



**Guidance on Local Review under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) to be considered by the Planning Committee sitting as Local Review Body: Local Review Ref: 2016/289/PPF – LR26 – To construct raised decking and fencing: 45 Fogralea, Lerwick, Shetland, ZE1 0SE**

**1 Introduction**

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

**2 Process**

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

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

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

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

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

Regarding Planning Application reference: 2016/289/PPF

To construct raised decking and fencing: 45 Fogralea, Lerwick,  
Shetland, ZE1 0SE.

By

Mr Paul Hughson.

14<sup>th</sup> March 2017



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## Section 1. Planning Submission – 2016/289/PPF

14<sup>th</sup> March 2017





## Householder Planning Application

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

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

For applications for Flat/House Alterations and Extensions, Domestic Garages, Driveway/Access, Boundary Fences/Walls, Satellite Antennae, but excluding New Houses and applications for Conservation Area Consent and Advertisement Consent.

**1 Applicant's Name only**

PAVL HUGHSON

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

45 FOGRALEA,  
LERWICK,  
SHETLAND.

Postcode \_\_\_\_\_

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

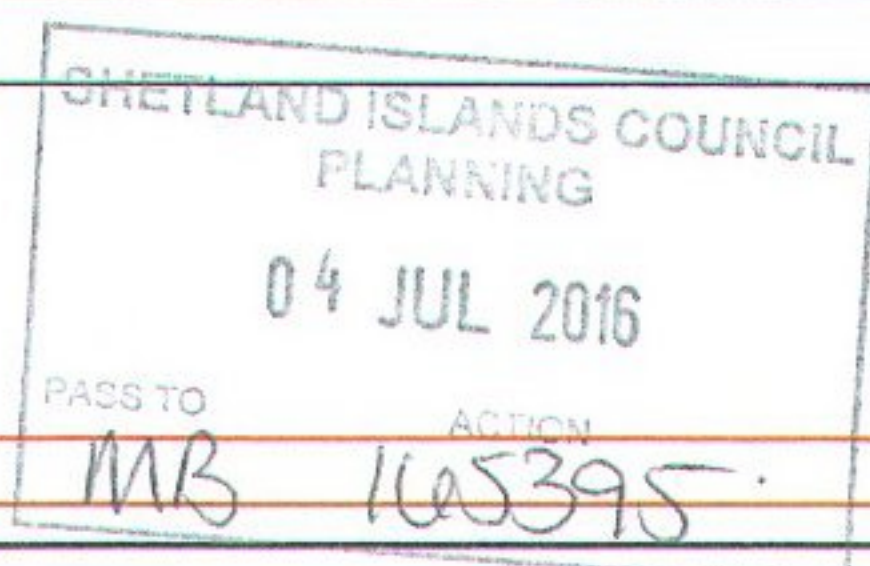
TO CONSTRUCT RAISED  
DECKING AND FENCING.

Have there been any pre-application discussions with planning?

YES NO  
☐ ☐

If yes, what type:  
Telephone Letter Meeting  
Pre-application officer's name

Ref numbers: \_\_\_\_\_



**4 Are there any trees on the site or near its boundaries?**

(If yes, show their canopy boundaries on your SITE LAYOUT PLAN).

YES NO  
☐ ☒

How do you intend to drain foul sewage from the site? N/A

How do you intend to drain surface water off the site? N/A

Do you intend to make or alter an access onto a public road?

YES NO  
☐ ☒

Do you intend to make a new connection to the public water supply?

YES NO  
☐ ☒



5

## Proposed External Building Materials And Colour Finishes

Outside walls and roof covering \_\_\_\_\_  
 Parking areas/Driveway surface \_\_\_\_\_  
 Landscaping \_\_\_\_\_  
 Windows/Doors \_\_\_\_\_  
 Boundary treatment (fences, walls etc.) \_\_\_\_\_

## 6 LAND OWNERSHIP CERTIFICATE

IF YOU DO NOT OWN ALL OF THE LAND OR PROPERTY TO WHICH THIS APPLICATION RELATES, YOU MUST NOTIFY ALL THE OWNERS AT THE SAME TIME AS SUBMITTING THIS FORM. YOU MUST FILL IN AN APPROPRIATE CERTIFICATE OF LAND OWNERSHIP (Artical 8(8), Town & Country Planning (General Development Procedure) (Scotland) Order 1992)

(Please Read the Notes for Guidance Carefully Before Completing This Certificate).

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

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

NAME OF OWNER	ADDRESS	DATE NOTIFIED

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

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

NAME OF OWNER	ADDRESS	DATE NOTIFIED

or

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

Feb 2014



## 7 CHECKLIST

### Checklist Please tick all boxes

- I enclose 2 copies of this form
- I enclose 2 sets of the necessary plans and drawings
- I have completed the land ownership certificates
- I have enclosed the necessary fee of £ 202.00

For official use only

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

Your application cannot be registered until all these documents and the fee are received

Receipt No.

## 8 Applicant's Details

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

☐

NAME PAUL HUGHSON  
ADDRESS 45 FORRALEA  
LERWICK  
SHE TLAND  
POSTCODE  
TELEPHONE FAX  
EMAIL

## 9 Agent's Details

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

☐

NAME VEGA TECHNICAL SERVICES  
ADDRESS CUMLIENICK  
SANDWICK  
POSTCODE ZE2 9HH  
TELEPHONE FAX  
EMAIL

## 10 Contact Details

NAME MICHAEL ADAMSON  
TELEPHONE  
EMAIL



## 11 DECLARATION

You should check that you have completed questions 1-5 and the Land Ownership Certificates correctly.

You should now sign the declaration below.

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

Signature of applicant/agent (delete as appropriate) \_\_\_\_\_

Date 1/7/16

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

**Completed applications should be sent to:**

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

**Telephone:** 01595 744293

**e-mail:** [planningcontrol@shetland.gov.uk](mailto:planningcontrol@shetland.gov.uk)

**Visit:** [www.shetland.gov.uk](http://www.shetland.gov.uk)



## NEIGHBOUR NOTIFICATION

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

### 1. Domestic Property

Address

1. The Owner: MR G. JAMIESON - 41 FOGRALEA, LERWICK

The Occupier: "

2. The Owner: MR & MRS J. WATT - 43 FOGRALEA, LERWICK.

The Occupier: "

3. The Owner: MR & MRS A. GREEN - 47 FOGRALEA, LERWICK

The Occupier: "

4. The Owner:

The Occupier:

5. The Owner:

The Occupier:

### 2. Non-Domestic Property

1. The Owner: SHETLAND ISLANDS COUNCIL - ASSETT MANAGEMENT

The Lessee:

The Occupier:

2. The Owner:

The Lessee:

The Occupier:

3. The Owner:

The Lessee:

The Occupier:

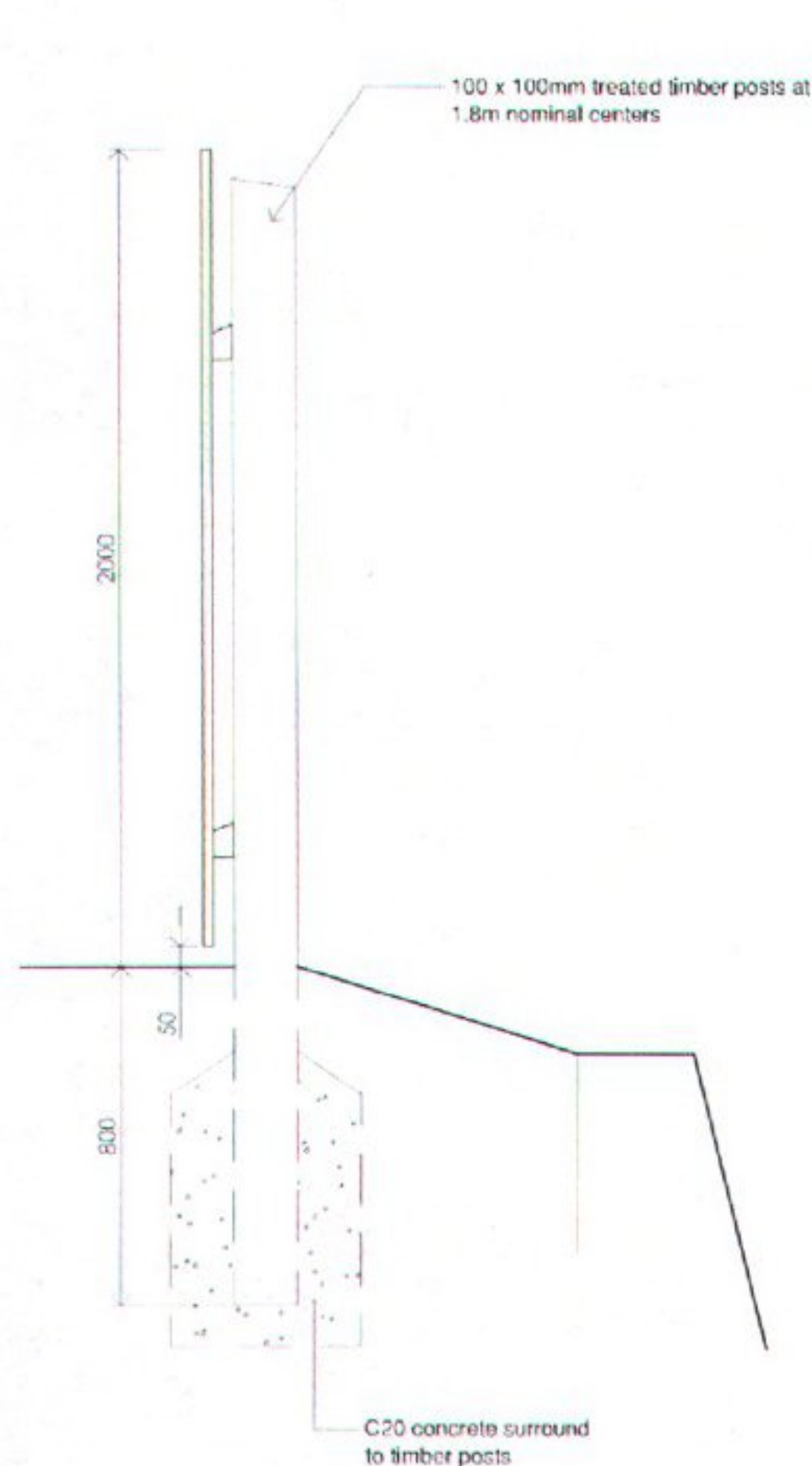
4. The Owner:

