

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 4TH SEPTEMBER, 2017

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 4TH SEPTEMBER, 2017 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

28 August 2017

<b>BUSINESS</b>	
1.	<b>Apologies for Absence.</b>
2.	<b>Order of Business.</b>
3.	<b>Declarations of Interest.</b>
4.	<b>Minute.</b> (Pages 1 - 12)  Minute of Meeting of 7 August 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	<b>Applications.</b>  Consider the following application for planning permission:-
	(a) <b>Land South West of Easter Haprew Farmhouse, Peebles - 16/01377/FUL</b> (Pages 13 - 30) Erection of poultry building. (Copy attached.)
	(b) <b>Units 9 and 10, 6 - 8 Douglas Bridge, Galashiels - 17/00765/FUL</b> (Pages 31 - 44) Change of Use from Class 1 (Retail) to Class 2 (Financial, Professional and Other Services). (Copy attached.)
	(c) <b>12 Merse View, Paxton, Scottish Borders - 17/00921/FUL</b> (Pages 45 - 52) Extension to dwellinghouse. (Copy attached.)
	(d) <b>3 -5 Exchange Street, Jedburgh - 17/00669/FUL</b> (Pages 53 - 60) Part Change of Use from Class 2 (Office) to Class 9 (Residential) – 17/00669/FUL. (Copy attached.)
6.	<b>Appeals and Reviews.</b> (Pages 61 - 66)  Consider report by Service Director Regulatory Services. (Copy attached.)
7.	<b>Any Other Items Previously Circulated.</b>

8.	<b>Any Other Items which the Chairman Decides are Urgent.</b>

**NOTE**

Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Members are reminded that any decisions taken by the Planning and Building Standards Committee are quasi judicial in nature. Legislation , case law and the Councillors Code of Conduct require that Members :

- Need to ensure a fair proper hearing
- Must avoid any impression of bias in relation to the statutory decision making process
- Must take no account of irrelevant matters
- Must not prejudge an application,
- Must not formulate a final view on an application until all available information is to hand and has been duly considered at the relevant meeting
- Must avoid any occasion for suspicion and any appearance of improper conduct
- Must not come with a pre prepared statement which already has a conclusion

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**Membership of Committee:-** Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

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Please direct any enquiries to Fiona Henderson 01835 826502  
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**SCOTTISH BORDERS COUNCIL  
PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 7 August 2017 at 10.00 am

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Present:- Councillors T. Miers (Chairman), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, E. Small.  
Apologies:- Councillor S. Aitchison, C. Ramage,  
In Attendance:- Depute Chief Planning Officer, Lead Officer (Development Management and Enforcement) Lead Roads Planning Officer, Solicitor (Emma Moir), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

**1.0 MINUTE**

1.1 There had been circulated copies of the Minute of the Meeting held on 26 June 2017.

**DECISION**

**APPROVED for signature by the Chairman.**

**2.0 APPLICATIONS**

2.1 There had been circulated copies of reports by the Service Director Regulatory Services on applications for planning permission requiring consideration by the Committee.

**DECISION**

**DEALT with the applications as detailed in Appendix I to this Minute.**

**DECLARATIONS OF INTEREST**

Councillor Small declared an interest in Application 17/00087/FUL in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

**3.0 PLACE, PEOPLE AND PLANNING – POSITION STATEMENT**

3.1 There had been circulated copies of a report by the Service Director Regulatory Services which sought approval of the response prepared by the Chief Planning Officer on behalf of Scottish Borders Council in respect of the key changes proposed to the planning system in Scotland set out in the Scottish Government's Position Statement. The report explained that on 29 June 2017 Scottish Government published a Position Statement setting out the measures Scottish Ministers were likely to take forward through the forthcoming Planning Bill, secondary legislation and other, non-statutory approaches. The statement was produced after taking account of the submissions made to the consultation document "Places People and Planning - A consultation on the future of the Scottish Planning System" published in January 2017. The proposals sought to refocus the planning system on delivering outcomes, facilitating economic development and placemaking, whilst enhancing community engagement and reducing and simplifying processes and procedures. The changes set out in the statement focused on technical matters and future legislative amendments, but also formed part of a wider programme of reform and behavioural change in planning. The report sought approval for the reply to the current consultation and responses to the consultation required to be submitted by 11 August 2017.

## **DECISION**

**APPROVED** the consultation response set out in Appendix A to the report as the Scottish Borders Council's formal response to the Scottish Government consultation "Places, People and Planning Position statement".

- 4.0 **APPEALS AND REVIEWS** 4.1 There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

## **DECISION**

### **NOTED:-**

**(a) Planning Appeals received in respect of:-**

- (i) Wind farm development comprising of 8 no turbines 100m height to tip and associated works, infrastructure, compounds, buildings and meteorological mast on Land North of Howpark Farmhouse, Grantshouse – 16/00980/FUL;**
- (ii) Residential development comprising 38 dwelling units with associated access, landscaping and open space at Poultry Farm, Marchmont Road, Greenlaw – 16/01360/PPP**

**(b) the Appeal decision in respect of part change of use of dwellinghouse and garden ground to wedding venue and erection of marquees Hartree House, Kilbucho – 16/00865/FUL**

**(c) enforcements in respect of:-**

- (i) Erection of fence at 1 Borthwick View, Roberton, Hawick – 16/00105/UNDEV;**
- (ii) Boundary fence and summerhouse erected in front garden of 1 Borthwick View, Roberton - 16/00105/UNDEV; and**
- (iii) Boundary fence and summerhouse erected in front garden of 1 Borthwick View, Roberton - 16/00146/UNDEV**

**(d) there remained one appeal outstanding in respect of Land North West of Whitmuir Hall, Selkirk**

**(e) Review requests had been received in respect of:-**

- (i) Erection of dwellinghouse with attached garage on Land North East of The Old Church, Lambertton – 16/00947/FUL;**
- (ii) Replacement windows and installation of chimney flue at 5 High Street, Innerleithen – 17/00257/FUL;**
- (iii) Erection of dwelling house with attached garage and workshop on Land North West of Alderbank, Macbiehill, West Linton – 17/00530/FUL;**

**(f) the decision of the Appointed Officer had been upheld by the Local Review Body in respect of:-**

- (i) Erection of dog day care building, perimeter fence and associated works (retrospective) on Land South West of Milkieston Toll House, Eddleston – 16/00872/FUL;**

- (ii) **Erection of agricultural storage building with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00027/FUL;**
  - (iii) **Erection of agricultural storage shed with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00028/FUL;**
  - (iv) **Erection of agricultural storage shed with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00090/FUL**
  - (v) **Erection of agricultural storage shed with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00092/FUL;**
  - (vi) **Erection of agricultural storage shed with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00093/FUL; and**
  - (vii) **Erection of agricultural storage shed with welfare accommodation Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles – 17/00094/FUL.**
- (g) **the decision of the Appointed Officer had been overturned by the Local Review Body in respect of:-**
- (i) **Erection of detached garage with first floor studio, alterations and extension to dwellinghouse at Danderhall cottages, St Boswells, Melrose – 17/00011/FUL; and**
  - (ii) **Erection of two dwelling houses in garden ground of Woodlands, Brommlee Mains, West Linton – 17/00044/PPP**
- (h) **the decision of the Appointed Officer had been varied (revised conditions and informatives) by the Local Review Body in respect of Erection of dwelling house and detached garage (approval of matters specified in all conditions pursuant to planning permission 15/00301/PPP) ON LAND North East of Dundas Cottage, Ettrick, Selkirk – 16/01467/AMC**
- (i) **there remained three reviews outstanding in respect of:-**
- **Land North West of Dunrig Spylaw farm, Lamancha, West Linton**
  - **Land South of Balmerino, Ashkirk**
  - **Redundant Steading North West of Pots Close Cottage, Kelso**
- (j) **there remained four S36 Public Local Inquiries outstanding in respect of the following:-**
- **(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir**
  - **Fallago Rig 1, Longformacus**
  - **Fallago Rig 2, Longformacus**
  - **Birneyknowe Wind Farm, Land North, South, East and West of Birneyknowe Cottage, Hawick**

*The meeting concluded at 12.15 p.m.*

## APPENDIX I

### APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00087/FUL	Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated landscaping works	Land North East of 3 The Creamery Dolphinton

Decision:- Refused for the following reasons:-

1. The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with adopted Local Development Plan Policies PMD4, HD2 or ED7 in that the applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location and therefore the proposed development would represent unjustified, sporadic and prominent development in the open countryside.
2. The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and therefore does not comply in principle with adopted Local Development Plan Policies PMD4 and HD2.
3. The proposed development would result in the unjustified and permanent loss of carbon-rich soils, contrary to Policy ED10 of the adopted Local Development Plan.

#### VOTE

*Councillor Laing, seconded by Councillor Fullarton moved that the application be refused as per the Officer recommendation.*

*Councillor Anderson, seconded by Councillor Hamilton moved as an amendment that the application be approved.*

*On a show of hands Members voted as follows:-*

*Motion - 3 votes*

*Amendment 3 votes*

*As there was an equality of votes, the Chairman exercised his casting vote in favour of the motion which was accordingly carried.*

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00492/MIN	Extension of consented life of quarry By deepening area consented by previous minerals consent 09/00897/MIN	Quarry Soutra Mains Farm Blackshiels Soutra Oxton

Decision: approved subject, firstly, to a legal agreement to secure the provision of a bond to finance the restoration of the site, and secondly, subject to the following planning conditions:

- 1 A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until the completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form as per **Informative Note 1**, below:  
Development at (Note 1)

Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.

The development comprises (Note 5)

Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose.

Telephone (01835) 825060, or by visiting

<http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).

Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

- 2 The development shall be carried out in accordance with the approved scheme of working detailed in the phasing plans accompanying the application. In any event, the maximum floor depth of the quarry shall not be below 282 metres AOD. Furthermore, the extent of quarry workings along the southern edge of the extraction area shall accord with the description of Drawing 7098/303 22.10.09 approved under Minerals Planning Consent 17/00492/MIN notwithstanding the extent shown on any other approved drawing.  
Reason: To ensure the development of the site is carried out in the manner considered by the Minerals Planning Authority.
- 3 This quarry shall be permitted to operate for a maximum period of 28 years beginning from the date of this consent. Within 28 years and six months of the date of issue of this consent, or within 6 months of the cessation of quarry workings within the site, whichever occurs soonest, all buildings, structures and plant shall be removed from the site.  
Reason: To minimise the environmental effects of the proposed development in a manner consistent with its operational capacity.
- 4 All works, including temporary buildings, plant, machinery and stockpiles, shall be contained within the approved extraction area of the quarry unless these are being specifically used during soil or overburden stripping, or during bunding formation or planting works.  
Reason: To minimise the visual impact of the development.
- 5 Unless otherwise agreed in writing by the Planning Authority in advance, no floodlighting or perimeter fencing shall be installed, erected or used on site other than the floodlighting and the perimeter fencing that has been approved under Planning Conditions Nos 6 and 7 of Minerals Planning Consent 09/00897/MIN.  
Reason: In the interests of safeguarding the visual amenity of the area and to minimise the potential disturbance to bats and badgers.
- 6 Notwithstanding the details submitted in support of the minerals planning application, no extractions shall take place below 318m AOD at the site, until a detailed proposed restoration scheme for the entire site (including after-care and management and a timetable for the implementation and completion of the works) has first been submitted for the written approval of the Minerals Planning Authority. This same scheme shall include the proposed final restoration contours, levels and gradients, the proposed means of landscaping and planting, proposed wildlife habitat creation and a proposed implementation programme and maintenance schedule.  
Where the scheme proposes the infilling of any part of the void with a water body, both (a) a flood risk assessment and (b) a scheme to secure the oxygenation of the water, shall also be submitted for the approval of the Minerals Planning Authority at the same time as the submission of the site restoration proposals.



Furthermore, and unless the requirements of Condition 9 attached to Minerals Planning Consent 09/00897/MIN have first been addressed to the Minerals Planning Authority's satisfaction (as evidenced by the Authority's written approval), the proposed restoration scheme shall also include proposals for the full restoration of the Police Firing Range site. Following the Minerals Planning Authority's approval, the restoration scheme and any approved scheme to secure the oxygenation of the water within the water body, shall all thereafter be implemented in accordance with the approved details.

Reason: To ensure the restoration of the site in the interests of landscape and visual amenity and to minimise the long-term effect of the development on the landscape and visual amenity of the site and surrounding area.

- 7 Notwithstanding the details submitted in support of the minerals planning application:
  - (a) the mitigation planting described by the scheme of details (identifying species, number, location of all planting, and ground cover, and maintenance) approved by the Minerals Planning Authority under Planning Condition No 12 attached to Minerals Planning Consent 09/00897/MIN; and
  - (b) the bunding scheme described by the scheme of details approved by the Minerals Planning Authority under Planning Condition No 11 attached to Minerals Planning Consent 09/00897/MIN,shall all be provided and maintained in accordance with these same details throughout the period of operation of the minerals development hereby approved. Any subsequent change or changes to the approved landscaping and/or bunding details shall first have been agreed in writing by the Planning Authority prior to the implementation of this change/these changes on the ground. (Please see **Informative Note 3** for related information).

Reason: To minimise the visual impact of the development.
- 8 Noise levels at the nearest noise sensitive properties shall not exceed 55dB LAeq 1 Hr. Further, a programme of noise monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Noise Monitoring Scheme approved under Planning Condition No 19 attached to Minerals Planning Consent 09/00897/MIN.

Reason: To safeguard the amenity of nearby property occupiers.
- 9 Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of [6 mm -1] [10 mm -1] in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of [12 mm -1] as measured at vibration sensitive buildings, including Scheduled Monuments. Levels shall not exceed those recommended in the Environmental Statement (supplied in support of Minerals Planning Application 09/00897/MIN) for gas and electricity utilities. Furthermore, a programme of vibration monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Vibration Monitoring Scheme approved under Planning Condition No 21 attached to Minerals Planning Consent 09/00897/MIN.

Reason: To protect sensitive buildings and utilities from the effects of blasting.
- 10 The hours of operation for all working, with the exception of measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 07:00 hours to 19:00 hours on Mondays to Fridays and 07:00 hours to 15:30 hours on Saturdays, unless with the prior agreement of the Planning Authority.

Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area
- 11 The dust control measures identified in Table 18.8 (pages 186 to 187) of the Environmental Statement (supplied in support of Minerals Planning Application

09/00897/MIN), shall be operated throughout the operation of the minerals development hereby consented. Furthermore, all loads of aggregates being dispatched from the quarry shall be sheeted prior to the vehicles' departure from the site.

Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area.

- 12 Vehicle wheel cleaning facilities shall be maintained on site and operated throughout the period of operation of the quarry.  
Reason: To ensure material from the site is not deposited on the Trunk Road Network and local road network to the detriment of road safety.
- 13 Notwithstanding the details submitted in support of the minerals planning application, no excavations below 318m AOD shall take place within the site at all, until an updated Site Management Plan has first been submitted to and approved in writing by the Planning Authority, in consultation with SEPA, which: (a) identifies measures to protect the water environment from potential contamination; and (b) describes a scheme for monitoring changes within the water table. Thereafter, the site operations and ground water monitoring shall all be carried out in accordance with the approved updated Site Management Plan for the duration of the operation of the minerals development hereby consented.  
Reason: To ensure that there would be no unacceptable impacts upon the water environment, including with respect to the regulation of run-off and prevention of contamination.
- 14 Notwithstanding the details submitted in support of the minerals planning application, and notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no structure or other works for the storage, movement or management of ground water from the extraction area, shall be sited or established on site without the written prior approval of the Minerals Planning Authority. (Please see **Informative Note 4** for further information).  
Reason: To retain effective control of the minerals development hereby approved and to ensure that there would be no unacceptable impacts upon the appearance of the site or upon the water environment, including with respect to the regulation of run-off and contamination.
- 15 The Transport Management Plan (3rd March 2010 2010/7098) approved under Minerals Planning Consent 09/00897/MIN shall be operated at all times during the period of operation of the minerals development hereby consented.  
Reason: To ensure vehicles entering and leaving the site are discouraged from entering from or leaving in a westerly direction in the interests of road safety and the amenity of other properties alongside the public road.
- 16 No extractions shall take place below 318m AOD at the site, until: a scheme of details which describes measures for the monitoring of all potential impacts of the operation of the minerals development hereby consented upon the quantity and quality of the private water supply at Woodcote Park (including impacts upon ground water and impacts from surface water run-off), has first been submitted to, and approved in writing by the Planning Authority. This scheme shall include provision for remediation works to be carried out by the Operator in the event that the aforementioned private water supply is impacted. Following approval, the development and scheme shall all be implemented and operated in accordance with the approved details.  
Reason: To ensure that the minerals development hereby consented has no unacceptable impacts upon the private water supply of any neighbouring dwellings.

