, the applicant should provide further detail relating to the proposed drainage of the site and any likely sediment issues.

1.3 SEPA needs to know what form of waste management authorisation the applicant intends to carry out this work under, and hence this also needs to be clarified. Discussions with the local operations team (number given below) will assist the applicant in providing this information.

1.4 Further information is available on the planning and waste pages our website.

1.5 We would also take the opportunity to highlight to the applicant that the re-seed mix should be from a local source and should contain species that would be found in similar adjacent habitats.

Regulatory advice for the applicant

2. Regulatory requirements

2.1 Details of regulatory requirements and good practice advice for the applicant can be found on our website at www.sepa.org.uk/planning.aspx. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the Operations team in your local SEPA office at: The Esplanade, Lerwick, Shetland, ZE1 0LL. Tel: 01595 696926.

If you have any queries relating to this letter, please contact me by telephone on 01224 266698 or e-mail at planning.aberdeen@sepa.org.uk.

SEPA Aberdeen was re-consulted on the 3 April 2014. Their comments dated 10 April 2014 can be summarised as follows:

We previously responded to this planning application within our letter referenced PCS/131373 and dated 2014/007/PPF (sic). Our response included an objection on the grounds of a lack of information relating to waste management issues.

Further discussion has occurred between our local operations team and the applicant. This has confirmed that the material to be used for restoration is prepared topsoil and is not classified as waste. Therefore we are able to confirm that an exemption from the waste management licensing regulations is not required in this respect.

In light of the above, we are able to withdraw our objection to this planning proposal.

We note the applicant's comments regarding the type of seed to be used and we are pleased that advice will be sought from the Shetland Amenity Trust.

Northmaven Community Council Clerk was consulted on the 28 January 2014. Their comments dated 19 February 2014 can be summarised as follows:

Members discussed this application at their recent meeting. NCC object to this application for the following reasons:

The spoil would be dumped on a tarmac surface with a lack of drainage.

Part of the site is steep, fine materials would wash down and cause blockages elsewhere.

The site would also be difficult to turn trucks on.

The area is used for parking on an adhoc basis by fishermen/tourists.

There are numerous small quarries in Northmavine that members feel would be a more suitable areas to dump inert materials, and provide better value for money.

Northmaven Community Council Clerk withdrew their initial objection to the proposed development. Their comments dated 19 March 2014 can be summarised as follows:

NCC members recently discussed their objection to the planning application to proposed landscaping at Hamar, Northmavine.

Members met with Brian Wood from SIC Roads to look at the points for objection. Following the discussion, members would like to withdraw the objection on condition that surface tarmac is removed when necessary (i.e, the sloping areas of the site) and that suitable drainage is used.

The Drainage and Flooding Engineer was consulted on the 1 April 2014. Their comments dated 1 April 2014 can be summarised as follows:

The existing road does not have any SUDs drainage features. Existing drainage appears to be limited, generally draining by sheet flow from the road surface to the verges or to small roadside ditches.

The proposals to landscape the road would reduce the rate of run-off compared with the existing situation and I would therefore consider it acceptable to remove any requirement for SUDs drainage in this case.

The landscaping, soiling and any associated ditching works should be carried out in a way that will minimise wash-off or erosion of material, both during the deposition of the material, and in the longer term.

Note

I would suggest that Kevin Sergenson be asked to comment regarding any impact on walking routes.

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

Shetland Biological Records Centre contacted the Planning Service to express concerns about potential impacts on biodiversity interests which related to

breeding Red Throated Divers in the area and future seeding proposals.

Following a meeting with the applicant, Shetland Biological records Centre provided additional comments on the proposed development dated 17 March 2014 which considered that 'a mutually acceptable way forward' had been achieved.

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.

SEPA initially objected to the proposed development due to a lack of information relating to waste management issues. Following further discussion with the applicant however, SEPA removed their objection on 10 April 2014 given that the material to be used for restoration is prepared topsoil meaning that an exemption from the waste management licensing regulations is not required.

Northmaven Community Council also initially objected to the proposal in relation to a lack of appropriate drainage and other site issues. They contacted the Planning Service on 19 March 2014 following a meeting with the applicant to withdraw their objection, provided that surface tarmac is removed from the sloping areas of the site when necessary and that appropriate drainage is put in place.

