

MINUTE

A&B - Public

Planning Committee

Council Chamber, Town Hall, Lerwick

Wednesday 10 December 2014 at 2pm

Present:

F Robertson	A Manson
M Bell	B Fox
D Ratter	D Sandison

Apologies:

P Campbell	S Coutts
G Robinson	

In Attendance (Officers):

I McDiarmid, Executive Manager – Planning
J Holden, Team Leader – Development Management
R MacNeill, Planning Officer
M Taylor, Planning Officer
C Gair, Roads Engineer
P Sutherland, Solicitor
L Adamson, Committee Officer

Also in Attendance

A Cooper
A Duncan
C Smith
G Smith
A Wishart

Chair

Mr F Robertson, Chair of the Planning Committee, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None

31/14 Minutes

The Committee confirmed the minutes of the meeting held on 7 November 2014 on the motion of Mr Fox, seconded by Mr Bell.

Local Review 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:

The Chair advised those present that the first two items on the agenda are to be determined by the Planning Committee sitting as the Local Review Body. He informed on the background to the formation of the Local Review Body, where under the new Planning Act 2006 the process for planning appeals to be submitted to Scottish Ministers was removed, and instead this was replaced by a Local Review Body to be established by Local Authorities. He advised

that in 2011 the Council approved the adoption of this system, where the Planning Committee was given extended powers to sit as the Local Review Body to determine appeals following decisions made by officers under delegated authority.

The Chair explained that the Local Review Body follows a quasi-judicial process, whereby objectors, then the applicants or applicants' agent, address Members. Members are allowed to put questions the objector or the applicant/agent. He said that the Local Review Body then considers all the material, including any new information which has come forward. The Chair advised that this process can be undertaken without the applicant and/or their agent being present.

32/14 **2013/278/PPF – LR20 – Erect extension to west elevation: 8 Thorfinn Street, Lerwick, Shetland ZE1 0BQ**

The Review Body considered a report by the Planning Officer [RECORD Appendix 1]. The Review Body determined 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 (R MacNeill) presented the following slides as part of his presentation:

- Location Plan
- Site Plan
- Satellite View
- Elevations of the proposed extension
- Key Issues

The Planning Officer advised that the application was for full planning permission to erect a single storey extension, which at the time of the original submission, measured 12.209 metres long and 4 metres in height, located at the rear of 8 Thorfinn Street, Lerwick. The extension was proposed to be sited some 1.0 metres off the applicants' boundary with the attached neighbouring dwellinghouse at No. 6 Thorfinn Street, Lerwick.

He reported that as a result of discussions with the applicants, amended plans had been submitted. The revisions which were subsequently refused showed the extension reduced in length by approximately 1.9 metres, with windows which previously looked onto the neighbouring property removed. The extent of underbuilding which may be required due to the present landform was shown on the revised submitted plans and therefore quantified the potential impact of the land-raise, which was not considered significant in its own right.

Referring to the Satellite View of the site, the Planning Officer highlighted to Members the properties at No. 2 and No. 12 Thorfinn Street, which received permission in 2004 and 2001, where he advised that the extension at No. 2 is 7.5 metres long and the extension at No. 12 is 5.7 metres long.

The Planning Officer advised that the extension as proposed at No. 8 Thorfinn Street would create a long imposing single storey extension, almost directly on the boundary of the property with No. 6 Thorfinn Street, thereby detracting from the open aspect and amenity currently enjoyed. It was considered that the proposal raised a conflict with the policies contained within the Development Plan, which seek to protect the amenity of neighbouring properties. The proposal was therefore considered to be contrary to Policy LPNE 10 Appendix F, and LP BE13 of the

Shetland Local Plan 2004 in that the proposed extension was considered to be of such a scale that it would have created a structure which appeared overbearing and dominant when viewed in relation to the adjacent property, to the detriment of the amenity currently enjoyed by its occupants. This is also the view of the Planning Service when assessing the proposal under the new Shetland Local Development Plan 2014 Policy GP3 "Development should not have a significant adverse effect on existing uses".

