



Guidance on 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: Local Review Ref: 2015/056/PPP – LR21 - To erect dwellinghouse (Planning Permission in Principle): Croft, 12 Veensgarth, Gott, Tingwall, Shetland, ZE2 9SB.

1 Introduction

- 1.1 The Planning Scheme of Delegations that has been approved by the Council, as well as that which has been approved by the Scottish Ministers, identifies the appropriate level of decision making to ensure compliance with the 1997 Planning Act.
- 1.2 The Scheme of Delegations, following the hierarchy of development introduced by the Planning etc. (Scotland) Act 2006 which is at the heart of the modernised planning system, provides that where a decision on an application for planning permission for a local development (as defined in the Hierarchy of Development) is to be taken it may, subject to certain exceptions, be so by officers as have been appointed by the planning authority.
- 1.3 A decision on an application for planning permission for a local development that is taken by an officer (the appointed person) under the Scheme of Delegations has the same status as other decisions taken by the planning authority other than arrangements for reviewing the decision. Sections 43A(8) to (16) of the 1997 Act remove the right of appeal to the Scottish Ministers, and put in place arrangements for the planning authority reviewing these decisions instead.
- 1.4 The Full Council resolved on 12 May 2011 (Minute Ref: 57/11) that the remit of the Planning Committee be extended to include the functions of the Local Review Body, who would review the decision taken.

2 Process

- 2.1 The procedures for requiring a review and the process that should then be followed are set out in regulations, and these have been followed in the administrative arrangements that have been carried out for support of this review in accordance with its being the intention that decision making by the Local Review Body will follow a public hearing. This however should be confirmed by the Review Body in each case before proceeding.
- 2.2 The Review Body is, where a decision has been taken that the review is to follow the public hearing procedure, required to follow Hearing Session Rules under Schedule 1 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. In

doing so they are to confirm the matters to be considered and the order in which persons entitled to appear are to be heard.

- 2.3 It has been the intention that such hearing sessions will be held in a similar manner to the current Planning Committee, with the Planning Service Case Officer presenting on the matters to be considered, followed by those persons entitled to appear other than the applicant, followed by the applicant, with its being the case that Members of the Review Body can ask questions throughout the process. The hearing session can similarly proceed in the absence of any person entitled to appear at it. The Review Body should confirm this order and confirm the time each person entitled to appear is to be afforded beforehand. During the administrative arrangements that have been carried the persons entitled to appear have been informed that they will each be given a maximum of 5 minutes.
- 2.4 The Hearing Session Rules prescribe that the hearing shall take the form of a discussion led by the local review body and cross-examination shall not be permitted unless the local review body consider that this is required to ensure a thorough examination of the issues. Persons entitled to appear are entitled to call evidence unless the local review body consider it to be irrelevant or repetitious. The local review body may also refuse to permit the cross-examination of persons giving evidence, or the presentation of any matter where they similarly consider them to be irrelevant or repetitious.
- 2.5 The matters that are attached for the purposes of consideration by the Review Body in this case comprise: the decision in respect of the application to which the review relates, the Report on Handling and any documents referred to in that Report (including: the planning application form, and any supporting statement and additional information submitted, consultation responses and representations received prior to the decision notice by the appointed person being issued); the notice of review given in accordance with Regulation 9; all documents accompanying the notice of review in accordance with Regulation 9(4); any representations or comments made under Regulation 10(4) or (6); and any 'hearing statement' served in relation to the review.
- 2.6 In order to be able to give notice of their decision in accordance with the regulations, the local review body must be clear on the details of the development plan and any other material considerations to which it had regard in determining the application, and, where relevant: include a description of any variation made to the application in accordance with section 32A(a) of the 1997 Act; specify any conditions to which the decision is to be subject; include a statement as to the duration of any permission granted or make a direction as to an alternative (and in the case of a planning permission in principle any substitute time periods to apply to approvals of matters specified in conditions); and if any obligation is to be entered into under section 75 of the 1997 Act in connection with the application state where the terms of such obligation or a summary of such terms may be inspected.

Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Local Review Under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 (As Amended)

Regarding Planning Application reference: 2015/056/PPP
To erect dwellinghouse (Planning Permission in Principle): Croft, 12
Veensgarth, Gott, Tingwall, Shetland, ZE2 9SB.
By Stephen Morgan

15 September 2015

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Section 1. Planning Submission – 2015/056/PPP

15 September 2015

Development Services
Planning Service
Shetland Islands Council
Planning Application

FOR OFFICIAL USE ONLY

Reference No:

Associated Application No:

Registration Date:

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997, AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006. TOWN & COUNTRY PLANNING (HAZARDOUS SUBSTANCES) (SCOTLAND) ACT 1997.

(PLEASE READ THE NOTES FOR GUIDANCE BEFORE COMPLETING THIS FORM. IT IS IMPORTANT THAT THIS FORM IS COMPLETED CORRECTLY TO AVOID DELAYS IN PROCESSING).

Separate forms must be completed for applications for House Alterations and Extensions, Listed Building Consent, Conservation Area Consent, Advertisement Consent and other categories of application.

1

I/We Apply To The Council For: Please tick relevant box

Full Planning Permission (FPP)

☐

Renewal of Temporary Permission

☐

Planning Permission in principle (PPP)

☒

Variation of a planning condition(s)

☐

Approval of matters specified in conditions (AMC)

☐

Reference number(s) of previous planning application(s)/permission(s) (if known) _____

Reference number(s) of proposal of Application Notice(s) (if applicable) _____

Have there been any pre-application discussions with planning? YES ☒ NO ☐

If yes, what type:

Telephone Letter Meeting: *Telephone*

Pre-application officer's name: *Mr. J. Wilson, informal discussion about plans*

2

The Application is considered to be a:

National Development ☐

Major Development ☐

Local Development ☒

Individual house site

3

Applicant's Name only:

Stephen Morgan

4

Full Address or Location of Proposed Development *please include postcode*

POSTCODE Croft 12, Veensgarth, Golt, ZE2 9SB

5

Existing Use of Land and/or Buildings *please give details*

Rough grazing

SHETLAND ISLANDS COUNCIL PLANNING	
13 FEB 2015	
PASS TO	ACTION
<i>C50</i>	<i>143021</i>

6

Description of Proposed Development *please specify what is being proposed*

I propose to build a four bedroom dwelling house and garage.

7**Residential Development**Number of dwelling houses proposed 1 Site Area (hectares) 0.12**8****Commercial/Industrial Development**

	Existing	Proposed
(a) Site Area (gross)	_____ hectares	_____ hectares
(b) Manufacturing/Production area	_____ sq m	_____ sq m
(c) Storage Area	_____ sq m	_____ sq m
(d) Office/Ancillary Area	_____ sq m	_____ sq m
(e) Retail (Net Floor Area)	_____ sq m	_____ sq m
(f) Intended hours of Operation	_____ hrs	_____ days
(g) Types of vehicles and number of movements	No: _____	Type: _____
(h) Present and proposed staff numbers	Present: _____	Proposed: _____

9**Proposed Access Arrangements** Please tick relevant boxes and note that such details are required for PPP applications

Do you intend to:

improve an existing access	<input type="checkbox"/>
use an existing access	<input type="checkbox"/>
form a new access	<input checked="" type="checkbox"/>

10**Parking**Number of existing parking spaces on site 0 Number of additional parking spaces proposed 4**11****Proposed Drainage Connections** Please tick relevant boxes

Drawings indicating whether disposal method proposals are new or as existing should be submitted including location of outfalls, connections etc.

(a) **Foul Drainage**

to public sewer	<input type="checkbox"/>	to existing septic tank	<input type="checkbox"/>
to new septic tank with soakaway	<input checked="" type="checkbox"/>	to new septic tank with sea outfall	<input type="checkbox"/>

(b) **Surface Water** - Please give full details and drawings

Public Sewer	<input type="checkbox"/>	Sustainable drainage system	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>		

12**Proposed External Building Materials And Colour Finishes**

Outside walls and roof covering wooden cladded walls, grey concrete tile roof.

Parking areas/Driveway surface tarmac

Landscaping grass

Windows / Doors wood / white

Boundary treatment (fences, walls etc.)

post and wire agricultural fencing

13**Hazardous Materials**

Does the proposal involve the use, storage or manufacture of hazardous materials? Yes ☐ No ☒

If the proposal involves the use, storage or manufacture of any "hazardous materials" (such as liquified Petroleum Gas, Hydrogen, Liquid Oxygen, or any explosive) please give details and the quantities in a covering letter.

14**Any other particulars to which the applicant wishes to draw attention**

I own and work the land in question and wish to build a house there. This will be more convenient for me and my family.

I am aware there was an issue in relation to traffic when a local developer was seeking to build houses in this area. I would counter this by saying I already use the road several times per day so this will not add traffic on the road. It should also be noted that another house was previously given permission to be built on another piece of land in this road, which has now lapsed. When the concerns about road safety were mentioned it was with this development having permission and therefore an anticipated increase in traffic which now does not exist. There was also an issue with sewerage and a question as to whether or not new properties would need to be connected to mains sewerage, Again, this took into account the property mentioned above, which no longer has permission, therefore should not be an issue for this proposed development.

15 LAND OWNERSHIP CERTIFICATE

Regulations 15 (1), The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

You must fill in an appropriate certificate of land ownership.

If you do not own all of the land or property to which this application relates, you must notify all the owners and agricultural tenants at the same time as submitting this form.

If you are unable to identify relevant parties then please contact the Development Management Service within the Planning Service by using the details at the end of this form.

A I hereby certify that: Please tick **one** box

1. 21 days before the date of this planning application, the applicant owned **all** the land to which this application relates. ☒
- or
2. The applicant has given notice to all persons who, 21 days before the date of this planning application, owned any part of the land to which it relates. They are: ☐

NAME OF OWNER	ADDRESS	DATE NOTIFIED

B I further certify that: Please tick **one** box

1. 21 days before the date of this planning application, none of the land formed part of an agricultural holding ☐
- or
2. The applicant has given notice to every person who, 21 days before the date of this application, was a tenant of an agricultural holding, any part of which formed part of the application site. These persons are: ☐

NAME OF TENANT	ADDRESS	DATE NOTIFIED

or

3. The land forms part of an agricultural holding, but there are no tenants. ☒

16 CHECKLIST

Checklist *Please tick all relevant boxes*

- I enclose 1 copy of this form
- I enclose 2 sets of the necessary plans and drawings
- I have completed and enclosed the land ownership certificates
- I enclose the necessary fee of £ 401
- I enclose 2 copies of a design statement (if necessary)
- I enclose 2 copies of a design and access statement (if necessary)

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Your application cannot be registered until all these documents and fee are received.
Failure to submit a PAC report when necessary will result in the application being returned.

