

**Reconvened Planning Committee
Council Chamber, Town Hall, Lerwick
Thursday 23 August 2018 at 2pm**

Present:

M Bell	S Coutts
A Manson	E Macdonald
D Simpson	C Smith
G Smith	T Smith

Apologies:

None

In Attendance (Officers):

J Holden, Team Leader – Development Management
J Barclay-Smith, Planning Officer
I Smith, Design Engineer, Roads Service
C Summers, Planning Officer
P Sutherland, Solicitor
L Adamson, Committee Officer

Also in Attendance

S Leask, SIC
D Sandison, SIC

Chair

Mr T Smith, Chair of the Planning Committee, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

Mr G Smith said that while he did not have a financial or personal interest in the application, the officer in attendance from the Roads Service was his brother, and therefore to avoid any perception of influence, he would take no part in the discussion. Mr Smith left the meeting.

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:

Chair advised that the following item on the agenda will be considered by the Planning Committee sitting as the Local Review Body (LRB), and will follow the guidance given in Section 4 of the covering report. He explained that the process will take the form of a Hearing. The Planning Officer who handled the case will be asked to make a presentation on matters to be considered. Persons entitled to make representations will be given the opportunity to address the Hearing, followed by the applicant/agent, and all will be restricted to a time limit of five minutes. Members of the LRB can ask questions throughout the process, however where possible questions should be asked at the end

of each presentation. When questions are completed, Members will debate the proceedings and make a decision. He added that the Hearing rules prescribe that cross examination will not be permitted unless the LRD consider it is required to ensure a thorough examination of issues.

10/18 **Local Review Ref: 2018/001/PPF – LR33 – Erect single storey dwellinghouse with integral garage and an air source heat pump and septic tank and soakaway: New House, Hillside, Bressay, Shetland, ZE2 9ER.**

The Committee considered a report by the Team Leader – Development Management [RECORD Appendix 1] for a decision following a Local Review.

The Chair advised that at the meeting on 14 August 2018, the LRB had agreed that an unaccompanied site visit was required. In accordance with that decision, the Chair confirmed that the unaccompanied site visit to Bressay had been carried out earlier today.

In response to a request for clarity from the Chair, and following a brief discussion, the applicant, Mrs Manson, confirmed that Mr A MacKay, their agent, would be presenting their case to the LRB.

The Chair invited the Planning Officer who had handled the case to make a presentation to the Board.

The Planning Officer (C Summers) gave a presentation which illustrated the following:

- Site/Arial View
- Location Plan
- Site Plan
- Site road junction plan
- View from North of existing junction
- View from South of existing junction
- Proposed elevations of dwellinghouse
- Reasons for Refusal
- Key Issues slide

The Planning Officer advised that the site is located on the south of Bressay, at Hillside. The proposed dwellinghouse would share the existing access track with the applicant's dwellinghouse, and the proposal is to create a new access from the existing single track access road which services Hillside Farm. The required parking and turning area will sit adjacent to the main entrance of the proposed dwellinghouse. The Planning Officer reported that the Council's Roads Service responded to a consultation regarding the application and objected to the proposal with regards to the visibility splays and road width. An automated traffic survey was undertaken and it was confirmed that 85% of traffic approaching speeds were around 34-35mph which would require a visibility splay of 90m to the south of the junction, the existing visibility splay is around 57m. Also the existing access track is not the minimum 5.5m wide for at least the first 6 metres. The same visibility splay of 90m is also required to the north of the junction and this is currently available at present. The Planning Officer advised that the agent then provided an amended site plan and junction plan with an increase to the road width. The Roads Service were then re-consulted and responded with a further objection and recommended the application be refused due to the lack of visibility at the proposed junction to the south. The Planning Officer confirmed that the Roads Service were happy with the visibility splay from the North of the existing junction, however to the

South where a visibility splay of 90m is required only 57m is available. She reported that the applicants have considered moving the existing junction northwards but due to financial implications and complications it would not be feasible. The applicants are however happy to undertake the improvements required by the Roads Service to the existing junction.

In advising on the reason for refusal, the Planning Officer reported that while the principle of a dwellinghouse in this location is acceptable in terms of settlement pattern, and the proposed design fits well into the surrounding landscape, the required visibility splay of 2.5 metres by 90 metres to the south of the junction of the existing track with the public road is not achieved, and to allow additional traffic to use the junction would cause an unacceptable impact on the safety of road users. It is acknowledged that the access is existing however to allow additional traffic to use a sub-standard junction is contrary to Shetland Local Development Plan (2014) Policies GP1, GP2, GP3 and TRANS3.

The Planning Officer advised on the key issue with the application, being the inadequate visibility at the junction of the access into the site with the public road, and while the applicants had considered alternative access to the North these were not feasible due to cost and complications. The Planning Officer reported that the application does not comply with policy TRANS3 of the Shetland Local Development Plan (2014) that requires all new developments to provide a safe and adequate access and visibility splay, or with the requirements of GP2 – new development should not compromise health and safety standards or have an adverse impact on existing users, and therefore the application has been recommended for refusal.

