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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY 6TH NOVEMBER 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, 6TH NOVEMBER, 2017 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

30 October 2017

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 8) Minute of Meeting held on 2 October 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Easter Langlee Waste Transfer Station - 17/01149/FUL (Pages 9 - 30) Formation of waste transfer station and associated work on Land South of Easter Langlee Recycling Centre. (Copy attached.)
	(b) Pines Burn Windfarm - 17/00010/FUL (Pages 31 - 84) Construction of wind farm comprising 7 No turbines up to 149.9 m high to tip, 5 No turbines up to 130m high to tip and associated infrastructure on Land South West of Lurgiescleuch (Pines Burn), Hawick. (Copy attached.)
	(c) Hutton Hall Barns - 17/00623/FUL (Pages 85 - 100) Erection of poultry building and associated works at Hutton Hall Barns, Hutton. (Copy attached.)
	(d) Craigard, Canongate, Denholm - 17/00228/FUL (Pages 101 - 114) Erection of dwellinghouse on Land South East of Craigard, Canongate, Denholm. (Copy attached.)
	(e) Workshop, The Row, Allanton - 17/00652/FUL (Pages 115 - 126) Change of Use from Joiner's workshop and alterations to form dwellinghouse at the

	Former Joiner's Workshop, The Row, Allanton. (Copy attached.)
6.	Appeals and Reviews. (Pages 127 - 132) Consider report by Service Director Regulatory Services. (Copy attached.)
7.	Any Other Items Previously Circulated.
8.	Any Other Items which the Chairman Decides are Urgent.

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

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.

Please direct any enquiries to Fiona Henderson 01835 826502
fhenderson@scotborders.gov.uk

**SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of Meeting of the PLANNING AND
BUILDING STANDARDS COMMITTEE held
in Scottish Borders Council, Council
Headquarters, Newtown St Boswells TD6
0SA on Monday, 2 October, 2017 at
10.00 am

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

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 Officers (F.
Henderson and F. Walling).

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 4 September 2017.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATIONS.**

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.

3. **APPEALS AND REVIEWS.**

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) **Appeal received in respect of Change of Use from Class 1 (Retail) to Class 2
(Financial, Professional and Other Services) Units 9 and 10, 6 - 8 Douglas
Bridge, Galashiels – 17/00765/FUL.**

(b) **there remained two appeals outstanding in respect of:-**

- **Land North of Howpark Farmhouse, Grantshouse**
- **Poultry Farm, Marchmont Road, Greenlaw**

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

- (i) **Erection of micro meat processing unit and byre on Land at Hardiesmill
Place, Gordon – 17/00239/FUL;**

- (ii) Variation of Condition No 3 of planning consent 10/00156/FUL to allow short term letting at Jordonlaw Granary, Jordonlaw Road, Westruther – 17/00380/FUL
 - (iii) Alterations and extension to dwellinghouse at 1 Glenkinnon, Ashiestiel Bridge, Clovenfords - 17/00472/FUL;
 - (iv) Erection of dwellinghouse on Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston – 17/00479/FUL
- (d) the decision of the Appointed Officer had been overturned (Subject to conditions and a Section 75 Legal Agreement) by the Local Review Body in respect of:-
- (i) the Erection of dwellinghouse with attached garage on Land North East of the Old Church, Lamberton – 16/00947/FUL
 - (ii) the Erection of dwellinghouse and retaining Wall (part retrospective) on Land West of Craigerne Coachhouse, Ederston Road, Peebles – 17/00323/FUL
- (e) there remained four reviews outstanding in respect of:-
- 5 High Street, Innerleithen
 - Land North West of Kirkburn Parish Church, Cardrona (17/00647/FUL)
 - Land North West of Kirkburn Parish Church, Cardrona (17/00384/FUL)
 - Land South of 3 Kirkburn Cottages, Cardrona, Peebles (17/00806/FUL)
- (f) 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

4. PRIVATE BUSINESS DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

5. REQUEST TO REDUCE DEVELOPMENT CONTRIBUTION REQUIREMENTS WITH RESPECT TO PLANNING PERMISSION FOR THE ERECTION OF THREE DWELLINGHOUSES, LAND NORTH-EAST OF GLENVIEW, ELLWYN TERRACE, GALASHIELS

The Committee considered a report by the Chief Planning Officer.

The meeting concluded at 3.15 pm

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00226/FUL	Erection of a windfarm comprising of 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary buildings and temporary borrow pits	Land North West of Gilston Farm, Heriot

Decision:- Refused for the following reasons:

The proposal is contrary to Adopted Scottish Borders Council Local Development Plan Policy ED9 in that it would have relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated, and which are not outweighed by the wider economic, environmental and other benefits that would otherwise be derived from its siting and operation at the site. In particular:

- The scale, form and location of the development proposed would represent a significant, detrimental change to the existing landscape character and visual amenity of the immediate locality and the wider area, and would also result in unacceptable cumulative landscape and visual impacts through its contribution to views within which it would be visible alongside surrounding wind farm schemes; and
- would present a hazard to aviation safety both as an obstacle to aircraft and in its potential to disrupt radar operations at Kincardine and Edinburgh Airport.

Informatives

1. It has not been demonstrated that the proposals would not have unacceptable impacts upon a Protected Species, specifically badgers, whose setts are liable to be impacted by the operation of one of the borrow-pits;
2. It has not been demonstrated that the proposals would not have unacceptable impacts upon Priority Species, specifically butterflies, whose habitat may be impacted by the development; and
3. It has not been demonstrated that the proposals would not have any unacceptable impacts upon a private water supply.

NOTE

Ms Jillian Adams and Alasdair MacLeod spoke on behalf of 2020 Renewables Ltd in support of the application.

Mr John Williams, Chairman of Heriot Community Council spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/013377/FUL	Erection of poultry building	Land South West of Easter Haprew Farmhouse Peebles

Decision:- Refused for the following reasons:

The proposed development would be contrary to Policy ED7 – Business, Tourism and Leisure Development in the Countryside and Policy EP4 – National Scenic Areas of the Scottish Borders Local Development Plan 2016 in that the poultry building would have an unacceptable adverse impact on and does not respect the amenity and character of the surrounding area and would have an unacceptable adverse effect on the scenic qualities of the National Scenic Area. The scale, siting and design of the development would set an undesirable precedent and would result in an unacceptable form of development in this nationally important landscape.

VOTE

Councillor Fullarton, seconded by Councillor Hamilton moved that the application be approved as per the Officer recommendation.

Councillor Laing, seconded by Councillor Ramage, moved as an amendment that the application be refused on the grounds that it was contrary to Policies ED7 and EP4 of the Scottish Borders Development Plan 2016 in that the proposed building would have an unacceptable adverse impact on the surrounding area and on the scenic qualities of the National Scenic Area.

On a show of hands Members voted as follows:-

Motion	-	4 votes
Amendment	-	5 votes

The amendment was accordingly carried.

NOTE

Mr Gordon Hughes, Chairman of Manor, Stobo & Lyne Community Council spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00623/FUL	Erection of poultry building and associated works	Hutton Hall Barns Hutton

Decision: Continued to allow a site visit by Committee.

NOTE

Mrs S MacLean, Applicant spoke in support of the application.

Mr A McGregor, on behalf of Hutton Community spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00015/FUL	Residential development with associated supporting infrastructure and public open space	Land East of Knapdale 54 Edinburgh Road Peebles

Decision: Refused for the following reasons:

1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the site lies outwith the defined settlement boundary of Peebles and insufficient reasons have been given as to why an exceptional approval would be justified in this case.
2. The application is contrary to Policies PMD2, PMD4, EP5 and EP10 of the Scottish Borders Local Development Plan 2016 in that the development would create significant adverse landscape and visual impacts, within a Designed Landscape and Special Landscape Area on a prominent and sensitive edge of the town settlement boundary
3. The application is contrary to Policies PMD2 and IS6 of the Scottish Borders Local Development Plan 2016 in that it has not been demonstrated that the development could be accessed without significant detriment to road safety on the A703 and at the junction with the proposed access road.

NOTE

Mr Colin McIntyre, Architect spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/01055/PPP	Erection of dwellinghouse	Land South and East of the Schoolhouse Blainslie

Decision: Approved in accordance with Policy HD2 paragraph (a), on the basis that the proposed new dwelling relates well to the neighbouring two properties, The Old School and The Schoolhouse; and that these three properties should be deemed to be part of Nether Blainslie Village for historic reasons and their proximity to Blainslie, notwithstanding that they are currently out with the development boundary of the village. Approval subject to a legal agreement (Education & Lifelong Learning) and the following conditions and informative:

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. A detailed design and access statement shall be submitted with the first application for approval of matters specified in conditions pursuant to this permission. No development shall take place except in strict accordance with design and access statement unless otherwise agreed in writing by the planning authority.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, in particular the existing dwellings known as The School and The Schoolhouse.
4. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):
 - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. programme for completion and subsequent maintenance.
 Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
5. No development shall take place until proposals for a landscaping belt along the southern and eastern boundaries of the application site have been submitted to and approved in writing by the planning authority. The scheme shall include details of tree species and a programme for completion and subsequent maintenance. Thereafter, no development shall take place except in strict accordance with the details so approved.
Reason: To ensure that the development is assimilated into its setting and to provide a clearly definable edge to the building group.
6. No development shall commence until a service lay-by to approved standard DC-3 (attached) has been provided on site. The service layby shall thereafter be retained in perpetuity.
Reason: To ensure that adequate provision is made for vehicular access to the site and to ensure services vehicles can park clear of the public road.

7. Two parking spaces, not including any garage, and turning shall be provided within the curtilage of the dwelling hereby approved before the dwelling is occupied. The parking and turning shall thereafter be retained in perpetuity.
Reason: To ensure parking and turning is made available within site.
8. Junction visibility splays of 2.4 metres by 120 metres shall be provided in either direction at the junction of the access onto the public road.
Reason: In the interests of road safety.
9. Prior to commencement of development, an Ecological Impact Assessment shall be submitted for the approval of the planning authority. The Ecological Impact Assessment shall consider bats, badger, breeding birds and other protected species and habitats as appropriate, identifying mitigation required in Species Protection Plans, which shall first be submitted to and approved in writing by the Planning Authority.
Reason: In the interests of local biodiversity.

Informative

There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post-holes) or artefacts (e.g. pottery, ironwork, bronze objects, beads) of potential antiquity are discovered, please contact the planner or Council's Archaeology Officer for further discussions. Further investigation secured by the development may be required if significant archaeology is discovered per PAN2(2011) paragraph 31. In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human Remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.

VOTE

Councillor Aitchison, seconded by Councillor Miers, moved that the application be refused as per the officer recommendation.

Councillor Mountford, seconded by Councillor Ramage moved that the application be approved on the grounds that it was in accordance with Policy HD2 in that the proposed dwelling related well to the Old School and the Schoolhouse which were related historically and geographically to Nether Blainslie.

On a show of hands Members voted as follows:-

<i>Motion</i>	<i>-</i>	<i>3 votes</i>
<i>Amendment</i>	<i>-</i>	<i>6 votes</i>

The Amendment was accordingly carried.

NOTE

Mr Nick Green, Applicant spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00999/MOD75	Discharge of planning obligation pursuant to planning permission 08/00524/FUL	Cacrabank Farm Selkirk

Decision: Agreed to discharge of section 75 agreement.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/01149/FUL
OFFICER:	Carlos Clarke
WARD:	Galashiels and District
PROPOSAL:	Formation of waste transfer station and associated works
SITE:	Land South of Easter Langlee Recycling Centre
APPLICANT:	Scottish Borders Council
AGENT:	Scottish Borders Council

SITE DESCRIPTION

The site comprises a historic landfill site located north-east of Galashiels, east of the C77 public road leading from the B6374 Melrose Road to the south. Alongside and accessed from the same road are residential properties, including the Coopersknowe Crescent development and the ongoing Easter Langlee development (commonly referred to as Melrose Gait). The site takes access from the C77 via a road that serves an aggregate recycling facility to its west, live landfill site to its north, and existing recycling and related Council operations to the north and east. The site is raised above the Easter Langlee residential development beyond partially wooded banking.

PROPOSED DEVELOPMENT

This application seeks consent for a new waste transfer station (WTS) (13.25 metres high to the ridge, with two stacks 3.75m above the ridgeline or 17 metres above floor level); steel clad walls and roof, with masonry section to part of the walls; and, with associated yard and parking area. Access would be from the existing access road to the north via two junctions. Ancillary works include a weighbridge, office (prefabricated, 3m high), kiosk (modular steel 2.4m high), sprinkler tank (8.7m high) and pump house (3m high). The WTS would replace the existing landfill facility, with waste from the central Borders area instead being directed to the new WTS for sorting before being distributed to and disposed of at landfill or recycling facilities elsewhere.

The development is supported by changes to ground levels that have been previously confirmed as being Permitted Development if carried out by the Council.

PREVIOUS DECISION OF THE PLANNING AND BUILDING STANDARDS COMMITTEE

The same development was subject to a previous application (16/01417/FUL) which was considered by the Planning and Building Standards Committee in April this year. The Committee refused the application, contrary to officer recommendation, for the following reason:

The proposed development is contrary to policy PMD2 of the Scottish Borders Local Development Plan 2016 in that the C77 road, from the site access to the B6374 Melrose Road, is inadequate and is not able to cope with the traffic generated from the development. In addition, the C77 is not capable of improvement to an acceptable standard to serve the

development. The development, if approved, would be detrimental to road safety for pedestrians, residents living in the locality and other road users.

This application is for the same development, and most of the supporting documents submitted with the current application are the same as the previous submissions except, notably, for a supporting Transport Statement which seeks to address the reason for the refusal of the previous application. This is considered in more detail in the assessment section of this report.

PLANNING HISTORY

Recent planning permissions for this area include:

- Outline Planning Permission was granted for a materials recovery and composting facility in 2002 (02/00178/OUT). This was renewed in 2007 (06/02477/SBC).
- A detailed consent was granted in 2011 (10/00165/AMC) for a mechanical and biological waste treatment (MBT) facility. Works on the consented scheme were lawfully started on site by provision of the access junction. That consent, therefore, cannot expire.
- Application 13/00445/FUL for the erection of an advanced thermal treatment plant and associated ancillary infrastructure and landscaping was approved in September 2013. This was to be built and operated concurrently with the consented MBT facility.
- Application 16/01417/FUL for the formation of a waste transfer station and associated works, which was refused in April this year (as noted above).

There is also ongoing residential development within the 'Melrose Gait' site to the south, and planning permission was granted in December 2016 for 58 houses and flats south of Coopersknowe Crescent. There is also Planning Permission in Principle for a further residential development (13/00800/PPP) alongside Melrose Gait (including land either side of Easter Langlee House), also to be accessed off the C77.

REPRESENTATION SUMMARY

Representations from 18 households have been submitted, as has an objection on behalf of CELRA (Coopersknowe and Easter Langlee Residents Association) which includes a report incorporating photographs of traffic accidents on the C77, and an objection from a Ward Councillor on behalf of residents. Full copies of all representations are available on *Public Access*. In summary, key objections include:

Amenity impacts:

- The development will unfortunately prolong use of the site for waste treatment or disposal. Further consideration should be given to protecting the area for residential and other compatible uses. Concerns are raised regarding impacts on existing residential properties, and potential for future houses.
- The development will prolong and may exacerbate noise, dust and smell concerns (including odours during construction); visual impacts, including trees and landscape issues; vehicle noise (including from more HGVs and from reversing vehicles); and air pollution.

- SEPA's letter of 8th September demonstrates why the proposals should not go ahead, in the absence of remedial measures. Evidence should be presented to Committee that these issues have been addressed
- There are concerns that the use of the existing site is being used to support the case for the waste transfer station, despite there being no consent for the aggregate recycling facility
- An added problem is smelly liquid running out of stopped articulated lorries
- Drainage and potential contamination issues
- Concerns that development will drastically reduce property values

Road safety impacts:

- The application proposes no fundamental change to the previous application that was refused
- The content and findings of the Transport Statement are challenged, including factual accuracies, speed survey findings and proportion of commercial vehicles using the road. The report is considered to be one-sided in favour of the development being approved.
- There is no answer to the fact that the pinchpoint between Aislinn Cottage and No 2 Easter Langlee Cottages cannot be widened. This is the most dangerous point of a pedestrian's journey where the road is not wide enough to accommodate a HGV and another vehicle passing each other, visibility is severely restricted, and verges are extremely narrow and overrun by HGVs. The transport statement confirms that a solution cannot be achieved. Another blind bend creates a similar hazard further north. Proposed improvements were previously judged to be inadequate. There is no change in the improvement proposals that can overcome the intrinsic unsuitability of the C77. The improvements are unable to address the main issues of this pinch point and blind bend at Aislinn Cottage and blind bend further north. The cosmetic improvements will only make the road faster in both directions.
- Heavy lorries cannot negotiate the bends there and these, and the camber of the road, have encouraged a number of accidents. All properties flanking the C77 have had vehicles enter their property through boundary fencing, one experiencing this twice. Vehicles have also come off the road and fallen into the valley adjacent the waste site. Photographs demonstrate instances of vehicles involved in accidents, including one showing a Council refuse lorry (though it is unclear if the lorry was involved in the accident)
- Despite there being a 30mph limit here, a traffic survey carried out on behalf of the Council indicated that, on a weekly average, a substantial number (47.1%) exceeded the speed limit, with excessive speeds ranging between 36.3mph and 49mph.
- People and children (sometimes unsupervised) with or without dogs walk this road and walkers are increasingly using it. Six properties on this stretch have no other means of accessing a bus stop or post-box without walking on this road. The path through the industrial estate is steep, on an angle and has steps. Therefore, the only route for wheelchair users, those with restricted mobility and parents with pushchairs is to use the C77. There is no footway and the grass verge is non-existent, too steep,

too narrow or covered by vegetation, and they are used by large vehicles to pass when two meet at the narrow part of the road. There is also no street lighting on the upper part of the C77. The proposals in the application to improve the C77 do nothing to promote that section of road to become “safe”, to encourage people “to walk and cycle to local destinations”, do nothing to accommodate “those with mobility difficulties”, or prevent any “adverse impact on road safety”, as required by Policy PMD2

- One suggestion is that perhaps reducing certain parts to single file by using traffic lights would allow a footpath.
- Planning conditions to provide improvements to the road via the Persimmon development are not guaranteed. The roundabout at the B6374 junction will be some years away.
- The C77 cannot handle existing traffic safely and is not fit for the purpose of moving waste from a waste transfer station. The traffic volume and number of heavy loads is increasing, with two housing developments yet to be carried out. Present uses comprise heavy lorries carrying aggregate, soil etc, and there is the community recycling facility and other Council commercial vehicles and maintenance vehicles. Farms also still use the C77. The junction with the B6374 is already very busy and has sightline issues. Even one extra articulated lorry is too much as there are too many using the C77 now. Vehicle movement predictions are the absolute minimum and, in reality, these numbers could be exceeded vastly on a daily basis.
- There are no circumstances where an increase from 41 loads per day to 105 can be considered minimal, particularly given the characteristics of the C77.
- There are existing maintenance problems with the C77. Extra usage by articulated lorries will add to the difficulty of maintaining the road to a satisfactory standard.
- There is no mention how the 40-tonne trucks will access the C77 as the Lowood Bridge weight has been restricted. Nor has there been a swept path analysis for the bridge. This would mean vehicles trundling through Galashiels or Gattonside. The fact that routes will have to be carefully planned depending on timing and opening of works on the Lowood Bridge is an admission that there are other pressing matters on the local road network that also require attention.
- A major accident, with possible fatalities, may occur and the development should be stopped before the inevitable occurs.
- The development is only a medium term solution and the plans show intentions to expand the size of the development which will obviously intensify road safety fears. It will increase vehicles above that of the landfill site
- Easter Langlee is predominantly a residential area and is not suitable for industrial traffic. The Council should find an alternative site nearer to a main road such as the A68, bypass or A7 away from existing and proposed housing developments.
- There is no overriding community benefit from this development because of residents’ aforementioned unresolved concerns.
- Nothing in the revised application has materially altered the circumstances to merit a different decision to that taken by the Committee on the previous application, on the grounds that the C77 is unable to cope and incapable of improvement.

