

**Planning Committee****25 August 2016**

2016/043/PPP- Develop site as laydown area (Planning Permission in Principle), Graven, Mossbank, Shetland by Shetland Development and Logistics Ltd

Report Number : PL-07-16-F

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

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This is an application to consider the principle of a change of use of land at Graven from its present agricultural use (sheep grazing) to form an industrial laydown area.
- 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, because the Community Council has objected to the proposal and the recommendation is for approval.

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

ED1 - Support for Business and Industry

ED2 - Commercial and Business Developments

NH1 - International and National Designations

NH2 - Protected Species

NH3 - Furthering the Conservation of Biodiversity

NH5 - Soils

NH7 - Water Environment

WD1 - Flooding Avoidance

WD2 - Waste Water

WD3 - SuDs

TRANS 3 - Access and Parking Standards

W5 – Waste Management Plans and facilities in all new developments

Safeguarding

Military Unclassified - Military Unclassified info:: Asbestos, dump

SVT Features - Details: Sullom Voe Terminal COMAH Zone

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Scatsta Safeguard - Height: 15m

Scatsta 13km Zone - Scatsta 13km Zone: 13km Consultation Zone Bird Strike Zone

5m Contour Area - 5m Contour Area: 1

SEPA River Extents - SEPA River Extents: M

SEPA River Extents - SEPA River Extents: L

SEPA SW Extents - SEPA SW Extents: H

Landscape Character Assessment - Landscape Character Assessment: Farmed and Settled Voes and Sounds

4.0 Report

- 4.1 This is an application to consider the principle of a change of use of the land from its present agricultural use (sheep grazing) to form an industrial laydown area. As this is an application for planning permission in principle, only the principle of development of this type in the proposed location is being considered. What has to be assessed is the merits of the proposed development and whether the principle of it

is compatible with the development plan, and also whether there are any conflicts with Council policy which seeks to protect the visual amenity of the landscape and the environment in which the development is to be located.

- 4.2 The site is located on land at Graven, Sullom Voe some 1.5 miles south east of Sullom Voe Oil Terminal and on the south east side of the B9076 public road. The application site comprises an area of land covering 1.9 hectares which consists predominantly of grazing land and grassy areas along with one residential property which lies adjacent to the south east boundary.
- 4.3 Targeted environmental information was considered to be necessary to make an assessment of the principle of development. As a result an environmental report was submitted with the application, which provides a general assessment of the potential impacts of the proposed development on the environment.
- 4.4 In terms of the choice of site the supporting environmental information states that the area is ideally located to service the Sullom Voe Oil and Gas Terminals, the Port of Sellaness and Scatsta Airport with easy access from the public road.
- 4.5 In terms of the Shetland Local Development Plan (2014) (SLDP), Policy ED1 encourages the creation of sustainable economic development where those developments comply with the SLDP's General Policies (GP1, GP2 and GP3). Policies ED and GP2 of the SLDP also seek to ensure that in allowing development to proceed that Shetland's unique natural and historic environment is protected.
- 4.6 The Delting Community Council has objected to the proposal on grounds that the application site is in a flood zone and too close to the burn (Burn of Laxobigging). This issue is addressed later in the report. The Community Council also made comment in its consultation response that it wanted the whole area, including Graven and Sella Ness to Scatsta zoned for industry and a proper Masterplan in place.
- 4.7 The main issues to be considered in the determination of this application are whether the principle of the proposed development on this site is acceptable, and if so can the area be developed without any adverse impact on the environment and the amenity of the surrounding area.
- 4.8 The proposed site lies in an area where there is considerable industrial activity close by. The Shetland Local Development Plan (2014) has identified sites with development potential for industrial use in close proximity to this proposed site at Sellaness and Policy ED1 promotes and encourages development opportunities. Scottish Planning Policy also highlights the importance of sustainable economic growth.
- 4.9 The site is adjacent to the Sullom Voe Special Area of Conservation (SAC) which has been designated for lagoons, reefs, shallow inlets and bays. Consultation with Scottish Natural Heritage (SNH) revealed that there is potential for fine material to enter Sullom Voe SAC in surface water runoff at all stages of development of the site and during

operation of the laydown area. As this could have an adverse impact on the marine habitats it advised this should be controlled through mitigating drainage measures.

- 4.10 SNH also advised that it would sustain an objection to the proposal unless, in the case of approval, a condition is attached which ensures that all run off from the site during construction and operation is treated to reduce the sediment load of discharged water to a level similar to that occurring naturally. This condition has been included in the Schedule of Recommended Planning Conditions attached to this report.
- 4.11 Similarly the Scottish Environment Protection Agency has asked that conditions be applied to any approval to ensure the submission of a Sustainable Urban Drainage proposal (SUDS) and a Construction Environmental Management Plan which will seek to ensure that the impacts of the development during the construction phase are identified, controlled and minimised in the interests of the environment and amenity of the surrounding area.
- 4.12 The site sits below the indicative 5m contour (5 metres above Ordnance Datum, Newlyn), and as such Development Plan Policy requires that a flood risk assessment will require to be undertaken. The environmental report submitted with the application contains a flood risk assessment which provides an overview of the flood mechanisms, risk and required mitigation measures. However the submitted proposals' detailed plans do not include any specific proposed site level information. Objections have also been raised in regard to the potential flooding of properties which lie adjacent to the site.
- 4.13 As no information with regards to site ground level has been provided at this in principle stage, with an approval of planning permission in principle it is recommended that a further detailed Flood Risk Assessment be required to be submitted under a specific condition at the same time as the application for Approval of Matters Specified in Condition that deals with the levels to be achieved across the site is made, with both requiring to be agreed in writing by the Planning Authority prior to the commencement of any development on site.
- 4.14 The Royal Society for the Protection of Birds has raised no objections but has responded that it would be good practice to avoid construction work during the breeding season for waders which is between early May and late July.
- 4.15 The Regional Archaeologist has advised that conditions be applied to any consent granted to ensure the protection of existing military remains and that a written scheme of investigation for archaeological works should be provided.
- 4.16 In terms of the access to the site the Roads Service has advised that there are no objections to the proposal and have recommended conditions that should be attached to any consent.
- 4.17 Objections have also been submitted in regard to possible impacts of design and siting on flood risk for adjoining croft land, and the loss of

good land. As the application is for planning permission in principle no details of the final layout and levels of the site has been submitted. These matters will be considered fully during any subsequent application for Approval of Matters Specified in Conditions which is submitted. This process will define the exact extent and levels of proposed earthworks that will not create a flood risk to existing property and surrounding land, and is one in relation to which the Planning Authority is required to give notice, and so will give third parties a further opportunity to make any representations they may wish to.

- 4.18 In terms of the reference to the loss of good land the applicant has described the current use of the land as grazing for sheep. The Planning Service is not able to evaluate what is classed as “good land” (which is presumable a reference to good agricultural land). There is no policy contained within the current Development Plan which affords protection to agricultural land and each application for development requires to be considered on its own merits.
- 4.19 In conclusion, the proposed development is considered to be acceptable in principle in ecological and visual terms, subject to the mitigations contained within the Schedule of Recommended Planning Conditions being fully implemented. The chosen location is also considered to be well related to existing industrial uses. Any development of the site’s detail will require to be carefully considered in light of the further information submitted as a result of the conditions that it is recommended are attached to any planning permission in principle granted.

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.
- 5.2.1 Delting Community Council has objected to the application.
- 5.2.2 Scottish Water did not respond.
- 5.2.3 Scottish Natural Heritage raised no objections subject to the imposition of recommended conditions.
- 5.2.4 Scottish Environment Protection Agency raised no objections subject to conditions.
- 5.2.5 Operations Dept Highland & Islands Airport Ltd raised no objections.
- 5.2.6 Airport Manager – Scatsta raised no objections.

5.2.7 Regional Archaeology Service have raised no objections subject to recommended conditions.

5.2.8 Royal Society for the Protection of Birds have raised no objections.

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

5.2.10 Shetland Islands Council – Roads Drainage raised no objections

The application was advertised in the Shetland Times on 01.04.2016

Representations

Representations were received from the following properties:

Innisfree, Graven,
Mossbank

55 Burgh Road, Lerwick,
Shetland

The concerns raised can be summarised as;

- Risk of flooding to property adjacent to the site
- Design and Siting
- Loss of good land

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 development 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 the relevant provisions of the Shetland Local Development Plan 2014 and therefore development plan policy, and is recommended for approval subject to controlling conditions as are listed in the Schedule of Recommended Planning Conditions appended to this report.