17

Applicant's Details

NAME Stephen Morgan
ADDRESS

7 Vallafeld
Gott

POSTCODE ZE2 9XH

TELEPHONE

FAX

EMAIL

Please tick the box if the applicant is an Elected
Member of Shetland Islands Council ☐

18

Agent's Details

NAME
ADDRESS

Please tick the box if the agent is an Elected
Member of Shetland Islands Council ☐

POSTCODE

TELEPHONE

FAX

EMAIL

19

Contact Details As per applicant. Mobile number is: 07711 581713

NAME
ADDRESS

POSTCODE

TELEPHONE

FAX

EMAIL

20 Declaration

You should check that you have completed questions 1-13 and the Land Ownership Certificates correctly.

You should now sign the declaration below.

I HEREBY CERTIFY THAT THE INFORMATION GIVEN BY ME IN THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Signature of applicant/agent (delete where inappropriate) _____

Date _____

IMPORTANT: ANYONE WHO KNOWINGLY OR RECKLESSLY MAKES A FALSE DECLARATION IS LIABLE, ON CONVICTION, TO A FINE OF CURRENTLY UP TO £2000.

Completed applications should be sent to:

Shetland Islands Council
Planning Service
Development Services
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

Telephone: 01595 744293

e-mail: planningcontrol@shetland.gov.uk

Visit: www.shetland.gov.uk

NEIGHBOUR NOTIFICATION

It is the responsibility of the Council to notify those with an interest in neighbouring land of the submission of a valid planning application. Neighbouring land is that which is within 20 metres of the boundary of the application site. An advert will be placed in the local paper if the Planning Service is unable to notify neighbouring land on which there are no premises, in which case the applicant is required to pay for this advert within 21 days; the decision cannot be issued until this is paid. Therefore, if you know of any person(s) who has any interest in the land neighbouring the site of the proposed development, whether this is the owner or occupier in relation to domestic property, or owner, lessee or occupier in relation to non-domestic property, this could help avoid delay in processing your application. Please use the Neighbour Information Notice.

1. Domestic Property

Address

1. The Owner: MR & MRS STROWACH, THE STABLES, VEENSCARTH,
ZE2 9SB
 The Occupier:

2. The Owner:

The Occupier:

3. The Owner:

The Occupier:

4. The Owner:

The Occupier:

5. The Owner:

The Occupier:

2. Non-Domestic Property

1. The Owner: MR CECIL BUNSON, GRIESTA FARM, TINKWALL.
 The Lessee:
 The Occupier:

2. The Owner:

The Lessee:

The Occupier:

3. The Owner:

The Lessee:

The Occupier:

4. The Owner:

The Lessee:

The Occupier:

Please continue on another sheet as necessary and attach it to the application form.

Notice To Owners & Agricultural Tenants

Regulation 15 (1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

To:

Name (if known): MR CECIL ELLISON
Address: GRISSA FARM
TWGWATE

As either: (i) owner (or tenant under a lease with at least 7 years to run) ; or
(ii) tenant of any agricultural holding

to any of the land to which this application relates, this notice is to inform you that I/we:

Name (of applicant):
Address:

have made an application to the council for permission/consent to carry out the following development:

Description:

At:

You may inspect the application:

For a minimum **21 days** as an owner or agricultural tenant. Following the date of this notice, you can inspect the application form, plans, and other documents submitted at Development Services, Planning Service, 8 North Ness Business Park, Lerwick. The Department is open from 9.00am to 5.00pm, Monday to Friday. Details are also available on the Council's website (www.shetland.gov.uk).

You may receive this notice before the Council receives the application. You are therefore advised to telephone the Development Management Service within the Planning Service first and check that the application has been received. Telephone (01595 744293)

Representations:

If you wish to make representations or comments, you have a minimum of **21 days** as an owner or agricultural tenant from the date of this notice.

You should make your representation(s) **in writing** to the Executive Manager, Development Services, Planning at the address above or e-mail: planning.control@shetland.gov.uk

Applicants/A
Signature



Date

13/2/15

2014

MacNeill Richard@Development Service

From: Stephen Morgan [REDACTED]
Sent: 26 March 2015 13:02
To: MacNeill Richard@Development Service
Subject: Fwd: Planning application 2015/94/PPP

Dear Richard,

Please see my email below. Apologies for the typo in the original email address.

Stephen

Sent from my iPad

Begin forwarded message:

From: Stephen Morgan [REDACTED]
Date: 26 March 2015 12:59:51 GMT
To: "richard.nacneill@shetland.gov.uk" <richard.nacneill@shetland.gov.uk>
Subject: Planning application 2015/94/PPP

Dear Mr Macneill,

I am not sure if it is appropriate or not for me to make comment on my application at this stage or not, if not please let me know and disregard my comments below.

I have seen the objections to my application on the Planning Webpage, particularly in relation to the road improvements referenced in planning applications 2009/139/CPD and 2010/425/PCD.

I also note the road services comments in relation to the same matter, suggesting that a suspensive condition is placed on any consent until improvements to the road in question have been made.

It would appear to me that the roads service have not taken into account that when this condition was placed there was a live planning approval to build a house past the section of road in question, reference 2007/94/PCD, and the associated traffic that would come with this new house. There are, in my opinion, a number of factors that should be taken into account here and I will list them below:

- 1) Planning consent reference 2007/94/PCD has now lapsed and the applicant no longer lives in Shetland. The lapsing of this permission has reduced the traffic flow that would have been considered when the decision not to allow and further development until the road improvements were completed was taken.
- 2) The current (new) owner of this land (associated with planning application reference number 2007/94/PCD) is a crofter in the Veensgarth Road and has shown no interest in building. The fact that a current land owner has purchased this land reduces traffic that a new owner, from out with the Veensgarth Road would bring.
- 3) I currently own the land and regularly use the road in question, so my building a house there would not increase traffic flow.

I would appreciate it if the factors I highlight above are taken into account before a decision is made.

Stephen Morgan

Sent from my iPad

Section 2. Consultation Responses

15 September 2015

Rm

MEMO

To: Development Management

From: Roads

If calling please ask for
Brian Halcrow
Direct Dial: 4883

Medium: email

Date: 17 April 2015

Our Ref: BH/SMG/R/G2/TW

Your Ref:

2015/056/PPP

Planning Application 2015/94/PPP

To erect dwellinghouse in outline – Croft, 12 Veensgarth, Tingwall

I refer to the e-mail from Mr Morgan dated 26 March 2015, which has been sent through to us for comment.

In his e-mail Mr Morgan makes a number of observations. I would address them as follows...

1. With regards to Planning Application 2007/94/PCD the Roads Service were aware of the existing traffic implications of both this and other applications that were live at the time of the 2009 applications where the suspensive condition was introduced for developments beyond the bends at No.s 1 and 2 Veensgarth.
2. The lapsing of application 2007/94/PCD does mean that previously consented traffic movements will not now happen in respect of the originally consented development. Whether these consented movements can or should be made available to another applicant/ development is for the Planning Service to decide as arguably there are prior consents that could make claim to any 'spare' capacity on the road.
3. The traffic flows generated by any typical crofting or small-holding operation are less than would normally be associated with a family dwelling house. Therefore, building a house will lead to an increase in overall movements – particularly during the construction of the property. This point has been addressed previously.

In summary, the lapsing of permission for un-started developments that were consented prior to the suspensive conditions on the road being introduced could allow some pending or new developments to proceed. Whether this approach is adopted or not, and how any capacity released from such lapsed consents is allocated, is a matter for the Planning Service to decide.

Executive Manager, Roads

SHETLAND ISLANDS COUNCIL PLANNING	
17 APR 2015	
PASS TO	ACTION

MEMO**To:** Development Control**From:** Roads

If calling please ask for

Brian Halcrow

Direct Dial: 4883

Medium: email**Our Ref:** BH/SMG/R/G2/TW**Your Ref:****Date:** 11th March 2015**Application:** 2015/056/PPP**Address:** Croft 12, Veensgarth, Gott, Tingwall, Shetland, ZE2 9SB**Proposal:** To erect dwellinghouse (Planning Permission in Principle)**Date of Consultation:** 27th February 2015**SHETLAND ISLANDS COUNCIL
PLANNING****11 MAR 2015**

PASS TO

ACTION

Comments:

The issues surrounding this application in terms of road access are the same as highlighted in applications 2009/161/PCD and 2009/139/PCD, which related to the bends around Nos. 1 and 2 Veensgarth. These issues would have been dealt with by the road improvements approved under application 2010/425.

Therefore, in line with the previously identified applications from 2009 I would that a suspensive condition is placed on any consent requiring that suitable road improvements in line with those consented under application 2010/425 are provided and brought into public use before any works start on site.

General comments on the site itself are as follows:-

1. The required visibility splays shall be provided before any building works start on site and maintained during the course of the works.
 - a. A visibility splay of 2.5 metres by 90 metres shall be provided at the junction of the access with the public road. This is available at present.
2. No fence, wall, bushes or other potential obstruction to visibility shall be permitted within 3 metres of the edge of the public road.
3. The access shall be minimum of 5.5 metres wide for at least the first 6 metres from the edge of the public road.
4. The gradient of the access shall not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road.
5. The access shall be surfaced in bitmac for at least the first 6 metres from the edge of the public road.
6. The access shall be piped with at least a 250mm diameter culvert that shall have concrete headwalls provided at either end of the pipe. The pipe shall be set to a self-cleansing gradient.

