



Executive Manager: Jan-Robert Riise
Director of Corporate Services: Christine Ferguson

Governance & Law
Corporate Services Department
8 North Ness Business Park,
Lerwick
Shetland, ZE1 0LZ

Telephone: 01595 744550
Fax: 01595 744585
committee.services@shetland.gov.uk
www.shetland.gov.uk

If calling please ask for
Louise Adamson
Direct Dial: **01595 744555**
Email: louise.adamson@shetland.gov.uk

Date: 20 May 2019

Dear Sir/Madam

You are invited to the following meeting:

Planning Committee
Council Chamber, Town Hall, Lerwick
Monday 27 May 2019 at 2pm

Apologies for absence should be notified to Louise Adamson at the above number.

Yours faithfully

Executive Manager – Governance and Law

Chair: Mr T Smith
Vice-Chair: Ms A Manson

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest – Members are asked to consider whether they have an interest to declare in relation to any item on the agenda for this meeting. Any Member making a declaration of interest should indicate whether it is a financial or non-financial interest and include some information on the nature of the interest. Advice may be sought from Officers prior to the meeting taking place.
- (d) Confirm the minutes of the meeting held on 15 April 2019, enclosed.

Hearing:

1. 2018/328/VCON – Section 42 application to vary the terms of condition 2 of permission 2014/109/VCON. Temporary Residential Accommodation, Sella Ness Industrial Estate, Graven, Mossbank, Shetland, ZE2 9UP, by Malthus Uniteam (UK) Limited.



MINUTE

A&B - Public

Planning Committee
Council Chamber, Town Hall, Lerwick
Monday 15 April 2019 at 2pm

Present:

M Bell	C Hughson
E Macdonald	A Manson
D Sandison	C Smith
G Smith	T Smith

Apologies:

D Simpson

In Attendance (Officers):

N Grant, Director of Development Services
I McDiarmid, Executive Manager – Planning
J Holden, Team Leader – Development Management
P Sutherland, Solicitor
L Adamson, Committee Officer

Chair

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

Circular

The circular calling the meeting was held as read.

Declarations of Interest

Mr T Smith declared an interest in Item 2 on the agenda, application ref. 2018/096/PPF, and advised that he would give further detail following the Committee's consideration of Item 1.

4/19 Minutes

The Committee confirmed the minutes of the meeting held on 13 February 2019 on the motion of Mr C Smith, seconded by Mrs Hughson.

The Chair advised that the following agenda items would take the form of Hearings. The order of events being that the Committee shall first receive a presentation from the Planning Service, that will be followed by any representations from formal objectors, then a presentation by the applicant in each case. He advised that objectors and the applicant will have a maximum of five minutes, and in the case of multiple objectors and applicants with the same grounds, to avoid repetition or similar statements which take up time.

5/19 2018/186/PPF: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind

turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure, by Peel Wind Farms (No.1) Ltd

The Committee considered a report by the Planning Officer – Development Management [Record Appendix1], to be considered as a Hearing.

The Chair sought confirmation on representation of the applicant in attendance. Mr Snowdon, Peel Energy, advised that he was representing the applicant.

The Chair then sought confirmation on objectors in attendance to address the meeting. Mr P Davis, Shetland Clay Target Club; Mr J Mackenzie, Sustainable Shetland; Mrs J Atkinson, Tingwall House; and, Mr A Nicol, Frakkafield, indicated their intention to address the Committee.

The Chair then referred to an invitation from the applicant during late 2018, that arrangements could be made for Members on the Planning Committee to attend a visit to the application site. The Chair said that at that time, he had advised the applicant that consideration on the need for a site visit would be raised at the formal meeting. In that regard, the Chair posed the question to Members as to whether a site visit was required. Following consideration, the Committee agreed that there was no requirement for a site visit in this instance.

The Team Leader – Development Management gave a presentation which illustrated the following:

- Site Plan
- Development of the wind farm site
- Visualisations submitted with the Environmental Impact Assessment Report:
 - looking across from Bressay towards Lerwick
 - from the Knab
 - across to Scalloway from Port Arthur
 - out the north road looking across to the peat cutting site
- Key Issues

The Team Leader then advised on the following: *“The proposed wind farm comprises a total of 12 wind turbines. The wind turbines proposed will have a maximum blade tip height of 145 metres. Two substations are proposed along with approximately 9.3 km of access track. During the design of the wind farm several different configurations were examined. The evolution of the design of the development is an important consideration as the design process is used to justify the “designing out” of some potential environmental, residential, landscape and visual impacts.*

The key issues are identified as Landscape and Visual Impacts, Impacts on Peatland and Impacts on Aviation. Other potential impacts are acknowledged such as those on birds, people (from noise and shadow flicker) and on drainage.

In terms of landscape and visual impacts, it is unlikely that the introduction of large scale wind turbines to the landscape will be seen as a positive addition, however different individuals will have different opinions on aesthetics and other considerations such as the role that a development may have in providing a clean energy source.

The Landscape and Visual Impact Assessment (LVIA) is set out in Chapter 6 of the EIA Report and concludes that “whilst the proposed development would result in some significant landscape and visual effects these would be limited in extent and focused within an area that is already influenced by man-made infrastructure including existing wind turbines, overhead lines, roads, quarries and transmission masts.” It is acknowledged that the proposed development will have a significant impact on the landscape of Lerwick when viewed from much of the west side of Bressay and there is no question that the development will have a major adverse impact on the character of the landscape of the 4 Landscape Character Areas most affected (i.e. over a considerable area of the central Mainland). However the question for the Planning Authority is whether the proposal is, on balance acceptable, taking account of the benefits and positive effects on the one hand and the disbenefits and negative effects, on the other.

In landscape terms it can be difficult to be entirely objective in terms of understanding landscape impact since, by their very nature, “appreciation”, “understanding” and “enjoyment” are at least in part, an emotional response. Balancing these (and other, more measurable aspects related to impact on landscape character) with anticipated benefits (such as those expected to result from reduced carbon output at a regional, national or global scale) is not straightforward and there are no formulas to assist. Scottish Natural Heritage does not object to the application and has confirmed that the development will not have significant adverse impact on the National Scenic Area. However they are of the opinion that the development has not considered the scale of the wind farm in relation to the character and capacity of the site particularly in relation to the height and number of turbines proposed.

On balance, although it is acknowledged that landscape effects will be significant and the background landscape of Lerwick will be altered and will become characterised by wind turbine development the main impacts are partly constrained by topography. The proposed development has been reduced from its origins when up to 21 wind turbines were being considered (at the Scoping Stage) and the development design is a response to a number of other considerations/constraints on site including landscape and visual impact. Visual impact on residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. In this respect it is considered that the proposed development will not compromise the future enjoyment of a high quality environment, and will not have a visually significantly adverse effect on existing users of the area.

SNH objected to the proposed development because of the presence of high quality peatland in the area proposed for wind turbine 1 but are content that the Council judges whether the proposal is contrary to Scottish Planning Policy (SPP) in this respect. It is acknowledged that the majority of the site is classed as blanket bog, but the EIA Report and supporting information submitted concluded that all the blanket bog was considered to be modified by drainage, peat cutting and sheep grazing and that there was a range of quality of blanket bog across the site. The proposed layout of the wind farm has attempted to avoid areas of deep peat, but it would not be possible to accommodate all the necessary infrastructure without disturbing some peat. A peat slide risk assessment has been prepared that indicates that the risk of peat slide is not high. An outline Peat Management Plan, and Habitat Management Plan have

also been prepared which set out the mitigation proposed to reduce impacts on peatland and improve the peatland habitat. Wind turbine 1 can be micro-sited to avoid the deepest peat and move the turbine further away from the pool system near this turbine. Given that SPP does not state that there should be no development on areas of deep peat or carbon rich soils, and that proposals for development in such areas must demonstrate how impacts can be minimised, taking account of the peat management measures, habitat management plan and other mitigations proposed, it is considered that the proposed development is generally in compliance with SPP.

The operators of Scatsta Airport, and the MOD for RRH (Remote Radar Head) Saxa Vord objected to the development. Scatsta were concerned that the proposed development conflicted with the airport's safeguarding criteria regarding the radar and potentially, Instrument Flight Procedures. The applicant submitted further information in connection with impacts on Scatsta and following further discussions it is proposed to attach a planning condition requiring that a radar mitigation scheme for Scatsta Airport be submitted for approval before any work begins on the wind farm. Scatsta has since confirmed that a suitable suspensive planning condition would satisfy concerns about impacts on Scatsta Airport.

The MOD has objected to the development indicating that the proposal would have a significant and detrimental effect on Air Defence operations as the wind turbines will cause interference to the radar at Saxa Vord. Again it is proposed that a suspensive planning condition be attached to any permission that requires an agreement to be reached between the developer and the MOD on the provision of appropriate mitigation. This would mean that the development could not begin until an agreement is reached. It is considered that this will ensure that the concerns of the MOD are addressed.

It is acknowledged in the EIA Report that the wind farm would have an impact on flights from Tingwall to Fair Isle during easterly winds, however it was established that there are a number of viable alternative routes available for this flight, and the operators of Tingwall Airport have raised no objections to the proposal. The wind turbines will require to be lit and a planning condition is proposed that requires a lighting plan to be submitted. This would be subject to consultation with all interested aviation bodies.

There are no designated sites within the application site but the site is close to the proposed East Coast Mainland proposed Special Protection Area (pSPA). This is a sea based area stretching from Samphrey and Lunna Ness in the north, encompassing the sea to the north, east and south of Whalsay, and southwards to the north coast of Bressay. The site as designated regularly supports a non-breeding population of great northern divers and Slavonian grebes. The pSPA also supports (as a foraging area) a breeding population of red-throated divers as well as populations of common eider, long tailed duck and red-breasted merganser. An Appropriate Assessment as required by the Habitats Directive and Regulations has been carried out based on the information available and following advice from SNH, and has concluded that the development will not give rise to a significant adverse effect on the qualifying interests of the pSPA nor will it affect the integrity of the site as a whole. Anticipated impacts are reduced to be of no significance and the mitigation proposed in the formats of a Construction Environmental

Management Plan (CEMP), Outline Habitat Management Plan (OHMP) and Draft Bird Breeding Protection Plan (BBPP) will contribute to ensuring that impacts are minimised.

A total of 48 bird species was recorded within the site and the EIA Report concluded that although there will be impacts on some of the species due to potential collision impacts, none of the effects are considered to be significant as there will be no overall effect on the regional population levels of these species and therefore the Shetland Natural Heritage Zone populations will not be adversely affected. It is considered that with the mitigation proposed that will be secured by planning condition, it has been demonstrated that the impact on bird species within the site and within the vicinity of the site has been reduced to acceptable levels.

Any decision for a wind farm development is a balance between potential benefits and anticipated adverse impacts. The most relevant benefits that the proposed wind farm provides is net economic benefit, the scale of contribution to renewable energy generation targets, and the effects of the development on greenhouse gas emissions. Use of the Scottish Government's Carbon Calculator tool to assess the carbon balance of this proposed wind farm indicates that the development would lead to a reduction in greenhouse gas emissions of between 57,862t CO₂e and 118,507t CO₂e over a likely 25 year operational lifetime. The predicted emissions payback time is calculated at between 0.8 and 2.3 years. This being the case the proposed development would result in a positive significant effect on climate change and carbon balance throughout the lifetime of the development, and make a significant contribution to meeting greenhouse gas emission and renewable energy targets.

The EIA Report estimates that between 40 and 80 net additional full time equivalent (FTE) jobs would be created during the construction, operation and decommissioning phases of the development. This consists of 14-28 FTE direct jobs and a further 26-52 indirect and induced jobs in the wider economy. This level of job creation is noted as a potential significant benefit of the proposed development for the Shetland economy.

The Council's Economic Development Service has pointed out that the proposed development is in line with the Council's Economic Development Strategy 2018-2022. They also pointed out that additional consented energy generation in Shetland would add support to the needs case for the High Voltage DC link between Shetland and the Scottish Mainland. It is clear that within SPP, as set out at paragraphs 7.2 to 7.15 of the Report of Handling, there is much support for renewable energy developments. Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development. The Shetland Local Development Plan (SLDP) (2014) is supportive of sustainable economic developments and tackling climate change is a major consideration for all development proposals.

It is concluded that the proposed development would make a significant contribution to meeting greenhouse gas emission and renewable energy targets, would provide job opportunities and contribute to the local economy, and that environmental effects can be mitigated by planning conditions. Impacts would, it is considered, be outweighed by the benefits of renewable

energy generation. It is therefore recommended that the Planning Committee grants approval of the application, subject to the conditions set down in Appendix A to the report."

The Chair thanked the Team Leader, and invited questions from Members.

Mr Bell referred to the number of suspensive planning conditions relating to this application that have to be agreed in advance with the Planning Authority. He enquired on what happens should agreement between the applicant and Planning Service not be reached, but the applicant considers a particular proposal to be entirely reasonable. The Team Leader advised the Committee on the two types of suspensive conditions being recommended, with the first being that no development can take place until agreement has been reached. In that instance, should a submission be made by the applicant, and the Planning Authority under its delegated powers determine refusal, there is the appeal route available to the applicant. The second suspensive conditions are where agreement has to be reached, for example, with the Ministry of Defence, and notified to the Planning Authority. He reported that it is feasible that no acceptable solution can be found and therefore the development may not be able to come to fruition, which is a risk for the applicant to consider. In response to a request from the Chair for further clarity on the appeal route available to the applicant, the Team Leader advised that an appeal would be subject to two months determination, and should the decision not be to the applicant's liking the application would be presented to the Local Review Body.

Reference was made to the statement in section 2.8 of the report, namely, "A suite of planning conditions which are capable to resolving or mitigating many of the concerns raised have been recommended to be attached to any planning permission granted...", where clarity was sought whether mitigation addressed concerns raised that were material in planning terms. The Team Leader advised that a number of issues raised by those making representation were a matter of opinion, e.g. landscape and visual impacts, which have been acknowledged in the report, and that the Planning Service have had to make a judgement. In terms of concerns raised that are material in planning terms, the Team Leader advised that these have been addressed and would be satisfied should the conditions be met.

In referring to section 4.12 of the report, Mr G Smith noted that while Tingwall Airport had not objected to the proposed wind farm, there is reference to the requirement for a steeper descent on flights from Fair Isle. In that regard, he enquired whether the Pilots were content with the requirement for such a steeper descent. The Team Leader advised that dialogue has been with the airport operators and the technical advisers of the airport, who are content for the aircrafts to take a more northerly approach.

Mr G Smith referred to the sizeable conditions attached, where he commented that many are quite significant. In that regard, he sought clarity on how the conditions would be enforced should the application be approved, and on the penalty for non-adherence to the conditions. The Team Leader advised on the expectation on the developer to comply with the conditions, and on the legal obligations placed on the applicant. He advised however that should there be an issue of non-compliance, that could require action through the Planning Service Enforcement Officer gathering evidence and then using powers

available under the Planning Act to serve notices to require remedial action and prevent further harm if a breach was to occur.

Mr Sandison referred also to the significant amount of planning conditions, with many being quite onerous, which he said was rightly so, and he enquired on the adequacy of resources and expertise in place capable to properly enforce the conditions. The Executive Manager – Planning commented that within the Planning Service, workloads are very much dependant on other people's timescales. He advised however that should this application be approved, there is the potential for officers to be working with some other large developments, so it could be difficult to plan ahead to maintain a watching brief over this type of development. He advised that for this application, a Monitoring Officer would be provided by the developer to work closely with the Planning Service. The Executive Manager – Planning acknowledged that resources was a difficult area to juggle a number of different developments that are to happen at the same time, but it is the nature of working within the Planning Service. He advised that there is however specialist knowledge within the small team to deal with large and small applications, and he also confirmed the significant level of knowledge on the larger developments.

In referring Members to Section 2.5 of the report, Mr G Smith said that the following statement from the first sentence was the crux of the matter, "that proposals for renewable energy developments will be supported where it can be demonstrated that there are no unacceptable impacts on people, the natural and water environment, historic environment, landscape, historic environment" and in that regard to consider whether the development on the site would be acceptable. In acknowledging the sizeable report, Mr G Smith questioned the process to decide on what is acceptable and unacceptable, commenting that some of the findings could be quite subjective. The Team Leader acknowledged that there is an amount of subjectivity and opinion as the Planning Service have to provide an opinion to the Planning Committee, to consider the conclusion. He advised that presumption is in favour of development where Planning Policy is followed to come to a view whether a proposal is acceptable and does not cause harm, through a process of refinement of the proposal. Once satisfied, the Planning Service can frame conditions for further refinement to recommend approval of an application.

In referring to the Shadow Flicker Assessment, Mr Sandison advised that while he was content with the shadow flicker condition attached to effectively deal with any impact of shadow flicker on properties, he questioned the analysis and whether there was sufficient flexibility in the condition should the assessment not be completely accurate on timescales in terms of potential shadow flicker. The Team Leader advised that the developer must satisfy the Planning Service following a theoretical assessment on the positions of the turbines proposed, taking into account the proposals for micro-siting. In responding to a question, the Team Leader explained that all the turbines are programmable and can be controlled, where at certain times of the year, and on days where it is not cloudy and there is potential for sunshine, individual turbines can be shutdown. In response to a question regarding reassessment of shadow flicker at a particular property once the turbines have been built should issues arise, the Team Leader questioned such a requirement, advising that the shadow flicker control scheme approved at the outset would have identified the times when certain turbines would not be operational. He added however that there would be

scope to revisit any shadow flicker problems through Environment Health Service who investigate complaints of statutory nuisance.

In responding to a question from Mrs Hughson, the Team Leader said that any impacts and disturbance from the wind turbines on telecommunications would have formed part of the scoping exercise for the Environmental Impact Assessment. The Team Leader advised however that the applicant would be addressing the meeting, and would be able to respond more fully to the question.

There were no further questions to the Team Leader.

The Chair invited the representative from the Shetland Clay Target Club to address the meeting.

Mr P Davies said that having listened to the discussion, and the various matters raised on the application, he advised that from the Club's perspective, rather than it being a planning issue, there was a need for further discussion to take place between the developer and the landowner. In response to questions from Members, Mr Davies advised that the Club's concern was that the proposed access road would infringe on the safety zone, which he said has to be in place for legal reasons. The Club also had concerns with the location of two of the proposed turbines. He said that one of the turbines would be directly in front of the shooting range, and while outside the 300m safety limit, would still be an issue. He added that the facility was built for the 2005 Island Games, and the facility would be taken away should the turbines be built as proposed. In response to a question from the Chair, Mr Davies confirmed that while he had not been personally involved, discussion has taken place between representatives of the Club, the developer and the landowner, however no conclusion has been reached.

There were no further questions to Mr Davies.

The Chair invited the representative of Sustainable Shetland to address the meeting.

Mr J Mackenzie, Vice-Chair of Sustainable Shetland, read from a prepared paper, which covered the following points:

- *Reference only made in the Planning Officer's report to Committee to Supplementary Guidance on Onshore Wind Energy in respect to peatland, while the impact on people is ignored.*
- *The report states, "Visual impact on residential amenity, although significant in some instances, has not been found to be overbearing or detrimental as to warrant refusal of the application" Found by whom – what criteria was used to define "residential amenity"?*
- *The Supplementary Guidance states: "Developers of very large, large and medium scale proposals will be required to show that their proposal conforms to the guidance provided in the Landscape Sensitivity and Capacity Study (LSCS) for Wind Farm Development on the Shetland Islands (Land Use Consultants for SIC, 2009) for each affected visual compartment. Proposals shall take account of the described landscape*

sensitivities of each landscape character area, site specific landscape and visual assessment and other guidance produced by statutory bodies”.

- A visual compartment (N-Central Mainland East, which includes Dales Voe) according to the LSCS, can support one medium sized wind farm or several smaller ones.*
- The proposed windfarm clearly exceeds the size recommended by the LSCS. Therefore the Planning Department, by recommending approval, is contradicting its own guidance; to grant approval would contravene adopted policy regarding onshore wind energy.*
- The Supplementary Guidance also states, “proposed development in this area needs to be carefully assessed in terms of potential cumulative effects with development in adjacent visual compartments, by examining the effects upon the North Mainland as a whole”. This does not appear to have been adequately addressed in the report.*
- MOD maintained objection, stating that the suspensive planning condition proposed was inadequate – minimising effect of turbine on radar is not sufficient mitigation – and offered to advise on suitable content of condition. This seems to have been ignored by Planning, as the suspensive condition remains. Surely this constitutes a major omission, and it does not give me faith in the Department’s competence.*
- SNH considered that the condition of peatland in the vicinity of Turbine 1 is of high quality, and nationally important and wished it to remain undisturbed. The planning report disagrees with this. Given that only now is a proper survey being undertaken of blanket bog in Shetland, I doubt very much whether the planning department has sufficient knowledge to determine this. I understand that the area of Tagdale in which Turbine 1 is proposed to be located has areas of recovering and carbon sequestering blanket bog. It would be nothing short of nonsensical to destroy this, which will have taken years to recover.*
- Besides, it has been estimated that under the SNH peat restoration programme it costs £2,500 to restore one hectare of degraded peatland. What is the sense of further degradation caused by windfarm construction. Indeed it seems crazy for the government on the one hand to be granting funds for restoration, while at the same time allowing its degradation of destruction of windfarms”.*

There were no questions from Members to Mr Mackenzie.