For further information please contact:

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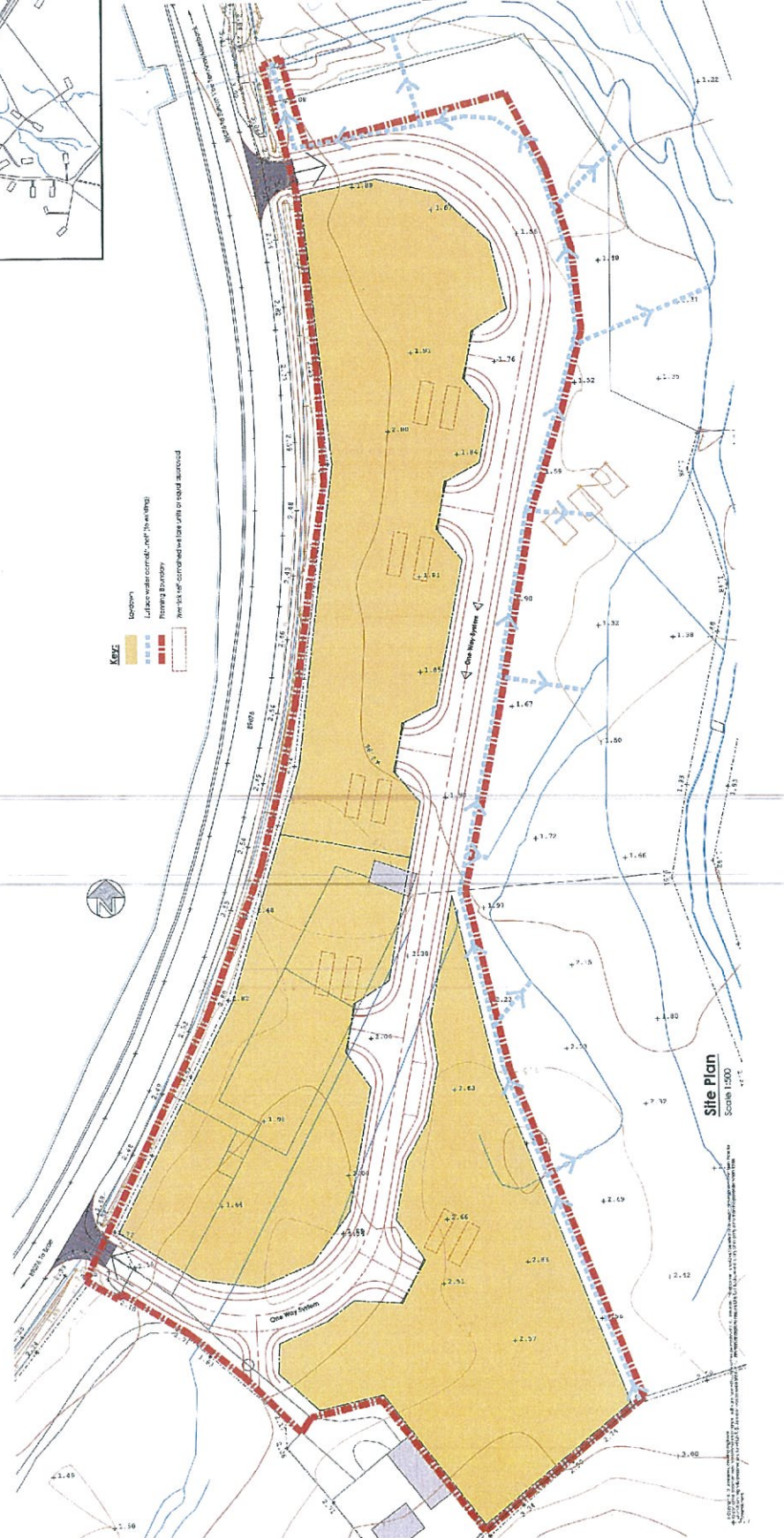
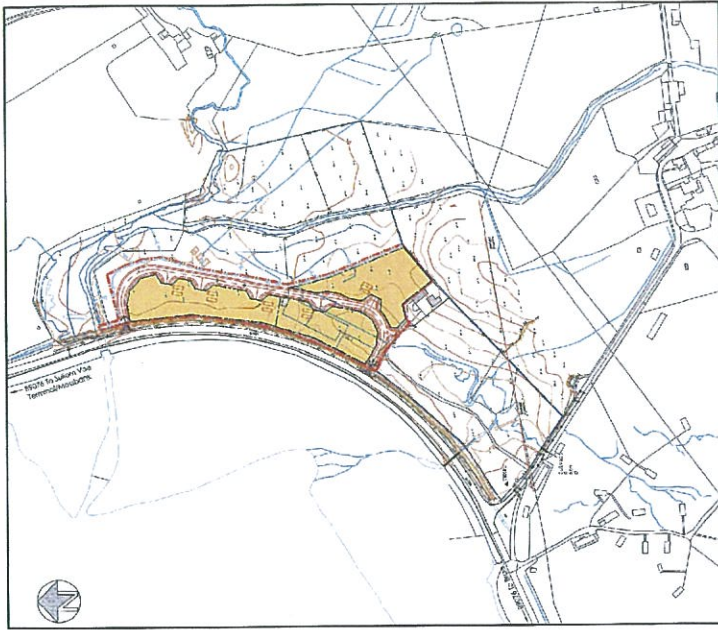
Date Cleared: 17 August 2016

List of Appendices

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

Background documents:

[Shetland Local Development Plan 2014](#)



2016/043/PPP Schedule of Recommended Planning Conditions

Reasons for Council's Decision

It is considered that the land is capable of being engineered satisfactorily, and used as an industrial laydown area without detriment to existing land uses adjacent to it, or the surrounding environment and the Sullom Voe Special Area of Conservation in particular and also the amenity of the area in general in compliance with the Shetland Local Development Plan 2014 Policies ED1, GP2, NH1, NH6, NH7 and TRANS 3.

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the following 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.) 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:

(a) a site layout plan at a scale of 1:500 showing: the position and finished ground levels (above Ordnance Datum, Newlyn) of all areas of proposed

earthworks; phasing of the construction of the laydown area (to include: drainage measures and facilities; site compound and access formation; fencing; wheel cleaning equipment provision; provision of a water supply); , access roads; vehicle circulation and parking areas; external storage facilities; as well as any surface water drainage proposals, including details of any flow attenuation measures, within the area of the development site.

(b) Re-alignment details for all watercourses which may be affected.

(c) a plan identifying all the vehicular accesses to the development site from the main public road.

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

(4.) At the same time as the first application for the Approval of Matters Specified in Conditions is submitted a Construction Environmental Management Plan (CEMP) shall be submitted to the Planning Authority for approval in writing. The CEMP shall set out the measures for protecting the environment (including pre-construction surveys for protected species) and will address the following aspects:

(a) monitoring proposals, contingency measures and emergency plans, including an environmental checklist to monitor and plan the timing of works to avoid potentially polluting activities during periods of high rainfall. This should cover:

- daily visual inspections and regular sampling and testing for silt, and the recording of required environmental actions (e.g. in relation to silt management);
- proposals for planning activities in relation to heavy rain (up to 3 day forecast);
- identification of all construction elements and their location in relation to sensitive receptors, including any waterbodies, water supplies, and water-dependent species;
- details how works will be programmed to avoid any adverse impact on sensitive receptors (e.g. construction should not take place close to sensitive receptors during wet periods).

(b) the proposed location and design of construction elements, including: fuel or oil storage and refuelling facilities; wheel cleaning equipment ; materials storage (including those imported to the site to be used in the formation of finished ground levels and construction of the laydown area); soil storage; and waste disposal facilities.;

(c) Surface Water Management Plan including proposals for Sustainable Drainage Systems (SuDs). The Surface Water Management Plan shall ensure and provide: that all run off from the site during construction and operation is treated to reduce the sediment load of discharged water to a level similar to that occurring naturally; and that provisions for treating run off and removing suspended material are designed to function effectively at flows that might be encountered during extreme rainfall events and are able to be

properly maintained throughout the construction and operation of the development.

- (d) measures to prevent sedimentation or discolouration of any water features which may be affected by the proposals, including management of temporary soil and vegetation storage areas to minimise environmental impact;
- (e) measures to ensure that the timing of works is planned to avoid conditions when pollution is going to be more likely or when ground conditions are sufficiently poor as to make construction works present a risk of pollution, to the agreement of the Planning Authority, in consultation with SEPA;
- (f) appropriate methods of soil stripping for the ground conditions on the development site to ensure that all available soil resources are recovered;
- (g) proposals and mitigation measures for the de-watering of excavations which demonstrate sufficient area to allow for settlement of silty water (or other appropriate measures for treatment);
- (h) specific measures to ensure that works do not cause oil, mud, silt, aggregate material or concrete to be washed away either during construction or as a result of subsequent erosion, vehicular movement or maintenance works at the site;
- (i) proposals for dust management including dust sprays;
- (j) a Site Waste Management Plan (SWMP) which identifies all waste streams and proposals for their management, including peat and other materials excavated on site and the importation of any waste materials to the site;
- (k) temporary and long-term foul drainage facilities for workers on site. The preference being for waste water and solid waste to be transported away from the site and disposed of using standard waste handling facilities during the construction period;

Development shall not commence until the CEMP has been approved by the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason: To ensure that the impacts of the development during the construction phase are identified, controlled and minimised in the interests of environmental, visual and cultural amenity and in compliance with Shetland Local Development Plan 2014 policies GP1, GP2, NH2, NH3, NH5, NH7, W5 and WD3.

(5.) At the same time as the submission of application for the approval of Matters Specified in Conditions (MSC) pursuant to condition 3, part (a), is made, a Flood Risk Assessment that confirms: that finished levels of

proposed earthworks will not create a flood risk to existing property and surrounding land; and the area(s) where future proposed built development will not be at risk of flooding, shall be submitted to the Planning Authority for approval in writing. No development shall take place until the Flood Risk Assessment has been approved in writing by the Planning Authority.