The Planning Officer said it is considered that it should be accepted that some proposals are incompatible with the surroundings and environment, which they seek to occupy on account of their scale and therefore it is recommended that the appeal be dismissed.

The Chair invited the objector to address the meeting.

Mr J Anderson advised that he was representing the objectors, Mrs L Blackwood Coutts and Mrs B Robertson, who live at No. 6 Thorfinn Street. Mr Anderson advised that the scale of the drawings did not give a true representation of the distance between the proposed extension at No. 8 and the boundary at No. 6, where he explained that when measured on site the distance would be substantially less than 1.0 metres. He advised that the ground level is to rise by some 1.45 metres in the lower corner of the proposed extension, which he said would be a significant amount of ground to lose in the space of 2 feet. He stated that there is no way that can be achieved, and details have not been included in the planning application. Mr Anderson made reference to the first paragraph in the applicants' statement of 6 October 2014, "Planning had indicated that it would be acceptable to shift the extension in order that the proposed building would be adjacent to the gable. No consideration has been given to the fact that Thorfinn Street is a narrow one-way street with cars parked along its length and on the pavement. If an extension was built as Planning suggested, there would be no vehicular access for our two vehicles....". Mr Anderson said that this suggestion does not form any part of the papers nor are there any drawings of the proposal, where he stated that there are more questions than answers to this application.

The Chair thanked Mr Anderson for his contribution to the Review Body.

The Chair invited Mr C Smith, who was representing the applicants, to address the meeting.

Mr Smith read from a prepared paper as follows, " Mr and Mrs Johnston who reside at 13 Ronald Street, Lerwick are constituents of the Lerwick South Members and they have asked me to represent them at this review today. Mr and Mrs Johnston are unable to be here today as they are attending Mr Johnston's brother's funeral.

The property at 8 Thorfinn Street has been in Mrs Johnston's family since 1924 when her grandparents were the first tenant when the property was new and it has remained in the family ever since. Mr and Mrs Johnston bought the property in the 1980s from Shetland Islands Council.

The reason for the application to extend the property would allow for Mr and Mrs Johnston to have a property with all amenities on the ground floor which they see as being an important benefit to them as they get older. The Council does encourage people to stay in their own homes for as long as possible and in this case the additional adaptations at this property are at no cost to the Council.

I have spent some considerable time with the Johnstons and indeed had a joint meeting with them and the planning officer in an attempt to try and find a way forward without having to come to a review hearing. At the said meeting I suggested that the extension be moved and part of it be wrapped around the gable of the house (not a very technical expression) but Mr Johnston explained by doing so would add to more on street parking in Thorfinn Street which is already congested. The reason for the extension as proposed would allow for them to drive down past the gable of the house and park at the bottom of the garden on the area that is set down for parking.

I would like to draw your attention to the fact that a number of large extensions have been erected both in Thorfinn Street and Briewick Road so the Council has to some extent set a precedent in the area. The proposed extension has been designed to a high standard and indeed would enhance what is a very large garden.

Out of the 16 neighbour notifications that were sent out only one objection was received from a neighbour, there were two other objections. With regards to the objections raised by the owner at 6 Thorfinn Street, Lerwick Community Council and a Council Member are misleading.

- (1) The scale of the underbuilding is not 6ft as has been indicated by one objector but will be approximately 1.4m.
- (2) The proposed roofing materials are not out of keeping with existing extensions in the area and there are many properties both in Lerwick and throughout Shetland that this has been used to compromise for slate.
- (3) The property is neither listed nor in a conservation area therefore the comments regarding the use of materials would be a preference and not mandatory.
- (4) The overshadowing that has been raised by the objectors has to be proved and none have come forward with evidence to that effect so can only be assumptions and not a logical objection.
- (5) It should be noted that should the applicants so wish they could erect a 2.5 high boundary fence without any planning permission.
- (6) The plans have been changed to take account of the overlooking windows. In addition the footprint of the proposed extension has been reduced from 12.2m in the original submission to 10.5 and so no longer should be seen as overbearing in appearance and dominating the adjacent property or the whole area for that part. This extension will not be visible from the front of the building or Thorfinn Street. The objection raised by the Lerwick Community Council was probably decided on in this room without any consideration being given to the benefits this development would have like off street parking facilities, and I would guess the other two objections would be likewise.