The Lessee:

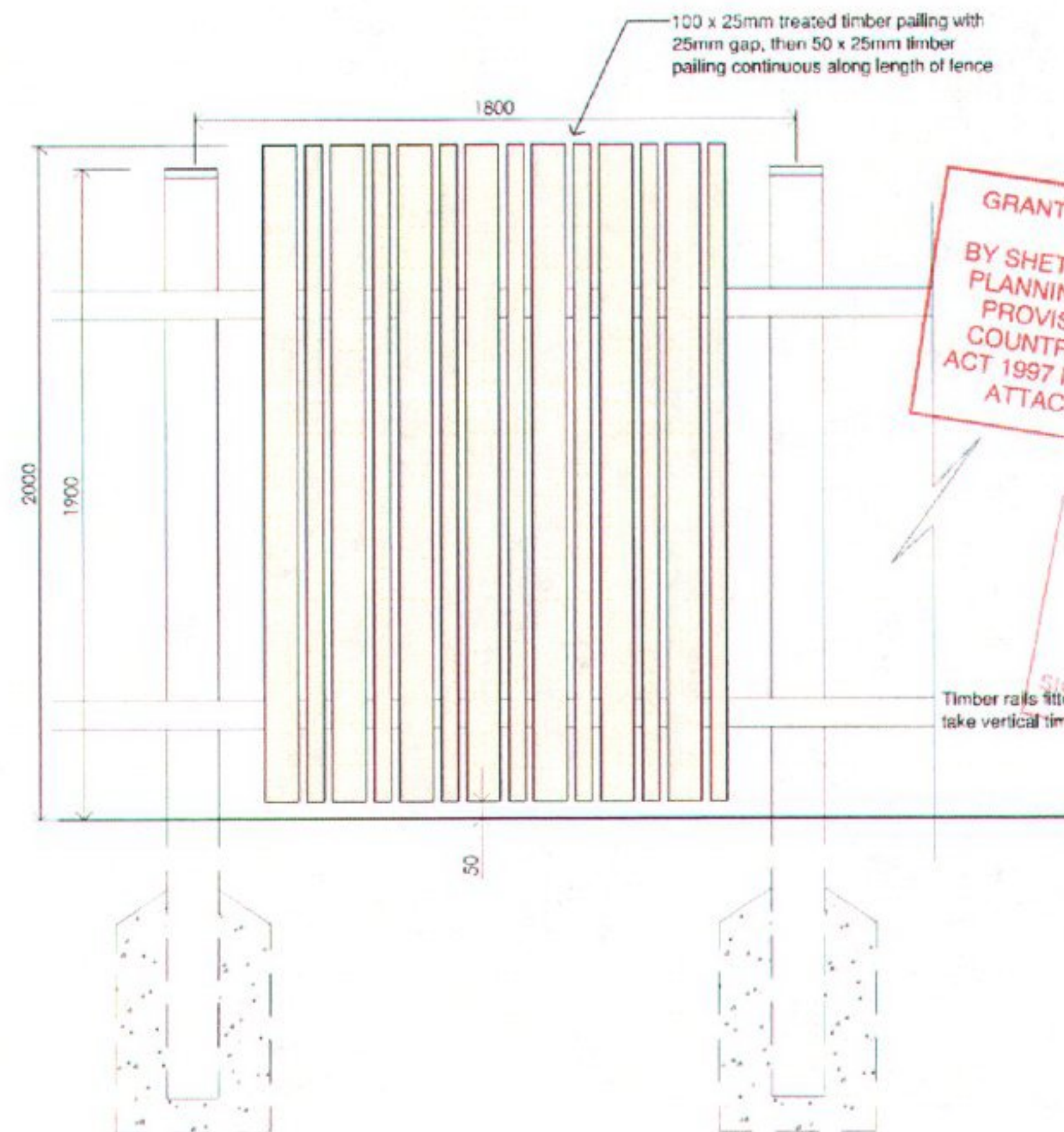
The Occupier:

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





**Section**  
Scale 1:20



**Elevation**  
Scale 1:20

**GRANT OF PLANNING PERMISSION  
REFUSED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

TEAM LEADER  
DEVELOPMENT MANAGER

- 9 NOV 2018

SIGNED: JRH  
Timber rails fitted to posts to  
take vertical timber palling



**PLANNING ISSUE**

Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Date Drawn 27.6.16
Drawing Title Fencing detail		Scale(s) @ A3 1:1 (2x)
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220. 04</b>	Revision -

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
Architectural, Land Surveying and Civil Engineering CAD drafting

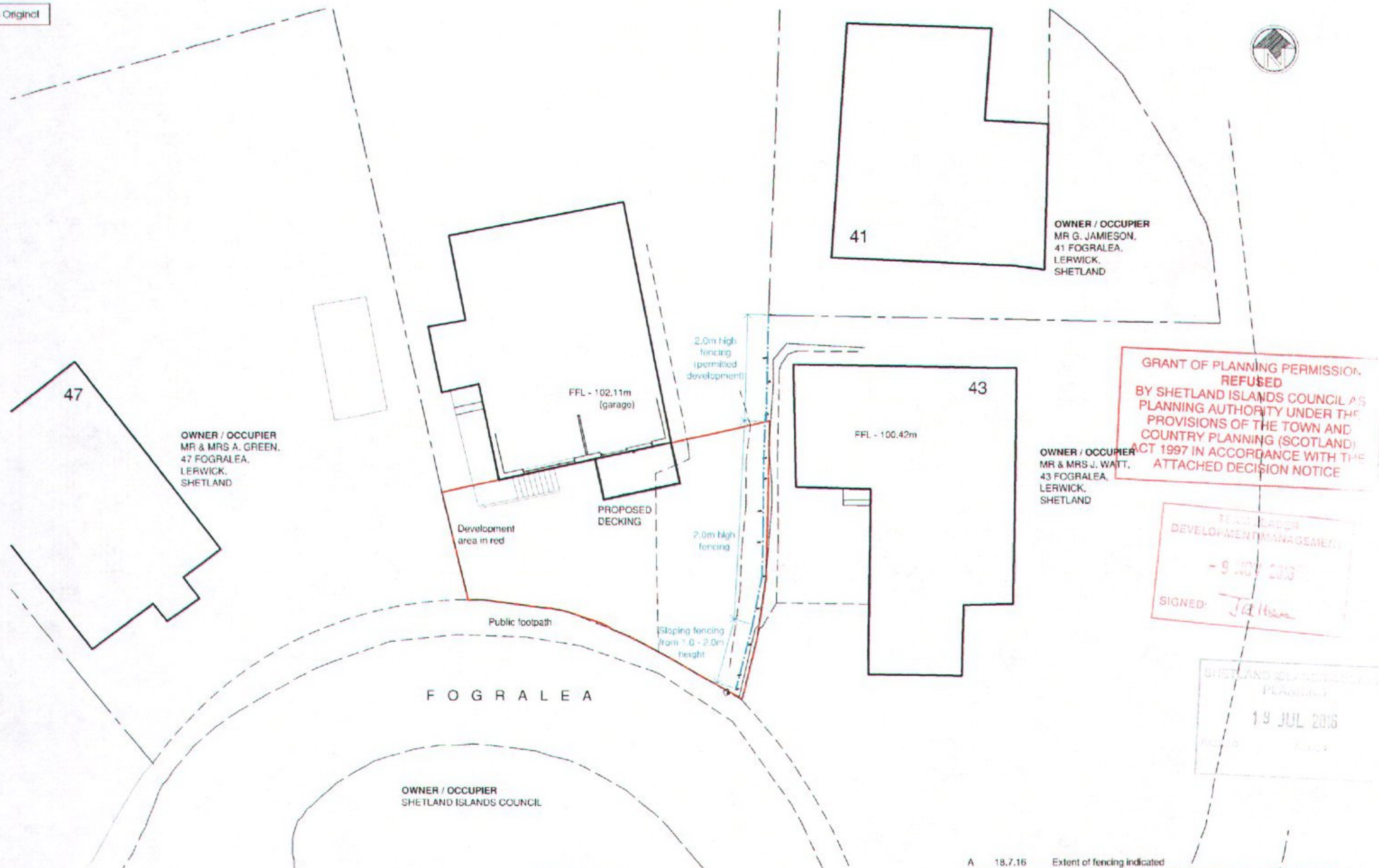


CUMLEWICK • SANDWICK • SHETLAND • ZE2 9HH

Tel:  
Mob:  
E-mail:







**GRANT OF PLANNING PERMISSION  
REFUSED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

TEAM LEADER  
DEVELOPMENT MANAGEMENT  
- 9 JUL 2016  
SIGNED: *J. H. H.*

SHETLAND ISLANDS COUNCIL  
PLANNING  
19 JUL 2016  
PAGE 2

**SITE PLAN**  
Scale 1:200

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
Architectural, Land Surveying and Civil Engineering CAD drafting

