

**Planning Committee****7 June 2016**

2015/406/PPF - To Erect Dwelling House and Alter Existing Communal Car Park, Site Adjacent to 43 Fogralea, Lerwick, by Mr James Watt

Report Number: PL-04-16-F

**Report Presented by Planning Officer –
Development Management, Planning**

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This report concerns an application for the erection of a two-and-a-half storey dwelling-house on a site adjacent to 43 Fogralea, Lerwick.
- 1.2 Although classed as Local Development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 this application is being presented to the Planning Committee in accordance with the Planning Scheme of Delegations that has been approved by the Scottish Ministers as an objection to the proposal has been received from the Community Council.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved subject to conditions.

3.0 Determination

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act (as amended) 1997 states that:

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.

There are statutory development plan policies against which this application has to be assessed. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issue to be considered is whether the proposal complies with development plan policies.

Statutory Development Plan Policies:

Shetland Islands Council Local Development Plan (2014)

GP1 - Sustainable Development

GP2 - General Requirements for All Development

GP3 - All Development: Layout and Design

H3 - All Housing Development

H5 - Siting and Design

WD2 - Waste Water

WD3 - SuDs

TRANS 3 - Access and Parking Standards

W5 - Waste Management Plans and facilities in all new developments

Safeguarding

- Main Areas of Best Fit - Main Areas of Best Fit: Lerwick
- Landscape Character Assessment - Landscape Character Assessment: Farmed and Settled Voes and Sounds
- Ministry Of Defence - MOD Area: Meteorological Station Lerwick Details: Any new construction or extensions >150ft in height (45.7m) above ground level
- Tingwall 10km Safeguarding - Tingwall 10km Safeguarding: Wind Turbine applications require consultation with Airport.

4.0 Report

4.1 Principle

The application site is within the Area of Best Fit at Lerwick. As such the proposed development satisfies Policy H3 of the Shetland Local Development Plan (2014) (SLDP) and the principle of residential development within this area is acceptable. Given the existing infrastructure serving the area and that the site is within the Area of Best Fit, it is considered that the proposal is a sustainable development and complies with SLDP Policy GP1.

Representations raised concerns that the site had not previously been specifically allocated as a house site prior to the submission of the application. This does not need to happen and planning applications can be submitted for any proposed development. Part of the assessment process that is needed for this application is to determine whether the site can accommodate a new residential unit. This is discussed later on in this report.

Within one of the representations reference was made to informal pre-application advice that was given by the Planning Service for a nearby site regarding residential development in the rear garden of an existing dwelling house. Planning applications are assessed on a case by case basis and informal advice does not set a precedent for the formal consideration of future development proposals. More specifically, the merits or otherwise of proposals are site specific.

Policies GP3 and H5 of the SLDP require that developments are sited and designed to respect local character, distinctiveness and the settlement pattern. These aspects are considered below.

4.2 Scale form and design

The proposed dwelling-house is two-and-a-half storeys in height. Other dwelling-houses in Fogralea range from single storey to two-and-a-half storeys, and in this context it is appropriate to consider the prominence the proposal will have in relation to the street. A key aspect of this is the topography of the upper area to Fogralea, which is relatively steep and irregularly undulates. This means development in the area follows irregular patterns, leaving some plots with engineering solutions needed for development to take place. As such, certain dwelling-houses are more prominent than others in Fogralea, and rather diverse approaches to overcome the challenges posed to development by the topography have been used. The density of development within the area generally reflects the topography and ground conditions, and these features have undoubtedly influenced the original design of the street at Fogralea. Representations from neighbouring properties and the objection from the Lerwick Community Council that has been received have raised concerns over how the proposed dwelling would sit within the street. It is considered that while the proposed development could be viewed as being large and prominent in its own right, when taking into account the context of Fogralea the dwelling-house will be consistent with the character of the area and will not have an adverse effect upon it.

Concerns regarding the scale and prominence of the proposed dwelling-house within the street were raised with the agent during the application process. As a result an amended proposal was received, which is the subject of this report. The amended proposal features a lower roof ridge height, and a reduced overall mass that is achieved by simplifying the east wing extension. The amended proposal also shows the proposed dwelling-house re-sited further north and east within the site. In addition the roof forms are altered, re-orientating the main roof ridge from east to west, to north to south. These alterations are considered to be an improvement on the original proposal.

Representations have raised concerns that the proposal will impede views from their properties. A private interest in terms of loss of a view is not a material planning consideration and is not therefore considered further within this report on the assessment of the merits of the proposal.

The proposed design for the dwelling-house is relatively modern. The street (Fogralea) is largely of 1980s design and the proposal reflects a residential architectural style that is contemporary and has features that are seen in other recent developments. It is considered that the mix of architectural styles on Fogralea means that the relatively modern style of the proposal will not have an adverse effect on the established character of the street. The material and colour choices are reflective of the style proposed and will not unduly draw attention to the dwelling or appear incongruous within the established character of the street. While representations have raised the proposed design as a concern, after careful consideration of the potential impacts on the cohesiveness of the character of the neighbourhood, it is concluded that the proposal will not have a significant adverse effect.

It is noted that concerns were raised through representations that the site will leave insufficient private amenity space. Given the nature of the other gardens within Fogralea, which are influenced by topography and the engineering solutions adopted for plot development, the level of private amenity space provided within the proposal is considered characteristic of the street.

The proposed development will not, it is considered, have an adverse impact on the established character of the street, and the proposal complies with SLDP Policies GP3 and H5.

4.3 Neighbouring Amenity

Representations from neighbouring properties have raised concerns over the loss of natural light as a result of the proposal. In terms of overshadowing, significant amenity impacts are only expected in situations where a large proportion of garden grounds are blocked by proposed developments. This can be an issue in situations where the new development is located to the south of the neighbouring gardens. The proposed development is separated from the gardens of the nearest neighbouring properties to the southeast and east by a road. This separating distance, in conjunction with the fact that the neighbouring dwellings lie to the south east and east of the site, mean that overshadowing of those gardens is not anticipated. The garden of 43 Fogralea is located to the north of the proposed development. The proposed dwelling-house is to be located downhill from the garden, and from this aspect and angle it will appear only single storey in height. As such it is not considered that the proposed development will have significant overshadowing impacts on the neighbouring garden at 43 Fogralea.

In terms of the potential for significant loss of daylight into neighbouring windows, the proposal is sufficiently separated that it will not result in unacceptable loss of daylight into the neighbouring properties themselves.

Best practice in calculating whether there will be unacceptable privacy or overlooking impacts as a result of development within urban areas is for there to be a separation distance of over 18m. The proposed development achieves this best practice separating distance.

One of the representations received raised concerns over the loss of the existing trees within the application site as a result of the application. While the removal of the existing vegetation on site will be an unfortunate consequence to the development of the application site, it is not considered that its loss will represent an impact on the amenity of the area sufficient to warrant refusal of the proposal.

4.4 Access and Parking

Initial concerns raised by the Council's Roads Service regarding the proposed parking layout of the site were alleviated through amendments and clarifications from the agent. Representations from neighbouring properties have raised parking congestion on the street

as concerns. Given that the Roads Service, who provide technical advice to the Planning Authority regarding roads issues, have not raised this as a concern, it is considered that subject to controlling conditions as recommended by the Roads Service, the proposal complies with SLDP Policy TRANS3. The proposal requires the removal of an existing communal car parking space, but includes the provision of a replacement lay-by parking space to compensate. The existing space will need to be stopped up under the Planning legislation before it can be removed from public use. This stopping-up cannot come into effect until the replacement space is completed and available for use. It will therefore be appropriate that a condition is attached to a grant of permission to require the provision of the replacement space prior to the existing space being removed or occupied for building works, and prohibit the occupancy of the dwelling-house until the parking provision has been constructed and completed per the approved plans.

One of the above mentioned recommended conditions is a requirement that an automated garage door opening system is installed to prevent cars waiting on the road while the garage door is manually opened. A representation raised concerns that the automated garage opening system would be unreliable. It is recommended that a condition be attached to any permission granted to ensure that the system remains in working order.

4.5 Flooding and Drainage

The application proposes to connect into the public sewer. This complies with SLDP Policy WD2.