Following a consultation with the Drainage and Flooding Engineer, it was established that existing drainage is limited, generally draining by sheet flow from the road surface to the verges or to small roadside ditches. Given that the proposed development will reduce the rate of run-off compared to the existing situation, in this instance, it is considered acceptable to remove any SUDs drainage requirement. It was also pointed out that landscaping, soiling and any associated ditching works should be carried out in such a manner so as to minimise wash-off or erosion of material during the deposition of the material and in the longer term. As such, this latter comment should be added as an informative to any future decision notice to approved consent.

Shetland Biological Records Centre (SBRC) contacted the Planning Service on 5 February 2014 to express concerns about potential impacts that the proposed development might have on biodiversity interests.

SBRC consider that works undertaken here may cause undue disturbance during the bird breeding season (April to August inclusive). In addition, the surrounding area is, or is reverting to, a more natural heathland or blanket bog vegetation. Should the infill and landscaping works be approved, then consideration should be given to seeding with native shrubs and grasses – notably heather, rather than simply re-seeding with agricultural grass seed in order that it merges into the surrounding vegetation, rather than becoming an alien strip of green grassland of limited wildlife value.

SBRC had a meeting with the applicant and provided further comment to the Planning Service on 17 March 2014, which stated that a 'mutually acceptable way forward' had been achieved.

It was agreed between the applicant and SBRC that no dumping and landscaping of soil would take place on a defined area of road (and adjacent ground) during the period May to mid-August to prevent potential disturbance to species identified as being of importance, although it is acknowledged that movement of lorries over this section of road is unlikely to result in undue disturbance.

Initial dumping will take place to the north of this defined section of road and it is likely to be some years before there is any requirement to dump on the section of road concerned. It was agreed by the applicant that when that time comes SBRC can review the situation again.

The applicant also agreed to contact Shetland Amenity Trust (SAT) prior to seeding any 'dumped' areas to discuss suitable seed/heather mixes to ensure that the area blends in well with the existing habitat.

The applicant emailed the Planning Service on 18 March 2014 to explain that the proposed development would begin at the North end of the area proposed for development. The old bitmac is proposed to be removed from the road and taken to the Scord Quarry in Scalloway for recycling, to be done in short lengths of approximately 50 to 75 metres at a time in order to allow trucks bringing in inert spoil, to travel along the old road to the area to be covered. Once a length of road has been covered, the developer would bring in their excavator again and landscape the deposited material in conjunction with digging any required ditches to ensure no drainage problems arise. The landscaped area would then be seeded with a suitable seed mix which SAT have indicated they could give advice on. The whole process would then be repeated as the developer moves along the length of road towards the south. The developer also intends to install a locked gate at the South end of the area to prevent any fly tipping occurring

outside the operational working period.

This information is considered to be acceptable as a method statement. Should a decision to approve planning consent be granted therefore, the text on this email correspondence will also require to be stamped approved. Details of the proposed gated enclosure will require to be submitted to the Planning Service for written approval, prior to the commencement of development works on site. As such, this aspect of the proposed development should be conditioned accordingly on any future planning consent.

As no details have been submitted in relation to existing or proposed drainage, it is pertinent to ensure that such details are submitted to the Planning Authority for written approval, prior to the phased removal of any section of bitmac from the old A970. Any future planning consent should therefore be conditioned accordingly.

8. Policy and Delegated Authority

A decision to approve this application complies with Council planning policy. As the application is for a proposed development falling within the category of Local Development and the Council has an interest in the proposal, the decision to determine the application is delegated to the Planning Committee under the Scheme of Delegations that has been approved by the Scottish Ministers.

If members are minded to refuse the application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 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:

By virtue of location, as being either adjacent to or within the boundary of the existing roadway, and subject to appropriate controlling conditions in respect of vehicular safety, environmental protection, landscaping works and drainage details, the proposed landscaping works accord with the relevant provisions of the following policies of Shetland Islands Council Structure Plan (2000) Policies GDS4 and SPNE1 and Shetland Local Plan (2004) Policy LPNE10, LPWD11, LPBE13 and LPNE13.

