

MINUTE

A&B - Public

Planning Committee
Council Chamber, Town Hall, Lerwick
Tuesday 14 April 2015 at 2pm

Present:

F Robertson	M Bell
P Campbell	S Coutts
B Fox	A Manson
D Ratter	G Robinson
D Sandison	

Apologies:

None

In Attendance (Officers):

I McDiarmid, Executive Manager – Planning
N Sineath, Enforcement Officer
A Maclean, Planning Officer
D Stewart, Planning Officer
P Sutherland, Solicitor
B Kerr, Communications Officer
L Adamson, Committee Officer

Chair

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

Circular

The circular calling the meeting was held as read.

Declarations of Interest

Mr Coutts declared an interest in Item 2, “2015/053/LBC: To replace windows, Seafield House, Seafield, Lerwick”, as through his employment he had provided the home energy report which recommended the double glazing. Mr Coutts confirmed that he would leave the Chamber during the item.

07/15 **Minutes**

The Committee confirmed the minutes of the meeting held on 10 March 2015 on the motion of Mr Sandison, seconded by Mr Robinson.

The Chair explained that in handling and dealing with applications for Listed Building Consent, the Planning Committee representing the Local Authority, is required to have special regard for the preservation of such listed buildings in the desirability of preserving their qualities, settings and in particular any special architectural or historical interest or merit they may have. He advised that the decisions made by this Committee on listed buildings require to be notified to Historic Scotland who has the power, if they so wish to, and if they consider the findings are not in line with the proper process, to call in the application where Historic Scotland can decide what action is to be taken.

08/15 **2014/310/PPF & 2014/311/LBC: To replace basement windows and railings (Retrospective Application), Varis House, Church Road, Lerwick, Shetland**

The Committee considered a report by the Planning Officer – Development Management [PL-05-15-F: RECORD Appendix 1]. The Planning Officer (D Stewart) presented the following slides as part of her presentation:

- Location Plan
- Photograph – Principal Elevation
- Photograph – Rear Elevation
- Photograph – Front railings
- Photographs – Basement window replacements
- Key Issues

The Planning Officer advised that her presentation relates to retrospective applications for planning permission and listed building consent to replace 6 basement windows and front external iron railings at the property known as Varis House (formerly Bonavista Guesthouse) which is located at the top of Church Road, and on the corner of Greenfield Place in Lerwick. Varis House is a rare example of an early 19th century, larger town house and was listed as a Category B listed building by Historic Scotland in 1971. The property is also situated in an elevated and therefore prominent position in Lerwick Conservation Area.

In reporting on the external railings which align the steps up the front entrance of the property, the Planning Officer advised that these were originally constructed of cast-iron balusters with wrought-iron handrails. A supporting statement submitted by the applicant states that the external railings were either replaced or repaired due to damaged and missing rails and that this work was carried out to preserve the nature of the railings and to protect users of the building entrance from slipping. The Planning Officer said that whilst ensuring that a safe entrance to the property can be achieved is appreciated, it is difficult to ascertain whether or not the replacement railings are wholly acceptable given that their removal and subsequent replacement has already been undertaken and there is no record of the design of the previous railings. She went on to advise that railings of this period are generally very simple and elegant in style and constructed of cast iron and more occasionally from wrought iron which is usually painted in a dark colour. Whilst the replacement rails have been painted black, the visual appearance is inevitably different from that of what would have originally been in place. The repaired and replacement rails appear to have been constructed in reinforced iron which varies in appearance from rail to rail due to bespoke repairs and replacement. A section of rail is also missing from the left hand side of the stairwell and 6 completely plain rails, which look more like rods, have been installed on the right hand side of the stairwell, which indicates a deviation from a regular design.