Reason: To ensure the provision of adequate surface water drainage as insufficient information has been submitted with the application in order to satisfy the Planning Authority that the development will not result in flooding, or be liable to flooding, and to ensure that no works are undertaken which have an adverse impact on any neighbouring properties or landownership in compliance with Shetland Local Development Plan (2014) Policies GP2 and WD3.

(6.) Prior to the commencement of development details of the hours of working on the construction of the development shall be submitted to the Planning Authority for written approval.

Reason: In order to safeguard the amenity of existing properties in the area during the construction phase, in compliance with Shetland Local Development Plan 2014 Policy GP2.

- (7.) Development shall not commence until
- (a) a phased programme and method of archaeological investigation, carried out by a suitably qualified archaeological contractor to a written scheme of works agreed to beforehand by the Planning Authority in consultation with the Regional Archaeologist, has been completed; and thereafter
 - (b) a suitable mitigation strategy has been submitted to and agreed in writing by the Planning Authority following consultation with the Regional Archaeologist.

Reason: To protect any archaeological remains within the site and in compliance with Shetland Local Development Plan 2014 Policies HE1 and HE4

(8.) No development shall commence until full details of fencing, which shall be erected around the area of the military remains and mound located to the north of the site (identified by an 'X' on the attached Drawing 2016/043/PPP – SIC 001) has been submitted to and agreed in writing by the Planning Authority in consultation with the Regional Archaeologist. No works shall take place within the area enclosed by the fencing unless approved in writing by the Planning Authority in consultation with the Regional Archaeologist. Unless otherwise agreed by Planning Authority the fence will remain in place until all development is completed to the satisfaction of the Planning Authority.

Reason: In order to protect the military features and the mound from

accidental damage during development and to preserve the features in situ in compliance with Shetland Local Development Plan 2014 Policies GP2, HE1 and HE4.

(9.) Prior to the commencement of development details of any contractors working area and set down areas shall be submitted to and approved in writing by the Planning Authority. This shall include details of access into the site, site security, any lighting proposed and any buildings, plant and machinery proposed.

Reason: In the interests of amenity and public and road safety in compliance with Shetland Local Development Plan 2014 Policy GP2.

(10.) Details of all external lighting proposed in association with the development shall be submitted for the written approval of the Planning Authority prior to being installed on the site.

Reason: As insufficient information has been submitted with the application, and to ensure that any lighting proposed does not have an adverse impact on the visual amenity of the area or an adverse impact on any neighbouring properties in compliance with Shetland Local Development Plan 2014 Policy GP2

(11) Notwithstanding the details on the submitted application the development shall take place outside the period May to July inclusive.

Reason: To protect the bird breeding season in accordance with Shetland Local Development Plan (2014) Policies GP2 NH1 and NH2.

(12) The type of origin of any materials which are proposed to be imported onto the site for use in the construction of the laydown area shall in the first place, and then on each occasion where the origin is different, be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency before the importation of the materials from the particular origin takes place. Reason: To ensure that all imported material is environmentally acceptable to ensure the protection of the surrounding environment and in particular the Sullom Voe Special Area of Conservation in compliance with Shetland Local Development Plan (2014) Policies NH1, NH6, NH7 and GP2."

Notes to Applicant:

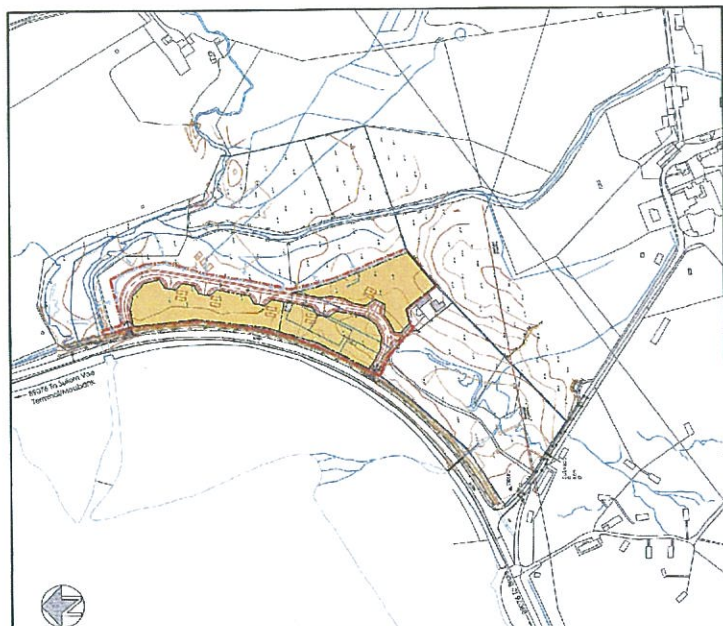
Duration of Planning Permissions in Principle

By virtue of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended, application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

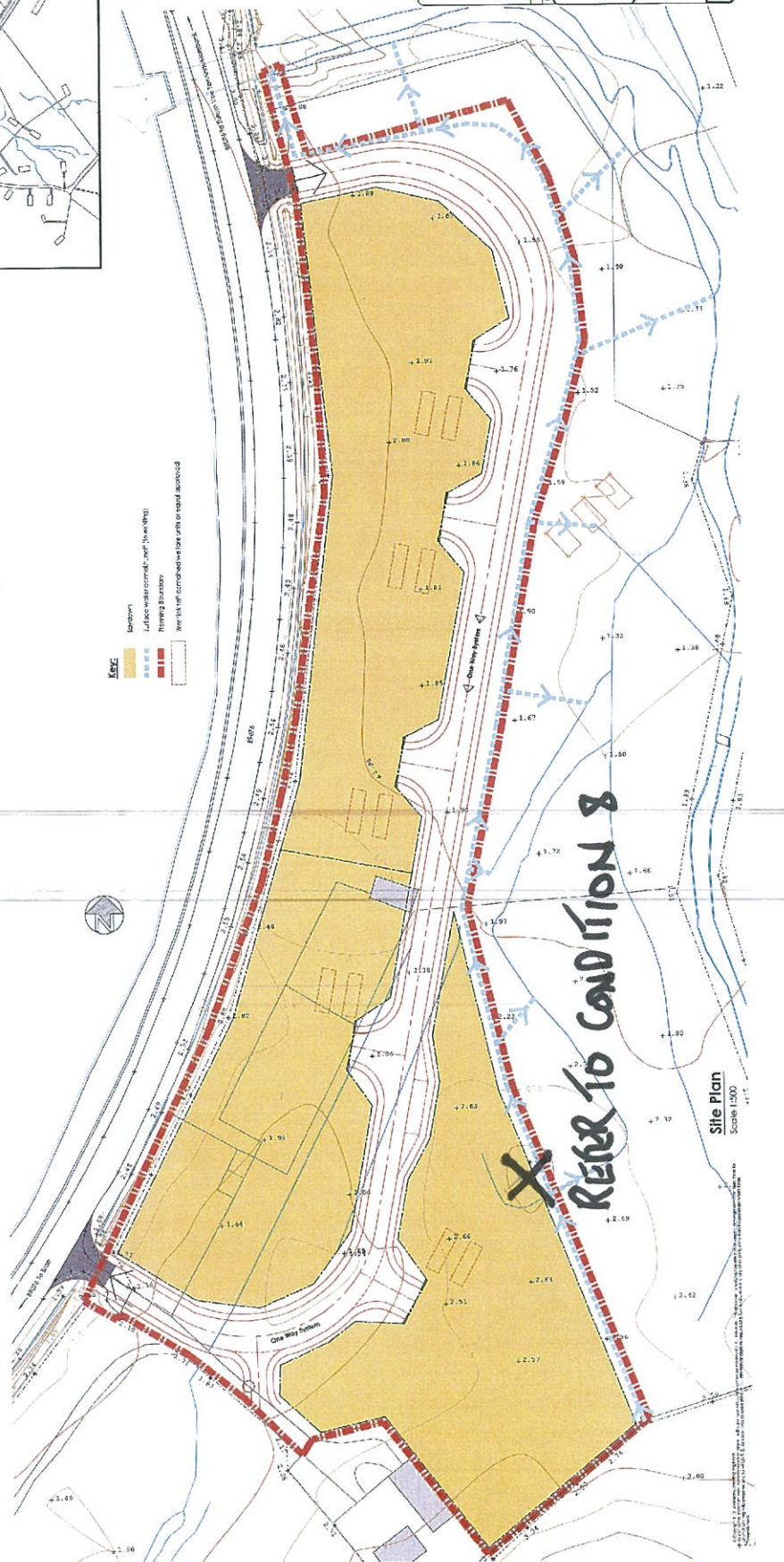
The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal

All Original




Location Plan
Scale 1:2500



X Refer to condition 8

Site Plan
Scale 1:500

	<p>R.C. JAMIESON <i>Consulting Engineers</i> 100, 102 & 104, 7/2, TOTTENHAM 11 201 100</p>	<p>Drawn by ADJ Checked by RGL 14/09/94 A.M. 07/59/12</p>	<p>Scale: As per 1:5000 1/4 1:5000 1/4 07/59 07/59</p>	<p>Planning No. 07/59/12</p>
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**Planning Committee****25 August 2016****2016/003/PPF – Construction of Workshop/Store, Lerwick, Shetland by Michael Stewart****Report Number : PL-06-16-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 construct a workshop/store on a site at North Ness, Lerwick as shown on the attached site and location plan.
- 1.2 In March 2014, planning permission was granted for a workshop/store on this site with a footprint of approximately 30.5m². The footprint of the building proposed by this application has increased to approximately 47.3m².
- 1.3 The applicant has confirmed that the workshop/store is to be used for private domestic purposes.
- 1.4 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 the Community Council has objected to the planning application.