Initially, the proposal did not include any details of SuDS on site. Concerns from the Council's Drainage Engineer were raised with the agent. Additional information was provided by the agent to seek to address this issue. The Drainage Engineer concluded that while there was insufficient information to alleviate the aforementioned concerns, appropriate controlling conditions requiring SuDS could be attached to any permission to ensure that the requirements of SLDP Policy WD3 were met. As such, subject to such a condition being attached to any permission granted, it is considered that the proposed development complies with SLDP Policy WD3.

4.6 Land Ownership

Concerns were raised within a representation regarding land ownership; that the application site could be encroaching into a neighbouring property. Clarification was sought from the agent who provided confirmation that the applicant and agent believe the land ownership is correct and in compliance with Regulation 15 (1) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

4.7 Conclusion

Further to the above considerations, subject to controlling conditions, the proposal will not have an unacceptable impact on the natural or built environment. The proposed scale, form and design can be accommodated within the character of the area and the amenity of neighbouring residential dwelling will not be adversely affected as a result of the proposed development. The proposed development is considered to comply with Shetland Local Development Plan Policies GP1, GP2, GP3, H3, H5, WD2, WD3, TRANS3 and W5.

5.0 Implications (of Decision)

Strategic

5.1 Delivery on Corporate Priorities – A decision made on the planning application that accords with the development plan would contribute directly to the Single Outcome Agreement through the outcome that we safeguard and enhance our outstanding environment.

5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application. Further consultations were sent out following the submission of an amended scheme.

5.2.1 **Building Standards** was consulted on the 17 November 2015. Their comments dated, 4 December 2015, can be summarised as follows:

The proposal for the new dwelling adjacent to 43 Fogralea, Lerwick was considered by the Building Standards team yesterday.

No problems were envisaged with regard to access to the dwelling.

There may be a possible implication on the location and extent of the external cladding with regard to distances from the boundary. This aspect will be more fully considered at the building warrant stage. However, as the aesthetics of the design could be affected it may be worth your exploring this with the Architect.

5.2.2 **Roads Traffic** was consulted on the 17 November 2015. Their comments, dated 4 December 2015, can be summarised as follows:

Comments:

1. 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. A visibility splay of 2.5 metres by 33 metres must be provided at the junction of the access to properties 27 to 41 Fogralea with the main Fogralea road. This is available at present.
2. No fence, wall, bushes or other potential obstruction to visibility more than 900mm high above road surface level shall be permitted within the required junction visibility splay.
3. 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.
4. The access should be surfaced in bitmac for at least the first 6 metres from the edge of the public road.
5. The access should be designed in order that it does not shed surface water from the site onto the public road.
6. Site drainage should 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.
7. That length of the access crossing the public road verge or footway must 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.
8. Any garage door should be set back a minimum of 6 metres from the edge of the public road. If the door 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 door is being opened.
9. Parking provision should be made within the site for a minimum of 3 cars.
10. Turning provision for cars should be made within the site in the form of a standard hammer head or a manoeuvring space of at least 7.6 metres by 7.6 metres in size.

Please note that the creation of the additional public parking space will require to be done through the Construction Consent process. This will require an application for Construction Consent to be made to Roads Service at least three months prior to works commencing on site. This space should be provided before works start on the house as pressure on parking in the area will increase during the construction period.

5.2.3 **Roads Traffic** was re-consulted on the 21 April 2016 following the submission of the amended proposal. Their comments, dated 9 May 2016, can be summarised as follows:

Road Authority Comments:

1. 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 and maintain the required visibility splays.

- a. A visibility splay of 2.5 metres by 33 metres must be maintained at the junction of the access to properties 27 to 41 with the main Fogralea road. This is available at present.
 - b. A visibility splay of 2.5 metres by 33 metres must be provided at the junction of the upper site access with the main Fogralea road. This is available at present.
 - c. A visibility splay of 2.5 metres by 17 metres must be provided at the junction of the lower site access with the access to properties 27 to 41. It appears that this can be achieved from the submitted site layout plan.
2. No fence, wall, bushes or other potential obstruction to visibility more than 900mm high above the road surface level shall be permitted within the required junction visibility splay.

Adequate visibility splays are required to ensure that vehicles can enter the public road safely.

3. The gradient of the new site accesses should not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road. The initial access gradient should be no greater than 3 percent more or less than the crossfall/camber of the public road at the junction.
 - a. This is required to provide a safe stopping platform before entering the public road.
4. The site accesses should be surfaced in bitmac or hard bound surface for at least the first 6 metres from the edge of the public road.

This is required to prevent damage to the road edge and minimise the possibility of loose material being dragged onto the public road.

5. The accesses should be designed in order that they do not shed surface water from the site or surrounding area onto the public road.
6. Site drainage should 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.

It is an offence under the Roads (Scotland) Act 1984 to allow water to shed onto the public road as it can create a significant hazard, particularly in winter.

7. That length of the access crossing the public road verge or footway must 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.
8. Construction of the lower access and parking area for the site requires the removal of a public parking space. This space has to be replaced prior to the existing space being removed or occupied for building works. This work has to be done under a Roads Construction Consent, which requires to be applied for at least three months prior to works commencing on site.

It is illegal to carry out works within or adjacent to the public road without first obtaining the necessary consents from the Roads Authority. This is a separate legal process from the Planning process.

9. Any gate/garage door should be set back a minimum of 6 metres from the edge of the public road. If the gate / door 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/door is being opened.

10. Parking provision should be made within the site for a minimum of 2 cars.

Adequate parking within the site is required in order to prevent safety or congestion issues being created on the public road in the vicinity of the development.

Technical Comments for Planning Service to Consider:

- A. The existing parking space will need to be stopped up under the Planning legislation before it can be removed from public use. This stopping-up cannot come into effect until the replacement space (see point 8 above) is completed and available for use.

5.2.4 **Lerwick Community Council Clerk** was consulted on the 17 November 2015. Their comments, dated 9 December 2015, can be summarised as follows:

At the December meeting of the Lerwick Community Council the above planning application was discussed, minute ref 12/15/12. Item 2.

I can advise that there were no objections, with regard to the application.

- 5.2.5 **Lerwick Community Council Clerk** was re-consulted on the 21 April 2016 following the submission of the amended proposal. Their comments, dated 13 May 2016, can be summarised as follows:

I write with reference to the above application which was further discussed at the May meeting of Lerwick Community Council following concerns raised by neighbours to one of our members.

The Community Council agreed that their concerns and objection to the application, on the grounds that the proposed dwelling-house does not fit the character of the area; the additional parking in the cul-de-sac would decrease the space required for access by refuse truck or any other larger vehicles and the shortage of green space around the property.

- 5.2.6 **Scottish Water Customer Connections** was consulted on the 17 November 2015. There was no response from this consultee at the time of report preparation.

- 5.2.7 **Planning - Flooding Drainage Coastal** was consulted on the 17 November 2015. Their comments, dated 18 November 2015, can be summarised as follows:

Background

This is an application for construction of a dwelling house in garden ground at Fogralea, Lerwick.

The application does not include any SuDs drainage devices and shows a surface water drainage connection to the existing public sewer.

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.

The plans submitted do not show any SuDs drainage details but the site appears to have sufficient space to accommodate device(s) providing suitable levels of attenuation. The proposals show an impermeable surface being formed over almost all of the site and would require suitable SuDs attenuation providing water storage of the order of 3m³ to achieve 1 in 10 year attenuation. Any removal or reduction of the requirement to provide SuDs drainage would be dependent on agreement from Scottish Water, as discussed below.

The application shows surface water drainage piped directly to a connection with an existing public sewer system

For the proposed connect to a public sewer, Scottish Water should confirm that the design details are acceptable to them, and that their system can accommodate the flows from the site, and any level of SuDs attenuation which they may require. All drainage works should then be carried out to Scottish Water standards.

If SuDs devices are required, the normal requirement would be for any SuDs device to be located at least 5m from any site boundary, house or public road.

There does not appear to be sufficient space available on the site to achieve that easily, however, if a suitable SuDs device which does not use infiltration was chosen there would be grounds to consider relaxing this requirement and in that case an acceptable drainage layout should be achievable.

The submitted plans do not indicate any drainage for the ground floor level parking or the basement floor level parking areas and these have the same requirements for SuDs attenuation and/or approved connection to the public sewer as for the other drainage.

No drainage is shown for the repositioned communal parking area and it appears surface water runoff would flow out onto the public road and to the existing road gulley to the north.

SIC Roads should confirm if this is acceptable.