- 17 No extractions shall take place below 318m AOD at the site, until:  
a scheme of details which describes the monitoring of all hard rock extraction from the quarry (regardless of the depth from which it is extracted) and all reserves remaining therein (and including provision for annual reporting of the same to the Minerals Planning Authority), has first been submitted to, and approved in writing by, the Minerals Planning Authority. Thereafter all hard rock extraction (regardless of the depth from which it is extracted) shall be monitored in accordance with the approved scheme for the duration of the operation of the minerals development hereby consented.  
Reason: To retain effective control over the minerals development hereby consented and in the interests of monitoring compliance with the aggregates landbank requirements of SPP (Paragraph 238).

Informatives:

It should be noted that:

**INFORMATIVE NOTE 1:**

The Notes above should be completed for Condition 1 as follows:

Note 1: Insert address or describe the location of the development

Note 2: Delete "subject to conditions" if the planning permission is not subject to any conditions

Note 3: Insert the name and address of the developer

Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)

Note 5: Insert the description of the development.

Note 6: Insert the application reference number.

**INFORMATIVE NOTE 2:**

The Operator is reminded that, under the Wildlife and Countryside Act 1981, (as amended), it is an offence to prevent access to, remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Grassland, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Grassland, trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

**INFORMATIVE NOTE 3:**

Planning Condition No 7 attached to this minerals planning consent requires that the landscaping and bunding approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, should be provided and maintained in accordance with the details that were approved under the aforementioned conditions. However, please note that the Council's Landscape Section has significant concerns that the landscaping that has been carried out to date has been inadequate, and is being inadequately maintained, relative to what was approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12.

For the avoidance of doubt, it is the Applicant's responsibility to ensure that the approved bunding and landscaping works are now implemented in full accordance with the requirements of Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, so

that it can now meet the full requirements of Planning Condition No 7 attached to this minerals planning consent.

In the interests of achieving full compliance, the Applicant is asked in consultation with the Council's Landscape Section, to identify clearly what landscaping works have and have not taken place, and what remediation is now necessary to allow the originally approved works to be delivered in accordance with the requirements of the planning conditions imposed upon Minerals Planning Consent 09/00897/MIN. With respect to the observed oversights and failures, please see the Landscape Section's consultation response which sets out a general description of what has been observed to have failed or been inadequately implemented and maintained.

#### **INFORMATIVE NOTE 4:**

Although the details submitted in support of the minerals planning application noted the potential future need for the storage on site, of ground water derived from the dewatering of the extraction area, no details were provided of this, while the absolute need for such a facility has not been established. The Minerals Planning Authority accepts the principle that this need may require to be met in time, however there is a lack of information about what is proposed, and any and all impacts upon the minerals development, including aspects regulated by other planning conditions. Accordingly, and in the interests of ensuring that the storage of extracted ground water on site would not compromise the operation of any of the other planning conditions, Planning Condition No 14 has been imposed upon this minerals planning consent to require that any such proposal should be referred to the Minerals Planning Authority in advance, for its prior approval. However, and until precise details are presented for its review, the Minerals Planning Authority reserves the right to seek a new planning application should the proposals be liable to conflict with the operation that is approved under this consent and/or any of its planning conditions.

<b><u>Reference</u></b>	<b><u>Nature of Development</u></b>	<b><u>Location</u></b>
17/00612/PPP	Erection of dwellinghouse	Land South East of 11 Burnbank Holding, Foulden

Decision: Approved subject to a legal agreement and the following conditions and informatives:

1 No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2 No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3 Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

(a) the expiration of three years from the date of this permission, or

(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4 Parking and turning for a minimum of two vehicles, excluding any garages, must be provided and retained in perpetuity within the curtilage of the property. These spaces must be provided prior to the occupation of the dwellinghouse hereby approved.

Reason: To ensure adequate on-site parking is provided within the plot.

5 The first application for Approval of Matters Specified as Conditions shall include a scheme of details for site access. The details shall include the design of the new site access on to the public road which should be by way of a service layby to diagram DC-3. Thereafter the development shall be carried out in strict accordance with the agreed details and the site access shall be completed before occupation of the dwellinghouse.

Reason: To facilitate safe access to the site and ensure that the public road network can safely cater for the development.

6 The dwellinghouse is to be no more than one-and-a-half storeys in height and detailed drawings submitted as part of any Approval of Matters Specified as Conditions shall be supported by a design statement, reflecting the circumstances of the site and wider building group, including in relation to the adjacent listed buildings.

Reason: To ensure a satisfactory form of development in keeping with the adjacent built form, and in particular the listed buildings.

7 No development shall commence until precise details of the means of water supply and of both surface water and foul water drainage have been submitted to and approved in writing by the Planning Authority. Thereafter, no development shall take place except in strict accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

8 Before any part of the development hereby approved is commenced, the trees adjacent to the site shall be protected by a protective barrier to a standard and format compliant with BS 5837 2012, placed at a minimum radius of one metre beyond the crown spread of each tree adjacent to the site, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

(a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;

(b) No fires shall be lit within the spread of the branches of the trees;

(c) No materials or equipment shall be stored within the spread of the branches of the trees;

(d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate; and

(e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

Reason: In the interests of preserving the health and vitality of existing trees adjacent to the development site, the loss of which would have an adverse effect on privacy of the neighbouring property.

#### Informative

1 The applicant should satisfy themselves prior to any removal of the existing metal shed that they are compliant with European legislation regarding the protection of bats and birds and that any demolition is in accordance with these requirements.

2 It is recommended that the internal partition wall where asbestos is identified as potentially present is appropriately surveyed, and if found to be asbestos containing, removed and handled following current good practice and by suitability qualified individuals to prevent the potential release of asbestos. It is recommended HSE are consulted in regard to the specific requirements for such surveying, removal, and handling. It is recommended that SEPA are consulted in regard to the storage etc. of suspected asbestos containing materials after removal. Should the applicant wish to discuss this further their enquiry should be directed to Environmental Health.

#### NOTE

Mr Virtue, Architect on behalf of Mr Struthers spoke in favour of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00628/FUL	Formation of off-street parking area	61 Branxholme Road Hawick

Decision: Approved subject to the following conditions:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
2. Samples of the render for the retaining walls, the coping stone and of the block pavements to be submitted to and approved in writing by the Planning Authority before the development commences. The wall and surface of the parking bay then to be completed in accordance with the approved sample.  
Reason: To safeguard the visual amenities of the area.
3. The parking area must be completed as shown on Drawing Number L(2)101 Revision D prior to it becoming operational.  
Reason: To ensure that a car can park within the parking bay and not overhang or obstruct the public footpath, in the interests of road safety.

#### Informatives

All works associated with the footway crossing must be carried out by a contractor first approved by the Council.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00681/MOD75	Modification of planning application pursuant to planning permission 08/01414/FUL and 16/00514/MOD75	Hope Cottage Wester Deans Lamancha

Decision: Approved the discharge of the section 75 agreement.

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01377/FUL
<b>OFFICER:</b>	Stuart Herkes
<b>WARD:</b>	Tweeddale West
<b>PROPOSAL:</b>	Erection of poultry building
<b>SITE:</b>	Land South West Of Easter Haprew Farmhouse, Peebles
<b>APPLICANT:</b>	Glenrath Farms Ltd
<b>AGENT:</b>	John Thorburn & Sons (Construction) Ltd

**SITE DESCRIPTION**

The site is located in a field less than 0.5km to the southwest of the farmyard at Easter Haprew Farm, near Stobo. It lies to the immediate west of a farm track, to the immediate north of the Cloyhouse Burn, and around 75m upslope and to the west of an existing large poultry shed. The latter was approved by the Scottish Government at appeal in August 2009. The B712 road and River Tweed lie to the east again, downslope, and around approximately and respectively 0.5km and 0.6km from the site. The John Buchan Way lies around 2km to the south and on the other side of the Tweed valley. At a higher elevation, it affords views of, and towards, the site.

Excepting new tree planting along the field's boundary with the access track, and a telecommunications line, the land within the site is otherwise open. It slopes gently but discernibly upwards to the west, amid some local undulation. Beyond the site, the land to the west continues to rise, becoming notably steeper and more undulating as it ascends to Torbank Hill and other surrounding summits.

The site lies within the Upper Tweeddale National Scenic Area (NSA) and is in the near vicinity of the Tweedsmuir Uplands Special Landscape Area (SLA), which excludes the site but includes Torbank Hill. The Cloyhouse Burn flows directly into the River Tweed, which is both a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI).

**PROPOSED DEVELOPMENT**

The proposed poultry building would be 140m by 20m and would have a ridge height of 6m. Its foundations would be established both by cutting into the existing hillside along the western side, and by building up the levels to the south and east. These works would accommodate on a level site, both the building and an associated yard area.

The building itself would accommodate two separate flocks of 16,000 free-range laying hens whose houses would be separated by a central egg packing room. It would be

finished externally using composite panel sheets, which it is advised, would be coloured Juniper Green (BS12B29).

Two feed silos would be erected on the east elevation along with an emergency generator set. An apron of hard standing would be accommodated to the front and sides of the new building, and a new vehicular access would link it to the existing farm access.

Blocks of woodland planting are proposed to the northwest of the building, and a new wetland area to the southeast.

Since the footprint of the proposed building is over 500 square metres, the proposal required to be assessed under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. (These regulations were current at the time of the application's receipt in October 2016 but have more recently been superseded by the 2017 version of the EIA Regulations, which have not changed the qualifying criteria with respect to the assessment of intensive agricultural buildings under the EIA Regulations). In their consideration of the proposal, statutory consultees have been content to refer to the environmental statement that was presented in support of the application for the earlier building (Planning Application 08/00256/FUL), albeit tailored to the information presented. However, at no consultee identified any requirement for a full new and updated Environmental Impact Assessment to be carried out and reported in relation to this proposal. Accordingly, this Authority's assessment is that no full EIA is required.

## **PLANNING HISTORY**

The now established and operational poultry shed to the east of the site, was the subject of Planning Application 08/00256/FUL. This was refused by the Tweeddale Area Committee in April 2009 contrary to the Planning Service's recommendation. However, it was subsequently approved at appeal in August of the same year. Permission was granted by the Scottish Government's Reporter subject to nine planning conditions and two informatives.

This existing building has a footprint of 160m by 15m and a ridge height of over 6m. It lies on the opposite side of the farm access from, and at a lower elevation to, the proposed new poultry shed building. Mitigation planting is in place, including tree planting along the side of the farm track. This includes a section of the application site, which coincides with what would be the site access for the proposed new building.

## **REPRESENTATION SUMMARY**

26 letters of objection have been received from 18 households and the Royal Botanic Garden Edinburgh at Dawyck, along with 1 representation in support.

The principal grounds of objection, and related points raised, can be summarised as follows:

- adverse effect on the landscape quality of the Upper Tweeddale NSA and Area of Great Landscape Value (AGLV), undermining the purpose of these designations
- adverse effect on the setting of, and views from, the John Buchan Way;



- adverse impact on the landscape quality of the Stobo Valley; including field patterns;
- building is of an industrial scale and appearance, and would be out-of-character with the rural surroundings;
- building would have unacceptable cumulative landscape and visual impacts in association with the existing poultry shed building, including in terms of the density of development within the area;
- adverse impacts upon the water environment, including the River Tweed SAC and SSSI;
- proposals are unsustainable and not environmentally-friendly;
- adverse impact on Protected Species, wildlife and the wider biodiversity of the Stobo Valley;
- adverse impact on tourism and wider local economy;
- potential for air pollution;
- human health issues, including potential for incubation and spread of avian flu;
- increase in flies and vermin;
- increase in traffic;
- road safety concerns from spillage of slurry and waste on road surfaces;
- loss of amenity for residents and visitors;
- increase in amount of manure; and concerns with respect to the storage, movement and disposal of waste and manure at and from the site at present and/or other facilities run by the Applicant, and concern at how such operations would be effectively regulated;
- proposed tree screening is inadequate and existing trees that were required in relation to the existing poultry house are ineffective; it is considered that SNH's concern for reinforced planting would not address the landscape and visual impacts;
- trees/landscape affected;
- concern that affected neighbours should have been informed directly of the application;
- potential for external cladding of building to be highly reflective;
- proposals conflict with proposed release into area of pine martens to control grey squirrel population;
- water supply;
- Conservation Area;
- contrary to Local Plan;
- promotion of further similar applications/piecemeal development at the site and within wider area;
- over-supply of facility within area;
- issue is taken with Landscape Architect's assessment that lowering site levels would provide mitigation;
- considered that SNH has contradicted its advice at time of previous application that it did not consider any additional sheds to be appropriate at the site;
- concerns expressed with respect to Reporter's assessment and conditions imposed upon the previous planning permission for the existing shed, which are considered to be ineffectual;
- noted that the Planning Authority's refusal of Planning Application 08/00256/FUL was later defended at the appeal on the grounds that: "*the proposed development, if it were to proceed, would result in significant harm to the landscape character and value of the National Scenic Area*";

- concerns are expressed with respect to perceived breaches of planning conditions and planning regulations by the Applicant at sites it operates elsewhere; and
- Planning Committee is encouraged to consider this application within the context of an assessment of the wider siting and management of poultry rearing within the Upper Tweed Catchment area; and particularly in relation to the disposal of manure within a 25 year manure management plan; and to seek input from the Plant and Animal Health Agency (PAHA) with respect to the potential to control avian flu.

The representation in support, considers that: (i) the building meets modern standards and regulations within egg production; (ii) would be well-screened in views from the main road, behind the existing building; (iii) would be appropriately accessible from the public road; (iv) would not increase traffic significantly; (v) would with appropriate finished materials, not have any intrusive landscape and visual impacts; and (vi) would bring employment and contribute positively to the local economy.

Copies of all third party representations are available for Members to view on the planning pages of the Council's website.

## **APPLICANTS' SUPPORTING INFORMATION**

Although an environmental statement was provided at the time of the previous planning application for the poultry shed to the east, no equivalent information was supplied in support of the current application. However, in response to SEPA's concerns that insufficient information had been provided to it for its review to establish whether or not the proposal would require to be made the subject of a Pollution Prevention and Control (PPC) permit application, a supporting statement prepared by the Scottish Agricultural College, has more recently been provided.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Archaeology Officer:** considers that further to the 2009 discovery of prehistoric archaeology made at the time of the archaeological investigation relating to the now established poultry building, there is a moderate to high possibility that further prehistoric features, finds or deposits exist on the current application site. It is therefore recommended that the site should be stripped of top-soil under archaeological supervision in advance of development and in accordance with a Written Scheme of Investigation (WSI) for a 'Strip, Map and Record' investigation and at least two weeks in advance of further ground works relating to the development. Any finds, features or deposits of archaeological significance encountered would have to undergo post-excavation research and publication if warranted and in agreement with the Council. A planning condition to achieve this is recommended. Within a subsequent response, the Archaeology Officer notes the advice of the Applicant's Supporting Statement that: *'should any other features become apparent during the construction phase, J P Campbell and Sons Ltd will undertake to inform the relevant authorities'*. However, it is considered that this is an inadequate form of mitigation, which is inconsistent with current policy and which would not address the concern that appropriate mitigation

should be provided. Accordingly the need for an appropriate archaeological investigation to be required by planning condition is maintained.

**Ecology Section:** seeks a proportionate Ecological Impact Assessment for otter, badger and breeding birds and other protected species and habitats, ahead of the commencement of development at the site, along with the submission and approval of a Landscape Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats. It is noted that SNH has objected on the grounds that an Appropriate Assessment would be required with regard to a likely significant effect on the River Tweed SAC/SSSI from surface water and foul water run-off to the Cloyhouse Burn unless appropriate and robust conditions are attached to any consent granted, to ensure the installation and operation of a surface and foul water treatment system to the satisfaction of SEPA. It is further noted that SNH has objected unless additional planting is undertaken and an ongoing woodland management regime established through a landscape management plan to mitigate anticipated significant adverse landscape and visual effects to the Upper Tweeddale NSA. It is considered that the Ecological Impact Assessment and Landscape Habitat Management and Enhancement Plan, should be informed by the advice of SNH, SEPA and the Landscape Section.

**Environmental Health Section:** advises that installations can impact on local air quality and on the amenity of nearby properties, and that to this end, the Applicants should quantify impacts from the development upon both noise and local air quality, while management plans are sought in respect of odour, noise and pests. Although it advised that this information was required in advance of the application being determined, Environmental Health has more recently advised that these matters could be addressed by planning conditions with an explicit requirement that these matters should be addressed prior to the commencement of the development's operation. There are no comments with respect to potential land contamination concerns.

**Landscape Section:** considers that the visibility of the existing building is low and that the overall impact of the proposed development on the few receptors within the surrounding landscape would not justify opposing the application. Accordingly, recommends that the application could be approved subject to an expanded mitigation planting scheme being submitted for prior approval. This should identify a strengthened landscaping treatment for the site to complement the existing planting and trees within the surrounding area. This should introduce sufficient woodland planting to strengthen the visual backdrop to the building and connect across the landscape to the existing bands of woodland, to constitute a shelter belt setting for the building. This would appropriately encompass a broadening/extension of the woodland to the south, along the Cloyhouse Burn; a more substantial band of planting to the west of the proposed building, wrapping around the building to the north; then linking visually with the wider surrounding landscape. With such planting in place, it is anticipated that in time, the longer term visual effects of the proposal would be effectively mitigated. The development would be visible in the short term, but in the longer term, once the planting has become established, it would become integrated into the wider landscape. An illustrative plan as to where it is considered additional tree planting is required to address the landscape and visual impacts of the proposal has been supplied by the Landscape Section. It further considers that since the proposal would rely on the conditions imposed on the previous development 08/00256/FUL for successful mitigation, the same conditions should also be applied to any approval of the current proposal. More

recently, in a follow-up consultation response, the Landscape Section advises that the mitigation planting details should be submitted before the application is determined.