ENVIRONMENTAL IMPACT ASSESSMENT

A Screening Opinion for the development was provided by this service in November 2016. This noted that the proposed development would fall within 11(b) of Column 1 of Schedule 2 of the EIA (Scotland) Regulations 2011. Its size would exceed the threshold in Column 2. It therefore required to be screened. Matters to consider in reaching a Screening Opinion principally involve the characteristics of the development, its location and the characteristics of the potential environmental impacts. These are to establish whether significant effects on the environment are likely to occur such that these should first be examined by Environmental Impact Assessment.

In this case, the development would principally involve storage and transfer of waste within a single building, with external works generally comprising access, parking, staff and ancillary infrastructure. It would be sited within the area of the well-established waste management site, and would process waste diverted from the landfill site, using the same road infrastructure. It is not within an ecologically sensitive area or designated landscape. Though there are residential areas nearby, including the emerging development to the south, these are not directly adjacent. Ultimately, accounting for the existing land uses within the site and surrounding area; the existing landfill activity; the purpose and scale of the development; and the type of environmental impacts likely to arise, it was not considered that significant effects on the environment would occur such that these would need examined by way of EIA.

However, this service did advise that a number of assessments be included with the planning application, including landscape/visual impact assessment; ecology assessment; information on water and drainage; traffic statement and noise/air quality assessments. As noted below, the formal application includes a number of supporting documents.

PRE-APPLICATION CONSULTATION

This application was preceded by statutory pre-application consultation (carried out prior to the submission of the previous application 16/01417/FUL). This is reported in a Pre-Application Consultation (PAC) report submitted with the application. This was required because the development is classified as a Major development under the Hierarchy of Developments Regulations 2009. The PAC report confirms that consultation and a public event were undertaken as specified in the Proposal of Application Notice that had been approved in August 2016. Additional consultation was also undertaken with Melrose Gait residents.

APPLICANT'S SUPPORTING INFORMATION

The following have been submitted in support of the planning application plans and drawings, copies of which are available to view on *Public Access*:

- Submission Statement
- Odour Management Plan
- Odour Impact Assessment
- Transport Statement
- Drainage Strategy Plan and Flood Statement
- Environmental Noise Impact Assessment
- Outdoor Lighting Report
- ZTV and Visualisation Methodology
- Ecology Report

DEVELOPMENT PLAN POLICIES:

Strategic Development Plan 2013

Policy 14 Waste Management and Disposal

Local Development Plan 2016

PMD1 Sustainability
PMD2 Quality Standards
PMD4 Development Outwith Development Boundaries
IS1 Public Infrastructure and Local Service Provision
IS7 Parking Provision and Standards
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
IS10 Waste Management Facilities
IS13 Contaminated Land
EP1 International Nature Conservation Sites and Protected Species
EP2 National Nature Conservation Sites and Protected Species
EP3 Local Biodiversity
EP4 National Scenic Areas
EP6 Countryside around Towns
EP8 Archaeology
EP13 Trees, Woodlands and Hedgerows
EP15 Development Affecting the Water Environment
EP16 Air Quality
HD3 Protection of Residential Amenity

OTHER PLANNING CONSIDERATIONS:

Scottish Government On-Line Planning and Waste Management Advice 2015
Scottish Planning Policy 2014
PAN1/2011 Planning and Noise 2011
PAN 33 Development of Contaminated Land 2000
PAN 51 Planning, Environmental Protection and Regulation 2006
PAN 61 Planning and Sustainable Urban Drainage Systems 2001
PAN 75 Planning for Transport 2005

Supplementary Planning Guidance

Biodiversity 2005
Countryside around Towns 2011
Landscape and Development 2008
Trees and Development 2008
Waste Management 2015

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Not surprisingly there are a lot of objections to this application on road safety grounds, the main concern being the suitability of the Langshaw Road (C77) to accommodate the additional traffic associated with the proposal. The RPS understand these concerns as the combination of alignment, width and gradient of the C77 leading to the site, along with absence of separate provision throughout for pedestrians, means the road does not lend itself to accepting development that would lead to a significant increase in traffic

using it. Furthermore there are suggestions that there may be more suitable sites for a waste transfer station elsewhere in the Scottish Borders which could be better served by the strategic road network. While this is not disputed, a judgement is required on the site in question.

Despite the above concerns, in the earlier submission for a waste transfer station (16/01417/FUL) the RPS concluded they were able to support the application. This decision was based on the information in the Transport Statement which stated that at the time of the opening of the waste transfer station there would be minimal change in traffic generation when compared with the traffic associated with the landfill operations. The reason for this is that while there would be additional trips for waste transfer from Easter Langlee to locations outwith the Scottish Borders, this would be largely offset by waste no longer being transferred to the landfill site at Easter Langlee from Hawick and Peebles. Furthermore, account had to be had for the extant planning consent for a materials recovery and composting facility at Easter Langlee which entailed a maximum design capacity of more vehicle loads than the waste transfer proposal. Balancing the minimal stated increases in traffic generation against the road safety improvements proposed as part of the submission it was concluded that the application could be supported. The improvements generally consist of: minor road widening (including kerbing) at key locations; improved/enhanced road signage; improved driver visibility; and a modified junction arrangement where the site access road meets the C77. Previous comments on 16/01417/FUL still generally apply with the exception of comments on the suitability of a Type 1 surface finish for the staff and visitor car park.

The previous application was refused by the Planning and Building Standards Committee on road safety grounds in respect of the C77. Since that decision the applicant has investigated options for taking traffic down to single file past the roadside cottage (Aislinn), and improving provision for pedestrians, either by way of forming build-outs or by installation of traffic lights. These options have been ruled out on road safety grounds due to limited forward visibility for drivers and concerns on vehicles having to move off from a standing start on a hill of significant gradient. This would be a particular problem in winter conditions. The RPS agrees with this finding which was also a concern highlighted in a road safety audit carried out in association with the nearby Persimmon housing development.

In addition to what was offered by way of road safety improvements in the previous submission, this latest submission offers to install street lighting in the C77 from the bottom Coopersknowe junction (not yet open) to the end of the 30 mph speed limit just south of the access into the proposed waste transfer station. Although most of this lighting is a requirement of the Persimmon development there is no guarantee on timing and the lighting associated with the Persimmon development only extends as far as the top Coopersknowe junction.

Although the additional road safety improvements, in relation to street lighting provision, are modest in scale, the RPS was able to offer support for the waste transfer proposal previously and this stance remains the same for this revised application. As well as the benefits street lighting will bring during the hours of darkness, the presence of the lighting columns will help urbanise the road which may have a positive impact on traffic speeds. This support is conditional on all of the C77 road safety improvement work, including street lighting provision, shown on Drawing Number 720 (dated 16.08.2017) being agreed in detail and completed before the development is operational.

On the wider road network, concern has been raised by objectors on the existence of the 26 tonne weight limit on Lowood Bridge. It can be confirmed that current plans are for strengthening work to be undertaken from February to May next year to allow the restriction to be removed.

Environmental Health Service: These operations can adversely affect local amenity through impacts on the noise environment, local air quality and by the release of offensive odours. Assessment reports have been submitted in respect of noise and odour. These impacts will be controlled by SEPA under the terms of the site licence. Should the application be approved, a Noise Management Plan should be required by condition, prior to the commencement of operation of the development. No information has been provided in relation to Air Quality or the control of fugitive/nuisance dust emissions.

A site investigation report has been prepared for the site, as regards potential land contamination, but has not yet been reviewed. Permission should be granted on condition that a contaminated land study is approved and implemented. A standard condition covering this is recommended.

Archaeology Officer: There is a case, as set out in previous responses to applications for this site, to maintain an archaeological watching brief in areas where there may be undisturbed sub-soils. His previous recommendation for a condition remains valid.

Landscape Architect: Refers to her comments on the previous application 16/01417/FUL. A native hedge along the northern boundary to improve the amenity and biodiversity of the site and the surrounding area is recommended.

Ecology Officer: Is satisfied with the Ecological Impact Assessment undertaken. The assessment identifies no likely significant effects on the nearby designated sites due to the distance and lack of ecological connectivity between these sites and the area proposed for development, as well as the industrial nature of land use therein. No notable or ecologically sensitive habitats were discerned. Such habitats as exist, in particular tall ruderal vegetation and scrub, may provide opportunities for breeding birds, e.g. passerine and warbler species. Given the high potential for breeding birds at this site, a strong recommendation against undertaking ground clearance during the nesting bird season (March-August) is made. A condition is recommended.

Badgers were recorded as active within the area to the east of the site in Ellwynd Wood and it is considered they may use the site for foraging. Therefore mitigation is recommended. No other protected species were considered likely to be impacted by the proposed development. A condition requiring a Species Protection Plan for badgers is recommended.

Although the site lacks ecological connectivity to water courses, care should be taken to avoid contamination of adjacent habitats with dust and run-off, by following best practice and SEPA advice. The Ecologist concurs with our Landscape Architect regarding hedge planting. 'Informatives' are recommended on these points.

Statutory Consultees

Scottish Environment Protection Agency: Originally objected on the grounds of lack of information, but withdrew their objection in subsequent advice. Specific matters include

Foul drainage

Noted a discrepancy in the proposals. Statements refer to a package treatment plant discharging to a three stage SUDs outlet, though the drainage strategy refers to a septic tank draining to a mounded soakaway. The drainage system for the site has previously been agreed with SEPA and secondary treatment before discharge to a mound soakaway is required. A septic tank would be preferable to a package treatment plant due to the low flow of effluent from the site. The applicant was asked to consider further the drainage system

detailing how the secondary treatment can be achieved. There were no details of this in the current application.

Following clarification that the proposals comprise a septic tank, SEPA advises that the proposal for foul discharge are satisfactory.

Surface water drainage

Sought a clearer plan for the surface water drainage proposals as the submitted plan was illegible with no text. This was submitted and SEPA later confirmed the proposals are satisfactory.

Operations requiring consent by SEPA.

Initially queried the stack heights and how these were calculated. They also noted that the Odour Assessment does not include a justification for why abatement techniques are not being utilised and it does not include a timescale for retrofitting these if needed.

Following receipt of further information on stack heights and the applicant's response that abatement measures are not proposed, SEPA have advised that, given the close proximity of sensitive receptors, further modelling for the stack height assessment and the inclusion of details of retro-fitting abatement techniques with timescale should have been submitted. This is information that SEPA will require when applications are made to them for the necessary consents. While they think the proposal has the potential to achieve the necessary consents, if changes necessary for licensing constitute material differences to the development given Planning Permission (the stack height or abatement measures which affect the exterior of the development) the applicants may need to submit a fresh planning application. In view of this, they consider that an 'informative' is needed should this proposed development be given planning permission.

SEPA also contended that no Noise Assessment had been submitted with the current application when it had, in fact, been submitted. In response, SEPA have confirmed that the noise assessment is satisfactory and appears to take into account previous discussions. They accept that this part of their objection on grounds of lack of information is, therefore, not valid.

Melrose and District Community Council: The CC has no issues with the site but still feel that the road is not well suited for the proposed traffic movements

Galashiels Community Council: Road safety concerns regarding the C77 were the major issue. The CC wish to object to the application as they do not feel the conclusions made in the Transport Statement are valid. Photographs produced by residents on accidents on the C77 refute the points made in the report that it can be made safer with lighting; widening at specific areas; implementing a speed limit and erecting various signage. The size and regularity of large vehicles on this road are a danger to people and children, cyclists and horses. The number of houses adjacent the C77 has increased over the years, especially the Melrose Gait development (not yet complete, with another phase still to be built).

Comments were raised about the unsuitability of Lowood Bridge for heavy vehicles but Council representatives at the meeting advised that bridge repairs and upgrading would accommodate this.

The CC also discussed the increase in traffic should waste disposal vehicles have to go through Galashiels when transferring waste out of the area and the effect of this on traffic

flows and general road safety. Due to the extra traffic up and down the C77 onto the B6374, the CC feel the provision of a roundabout should be revisited.

They conclude that the application is flawed, particularly the transport report, and so they object and suggest that the Council should be looking for another location.

KEY PLANNING ISSUES:

Whether or not the development would comply with planning policies and guidance and, if not, whether there are material considerations that would justify a departure from policies and guidance, particularly with respect to traffic and amenity impacts. Of particular significance is whether the application addresses the previous reason for refusal regarding road safety impacts and the capacity of the C77 to safely accommodate traffic associated with the development

ASSESSMENT OF APPLICATION:

Principle

SES Plan Policy 14 notes that the area is safeguarded for waste management facilities and appropriate facilities include waste transfer stations. Local Development Plan Policy PMD1 supports sustainable development, including community services and facilities subject to environmental safeguards (considered further in this report). The site is outside the settlement boundary of Galashiels, within the Countryside around Towns area covered by Policy EP6. This restricts non-rural type new-build development to houses within building groups, unless there is a proven strategic need and no alternative is suitable. However, Policy A (Countryside Around Towns SPG) also allows for a different policy approach to community facilities (which this proposal would be) subject to criteria examining impacts and benefits. The provision of the Waste Transfer Station (WTS) will provide clear community benefit, particularly in allowing closure of the landfill site. Its impacts on local infrastructure and mitigation of impacts on biodiversity and landscape, as well as other impacts, are considered later. It will not have adverse impacts on recreational facilities or the historical context, being sited on a former landfill site. Subject to consideration of impacts, it will satisfy Policy EP6 (Policy A). Though there may or may not be better sites elsewhere, the Planning Authority is required to determine this application on its own merits.

The site is outwith the settlement boundary, as noted, and PMD4 prevents development beyond it generally, unless meeting exemptions, one of which is that there would be significant community benefits overriding the need to protect the boundary. Given the wider community benefit (impacts on local residential amenity are considered later), and that it will be south of existing buildings, on the former landfill site and beyond the wooded banking forming the edge of the settlement, it is not considered that it would undermine the settlement at this location. Its landscape impact will not detract from the landscape structure of the settlement and it will not have a cumulative effect with other new development beyond the settlement boundary. The LDP refers to the area as a key waste management site (pg 317). This proposal will replace the mechanical and biological waste treatment (MBT) facility approved within this area previously, providing for a different approach to directing waste away from landfill. It is not considered that Policy PMD4 would factor against the proposed development.

Policy IS10 supports provision of waste facilities within a hierarchy of sites. Easter Langlee is identified as of high priority (waste treatment facility) and medium/high priority (waste transfer station and community recycling facility). Environmental impacts must be considered as required by Policy IS10 and these are accounted for in this report. IS10 notes that the

reuse of derelict and brownfield land is one criterion, and this would be satisfied by developing this site. As regards site restoration and after care, it is not considered necessary to require measures, given that this development will amount to hardstandings and buildings, as opposed to use of the land in itself (say, for landfill), and will include enhancement measures by way of structural landscaping (as noted later).

Scottish Planning Policy 2014 supports developments contributing to zero waste targets and reduction of landfill. This proposal will address this objective. How the existing landfill site is closed is not a matter for this application. The Scottish Government's on-line guidance notes that the number of small scale facilities, including transfer stations, will increase and be widely spread. It also identifies suitable sites as being degraded, contaminated or derelict land, and sites previously occupied as waste management sites. This proposal reflects this guidance in these regards.

Ecology and landscape

There are no ecological or landscape designations affected. The landscape is not of high quality. The nearest ecological designation is the Allan Water to the north-east, part of the River Tweed Special Area of Conservation. A supporting ecological assessment states that there would be no connectivity to it. There would be no badger setts affected, no trees large enough to support bats and no buildings. The site is potentially suitable for breeding birds. The assessment recommends a pre-construction check for badgers and ground clearance outside the bird breeding season. It also recommends mitigation should be in place for monitoring and control, and precautionary measures for run-off during construction and operation. The Council's Ecology Officer supports the proposals, subject to conditions requiring a species protection plan for badgers and restriction on works during the bird breeding season. Conditions can cover these, incorporating an environmental management plan to cover construction impacts, as previously recommended by the Ecology Officer. The woodland proposal forming part of this development already includes some species recommended by the Ecology Officer. As noted under Landscape and Visual Impacts, hedging to the north is not possible. As there are no ecological or landscape designations affected the proposed WTS would comply with Policy EP3 covering Local Biodiversity.