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

TRANS 3 - Access and Parking Standards

WD2 – Waste Water

Safeguarding

Main Areas of Best Fit - Main Areas of Best Fit: Lerwick

Core Paths - Core Paths: CPPL04

4.0 Report

- 4.1 The application site is located within an Area of Best Fit in Lerwick.
- 4.2 The Shetland Local Development Plan (2014) Policy GP1 encourages new 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 GP2 sets out the general requirements for all new development and includes the requirements that any new development should not have a significant adverse effect on existing uses, should not compromise acceptable health and safety standards and should provide suitable access, car parking and turning.
- 4.4 This application is for the construction of a garage/workshop for private domestic use. The site is located at the North Ness in Lerwick in a mixed use area where industrial, commercial and residential developments co-exist. The proposed building is of a modest scale relative to the surrounding developments, is single storey in height with a mono-pitch roof as is shown on the attached elevation and floor plan. The roof is to be finished with blue profiled sheeting and the walls will be block work with a smooth white render.
- 4.5 As has been noted in the introduction, planning permission was granted for a workshop/store on this site in March 2014 (Ref 2014/003/PPF). This was a smaller building and no objections were received at the time of the previous application.

- 4.6 When the current application was submitted the proposed workshop/store was larger and the east facing elevation and roof overhang closest to the core path, and the fuel oil depot was angled in such a way that it narrowed the existing vehicle access to the back of the fuel oil depot. There was also minimal turning space outwith the proposed building.
- 4.7 This raised concerns for Certas Energy UK Ltd, the operators of the fuel oil depot and they submitted an objection as outlined at paragraph 5.2.5 below. The Lerwick Community Council also objected to the proposal in terms of its impact on the safe operation of the fuel oil depot, impact on the right of way and lack of turning space on the site. The Council's Roads Service also had some concerns about the narrowing of the core path and the parking/turning provision for the development.
- 4.8 The applicant was made aware of the issues being raised and reviewed the proposal accordingly. Amended plans were submitted that reduced the overall size of the proposed building and altered the shape so as to ensure that the current access to the back of the fuel oil depot remains as it currently is. The width of this access is dictated by the location of the wall around the car park at 8 North Ness and the amended plans for the smaller structure show that the proposal does not encroach further into the existing access.
- 4.9 The objector, the Lerwick Community Council, and the Council's Roads Service were informed of the amended plans and further comments were received. The objector (Certas Energy UK Ltd) had no objections to the amended proposal, but asked that contact be made with the fuel oil depot before work begins to ensure that short term workarounds during the construction of the development can be arranged. Lerwick Community Council maintained their objection to the development again expressing concern about the proximity of the development to the fuel oil depot and the encroachment on parking access for local properties in the area. Also mentioned was the proximity to a gate in the wall of the Council's car park which it alleged is for emergency access to and from the area, and the proximity of the proposal to a Fire Assembly point in the car park of 8 North Ness. The Council's Roads Service had no objections to the amended proposal provided that a turning space of 7.6 metres by 7.6 metres could be provided.
- 4.10 As the operator of the fuel oil depot now has no objections to the amended and smaller proposal, it is considered that the development will not have a detrimental impact on this adjacent user.
- 4.11 Access to the back of the fuel oil depot will not be restricted by this development any more than it is already by the wall of the car park at 8 North Ness, and there will be no impact on the core path that runs through the site. It is recommended that a note to the applicant is attached to any planning permission to make clear the need for access to be maintained.

- 4.12 The amended plans show that a suitably sized turning space can be provided outwith the building as required by the Roads Service and the Roads Service has confirmed that the proposal is now acceptable.
- 4.13 In terms of the issue of the proposed workshop/store encroaching on parking access for local properties in the area as raised by the Community Council, the Roads Service was asked to comment and indicated that there are 3 domestic properties in the area, but only one would appear to use this area for access and it has its own parking provision. The other properties would appear to be better served by parking further out on the North Ness road.
- 4.14 The Roads Service go on to say that the area is currently used for ad-hoc parking and when it is not used for parking it would allow easier access into the existing domestic property's own parking area, however as the applicant has identified that a suitably sized clear area for turning private cars and light vans will be available on site, this could be used by the existing residents.
- 4.15 Therefore it has been demonstrated that there will not be a significant adverse effect on existing users of the area and in this respect the proposal complies with policy GP2.
- 4.16 Also raised by the Community Council was the impact of the proposal on the gate into the Council's car park and the fire assembly point for the offices at 8 North Ness. In commenting on this the Roads Service indicated that it was not aware of the gate having any official function as an access route, emergency or otherwise. Roads Services also pointed out that given the narrow width of the gate, the space available beyond the gate in the car park, and the approach via the North Ness road, it is not considered that the proposed adjacent building line of the workshop/store would encroach significantly on the access to the gate such that a vehicle, which could use the gate presently, could not continue to use it in an emergency.
- 4.17 The Team Leader of the Council's Asset and Properties Unit indicated that there was no objection to the proposed development as it does not compromise any use of 8 North Ness.
- 4.18 The planning permission granted for the offices at 8 North Ness made no reference to the use or purpose of the gate.
- 4.19 The proposed development will connect to the public sewer for the disposal of waste water and also in this instance surface water. Given the scale of the development it is considered that this is acceptable.
- 4.20 In conclusion, it is considered that the proposed construction of a workshop/store in this location for private domestic use only is acceptable given that it complies with the overarching aims of Shetland Local Development Plan (2014) Policies GP1 and GP2. It has been demonstrated that due to the scale of development and layout of the site the proposal will not have a detrimental impact on the surrounding area as it will not impede the existing access to the fuel oil depot, the existing residential properties or the core path. A safe access can be achieved and there is adequate turning capacity within the site.

Therefore subject to controlling conditions, the proposal is considered to comply with Shetland Local Development Plan (2014) Policies GP1, GP2, GP3, WD2 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 **Lerwick Community Council** objected to the application as follows:

- Lack of vehicular turning on site and therefore the requirement to reverse all the way to the road, around a blind corner, to access or egress the site;
- The development would appear to encroach on the right of way behind the fuel depot. It is difficult to establish exactly how much as there are no dimensions of the drawing at the pinch point.
- There was also concern that the fire engines would struggle to get to the area. The vapours from the fuel depot in that area were another concern.

5.2.1(a) Following the submission of amended plans the **Lerwick Community Council** were consulted again and commented as follows:

- Members were in agreement due to concerns raised with the proposed workshop/store and the close proximity to the oil tanks was raised with the issue of possible access requirements by emergency service vehicles.
- The garage plans seems to be close to a gate allowing for emergency access to and from the area and the gate is next to a fire assembly point for the Council's main office building.
- Also as previously mentioned the garage would affect the turning space requirements and encroachment on parking access for local properties in the area and encroachment on the right of way behind the fuel depot.

5.2.1.1 **Shetland Islands Council – Roads Traffic**

- A. The proposed store/ workshop does not lie within the curtilage of a dwelling house and so while it may be for domestic use it will still create its own parking demand, which needs to be provided for.
- B. The use proposed for this building doesn't fall clearly within any use class, but given its size I would recommend that one parking space should be sufficient for most of the time.

One external parking space is indicated on the site plan, but the exact location, layout and dimensions of the parking area are not given. I would recommend that a plan with additional dimensions for the parking space and distances to boundaries is requested from the applicant.

- C. You should note that while a vehicle space is indicated within the building footprint the given dimensions are too small for this to be considered as a garage parking space under the Councils adopted standards.
- D. 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 m x 7.6 m in size to save vehicles having to reverse back to the Malakoff shop area to turn.
It may be possible to turn in the vicinity of the proposed building following its construction, but this should be clearly demonstrated on a site plan by the applicant.
- E. A public right of way and part of the core path network runs through the site. The proposed building reduces the width of the right of way/ core path.
Dimensions for the widths of the path to either side of the development as well as at the south-east corner of the building (where the reduction is greatest) should be stated on a site plan by the applicant.

5.2.2(a) **Shetland Islands Council – Roads Traffic** was consulted on the amended plans received and commented as follows:

No objections.

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.

Adequate turning 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.