10. List of approved plans:

- Location Plan HAM/SU+REC/1 13.01.2014
- Section Plan HAM/SU+REC/2 27.01.2014
- Photograph 2014/007/PPF_SIC-004 27.01.2014

11. Conditions:

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

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

(2.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

(a) include the full name and address of the person intending to carry out the development;

(b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;

(c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and

(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(3.) Prior to the commencement of development details of the measures to be taken to ensure that mud/spoil from vehicles leaving the area is not deposited on the highway shall be submitted to and approved in writing by the Planning Authority.

Reason: In order to protect the interests of vehicular safety in compliance with Shetland Islands Council Structure Plan (2000) Policy GDS4 and Shetland Local Plan (2004) Policy LPNE10.

(4.) Notwithstanding the details on the submitted application, the development shall take place outside the period May to August inclusive.

Reason: To protect bird interests during the bird breeding season in accordance with Local Plan Policy LPNE10 and Structure Plan Policy SPIND3.

(5.) Prior to the commencement of any seeding being undertaken on site, details of the seed/heather mix to be used shall be provided to and approved in writing by the Planning Authority. Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded, turfed 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).

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) Policies LPNE10 and LPBE13.

(6.) There shall be no processing or crushing on site of any rock or other materials either derived from the site during excavation or imported onto the site unless otherwise agreed in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and as this aspect has not been assessed as part of this development in compliance with Shetland Islands Council's Structure Plan (2000) Policies GDS4 and SPNE1 and Shetland Local Plan (2004) Policy LPNE10.

(7.) Development shall not commence until the site has been enclosed with a stock-proof fence. Details of the specification and location of the fencing shall be submitted to and approved in writing by the Planning Authority prior to the fence being erected on site.

Reason: For the avoidance of doubt as to what is being authorised by this permission; to prevent accidental access to the site and to prevent fly tipping occurring in this location in the interests of safety in compliance with Shetland Structure Plan (2000) Policy GDS4.

(8.) Site drainage shall be designed, provided and maintained such that no surface water from the site or the access into the site shall drain or run onto adjoining land in a manner so as to cause flooding of land and damage to property. Prior to the phased removal of any section of bitmac from the old A970, existing and proposed drainage details shall be submitted to, and approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and to ensure that there is no adverse impact on any neighbouring properties or landownership in compliance with Shetland Structure Plan (2000) Policies GDS1 and GDS4 and Shetland Local Plan (2004) Policies LPNE10 and LPWD11.

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.

Drainage

Landscaping, soiling and any associated ditching works should be carried out in such a manner so as to minimise wash-off or erosion of material during the deposition of the material and in the longer term.

Notice of completion of development

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

12. Further Notifications Required

None.