Archaeology and built heritage

There would be no effects on the setting of heritage assets, nor direct effects on designated sites. However, there is archaeological interest. The MBT plant was subject to an evaluation that recommended watching briefs in specific areas. The Archaeology Officer recommends this be taken forward as part of this scheme. A condition can require a scheme covering the necessary watching brief extent.

Traffic and access

As noted above, the previous application was refused for the same development because the Committee determined that the C77 was inadequate to safely support the development, and incapable of being improved sufficiently. The refusal of the application was contrary to the advice of officers. This application is for the same development, but is supported by a revised Transport Statement which specifically seeks to address this particular concern.

The site is accessed from the existing road serving the waste facilities, in turn accessed from the C77 public road. The C77 is constrained in a number of regards, including gradient, alignment and width. It is not a residential street, but does currently serve as pedestrian access for properties alongside it and from Coopersknowe Crescent which has not been completed yet such that its southerly access onto the C77 has not been provided. The road itself will also see a considerable increase in residential traffic at its southern end as

developments at Melrose Gait and the completion of Coopersknowe Crescent are realised. Concerns regarding impacts on the C77 are fully acknowledged, and the C77 certainly has limited scope to accept development that would lead to a significant increase in traffic using it. When determining the previous application, these concerns were considered overriding by the Planning and Building Standards Committee.

This application has, once again, been supported by a Transport Statement. There have been notable challenges to the veracity of the Transport Statement and these are acknowledged. In particular, it is worth clarifying that footpaths on the C77 currently extend only to the bottom Coopersknowe junction (which is currently closed). There aren't any plans to extend these footpaths further north. The conditions imposed on the adjacent 'Melrose Gait' development include a path at the north-western leg of the development but this would not extend down the C77. This would be required before the north-western leg of that residential development is occupied, and include other works comprising street lighting from the Melrose Gait access up to the northern Coopersknowe Crescent junction; visibility improvements; signage; and road markings.

The Transport Statement states that there would be 6 extra vehicle movements per day of which 5 would be articulated lorries, when compared with the existing traffic for the landfill. This amounts to 88 movements per day in total, of which 14 would be artics, as opposed to 82 and 9 for the landfill site respectively. The predicted traffic would be less than that for the consented MBT. While that consent is an historic approval it is, nonetheless, a consent that is capable of still being implemented without further planning approval and the judgements leading to that permission are valid considerations here. This increase in traffic is not considered to be significant.

Having applied significant weight to the support from the Roads Planning Service for the previous application, the Development Management Service recommended that the application be approved subject to improvements being carried out to the C77. These included localised widening and kerbing of the road at key locations; improvements to signage; removal of trees and vegetation at locations where visibility is obstructed; improvements to the access junction; and, gates set back into the site. These improvements would be supplemented by edge reconstruction of the carriageway on the east side of the road. The widening would be minimal, designed to formalise areas of existing verge overrun. The signage would highlight the pinch point at Aislinn Cottage. Articulated lorries will be unable to pass each other at that point, but they cannot do so now when accessing the landfill site. Traffic lights were not considered appropriate on this stretch of road, and neither was a pedestrian crossing. Coopersknowe Crescent will be provided with a link to the C77 further south once the residential development is completed. The C77 was not considered a suitable road on which to encourage pedestrian access and the signage would be used to highlight its constraints. The roundabout onto the Melrose Road is required for the Melrose Gait development (by means of legal agreement, and requiring compulsory purchase of land), but did not affect the Development Management Service's assessment of the previous application.

However, given the Committee did not consider that these improvements were sufficient, the revised Transport Statement has since further explored the potential for improving the road. It has looked at options for addressing the pinch-point adjacent Aislinn Cottage, including traffic calming (by way of build-outs on either side of the road) and traffic signals, including the possibility of footpaths. However, these improvements were discounted because these options would not address the fundamental problem of substandard visibility on the bend. The measures would ideally be delivered in conjunction with a reduction in speed limit to 20mph, which is generally only acceptable in the vicinity of schools. Traffic lights would address the forward visibility constraints, but would require vehicles to move off from a standing start on a hill with significant gradient. This would be a particular problem in winter

and traffic noise would also increase. The statement concedes that “given all the above it is difficult to see how the current situation at Aislinn Cottage can be improved”. The RPS agrees with this finding, and notes that it was a concern highlighted in a previous road safety audit undertaken for the C77.

However, in addition to previously proposed improvements, the statement includes a proposal to extend street lighting beyond that required from Persimmon for the Melrose Gait development up to the start of the 30mph speed limit, just south of the WTS access junction. The applicants have committed to completing all the road improvements before any works commence (including alterations to ground levels despite these not requiring Planning Permission), whereas previously this was intended only before the WTS was operational. Thus, this means that the street lighting required of Melrose Gait will be delivered within a much quicker and more definite timescale than expected. This will serve to highlight the urban nature of the road earlier and for longer to drivers using the route. Any costs of delivering lighting works already required of Persimmon will be for the applicant to address directly with the developer.

This proposal does not specifically address the physical constraints on the C77, beyond those improvements already considered in the previous application. It has been shown that the road cannot be improved further without affecting private, third party land. However, it is notable that the RPS has once again fully examined the road safety consequences of the development and remains supportive of it. It is to be noted that objectors point to accidents that have occurred on the C77 in recent years. However, the Council has only one record of a traffic incident involving one of its vehicles on this stretch of road, and that involved a car driving into a passing refuse vehicle, where the driver of the car was found to be at fault. It is understood too that a previous road safety audit for the C77 did not identify the need for crash barriers along this stretch of the road.

Ultimately, it must be acknowledged that the development will replace the existing landfill activity and achieve a waste management solution that will have less intensive traffic implications than the consented MBT facility. It is fully accepted that the C77 is not an ideal route for the site. It has limited potential for improvement without use of third party land. However, the development will replace an existing landfill operation that has been in place for decades and which has vehicle movements associated with it. While Policy PMD2 encourages pedestrian activity within new developments, this road does not form part of the development itself. It is also not principally a residential street but a road currently serving essential landfill operations and the wider road network. The application also includes a series of pre-development improvement works, which will include bringing forward street lighting provision. The Roads Planning Service once again endorse the development as proposed, subject to these improvements. While objectors’ concerns are legitimate and fully acknowledged, there is insufficient evidence to suggest that the WTS would result in road safety impacts that are so materially different to either the existing landfill operations or approved MBT facility such that the C77 would be incapable of safely accommodating its traffic.

As regards the Lowood Bridge, the applicants are fully aware of the potential restriction on vehicle weights during planning improvements to the bridge. These are due to start either in February/March next year, or June (depending on the type of scaffolding required). They will last 12-16 weeks. If permission is granted for the WTS, the applicants plan to carry out the road improvements in January-February next year, undertake the ground alterations in March-May, and commence main building works in May, completing in January 2019. If the site works coincide with the Lowood Bridge repair works, then works traffic will be diverted through alternative routes, using the main routes into Galashiels via the A68, A7 and A72. The construction traffic (within the applicant’s control) can be regulated by a construction traffic management plan by means of a planning condition.

Landscape and visual impacts

The landscape value of the site is not significant and there would be no feature of note that would be lost. The development would not breach the skyline. The WTS would effectively be a large scale shed on land that is generally well contained in landscape terms, and sited alongside existing waste management facilities and buildings. The application is supported by a structural landscape scheme. The potential for further hedging recommended by the Council's Landscape Architect was considered by the applicant but discounted due to constraints, including leachate pipes. On the southern boundary, planting to mitigate the MBT development was carried out but is not being maintained. The applicants have incorporated this into their landscape scheme so that its maintenance (and overhaul) will be part of their scheme. The landscape plan needs to be adjusted a little to suit the detailed site layout, but otherwise will provide for visual containment of this development in the wider landscape.

The layout of the site, scale of development, and the form and design of the proposals are all considered appropriate for this particular setting, as is fencing proposed to the boundaries (2m weldmesh). The WTS building is smaller than the MBT approval, albeit a little taller. The Advanced Thermal Treatment facility had included a 23m high stack, whereas this proposal is for two stacks at 17m high (3.75m above the ridge). The hard surfaces would be tarred or finished with Type-1 which is appropriate in this location. Other structures include simple office and kiosk structures and a weighbridge, as well as a sprinkler tank and pumphouse. Provided the colours and finishes are dark, (and the applicant has agreed that external finishes will be specified to suit this objective), the overall visual impact of the works will not be adverse.

Levels on site would be altered with cut-and-fill, with levels increased to over 4m to the north-east. These works are, in themselves, Permitted Development for the Council (works under £250,000). The gradients are a little sharp in places but, ultimately, they will not seriously change the landscape character of the site, and the development will largely cut into the existing site. The detailed levels will need to be amended to accord with the details of the site plan, and coincide with structural landscaping. Conditions can ensure the plans all tally.

The proposed building would be more than 130m from the nearest house in the Melrose Gait development and in excess of 90m from the top of the embankment that visually separates the site from the housing to the south. This means that not only is the development removed from the skyline, it is also the case that any intervisibility is removed as a result of the intervening landform. Neighbouring properties would not be adversely affected by the development in terms of daylight, sunlight, privacy or outlook loss. Potential impact on private property values is not a material planning consideration.

Noise, odour and air quality

Impacts as regards noise, odour and air quality are material considerations that govern whether this development should be approved in this location. However, the operation of the waste management facility is regulated by Waste Management Licensing operated by SEPA. Scottish Planning Policy cautions against duplicating controls, as does the Scottish Government's on-line advice and PAN 51. The issue for this application is whether the development is capable of being licensed in this location, not whether its detailed operation is acceptable or not.

Construction noise, air quality and odour

Construction will be a short term process, but an essential aspect if the provision of a waste transfer station to replace the landfill site is to be realised. It is accepted that local residents have previously voiced particular concerns, however, any limitations placed on the development must be reasonable, if they are to be placed at all. As regards construction noise, this matter is regulated separately and, given the type of development and its location, it is not considered that additional controls need applied above normal standards for noise and dust etc during construction.

As regards odour, the submitted Odour Management Plan identifies that odour may be released during construction when the ground is excavated. It includes mitigation measures such as no working in evenings, weekends or Bank Holidays, and accounts for weather conditions for progress on work. Following liaison with the Environmental Health Service during processing of the previous application, it is considered that these measures are sufficient to mitigate for odour impacts during construction. It is not possible to factor in every possible eventuality as regards risk of odour release while still allowing for reasonable and timely progress on the development. Albeit this site could be disturbed in any case (with works to change levels and implementation of the MBT development) it is considered, on balance, reasonable and necessary to require compliance with the mitigation measures during the works given the risk that has been identified.

Operational noise

The application includes an Environmental Noise Impact Assessment that assessed the principal noise implications of the development, including traffic noise on the C77. No significant effect is predicted, including from additional traffic. Background levels were taken within Coopersknowe Crescent in order to provide a representation of background noise within the nearest properties both there and in Melrose Gait. The location of the background level has not been queried by SEPA or the Environmental Health Service. SEPA initially raised concern during the previous application that there was no account for noise from reversing vehicle alarms but, the applicants have since accounted for it. "Smart", warbling, broadband or bell tone alarms, or those capable of adjusting to ambient noise level, are some of the mitigation measures that could be applied via licensing. Though the EHS recommends a Noise Management Plan, conditions are not sought by SEPA (who have accepted the assessment) on the planning approval (if granted) in order to avoid duplication. For the same reason, they verbally agreed during processing of the previous application that operating hours (currently proposed as Mon-Fri 7am-7pm) would be controlled under the licensing.

Operational air quality and odour

SEPA raised no issue regarding dust during the previous application and, in response to a request then from the Environmental Health Service on the matter, the applicants advised that dust suppression measures will be applied. The regulation of these will be for SEPA.

As regards assessing odour impacts, this is not an exact science, albeit the applicants have submitted an Odour Impact Assessment that uses modelling to predict that this development would not lead to significant effects on neighbours. The related Odour Management Plan states that for the majority of the time the reception building would be enclosed, with all waste transfer, handling and storage operations being enclosed, during which time the air will be extracted via the two stacks. During the working day the shutter doors would be open to allow entrance/exit of waste collection vehicles. Release of odour is said to be overcome by following working plan procedures and automated fast acting roller shutter doors will close behind vehicles as they enter and leave. The fast acting doors combined with the

extraction system will prevent odour emissions from the doors and mist curtains will be installed around doorways to mitigate further. The OMP includes measures to minimise odour release as well as notification and complaint procedures and emergency measures. This is a matter for the Waste Management License and its detailed contents are not best addressed via the planning application.

An assessment of stack heights and odour impacts was undertaken during the previous application. It was concluded then that the development appeared capable of being licensed, albeit there was a risk that subsequent licensing requirements may require changes to the development that could, potentially, require fresh planning approval. That would, however, be the same for any development requiring a license. SEPA sought more information during the processing of this application on how the heights of the stacks were calculated and any possible abatement measures that may be required to mitigate potential odour impacts. In response, the applicant's agents have explained again how the stack heights have been calculated. They contend that odour concentrations at all receptor locations indicate no likelihood of unacceptable levels of odour pollution using the 17m stack heights that are proposed. As the modelling indicates that there would be no exposure above benchmark levels, they further contend that odour abatement measures are not required. In turn, SEPA have accepted the proposals at this stage, though note that stack height changes and/or abatement measures may still be required depending on the outcome of the licensing process. Given that SEPA consider that the proposal has the potential to achieve the necessary license, these matters can be considered to have been addressed as regards this planning application. An informative note can cover the potential overlap with future licensing requirements.

The applicant has advised that there are no recorded incidents of odorous liquid spilling from vehicles on the road. Clearly, if there is an issue with existing refuse vehicles, then it is a matter for affected residents to report to the Council's waste team.

Water supply

A connection to the public water supply is proposed. It is understood that this is achievable. The applicant will investigate the use of grey water from roof run-off to supplement the supply to the sprinkler system tank. This will help reduce water usage. A condition can require evidence of a public mains connection

Foul drainage

Policy IS9 of the LDP notes a preference for a public sewer before private foul drainage treatment is considered within mains sewer catchment areas. However, the applicant's consultant has determined that no suitable mains connection is possible. The original submission was ambiguous as regards the proposals, but a septic tank with mounded soakaway is ultimately what is proposed. As noted above, SEPA are content. A conditional consent can secure details and implementation.

Surface water drainage

Surface water drainage proposals are SUDs-based including filter trench, swale and off site soakaway. High risk run-off will be drained to the leachate lagoon which, despite its drain to the sewer being at capacity, will be negligibly affected by the volume of run-off according to the drainage strategy. SEPA endorse the proposals. The drainage layout needs slightly adjusted to suit the site plan but, ultimately, the proposal is acceptable as regards Policy IS9.

As regards flooding, the site is not at risk and the Council's Flood Protection Team did not raise concerns in response to the previous application. SEPA were also previously content

and raise no concerns in this regard now. A condition can require that the drainage be managed to an extent that maintains pre-development run-off levels. The strategy identifies this to be the case.

Contaminated land

The permission for the MBT was conditional on a contaminated land strategy, and this was agreed. A study now requires to be agreed to account for this specific development and current guidance on the matter. The Council's Contaminated Land Officer is currently in discussion with the applicant's agent on this point. A standard condition can be applied to allow for a strategy to be finalised and agreed and measures applied as required.

Lighting

Lights are proposed on the building and on 8 metre high columns within the site. On a site this size there is no significant visual impact, and it is set well back from public view. The light spread will not affect neighbouring residential properties.

Waste

A site waste management plan is encouraged by the Supplementary Planning Guidance on waste and was a requirement of the previous consents for the site. This can be covered by condition

Long term adaptability

The WTS building would be a modular building designed for future adaption/extension. Structural landscaping is proposed to the south and west but there is scope to extend to the east. The submitted drawings indicate a possible extension. This would be considered under a separate planning application in visual terms as well as any associated traffic or amenity implications but does demonstrate the potential for longer term expansion.

Aggregate recycling facility

In answer to concerns raised by residents regarding the aggregate recycling facility that currently operates from the landfill site, this does so on a basis which is ancillary to the principal waste disposal use. It does not, therefore, currently require its own planning approval. Its status was accepted previously by the Local Government Ombudsman.

CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions. This application responds to the refusal of the previous application (16/01417/FUL) by identifying additional improvement measures to the C77 and that those measures will be carried out in advance of development commencing. While the physical constraints of the C77 have not been wholly addressed it is material that the Roads Planning Service does not object to the application. Also material is the fact that the development will replace a long-standing landfill operation on a site for which consent has already been granted for a MBT facility. These material factors are considered to outweigh other representations which point to the existing shortcomings of the C77.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions

1. The development shall be carried out in accordance with site plan 101-D6 and all other plans and drawings approved under this consent unless where required to be amended to suit any other condition in this schedule and unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the development is completed as approved and to overcome any apparent inconsistencies between plans and drawings

2. No development shall commence until a Construction Environment Management Plan has been submitted to and approved in writing by the Planning Authority. The CEMP shall include:

- i. Risk assessment of potentially damaging construction activities,
- ii. Identification of any "biodiversity protection zones".
- iii. Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs.
- iv. A Drainage Management Plan
- v. A Site Waste Management Plan
- vi. An Accident Management Plan
- vii. Responsible persons and lines of communication.
- viii. The role and responsibilities on site of an ecological clerk of works (ECoW) or equivalent

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: To minimise potential adverse effects on ecological interests and in order to ensure all practicable measures are taken to reduce the production of waste during the construction phase

3. No development shall commence until a Species Protection Plan (SPP) for badger and breeding birds 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. The SPP shall include provision of pre-development supplementary surveys and a mitigation plan for badgers and birds, including mitigation for any works that may be carried out during the breeding bird season (March-August, though this is extended for some species including barn owl, barn swallow and pigeon) There shall be no development works during the bird breeding season unless specified within the SPP which has first been approved by the Planning Authority.