In quoting from Historic Scotland's document "The Maintenance of Iron Gates and Railings", the Planning Officer reported that "The retention of traditional ironwork can be enormously beneficial to the quality and character of a building given that such period features enhance the appearance and value of traditional buildings and are costly to replace if they are removed. Inappropriate, poorly designed repairs and replacements can be severely damaging to ironwork and will detract from the character and appearance of historic ironwork. Inserted sections made from dissimilar metals corrode at a faster rate when in direct contact with iron. Repairs carried out using poor-quality welding techniques in place of traditional mechanical fixings or fire welding also severely detract from the appearance of the ironwork and can also lead to corrosion. Before embarking on these repairs, the applicant should have undertaken an assessment of the condition of the ironwork to determine what

minimum degree of intervention was required. Where repairs are necessary, as much of the original fabric as possible should be retained”.

The Planning Officer advised that accordingly to Historic Scotland’s listing schedule, the original timber sash and cane windows contained in this property were predominantly 4-pane, with 12-pane fenestration centred at the rear elevation and 16-pane fenestration in the basement.

The Planning Officer reported that Shetland Local Development Plan (2014) Policy HE2 states that development affecting a listed building or its setting, should preserve the building, its setting and any features of special architectural or historic interest that it possesses. The layout, design, materials, scale, siting and use of any development should be appropriate to the character and appearance of the listed building and its setting. Inappropriate alteration can remove the special interest of a building such as this, which is why there is a presumption against works that adversely affect the special interest of a listed building or its setting. Positive attempts to achieve appropriate and sympathetic restoration to development in conservation areas should also be made in accordance with LDP Policy HE3.

The Planning Officer explained that the applicant has replaced the original timber sash and case, 8 over 8 pane windows in the basement with 1 over 1, UPVC modern equivalents, which are out of keeping with the character and historic fabric of this Category B listed building and are therefore detrimental to the visual quality and architectural integrity of this property. The Planning Officer advised that no condition survey or justification to remove and replace the original windows was provided with either application submitted, other than to say that the “existing windows were causing leakages to internal linings and were therefore not considered to be adequate for purpose”.

In concluding, the Planning Officer stated that the retrospective works are not sympathetic to the original design, style or materials used for the former windows or railings and as such detract from the aesthetic quality, character and integrity of this Category B listed property and the historic interest of Lerwick Conservation Area. This development is therefore considered to be contrary to Shetland Local Development Plan (2014) Policies GP2, GP3, HE1, HE2 and HE3 and as such it is requested that the recommendation to refuse consent for both applications be upheld.

In response to a question from the Chair relating to the repairs undertaken on the railings, the Planning Officer advised on the slight deviation in the different railings on the right-hand side of the stairwell, in that some rails appear to be more like rods than a design, and one rail has not been replaced. She added that historical photos do not show the detail of the railings.

During debate, Mr Fox enquired on the timings of receipt of the applications, in terms of work undertaken. The Planning Officer explained that the initial planning application was submitted by the applicant in October 2014, which as the work required Listed Building consent, an application was requested and both applications were dealt with at the same time. She advised that it was Historic Scotland who informed the Planning Service that the works to the property had been undertaken without listed building consent. The Planning Officer added that as far as she is aware, the applicant made no contact with the Planning Service prior to the works starting.

In response to a question from the Chair in regard to evidence of the 8 over 8 pane windows in the basement of the property, the Planning Officer advised that images taken from Google Street view, and a photo from 2008, are proof of the 8 over 8 windows, which she added accords with Historic Scotland's records.

Mr Coutts moved that the Committee refuse the application. Mr Robinson seconded. There was no one otherwise minded.

Decision:

The Committee **REFUSED** the application and that this decision be notified to Historic Scotland.

(Mr Coutts left the Chamber).

09/15 **2015/053/LBC: To replace windows, Seafield House, Seafield, Lerwick, Shetland**

The Committee considered a report by the Planning Officer – Development Management [PL-04-15-F: RECORD Appendix 2]. The Planning Officer (A Maclean) presented the following slides as part of her presentation:

- Location Plan – showing the location of Seafield House, which is a category B listed building.
- 2 x drawings, provided by the applicant to show the design of the new windows. Members were advised that there are other window designs proposed for some of the windows on the front elevation, however no drawings had been provided for these windows.
- Photographs of the east elevation (the front), south elevation (side) and east elevation (back) of Seafield House – the windows proposed to be replaced were circled in red.