Mrs J Atkinson, Tingwall House, Tingwall, an objector to the application, read from a prepared paper, as follows:

“When this application was submitted last summer we concluded that whilst we were unhappy about the submission of the application in general terms, it appears from the visual impact assessment that the impact on our house in Tingwall would be minimal, however, this was difficult to ascertain as the nearest assessment had been undertaken at a lower level to our house.

In December last year the temporary mast associated with this development was erected at Hill of Dale and gives a clear point of reference as to what will be viewed from our house. It would appear that the mast is located either on the site of, or in the region of Turbine No.4. The mast that has been erected is only 80 metres high, yet the turbines will be 145 metres high. It is clear even at this height how dominating the turbines will be.

We are able to view a considerable portion of the mast from the south and east facing windows of our house. It is clear that we will see a significant portion of the turbine tower in addition to the blades of Turbine 4. It is not possible for us to ascertain how much of Turbine 6 we shall see.

If this application is approved we will be surrounded by wind turbines: there are three small turbines to the west of us at the farm, the five Burradale wind turbines to the south and southwest of us and now as a result of this application, potentially two large turbines to the east and a further three to the north east.

We have lived in close proximity to the five Burradale wind turbines for over 20 years. We have never found this easy. They are located to the south of our house and in the winter months we experience severe and very disturbing shadow flicker as the sun rises. We are concerned that this will be exacerbated by the current application. Although we are outwith the distance used to measure shadow flicker, this is proved to be a total inadequate measurement given the severe shadow flicker we experience from the turbines at Burradale.

In addition it is also very difficult living with constant moving structures within our peripheral vision, whether inside, or outside the house. If the application is approved we will have no view from any south or east facing windows of our house without viewing turbines. That is, our main habitable rooms and bedrooms. One doesn't have to be looking out of the window to be affected. The turning blades are reflected in mirrors and any glass objects such as pictures, photographs and even shiny ornaments. Consequently there is always something moving no matter where one is.

We therefore strongly object to this application on the grounds of the visual and disturbing impact these additional large turbines will have on our life.

We also believe that this application cannot be considered independently of the existing wind turbines at Burradale. The cumulative impact of both wind farms on the surrounding area and residents has to be considered and consequently we believe that the close proximity of the two farms is overprovision in this area and an unacceptable burden on those who have to live within their visual boundaries".

Members were then invited to put any questions to Mrs Atkinson.

In responding to questions, Mrs Atkinson advised from her understanding that the assessment of properties for shadow flicker was within a certain distance from windfarms based on the blade length of the turbines. She said that for the Burradale windfarm their property had been outwith the shadow flicker assessment distance however they experience shadow flicker from the Burradale Wind turbines. That being the case, Mrs Atkinson questioned whether the assessment criteria used was adequate to address their concerns of shadow flicker from the proposed wind turbines. In responding to a further question, Mrs Atkinson advised that their concern was with Turbine 4, and potentially with Turbine No. 6.

The Chair thanked Mrs Atkinson. He then invited Mr Nicol, an objector, to address the meeting.

Mr Nicol advised that he was representing 100% of the residents of Frakkafield and Tagdale, who live closest to the proposed wind farm and object to granting planning consent for this proposal, as the turbines are too close to their houses. He said that the residents are not aware of a visual impairment assessment with an illustration of what the windfarm would look like from Frakkafield. Mr Nicol referred to the Minimum Distance Bill and the debate in the House of Lords where the windmills, if passed, would require to be more than 2km away from the houses, and if they were 6 metres higher, would require to be 3km away from houses. He referred to the science and experience from people who suffered intrusion, who had to leave their property as they suffered health issues being in close proximity. Mr Nicol advised that while the minimum distance is 2km, there are 5 of the turbines proposed would be at a distance of less than 1km from his property.

Mr Nicol advised on the accident blackspots at the Frakkafield junction and Brig o' Fitch junction, and that he was personally aware of two accidents as a result of the Burradale Windfarm being a distraction to drivers. He said that windmills next to the Brig o' Fitch junction would be another distraction.

Mr Nicol advised on a requirement to site windmills where there is wind, and there are 4 of these windmills proposed in the valley where they would be sheltered, with the only operational time when there is a direct functioning wind when the noise will be directly aimed at the houses, and according to providers that would be when they would be switched off so as not to disturb residents. He added ironically when speaking with developers earlier they had no expectation of being allowed to build there. Mr Nicol referred to the Council's Planning Document DC5 Water Resources, that there is no way such a large development could be built without adversely affecting the quality of the water which is used by migratory salmon and sea trout as well as the permanent inhabitants. Regarding Shetland Tourism, Mr Nicol said that Shetland has seen in recent years an exponential growth in tourism, and Shetland is proud of its geopark status which will be lost if this type of development is pursued and will adversely affect the thriving industry. Mr Nicol added that the first thing that visiting cruise passengers will see is turbines, which will destroy the natural visualisation. In concluding, Mr Nicol confirmed that the residents were entirely against the proposed development and he hoped that Members would take these concerns onboard.

The Chair thanked Mr Nicol for his contribution. There were no questions to Mr Nicol.

The Chair invited the representative of the applicant to address the meeting.

Mr S Snowdon, Peel Energy, stated that he endorsed the Planning Officer's report, while he acknowledged the resources difficulties that the planning department has been experiencing. In referring to the objections heard at the meeting, Mr Snowdon reported that it is difficult to design a windfarm, but there is a lot of science, consultation and assessment before a planning application is submitted. There are a great many documents, including the Environmental Impact Assessment Report that accompanies the application, expertise to develop the proposals, and a lot of discussion on the planning conditions. Regarding shadow flicker, he advised that in the first instance a method is

employed on how many properties may potentially be affected. The system used is reactive to actual conditions, where a turbine will stop when conditions will affect a property. There will be a general planning condition on shadow flicker and there is a complaints procedure that can be followed. He said that shadow flicker and all aspects of construction, operation of the development and decommissioning will be covered.

Mr Snowdon referred to the visualisations that accompanied the application, which he said are a fundamental part of the assessment. The further detail at Section 6.7 of the Environmental Impact Assessment Report looks more closely at potential living conditions. He said that people who carry out assessments have to come to an independent conclusion, and if there is an impact, how severe.

In terms of the concern raised regarding communication links, Mr Snowdon said that any issues, or new links, would be identified during the scoping, and can be taken forward through the general complaints procedure.

Mr Snowdon referred to the comments made by Members on the number of conditions proposed, and the ability of the Planning Department to closely monitor these conditions. In that regard, he confirmed that there will be an independent Monitoring officer and Clerks of Works in addition to the Council's regulatory function. Mr Snowdon commented also on the difficulty to get funding should regulations and rules to comply with be ignored, or should there be any disregard to recommendations or any conditions that have been put forward. Mr Snowdon added there has been no breach of conditions at any of their three other windfarm developments.

Mr Snowdon referred to the comments made by the objector on the shadow flicker from the Burradale windfarm, and said that personally he was not aware of the shadow flicker condition as part of that approval. He advised however on the methodology for shadow flicker assessment, being 10 rotor diameters, and said the turbines are capable to be programmed for shadow flicker shutdowns, and he confirmed that process would be built in when developing the model for the Mossy Hill scheme.

The Chair invited questions to Mr Snowdon.

Mr Bell referred to the concerns raised by the Shetland Clay Target Club regarding the access road and that one turbine would be overlooking their safety area. Mr Snowdon advised that this meeting was not the appropriate arena for the discussion, being a legal and property aspect, rather than a planning issue. He was however aware that discussion has been ongoing regarding the shot drop area, and with working practises and methodology the risk would be minimised as far as possible. He said that the applicant would continue to work closely with the Club in that regard, and referred to the good dialogue with the Club, which he said would expect to be the case going forward. The Chair commented that the Clay Target Club have raised a bonafide objection, and having heard from the representative of the Club and the representative of the applicant it would appear that while there will be further discussion, no reassurance has been given to Members of the Planning Committee that a resolution can be achieved. Mr Bell however suggested, that should the

Committee be minded to approve the application, an additional condition could be formed, which would cover the concerns raised.

In referring to Section 4.25 of the covering report, where it stated that the applicant was committed to sourcing as much local labour as possible, Ms Macdonald enquired on any discussions that have taken place with individuals with the correct skills to do the work required. Mr Snowdon advised on attendance at a supply event in June. He also advised that Peel Energy normally operate a "local employment and procurement scheme", and he said that while that is not a planning consideration, Peel Energy look to source skills and labour in the local authority area whenever that is practical to do so.

Mr Sandison referred to the proposal to have turbines within 1km, and less than 2 km from houses. In that regard, he questioned the justification and commented that Policy was being ignored. Mr Snowdon said that he was not aware of a hard and fast Policy, and their layout had undergone detailed noise surveys, and the usual key predictors for visual impact and shadow flicker. He advised that their initial proposal for 21 turbines had been reduced. In response to a further question, Mr Snowdon explained that their proposal has been informed by their studies, whereby in instances where the turbines are within 1 km of a property, there will be no unacceptable adverse impact. Mr Sandison referred to the visualisations and the maps, and the concern raised by one objector regarding the number of turbines close to the junction which could potentially cause a distraction to drivers. Mr Sandison enquired on the assessment that has taken place in terms of distraction to road users. Mr Snowdon advised that road safety formed part of the Environmental Assessment, and extensive dialogue had taken place with the Council's Highways Engineer. There is also a planning condition that a Traffic Management Plan has to be submitted and agreed by the Council, and to be continually reviewed by the Monitoring Officer. Mr Snowdon said however that driver distraction is not typically an issue, and he referred to studies where a rotating turbine is not a distraction. He said however that while the potential for distraction always exists, it is down to each individual driver to drive safely.

In responding to a question from Mr G Smith as to whether there were any visual illustrations from Frakkafeld or the Dale golf course, Mr Snowdon advised there was a visual illustration from Frakkafeld, but it was not from the objector's property. Mr G Smith commented that he had seen that particular visual illustration, and said that it was striking to get a feel of how near the turbine would be, and in terms of its size. Mr G Smith suggested that visual illustrations of the turbines that would be closest to properties may have benefitted Members on the Planning Committee, rather than views from, for example, Hamnavoe. Mr Snowdon advised that the submissions were representative views rather than photomontages. The Chair advised on his concern that the submissions had not included photomontages from the nearest properties at Frakkafeld, and at the top of Shurton Brae, where 9-10 houses would be quite near to the turbines. Mr Snowdon said that there are no photomontages from the houses in Shurton Brae, but advised that there were wire-frame diagrams at Figures 3e, 3f and 3g of the submissions. Mr Snowdon added that the proximity of a turbine is not a guarantee indicator of a problem.

In responding to questions from Mr G Smith, Mr Snowdon advised that the turbines would be able to operate more than 98% of the time, and their

expectation for shadow flicker would typically result in a 2-2.2% loss in generation. In the instances the strength of the wind is too strong, the turbines can be turned out of the wind so they no longer generate. He said that in a good environment the turbines will be available to generate all the time. Mr Snowdon added that Peel Energy would not have considered this particular site, if there was not confidence the wind farm would work within the conditions proposed.

Mr C Smith advised that he represents the Lerwick South ward, but that he was representing all Shetland residents when discussing these type of applications. Mr C Smith enquired how many hours per day was expected for shadow flicker in the summer months, advising that he was raising concerns from a constituent in the Lerwick South ward whose property had initially been included on the map, but the property was then removed. Mr Snowdon said that while he did not have the information to hand on that individual property but said that he could get the answer. He advised that the property would be referred to in the shadow flicker assessment report, which had informed the EIA.

Ms Manson asked Mr Snowdon what Peel Energy would consider to be a reasonable minimum distance between a property and a turbine for this windfarm, given that the houses were in a valley, and that sound travels in a valley. Mr Snowdon advised that there was the separation distance, the noise assessment and environmental variables that self regulates where a turbine can be located. Mr Snowdon added that he was aware of turbines located less than 0.5km from a property where there have been no problems. In response to a further question from Ms Manson as to whether an environmental survey had been undertaken at the closest property, Mr Snowdon advised on the dialogue with the Environmental Health Service in terms of the parameters of the noise survey, which he advised has been reflected in the condition.

The Chair said that he represents the Ward of Shetland West, and had been advised of concerns from the West Burrafirth Broadband Group in terms of interference of broadband links from Shurton Brae. The Chair said that the Group advised that Peel Energy have been aware of their concerns for some time. Mr Snowdon advised that Peel Energy do not believe there will be a problem with broadband coverage, and this formed part of the scoping survey and design of the windfarm. He advised however on the planning condition that would cover television and radio signal strength which will capture broadband. He went on to say that in the event planning permission is granted, officers will monitor performance, and any unacceptable impact would be rectified by the applicant, at their expense. Mr Snowdon added that Peel Energy are committed to ensure there are no problems, but confirmed that any problems would be rectified at their expense.

In referring to the applicant's decision to reduce the number of turbines on the site from 21 to 12, the Chair enquired on the reason that the overall size of the site had not reduced. Mr Snowdon advised that while a number of the turbines had been removed due to environmental factors, the application is still clear on the number of turbines proposed, and that it is easier to proceed within the initial area as illustrated in red on the map. He advised on the ability to use some of the land, while not for its intended purpose, for habitat and peat improvement work.

Mr G Smith sought clarity from Mr Snowdon as to whether the application as submitted, with the concerns raised in terms of the proximity of wind turbines, was Peel Energy's final submission. Mr Snowdon confirmed that was the case.

There were no further questions to Mr Snowdon. The Chair thanked Mr Snowdon for the information provided.

During debate, the Chair advised that he continued to have concerns on impacts of shadow flicker or the potential for shadow flicker from the turbines. He said that his concern was for the people who would be living nearby to a windfarm, and for the development proposed there would be quite a number of people who would reside nearby. He referred in particular to Frakkafeld and also at Mrs Atkinson's property, at Tingwall House, which the Committee had been informed was already subjected to shadow flicker from another wind farm in the area. The Chair said that he also had significant concerns at how close some of the proposed windfarm would be to houses at the top of Gulberwick, at Shurton Brae. In that regard, he advised from the visual assessment that the area for assessment had included 9 houses and the red line had also passed through the middle of a further property, which he said should be included. The Chair stressed the need to pay particular attention to the condition put on for shadow flicker, where he said that at the moment it was a general condition, and in that regard, he proposed that the shadow flicker condition be strengthened to name the houses at Frakkafeld, the 10 houses at the top of Shurton Brae, and Tingwall House.

Mr C Smith advised that he supported the Chair's comments. He then referred to the concerns of the property owner at North Shurton, that the red line had crossed through their property, but that their property had been removed from the other 9 properties in terms of the shadow flicker assessment. He advised however that Peel Energy has since agreed that this tenth property will be included. Mr C Smith advised on the need to control shadow flicker as it can impact on the health of affected residents. Mr C Smith added that he would like to see the turbines that would impact on the properties at Shurton Brae to be moved north to remove shadow flicker.

Mrs Hughson advised on her concern at the proximity of the proposed turbines to dwellings, and in that regard she questioned whether there was a minimum distance set down, and on how the Committee could limit proximity for the turbines to be moved further away from the dwellings. In referring to the concerns raised by the Clay Target Club, Mrs Hughson advised on the huge inroads made to develop the facility and to compete at a national level, where she said that the loss of that asset, and the investment in young people to compete at a national level, would be a loss to the Shetland community. Mr Bell made comment that it was clear that a development of this nature would not please everybody, and it was a matter to find a balance. In terms of the concerns raised by the Clay Target Club, Mr Bell proposed that a further condition could be added to approval of the application, to ensure the Club's concerns were resolved before the development goes ahead.

Mr G Smith advised on his unease with the application, and said that what he had heard during the discussion he had received little assurance from the developer on the questions he had raised, and he also questioned whether the applicant was taking the matter seriously. He also advised on his concerns at the

lack of engagement with those people that would be most directly affected, and said that while he accepted the desire of the applicant to mitigate shadow flickering as much as possible, it does not remove the impact. Mr G Smith also referred to the disruption and the impact on the quality of life to the people living near to the wind farm. Mr G Smith added that he awaited further conditions coming forward from Members.

In referring to the response from the applicant that there are to be no variations to the application as presented, Ms Manson advised on her concern at the distance of only 800 meters between a turbine and the nearest property, where there will be noise from all directions. Mrs Manson made comment on the lack of consultation with that householder. She also noted that there are other properties where the distance would be barely 1km from a turbine. Mrs Manson added that the developer should look to develop the windfarm somewhere else, that would not destroy peoples' lives.

Mr T Smith moved that the Committee approve the application, subject to the recommended planning conditions, but with the shadow flicker condition to be strengthened to name the houses at Frakkafield, the 10 houses at the top of Shurton Brae, and Tingwall House; and with an additional condition that the Shetland Clay Target Club's concerns are resolved before the development goes ahead. Mr C Smith seconded.

Ms Manson moved as an amendment, that the application be refused, owing to the close proximity of houses to the proposed turbines, and the close proximity to watercourses and to Sandyloch, and on shadow flicker. Mr G Smith seconded.

Following summing up, voting took place by a show of hands, and the result was as follows:

Amendment (Ms Manson)	2
Motion (Mr T Smith)	6

In referring to the decision of Committee, the Chair advised that the modified condition and the new condition would be worded in consultation with the Planning Officials.

Decision

The Committee RESOLVED to grant approval of the planning application subject to the recommended planning conditions, but with the shadow flicker condition to be strengthened to name the houses at Frakkafield, the 10 houses at the top of Shurton Brae, and Tingwall House; and with an additional condition that the Shetland Clay Target Club's concerns are resolved before the development goes ahead.

Mr T Smith declared an interest in the following item, where he made reference to his ongoing objection to the Viking Energy Wind Farm, and said that in sitting as Chair he could not give an unbiased view on the application. Mr T Smith advised that he would now leave the Chamber, and pass the meeting to the Vice-Chair, Ms Manson, to take the next item.

(Mr T Smith left the meeting).

(There was a 10 minute adjournment).

(Ms Manson took the Chair).

6/19 **2018/096/PPF - Provision of a 2.09 km access track and associated works, new junction and temporary construction compound - Unclassified road to Upper Kergord runs approximately 1.5km, from a junction with the B9075, approximately 70m east of B9075 of Weisdale crossing, by Mr Jamie Watt, Viking Energy Wind Farm LLP.**

The Committee considered a report by the Planning Officer – Development Management [Record Appendix 2], to be considered as a Hearing.

In his presentation to Committee, the Team Leader – Development Management advised that in terms of this application the following key issues required to be considered:

- The acceptability of the principle of the development.
- Impact on existing uses and users.
- Impact on Natural Heritage and Biodiversity.
- Flood Risk and Surface Water.
- Impact on Built Heritage.
- Impact on Roads and Access.

The Team Leader advised on the following, *“The principle of an access track requirement to serve the convertor station and other buildings at Upper Kergord was established with the approval of the Viking Wind Farm by the Scottish Ministers (2009/191/ECU) in 2012 and the granting by the Council in 2011 of planning permission in principle for the convertor station (2009/224/PCO). The proposal to create the access track is one which is related to the commercial operation of the proposed Viking Wind Farm and will allow direct access to the approved and related convertor station site at Upper Kergord. The proposal has been supported by the submission of an Environmental Appraisal Report prepared in June 2016 and also submitted under the previous submission, which covers an appraisal of areas of environmental significant impact and provides an assessment of the main issues. It has assessed the likely significance of the effects of the development, and has concluded that with suitable effective mitigation measures the residual effects can be regarded as being minor and therefore not significant.*

Scottish Planning Policy (2014) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development, aiming to achieve the right development in the right place, supporting the transformational change to a low carbon economy, but not development at any cost.

Shetland Local Development Plan (2014) seeks to ensure that development will not have a significant adverse effect on existing uses in the vicinity of the site nor have an adverse impact on the environment.

Representations have been received from Sustainable Shetland and local residents (Mr and Mrs Morrison) (as outlined within the Planning Report and attached as Appendix 4).

Tingwall, Whiteness and Weisdale Community Council have indicated that they wish to support the letter of representation sent in by Mr and Mrs Morrison on 16 September 2018 regarding this application, but not Point 3 regarding access.