**VT**

CUMMERWICK • SANDWICK • SHETLAND • ZE2 9HH

Tel:  
Mob:  
E-mail:



**PLANNING ISSUE**

A 18.7.16 Extent of fencing indicated		Date Drawn 27.6.16
Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Scale(s) @ A3 1:200
Drawing Title Site plan		Revision A
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220. 02</b>	





**LOCATION PLAN**  
Scale 1:1250

TEAM LEADER  
DEVELOPMENT MANAGER  
- 9 NOV 2015  
SIGNED *JR*

GRANT OF PLANNING PERMISSION  
REFUSED  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

SHETLAND ISLANDS COUNCIL  
PLANNING  
04 JUL 2016  
PLANNING

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
Architectural, Land Surveying and Civil Engineering CAD drafting

**VTS**

CUMLEWICK • SANDWICK • SHETLAND • ZE2 9HH

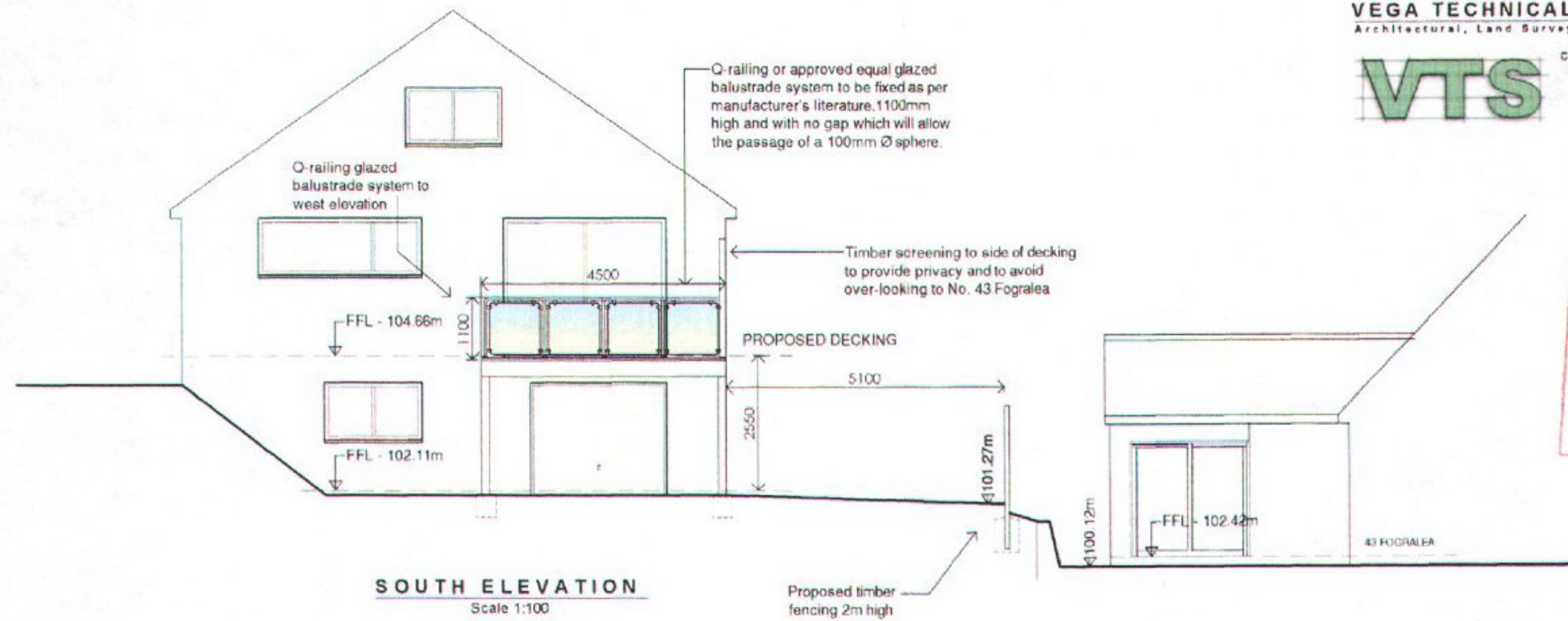
Tel:  
Mob:  
E-mail:



**PLANNING ISSUE**

Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Date Drawn 27.6.16
Drawing Title Location plan		Scale(s) # A3 1:1250
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220.03</b>	Revision -

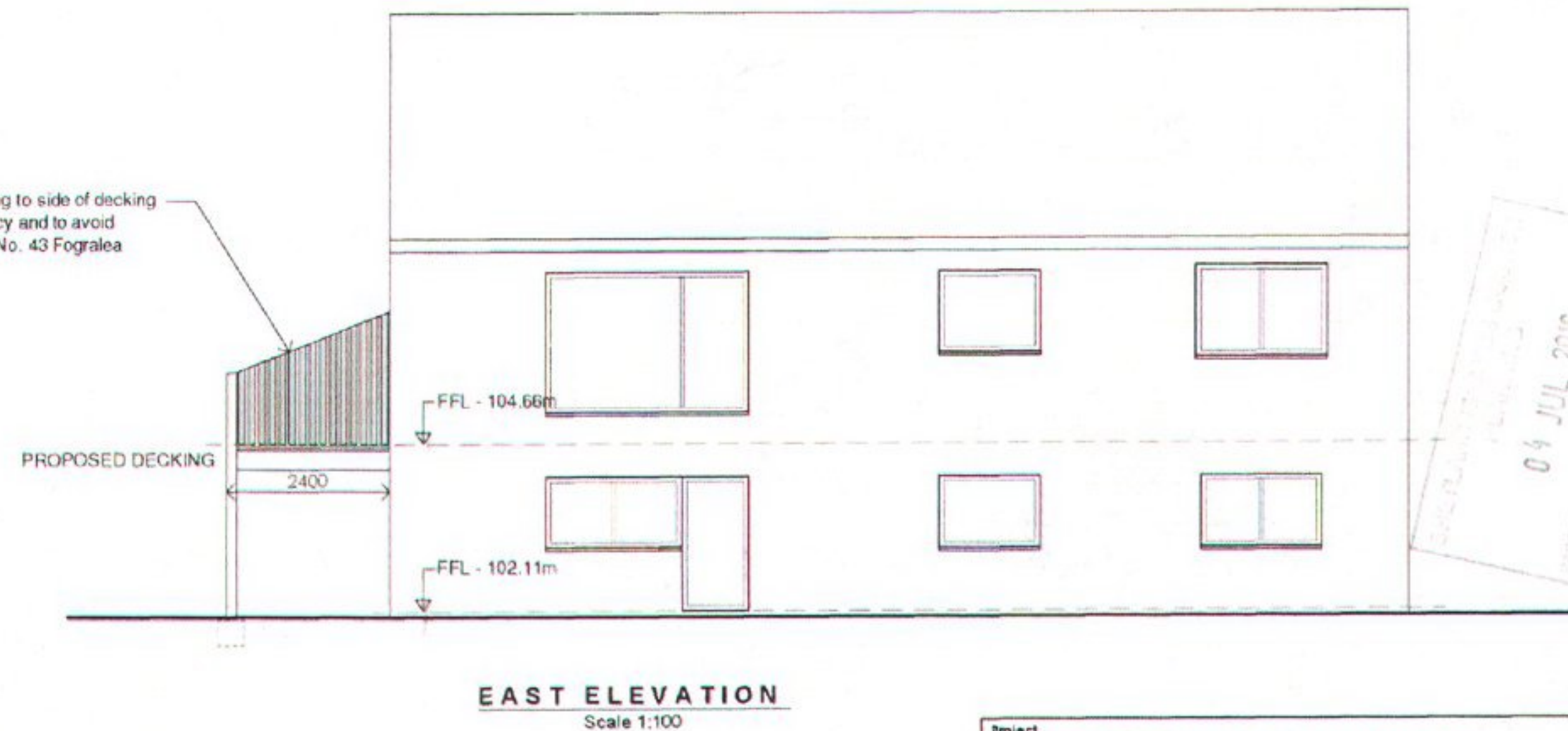




GRANT OF PLANNING PERMISSION  
REFUSED  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

TEAM LEADER  
DEVELOPMENT MANAGEMENT  
- 9 NOV 2015  
SIGNED: J. R. H. H.

Timber screening to side of decking  
to provide privacy and to avoid  
over-looking to No. 43 Fogralea



04 JUL 2015  
ACTION



EXISTING SITE PHOTOS

PLANNING ISSUE

Project		Date Drawn
PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.		27.6.16
Drawing Title		Scale(s) @ A3
Proposed elevations		1:100
Drawing Status	Drawing Number	Revision
PLANNING	1220.01	-



## Section 2. Statutory Advert

14<sup>th</sup> March 2017



Plans showing the position of the works may be inspected at:

**Scottish Water, Duncan House, Upper Sound, Lerwick, Shetland ZE1 0SU**

Objections relating to safety of navigation or environmental issues in respect of the application should be made in writing to:

Licensing Operations Team, Marine Scotland, Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB within 28 days of the date of this notice or by email to: **MS.MarineLicensing@gov.scot**, quoting reference:

**MCMS No. 06100**  
**Scottish Water (per Ross-shire Engineering)**

**New features • Innovative writers**  
**Monthly competition and much more!**  
**Don't miss out buy a**

## POSTAL SUBSCRIPTION

# SHETLAND LIFE

(Monthly)

We reserve the right to adjust expiry dates if postage rates are increased

12 MONTHS		6 MONTHS	
2nd class	£40.08	2nd class	£20.04
Surface Mail	£71.40	Surface Mail	£35.70
Americas (Air Mail)	£81.60	Americas (Air Mail)	£40.80
Australasia (Air Mail)	£85.20	Australasia (Air Mail)	£42.60
Europe (Air Mail)	£69.60	Europe (Air Mail)	£34.38

**Payment by Debit Card/Visa/Mastercard.**  
**Tel. 01595 742000 e-mail: adverts@shetlandtimes.co.uk**

### FIRST REGISTRATION OF A CROFT

John Andrew Jamieson Blance has registered the croft North and South Califf, Tingwall, on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 18th May, 2017.