7. The access shall be designed in order that it does not shed surface water from the site onto the public road.
8. Site drainage shall be designed, provided and maintained such that no surface water from the site shall be permitted to drain or run onto the public road or footway.
9. Parking provision shall be made within the site for a minimum of 2 cars for up to three bedrooms and 3 cars for four or more bedrooms.
10. Turning provision for cars shall be made within the site in the form of a standard hammer head or a manoeuvring space at least 7.6 metres by 7.6 metres in size.
11. That length of the access that crosses the public road verge shall be constructed to the satisfaction of The Shetland Islands Council Roads Service. A Road Opening Permit must be obtained from The Shetland Islands Council Roads Service prior to carrying out any works to form an access onto the public road.
12. The gate shall be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.
13. The current ditch shall be set back by 1.5 metres to allow for a verge at the edge of the public road. This is to allow adequate provision for pedestrians along this section of road.

Executive Manager, Roads

Summers Claire@Development Service

From: Smith Colin@Development Service on behalf of Planning Flooding Drainage Coastal
Sent: 23 February 2015 14:50
To: Development Management@Development
Subject: RE: Planning Consultation 2015/056/PPP

Background

This is an application in principle for construction of a dwelling house at Veensgarth, Tingwall.
The application states that SUDs drainage will be used, but does not include any other details.

Comments

To comply with the Water Framework Directive the drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred before the development.
A range of SUDs devices could be specified which would meet this requirement and be suitable to locate on the site.

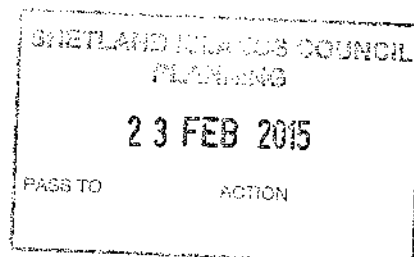
Any SUDs device should be at least 5m from any house or public road or site boundary.
There does not appear to be any difficulty in achieving a suitable location on the site.

During extreme rainfall events surface water flows may exceed the capacity of the drainage systems and back up, or flow over the ground.
Flows from higher ground may also exceed the capacity of any cut off ditches or drains which may be proposed to protect the site.

The landscaping / ground levels on the site should therefore be designed to ensure that these potential overland flows of water would not cause a flooding problem to the proposed or surrounding houses:- the site levels should guide water flowing over the ground away from properties and towards a suitable place for them to re-enter a drainage system.

Colin Smith
Planning Engineer

Shetland Islands Council | North Ness | Lerwick | Shetland
Tel +44 (0)1595 744881
Email colin.smith@shetland.gov.uk



From: Summers Claire@Development Service **On Behalf Of** Development Management@Development
Sent: 23 February 2015 09:45
To: Planning Flooding Drainage Coastal; Roads Traffic; Tulloch,Vivienne; Scottish Water
Subject: Planning Consultation 2015/056/PPP

Dear Sir/Madam,

Planning Ref: 2015/056/PPP
Proposal: To erect dwellinghouse (Planning Permission in Principle)
Address: Croft, 12 Veensgarth, Gott, Tingwall
Applicant: Stephen Morgan
Date of Consultation: 23 February 2015

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts. All plans can be viewed on:

<http://pa.shetland.gov.uk/online-applications/>

The consultation period is 14 days, but if you have any queries please contact Claire Summers, Support Officer on development.management@shetland.gov.uk or 01595 744814.

Consultation replies should be sent to: development.management@shetland.gov.uk.

We appreciate that it may not always be possible to give a full response within the 14 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
8 North Ness Business Park
Lerwick
ZE1 0LZ



Shetland Islands Council

Executive Manager: Iain S McDiarmid
Director: Neil Grant

Stephen Morgan
7 Vallafeld
Gott
Tingwall
Shetland
ZE2 9XH

Planning
Development Services
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

Telephone: 01595 744293
www.shetland.gov.uk

If calling please ask for:
Claire Summers
Business Support Officer
claire.summers@shetland.gov.uk
Direct Dial: 01595 744814

COPY

Our Ref: 2015/056/PPP

Date: 16 February 2015

Dear Sir/Madam

Town and Country Planning (Scotland) Act 1997 (as amended)

Development	To erect dwellinghouse (Planning Permission in Principle)
Location	Croft, 12 Veensgarth, Gott, Tingwall Shetland
Applicant Name	Stephen Morgan

I refer to your planning application submitted to Shetland Islands Council, which we have found to be incomplete. To allow us to progress your application, we will require the following:

- The submitted site and location plan needs to have the access to the main road included in the red line boundary of the proposed site. If the proposed septic tank is outside of the proposed red line boundary then it needs to be included in the red line boundary as well. I have enclosed your site and location plan for you to amend and return to the above address.

Please note that until this information is received, your planning application cannot be validated.

Should you require any further information regarding the above, please do not hesitate to contact us at the above address.

Section 3. Representations

15 September 2015

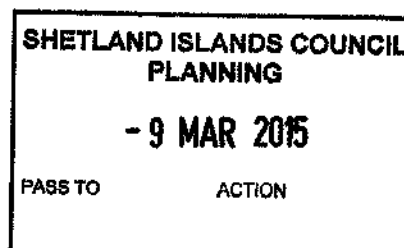
pm

No 12

Veensgarth

Tingwall

Development Management
Development Services
8 North Ness Business Park
LERWICK



7th March 2015

Re planning application 2015/056/PPP

Dear Sir/Madam

We wish to object to the above application on the grounds that previous requirements have not been met. (See application approval 2009/161/PCO decision point 7) which states that "the development hereby permitted shall not commence until such time as the works to form a new section of public road at Veensgarth, Tingwall, approved under Planning permission 2010/425/PCD, have been carried out and the road is in public use".

At this time no such work has taken place.

Mr Morgan states that this house is for his own use and that traffic will not increase because he travels to his croft daily. However he has a wife that drives and three children who will undoubtedly be driving in the not too distant future, potentially increasing the traffic five fold, not to mention visiting family and friends.

There is also the potential to build a "croft" house then have it decrofted and sell it on.

We also wish to point out that the land in question is being USED as rough grazing but is good arable land that produced a variety of crops in the past when crofting was a means of earning a living! Who knows what the future holds, but by then it will be too late as more and more arable land is being turned over to housing.

We urge you to adhere to the conditions laid down by the planning committee when application 2009/161/PCO was approved, and to re-consider the use of arable land for housing.

Yours Faithfully

Robert and Hazel Sinclair



Shetland Islands Council

Executive Manager: Iain S McDiarmid
Director: Neil Grant

Robert & Hazel Sinclair

Planning
Development Services
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

Telephone: 01595 744293
www.shetland.gov.uk

If calling please ask for:
Richard MacNeill
Planning Officer
richard.macneill@shetland.gov.uk
Direct Dial: 01595 744803

COPY

Our Ref: 2015/056/PPP

Date: 9 March 2015

Dear Sir/Madam

Town and Country Planning (Scotland) Acts
Development To erect dwellinghouse (Planning Permission in Principle)
Location Croft, 12 Veensgarth, Gott, Tingwall Shetland
Application No. 2015/056/PPP

Your representation in respect of the above noted application, was received on 9 March 2015 and I would advise you that your comments, in so far as they relate to planning matters, will be considered prior to the determination of the application.

Please be aware that under the terms of the Council's approved Planning Scheme of Delegations, the Appointed Person is authorised to determine applications for planning permission unless there is an exception that applies. The above application may, therefore, be determined by the Appointed Person, or by the Planning Committee or Council, depending on the circumstances of the case.

Once the application has been determined you will be informed of the Planning Authority's decision.

Yours faithfully

Richard MacNeill
Planning Officer

RM

Summers Claire@Development Service

From: Michael [REDACTED]
Sent: 27 February 2015 12:42
To: Development Management@Development
Cc: MacNeill Richard@Development Service
Subject: Objection to Application 2015/056/PPP
Attachments: 2009 139 PCO; 2010 425 PCD

Dear Sir/Madam,

This is an objection to application 2015/056/PPP to erect a dwelling house at Croft 12 Veensgarth. The objection is on the grounds of road safety as evidenced by the details below.

Please refer to Planning Committee Meeting minutes of the 7th February 2012 and in particular application 2009/139/PCO to erect a dwelling house at 13 Veensgarth. Also refer to application 2010/425/PCD proposed road re-alignment at Veensgarth.

The Report section of 2009/139/PCO in subsection 4.8 states;

"Should planning permission be granted for the proposal under consideration a condition is recommended that no works commence on any dwelling house subsequently approved under an application for matters specified in conditions until the road works are completed and the road is in public use."

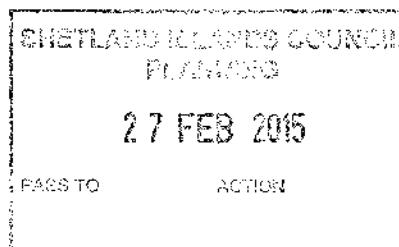
The road works referred to are detailed in reference 2010/425/PCD and I can inform you that although the application for these road improvements were passed by the committee no works have been started.

I would encourage the planning officer to read the full report from the Roads Department attached to the 2009/139/PCO application as the recommendations contained therein are clear, basically no houses to be built in past the problem section of road until the road has been upgraded.

For clarity I have attached the report page in question and the proposed road layout.

Regards,

Michael Irvine.



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Shetland Islands Council

Executive Manager: Iain S McDiarmid
Director: Neil Grant

Michael Irvine

Planning
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COPY

Our Ref: 2015/056/PPP

Date: 27 February 2015

Dear Sir/Madam

	Town and Country Planning (Scotland) Acts
Development	To erect dwellinghouse (Planning Permission in Principle)
Location	Croft, 12 Veensgarth, Gott, Tingwall Shetland
Application No.	2015/056/PPP

Your representation in respect of the above noted application, was received on 27 February 2015 and I would advise you that your comments, in so far as they relate to planning matters, will be considered prior to the determination of the application.

Please be aware that under the terms of the Council's approved Planning Scheme of Delegations, the Appointed Person is authorised to determine applications for planning permission unless there is an exception that applies. The above application may, therefore, be determined by the Appointed Person, or by the Planning Committee or Council, depending on the circumstances of the case.

Once the application has been determined you will be informed of the Planning Authority's decision.