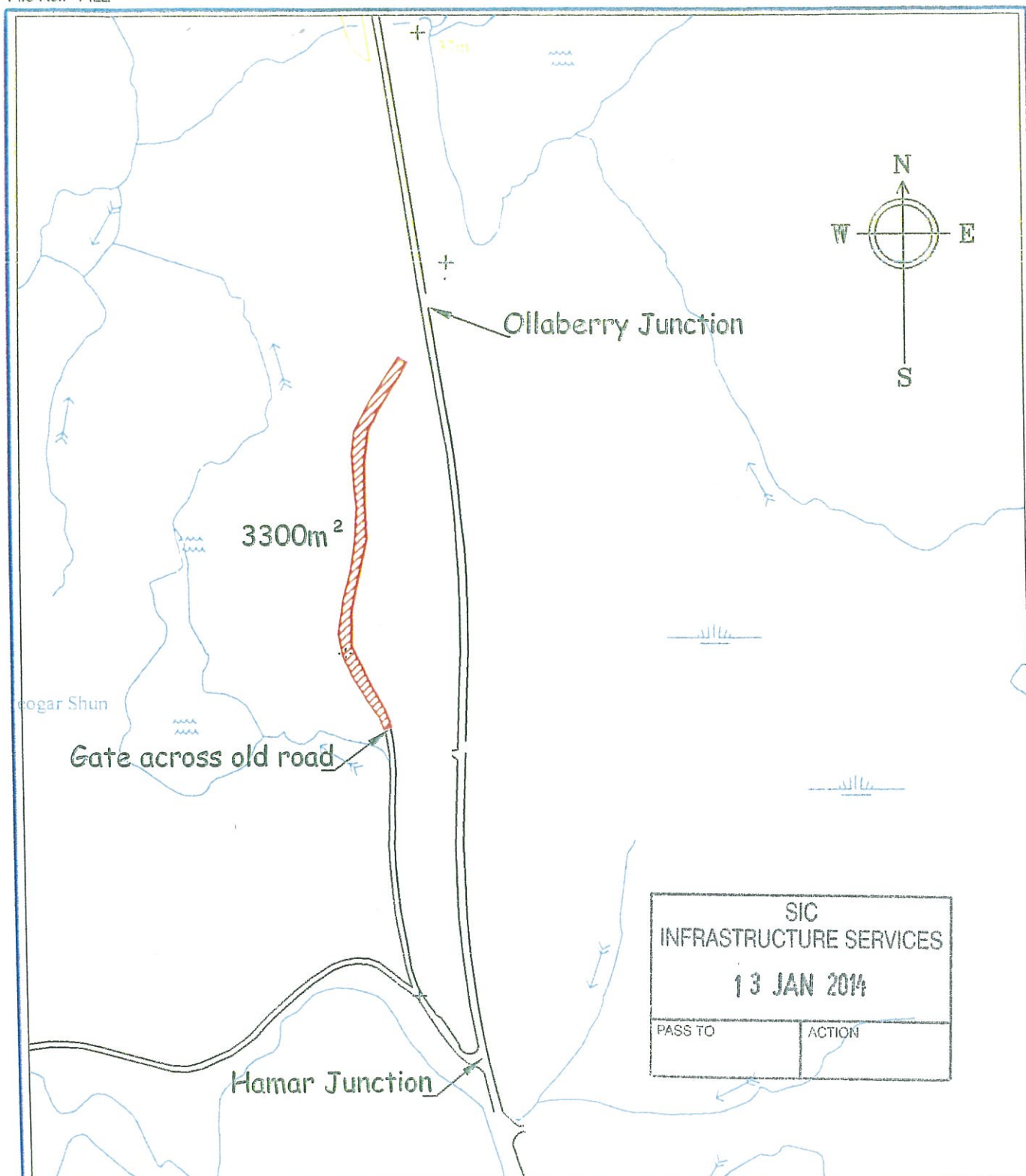
13. Background Information Considered

None.

14. Attachments

- Land Survey Plan and Cross Sections – Drawing No. HAM/SU+REC/2
- Location Plan – Drawing No. HAM/SU+REC/1
- Photograph – Drawing No. 2014/007/PPF_SIC-004

007_Delegated_Report_of_Handling.doc
Officer: Dawn Stewart
Date: 14th April 2014



Scheme:

Stopping Up and
Reclamation of Old Road,
North of Hamar Junction

Title:

Location Plan

Shetland Islands Council

Roads Service
Department of Infrastructure Services
Grantfield, Lerwick, Shetland

Tel: 01595 744866 Fax: 01595 744869



Date:
30/10/13

Drawn:
J.L.D

Checked:
B.J.W

Scale:
1/5000

Drg No:

HAM/SU+REC/1

Rev:

2014/007/AF-04

400-015 - JAF/EC0/1102

Old Road to be
landscaped & seeded

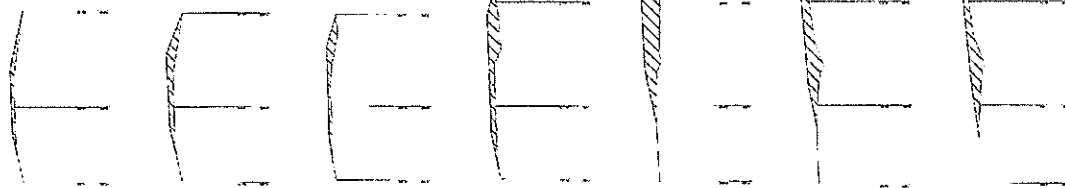
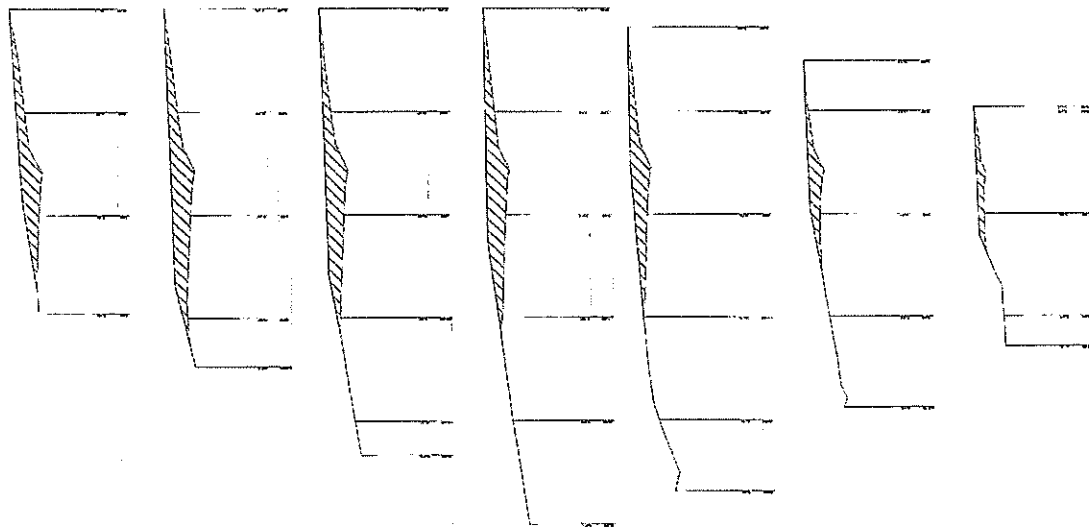
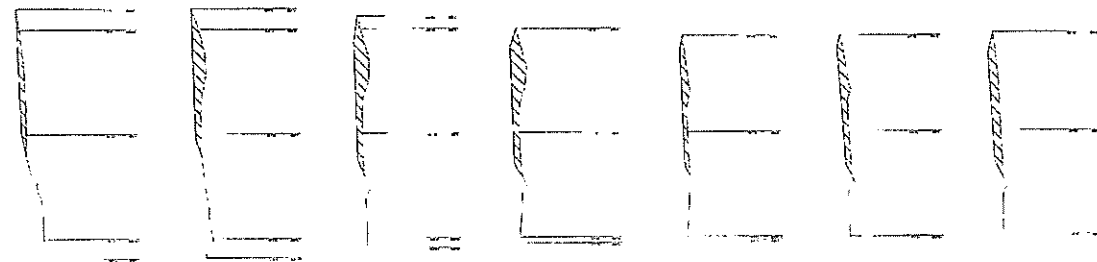


SIC
INFRASTRUCTURE SERVICES

13 JAN 2014

PLSS TO

ACTION



CROSS-SECTIONS 1:250



Reclamation of Old Road,
North of Hamar Junction

Shetland Islands Council



Land Survey Plan and
Cross-Sections CH 2-80
to CH 4-70.

27/01/14 J.L.D. As Shown
B.J.W.
HAM/SU-REC/3



REPORT

To: Planning Committee

13 May 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 condition being recommended is appended to this report.

Planning Application Ref.	Development Proposed	Applicant	Officer Recommendation	Type of Exception
2014/077/LBC	Sub floor works to ground floor; adopt additional joists to increase capacity of floor; re-use existing structure and floor boards, Town Hall Hillhead Lerwick Shetland ZE1 0HB	Shetland Islands Council	Approval with condition	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: 13/5/2014

Appendix

2014/077/LBC - Sub floor works to ground floor; adopt additional joists to increase capacity of floor; re-use existing structure and floor boards, Town Hall, Hillhead, Lerwick, Shetland, ZE1 0HB by Shetland Islands Council

Recommended Condition

(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.

Notes to Applicant:

Commencement of Development

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.

Building Warrant

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

Development: Sub floor works to ground floor; adopt additional joists to increase capacity of floor; re-use existing structure and floor boards

Location: Town Hall
Hillhead
Lerwick
Shetland
ZE1 0HB

By: Shetland Islands Council

Application Ref: 2014/077/LBC

1. Introduction

This is an application to carry out works to the ground floor office of the Town Hall, a B listed building, to enable the relocation of a safe from the former Registrar's office.

The application is being referred to the Planning Committee as the land is owned by the Shetland Islands Council, and the Council is also the applicant.