Reason: To minimise potential adverse effects on ecological interests

4. No development shall commence until a ground investigation report has been submitted to and approved in writing by the Planning Authority. The report shall include identification and assessment of potential contamination on the site (in accordance with PAN 33 (2000) and BS10175:2001) and shall include (as applicable) a remediation strategy, validation report and monitoring statements, including timescales for the implementation of all such measures. Development shall not commence until the report is approved by the Planning Authority and the development shall be carried out only in accordance with the approved report, including approved remediation, validation, monitoring measures and timescales for their implementation.

Reason: To ensure that the potential for health risk arising from any identified land contamination has been adequately addressed.

5. No development shall commence until the applicant has secured a programme of archaeological work in accordance with an approved Written Scheme of Investigation (WSI) outlining a Watching Brief. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- i. 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.
- ii. 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.
- iii. Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
- iv. 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).
- v. 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
- vi. 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.

6. No development shall commence until a detailed scheme, including plans, drawings and specifications, for those improvements referred to in Appendix 3 (drawing no. 720) and Appendix 4 (drawing no. AT-04A) of the Transport Statement (Goodson Associates August 2017) in addition to street lighting of the C77 have been submitted to and approved in writing by the Planning Authority. The approved scheme of improvements and street lighting shall all be completed in accordance with the approved scheme before any development commences, including the implementation of any works that may be associated with the development that would otherwise be Permitted Development, notwithstanding the General Permitted Development (Scotland) Order 1992 as amended, or any subsequent amendment or revised Order. All site access roads, yard and parking areas shall all be complete before the development becomes operational

Reason: To maintain road and pedestrian safety

7. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Planning Authority. The construction traffic within the control of the applicant shall be operated in accordance with the approved CTMP

Reason: To maintain road and pedestrian safety

8. No development shall commence until a full schedule of external materials has been submitted to and approved in writing by the Planning Authority. The schedule shall include finishes and colours, and samples where required by the Planning Authority, for the waste transfer station (including stacks), sprinkler tank, pump house, office and kiosk, notwithstanding the specifications given on any approved plan or drawing. The development shall be completed using the approved schedule
Reason: To limit the visual impact of the development
9. No development shall commence until evidence has been submitted to the Planning Authority that a public water supply will be available to service the development, or details of a private water supply 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 the development can be adequately serviced
10. The offices shall not become operational until a foul drainage scheme is implemented in accordance with the Drainage Strategy Plan and Flood Statement 13078 Rev B July 2017 Goodson Associates and the offices shall only operate with the foul drainage system in operation. A plan and drawings of the proposed scheme shall be submitted for the approval of the Planning Authority before installation and the works shall be installed in accordance with the approval
Reason: To ensure the offices are capable of being adequately serviced in a visually and environmentally acceptable manner
11. Notwithstanding the layout on plan 6944-LD-001C a revised landscape layout shall be submitted to and approved in writing by the Planning Authority before development commences that concurs with approved site plan 101-D6, and specifies a timescale for implementation of landscaping. The landscaping shall be implemented and maintained in accordance with the approved site layout plan and approved planting and maintenance schedule (accounting for any adjustments to the schedule to accommodate the revised site layout)
Reason: To mitigate the visual and landscape impacts of the development
12. Notwithstanding the layout on plan 590C a revised layout plan for site levels shall be submitted to and approved in writing by the Planning Authority before development commences that concurs with the approved site plan 101-D6. The development shall be completed in accordance with the approved levels plan (accounting for any required adjustments to sectional drawings to concur with the revised layout)
Reason: To visually integrate the approved development with proposed site level changes
13. The construction works shall be carried out in compliance with the Odour Management Plan (SLR-Final V2July 2017)
Reason: To minimise, as far as practicable, potentially adverse effects arising from the construction on surrounding properties
14. The development shall not become operational until the surface water drainage scheme has been implemented in accordance with the approved plan 520 (adjusted to suit the approved site layout) and Drainage Strategy Plan and Flood Statement July 2017 13078 Rev B (Goodson Associates). The scheme shall maintain run-off from the site at pre-development levels in a 1:200 (plus climate change) event and shall be maintained throughout the operation of the development.
Reason: To ensure surface water is treated in a sustainable manner without risk of run-off to neighbouring properties

15. The development shall not become operational until evidence is provided to the Planning Authority that the existing landfill facility at Easter Langlee has ceased operations with respect to disposal of incoming waste.

Reason: To maintain road and pedestrian safety and the amenity of surrounding properties

Information for the applicant

1. Should any part of the development require amendment to satisfy Waste Management Licensing requirements, these will require a fresh planning application where they are deemed by the Planning Authority to materially amend the approved development. Once the outcome of the WML is known, the applicant should discuss any such amendments with the Planning Authority to establish the required course of action as early as possible.
2. The extension referred to on the approved plans is not consented under this planning approval.

DRAWING NUMBERS

Location plan - 10

Location plan 100 D4

Development area and proximity to course of Allan Water 103 D1

Proposed site layout 101 D6

Landscape general arrangement 6944-LD-001 C

Softworks construction details 6944-LD-002 B

Landscape planting and maintenance schedule March 2017 Rev C

Administration block and weighbridge office elevations 231 D1

Administration block sketch proposals no 2 230 D2

Sprinkler tank and pumphouse 220 D1

Proposed floor plan 202 D2

Elevation sheet 1 211 D5

Elevation sheet 2 212 D5

Cross sections 213 D2

3d images 214 D4

Weighbridge photos 2no

External works - surface water drainage 520

External works - cut and fill volumetric analysis 590 C

Cut and fill volumetric analysis site sections 591 C

External works site sections 593 A

Typical Sections Sheet 1 401

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.

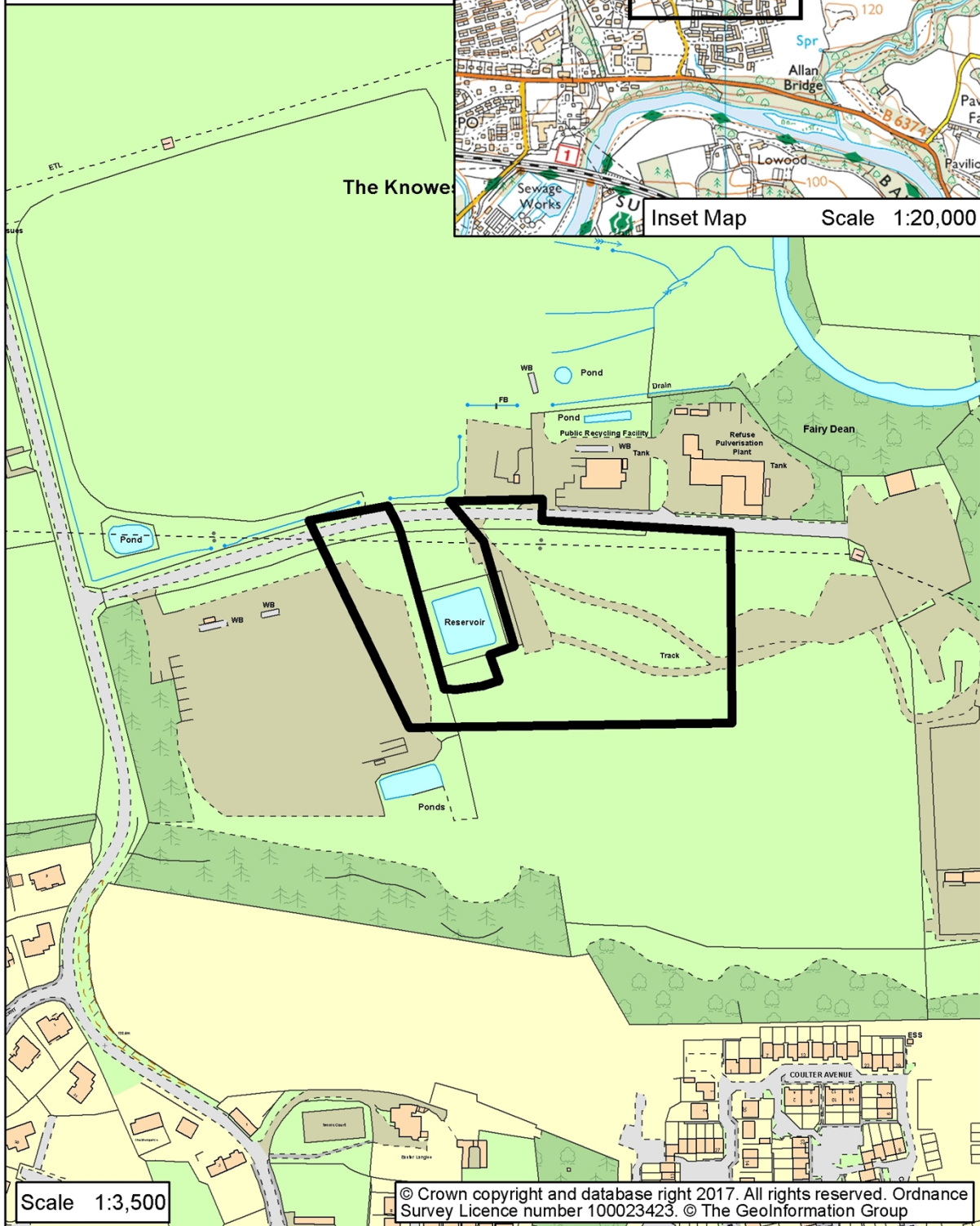
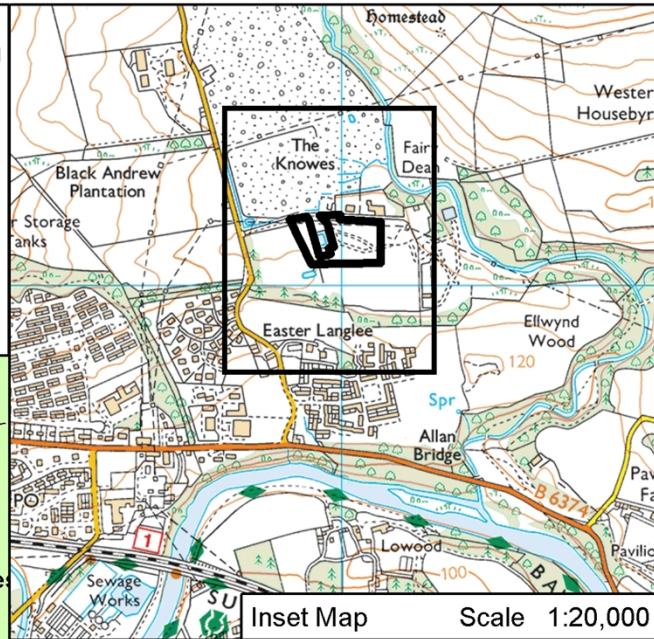
Author(s)

Name	Designation
Carlos Clarke	Team Leader Development Management



17/01149/FUL

Land South Of Easter Langlee
 Recycling Centre
 Galashiels
 Scottish Borders



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00010/FUL
OFFICER:	Julie Hayward
WARD:	Hawick and Hermitage
PROPOSAL:	Construction of wind farm comprising 7 No turbines up to 149.9m high to tip, 5 No turbines up to 130m high to tip and associated infrastructure
SITE:	Land South West Of Lurgiescleuch (Pines Burn) Hawick
APPLICANT:	Energiekontor UK Ltd
AGENT:	None

SITE DESCRIPTION

The site is within the Harwood Estate to the south west of Hobkirk and comprises of 624 hectares of coarse unimproved grassland used for grazing and coniferous plantation forestry. Bonchester Bridge is approximately 6.4km to the north east, Chesters is 8km to the north east, Hawick is 7.8km to the north west and Denholm is 10.5km to the north east. The B6399 Hawick to Newcastleton road runs along the western boundary of the site. There are several watercourses within the site, including Pines Burn and Lurgies Burn. The topography of the site varies from 210m AOD by the B6399 on the western boundary to 400m AOD at the summit of Pike Fell and the turbines would be situated at elevations of between 289m and 377m AOD.

There are no residential properties within the site. There are scattered properties within the Harwood Estate to the north east; Langburnshiels is situated to the south of the site and comprises of a number of houses and there are several scattered residential properties to the west.

There are no claimed Rights of Way or Core Paths within the site. There are no statutory designated landscapes within 5km of the site. The boundary of the Teviot Valley Special Landscape Area is to the north east beyond the 5km area and the Cheviot Foothills Special Landscape Area is to the east beyond the 10km area. The site is some distance from the River Teviot, which is a tributary of the River Tweed Special Area of Conservation (SAC) and there are no SSSIs within or adjacent to the site.

PROPOSED DEVELOPMENT

The proposal, as submitted, was for a commercial wind farm comprising of twelve turbines, with seven turbines at 158.5m to blade tip and five of 130m in height. The development also includes:

- Crane hardstandings (55m by 35m);
- Site tracks 4.5m wide and surfaced in coarse aggregate;
- Underground high voltage and control cables;

- Water course crossings;
- Two borrow pits to source materials for ground infrastructure;
- Two temporary construction compounds and storage areas: a site establishment compound 30m by 20m with office building (15m by 3.8m) parking area and storage containers at the site entrance and a construction compound 40m by 45m with offices, parking and storage;
- Substation/switchgear housing building (15m by 10m and 6.2m in height);
- An upgraded access from the B6399 for the delivery of the turbine components and then used for maintenance and decommissioning;
- Forestry felling and replanting within the site boundary.

The construction phase would last for 12 to 18 months and the development would have a 25 year operational phase. The wind farm would provide 36MW of installed capacity. The application includes a 50m micro-siting allowance for turbines and infrastructure following detailed ground investigations and geotechnical surveys.

Access to the site would be via the A7 to Hawick, A6088 and B6399. An existing field access from the B6399 south of Shankend would be upgraded for the delivery of turbine components.

Following the consultation period the proposal has been amended:

- Seven turbines have been reduced from 158.5m in height to 149.9m (turbines 4, 6, 7, 9 – 12);
- Repositioning of turbines 4, 6 and 11.

PLANNING HISTORY

16/00034/FUL: Erection of 80m high meteorological mast for a temporary period of up to 3 years. Approved 25th February 2016.

16/00635/SCO: The request for a Scoping Opinion was submitted in May 2016 for a wind farm comprising 15 No turbines 158.5m high to tip and ancillary infrastructure.

16/00815/PAN: The Proposal of Application Notice was submitted in July 2016 also for a wind farm comprising 15 No turbines 158.5m high to tip and ancillary infrastructure.

NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF THE CURRENT PROPOSAL:

Operational:

Langhope Rig is situated 19.5km to the north west of the site and consists of 10 turbines 121.2m in height.

Consented

Windy Edge is approximately 9.2km to the south west of the proposal and would consist of 9 turbines, 3 at 110m in height and 6 at 125m.

In the Planning System

Barrel Law, comprising of 7 wind turbines up to 132m high, was submitted in September 2017 and is 15km to the north west.

Other Schemes

Birneyknowe is 4.9km to the north of the site and comprises of 15 turbines 132m high. The Council objected to this Section 36 application in March 2017 and is now the subject of an appeal.

Wauchope and Newcastleton Forest: A scoping opinion was issued by the Energy Consents Unit in March 2016 based on 90 turbines with a tip height of 132m at three separate sites (Wauchope East, Wauchope West and Newcastleton Forest).

Cliffhope: The Energy Consents Units has received a request for Scoping Opinion for a windfarm consisting of 46 turbines with a maximum tip height of 200m on land approximately 2km south east of Pines Burn

REPRESENTATION SUMMARY

84 representations were received in respect of the application as submitted, 54 objections and 30 in support. These can be viewed in full on the Public Access portal on the Council's website. The principal issues raised are:

Objections:

- Adverse, irreversible impact on the landscape, landscape character and visual amenities. Industrial development in the landscape.
- Height of turbines, out of scale and cannot be absorbed into the landscape. There are no other turbines of this height in the Borders and the development would set a precedent for other wind farms in the area.
- Visual impacts of pylons from the site to the Hawick sub-station.
- Detrimental visual impact on views from iconic viewpoints such as Rubers Law, Carter Bar and Minto Hills and on the Teviot Valley Special Landscape Area, Eildon National Scenic Area and any future Borders national Park.
- This is currently a wide open, wild, tranquil area unspoilt by wind farms.
- Night time/aviation lighting would result in light pollution in this Dark Sky area.
- Inadequate boundary treatments and screening.
- Poor layout and design. Differing height of turbines, turbine types, blade lengths and rates of rotation and skyline location.
- Flood risk and inadequate drainage.
- Impact on historic sites and cultural heritage assets such as Ringlees Knowe, Wilson's Shoulder, Blackbillend Fort and Scheduled Monuments such as Penchrise Pen fort and earthwork.
- Tree felling within the site and tree and hedge removal along the turbine route to the site.
- Lack of consistency and quality of the photomontages, misleading information and inaccurate drawings.
- The southern part of the site lies within the Eskdalemuir Seismological Array 10km exclusion zone and the rest lies in the Statutory Safeguard Area.
- Cumulative impact with other wind farm developments, including combined or simultaneous visibility and successive and sequential cumulative visibility.