The application process has seen consultation with various bodies including SEPA, SNH and RSPB. As a result of the consultations and representations various issues relating to the management of the impact of the development on the environment have been raised.

In terms of the impact on natural heritage, the environment and peat management, consultation responses have been received from two statutory consultees, Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA), as well as from the Royal Society for the Protection of Birds (RSPB). The Council's own Natural Heritage Officer has also made comments.

Following initial objections by SEPA further information was submitted by the applicant. The further information submitted has been reviewed by SEPA and they have confirmed that as a result of the revisions made by the applicant they are in a position to remove their previous objections in relation to peat management and ground water dependant terrestrial ecosystems if planning conditions it requests in their response are attached to any future consent. The planning conditions requested are being recommended to the Committee.

The RSPB have commented that whilst they do not object to the application, they consider that additional information is required in order to fully assess the potential impacts of this application. Their comments relate to a Bird Protection Plan, Peat Management Plan and Habitat Management Plan. Conditions relating to the submission of these reports are also being recommended.

SNH have raised no objections but have commented that breeding bird and otter surveys are required before it can be ascertained whether the proposal will result in offences under wildlife law. The securing of these surveys by means of a planning condition will allow no conflict with policy.

SEPA have also advised that they have no objection to the proposed development on flood risk grounds, provided that details are provided of the flow capacity of the crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere. A planning condition to be attached to a consent requiring the submission of these details is also being recommended.

The Council's Drainage and Flooding Officer commented that the suggested drainage approach has been accepted in principle. As a design and build project the detailed drainage design cannot be confirmed at this time, and on-going discussions regarding the specific drainage proposals will need to take place with SEPA and the Council.

The final design for a sustainable drainage system (SuDS) can be secured via a pre-commencement planning condition attached to a consent, thereby avoiding abortive work or the provision of inaccurate information at this stage. A suitable

Construction Environmental Management Plan and a Water Quality Monitoring Programme has been proposed by the applicant, and this too can be required and delivered by attaching a planning condition to a consent. This will ensure the protection of the water environment and therefore compliance with SLDP Policy WD3.

The Shetland Regional Archaeologist (SRA) commented that the Environmental Appraisal Report has identified a number of "heritage assets" within 1km of the proposed development. An appropriately worded condition to ensure protection of these assets can be applied.

The Council's Roads Traffic Service were consulted on the proposal and have raised no objections. A road condition survey on the haulage routes proposed is recommended by condition prior to the works commencing - to ensure that any extra burden from wear and tear on public roads does not fall on the Council.

In conclusion, it is inevitable that the construction of the access track will have an impact on the natural heritage and the ecosystems in and around the site boundary for the proposed development. However, as stated in the report, what has to be considered is whether these impacts are so adverse that the Council should put aside the inherent presumption within the planning system which is in favour of development unless the adverse impacts of a development would significantly and demonstrably outweigh the benefits, in this case a key enabling component to a sustainable energy development.

Objections received have raised material planning concerns, as have the comments from statutory consultees. Further submissions of information have been forthcoming from the applicant and as a result SEPA have now removed their objections subject to conditions they recommend being attached to any consent.

When considered against the relevant policies within the SLDP the evidence in the Planning Service's view gives rise to the conclusion that while there will be impacts on peatland, the water environment and habitat, these can be satisfactorily managed. Appropriate conditions attached to a consent will ensure that all the aspects of concern raised will be the subject of the further submission of information or survey work, and be addressed so as to allow development to take place. It is therefore recommended that the Planning Committee grants approval of the application, subject to the conditions set down in Appendix 3 to the report".

The Chair referred to the two objections received on the application, being Sustainable Shetland, who she noted was represented at the meeting by Mr J Mackenzie, and also from Mr and Mrs Morrison, who did not appear to be present.

Mr Mackenzie stated that he had not been advised that he could address the meeting on this application, so he was not prepared in that regard. He added however that the objection as submitted from Sustainable Shetland, attached as an appendix to the report, would still stand. The Team Leader indicated that the invitation to attend today's meeting would have been sent to the Chair of Sustainable Shetland.

Mr A Priest, Viking Energy Ltd, advised that Mr J Watt, Viking Energy Wind Farm LLP, had been unable to travel to Shetland today, so he would answer any questions from Members. Mr Priest commented that the principle of the 2km access track has already been established within existing approval, and advised that the revised and improved application would reduce impact and minimise disruption to users of the road.

In response to a question from Mrs Hughson as to whether there had been any dialogue with the resident near the turn off from the main road, Mr Priest clarified that the particular access was at Kergord, rather than it being the one immediately adjacent to the “Half Way House” at Sandwater. He advised however that there has been some ongoing discussion with the resident of the “Half Way House” on aspects of the wider project.

Mr G Smith enquired on proposals to manage the use and maintenance of the proposed access track. Mr Priest advised that the track would be handed over to Scottish Hydro Electric Transmission (SHET) at the appropriate time, as the track would facilitate the route to their convertor station. SHET would have responsibility for the structure and maintenance of the track. Mr Priest advised that throughout the construction of the wind farm, the access route would also be used by construction traffic at the wind farm. He added that SHET have very appropriate requirements to get kit into Kergord and therefore he expected SHET to have quite onerous standards to maintain the future of the asset.

In responding to a question on the potential for unauthorised use of the track, Mr Priest said that he would expect signage in place to discourage or prohibit unauthorised vehicle access, however he commented that there was the “right to roam”. He added that the convertor site would be protected by fences, with health and safety warnings of high voltage.

Mr C Smith enquired on any weight restrictions on the road between Sandwater into the Kergord junction. Mr Priest advised that there will be a separate application presented to Committee in early course, for a new access route from Sandwater junction to the junction of the access track. He said that this will be an entirely new route to the North of the existing Sandwater Road, intended for construction traffic and SHET traffic ultimately, to a standard which could be finished and adopted by the Council as Roads Authority.

There was no debate. Mr C Smith moved that the Committee approve the application, subject to the recommended conditions. Mr Bell seconded.

There was no one otherwise minded.

Decision

The Committee RESOLVED to grant approval of the planning application subject to the recommended planning conditions.

The meeting concluded at 4.40pm.

.....
Chair



Meeting(s):	Planning Committee	27 May 2019
Report Title:	2018/328/VCON - Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON Temporary Residential Accommodation, Sella Ness Industrial Estate, Graven, Mossbank, Shetland, ZE2 9UP, by Malthus Uniteam (UK) Limited.	
Reference Number:	PL-05-19-F	
Author / Job Title:	Richard MacNeill, Planning Officer – Development Management	

1.0 Decisions / Action Required:

- 1.1 That the Planning Committee RESOLVE to grant approval of the application, until 30 November 2022, subject to conditions.

2.0 High Level Summary:

- 2.1 Planning permission for the temporary accommodation facility was granted permission under 2010/256/PCD for a period of 5 years (Class 7 - Hotels and Hostels). The development site is located on the Sella Ness Industrial Estate on a site owned by Shetland Islands Council.
- 2.2 The development was given permission as it was required to accommodate the workforce required to construct the gas processing plant immediately to the north east of the Sullom Voe Oil Terminal that was granted planning permission in February 2010 (Ref: 2009/271/PCD).
- 2.3 The permission for the temporary accommodation facility was extended under consent 2014/109/VCON for a further 5 years expiring in November 2020 and was subject to the following condition.

"The permission hereby granted, in so far as it relates to the occupancy of the accommodation facility, shall be valid until 30 November 2020. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the building shall be decommissioned and removed, and the site shall be reinstated in accordance with the decommissioning and reinstatement scheme required by condition 5 of permission ref 2010/256/PCD.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Shetland Structure Plan (2000) Policy GDS4, and SPNE1, and Shetland Local Plan (2004) Policy LPNE10 and LPBE13."

- 2.4 This application proposes a variation to condition 2 of Planning Consent 2014/109/VCON to allow the temporary accommodation facility to remain on site for a further period of time until 30 November 2026.

2.5	This application is referred to the Planning Committee for decision in terms of the approved Planning Scheme of Delegations as the application is classed as a major development (the original application having also been so classed), and the application relates to land owned by the planning authority.
3.0	Corporate Priorities and Joint Working:
3.1	A decision made on the planning application that accords with the development plan would accord with the aims as are set down in the Council's Corporate Plan: "Our Plan 2016-20" that Shetland is to have good places to live as well as sustainable economic growth with good employment opportunities, and will have an economy that promotes enterprise and is based on making full use of local resources, skills and a desire to investigate new commercial ideas. https://www.shetland.gov.uk/documents/OurPlan2016-20final.pdf .
4.0	Key Issues:
4.1	<p>The key issues requiring to be considered in this instance are</p> <ul style="list-style-type: none"> • the acceptability of allowing a further extension to a temporary permission. • Applicant's submission on the need for the accommodation facility for future projects. • Objectors case that the presence of the accommodation facility is detrimental to other accommodation providers.
4.2	Scottish Planning Policy (SPP) (2014) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development aiming to achieve the right development in the right place supporting the transformational change to a low carbon economy, but not development at any cost.
4.3	Policy GP2 of the Shetland Local Development Plan (2014) (SLDP) seeks to ensure that development will not have a significant adverse effect on existing uses. Policy H7 of the current Shetland Local Development Plan (SLDP) states that applications for the siting of temporary structures for residential purposes will be subject to the same criteria and policies that apply to applications for new dwellings, with site restoration conditions applied.
4.4	A "Section 42 Application" means an application for a new planning permission or a new planning permission in principle for a development but with different conditions from those attached to a previous permission for that development. In determining such an application, the planning authority can only consider changes to the conditions on the previous permission. However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented.
4.5	The Delegated Report of Handling (attached as Appendix 1) has therefore only considered whether it is appropriate to extend the lifetime of the permission beyond the timescale granted under 2014/109/VCON.
4.6	The accommodation facility was originally required to house the workforce required to construct the gas processing plant. The gas plant has now been completed. The applicant has sought to demonstrate the accommodation facility should be

retained for a further period of time and be used to address a predicted shortfall of accommodation and continue to provide temporary accommodation for the workforce employed on future developments that are likely to arise in the oil, gas, energy and other sectors within Shetland.

- 4.7 Due to the unique circumstances as described above the original development was found to be acceptable on the basis that it was for a temporary period only and as the application and supporting information demonstrated that, subject to appropriate planning conditions, the proposed development, in a sustainable location close to the area where the workforce were required, could be accommodated on the brownfield site on the Sella Ness Industrial Estate without having an unacceptable detrimental impact on the natural or built environment in the vicinity of the development site.
- 4.8 A number of objections, including two from community councils (included in those representations attached as Appendix 4), have been received. The main thrust of the objections is on the basis of the impact of the retention of the accommodation block on the interests of other accommodation providers within Shetland. Assertions with regard to economic impact on existing facilities cannot be easily quantified. Impacts which could result in a loss of trade or increased competition are not a material planning consideration
- 4.9 The site is within an area identified in the SLDP as a site with development potential for industrial use (NM020), in close proximity to an additional area identified for industrial use (NM005), to the south of the B9076. Policy GP2 at part i) states that development should not sterilise allocated sites as identified within the Shetland Local Development Plan. A residential facility on this site not only occupies a significant section of an area (NM020) deemed appropriate for industrial use, but also poses a sterilisation risk for future industrial development within adjacent areas (of both NM005 and NM020) should it continue to benefit from planning permission after 2020.
- 4.10 Policy ED1 of the SLDP supports business and industry through the encouragement of sustainable economic development. As has been stated above, this proposal for extended residential use on an inappropriate site puts at risk the potential for sustainable industrial development both on the application site and in surrounding areas that could be potentially sterilised by this development. The 'Worker Accommodation Demand and Supply in Shetland' document accompanying the application seeks to establish the economic benefit of the continued operation of this facility, both in support of the Sullom Voe Terminal and potential future demand associated with other projects in the Sullom Voe area and over a wider region. There is the possibility that benefit provided through employment associated with the residential facility may come at the expense of longer-term sustainable industrial development of the areas identified in the Local Development Plan at Sella Ness.
- 4.11 On the basis of the information submitted, the proposal is contrary to Policy GP2 part i) as the facility currently occupies a section of land with development potential for industrial use and potentially also sterilises areas around it. As residential accommodation in its current location this proposal is also contrary to SLDP Policies GP1 and H7. However it is considered that subject to the conditions recommended, not in the least with regard to the timescale for retention, the application is an acceptable departure from policy and does not require to be notified to the Scottish Ministers.

Conclusion

- 4.12 The Planning Service considers that the two periods of temporary use granted were for a specific purpose, and that the special circumstances that were prevalent at that time are similarly predicted, albeit with no degree of certainty, to exist in the near future due to the projects such as the Viking Wind Farm that are intended to take place.
- 4.13 To grant a further extension of the timescale by the variation of condition 2, and to allow the retention of such a temporary facility while contrary to the development plan would not be inconsistent with the approach that the Planning Service and Council has taken before to support the delivery of major infrastructure and sustainable developments.
- 4.14 Notwithstanding this, a timescale of a further 6 years is not considered necessary or appropriate to establish whether the special circumstances are likely to be fulfilled. A further period of 2 years from 2020 for the retention of the accommodation facility is therefore recommended in order to evaluate whether or not the accommodation is necessary for such predicted and proposed projects, and whether or not it can continue to be considered as a special circumstance.

5.0 Exempt and/or confidential information:

5.1 None.

6.0 Implications :

6.1 Service Users, Patients and Communities:	None.
6.2 Human Resources and Organisational Development:	None.
6.3 Equality, Diversity and Human Rights:	None.
6.4 Legal:	Town and Country Planning (Scotland) Act 1997(as amended).
6.5 Finance:	None.
6.6 Assets and Property:	None.
6.7 ICT and New Technologies:	None.
6.8 Environmental:	The environmental impacts arising from the proposed development are raised within the Report of Handling attached.
6.9 Risk Management:	If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning

	<p>permission on the basis of the proposal being contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to provide 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.</p>	
6.10 Policy and Delegated Authority:	<p>The application is for planning permission made under the terms of the Town and Country Planning (Scotland) Act 1997 (as amended). The decision to determine this application is delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers, as the application is classed as a major development, and it relates to land owned by the planning authority. principally because the Council is the landowner.</p>	
6.11 Previously Considered by:	None.	

Contact Details:

Richard MacNeill, Planning Officer, Development Services
20 May 2019

Appendices:

1. Report of Handling on planning application.
2. Submitted Location Plan.
3. Schedule of recommended conditions.
4. Letters of representation Appendix attached

Background Documents:

[Scottish Planning Policy \(SPP\)](#)
[Shetland Local Development Plan \(2014\)](#)

END

Delegated Report of Handling

Development: Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON

Location: Temporary Residential Accommodation, Sella Ness Industrial Estate, Graven, Mossbank, Shetland, ZE2 9UP,

By: Malthus Uniteam (UK) Limited

Application Ref: 2018/328/VCON

1. Introduction

Planning permission for the temporary accommodation facility was granted permission under 2010/256/PCD for a period of 5 years. (Class 7 - Hotels and Hostels)

The development site is located on the Sellaness Industrial Estate on a site owned by Shetland Islands Council.

The development was given permission as it was required to accommodate the workforce required to construct the gas processing plant immediately to the north east of the Sullom Voe Oil Terminal that was granted planning permission in February 2010 (Ref: 2009/271/PCD).

This permission was extended under consent 2014/109/VCON for a further 5 years expiring in November 2020 and was subject to the following condition.

"The permission hereby granted, in so far as it relates to the occupancy of the accommodation facility, shall be valid until 30 November 2020. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the building shall be decommissioned and removed, and the site shall be reinstated in accordance with the decommissioning and reinstatement scheme required by condition 5 of permission ref 2010/256/PCD.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Shetland Structure Plan (2000) Policy GDS4, and SPNE1, and Shetland Local Plan (2004) Policy LPNE10 and LPBE13."

This application proposes a variation to condition 2 of Planning Consent 2014/109/VCON to allow the temporary accommodation facility to remain on site for a further period of time until 30 November 2026.

This application is referred to the Planning Committee for decision as a statutory exception within the approved Planning Scheme of Delegations, principally because the Council is the landowner.

2. **Statutory Development Plan Policies**

Shetland Local Development Plan

GP1 - Sustainable Development
GP2 - General Requirements for All Development
GP3 - All Development: Layout and Design
CST1 - Coastal Development
ED1 - Support for Business and Industry
ED2 - Commercial and Business Developments
NH4 - Local Designations
TRANS 3 - Access and Parking Standards
W5 - Waste Management Plans and facilities in all new developments
WD1 - Flooding Avoidance
WD2 - Waste Water
WD3 - SuDs
H7 Residential Caravans and other Temporary Residential Structures

3. **Safeguarding**

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

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

5m Contour Area - 5m Contour Area: 1

Canmore - Canmore: 345483

Sites with Development Potential - Sites with Development Potential: Sellaness
Scasta
Landowner: SIC

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

Special Area of Conservation - SAC: Sullom Voe

Scatsta Safeguard - Height: 10m

Scatsta Safeguard - Height: 15m

SEPA SW Extents - SEPA SW Extents: L

SEPA SW Extents - SEPA SW Extents: M

SMR - SMR: MSN5872

Name: Graven

Type: MILITARY STRUCTURE, PILLBOX

SVT Features - Details: Sullom Voe Terminal COMAH Zone

4. Consultations

Development Plans was consulted on the 10 January 2019. Their comments dated 11 February 2019 can be summarised as follows:

This proposal seeks to vary the terms of condition 2 of planning permission 2014/109/VCON, to extend permission for the temporary accommodation facility's use (prior to decommissioning and removal) to 30 November 2026, which would extend the permitted life of the accommodation facility by 6 years. Permission 2014/109/VCON is itself a variation of permission 2010/256/PCD, which gave an extension to temporary permission for the development until 30 November 2015.

The development is situated on Sella Ness Industrial Estate, Graven, Shetland. It is within the North Mainland locality. The facility comprises 5 adjoining accommodation blocks (containing 426 rooms in total), an amenity building, external parking (for both coach and car parking) and associated outdoor amenity areas.

Siting of Residential Development in an Industrial Area

The site is within an area identified as a site with development potential for industrial use (NM020), in close proximity to an additional area identified for industrial use (NM005), to the south of the B9076. Policy GP2i states that development should not sterilise allocated sites as identified within the Shetland Local Development Plan. A residential facility on this site not only occupies a significant section of an area (NM020) deemed appropriate for industrial use, but also poses a sterilisation risk for future industrial development within adjacent areas (of both NM005 and NM020) should it continue to benefit from planning permission after 2020.

Policy H7 states that applications for the siting of temporary structures for residential purposes will be subject to the same criteria and policies that apply to applications for new dwellings, with site restoration conditions applied. Therefore,

to be in accordance with Policy GP1, temporary residential accommodation should be in or adjacent to existing settlements that have basic services and infrastructure in order to enhance their viability and vitality and to facilitate ease of access for all. Previous temporary permissions for this facility do not follow the site selection process established by GP1, due to a clearly specified short-term requirement for accommodation at this location related to the Gas Processing Plant construction project at Sullom Voe.

Policy ED1 supports business and industry through the encouragement of sustainable economic development. As has been stated above, this proposal for extended residential use on an inappropriate site puts at risk the potential for sustainable industrial development both on the application site and in surrounding areas that could be potentially sterilised by this development. The 'Worker Accommodation Demand and Supply in Shetland' document accompanying the application seeks to establish the economic benefit of the continued operation of this facility, both in support of the Sullom Voe Terminal and potential future demand associated with other projects in the Sullom Voe area and over a wider region. There is the possibility that benefit provided through employment associated with the residential facility may come at the expense of longer-term sustainable industrial development of the areas identified in the Local Development Plan at Sella Ness.

Justification of Need

As the construction project (of a Gas Processing Plant) has now concluded, this application seeks to extend the life of this facility for a further 6 years on the basis that the facility would fulfil existing and future temporary accommodation demand. The accompanying 'Worker Accommodation Demand and Supply in Shetland' document seeks to support the application in stating that this longer term demand exists, both associated with operations at Sullom Voe and within a wider Shetland context (in connection to infrastructure projects such as wind turbine assembly). This supporting document also states that this temporary accommodation facility provides economic benefit through employing staff and, as indicated on page 2 of this document:

The closure of Sella Ness could also lead to companies operating at Sullom Voe scaling back operations (due to the lack of suitable accommodation provision) and could have a significant impact on the major renewable energy projects which are envisaged for Shetland.

Given operations at Sullom Voe are likely to continue for the foreseeable future, the above statement suggests that there may be longer term need for accommodation to ensure the viability of the Oil Terminal and Gas Processing Plant. It may not be appropriate to manage worker accommodation demand at these sites through a temporary facility for a 6 year period when a longer term solution may be more sustainable. Therefore, if there is a clearly displayed long-

term need for temporary worker accommodation associated with Sullom Voe, the accommodation facility at Sella Ness should be evaluated against long-term alternatives, which may be more sustainable.