The Planning Officer advised Members that Historic Scotland has described the building as a sophisticated house of good quality construction.

The Planning Officer explained that a previous application was made in 2012 to replace 3 windows. That application was approved, however Historic Scotland had made comments that the recommendation conflicted with national policy as it was not proven that the windows were beyond repair or that their replacement was justified. After considering the case in some length, Historic Scotland allowed the replacement windows due to their location on the later wing. It was also stated that any future proposal to replace windows elsewhere in the building would be considered separately and should only be approved if the works are justified in terms of the Scottish Historic Environment Policy. The Planning Officer advised that the Planning Service had requested a condition survey from the applicant, however the response received provided information regarding the energy efficiency of the windows rather than the actual condition of the windows.

The Planning Officer explained that Historic Scotland, in their consultation response to this application, commented that windows should be retained and repaired where they contribute to the interest of the building in terms of its appearance and being an integral part of its original or historic value. Historic Scotland also pointed out that the 12-pane pattern and slender glazing-bar profiles of the windows proposed for replacement suggest they are original to the Seafield's building date of 1833.

The Planning Officer said that in conclusion, this is an application to replace windows, including those on the front elevation which are original to the building date of 1833. No condition survey has been submitted as the new windows are proposed in order to increase the energy efficiency of the building rather than to replace failing windows. No historic justification has been provided and no mention has been made as to why secondary glazing could not be used. The replacement of original windows in the listed building is against the Council's Local Development Plan policies which seek to preserve and enhance Shetland's cultural history as well as national policies for listed buildings. It is therefore recommended that this application be refused.

The Chair commented on how no condition survey on the windows has been provided by the applicant, as is required by Historic Scotland, and he enquired whether a condition survey had been submitted with their previous application submitted in 2012. The Planning Officer explained that their 2012 application had majored on the fact that there are not good enough joiners in Shetland to replace the windows, and that the main aim to replace the windows was for energy efficiency.

In acknowledging the difficulties with this application, Mr Ratter commented that the Council, and the Scottish and UK Governments are absolutely committed to initiatives which will improve the energy efficiency of dwellings. The Executive Manager – Planning explained that if the sole consideration was the energy efficiency of a property, the easiest way to improve the energy efficiency would be to demolish and rebuild. However, he said that the Planning Authority has to weigh up all the issues. The Executive Manager - Planning explained that the Planning Service did seek to negotiate with the developer and had sought the condition survey, which is a standard requirement for this type of application. The condition survey has not been provided, with the only reason given by the developer to replace the windows in his house being to improve the energy efficiency. He said that in terms of a Listed Building application, there is a need to demonstrate some element of the building was in need of repair, and to enter into negotiations as to what would be acceptable. In this case, a condition survey has not been provided to show elements of the Listed Building are in need of replacement.

Mr Sandison questioned the process, as to why the application has progressed to the Committee for a decision, when clearly the basic condition survey has not been provided, and the application has been refused at officer level.

Mr Campbell enquired whether there was any proof that the windows in the property were the originals, from the 1830s. The Planning Officer reported that the advice from Historic Scotland is the windows were of the original design.

Mr Fox enquired on the options that are available to owners of listed buildings, where windows are in a repairable condition. The Planning Officer confirmed that it is national policy to retain and repair windows in a historic building. In response to a request, the Planning Officer provided Members with a summary of Historic Scotland's "Scottish Historic Environment Policy", "that guidance recommends that windows should be retained and repaired where they contribute to the interest of the building in terms of its appearance and being an integral part of its original historic fabric. Where windows are repairable, draught-stripping and secondary glazing may be considered as ways of upgrading performance."

In response to a request from the applicant to address the meeting, the Chair advised that this would not be appropriate as the process did not follow that of a hearing.