Yours faithfully

Richard MacNeill
Planning Officer

- 4.5 The site lies within an area identified as Zone 3 Housing land. Shetland Local Plan (2004) policy LP HOU 4 states that, Zone 3 is settled countryside close to existing settlements where development will be favourably considered where the General Requirements are met and where it strengthens and reinforces existing settlements and building groups.
- 4.6 It is considered that the proposed site relates well to the development pattern of the area, adjoins the existing building group, and is close to the existing settlement of Veensgarth.
- 4.7 The main thrust of the points contained within the letters of objection and referred to in paragraph 5.2.6, the correspondence from which they came is appended to this report, are based on road safety and suitability, sewage issues and the principle of building on good agricultural/crofting land.
- 4.8 In May 2011 planning permission was granted to form a new section of public road which runs past and through land at No 1 Veensgarth and which will lead to the proposed house site (2010/425/PCD). The new road layout addressed the basis for the objection from the Roads Service and implementation of the works will allow a withdrawal of it's objection. There were no other issues identified in relation to the access to the sites, which are acceptable, subject to the imposition of standard conditions. Should planning permission be granted for the proposal under consideration a condition is recommended that no works commence on any dwelling house subsequently approved under an application for matters specified in conditions until the road works are completed and the road is in public use.
- 4.9 An issue regarding the suitability of the area to cope with sewage from the sites has been raised. Scottish Water have no objections and note that there are no public sewers within the vicinity of the site. SEPA have withdrawn their initial objection and are satisfied that although there is a public sewer approximately 400 metres from the site, there are sufficient technical difficulties to make a connection to a public foul sewer unreasonable in this instance.
- 4.10 The site has been referred to within the letters of objection as good agricultural land. The status of the land comprising the site, in terms of the Development Plan, is that it lies within a Zone 3 area, and is not classified as either 4.2 or 5.1 land.
- 4.11 Development restrictions on the croft land at 13 Veensgarth has also been referred to within the letters of objection. On 26 June 2008 the Council granted outline Planning Permission PL2008/095/PCO for the development of a house site and access road at no.13 Veensgarth, Tingwall. Subsequently full planning permission was granted for a dwelling house at 13 Veensgarth (2010/035/PCD).
- 4.12 This permission (2010/035/PCD) included a planning condition restricting the occupancy of the house to persons running croft land at

RM

Holden John@Development Service

From: [REDACTED]
Sent: 26 February 2015 22:39
To: Holden John@Development Service
Subject: Comments for Planning Application 2015/056/PPP

Planning Application comments have been made. A summary of the comments is provided below.

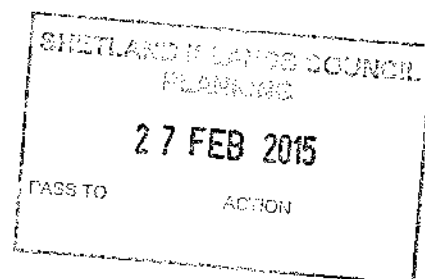
Comments were submitted at 10:39 PM on 26 Feb 2015 from Mrs HAZEL SINCLAIR.

Application Summary

Address: Croft 12 Veensgarth Gott Tingwall Shetland ZE2 9SB
Proposal: To erect dwellinghouse (Planning Permission in Principle)
Case Officer: John Holden
[Click for further information](#)

Customer Details

Name: Mrs HAZEL SINCLAIR
Email: [REDACTED]
Address: Veensgarth, Tingwall, Shetland ZE2 9SB



Comments Details

Commenter Type: Member of Public
Stance: Customer objects to the Planning Application
Reasons for comment: - Traffic Movement
Comments: Re application 2009/161/PCO which states building will not commence till new road section is in use.



Shetland Islands Council

Executive Manager: Iain S McDiarmid
Director: Neil Grant

Mrs HAZEL SINCLAIR
Veensgarth
Tingwall
Shetland
ZE2 9SB

Planning
Development Services
8 North Ness Business Park
Lerwick
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ZE1 0LZ

Telephone: 01595 744293
www.shetland.gov.uk

If calling please ask for:
John Holden
Development Management
Manager
john.holden@shetland.gov.uk
Direct Dial: 01595 743898

COPY

Our Ref: 2015/056/PPP

Date: 27 February 2015

Dear Sir/Madam

	Town and Country Planning (Scotland) Acts
Development	To erect dwellinghouse (Planning Permission in Principle)
Location	Croft, 12 Veensgarth, Gott, Tingwall Shetland
Application No.	2015/056/PPP

Your representation in respect of the above noted application, was received on 26 February 2015 and I would advise you that your comments, in so far as they relate to planning matters, will be considered prior to the determination of the application.

Please be aware that under the terms of the Council's approved Planning Scheme of Delegations, the Appointed Person is authorised to determine applications for planning permission unless there is an exception that applies. The above application may, therefore, be determined by the Appointed Person, or by the Planning Committee or Council, depending on the circumstances of the case.

Once the application has been determined you will be informed of the Planning Authority's decision.

Yours faithfully

John Holden
Development Management Manager

Section 4. Report of Handling

15 September 2015

Delegated Report of Handling

Development: To erect dwellinghouse (Planning Permission in Principle)

Location: Croft, 12 Veensgarth, Gott, Tingwall, Shetland, ZE2 9SB,

By: Stephen Morgan

Application Ref: 2015/056/PPP

1. Introduction

This is an application for planning permission in principle to erect a dwellinghouse on land which is currently used for rough grazing on Croft 12 Tingwall, Shetland.

An existing access track runs from the public road and past the proposed site from which access is to be taken.

Foul drainage is proposed to be directed to a new septic tank and soakaway which lies within the site boundary. Under the proposal surface water will be dealt with by means of a SUDS system.

2. Statutory Development Plan Policies

Shetland Islands Council Local Development Plan

GP2 - General Requirements for All Development

GP3 - All Development: Layout and Design

H3 - All Housing Development

H5 - Siting and Design

TRANS 3 - Access and Parking Standards

WD2 - Waste Water

WD3 - SuDs

3. Safeguarding

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Crofts - Holding ID: 4664

Landscape Character Assessment - Landscape Character Assessment: Major Uplands

Waste Water Drainage Hotspots - Waste Water Drainage Hotspots: Tingwall

4. Consultations

Planning - Flooding Drainage Coastal was consulted on the 23 February 2015. Their comments dated 23 February 2015 can be summarised as follows:

Comments

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

A range of SUDs devices could be specified which would meet this requirement and be suitable to locate on the site.

Any SUDs device should be at least 5m from any house or public road or site boundary.

There does not appear to be any difficulty in achieving a suitable location on the site.

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

Flows from higher ground may also exceed the capacity of any cut off ditches or drains which may be proposed to protect the site.

The landscaping / ground levels on the site should therefore be designed to ensure that these potential overland flows of water would not cause a flooding problem to the proposed or surrounding houses:- the site levels should guide water flowing over the ground away from properties and towards a suitable place for them to re-enter a drainage system.

Roads Traffic was consulted on the 23 February 2015. Their comments dated 11 March 2015 can be summarised as follows:

The issues surrounding this application in terms of road access are the same as highlighted in applications 2009/161/PCD and 2009/139/PCD, which related to the bends around Nos. 1 and 2 Veensgarth. These issues would have been dealt with by the road improvements approved under application 2010/425. (sic)

Therefore, in line with the previously identified applications from 2009 I would that a suspensive condition is placed on any consent requiring that suitable road improvements in line with those consented under application 2010/425 are provided and brought into public use before any works start on site. (sic)

General comments on the site itself are as follows:-

1. The required visibility splays shall be provided before any building works start on site and maintained during the course of the works.
 - a. A visibility splay of 2.5 metres by 90 metres shall be provided at the junction of the access with the public road. This is available at present.
2. No fence, wall, bushes or other potential obstruction to visibility shall be

permitted within 3 metres of the edge of the public road.

3. The access shall be minimum of 5.5 metres wide for at least the first 6 metres from the edge of the public road.
4. The gradient of the access shall not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road.
5. The access shall be surfaced in bitmac for at least the first 6 metres from the edge of the public road.
6. The access shall be piped with at least a 250mm diameter culvert that shall have concrete headwalls provided at either end of the pipe. The pipe shall be set to a self-cleansing gradient.
7. The access shall be designed in order that it does not shed surface water from the site onto the public road.
8. Site drainage shall be designed, provided and maintained such that no surface water from the site shall be permitted to drain or run onto the public road or footway.
9. Parking provision shall be made within the site for a minimum of 2 cars for up to three bedrooms and 3 cars for four or more bedrooms.
10. Turning provision for cars shall be made within the site in the form of a standard hammer head or a manoeuvring space at least 7.6 metres by 7.6 metres in size.
11. That length of the access that crosses the public road verge shall be constructed to the satisfaction of The Shetland Islands Council Roads Service. A Road Opening Permit must be obtained from The Shetland Islands Council Roads Service prior to carrying out any works to form an access onto the public road.
12. The gate shall be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.
13. The current ditch shall be set back by 1.5 metres to allow for a verge at the edge of the public road. This is to allow adequate provision for pedestrians along this section of road.

Tingwall Whiteness & Weisdale Community Council Clerk was consulted on the 23 February 2015. There was no response from this consultee at the time of report preparation.

Scottish Water Customer Connections was consulted on the 23 February 2015. There was no response from this consultee at the time of report preparation.

Roads Traffic was consulted on the 27 March 2015. Their comments dated 17 March 2015 can be summarised as follows:

I refer to the e-mail from Mr Morgan dated 26 March 2015, which has been sent through to us for comment.

In his e-mail Mr Morgan makes a number of observations. I would address them as

follows...

1. With regards to Planning Application 2007/94/PCD the Roads Service were aware of the existing traffic implications of both this and other applications that were live at the time of the 2009 applications where the suspensive condition was introduced for developments beyond the bends at No.s 1 and 2 Veensgarth.

2. The lapsing of application 2007/94/PCD does mean that previously consented traffic movements will not now happen in respect of the originally consented development. Whether these consented movements can or should be made available to another applicant/ development is for the Planning Service to decide as arguably there are prior consents that could make claim to any 'spare' capacity on the road.

3. The traffic flows generated by any typical crofting or small-holding operation are less than would normally be associated with a family dwelling house. Therefore, building a house will lead to an increase in overall movements - particularly during the construction of the property. This point has been addressed previously.

In summary, the lapsing of permission for un-started developments that were consented prior to the suspensive conditions on the road being introduced could allow some pending or new developments to proceed. Whether this approach is adopted or not, and how any capacity released from such lapsed consents is allocated, is a matter for the Planning Service to decide.