5.2.2(b) Following receipt of the Lerwick Community Council's sustained objection to the amended plans **Shetland Islands Council – Roads Traffic** was consulted on the comments raised and commented as follows:

Regarding the issues raised by the Lerwick Community Council in respect of the latest revision to the proposed plans for this application I would comment as follows:

- The revised building arrangement now proposed does not restrict access along the west boundary of the fuel storage facility any more than the existing boundary wall to the SIC office car park.
- The nearby gate is a legacy of when the landowner sought to restrict/discourage vehicles from entering their site from the North Ness Road. While there are dropped kerbs across the gate on the SIC offices side I am not aware of the gate having any official function as an

access route, emergency or otherwise. Given the narrow width of the gate, the space available beyond the gate in the car park, and the approach via the North Ness Road, I do not think that the proposed adjacent building line of the store/ workshop/ garage encroaches significantly upon the access to the gate such that a vehicle, which could use the gate presently, could not continue to use it in an emergency.

- There are 3 domestic properties in the area, but only one would appear to use this area for access – and it has its own parking provision. The others would appear to be better served by parking further out the North Ness Road.
- While the area is currently used for ad-hoc parking it used to be a rough grassed/ weeded area. When the area is not used for parking it would allow an easier access into the existing domestic property's own parking area, however, the applicant has identified that a suitably sized clear area for turning private cars and light vans remains available and this could be used by the existing residents.

5.2.3 **The Council's Outdoor Access Officer**

Core path CPPL04 passes through the site as shown below:

The route is also an emergency access/escape from the oil depot with vehicular access to gates with a width of around 3.2m along its length.

To the best of my knowledge there are no other public rights of way or other formal outdoor access interests directly affected by this development. However, please note that this does not preclude the possibility that public rights may exist which are yet to be claimed.

The development must not encroach on and narrow the width of the core path or access route. Additionally, safe passage for the public must be maintained at all times during the construction period. However it appears that the width will be considerably restricted in the area highlighted below:

Therefore I would welcome clarification of the width that would be available here for core path users and the emergency access after the development is complete.

5.2.3(a) **The Council's Outdoor Access Officer** was consulted on the amended drawings and commented as follows:

The amended plan maintains the current width and accessibility of the core path route as at present. Therefore it is felt that there is now no issue with the development affecting the core path. However the developer will have to ensure the safe passage of the public during construction with appropriate signage etc.

5.2.4 **The Council's Asset and Properties Unit** was consulted on the proposal and commented as follows:

I can see no issue with the proposed development regarding the gate and the operation of what goes on at 8 North Ness, unless there was a planning condition on this for an alternative access arrangement. I am unaware of any such requirement. The Council does not have a key for this gate.

In summary we have no objection to this development as it does not compromise any use of 8 North Ness. There may however be issues regarding accessibility to the adjoining properties and to the public footpath, however that will be for others to comment on.

5.2.5 One letter of objection was received in connection with the proposal from the operators of the adjacent fuel oil depot (Certas Energy UK Ltd). The reasons for objection are as follows:

- The proposal appears to significantly narrow the core path/access route upon which the building will sit.
- Our facility uses this route for maintenance works to the tank farm.
- This route is also the designated fire access route in the event of any emergency and as such, would require to be accessible by large vehicles.
- These activities have been going on for about 50 years.

5.2.5 (a) Following receipt of amended plans the objector was informed of the amended proposal and in response to this commented as follows:

- We cannot foresee any objections to this amended proposal. We would ask that communication is made with the site prior to commencement of any works so we can arrange short term workarounds if the construction works themselves restrict access for short periods.

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:

Janet Barclay Smith, Planning Officer – Development Management

Tel: 01595 744829 Email: janet.barclay@shetland.gov.uk

Date Cleared: 17 August 2016

List of Appendices

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

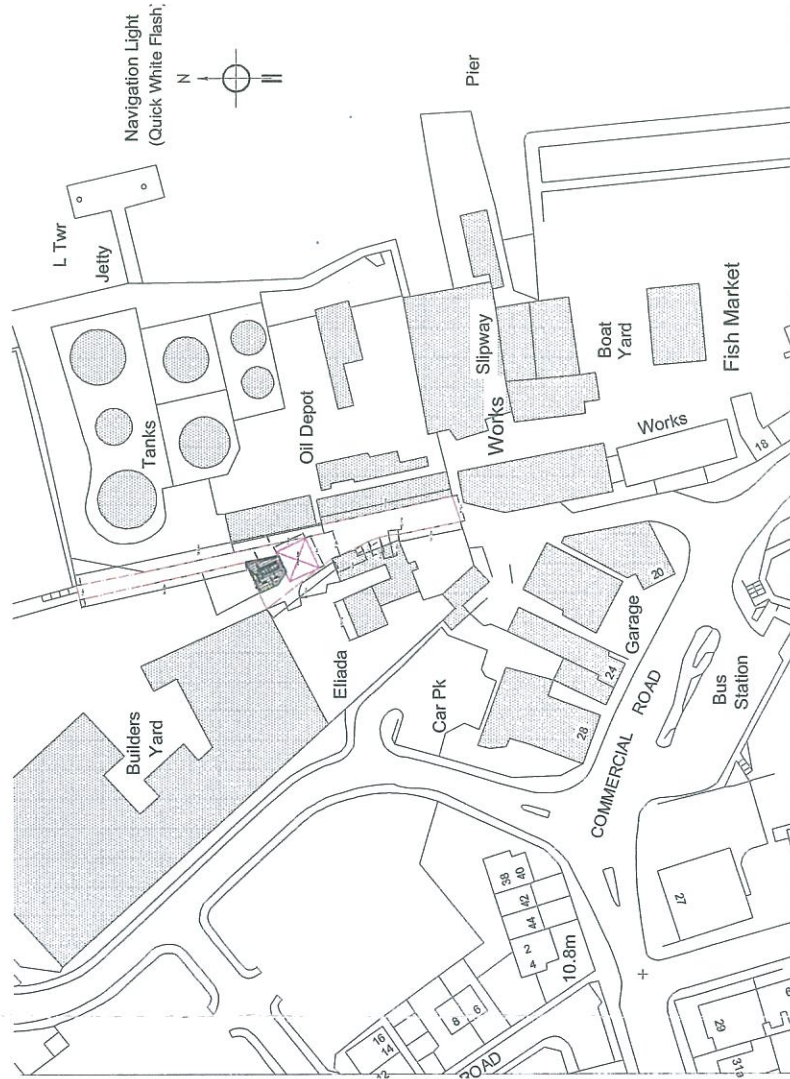
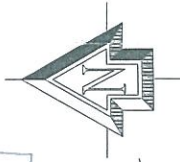
Background documents:

[Shetland Local Development Plan 2014](#)

SITE PLAN Scale 1:1250

Domestic property:

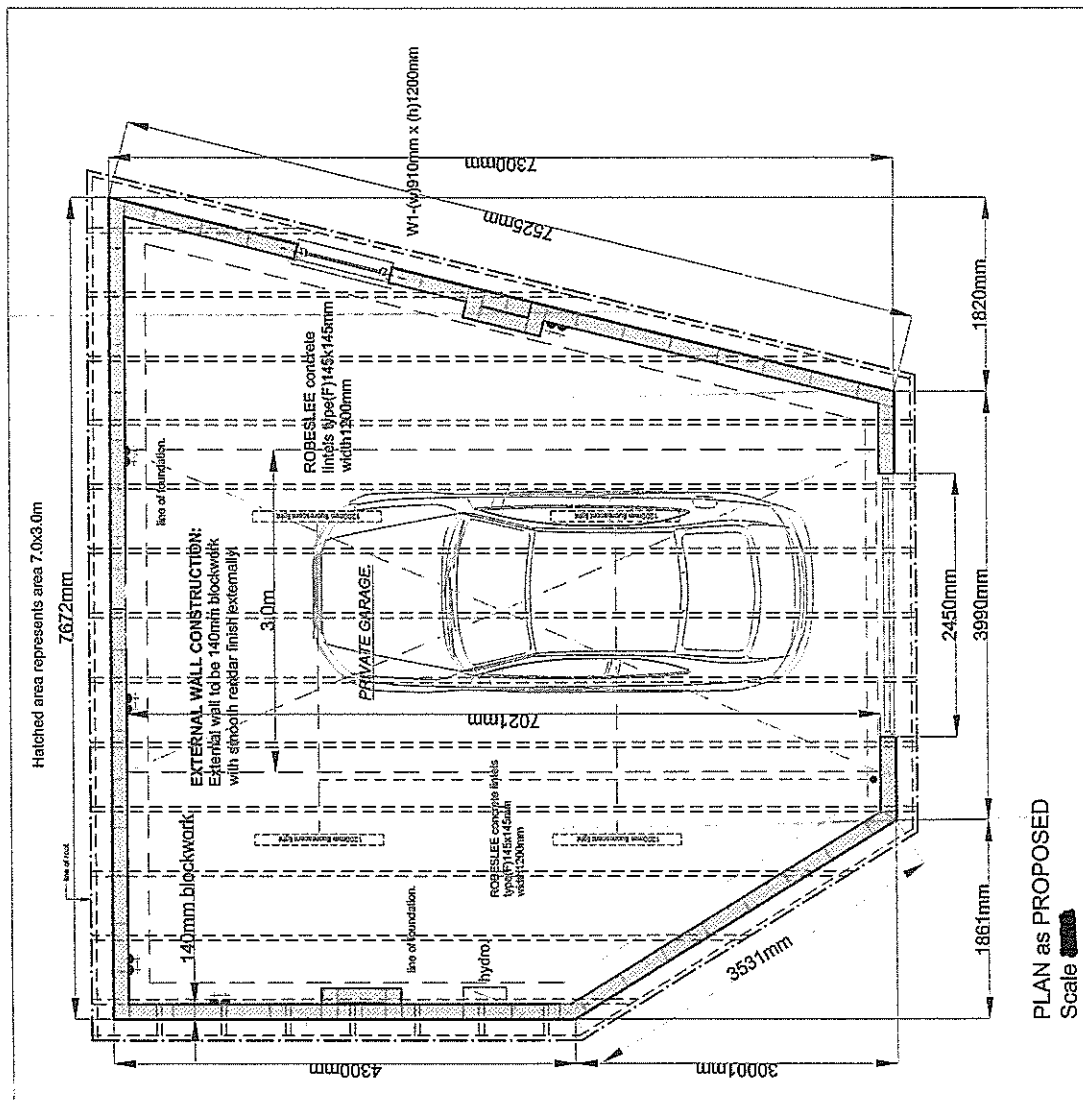
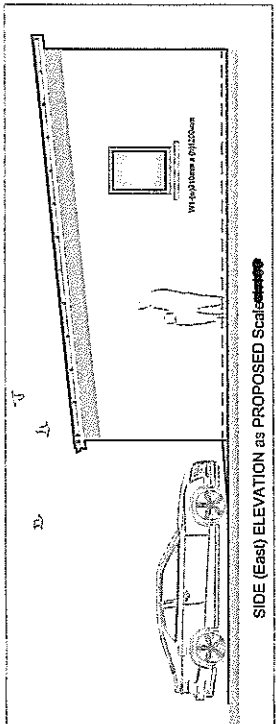
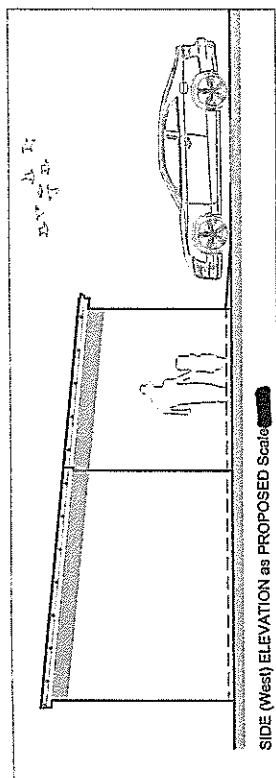
- 1-A Jamieson, Eliada, North Ness, Lerwick, ZE1 0LZ.
- 2-L Jamieson, North Ness House, Lerwick, ZE1 0LZ.
- Non domestic property:
- 3-GB Oils Ltd, North Ness, Lerwick, ZE1 0LZ.
- 4-Store, T P Holt, 20 Nikkavord Lea, Ballasound, Unst, ZE2 9XL.
- 5-Malakoff Limited, North Ness, Lerwick, ZE1 0LZ.
- 6-Garage, Philip Leask, 1 Hillhead, Lerwick, ZE1 0EJ.
- 7-Self Catering Unit, Jennifer Jamieson, 1 Hillhead, Lerwick, ZE1 0EJ.
- 8-Car Park, SLAP Ltd, 7 North Ness Business Park Lerwick, ZE1 0LZ.
- 9-SIC Headquarters, 8 North Ness, Lerwick, ZE1 0LZ.



LOCALITY PLAN Scale 1:1250.

Planning Submission

Rev D	Date: Feb 2016. Car parking reduced.
Rev C	Date: Jan 2016. Locality notes addition.
Rev B	Date: March 2007. Amended footprint and position.
Rev A	Planning Update submitted.
Submitted	Date: April 2016.
Site & Locality Plan as Proposed.	Digmo BRAVO101.

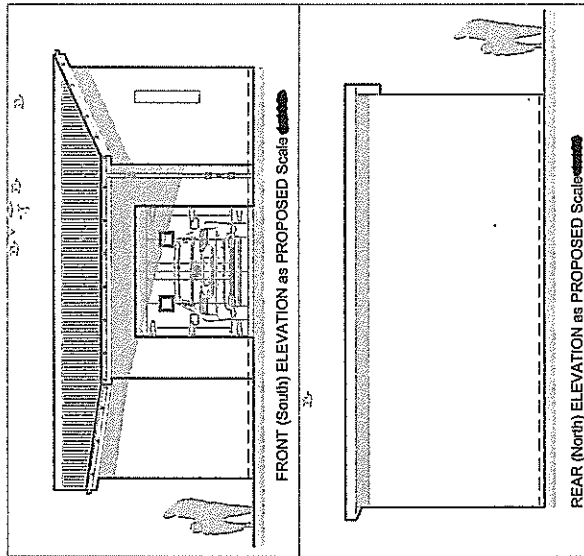


ROOF COVERING OVER GARAGE-Pitch 6°.
Marley Evernit profile 6 sheathing, colour Blue BS 18-B-29 or equivalent fixed to 50x50mm rafters at max 925mm c/c's fixed to 200x50mm rafters at 600mm c/c's with 50x50mm r/o's angles.
Fascia and soffit to be 19mm treated plywood.
Ridges of roof to be 8mm dia screw fixing with seals weather.
Purlins fixed between rafters to be 47x145mm grade C16 jack rafter @600mm c/c's fixed with expanded bat angle bracket 90x90x32x3 avg square twist nails, all poles fixed.
Profiled sheathing is manufactured from Portland cement and water, reinforced with natural and synthetic fibres.
Technical data:
Overall width 762mm
Net covering width 668mm
Thickness (nominal) 3.8mm
Minimum density 1400kg/m³
Pitch of corrugation (nominal) 72.3mm
Depth of profile 18.3mm
Type of product NT
Profile height category A
Class 1X
Side lap 131.2mm
Minimum end lap 150mm
Maximum purlin centres 925mm
Maximum rafter centres 1625mm
Maximum unsupported overhang 250mm
Approx. weight of roofing as laid with 150 mm end laps:
single skin including fixings 14.5kg/m²
Minimum roof pitch 5°.

FASCIA/SOFFT: Colour Black.
Fascia to be 20mm external quality plywood with 12mm external quality plywood soffit fixed to 38x38mm treated soft wood frame.

GUTTERS: Colour Black.
Gutters and downpipes to Black Marley deep flow gutters and downpipes.

EXTERNAL WALLS:
External walls to be 140mm blockwork with blockwork piers as shown.
White Smooth render applied to external wall.

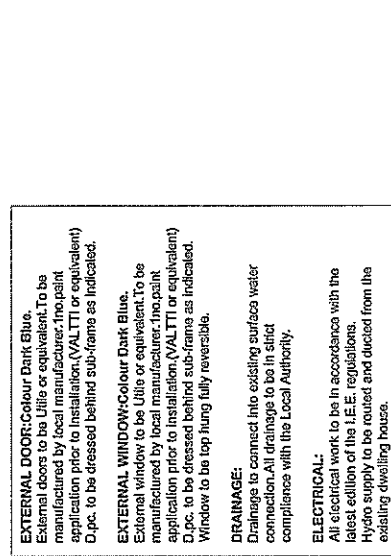


EXTERNAL DOOR: Colour Dark Blue.
External doors to be Utlite or equivalent. To be manufactured by local manufacturer. The paint application prior to installation. (VALTTI or equivalent) D.p.c. to be dressed behind sub-frame as indicated.

EXTERNAL WINDOW: Colour Dark Blue.
External window to be Utlite or equivalent. To be manufactured by local manufacturer. The paint application prior to installation. (VALTTI or equivalent) D.p.c. to be dressed behind sub-frame as indicated. Window to be top hung fully reversible.

DRAINAGE:
Drainage to connect into existing surface water connection. All drainage to be in strict compliance with the Local Authority.

ELECTRICAL:
All electrical work to be in accordance with the latest edition of the I.E.E. regulations.
Hydro supply to be routed and ducted from the existing dwelling house.



PLAN as PROPOSED
Scale 1:50

P l a n n i n g S u b m i s s i o n .

Proposed Private Garage at North Ness for Mr.M.Stewart		Date: October 2015	Rev/A	Dir.no.BRAH(0)2
Proposed Plan & Elevations.				

P l a n n i n g S u b m i s s i o n .

Schedule of Proposed Conditions

Reasons for Council's decision:

(1.) It is considered that the proposed construction of a workshop/store in this location for private domestic use only is acceptable given that it complies with the overarching aims of Shetland Local Development Plan (2014) Policies GP1, GP2 and GP3. It has been demonstrated that due to the scale of development and layout of the site the proposal will not have a detrimental impact on the surrounding area as it will not impede the existing access to the fuel oil depot, the existing residential properties or the core path. A safe access can be achieved and there is adequate turning capacity within the site. Therefore subject to controlling conditions, the proposed workshop/store is considered to comply with Shetland Local Development Plan (2014) Policies GP1, GP2, GP3, WD2 and TRANS3.

List of approved plans:

- Site and Location Plan BRA/L(0)1 05.05.2016
- Floor & Elevation Plan BRA/L(0)2 05.05.2016

Conditions:

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the following 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 use of the workshop/store hereby approved shall be restricted to private domestic purposes only and shall not be used for any business or commercial purpose.