To summarise, on the positive, if this proposed extension was to be considered for approval today the following I feel are important points for me to address once again:

- The extension is of a high standard
- The footprint has been reduced to accommodate as many of the concerns as possible.
- Off street parking would be facilitated
- Other properties within the same street have been given permission to extend so this would be in keeping with those.

It is two years since Mr and Mrs Johnston started on this venture and they have spent considerable time and finance on trying to get to a compromise.

I would reiterate that this extension would allow Mr and Mrs Johnston to stay in their own home with all the amenities on the ground floor – something we must encourage.

Mr Chairman, Members, I would like to thank you for your time.”

In response to a comment from the Chair, the Members indicated that they had no questions to put to Mr Smith. The Chair thanked Mr Smith for his contribution, and said that as an advocate for the applicants and in accordance with protocol Mr Smith is required to leave the room.

(Mr C Smith left the meeting).

Mr Fox sought clarification from the Planning Officer in regard to the height of the underbuilding. The Planning Officer said that the measurements were not exact however he said that from the plans provided he did not consider the underbuilding to be significant. He said however that the issue was more the overall length and height of the proposed extension from the ground. The Chair made a comment that the impact from the proposed extension will depend on the landscaping of the site.

In response to questions as to what size of extension would be acceptable to the Planning Service in the rear garden area of this property, bearing in mind that the proposed extension was only single storey, the Planning Officer said that it was difficult to give a judgement without considering all the information relating to an application. The Planning Officer however referred to the two extensions that have been permitted in the area, being 7.5 metres and 5.2 metres long, which he said were a substantial reduction in size from the applicants’ proposed extension at 10.5 metres.

Mr Sandison referred to the issues raised in regard to overshadowing from the proposed extension, and he questioned whether locating the extension further to the west of the property could be a positive to negate any overshadowing. The Planning Officer explained that during the discussions with Mr and Mrs Johnston, the Planning Service had made a suggestion for the extension to be moved further to the west, however the applicants had not come forward with any such plans, but instead they suggested a compromise to their first proposal and submitted revised plans with changes to the length and scale of the extension.

In response to a question, the Planning Officer confirmed that the air raid shelter in the vicinity of the site did not form any part of this application and it was not listed.

During the debate, Mr Fox advised that Members on the Review Body had visited the site yesterday. Mr Fox made reference to the comment in the letter of objection from the residents at No. 6 Thorfinn Street, where they are at a loss to understand how the considerable height of underbuilding and the landscaping would be addressed, as this had not been detailed in the plans. Mr Fox said that he shared those concerns, and he made a comment that the photograph of the site does not show the significant level of drop in the ground. Mr Fox added that he found the drawings to be misleading as they would appear to mitigate the impacts

on No. 6 Thorfinn Street, and said that the extension as proposed is not appropriate. Mr Fox moved that the appeal is turned down and the officers' recommendation for refusal is accepted. Mr Sandison seconded.

Decision:

There being no one otherwise minded, the Chair confirmed the decision of the Local Review Body was to uphold the decision made to **REFUSE** planning permission for the development, being that the proposed extension is of such a size and scale that it will be overbearing in appearance and dominate the adjacent property.

(Mr Bell left the meeting).

33/14

2014/027/PPF – LR19 – Erect new Farm Shop with Cafe and create new access onto public road: Fladdabister, Cunningsburgh, Shetland ZE2 9HA

The Review Body considered a report by the Planning Officer [RECORD Appendix 2]. The Review Body determined 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 (M Taylor) presented the following slides as part of his presentation:

- Location Plan
- Elevations and Floor Plan
- Satellite image of the site and environs
- Photograph of Fladdabister/Aithsetter junction from the A970 looking north towards the site
- Photograph – looking south along the A970 towards the site
- Key Issues
- Main Considerations

In his presentation, the Planning Officer advised that the site is located immediately east of the A970 within a field being north of the Fladdabister/Aithsetter junction. The field is currently undeveloped and in use for grazing. The Planning Officer said that the proposed building is to contain the farm shop, cafe, letting units, and stores with associated welfare facilities. He said that the design and appearance of the building is befitting of the semi rural location and would not appear out of place, and whilst a closer association with the existing developments within the Cunningsburgh settlement would be preferred, the general appearance of the building is acceptable and consistent with the provisions of planning policy.