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

Representations were received from the following properties:

Robert & Hazel Sinclair,,

Michael Irvine,,

Joyce And David Pole,13 Veensgarth,
Gott

Mrs HAZEL SINCLAIR,Veensgarth,

Tingwall

- * Four representations have been received and can be summarised as follows;
- * objection on the grounds that previous requirements of planning approval 2009/261/PCO have not been met in that a new section of public road at Veensgarth approved under 2010/425/PCD has not been built.
- * Potential to build a croft house then have it decrofted and sold on
- * Land is question is used as rough grazing but is good arable land that produced a variety of crops in the past
- * The Veensgarth road is a very narrow single track road serving 6 crofts
- * Conditions applied to planning permissions 2009/139/PCO and 2009/161/PCO should be applied and the road re-routed as approved under planning permission 2010/425/PCD.
- * No works to reroute the road have taken place

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.

This is an application to consider only the principle of a dwelling house in this location. The issue of design will be addressed following the grant of permission, if any, in an application to approve matters specified in conditions or an application for full planning permission.

The main policies against which this application has to be assessed, are firstly the overarching environmental policies that seek to ensure that all new development does not detract from the setting of, or damage, the surrounding natural and built environment.

Policy GP 1 seeks to ensure that new residential, employment, cultural, educational and community developments should be in or adjacent to existing settlements that have basic services and infrastructure in order to enhance their viability and vitality and facilitate ease of access for all. The proposed site lies within an area which is a recognisably settled area. The site proposed is considered to be well related to other residential development and would fit the

criteria of undeveloped land within a settlement.

Policy GP 2 Suitable water, waste water and surface water drainage must be provided Suitable access, car parking and turning should be provided; The applicant has demonstrated that, the site can be adequately serviced in terms of sewage and water issues. Access issues considered under TRANS 3 are discussed below.

Policy H3 All Housing Development

New residential development should take place in Allocated Sites, Sites with Development Potential, Areas of Best Fit, on Brownfield Land or on Undeveloped Land within existing settlements in that order of desirability. Isolated residential development in the open countryside will not be supported. The site is considered to be located on land within a recognised settlement and therefore in line with policy.

Policy H5 Siting and Design

Development will be supported if it fits well into the surrounding landscape and settlement pattern. For example, where the settlement pattern dictates, dwellings should be sited within or adjoining a group of at least two or more buildings of domestic scale. The proposed site is well related to an existing group of buildings and dwellings.

The proposed dwellings should not result in linear development that would cause a road safety problem that may require remedial works or would sterilise future development opportunities.

The previous site history in this area involved the issue of development of good agricultural and croft land which was a policy consideration under the previous Shetland Islands Council Local Plan 2004. Representations have been received in respect of the proposed development on croft land and the potential sterilisation of good agricultural land. The Shetland Local Development Plan 2014 does not contain policies which seek to protect agricultural land nor has it identified areas where housing will be explicitly excluded due to agricultural employment or need.

The proposed developed must therefore be determined in line with the current development plan policies and taking account of planning history where there is relevance to material planning issues.

In May 2011 planning permission was granted to form a new section of public road which runs past and through land at No 1 Veensgarth, (2010/425/PCD). Subsequent to that planning permissions for the erection of two dwellinghouses were granted (2009/139/PCO and 2009/161/PCO) at Veensgarth, both being subject to a condition that no development on any dwelling house shall commence until such time as the works to form the new section of road has been carried out.

The Roads Service have following consultation commented that in addition to standard conditions that in line with the previous applications a suspensive condition is placed on any consent issued that suitable road improvements in line with those consented under application 2010/425/PCD are provided and brought into public use before any works start on site.

The applicant was a previous supporter of the implementation of the works approved under 2010/245/PCD (in a email to the Planning Service dated 29 November 2010). In response to the Roads Service comments the applicant has submitted an email dated 26 March 2015, referencing a previous planning permission in the same area, now expired 2007/94/PCD, outlining reasons why such a condition should not be applied in relation to the current proposal.

The Planning Service re-consulted the Roads Service on these comments which are fully quoted below.

"1. With regards to Planning Application 2007/94/PCD the Roads Service were aware of the existing traffic implications of both this and other applications that were live at the time of the 2009 applications where the suspensive condition was introduced for developments beyond the bends at Nos 1 and 2 Veensgarth.

2. The lapsing of application 2007/94/PCD does mean that previously consented traffic movements will not now happen in respect of the originally consented development. Whether these consented movements can or should be made available to another applicant/ development is for the Planning Service to decide as arguably there are prior consents that could make claim to any 'spare' capacity on the road.

3. The traffic flows generated by any typical crofting or small-holding operation are less than would normally be associated with a family dwelling house. Therefore, building a house will lead to an increase in overall movements – particularly during the construction of the property. This point has been addressed previously.

In summary, the lapsing of permission for un-started developments that were consented prior to the suspensive conditions on the road being introduced could allow some pending or new developments to proceed. Whether this approach is adopted or not, and how any capacity released from such lapsed consents is allocated, is a matter for the Planning Service to decide."

The cumulative impact of all the permissions previously applied for and granted led to the conclusion as advised by the Roads Service that the road network at the bends at Nos 1 and 2 Veensgarth had severely restricted visibility. Planning permission 2010/425/PCD sought to improve this situation and the permissions subsequently granted were tied to the implementation of these works.

Notwithstanding the submission of 26 March 2015 from the applicant, and the response from the Roads Service as regards capacity release from lapsed consents, the decisions previously made to couple and restrict future development in this area to planning permission 2010/425/PCD and suspensive planning conditions was a sound planning judgement. The capacity of the road to carry traffic safely is evidently close to a tipping point if, notwithstanding the lapsing in the meantime of planning permission 2007/94/PCD the Roads Service recommended the imposition of a suspensive condition requiring that suitable road improvements in line with those consented under application 2010/245/PCD are provided and brought into use before any works start on site. As the Roads Service point out, prior consents i.e. existing developments, could make claim to any spare capacity on the road. This could occur without need for specific planning consents through the exercise of permitted development rights, and also be through changes in occupancy levels. There are no mitigating circumstances or additional material planning considerations that would lead me to conclude other than that the imposition of such a condition on new residential development that requires specific consent along the stretch of public road concerned at Veensgarth is necessary on the grounds of road safety.

Therefore it is considered that while the principle of the erection of a dwellinghouse is acceptable and in line with other policies contained in the current development plan, the proposal fails the test in terms of a safe and convenient access as required by policy TRANS 3. The proposal can however be supported subject to conditions including a suspensive condition which would require the submission and approval of full details of new road layout in the same manner as previously approved and as described above.

8. Recommendation

Grant subject to conditions

Reasons for Council's decision:

(1.) A dwellinghouse on this site will reflect the existing settlement pattern in this area. Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form, materials and colour finishes of the dwellinghouse respects and enhances that of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the appropriate guidance, the proposal will have no adverse impact upon the natural and built environment or upon the amenities of neighbouring properties. Subject to controlling conditions therefore, the proposal complies with the Shetland Local Development Plan (2014) policies NH1, NH2, GP1, GP2, GP3, H3, H5, WD2, WD3 and TRANS 3.

9. List of approved plans:

10. 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.) The development hereby permitted shall be commenced within five years from the date of this permission, or within two years from the date of the approval of the Planning Authority of the last of the matters specified in conditions, whichever is the latter.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006.

(4.) An application for Approval of Matters Specified in Conditions shall be

made to the Planning Authority within three years from the date of this permission.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006.

(5.) The development shall not commence until an application for Approval of Matters Specified in Conditions for the following matter(s) has been submitted to and approved by the Planning Authority:

1. a site layout plan at a scale of 1:500 showing the position of all buildings, access roads, vehicle circulation and parking areas, external storage facilities, fencing, any proposed landscaping and any surface water drainage proposals, including details of any flow attenuation measures within the area of the development site;
2. plans and elevations of the proposed building and any other proposed structures, indicating their dimensions and type and colour of external materials;
3. a plan identifying the vehicular access to the development site from the main public road;
4. site levels and section(s) through the development site showing the extent of any proposed underbuilding or excavation.

Reason: To comply with the provisions of Part 3 Section 12 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

(6.) The development hereby permitted shall not commence until such time as full plans and details of works to form a new section of public road at Veensgarth, Tingwall, so that it is no longer necessary for the public road that passes behind and east of the property known as Veensgarth House to be used, have been submitted to the Planning Authority, have planning permission, and thereafter the works have been carried out and the new section of public road is in public use.

Reason: To provide a safe access to drivers of vehicles and to provide a clear view over a length of road leading to the site, in the interests of public and road safety in compliance with Policy TRANS 3 of the Shetland Local Development Plan 2014

Notes to Applicant:

Building Standards

You are advised to contact the Building Standards Service on 01595 744293 to discuss any building warrant requirements for your development.

Scottish Water

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

Road Access

- The required visibility splays must be provided before any building works start on site and must be maintained during the course of the works and thereafter. The applicant should show that they have control over any ground required to provide the required visibility splays.
- A visibility splay of 2.5 metres by 90 metres must be provided at the junction of the access with the public road. This is available at present
- No fence, wall, bushes or other potential obstruction to visibility should be permitted within 2 metres of the edge of the public road.
- The gradient of the access should not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road.
- The access should be surfaced in bitmac or double coat hot tar surface dressing for at least the first 6 metres from the edge of the public road.
- The access should be designed in order that it does not shed surface water from the site onto the public road.

The access shall be a minimum of 5.5 metres wide for at least the first 6 metres from the edge of the public road.

- Site drainage should be designed, provided and maintained such that no surface water from the site flows onto the public road.
- Any gate should be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to at least 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.

Car Parking

Car parking spaces shall be provided within the site as detailed below. Turning provision for cars shall also be provided within the development site in the form of a standard hammer head or a manoeuvring space at least 7.6m x 7.6m.

- 2-3 bedroomed dwellinghouse: 2 car parking spaces
- 4 bedrooms or more: 3 spaces

Road Opening Permit

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

Design

In order for the Planning Authority to be satisfied that the development will not have an adverse impact on the visual amenity of the area or the amenity of any neighbouring properties, so that there is compliance with Shetland Local Development Plan (2014) Policy GP3, the details of the building and other structures that are required to be submitted prior to commencement of the development should not incorporate any substantive underbuilding, including underbuilding for the purposes of the provision of a garage, workshop, other habitable room or useable space.