Details of the registration can be found at [www.crofts.ros.gov.uk/register/home](http://www.crofts.ros.gov.uk/register/home). The croft registration number is C3004.

### FIRST REGISTRATION OF A CROFT

Margaret Joan Jamieson, has registered the croft Sandybrae, Sandwick, on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 10th March, 2017.

Details of the registration can be found at [www.crofts.ros.gov.uk/register/home](http://www.crofts.ros.gov.uk/register/home). The croft registration number is C2821.

effects that have been identified;

- consider the likely environmental, social and economic benefits of the activity;
- assess the impact of the controlled activity or activities on the interests of other users of the water environment;
- assess what steps may be taken to ensure efficient and sustainable water use; and
- apply and have regard to relevant legislation.

SEPA will then either grant or refuse to grant the application."

## Shetland Islands Council

These applications, associated plans and documents can be examined, 09.00-17.00, Mon-Fri, at: Shetland Islands Council, Development Services Department, 8 North Ness Business Park, Lerwick, ZE1 0LZ. Please call 744293 to make an appointment if you wish to discuss any application. Applications, associated plans and documents can also be viewed on the Council website at [www.shetland.gov.uk](http://www.shetland.gov.uk).

**Town and County Planning (Development Management Procedure) (Scotland) Regulations 2013**

**Format: Ref No; Proposal & Address**

2016/289/PPF; to construct raised decking and fencing; 45 Fogralea, Lerwick, Shetland, ZE1 0SE

2016/053/PPF; change of use from agricultural use to industrial use to industrial estate; Cullivoe Harbour Industrial Estate, Cullivoe, Yell, Shetland, ZE2 9DD

Written comments may be made to Iain McDiarmid, Executive Manager, at the above address, email [development@shetland.gov.uk](mailto:development@shetland.gov.uk) by 23rd September, 2016.

### FIRST REGISTRATION OF A CROFT

Maureen Jane Duthie and George Eunsen, have registered the croft Wirlie, Wirlie, Whalsay, on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 28th May, 2017.

Details of the registration can be found at [www.crofts.ros.gov.uk/register/home](http://www.crofts.ros.gov.uk/register/home). The croft registration number is C3043.

### FIRST REGISTRATION OF A CROFT

Caroline J Clapp, has registered the croft Gruting, Sandsting, on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 22nd May, 2017.

Details of the registration can be found at [www.crofts.ros.gov.uk/register/home](http://www.crofts.ros.gov.uk/register/home). The croft registration number is C3006.

Hemisdale Park, Fort Arthur, Aulie's Buildings, Berry Road, Craigpark Road, Giblestone Road, Houll Road, Ingaville Road, Meadowfield Crescent, Meadowfield Place, Meadowfield Road, Sycamore Avenue and Blydoit.

20th September **West Mainland** starting at Shendale Burn at 10.00am, progressing to New Road, Vaila, Kirkidale, Stove Cottages, Bayhall, Grindibrek, Lingaro, Wirliegert, Whitelaw Road, Westerfield, Kalliness and Whiteness.

23rd September **Bressay** starting at Voeseid at 11.15am, progressing to Fullaburn, Glebe Park and Hamilton Park.

27th September **Burra** starting at North Toogs at 2.00pm, progressing to Hulsidale and Glenhaven.

29th September **South Mainland** starting at Colonial Place at 9.00am progressing to Toabsgeo, Horseshoe Close, Hardbrakes Place, Turniebrae, Hayhoull Place, Swinister, Brakefield Road, Park Wynd, Brentfield Place, Veester Hill, Dandiegarrh, Midgarth, Cunningsburgh Schoolhouse, St Clair Road, Laxdale Road and Pundsta Place.

30th September **Fetlar** starting at 11.15am

These inspections are being carried out to ensure that all external areas of the estate and individual properties are well maintained, tidy and free from rubbish, and all tenancies are being maintained to the standards specified in the Scottish Secure Tenancy Agreement. All tenants are invited to attend the inspection, and can contact their area Inspection Officer on 01595744360 if they require any further details.

For further information please contact us at: 6 North Ness Business Park, Lerwick, ZE1 0LZ.

Telephone 01595 744360

Freephone 0800 212 829

Fax 01595 744395

Email at [Housing@shetland.gov.uk](mailto:Housing@shetland.gov.uk)

Website [www.shetland.gov.uk/Housing](http://www.shetland.gov.uk/Housing)

**Open Monday to Friday 9am to 5pm – including lunchtimes**

### PROPOSED ASSIGNATION OF A GRAZINGS SHARE(S)

Ewan Thomson is applying to the Crofting Commission for consent to assign the grazings share(s) pertaining to the croft at 1 Cliff Enlgt and 15 Cliff Enlgt, Cliff, Unst, to Colin James Laurenson of Taralee, Haroldswick, Unst, Shetland ZE2 9ED.

If you have an interest in this application, you may submit comments on the proposal in writing or some other permanent form to the Crofting Commission, Great Glen House, Leachkin Road, Inverness IV3 8NW (email: [info@crofting.scotland.gov.uk](mailto:info@crofting.scotland.gov.uk)) within 28 days from the date of publication of the advert.

Please note that any comments you provide are part of an open process and will be made available to interested parties. Your comments would also be released under a Freedom of Information enquiry.

### SHETLAND ISLANDS COUNCIL

The Council has made the **SHETLAND ISLANDS COUNCIL (Multiple Sclerosis Charity Fun Run, Spiggie) (Temporary Road Closure) Temporary Traffic Regulation Order T19/2016** under the Road Traffic Regulation Act 1984, as amended, to allow the holding of a charity fun run. From 11am until 4pm on Sunday 11th September, 2016 no-one will be allowed to park/drive any vehicle/pedal cycle (except vehicles involved in the event), on the B9122 from the A970 junction to the C204 Spiggie Loop Road junction, the C204 Spiggie Loop Road from the B9122 junction to the C203 Quendale Road junction and the C203 Quendale Road from the C204 Spiggie Road junction to the A970 Junction. Vehicles requiring access will be marshalled through appropriately depending on position of runners to minimise delays.



## Section 3. Consultation Responses

14<sup>th</sup> March 2017



## **MEMO**

---

To: Development Control

From: Roads

If calling please ask for

Ian Leask

Direct Dial: 4166

Medium: email

Date: 17<sup>th</sup> August 2016

Our Ref: IAL/SMG/R/G2/LB

Your Ref:

---

**Application: 2016/289/PPF**

**Address: 45 Fogralea, Lerwick, Shetland, ZE1 0SE**

**Proposal: To construct raised decking and fencing**

**Date of Consultation: 28<sup>th</sup> July 2016**

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**Recommended Action: Revised Details Required**

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### **Road Authority Comments:**

The south end of the proposed timber fence must be set back a minimum of 0.5 metres from the back edge of the footway. This will ensure that the required visibility splay from the driveway of 43 Fogralea is maintained.

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

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Executive Manager, Roads



## Section 4. Representations

14<sup>th</sup> March 2017



## Bryant Marion@Development Management

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**From:** Jimmy watt [REDACTED]  
**Sent:** 17 August 2016 09:25  
**To:** Development Management@Development  
**Subject:** 2016/289/PPF - Replacement fence between 43 and 45 Fogralea, Lerwick.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

We object to the proposed height of 2m for the boundary fence between our properties.

During initial discussion with our neighbour regarding fence renewal, the height was not agreed at 2m.

We consider this to be unsafe due to vision restriction to exit our property onto the main road and also due to natural daylight restriction into our main living area.

At a height of 2m, this fence, which is built on top of an existing 1m retaining wall between our properties would result in an actual height of 3m immediately adjacent to our house.

Our sitting room window is located approx. 1.2m from the existing retaining wall, and the erection of a fence of this height and design would block a considerable amount of natural daylight entry.

We believe this contravenes policy regarding fence height forward of 'principle elevation'.

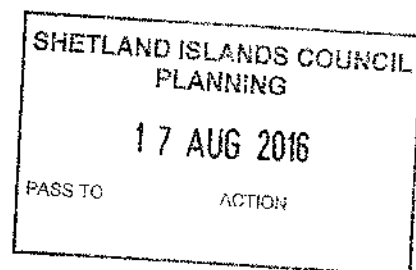
If privacy is a reason for fence of this height, lack of privacy has been exasperated due to their raising of their garden level by approx. 0.5m.

Note: Photographs attached to Planning application are historical and do not show the extensive civils works that have already been carried out.

We would have no issue with the fence increasing to 2m at a suitable distance from our window, then, extending towards the rear of their property.

We also have no issue with proposed design as illustrated for the balcony.

James & Janine Watt  
43 Fogralea  
Lerwick  
Shetland  
ZE1 0SE



Sent from Samsung tablet.