**Roads Planning Section:** advises that the site is adequately serviced, and has no objections. Given the implementation of the improvements to the local road network that were required and delivered under the planning consent for the existing poultry shed, there are no concerns over the access arrangements to the proposed poultry unit. Any increase in traffic movements as a result of the second unit would be negligible. It is anticipated that egg collection, deliveries etc. to and from both units, existing and proposed, would most likely occur at the same time, therefore minimising/mitigating any impacts upon the public road.

### **Statutory Consultees**

**Manor, Stobo & Lyne Community Council:** raises the following concerns:

- Proposal is contrary to Planning Policy EP1 and Structure Plan Policy N10 with respect to the impacts upon the NSA;
- Insufficient social, economic or employment benefits would be derived from the proposal to justify any departure from planning policies that seek to conserve the landscape character of the NSA;
- It is considered that insufficient attention has been paid to the impact in views beyond those from the valley floor and public road (B712) and that the Reporter at the time of the determination of the last application at appeal, neglected to take full account of landscape and visual impacts from surrounding hills including from the John Buchan Way;
- Existing sheds are reflective in sunlight;
- Community Council questions whether the existing landscaping complies with the landscaping plan approved at the time of the appeal decision;
- There would be an unacceptable cumulative landscape and visual impact in association with the existing poultry shed building;
- Advised that new and additional tree planting would not remove its objection or mitigate its concern due to the length of time new tree planting would take to become established (around 20-25 years) relative to the expected operational time of a poultry shed which it is advised is no more than 20 years;
- Expresses concerns at amount and level of effluent that there would be at the site in the event of approval, and queries what arrangements would be in place for management and regulation of this effluent on-site. It is advised that some form of on-site treatment would be required, and that the planning implications of this treatment have not been fully considered in planning terms; and
- The Community Council notes the need for an Environmental Management Plan to be submitted to address SEPA's PPC regulations and considers that it should be consulted on the environmental management plan for the site.

**SEPA:** has no objection. It notes that the site is not currently regulated by SEPA as the capacity of the existing shed falls below the threshold requiring a permit under the Pollution Prevention and Control Regulations (PPC). However, the new shed would increase the total number of birds on the site to 64,000; and as such, the threshold of 40,000 birds would be exceeded and a PPC permit would be required. It is advised that the Applicant would be required to apply to SEPA for a PPC permit. It is advised what the application for a permit should consider in line with the Standard Farm Installation

Rules for Intensive Agriculture PPC permitted sites. This includes slurry and manure storage; odour management; noise management; drainage; and decommissioning. It is advised that it is the Applicant's responsibility to ensure that there is consistency between the proposal that is the subject of the planning application and the operation that would be described by the details required within the PPC permit application. It is additionally advised that the site might be at risk of flooding due to the proximity of a nearby watercourse and due to the steepness of surrounding terrain, also surface water flooding, and that the Applicant should consider incorporating flood resistant and resilient measures within the design and construction.

**Scottish Natural Heritage:** maintains conditional objections, firstly, in relation to potential impacts upon the River Tweed Special Area of Conservation (SAC) unless the proposal is subject to planning conditions which ensure that there is satisfactory treatment of surface and foul water to the satisfaction of SEPA; and secondly, in relation to potential impacts upon the Upper Tweeddale National Scenic Area (NSA), unless the proposal is subject to planning conditions which secure the mitigation measures proposed in the application, plus additional landscape planting.

With respect to the management of surface and foul water drainage, SNH notes that the existing poultry shed at Easter Happrew operates on a similar treatment system to that proposed, and that the details of the existing system were subject to approval through conditions on the previous planning permission. SNH advises that it would object to the proposal unless any permission granted is now made subject to conditions that ensure the implementation of the required water treatment to the satisfaction of SEPA.

With respect to the mitigation of the landscape and visual impacts, SNH seeks additional new planting to supplement that which is already proposed by the Applicant, as an essential requirement for mitigation of the impacts of the building in the medium to long term. It further requires that the new tree planting should be made subject to an on-going management regime that ensures a regular programme of silvicultural management to ensure the woodland fulfils its intended role, to be achieved through a landscape management plan. The first consultation response includes an appendix setting out what it considers the new planting should achieve and provides guidance on how it is considered this would be most effectively addressed.

It is acknowledged by SNH that the landscape and visual impacts would be liable to be significant and adverse in the short-term during and in the period immediately following construction, but that the establishment of the new planting sought would in time reduce these residual effects to not being significant.

It notes the need for checking surveys for protected species to be carried out before development starts, with species protection plans prepared and submitted to the Local Authority if these are required.

## **DEVELOPMENT PLAN POLICIES:**

### **SES Plan Strategic Development Plan 2013**

### **Adopted Scottish Borders Local Development Plan 2016**

PMD1 - Sustainability

PMD2 - Quality Standards  
ED7 - Business, Tourism and Leisure Developments in the Countryside  
HD3 - Protection of Residential Amenity  
EP1: International Nature Conservation Sites and Protected Species  
EP2: National Nature Conservation Sites and Protected Species  
EP3: Local Biodiversity  
EP4: National Scenic Areas  
EP5: Special Landscape Areas  
EP8: Archaeology  
EP13: Trees, Woodlands and Hedgerows  
EP15: Development Affecting the Water Environment  
EP16: Air Quality  
IS5: Protection of Access Routes  
IS7: Parking Provision and Standards  
IS8: Flooding  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage  
IS13: Contaminated Land

#### **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy

#### **KEY PLANNING ISSUES:**

- Whether or not the proposed poultry building, and/or its operation, would in isolation, or culmination with the existing poultry building to the east, have any unacceptable adverse effects on the environment and/or amenity of the site and surrounding area, including upon the landscape character and quality of the National Scenic Area; upon the River Tweed SAC and SSSI; and/or upon the amenity of any surrounding residential properties.

#### **ASSESSMENT OF APPLICATION:**

##### **Planning Policy**

Although the building is of a large scale compared to most farm buildings, poultry rearing, including intensive poultry rearing is in its nature, only appropriately accommodated in the countryside. Positive regard can also be had to the contribution that such an enterprise can make to the rural economy, including employment opportunities within the local area. Accordingly, this proposal raises no concerns in principle. The assessment of the proposal is from this point, reasonably confined to a consideration of the specific impacts upon the environment and amenity of the site and surrounding area which would be liable to occur as a consequence of siting and operating this specific proposal in this specific countryside location.

##### **Design and Layout**

The design and layout of the site are functional, and align with the proposal's use and operation as a poultry shed. These aspects of the development are not objectionable subject to planning conditions being imposed, to address certain matters that do require additional detail to be provided.

Firstly, there is a need to ensure that the appearance of the building and its ancillary structures would match as closely as possible the appearance of the existing building to the east and its ancillary structures. However, concerns have been raised by objectors that the external finishes should not be highly reflective or shiny. Given that the proposed building would be located higher in the landscape than the existing building, there is a concern to ensure that highly reflective surfaces should be minimised, if not omitted altogether. To this end, details of the finished appearance of the external surfaces of the building and ancillary structures would be appropriately submitted for further consideration.

Secondly, no details have been provided with respect to the siting and appearance of the proposed emergency generator set or any housing or bunding required to contain it. Although this is liable to be a relatively small component at the site, these details would in the event of approval need to be established ahead of the commencement of development. This requirement might be combined with that for the wetlands which are also not sufficiently well-described in the supporting details.

Thirdly, there is a need to require that the finished levels within the site should be provided for prior approval, since the levels information is somewhat basic and in any event, requires to be related to data that can be checked and verified on site. To this end, and in the event of approval, a condition should be attached to require that sufficient details should be provided in advance of development being commenced. This is in the interests of ensuring that levels are not raised to any unacceptable height(s), which might exaggerate its prominence within the landscape beyond that which is strictly necessary.

Fourthly, there is a need to ensure the implementation and maintenance of new tree planting to address the concerns of the Landscape Section and SNH. These matters are considered below, within the next section.

### **Landscape and Visual Impacts**

The proposal consists of the erection of a large poultry shed with associated feed silos and hard standings and gravelled access track. The proposed sheds and road infrastructure would also require cut and fill earthworks which are a further impact upon the landscape form, and its visual amenities, beyond that of the building itself.

Objectors consider that the introduction of such a large, even industrial type, of building and all associated works would have the potential to create significantly adverse landscape and visual impacts. Some consider that these impacts would not be negated even if extensive tree-planting were required and carried out in the vicinity of the site to soften, if not in time interrupt, views from the surrounding landscape.

The site is located within the Upper Tweeddale National Scenic Area and is therefore visually sensitive. Paragraph 212 of Scottish Planning Policy requires that development that affects a National Scenic Area, should only be permitted where the objectives of the designation and the overall integrity of the area would not be compromised.

The proposed shed would be visible from principal receptors, particularly the B712 public road (where the effects should be limited mostly to short sections close to the entrance

of Easter Happrew Farm) and in the panoramic views from across the valley from the more elevated John Buchan Way, particularly from the sections above Easter Dawyck Farm. The distance from other sensitive receptors such as residential properties, is much greater, and therefore the impacts upon these are considered by the Landscape Section to be minimal. However, in closer proximity, and certainly from land of equivalent elevation or higher, the proposal is liable to be mostly or entirely visible behind the existing poultry shed building. This is at least until the existing tree planting along the farm track attains significantly greater height. However, there are concerns with respect to the proposed appearance of the site from sensitive receptors, particularly from more elevated vantage points. The building would appear as a large, elongated structure, prominently located within the local landscape, rising above an existing building of equivalent size, which may contribute to a greater cumulative impact.

Both the Landscape Section and Scottish Natural Heritage acknowledge that in the short to middle-term, the lack of established trees in close proximity to the site would mean that the siting of such a large and visible building would inevitably have a significantly adverse landscape and visual impact. However, subject to the successful implementation and maintenance of additional landscaping, it is considered that the landscape and visual impacts of the proposal, cumulative or otherwise, would not be unacceptable.

Extensive new tree planting is required in the form of a framework of woodland shelter belts around the site in order to remain in character with local landscape form. Advice from the Council's Landscape Architect and SNH suggests the need for new areas of tree planting to be established to the south, to link the existing newly planted areas to the east and the more established trees to the southwest. In time this should form an effective screen to soften and eventually interrupt views from the south, including from the John Buchan Way. The planting would constitute a backdrop of wooded shelter-belts in views of the building from the south, east and north, including from more elevated vantages; into which a recessively coloured building at least, would be capable of receding visually.

In summary, with the addition of new tree planting forming a continuous framework of woodland shelter-belts it is material that existing landscape features will combine to limit views of the building from the surrounding landscape. Once effective the proposed planting would minimise visual intrusion and should address and arrest any perception that the quality of the landscape had been degraded.

The Landscape Section has expressed concern that since the proposal would rely on the newly established planting delivered under the consent for the existing poultry building the same conditions should be applied to any approval of the current proposal. However, given that this planting is regulated under the conditions of the existing consent, there is no reasonable or necessary requirement to do this so directly. One point of note in this respect though, is the impact upon this tree belt of the proposed new access. This would require the removal of a section of these new trees to allow the physical accommodation of the junction. Given that only a section of the tree belt would be impacted, the principle of this access being accommodated as proposed raises no concerns. However, the Applicant would reasonably be required to provide the detail of how the new access would be accommodated relative to the trees, to prevent any exaggeration of any tree removals. It should be sufficient only to allow the safe and efficient management of vehicular traffic.



Within the site, there would reasonably be some concern with respect to the finish of all altered ground levels, which should be actively re-seeded to avoid any unsightly areas of bare earth which might otherwise be left-over. These areas should be actively managed and actively seeded to ensure an appropriate finished appearance. This would be particularly important in the years when any new tree planting were still becoming established and views of the interior of the site were readily visible from sensitive receptors.

It would also reasonably be required that existing trees that are to be retained should be protected accordingly and for the duration of construction works. Again, this matter is capable of being addressed by the imposition of an appropriately worded planning condition.

### **Road Safety, Access and Parking**

Since the road has already been upgraded to accommodate the operation of the existing poultry unit, the Roads Planning Section is content that no further works are necessary. Accordingly, there are no concerns with respect to road safety or traffic movement.

### **Residential Amenity**

With respect to the regulation of potential nuisance impacts, SEPA has confirmed that the proposed shed would result in an overall capacity of stored birds (cumulatively with the existing shed) which would require to be licensed under PPC. Accordingly, it is reasonable to anticipate that the operation of the site would be regulated by SEPA directly.

However, if the site (either separately or cumulatively) is not regulated by SEPA on account of the total number of birds, it would be appropriate to ensure that the site's operation is controlled by appropriately worded planning conditions as requested by Environmental Health in order to cover areas of concern including, but not limited to noise and air quality impacts and pest management. In this way, there would be no unacceptable impacts upon the amenity of any surrounding residential properties, and sufficient flexibility would be allowed to accommodate any phasing that the Applicant ultimately proposes.

Concerns have been expressed with respect to the way that the site or other premises run by the Applicant, are currently being operated, but the determination of a planning application can only reasonably assume that the proposal would be operated in full accordance with the relevant regulations, including planning conditions. Any breaches of these regulations would only be appropriately followed up with the relevant authorities, including the Planning Authority; this includes any alleged breaches of any conditions attached to the permission for the existing poultry shed to the east of the site.

It is worth noting that the consent issued for the existing poultry building includes planning conditions that limit noise levels from plant and machinery and control vehicle movements to prescribed hours of operation. Notwithstanding the potential for overlap with PPC requirements it would be appropriate to replicate these conditions in the current development should Members be minded to approve this application.

## **Foul and Surface Drainage**

Site drainage is to be to a SUDS system to treat storm run-off from the proposed shed access and areas in hard standing, within a similar arrangement to that currently operated in relation to the existing poultry shed to the east.

SNH has advised that they would maintain an objection to the proposal unless any permission granted is made subject to conditions that ensure the implementation of the required water treatment to the satisfaction of SEPA. More particularly, it seeks the imposition by planning condition, of an equivalent requirement to that which was imposed upon the planning consent issued at appeal for the now established poultry unit building to the east.

Whilst there may be some overlap with PPC regulations it would be perfectly reasonable in this case to seek addition information in relation to foul and surface water drainage under an appropriately worded planning condition.

## **Cultural Heritage and Archaeology**

The Archaeology Officer has identified a need for mitigation in the form of a condition to require a 'Strip, Map and Record' investigation. Such a requirement would be reasonably imposed by planning condition upon any consent issued, and would not be appropriately met at the Applicant's discretion during the course of ground works, as the Supporting Statement proposes.

## **Natural Heritage**

The site lies within close proximity to the River Tweed SAC, and both SNH and the Ecology Section consider that there is potential for unacceptable impacts upon Protected Species and their habitat at the site. Accordingly, these consultees require the implementation and reporting of a proportionate Ecological Impact Assessment and the submission and approval of mitigation plans for species protection, and a Landscape Habitat Management and Enhancement Plan, including measures to compensate for habitat loss and enhance existing habitats.

No details with respect to the proposed wetland areas have in fact been provided, and would be appropriately required in this context, given the Applicant's intention that these should attract water fowl.

These measures are capable of being required and secured under appropriately worded planning conditions. There should however be a concern to ensure that such information is consistent with the details that would reasonably be required to address the landscaping concerns, including both tree planting and finished levels. Similarly, the landscaping details themselves need to be consistent with the proposals within the Landscape Management and Enhancement Plan.

## **Other Concerns**

Since the proposal has been assessed under Schedule 2 of the Environmental Impact Assessment Regulations, it would reasonably be required under condition that the

numbers of stored birds on site, could not be increased to any levels that would otherwise have required the proposal to be re-categorised as a Schedule 1 development; that is, one with an inherent requirement for the application to have been supported by an EIA. This is because no EIA has been submitted in support of this proposal, and none has ultimately been required on the understanding that the proposal is a Schedule 2 development.

Contrary to the understanding of the Community Council, the Structure Plan is no longer within the statutory development plan, and reference to its policies is therefore no longer a direct requirement of the assessment of the proposal.

## CONCLUSION

Subject to the imposition of planning conditions to address the above noted concerns, the proposal is considered not to be liable to have any unacceptably adverse impacts upon the amenity or environment of the site or surrounding area, and as such, is considered to be permissible in these terms.

## RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend that the application is approved subject to the following conditions:

1. No development shall take place until the applicant has secured a programme of archaeological work in accordance with an approved **Written Scheme of Investigation (WSI)** outlining a **Strip Map & Record investigation. Development and archaeological investigation shall only proceed in accordance with the WSI.**

The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
- Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
- If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
- Initial results shall be submitted to the Planning Authority for approval in the form of a **Data Structure Report (DSR)** within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
- The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once

approved.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

2. No development shall commence until a proportionate Ecological Impact Assessment, informed by supplementary surveys, including a mitigation plan for the protection of otter, badger and breeding birds and other protected species and habitats as appropriate, has been submitted to and approved in writing by the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved mitigation plan.

Reason: To minimise disturbance to protected species, and their habitat; to encourage the continued use of the site by these protected species throughout and beyond the development period; and to ensure that the information required, is appropriately up-to-date at the time that works are commenced.

3. No development shall commence until a Landscape Habitat Management and Enhancement Plan, including measures to compensate for habitat loss and enhance existing habitats has been submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To minimise disturbance to existing habitats and to ensure appropriate levels of protected species habitat enhancement.

4. Notwithstanding the details supplied in support of the planning application, no development shall commence until a Landscape Management Plan (including a planting plan) which includes provision for:

(a) the re-seeding of grass on all areas of ground at and around the site which is altered or otherwise impacted to accommodate the poultry building hereby approved, its yard and/or site access; and

(b) the planting of new trees and new shelter belts of trees;

has first been submitted to, and approved in writing by, the Planning Authority. The approved landscape plan shall be implemented before the end of the first planting season following commencement of operation of the poultry unit hereby approved.

Reason: In the interests of enabling the development to be accommodated as sympathetically as possible into its wider surroundings.

5. Notwithstanding the details supplied in support of the planning application, the development hereby consented shall not be commenced until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes:

(i) the proposed finished floor levels of the poultry building hereby approved and of all its ancillary structures (including the silos); the proposed surface levels of the new access road; and of the new yard/forecourt areas;

(ii) the existing and proposed finished ground levels throughout the site; and

(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor and surface levels and the existing and proposed ground levels relative to the level of the surface of the existing area of hard standing associated with the existing poultry building to the east of the site.

Thereafter the development shall only be implemented in full accordance with the approved details.

Reason: To ensure that the consented development does not have any unacceptable impacts upon the appearance of the surrounding landscape as a consequence of the ground levels within the site being raised or lowered to any inappropriate heights.

6. Notwithstanding the details supplied in support of the planning application, no development shall commence on the development until full details of the following have all first been submitted to, and approved in writing by, the Planning Authority:
  - i. the siting and finished appearance of the generator and any associated housing or bunding;
  - ii. the precise form, including sectional profiles of the wetland areas;
  - iii. the materials and finishes of the external surfaces of the poultry shed and all its ancillary structures (including the feed silos, roof vents, and generator).
  - iv. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To ensure a satisfactory finished appearance for the poultry shed building, its associated structures, and its site, and in the interests of ensuring that the development does not have any unacceptable landscape and visual impacts.

7. Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence prior to the submission to, and written approval by, the Planning Authority in consultation with SEPA, of a detailed scheme for the water supply and for all foul and surface water drainage, including that from roof areas, hard-standings and the access roads. This shall include the results of percolation tests, the written reports of which shall be submitted to the Planning Authority at least two months before development commences

Reason: To control carefully and limit all environmental impacts which cannot be left any more open-ended and to address SNH's concern that the Planning Authority in consultation with SEPA, should have control over this matter.

8. Notwithstanding the details submitted in support of the planning application, the development hereby approved shall not be commenced until schemes of details sufficient to address the following concerns, have all first been submitted to, and approved in writing by, the Planning Authority:

- (i) the quantification of the impact of the operation of the poultry farm on local air quality, with reference to the 'Scottish Air Quality Limits and Objectives';
- (ii) the quantification of the noise impacts liable to be generated by the operation of the poultry farm; and
- (iii) management plans to address how air quality and odour impacts; noise impacts; and pest control would all be managed at the site.

Thereafter, and following approval of all of the above, the poultry shed shall not become operational, or be operated, other than in full accordance with the approved management plans.

Reason: To protect the amenity and environment of the surrounding area, including neighbouring residential properties, by ensuring that the operation of

the poultry shed hereby approved, has no unacceptable impacts upon air quality and/or noise impacts for the duration of the operation of these premises.

9. The poultry building hereby approved shall not accommodate any greater number than 85,000 birds in the case of broilers, or 60,000 in the case of hens.  
Reason: To retain effective control of the development which has been assessed under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Accordingly, the number of places for birds stored within the poultry building should not be increased to any level above that which would otherwise have required the scheme to have been assessed under Schedule 1 (and not Schedule 2) of the aforementioned EIA Regulations at the time of the determination of the planning application.
10. Notwithstanding the details supplied in support of the planning application, no development shall commence until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes the accommodation of the new site access in relation to the trees of the newly planted shelter belt within the east of the site. This shall identify the trees for removal, and all measures (such as fencing and any verge treatment) that would be established to protect all retained trees from overrunning by vehicles and/or their trailers using the junction.  
Reason: To maintain appropriate control over an aspect of the development that has been insufficiently described within the supporting details and to ensure that appropriate measures are in place to protect retained trees from damage by any and all vehicles that use the junction to access or exit the site.
11. Excepting any trees whose removals are agreed in writing by the Planning Authority, no other trees at the site or along its boundaries shall be removed, lopped, lifted or damaged in any way before or during construction without the prior written agreement of the Planning Authority. Furthermore, and for the duration of development, all existing trees shall be fully protected in accordance with the requirements of BS 5837:2012 and all measures required on-site to protect these trees for the duration of construction works, shall be maintained in full accordance with the requirements of BS 5837:2012. Further, there shall be no storage of plant or machinery within the Root Protection Areas (RPAs) of these same trees, and there shall be no services installed within their RPAs unless such works are compliant with NJUG Guidelines.  
Reason: In the interests of preserving the health and vitality of the existing trees, the loss of which would have an adverse effect on the visual amenity of the area. The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained in the interests of conserving the visual amenities of the site and surrounding area.
12. At no time shall noise from fixed plant and equipment exceed NR30 within any noise sensitive dwelling.  
Reason: In the interests of residential amenity in the neighbourhood and to ensure consistency with Appeal Consent PPA-140-429 specifically with respect to the operation of an equivalent requirement under a planning condition attached to that planning permission.

13. During development and operating all vehicle movements to and from the development shall be within the hours 0700-2200 unless in cases of emergency. Reason: In the interests of residential amenity in the neighbourhood and to ensure consistency with Appeal Consent PPA-140-429 specifically with respect to the operation of an equivalent requirement under a planning condition attached to that planning permission.

**INFORMATIVES**

1. The poultry shed building hereby approved should be finished in as matt, non-reflective materials as possible, in the interests of not drawing attention to the building through any excessive glare. This concern extends as much to the main building as the ventilation housings on the roof and also the silos, which would be particularly prominent features within views of the site from the surrounding landscape.
2. There is an overhead powerline within or near the eastern boundary of the site. The Applicant should liaise with the relevant utility operator to ascertain whether or not the proposed layout would raise any concerns for the operator in case the latter would have any concerns about works within this proximity to the powerline.

DRAWING NUMBERS

<b>Plan Ref</b>	<b>Plan Type</b>
141016/03	Location Plan
141016/04	Site Plan
141016/02	Elevations
141016/01	Floor Plans
7755/05	Sections

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

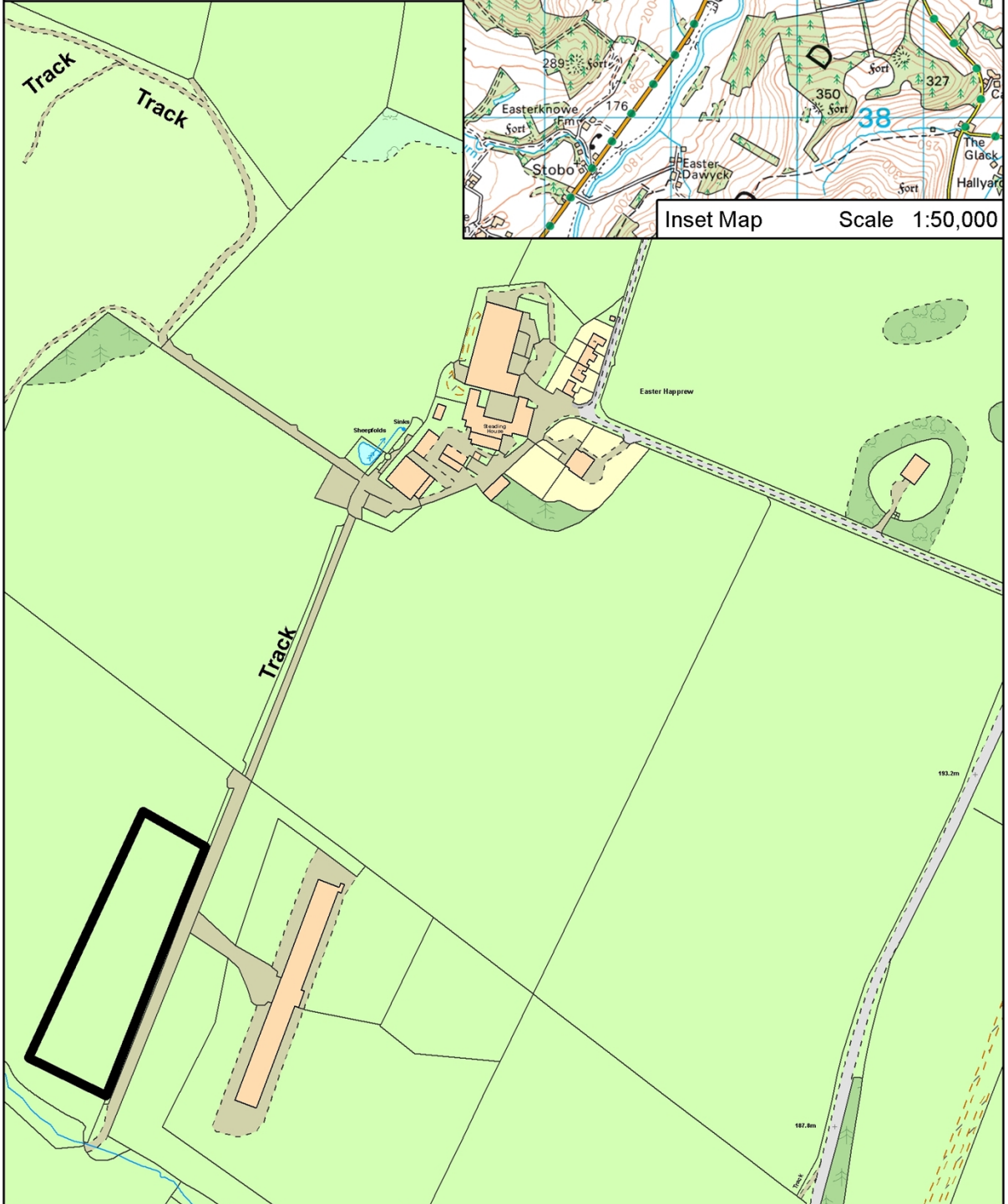
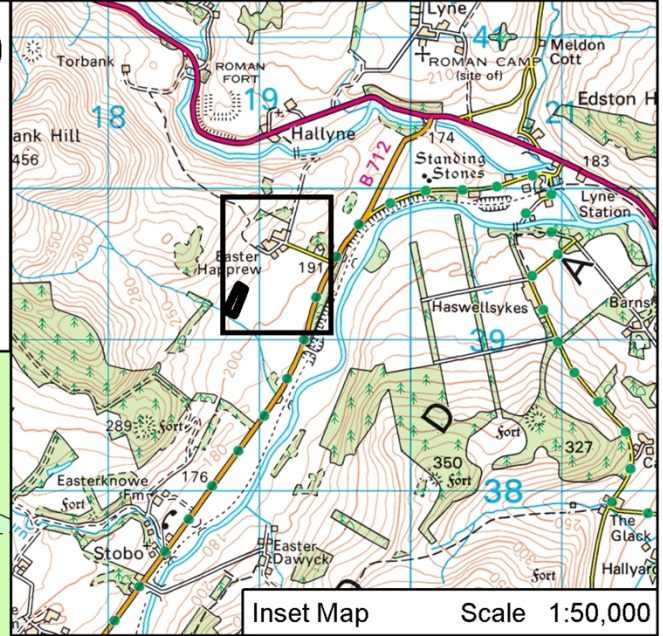
**Author(s)**

Name	Designation
Stuart Herkes	Planning Officer



16/01377/FUL

Easter Haprew  
Peebles



Scale 1:4,500



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00765/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Galashiels and District
<b>PROPOSAL:</b>	Change of Use from Class 1 (Retail) to Class 2 (Financial, Professional and Other Services)
<b>SITE:</b>	Units 9 And 10, 6 - 8 Douglas Bridge, Galashiels
<b>APPLICANT:</b>	Westminster Job Centre
<b>AGENT:</b>	JLL

**SITE DESCRIPTION**

The site comprises two vacant shop units located within the Douglas Bridge area of the town, within the town's Conservation Area. The property fronts a pedestrianised street which links Channel Street to Douglas Bridge footbridge which, in turn, leads to the Transport Interchange located on the other side of the Gala Water. The units are within a terrace, have two modern shopfronts each with large glazed areas flanking a set of double doors, and there is a pair of dormers above one unit. The units have both ground floor and first floor accommodation, extending to 559 squared metres. The property is flanked by an occupied retail unit to the south-west, and a vacant retail unit to the north-east, beyond which is a café/restaurant. Opposite the property is a similar terrace comprising retail units, all of which are occupied (one unit having just recently been reopened as a shop).

**PROPOSED DEVELOPMENT**

This application seeks full Planning Permission to convert both units from their current retail use (Class 1 of the Use Classes (Scotland) Order 1997) to Class 2, which permits "financial, professional and other services". More specifically, it is proposed that the property be occupied as a job centre, allowing the current job centre to relocate from its current premises in New Reiver House, which is located behind the High Street in the town, just over 300m north-west of this site. No external alterations are proposed. The application is supported by a location plan, and no floor plans have been submitted.

**PLANNING HISTORY**

Planning Permission (16/00274/FUL) was granted in May 2016 to convert the upper floor of these two units, and that of the vacant unit to the north-east, to studio workshops and offices, albeit retaining the ground floors in Class 1 retail use. This consent has not yet been implemented.

**REPRESENTATION SUMMARY**

Representations on behalf of five local businesses and Galashiels Chamber of Trade have been submitted, copies of which can be viewed in full on *Public Access*. A summary of the main objections raised are as follows:

- Douglas Bridge should continue to be retail, art and visitor attractions, and no financial, professional or other private or public services
- Douglas Bridge is the natural welcome route for the Transport Interchange, and the most important gateway for visitors and tourists. It is vital that the town is promoted as a thriving, busy and vibrant destination
- An office development will not give the best first impression and a job centre, with its clientele, will not be a welcoming visitor attraction. It should not be located in the main pedestrianised entrance to the town
- The town centre has seen a decline in footfall. The argument of increased footfall resulting from the job centre doesn't make sense, since people using it will already be in the town centre.
- Recently, public and private investments have been trying to increase footfall in the town. A job centre would be contrary to planning policy, and will not represent the footfall needed, but rather the opposite. It will work directly against all suggestions for the town. Careful consideration must be given to planning decisions that could have a major impact on success or failure of projects such as the Great Tapestry of Scotland
- This is a prime retail unit, one of very few with dedicated service provision and no need for Channel Street vehicular access. It is one of the town's best assets for encouraging large retailers, and it would be extremely short sighted to give it up. Developments such as the Tapestry will renew interest from retailers
- Concern regarding the behaviour of a very small minority of clientele being encouraged in this location
- The job centre has other options available to it. Any location in central Galashiels with public transport and close to parking would be equally suitable
- It will remove one empty property but leave one vacant where the job centre is currently
- The ambition should be to fill all vacant units with retail businesses and only consider other uses where all other options have been explored

## **APPLICANT'S SUPPORTING INFORMATION**

The applicant's agent submitted a supporting document (dated May 2016) with the initial application, and a response to a number of issues raised by the Development Management Service during the processing of the application. Both documents can be viewed in full on *Public Access*. The conclusions of the initial supporting statement are noted below, and matters raised in the follow up document are accounted for, where necessary, in the assessment section of this report.

While Local Development Plan (LDP) Policy ED4 presumes against Class 2 uses in the Core Activity Area unless certain policy criteria can be met, this is inconsistent with national policy, which sets out that protectionist LDP policies should only be brought into existence where there is over provision of certain uses. There is no over provision of non-retail uses within the Core Activity Area or wider town centre nor does a Town Centre Strategy exist that identifies a case of over provision. The following matters are identified as key issues:

- The proposed development would result in footfall increase (minimum of 150 persons per day)
- The proposed development would not change the retail frontage of the units, thus they would remain active
- The proposed development, due to the predicted footfall increase and its central location is likely to result in additional joint shopping trips
- There is no over provision of Class 2 or other non-retail uses in the Core Activity Area or wider centre

- The units have been actively marketed for over 18 months at a market rent with no interest from retailers
- The units are expected to remain vacant should retail be the only permitted use
- The occupation by the job centre would bring a vacant unit back into active use thus contributing to the vitality and viability of the centre.