Drainage

To comply with the Water Framework Directive, the drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred before development. A SUDs soakaway or a range of other SUDs devices could be specified which would provide the 1.5m³ of storage required for attenuation. Any SUDs device should be at least 5 metres from any building, public road or site boundary and there appears to be available areas within the plot.

Surface Water Drainage

In order for there to be compliance with Shetland Local Development Plan (2014) policies GP2 and WD3 the Planning Authority will need to be satisfied that the surface water drainage proposals that are required to be submitted for consideration prior to commencement of the development will ensure that the development will not result in flooding, or be liable to flooding, or have an adverse impact on any neighbouring properties or landownership (including public roads and footways).

11. Further Notifications Required

Letters of decision made to be sent to objectors.

12. Background Information Considered

None

056_Delegated_Report_of_Handling.doc

Officer: Richard MacNeill

Date: 14th May 2015

Section 5. Decision Notice

15 September 2015



SHETLAND ISLANDS COUNCIL

Town and Country Planning (Scotland) Acts

Town and Country Planning (General Permitted Development) (Scotland) Orders

With reference to the application for **Planning Permission** (described below) under the above Acts and Orders, the Shetland Islands Council in exercise of these powers hereby **GRANT Planning Permission** for the development, in accordance with the particulars given in, and the plans accompanying the application as are identified; subject to the condition(s) specified below.

Applicant Name and Address

Stephen Morgan
7 Vallafeld
Gott
Tingwall
Shetland
ZE2 9XH

Reference Number: 2015/056/PPP

To erect dwellinghouse (Planning Permission in Principle): Croft, 12 Veensgarth,
Gott, Tingwall, Shetland, ZE2 9SB

Details of Approved Plans and Drawings:

Site & Location Plan Drawing No. 2015/056/PPP - 01
Stamped Received. 19.02.2015

Reasons for Council's decision:

(1.) A dwellinghouse on this site will reflect the existing settlement pattern in this area. Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form, materials and colour finishes of the dwellinghouse respects and enhances that of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the appropriate guidance, the proposal will have no adverse impact upon the natural and built environment or upon the amenities of neighbouring properties. Subject to controlling conditions therefore, the proposal complies with the Shetland Local Development Plan (2014) policies NH1, NH2, GP1, GP2, GP3, H3, H5, WD2, WD3 and TRANS 3.

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) The development hereby permitted shall be commenced within five years from the date of this permission, or within two years from the date of the approval of the Planning Authority of the last of the matters specified in conditions, whichever is the latter.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006.

(4) An application for Approval of Matters Specified in Conditions shall be made to the Planning Authority within three years from the date of this permission.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006.

(5) The development shall not commence until an application for Approval of Matters Specified in Conditions for the following matter(s) has been submitted to and approved by the Planning Authority:

1. a site layout plan at a scale of 1:500 showing the position of all buildings, access roads, vehicle circulation and parking areas, external storage facilities, fencing, any proposed landscaping and any surface water drainage proposals, including details of any flow attenuation measures within the area of the development site;
2. plans and elevations of the proposed building and any other proposed structures, indicating their dimensions and type and colour of external materials;
3. a plan identifying the vehicular access to the development site from the main public road;
4. site levels and section(s) through the development site showing the extent of any proposed underbuilding or excavation.

Reason: To comply with the provisions of Part 3 Section 12 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

(6) The development hereby permitted shall not commence until such time as full plans and details of works to form a new section of public road at Veensgarth, Tingwall, so that it is no longer necessary for the public road that passes behind and east of the property known as Veensgarth House to be used, have been submitted to the Planning Authority, have planning permission, and thereafter the works have been carried out and the new section of public road is in public use.

Reason: To provide a safe access to drivers of vehicles and to provide a clear view over a length of road leading to the site, in the interests of public and road safety in compliance with Policy TRANS 3 of the Shetland Local Development Plan 2014

Notes to Applicant:

Building Standards

You are advised to contact the Building Standards Service on 01595 744293 to discuss any building warrant requirements for your development.

Scottish Water

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

Road Access

- The required visibility splays must be provided before any building works start on site and must be maintained during the course of the works and thereafter. The applicant should show that they have control over any ground required to provide the required visibility splays.
- A visibility splay of 2.5 metres by 90 metres must be provided at the junction of the access with the public road. This is available at present
- No fence, wall, bushes or other potential obstruction to visibility should be permitted within 2 metres of the edge of the public road.
- The gradient of the access should not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road.

- The access should be surfaced in bitmac or double coat hot tar surface dressing for at least the first 6 metres from the edge of the public road.
- The access should be designed in order that it does not shed surface water from the site onto the public road.
- The access shall be a minimum of 5.5 metres wide for at least the first 6 metres from the edge of the public road.
- Site drainage should be designed, provided and maintained such that no surface water from the site flows onto the public road.
- Any gate should be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to at least 10 metres. This is to allow a vehicle to stand clear of the road while the gate is being opened.

Car Parking

Car parking spaces shall be provided within the site as detailed below. Turning provision for cars shall also be provided within the development site in the form of a standard hammer head or a manoeuvring space at least 7.6m x 7.6m.

- 2-3 bedroomed dwellinghouse: 2 car parking spaces
- 4 bedrooms or more: 3 spaces

Road Opening Permit

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

Design

In order for the Planning Authority to be satisfied that the development will not have an adverse impact on the visual amenity of the area or the amenity of any neighbouring properties, so that there is compliance with Shetland Local Development Plan (2014) Policy GP3, the details of the building and other structures that are required to be submitted prior to commencement of the development should not incorporate any substantive underbuilding, including underbuilding for the purposes of the provision of a garage, workshop, other habitable room or useable space.

Drainage

To comply with the Water Framework Directive, the drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred before development. A SUDs soakaway or a range of other SUDs devices could be specified which would provide the 1.5m³ of storage required for attenuation. Any SUDs device should be at least 5 metres from any building, public road or site boundary and there appears to be available areas within the plot.

Surface Water Drainage

In order for there to be compliance with Shetland Local Development Plan (2014) policies GP2 and WD3 the Planning Authority will need to be satisfied that the

surface water drainage proposals that are required to be submitted for consideration prior to commencement of the development will ensure that the development will not result in flooding, or be liable to flooding, or have an adverse impact on any neighbouring properties or landownership (including public roads and footways).

9 June 2015



Executive Manager - Planning

Section 6. Notice of Review

15 September 2015



Development Services Department
Shetland Islands Council

SHETLAND ISLANDS COUNCIL
PLANNING

- 8 JUL 2015

PASS TO

ACTION

FOR OFFICIAL USE ONLY

Ref No:

Date of Receipt:

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
This form is only to be used in respect of decisions on proposals in the local development
category. Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

1. Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

2. Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be
through this representative: ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

3. Application Details

Planning authority's application reference number

2015/056/PPP

Site address

Croft 12, Veensgarth, Gott, Shetland

Description of proposed development

To erect dwellinghouse

Date of application

19/02/2015

Date of decision (if any)

09/06/2015

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of application

1. Application for planning permission (including householder application) ☐
2. Application for planning permission in principle ☒
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

5. Reasons for seeking review

1. Refusal of application by appointed officer ☐
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☒

6. Review procedure

The Shetland Islands Council Planning Local Review Body will determine your review by the holding of one or more public hearing sessions.

In the event that the Local Review Body decides to inspect the review site during the determination of your review, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

7. Statement of Grounds of Review

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Shetland Islands Council Planning Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see previous letters submitted to the planning authority.

8. New Matters

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

I attempted to provide the information (authority from Mr Cecil Eunson to waive his right to use "extra capacity in the Veensgarth Road) but did not know who was dealing with my application. I was informed the officer was absent from work, he then returned but was again absent.

I have also raised an issue in relation to the specific condition I have a problem with that I could not raise until the condition was made. This is in relation to alternative methods to make the road safe, and also how it has been evidenced that the road isn't safe. I have also asked about consistency of decision making as there are several examples of equally "dangerous" roads where similar restrictions haven't been made. All of this could only be mentioned once the condition was made.

--

9. List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

A letter from myself and a supporting letter from Mr C Eunson (already lodged with the planning authority and received on 29th June 2015).

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

09/07/2015

Please send this completed form to:

Shetland Islands Council Planning Local Review Body, c/o Planning, Development Services Department,
8 North Ness Business Park, Lerwick, Shetland ZE1 0LZ

MacNeill Richard@Development Service

From: Stephen Morgan [REDACTED]
Sent: 26 March 2015 13:02
To: MacNeill Richard@Development Service
Subject: Fwd: Planning application 2015/94/PPP

Dear Richard,
Please see my email below. Apologies for the typo in the original email address.
Stephen

Sent from my iPad

Begin forwarded message:

From: Stephen Morgan [REDACTED]
Date: 26 March 2015 12:59:51 GMT
To: "richard.nacneill@shetland.gov.uk" <richard.nacneill@shetland.gov.uk>
Subject: Planning application 2015/94/PPP

Dear Mr Macneill,
I am not sure if it is appropriate or not for me to make comment on my application at this stage or not, if not please let me know and disregard my comments below.

I have seen the objections to my application on the Planning Webpage, particularly in relation to the road improvements referenced in planning applications 2009/139/CPD and 2010/425/PCD.

I also note the road services comments in relation to the same matter, suggesting that a suspensive condition is placed on any consent until improvements to the road in question have been made.

It would appear to me that the roads service have not taken into account that when this condition was placed there was a live planning approval to build a house past the section of road in question, reference 2007/94/PCD, and the associated traffic that would come with this new house. There are, in my opinion, a number of factors that should be taken into account here and I will list them below:

- 1) Planning consent reference 2007/94/PCD has now lapsed and the applicant no longer lives in Shetland. The lapsing of this permission has reduced the traffic flow that would have been considered when the decision not to allow and further development until the road improvements were completed was taken.
- 2) The current (new) owner of this land (associated with planning application reference number 2007/94/PCD) is a crofter in the Veensgarth Road and has shown no interest in building. The fact that a current land owner has purchased this land reduces traffic that a new owner, from out with the Veensgarth Road would bring.
- 3) I currently own the land and regularly use the road in question, so my building a house there would not increase traffic flow.

I would appreciate it if the factors I highlight above are taken into account before a decision is made.