In respect of other projects, it is also possible that there could be other, more sustainable, locations for accommodation in respect of these projects. The supporting statements for this application estimate potential worker numbers, but not the potential locations for accommodating them or the frequency and duration their accommodation would be required.

The statement in the 'Worker Demand and Supply Document' that without this facility there may be impact on oil and gas operations, and other infrastructure projects, needs to be supported by further detail. This may be by providing evidence stating that there is a critical need for accommodation at this location to support current and future temporary worker levels.

As a business providing services to Sullom Voe and potentially over a wider area, this accommodation facility is also a commercial or business development. Policy ED2 states that there is support for such developments where they 'promote employment opportunities, community benefits, rural diversification and tourism related ventures and contribute to the viability of existing settlements where they comply with General Policies (GP1, GP2, and GP3) and do not conflict with residential amenity.

It is stated in the worker demand assessment (p. 2) that this facility would avoid constraint being placed on the tourism sector by reducing demand in peak periods. However, there is no indication in the assessment that there are at present or potential short term capacity issues (p.12-13), even during peak periods, in respect of occupancy rates. Statement of cruise visitors (p.11) increasing should not affect accommodation capacity as these visitors are generally accommodated onboard their vessel.

Employment opportunities associated directly with this development (as stated on p. 22 of the 'Worker Accommodation Demand and Supply in Shetland' document) are currently at 22 people, with full operational levels being 35 employees. However, as these positions would be for a temporary period, the positive impact of employment provision could be seen as limited, especially if the facility were to displace positions in the accommodation sector elsewhere and through limiting industrial development. Therefore, any community benefit or employment opportunities arising from this development could be seen to be limited, to the extent that it is doubtful that the proposals would be supported by Policy ED2.

Foul water outfall into Sullom Voe SAC

The Development Plans team would draw attention to Policy WD2 Waste Water,

in particular the statement that 'There should be no detrimental effect, including cumulative effect, on the surrounding uses, natural, built environment and cultural heritage'. This, along with Scottish Planning Policy paragraphs 77 (rural development) and 202 (Valuing the Natural Environment) may be considerations as this development currently emits foul water to an open water SAC environment.

With a potential extension to 2026 the emission of sewage associated with this facility at high occupancy levels may be of relevance. In respect of this matter the Development Plans team would defer to colleagues with appropriate technical expertise and knowledge.

Conclusion

On the basis of the information submitted, the proposal is contrary to Policy GP2i as the facility currently occupies a section of land with development potential for industrial use and potentially also sterilises areas around it. As residential accommodation in its current location this proposal is also contrary to Policies GP1 and H7.

In order to clearly establish whether the proposal would be an acceptable departure from Policies GP1, GP2 and H7 an assessment of alternative sites and accommodation types is required, to demonstrate that there is a clear requirement to deviate from policy to use this site, which would not usually be appropriate for this type of development.

The proposal is likely to be contrary to Policy ED1 due to the potential restriction of industrial development on sites with development potential. It is uncertain whether the proposals would be supported by, or contrary to, Policy ED2 as any economic benefit derived from the facility's operation to 2026 would be temporary and the overall economic impact of the development is uncertain. There is a need for consideration of whether there is likely to be a longer term need for accommodation beyond 2026 and whether there may be more sustainable alternatives in managing this demand.

For need to be clearly established for this development on an inappropriate site, assessment should be conducted of both alternative sites and accommodation solutions to requirements at Sullom Voe and other projects across Shetland. Further information should also be provided in respect of whether the facility does address any actual capacity issues in the temporary accommodation sector (especially in relation to seasonal requirements).

Roads Traffic was consulted on the 10 January 2019. Their comments dated 18 January 2019 can be summarised as follows:

No objections

Shetland Islands Council Economic Development was consulted on the 10 January 2019. Their comments are set out below:

This proposal seeks to vary the terms of condition 2 of planning permission 2014/109/VCON, to extend permission for the temporary accommodation facility's use (prior to decommissioning and removal) to 30 November 2026, which would extend the permitted life of the accommodation facility by 6 years. Permission 2014/109/VCON is itself a variation of permission 2010/256/PCD, which gave an extension to temporary permission for the development until 30 November 2015.

The development is situated on Sella Ness Industrial Estate, Graven, Shetland. It is within the North Mainland locality. The facility comprises 5 adjoining accommodation blocks (containing 426 rooms in total), an amenity building, external parking (for both coach and car parking) and associated outdoor amenity areas.

Accommodation Demand

The accommodation facility sited on the Sella Ness Industrial Estate was designed and approved as temporary accommodation for the construction phase of the Shetland Gas Plant, with an extension to existing permission granted in order to provide an accommodation solution for construction work required for the Gas Sweetening Plant, which estimated 500 workers. Construction on the Shetland Gas Plant has now completed and BP stated in 2016 that the planned Gas Sweetening Plant would not now proceed.

In order to provide evidence of demand for the extended use of the Sella Ness facility, the application has been accompanied by the report *Worker Accommodation Supply and Demand in Shetland*, by Biggar Economics. This report provides as justification for demand a number of key projects, notably in the energy sector, and continuing demand relating to the oil and gas sector, including traffic through Scatsta Airport.

Among the projects the report highlights as driving demand for worker accommodation in Shetland are potential increased/prolonged activity at Sullom Voe Terminal and Shetland Gas Plant due to hydrocarbon discoveries in the West of Shetland fields, and construction of onshore wind farms, most prominently Viking Energy.

It is clear that should activity at Sullom Voe Terminal and Shetland Gas Plant increase, concurrently with major build projects in the renewable energy sector,

there would be a significantly increased demand for worker accommodation. The report describes a potential maximum demand of 910 workers, peaking in 2022-2023. Without alternative solutions to accommodation, this level of demand could create strain on the local accommodation market, particularly in peak seasons where displacement of existing activity could occur (e.g. leisure visitors).

However, the speculative nature of the projected demand should be taken into account. With regard to oil and gas activity at the facilities in the north mainland, long term commitments to maintaining and/or increasing the active workforce in response to new discoveries have not yet been made, and cannot therefore be relied on as guaranteed occupancy for the facility. With regard to onshore wind developments, Viking Energy in particular is investigating accommodation solutions for the build project, and the facility at Sella Ness has been identified solely as one potential option – other accommodation solutions are being investigated, including other temporary measures, and no final decision has yet been made.

The report also identifies short-term demand from “workers from project specific maintenance work at the terminals” and from Scatsta Airport, typically from “offshore workers who are passing through Shetland, transferring from fixed wing to helicopters, and from crew changes for oil related vessels”, with demand ranging from one or two nights to two months. This would appear to be an area where the facility is in direct competition with local accommodation providers, most directly those in the North Mainland, for whom business visitors are a significant component of trade. It should be noted that, since the original permission was granted in 2010, the number of accommodation rooms in the North Mainland has increased by over 100, due to the construction of the Moorfield Hotel in Brae.

Economic Impact

The main impacts resulting from a disparity in accommodation demand versus supply will be felt in the visitor economy, as bedspaces occupied by business visitors (e.g. those employed in the construction phases of major projects) will be unable for use by leisure visitors. While this will still result in income to accommodation providers and other sectors (e.g. catering, transportation), sectors which serve the visitor economy, including visitor centres, cultural and heritage centres, retail, etc. may see negative impacts from reduced leisure visitors. Assuming worker numbers and industrial activity reached the levels assumed in the accompanying report, temporary accommodation solutions may

be required to mitigate against potential negative impacts in certain areas of the economy.

However, as previously stated, the Sella Ness accommodation facility represents one option among a number for local accommodation solutions. The accompanying report calculates an economic impact of between £3.7m (current capacity) and £7.6m (full capacity) – this has been calculated based on the costs of purchasing goods and services, and the multiplier effect on relevant sectors, plus employment and employment impacts. The accommodation of temporary workers, and the resultant spend in local services (including wholesale, retail and transportation), does result in economic benefits to the local economy – however, it is difficult to ascribe these benefits solely to the Sella Ness temporary accommodation, as this spend in the economy is likely to occur in any event where there is a significant increase in temporary workers, regardless of what accommodation solution is used. While employment effects are also significant, these may occur in other accommodation providers in response to increased demand, and may be argued are not wholly additional in respect of the facility.

5. **Statutory Advertisements**

The application was advertised in the Shetland Times on 30.11.2018

A site notice was not required to be posted.

6. **Representations**

12 representations have been received and have been summarised as follows: The full text of the concerns raised are attached as an Appendix.

Northmavine Community Council

We object to this development on the following grounds:

(1) The original planning permission was granted to cover the period of the Total Gas Plant construction, which is now complete. Any previous extension was ostensibly for the construction of the BP gas sweetening plant, now abandoned. The purpose of this temporary structure no longer applies and the applicant's claim of supposed need for it is speculative and has not been demonstrated.

(2) It is clear that the current occupation of the Sella Ness Camp has led to a major crisis in long-established local businesses. The Camp accommodation is being used not to meet a temporary need due to construction work, but to take away overnight stays which would have previously been the preserve of

established local hotels and bed and breakfasts. It is targeting and damaging the local economy.

(3) The Sella Ness camp is sited in an industrial estate not zoned for accommodation.

(4) The provision of takeaway food from the premises is another source of damage to local businesses. We would suggest that any need for extra workers accommodation during peak periods in the future could be provided using truly temporary floating units, as in the past.

Delting Community Council

At a meeting of Delting Community Council on Thursday 29th November, 2018 Members considered the above mentioned Section 42 planning application. A number of members of the public were in attendance purely to express their reservations on the extension of planning permission, citing the serious effect it would have on the community. After lengthy discussion Members unanimously agreed to object to the extension of planning permission on the following grounds.

1. The site is allocated for industrial use within the Local Development Plan, therefore the extension of living accommodation conflicts with the allocated land use and prevents industrial uses coming forward. Viking Energy are looking for storage and preassembly yards in the vicinity of jetties such as at Sullom Voe and the Malthus development sterilises an area which could be suitable for such use. Sellaness or Calback Jetties could be a landing point for space components which has been mentioned could be assembled and tested in the Sellaness Industrial Estate. Delting Community Council believes that greater community benefit could be achieved by reverting to industrial use.
2. The site was originally assessed as temporary accommodation. The proposal has not fully considered the long term implications of the facility being retained for the proposed use. It should be noted that in their supporting documentation Malthus are talking of providing facilities at the location well beyond 2026 (page 5 of the Planning statement) if the Sullom Voe Terminal life is extended beyond 2025.
3. Delting Community Council considers that rather than requesting a further temporary permission the applicant should be applying for full permanent permission and the application be considered accordingly. From 2010 till 2026 and possibly beyond cannot be considered temporary. It is accepted that there was a proven need for the period 2010 till 2015. The period from 2015 till 2020 was predicated on the basis that the Gas Sweetening Plant and the Viking Energy Wind Farm would have needs beyond the capability of the local accommodation providers. Neither project materialised and the oil industry

having contracted for a number of rooms were obliged to reduce that sourced locally. Uptake in the period 2020 till 2025 is again predicated on unproven need. Our Chairman has been reliably advised that Viking Energy are not considering the Sellaness accommodation, preferring barges sited near the works or local accommodation providers combining to meet the need. Enquest has told the Council that it is reducing its travelling workforce and source more from within the community. Members did not believe either Total or Enquest would require sufficient accommodation that could not be met locally even allowing for tourist business in the summer.

4. It is accepted that a section 42 application can only consider the planning conditions to which the permission relates, and not the principle of the development as a whole. In some cases it does not preclude the consideration of the overall effect of granting a new planning permission. Members reiterated the fact that a further extension of the permission results in something which cannot be considered temporary.

5. Lastly the Planning Statement contains a number of assumptions and facts which the Members know to be inaccurate.

6. On page 4 it is assumed the wind farm developers would use Sellaness. We know they are not considering such use.

7. On page 6 it states the facility is occupied but it is known that less than one quarter is in regular use. They would have been better to say what current demand looks like.

8. It failed to recognise that Lerwick accommodation providers depended on Scatsta to carry them through the winter and help retain staff.

9. On page 10 it mentions that Sodexo employs 60 staff. Of those 27 work in the accommodation facility and only 7 are local. The other 20 live outwith Shetland and contribute nothing to the local economy.

10. At the bottom of page 10 it mentions £20m to reinstate being met by the end user. Local accommodation would not levy such a charge so the justification for retention, given the known limited usage and the capacity within the community provides a clear incentive for not using the facility.

11. Basically this facility can no longer be considered temporary and needs to be promoted in its true light.

Scalloway Hotel

Problems have arisen because the camp, operating below anticipated occupancy levels, has sought to fill its rooms by poaching business outwith its original remit which, in the past, would have supported the local hotel sector.

Business competition is not a material planning consideration but, given that the local development plan seeks to promote vibrant and economically sustainable communities, we would contend that this cannot be achieved by allowing the continuation of an operation which threatens businesses

The application cannot be granted on the basis that future major construction projects might happen. If they do not go ahead, or are delayed in any way, the Sella Ness facility will continue to undermine the local accommodation sector, with disastrous consequences.

The supporting documentation suggests that, by providing alternative accommodation for itinerant workers, the camp is freeing up hotel accommodation for the growing number of tourists who want to visit Shetland. However, the hard truth is that, should planning consent be granted, and the Sella Ness facility be allowed to operate without restriction until 2026, it is entirely possible that there will be no hotels left for tourists to stay in.

Ewen MacLeod for Shepherd and Wedderburn

Both the original permission and the Section 42 permission fall into a Schedule 2 development to the Environmental Impact Regulations but neither were screened to determine whether the development was likely to have significant effects on the environment including population.

The application also meets the Schedule 2 criteria and must be screened.

A failure to follow the EIA procedures and to require the consideration of the socio-economic impact through the full EIA process would be unlawful and likely to result in a legal challenge.

Concerns that the repeated use of the Section 42 application is designed to minimise level of consultation.

Concerns regarding sewage treatment facilities sufficient for further 8 years.

Impact on the Sullom Voe Special Area of Conservation and need to consider appropriate assessment under Habitat Regulations.

Temporary accommodation proposal is significantly contrary to the development plan.

Mr Phil Bird

The camp has had a huge impact on local accommodation providers and local staff members, the council should not extend the planning on this building.

Robert AJ Smith Brudolff Hotels Group

The gas plant is long complete, there is no necessity for temporary accommodation for that project.

There is a 100 bedroomed hotel in Brae.

Concerns regarding survey of hotels.

Concern regarding justification on the basis of the possibility of future projects.

Existing accommodation in the north and Lerwick is well capable of handling day to day requirements of the terminal and Scatsta.

Northmavine Community Development Company

Hillswick Shop

Via Mr Tom Morton

The board objected to this development for the following reasons:

- (1) The original planning permission was granted to cover only the building of the Total Gas Plant, which is now complete. The previous extension was ostensibly for the construction of the BP gas sweetening plant, now abandoned. The purpose of this temporary structure no longer applies and the applicant's claim of supposed need for it - Viking Energy, the Unst space centre - is speculative and has not been demonstrated.
- (2) It is clear that the current occupation of the Sella Ness Camp has led to a major crisis in long established local businesses. The Camp accommodation is being used not to meet a temporary need due to construction work, but to take away overnight stays which would have previously been the preserve of established local hotels and bed and breakfasts. It is targeting and damaging the local economy. NCDC sees employment in Northmavine being seriously affected by the potential closure of the St Magnus Bay Hotel.
- (3) The Sella Ness camp is sited in an industrial estate not zoned for accommodation.
- (4) The provision of takeaway food from the premises is another source of damage to local businesses, and may contravene current licensing agreements.

Barton Willmore for Shetland North Accommodation Providers

The proposed development is significantly contrary to the Development Plan

The current Section 42 application that is under determination will result in the continued presence of either a Class 7 hotel use or Class 9 (or Sui Generis) residential use within an area allocated within the adopted LDP for industrial use.

The Proposed Hotel/Accommodation Use is Not in an Appropriate Location

There is No Demonstrated Need for the Scale of the Proposed Development

The Impact of the Proposed Development

The temporary accommodation facility at Sella Ness was originally approved in 2010 to provide a specific and temporary solution to accommodate construction workers for the Shetland Gas Plant.

The temporary nature was a key reason for the justification for a commercial accommodation use on an allocated industrial site and the resulting loss of land to the industrial land supply. The current proposal changes the nature and purpose of the development, seeking to accommodate workers of permanent / long-term businesses and also to serve future business needs. It is no longer a temporary facility and so we consider that a further extension of planning permission is unacceptable on this basis alone.

Overall, the proposed development for a continued hotel / accommodation use on this allocated industrial site is significantly contrary to the spatial strategy and policy of the adopted LDP, is not based on sufficient need to prevent significant impact on local businesses and the economy, and is generally the wrong use in the wrong location - in that it will establish a large residential community away from the facilities / services of a defined settlement for a further eight years.

If this proposed development is granted a further planning permission until 2026 then it will likely result in the closure of permanent, high quality hotel provision that serves the tourism sector as well as worker accommodation, resulting in the loss of jobs and harming the long-term economy of the area. If any additional accommodation is required to serve workers in the local area then it should be based within existing settlements, within Areas of Best Fit or through extensions or improvements to existing and permanent hotel and accommodation facilities as and when the market requires.

This letter has been prepared on behalf of the Shetland North Accommodation Providers (hereby referred to as SNAP) to maintain their objection to planning application reference 2018/328/VCON and to provide a brief response to the 22 March 2019 letter from the applicant's agents.

Firstly, SNAP wish to note its support and agreement to the concerns and formal objection of the Council's Development Plans team, which sets out their professional judgement that the proposed development will be contrary to Policies GP2i, GP1 and H7 of the adopted Local Development Plan (LDP). They added that the proposal is likely to be contrary to ED1.

The Development Plans team provided the applicant the opportunity to evidence whether an appropriate departure from Policies GP2i, GP1 and H7 would be acceptable. The view of SNAP is that the proposal cannot be justified by policy and that suitable justification has not been demonstrated through the applicant's response letter of 22 March 2019 – with no clear evidence of sufficient demand or the requested assessment of alternative sites and accommodation solutions – and, therefore, the current planning application should be refused.

Much is made in the applicant's response of the proposed development being a temporary permission that provides a solution to "short-term requirements" and that "it should be reiterated that this application remains for a temporary period in order to accommodate a forecast short-term increase in worker demand". As the approval of the current planning application would result in the proposed development being in place for a period of 16 years then SNAP fail to see how this is actually a temporary development. Indeed, even the applicant's response states that "the accommodation facility whilst temporary in the fact that it will only be located at the site while there is a demand for short term accommodation, is of a permanent construction". This would suggest that the applicant considers the temporary use to be indefinite until there is no longer any perceived demand for short term accommodation.

Although SNAP maintain all parts of the objection noted in its original representation of 13 December 2018, we wish to particularly focus here on the applicant's response in relation to demand, impact on existing hotel and accommodation providers and the need by planning policy for the proposed development to be sequentially appraised for a settlement location.

In terms of demand, the applicant's response continues to base their position on there being demand for short term workers of between 690 and 910 people. We continue to refute the significance of these figures as they are based on a hypothetical and unproven increase of workers from potential future projects coming forward within an undefined timeline. The planning system can allow for local market forces to respond to future demand as and when it is required, in sustainable locations, rather than risk the viability of established local businesses to aim to meet speculative future need.

The existing, proven demand highlighted by the BiGGAR report is for 270 workers (stated as 120 Enquest staff at Sella Ness now, 50 additional Enquest

subcontractors, and 100 Total E&P staff that are currently accommodated at an existing hotel facility). Even meeting this demand in full would leave Sella Ness with a spare capacity of 156 bedrooms (or 582 beds if the operators revert to 852 beds by double occupancy – which they can do without planning permission), bringing competition with existing local providers on filling these rooms. The fact that this competition will be caused from a Major development that is significantly contrary to the development plan allocation and planning policy makes this a material planning consideration.

However, this demand for 270 workers is already founded on the basis of taking trade from existing providers. The BiGGAR report acknowledges that 100 workers “are currently accommodated elsewhere in the area. This arrangement is for a prescribed period and therefore these 100 staff may also require accommodation” (Section 5.1). It is concerning that this displacement of year-round trade from 100 customers of local accommodation providers, and that effect on occupancy percentages, has not been considered by the applicant in its unproven suggestion that existing hotel accommodation capacity cannot serve both workers and tourists during peak periods. No evidence of existing capacity issues at peak periods has been provided.

The actual existing and proven demand highlighted by the submitted BiGGAR report (for those not already catered for by existing accommodation providers) is for 170 bedspaces/workers. Table 2 of the applicant’s own response suggests that there is currently an average spare capacity of 383 rooms with existing hotel and accommodation providers in Shetland.