- Detrimental impact on tourism and recreation in the area due to damage to the landscape, which will impact negatively on the economy. The quality of the landscape attracts visitors to the region and this will be damaged.
- The development will have a detrimental impact on views experienced by walkers, cyclists (Borders Cycle Loop), horse riders and tourists.
- The proposal would have a negative socio-economic impact and no business case has been made or adequate justification of need.
- The met mast has not been in place long enough to gather sufficient data to demonstrate site suitability.
- The limited benefits of the development do not outweigh the detrimental impacts.
- Scottish Government targets for green energy have been met and the wind farm would only make a small contribution (0.6%) to wind energy targets. There is no evidence that without this scheme targets cannot be reached. The data shows that this scheme is not needed to meet the target.
- Unsubstantiated claims of job creation. There can be no guarantee that the amount of money claimed will go into the local economy or that there will be jobs in the construction phase.
- Unfair and disparaging/demeaning socio-economic analysis of life in Hawick and Teviotdale. Any economic and social hardships experienced will not be alleviated by this development.
- Community benefits are difficult to obtain and the shared ownership scheme would result in high levels of financial risk and debt.
- Wind energy is inefficient, unreliable, not economically viable and is not sustainable as the turbines are brought to the site from outwith the UK.
- Future-powering of existing wind farms will result in larger and more efficient turbines on operational sites so new sites will not be required.
- Other green energy developments should be considered, such as small turbines, biomass and solar power for local use.
- Contrary to Local Development Plan 2016 policies and to Supplementary Planning Guidance on Wind Energy. The Ironside Farrar Landscape Capacity Report 2016 states there low capacity for turbines up to 120m high and no capacity above that level in this area.
- Detrimental to residential amenity by reason of noise nuisance, loss of privacy/overlooking and light, visual intrusion and would have a dominant, overbearing impact affecting quality of life. The closest turbine is only 1.3km from the nearest residential property at 158m high and on elevated ground, ignoring the required 2km buffer.
- Impact on private water supplies.
- Increased traffic, especially combined with timber lorries and other wind farm developments, will impact on road safety. No specified route for construction traffic and the roads are unsuitable for the size and volume of construction and delivery traffic; inadequate access.
- The delivery of turbines will cause congestion, delays, inconvenience and damage to local roads and infrastructure. There is no Traffic Management Plan. The developer should pay for any road repairs.
- Impact on wildlife and habitats of development, pollution, chemicals and tree felling. The area south of Hermitage contains a large SSSI/ SPA. Proximity to watercourses and Ground Water Terrestrial Ecosystems.

Support:

- Positive contribution to the local economy, supporting local businesses during construction, safeguarding employment.

- Wind is a sustainable and effective form of renewable energy that does not harm the environment and reduces global warming.
- Wind is a free and clean source of energy, safer than alternative methods of electricity generation, such as nuclear power, with no waste products and it replaces rapidly depleting fossil fuels.
- The development contributes to national renewable energy and carbon reduction targets and will provide power for 20,000 homes.
- Community benefits and ownership.
- Appropriately sited, outwith within any culturally or naturally significant areas, secluded compared to other locations and the views will not be overbearing.
- Harwood Estate would not be sustainable without the wind farm.

At the time of writing this report 27 representations were received in respect of the SEI, 5 objections and 22 in support. The following additional issues were raised:

Objections:

- Reduction in the turbine height does nothing to ameliorate the impacts. The varied turbine heights, blade lengths and rates of rotation would result in a jumbled intrusion in the landscape.
- Reference made to other wind farms in Scotland is irrelevant in considering turbine height in this location.
- The 2016 Ironside Farrar report states there is no capacity in this area for turbines over 120m.
- No improvement to the inconsistent photomontages and the SEI is convoluted, unconvincing and misleading and some claims and statements are incorrect.
- Noise impact on dwellings and cumulative impact of noise in conjunction with the Birneyknowe wind farm has not been addressed.
- There is no amendment to or retraction of the demeaning Socio-Economic section of the ES. The proposed construction spend and community benefit fund would not rectify these alleged problems.
- Impact on Ministry of Defence equipment and operations.
- The iteration process may have resulted in a less bad scheme but not an acceptable one. Even if the scheme is slightly better than other schemes, it should still not be approved.
- The visual impact is subjective and the applicant's experts are not impartial.
- There is no guarantee of investment in the local economy or job creation.
- If all consented wind farms are built the Government targets would be reached. There is no evidence that the targets cannot be reached without this wind farm.
- Site lighting during construction.

Support:

- More wind farms will be needed in the future as this is the safest and cleanest way to produce energy. The Borders should benefit from its wind resource.
- The development is critical to the financial health of smaller contractors in the region. The applicant has made a serious commitment to using local contractors. Renewable energy developments are a competitive but shrinking market and this development would enhance the future of firms and employees.

- This is a good site with little sensitivity and the developer has been responsive to input from stakeholders and so the final layout addresses most concerns.
- Discussions about local community “buy-in” have been encouraging, though the details need to be finalised.

APPLICANTS’ SUPPORTING INFORMATION

This full planning application is an EIA Development and is supported by a full Environmental Statement (ES) resulting from an Environmental Impact Assessment, which comprises the following documents, dated December 2016:

- Pre-application Consultation Report
- Planning Statement
- Design and Access Statement

Environmental Statement:

- Volume I: Written text
- Volume II: Figures
- Volume III: Appendices
- Volume IV: Non- Technical Summary

Supplementary Environmental Information (SEI) was submitted by the applicant in June 2017 and comprises of:

Volume 1: Written Text
 Volume 2: Figures (Parts 1 and 2)
 Volume 3: Technical Appendices
 Viewpoint Pack

CONSULTATION RESPONSES:

The following consultation responses have been received in respect of the application as originally submitted and in respect of the SEI, where responses differ from that originally received. The responses are available to view in full on the Council’s Public Access System.

Scottish Borders Council Consultees

Landscape Architect: The site consists of forested and open land largely within the catchment of the Pines Burn, one of the headwater tributaries of the Rule Water. It lies within Landscape Character Type (LCT) 4CHG: Southern Uplands with Scattered Forest but is also very close to the adjoining 5WN: Southern Uplands Type: Forest Covered: Wauchope/ Newcastleton. Both are defined as ‘Upland’ types. The site also lies less than 5km from a number of ‘River Valley’ and ‘Upland Fringe’ character types which all lie in an arc to the north.

The Landscape Capacity and Cumulative Impact Study 2013 (LCCIS) offers some support for a development of ‘Very Large’ turbines defined as being greater than 100m high to blade tip but I am also sure that the LCCIS does not support turbines over 150m high, which constitutes another order of magnitude. This is reinforced by 150m being the threshold at which aircraft navigation lights are required. Concludes:

- Fairly local issues in relation to landscape character and scenic value;
- Issues in relation to identified visual receptors;
- Potential turbine dominance due to turbine height and visual intrusion at night;
- Some diminution of existing focal features and perspective effects;
- A wide range of potential scenarios for combined and sequential cumulative effects with other developments;
- Associated structures should be acceptable within the existing forest context and that the site benefits from suitable landform and scale;
- The effects on the existing forest cover should be acceptable subject to suitable compensatory planting;
- Other issues, such as wildland, settlements, coast and the matters relating to multiple existing windfarms do not influence the determination or are not relevant.

There are several aspects of this application that comply with landscape criteria but the overall height of 158.5m exceeds the capacity threshold accepted in the LCCIS (2013) study. This turbine height also aggravates the landscape and visual issues that do occur. I do not support the application but consider that a reduced scheme that complies with the Landscape Capacity and Cumulative Impact Study (2013) might be acceptable.

Re-consultation: The Landscape Capacity and Cumulative Impact Study (2013) offers some support for a development of 'Very Large' turbines defined as being greater than 100m high to blade tip. Concludes:

- Fairly local issues, now slightly reduced, in relation to landscape character and scenic value;
- Issues in relation to identified visual receptors, now slightly reduced;
- Some remaining concerns regarding potential dominance due to turbine height but somewhat reduced from the earlier iteration and the removal of concerns about visual intrusion at night;
- Some remaining diminution of existing focal features and perspective effects.

There are several aspects of the original application that complied with landscape criteria. The applicant has responded to previous advice to reduce overall turbine height to 149.9m and this proposal is now below the threshold requiring aviation lighting. It is also, arguably, just within the capacity of the LCCIS (2013) capacity study. Allowing that the number of significantly affected receptors is relatively limited, it is not clear that there are sufficient landscape and visual arguments to sustain an objection.

Flood Protection Officer: The site is not at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

Review of the information provided shows that the site lies out with SEPA's 1 in 200 year hazard map however there are a number of small watercourses located within the site that may be at risk of flooding. Overall, there is minimal flood risk to the site so I would have no objections to the proposal on the grounds of flooding as long as the following is adhered to:

- Newly formed hard surfaces should be attenuated to existing greenfield runoff rates so that there is no increased flood risk to downstream receptors, most significantly within Hobkirk and Bonchester Bridge.

- Details of silt traps and any other functions that the applicant proposes to minimise the amount of sediment entering the watercourse should be submitted.
- If there are to be any culverts, watercourse crossings or alterations to crossings, these should be designed to convey the 1 in 200 year flow.

Roads Planning Service: Whilst I have no objections to the principle of a wind farm at this location, there are several matters which will have to be addressed should the proposal be approved:

- A Traffic Management Plan (TMP) must be submitted and approved by the Council prior to any works commencing on site. This must also indicate in more detail the delivery route and vehicle numbers anticipated for HGV deliveries. Any ancillary works required to the public road network identified via this plan must thereafter be carried out to an agreed programme and timescale. This should also allow for any reinstatements after the development is complete.
- The cumulative effect of the HGV traffic associated with the construction of the wind farm causes some concern. I require further information relating to traffic movements.
- I have concerns regarding the 'C' Class road from Hawthornside to the B6399. This road is in a poor condition and excessive HGV's are likely to cause further damage. A survey this road prior to works commencing is required to agree its condition, a regime for routine maintenance during construction and for any permanent repairs to be carried out after the works are complete. This route may also require the installation of passing places and strengthening depending on the level of traffic anticipated.
- The indicative abnormal load route causes some concern. There may be significant tree loss which would have to be considered and any mitigation works required confirmed.
- Depending on the route chosen, works to accommodate the abnormal loads may require planning permission. Once the source and size of the turbine components have been confirmed, swept path analysis drawings of areas of concern must be submitted and any remedial works confirmed. A drive thru of the proposed route must be undertaken with The Roads Planning Service to confirm areas of concern and agree remedial works.
- Several areas of the abnormal load route may require the removal of street furniture, including lighting. Where this is the case, the approval of all temporary lighting measures required for the duration of the abnormal load movements must be obtained.

Environmental Health: The applicants wish to avail themselves of the higher noise limit for financially involved properties. Documentation should be provided to demonstrate a financial involvement on the part of the occupiers of Lurgiescleuch.

Re-consultation: The applicants have submitted a noise assessment to quantify any unacceptable noise impact on local receptors. The assessment has been based on background noise data obtained at two survey locations. These sites have been used to derive noise limits as proxies for other noise sensitive premises in the vicinity of the development.

The Applicant's noise submission has been examined against the relevant Guidance – ETSU(R) 97 and the Good Practice Guide produced by the Institute of Acoustics.

The noise predictions for the development have been undertaken using the recommended noise modelling methodology and correction factors.

Noise levels arising from the development have been calculated and a table of noise limits have been produced giving a maximum level for each identified receptor at each integer wind speed. Separate tables have been produced for Amenity Hours and Night Time. The Assessment has concluded that there are no nearby existing or consented wind energy development with which cumulative noise impacts might arise.

The modelling and assessment work undertaken in connection with this application has demonstrated that there will be no unacceptable noise impacts on local receptors. The applicants have undertaken an assessment of the noise arising from construction of the scheme. No major noise impacts are predicted and it is intended to control noise impacts by condition via a Construction Method Statement.

The applicants have also assessed the likely impact of the development on private water supplies in the area. No adverse impacts have been identified

Access Officer: There are no claimed rights of way or core paths on this area of land. However, there are a number of paths outwith the site from which the turbines will be visible.

No consideration has been given to enhancing public access around the site on completion of the development. Tracks to accommodate construction or service vehicles should be available for all types of non-motorised recreational users (pedestrians, equestrians and cyclists) after construction is complete. Where any access tracks pass through or nearby the development area, it may be useful to provide boards on-site detailing development information and information on routes that are accessible and those routes that are temporarily closed due to development. This would assist safe management of the site.

Consideration should be given to creating a circular access route around the site utilising existing tracks, new access roads and where necessary creating a new link path between Turbines T4 and T7 suitable for use by walkers, cyclists and horse riders. Reasonable developer contributions for the promotion, maintenance and management of the wider path network in the local area should be agreed.

Ecology Officer: The site lies within 10km of Langholm-Newcastleton moors SPA (qualifying interest: Hen harrier) so there is potential connectivity with the SPA. However, the ornithological surveys identified very limited use of site by the SPA qualifying interest and therefore, no Likely Significant Effect is expected.

There is potential connectivity through drainage into the River Tweed Special Area of Conservation. The Harwood Burn and Slitrig burn are designated as part of the River Tweed. Measures to control pollution and sediment run off adopted under a Construction Environmental Management Plan (CEMP) are likely to ensure that there will be no significant adverse impact on the integrity of the River Tweed SAC.

A 50m no-development buffer zone around watercourses is proposed, however a number of turbines and infrastructure are located in this buffer zone and should be micro-sited outwith this zone. Micro-siting and drainage management plans will be required to avoid and mitigate impacts on Groundwater Dependent Terrestrial Ecosystems (GWDTE).

There would be permanent habitat loss. Any loss of woodland, trees and other habitat must be compensated. Replanting proposals will need to be complementary to Habitat Management Plan requirements.

Mitigation, including Construction Methods Statements, would minimise impacts on protected species and watercourses.

There is potential for displacement of breeding birds. Measures for breeding waders should be included in a Habitat Management Plan to compensate for loss/displaced habitat, in areas away from the turbine array. Breeding may be affected by construction. Supplementary checks and mitigation will be required prior to and during construction.

Potential impacts on goshawk are of serious concern. The development could have a significant adverse impact on this population. Post-construction monitoring should be a requirement with mitigation proposals including curtailment of wind turbine activity if monitoring identifies any subsequent significant adverse impact on the goshawk population.

Re-consultation: I welcome the applicant's commitment to produce and implement a Construction Environmental Management Plan, including a Species Protection Plan and to appoint an Ecological Clerk of Works to ensure compliance with the CEMP. An Ecological and Ornithological Monitoring Plan will be produced for breeding waders and protected species. A goshawk monitoring and mitigation plan will be submitted for approval prior to commencement. The developers also intend to submit a Compensatory Replanting Scheme and an amended Habitat Management Plan.

The proximity of certain turbines and infrastructure to watercourses is still a concern. Turbines T4, T6, T11 and T12 and associated access tracks are within buffer areas for GWDTEs and turbines 9 and 10 are located adjacent to potential GWDTEs.

Archaeology Officer: While I do not object to the application, I do have concerns that the development poses individual and cumulative significant adverse impacts of development and is therefore potentially contrary to Policy EP8 and ED9 of the Local Development Plan:

- The applicant has sought to avoid construction impacts to known heritage assets by design. However, there are a number of assets where avoidance is not possible and mitigation is proposed, which is considered to be an acceptable approach and can be secured by condition.
- There is potential for encountering previously unknown archaeological buried deposits outside those areas highlighted in the ES. It will be necessary to condition an agreed archaeological scheme of works to mitigate the loss and potential loss of known and unknown archaeological features.
- There are potentially significant indirect (setting) impacts to two undesignated and two designated heritage assets. The undesignated assets are probable prehistoric settlements on Ringlees Knowe and Wilson's Shoulder.
- There are significant impacts to the Scheduled Monuments of Penchrise Pen fort and earthwork. The placement of a wind farm along the Pines Burn would impact the prehistoric element of the historic landscape. The high visibility of the wind farm from Penchrise Pen will distract and have a dominating tendency over that landscape. The experience of the landscape will be greatly affected visually. The wind farm would also introduce large-

scale industrial elements on the fringes of an historic landscape, which is generally agrarian, with small-scale built structures, and developed as such over millennia.

- These moderately significant impacts are potentially contrary to Policy ED9, as the justifications for development in this location may not outweigh the moderate significant effects on monuments of national cultural significance and their settings.
- From Penchrise Pen fort and settlement the proposed development would be seen in combination with the developments at Birneyknowe and Wauchope Forest West and East. The Birneyknowe wind farm would occupy the line of site and key setting relationships between Penchrise Pen and the Scheduled Monuments on Rubers Law and Bonchester Hill, whilst the proposed development would sit behind key relationships with prehistoric settlements in the Slitrig Valley. It would sit in front of the Wauchope wind farm to the east. The addition of a wind farm at Pines Burn, with its individually moderate significant impacts, would increase the sense of enclosure by wind energy development to the east from Penchrise Pen and add to the distraction and dominance of turbines within and on the edges of key setting relationships. The sense of Penchrise Pen as a dominant historic landscape element would also be increasingly illegible when viewed from Rubers Law and Bonchester Hill. The cumulative impact if both Birneyknowe and Pines Burn were they to be consented is potentially major.
- There can be no mitigation for these impacts, however there are potential enhancement measures that can increase the appreciation, experience and understanding of assets and their historic landscape context and this can be secured by a condition.

Re-consultation: The SEI sets out a number of refutations to my original comments, which I stand by. It does add an assessment of the setting impacts to the Shankend Viaduct.

Forward Planning: SPP supports all forms of sustainable development which includes promotion of renewable energy and the protection of the environment. The Council continues to support this principal. However, SPP also states that whilst supporting renewable energy this should not be at any cost. It should be the right development in the right place.

Policy ED9: Renewable Energy Development in the Local Development Plan 2016 lists a number of material considerations including landscape and visual impacts, cumulative impact.

The Ironside Farrar Landscape Capacity and Cumulative Impact Study (July 2013) is referred to within policy ED9 and is therefore a material consideration to this application. The site falls within the Landscape Character Area defined as “Southern Uplands with Scattered Forests – Cauldcleuch Head Group”. The Study states that there is capacity for large and very large turbines in the more elevated upland areas where topographical containment reduces intervisibility. The Study does not identify turbines of the scale proposed and it is therefore the duty of the applicants via the development management process to show the turbines can satisfactorily be accommodated in the landscape.

Statutory Consultees

SEPA: Object. Serious concerns regarding the lack of information, assessments, mitigation and contradictory information on:

- The proximity of the development to watercourses;
- New crossings and culverts proposed for watercourses;
- Flood risk;
- Drainage, excavated water from foundations and surface water runoff;
- Borrow pits;
- Peat probing for areas of infrastructure;
- Pollution risk, the concrete washout area and wheel-washing facility;
- Control for dust.
- Water supply for the development and the identification of and mitigation to protect private water supplies;
- Waste and the restoration of the borrow pits;
- Impact on Groundwater Dependent Terrestrial Ecosystem (GWDTE);
- Forestry felling.
-

Re-consultation: Maintain their objection:

- Clarification is required on the temporary pumping of watercourses and any abstraction and discharge;
- Object to the proximity to watercourses and the lack of information on drainage.
- A CEMP will cover details on wheel washing, dust suppression, cable crossings and pollution prevention;
- Further detail on the borrow pits and restoration needed;
- A private water supply risk assessment is required;
- Concerned about the proximity of some turbines to watercourses;
- Adequate treatment and management of dirty water from excavations;
- Details of drainage and track design are required;
- Impact on Groundwater Dependent Terrestrial Ecosystem (GWDTE);
- An Ecological Clerk of Works is required to assess areas of felling for springs or flushes and proposed infrastructure will be micro-sited to minimise direct effects on them.