Stephen Morgan

Sent from my iPad

MEMO

To: Development Management

From: Roads

If calling please ask for

Brian Halcrow

Direct Dial: 4883

Medium: email

Date: 17 April 2015

Our Ref: BH/SMG/R/G2/TW

Your Ref:

*2015/056/PPP***Planning Application 2015/94/PPP****To erect dwellinghouse in outline – Croft, 12 Veensgarth, Tingwall**

I refer to the e-mail from Mr Morgan dated 26 March 2015, which has been sent through to us for comment.

In his e-mail Mr Morgan makes a number of observations. I would address them as follows...

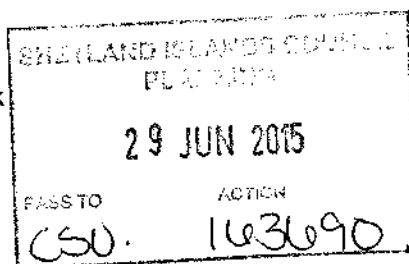
1. With regards to Planning Application 2007/94/PCD the Roads Service were aware of the existing traffic implications of both this and other applications that were live at the time of the 2009 applications where the suspensive condition was introduced for developments beyond the bends at No.s 1 and 2 Veensgarth.
2. The lapsing of application 2007/94/PCD does mean that previously consented traffic movements will not now happen in respect of the originally consented development. Whether these consented movements can or should be made available to another applicant/ development is for the Planning Service to decide as arguably there are prior consents that could make claim to any 'spare' capacity on the road.
3. The traffic flows generated by any typical crofting or small-holding operation are less than would normally be associated with a family dwelling house. Therefore, building a house will lead to an increase in overall movements – particularly during the construction of the property. This point has been addressed previously.

In summary, the lapsing of permission for un-started developments that were consented prior to the suspensive conditions on the road being introduced could allow some pending or new developments to proceed. Whether this approach is adopted or not, and how any capacity released from such lapsed consents is allocated, is a matter for the Planning Service to decide.

Executive Manager, Roads

SHETLAND ISLANDS COUNCIL PLANNING	
17 APR 2015	
PASS TO	ACTION

Shetland Islands Council
Planning Department
Development Services
8 North Ness Business Park
Lerwick
ZE1 0LZ



Stephen Morgan
7 Vallafield
Gott
Shetland
ZE2 9XH

Planning Application - Reference Number: 2105/056/PPP

I would like to make a number of points in relation to the unreasonable and disproportionate condition (Condition number 6; to form a new section of public road) placed on the granting of my planning application to erect a dwelling house on my land in the Veensgarth Road, Tingwall.

In 2010, planning applications reference numbers 2009/139/CPO and 2009/161/CPO were granted with the condition that a new section of public road be constructed and opened prior to any works on the houses commence. This was due to a section of road being deemed unsuitable, for safety reasons, to take any more traffic.

At the time this decision was made, the Roads Service took into account planning application number 2007/94/CPD, which was for a new house on a croft which also included the proviso for selling produce from the croft (which would increase the traffic flow over and above an ordinary dwelling and croft). This application has since lapsed, therefore creating capacity for one similar dwelling. The Roads service acknowledged this in a response to a query from myself and stated that although there is now capacity in this section of road any decision sits with the Planning Authority.

It is my argument that by allowing my application to proceed would not make the section of road in question any more dangerous than assessed at the time of the decision in 2010. The fact that I already use this section of road a number of times each day to tend to my animals and land, the fact that I am not intending to sell produce from my croft mean that the amount of increased traffic will be less than what was previously acceptable.

I accept that there are two previous applications that could or indeed should benefit from this extra capacity but I have been assured by the landowner that he will waive his applications in favour of my one. A supporting letter is attached.

In addition to the points above I would like to add that, although not a roads engineer or road safety expert, I believe there are alternatives to constructing a new section of public road. Consideration should be given to erecting two strategically placed mirrors which will significantly improve visibility and safety. It is also possible to create a passing place on a piece of land which is currently used to store stone, people already use this piece of land in this way (as a passing place). The speed limit could be reduced, although people who live in the road are aware of the dangers so drive slowly and carefully.

Having used this road numerous time a day either on foot or in a vehicle since 1998, I have not been aware of any accidents or near misses and have experienced very few minor inconveniences where I,

or someone else, has had to reverse a vehicle a short distance to allow another to pass. I do not understand where the evidence to support the decision to make such road improvements come from? I suspect this decision is based on complaints from local residents rather than evidenced safety issues. There are other roads in Shetland just as "dangerous" without such restrictions, which links to my point below.

I think consistency of approach across Shetland is also necessary. There are a number of examples of roads with poor visibility, lack of passing places and therefore road safety issues that do not have such restrictions placed on them. I will give two examples.

- 1) Ness of Sound / Sea Road. This road is a single track two way road with numerous blind corners. It also attracts much more traffic from people enjoying the view and accessing the coastal walk. A house has recently been built on this section of road without the requirement for any improvements to the road.
- 2) Lower Voe, another extremely restricted road which is single track two way. There are no restrictions to building in this road which has similar concerns to the Veensgarth Road. In this example the number of houses that could be built are significantly higher than that of the Veensgarth Road given the vast area this road provides access to.

I call on common sense to prevail here. The material fact in relation to the lapsed planning permission therefore creating capacity (as indicated by the Roads Service in their response to an earlier query from myself) means one more dwelling can safely be erected in this area. In addition to this the commitment from the landowner where planning permission already exists in this road to waive his right in favour of myself should allow permission for my application.

The alternatives to making the road safer, which would be much more proportionate to the application could also be considered if the common sense approach suggested above is not accepted.

Consistency of approach should also be remembered as the Council aims to operate in a fair and transparent manner.

Yours Sincerely

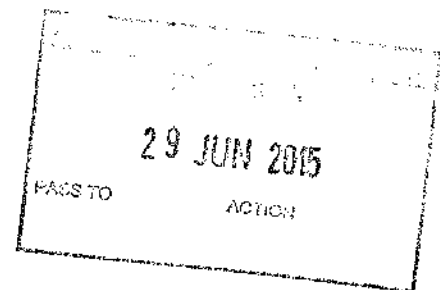
Stephen Morgan

29TH JUNE 2015

Cecil Eunson
Griesta Farm
Tingwall
Shetland
ZE2 9SB

26 June 2015

Dear Sir



PLANNING PERMISSION 2015/056/PPP

**To Erect Dwelling House, Croft 12, Veensgarth, Tingwall, ZE2 9SB
Applicant and Owner of the Land – Stephen Morgan**

Mr Morgan has provided me with a copy of his letter which questions the conditions attached to his planning permission. He raises valid points with regard to similar road conditions at Ness of Sound/Sea Road in Lerwick and Lower Voe.

His suggestions of mirrors and slow signs are constructive and would do much to assist visibility.

Planning Permission was approved for a new section of road at Veensgarth (Ref No 2010/425/PCD). To justify this road a considerable development in the region of twelve sites or more would be required and clearly there is not the appetite for that scale of development at the moment.

His proposal for mirrors, signs and passing place surely has merit. This type of work would still have considerable cost, which would be the responsibility of the applicant, but would also be an improvement for the existing users of the road.

It should also be noted that the Tingwall museum operated from the farm buildings at Veensgarth and in its day saw large numbers of visitors. Those visitors would have maneuvered the first bend at Veensgarth House. Since that time this same bend has been improved, with widening and kerbing provided. Also number 13 Veensgarth was used as a riding school and there was considerable traffic going there on a regular basis.

I would be fully in support of Mr Morgan's suggested road improvements to the existing road and would ask that consideration is given to amending the planning conditions on Mr Morgan's application and applications, 2009/139 & 2009/161, to remove the following condition "the development hereby permitted shall not commence until such time as the works to form a new section of public road at Veensgarth, Tingwall, approved under Planning Permission 2010/425/PCD, have been carried out and the road is in public use" and replace with "work to be agreed with L.P.A to improve the existing road".

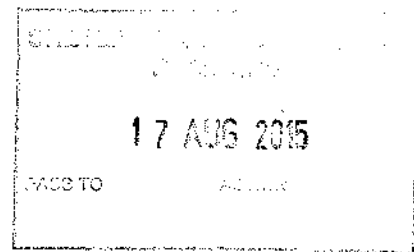
Further Mr Morgan makes the point that Planning Permission 2007/94/CPD has now lapsed and that it was previously taken into consideration when assessing the road use. On this case alone it would surely warrant allowing a house to be approved (without ANY road improvements). In this respect I would waive the two applications on my land in favour of his application.

Yours Faithfully


Cecil Eunson

Section 7. Interested Parties Representations/Hearing Statement

15 September 2015



Ref 2015/056/PPP

Hearing Statement for the attention of the Local Review Body, S
Morgan and the Planning Service.

Thank you for the opportunity to express our concerns. We feel that the following should be taken into consideration when the Local Review Body reviews the planning application 2015/056/PPP and we ask that condition 6 being right and proper should be upheld and that the application should be revoked.

- 1. No "change of use" decision was sought prior to the planning application being submitted.** The change from agricultural use to housing is not appropriate in a crofting area. There is no guarantee that the applicant will live in the house, to raise finance the site will be decrofted. This is detrimental to our and wider crofting interests. This year the clash of urbanisation has meant that we have had one sheep run to exhaustion and death when a microlight took off from a neighbouring field. Next our sheep were run to exhaustion resulting in another death, there was property damage, broken wires and fence posts plus the field gate was left open for sheep to escape; this happened when young adults chose to use our land to have a spree on their scramblers. A few weeks after another sheep had a back leg chewed to the bone by a dog. Now you may say in defence of the permission given that the Crofting Commission as Statutory Consultee chose to make no comment. However, it is obvious; a planning application for a house does not come under their remit they can only comment if and when a decrofting application is submitted to them; usually after planning permission is granted. A case of closing

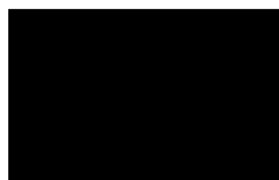
the stable door after the horse has bolted. This situation renders the Crofting regulating body superfluous at best and a redundant bystander at worst.