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

Care should be taken to ensure that the landscaping, building and ground levels on the site are designed so that these potential overland flows of water would not cause a flooding problem to the proposed building or to surrounding property.

Water flowing on the site should be guided away from the proposed building and towards a suitable place for it to re-enter a drainage system, without flowing or ponding against buildings or somewhere that may create flooding problems. For this site, this may require some particular care in the design of the drainage systems and ground levels.

5.2.8 Planning - Flooding Drainage Coastal was re-consulted on the 21 April 2016 following the submission of the amended proposal. Their further comments, dated 22 April 2016, regarding the new information submitted in relation to application can be summarised as follows:

The revised plans show a SuDs attenuation device providing 1.12m³ of water storage.

The plan notes that sizing calculations have been produced for the device, but those do not appear to be available online to give comment on.

The proposed construction detail of the SuDs device would appear to be suitable for the vehicle loadings at that location, but does not include the detailing that would be required for control of the water flows on this site - a low level outlet with a sized throttle, and a high level overflow able to carry full flows.

The drainage proposals shown still require a connection to the public sewer.

Provided that Scottish Water confirm the acceptability of the arrangement and the acceptable discharge rates of the proposed SuDs device, then this is an acceptable layout.

The construction detail given for the SuDs device includes an impermeable membrane, and with that design I would consider it acceptable for the device to be sited less than 5m from the site boundary.

The revised plans still do not appear to show how water will be collected from the 2 parking/driveway areas.

I note from correspondence that the Roads Service have confirmed that the proposals are acceptable in this regard.

The plans do not show any information on how the site outside the footprint of the house will be drained. The drainage approach for the site should cover the collection of water from hard surfaces and into the SuDs device, suitable drainage of other areas during normal conditions, and also the guiding of overflowing surface water during extreme conditions.

As above, the nature of the site makes some of these issues less straightforward than they would be on a more open site, and a holistic approach to the site drainage detailing would seem to have advantages.

5.2.9 Representations

Representations were received from the following properties:

- Mr Gurung, 29 Fogralea, Lerwick, Shetland
- Mr & Mrs Joe Gray, 31 Fogralea, Lerwick
- Mr & Mrs Edwards, 33 Fogralea, Lerwick, Shetland
- Mr Green, 47 Fogralea, Lerwick, Shetland
- Mr Hughson, 45 Fogralea, Lerwick, Shetland

All representations object to the proposed development and their comments can be summarised as follows:

- The site had never been specifically noted as a residential site before submission of the application.
- Damage to existing vegetation on site.
- Height and mass of the building will be inappropriate within the context of the street and for the plot.
- The proposal would leave no garden ground for the site.
- Road safety concerns as a result of traffic congestion, the garage door opening would mean that cars are likely to block the street and a remote opening system (as proposed by the Roads Service) would be unreliable.
- Views from neighbouring properties would be lost.
- Not in keeping with the style of the dwellings on Fogralea.
- Pre-application advice for the development of residential properties in the rear garden of a neighbouring residential property said that it would be inappropriate.
- The application is contrary to policy.

These comments have been addressed within the report, section 4, above.

- 5.3 Policy and/or Delegated Authority – The application is for a development falling within the category of Local Development. As the Community Council has objected to the application, and conditions cannot address the issues raised, and the recommendation is for approval, the decision to determine the application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.
- 5.4 Risk Management – If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 Taking the comments received into account and having assessed the proposed development against Shetland Local Development Plan (2014) policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with development plan policy and is recommended for approval. Therefore the proposal accords with the relevant provisions of the Shetland Islands Local Development Plan Policies GP1, GP2, GP3, H3, H5, WD2, WD3, TRANS3 and W5.

6.3 Therefore, subject to the conditions listed in the schedule appended to the report this application is recommended for approval.

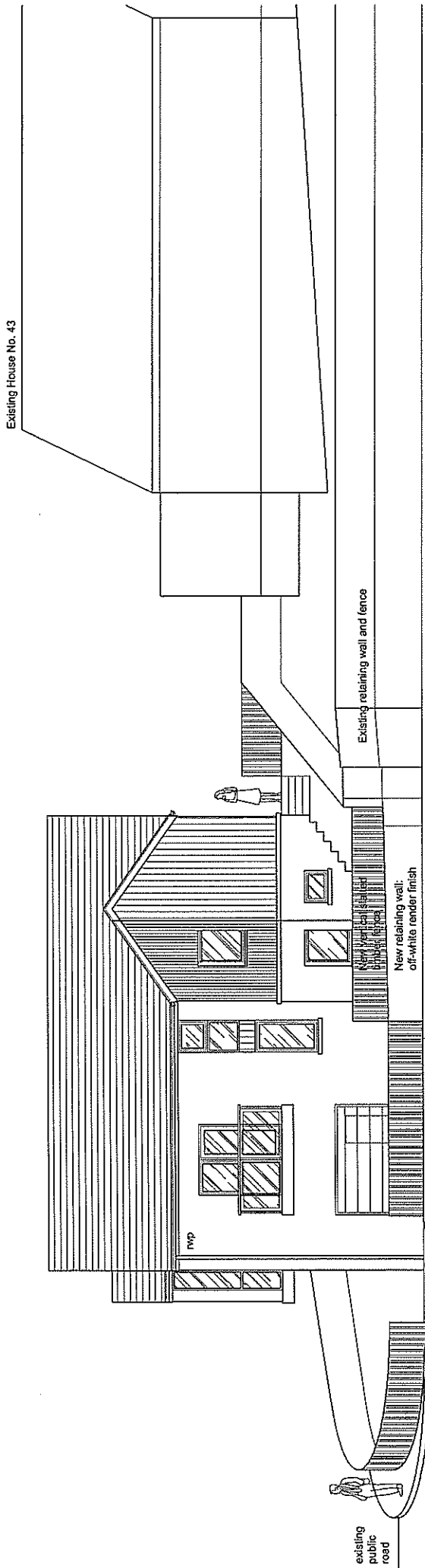
For further information please contact:
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Tel: 01595 743963 Email: dale.hunter@shetland.gov.uk
Date Cleared: 27 May 2016

List of Appendices

Appendix 1: Elevations 810 PL03A 20.04.2016
Appendix 2: Elevations 810 PL04A 20.04.2016
Appendix 3: Site & Location Plan 810 PL01A 20.04.2016
Appendix 4: Schedule of Recommended Planning Conditions

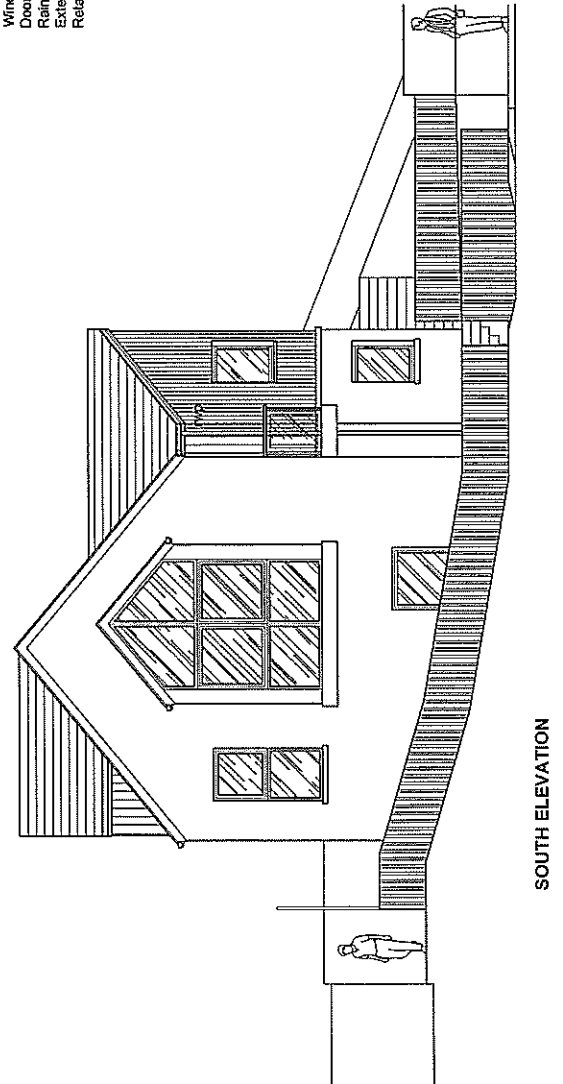
Background documents:

- [Shetland Local Development Plan 2014](#)



EAST ELEVATION

External Materials & Colours:
 Walls: Off-white render and charcoal vertical timber cladding.
 Roof: Natural slate.
 Windows: Aluminium clad timber windows, dark grey.
 Doors: Hardwood, dark grey.
 Rainwater goods: Black upvc.
 External fence: Vertical slatted timber.
 Retaining walls: Off-white render.