2. Statutory Development Plan Policies

Shetland Islands Council Structure Plan (2000) Policies

GDS3 - General Development Policy Existing Settlements

GDS4 - General Development Policy Natural and Built Environment

SPBE1 - Built Heritage

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

LPBE10 - Shopfronts in Conservation Areas

LPBE6 - Listed Buildings

LPBE7 - Conservation Grants

Shetland Islands Council Local Development Plan

HE1 - Historic Environment

HE2 - Listed Buildings

HE3 - Conservation Areas

3. Safeguarding

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

Conservation Areas - Conservation Area: Conservation Area

Listed Building - Listed buildings: LERWICK, HILLHEAD STREET,
TOWN HALL

Category of listing: B

Land Capability Agriculture - code: 888

Tingwall 10km Safeguarding - Tingwall 10km Safeguarding: Wind Turbine applications require consultation with Airport.

Zone 1 Modified - Zone 1 Modified: Housing Zone 1

4. **Consultations**

None.

5. **Statutory Advertisements**

The application was advertised in the Edinburgh Gazette on 11.04.2014. The application was advertised in the Shetland Times on 11.04.2014.

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.

All developments that affect listed buildings or their settings must be of a high quality and new development within Conservation Areas must be of the highest quality, respect and enhance the architectural and visual qualities that gave rise to their designation.

It is important that any new development does not detract from the character, appearance or setting of the listed building. The applicant has submitted a Supporting Statement which details the proposed works and the likely impacts on the listed building.

An area of sub floor requires to be strengthened by inserting intermediate joists for an increased dead load of the Registrar's safe and access by persons using wheelchairs. The existing floor boards will then be reused.

The works will be carried out in accordance with the submitted method statement to ensure that the same construction methods as used when the building was initially designed and constructed, allowing for the building standards which are currently in place. Therefore the new inserted joists will be able to be read as a new addition in the context of the history of the building.

It is considered that the proposed works will ensure that the new use by the Registrar's Office will not result in any injury to the fabric and character of the listed building and therefore can be supported.

8. Policy and Delegated Authority

A decision to approve this application complies with Council planning policy. As 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 an application as a departure from the Shetland Islands Council Development Plan Policy, it is imperative that clear reasons for proposing the refusal of listed building consent 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 Scottish Ministers

Not required on this occasion

9. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) The proposed works are appropriate in terms of design, materials, scale and location on the site and as such will not compromise the visual amenity or character of the surrounding area and will have no adverse impact upon the natural or built environment, Conservation Area or Listed Building. As such, the proposal complies with the: Shetland Islands Council Structure Plan (2000) policies GDS4

and SPNE1; Shetland Islands Council Local Plan (2004) (As Amended) policies LPNE10, LPBE6, LPBE8, LPBE11 and LPBE13.

10. List of approved plans:

- Site & Location Plan SITE&LOCATION 12.03.2014
- Floor Plan 11204000754 Rev 01 12.03.2014
- Section Plan DRW - 1 12.03.2014
- Floor Plan DRW - 12 12.03.2014
- Supporting Statement 2014/077/LBC - 01
04.04.2014

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.

Notes to Applicant:

Commencement of Development

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.