The Planning Officer said that for the most part the development proposal is consistent with the Local Plan and Structure Plan policies that it was assessed against. However, and crucially, the technical advisors at the Roads Service consider that the proposal would compromise road safety and is inadequately serviced. This suggests that the proposal is in conflict with the overarching requirement for development to maintain acceptable levels of health and safety, in this instance in respect of pedestrians and other road users. The Key Issues slide as part of the Planning Officer's presentation informed the Members of the Planning Service's view that the proposal was inconsistent with provisions of the new Shetland Local Development Plan (2014) policies GP1: ease of access for all; GP2: suitable access etc. and acceptable health and safety standards; GP3: safety and

ease of movement; TRANS1: maintaining access; and TRANS 3: access and parking standards.

In referring Members to the Main Considerations slide, the Planning Officer advised on a clear precedent set by the Planning Reporter following the unsuccessful appeal of planning application 2009/88/PCD in 2010 on road safety grounds (to create new access on A970), "the A970 occupies a position in the road hierarchy where any reasonable planning authority would resist new individual accesses". He advised on the recognition that safer options are nearby which is particularly applicable in this instance. He added that the Reporter also commented on the consistent approach by the Council in recent years.

The Chair said that the proposal to create a farm shop and cafe and to provide units for let is an interesting and innovative proposal and could be an intensive and welcomed development in a rural area. He said the Local Review Body must consider and judge the proposals against the policies in the Local Development Plan. The Chair advised that at this point during the process he would call on the objector to address the Review Body, however for this application he was aware that there had been no objections locally. The Chair then called on the applicant to make a presentation to the meeting in support of the project.

Mr K Mackenzie, the applicant, read from a prepared paper as follows:

"We would like to thank you for holding this review today. Also thank you to our family and friends who have come along today to support us.

We would firstly like to say that we are vexed that we have had to have this meeting at all. Our application went into planning in January this year. Our funding stream opens in January – next month and if we are not early in getting into the scheme, there is little chance of us getting funding and therefore being able to build the Farm Shop. We find the whole process very complex as the policies quoted to us, as being contrary to our proposal, were actually in our favour. All that we are trying to do is sell our produce direct from our Croft, adjacent to an existing access, in an area which was deemed suitable for the safe herding of our livestock across the main road and is the only piece of land in our ownership that is suitable for an enterprise such as a Farm Shop.

Our pre-application advice recommended refusal on the grounds of:

- Any application to create a new access onto the A970 would be opposed due to road safety.

Due to this statement and other confusion, we consulted a roads engineer and asked our architect to change the design of the access thinking that this would solve the problem and applied for planning permission.

The SIC Environmental Health and Planning Departments were both very supportive of our project as was the Community Council and locals who have welcomed the opportunity of employment where very little exists. There has been a minimum of 52 new builds, in Cunningsburgh, over the past 10 years with 11 new builds next year so far.

We were then very surprised to find that our application was refused on the grounds of 8 Policies all to do with Road safety issues. We have looked into these Policies at length and can find little evidence to support the refusal.

Policy LP NE10 - Development and the Environment: This policy notes that Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out and to manage change.

Policy LP IND4 - Business and Industry in Existing Rural Settlements: Our proposal is not 'within an existing rural settlement' so this Policy does not apply.

Policy LP IND5 - Business and Industry Proposals in the Open Countryside: Our project conforms to all of the criteria in this Policy.

Policy LP COM13 - Retailing in the Rural Areas: This Policy does not apply to retail units which are ancillary to an adjacent manufacturing enterprise or farm shops.

Policy LPC SF4 does not exist! We presume it should be Policy LP CFS4

General Development Policy Natural and Built Environment GDS4: Our project does not go against this Policy

Policy SP TP1: This Policy actually supports our application, rather than being grounds for refusal.