The Chair commented that he would expect that when windows have reached a stage they have to be replaced detailed design of the windows would be submitted as part of a proper and full application. The Planning Officer advised that in regard to this application, information was received in regard to the windows to be replaced with two over two and the two over one design, as the same drawings had been submitted with the applicant's 2012 application. She added that some windows relative to this application are of a different glazing pattern and no drawings of these have been received.

In response to a question from Mr Fox, the Planning Officer advised that the Planning Service can ask an applicant for any further information to support their application, and in this case a condition survey was required to provide an understanding of the condition of the windows. In referring to Mr Sandison's earlier comment, Mr Fox also questioned why the application had been presented to Committee for a decision. The Planning Officer reiterated that in response to the Planning Service's request for a condition survey, the letter submitted by the applicant majored on the energy efficiency of the property, and there was nothing to show that the windows were crumbling, nor photos to support the application.

In response to questions from the Chair, the Planning Officer advised that a separate condition survey would be required for each window which is being proposed for replacement. This is because windows can deteriorate at different stages, owing to, for example, the direction of wind and rain.

In response to a question from the Chair regarding the information to be available to Historic Scotland, the Executive Manager – Planning explained that if the Committee take a decision today without a condition survey to prove the windows are beyond repair, Historic Scotland would be fully justified to question the decision. He said that it is standard practice for condition surveys to be submitted, to allow an assessment to be made that the windows can be repaired or to demonstrate the windows are beyond repair.

The Chair commented that in regard to this application, insufficient information has come forward as required by Historic Scotland to make a proper decision on this application, and its presentation to Committee is premature.

Mr Robinson said that he has more sympathy towards this application as the previous application, in that it is not for retrospective approval, and that the proposal appears to be an attempt to replace the existing windows with something similar, however the applicant has not submitted enough information to meet the requirements of Historic Scotland. Therefore due to the lack of information provided by the applicant, Mr Robinson moved that the Committee refuse the application and uphold the recommendation in the report. Mr Robinson added that his motion is made somewhat reluctantly, however there needs to be sufficient information to make a decision on the windows going into this building. Mr Fox seconded.

Mr Ratter moved, as an amendment, that the application be deferred to allow for the further information to be provided. Mr Campbell seconded.

In response to a comment from the Chair regarding the competency of the amendment, Mr Ratter sought clarification on the Committee's options in regard to decisions that can be made on applications. Mr Robinson said that as the application has reached this stage, the Committee needs to determine the application one way or the other, to either approve or reject it, and in regard to this application, the additional information requested has not been submitted. He added that he was unsure, whether at this stage, should further information be provided could it form part of this application. The Executive Manager – Planning explained that as the information requested by the Planning Service in regard to this application was not provided, the Service had no other option but to recommend refusal, and therefore the application was presented to Members. He commented that the Council seeks to protect Listed Buildings and Shetland's cultural heritage, and the officer's recommendation supports those aims.

The Executive Manager – Planning explained that there are no planning fees to be paid in regard to the submission of original or subsequent applications for Listed Building consent, and therefore no financial penalty for the developer to submit a further application with the required information and to discuss with Historic Scotland the merits of the proposal. In regard to the decision on this application, Historic Scotland's requirements have to be satisfied, and Historic Scotland can determine the decision over and above that made by Committee.

Decision:

The Committee **REFUSED** the application and that this decision be notified to Historic Scotland

(Mr Coutts returned to the meeting).

10/15 **2015/063/VCON: To vary condition 24 of Planning Permission 2014/117/PPF (Erect a new High School and Halls of Residence, Clickimin, Lerwick) to vary construction hours**

The Committee considered a report by the Planning Officer – Development Management [PL-03-15-F: RECORD Appendix 3]. The site was illustrated by a PowerPoint display of key information.

In introducing the application, the Planning Officer (A Maclean) advised on the proposed hours of working, being:

- Monday to Friday 0700 to 1900 - which is no change;
- Saturday, 0800 to 1700 - which is a later start by one hour; and
- Sunday, 0900 to 1600 - an additional day of working.