Overall it is concluded that the proposed development is in accordance with the relevant provisions of the LDP and material considerations, particularly Scottish Planning Policy, are found to be supportive. It is respectfully recommended that Policy ED4 be read alongside SPP (para 67) in determining what is deemed to be an appropriate mix of town centre uses.

The applicants would be amenable to SBC issuing a restricted consent allowing only the Job Centre to occupy the unit.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016**

IS1 Public Infrastructure and Local Service Provision  
 IS7 Parking Provision and Standards  
 IS8 Flooding  
 IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
 EP1 International Nature Conservation Sites and Protected Species  
 EP9 Conservation Areas  
 ED3 Town Centres and Shopping Development  
 ED4 Core Activity Areas in Town Centres

## **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy 2014

## **CONSULTATION RESPONSES:**

### Scottish Borders Council Consultees

**Roads Planning Service:** Planning guidance encourages Councils to look more favourably on applications for change of use where normal requirements, particularly parking, are not met. Whilst this is not ideal, given the town centre location and the proximity to the public transport network and public parking, the RPS does not object. However, they note that the current job centre offices benefit from the presence of disabled parking and a dedicated drop-off area at the door. This facility is not present in the proposed site and due to traffic restrictions in place, will not be easily provided. The applicant should satisfy themselves that they have provided adequate facilities for the disabled or infirm to access the building if the application is approved.

**Economic Development Service:** Douglas Bridge is a key gateway into the town centre from the Borders Railway and Transport Interchange and is an area which they would hope was vibrant and welcoming.

They strongly support the Scottish Government's Town Centre First Principle and appreciate the need to encourage new business and alternative uses in the town centre. They are concerned about the potential impact of this request for change of use from Class 1 to Class 2. They believe that the change of use of this sizable retail unit could detract from the vibrancy of this location.

However, they also recognise the importance of the services provided by the Job Centre and that a town centre site is an ideal location for these types of services. It would be helpful to understand whether the applicant has considered other units in the town centre, especially those that are currently vacant, to ensure that this is the most appropriate location for their services.

On balance, if there are no other units of appropriate size and specification available, they would be content to accept that this application should be approved, as it does bring a sizeable unit back into productive use. There is a strong argument to be made that having an occupied unit that encourages activity and footfall is more helpful for the town centre than to have a continued vacancy in this large property. It is important to note that the change of use would mean that this strategically located unit would be unlikely to be available for future retail use if retail demand was to increase in future.

**Flood Protection Officer:** Review of the application shows that the proposed site (or part thereof) is within SEPA's 1 in 200 year (0.5% annual probability) flood extent of the Gala Water and may be at medium to high risk of flooding. However as this application refers to a change of use that is unlikely to have an effect on the storage capacity of the functional flood plain or affect local flooding problems, there is no objection on the grounds of flood risk.

**Forward Planning Service:** The application site is located within the Core Activity Area of Galashiels as defined by the Local Development Plan 2016. This application must therefore be assessed against Policy ED4. In essence, this policy seeks to ensure Class 1 retail units are not lost within town centres as these generate higher footfall which enhances vitality and viability of the town centre. As a result of the economic downturn Policy ED4 also allows other complementary uses within town centres, namely those within Use Class 3 (Food and Drink).

The proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis which in extreme instances may allow consideration of allowing other uses. It is acknowledged the units have been vacant for a considerable period of time and this must be given some considerable weight. However, given the units are modern retail units, they are within the town's core activity area and are located within a highly prominent location, most notably for those entering Galashiels from the Transport Interchange, the proposal must be carefully scrutinised.

Whilst it is noted that there have been some objections to the proposal by third parties, from a policy point of view the application must be judged in terms of the proposed Use Class (Class 2) the proposal falls within as opposed to its operational nature and characteristics.

The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties.

The Council's Town Centre Footfall Survey at Douglas Bridge indicates a steady decline (weekly count) from 2007 to 2014. The figure in 2007 being 2245 dropping to 1158 in 2014. The figures then rise from 1158 in 2014 to 1475 in 2016. This rise is likely to be as a result of the opening of the Borders Railway in September 2015 and the Galashiels Transport Interchange. Douglas Bridge is a key link between the aforesaid Interchange and the Galashiels Town Centre.

The Council's most recent retail survey (Summer 2016) indicates that the Galashiels' retail vacancy rate had decreased a further 1% to 16% from the figure of 19% in the Summer of

2014. Although the Winter 2016 vacancy rate has not yet been fully scrutinised it is anticipated that it has increased.

Policy ED4 states that proposals for uses other than Class 1 and 3 at ground level in core activity areas will normally be refused. Proposals for other uses including Class 2 will be assessed in terms of their contribution towards the core retail area function of the area and will only be acceptable where there is a significant positive contribution to the core retail function. Paragraph 1.2 of the fore text to Policy ED4 sets out criteria against which proposals for Class 2 uses within core retail activity areas will be considered, these are:

- How the proposed use would contribute to joint shopping trips;
- Footfall contribution;
- Current vacancy and footfall rates
- Longevity of vacancy
- Marketing history of premises; and
- Ability to retain shop frontage

The proposed Class 2 Use therefore requires to be tested against the aforesaid criteria. In respect of these points and the supporting material submitted with the planning application, further information was sought with respect to:

- The supporting statement indicates that the likely daily footfall will be in excess of 150 persons per day (number of persons for appointments around 120 per day). Is this based on the footfall of the existing Job Centre premises in Galashiels? Is this likely to be impacted upon by digital implications i.e. more people accessing services online? The reason for this question is that whilst this proposal may generate more footfall than other Class 2 uses, it may generate significantly less footfall than general Class 1 uses.
- The supporting material indicates that the property has been marketed on a "To Let" basis since November 2015. It would be useful to have sight of the cost at which the premises have been marketed in order to confirm it was not marketed at a price which may have discouraged potential retail purchasers.
- What other sites/premises in Galashiels have been considered and ruled out before arriving at these premises in Douglas Bridge as an option? Given the prominent location of the units within the town centre from a town centre policy point of view it would be preferable if an alternative location could be found. It is suggested alternative locations within the town centre, preferably outwith the core activity area, would not prevent the Job Centre operating successfully.

If it is considered that the proposal could be supported on the grounds of the information submitted, it is suggested that any such approval should be limited solely to the proposed use. This would prevent potential future Class 2 uses operating from the units which would generate very limited footfall yet would not require planning consent for a formal change of use.

In response to the further information subsequently provided by the agent, the Forward Planning Service provided additional comments:

- Further information was sought regarding the proposed 150 expected visitors to the premises on a daily basis as to how this compared to footfall for other Class 1 uses. Although no definitive statistics were produced by the agent, which would have been useful, it is acknowledged that there is a varying range of footfall generated by different uses within Class 1. Consequently, although it is considered that 150

visitors may be lower than some Class 1 uses, this figure may not be too dissimilar to other Class 1 uses which do not generate as much footfall.

- The Job Centre is currently located within the New Reiver House and it has been indicated that the applicant is soon to vacate these premises. It is noted that these premises are currently being advertised for rent and a suite (with a similar floor area of Units 9 and 10 at Douglas Bridge) is available. It is unclear why the applicant is unable to continue to occupy a smaller area of this building, given it is available? It would be most useful if the applicant was able to clarify the reasons for not being able to occupy a smaller area of the existing New Reiver House.

It is reiterated this is an extremely difficult application to determine due to a number of contentious issues. Whilst there are a number of matters to be addressed, if the proposal was to be supported it would be acknowledging that the fundamental issues are as follows:

- The premises on Douglas Bridge have been vacant for a considerable period of time despite considerable marketing efforts.
- The current vacancy rate in the town is high and the Council remains keen to promote town centre vitality and viability by allowing, where possible, the reuse of current vacant properties for justified uses.
- Proposed footfall is expected to be higher than other Class 2 uses and likely to be higher than some other Class 1 uses.

On balance, it is considered that the proposal could be supported in these unique circumstances which would not set a precedent for other Class 2 uses within the core retail area of Galashiels. If approval were to be granted it is suggested that the use is limited to the proposed use only and no other Class 2 uses could be operated from the premises without a formal planning approval.

#### Statutory Consultees

**Galashiels Community Council:** Some members were of the view that the premises should stay as Class 1 (Retail) and that there were other, currently empty retail premises, e.g. in Channel Street which might be a more suitable location for the Job Centre relocation. Other members, however, were pleased to see empty town centre premises being brought back into use, albeit as a Class 2 use. There were concerns expressed also as to the future of the current Job Centre building, which are larger premises and therefore may be harder to attract a buyer or other businesses.

#### **KEY PLANNING ISSUES:**

Whether the proposed development would comply with the Local Development Plan 2016, most notably Policy ED4 and, if not, whether there are other material considerations that would justify a departure from the LDP

#### **ASSESSMENT OF APPLICATION:**

##### *Principle*

Policy IS1 supports the retention of local services. Approval of this application would allow the job centre to relocate from its current premises (the lease for which expires in April 2018) in New Reiver House to a more central, highly accessible town centre location. Approval of the application would, therefore, accord with a key objective of Policy IS1

Policy ED3 generally supports uses that contribute positively to the vitality, vibrancy, character and mixed use nature of the town. A Class 2 use would do that, being an appropriate town centre use, and being sited within a street where there would remain a predominance of retail activity. It would also reuse a building that has been vacant since 2014. The proposal would, therefore, comply with Policy ED3.

However, the application site is within a Core Activity Area (CAA) defined by Policy ED4 as an area within which a mix of Class 1 (retail) and Class 3 (food and drink) can be supported. This policy reflects Scottish Planning Policy 2014 in promoting flexibility of uses in the town centre. However, to maintain the viability of the retail function of the town centre, other uses will normally be refused, including Class 2 uses. Such uses will be assessed in terms of their contribution to the core retail function of the town centre and “will only be acceptable where there is a significant positive contribution to the core retail function”. Six criteria are referred to with respect to this assessment, and these are considered below:

#### *How the proposed use would contribute to joint shopping trips*

The policy’s aim is to encourage public activity within the CAA and this proposal will do that, particularly since the property is currently vacant. All Class 2 uses have the potential to contribute to joint shopping trips. However, the extent to which each does will depend on the service being provided and the characteristics of the particular business operation. This proposal is specifically for a job centre, and the applicant’s supporting statement contends that the use is likely to contribute towards joint shopping trips, albeit there is no specific evidence to support that. It is, however, reasonable to assume that a proportion of staff and customers will shop in the town centre in combination with working in and using the service. It is also self-evident that the activity generated by the occupancy of the building, which comprises two shop units, would be significantly more valuable to the retail function of the town than its continued vacancy. The letting agents for the premises have advised that there is no significant demand from Class 1 retailers for units of this size, so there is the potential prospect of continued vacancy into the foreseeable future. Though the Transport Interchange will have improved the attractiveness of the town to retailers, this unit has been vacant since before the reintroduction of the railway and remains unoccupied.

#### *Footfall contribution*

Given that the unit has been vacant for the past few years, any use will generate increased footfall. Whether a Class 2 use would generate more or less footfall than a retail outlet or a Class 3 food and drink use would, again, depend on the particular business being operated from the premises. The applicant’s supporting case does, however, refer to a likely daily footfall of over 150 persons per day, with the number of persons for appointments likely to be around 120 per day and staffing numbers being predicted to be 31. While the job centre may move towards greater on-line service provision, these figures apparently have factored in the increase in digital services. Taking 2016 footfall figures for Douglas Bridge, this represents around 10% of footfall in the street. This would represent a relatively high number of persons entering and leaving the premises during the working day, and approval of this application would clearly encourage public activity, as required by Policy ED4.

#### *Current vacancy and footfall rates*

As noted by our Forward Planning Service, footfall records for Douglas Bridge indicate a steady decline between 2007 and 2014, before rising again since then. These figures tally with the economic downturn and the reintroduction of the railway in September 2015. It is clear that the railway has the continued potential to increase demand for retail space in the town centre, and these units are ideally placed to provide space for a large retailer. They front onto a pedestrianised street, with a pleasant streetscape, on a direct route from the

Transport Interchange into the town, and have service provision to the rear. It would be extremely welcome if a retailer were to occupy these units. In addition, future investment in the town is expected to include the Tapestry development a short distance from here and this, and other developments, should continue to increase the viability of the town to a potential retailer.

However, the railway has been operational for around two years, and these units remain vacant, with no clear prospect of their reuse by a retailer in the near future (as noted above). Their continued vacancy will not contribute to footfall rates in the town and the absence of an occupier is contributing negatively to the attractiveness of the town centre on this key pedestrianised route. The applicants are, however, expected to agree a lease term of 10 years (with a break at five years), thus ensuring the units will be in active use for the foreseeable future.

In terms of vacancy, the Council's surveys indicate a drop in vacancy rates from 19% in summer 2014 to 16% in summer 2016, though this is expected to rise again in the winter 2016 survey. This rate remains significantly high and these two units are contributing to this vacancy rate. A town centre needs activity, first and foremost, in order to be an attractive location for both shoppers and retailers, and the effect of these two vacant units on the activity in Douglas Bridge is discernible. The reuse of the units for the proposed use, with its predicted footfall, will clearly be of benefit to the town centre.

The current job centre would vacate its current premises in New Reiver House. However, that property is not within the core area of the town, and is located behind shopping streets. It also can be split into different sized units, and is actively being marketed now. Its vacancy is not directly comparable to the vacancy of shop units within Douglas Bridge, in terms of Policy ED4.

#### Length of vacancy

The property has been vacant since 2014. Though not an exceptionally long period, it is notable that it has been vacant since before the railway was reintroduced, and remains so. Though a planning application to convert the upper floors to offices, and retain the ground floor units in separate retail use, was approved last year, this has not been implemented. It is understood that the scheme has not proven financially viable. The current application would, clearly, halt the continued vacancy of the premises in the near future.

#### Marketing history of premises

The letting agents advise that the units have been marketed since November 2015 (following the conclusion of the administration process for the previous occupier). That occupier entered into administration in 2008 and during the period between then and the lease being formally disclaimed in 2015, the letting agents were instructed to openly market the property on a to-let basis, but were unable to generate any Class 1 retailer interest that led to a lease agreement. Marketing included advertisement boards and website marketing, as well as referrals to retailers with an interest in the town. The units have been available to let together or as two separate units. During that period the advertised rent was changed from £82,000 per annum in 2008 to "rent available on application" in 2016, in order to allow for negotiation of the rental level. The rent for the previous occupier was also reduced during their period of occupancy, and flexible leasing terms agreed. The rent agreed with the current applicants is £35,000 per annum. While there is, perhaps, scope to explore in much greater detail whether the rental level was initially too high, and the extent to which other factors such as rates have a part to play in the attractiveness of the units to retailers, what seems to be clear is that the owners appear to have been flexible in their approach to marketing the premises



in order to secure a tenant. What also seems to be clear is that this is the first serious proposal to put these units to a new use in the last few years.

#### Ability to retain shop frontage

The application includes no proposals to alter the shop frontages, so this proposal would not directly affect the character or appearance of the Conservation Area. The applicants were asked to provide images of how the shopfronts might appear when occupied, but do not currently have this information. A key issue with Class 2 uses is the potential for them to present a 'dead' frontage to the street. The proposed job centre use has that potential. Controls could be exercised on window displays by condition to limit that potential, though the operational requirements of the applicants would have to be accounted for (depending on confidentiality/privacy requirements, for example, that may require features such as internal window blinds, obscure or tinted vinyls).

Controls do, in any case, already exist via the Control of Advertisements (Scotland) Regulations 1984 over the extent to which vinyls with advertisement displays can cover windows, and over the specifications of external advertisements. Any external alterations (including changes to external colours, or window or door alterations), would also be subject to the need for Planning Permission. Given that any Class 1 or Class 3 use (both of which are permitted by Policy ED4), may differ as to the extent to which their window displays are 'active', it is not considered reasonable to apply specific controls to window displays in this case, over and above normal advertisement and planning controls.

#### Alternative locations

It is not a policy requirement that the applicants demonstrate that they have adequately considered alternative sites outside the Core Activity Area. However, it is a material consideration as to the significance of this application to their continued presence in the town, particularly when considering the objective of Policy IS1. As noted, our Economic Development Service has concerns with this proposal but accept it on the understanding that the applicants have adequately explored other options.

The applicants require smaller premises than their current premises New Reiver House. Their current lease runs out in April next year. It is understood that they have attempted to negotiate lease of a smaller portion of the building but, due to contractual arrangements between the Department for Work and Pensions and owners, this was not possible, despite efforts on behalf of the applicants.