Policy SP TP7: As mentioned before in this document, we submitted an amended car parking arrangement that was subsequently accepted as concurrent with existing policy.

These policies are therefore not grounds for refusal.

- The site will be easily identifiable as drivers will see a large building at the roadside.
- There will be appropriate signage, with appropriate planning permission, advising drivers from both directions that they are approaching an access – therefore leaving them in no doubt of where the signalling vehicle is going to.
- Our access has more than the minimum visibility from both directions.
- It is not on an overtaking section of road
- There is more than ample space from the nearest junction of Aithsetter
- We have upgraded our parking and service area to current standards

We have been advised that if we had applied for this project within the constraints of the village, we would have been given the go-ahead - i.e. within a 50mph speed limit. However the SIC Roads Department now say that speed limits should not be set in isolation or unrealistically low levels and they are not keen on moving the existing 50mph speed limit to the North of the Farm Shop site. However, at a recent Community Council meeting the speed limit through Quarff was discussed and it is hoped to reduce it in the near future. This was encouraged by the Chief of Police – Mr Lindsay Tulloch – who was in attendance. He noted that any reduction in the speed limit in Cunningsburgh and Quarff should have a positive effect on the overall speed between Sumburgh and Lerwick.

It is written in the SIC Development Plan that there will be times when the need to make provision for new development will not fit easily within the need to conserve

the environment. The Shetland Local Plan and the Structure Plan provide framework that can strike a balance between current infrastructure and future development.

To summarise, we note that Colin Gair has written a memo to the Planning Department asking them to consider conditions of access construction if this application is approved. There are 11 conditions attached that we are very willing to adhere to. We are willing to change the construction of the access to a standard bell mouth 'T' junction as recommended by Colin Gair Roads Engineer – as long as it is directly off the main A970.

We have been scare mongered by several people recently saying; that if the Council approve our application and there is then an accident in this area, that the Council would then be liable. However we have asked this question of the SIC's own Legal and Technical department and they have said – I quote: 'Provided that the approved junction was not in breach of road construction regulations and that the Council discharged their duty in relating to appropriate signage, etc., then NO LIABILITY could fall on the Council in granting permission'.

There is therefore no need to set aside policy as we said in our supporting statement as when we have looked into it in great detail, we have found there is room for manoeuvre – no pun intended!"

The Chair thanked Mr Mackenzie for the information provided, and advised Members to take this opportunity to ask Mr Mackenzie any technical questions or points of clarification.

Mr Fox advised that he had attended the site visit yesterday. Mr Fox enquired on the proposals for pedestrian access to the proposed Farm Shop. Mr Mackenzie advised that currently the pavement ends at the Aithsetter Junction, but that the old single track road is already a popular area for walkers and cyclists. He explained that their proposal would be to direct the public up to the old single track road, where a small pedestrian access will be constructed up to the shop.

Ms Manson questioned whether it would not be cheaper and easier to create a vehicular access to the shop via the old single track road, rather than a new access on the A970. Mr Mackenzie said that their proposal to create a new access on the A970 related to the size of the vehicles they anticipate will use the shop, where they would hope to make the access a decent size, rather than upgrading the old road, which he said being single track would not be suitable for larger vehicles. He advised on the steep gradient up from the old single track road to the proposed shop and cafe, which would require significant cutback during construction works and have implications in regard to environmental impacts and such like.

Mr Sandison made reference to the revised application that was submitted for two accesses onto the A970, where he questioned whether this was an improvement from the one access that had initially been sought, where he made reference to current Policy not to have additional accesses onto the A970. The Planning Officer acknowledged that the revised proposals for two separate access points did not improve the situation. He explained that as the two access option had been the most recent submission, that proposal had been assessed as part of the proposed development. The Planning Officer advised that a Council Roads Engineer was present at the meeting to answer any technical questions in regard to the access to the site.