## Shetland Islands Council

Executive Manager: Iain S McDiarmid  
Director: Neil Grant

Mr James Watt  
43 Fogralea  
Lerwick  
Shetland  
ZE1 0SE

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

Telephone: 01595 744293  
[www.shetland.gov.uk](http://www.shetland.gov.uk)

If calling please ask for:  
Marion Bryant  
Business Support Officer  
[marion.bryant2@shetland.gov.uk](mailto:marion.bryant2@shetland.gov.uk)  
Direct Dial: 01595 744864

Our Ref: 2016/289/PPF

Date: 17 August 2016

Dear Sir/Madam

	Town and Country Planning (Scotland) Acts
<b>Development</b>	<b>to construct raised decking and fencing</b>
<b>Location</b>	<b>45 Fogralea, Lerwick, Shetland, ZE1 0SE</b>
<b>Application No.</b>	<b>2016/289/PPF</b>

Your representation in respect of the above noted application, was received on 17 August 2016 and I would advise you that your comments, in so far as they relate to planning matters, will be considered prior to the determination of the application.

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

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

Yours faithfully

Marion Bryant  
Business Support Officer



## Bryant Marion@Development Management

---

**From:** publicaccess@shetland.gov.uk  
**Sent:** 01 August 2016 13:46  
**To:** Bryant Marion@Development Management  
**Subject:** Comments for Planning Application 2016/289/PPF

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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

Comments were submitted at 1:45 PM on 01 Aug 2016 from Mr James Watt.

### Application Summary

**Address:** 45 Fogralea Lerwick Shetland ZE1 0SE

**Proposal:** to construct raised decking and fencing

**Case Officer:** Marion Bryant

[Click for further information](#)

### Customer Details

**Name:** Mr James Watt

**Email:** [REDACTED]

**Address:** 43 Fogralea, Lerwick, Shetland ZE1 0SE

### Comments Details

**Commenter Type:** Neighbour

**Stance:** Customer objects to the Planning Application

**Reasons for comment:**

- Access
- Boundary
- Daylighting
- Overshadowing
- Safety

**Comments:** We consider this to be unsafe due to vision restriction to exit our property onto the main road and also due to natural daylight restriction into our main living area.

E-mail to follow.





## Shetland Islands Council

Executive Manager: Iain S McDiarmid  
Director: Neil Grant

Mr James Watt  
43 Fogralea  
Lerwick  
Shetland  
ZE1 0SE

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

Telephone: 01595 744293  
[www.shetland.gov.uk](http://www.shetland.gov.uk)

If calling please ask for:  
Marion Bryant  
Business Support Officer  
[marion.bryant2@shetland.gov.uk](mailto:marion.bryant2@shetland.gov.uk)  
Direct Dial: 01595 744864

Our Ref: 2016/289/PPF

Date: 2 August 2016

Dear Sir/Madam

	Town and Country Planning (Scotland) Acts
<b>Development</b>	<b>to construct raised decking and fencing</b>
<b>Location</b>	<b>45 Fogralea, Lerwick, Shetland, ZE1 0SE</b>
<b>Application No.</b>	<b>2016/289/PPF</b>

Your representation in respect of the above noted application, was received on 1 August 2016 and I would advise you that your comments, in so far as they relate to planning matters, will be considered prior to the determination of the application.

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

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

Yours faithfully

Marion Bryant  
Business Support Officer



## Section 5. Report of Handling

14<sup>th</sup> March 2017



## **Delegated Report of Handling**

**Development:** To construct raised decking and fencing

**Location:** 45 Fogralea, Lerwick, Shetland, ZE1 0SE,

**By:** Mr Paul Hughson

**Application Ref:** 2016/289/PPF

### **1. Introduction**

The application proposes: the erection of a fence in the front garden of the existing dwellinghouse at 45 Fogralea, Lerwick, alongside its eastern boundary with the adjacent property at no. 43; and also a decking area supported by two stilts at first floor level on the principal (front and south facing) elevation of no. 45.

Planning permission was recently granted for a dwellinghouse on the south east boundary of the site (reference number 2015/406/PPF).

### **2. Statutory Development Plan Policies**

#### **Shetland Local Development Plan**

GP2 - General Requirements for All Development

GP3 - All Development: Layout and Design

TRANS 3 - Access and Parking Standards

### **3. Safeguarding**

- Main Areas of Best Fit - Main Areas of Best Fit: Lerwick
- Landscape Character Assessment - Landscape Character Assessment: Farmed and Settled Voes and Sounds

### **4. Consultations**

Roads Traffic was consulted on the 28 July 2016. Their comments dated 17 August 2016 can be summarised as follows:

Recommended Action: Revised Details Required

The south end of the proposed timber fence must be set back a minimum of 0.5 metres from the back edge of the footway. This will ensure that the required visibility splay from the driveway of 43 Fogralea is maintained.

Adequate visibility splays are required to ensure that vehicles can enter the



public road safely.

## 5. **Statutory Advertisements**

The application was advertised in the Shetland Times on 02.09.2016

A site notice was not required to be posted.

## 6. **Representations**

Representations were received from the following properties:

43 Fogralea, Lerwick,  
Shetland

The representation can be summarised as follows:

- Adverse daylight impacts
- Impacts on visibility splay from neighbouring driveway
- Raised earthworks mean the effective height of the fence is 3m not 2m
- Photographs submitted with the application do not accurately reflect existing situation

## 7. **Report**

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

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

There are statutory Development Plan Policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Development Plan Policy, or there are any other material considerations which would warrant the setting aside of Development Plan Policy.

The application in part proposes the installation of a 2m high vertically fixed timber paling fence alongside the eastern boundary of the application site from the rear edge of the front curtilage of 45 Fogralea to the front edge of the same curtilage. It is understood that the applicant intends to continue the fence in exercise of permitted development rights alongside the remaining length of the eastern boundary of his property with no. 43.

Shetland Local Development Plan 2014 (SLDP) Policy GP3 requires that



developments respect the character of the local area and maintain a safe a pleasant environment.

From site visits, it is considered that the character of the street is relatively open, with boundary walls and fences of around 0.5m to 0.7m in height. The erection of a 2m high fence in that context would appear inappropriate.

No justification has been included within the application as to why a large fence is required on this boundary.

In terms of potential privacy impacts that are different from the existing situation, it is not considered that the neighbouring dwelling at 43 Fogralea would experience an adverse privacy impact from the proposed fence as it is lower than that of the dwelling at 45 Fogralea. In addition, the area of the front garden to no. 45 is open to the street. The dwellinghouse at no. 45 benefits from a reasonable area of rear private amenity space, and it is not considered that the proposed fence would secure additional private amenity space for its occupants when the front curtilage would remain open to view from other neighbouring private and public spaces.

However, the representation received highlighted that the neighbouring dwelling at 43 Fogralea is sited lower down than the application site by approximately 1m. This means that the proposed 2m high fence would appear as a 3m high fence from the perspective of the dwelling at 43 Fogralea. It is considered that this would result in there being a significant reduction in the daylight received into some rooms of the adjacent dwelling at no. 43 through windows, and that the fence would result in an unreasonable degree of overshadowing of the curtilage of no. 43. The proposed fence it is considered would have a significant adverse impact on the amenity of the dwelling at 43 Fogralea.

A consultation response from the Council's Roads Service highlighted that the fencing as part of the proposed development would have an adverse impact on the safety of the private access for 43 Fogralea as the south end of it would be within the visibility splay. Had this been the only issue with the proposal, amendments to remove this barrier to visibility would have been sought.

The proposed decking area is raised up to first floor level on the south facing front elevation of the dwelling. Views from raised deckings and balconies generally allow 180 degree views of their surroundings and can potentially create unacceptable overlooking impacts. In this instance, the decking area would be looking over a window on the west elevation of 43 Fogralea. This elevation of 43 Fogralea faces on to the public road and will have a degree of privacy impact form users of the street at present. The magnitude of difference between the proposed decking and users of the street further to the west where it becomes more elevated is not considered to be significant. In addition, the duration of the



use of the decking would not it is anticipated be of a considerable length of time. The potential impacts resulting from the decking would likely be temporary and short term in nature. The existing large patio window on the southern elevation of the dwelling at 45 Fogralea will currently have views into the window at 43 Fogralea albeit at a relatively large angle. The proposed decking, and more specifically the balustrade would likely give a degree of screening of the views from the existing window at 45 Fogralea into the window and curtilage of 43 Fogralea. As such, no significant privacy impacts are anticipated.

The proposed development as submitted would result in a significant detrimental impact on the residential amenity of the dwelling at 43 Fogralea in terms of daylighting, overshadowing and safe access. As such the proposed development is contrary to Shetland Local Development Plan 2014 Policies GP2, GP3 and TRANS3. No material considerations have been found which outweigh the provisions of the development plan.

**8. Recommendation**

Refuse

**Reasons for Council's decision:**

The proposed development would result in a significant detrimental impact on the residential amenity of the dwelling at 43 Fogralea in terms of daylighting, overshadowing and safe access. As such the proposed development is contrary to Shetland Local Development Plan 2014 Policies GP2, GP3 and TRANS3.

**9. List of refused plans:**

•	Proposed Elevation Drawing No. 1220.01	04.07.2016
•	Location Plan Drawing No. 1220.03	04.07.2016
•	Fence Details Drawing No. 1220.04	19.07.2016
•	Site Plan Drawing No. 1220.02 Rev A	19.07.2016

**11. Further Notifications Required**

None.

**12. Background Information Considered**

None.