SOUTH ELEVATION

Job title PROPOSED DWELLING HOUSE ON SITE ADJACENT TO 43 FOGRALEA, LERWICK	Drawing title ELEVATIONS (1)	Scale 1:100 Date Oct 2015 Drawn lbi
		810 p103A



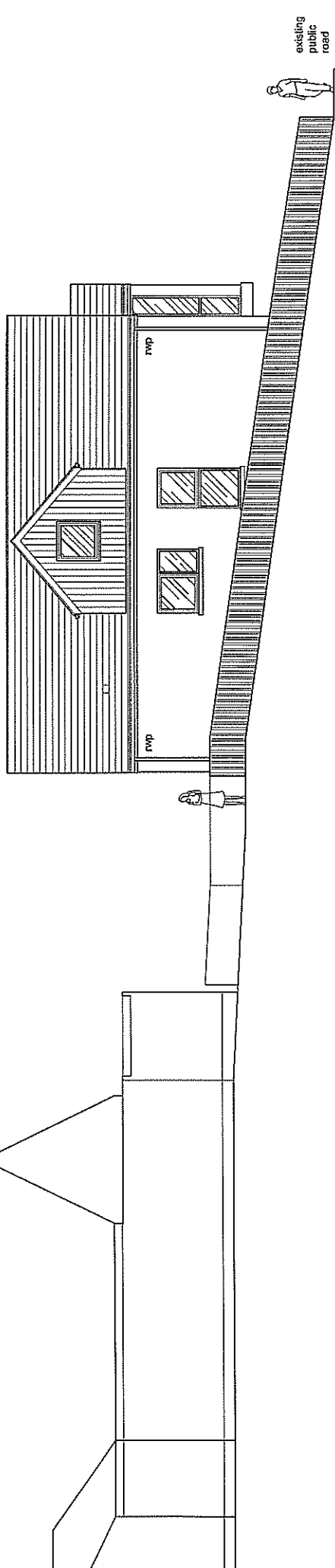
4 North Ness Business
 Park, Lerwick,
 Shetland, ZE1 0LZ

Tel: 01595 694880
 email: enquiries@pjp.co.uk

PJP Architects LLP

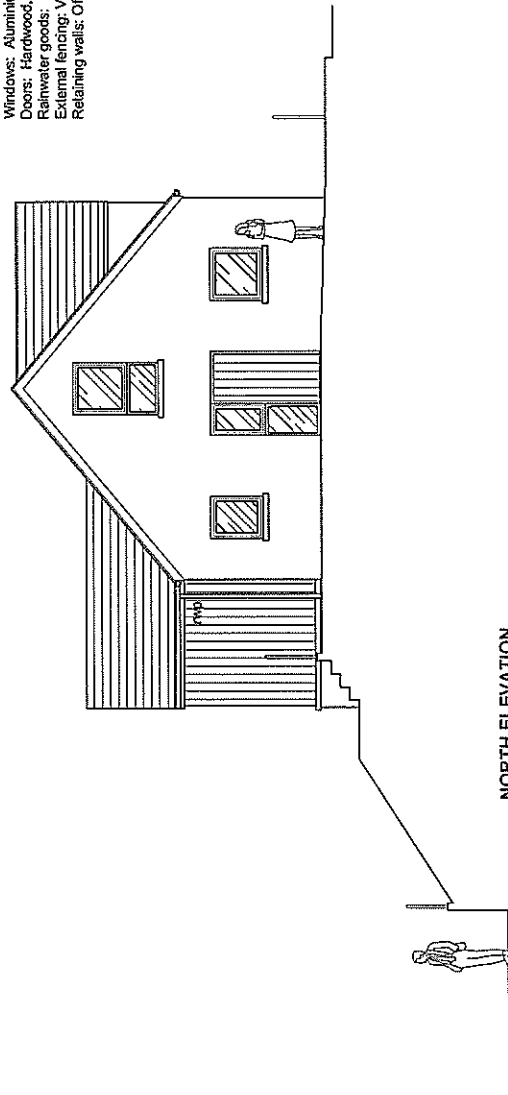
www.pjparchitects.co.uk

Existing House No. 43



WEST ELEVATION

External Materials & Colours:
 Walls: Off-white render and charcoal vertical timber cladding.
 Roof: Natural slate.
 Windows: Aluminium clad timber windows, dark grey.
 Doors: Hardwood, dark grey.
 Rainwater goods: Black upvc.
 External fencing: Vertical slatted timber.
 Retaining walls: Off-white render.



NORTH ELEVATION

Job title	Drawing title	Scale 1:100
PROPOSED DWELLING HOUSE ON SITE ADJACENT TO 43 FOGRALEA, LERWICK	ELEVATIONS (2)	Date Oct 2015
		Drawn lbt
		810 p104A



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2.1 Shetland Islands Council, Asset & Properties, 8 North Ness Business Park, Lerwick ZE1 0LZ

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Schedule of Recommended Planning Conditions

Development: To erect dwelling house and alter existing communal car park

Location: Adjacent To 43 Fogralea, Lerwick, Shetland, ZE1 0SE,

By: Mr James Watt

Application Ref: 2015/406/PPF

Recommendation

Grant subject to conditions

Reasons for Council's decision:

Subject to controlling conditions, the proposal will not have an unacceptable impact on the natural or built environment. The proposed scale, form and design can be accommodated within the character of the area and the amenity of neighbouring residential dwelling will not be adversely affected as a result of the proposed development. The proposed development is considered to comply with Shetland Local Development Plan Policies GP1, GP2, GP3, H3, H5, WD2, WD3, TRANS3 and W5.

List of approved plans:

• Floor Plan 810 PL02A	20.04.2016
• Elevations 810 PL03A	20.04.2016
• Supporting Statement & Method Statement 2015/406/PPF-01	20.04.2016
• SuDS Details AH-DR-16	20.04.2016
• SuDS Calculations 2015/406/PPF-02	20.04.2016
• Elevations 810 PL04A	20.04.2016
• Site & Location Plan 810 PL01A	20.04.2016

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.

Appendix 4

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:
 - i. include the full name and address of the person intending to carry out the development;
 - ii. 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;
 - iii. 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
 - iv. include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

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

3. Prior to the commencement of development, details of the hours of working on the development hereby permitted shall be submitted to the Planning Authority for written approval. Thereafter the development shall only take place during the hours of working approved under the terms of this condition unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of safeguarding residential amenity and in order to prevent disturbance to adjoining properties and local residents arising from unsociable working hours during the construction of the development, in compliance with Shetland Local Development Plan (2014) Policy GP2.

4. Prior to commencement of development details shall be submitted and approved in writing by the Planning Authority which show: a minimum requirement of provision of a SUDs device with sufficient volume to attenuate up to 1 in 10 year flows from the developed site, to the level which would have occurred on the undeveloped site; suitable drainage of all areas of the site to ensure that surface water flows during extreme rainfall events do not create a flood risk to the proposed or existing houses, but flow to a suitable place to enter the public sewer system; evidence of agreement from Scottish Water of acceptance of surface water drainage from the site.

Reason: To ensure that surface water drainage can be accommodated appropriately in compliance with Shetland Local Development Plan 2014 Policy WD3.

5. If any top soil, spoil or waste materials arising from any excavation of the site

Appendix 4

carried out as part of the development hereby permitted, and the construction of the development, are to be removed from or disposed of outwith the site, details of the method of storage or disposal of any such materials, including details of the location of any storage or disposal sites, shall be submitted and approved in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure that any top soil or waste material arising from the construction of the development is disposed of to an authorised site and in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

6. No materials, waste or equipment associated with the construction works to take place under the development hereby approved shall be stored in the existing communal car parking spaces within the site, or on any road or public area in the immediate vicinity of the site, without the prior written approval of the Planning Authority.