In making reference to the letter from the Planning Service to the applicant, which informs on a pre-application discussion on the possible change of use of an existing agricultural building in the Aithsetter Road to be converted into the farm shop, Mr Fox enquired why that option had not been taken further. Mr Mackenzie advised that the proposal to convert the building would have been a cheaper option. However, he advised Members that an application for a farm shop in Gulberwick some years earlier, which had been refused due to its location being via a single track road. He said that to enable the building to be used as the farm shop would require the construction of a double track road in the area, pavements and a lay-by to accommodate larger vehicles, which he said would be a significant additional cost.

The Chair sought clarity from Mr Mackenzie on their grounds for not using the existing Aithsetter junction and constructing the access in from the old single track road. Mr Mackenzie explained that the levels would permit such an access, however it would require extensive excavation. Mr Mackenzie advised from a site meeting with officers from the Council's Roads Service, where he had asked where a suitable access from the old single track road could best be achieved. He advised that the response from the officers had been that they could not recommend an access point, but that we were to submit detailed drawings of a proposal. In response to a comment, Mr Mackenzie added that at that site meeting, discussion had included a scenario of vehicles turning into the Aithsetter Junction, where the Roads Officers had indicated that the existing Aithsetter Junction may not be suitable and would be unfit under its current size and shape.

Mr Sandison enquired whether the applicants' anticipation that large bus parties will visit the farm shop and cafe was a reason for not using the existing Aithsetter junction and upgrading the old single track road. Mr Mackenzie advised that they had sought the opinion from professional bus drivers, with many years of driving experience, who said that to take the access in from the old single track road would be nonsense. Mr Mackenzie added that the proposal would also make the project prohibitive on costings.

The Chair thanked Mr Mackenzie for the information provided.

The Chair stated that the critical aspect of this application is the question of traffic movements along the single carriageway two lane road, between Lerwick and Sumburgh. The Chair sought clarity as to whether the Aithsetter junction, as it currently exists, would not be acceptable as a junction under the current highway standards. The Roads Engineer explained that the junction is suitable in terms of its current use and copes with existing traffic levels, and is already used by larger delivery vehicles and for school transport. He said that the Roads Service have not been provided with any information on numbers and frequency of vehicles for the proposed farm shop. He added however that if the junction was considered to be unsuitable by the applicant, the applicant would be responsible for any upgrades.

In response to a question, the Roads Engineer confirmed that the Road Service had assessed the subsequent two access points on the A970 to be a poorer solution, and would be less safe than a single T-junction.

Mr Fox stated that this was a very worthwhile project that has stumbled as a solution cannot be found in regard to the access from the A970. He made reference to the comments from the applicants that they would be very willing to

work with the Roads Service to achieve a solution, where he enquired whether the Roads Engineer could look again at the proposals in order to achieve the necessary standards. Mr Fox made reference to the letter of support from the Gulberwick, Quarff and Cunningsburgh Community Council, where it states, "They do not have any concerns about an additional junction in that area if it conforms to all the legislation". The Roads Engineer explained that a junction in the proposed location could conform to the technical requirements in regard to width, shape and gradient, however the issue is whether it is appropriate to have a junction in this location on a road network where there are alternatives to access the site. Mr Fox made comment that Council Policy is not to exclude, but to restrict accesses, where he said there is flexibility. The Roads Engineer said that there are no two points on any road that would have identical constraints, and therefore there has to be flexibility. However, he added that the Council should restrict accesses where they are not required and where there would be better alternatives.

Mr Fox enquired on the suggestion to extend the 50mph speed limit that runs through the centre of Cunningsburgh further north. The Roads Engineer confirmed to Members that the proposal to extend the speed limit had not formed part of this application, and he advised that the process would be governed by regulations. However, in this location he questioned whether a 50mph speed restriction would make a difference, as the same conflicts would exist whether the speed restriction was in place or not – this was particularly relevant when there would appear to be a viable alternative access solution.

The Chair stated that he had been somewhat surprised that, when being made aware of the Policy in the Local Development Plan to restrict accesses to the A970, the applicants' agent had presented their revised proposals for the 2 accesses onto the A970. He said that a single access, though undesirable, would be better option than 2 accesses, which he said could add to confusion. In response to a question, the Roads Engineer confirmed that in any scenario on a two-lane road a single access would be the safer option, if designed to the required standard and gradient.