2016/289/PPF\_Delegated\_Report\_of\_Handling.doc  
Officer: Dale Hunter  
Date: 16/09/2016



## Section 6. Decision Notice

14<sup>th</sup> March 2017





## **SHETLAND ISLANDS COUNCIL**

### **Town and Country Planning (Scotland) Acts**

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

#### **Applicant Name and Address**

Mr Paul Hughson  
45 Fogralea  
Lerwick  
Shetland  
ZE1 0SE

#### **Agent Name and Address**

Vega Technical Services  
Cumliewick  
Sandwick  
ZE2 9HH

#### **Reference Number: 2016/289/PPF**

To construct raised decking and fencing: 45 Fogralea, Lerwick, Shetland, ZE1 0SE

#### **Details of Refused Plans and Drawings:**

- Proposed Elevation Drawing No. 1220.01  
Stamped Received. 04.07.2016
- Location Plan Drawing No. 1220.03  
Stamped Received. 04.07.2016
- Fence Details Drawing No. 1220.04  
Stamped Received. 19.07.2016
- Site Plan Drawing No. 1220.02 Rev A  
Stamped Received. 19.07.2016

#### **Reasons for Council's decision:**

The proposed development would result in a significant detrimental impact on the residential amenity of the dwelling at 43 Fogralea in terms of daylighting, overshadowing and safe access. As such the proposed development is contrary to Shetland Local Development Plan 2014 Policies GP2, GP3 and TRANS3.

9 November 2016



Executive Manager

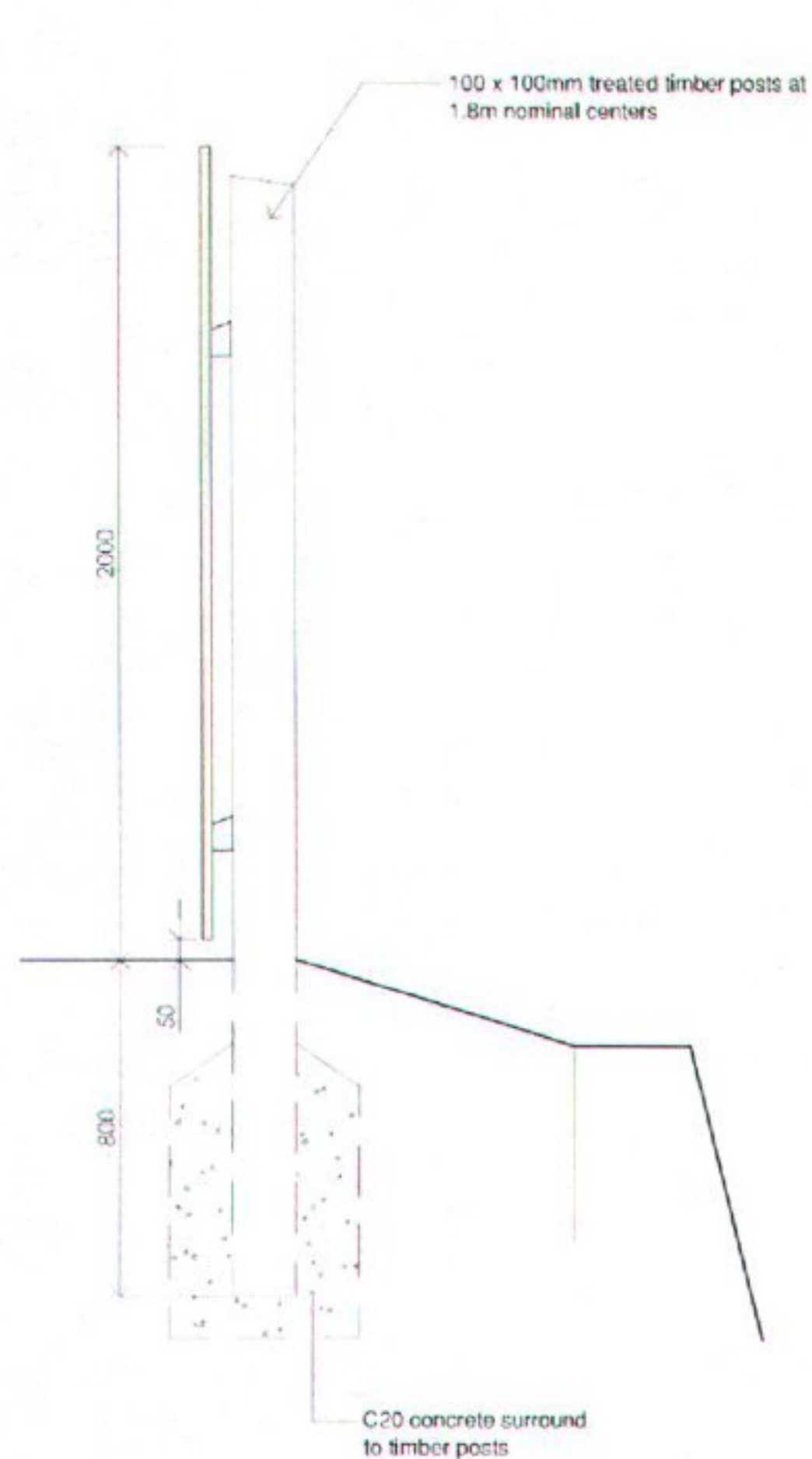


## **IMPORTANT INFORMATION**

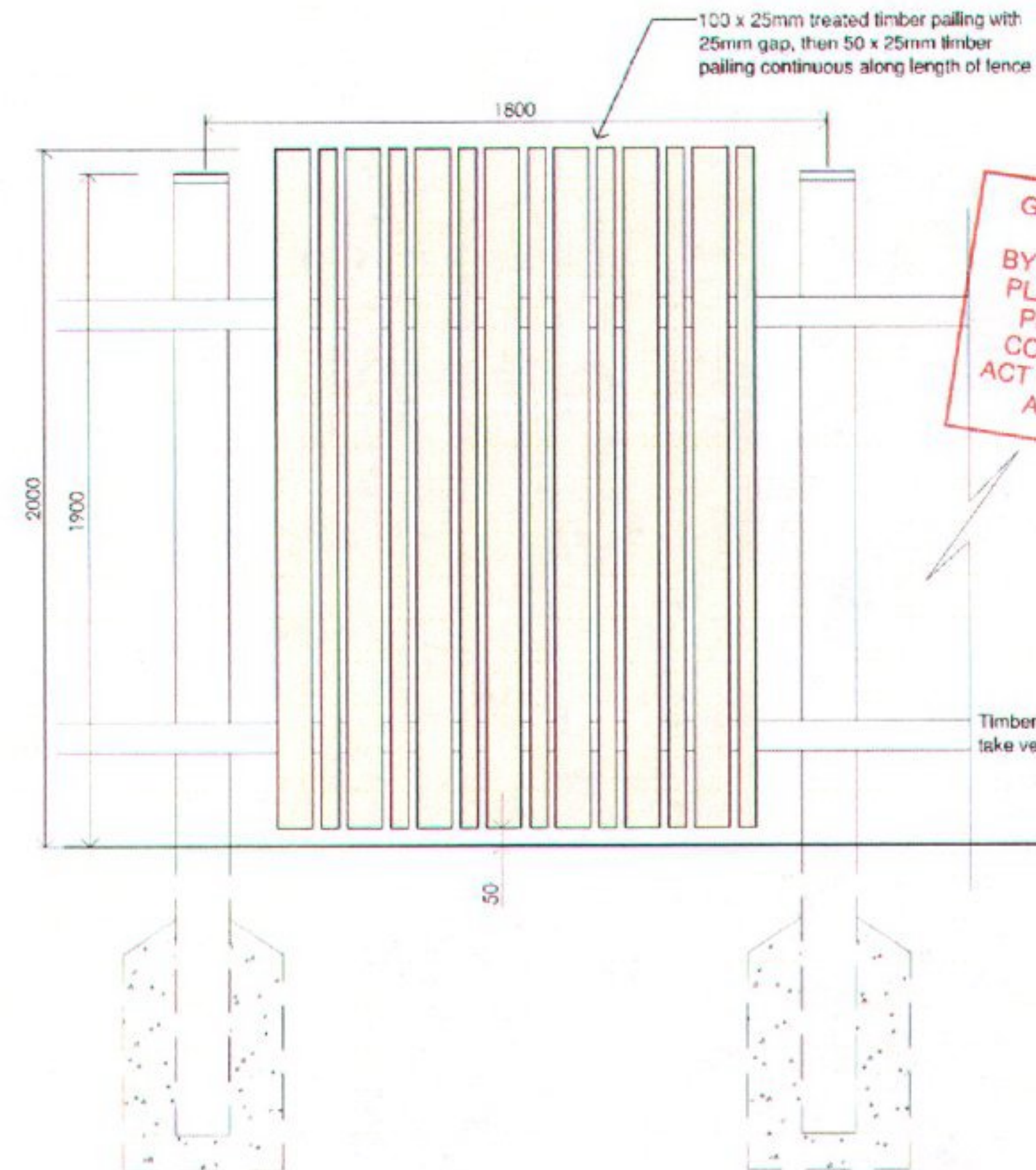
If you are aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, you may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to: Shetland Islands Council, Planning, Development Services Department, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ. The necessary form can be obtained upon request from the same address.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.