The Planning Officer reported that in terms of the potential impact on the residential areas, no objections have been received from Environmental Health. They have however recommended that work start at 10am on Sunday rather than the 9am start applied for. Environmental Health advised that should any complaint pertaining to either of these issues be received they will be investigated in line with current Council procedures and legislation e.g. COPA (Control of Pollution Act 1974 – as amended) and EPA (Environmental Protection Act 1990).

In referring to the Key Issues slide, the Planning Officer advised that the Planning Service considers that an extension of the working hours approved under Planning Permission 2014/117/PPF is likely to have an impact on the amenity of the nearby

residential properties which will not now enjoy a period of respite previously anticipated.

The Planning Officer advised that the applicant has undertaken an assessment of the potential impacts and has proposed an additional level of monitoring of the impacts at the closest noise sensitive receptors (North Lochside and Bruce Crescent). The contractor will also undertake to keep logs and liaise regularly with local residents. Compliance with this element of the assessment document is considered to be critical and as such a condition requiring that the development be carried out in accordance with the measures proposed has been recommended. The Planning Officer said that it is considered that the mitigation measures proposed, including the identification of areas within the site which will not be subject to the extra hours of working, together with the submission and implementation of the noise management plan will ensure that the noise levels experienced will not become unacceptably adverse. Therefore on balance, the variation applied for can be supported.

Mr Sandison enquired on the resources in place to effectively monitor and enforce the conditions should the application be approved. The Executive Manager – Planning commented that the Service is operating with the same staff resources as it has had for a while, and with the same or even less funding, while making decisions on some of the biggest developments in the country. He went on to explain that following an unsuccessful recruitment exercise to the Development Management Service, certain posts were amended to attract applicants at an earlier stage in their career. The current structure now includes one full time enforcement officer, and a further full time post, where part of the duties is to monitor and enforce the conditions on larger scale developments.

Mr Fox made reference to page viii of the Supplementary Statement, where he enquired whether the following mitigation measure to be employed to minimise associated impacts was considered to be sufficient, “Advertise a site contact number for use by local residents who wish to contact the site to raise a noise related issue/complaint. The contact number will be for a site representative with sufficient power and responsibility to ensure that noise impacts are kept to a minimum / complaints are appropriate actions”. The Executive Manager – Planning said that as with any development and developer, the Planning Service has no other option but to take the developer at their word. He said he would anticipate this provision to be put in place, and if not, this will be observed by the Planning Service or the Planning Service will be informed. The Executive Manager – Planning indicated that, at the Chair’s discretion, the Contract Manager for the Anderson High School Project was in attendance, to answer any specific questions.

In referring to Section 4.5 of the report, and the comments from the Environment Health Service, Mr Fox sought clarity as to whether stone breaking, piling or operating compressors and heavy plant movements could take place between the hours of 0900 and 1000 on Sundays. The Executive Manager – Planning commented that his understanding was that stone-breaking etc. could take place after 10am on Sundays. Mr Robinson advised on the expectation that there will be a lot of stone-breaking to be done on Sunday mornings. He also enquired whether the contractor has signed up to the “Considerate Construction Scheme”, which includes the requirement for contact details to be displayed where contact can be made to inform on any breaches. The Contract Manager reported that there will be a requirement for rock breaking at various areas of the site however the impact will be reduced through restricting activities during the additional working hours to

central areas of the site, and that noise levels are to be limited to 60 decibels even in rock breaking activities. He said that the contractor will develop a noise management plan, and will make sure that noise levels are not above 60 decibels. The Contract Manager added that he was unsure whether the contractor was a member of the "Considerate Construction Scheme".

In response to questions, the Planning Officer advised that no representations were received from nearby residents. She added that consultation takes place with residents who live within 20 metres of the red line of the boundary of the site.

In response to a question from the Chair, the Contracts Manager advised that the separate application associated with development of the roads and roundabout will follow the hours of working as were included in approval of that planning application.

Mr Robinson said that as sufficient reassurance has been provided in regard to noise levels, he moved that the Committee approve the application. Mr Bell seconded. There was no one otherwise minded.

Decision:

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

The meeting concluded at 3.10pm.

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Chair