In response to a comment from the Chair, the Roads Engineer advised that the gradients at the proposed junction had not been included with the application, however having been on site he did not anticipate any issues when forming a suitable junction layout.

In response to a question, the Planning Officer confirmed that the Reporter's decision in 2010 for the Council to resist new individual accesses onto the A970 is a material consideration for this application.

The Chair stated that having heard the appellant's presentation, the main issue for consideration by the Local Review Body is the access to the site. He said it would appear to be not impossible for the access to be achieved from the Aithsetter Junction, however this would require public road improvements and potentially significant excavation work up from the old single track road. This has to be balanced against the road safety issues raised by the Roads Service in an access from the A970.

Mr Ratter said this is a very interesting proposal, which has come up against one point of difficulty in regard to access to the site, and it would be very regrettable if the issue could not be overcome. He said that the local bus drivers, who are extremely familiar with the roads in the area, are very supportive of the development and the overall visibility splays are quite good. Mr Ratter referred to

the penultimate paragraph in the memo from the Roads Service, dated 19 November 2014, where it states that should the Council be minded to uphold this appeal, it adheres to a number of well thought out conditions relating to a single access onto the A970. Mr Ratter said that he was also heartened that the applicants have indicated their willingness to adhere to the conditions.

Mr Ratter moved that the Review Body uphold the appeal, and that access to the site is by a single junction onto the A970, which is subject to conditions 1 – 11 as listed in the memo from the Roads Service dated 19 November 2014.

The Executive Manager – Planning advised that the review process would require detail on the grounds for setting aside Council Policy, where for this appeal Members are to specifically consider the road safety aspects. Mr Ratter said that he considered that the 11 conditions as had been set out by the Roads Service would address the road safety issues and provide the safest system as is possible.

In seconding, Mr Fox referred to his earlier question in regard to how the applicants intend to facilitate the pedestrian access to the farm shop/cafe, where he suggested that further information is required. Mr Ratter confirmed that he would include into his motion that the pedestrian access is to be appropriately defined.

Decision:

The Local Review Body agreed to uphold the appeal and **APPROVED** the planning permission for the development, subject to the 11 conditions as had been listed by the Road Service for a single access to the site, and for the pedestrian access to be appropriately defined.

34/14

2014/175/PPF – To Improve Area of Land by Importing Inert Non-hazardous Spoil from Excavations from Construction Sites in the Sullom Voe Area

The Committee considered a report by the Planning Officer – Development Management [PL-11-14-F: RECORD Appendix 3]. The site was illustrated by a PowerPoint display of photographs and key information. The Planning Officer (M Taylor) presented the following slides as part of his presentation:

- Location Plan
- Satellite image of the site and surrounding area
- Site photo
- Proposed site sections
- Key Issues

In his presentation, the Planning Officer referred Members to the Location Plan slide, where he highlighted the proposed development area and the close relationship with the previously consented phase 1 and phase 2 areas. He advised on the key issues relating to the application, being compatibility of the use of the site with surrounding land uses; environmental impacts on SAC and habitat loss, and the impacts upon the public road condition.

The Planning Officer advised that the site is surrounded on 3 sides by industrial, airport, and quarrying activity, and is immediately adjacent to other phases of agricultural land improvements. It is considered that the site and subsequent land form is appropriately sited in the context of the established uses, and avoids any encroachment on open countryside. A loss of some blanket bog is inevitable in this location, but due to the proposed height and profile of the land works the land

uptake is minimised whilst providing a significant capacity to take inert materials. He advised that adjacent higher quality blanket bog remains unaffected and with adequate drainage measures would be maintained around the site area.

The Planning Officer said it is considered that the number and nature of vehicle movements would lead to damage to the public road network in the vicinity of the development, however the applicant has indicated that they are in negotiation with the Roads Service to agree an appropriate contribution to road maintenance. A condition has been recommended to ensure this. The Planning Officer concluded by advising that with the use of planning conditions, the development complies with the provisions of the Shetland LDP and is recommended for approval.