2. **The land is low lying with no mains sewer system.** The last two houses on the sewer system is Veensgarth house and Croft 15, all the rest have septic tanks. The Supporting letter written by a property developer confirms that 12 new houses are required to privately fund the new access road around number 1 Veensgarth. The three housing consents (mentioned in the property developers supporting letter) that are currently suspended are the first of many. Counting the two house sites on Croft 13 and adding the 5 or so similar size sites to the north and the west of the application site 2015/056/PPP, all on Croft 12, we are looking at a substantial development with a long row of septic tanks that in this day and age is unacceptable. We have no doubt the 12 house scenario will happen in due course. Due to the individual nature of applications the whole development is done on the cheap with no one taking responsibility for a proper road or sewer system never mind the destruction of part of a local Croft food industry. The Planning Department needs to plan properly to protect functioning croft businesses. If they have decided to change the use of land from agriculture to residential use without public consultation and without the agreement of the Crofting Commission then this action should be scrutinised by the legal team. If the lack of consultation is acceptable then they must accept their responsibility to ensure proper infrastructure is put in place by the developers with respect to the overall development not on an Ad Hoc basis.

3. Our third point is the road is not fit for further traffic

increase. We understand that for a new development of more than 8 houses there should be a double width road. Once you pass Veensgarth house there are 9 existing houses plus Crofts 10 through to 15 with their associated farm vehicles all served by a tarred narrow farm road (2.5m) with no hard shoulders with only a narrow grassy verge (circa 0.5m) hardly wide enough for a push chair. I do not need to reiterate the dangers pointed out by the previous councillors who visited and saw firsthand the dangerous blind corners. We just want to point out that relying on mirrors is not safe and may indeed make the corners more dangerous for pedestrians, children in particular. Since 2007 there has been considerable increase of traffic as stated in previous correspondence and there should be no more houses to add to the danger.

In summery we think the roads department made the correct decision in advising that no further houses should be built and that the Planning Board was wrong to award planning permissions especially when they are immediately suspended due to the dangerous blind corners. Therefore we ask that the planning application condition 6 is upheld and the planning permission is revoked.



14/08/15

From: Hazel Sinclair [REDACTED]
Sent: 26 July 2015 20:51
To: Holden John@Development Management
Subject: No 12 Veensgarth

Re 2015/056/PPP – LR21

Dear Sir

As per the above we wish to object on the grounds that the councillors who were concerned in the decision of 2009/139/PCO stating that “no work should commence on any dwelling until the road is completed and in public use” made that decision on the situation as it was presented to them at that time, **NOT** with the consideration that there was a live application in place.

As far as we are concerned that decision should stand.

Yours sincerely

(Robert and Hazel Sinclair

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Holden John@Development Management

From: Michael [REDACTED]
Sent: 26 July 2015 21:29
To: Holden John@Development Management
Subject: Review of case 2015/056/PPP - LR21
Attachments: Review Doc.doc

Dear Sir/Madam,

Please find attached further comments concerning the review of case 2015/056/PPP – LR21.

Regards,

Michael Irvine.

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Ref. 2015/056/PPP – LR21
Attn John Holden
Team Leader
Development Management

Michael Irvine
1 Veensgarth
Tingwall
Shetland
ZE2 9SB
26th July 2015

Dear Sir/Madam

Having read all of the documents associated with this review process I would like to make the following points.

In 2010 the Roads Department made a decision to make a recommendation that no further houses be built in the Veensgarth Road until the new road layout, proposed by Mr. Cecil Eunson and granted permission in 2010, was completed and in public use. This decision was arrived at subsequent to a meeting on site at the blind corners at No. 1 and No. 2 Veensgarth. At the meeting were representatives from the Roads and Planning Departments and two of the then ward Councillors being Iris Hawkins and Andrew Hughson. I am reminding you of this fact in case, through the passage of time, the recommendation from the Roads Department may now be viewed as an arbitrary decision, it was not.

The fact that the planning permission previously granted on No.10 Veensgarth has lapsed should be viewed as an improvement to the future road safety of the area simply because the traffic associated with this house will not now come into existence. The idea that this traffic allocation can be used as currency and made to justify another different application means that the improvement in road safety gained by number 10's planning permission lapsing will be lost, which seems illogical at best.

The proposed use of more passing places and mirrors may indeed make passage through the blind corners quicker and more convenient for drivers but not necessarily other road users. As things stand, it is my opinion, that the awkwardness of the road is the one thing that slows most of the traffic down to an acceptable speed.

My final point is that those involved in the review process could do worse than to have a visit to Veensgarth to fully appreciate the issues first hand.

Best Regards,

Michael Irvine.

Holden John@Development Management

From: Pole, Joyce (ITS) [REDACTED]
Sent: 24 July 2015 15:13
To: Holden John@Development Management
Cc: [REDACTED]
Subject: Request for condition 6 to be upheld.
Attachments: S Morgan 2015 056 PPP Observations on req. to review 2015 07 22.docx

Hi John,

I hope you are keeping well? We are not having a good summer weather-wise.

Please see attached letter, this is just a note to ask if you would kindly let our views be known to the Review Panel. We hope the Roads Department's original condition (number 6) is upheld.

Kindest regards,

Joyce A Pole,

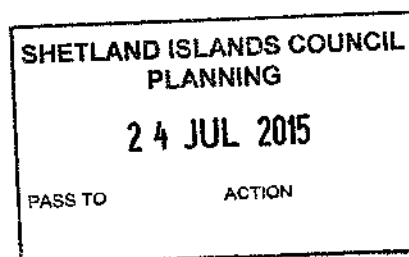
Deputy Laboratory Supervisor.

( Industry and Assurance Division, Intertek, Sullom Voe Terminal, Mossbank, Shetland, UK, ZE2 9TU.
[REDACTED]

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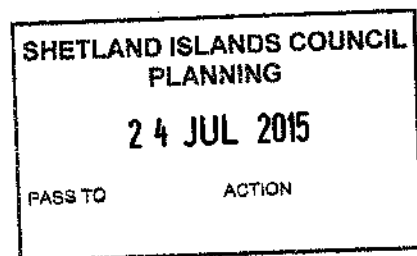
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Leascole,
13 Veensgarth,
TINGWALL,
Shetland,
ZE2 9SB

24th July 2015.

Development Management,
Development Services,
8 North Ness Business Park,
Lerwick,
ZE1 0NT



Dear Sir,

Objections with respect to Review Request Condition 6, Planning Application 2015/056/PPP LR-21

With respect to the application to review condition 6 of planning consent 2015/056/PPP. We wish to place an objection to the request to change Condition 6 and ask to have the following observations brought before the Review Panel. We still object to the plans.

The Roads Department has made a good decision, one that should be upheld. Condition 6 is proper, considerate and fair for all working and living in the Veensgarth Road and is a wise safety precaution. There does not need to be a near miss, accident or death to prove this. The site was visited by the Planning Committee and Councillors prior to the conditions being set for 2009/139/CPD and 2010/425/PCD and they saw first-hand how dangerous the corners are. Just because the applicant states that there are similar dangerous roads does not give permission to make Veensgarth more hazardous for Drivers and pedestrians; in particular children who no longer get picked up by the school bus but have to walk and negotiate the blind corners on dark mornings and evenings. Two wrongs do not make a right.

There is no planning application that has an available "traffic allowance" to borrow. The application mentioned in the request for a review of condition 6 lapsed along with any conditions on it. If there is a new application for a new house on Croft 10 in place of the lapsed 2007/94/PCD we are sure it would be treated fairly and equally and have the same condition (6) attached.

Traffic has increased in the area since the lapsed 2007/94/PCD planning application was submitted and more so since the conditions were placed on 2009/139/CPD and 2010/425/PCD such as:-

1. There is an increase in croft vehicles using the road because Crofts have been sub-divided/split up to form Part Crofts or become more active.
2. Families have increased in size and some of the children are driving age.
3. A new house has been built which includes the owners business.
4. Three existing houses now have businesses with subsequent increase of traffic.

The Review Panel cannot know who will occupy the house. There is no guarantee that the house will be for the Crofter, it may be used for a family from out-with the area meanwhile, the Crofter still carries on, business as usual, on the reduced Part Croft resulting in a much larger number of vehicles than put forward by the applicant. One farm owner has built at least five croft houses, does not live in any of them and doesn't even live on the island.

Please uphold the well-considered conditions.

Yours faithfully,

Joyce and David Pole.

Section 8. Applicant Hearing Statement

15 September 2015

From: Stephen Morgan [REDACTED]
Sent: 04 August 2015 14:54
To: Holden John@Development Management
Subject: Re: Local Review Ref: 2015/056/PPP - LR21: To erect dwellinghouse (Planning Permission in Principle): Croft, 12 Veensgarth, Gott, Tingwall, Shetland, ZE2 9SB

Dear Mr Holden,

Thank you for your letter. I can confirm that the only documents I wish to refer to are those already advised.

I will also make the following statement at the review:

I have owned the land in the Veensgarth Road since 2008, and it has always been my intention to build a home there, when viable.

I now have planning permission to build the home.

I object to one condition, number 6, which is to form a new section of public road to the west of Veensgarth House.

This condition is based on grounds of road safety.

To my knowledge, there have been no accidents on this road. There is no evidence that the "blind corners" pose a risk to traffic or pedestrians. If anything they create a natural traffic calming measure. Taken at appropriate speed there is sufficient visibility and passing capacity.

To build a new section of public road would cost me in the region of £250 000 to £300 000. This is utterly disproportionate to the building of a family home and would make it unviable.

In December 2014, this committee, in considering planning application 2014/027 PPF, allowed a new "T" junction to join the main A970 road, even with strong opposition from the Roads Service.

It is clear that, in terms of road safety, the allowing of this development is much "riskier" than allowing me to build a home in the Veensgarth Road. Such access to a main road is proven to be statistically significant in terms of increased risk of accidents.

The Veensgarth Road is a very minor road with extremely limited traffic.

I call on common sense to allow my application, without the condition to form a new section of public road, based on the information already provided and what I have said in this statement.

All I ask for is consistency of decision making throughout Shetland.

Yours Sincerely
Stephen Morgan

Sent from my iPad

On 3 Aug 2015, at 11:25, <john.holden@shetland.gov.uk> <john.holden@shetland.gov.uk> wrote:

Dear Mr Morgan

Please find attached a further letter in connection with the above.

Yours sincerely

John Holden
Team Leader – Development Management

Shetland Islands Council
Planning
Development Services Department
8 North Ness Business Park