The requirements of the applicants are a unit approximately 600 sqm, with a ground floor presence and open plan floorspace. It needs to be available by March 2018. Their agents have undertaken a search of properties within three miles of the current job centre, which apparently reflects DWP requirements. Possible sites were narrowed down to four, including this one, the former Poundstretchers building, a building at Galabank, and property in Channel Street. For various reasons, these have been reasonably discounted. The Poundstretchers building is difficult to convert due to the internal layout, the Galabank location was too distant, and the property in Channel Street has similar planning policy restrictions.

Ultimately, it is not possible to refuse this application because other options may or may not exist. It is arguable whether the property in Channel Street is a better or worse option in planning policy terms than this property. However, what is evident is that the applicants appear to have until March next year to relocate from their current premises, and negotiating an alternative property to the current application site within the remaining time may well have a bearing on continued delivery of service in the town.

### *Services*

It is understood that mains water and drainage services exist. No issues are expected to arise.

### *Access and parking*

Given the town centre location, and lawful retail use, current arrangements for parking and access are acceptable for the proposed use. In response to the Roads Planning Service's comments regarding access, the applicant has advised that the applicant will ensure that access to the premises complies with equality legislation requirements. Areas on Channel Street provide drop off and the applicants would make individual arrangements for persons with limited mobility to assist with access to the job centre on a case by case basis.

### *Flood risk*

The property may be at risk of flooding, but this proposal will not exacerbate the risk or affect other properties. It is also not a vulnerable use. An informative note would usefully make the applicants aware of potential flood risk.

### *Neighbouring amenity*

The proposed use is not likely to affect the amenity of neighbouring properties directly, including neighbouring businesses, given the type of activities to be undertaken within the application site itself. Anti-social or criminal behaviour within the street is not a routine by-product of this type of use. The potential for such activities to increase in this location as a result of the proposed use is not something about which this service can reasonably speculate. It is not considered that any particular weight can, therefore, be attached to them when determining the merits of this application. Such matters are for the managers of the job centre service and the police.

### *Ecological impacts*

No impacts on protected species or designated ecological sites should result.

### *Visual impacts*

As noted above, no external alterations are proposed under this application, so no adverse effect on the character and appearance of the Conservation Area will result. An informative note can refer to advertisement consent requirements and planning consent requirements for external alterations.

### *Waste*

There is no reason to expect that bin storage and collection requirements will materially differ from retail use of the premises.

## **CONCLUSION**

The proposed use would be contrary to the primary objective of Policy ED4, which is designed to allow a mix of uses within the Core Activity Area of the town centre that is limited to those within Classes 1 and 3. This proposal would be for a Class 2 use and would not contribute directly to the core retail function of the town centre. It would also not likely

contribute as positively as a retail use would to a welcoming entrance to the town centre from the Transport Interchange.

However, it would reuse shop units that have been vacant for a reasonably significant time, and potentially would generate footfall activity that would be beyond that of other Class 2 uses. The retention of the proposed public service within the town would, also, accord with Policy IS1. The proposed use will contribute positively to the town centre when compared with the current vacancy of the building.

On balance, the contribution it will make to the town centre, if not 'significant' (as required by Policy ED4), is preferable to the potential for the units to continue to remain unoccupied, albeit with that comes the risk that an attractive pair of shop units will no longer be available to potential retail occupiers. Given the particular footfall contribution of the proposed use, however, and given the particular circumstances of this case, it is considered reasonable and necessary to limit the proposed use to that specific to this application, and not to any other use within Class 2.

#### **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following condition

1. Notwithstanding the Use Classes (Scotland) Order 1997 (as amended), or any other Order, revision or replacement Order, the use consented by this approval is for the operation of a Job Centre only, (including incidental activities). No other use shall be permitted to operate from the site whether falling within the same use Class or permitted by development order. In the event that the approved use ceases, the lawful use of the site shall revert to a use falling within Class 1 of the Use Classes (Scotland) Order 1997.

Reason: To maintain the vitality and vibrancy of the town centre

#### Information for the applicant

1. Advertisements, including internal window and door signage displays, and external signage, are subject to separate consent requirements under the Control of Advertisements (Scotland) Regulations 1984.
2. Works that may materially affect the external appearance of the building, including external redecoration, will require a separate application for Planning Permission
3. The site is potentially at risk of flooding. Water resistant and resilient materials and specifications that account for potential flood risk are recommended, as is devising an evacuation plan and signing up to Floodline at [www.sepa.org.uk](http://www.sepa.org.uk)

#### DRAWING NUMBERS

Location Plan

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

**Author(s)**

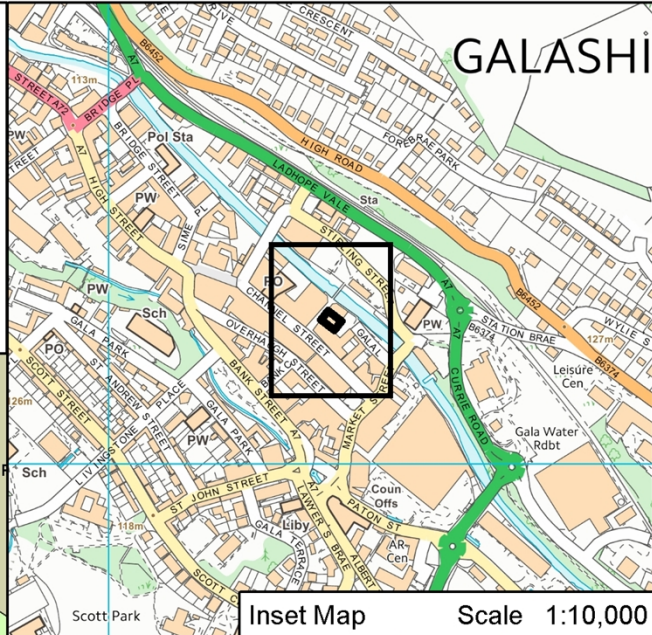
Name	Designation
Carlos Clarke	Team Leader



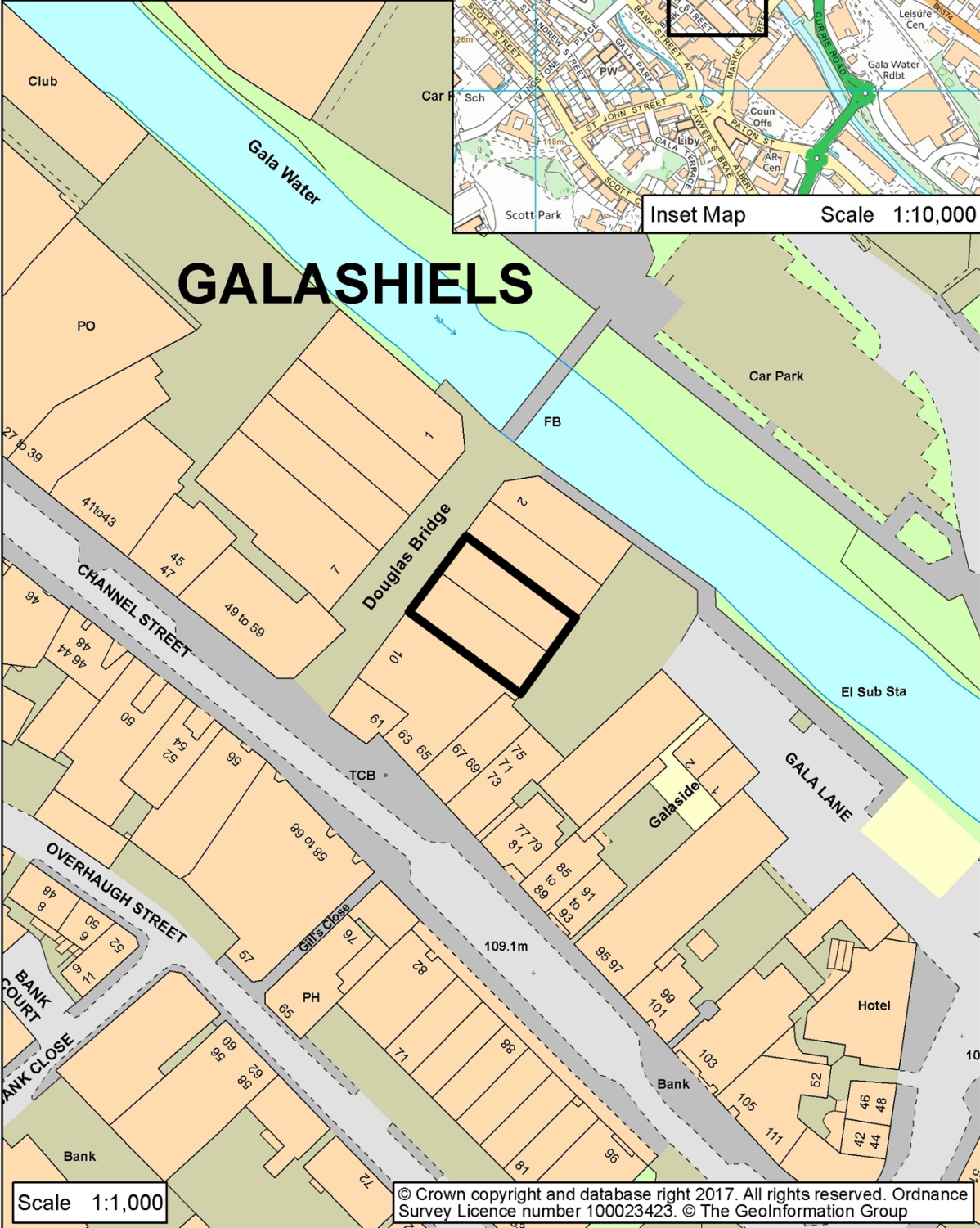
17/00765/FUL

6 - 8 Douglas Bridge  
Galashiels  
TD1 1BH

GALASHIELS



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00921/FUL
<b>OFFICER:</b>	Paul Duncan
<b>WARD:</b>	East Berwickshire
<b>PROPOSAL:</b>	Extension to dwellinghouse
<b>SITE:</b>	12 Merse View, Paxton, Scottish Borders
<b>APPLICANT:</b>	Mr Steven McClymont
<b>AGENT:</b>	None

**SITE DESCRIPTION**

12 Merse View is a semi-detached dwelling house on a residential cul-de-sac on the edge of the Berwickshire village of Paxton. The property adjoins 11 Merse View to the west, and its wide garden shares a boundary with dwellings at 13 and 14 Merse View to the south east. The house backs onto open fields to the north. The dwelling house is two storeys in height with a pitched roof and an existing single storey side porch extension to the east.

**DEVELOPMENT**

The proposal is to demolish the existing single storey side porch extension and replace it with a new two storey side extension with a larger footprint of approximately 4m by 9m. The extension would provide a kitchen/ dining room and utility room on the ground floor and two bedrooms on the first floor. Overall, the total number of bedrooms would increase from three to four as one existing bedroom would become a bathroom.

A new front door would be formed on the existing front (south) elevation of the house and an existing window on the rear elevation would be built up, with new sliding doors formed towards the centre of the existing rear elevation as well as on the new side elevation of the extension. The existing retaining wall to the rear would be extended around the side of the new extension, with an opening for new steps into the remaining garden ground to the east.

**PLANNING HISTORY**

There is no known planning application history on the site itself. There is relevant planning history at 13 Merse View to the south east of the proposed site where an extension was approved in 1996.

There has been enforcement history at the property. An unauthorised boundary fence was erected by the applicant between 11 and 12 Merse View and was the subject of an Enforcement Notice earlier this year. Compliance has now been achieved.

## REPRESENTATION SUMMARY

Members are reminded that all comments are available to view in full on the Public Access website.

6 letters of objection have been received, raising the following principal grounds of objection:

- Adverse impact on residential amenity including privacy/overlooking and overshadowing/loss of light impacts on neighbouring properties.
- Potential for a future further extension to be formed into the newly created roof space, resulting in overlooking.
- Existing parking problems on the street would be exacerbated during construction.
- Increased traffic levels resulting from increase in occupancy.
- There would be noise disturbance during construction. This could be exacerbated by the existing presence of dogs on the site.
- Storage of building materials, and disposal of building waste during construction
- Neighbours hold a variety of health issues and there are concerns about living close to a building site.
- The proposal would affect views from neighbouring properties.
- Working hours should be limited.
- The extension has no window on the upper floor thereby radically changing the appearance of the two adjoining houses from the front. The proposal would be out of keeping with the character of existing properties at Merse View and would set a precedent in altering the existing visual balance.
- The scale of the proposal is excessive. One objector speculates that the applicant may intend to run a business from the property.
- The proposal would reduce garden ground associated with the property.
- Concerns have been raised regarding the timescale of works.
- Health and safety concerns including the suggestion existing structures may contain asbestos.
- An outside boiler is shown on plans but its termination point is not identified.

Other non-planning matters have also been cited but are not valid grounds for objection and have not been included in the list above. A concern that planning rules would not be followed has also been put forward, but similarly, a concern that a breach of planning could occur in the future would not be valid grounds for refusal.

## APPLICANTS' SUPPORTING INFORMATION

The applicant has submitted detailed plans and elevations and has advised that the extension is required to provide additional living space and a quality family home for their growing family.

### CONSULTATION RESPONSES:

#### Scottish Borders Council Consultees

**Roads Planning:** The proposed extension will not interfere with the existing off street parking area. No objections have been raised.



## **Statutory Consultees**

There were no statutory consultees.

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Local Development Plan 2016**

PMD1 - Sustainability

PMD2 - Quality Standards

HD3 – Protection of Residential Amenity

### **Other considerations:**

Privacy and Sunlight Supplementary Planning Guidance (SPG)

## **KEY PLANNING ISSUES:**

The key planning issues related to this application are whether the proposed development would be appropriate to the host building in terms of scale, massing, height and material; would be compatible with the character of the surrounding area and neighbouring built form; and would have an adverse impact on the amenity of existing residential properties.

## **ASSESSMENT OF APPLICATION:**

### Policy

Policy PMD2 of the Local Development Plan (LDP) aims to ensure that all new development, not just housing, is of a high quality and respects the environment in which it is contained. The policy does not aim to restrict good quality modern or innovative design but does aim to ensure that it does not negatively impact on the existing buildings, or surrounding landscape and visual amenity of the area.

Policy HD3 aims to protect the amenity of residential areas. The policy is supplemented by the Council's Privacy and Sunlight SPG which provides more detailed, technical standards for assessing impacts on residential amenity including loss of privacy/ overlooking, loss of light and overshadowing.

### Design

The proposal would be set back slightly from the front elevation and would clearly read as an extension to the existing building. The proposed extension would have a larger footprint than the existing single storey extension and would incorporate accommodation at first floor level. However, as mentioned above, the extension would be set back from the front elevation of the existing dwelling and would incorporate eaves and ridge details below that of the host building allowing the extension to remain subservient.

There is no uniformity of house design at this end of Merse View and it must also be acknowledged that the existing building is of limited architectural merit. The scale, massing and height of the extension are appropriate for both the existing building and the surrounding area and it is felt that the proposed extension would be compatible with and respect the neighbouring built form. Should members be minded to approve this application it is recommended that a simple planning condition is attached to the

grant of consent requiring the external materials to match those on the existing building.

Unusually for a two storey extension, the proposed development would not include a window at first floor level on the principal elevation. Concerns have been raised by third parties regarding the design of the proposed extension with a particular focus on the lack of a first floor window. However, this has deliberately been omitted on the grounds that it would potentially have an unacceptable adverse impact on the residential amenity of the neighbouring dwelling. Privacy and loss of amenity will be discussed later in this report, however it is worth recognising that there is no strong architectural language locally and the omission of a window at first floor level does not detract from the overall appearance of the proposal.

It is agreed that the appearance and balance of the elevation would be improved by the inclusion of an additional window but this would result in unacceptable adverse impacts on the privacy of 13 Merse View. The current arrangement is therefore preferable. Concerns have also been raised regarding the size of the property but the site is more than capable of accommodating the extension without unacceptable loss of garden ground and there is no reason to believe the extension would not be used for the purpose of accommodating a growing family as the applicant has indicated.

#### Impact on the amenity of neighbouring residential properties

As mentioned earlier in this report, Policy HD3, supplemented by the Council's SPG on householder developments (Privacy and Sunlight Guide), aims to protect the amenity of both existing and proposed residential areas. The policy is also applicable to applications such as this for alterations and extensions to existing dwellings, as well as development on garden ground, backland development, gap site and brownfield sites.

It is considered that the proposals are of a scale, form and type appropriate for this residential area. The impact of the development however on the existing and surrounding properties, in particular No 13 Merse View, in terms of overlooking and loss of privacy is relevant.

#### Privacy

The primary privacy concern would be the impact of the proposed extension on 13 Merse View, which sits around 7 metres to the south east of the application building. As there is no window proposed at the first floor of the extension the impact on privacy is limited to that from the new ground floor level window. This window would be around 8 metres from the ground floor window of 13 Merse View which, taking into account the angle between the two dwellings, would not normally comply with the approved supplementary guidance where, as a rule, a minimum of 18 metres privacy zone should be maintained between windows of principal rooms when directly opposite. This distance can be reduced where the windows are at an angle to each other.