Reason: To prevent the parking of vehicles, storage of materials and equipment in any public areas in the interests of vehicle and pedestrian safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

7. Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seeds mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges). If the site is to be reinstated other than by seeding or turfing with grass a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

Reason: To ensure the reinstatement of land disturbed by the construction of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

8. The dwellinghouse hereby approved shall not incorporate any underbuilding in excess of that shown on the plans hereby approved unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the development does not have an adverse impact

Appendix 4

on the visual amenity of the area or the amenity of any neighbouring properties in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

9. Prior to the roof to the dwellinghouse hereby permitted being completed, the SuDs arrangements for the site approved under condition 4 of this permission shall be completed and be fully functional. The person carrying out the development should provide the Planning Authority with a written notice of completion of that phase of the development.

Reason: To reduce the potential adverse effects or hazards though flooding by reducing the rate which rainwater can travel across the site and onto neighbouring land or buildings in accordance with Shetland Local Development Plan (2014) Policy WD3.

10. Parking provision shall be made within the curtilage of the new dwellinghouse for a minimum of 2 cars. The replacement layby parking space shall be completed and available for use before the existing communal car parking space is removed or occupied for the building works hereby permitted. This parking provision shall be completed before the dwellinghouse is occupied and thereafter maintained and available at all times and shall be used for no other purpose.

Reason: To allow adequate space for vehicles to turn and exit the site in forward gear, in the interests of traffic safety and in order to comply with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

11. 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.
 - i. A visibility splay of 2.5 metres by 33 metres must be provided at the junction of the access to properties 27 to 41 with the main Fogralea road. This is available at present.
 - ii. A visibility splay of 2.5 metres by 33 metres must be provided at the junction of the upper site access with the main Fogralea road. This is available at present.
 - iii. A visibility splay of 2.5 metres by 17 metres must be provided at the junction of the lower site access with the access to properties 27 to 41. It appears that this can be achieved from the submitted site layout plan.

Reason: To ensure that the infrastructure serving the development site is completed, to provide a safe access for vehicles and with a clear view, in the interests of public and road safety in compliance with Shetland Local

Development Plan (2014) Policies GP2 and TRANS3.

12. At the junction from the public road:
- i. No fence, wall, bushes or other potential obstruction to visibility of more than 900mm high above the road surface level shall be permitted within the required junction visibility splay.
 - ii. The gradient of the new site accesses shall not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road. The initial access gradient should be no greater than 3 percent more or less than the crossfall/ camber of the public road at the junction.
 - iii. The accesses shall 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.

Reason: To ensure that the infrastructure serving the development site is completed, in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, and to prevent stone chips migrating onto the public road, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

13. In so far as this consent shall relate to the foul drainage to be constructed in association with the development it shall relate only to provision of:

a connection to the local sewer main as specified in the plans and/or details approved under condition no. 1 of this permission. No part of the development shall be occupied until foul drainage works have been completed in accordance with the approved plans and/or details and are fully operational.

Reason: For the avoidance of doubt as to what is being authorised and to ensure the provision of adequate means of drainage in the interests of public health and the control of pollution in compliance with Shetland Local Development Plan (2014) Policy WD2.

14. No gates to the accesses to the public road shall be erected. The garage door installed to the dwellinghouse shall be of an automated remote opening type, and details of its specification shall be submitted to and approved in writing by the Planning Authority prior to both its installation and the occupation of the dwellinghouse. The garage door once installed shall be maintained so as to be able to be opened remotely for the lifetime of the development and available for inspection by the Planning Authority on request.

Reason: To allow a vehicle to stand clear of the road while the gate / door is being opened, in compliance with Shetland Local Development Plan 2014

Policy TRANS3 and Policy GP2.

Informatives

Building Warrant:

You are advised to contact the Building Standards Service on 01595 744800 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, Lerwick, ZE1 0ZF, 0345 437437.

Surface Water:

The access shall be designed in order that it does not shed surface water from the site onto the public road.

The 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 footpath.

Commencement of Development:

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Notice of Completion of Development:

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

Roads construction consent:

That length of the access crossing the public road verge or footway must 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.

Construction of the lower access and parking area for the site requires the removal of a public parking space. This space has to be replaced prior to the existing space being removed or occupied for building works. This work has to be done under a Roads Construction Consent, which requires to be applied for at least three months prior to works commencing on site.

Appendix 4

Road Stopping Order

The existing car parking space before being removed will need to be stopped up under Planning legislation before it can be removed from public use. A request should be made to the Shetland Islands Council Planning Service for the making of the requisite order to be promoted.

Road Opening Permit:

The length of the access crossing the public road verge or footway must 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.

**Planning Committee****07 June 2016**

2015/426/PPF - Demolition of Existing Workshop and Sheds, Provision of 8 No. New Housing Units (Within 4 No. blocks) with Air Source Heat Pump, Access Road and Associated Parking, Hoswick, Shetland, by Irvine Contractors Ltd.

Report Number : PL-03-16-F

**Report Presented by Planning Officer –
Development Management, Planning Service**

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This report concerns an application for full planning permission to demolish a workshop and sheds which were a builders yard, previously operated by Farquhar and Jamieson (Building Contractors) Ltd, Hoswick, Shetland, and thereafter to erect 8 No. houses on the cleared site.
- 1.2 Although classed as Local Development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 this application is being presented to the Planning Committee in accordance with the Planning Scheme of Delegations that has been approved by the Scottish Ministers as an objection to the proposal has been received from the Community Council.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved subject to conditions.

3.0 Determination

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act (as amended) 1997 states that:

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.

There are statutory development plan policies against which this application has to be assessed against. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issue to be considered is whether the proposal complies with development plan policies.

Statutory Development Plan Policies:

Shetland Islands Council Local Development Plan (2014)

GP1 - Sustainable Development

GP2 - General Requirements for All Development

GP3 - All Development: Layout and Design

H3 - All Housing Development

H4 - Affordable Housing

H6 - Amenity Space in Housing Developments

TRANS 3 - Access and Parking Standards

W5 - Waste Management Plans and facilities in all new developments

WD1 - Flooding Avoidance

WD2 - Waste Water

WD3 - SuDs

Safeguarding

Landscape Character Assessment - Landscape Character

Assessment: Farmed Settled Lowland and Coast

Rights of Way - Right of Way: 89

Right of Way Ref: SK040

Rights of Way - Right of Way: 91

Right of Way Ref: SK039

Rights of Way - Right of Way: 87

Right of Way Ref: SK037

Rights of Way - Right of Way: 90

Right of Way Ref: SK041

4.0 Report

4.1 The application site is located within the well established settlement of Hoswick and consists of a proposal to erect 8 No. dwellinghouses.

4.2 The Shetland Local Development Plan (2014) Policy GP1 encourages new residential development to be sited 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. Policy GP3 requires that all new development should be sited and designed to respect the character and local distinctiveness of the site and its surroundings.

4.3 The Shetland Local Development Plan (2014) Policy H5 stipulates that:

“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 policy in its justification also goes on to state that:

“....Planning applications will be supported if they contribute to the sustainability, vitality and viability of existing settlements and the protection and enhancement of the landscape, natural, built and cultural heritage, biodiversity and the wider environment, including consideration of flood risk.”

- 4.4 This is an application for full planning permission to re-develop a former builders yard and erect 8 No. dwellinghouses. The site lies within the settlement of Hoswick and comprises an area of some 0.45 hectares of land which was used as a builder's yard with a workshop. The existing buildings on the site will be demolished.
- 4.5 The site lies in a central location within the village and is bounded by residential properties on all sides. The layout of the proposed scheme will be in the form of 4 No blocks. Block 1 consists of 1 No. 2 bedroom house located in the south east corner of the site. Block 2 proposed consists of 2 No. 2 bedroom semi-detached houses to the north of Block 1. Block 3 proposed consists of 3 No. 2 bedroom houses in a terrace to the north of Block 2. To the south west corner of the site it is proposed to locate a fourth block, Block 4, consisting of 2 No. 3 bedroom semi-detached houses.
- 4.6 The houses proposed are of a two storey pitched roof design with a gable end and using dark grey concrete tiles. The walls are proposed to be finished in a dry dash harling coloured an off-white. The design also includes timber/fibre cement cladding details in a variation of colours. The use of gable ends, dark tiles and off-white harling is considered to compliment traditional design features and will enhance the attractiveness of the area.
- 4.7 The Community Council objection raised is regarding the number of houses proposed, with it considering that the development is out of keeping with the character of Hoswick. It considers that 8 No. units is not a good fit or design for the community.
- 4.8 The Planning Service considers that the layout of the proposed development is such that it is reasonably reflective of the closely developed nature of the existing settlement. The layout in the form of a small street with a cohesive group of houses will give the development a sense of “place” in its own right while still being an integral part of the settlement. The proposal exhibits an enhanced degree of connectivity and the ability to walk through the “street”. Additionally, the applicant has agreed to a seating area in the form of a bench within the site between two small areas of landscaping and opposite Block 2, which will be a welcome recreational element for the area.
- 4.9 It is however recognised that the extent of residential amenity area allocated to each proposed dwellinghouse is not necessarily reflective of larger garden areas elsewhere in Hoswick. The Planning Service, as advised in draft guidance from the Scottish Government on Housing

and Infrastructure, is able in determining applications to consider the financial imperatives of developments within the demands of the planning system and against the requirements of the prevailing Development Plan. The viability and marketability of developments may therefore be taken into consideration when determining proposals.