There is not sufficient demand for the proposed development without a necessity to compete with existing accommodation providers and so SNAP consider that to even be sufficient on its own for the planning application to be refused. However, as highlighted in the original objection, there are a number of reasons as to why this inappropriate application for a continuously ‘temporary’ accommodation use in an industrial location should be refused.

In terms of compliance with other planning policies, we note that the applicant’s response now classifies its proposal as Sui Generis – despite this term having not been used in any of the application submission documents up until now – and it is suggested that this means that the proposed development does not require to fully comply with the sequential assessment element of LDP policies GP1, H2, H7 and H3 (through the application of H7). If the proposed development is now considered Sui Generis due to its incorporation of a mix of hotel/commercial and residential uses then all policies that apply to these component uses should be considered. SNAP do not accept that the proposed development being within a Site for Development Potential for a use other than its defined industrial use is compliant with these policies.

Overall, SNAP wish to reiterate that the proposed continued use of this ‘temporary’ accommodation facility on this allocated industrial site is significantly contrary to the spatial strategy and policy of the adopted LDP, will have significant adverse impact on local businesses and the economy, and is the wrong use in the wrong location – maintaining a large residential community

away from the facilities/services of a defined settlement. The applicant's letter of 22 March has not provided the required evidence requested to respond to the Council's Development Plans team's professional judgement that the proposed development does not comply with LDP policy. If this proposed development is granted a further planning permission until 2026 then it will likely result in the closure of permanent, high quality hotel provision that serves both the tourism sector and worker accommodation, resulting in the loss of jobs and harming the long-term economy of the area. In light of the above, SNAP respectfully request that Shetland Islands Council refuse planning permission for application reference 2018/328/VCON.

Hunter Planning Ltd on behalf of

1. Drumquin Guest House
2. Breiview Guest House
3. Norlande Guest House
4. Woosung B&B
5. The Lerwick Hotel
6. The Shetland Hotel
7. The Kveldsro House Hotel
8. The Scalloway Hotel
9. Busta House Hotel
10. St Magnus Bay Hotel
11. Greystones Guesthouse
12. Toog Properties Ltd
13. Valleyfield Guest House
14. Herrislea House Hotel

The proposal is clearly contrary to SLDP Policies H3 and GP1 in terms of appropriate residential development locations and sterilisation of future uses of land.

Given the Planning Authority interest in the land and that the proposal is very likely to be significantly contrary to the development plan, it is therefore highlighted that there would be a requirement for the Planning Authority to notify Scottish Ministers before a recommendation for approval could be made.

Concerns regarding capacity and demand.

Impact on local community and facilities and tourism.

Approval of the proposed development could have very real consequences on the

sustainability of the accommodation sector in Shetland and result in detrimental impacts on other areas of the economy and community.

Had it been known that the proposal was to be extended into 2026 during the original application, concerns would have been raised at the time by the local accommodation sector.

Ken Williamson

In regard to Sella Ness Accommodation planning renewal, this facility is having a devastating effect on existing local hotels and accommodation providers, I believed it was a temporary facility yet I now read it is desired it remains open for an extended period? The reasons for it staying open seem tenuous at best. Surely it should only exist for its original purpose and planning consent term?

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.

A "Section 42 Application" means an application for a new planning permission or a new planning permission in principle for a development but with different conditions from those attached to a previous permission for that development. In determining such an application, the planning authority can only consider changes to the conditions on the previous permission. However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented.

This report will therefore consider only whether it is appropriate to extend the lifetime of the permission beyond the timescale granted under 2014/109/VCON.

The accommodation facility was originally required to house the workforce required

to construct the gas processing plant. The gas plant has now been completed. The applicant has sought to demonstrate the accommodation facility should be retained for a further period of time and be used to address a predicted shortfall of accommodation and continue to provide temporary accommodation for the workforce employed on future developments that are likely to arise in the oil, gas, energy and other sectors within Shetland.

During the assessment of the original planning application for the accommodation block, the principle of having residential accommodation in an established industrial area was considered along with the environmental impact of the development, particularly during the construction phase.

Policy H7 of the current Shetland Local Development Plan (SLDP) states that applications for the siting of temporary structures for residential purposes will be subject to the same criteria and policies that apply to applications for new dwellings, with site restoration conditions applied. Therefore, to be in accordance with SLDP Policy GP1, temporary residential accommodation should be in or adjacent to existing settlements that have basic services and infrastructure in order to enhance their viability and vitality and to facilitate ease of access for all.

A representation has been received with regard to the applicant referring to the accommodation facility as “sui generis” that is in a class of its own. The Planning Service considers the current use is (Class 7 - Hotels and Hostels) and has considered the application as such.

Previous temporary permissions for this accommodation facility did not follow the site selection process established by SLDP Policy GP1, and this was due to a clearly specified short-term requirement for accommodation at this location related to the Gas Processing Plant construction project at Sullom Voe.

Therefore, due to the unique circumstances as described above the development was found to be acceptable on the basis that it was for a temporary period only and as the application and supporting information demonstrated that, subject to appropriate planning conditions, the proposed development, in a sustainable location close to the area where the workforce were required, could be accommodated on the brownfield site on the Sella Ness Industrial Estate without having an unacceptable detrimental impact on the natural or built environment in the vicinity of the development site.

The applicant has submitted supporting documentation in the form of a Planning Statement, Transport Statement and a document entitled ‘Workers Accommodation Supply and Demand in Shetland’ by BiGGAR Economics which outlines the reasons why it is considered that the accommodation block should be retained for a further period of time beyond that approved.

The latter of the three submitted documents referenced in the previous paragraph concludes that there is likely to be sustained demand for at least 300 workers at the Sella Ness accommodation facility, although demand could exceed this given the new developments taking place West of Shetland, and that in the future, demand for temporary accommodation for workers is also likely to be driven by renewable energy projects. It states that five onshore windfarm projects have already been consented to, including Viking Wind Farm and Beaw Field Wind Farm, and adds that another major project, Energy Isles Shetland Wind Farm, is in the planning process. These three projects (Viking, Beaw Field and Shetland wind farms) are expected to involve around 400 workers. It also asserts that currently available information on the demand linked to Sullom Voe, future renewable energy projects and short-term demand would therefore indicate demand for accommodation for between 700 and 900 workers.

A number of objections, including two from community councils (See paragraph 6 above and included in those representations attached as an Appendix), have been received. The main thrust of the objections is on the basis of the impact of the retention of the accommodation block on the interests of other accommodation providers within Shetland.

Objectors have questioned the need for the accommodation and it has been asserted that the existence of the accommodation block has had a devastating impact on local accommodation providers. The issue of having such a temporary residential use on land allocated for industrial use has also been questioned. The application has also been described as a significant departure from the development plan.

The Planning Service cannot verify these conclusions nor the figures within the supporting statements that have been submitted in relation to the various firms and projects that will require such accommodation (Figure 5.1 BiGGAR Economics report). Similarly assertions with regard to economic impact on existing facilities cannot be easily quantified. Impacts which could result in a loss of trade or increased competition is not a material planning consideration.

Shetland Islands Council Economic Development (ED) was consulted and have commented that without alternative solutions to accommodation, this level of demand could create strain on the local accommodation market, particularly in peak seasons where displacement of existing activity could occur (e.g. leisure visitors).

However, ED have further commented that the speculative nature of the projected demand should be taken into account. With regard to oil and gas activity at the facilities in the north mainland, long term commitments to maintaining and/or increasing the active workforce in response to new discoveries have not yet been made, and cannot therefore be relied on as guaranteed occupancy for the facility.

With regard to onshore wind developments, Viking Energy in particular is investigating accommodation solutions for the build project, and the facility at Sella Ness has been identified solely as one potential option – other accommodation solutions are being investigated, including other temporary measures, and no final decision has yet been made.

The Planning Service asked that further justification for the retention of the facility be provided within an area which has been allocated for industrial use within the SLDP.

The Planning Service considers that it may not be appropriate to manage worker accommodation demand through a temporary facility for a further 6 year period when a longer term solution may be more sustainable. Therefore, if there is a clearly displayed long-term need for temporary worker accommodation associated with Sullom Voe, the accommodation facility at Sella Ness should be evaluated against long-term alternatives, which may be more sustainable.

In respect of other projects, it is also possible that there could be other, more sustainable, locations for accommodation in respect of these projects. The supporting statements for this application estimate potential worker numbers, but not the potential locations for accommodating them or the frequency and duration their accommodation would be required for.

The applicant has responded to the comment from the Planning Service that an assessment should be undertaken against long-term alternatives which may be more sustainable. The applicant has reiterated that this application remains for a temporary period in order to accommodate a forecast short-term increase in worker demand. Separately to this application there remains a need to consider how the long-term requirements at SVT and SGP are best achieved through engagement with the stakeholders. The applicant states that this temporary permission provides a solution to the short-term requirements and time to formulate and implement a strategy for the long-term future. This long-term strategy was considered when deciding to apply for a further temporary approval versus full planning permission for the development.

SLDP Policy ED2 states that there is support for such developments where they 'promote employment opportunities, community benefits, rural diversification and tourism related ventures and contribute to the viability of existing settlements where they comply with General Policies (GP1, GP2, and GP3) and do not conflict with residential amenity.'

There is somewhat of a conflict in that the use of this area of land for accommodation is considered to be supportive of industrial and business uses but does remove the potential for a use on the site that would be considered to be more suitable on an industrial estate.

The site is within an area identified in the SLDP as a site with development potential for industrial use (NM020), in close proximity to an additional area identified for industrial use (NM005), to the south of the B9076. Policy GP2 at part i) states that development should not sterilise allocated sites as identified within the Shetland Local Development Plan. A residential facility on this site not only occupies a significant section of an area (NM020) deemed appropriate for industrial use, but also poses a sterilisation risk for future industrial development within adjacent areas (of both NM005 and NM020) should it continue to benefit from planning permission after 2020.

Policy ED1 of the SLDP supports business and industry through the encouragement of sustainable economic development. As has been stated above, this proposal for extended residential use on an inappropriate site puts at risk the potential for sustainable industrial development both on the application site and in surrounding areas that could be potentially sterilised by this development. The 'Worker Accommodation Demand and Supply in Shetland' document accompanying the application seeks to establish the economic benefit of the continued operation of this facility, both in support of the Sullom Voe Terminal and potential future demand associated with other projects in the Sullom Voe area and over a wider region. There is the possibility that benefit provided through employment associated with the residential facility may come at the expense of longer-term sustainable industrial development of the areas identified in the Local Development Plan at Sella Ness.

On the basis of the information submitted, the proposal is contrary to Policy GP2 part i) as the facility currently occupies a section of land with development potential for industrial use and potentially also sterilises areas around it. As residential accommodation in its current location this proposal is also contrary to SLDP Policies GP1 and H7. However it is considered that subject to the conditions recommended, not in the least with regard to the timescale for retention, the application is an acceptable departure from policy and does not require to be notified to the Scottish Ministers.

The Planning Service considers that the two periods of temporary use granted were for a specific purpose, and that the special circumstances that were prevalent at that time are similarly predicted, albeit with no degree of certainty, to exist in the near future due to the projects such as the Viking Wind Farm that are intended to take place.

To grant a further extension of the timescale by the variation of condition 2, and to allow the retention of such a temporary facility while contrary to the development plan would not be inconsistent with the approach that the Planning Service and Council has taken before to support the delivery of major infrastructure and sustainable developments.

Notwithstanding this, a time scale of a further 6 years is not considered necessary or appropriate to establish whether the special circumstances are likely to be fulfilled. A further period of 2 years from 2020 for the retention of the accommodation facility is therefore recommended in order to evaluate whether or not the accommodation is necessary for such predicted and proposed projects, and whether or not it can continue to be considered as a special circumstance.

8. **Recommendation**

Grant approval of the application, until 30 November 2022, subject to conditions.

Reasons for Council's decision:

(1.) The proposal to extend the period of temporary permission is contrary to Policy GP2 of the Shetland Local Development Plan (2014) as the facility currently occupies a section of land with development potential for industrial use and potentially also sterilises areas around it. The further retention of the temporary accommodation in its current location is also contrary to Policies GP1 and H7 of the Shetland Local Development Plan (2014). Nevertheless, to grant a further extension of the timescale and allow the retention of such a temporary facility, while contrary to the development plan, would however not be inconsistent with the approach that the Council has taken before to support the delivery of major infrastructure and sustainable developments, and on the basis of a further 2 year period from 2020 in order that by the expiry of which it can be evaluated both whether or not the accommodation is necessary for currently predicted and proposed projects, and whether or not it can continue to be considered as a special circumstance, the proposal is an acceptable departure from Policies GP1, GP2 and H7 of the Shetland Local Development Plan (2014).

9. **List of approved plans:**

Location Plan A10-00-001	21.11.2018
--------------------------	------------

10. **Conditions:**

(1) The permission hereby granted, in so far as it relates to the occupancy of the accommodation facility, shall be valid until 30 November 2022. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the building shall be decommissioned and removed, and the site shall be reinstated in accordance with the decommissioning and reinstatement scheme required by condition 3 of this permission.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Shetland Local Development Plan (2014) Policy GP2

- (2) The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details which were approved under planning permission 2010/256/PCD, the conditions attached thereto, and as non-material variations (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority:

Location Plan, Drg.No: 1010022-PD L(--)001 Rev A
 Site Layout, Drg.No: 1010022-PD L(--)002 Rev A

Received by the Planning Authority on 2 July 2010

Ground Floor Layout – Amenity Building, Drg No: 1010022-PD L(--)003
 Ground Floor Layout – Amenity Building, Drg No: 1010022-PD L(--)004
 Phasing Layout – Bedroom Accommodation, Drg No: 1010022-PD L(--)005
 Ground Floor Layout – Phase 1 Bedroom Accommodation, Drg No: 1010022-PD L(--)006
 Ground Floor Layout – Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--)007
 Ground Floor Layout – Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--)008
 Ground Floor Layout – Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--)009
 First Floor Layout -Amenity Building, Drg No: 1010022-PD L(--) 010 Rev A
 First Floor Layout – Amenity Building, Drg No: 1010022-PD L(--) 011 Rev A
 First Floor Layout - Phase 1 Bedroom Accommodation, Drg No: 1010022-PD L(--)012 Rev A
 First Floor Layout - Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--)013 Rev A
 First Floor Layout - Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--)014
 First Floor Layout - Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--)015
 Roof Layout - Amenity Building, Drg No: 1010022-PD L(--)016
 Roof Layout - Amenity Building, Drg No: 1010022-PD L(--)017
 Roof Layout – Phase 1 Bedroom Accommodation, Drg No:1010022-PD L(--) 018
 Roof Layout - Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--) 019 RevA
 Roof Layout - Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--) 020 Rev A
 Roof Layout - Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--) 021 Rev A
 Typical Bedroom Layouts, Drg No: 1010022-PD L(--) 022

Front (West) Elevation, Drg No: 1010022-PD L(--) 023 Rev A
North Elevation, Drg No: 1010022-PD L(--) 024 Rev A
South Elevation, Drg No: 1010022-PD L(--) 025 Rev A
Rear (East) Elevation, Drg No: 1010022-PD L(--) 026 Rev A
Sectional Elevation A-A, Drg No: 1010022-PD L(--) 027 Rev A
Sectional Elevation B-B, Drg No: 1010022-PD L(--) 028 Rev A
Sectional Elevation C-C, Drg No: 1010022-PD L(--) 029 Rev A
Sectional Elevation D-D, Drg No: 1010022-PD L(--) 030 Rev A
Sectional Elevation E-E, Drg No: 1010022-PD L(--) 031 Rev A
Sectional Elevation F-F, Drg No: 1010022-PD L(--) 032 Rev A
Sectional Elevation G-G, Drg No: 1010022-PD L(--) 033 Rev A
Sectional Elevation H-H, Drg No: 1010022-PD L(--) 034 Rev A
Drainage Assessment, Ref: 84986
Drainage Layout, Drg No: 84986/200 Rev C
Flood Risk Statement Final Report, Ref: 84986/WS/01
Sewage Treatment Plant Information, Klargester Environsafe
Topographical Survey, Drg No: 83432/00001 Rev A

Received by the Planning Authority on 30 June 2010.

Preliminary Decommissioning and Reinstatement Scheme dated 2011-02-08
approved by the Planning Authority 22 February 2011

Received by the Planning Authority on 22 February 2011

Site Layout Apecial area of conservation Proposed Outfall for Treatment Plant,
1010025_L(--)015

Received by the Planning Authority on 1 April 2011

Site Layout, SGP-305795-B01-00244 REV 01
Proposed Amenity Building Ground Floor Plan, SGP-305795-B01-00247 REV 01
Proposed Amenity Building Ground Floor Plan, SGP-305795-B01-00248 REV 01
Proposed Ground Floor Layout Bedroom Block, SGP-305795-B01-00249
REV 01
Proposed Phasing Roof Layout Bedroom Block, SGP-305795-B01-00249
REV 01
Proposed Amenity Building First Floor Plan, SGP-305795-B01-00254 REV 01
Proposed Amenity Building First Floor Plan, SGP-305795-B01-00255 REV 01
Bedroom Accommodation Phasing Proposed First Floor Layout, SGP-305795-
B01-00256 REV 01
Proposed West Elevation, SGP-305795-B01-00267 REV 01
Proposed North Elevation, SGP-305795-B01-00268 REV 01
Proposed South Elevation, SGP-305795-B01-00269 REV 01
Proposed East Elevation, SGP-305795-B01-00270 REV 01

Sectional Elevation A-A, SGP-305795-B01-00271 REV 01
Sectional Elevation B-B, SGP-305795-B01-00272 REV 01
Sectional Elevation C-C, SGP-305795-B01-00273 REV 01
Sectional Elevation D-D, SGP-305795-B01-00274 REV 01
Sectional Elevation E-E, SGP-305795-B01-00275 REV 01
Sectional Elevation F-F, SGP-305795-B01-00276 REV 01
Sectional Elevation G-G, SGP-305795-B01-00277 REV 01
Sectional Elevation H-H, SGP-305795-B01-00278 REV 01
Hard and Soft Landscaping Layout, SGP-305795-B01-00378 REV 01

Received by the Planning Authority on 1 July 2011

Site Layout, SGP-305795-B01-00244 REV O2

Received by the Planning Authority on 5 October 2011

Non Material Variation Schedule, SGP-305795-B06-00044 REV O2

Received by the Planning Authority on 18 October 2011

Site Layout, SGP-305795-B01-00380 REV IO1
Non Material Variation Schedule, SGP-305795-B06-00044 REV O2

Received by the Planning Authority on 3 February 2012

Location Plan A10-00-001

Received by the Planning Authority on 21 November 2018.

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

(3) Within 6 months of the date of this consent, a final decommissioning and reinstatement scheme shall be submitted to and approved in writing by the Planning Authority. Thereafter the decommissioning of the development and reinstatement of the site shall be undertaken only in accordance with the approved scheme and shall be completed within 6 months of the building ceasing to be occupied.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Policy GP2 of the Shetland Local Development Plan (2014).

(4) The visibility splays as shown marked in red on the attached plan shall be maintained for the lifetime of the development.