**Section**  
Scale 1:20



**Elevation**  
Scale 1:20

GRANT OF PLANNING PERMISSION  
**REFUSED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

TEAM LEADER  
DEVELOPMENT MANAGER

- 9 NOV 2016

Timber rails fitted to posts to  
take vertical timber palling

SHETLAND ISLANDS COUNCIL  
PLANNING  
19 JUL 2016

**PLANNING ISSUE**

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
Architectural, Land Surveying and Civil Engineering CAD drafting



CUMLEWICK • SANDWICK • SHETLAND • ZE2 9HH

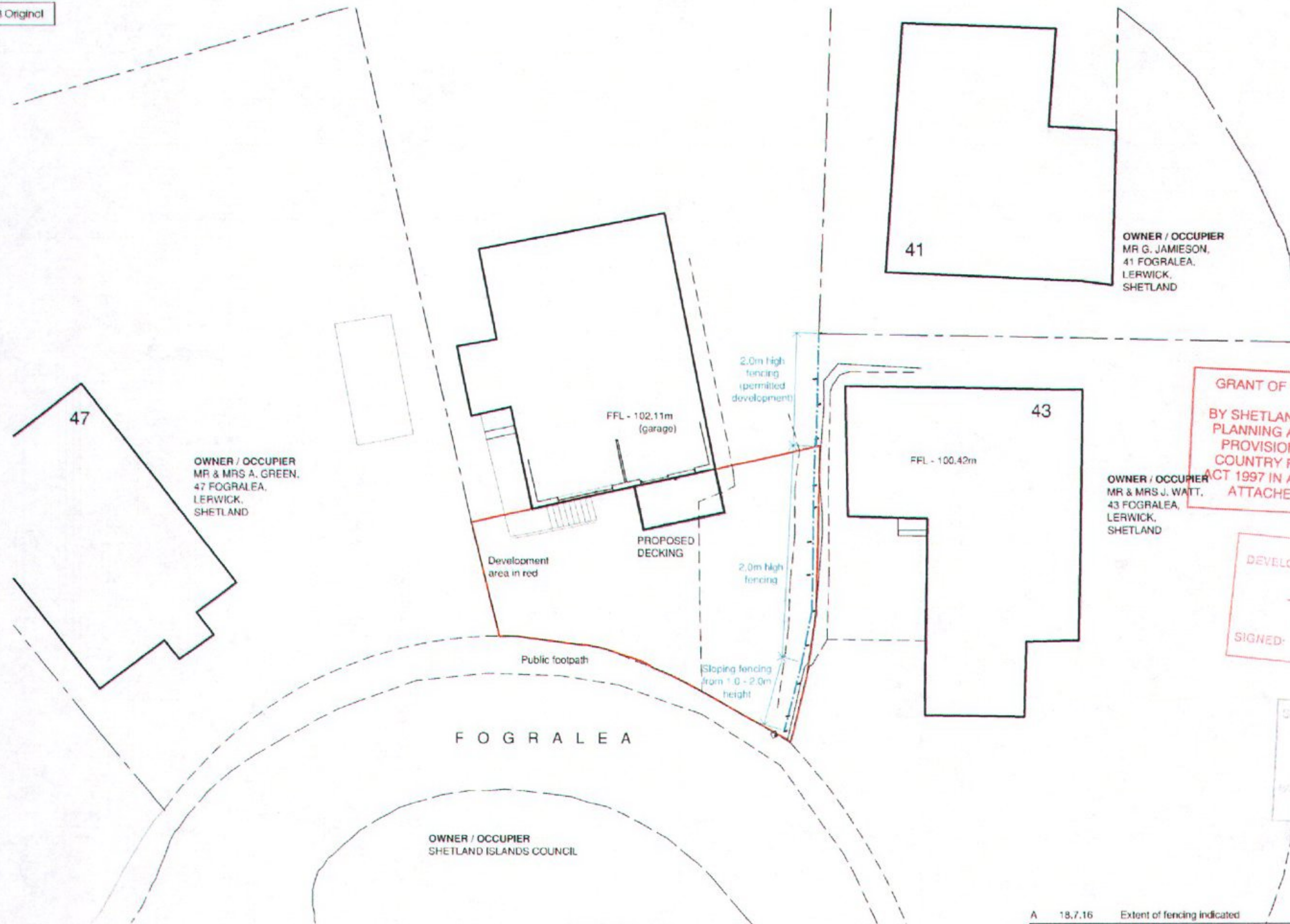
Tel:  
Mob:  
E-mail:



Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Date Drawn 27.6.16
Drawing Title Fencing detail		Scale(s) @ A3 1:1250
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220. 04</b>	Revision -



A3 Original



**GRANT OF PLANNING PERMISSION REFUSED**  
 BY SHETLAND ISLANDS COUNCIL AS  
 PLANNING AUTHORITY UNDER THE  
 PROVISIONS OF THE TOWN AND  
 COUNTRY PLANNING (SCOTLAND)  
 ACT 1997 IN ACCORDANCE WITH THE  
 ATTACHED DECISION NOTICE

TEAM LEADER  
 DEVELOPMENT MANAGEMENT  
 - 9 NOV 2016  
 SIGNED: *J. H. H.*

SHETLAND ISLANDS COUNCIL  
 Planning  
 19 JUL 2016

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
 Architectural, Land Surveying and Civil Engineering CAD drafting

**VTS**

CUMBERWICK • SANDWICK • SHETLAND • ZE2 9HH

Tel:  
 Mob:  
 E-mail:



**SITE PLAN**  
 Scale 1:200

**PLANNING ISSUE**

A 18.7.16 Extent of fencing indicated		Date Drawn
Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		27.6.16
Drawing Title Site plan		Scale(s) @ A3 1:200
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220. 02</b>	Revision <b>A</b>





**LOCATION PLAN**  
Scale 1:1250

TEAM LEADER  
DEVELOPMENT MANAGER  
- 9 NOV 2015  
SIGNED *JR*

GRANT OF PLANNING PERMISSION  
REFUSED  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

SHETLAND ISLANDS COUNCIL  
04 JUL 2016  
PAGE 10

**VEGA TECHNICAL SERVICES (shetland) LTD.**  
Architectural, Land Surveying and Civil Engineering CAD drafting

**VTS**

CUMLEWICK • SANDWICK • SHETLAND • ZE2 9HH

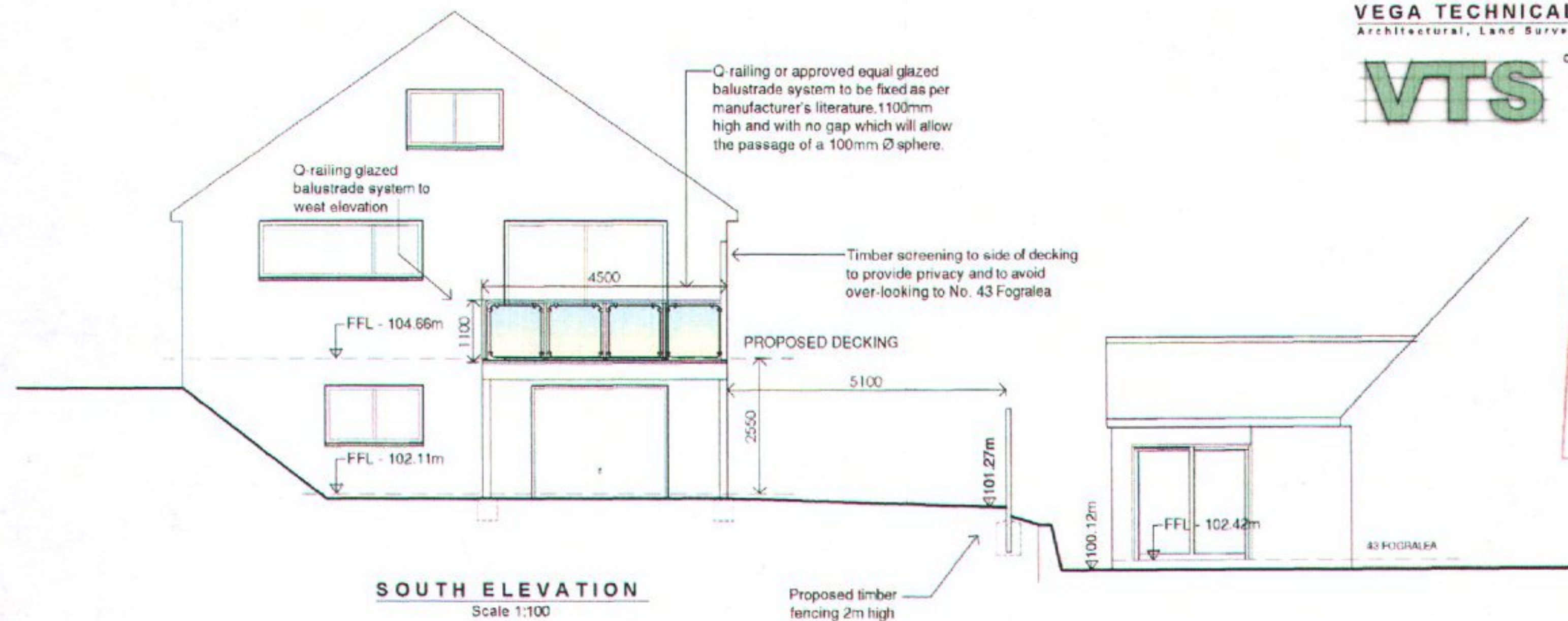
Tel:  
Mob:  
E-mail:



**PLANNING ISSUE**

Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Date Drawn 27.6.16
Drawing Title Location plan		Scale(s) @ A3 1:1250
Drawing Status <b>PLANNING</b>	Drawing Number <b>1220.03</b>	Revision -