- 4.10 The applicant was therefore asked to submit details of the 'viability testing' of the proposed development site that was carried out i.e. the financial basis for proposing to build 8 No. houses rather than 6 No. on the site. The applicant has done this, and insofar as the submitted information (which is treated as confidential) has not been independently verified, the Planning Service accepts that the development of the site is not viable on the basis of a 6 No. house proposal. The development has also been considered in light of the need for housing within Shetland as identified within the Housing Needs and Demands Assessment which underpins the 2011-2016 Local Housing Strategy.
- 4.11 An objection received has also raised the issue of the height of the proposed houses and the blocking of daylight to Hebron Cottage, which is located directly across the public road from and to the north of the terraced block of houses (Block 3) under the proposal. It is inevitable that some degree of reduction in the existing amenity enjoyed by currently having an open outlook onto undeveloped land will occur with the proposal. The main front elevation of Hebron Cottage is orientated to face east, and it is a gable end which looks south and has two windows, one ground and one upper storey, that will face toward a blank gable end to the new terraced block some 9 metres away. It is considered that there will be a degree of daylight/sunlight interruption at certain times of the year and day. Given the north south orientation of the proposed houses in relation to Hebron Cottage however it is considered likely that this will only occur when the sun is directly behind the block of houses and in the later parts of the year in the winter months, and not for extended periods of time. It is therefore accepted that while this may be an issue it will not create such an unacceptable adverse impact on the amenity of Hebron Cottage so as to warrant an amendment to the proposal.
- 4.12 Access to the site is proposed via an existing access point which served the builders yard from the public road to the immediate north. The only exception to this is the access to the west wing of proposed Block 4, which will be served by an existing access track to the west of the site. The Community Council and objectors raised concerns with regard to the adequacy of the access and parking arrangements.
- 4.13 The Roads Service has raised no objections to the access point and the car parking proposals; providing 18 spaces (one more than required) has also been found to be acceptable.
- 4.14 The proposed application presented an opportunity to improve connectivity for the surrounding area by the provision of an access route through the site and the maintaining of an existing right of way which existed on and through the site.

- 4.15 The proposed houses will connect to the public water supply and foul drainage system.
- 4.16 Surface water from the site will be treated both in terms of quality to protect watercourses, and quantity in terms of any potential flooding issues, by the installation of a SuDS system. The proposed design has been considered by the Planning Engineer and within the water storage device proposed the discharges from the site will not be higher than the existing under any flow conditions. This is considered to be acceptable to deal with any potential flooding.
- 4.17 In order to further improve site drainage a separate planning application (2016/107/PPF) for land to the south of and outwith the site has been submitted in relation to additional drainage infrastructure required to take the water in the storage device away from the site to an appropriate discharge point, and this is to be subject to determination within the current Planning Scheme of Delegations. It is important that these proposed separate works are linked to the proposal currently under consideration. As such it is considered that a condition requiring the completion of the drainage works prior to commencement of any works approved under 2015/426/PPF should be imposed.
- 4.18 Objections have raised concerns about the provision of air source heat pumps for the proposed houses and the potential impact of their operating on the neighbouring property and birds, which in turn could have an impact on tourism in terms of local bird watching tours.
- 4.19 The applicant has responded to this concern and has submitted an amended plan which removes the external air source heat pumps from 6 No 2 bedroom houses and replaced them with internal heat sources which will emit no noise. The external units on the 3 bedroom houses proposed at Block 4 will remain as the heating requirement for the larger houses is greater.
- 4.20 The Planning Service considers that this change to the heating provision will remove any potential noise impact that has been identified by the objectors. Environmental Health has in a consultation response re-iterated that any excessive noise issues can be dealt with under the Environmental Protection Act 1990.
- 4.21 The protection of peoples views and vistas while desirable is not an issue which can be considered by the Planning Service in considering the proposal. There are however a number of material planning issues that have been raised by objectors and these are addressed as follows.
- 4.22 The protection of the stone wall at the entrance to the site will be made subject of a planning condition requiring re-instatement should damage occur during construction.
- 4.23 The provision of an adequate water supply to the area is a matter for Scottish Water which has made no comment on the application proposal. The Planning Service has to be satisfied that the site can be adequately serviced and Scottish Water have not made any submission that this cannot be undertaken or provided.

- 4.24 The demolition of the existing buildings and the treatment of any asbestos found is a matter for the contractor to address within the current legislation.
- 4.25 Provision for bins to enable the disposal of domestic waste has been made within the site in the form of a bin store.
- 4.26 In conclusion, it is considered that the proposed construction of 8 No. dwellinghouses on this site is acceptable given that it complies with the overarching aims of Shetland Local Development Plan (2014) Policies H1, H2 and H3. The layout, density, scale, orientation and exterior material finishes and colours of the proposed housing scheme are acceptable in relation to the existing residential development in the surrounding area, and as such will have no adverse impact on the natural and built environment. There will be no privacy, overlooking or unacceptable overshadowing issues arising as a result of the construction of these dwellinghouses, due to the separation distances between and relationship with neighbouring properties, thereby maintaining residential amenity at an acceptable level. A safe access can be achieved and adequate car parking and turning capacity can be accommodated on site, and there are no road safety issues arising. Measures to deal with water management on the site have been designed and are proposed to ensure compliance with Policy WD3 in relation to drainage requirements. In compliance with Policy GP2, and to ensure that the development does not have a significant adverse effect on existing uses or cause any significant disruption to existing residents during the construction phase of the development, a condition controlling operational hours is recommended to be attached. Therefore subject to controlling conditions, the proposed housing is considered to comply with Shetland Local Development Plan (2014) Policies GP1, GP2, H3, H4, H5, WD2, WD3 and TRANS3.

5.0 Implications (of Decision)

Strategic

- 5.1 Delivery on Corporate Priorities – A decision made would contribute directly to the Single Outcome Agreement through the outcome that we safeguard and enhance our outstanding environment.
- 5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application.
- 5.2.1 Community Council - Sandwick Community Council commented further on this application as follows: The Community Council is not wholly against this development, but more the scale of it. They were in agreement that perhaps 6 houses, rather than 8, might be more appropriate. They were especially concerned about the house right on the corner of the entrance to the site.

With regard to parking being inadequate, the Community Council is concerned about the impact that this would have on parking availability in the rest of Hoswick which is already very

limited and led to concerns regarding access for trucks, buses, etc.

5.2.2 Scottish Water has not responded to the consultation.

5.2.3 Shetland Islands Council – Roads Traffic raised no objections to the proposal subject to standard conditions.

5.2.4 Shetland Islands Council – Roads Drainage raised no objections.

5.2.5 6 letters of objection from four sources;

Hebron Cottage,
Hoswick

Bell View,
Hoswick

Orca Country Inn,
Hoswick

Skelbo Cottage,
Hoswick

have been received and the material planning points raised can be summarised as follows;

Concerns about adequate drainage for the site
Existing road side ditches periodically overflow
Access and safety to the proposed site
Parking and accessibility
Flooding on the site and further down the village
Maintaining and enhancing the character, landscape and vitality
Protection of existing stone wall
Existing open vista and sea view
Extra demand for water
Height of houses and blocking of light
Demolition and associated asbestos issues
Where are rubbish bins to be placed ?
Essey cart will not be able to access site
Development will make life untenable
Noise from heat pumps affecting neighbours
Noise from heat pumps impacting on bird life and tourism

5.3 Policy and/or Delegated Authority – The application is for a development falling within the category of Local Development. As the Community Council has objected to the application, and conditions cannot address the issues raised, and the recommendation is for approval, the decision to determine the application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.