Reason: To provide a safe access for vehicles, with a clear view, in the interests of public and road safety, in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

11. Further Notifications Required

Notification to those parties who made representations with regard to the decision

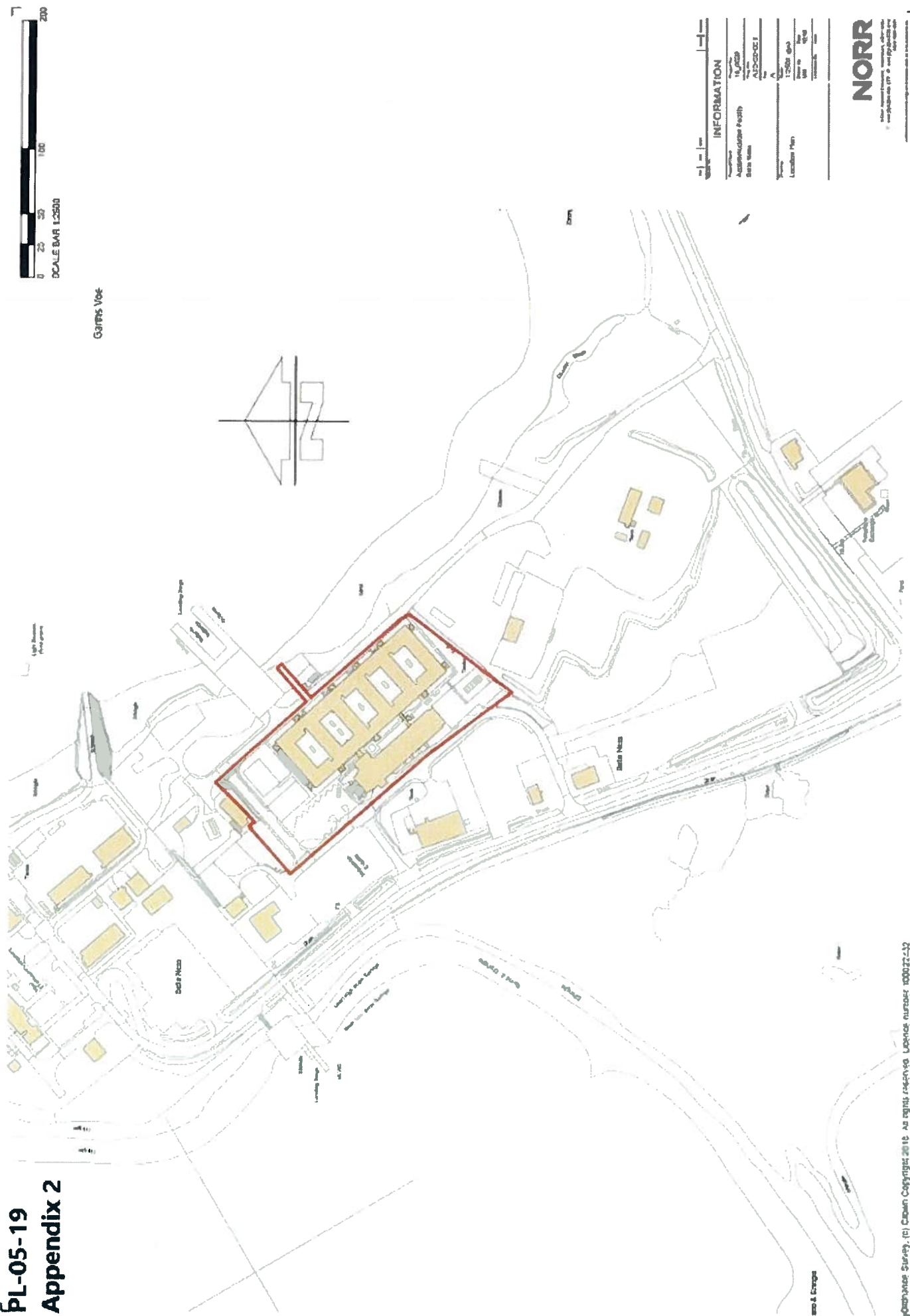
12. Background Information Considered

Permissions 2010/256/PC and 2014/109/VCON

2018/328/VCON_Delegated_Report_of_Handling.doc

Officer: Richard MacNeill

Date: 08/05/2019



2018/238/VCON Schedule of Recommended Conditions:

(1) The permission hereby granted, in so far as it relates to the occupancy of the accommodation facility, shall be valid until 30 November 2022. On expiry of this period (unless a subsequent application for Full Planning Permission has been granted) the building shall be decommissioned and removed, and the site shall be reinstated in accordance with the decommissioning and reinstatement scheme required by condition 3 of this permission.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Shetland Local Development Plan (2014) Policy GP2

(2) The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details which were approved under planning permission 2010/256/PCD, the conditions attached thereto, and as non-material variations (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority:

Location Plan, Drg.No: 1010022-PD L(--)001 Rev A
Site Layout, Drg.No: 1010022-PD L(--)002 Rev A

Received by the Planning Authority on 2 July 2010

Ground Floor Layout – Amenity Building, Drg No: 1010022-PD L(--)003
Ground Floor Layout – Amenity Building, Drg No: 1010022-PD L(--)004
Phasing Layout – Bedroom Accommodation, Drg No: 1010022-PD L(--)005
Ground Floor Layout – Phase 1 Bedroom Accommodation, Drg No: 1010022-PD L(--)006
Ground Floor Layout – Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--)007
Ground Floor Layout – Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--)008
Ground Floor Layout – Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--)009
First Floor Layout -Amenity Building, Drg No: 1010022-PD L(--) 010 Rev A
First Floor Layout – Amenity Building, Drg No: 1010022-PD L(--) 011 Rev A
First Floor Layout - Phase 1 Bedroom Accommodation, Drg No: 1010022-PD L(--)012 Rev A
First Floor Layout - Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--)013 Rev A
First Floor Layout - Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--)014
First Floor Layout - Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--)015
Roof Layout - Amenity Building, Drg No: 1010022-PD L(--)016

Roof Layout - Amenity Building, Drg No: 1010022-PD L(--)017
 Roof Layout – Phase 1 Bedroom Accommodation, Drg No:1010022-PD L(--)
 018
 Roof Layout - Phase 2 Bedroom Accommodation, Drg No: 1010022-PD L(--)
 019 RevA
 Roof Layout - Phase 3 Bedroom Accommodation, Drg No: 1010022-PD L(--)
 020 Rev A
 Roof Layout - Phase 4 Bedroom Accommodation, Drg No: 1010022-PD L(--)
 021 Rev A
 Typical Bedroom Layouts, Drg No: 1010022-PD L(--) 022
 Front (West) Elevation, Drg No: 1010022-PD L(--) 023 Rev A
 North Elevation, Drg No: 1010022-PD L(--) 024 Rev A
 South Elevation, Drg No: 1010022-PD L(--) 025 Rev A
 Rear (East) Elevation, Drg No: 1010022-PD L(--) 026 Rev A
 Sectional Elevation A-A, Drg No: 1010022-PD L(--) 027 Rev A
 Sectional Elevation B-B, Drg No: 1010022-PD L(--) 028 Rev A
 Sectional Elevation C-C, Drg No: 1010022-PD L(--) 029 Rev A
 Sectional Elevation D-D, Drg No: 1010022-PD L(--) 030 Rev A
 Sectional Elevation E-E, Drg No: 1010022-PD L(--) 031 Rev A
 Sectional Elevation F-F, Drg No: 1010022-PD L(--) 032 Rev A
 Sectional Elevation G-G, Drg No: 1010022-PD L(--) 033 Rev A
 Sectional Elevation H-H, Drg No: 1010022-PD L(--) 034 Rev A
 Drainage Assessment, Ref: 84986
 Drainage Layout, Drg No: 84986/200 Rev C
 Flood Risk Statement Final Report, Ref: 84986/WS/01
 Sewage Treatment Plant Information, Klargesters Environsafe
 Topographical Survey, Drg No: 83432/00001 Rev A

Received by the Planning Authority on 30 June 2010.

Preliminary Decommissioning and Reinstatement Scheme dated 2011-02-08
 approved by the Planning Authority 22 February 2011

Received by the Planning Authority on 22 February 2011

Site Layout A special area of conservation Proposed Outfall for Treatment
 Plant,
 1010025_L(--)015

Received by the Planning Authority on 1 April 2011

Site Layout, SGP-305795-B01-00244 REV 01
 Proposed Amenity Building Ground Floor Plan, SGP-305795-B01-00247 REV
 01
 Proposed Amenity Building Ground Floor Plan, SGP-305795-B01-00248 REV
 01
 Proposed Ground Floor Layout Bedroom Block, SGP-305795-B01-00249
 REV 01
 Proposed Phasing Roof Layout Bedroom Block, SGP-305795-B01-00249
 REV 01

Proposed Amenity Building First Floor Plan, SGP-305795-B01-00254 REV 01
Proposed Amenity Building First Floor Plan, SGP-305795-B01-00255 REV 01
Bedroom Accommodation Phasing Proposed First Floor Layout, SGP-305795-B01-00256 REV 01
Proposed West Elevation, SGP-305795-B01-00267 REV 01
Proposed North Elevation, SGP-305795-B01-00268 REV 01
Proposed South Elevation, SGP-305795-B01-00269 REV 01
Proposed East Elevation, SGP-305795-B01-00270 REV 01
Sectional Elevation A-A, SGP-305795-B01-00271 REV 01
Sectional Elevation B-B, SGP-305795-B01-00272 REV 01
Sectional Elevation C-C, SGP-305795-B01-00273 REV 01
Sectional Elevation D-D, SGP-305795-B01-00274 REV 01
Sectional Elevation E-E, SGP-305795-B01-00275 REV 01
Sectional Elevation F-F, SGP-305795-B01-00276 REV 01
Sectional Elevation G-G, SGP-305795-B01-00277 REV 01
Sectional Elevation H-H, SGP-305795-B01-00278 REV 01
Hard and Soft Landscaping Layout, SGP-305795-B01-00378 REV 01

Received by the Planning Authority on 1 July 2011

Site Layout, SGP-305795-B01-00244 REV O2

Received by the Planning Authority on 5 October 2011

Non Material Variation Schedule, SGP-305795-B06-00044 REV 02

Received by the Planning Authority on 18 October 2011

Site Layout, SGP-305795-B01-00380 REV IO1

Non Material Variation Schedule, SGP-305795-B06-00044 REV O2

Received by the Planning Authority on 3 February 2012

Location Plan A10-00-001

Received by the Planning Authority on 21 November 2018.

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

(3) Within 6 months of the date of this consent, a final decommissioning and reinstatement scheme shall be submitted to and approved in writing by the Planning Authority. Thereafter the decommissioning of the development and reinstatement of the site shall be undertaken only in accordance with the approved scheme and shall be completed within 6 months of the building ceasing to be occupied.

Reason: To ensure that site is reinstated in an acceptable manner and in compliance with Policy GP2 of the Shetland Local Development Plan (2014).

(4) The visibility splays as shown marked in red on the attached plan shall be maintained for the lifetime of the development.

Reason: To provide a safe access for vehicles, with a clear view, in the interests of public and road safety, in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

From: publicaccess@shetland.gov.uk
Sent: Mon, 26 Nov 2018 13:23:50 +0000
To: Development Management@Development
Subject: Comments for Planning Application 2018/328/VCON

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

Comments were submitted at 1:23 PM on 26 Nov 2018 from Mr phil bird.

Application Summary

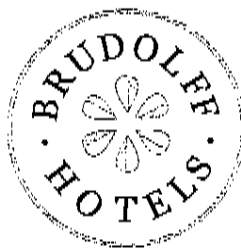
Address: Temporary Residential Accommodation Sella Ness Industrial Estate
 Graven Mossbank Shetland ZE2 9UP
Proposal: Section 42 application to vary the terms of condition 2 of planning
 permission 2014/109/VCON
Case Officer: To Be Allocated
[Click for further information](#)

Customer Details

Name: Mr phil bird
Email: [REDACTED]
Address: Parkview, Ollaberry, Shetland ZE2 9RT

Comments Details

Commenter Type: Member of Public
Stance: Customer objects to the Planning Application
Reasons for comment: - Various Reasons
Comments: the camp has had a huge impact on local accomidation providers
 and local staff members, the council should not extended the
 planning on this building



Administration office:

The Craighuar Hotel, Waterton Road, Bankhead, Aberdeen, AB21 9HS

Development management,
Planning dept
Shetland Islands Council.

3rd December 2018.

Dear Sirs.

Objection to planning application ref 2018/328/VCON, being an application to vary the terms of a previous planning permission/Temporary accommodation, Sellaness.

The original planning application clearly states that it is temporary accommodation to "house any workers needed for the construction of the Total gas plant. The planning note to accompany the application says

"The final decommissioning of the development will be dependent upon the progress which is made with the construction of the gas plant. However the proposed date for the decommissioning of the site is the third quarter of 2014".

The accommodation sector in Shetland did not object to that application, as they could see the wider picture and the necessity of this provision.

As things wore on, the project took the time that it did, and an extension of the original grant for temporary accommodation was extended to allow for that.

However that project is long complete; there is no necessity for any temporary accommodation for that project; indeed there is a new 100 bedroomed hotel in Brae specifically for Total and their staff. That hotel did not exist in 2010 when the original application was made.

This new application for extension of time is therefore completely flawed in its starting position. It attempts to use two things to justify an extension,

big enough to matter, small enough to care
Hotels serving Aberdeen and Shetland

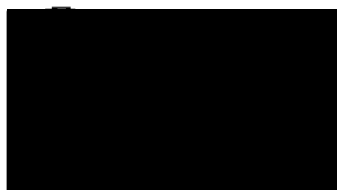
Proprietors: Brudolf Hotels Limited Registered in Scotland Number 94745
Directors: Robert A J Smith, James W Manson, Marjory A Barrie, June Smith

1. That by quoting surveys of hotel accommodation in 2015/2016 to try to show the need for it. Firstly those surveys are in themselves completely flawed as not all hotels in shetland were a party to them; eg brudolfff hotels group, with 120 bedrooms in 3 hotels in lerwick, did not take part...and there are other hotels as well. So the surveys referred to are from a small sample of hotel and accommodation providers in shetland and cannot be used to justify any such argument.
2. The POSSIBILITY.....of future projects on shetland which MIGHT need accommodation. None of these projects are certain, and the timescale for any of them could be years, if at all, and in the somewhat perhaps unlikely event of ALL proceeding, the provision of accommodation at sellerness is a long way away from where the projects would take place. The possibility of something which might happen in the future is absolutely no reason for an extension of a planning permission which has already been extended beyond its due date ie 2014, and which was originally for temporary accommodation FOR A SPECIFIC PROJECT , long since complete.

For other accommodation needs eg scatsta airport and general terminal requirements, the accommodation sector in the north mainland, and indeed lerwick, was well able to cover and fulfil the needs of the sector; indeed did so for the terminal and scatsta airport before 2010 without any issues; and since then there are 100 more bedrooms available. It is therefore a nonsense to suggest that the accommodation sector is not able to cover this; and indeed it is clutching at straws to suggest hotel accommodation surveys from 2 years ago, which in themselves are fatally flawed to start with, to justify the application.

To decide to agree to this application and extend the life of this temporary structure would be to render a significant proportion of the accommodation sector in the north mainland to closure. I assume that is not the wish of the planning committee; so our submission in summary is the original application was for temporary accommodation for a specific project; that project is long finished; the accommodation sector in the north mainland, and when needed, lerwick, is well capable of handling the day to day requirements of the terminal and scatsta; and to therefore ask the committee to do the right thing and refuse the application.

Yours sincerely,



Robert A J Smith LL.B., N.P
Brudolff Hotels Group



Monday 10th December 2018

Mr Iain McDiarmid
Executive Manager
Development Services Dept
8 North Ness Business Park
Lerwick ZE1 0LZ

Objection to Planning Application 2018/328/VCON

Dear Sir,

The residential accommodation at Sella Ness was originally granted planning permission in 2010 as a **temporary** facility to cater for the influx of workers brought in by Petrofac to construct the Total gas plant. An extension to planning consent was agreed in June 2014, at the same planning meeting at which BP were granted permission for the construction of a gas sweetening plant, which would certainly have justified the need for additional worker accommodation.

What has actually happened in the intervening years, tells a very different story, because the sweetening plant project was mothballed. The applicants admit, in their supporting documentation, that the Sella Ness facility currently provides accommodation for itinerant workers employed at the Sullom Voe Terminal, and at the gas plant. That, in itself, is not a major issue for accommodation providers such as ourselves. However, problems have arisen because the camp, operating below anticipated occupancy levels, has sought to fill its rooms by poaching business outwith its original remit which, in the past, would have supported the local hotel sector. For example, as the accompanying Workers' Accommodation Demand and Supply Report points out, the Sella Ness facility regularly caters for offshore stopovers from Scatsta airport. This was business which would previously have offered a vital financial lifeline to local hotels struggling with low occupancy levels, and the accompanying drop in income, during the winter months. The impact of this has been nothing short of devastating.

We understand that business competition is not a material planning consideration but, given that the local development plan seeks to promote vibrant and economically sustainable communities, we would contend that this cannot be achieved by allowing the continuation of an operation which threatens businesses such as ours, which provide year-round employment, as well as offering a much-valued social hub. It should be noted that we currently employ 20 FTE staff, all of whom, with the exception of one, live in the village, generating a wage bill in excess of £350,000 a year, much of which is spent locally.

We believe firmly that the application cannot be granted on the basis that future major construction projects **might** happen. If they do not go ahead, or are delayed in any way, the Sella Ness facility will continue to undermine the local accommodation sector, with disastrous consequences. The supporting documentation suggests that, by providing alternative accommodation for itinerant workers, the camp is freeing up hotel accommodation for the growing number of tourists who want to visit Shetland. However, the hard truth is that, should planning consent be granted, and the Sella Ness facility be allowed to operate without restriction until 2026, it is entirely possible that there will be no hotels left for tourists to stay in.

Yours sincerely,

Caroline McKenzie
Director

[REDACTED]

From: Northmaven Community Council
Sent: Tue, 11 Dec 2018 19:16:12 +0000
To: Development Management@Development
Subject: Comment/objection to 2018/328/VCON Sella Ness camp

REGARDING:

2018/328/VCON | Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON | Temporary Residential Accommodation Sella Ness Industrial Estate Graven Mossbank Shetland ZE2 9UP

FROM NORTHMAVEN COMMUNITY COUNCIL:

To: Shetland Islands Council
Planning Department
Lerwick
Shetland

13 December 2018

I write on behalf of Northmaven Community council, which at its meeting on 10 December 2018 resolved to oppose the application by Malthus Uniteam to extend the temporary planning permission for its workers' accommodation at Sella Ness until 2026.

We object to this development on the following grounds:

- (1) The original planning permission was granted to cover the period of the Total Gas Plant construction, which is now complete. Any previous extension was ostensibly for the construction of the BP gas sweetening plant, now abandoned. The purpose of this temporary structure no longer applies and the applicant's claim of supposed need for it is speculative and has not been demonstrated.
- (2) It is clear that the current occupation of the Sella Ness Camp has led to a major crisis in long-established local businesses. The Camp accommodation is being used not to meet a temporary need due to construction work, but to take away overnight stays which would have previously been the preserve of established local hotels and bed and breakfasts. It is targeting and damaging the local economy
- (3) The Sella Ness camp is sited in an industrial estate not zoned for accommodation.
- (4) The provision of takeaway food from the premises is another source of damage to local businesses.

We would suggest that any need for extra workers accommodation during peak periods in the future could be provided using truly temporary floating units, as in the past.

Yours sincerely,

David Brown
Chair, Northmaven Community Council

(Sent by)

--

Tom Morton - Clerk
Northmaven Community Council
Ollaberry Hall
Ollaberry
ZE2 9RT

From: Tom Morton
Sent: Tue, 11 Dec 2018 22:31:54 +0000
To: Development Management@Development
Subject: Re - 2018/328/VCON - Objection and comment on Sella Ness planning renewal

From Hillswick Shop Ltd
Hillswick
Shetland
ZE2 9RW

To: Shetland Islands Council
Planning Department
Lerwick
Shetland

13 December 2018

I write on behalf of the Hillswick Shop, whose board resolved at its quarterly board meeting on 7 December to oppose the application by Malthus Uniteam to extend the temporary planning permission for its workers' accommodation at Sella Ness until 2026.

The board objected to this development for the following reasons:

(1) The original planning permission was granted to cover only the building of the Total Gas Plant, which is now complete. The previous extension was ostensibly for the construction of the BP gas sweetening plant, now abandoned. The purpose of this temporary structure no longer applies and the applicant's claim of supposed need for it – Viking Energy, the Unst space centre - is speculative and has not been demonstrated. The mention of nightstoppers – passengers stranded by weather – is a direct attack on local businesses which would normally provide such accommodation.

(2) It is clear that the current occupation of the Sella Ness Camp has led to a major crisis in long-established local businesses. The Camp accommodation is being used not to meet a temporary need due to construction work, but to take away overnight stays which would have previously been the preserve of established local hotels and bed and breakfasts. It is targeting and damaging the local economy. This has been demonstrated at the Hillswick Shop as the absence of residents at the St Magnus Bay Hotel has seriously affected the custom at the shop. In addition, the closure of the hotel over winter will have a devastating effect on the business we do with the hotel management.

(3) The Sella Ness camp is sited in an industrial estate not zoned for accommodation.

(4) The provision of takeaway food from the premises is another source of damage to local businesses, and contravenes current licensing agreements.

We would suggest that any need for extra workers accommodation during peak periods in the future could be provided using truly temporary floating units, as in the past.

Yours sincerely,

John Alex Cromarty
Chair
Hillswick Shop Ltd.

Via:

Tom Morton

Community Development Officer (and Secretary, Hillswick Shop Ltd)

Northmavine Community Development Company

[REDACTED]

Ollaberry Hall, Northmavine ZE2 9RT

[REDACTED]

From: Tom Morton
Sent: Tue, 11 Dec 2018 22:40:28 +0000
To: Development Management@Development
Subject: Objection and comment on Sella Ness planning renewal - 2018/328/VCON -

From Northmavine Community Development Company
Ollaberry Hall
Ollaberry
Shetland
ZE2 9RT

To: Shetland Islands Council
Planning Department
Lerwick
Shetland

11 December 2018

I write on behalf of Northmavine Community Development Company, whose board decided on 11 December to oppose the application to extend the temporary planning permission for its workers' accommodation at Sella Ness until 2026.

