

# MINUTE

# AB - Public

**Planning Committee**  
**Council Chamber, Town Hall, Lerwick**  
**Tuesday 12 August 2014 at 2pm**

**Present:**

A Manson	P Campbell
S Coutts	B Fox
D Ratter	G Robinson

**Apologies:**

F Robertson	M Bell
D Sandison	

**In Attendance (Officers):**

J Holden, Team Leader – Development Management  
A Taylor, Team Leader – Development Plans and Heritage  
D Stewart, Planning Officer  
C Gair, Traffic Engineer  
P Sutherland, Solicitor  
L Adamson, Committee Officer

**Chair**

In the absence of the Chair, Ms A Manson, Vice-Chair of the Planning Committee, presided.

**Circular**

The circular calling the meeting was held as read.

**Declarations of Interest**

None

23/14 **Minutes**

The Committee confirmed the minutes of the meeting held on 10 June 2014 on the motion of Mr Fox, seconded by Mr Campbell.

The Chair advised that since the last meeting of the Planning Committee, 83 planning applications had been determined under delegated authority. She added that this was a significant achievement particularly with this being the holiday period and a busy time for the Planning Service.

**Local Reviews under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) to be considered by the Planning Committee sitting as Local Review Body:**

24/14 **2014/065/PPF – LR17: Extend opening in boundary wall and form vehicle access: 12 Bank Lane, Lerwick, Shetland, ZE1 0DT.**

The Review Body considered a report by the Team Leader – Development Management [RECORD Appendix 1]. The Review Body decided to carry out the review process with a public hearing as indicated in the report. The site was illustrated by a PowerPoint display of photographs and key information.

The Planning Officer advised that the application, which is the subject of the Local Review today, to extend an opening in a boundary wall in order to formulate a vehicular access and parking area at 12 Bank Lane, Lerwick, is situated within Lerwick Lanes Outstanding Conservation Area.

In referring the Review Body to the Location Plan, the Planning Officer highlighted the extent of the applicants' curtilage (in blue) and the area proposed for development to the east of the applicants' dwellinghouse (in red).

The Planning Officer referred the Review Body to the photograph which showed the applicants' dwellinghouse, situated on the left hand side of the picture. She said that the opening in the forefront of the photograph before the applicants' dwellinghouse, demonstrates a hardstanding area which the applicants currently utilise to park vehicles on. This hardstanding area was approved as an amendment to the original planning consent to construct the dwellinghouse in this location, on 2 July 1993 (ref: 5/93/C).

The Planning Officer referred to the photograph which illustrated the applicants' integral garage and the start of the historic iron railing; and to a further slide which provided an image of the existing elevation drawing and site layout on the left hand side and the proposed elevation and site layout to the right. The Planning Officer explained that the applicants intend to align the existing paved patio and to re-align the existing stone paved steps which give access into the property in order to accommodate the proposed access. The Planning Officer said that looking from the bottom right hand side of the plan, it has been calculated that the section of wall proposed for removal measures 2.75 metres in length. The existing wall is 1.9 metres in height and is situated approximately 1.4 metres away from the historic hand-rail. This railing commences outside of the applicants' boundary wall and runs down the length of Bank Lane towards Commercial Street. Should an access be formulated in this location therefore, it appears that any vehicle accessing this site could technically pass within 0.6 metres of the railing. The Planning Officer advised that a mature sycamore tree is also located within the applicants' garden grounds and immediately adjacent to the area of wall that is proposed for removal. A low, oval-shaped stone wall exists around the base of this tree measuring 4 metres in length, and extending into the applicants' patio area by 2.75 metres in width.

The presentation included a photograph which demonstrated the close proximity between the hand-rail and the section of boundary wall that is proposed for removal. There were also photographs of the car park/turning area, showing the existing parking/turning area which is located immediately opposite the applicants' dwellinghouse. The Planning Officer referred to the final photograph, which she advised demonstrates the extent of the existing hardstanding area which is currently being utilised by the applicants for car parking purposes.

The Planning Officer reported that Shetland Local Plan (2004) Policy LPBE8 stipulates that there is a presumption against development that does not preserve and enhance the character or amenity of an existing Conservation Area and as such, any new development within this location must be of the highest quality, respect and enhance the architectural and visual qualities that give rise to their actual designation, and conform to Appendix F of Shetland Local Plan (2004). Shetland Local Plan (2004) Policy LPBE9 stipulates that development involving demolition of any structure which contributes to or enhances the character or amenity of the Conservation Area will not be permitted.