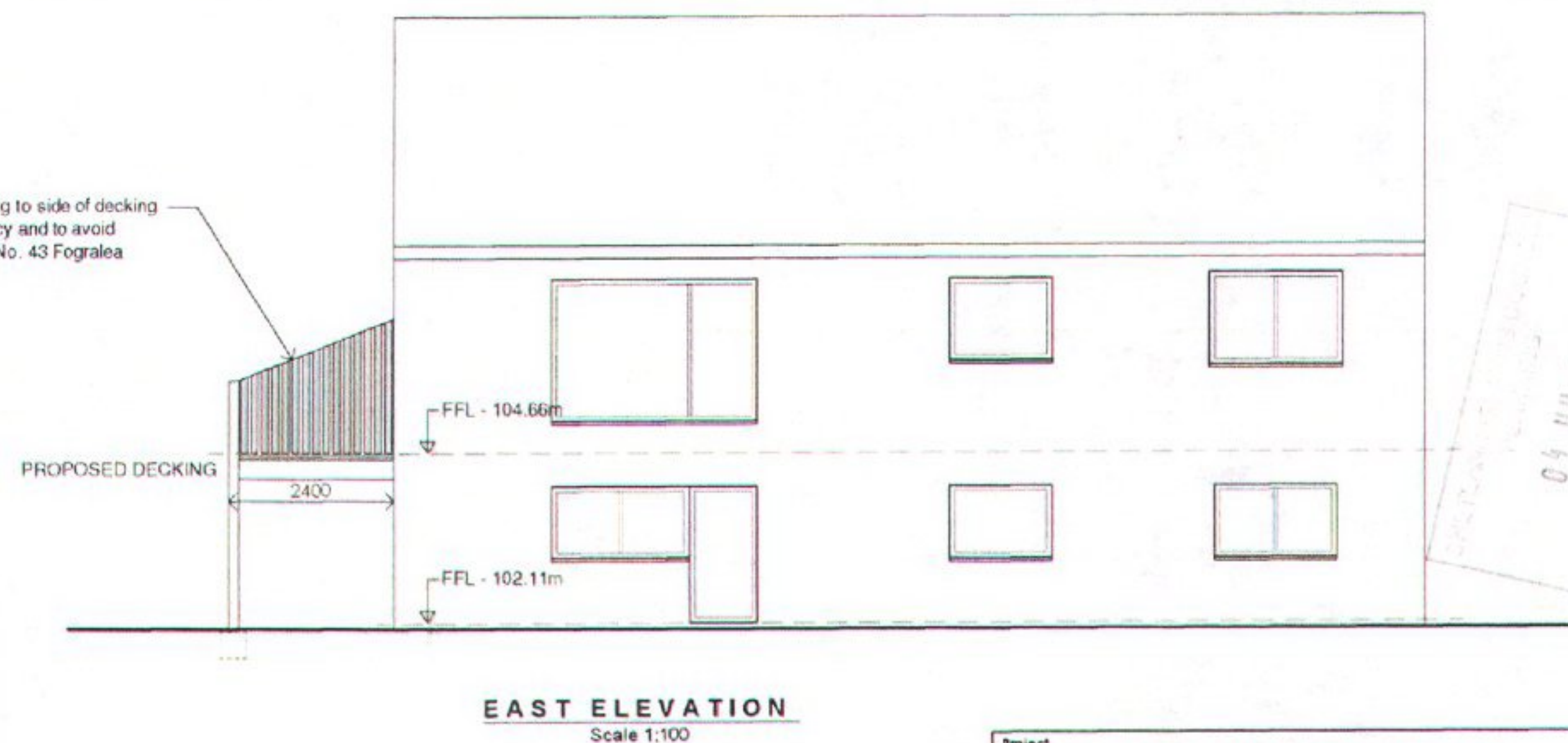




GRANT OF PLANNING PERMISSION  
REFUSED  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

TECHNICAL  
DEVELOPMENT MANAGEMENT  
- 9 JUL 2016  
SIGNED: J. R. [Signature]

Timber screening to side of decking  
to provide privacy and to avoid  
over-looking to No. 43 Fogralea



04 JUL 2016  
ACTION



EXISTING SITE PHOTOS

PLANNING ISSUE

Project <b>PROPOSED RAISED DECKING AND FENCING AT 45 FOGRALEA, LERWICK, SHETLAND.</b>		Date Drawn 27.6.16
Drawing Title Proposed elevations		Scale(s) A3 1:100
Drawing Status <b>PLANNING</b>	Drawing Number 1220.01	Revision -



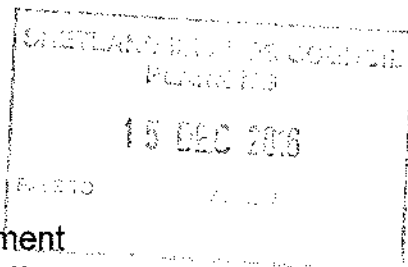
## Section 7. Notice of Review

14<sup>th</sup> March 2017





Development Services Department  
Shetland Islands Council



FOR OFFICIAL USE ONLY

Ref No:

Date of Receipt:

## NOTICE OF REVIEW

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

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

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

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

Use BLOCK CAPITALS if completing in manuscript

### 1. Applicant(s)

Name Robert Paul Hughson

Address 45 Fogralea,  
Lerwick  
Shetland

Postcode ZE10SE

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

### 2. Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

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

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

Yes No  
☒ ☐



**3. Application Details**

Planning authority's application reference number

2016/289/PPF

Site address

45 Fogralea, Lerwick, Shetland, ZE1 0SE

Description of proposed development

To construct raised decking and fencing

Date of application

04/07/2016

Date of decision (if any)

09/11/2016

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

**4. Nature of application**

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

**5. Reasons for seeking review**

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

**6. Review procedure**

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

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

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

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



## 7. Statement of Grounds of Review

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

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

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

In the delegated report of handling document, several of the statements and unjust and misleading.

Regarding the fence:

The original fence with a circa of 1.2m height was taken down due to it being unsafe and in a substandard condition. So the erection of the 2m height fence would be an additional 800mm to the original height. The justification of the fence was due to privacy issues between us and the neighbouring property, mainly due to a teenager's bedroom. This was explained on two different occasions with a planning officer – once on the telephone and the other with a site visit on my property. There was one consultation done by the SIC roads department – whom recommended that the south edge of the fence should be 0.5m from the back edge of the footway. Even though this was not in place before with the previous fence, I would have no objections to implement this into the new fence, as this was the only 'safety' matter with the fence.

The raised decking:

The above document states it can 'potentially' create unacceptable overlooking impacts – this comment is particularly vague in its context, further clarity would be useful. Regarding the 'potential' overlooking and privacy concern, the architect and I, worked closely on this subject and a screening design was implemented onto the technical drawings, which would eliminate any overlooking issues. Regarding the comment of screening of the current views, the designed glass balustrade would eliminate this issue, hence why it was designed this way. There is an unjust and unclear comment about the duration of the use of the raised balcony, according to the planning officer it is not to going be used for a considerable length of time – how has this been calculated? Or is this an assumption? Guesstimate?

There are also neighbouring properties in the Fogralea area that have raised decking and balconies – how has this document stated that there would be a detrimental impact to the residential amenity of 43 Fogralea.

Summary – SIC planning reasons for refusal decision:

Daylighting – to my knowledge the raised decking and fence will have no adverse effect.  
Overshadowing – to my knowledge the raised decking and fence will have no adverse effect.  
Safe access – I am happy to move the fence in 0.5m from the back edge of the footpath.

My reasons for the application:

The raised decking is for the family to have a child friendly safe outdoor area to use as and when required, which has been designed in such a way to enable this and have no negative effect on 45 Fogralea and/or neighbouring properties.



The fence was applied for as under permitted development rights, planning application had to be applied for for fence heights over 1m from the front aspect of the house or to be replaced to same original height. The reason for the applied height difference from the original 1.2m is purely for privacy for both 45 Fogralea and the neighbouring 43 Fogralea.

I feel that these two improvements would not just benefit my property directly it would also have a positive input to the Fogralea area.

With the above comments, I would like to challenge/question the planning officer comments, findings and conclusions. I would also like to request another planning officer to review and reassess this application to the officer who originally assessed this application.

I hope that this application can be reassessed and with the above comments/explanations will assist in approving the application.

### 8. New Matters

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

Yes ☐ No ☒

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



**9. List of documents and evidence**

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

All submitted plans are accurate but I am willing to consult with planning on any alterations which was simply refused when I originally was informed of the application being declined.

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

**10. Checklist**

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

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

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

**Declaration**

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

Signed



Date

15/12/2016

Please send this completed form to:

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

Telephone: 01595 744293 e-mail: [development.management@shetland.gov.uk](mailto:development.management@shetland.gov.uk) Visit: [www.shetland.gov.uk](http://www.shetland.gov.uk)



## Section 8. Representations/Hearing Statements

14<sup>th</sup> March 2017





James & Janine Watt

43 Fogralea

Lerwick

Shetland

ZE1 0SE

**Ref: 2016/289/PPF - LR26**

Dear Mr. Holden, following receipt of your letter dated 9<sup>th</sup> January and reading the Notification to Review application, I have a few comments:

- Fence Height – In regard to original fence, the height was <1m (as per remaining fences surrounding 43 Fogralea) . Erection of a 2m fence above the existing 1m retaining wall equates to a 3m fence at a distance of 1.2m from our living area window. Given the design of this fence which is closed as opposed to the original open fence, our objections stand as this fence would cause significant loss of natural daylight into our living area and would result in overshadowing. A fence (with a total height of 3m) would be out of place in this environment and location causing a claustrophobic atmosphere in our lower lying property.

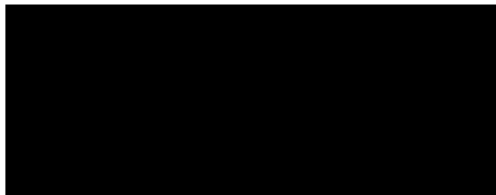
We had also considered this would affect entry/egress to the main road, but roads have discounted this concern.



- Privacy – We are totally unaware of any ‘Privacy issues’ due to a bedroom window(s) on the fence side of our home, indeed if there were, we would take suitable appropriate action. In fact, a fence of 2m (3m), would not prevent any privacy issues based upon existing overlooking living area window heights of 45 Fogralea, without the addition of raised decking/balcony.

In closing, our principle objection is that of fence height directly outside our window and resulting overshadowing of our property.

Kind Regards,

A large black rectangular box redacting the signature of James & Janine Watt.

James & Janine Watt.