The board objected to this development for the following reasons:

- (1) The original planning permission was granted to cover only the building of the Total Gas Plant, which is now complete. The previous extension was ostensibly for the construction of the BP gas sweetening plant, now abandoned. The purpose of this temporary structure no longer applies and the applicant's claim of supposed need for it – Viking Energy, the Unst space centre - is speculative and has not been demonstrated
- (2) It is clear that the current occupation of the Sella Ness Camp has led to a major crisis in long-established local businesses. The Camp accommodation is being used not to meet a temporary need due to construction work, but to take away overnight stays which would have previously been the preserve of established local hotels and bed and breakfasts. It is targeting and damaging the local economy. NCDC sees employment in Northmavine being seriously affected by the potential closure of the St Magnus Bay Hotel.
- (3) The Sella Ness camp is sited in an industrial estate not zoned for accommodation.
- (4) The provision of takeaway food from the premises is another source of damage to local businesses, and may contravene current licensing agreements.

We would suggest that any need for extra workers accommodation during peak periods in the future could be provided using truly temporary floating units, as in the past.

Yours sincerely,

Margaret Roberts
Chair
Northmavine Community Development Company

Via:

Tom Morton
Community Development Officer
Northmavine Community Development Company

[REDACTED]

Ollaberry Hall, Northmavine ZE2 9RT

[REDACTED]

From: Alison Foyle
Sent: Wed, 12 Dec 2018 19:52:11 -0000
To: Development Management@Development
Subject: 2018/328/VCON - Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON
Importance: High

Dear Sir/Madam,

Planning Reference – 2018/328/VCON
Proposal – Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON
Address – Temporary Residential Accommodation Sella Ness Industrial Estate Graven Mossbank Shetland ZE2 9UP

At a meeting of Delting Community Council on Thursday 29th November, 2018 Members considered the above mentioned Section 42 planning application. A number of members of the public were in attendance purely to express their reservations on the extension of planning permission, citing the serious effect it would have on the community. After lengthy discussion Members unanimously agreed to object to the extension of planning permission on the following grounds.

1. The site is allocated for industrial use within the Local Development Plan, therefore the extension of living accommodation conflicts with the allocated land use and prevents industrial uses coming forward. Viking Energy are looking for storage and preassembly yards in the vicinity of jetties such as at Sullom Voe and the Malthus development sterilises an area which could be suitable for such use. Sellaness or Calback Jetties could be a landing point for space components which has been mentioned could be assembled and tested in the Sellaness Industrial Estate. Delting Community Council believes that greater community benefit could be achieved by reverting to industrial use.
2. The site was originally assessed as temporary accommodation. The proposal has not fully considered the long term implications of the facility being retained for the proposed use. It should be noted that in their supporting documentation Malthus are talking of providing facilities at the location well beyond 2026 (page 5 of the Planning statement) if the Sullom Voe Terminal life is extended beyond 2025.
3. Delting Community Council considers that rather than requesting a further temporary permission the applicant should be applying for full permanent permission and the application be considered accordingly. From 2010 till 2026 and possibly beyond cannot be considered temporary. It is accepted that there was a proven need for the period 2010 till 2015. The period from 2015 till 2020 was predicated on the basis that the Gas Sweetening Plant and the Viking Energy Wind Farm would have needs beyond the capability of the local accommodation providers. Neither project materialised and the oil industry having contracted for a number of rooms were obliged to reduce that sourced locally. Uptake in the period 2020 till 2025 is again predicated on unproven need. Our Chairman has been reliably advised that Viking Energy are not considering the Sellaness accommodation, preferring barges sited near the works or local accommodation providers combining to meet the need. Enquest has told the Council that it is reducing its travelling workforce and source more from within the community. Members did not believe either Total or Enquest would

require sufficient accommodation that could not be met locally even allowing for tourist business in the summer.

4. It is accepted that a section 42 application can only consider the planning conditions to which the permission relates, and not the principle of the development as a whole. In some cases it does not preclude the consideration of the overall effect of granting an new planning permission. Member reiterated the fact that a further extension of the permission results in something which cannot be considered temporary.
5. Lastly the Planning Statement contains a number of assumptions and facts which the Members know to be inaccurate.
6. On page 4 it is assumed the wind farm developers would use Sellaness. We know they are not considering such use.
7. On page 6 it states the facility is occupied but it is known that less than one quarter is in regular use. They would have been better to say what current demand looks like.
8. It failed to recognise that Lerwick accommodation providers depended on Scatsta to carry them through the winter and help retain staff.
9. On page 10 it mentions that Sodexo employs 60 staff. Of those 27 work in the accommodation facility and only 7 are local. The other 20 live outwith Shetland and contribute nothing to the local economy.
10. At the bottom of page 10 it mentions £20m to reinstate being met by the end user. Local accommodation would not levy such a charge so the justification for retention, given the known limited usage and the capacity within the community provides a clear incentive for not using the facility.
11. Basically this facility can no longer be considered temporary and needs to be promoted in its true light.

Yours faithfully

Alison Foyle
Clerk
Delting Community Council



From: Iain Hynd
Sent: Thu, 13 Dec 2018 16:11:21 +0000
To: Development Management@Development
Subject: 29857 A3 Sella Ness - Letter of Objection to Application 2018/328/VCON
Attachments: 29857 A3 Sella Ness - Ltr of Objection to 2018_328_VCON 181213 FINAL.pdf

Dear Sir / Madam,

Please see attached for a letter of objection to planning application reference 2018/328/VCON, which has been prepared and submitted on behalf of the Shetland North Accommodation Providers.

We welcome confirmation that this has been received and that it will be considered in terms of the above application for the facility at Sella Ness Industrial Estate.

Yours faithfully

Iain Hynd
Planning Associate



68/70 George Street, Edinburgh, EH2 2LR

**BARTON
WILLMORE**



Consider the Environment, Do you really need to print this email?

The information contained in this e-mail (and any attachments) is confidential and may be privileged. It may be read, copied and used only by the addressee, Barton Willmore accepts no liability for any subsequent alterations or additions incorporated by the addressee or a third party to the body text of this e-mail or any attachments. Barton Willmore accepts no responsibility for staff non-compliance with our IT Acceptable Use Policy.

Our offices will be closed on Monday 24th December for the Christmas period and will reopen on Wednesday 2nd January 2019.
Wishing you a very merry Christmas and a happy new year from Barton Willmore!

BY EMAIL & POST

Shetland Islands Council
Development Management
Development Services Department
8 North Ness Business Park
Lerwick
SHETLAND
ZE1 ONT

29857/A3/IH/fr
13 December 2018

Dear Sir/Madam

**LETTER OF OBJECTION TO PLANNING APPLICATION REF: 2018/328/VCON
TEMPORARY ACCOMMODATION FACILITY, SELLA NESS INDUSTRIAL ESTATE, SHETLAND**

This letter has been prepared on behalf of the Shetland North Accommodation Providers to register their formal objection to planning application reference 2018/328/VCON. This is for a "*Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON*" at the address given as "*Temporary Residential Accommodation Sella Ness Industrial Estate Graven Mossbank Shetland ZE2 9UP*".

The Shetland North Accommodation Providers (hereby referred to as SNAP) comprise operators/owners of the Brae Hotel, Busta House Hotel, Drumquin, Greystones, Moorfield Hotel, St Magnus Bay Hotel, Toog Properties and Valleyfield. SNAP represent over 200 guest rooms in the area local to the current planning application and are responsible for over 150 employees. Their businesses provide invaluable facilities for both the local community and for tourism and they are major purchasers of local goods and services.

We have provided a summary of our understanding of the context of this application below, with our grounds of objection, on behalf of SNAP, set out in the subsequent sections. We would appreciate confirmation that this objection has been received and that it has been registered for consideration as part of the determination of the planning application.

Context

This planning application is for a Section 42 application to change a planning condition set by planning permission 2014/109/VCON, to enable the use of the temporary accommodation facility at Sella Ness until 30 November 2026.

The 2014 application was also for a Section 42 application to change planning condition 4 of planning permission 2010/256/PCD.

The original application (2010/256/PCD) was approved planning permission in November 2010, "*To erect temporary residential accommodation (424 bedrooms) with ancillary amenity accommodations*"



Registered in England
Number: 0C342692

Barton Willmore LLP
Registered Office:
The Blade
Abbey Square
Reading
RG1 3BE

including reception, dining room, recreation area, reading/quiet room, gymnasium, computer room, convenience shop, laundry, prayer room, bar and external football pitch."

The planning application form for 2010/256/PCD gave the description of the proposed development as the "*Erection of temporary residential accommodation*". The site area was given as 1.97ha, with no net or gross proposed floorspace set out.

The planning permissions to date for the Sella Ness facility have not been specific on the sought use as per the definitions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended. However, the Planning Statement for 2010/256/PCD states "*Local Plan Policies LP Hou\4 and 7 both contain restrictions on the development of housing and other temporary residential structures within the local plan zone 4 area which the development is located in. It is considered that these policies have been drafted to apply to proposals for permanent dwellinghouses and caravans. Such development falls within Use Class 9 – Houses, rather than Use Class 7 – Hotels and Hostels, within which the application is considered to fall. The proposed use class, when combined with the fact that the development will be located on site for a temporary period indicates that Policies Hou\4 and 7 should not present and obstacle to approval of the development*" (para 5.16, page 29). The underline is our emphasis to highlight the stated use class sought by the applicant at the time.

Paragraph 9.1 of the committee report for 2010/256/PCD (dated 3 November 2010) confirms that the planning application was considered to be a Major Development, as per the Hierarchy of Development regulations.

This planning committee report also stated "*This planning application proposes the development of a temporary accommodation block capable of housing 848 construction workers*" in the first paragraph (introduction) and the justification section has commentary that, "*A representation has been received which questions the use of an industrial estate for this type of development and indicates that industrial land is in short supply in the area due to the ongoing construction of the gas processing plant. The Council's Asset and Property Services have indicated that in their opinion there is adequate land available to meet current needs, and it must be emphasised that the proposed development would be for a temporary period only and would be removed from the site when works on the construction of the gas processing plant have been completed*" (para 7.4).

The supporting Planning Statement to the current planning application (2018/328/VCON) confirms that the proposed wording as a variation to the existing planning condition 2 is to be:

"The permission hereby granted, in so far as it relates to the occupancy of the accommodation facility, shall be valid until 30 November 2026. On expiry of the period (unless a subsequent application for Full Planning Permission has been granted) the building shall be decommissioned and removed, and the site shall be reinstated in accordance with the decommissioning and reinstatement scheme required by condition 5 of permission ref 2010/256/PCD."

In light of the above, the approval of the current planning application would result in permission for **temporary** residential accommodation at Sella Ness Industrial Estate being allowed by Shetland Islands Council for a **period of over 16 years** - from the original grant of planning permission on 5 November 2010 until 30 November 2026.

GROUNDINGS OF OBJECTION

The Proposed Development is Significantly Contrary to the Development Plan

The development plan for the application site comprises the Shetland Local Development Plan (adopted September 2014).

The Local Development Plan (LDP) identifies the site as within a 'Site With Development Potential', reference NM020. The LDP schedule on pages 76-80 shows the site as having a Current Use of

"Employment" and a Potential Future Use of *"Industrial"*. Page 137 of the LDP Appendices states that *"This site is proposed for industrial use"* and it suggests that development should not conflict with existing development on the site.

The most recent Shetland LDP Action Programme continues to identify NM020, including the application site, as a current employment use and with a proposed industrial use. The LDP confirms that *" 'sites with development potential' (and) will progress to an allocation status through the Action Programme when more detailed proposals are established"*.

The current Section 42 application that is under determination will result in the continued presence of either a Class 7 hotel use or Class 9 (or Sui Generis) residential use within an area allocated within the adopted LDP for industrial use. Neither a hotel nor residential use can be considered to be compliant with industrial use classes (4, 5 or 6). They are fundamentally different uses with differing requirements in terms of amenity and supporting infrastructure.

The proposed development will also remove a large proportion of land from the industrial land supply until at least 2026. The location of the accommodation facility near the centre of NM020 may also deter other industry and business uses from locating within the Sella Ness Industrial Estate due to the distinctly different nature of the uses.

The current LDP was adopted in September 2014, almost four years after the original planning permission for temporary residential accommodation at Sella Ness was approved in 2010. If the Shetland Islands Council considered that long term/permanent residential or hotel accommodation was appropriate or required at Sella Ness Industrial Estate, or that the industrial land allocation was no longer required, then it had the opportunity to make this change through the plan-led process and plan for an appropriate and complementary mix of uses that adhere to placemaking principles.

The proposal is for a total of 426 units/bedrooms, which is of a significant scale. The nearby settlement of Brae, in its entirety, only comprises of circa 100-200 properties and supports a maximum population of around 800 people. The 426 room facility at Sella Ness has the ability to accommodate at least 852 people on an industrial site, having done so in the past. As such, we consider that the proposed development in this location is significantly contrary to the development plan.

The Proposed Hotel/Accommodation Use is Not in an Appropriate Location

Planning application 2018/328/VCON relates to a Major Development, as indicated through the 2010 and 2014 planning applications (albeit that it is recognised that formal Pre-Application Consultation procedures are not required for a Section 42 application).

Policy H2 – Areas of Best Fit of the adopted LDP states that Major Developments should only occur within Areas of Best Fit unless the applicant can provide evidence of demand in an alternative area or that no land is available for development within the best fit area. There is an Area of Best Fit located around the services and facilities of Brae, located within four miles of the application site.

This planning application has not been supported by any evidence of the site meeting demand that cannot be provided for within Brae, or any form of sequential assessment of the potential of available land in Brae.

As such, the proposed development is not in compliance with Policy H2.

The Form and Process of the Planning Application

As highlighted above, and as explored further in this representation, we consider that the planning application is not compliant with planning policy, that the balance of material considerations is not

sufficient to justify approval and that the planning application should be refused. However, we also have serious concerns over the process being followed for this planning application.

Planning application 2018/328/VCON is the second time that a Section 42 application route has been used to seek to extend the lifetime of the original planning permission, which was originally due to expire on 30 November 2015. Both the original planning condition (#4 of 2010/256/PCD) and the 2014 planning condition (#2 of 2014/109/VCON) set out a binary decision on what was to happen when the temporary planning permission expired – either the building shall be decommissioned and removed or a "*subsequent application for Full Planning Permission*" has been submitted and granted.

We consider that the approach to seek a third route from this clear binary choice (set out by the original permission), insofar as it may result in a temporary use being established for at least 16 years, is inappropriate and unjustified. This is exacerbated by the fact that it relates to Council owned land, is for a use that is contrary to the development plan allocation and allows a planning application to be submitted without appropriate re-examination of site specific considerations such as flood risk, design quality, placemaking and amenity standards or potential impact on the local environment/adjacent Special Area of Conservation.

Further to this, it is our view that the current planning application seeks a material change in the nature and purpose of the temporary accommodation from that which was originally granted planning permission in 2010. The 2010 planning permission was determined on the basis of the temporary facility being to house construction workers for the new gas plant. The 2014 Section 42 application was determined partly on the fact that further work to construct the gas plant was required, alongside the consideration that there was a wider shortfall of accommodation for workers in Shetland.

This current application now justifies the proposed development on being to accommodate the general workforce population of the local area, as well as speculative future custom through potential employment intensification. The proposal no longer relates to a specific and temporary need. It aims to justify itself on meeting a long-term need and, therefore, a new and full planning permission should be submitted for such a proposal. This should be supported by full Pre-Application Consultation and all the supporting technical studies that are required to assess such applications.

The current application also appears to be for 426 units/bedrooms, while the original permission was for 424 bedrooms.

Policy GP3 – All Development: Layout and Design states that a masterplan should be submitted with applications where Major Development is proposed. No justified masterplan for the scale and context of this 426 bedroom development has been submitted.

Also, as far as we are aware, the planning application has not been advertised in the local press or on the planning portal as being contrary to the development plan.

In light of the above, we question the appropriateness of the process being undertaken by Shetland Islands Council in validating and determining this current planning application.

There is No Demonstrated Need for the Scale of the Proposed Development

The planning application is supported by a Planning Statement prepared by Norr and an economic appraisal entitled 'Worker Accommodation Demand and Supply in Shetland' (hereby referred to as the Market Report), prepared by BiGGAR Economics.

The Planning Statement explains that the construction of the Shetland Gas Plant is now complete, although an extension of the time limit for the planning permission is sought to meet demand for accommodation from itinerant workers in the local area.

The submitted Market Report states that it aims to provide an assessment of the demand and supply of accommodation for workers in Shetland. However, although it makes many assumptions and estimates over speculative future demand, it contains no robust data or evidence of existing supply in the local area. As such, it cannot and does not establish any justifiable need for the proposed development.

The supply and demand analysis across sectors, as detailed in Chapter 4 of the Market Report, looks at broad trends and, in our view, does not show any clear supply issues that will be directly addressed by the proposed development that cannot be addressed by existing sources or responses to market forces.

Table 5.1 of the Market Report looks at the specific *"Expected Accommodation Demand at Sella Ness"*. This table highlights that, even at its most optimistic maximum demand calculations, the existing workforce linked with Sullom Voe and Shetland Gas Plant will create demand for 360 bed spaces of the 426 being provided by the proposed development.

The minimum demand is given as 270, which would leave the proposed development with a spare capacity of 156 bedrooms. The remaining stated demand is all speculative, based on the potential of workforce for projects that have not commenced and for which the level of demand is not proven.

Section 5.1 actually identifies that there are only 170 Enquest staff and sub-contractors currently requiring local accommodation. The further 100 workers that would make up the 270 "*minimum*" are acknowledged as currently being accommodated elsewhere in the area. Therefore, this acknowledges that the temporary accommodation proposed would require to take 100 bed spaces from existing, established hotel or accommodation providers for it to achieve only 63% capacity through identified existing demand. We consider that justifying the need for the temporary proposed development by requiring to take business from established, permanent facilities casts significant doubt on the need for the scale of the proposed development, and would cause harm to the long-term economy of the local area.

The remaining demand identified by the Market Report is all speculative, based on estimates of potential workers for projects that have not yet commenced or on increased activity due to potential oil price rises or the significant intensification of decommissioning work.

A further key consideration is that, if this planning permission is granted then there is nothing to stop the Sella Ness facility from restoring their capacity to accommodate 852 people whenever suits the operators, as was the case shortly after the time of the original permission. As it has only been Section 42 applications that have extended the timescales then the parameters of the original permission are still in place. This scale of development, without an identified and proven construction worker need, like at the time of the original permission, would cause an unacceptable risk to the viability of established and permanent hotel operators as well as to the health of the local economy.

It is telling that the last paragraph to the Market Report that was submitted with the proposed development states that, *"were Sella Ness to be closed, in excess of 800 workers would need to be accommodated which would place constraints on the tourism sector and have a negative impact on the growth of the sector"*. Although this is clearly not true (as the Market Report earlier confirms that the facility only serves 170 workers from Sullom Voe and Shetland Gas Plant at present), it suggests a clear intention from the applicant that they consider Sella Ness to be able to operate as an 800+ person facility. Without the short-term, temporary need that the original permission was

approved to serve then this proposed development would cause significant harm to existing hotel operators and accommodation providers.

If the Shetland Islands Council consider that there is a shortage of accommodation on Shetland then separate efforts should be taken to increase activity in housing and hotel stock in appropriate locations such as Areas of Best Fit or local villages such as Brae, which have services and facilities appropriate for residential development, rather than repeatedly allowing planning permission for a temporary use in an inappropriate location.

The Impact of the Proposed Development

Individual representatives of SNAP have advised us that **if this planning application is approved then at least one, likely more, of the existing hotels in the north mainland will become unviable and will likely be closed by the current operators within the next two years.** This would lead to a loss of job opportunities for islanders, impact upon the businesses of linked suppliers and reduce the level of business rates available to Shetland Islands Council.

The Planning Statement submitted with the planning application acknowledges that there are at least six established hotels on the north mainland that *"to a greater or lesser extent provide accommodation to serve the demands associated with the Sullom Voe Terminal"*. The Planning Statement stresses that competition between the proposed development and these hotel providers is not a planning matter and suggests that continued choice and price competition will assist the attractiveness of the local area for continued investment, in turn being of benefit to the local economy.

As highlighted above, the Market Report illustrates that successful competition by the temporary accommodation - against permanent accommodation and hotels - is required for it to achieve only 63% capacity based on current demand (which they state as being for 270 workers from the adjacent plants - 170 that they currently serve and 100 that are currently accommodated locally). The remaining need is based on speculative assumptions of increased industry due to oil price fluctuations or of pipeline construction projects being realised and workers choosing to stay at Sella Ness.