5.4 Risk Management – If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning

permission contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 Taking the comments received into account and having assessed the proposed development against Shetland Local Development Plan (2014) policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with development plan policy and is recommended for approval. Therefore the proposal accords with the relevant provisions of the Shetland Local Development Plan 2014.
- 6.3 Therefore, subject to the conditions listed in the schedule appended to the report this application is recommended for approval.

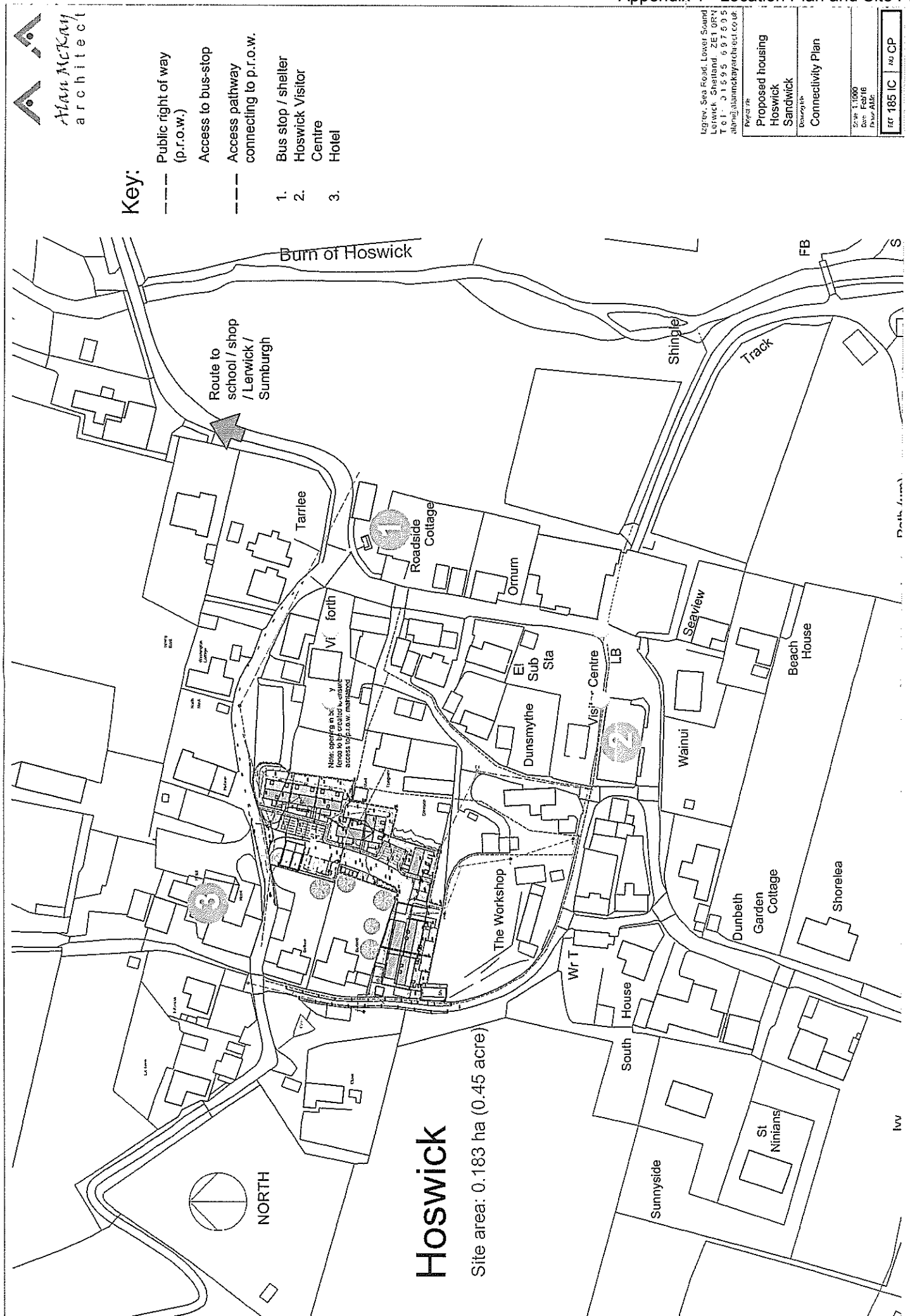
For further information please contact:
Richard MacNeill, Planning Officer – Development Management
Tel: 01595 744800 Email: Richard.macneill@shetland.gov.uk
Date Cleared: 27 May 2016

List of Appendices

- 1. Location Plan and Site Plan
- 2. List of Recommended Planning Conditions

Background Documents:

[Shetland Local Development Plan 2014](#)
[Draft Planning Delivery Advice: Housing and Infrastructure - February 2016](#)



Notes:
Access:
Allotment access to site directly adjacent existing access as shown. Road finished in tarmac. 1.2m wide pavements within site.
Ramps to entrance porches.
External steps to have 1700mm max. rise, 250 mm. going
Parking:
Parking bays (5x2.8m) defined in tarmac blocks previous (except areas serving upper floors) made in Block 4)
100mm upvc drain from houses to connect to existing drainage
manholes at entrance of site. Drainage falls generally to be 1:50 min.
Section of public sewer to west of site to be diverted as shown following demolition of workshop with approval from Scottish Water.
Surface water drainage: (shown in blue)
110mm diam upvc surface water drains from houses and road / parking areas to connect to system of surface-water attenuation devices installed under road / parking areas with hydro brake before connection to existing surface water drain. Silt traps as required. Drainage falls generally to be 1:50 min.
The landscaping / ground levels on the site must ensure that potential overland flows of water will not cause a flooding problem to the proposed houses (or to any other existing houses) during extreme rainfall conditions. - The site levels should guide water flowing over the ground away from the property, and discharge flows to a suitable point to re-enter the drainage system.
Overhooking:
A potential overhooking issue from the patio area in Block 2 to a gable window in neighbouring Taingview has been checked and is greater than the minimum distance required using the angle method of calculation as shown. The gable ends facing properties have no windows.
Overlook:
The site is to be secured with:
- The site access point is protected using appropriate protective barriers / palisade
- At the close of each working day and at weekends/holiday periods, the site is closed off to members of the public and made secure.

REV C: Parking space 01 to Block 4 re-sited...
REV B: Air-source heat pumps removed from Blocks 1, 2 & 3... May 16
REV A: Surface water removal arrangement allowed, public right of way & access pathway shown, position of bench shown... March 16
100000 Sea Road, Lower Sound
Lerwick, Shetland, ZE1 0PH
Tel: 01595 697505
alan@alanmckayarchitect.co.uk

Project site
Proposed housing
Hoswick
Sandwick
Drawing No
Site Plan
Scale 1:250
Date Oct 15
Drawn AMc

REV C: Parking space 01 to Block 4 re-sited...
REV B: Air-source heat pumps removed from Blocks 1, 2 & 3... May 16
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Site plan
Site area: 0.183 ha (0.45 acres)

2015/426/PPF Schedule of Recommended Planning Conditions

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

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

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

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

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

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

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

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

(3.) Prior to the commencement of development, details of the hours of working on the development hereby permitted shall be submitted to the Planning Authority for written approval. Thereafter the development shall only take place during the hours of working approved under the terms of this condition unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of safeguarding residential amenity and in order to prevent disturbance to adjoining properties and local residents arising from unsociable working hours during the demolition and construction phases of the development, in compliance with Shetland Local Development Plan (2014) Policy GP2.

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

Reason: In order to protect the interests of adjacent residential and vehicular safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

(5.) No development shall take place until: the developer has made a suitable proposal which has been approved in writing by the Planning Authority in relation to a proposal to form a new surface water drainage route leading from the site and connecting to the existing surface water drainage system serving the area; and thereafter the approved new surface water drainage route has been constructed to be available to accept surface water drainage waters from the site.

Reason: To ensure the provision of adequate means of drainage to ensure the development does not have adverse effects on existing uses, in compliance with Shetland Local Development Plan (2014) Policy GP2.