The Planning Officer advised that the section of drystone wall that is proposed to be removed to accommodate the access and parking area, was rebuilt by the applicant due to controlling conditions that were applied to the original consent to construct the dwellinghouse in 1993. Although no details of the original historic wall, or measures pertaining to its subsequent replacement or re-construction appear to be included in the original planning application submission of 1993, it is evident that the applicants have done an outstanding job in re-constructing the drystone boundary wall, as it looks as if it has always formed part of this site. The actual construction method of the wall and the materials used has given the boundary a definitive aesthetic quality, which is considered serves as a positive contribution to the character and visual appeal of the Lerwick Lanes Outstanding Conservation Area. The Planning Officer advised that Conservation Areas form an important physical record of the architectural development and historical growth of an area. They are an irreplaceable cultural and economic resource that contributes to the distinctive character and unique quality of Shetland and therefore must be protected. Thus, when considering applications for new development in Conservation Areas, the Council's priority will be to have regard to the special architectural and visual qualities that are the reason for the areas designation.

The Planning Officer outlined the key issues relating to the application:

- Conservation Areas are “areas of special architectural or historic interest, the character of appearance of which, it is desirable to preserve or enhance” (Historic Scotland);
- The boundary wall that was re-constructed by the applicants in order to accommodate the dwellinghouse on this site is of a very high standard in terms of its design and aesthetic quality which adds to the character, quality, visual appearance and appeal of the Lerwick Lanes Outstanding Conservation Area;
- One of the conditions of the applicants original consent did not permit uncontrolled creation of accesses;
- If approved, the historic railing may be adversely affected due to its close proximity to vehicles accessing/exiting the driveway;
- Vehicular activity in the Lanes has been actively discouraged by the Council as Planning Authority in the past;
- Evidence of sufficient car parking capacity within a 3 minute walking distance of recent proposed developments in and around the Hillhead has been accepted by the Council, for example, the Council's former Craigielea building, and a new dwellinghouse at Reform Lane;
- If approved, this development will set a precedent for further removal of historical features from the Conservation Area and may encourage others to seek to develop off-street parking within the Lanes; and will be detrimental to the character and appearance of Lerwick Lanes Outstanding Conservation Area and therefore contrary to Structure and Local Plan policies that seek to preserve and enhance such places.

In her conclusion, the Planning Officer advised on the recommendation, that the decision to refuse this planning application in line with the Shetland Local Plan (2004) Policies LPBE8 and LPBE9 is upheld.

The Chair invited the applicant to address the Review Body.

Mr D Riddell, representative of the applicant, advised that he had first made Maurice's acquaintance over 50 years ago, and that for the last 21 years Maurice has been a very

good neighbour to everyone in Bank Lane. Mr Riddell said that the residents of Bank Lane are very supportive of this project as it will create more parking spaces.

Mr Riddell advised that there are ten houses in the top part of Bank Lane in fairly close proximity to each other. Currently these houses run twelve vehicles and this leads to congestion in the turning area beside the church and the three garages. Several cars are parked in this area overnight, and occasionally residents get requests to move their car to let the oil truck in, as Mr Riddell advised had happened to him at 1.30pm today. Mr Riddell said that Maurice's family, the three daughters plus partners run six cars among them so if they all come along for tea, which they do regularly each week, there is a parking problem which the success of this appeal could ease. He said that they could of course park on the Hillhead, but room there is limited, particularly, around 5pm. Mr Riddell said that his own garage is nearest the proposed entrance and he has no problem with what is proposed.

Mr Riddell said that the history of the wall to be removed is relevant, in that originally the whole wall on the north side of the lane was a dry stone dyke. The top part of it was in a poor state due to tree roots and branches dislodging stones. Maurice arranged for the top third of the wall to be re-built in 1994, at this time the Council was still doling out grants for projects in the conservation area. Maurice applied for a grant of £1700 and this was agreed, however when the wall was rebuilt the Council refused to pay the grant because it did not fit in with the rest of the wall because mortar had been used. Mr Riddell said that he found it very strange that the Council are refusing to let Maurice demolish a small part of a wall that was deemed unfit for grant when it was re-built – Mr Riddell commented that you can now see where Maurice's frustration at dealing with officialdom stems from. Finally, Mr Riddell said that the patio where Maurice wants to park the cars must be one of the most underused pieces of land in the town centre as the trees block out any sunlight making it virtually worthless.