The current confirmed baseline demand to serve 170 workers from Sullom Voe and the Shetland Gas Plant would be only 40% of the facility's capacity of 426. If the operators choose to restore their rooms to double (bunk-bed) occupancy then that confirmed demand would only cover 20% of the overall capacity.

We do not consider that Shetland Islands Council should consider a non-compliant use in an industrial area, of a temporary and modular form of accommodation, to be comparable to the value of permanent, established and purpose-built hotel accommodation.

Some of the more recent hotel stock to be constructed in the local area was developed to a business plan based on the Sella Ness facility being a temporary facility created to serve construction workers and due to be decommissioned in 2015, then extended to 2020. These represent permanent, high quality facilities that do rely on business from the local workforce, but also maintain a proportion of their rooms to serve tourism offer in the north mainland. The ability to service workers requirements in the off-season periods enables the businesses to remain viable year round, in turn remaining available to serve the tourist traffic in this part of the islands during peak periods.

The representatives of SNAP form an important part of the local community, with many growing their local businesses and facilities in the local area for over 20 years. All of these representatives and their businesses have been looking to improve the offer for servicing tourism in the north

mainland. However, we consider that the proposed development brings a significant risk of closures, which would diminish the level of choice and offer to tourists to this part of Shetland.

Any threat to the viability of local, permanent hotel accommodation from the proposed development will risk the loss of high quality facilities for local tourism. Tourism accommodation needs cannot be serviced by the temporary Sella Ness accommodation. Therefore, the proposed development could harm the level of tourism provision in the local area and result in harm to the local economy.

Taking all of these considerations together then we consider that the competition provided by lower quality and temporary accommodation can be considered as a material planning consideration.

The Spatial Strategy of the adopted LDP states, "*Planning decisions should promote development that safeguards and enhances the long-term needs of the economy; society and those living within it; and the environment.*" We consider that any support for a temporary facility which may lead to the closure of existing, established businesses will harm the long-term needs of the economy. As such, we consider the proposed development to be contrary to the aims and objectives of the Council's published Spatial Strategy for planning.

Conclusion

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires decisions to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

We consider that each of our above areas of objection are strong enough to justify that the current planning application (ref: 2018/328/VCON) should be refused planning permission, or be considered invalid for determination. Even if Shetland Islands Council does not consider this to be the case, we strongly believe that the layered consideration of these objections demonstrates, overall, that the planning application should be refused as being contrary to the development plan and with the balance of material considerations also indicating that the proposed development is not needed or appropriate for its location.

The temporary accommodation facility at Sella Ness was originally approved in 2010 to provide a specific and temporary solution to accommodate construction workers for the Shetland Gas Plant. The temporary nature was a key reason for the justification for a commercial accommodation use on an allocated industrial site and the resulting loss of land to the industrial land supply. The current proposal changes the nature and purpose of the development, seeking to accommodate workers of permanent / long-term businesses and also to serve future business needs. It is no longer a temporary facility and so we consider that a further extension of planning permission is unacceptable on this basis alone.

Overall, the proposed development for a continued hotel / accommodation use on this allocated industrial site is significantly contrary to the spatial strategy and policy of the adopted LDP, is not based on sufficient need to prevent significant impact on local businesses and the economy, and is generally the wrong use in the wrong location – in that it will establish a large residential community away from the facilities / services of a defined settlement for a further eight years.

If this proposed development is granted a further planning permission until 2026 then it will likely result in the closure of permanent, high quality hotel provision that serves the tourism sector as well as worker accommodation, resulting in the loss of jobs and harming the long-term economy of the area. If any additional accommodation is required to serve workers in the local area then it should be based within existing settlements, within Areas of Best Fit or through extensions or improvements to existing and permanent hotel and accommodation facilities as and when the market requires.

In light of all of the above, we respectfully request that Shetland Islands Council refuse planning permission for application reference 2018/328/VCON.

Yours faithfully

A black rectangular box redacting the signature of the Planning Associate.

Planning Associate

From: Ken Williamson
Sent: Thu, 13 Dec 2018 19:13:12 +0000
To: Development Management@Development
Subject: Sella Ness Hotel

Dear Sir ,

In regard to Sella Ness Accomodtion planning renewal , this facility is having a devastating effect on existing local hotels and accomodation providers , i believed it was a temporary facility yet i now read it is desired it remains open for an extended period ? the reasons for it staying open seem tenuous at best . Surely it should only exist for its original puropse and planning consent term ? . Yours a concerned Shetland resident .

Kenny Williamson



OUR REF B5301.11/EXM
YOUR REF 2018/328/VCON
13 December 2018

Shetland Islands Council
Development Management
Development Services Department
8 North Ness Business Park
Lerwick
Shetland
ZE1 0NT

Dear Sirs

**Shetland North Accommodation Providers
Planning Application by Malthus Uniteam (UK) Limited ("the Application")
Sella Ness Industrial Estate, Mossbank, Shetland**

We represent The Shetland North Accommodation Providers who collectively own the Brae Hotel, Busta House Hotel, Drumquin, Greystones, Moorfield Hotel, St Magnus Bay Hotel, and Valleyfield.

Our clients have been made aware of the Application and have instructed us to write to you in connection with significant concerns that they have regarding the procedures that the Applicant proposes to follow.

The facility which is the subject of the Application was originally consented for a temporary period of only 5 years. It was a major development in terms of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and was therefore the subject of pre-Application. Since then the Permission granted in 2010 has been "varied" by a Planning Permission granted under Section 42 which avoided any statutory pre-application consultation. The Section 42 Permission authorised the retention of the temporary accommodation facility until 30 November 2020. The Applicants now propose to extend the life of the temporary accommodation facility again without pre-application consultation to 2026.

Both the original Permission from 2010 and the Section 42 Permission granted in 2014 undoubtedly fall within Schedule 2 to the Environmental Impact Assessment Regulations. However, it appears that neither was "screened" to determine whether the development was likely to have significant effects on the environment (including population). The Application also meets the Schedule 2 criteria and must be screened in order that the Council takes full account of the socio-economic impact that the continuation of Permission for this facility is likely to have on the North Island. A failure by the Council to properly follow EIA procedures and to require the consideration of socio-economic impact through the full EIA process would be unlawful and likely to result in legal challenge.

Our clients are concerned that the Applicant's repeated use of the Section 42 Application process is designed to minimise the level of consultation that requires to be undertaken in connection with this proposal. As we

5th Floor, 1 Exchange Crescent
Conference Square
Edinburgh EH3 8UL
DX 551970 Edinburgh 53

1 West Regent Street
Glasgow
G2 1RW
DX GW409 Glasgow

Condor House
10 St. Paul's Churchyard
London EC4M 8AL
DX 98945 Cheapside 2

Commercial House
2 Rubislaw Terrace
Aberdeen AB10 1XE
DX AB103 Aberdeen 1

are sure you are aware already, Shetland Islands Council is the owner of the Application Site and it is unreasonable for the significant extension of the development to be permitted without full pre-Application consultation with the wider local community to understand its views and the acceptability of the continuation of this use.

There is no indication in any of the supporting documentation that the sewage treatment facilities originally provided in association with the temporary consent granted in 2010 are likely to be sufficient to accommodate demand from a further 8 years' worth of occupancy by over 800 construction workers (see final paragraph of the Biggar Economics Report of 12th November 2018). Given the outfall of the development into the Sullom Voe Special Area of Conservation, it is imperative that Shetland Islands Council give proper consideration to this matter and, in particular, to whether there is a need for appropriate assessment under the Habitat Regulations prior to the determination of the Application.

Finally, given the zoning of the site for industrial development in the 2014 Local Development Plan (which was adopted following determination of the original application), it seems clear that this proposal for temporary accommodation would be significantly contrary to the Development Plan since it is contrary to the spatial strategy set out by the Plan. In those circumstances, because of the Council's financial interest in the site, it will be necessary for the Council to notify the Application to Scottish Ministers in order that they can consider the merits of the Application in addition to some of the significant procedural issues identified above.

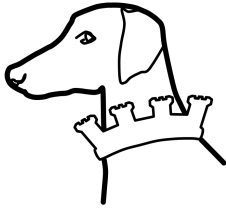
Please acknowledge safe receipt and confirm that this letter will be taken into account in the determination of the Application.

Yours faithfully



Ewan MacLeod
For and on behalf of Shepherd and Wedderburn LLP





Hunter Planning Ltd

Chartered Planning Consultant

Objection

Hunter Planning Ltd
61B Commercial Road
Lerwick, ZE1 0NL

Date: 12/12/2018

Dear Development Management,

Objection to planning application - 2018/328/VCON by:

1. Drumquin Guest House
2. Breiview Guest House
3. Norlande Guest House
4. Woosung B&B
5. The Lerwick Hotel
6. The Shetland Hotel
7. The Kveldsro House Hotel
8. The Scalloway Hotel
9. Busta House Hotel
10. St Magnus Bay Hotel
11. Greystones Guesthouse
12. Toog Properties Ltd
13. Valleyfield Guest House
14. Herrislea House Hotel

The above noted accommodation providers in Shetland wish to object to 2018/328/VCON - "Section 42 application to vary the terms of condition 2 of planning permission 2014/109/VCON | Temporary Residential Accommodation Sella Ness Industrial Estate Graven Mossbank Shetland ZE2 9UP".

Context

The facility was originally granted as a temporary accommodation facility specifically for the construction of the Shetland Gas Plant, which has since been completed. The extension to the temporary time period was granted on the basis that the Gas Sweetening Plant had gained approval. The current application is to extend the temporary period of the accommodation facility far beyond the requirements of the original consent on the basis that there may be accommodation requirements in the area in future for other projects.



Principle of Development and Notification to Scottish Ministers

The Sella Ness facility is on a site identified as a Site With Development Potential for Industry in Shetland Local Development Plan 2014 (SLDP) (reference NM020). The facility could be justified at the time it was originally approved because of the requirement for a large number of temporary construction workers.

Given that the construction phase of the plant has ended, the proposal is now simply a residential facility on industrial land. It should therefore be assessed as a residential unit under the SLDP. When considered in this way the proposal is clearly contrary to SLDP Policies H3 and GP1 in terms of appropriate residential development locations and sterilisation of future uses of land.

In this regard the proposal is considered to be significantly contrary to the Development Plan because approval would be contrary to the vision and wider spatial strategy of the plan. Given the Planning Authority interest in the land and that the proposal is very likely to be significantly contrary to the development plan, it is therefore highlighted that there would be a requirement for the Planning Authority to notify Scottish Ministers before a recommendation for approval could be made.

Capacity and Demand

Figures 5.1 – Accommodation Demand Over Time (Minimum) and 5.2 – Accommodation Demand Over Time (Maximum) of the document titled “Worker Accommodation Demand and Supply in Shetland” highlights that the majority of the capacity of the facilities are occupied consistently by Enquest, Enquest Subcontractors and TOTAL. It is understood that these are operational personnel who run the facility from day to day, yet are housed in temporary accommodation related to the construction phase, not operation of the facilities. If long term facilities are required for the running of the Sullom Voe Terminal and the Shetland Gas Plant, the Shetland Local Development Plan would encourage that type of accommodation into settlements such as Brae, Mossbank, Toft or elsewhere in Shetland. The result would be a strengthening of Shetland’s communities and the flow of finances into the Shetland economy such as in local shops, restaurants and bars.

The accommodation providers note that the demand for temporary workers highlighted in the submitted documentation appear to be inflated based on their understandings of the operational requirements of the Shetland Gas Plant, Sullom Voe Terminal and Scatsta Airport.

The figures noted above show scope for the need for temporary workers peaking in 2022 as a result of a number of wind farm developments. It is considered that the accommodation sector in Shetland has sufficient capacity to handle that volume of workers without the need for the facility at Sella Ness. The accommodation providers in Shetland vary greatly in size and can accommodate from six workers in the smaller premises to over one hundred in the larger ones. The total number of workers that can be accommodated in the sector is several hundred and calculating an exact figure warrants further research. It is noted that since the



initial assessment of the proposed facility, over 100 additional bedrooms are available in Brae.

It is noted that the accommodation sector coped with the demand for itinerant workers prior to the construction of the Sella Ness facility, including last minute and late night demand due to flights and weather.

The supporting information within the planning application indicates that there is a financial benefit to Shetland and the Council as a result of the rates from the facility at Sella Ness. While this may be the case, it must be considered whether the loss of income from the local accommodation sector is equal to the amount of benefit that Sella Ness facility brings. Any economic benefit from the proposal must be carefully considered.

Community Facilities

While business competition is not a material consideration in planning terms, the economic impact of one development on a wider sector, including the resulting impacts on local communities, is. Therefore a distinction between the proposed development and local accommodation providers has to be made. The facilities at Sella Ness cannot be accessed by the public and it is considered that no community facilities are provided.

Shetland Local Development Plan 2014 Policy CF1 provides specific protections for facilities which have community benefits. As such, proposals that have a significant adverse effect on facilities that provide community benefits must be considered contrary to Shetland Local Development Plan 2014 Policy CF1.

The vast majority of local accommodation providers in Shetland act as a community hub - a core within their community. Many support retained firefighters, cater for local weddings and wakes and provide phone and wifi access for example. Local accommodation providers act as local emergency facilities in times of need. The majority of these premises are within settlements and provide local employment. Many offer food and public house facilities which act as social space within Shetland's communities, particularly in more remote areas where there is no other provision of social space. Without these facilities, the resilience and integrity of communities could be significantly adversely affected.

One of the key sources of revenues for the above noted business is the accommodation they provide for temporary workers.

Many of the accommodation providers have noted drops in winter trade of between 50% and 97% since the Sella Ness facility became operational. Others have noted that they were closed last winter for the first time and expect to become seasonal if the situation continues to become unsustainable.

As a result of the downturn, many have noted losing staff, between 1 full time equivalent post to 7.5 full time equivalent posts. The total number of staff lost as a result of the downturn in winter trade warrants further research. Many of the premises have employed



staff consistently for over 30 years. Should this situation continue there is a very real possibility that the extension of the temporary period on the Sella Ness facility will result in them closing their premises.

Most of the accommodation providers source supplies locally which contributes to the local food, drink and services industries. The majority of the wages paid to staff will be spent in the local economy, in shops, post offices, pubs, taxis and leisure centres.

Tourism

The accommodation sector in Shetland promotes Shetland as a place to visit, work and move to. With the threat of closure of a number of accommodation facilities, the options available to tourists would be reduced.

Some have stated at this point they are in limbo because of the uncertainty about whether their businesses will be viable in the longer term and therefore cannot invest in developing staff and upgrading the services they provide. This will inevitably affect the attractiveness of Shetland as a destination for tourism.

Conclusion

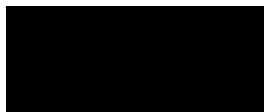
Approval of the proposed development could have very real consequences on the sustainability of the accommodation sector in Shetland and result in detrimental impacts on other areas of the economy and community.

Had it been known that the proposal was to be extended into 2026 during the original application, concerns would have been raised at the time by the local accommodation sector.

It is therefore asked that the variation to the condition is refused.

If you have any queries feel free to contact me as above.

Yours Sincerely,



Dale Hunter
Director



BY EMAIL

Richard MacNeill
Shetland Islands Council
Development Management
8 North Ness Business Park
Lerwick
SHETLAND
ZE1 0NT

29857/A3/IH/sh
29 April 2019

Dear Mr MacNeill

**LETTER OF MAINTAINED OBJECTION TO PLANNING APPLICATION REF: 2018/328/VCON
- TEMPORARY ACCOMMODATION FACILITY, SELLA NESS INDUSTRIAL ESTATE, SHETLAND**

This letter has been prepared on behalf of the Shetland North Accommodation Providers (hereby referred to as SNAP) to maintain their objection to planning application reference 2018/328/VCON and to provide a brief response to the 22 March 2019 letter from the applicant's agents.

Firstly, SNAP wish to note its support and agreement to the concerns and formal objection of the Council's Development Plans team, which sets out their professional judgement that the proposed development will be contrary to Policies GP2i, GP1 and H7 of the adopted Local Development Plan (LDP). They added that the proposal is likely to be contrary to ED1.

The Development Plans team provided the applicant the opportunity to evidence whether an appropriate departure from Policies GP2i, GP1 and H7 would be acceptable. The view of SNAP is that the proposal cannot be justified by policy and that suitable justification has not been demonstrated through the applicant's response letter of 22 March 2019 – with no clear evidence of sufficient demand or the requested assessment of alternative sites and accommodation solutions – and, therefore, the current planning application should be refused.

Much is made in the applicant's response of the proposed development being a temporary permission that provides a solution to "*short-term requirements*" and that "*it should be reiterated that this application remains for a temporary period in order to accommodate a forecast short-term increase in worker demand*". As the approval of the current planning application would result in the proposed development being in place for a period of 16 years then SNAP fail to see how this is actually a temporary development. Indeed, even the applicant's response states that "*the accommodation facility whilst temporary in the fact that it will only be located at the site while there is a demand for short term accommodation, is of a permanent construction*". This would suggest that the applicant considers the temporary use to be indefinite until there is no longer any perceived demand for short term accommodation.

Although SNAP maintain all parts of the objection noted in its original representation of 13 December 2018, we wish to particularly focus here on the applicant's response in relation to demand, impact on existing hotel and accommodation providers and the need by planning policy for the proposed development to be sequentially appraised for a settlement location.



FS 29637

Registered in England
Number: 0C342692

Barton Willmore LLP
Registered Office:
The Blade
Abbey Square
Reading
RG1 3BE

In terms of demand, the applicant's response continues to base their position on there being demand for short term workers of between 690 and 910 people. We continue to refute the significance of these figures as they are based on a hypothetical and unproven increase of workers from potential future projects coming forward within an undefined timeline. The planning system can allow for local market forces to respond to future demand as and when it is required, in sustainable locations, rather than risk the viability of established local businesses to aim to meet speculative future need.

The existing, proven demand highlighted by the BiGGAR report is for 270 workers (stated as 120 Enquest staff at Sella Ness now, 50 additional Enquest subcontractors, and 100 Total E&P staff that are currently accommodated at an existing hotel facility). Even meeting this demand in full would leave Sella Ness with a spare capacity of 156 bedrooms (or 582 beds if the operators revert to 852 beds by double occupancy – which they can do without planning permission), bringing competition with existing local providers on filling these rooms. The fact that this competition will be caused from a Major development that is significantly contrary to the development plan allocation and planning policy makes this a material planning consideration.

However, this demand for 270 workers is already founded on the basis of taking trade from existing providers. The BiGGAR report acknowledges that 100 workers *"are currently accommodated elsewhere in the area. This arrangement is for a prescribed period and therefore these 100 staff may also require accommodation"* (Section 5.1). It is concerning that this displacement of year-round trade from 100 customers of local accommodation providers, and that effect on occupancy percentages, has not been considered by the applicant in its unproven suggestion that existing hotel accommodation capacity cannot serve both workers and tourists during peak periods. No evidence of existing capacity issues at peak periods has been provided.

The actual existing and proven demand highlighted by the submitted BiGGAR report (for those not already catered for by existing accommodation providers) is for 170 bedspaces/workers. Table 2 of the applicant's own response suggests that there is currently an average spare capacity of 383 rooms with existing hotel and accommodation providers in Shetland.


There is not sufficient demand for the proposed development without a necessity to compete with existing accommodation providers and so SNAP consider that to even be sufficient on its own for the planning application to be refused. However, as highlighted in the original objection, there are a number of reasons as to why this inappropriate application for a continuously 'temporary' accommodation use in an industrial location should be refused.

In terms of compliance with other planning policies, we note that the applicant's response now classifies its proposal as Sui Generis – despite this term having not been used in any of the application submission documents up until now – and it is suggested that this means that the proposed development does not require to fully comply with the sequential assessment element of LDP policies GP1, H2, H7 and H3 (through the application of H7). If the proposed development is now considered Sui Generis due to its incorporation of a mix of hotel/commercial and residential uses then all policies that apply to these component uses should be considered. SNAP do not accept that the proposed development being within a Site for Development Potential for a use other than its defined industrial use is compliant with these policies.

Overall, SNAP wish to reiterate that the proposed continued use of this 'temporary' accommodation facility on this allocated industrial site is significantly contrary to the spatial strategy and policy of the adopted LDP, will have significant adverse impact on local businesses and the economy, and is the wrong use in the wrong location – maintaining a large residential community away from the facilities/services of a defined settlement. The applicant's letter of 22 March has not provided the required evidence requested to respond to the Council's Development Plans team's professional judgement that the proposed development does not comply with LDP policy. If this proposed development is granted a further planning permission until 2026 then it will likely result in the closure of permanent, high quality hotel provision that serves both the tourism sector and worker accommodation, resulting in the loss of jobs and harming the long-term economy of the area.

In light of the above, SNAP respectfully request that Shetland Islands Council refuse planning permission for application reference 2018/328/VCON.

Yours sincerely



IAIN HYND
Planning Associate