Mr Fox sought clarity in regard to the first sentence in Section 1.2 of the report. The Planning Officer advised that 'inert' material included all non-pollutant material from Sullom Voe. In regard to imports from 'elsewhere', the Planning Officer advised that the developer has indicated that there may be a practical solution to use this site; however no precise details had been provided. He added however, that in line with SEPA's requirement, detail on the source and nature of material to the site will be included in the Management Plan.

In response to a question, the Planning Officer confirmed that having been provided with additional information, SEPA has withdrawn their earlier objection relating to surface water drainage.

Mr Fox referred Members to the section of the report which states, "We note that SNH has requested that compensatory bog restoration is completed outside of the application area to compensate for loss of habitat. The applicant states that they will do this provided the land owner agrees", which he said was a very open ended statement. In making reference to an earlier retrospective application that had been submitted by the developer, and to the number of conditions connected to this application, Mr Fox went on to advise on his concern at the lack of resources in the Planning Service to monitor planning conditions. The Executive Manager – Planning advised on the recent halted recruitment of a Monitoring/Liaison Officer in the Planning Service to be shared between Building Standards and Development Management. He said that in regard to the Committee's consideration of this application, previous behaviour or the lack of compliance with planning conditions cannot be considered as a material planning consideration. He said that the Enforcement Officer the Planning Service has will monitor permissions, and any issues of concern will follow the enforcement process. Mr Fox added that his comments were not a criticism of the Planning Service, but it highlighted the lack of resources to manage in particular the larger developments in Shetland, many of which are to the national good.

Mr Sandison said that the proposal was an obvious next phase in a set of solutions, which will contribute to the overall needs of the construction phases in this area. Mr Sandison moved that the Committee approve the application, subject to compliance with the conditions and the requirements in the Environmental Impact Assessment (EIA). Ms Manson seconded.

Decision:

The Committee **APPROVED** the application, subject to the schedule of recommended conditions and the requirements in the EIA.

2014/278/PPF – To Vary Condition 1 of Planning Permission 2010/209/PCD to Alter House Type C (part retrospective application)

The Committee considered a report by the Planning Officer – Development Management [PL-12-14-F: RECORD Appendix 4]. The site was illustrated by a PowerPoint display of photographs and key information. The Planning Officer (R MacNeill) presented the following slides as part of his presentation:

- Location map
- Site Plan
- Photographs of the Housing Development
- Key Issues

The Planning Officer advised that the application is presented to Committee as the application is classed as a major development as it is an application to vary a major development. He reported that planning permission was first granted in 2010 for a total of 76 houses at Hoofields. This included the removal of the 32 existing chalets and the redevelopment of the site. The development commenced with the enabling works to provide 50 serviced house sites. The Council completed 22 of the originally approved houses. Hjaltsland Housing Association now propose to build the remaining 26 houses on the serviced site as a joint venture. The Planning Officer advised that the variation sought by this application is to change the roof structure of 14 of the 26 houses from an attic truss that would allow for future development of the attic space for additional living space/bedrooms to a standard truss that does not allow for expansion into the roof space. This will remove any potential for future proofing this development and will reduce the overall flexibility/adaptability of the development, which is the only issue for concern in relation to this application. It has to be noted that at the time of writing the report, 8 of the 14 units have been constructed.

The Planning Officer advised that the loss of adaptability of these 14 units will not affect the overall mix of housing types as 46% of the housing that could be future proofed are, and the change will not affect the ability of the development as a whole to meet the identified needs and demands for housing and the trend for smaller housing units.

The Planning Officer concluded by advising that the proposal therefore remains sustainable although with reduced flexibility, and the proposal complies with the general policies contained within the new Shetland Local Development Plan.

In response to a question, the Planning Officer confirmed that there will be no change to the external appearance of the properties.

Mr Ratter moved that the Committee approve the application, subject to the conditions as listed. Mr Sandison seconded.

Decision:

The Committee **APPROVED** the application, subject to the schedule of recommended conditions.

The meeting concluded at 3.30pm

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Chair