In response to a question from Mr Coutts, the Traffic Engineer confirmed that the Roads Service have no concerns in terms of the access into Bank Lane in regard to pedestrians.

Mr Ratter made reference to the contradictions that have been made about the boundary wall; being described by the Planning Officer during her presentation as an outstanding reconstruction, however the representative of the applicant during his address to the Review Body advised that in 1994 when the applicant rebuilt the top part of the wall, the Council had refused to pay a grant as the wall had been considered inadequate. The Planning Officer advised that the applicant was required to re-build the wall due to a controlling condition which had been applied to the original planning consent to construct the dwellinghouse on this site. She added that the applicant has done a very good job of re-constructing the wall as was required.

Mr Fox enquired whether the applicant has exclusive use of the hardstanding area as shown in a photograph, which formed part of the presentation. The Planning Officer referred the Review Body to the slide of the Location Plan, where she advised that as far as she is aware, the area within the blue line is under the applicant's ownership. She assumed therefore that the hardstanding area was for the applicants' exclusive use.

Mr Campbell made reference to the applicants' proposal to remove the section of wall to below the level of the start of the existing hand-rail in Bank Lane, and he enquired on the possibility to angle the end of the wall to bring it in line with the handrail. The Traffic Engineer advised that any reduction would not give sufficient access for

vehicles. He confirmed that the opening as proposed by the applicant, given the approach, is the narrowest that could be acceptable.

Mr Fox advised that he had been on the site visit yesterday. He fully acknowledged the issues with the application in the conservation area, however he said that this was not an untouched area, as there was an instance of a harled wall and the applicant had previously reinstated the wall at his property. Mr Fox said that on that basis, he was minded to uphold the appeal, however he did have concerns that the removal of the wall as proposed would be below the start of the hand-rail in Bank Lane. He said that in a dark night, for example, a driver could hit into the top of the railing. In this regard, Mr Fox questioned whether the applicant could attach a reflector to the end of the hand-rail. Mr Fox said that he had also noticed that the stanchions on the railing were very corroded and therefore he would expect some repair work to the hand-rail in the reasonably near future, and he questioned whether the top end of the hand-rail could be removed at that time. Mr Fox added that, other than the concerns as advised, he was supportive of any proposal to create a few more parking spaces in Lerwick town centre.

The Planning Officer said that she supposed that the removal of a section at the top of the railing could be technically feasible, however any changes to the existing railing would require planning consent and would need to be considered in more detail in the form a separate application. The Traffic Engineer advised that the hand-rail in Bank Lane had been refurbished some 5 to 7 years ago, and that historically it appears that the hand-rail had always been the same length. The Traffic Engineer confirmed that as the hand-rail is in a conservation area it is likely that planning consent would be required to make any alterations.

Mr Ratter said that he supported Mr Fox's comments. He said that a good deal of the railing is galvanised and quite new, and therefore he was inclined to grant the appeal and permit the application. He said that the applicant had previously rebuilt the wall to his own design from stones and plaster, and that granted the application is in a conservation area, Mr Ratter advised that much of the area has changed and been developed during the years. He said that the residents in the area are keen for the development to take place, and the Community Council supported the application. Mr Ratter moved that the Review Body grant the application. In seconding, Mr Robinson commented that he was not convinced that the top end of the hand-rail would be an issue, with careful driving.

The Team Leader – Development Plans and Heritage reminded the Review Body of the requirement to give valid planning reasons to uphold the appeal. He also advised that as a further plan of the access levels had been submitted by the Roads Service during the application process, and therefore the Review Body have to agree whether the updated plan is to be regarded as the approved plan.

In regard to valid planning reasons for his decision, Mr Ratter said the applicant is not proposing the reconstruction of an historic wall, but to extend the opening of a relatively recent stone and concrete wall.

The Review Board agreed that the Plan as submitted by the Roads Service to be the Approved Plan.

The meeting concluded at 2.25 pm.

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Vice-Chair