Reason: To protect the existing residential amenity of the occupiers of the neighbouring properties, and as the proposal has been assessed on this basis only.

(4.) Turning provision for cars shall be made within the development site in the form of a standard hammerhead or a manoeuvring space of at least 7.6m x 7.6m.

Reason: To allow adequate space for vehicles to turn and exist 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.

(5.) The core path that runs through the site and is located adjacent and to the east of the proposed workshop/store as shown with a green line on the attached plan BRA/L(O)1 shall be kept clear at all times and access through the site shall be maintained for the lifetime of the development.

Reason: To ensure that the Core Path that provides access through the site is kept clear at all times in compliance with Shetland Local Development Plan (2014) GP2.

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

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.

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.

Building Warrant

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

Core Path and Access

The core path and the existing access to the rear of the fuel oil depot must be kept clear at all times. The developer must liaise with the operators of the fuel oil depot to progress and short term work arounds that may be required during the construction of the development so as to ensure that access is not impeded during the construction phase.

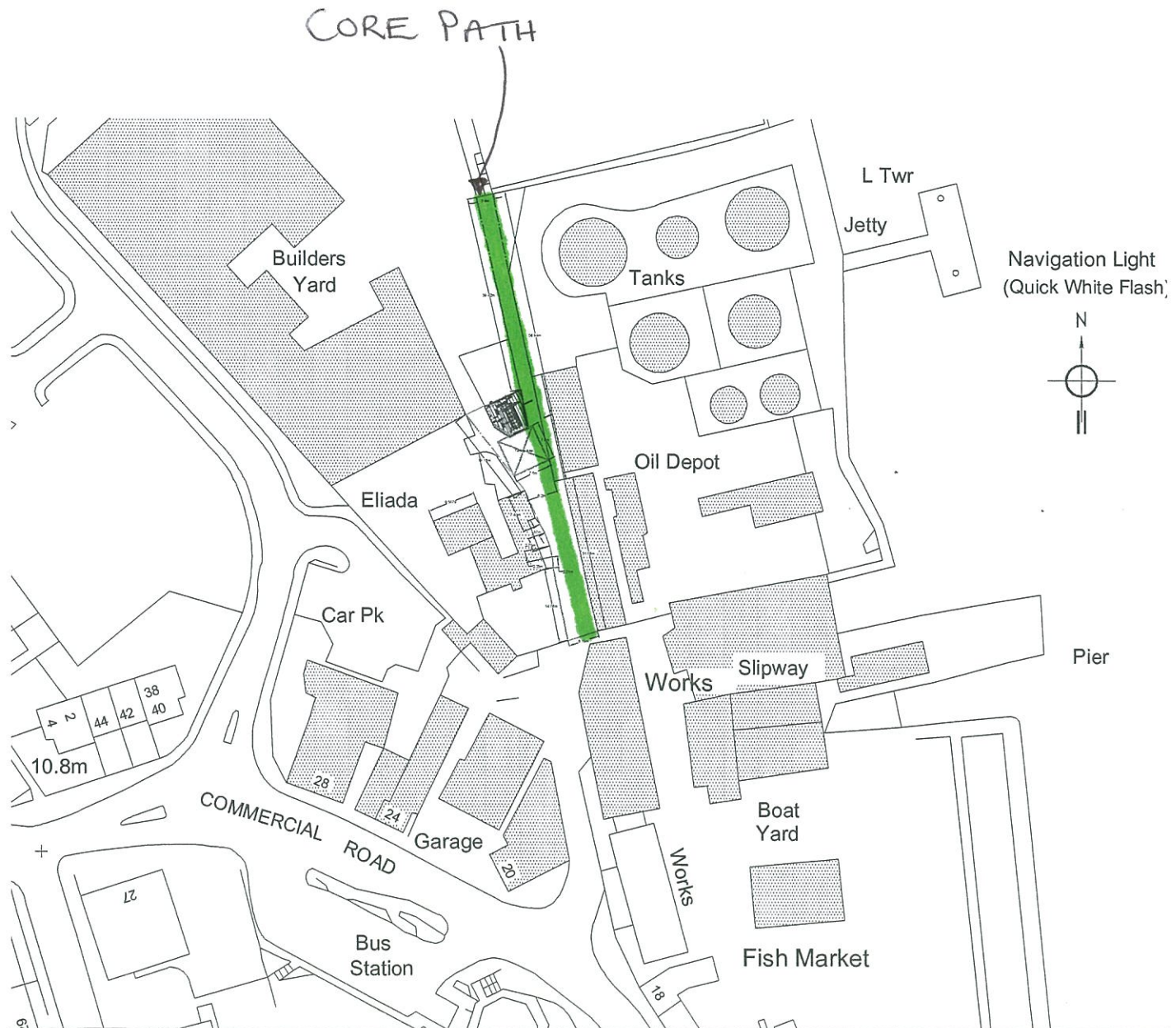
SITE PLAN Scale 1:1250

Domestic property:

- 1 -A Jamieson, Eliada, North Ness, Lerwick, ZE1 0LZ.
2 -L Jamieson, North Ness House, Lerwick, ZE1 0LZ.

Non domestic property:

- 3 -GB Oils Ltd, North Ness, Lerwick, ZE1 0LZ.
4 -Store, T P Holt, 20 Nikkavord Lea, Baltasound, Unst, ZE2 9XL.
5 -Malakoff Limited, North Ness, Lerwick, ZE1 0LZ.
6 -Garage, Philip Leask, 1 Hillhead, Lerwick, ZE1 0EJ.
7 -Self Catering Unit, Jennifer Jamieson, 1 Hillhead, Lerwick, ZE1 0EJ.
8 -Car Park, SLAP Ltd, 7 North Ness Business Park Lerwick, ZE1 0LZ.
9 -SIC Headquarters, 8 North Ness, Lerwick, ZE1 0LZ.



P l a n n i n g S u b m i s s i o n .

Proposed Private Garage at North Ness for Michael Stewart Tel:01595 69 6969	Grind Ref:HU4741	Rev:D	Date:Feb.2014: Car parking indicated.
		Rev:C	Date:Jan.2014: Locality update submission.
		Rev:B	Date:March 2009:Amended footprint and position.
		Rev:A	Parking space indicated.
Site & Locality Plan as Proposed.	Date: April 2016	Scale 1:200.	Drg.no.BRA/L(O)1.

**Planning Committee****25 August 2016**

2016/176/PPF - Extension of Hardstanding Area for Agricultural Implement and General Agricultural Storage, Clate, Symbister, Whalsay, Shetland (Retrospective Application) by John Arthur Shearer

Report Number : PL-08-16-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 full planning permission to extend an existing hardstanding area for the storage of implements and other general storage. This is a retrospective application.
- 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, because the Community Council has objected to the proposal and the recommendation is for approval.

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

WD1 - Flooding Avoidance

WD3 - SuDs

ED1 - Support for Business and Industry

TRANS 3 - Access and Parking Standards

Safeguarding

Crofting Apportionments - Croft: 16236

Landscape Character Assessment - Landscape Character
Assessment: Undulating Moorland with Lochs

4.0 Report

- 4.1 The 970 square metre application site is located at Clate, Whalsay
- 4.2 The proposal is one of the extension of an existing area of land which is currently used as an agricultural storage and laydown area.
- 4.3 Historical maps show that prior to the 1980's the site was a quarry, although there is no further history of planning applications recorded. A large storage building is currently located on the land immediately west of the application site.
- 4.4 Shetland Local Development Plan (2014) (SLDP) Policy ED1 encourages the creation of sustainable economic development where those developments comply with the SLDP's General Policies (GP1, GP2 and GP3).
- 4.5 As indicated in the description of proposed development, this is a retrospective application and as such the area which is the subject of the proposal has already been substantially excavated with a large amount of the rock/gravel remaining in stockpiles on the site.
- 4.6 The principle of extending an area of land which is currently used for agricultural storage purposes is considered to be acceptable in terms of Policy ED1 as the expansion is in support of a rural business.
- 4.7 The Whalsay Community Council have raised an objection on the grounds of a road safety hazard to local residents and have also made comment in regard to the disposal and use of the rock which has been excavated.
- 4.8 The applicant has indicated that an amount of the material excavated as a result of the development currently under consideration has been exported to be used on already authorised developments at

- 4.9 If it is accepted that the main purpose of the excavation that has already taken place is for what has been applied for, i.e. to extend the existing hardstanding area for agricultural purposes, then the excavated materials, if they are not to be used on the agricultural unit, could reasonably be used elsewhere in a sustainable manner.
- 4.10 The principle of the use of the excavated materials obtained through the creation of the existing hardstanding area's extension, which could otherwise remain unused, is considered acceptable and a sustainable use of finite resources. However the works were commenced without the benefit of planning permission, and it is incumbent on the Planning Authority to have control over the disposal of such materials to ensure that the development does not take on the aspect of a commercial operation akin to a quarry operation.
- 4.11 It is considered therefore that to ensure control over the disposal of the materials which remain on the excavated site, that the materials should: only be used on developments which have received planning permission or certificates of lawfulness of proposed use or development; that the use shall only occur within Whalsay; and also that the applicant gives notice of details of each and every movement of the said materials in writing to the Planning Authority. A suitable condition in this respect is recommended within the Schedule of Recommended Planning Conditions attached to this report.
- 4.12 The Roads Service have made comment on the impact on the public road from the vehicle movements which have occurred as a result of the removal of materials excavated that has already taken place, over a distance of approximately 500 metres from the site. No specific conditions have been recommended by the Roads Service, but it is considered that the continued movement of excavated materials will cause further impact damage to the public road. It is therefore considered that the imposition of a planning condition requiring a photographic record of the public road to be submitted to the Planning Service prior to the removal of further excavated materials from the application site is necessary.
- 4.13 In terms of surface water attenuation and treatment within the site it is considered that given the nature of the development and the location, there is a case for reducing the requirement for attenuation for this application, considering the level of infiltration provided by the permeable surface to be sufficient.
- 4.14 In conclusion, while it is regrettable that work on the development has already commenced, it is considered that the land is capable of being engineered satisfactorily, and used as an agricultural hardstanding and storage area without detriment to existing land uses adjacent to it, or the surrounding environment and the amenity of the area in general.