However in some instances these standards cannot be met and the proposals may be considered unacceptable, but it is worth noting in this case that there is an existing garden shed which sits within the garden ground of the neighbouring dwelling at No 13 and this helps to mitigate the potential for direct window to window overlooking. The shed is wholly within the control of the neighbouring objector and

ensures privacy is protected, ultimately meeting the requirements in relation to overlooking set down in the supporting guidance note.

The first floor windows of 13 Merse View may be within view of the new ground floor window but owing to the difference in height between the two it is considered that there would be no unacceptable adverse impact on the residential amenity of the neighbouring dwelling. Also, given the east elevation gable is at an angle to 13 and 14 Merse View the windows on this elevation do not raise concerns. The requirements of the Privacy and Sunlight SPG in terms of overlooking are therefore met and the residential amenity of the neighbouring dwellings is not compromised.

The concern that a future additional extension into the newly created roof space could result in overlooking is valid and a condition will be attached to remove permitted development rights on the extension to prevent this from happening.

#### Access to light/ overshadowing

The approved supplementary guidance on householder development also protects access to light and the impact of overshadowing when a new building or extension directly faces the window of an existing property. Suitable daylight for habitable (principal) rooms is achieved when the lowest window is kept unobstructed. In this case, the proposed extension does not directly face the neighbouring ground floor window as it is off-set to the west. This is very much a marginal decision given the relatively close proximity of the extension to existing dwellings. Applying the standards set down in the guidance note could indicate that some extensions are unacceptable therefore some relaxation may be necessary, however, in this case, as the proposed extension does not directly face the ground floor window it is considered that the impacts of the proposed extension on the neighbouring dwelling will be negligible.

It is worth noting that the proposed extension would be located to the north of the neighbouring dwelling and the garden shed mentioned above, which falls within the control of the owner/occupier of the neighbouring dwelling and would be located between the extension and the existing ground floor window. Access to light is already compromised and this is unlikely to be affected as a result of the proposed development.

In this instance the proposal meets the requirements of the key tests, albeit narrowly. The main impact would again be on number 13 Merse View. Any adverse impact on number 11 would be very limited, and would be within the acceptable parameters of the Privacy and Sunlight SPG.

#### Loss of view

An objection has been made which makes reference to the impact of the proposal on the objector's view. As the objector notes, there is no right to a view in planning law.

#### Parking, traffic and road safety

It is understood that there are existing parking issues at Merse View which could be exacerbated by additional vehicles attending the site during the construction period or by the storage of materials on the public road. These concerns are understood and appreciated, but ultimately Merse View is a public road and the applicant would need to comply with the relevant laws and regulations, with non-compliance being a matter for the Police and/or Roads Authority to address. Over the longer term, the

Roads Officer is satisfied that the proposal does not interfere with the existing parking area. The development would not result in the loss of any existing parking and should not exacerbate existing issues. Whilst an increase in occupancy is possible in the future this is speculation and could occur in any event.

### Noise

Several objections cite concerns regarding the potential for noise disturbance during construction. There are particular concerns that noise during construction could be exacerbated by the resulting disturbance of dogs which are kept on the site. Objectors have proposed that the Council limit working hours during the construction phase but existing environmental protection controls would address noise disturbances satisfactorily if they arise.

### Other matters

The plans show an oil fired boiler would be located on the rear (north) elevation. An objector has questioned where the flue would terminate. No flue is identified on elevation drawings and therefore any flue required will need to comply with the relevant permitted development rights. An informative will be added to advise the applicant that ultimately any associated nuisance would be actionable under environmental health legislation.

Concerns that the existing shed may contain asbestos have been raised. It would be for the applicant to satisfactorily address such matters in compliance with the relevant legislation if they arose.

Finally, there are concerns regarding the possible timescale for completing the works although there is no indication as to what the timescale may be. This would be for the applicant to address and is not generally controlled through the planning system.

## **CONCLUSION**

Overall it is concluded that the proposed extension is acceptable in terms of siting and design and meets the requirements of the key policy tests including Local Development Plan policies PMD2 and HD3 and the approved Privacy and Sunlight SPG.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following conditions and informative:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the extension hereby approved unless an application for planning permission in that behalf is first submitted to and approved in writing by the Planning Authority.  
Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.
2. The external materials to be used on the extension shall match in all respects those of the existing building, and no other materials shall be used unless the prior written consent of the Planning Authority is given for any variation thereto.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.

Reason: To ensure that the development is carried out in accordance with the approved details.

Informative:

Flues can give rise to smoke and odour complaints which may be actionable under Environmental Health legislation regardless of whether or not a flue has planning permission or is the subject of a Building Warrant. Neither Planning Consent nor Building Warrant approval would indemnify the owner in respect of any potential Nuisance action.

#### DRAWING NUMBERS

Kw-125-JSJ	Drawing 003-A	Floor Plans	28.06.2017
Kw-125-JSJ	Drawing 004-A	Elevations	28.06.2017
Kw-125-JSJ	Drawing 005-A	Site Plan	28.06.2017
Kw-125-JSJ	Drawing 006-A	Location Plan	28.06.2017

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

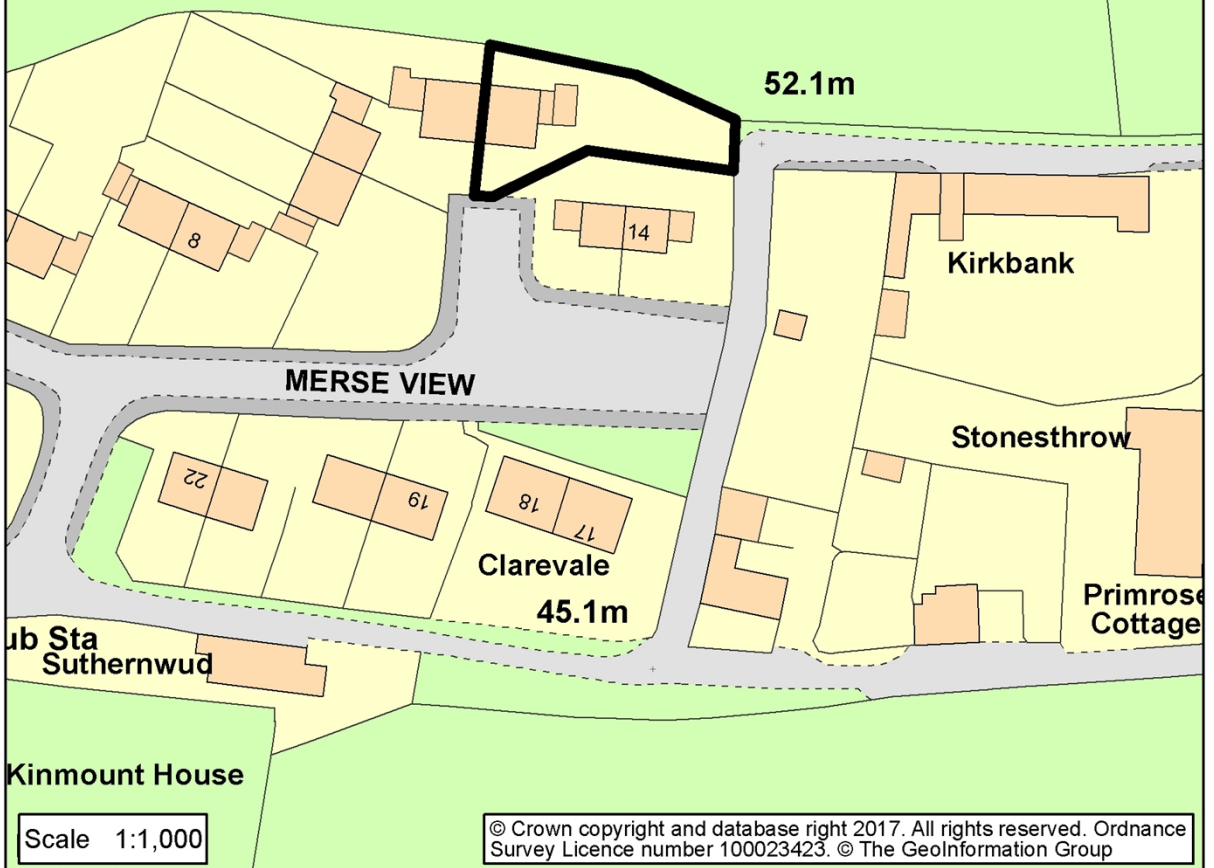
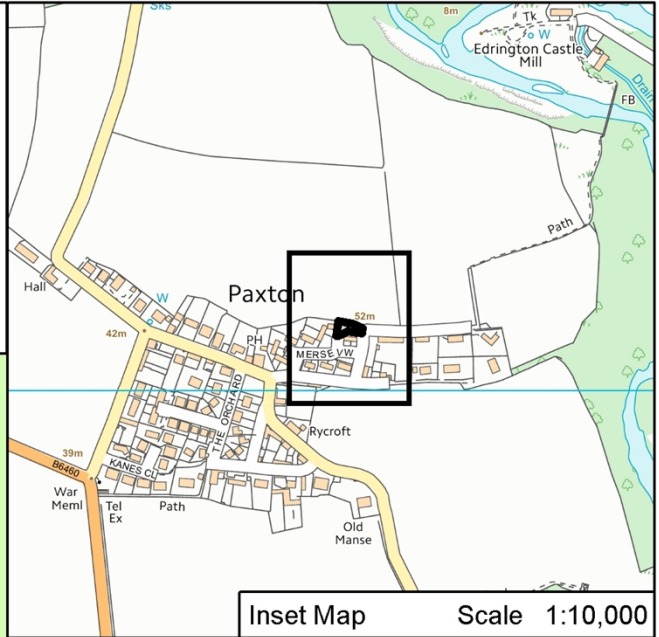
#### **Author(s)**

Name	Designation
Paul Duncan	Assistant Planning Officer



17/00921/FUL

12 Merse View  
Paxton  
TD15 1TF



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2017**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 17/00669/FUL  
**OFFICER:** Euan Calvert  
**WARD:** Jedburgh and District  
**PROPOSAL:** Part change of Use from Class 2 (Office) to Class 9 (Residential)  
**SITE:** 3-5 Exchange Street Jedburgh  
**APPLICANT:** Mr Abdou Lataoui  
**AGENT:** Ferguson Planning

**SITE DESCRIPTION**

3-5 Exchange Street is a symmetrical 3-storey 5-bay former bank premises located on the north side of Exchange Street, Jedburgh.

The Council was the last owner, who operated the building as a contact centre with reception in left front room and Provost Room in right front room at ground floor level. Three offices and a meeting room were partitioned at first floor level, with suspended ceilings and two further offices, a kitchen and vacant rear room at second floor level.

The building occupies a prominent street front location and forms a terrace of buildings of similar heights. The building is within the Conservation Area and makes a significant contribution to the street, due to its intricate architectural design and detailing. The building is A listed by Historic Environment Scotland for its historic character. A Listed Building application has not been submitted as no changes are proposed to the internal or external fabric.

**DEVELOPMENT**

The applicant has provided internal floor plans to demonstrate how a dwellinghouse would be configured to operate independent from a shop/office at ground floor level. The right hand two windows and door (former Provost Room) are proposed to become the Entrance/ Study for the dwelling. Bedrooms 2, 3, 4 and 5, a bathroom and WC would appear at first floor level, without any alterations being necessary to the buildings historic fabric. At the second floor level a living room, dining room, bedroom 1, kitchen and WC would similarly fit within the existing layout without alterations to the built and historic character.

**PLANNING HISTORY**

15/00354/PREAPP: Proposal to retain one office/retail space would be compatible with the street and residential accommodation would be supported in principle.  
16/00300/FUL REFUSED This proposal for residential accommodation is at significant risk from flooding, contrary to policy IS8 of the Local Development Plan, and no Flood Risk Assessment has been undertaken to demonstrate otherwise.

## REPRESENTATION SUMMARY

38 neighbours were notified and no responses were received.

## APPLICANTS' SUPPORTING INFORMATION

The applicant has submitted a Flood Risk Assessment in support of this application.

## CONSULTATION RESPONSES:

### Scottish Borders Council Consultees

**Roads Planning:** No objection. No dedicated parking. The Council has a more relaxed view on parking provision for change of use within a town centre.

**Flood Risk Officer:** First response:

No objection. The FRA recommends a number of mitigation measures to reduce flood risk to the property. If approval is granted, mitigation measures (submitted by Kaya Consulting in support of this application) must be submitted to the Council for approval. The applicant should also develop an evacuation plan for the building.

Second Response:

Provision of alternative (Flood Free) Access (as requested by SEPA) would not be a reasonable request to ask of the applicant. This decision is based on;

1. Flood risk has significantly reduced since the events of 2012/2013
2. Significant improvements having been undertaken by SBC on the Skiprunning Burn to maintain the operating capacity of the culvert. (channel improvements, improvements to the trash screens and installation of a bypass culvert around the main trash screen at the top of Burn Wynd,
3. An operating regime is in place which significantly reduces the likelihood of blockage.
4. The nature of flooding is short duration, 'flash flood' events.

**Education:** No contributions are sought for schools in the Jedburgh catchment.

### Statutory Consultees

**Jedburgh Community Council:** No objection

### SEPA:

First response;

Object.

1. Lack of information in respect of flood risk and that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.
2. The Skiprunning Burn Flood Prevention Scheme "*was not designed to a specific return period*" (FRA submitted by Kaya Consulting), and therefore does not match the required level of protection for new residential development outlined in Scottish Planning Policy and SEPA guidance.
3. Safe flood free access/egress is not provided.
4. In the event of approval, SEPA recommend a condition be attached that excludes sleeping accommodation on the ground floor.

Second response: Object.

1. Flood free access is unachievable, against requirements of SPP.



2. Residual risk of inundation, even with mitigation in place.

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Local Development Plan 2016**

PMD2: Quality Standards  
PMD5: Infill Development  
ED3: Town Centre and Shopping Development  
HD3: Protection of Residential Amenity  
EP7: Listed Buildings  
EP9: Conservation Areas  
IS2: Developer Contributions  
IS7: Parking Provisions and Standards  
IS8: Flooding

### **Other considerations:**

Supplementary Planning Guidance, Placemaking and Design, 2010

Scottish Planning Policy

## **KEY PLANNING ISSUES:**

- Whether this residential proposal is appropriate to the town centre location.
- The impact of the proposal on the residential amenities of occupants of residential properties in the surrounding area.
- Access, parking and road safety issues.
- Whether the site is at risk of flooding.

## **ASSESSMENT OF APPLICATION:**

### Principle

The principle of a change of use to residential above ground floor level is considered to be acceptable and in accordance with Policy ED3 of the Local Development Plan (LDP). The existing building has remained vacant since 2011 when it was last used by the Council as a Contact Centre and a change of use from Class 2 (Financial, Professional and Other Services) to Class 9 (Houses) is considered to be acceptable and in accordance with the principal aims of Policy ED3 which seek to protect and enhance the vitality and viability of town centres. Residential use on the ground floor in the former Provost Room is considered to be supported in principle by Policy ED3 and would be in keeping with the wide range of uses now appropriate to a town centre location.

The application site is located within an area of the town centre that is not designated as a Core Activity Area as defined by Policy ED4 of the LDP and as such, a more relaxed approach to the types of uses at ground floor level is applied. As the proposal would retain the left hand ground floor unit as a single, self-contained office it is contended that residential occupation of the right hand ground floor unit (with residential use above) would contribute to and enhance the vitality and viability of Exchange Street and the wider town centre, without displacing existing businesses.

As mentioned above, the principle of the proposed change of use is acceptable. No material changes to the building are proposed or are required in order to facilitate the proposed change of use.

#### Infill development

The proposed development is supported by Policy PMD5 – Infill Development as it would bring back into re-use a vacant and redundant Listed Building. There is risk of potential significant deterioration to the fabric of the building without bringing it back to purposeful use. Re-use (by residential occupation) will ensure long term character and amenity protection to this prominent listed building consistent with the aims of Policy PMD5 relating to infill development.

#### Amenity

It is considered that there will be no adverse effects on neighbouring residential amenity as a result of overlooking or loss of privacy. No adverse comments have been received from adjoining neighbours or third parties and it is recommended that the proposed development is in accordance with Policy HD3 relating to the protection of residential amenity.

#### Listed building and Conservation Area

Members will be aware from the drawings submitted in support of this application that no interventions to the fabric of the building are proposed. The current configuration lends itself to simply changing the use of the existing offices to habitable rooms appropriate for modern day family living. The proposals will bring an otherwise empty listed building back into use, and will prolong the useful life of this prominent building in the conservation area. As such, the character of this Category A Listed Building would be maintained and enhanced by this proposal and the proposed residential occupation would ensure the long term maintenance of this characterful building. In addition, the proposed change of use and future occupation of the building as a dwelling would have a neutral effect on the character and appearance of the Conservation Area, consistent with the aims of Policy EP9.

#### Flood risk

Members will be aware from the papers that a Flood Risk Assessment has been submitted by the applicant in support of development. The report identifies surface water (fluvial flood risk from the culverted Skiprunning Burn) to be a medium to high risk but offers mitigation measures to address these risks.