(6.) Adequate space for the parking of demolition and construction works vehicles and for the delivery and storage of materials shall be provided within the site prior to the commencement of any construction works. No materials, waste or equipment associated with the demolition and construction works to take place under the development hereby approved shall be stored in any road or public area in the immediate vicinity of the site without the prior written approval of the Planning Authority.

Reason: To prevent the parking of vehicles, storage of materials and equipment in any public areas in the interests of vehicle and pedestrian safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

(7.) If any top soil, spoil or waste materials arising from any demolition or excavation of the site carried out as part of the development hereby permitted, and the construction of the development, are to be removed from or disposed of outwith the site, details of the method of storage or disposal of any such materials, including details of the location of any storage or disposal sites, shall be submitted and approved in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure that any top soil or waste material arising from the demolition and construction of the development is disposed of to an authorised site and in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

(8.) The following visibility splay, which is available at the date of this permission, shall be provided prior to the commencement of development, and thereafter maintained throughout the lifetime of the development.

- a) a visibility splay of 2.5 metres by 33 metres must be provided at the junction of the access with the public road.

Reason: To provide a safe access to drivers of vehicles to enter and leave the development site, and to provide a clear view over a length of road in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

(9.) Notwithstanding the details on the approved plans, and unless otherwise stated, at the junction of the access with the public road:

- no fence, wall, bushes or other potential obstruction to visibility shall be permitted within 2.5 metres of the edge of the existing public road and within 2 metres of the edge of the proposed access road for the first 6 metres.
- No fence, wall, bushes or other potential obstruction to visibility more than 900mm high above the road surface level shall be permitted within the required junction visibility splay.
- The access shall be surfaced in bitmac or hard bound surfacing for at least the first 6 metres from the edge of the public road.
- The junction onto the public road shall be formed with a 6 metre radius between the access and the public road edge to the east and at least a 2 metre radius to the west.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policy TRANS3.

(10.) The dwellinghouses hereby approved shall not be occupied until the access road serving the development site from the junction of the access with the public road has been constructed and finished in accordance with the approved drawing no. 185 IC P01C 'Site Plan' received by the Planning Authority on 10 May 2016.

Reason: In order to ensure that the infrastructure within the development site is completed as approved, both in the interests of visual amenity and in order to provide a safe access to enable drivers of vehicles to enter and leave the site in safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

(11.) A minimum of 18 car parking spaces shall be provided in association with the development. The development site shall not be brought into use for residential purposes in any part until these car parking spaces have been constructed as shown on the approved drawing no. 185 IC P01C 'Site Plan' received by the Planning Authority on 10 May 2016, and have been permanently marked out and completed with a hardened, sealed and drained surface. Thereafter the parking shall be maintained and available at all times and shall be used for no other purpose.

Turning provision for cars should be made within the site in the form of a standard hammer head or a manoeuvring space of at least 7.6 metres by 7.6 metres in size.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policy TRANS3.

(12) The existing drystone wall located on the north west corner of the site identified on the attached plan '2015/426/PPF – SIC001' shall be protected and retained insofar as there is no conflict with the requirements of condition 10 of this permission. Should any section of the drystone wall that is otherwise to be protected and retained be damaged during the course of the development hereby approved, the damaged section of wall shall be reinstated in accordance with a specification agreed in writing by the Planning Authority beforehand.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policy TRANS3.

(13.) In so far as this consent shall relate to the foul drainage to be constructed in association with the development it shall relate only to provision of:

a connection to the local sewer main as specified in the plans and/or details approved under condition no. 1 of this permission. No part of the development shall be occupied until foul drainage works have been completed in accordance with the approved plans and/or details and are fully operational.

Reason: For the avoidance of doubt as to what is being authorised and to ensure the provision of adequate means of drainage in the interests of public health and the control of pollution in compliance with Shetland Local Development Plan (2014) Policy WD2.

(14.) Prior to the roofing of any block of housing, the associated Suds arrangements for each plot shown on approved drawing no. 185 IC P01C 'Site Plan' received by the Planning Authority on 10 May 2016 shall be completed and be fully functional. The person carrying out the development should provide the Planning Authority with a written notice of completion of that phase of the development.

Reason: To reduce the potential adverse effects or hazards though flooding by reducing the rate which rainwater can travel across the site and onto neighbouring land or buildings in accordance with Shetland Local Development Plan (2014) Policy WD3.

(15.) Prior to the occupation of the dwellinghouses hereby approved, a scheme detailing the landscaping and planting of all of the informal

recreational spaces identified on the approved drawing no. 185 IC P01C 'Site Plan' received by the Planning Authority on 10 May 2016, shall be submitted to and approved in writing by the Planning Authority, and shall include details of aftercare and maintenance. Following approval of the landscaping scheme, all planting, seeding and/or turfing shall be completed no later than the first planting season following completion of the development (March to August inclusive). Thereafter, the landscaped space shall be retained for this use and shall not be used for any other purpose, and shall, from its completion, be maintained for a period of five years.

Reason: To ensure that the open space areas within the development site are completed timeously in the interests of visual amenity in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

(16.) Prior to the occupancy of the dwellinghouses hereby approved, full details of the communal bin storage area shall be submitted to and approved in writing with the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this consent and to ensure that the development does not have an adverse impact on the visual amenity of the area in compliance with Shetland Local Development Plan (2014) Policy GP3.

(17.) The dwellinghouses hereby approved shall not incorporate any underbuilding in excess of that shown on the plans hereby approved, unless otherwise approved in writing by the Planning Authority.

Reason: For the avoidance of doubt and to ensure that the development does not have an adverse impact on the visual amenity of the area in compliance with Shetland Local Development Plan (2014) Policy GP3.

(18.) Prior to installation full details of the air source heat pumps proposed to be installed on the dwellinghouses at Block 4 as shown on approved drawing no. 185 IC P01C 'Site Plan' received by the Planning Authority on 10 May 2016 shall be submitted to and approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this consent and to protect the existing residential amenity of the occupiers of the adjacent properties as the impact of larger or different Air Source Heat Pumps have not been assessed, in compliance with Shetland Local Development Plan (2014) Policies RE1 and GP2.

(19.) In the event that any of the Air Source Heat Pumps affect radio, television and/or telephone devices and/or reception of these devices in the vicinity of the development site, the Air Source Heat Pump(s) concerned shall be disconnected until the problem has been investigated and resolved.

Reason: For the avoidance of doubt and in order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been

formally assessed and in compliance with Shetland Local Development Plan (2014) Policies RE1 and GP2.

(20.) Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seeds mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges). If the site is to be reinstated other than by seeding or turfing with grass a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

Reason: To ensure the reinstatement of land disturbed by the construction of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

(21.) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and Amendment Order 2011 or any subsequent, replacement or amendment Order, no windows, other than those shown on the approved plans, shall be installed to either the elevations or the roof planes of any of the buildings hereby approved, without permission being granted on an application made to the Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and in order to maintain the architectural quality of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

(22.) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and Amendment Order 2011 or any subsequent, replacement or amendment Order, no walls, fences or other means of enclosure shall be erected on any part of the land lying between any main wall of the building fronting a highway and the highway boundary (unless approved under condition no. 1) without planning permission being granted on an application made to the Planning Authority.

Reason: In order to maintain public and highway safety, the amenity of occupiers of adjoining properties and in order to maintain the architectural quality of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

(23.) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and Amendment Order 2011 or any subsequent, replacement or amendment Order, no sheds, outbuildings or other means of enclosure shall be erected in the private

garden grounds of any dwellinghouse, without planning permission being granted on an application made to the Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and in order to maintain the architectural quality of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

Notes to Applicant:

Commencement of Development

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Building Warrant

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

Site and Access Drainage

The access shall be designed in order that it does not shed surface water from the site onto the public road.

Scottish Water

Any planning approval granted by the Planning Authority does not guarantee a connection to Scottish Water infrastructure. Approval for a connection will only be given by Scottish Water upon receipt of an appropriate application and technical details. Due to the size of the proposed development, it is necessary for Scottish Water to assess the impact that this development will have on existing infrastructure. There is also a requirement for the developer to submit a fully completed Development Impact Assessment Form. Please contact Scottish Water, Shetland Islands Area Office, PO Box 11660, Lerwick, Shetland, ZE1 0ZF Tel: 0345 437437 for further advice in this respect.

Notice of completion of development

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