Re-consultation: Withdraw our objection, provided that a condition is attached that a robust CEMP is agreed, in consultation with SEPA, before construction begins on-site. This would include pollution prevention measures.

The revised layout demonstrates that T1 and its laydown area, T4 and T6 are now located outwith the 50m buffer for nearby watercourses. No micro-siting should be allowed for turbines that takes them closer to watercourses. The temporary pumping of watercourses has been clarified. The revised layout allows us to withdraw our objection on the grounds of impact to ecology.

Historic Environment Scotland: We note that the Environmental Statement identifies significant adverse impacts on the setting of Penchrise Pen, fort (Scheduled Monument, Index no. 2296) and Penchrise Pen, earthwork (Scheduled Monument, Index no. 3365) and also considers that there is potential for adverse impacts on the setting of Bonchester Hill, fort (Scheduled Monument, Index no. 2173) and Rubers Law, fort and Roman signal station (Scheduled Monument, Index no. 2129).

We do not, however, consider that these impacts raise issues of national significance such that we would object and are unable to suggest any practical mitigation in this instance. Nevertheless, we remain concerned about the growing cumulative impacts of wind farm development on the setting of scheduled monuments in this area, especially Bonchester Hill, fort. The proposals do not raise historic environment issues of national significance and therefore we do not object.

Scottish Natural Heritage:

- A degree of containment means that some mid-range views of blades and blade tips only will be visible.
- The development would be a prominent addition to the southern skyline from some of the more settled and transitional landscapes around Hawick and from the key hilltops of Bonchester Hill and Rubers Law (the turbines are markedly “stacked” in rows from Rubers Law).
- The Southern Upland Hills where the proposal is sited form an enclosing edge to the more settled and transitional landscapes to the north. Given the size of the turbines, the perceived scale of these hills will be reduced. These scale effects would diminish the prominence of the Maiden Paps and the perceived prominence of Bonchester Hill.
- Cumulatively, if all the proposed schemes are consented there is the potential for wind farm development to become a characterising feature of the area between Hawick and the Southern Upland ridges.
- The proposal is likely to have a significant effect on the brook lamprey and Atlantic salmon qualifying interests of the River Tweed Special Area of Conservation due to potential construction-related pollution. An Appropriate Assessment and Habitats Regulation Appraisal are required.
- Other natural heritage interests of international importance of the River Tweed Special Area of Conservation (sea lamprey, water crowfoot habitat and otter) will not be adversely affected. To help reduce residual impacts on the water environment the proposal should be undertaken in accordance with a detailed CEMP.
- The mitigation proposed for birds and other species should be implemented. Pre-construction surveys for otters, badgers and red squirrel are required and a Species Protection Plan prepared.
- A Decommissioning and Restoration Plan is required.

RSPB: No objections but raise the following issues:

- Works undertaken during the breeding season should be preceded by checking surveys to ensure that there are no active nests on or close to the development site. Any such nests located should be included in an appropriate buffer and remain undisturbed until the chicks have fledged or any nesting attempts are otherwise concluded.
- The nearest traditional goshawk breeding territory is far enough away from the development site to make significant disturbance of the nest unlikely. Nevertheless, a survey should be carried out prior to construction works commencing to ensure that there is no nesting activity closer to the development site. A 500 m buffer between the nest and any construction works during the breeding season should be adequate to mitigate for goshawks. The predicted collision risk mortality is a concern. The applicant should be required to submit further reasoning and support for their

assessment and conclusion that the predicted level of goshawk mortality is not significant.

- Prior to any felling of conifer plantation trees a survey should be undertaken to determine if any crossbills are breeding. An appropriate barrier should then be established around nests and remain until nesting has been completed.
- We welcome the proposal to provide nesting baskets for long eared.
- Whilst wet modified bog/blanket bog may be degraded, opportunities should be taken to restore it as part of a Mitigation/Habitat Management Plan. Works/infrastructure should be positioned so as to avoid the bog habitat.
- The removal of 2.41ha of recently planted broadleaf woodland should be compensated for.

Joint Radio Company: This proposal is cleared with respect to radio link infrastructure operated by Scottish Power and Scotia Gas Networks. JRC does not foresee any potential problems based on known interference scenarios and the data provided.

NERL: The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Edinburgh Airport: This development is outside of our consultation zone so no objections.

Scotways: There are no rights of way within the site other than those formed by public roads. Turbines should be set back a minimum distance equivalent to the height of the blade tip from roads or rights of way. The cumulative impact of proposed wind farms in the area is a concern.

Forestry Commission Scotland: Support the solution proposed for compensatory planting on site and would ask that an appropriate condition is placed on any consent requiring the developer to deliver an agreed scheme on-site within an agreed timescale.

Ministry of Defence: Objects. The site is in the vicinity of sites used by the RAF Spadeadam electronic warfare tactics facility and the development may cause unacceptable interference to threat radars at these sites, especially at Wigg Knowe. Turbines 1, 3, 5, 6, 8, 9, 11 and 12 will be detectable by and will cause unacceptable interference with operational threat radar systems employed at Larriston Fell. If the developer can overcome these issues then the turbines should be fitted with aviation safety lighting.

Re-consultation: The applicant has agreed to mitigate the effects upon the threat radar, contained within a management plan; the turbines would be stopped for pre-arranged periods when the threat radar sites are to be used. This can be secured by a condition and the objection is withdrawn. The turbines should be fitted with aviation safety lighting.

Scottish Water: There are no Scottish Water drinking water catchments or water abstraction sources which are designated as Drinking Water Protected Areas in the local area.

Southdean Community Council: Object:

- Landscape and visual impact including aviation lighting;
- Cumulative impact;
- Construction traffic, disturbance, use of third party land;
- Impact on residential amenities;
- Adverse portrayal of the local area, which indicates little understanding of the local communities;
- The suggested long terms benefits would do little to rectify the extensive problems portrayed in the application;
- The Shared Ownership Scheme is an inappropriate return for the scale of investment required given the current financial profile of the Community Council.

Re-consultation: Object.

- A number of issues previously raised have not been addressed (though the issue of aviation lighting has been removed). In addition to the above concerns, the impact of the development on any future Scottish Borders National Park and visibility from the proposed extension of the railway from Hawick to Carlisle need to be considered;
- Economic returns have not been properly assessed and the developer has not provided any evidence of reduced costs in a post subsidy environment. The development would add to the total amount of renewable energy generation, but by a relatively small amount. Improved insulation, a reduction in fuel poverty and the exploration of Biofuel would not have the same adverse effect on the landscape.

Second Response:

- The feasibility study has now been published for the Scottish Borders National Park and this should be taken into consideration in assessing this application;
- The Council's Landscape Architect fails to refer to the Ironside Farrar landscape capacity report 2016. In this version the location of Pines Burn is only deemed to have low capacity for turbines up to 120 metres high and the proposal is for turbines significantly higher than this. The Supplementary Planning Guidance is delayed beyond the suggested date given by the Scottish Government and its delay is significantly disadvantaging communities. The Draft SPG should be advanced as a priority before any consideration is given to the various schemes currently in the planning system.

Third Response:

The application must be assessed against the relevant policies, which includes the Draft Supplementary Planning Guidance on Renewable Energy, which incorporates the Ironside Farrar Study 2016 and Scottish Natural Heritage Siting and Designing Wind Farms in the Landscape Version 3 February 2017, which have both been used to assess the Barrel Law wind farm application by the Council's Landscape Architect. The applicant has also referred to the 2016 Ironside Farrar Report.

Denholm Community Council: Object:

- Traffic during construction, disruption and damage to the road network;
- Visual impact including aviation lighting;
- Impact on residential amenities;
- Adverse portrayal of the local area and population within the application, which indicates little understanding of local communities;
- The suggested long terms benefits would do little to offset the negative impact on the local economy;
- The Shared Ownership Scheme is viewed with scepticism as there is little prospect of a significant take-up of such an offering from within the local community. A more direct benefit scheme for the local communities is preferred to a select wealthy few with adequate assets for investment;
- Cumulative impact.

Re-consultation: Object. In addition to the above:

- The new proposed transport route has now changed considerably and will still cause disruption. There are still unresolved issues regarding the suitability of the route from Hawick to Kirkton to the site. If the plan reverts to one of bringing these loads through Denholm village, then the impact would be unacceptable;
- The reduction in height will have no impact on the detrimental visual impact of the development.

Hawick Community Council: Object:

- Visual impact;
- Impact on tourism businesses;
- Construction traffic and disruption;
- Cumulative impact.

Re-consultation: Object to the revised proposal and reiterate the above concerns.

Hobkirk Community Council: Object:

- The application has underestimated the environmental effects;
- The development need to be considered as permanent as it is likely to continue after the 25 years specified;
- There is no mention or calculation of how this would reduce the claimed CO2 savings. The CO2 emissions need to be offset against the energy used in manufacture and transport of turbines;
- Landscape and visual impacts, including the height of the turbines, lighting, the impact on views from Rubers Law and Bonchester Hill and impact on cycle routes;
- Cumulative impact with Birneyknowe and Wauchope and Newcastleton wind farm proposals;
- Socio-economic benefits are vague and aspirational, the community benefit proposed is not significant, the shared ownership scheme is not viable, the economic benefits do not outweigh the environmental consequences and the local profile is used to justify the need for the development.

- Impact on tourism;
- Impact on residential amenities;
- Traffic during construction, disruption and damage to the road network.

Re-consultation: Object. Whilst we welcome the reduction in the height of some turbines to remove the need for aviation lights, the overall reductions are not sufficient to remove our objection. In addition to the above:

- The proposal is contrary to policy as the draft Supplementary Planning Guidance states there is no capacity for turbines over 120m high in this area;
- There would be an unacceptable impact on residential amenities for those closest to the site.

Upper Teviotdale and Borthwick Water Community Council: Object:

- Visual impact;
- Question the economic benefits;
- Traffic and turbine routes;
- Question whether the scheme is required to meet the 2020 renewable energy targets.

Re-consultation: Object. We do not accept that some recent changes to the height of turbines means that these turbines have become acceptable.

Newcastleton Community Council: Raises concerns regarding:

- Increase in traffic and disruption;
- Derogatory comments about local communities within the Socio–Economic Statement;
- The Community Benefit Fund is impractical until detailed discussions with all the communities have been had;
- The developer needs to provide financial support so that independent advice can be given prior to the community contemplating shared ownership; any benefit needs to be shared widely by the community not just amongst investors who can afford to take risk.

Re-consultation: Object. In addition to the above:

- The route of the proposed turbines to the site needs further consideration and clarification;
- Impact of the development on the potential extension to the Borders railway;
- The Community benefit Fund should be secured by way of a planning condition to ensure it is delivered in the long term. Without provision of a costed plan and detail regarding the financial setup, the shared ownership is not viable and puts too great a financial risk and burden on the community.

No responses have been received from the Association for the Protection of Rural Scotland, Scottish Badgers, the Scottish Wildlife Trust and the Upper Liddesdale and Hermitage Community Council.

DEVELOPMENT PLAN POLICIES:

SESplan Strategic Development Plan June 2013:

Policy 1B: The Spatial Strategy: Development Principles

Policy 10: Sustainable Energy Technologies

Local Development Plan 2016:

PMD1: Sustainability

PMD2: Quality Standards

ED9: Renewable Energy Development

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP5: Special Landscape Areas

EP7: Listed Buildings

EP8: Archaeology

EP9: Conservation Areas

EP10: Gardens and Designed Landscapes

EP13: Trees, Woodlands and Hedgerows

EP15: Development Affecting the Water Environment

IS2: Developer Contributions

IS5: Protection of Access Routes

IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

Adopted SBC Supplementary Planning Guidance (SPG) and other documents:

- Renewable Energy 2007
- Wind Energy 2011
- Biodiversity 2005
- Local Landscape Designations 2012
- Developer Contributions 2011
- Visibility Mapping for Windfarm Development 2003
- Ironside Farrar Study on Wind Energy Consultancy Landscape Capacity and Cumulative Impact 2013
- Borders Landscape Assessment 1998 Ash Consulting Group

Scottish Government Policy and Guidance:

- National Planning Framework for Scotland (3) June 2014
- Scottish Planning Policy (SPP) June 2014

Scottish Government On-line Advice:

- Circular 1/2017 Environmental Impact Assessment (Scotland) Regulations
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment

- Onshore Wind Turbines 2014
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

Historic Environment Scotland Publications:

- Historic Environment Scotland Policy Statement June 2016

SNH Publications:

- Siting and Designing Windfarms in the Landscape Version 3 February 2017
- Visual Representation of Wind Farms Version 2.2 February 2017
- Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012
- Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations 2015

Other Publications:

ETSU-R-97: The Assessment and Rating of Noise from Wind Farms

KEY PLANNING ISSUES:

- Land use planning policy;
- Landscape and visual impacts, including landscape character and visual impacts, arising from turbines and infrastructure;
- Cumulative landscape and visual impacts with other wind energy developments;
- Physical and setting impacts on cultural heritage assets;
- Residential amenity including noise impacts and shadow flicker
- Ecological, ornithological and habitat effects;
- Impact on road safety and the road network;
- Impacts on the public path network and public access on accessible land;
- Economic benefits attributable to the scheme;
- Benefits arising from renewable energy provision.

ASSESSMENT OF APPLICATION:

Planning Policy

Scottish Government policy, regional strategic policy and local planning policy and guidance all support renewable energy, including wind farms, provided that there are no unacceptable and significantly adverse environmental impacts.

SPP sets out a Spatial Framework for determining appropriate sites for wind farms. The site falls within Group 3: Areas with potential for wind farm development where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

SESplan policy 10 requires Local Development Plans to set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national electricity and heat targets and taking into account economic, environmental and transport considerations.

The proposal has to be assessed against a number of Local Development Plan policies. Policy ED9 deals with renewable energy development and supports commercial wind farms where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. Proposals will be approved provided that there are no significant effects that cannot be satisfactorily mitigated. Where mitigation is not possible, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits outweigh the potential damage arising from it. The policy contains a number of criteria by which to assess the proposal.

The Council's Supplementary Planning Guidance on Wind Energy 2011 contains a Spatial Strategy and the site is located predominantly within an area Minor Constraints with areas of Moderate Constraints (Lower) and a small area of Moderate Constraints (Higher). Rubers Law, Brinkstone Hill and Minto Hill are identified as being iconic viewpoints.

Having assessed the proposal against national and local spatial framework considerations for wind farm development, the site is not located within an area which would automatically preclude the development of a wind farm. The precise impacts of the proposal must be assessed against the relevant Local Development Plan policies to establish whether the proposal is acceptable.

Landscape and Visual Impacts

Policy ED9 requires consideration of the landscape and visual impacts, including the effects on wild land and the cumulative impact, taking into account the Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 as well as guidance from Scottish Natural Heritage.

Landscape Character

In terms of the Borders Landscape Assessment 1998 the site lies within Landscape Character Type (LCT) 4CHG: Southern Uplands Type with Scattered Forest Cauldcleuch Head group. This is an upland landscape characterised by large-scale, rolling, heather moorland and grassland covered hills, with locally prominent scattered large coniferous plantations.

Internal visibility is intermediate. External visibility is high and visual sensitivity is high due to the important roads used by local, business and leisure traffic in the adjoining valleys (A7).

The site is close to the adjoining LCT 5WN: Southern Uplands Type: Forest Covered: Wauchope/ Newcastleton, also an 'Upland' type, and is less than 5km from a number of 'River Valley' and 'Upland Fringe' character types, which all lie in an arc to the north.

The site is not one of the nationally designated areas of Wild Land. The site is outwith the Teviot Valley Special Landscape Area. Although there is some public support for the designation of a Scottish Borders National Park, there are no policies within the Local Development Plan relating to a national park and so this cannot be taken into account in assessing this application.

Landscape Capacity

As mentioned above, the Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 is referred to within policy ED9 and is therefore is a material consideration in respect of this application. This uses the Borders Landscape Assessment to assess the suitability of each landscape type for differing turbine typologies.

LCT 4CHG (Cauldcleuch Head Group) is classified as having a 'medium capacity' for Very Large turbines, defined as being over 100m high to blade tip. The supporting text states that there are no landscape designations or long distance footpaths and the area is sparsely populated and has a low intervisibility. There is capacity for large and very large turbines in the more elevated upland areas where topographical containment reduces intervisibility. Although not a landscape designation, the southern area of this LCA contains a large SSSI and SPA which may impact on potential turbine developments. Consideration must also be given to the setting of Hermitage Castle.

The site is located in the northern area of 4CHG and is distant from the SSSI, SPA and Hermitage Castle. It is concluded that the Capacity Study therefore offers some support for a wind farm with 'very large' turbines over 100m high at this location.

Advice from the Forward Planning Section is that the application should be assessed against the Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 as this is specifically referred to in policy ED9, which has been adopted by the Council. The 2016 report forms part of the draft Supplementary Planning Guidance on Renewable Energy, which has been out to public consultation but has not been approved by Full Council or adopted by the Council and so carries little weight in the determination of this application.

Theoretical Visibility

In assessing effects on landscape character, the Council's Landscape Architect advises that it is helpful to focus on those areas which are affected directly by the development i.e. focus on those areas which have a clear view of the development.

The Zone of Theoretical Visibility (ZTV) Maps (Figures 2.1 to 2.7 of the SEI) illustrate the potential visibility of the turbines to hub height and blade tip height within 10km, 20km, 30km and 35km zones and the extent of landform containment. The main visual impacts can be expected at the closer range and so the assessment focusses on the 10km range. Figures SEI 2.7 to 2.9 show how visibility interacts with the various LCTs; large structures can affect the character of the landscape within the receiving LCT and those adjoining where there are clear views.