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.

5.2.1 Whalsay Community Council has objected to the application as follows;

In general the Community Council does not object to this application if it is carried out as described.

The Community Council has received correspondence in which concern has been raised that the applicant is in fact using the site as a quarry and supplying hardcore on Whalsay. If this is the case the Community Council objects as it would not be in line with the application. The site location is such that traffic to and from it, if carrying heavy loads, could be a hazard to local residents as road access is deemed unsuitable for such activity.

5.2.2 Shetland Islands Council – Roads Traffic has made the following observations;

The excavated material has been hauled off site by a large tractor and agricultural trailer and delivered in approximately 15 tonne loads to various sites throughout Whalsay. The quantity of material hauled off site has already been significant given the nature of the access road, and there would still appear to be a reasonable quantity of both dug and in-situ material remaining on site within the identified application boundaries.

Roads Service maintenance staff for the area have confirmed that the haulage operations have already caused notable damage to the public road over a distance of approximately 500 metres from the site. Some carriageway patching has already been carried out by Roads Maintenance in the worst affected areas, with more work required to maintain the integrity of the carriageway. The continue extraction of aggregate from this site will undoubtedly cause more damage to the road, particularly due to the haulage vehicles being used.

5.2.3 Shetland Islands Council – Roads Drainage raised no objections.

Given the nature of the proposals and the location, there may be a case for reducing the requirement for attenuation for this application and considering the level of infiltration provided by the permeable surface to be sufficient.

- 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 development 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 of Recommended Planning Conditions appended to this report, this application is recommended for approval for the reasons that are set down in the Schedule.

For further information please contact:

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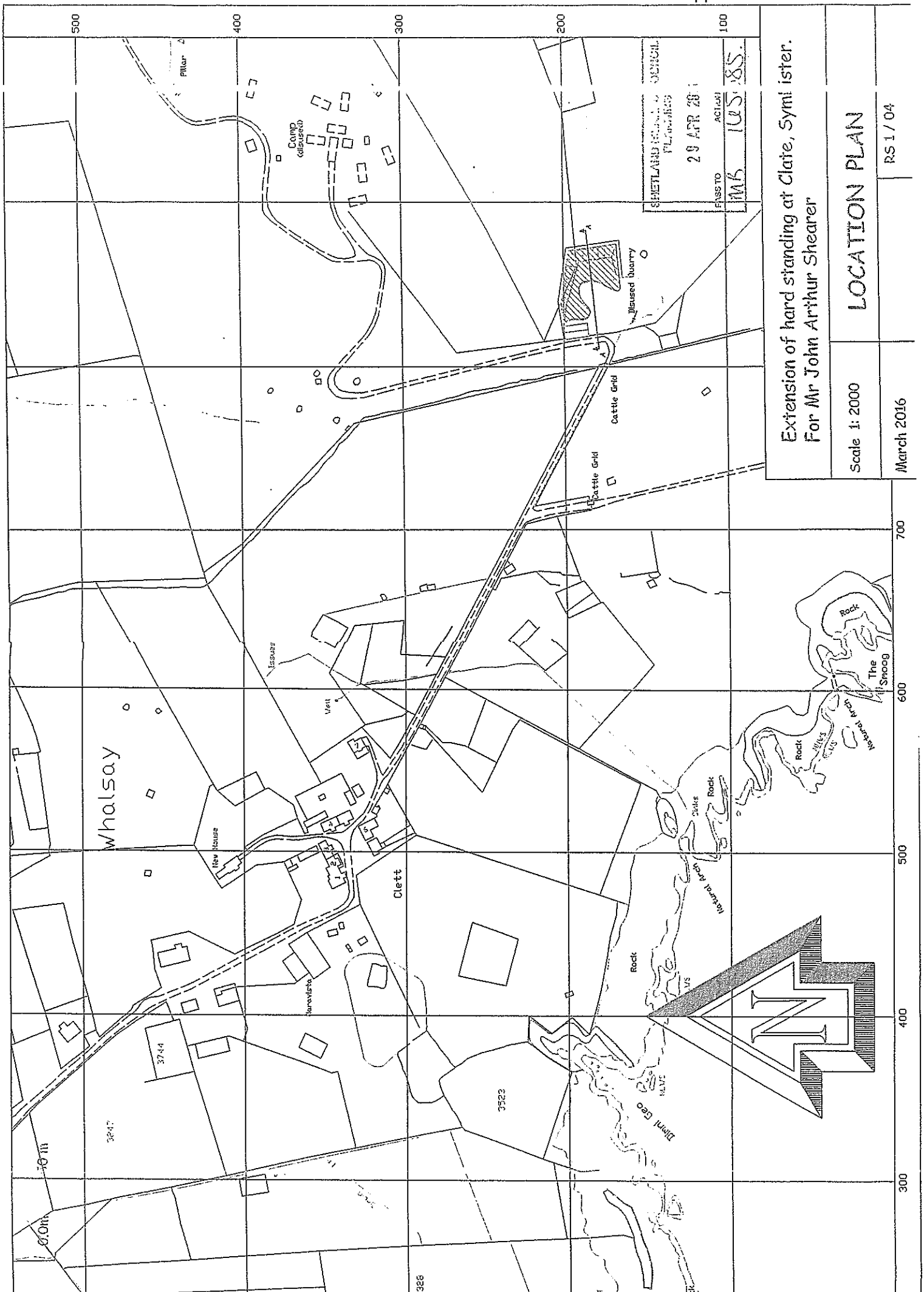
Date Cleared: 17 August 2016

List of Appendices

1. Location Plan and Site Plan
2. Schedule of Recommended Planning Conditions

Background documents:

[Shetland Local Development Plan 2014](#)



2016/176/PPF

Schedule of Recommended Planning Conditions

Reasons for Council's Decision

It is considered that the land is capable of being engineered satisfactorily, and used as an agricultural hardstanding and storage area without detriment to existing land uses adjacent to it, or the surrounding environment and the amenity of the area in general in compliance with the Shetland Local Development Plan 2014 Policies ED1, GP2 and TRANS 3.

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the following 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.) No materials excavated from the development site hereby permitted, including those which are currently in stockpiles on the site, shall be removed from the site until a detailed photographic and/or video survey of the public road between the points marked "X" to "Y" on the attached Plan Reference 2016/176/PPF – SIC01 has been undertaken and submitted to and approved in writing by the Planning Authority.

Reason: To ensure that the public infrastructure serving the development is maintained in compliance with Policies GP2 and TRANS 3 of Shetland Local Development Plan 2014.

(3.) The materials excavated from the land to create the hardstanding area hereby permitted shall only be removed from the site for use at other development sites that are located on Whalsay, and then only ones that have the benefit of specific planning permissions or certificates of lawfulness of proposed use or development granted by either the Shetland Islands Council or the Scottish Ministers. Prior to the removal of any excavated materials from the development site hereby permitted to such an authorised lawful development site, full details of each and every such authorised lawful development site and amount of material to be delivered and the public roads to be trafficked in the fulfilling of a need for the excavated material, shall be notified to and approved in writing by the Planning Authority.

Reason: To ensure compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, GP3 and TRANS 3.

(4.) Upon the completion of the fulfilling of a need for material excavated from the site notified and approved in writing by the Planning Authority in accordance with condition 3 of this permission, and as soon as practicable,

the person carrying out the development shall provide the Planning Authority with a written notice of that completion.

Reason: To ensure compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, GP3 and TRANS 3, and in compliance with section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).

(5) Upon the completion of the removal of excavated materials from the development hereby permitted, and as soon as practicable, the person carrying out the development shall provide the Planning Authority with a written notice of that completion.

Reason: To ensure both that the development is carried out in accordance with the approved documents, and compliance with section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).

(6) Within 3 months of the date of this permission the site shall be enclosed with a stock-proof fence. Details of the specification and location of the fencing shall be submitted to and approved in writing by the Planning Authority prior to the fence being erected and the fence shall be maintained throughout the lifetime of the development.

Reason: To prevent accidental access to the site in the interests of safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