The Chair welcomed questions from Members to the Planning Officer. Mr Bell enquired on any detail of additional movements from the junction should the application be approved. The Planning Officer confirmed that the Planning Service had no information in that regard, and in determining the application had followed the information provided by the Roads Service. The Design Officer reported that the Roads Service had not surveyed the number of vehicles using the access, but that a survey indicated that 40 vehicles per day pass the junction. In commenting that the existing junction had been in place for some years, and that the existing standards do not meet current requirements, Mr Bell enquired whether the Roads Service would consider any improvement to bring the existing junction up to current standards. The Design Engineer said that each application would be determined by the existing standards. "He reported however that options to improve road safety could include installing a road hump, however that would also require street lighting and signs to be installed. He explained that the speed cars are travelling past the existing junction would require a speed limit of 20mph to give an acceptable visibility distance at the junction, which he advised would also require traffic calming measures similar to those imposed at the Esplanade, Lerwick. He said that the installation of a traffic safety mirror had also been indicated, however the objective would be to eliminate any hazards rather than to mitigate against them. The Design Engineer added that recent guidance has questioned the effectiveness of traffic mirrors over the distance that would be required at the existing junction.

In response to questions, the Design Engineer advised that the Roads Authority do not take enforcement action retrospectively on historic junctions that do not meet current standards. He also advised that he was not aware of any accidents at the junction. In responding to questions, the Solicitor explained that should the LRB approve the application contrary to the advice of the Roads Service, the Council would not be liable should there be an accident at the junction. He added that the Planning Committee

would make its decision in good faith on the matter before it, and in the public interest, and there would not be a direct causal link to the Committee decision on the matter.

The Chair invited the applicant's agent to address the meeting. Mr A MacKay, Architect, advised that David and Susan Manson have stayed in Hillside, Bressay, for over 40 years, and have brought up their family there, and what to stay in the island as part of the community and build a small retirement home. He advised that the Planning Service are happy with the proposals, however the Roads Service have raised issues regarding the safety of the existing junction, which he said the Council has correctly raised. However, in that regard he had the following points to make:

- The dip in the road does not completely obscure a car (this was illustrated by a brief presentation which included 3 photographs: - (i) a car going into the dip, (ii) in the middle of the dip, and (iii) a distance out of the dip).
- Any competent driver will observe at the junction, and look left, right and left again. If a car was not seen when first looking left, by the time the driver looks right, then left again the driver would see a car coming out of the dip. If there was a car coming, the driver would wait at the junction.
- For over 40 years there have been no accidents at this junction, not even near misses.
- The applicant intends to make the improvements to the junction, including the first 5m surfaced and tarmacked, to allow a car to wait until another car enters the junction which will improve safety. There will also be no bushes at the junction to obstruct visibility.

Mr Mackay referred to the speed of traffic at the junction from survey work done, which he said was just a bit over 30mph, and suggested that the result of other surveys undertaken may have come in at a lower speed. He said that the applicants considered other options to improve road safety, but there had been land issues and cost implications, so these had not been pursued further. In concluding, Mr Mackay advised that while Bressay Community Council did not respond within the consultation timeframe, the Community Council had provided a letter in support of the application. Mr Mackay said that he wished to reinforce the point, that should the Planning Committee feel there is still a risk in terms of road safety and do not approve the application, that serious consideration be given to introducing a speed limit to allow the application to proceed.

The Chair thanked Mr Mackay for his address to the LRB, and he welcomed questions from Members to Mr Mackay.

In responding to a question regarding additional use of the junction, Mr Mackay said that should the application be approved, beyond the applicants using the junction themselves when they move into their new home, there would also be additional traffic movement should they decide to sell their current home.

Mr Bell commented that he had a lot of sympathy for the Council's Planning Service, and more so for the Roads Service who are doing their job, and right to do so, and said that the assessment has been set out very clearly and was easy to understand. He said however that the issues are with an existing junction, and that had it been for a

new junction his findings would be very different. Mr Bell said that he has not heard any evidence that the proposed house, if built, would increase movements at the junction markedly, and the Roads Service has no plans to apply enforcement action on the current junction. Mr Bell advised on the need to consider that the applicants are planning for their future, and that they want to stay in the area, and the LRB should encourage people to stay in rural parts of Shetland and to encourage people to plan for their future. He added that the applicants should be commended and encouraged in that regard. Mr Bell said that there had been no accidents at this area of road, nor any knowledge of a near miss accident. Mr Bell said that at the site visit today, it was noted that a car in the dip of the road was obscured for only a matter of seconds, but people experienced with the junction, and those not familiar with the junction, could use the junction safely. Mr Bell said that while he would rarely go against Officers advice, on balance in terms of this particular case, he moved that the application be granted. In seconding, Mr C Smith referred to the need to encourage people to remain in their local community, and he said that Mr and Mrs Manson want to stay in the island. He referred to the site visit today, which he said had been helpful to view the dip in the road, and the visibility at the junction. Mr C Smith added that people in Bressay will be well aware of the junction.

There being no one otherwise minded, the Chair advised on the decision of the LRB to uphold the appeal. In terms of conditions to be applied to the grant of the application, he referred to the condition for the works to be carried out strictly in accordance with the plans already submitted, which included works to the junction. In response to a request for advice, the Planning Officer outlined a number of matters that can be the subject of controlling conditions for applications for a single dwellinghouse in a country area.

Decision

The Local Review Body agreed to uphold the appeal and **APPROVE** the planning permission for the development, subject conditions that deal with the following:

- The development will not be carried out other than in accordance with the plans as submitted, which include the works to the junction.
- 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.
- No part of the development will be brought into use until foul drainage works have been completed.
- The proposed development shall not be constructed until the works to the existing junction have been completed.

The meeting concluded at 2.35pm

.....

Chair