The ZTVs show a slight reduction in the extent of theoretical visibility for the revised scheme. Viewpoint (VP) 1: Langburnshiels and VP3: south of Langburnshiels on the B6399, to the south of the site and VP6: A6088 to the west of Bonchester Bridge and VP8: A6088 to the east of Bonchester Bridge, indicate that there would be some localised effects on landscape character. A swathe of land running north east to south west to the north of Hawick would also be affected, as seen in VP23: Minto Hills, VP16: A7 at Hawick and VP25: B711 at Robertson. However, the Council's Landscape Architect does not consider these to be character changing at such a distance (over 10km). Overall, the site is considered to be relatively well contained.

Landscape Impact

The receiving landscape is defined as a large scale, unenclosed upland type that lacks detailed features and can more easily accommodate large structures such as wind turbines. The receiving landscape is therefore suitable in terms of scale. However, a number of smaller scale upland fringe and river valley landscapes are located to the north east, within close range of the site and would experience significant landscape effects.

The site does not have any special landscape designations. It is a self-contained valley that is not readily visible from most external directions due to the screening provided by higher ground to the north west and south east. An exception is the area to the north east where the landform opens out where the Pines Burn flows toward Bonchester Bridge and then joins other burns to become the Rule Water. To the north east of Bonchester Bridge, the valley is included within the Teviot Valley Special Landscape Area and there are scenic views from there back towards the site. These include VP11: Bonchester Hill and VP17: B6357 at Swinnie where the development would be seen as a dominant element in the landscape, breaking the skyline, albeit from distance. The development would also be prominent when viewed from the B6399 Newcastleton to Hawick road to the south (as seen in VP3). However, from other directions, the impacts on landscape and scenic quality are limited. In terms of perspective, the development is likely to make some of the surrounding hills appear smaller and less dramatic.

The Council's Landscape Architect advises that the general appearance of the turbine array avoids the problems of 'stacking' that affect some sites and there seems to be a degree of coherence to the site layout from the various angles of view. The proposed height of the turbines, though slightly reduced, is still a concern. At the revised height of 149.9m to blade tip the turbine height far exceeds anything approved within the Scottish Borders. Focal features in the landscape, such as Maiden Paps to the south west and Bonchester Hill to the north east, would be diminished in the landscape by the competing presence of very large turbines. It is considered that a smaller turbine of more conventional size seen elsewhere in the Borders would be less dominating because the scale differences would be less marked.

The reduction in the height of the turbines has removed the need for aircraft navigation lights at night and the consequent effects on "dark skies".

Scottish Natural Heritage has not objected to the application. They acknowledge the degree of containment available but consider that the proposal would have adverse landscape effects on localised parts of the LCT. The wind farm would be a prominent addition to the skyline when viewed from Hawick, from some hill tops, such as Rubers Law and Bonchester Hill, and the lowland area to the north east around Bonchester Bridge. In addition the development would have a regimented appearance, with significant stacking, when viewed from Rubers Law.

Scottish Natural Heritage has also expressed concern regarding the height of the turbines, reducing the perceived scale, prominence and expansiveness of the Southern Upland Hills and the prominence of Maiden Paps and Bonchester Hill. In addition, the development would form a prominent new focal feature at the head of the Rule Valley, causing a significant and adverse indirect effect upon parts of the wooded upland fringe Rule Water unit, a LCT that is more sensitive to wind energy development, given its smaller scale and more complex pattern.

In summary, the receiving landscape is characterised as large scale, upland and is acceptable in scale and provides a degree of containment. The height of some of the turbines has been reduced and this has lessened the landscape impacts somewhat and removed the need for night time aviation lighting. However, the scale of the turbines would dominate the landscape from certain viewpoints, there would be a degree of diminution of local features and there are local issues in relation to landscape character within the smaller upland fringe and river valley landscapes. The Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 offers some support for the development of very large turbines, however the turbine heights would aggravate the landscape impacts. Taking this assessment into account and the lack of objections from statutory consultees, there are insufficient reasons to sustain a recommendation for refusal on landscape grounds.

Visual Impacts – Roads and Paths

The ZTV confirms the extent of theoretical visibility of the wind farm and viewpoints have been selected based on this to illustrate the visual impact of the development from various high sensitivity receptors. The ES has considered a number of receptors, with significant effects identified in locations close to the site.

The A7 is a major tourist route through the Borders. The ZTV demonstrates that the wind farm would potentially be visible from sections of the A7 north of Hawick within the 20km range. VP16: A7/Galalaw roundabout indicates that the tips of 3 turbines would be visible at a distance of 10.4km away, which is not significant, though the ZTV indicates increased visibility further north of this point.

The A6088 runs from the A68 to the south of Carter Bar to the south east of Hawick. A number of photomontages have been provided for this stretch of road. Carter Bar itself has been identified in the SPG on Wind Energy as being of significant strategic importance and is safeguarded with a 7km buffer. The ZTV indicates that there would be no visibility from Carter Bar. Within the 10km range, the wind farm would be visible to varying degrees along the A6088 to the north east of the site, most notably VP8: to the east of Bonchester Bridge, which indicates open views of the development where all 12 turbines would be visible, breaking the skyline at a distance of 6.4km, and VP6: west of Bonchester Bridge, which shows that two turbines would be partially screened by topography and vegetation but the remainder would be visible at a distance of 6.1km with no containment, breaking the skyline.

The B6399 Newcastleton to Hawick road is to the west of the site. The ZTV indicates that the main visual impact would be close to the site at Langburnshiels, as shown in VP1 and VP3, where the wind farm would be seen as a dominant feature in the landscape when travelling north and the visual effects would be significant. Beyond this the topographical containment of the site limits views to turbine tips.

The B6357 links the A68 with Bonchester Bridge. The ZTV indicates visibility for a short section of this route between Swinnie and Wester Fodderlie. VP17 Swinnie shows the wind farm at a distance of 11.3km. This is a smaller scale landscape and the turbines would be seen as a dominant skyline feature between Bonchester Hill and Rubers Law, although there would remain higher landforms within that view.

There are a number of core paths, public rights of way, promoted paths and permissive paths within the 20km range. These are linked to several significant hills within the area.

The Boders Abbeys Way is a strategic long distance footpath and links Hawick, Selkirk and Jedburgh. The path to the north west of Hawick passes Drinkstone Hill, an iconic viewpoint in the SPG on Wind Energy. VP20 shows a degree of screening from the landform and vegetation, with hubs and blades visible at a distance of 12.5km, some breaking the skyline above the Border ridge. VP21 at Black Law 13km to the north east shows all the turbines would be visible but at a distance, with the hills beyond acting as a partial backdrop.

There is a Core Path (126), promoted paths and rights of way to the west of the site centred on the Shankend Viaduct, Penchrise Hill, Greatmoor Hill and Maiden Paps. VP4: Penchrise Pen and VP9: Greatmoor Hill demonstrates that significant visual effects would occur for walkers in these locations, with visibility increasing as walkers climb to higher ground.

To the north east there is a right of way from Highend and a promoted path from Forkins and Crown Plantation linking with the A6088 and Bonchester Bridge. There would be significant effects on walkers from sections of these paths.

Border Loop Cycle Route passes through Roberton and Hawick through to Bonchester Bridge via the minor road between the B3699 and the A6088 at Hawthornside. VP2: junction of the B6399 and the minor road indicates that visibility is limited to 2 blade tips due to the landform and vegetation. The ZTV indicates that the 12 turbines would be visible at Hawthornside but in VP5 visibility is restricted by forestry plantations to hubs and blades only at a distance of 4.6km.

The summit of Rubers Law, within the Special Landscape Area, is accessed by a number of paths and the summit offers open, panoramic views popular with walkers. The nearest turbine would be 9.5km south west from the summit. All turbines are visible, as seen in VP14, and the majority would break the skyline due to their scale. The wind farm would be highly visible in this open landscape when viewed from this iconic viewpoint, but it is felt that the layout of the turbines would result in a condensed form of development that is limited in extent in a wider varied landscape when viewed from Rubers Law.

Bonchester Hill, also within the Special Landscape Area, is part of a circular promoted path within 7.1km of the nearest turbine. The visual impacts are similar to those from Rubers Law and significant effects are acknowledged in the ES (VP11).

Minto Hill is 14km from the nearest turbine and another iconic viewpoint accessible to the public. VP23 indicates that the some topographical screening is available to partially screen the turbines, but due to their height, they break the skyline, though at a distance.

Although the Eildon Hills are 26km from the site they are of significant strategic importance in terms of the SPG and are within the National Scenic Area and so the impact of the development on the visitor's appreciation of these hills must be considered. VP29 indicates that there would be long distance views of the turbines.

Scottish Natural Heritage advises that the proposal is located within an area of the Southern Uplands that forms a continuous and prominent horizon to the more settled and transitional landscape to the north. The scale of the development means that it will be a fairly prominent addition to the skyline in views from the north. They accept that the landform provides a degree of containment and in some mid-range views only the blades or blade tips will be visible (VP12: Hermitage Hill, VP13: minor road to the north of Chesters and VP16: north of Hawick) but consider that the proposal

would be highly prominent in some localised views, with the most significant effects from the B6399 (VP1 and 3 at Langburnshiels) and from key hilltops (VP11: Bonchester Hill and VP14: Rubers Law) and from settled lowland locations to the north east (VP8: A6088 to the east of Bonchester Bridge and VP17: B6357 at Swinnie). SNH concludes that the development would be fairly eye-catching addition to these scenic rural views, with almost entire visibility of the turbines.

In summary, significant visual impacts have been identified in certain locations, generally closer to the site, where there are clear views of the proposed development. From certain receptors the development would appear dominant on the skyline. However, overall, it is not considered that the visual effects from the more sensitive receptors are so significant that the application becomes unacceptable.

Visual Impacts – Residential Receptors

Scottish Planning Policy advocates the identification in Local Development Plans of an area not exceeding 2km around settlements as a community separation for consideration of visual impacts. There are no settlements within 2km of the nearest turbine, though there are a number of settlements within 5km.

Hawick is located 7.8km from the site. The ZTV indicates that theoretical visibility is predicted on the higher parts of the north western edge of the town. VP16: A7 north of Hawick shows that there would be no significant visual impact.

Bonchester Bridge would be 4.6km from the nearest turbine and the ZTV indicates visibility would be limited to small areas to the west of the settlement with the majority of the settlement falling outwith the ZTV. The visual impact on Bonchester Bridge itself would not be significant.

The ZTV indicates that there would be no visibility from Kirkton, Denholm, Hobkirk or Chesters.

There are 11 residential properties within 2km of the site. The ES contains an assessment on the impact of the development on the visual amenities of occupiers of these properties and photomontages from some of them. The consideration is whether any significant effects are of such intensity that they result in serious harm to living conditions. The informal 'Lavender Test' is often applied to assess the impacts on residential receptors and whether the turbines would appear so unpleasant, overwhelming and oppressive that the dwelling would become an unattractive place to live.

Wyndburgh Cottage (VP: R2) and Slitrig Cottage are to the north of the B6399 and 1.3km from the nearest turbine. The development would be very prominent when viewed from the north elevations and garden ground of these properties due to their height and proximity. The ES classifies the effect as major and significant.

There are two properties within the converted steading at Langburnshiels (Coopers Cleuch and the Steading). These would be 1.3km from the turbines. Landform would limit visibility to partial views and the effect would be major/moderate.

Langburnshiels Farmhouse (VP: R3) is situated on elevated ground above the B6399 and the garden ground is 1.2km from the nearest turbine. The development would appear very prominent in north easterly views only from the property and the effect would be major/moderate.

Shankendshiels is to the south of the B6399 and is 1.4km to the south west of the nearest turbine. Views of the development would be filtered by vegetation and landform and the effect would be major/moderate.

Berryfell Farmhouse and Cottages (VP: R4) are 1.7km from the site and intervening landform would restrict views to one hub and blade tips. Penchrise Peel would be 1.8km from the site and views of hub and blade tips would be visible due to intervening landform. Significant effects are also acknowledged in the ES for dwellings at Harwood Burn, Hawthornside and properties along the A6088 south of Bonchester Bridge (VP8).

Shankend Signal Box, Shankend Station Cottage, Shankend Farm, Pleakknowe would be screened from the development by intervening landform and the effects would not be significant. Lurgiescleuch (VP: R1) is a financially involved property on the Harwood Estate.

The ES concludes that the turbines would not be present in such numbers, size and proximity that they represent an unpleasantly, overwhelming or oppressive presence in the main views from these dwellings that they would become an unattractive place to live.

The conclusions of the ES assessment are accepted. However, the proximity and scale of some of the turbines to the properties at Langburnshiels is a concern. Whilst the properties would not become unattractive places to live, the outlook would be significantly affected in certain directions. It is acknowledged, however, that the primary outlook of these properties is southward, away from the proposed turbines. On balance, therefore, it is considered that the effects are not at such a level or affecting a great number of properties that the application should be refused.

Visual Impact – Associated Infrastructure

The associated works would include crane hardstandings, a new vehicular access from the B6399, site tracks, construction compounds and two borrow pits. The application site is within a shallow basin benefitting from screening provided by the higher ground to the north west and south east. The associated structures would not be prominent within a forest context that benefits from land form screening.

It is the intention that the majority of the associated infrastructure is to be removed either at the end of the construction period or the operational life of the wind farm. To avoid unnecessary lasting impacts suitably worded conditions can agree the eventual removal of these structures.

Cumulative Landscape and Visual Impacts

Policy ED9 requires all cumulative landscape and visual impacts to be considered and recognises that in some areas the cumulative impact of existing and consented development may limit the capacity for further development.

A development of this size can be considered to be character changing, in terms of landscape, where the turbines become a dominant feature, especially within a 10km range. The southern Borders are relatively undeveloped in terms of wind farms.

The only operating wind farm is Langhope Rig, 19.5km to the north west. No Cumulative ZTV has been provided and the ES states that there is limited visibility.

This is confirmed by the viewpoint analysis, where both wind farms are visible from Greatmoor Hill (SEI Fig 2.47c VP22) at a distance.

Windy Edge is the only consented scheme within the 30km range. The Cumulative ZTV (SEI Fig 2.40) indicates small areas of joint visibility to the south due to the two schemes being separated by higher ground. This is confirmed by the viewpoint analysis within the SEI. This means that there will be relatively little cumulative impact but there would be a greater degree of sequential cumulative impact as the observer moves out of the “viewshed” of one scheme into the viewshed of the other.

Birneyknowe wind farm is currently the subject of a public inquiry as the Council objected to the Section 36 application and is 4.9km to the north of the site. The ZTV indicates large areas of intervisibility with the Pines Burn proposal within the 10km range and intervisibility to the north west and east within the 20km range and so there would be a high potential of cumulative impact between the two schemes. The Council Landscape Architect advises that this area covers a greater number of sensitive receptors and so the coincident cumulative impact is potentially the most significant. This is demonstrated by SEI 2.43b VP4: Penchrise Pen, Fig 2.45a VP9: Greatmoor Hill and Fig 2.46a: VP14 Rubers Law.

Three separate turbine arrays are proposed at Wauchope East, Wauchope West and Newcastleton Forest. A scoping opinion has been issued based on 90 turbines at 132m but this may change and the exact number, height and layout of the turbines are not yet known. Based on the scoping opinion information, the closest proposal to this site would be Wauchope West at a distance of 3.2km on the other side of Wyndburgh Hill. The ZTV indicates a wide range of cumulative effects with the three large arrays that form the Wauchope and Newcastleton scheme. SEI Fig 2.44a VP8 indicates the cumulative impact from the A6088 east of Bonchester Bridge in relation to Pines Burn and Wauchope West. VP9 from Greatmoor Hill and VP14 demonstrate the cumulative impact of Birneyknowe, Pines Burn and Wauchope East and West.

The Energy Consents Units has also received a request to provide a Scoping Opinion for a windfarm at Cliffhope consisting of 46 turbines with a maximum tip height of 200m on land approximately 2km south east of Pines Burn. Given the scale, height and distance from Pines Burn, there will likely be further significant cumulative effects which have not been considered in the ES or FEI due to the very recent submission.

Clearly cumulative impact is a complex issue based on hypothetical outcomes but there is the potential for a major change in landscape character over a significant part of the area between Hawick and the Border ridge, if all the proposed schemes are developed.

In terms of cumulative visual effects, the Landscape Architect advises that VP14: Rubers Law indicates potential significant cumulative effects on Rubers Law from all the proposed wind farms, including Pines Burn. The various proposals would create significant coincidental and sequential visual impacts from a variety of viewpoints but this will depend on which developments are approved and implemented.

The impact on residential properties within 2km is assessed in the ES and there would be significant cumulative visual effects for a number of residents at Hawthornside and to the south of Bonchester Bridge if the Pines Burn, Birneyknowe and the Wauchope/Newcastleton scheme are developed.

Scottish Natural Heritage advises that the proposal has the potential to cause adverse cumulative landscape and visual effects in conjunction with the Wauchope and Birneyknowe schemes. In particular they are concerned about the cumulative landscape effects on the skyline of the Southern Upland Hills and the potential major landscape change should all schemes be consented and wind farm development would become a characterising feature in the landscape between Hawick and the Southern Upland ridges.

From Rubers Law (VP14) SNH considers that Pines Burn appears more regimented, with significant stacking and overlapping of blades whereas the other proposals respond better to the underlying landform, in terms of scale, arrangement and with less overlapping, back dropped below the skyline. From Penchrise Pen Pines Burn would consolidate or intensify the band of wind farm development in conjunction with the Wauchope schemes.

In summary, there is a wide range of potential scenarios for combined and sequential cumulative effects with other wind farm developments. The cumulative impact, should all the developments be approved and implemented, is a significant concern. However, given the lack of existing or consented windfarms in the vicinity and the fact that the most advanced case (Birneyknowe) is only at appeal stage, it is not considered that cumulative impact, in itself, is a reason to reject the application.