Members will also be aware from the papers that SEPA originally objected to this application, and has maintained their objection in a second consultation response, to the additional information submitted by the applicant. The objection is twofold in that:

1. Residual risk of inundation up to 280mm at ground floor remains, even with mitigation in place.
2. Flood free access is unachievable, against requirements of SPP.

SEPA state in their objection that the property could be inundated during a blockage event (of the Skiprunning Burn) to around 600mm, with the Study (Provest Room) being inundated to around 280mm. It transpires that the Skiprunning Burn Flood Prevention Scheme implemented by Scottish Borders Council “*was not designed to a specific return period*” (FRA submitted by Kaya Consulting) and because of this, development is in contravention of Scottish Planning Policy and SEPA guidance. Secondly, the proposed dwelling would only have a single point of access and egress to Exchange Street which puts occupants at risk during a flood event. A flood free access must be maintained in accordance with Scottish Planning Policy.

The Council's Flood Prevention Officer however, has offered conditional support of the proposed change of use. Members will be aware that the Council has recently implemented a Flood Protection Scheme on the Skiprunning Burn which significantly reduces flood risk since the events of 2012/2013. Significant improvements including channel improvements, installation of a bypass culvert and improvements to the trash screens, have been undertaken by the Council in order to maintain the operating capacity of the existing culvert. An operating regime is now in place which significantly reduces the likelihood of any future blockage during periods of heavy surface water flooding on the burn.

The Council's flood officer does not object to this application however in acknowledging that risk of a culvert blockage does exist, a mitigation and evacuation plan is sought by condition. The flood officer acknowledges that whilst access to and egress from the property may be restricted, it will not be significantly compromised as the nature of any potential flooding event on Exchange Street is likely to be a 'flash flood' event over a short period of time. It is contended that the safety of any occupants of the building will not be compromised.

A balanced, proportionate and measured approach is recommended towards flood risk in this proposal and Members are recommended to support development in accordance with advice from the Council's flood officer. The outstanding objection from SEPA is acknowledged and Members should not discount these comments when considering the acceptability, or otherwise of the proposed development. They are material to the assessment and determination of the application

Members should also be aware that whilst the Council has significantly reduced the risk of flooding from the Skiprunning Burn, the risk of flash flooding has not been entirely eliminated. These facts need weighed against the needs to find a purposeful use for this Category A Listed Building, in order to ensure its long term future. In addition, a decision to refuse permission may set an undesirable precedent for town centre uses in the historic core of the town more generally.

The applicant has provided a FRA in accordance with Policy IS8 requirements and the Council's Flood Protection Officer offers qualified support to its findings. Mitigation measures (offered in the FRA by Kaya Consulting) and an evacuation plan would need to be submitted to the Council for prior approval should Members be minded to support this application. An approval could be granted on condition that these details are submitted before development commences and it is recommended that the planning application be approved with the objection from SEPA maintained. If Members are minded to approve the application, it would then have to be referred to Scottish Ministers for determination.

#### Developer Contributions

No financial contributions are required towards affordable housing or education facilities by this development. Policy IS2 would be satisfied in that there are no identified infrastructure deficiencies or environmental impacts arising from development which would attract contribution.

#### Parking

Residential development generates car parking and the Road Planning Officer has offered no objection to these proposals. No dedicated parking is identified for the proposed dwellinghouse however the Council has a more relaxed view on parking provision for change of use within a town centre. Public parking, local services and public transport routes are available within close proximity. To support and ensure

reuse of this Listed Building it is considered that parking provision and standards have been adequately addressed and in accordance with Policy IS7.

## **CONCLUSION**

The proposed development is considered acceptable and in compliance with policies PMD2, PMD5, ED3, HD3, EP7, EP9, IS2, IS7, IS8 of Scottish Borders Local Development Plan 2016.

The proposal would not negatively impact upon the character or setting of the Listed Building, character or appearance of the Conservation Area, residential amenities or the visual amenities of the area and would bring a vacant building with town centre location, back into use.

It is accepted that the site is at risk of flooding and the Skiprunning Burn flood prevention scheme “*was not designed to a specific return period*” (FRA submitted by Kaya Consulting) In the strictest sense, the proposal does not meet the stringent required level of protection for new residential development outlined in Scottish Planning Policy and SEPA guidance. However, to refuse this application would mean that the building is blighted and would potentially remain vacant, to the detriment of the conservation area and the Listed Building. This is very much an marginal, on balance decision and the outstanding objections received from SEPA must be given due weight and consideration. However, taking all other material considerations into account, it is recommended that the application be approved subject to the schedule of conditions listed below.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following conditions and informative:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
2. No development shall commence until detailed mitigation measures designed to reduce the potential impact of flooding on the building shall first be submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with the scheme. The approved measures then to be implemented as part of the development and maintained thereafter following occupation of the dwellinghouse.  
Reason: To lessen the impact of potential flooding at the site.
3. No development shall take place except in strict accordance with a detailed flood evacuation plan for the building which shall first be submitted to and approved in writing by the planning authority and thereafter no development shall take place except in strict accordance with the approved plan. The flood evacuation plan shall be maintained in perpetuity thereafter unless otherwise agreed in writing by the planning authority.  
Reason: To lessen the impact of potential flooding at the site.

## Informatives

1. As the application site is located within the Jedburgh Conservation Area and listed Category A, external alterations to the building are likely to require the benefit of both planning permission and listed building consent
2. The Council's Flood Protection Officer advises that, as access and egress to the development may also be affected by flood waters, the owner occupier should receive flood warnings from SEPA. The applicant should sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188. It is also recommended that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

## DRAWING NUMBERS

Location 1154 L01 A  
Existing 1154 E01 A  
Proposed 1154 P01 A

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

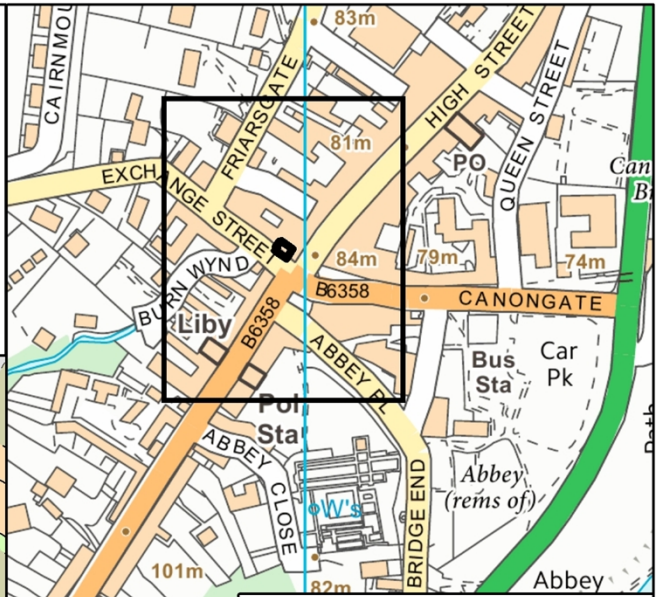
### **Author(s)**

Name	Designation
Euan Calvert	Assistant Planning Officer



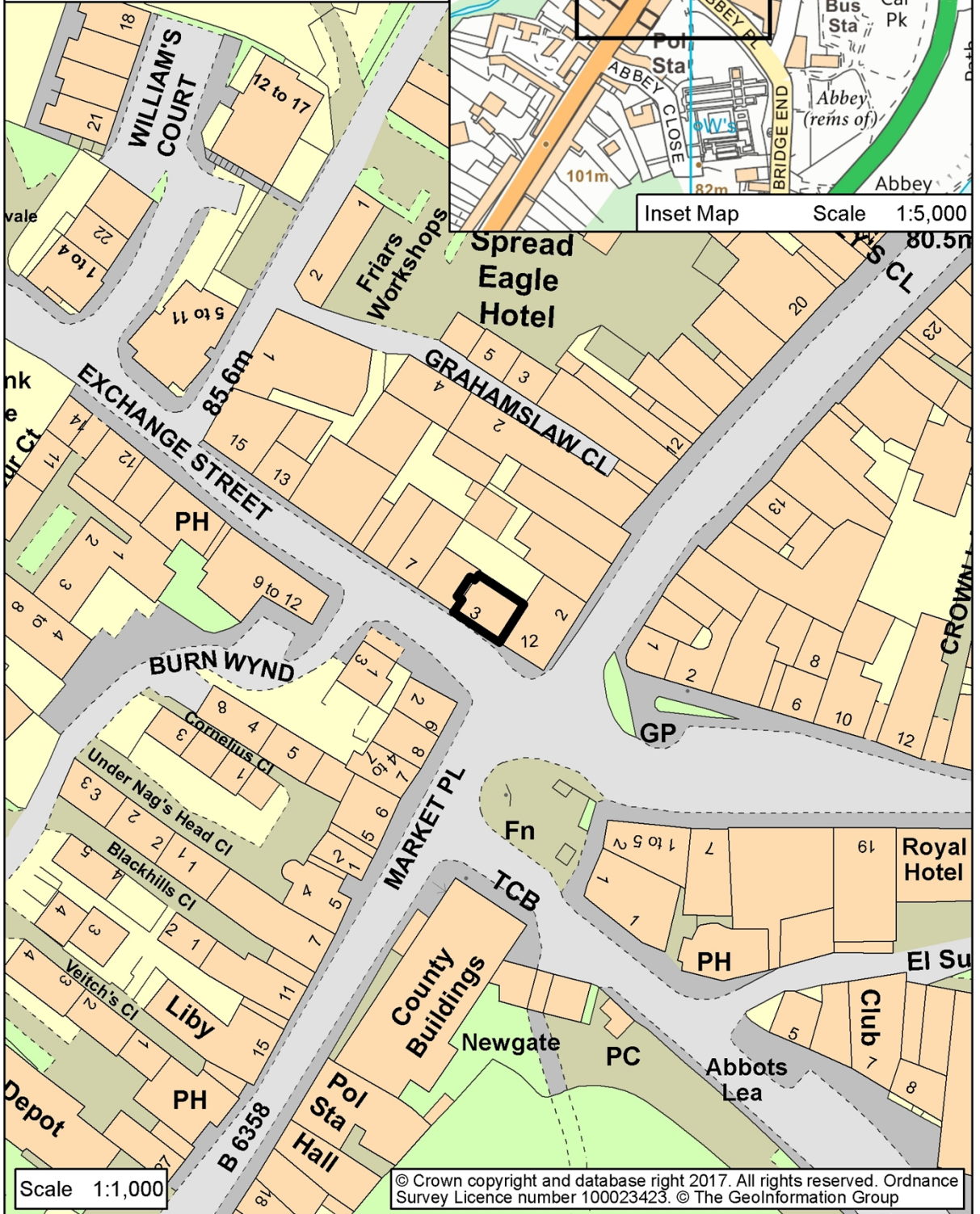
17/00669/FUL

3-5 Exchange Street  
Jedburgh



Inset Map

Scale 1:5,000



Scale 1:1,000

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## **PLANNING APPEALS & REVIEWS**

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### **Briefing Note by Chief Planning Officer**

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## **PLANNING AND BUILDING STANDARDS COMMITTEE**

**4<sup>th</sup> September 2017**

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### **1 PURPOSE**

- 1.1 The purpose of this briefing note is to give details of **Appeals** and **Local Reviews** which have been received and determined during the last month.

### **2 APPEALS RECEIVED**

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

### **3 APPEAL DECISIONS RECEIVED**

- 3.1 Planning Applications

- 3.1.1 Reference: 14/00848/PPP  
Proposal: Erection of 19 holiday lodges with proposed access and land treatment  
Site: Land North West of Whitmuir Hall, Selkirk  
Appellant: Mr Alan Williams

Reason for Refusal: The proposed development is contrary to Policy D1 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been established that there is sufficient economic justification to establish a case for the development that would outweigh concerns over the harm to the amenity and the character of the scenic landscape and surrounding Whitmuirhall Loch, which is sensitive to change and which contributes to the attractiveness of the area.

Grounds of Appeal: 1. The reference to economic justification in Policy D1 applies to "Other Business or Employment generating Uses" and it is contended that the Council acted unreasonably in using economic justification as the reason for refusal of this proposed tourism and leisure development. 2. The Appellant maintains their stance and the assessment

arrived at by the previous Reporter and appraisal of the amended proposals by Council officers more than adequately prove that there is sufficient economic justification to establish a case for the development. 3. The current proposals have been substantially scaled down from 28 to 19 lodges, and the layout has respected concerns about landscape context and has significantly reduced the proposed development footprint and has increased areas for screen planting and landscaping. 4. SBC have not given due consideration to their own adopted Local Plan policy, and have seen fit to ignore it and the recommendations of their officers. They have wrongly concluded that this proposed development is contrary to Local Plan policy when it is clearly not.

Method of Appeal: Written Representations & Site Visits

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Karen Heywood, concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission in principle. The Reporter considered all the other matters raised, but there were none which would lead her to alter her conclusions.

### 3.2 Enforcements

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> August 2017. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
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## 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/00323/FUL  
 Proposal: Erection of dwellinghouse and retaining wall (part retrospective)  
 Site: Land West of Craigerne Coachhouse, Edderston Road, Peebles  
 Appellant: Mrs Patricia Crippin

Reason for Refusal: The application is contrary to Policies PMD2, PMD5 and EP13 of the Scottish Borders Local Development Plan 2016 in that the proposed development will represent overdevelopment, and significant reduction, of an area of ground which is required for landscaped and wooded setting for the Craigerne Coach House development, resulting in an inappropriate congested appearance between the development and Edderston Road and providing insufficient space from existing preserved trees which would undermine their protection.

5.2 Reference: 17/00384/FUL



Proposal: Alterations to existing bellmouth and formation of new access  
Site: Land North West of Kirkburn Parish Church, Cardrona  
Appellant: Cleek Poultry Ltd

Reason for Refusal: The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2- Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

5.3 Reference: 17/00647/FUL  
Proposal: Formation of hardstanding, steps, retaining wall and new foot path  
Site: Land North West of Kirkburn Parish Church, Cardrona  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2, HD3, EP7 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposal would create adverse effects on the setting of a Category B Statutorily Listed Building adjoining the site and on the amenity of nearby residential amenity properties. 2. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

5.4 Reference: 17/00806/FUL  
Proposal: Erection of agricultural building and formation of new access track  
Site: Land South of 3 Kirkburn Cottages, Cardrona, Peebles  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building and that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location. 2. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

## **6 REVIEWS DETERMINED**

- 6.1 Reference: 16/01174/PPP  
Proposal: Erection of vehicle body repair workshop and associated parking  
Site: Land North West of Dunrig Spylaw Farm, Lamancha, West Linton  
Appellant: GS Chapman Vehicle Body Repairs

Reasons for Refusal: 1. The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location. 2. Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

Method of Review: Review of Papers, Site Visit and Further Written Submissions

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

- 6.2 Reference: 17/00005/PPP  
Proposal: Erection dwellinghouse  
Site: Land South of Balmerino, Ashkirk  
Appellant: Ms Gillian MacKay

Reason for Refusal: The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.3 Reference: 17/00118/FUL  
Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works  
Site: Redundant Steading North West of Pots Close Cottage, Kelso  
Appellant: Roxburghe Estates

Reasons for Refusal: 1. The proposal is contrary to Policy HD2 of the Local Development Plan 2016 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that: i. the proposal does not appropriately constitute a conversion in that it is not physically capable of conversion; ii. the building is not worthy of conversion in terms of its architectural or historic merit; iii.) the site lies outwith any recognised settlement or building group and the need for a

new dwellinghouse on this site has not been adequately substantiated. 2. The proposal is contrary to PMD2 of the Local Development Plan 2016 and the advice contained within Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Placemaking and Design (January 2010), in that the resulting building would not be in keeping with the design and character of the existing building. 3. The proposal is contrary to policies EP2 and EP3 of the Local Development Plan 2016 in that the potential impact on local biodiversity and protected species is unknown as surveys of the surrounding buildings and trees have not been carried out, informed by a Preliminary Roost Assessment.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.4 Reference: 17/00530/FUL  
 Proposal: Erection of dwellinghouse with attached garage and workshop  
 Site: Land North West of Alderbank, Macbiehill, West Linton  
 Appellant: Mr and Mrs D Gold

Reason for Refusal: The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and "Alderbank", breaking into an undeveloped field at a higher level. The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

## 7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> August 2017. This relates to sites at:

- |  |                               |
|--|-------------------------------|
| • Land North East of The Old Church, Lamberton | • 5 High Street, Innerleithen |
|--|-------------------------------|

## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 4 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> August 2017. This relates to sites at:

• (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir	• Fallago Rig 1, Longformacus
• Fallago Rig 2, Longformacus	• Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick

### Approved by

**Ian Aikman**  
**Chief Planning Officer**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 01835 824000 Ext 5409

**Background Papers:** None.

**Previous Minute Reference:** None.

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071  
Email: PLACEtransrequest@scotborders.gov.uk