Building Warrant

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

11. Further Notifications Required

None

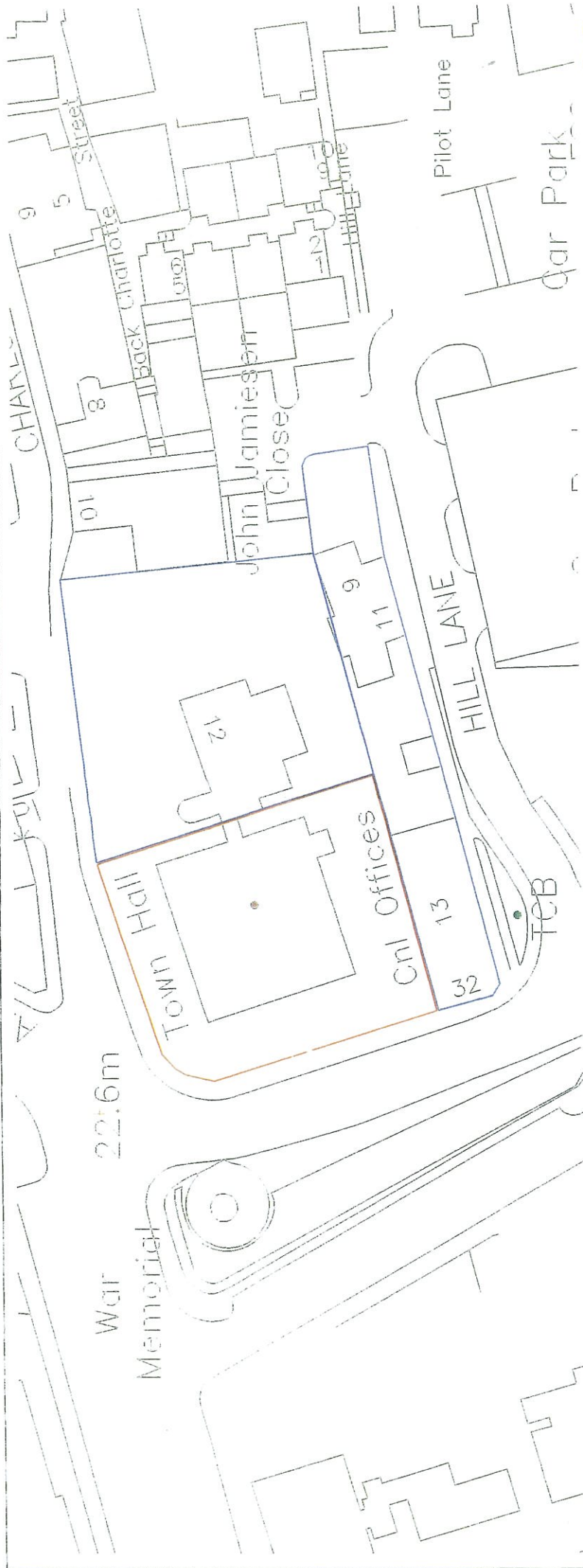
12. Background Information Considered

None

13. Attachments

Site and Location Plan

Planning Committee Report.doc
Officer: Mr Richard MacNeill
Date: 13/05/2014



Site Plan
1:500

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SHETLAND ISLANDS COUNCIL PLANNING	
PASS TO	ACTION
12 MAR 2014	

Revision | No. | Date

Shetland Islands Council

Capital Programme Service
Corporate Services
Office Head Quarters, 8 North Ness Business Park,
Larwick, Shetland, ZE1 6LZ
Telephone: 744140 (SFD Code 01595)
Fax: 744667

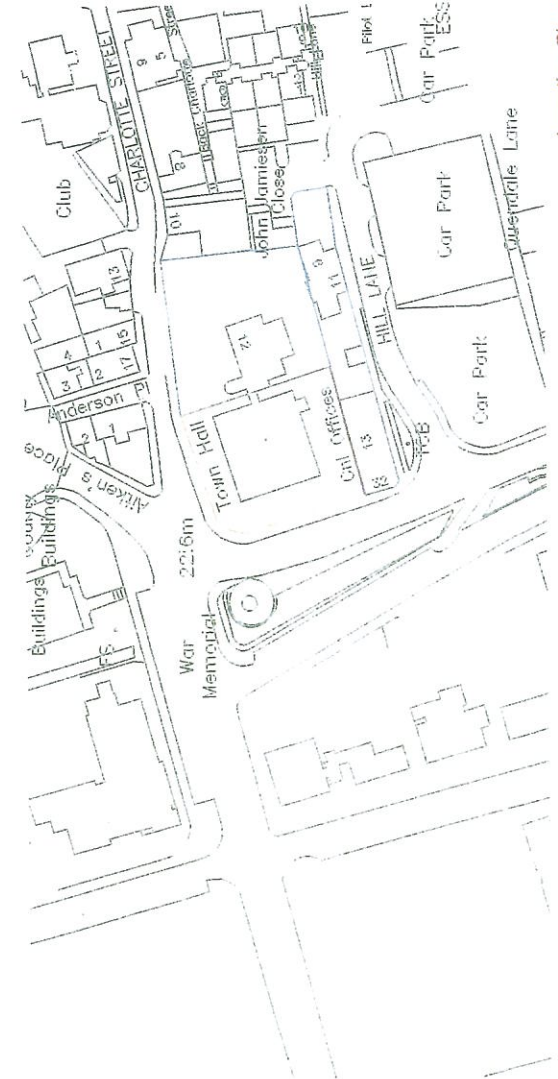


Town Hall

Site and Location Plan

Job Code	Drwg. No.	Rev.	Drawn
	Site/Location		LAD
Scale	Date	AutoCAD File	
as shown/A3	05.03.14		

A3



Location Plan
1:1250