Forestry

The site contains 292 hectares of forestry and woodlands. A total of 23.24 hectares would be removed to accommodate the development and 24.31ha would be removed from areas around the turbines to ensure stability of surrounding trees. Compensatory replanting extending to 43.08 hectares is proposed on land within the planning boundary

Forestry Commission Scotland has requested that a condition requiring the developer to deliver an agreed scheme of compensatory replanting on-site within an agreed timescale that matches the amount of forestry to be felled.

The Council's Landscape Architect has no objections to the tree felling provided that all the compensatory planting takes place within the applicant's landholding. He advises that there is an opportunity to use this planting to provide mitigation of the visual impacts of the development on specific receptors, especially the residential properties at Langburnshiels.

Turbine Micro-siting

The ES states that a micro-siting allowance of 50m is appropriate for turbines and associated infrastructure. The issue of micro-siting has to be fully considered and a degree of flexibility is suitable to allow for further investigation into ground conditions but this has to be balanced against the visual impact of the change.

SEPA requires that no turbines or supporting infrastructure are sited closer to watercourses or Groundwater Dependent Terrestrial Ecosystem (GWDTEs). Given the proximity to residential properties, the turbines should not be permitted to move closer to these properties. A micro-siting condition would require the applicant to undertake wireframe analysis of any micro-siting requirements to illustrate that each turbine's revised position can be tolerated in the landscape without increased adverse visual impacts.

Residential Amenity

Policy ED9 requires the impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker to be considered. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Members will note that visual impacts have been considered earlier in the report.

Noise

Environmental Health has been consulted to provide advice on whether noise generated by the proposed development, either individually or cumulatively in association with noise from other neighbouring schemes will have an unacceptable impact on residential receptors.

A noise assessment has been carried out by the applicant and is contained within the ES. This is based on background noise data obtained at two survey locations. These sites have been used to derive noise limits as proxies for other noise sensitive premises in the vicinity of the development.

Environmental Health has confirmed that this has been undertaken in accordance with guidance produced by the Department of Trade and Industry in the Assessment and Rating of Noise from Wind Farms (ETSU(R) 97) and the Good Practice Guide produced by the Institute of Acoustics. The noise predictions for the development have been undertaken using the recommended noise modelling methodology and correction factors.

Noise levels arising from the development have been calculated and a table of noise limits has been produced, giving a maximum level for each identified receptor at each integer wind speed. Separate tables have been produced for day time and night time. The Assessment has concluded that there are no nearby existing or consented wind energy developments with which cumulative noise impacts might arise.

Environmental Health has confirmed that the modelling and assessment work undertaken in connection with this application has demonstrated that there will be no unacceptable noise impacts on local receptors from the operation of the wind farm.

The ES states that construction will take place between 7.00 and 18.00 Monday to Friday and 8.00 to 14.00 on Saturdays and not at all on Sundays and Bank Holidays, unless agreed. The applicant has undertaken an assessment of the noise arising from construction of the scheme, including traffic movements within the site and along local roads. This concludes that no major noise impacts are predicted and it is intended to control noise impacts by condition via a Construction Method Statement. A condition will also control the timing of construction activity.

It is recommended that the standard condition adopted by the Scottish Government is used to control noise levels from the development. If planning permission is granted it would then be the responsibility of the developer/operator to comply with these noise limits. The condition sets out a requirement on the operators of the development to appoint independent noise consultants to record noise emissions from the development and to investigate and resolve any noise issues and complaints to the satisfaction of the Planning Authority.

Shadow Flicker

The ES includes an assessment of the potential for shadow flicker effects. This was based on a study area comprising of a distance of 10 rotor diameters from each turbine (1168m).

One property was identified within the potential shadow flicker zone, Lurgiescleuch. This property is financially involved in the wind farm. At Shankend Station shadow flicker would occur for 19 minutes a day/1.58 hours per year. The ES concludes that this is not significant but recommends that if complaints are received these are investigated and appropriate mitigation occurs. This would be controlled by a planning condition. There is no potential for significant cumulative effects in respect of shadow flicker.

Cultural Heritage Impacts

The application has to be assessed against policy ED9 in respect of impacts on the historic environment and policy EP8 which seeks to protect the appearance, fabric or setting of Scheduled Monuments or other national, regional or local significance. Development proposals that adversely affect such sites would only be permitted if it is demonstrated that the benefits of the proposal clearly outweigh the heritage value of the asset and there are no reasonable alternative means of meeting the development need. The supporting text of Policy EP8 establishes the aim of the policy is to give Scheduled Ancient Monuments and any other archaeological or historic asset or landscapes strong protection from any potentially damaging development.

The Council's Archaeology Officer does not object to the application but does have concerns that the development poses individual and cumulative significant adverse impacts of development for the reasons set out below.

Direct Impacts on Known and Unknown Assets

The Council's Archaeology Officer advises that the applicant has sought to avoid construction impacts to known heritage assets by design. However, there are a number of assets where avoidance is not possible and mitigation is proposed, which is considered to be an acceptable approach and can be secured by condition.

However, there is potential for encountering previously unknown archaeological buried deposits outside those areas highlighted in the ES. In particular, the proximity of turbines 1 and 2 and their infrastructure to the Fernilees Sike, which would have been an important source of water for the residents of the Ringlees settlement and would, therefore have seen activity along the sike and the lands around it. There is a low to moderate potential of encountering features or deposits associated with this activity. This is in addition to the likely early post-medieval enclosed fields nearby. It will be necessary to condition an agreed archaeological scheme of works to mitigate the loss and potential loss of known and unknown archaeological features.

Setting

There are potentially significant indirect (setting) impacts to two undesignated and two designated heritage assets. The undesignated assets are probable prehistoric settlements on Ringlees Knowe and Wilson's Shoulder.

The development will also pose significant impacts to the Scheduled Monuments of Penchrise Pen fort and earthwork. The closest turbine is 4.5km away (VP4). It is clear that the settlements to the east of the Pen and into the Slitrig Water (including the Blakebillend fort and the settlements at South Berryfell) form a coherent unit of likely contemporary late prehistoric or early medieval settlement. The settlements in the Slitrig valley are visible from the Pen, and from the settlements the Pen appears as a very prominent peak jutting from a gap between White Hill and Burnt Craig. These coherent relationships form a critical aspect of the historic landscape thus increasing its importance, as does the Slitrig Water, which is a key setting element in all settlements within its valley. The placement of a wind farm along the Pines Burn would impact this prehistoric element of the historic landscape. While there is some topographic containment and separation afforded by Pike Fell, the high visibility of the wind farm from Penchrise Pen will distract and have a dominating tendency over that landscape. It is accepted that the understanding and appreciation of key setting relationships between sites within this will remain, however, the experience of the landscape will be greatly affected visually. The wind farm would also introduce large-scale industrial elements on the fringes of an historic landscape, which is generally agrarian, with small-scale built structures, and developed as such over millennia.

These moderately significant impacts are potentially contrary to Policy ED9, as the justifications for development in this location may not outweigh the moderate significant effects on monuments of national cultural significance and their settings. There must be clarity that the benefits outweigh the moderate adverse impacts to the monuments on Penchrise Pen and their setting, that there is no alternative means of meeting development need and that these impacts are acceptable. It is not clear from the ES that the policy tests have been met. However, it is accepted that the development is on the margin of acceptability in its own right and on balance can be supported.

Cumulative Impacts

From Penchrise Pen fort and settlement the proposed development would be seen in combination with the developments at Birneyknowe and Wauchope Forest West and East (VP 4). The Birneyknowe wind farm would occupy the line of site and key setting relationships between Penchrise Pen and the Scheduled Monuments on Rubers Law and Bonchester Hill, whilst the proposed development would sit behind key relationships with prehistoric settlements in the Slitrig Valley. It would sit in front of the Wauchope wind farm to the east.

In respect of Birneyknowe, the Council has objected to the Section 36 application on the basis of significant impacts to the settings of forts on Penchrise Pen, Rubers Law and Bonchester Hill due to the wind farm intervening in key setting relationships between the forts. The addition of a wind farm at Pines Burn, with its individually moderate significant impacts, would increase the sense of enclosure by wind energy development to the east from Penchrise Pen and add to the distraction and dominance of turbines within and on the edges of key setting relationships. The sense of Penchrise Pen as a dominant historic landscape element would also be increasingly illegible when viewed from Rubers Law and Bonchester Hill. The cumulative impact if both Birneyknowe and Pines Burn were they to be consented is potentially major. Not only would there be a major impact to key setting relationships from the Birneyknowe scheme, the addition of Pines Burn would fundamentally alter the baseline historic landscape context from an organically developed agrarian one to one that is increasingly industrialised. The addition of further wind farms to the east (at Wauchope) would only add to this sense. If the Birneyknowe application is

consented there would be a moderate to major, and therefore unacceptable, significant cumulative impact. There can be no mitigation for these impacts, however there are potential enhancements that can increase the appreciation, experience and understanding of assets and their historic landscape context and this can be secured by a condition.

Historic Environment Scotland has considered the impact of the development on Schedule Ancient Monuments in the surrounding area and considers that the turbines would have a significant visual impact on views from Penchrise Pen fort and earthworks, especially to Blakebilleend fort, with all turbines visible behind the fort resulting in moderate significant effects to the setting of the monuments. All twelve turbines would be visible in views to the south west of Rubers Law fort and Roman signal station (VP 14); the nearest turbine is 9.5km away. Given the scale of the turbines, the commercial forestry providing little screening but given the wide panoramic views afforded to this monument, Historic Environment Scotland class the significant effect as minor. A similar conclusion was reached for Bonchester Hill (VP 11 – the nearest turbine is 7.1km away). They conclude that these impacts do not raise issues of national significance and so do not object to the application. They do, however, express concern about the growing cumulative impacts of wind farm developments on the setting of Ancient Monuments in this area.

In summary, the direct impacts on known and unknown archaeological assets highlighted by the Council's Archaeology Officer are acknowledged and it would be desirable to secure a scheme of archaeological works to mitigate the loss and potential loss of these archaeological features. The significant adverse effects on the setting of Penchrise Pen fort and earthworks Scheduled Ancient Monuments, especially the cumulative impact should the Birneyknowe wind farm be approved on appeal, have been raised by Historic Environment Scotland and the Council's Archaeology Officer. However, neither has objected to the proposal. On balance, it is felt that the proposal would not have a major significant adverse impact on the Scheduled Ancient Monuments or other heritage assets to warrant a recommendation of refusal of the application. Conditions would secure the mitigation and enhancement measures.

Listed Buildings

Policy EP7 seeks to safeguard the character, integrity and setting of Listed Buildings. There are no Listed Buildings within the site and the only one in the surrounding area is the Shankend Viaduct, a visually prominent historic asset (a category B Listed Building) that dominates the historic landscape in close proximity to the application site. The SEI includes an assessment of the setting impacts to the Shankend Viaduct.

The Shankend Viaduct is situated 0.3km to the west of the site boundary and 1.2km from the nearest turbine. The main views of the viaduct are from the B6399 and public rights of way, which include the path from the B6399 westwards around the viaduct and the path southwards to Penchrise Peel.

The ZTV (Figure 2.5) indicates that there are no views of the wind farm from the B6399 or from the viaduct itself due to the topography of the intervening area. Blade tips would be visible on higher elevations of Penchrise Peel. Taking this into account and the distance from the listed structure to the nearest turbine it is considered that the development would not have a significant detrimental impact on the historic qualities of the viaduct or on its setting or appreciation.

The proposal would not affect any Conservation Areas or Gardens and Designed landscapes.

Ecology, Habitat and Hydrology Impacts

The proposal has to be assessed against policies EP1, EP2 and EP3, which seek to protect international and national nature conservation sites, protected species and habitats from development. Policy ED9 requires consideration of the impacts on natural heritage, hydrology and the water environment.

The ES contains an assessment of the likely impacts on ecology, the water environment, water supplies and flooding and puts forward mitigation measures. Further information and clarification is contained within the SEI.

The proposed development is not located within any international or nationally important areas of nature conservation or known protected species. The site is within 10km of Langholm-Newcastleton moors SPA (qualifying interest: Hen harrier) so there is potential connectivity with the SPA and there is potential connectivity through drainage and watercourses into the River Tweed Special Area of Conservation (SAC).

Scottish Natural Heritage advised that the proposal is likely to have a significant effect on the brook lamprey and Atlantic salmon qualifying interests of the River Tweed SAC due to potential construction-related pollution and requested an Appropriate Assessment and Habitats Regulation Appraisal to determine if the development would have an adverse impact on the integrity of the SAC, to be carried out by the Council, as the competent authority. The Council's Ecology Officer has carried out an Appropriate Assessment and concluded that the proposal would not adversely affect the integrity of the River Tweed SAC. Scottish Natural Heritage has been forwarded a copy of this Assessment and has made no further comment.

A Construction Environmental Management Plan (CEMP) is required containing measures to reduce residual impacts on the water environment and to control pollution and sediment run-off, which would ensure that there will be no significant adverse impact on the integrity of the River Tweed SAC.

SEPA and the Council's Ecology Officer have expressed concerns regarding the impact of the development on the water environment. Although a 50m no-development buffer zone around watercourses is proposed in the ES, a number of turbines and infrastructure would be located within this buffer zone. In addition, turbines and infrastructure would be sited within a highly dependent Groundwater Dependent Terrestrial Ecosystem (GWDTEs). The layout has now been amended to reposition turbines 4, and 6 outwith the 50m buffer zone for watercourses and turbine 11 moved further away. The laydown area for turbine 1 has been repositioned so that most is outwith the 50m buffer. SEPA has now withdrawn their objection. A Drainage Management Plan will be required to avoid and mitigate impacts on GWDTEs.

The proposal would result in a loss of habitat, such as coniferous plantations, grassland, blanket bog and broad leaf woodland. Habitat loss should be compensated for. Replanting proposals and a Habitat Management Plan are required and this should incorporate proposals for habitat replacement, enhancement and ecology benefits.

Good practice regarding stand-off distances to habitat features used by bats would minimise impacts on bats. Pre-construction supplementary surveys and mitigation will be required for otter, badger and red squirrel. There is potential for displacement of breeding birds from the wind farm development. Supplementary checks and mitigation will be required prior to and during construction.

The potential impacts on goshawk are of serious concern. The predicted loss of a bird every 3-4 years could have a significant adverse impact on the regional goshawk population. Post-construction monitoring is required and mitigation proposals including curtailment of wind turbine activity should be submitted if monitoring identifies any subsequent significant adverse impact on the Border Hills Natural Heritage Zone goshawk population. This can be covered by condition.

SEPA originally objected to the proposal due to a lack of information on a number of issues, including flood risk, borrow pits, the impact on private water supplies, peat and waste management. SEPA was consulted on the SEI and has withdrawn their objection, subject to conditions regarding the submission of a CEMP and a private water supply risk assessment, no micro-siting of turbines closer to watercourses and details of the borrow pits.

In terms of flood risk, the site is not at risk from a flood event with a return period of 1 in 200 years. However there are a number of small watercourses are located within the site may be at risk of flooding. Overall, there is minimal flood risk to the site so the Council's Flood Protection Officer has no objections to the proposal on the grounds of flooding provided that her requirements regarding hard surfaces, silt traps to minimise the amount of sediment entering the watercourse, culverts and water crossing are agreed. SEPA has withdrawn their objection on flood risk grounds.

A Decommissioning and Restoration Plan is required to ensure appropriate decommissioning and restoration of the site at the end of the operational life of the wind farm.

Traffic and Road Safety

The ES states that traffic to the site during the construction phase (12 – 18 months) would consist of construction workers (between 15 and 30 personnel), HGVs carrying construction materials, plant and machinery and abnormal loads vehicles carrying the wind turbine components. The estimate for the number of two way HGV trips is 8,074 during the construction period and 40 – 50 two way car and LGV trips per day. Abnormal loads carrying the turbine components would occur over three months and equate to 252 two way trips in total.

The ES accepts that some driver delay is likely. This would inevitably occur at the entrance to the site from the public road, road junctions and through towns along the route. The ES classes this as not significant. The ES has also assessed the cumulative impact of traffic associated with other wind farm developments in the area and concludes that these will not be significant as construction phases would not overlap.

No route was specified for the delivery of the turbine components to the site in the ES. The SEI confirms that the most likely route would be south on the A68 to St Boswells, the A699 to Selkirk, southbound on the A7 to Hawick, the A698 to the junction with the A6088, the A6088 to Hawthornside and the C class road to the junction with the B6399. Upgrading works would be required along this route to facilitate the abnormal loads. A new access wide enough to accommodate the

abnormal load vehicles would be formed from the B6399 into the site with 60m visibility splays in both directions. The existing track would be upgraded.

The Roads Planning Service has no objections to the principle of a wind farm in this location but require a number of issues to be addressed. A Traffic Management Plan (TMP) is required specifying in more detail the delivery route, vehicle numbers anticipated for HGV deliveries, any ancillary works required to the public road network and repairs/reinstatements once the development is complete.

The cumulative effect of the HGV traffic associated with the construction of the wind farm causes some concern. Efforts to try and split the access routes would help to alleviate concern, but this can only be achieved to a certain extent. It is also dependant on the source of stone, either from borrow pits within the site, which would reduce vehicle movements, or elsewhere. Once the details of the stone source have been confirmed, the Roads Planning Service requires further information relating to traffic movements.

The use of the 'C' Class road from Hawthornside to the B6399 is also a concern. This road is in a poor condition and excessive HGVs are likely to cause further damage. The road must be surveyed prior to works commencing, its condition, a regime for routine maintenance during construction and for any permanent repairs to be carried out after the works are complete, agreed.

Depending on the route chosen, works to accommodate the abnormal loads may require planning permission. Once the source and size of the turbine components have been confirmed, swept path analysis drawings of areas of concern must be submitted and any remedial works specified. A drive through of the proposed route would be required, with appropriate members of the Roads Authority to confirm areas of concern and agree remedial works.

Several areas of the abnormal load route may require the removal of street furniture, including lighting. Temporary lighting measures would be required for the duration of the abnormal load movements and consent from the Council is required.

The abnormal load route causes some concern as the upgrading works to facilitate vehicle movements may result in tree and hedge removal, impacting on the visual amenities of the area. A condition is required to secure replacement planting.

Public Access and Footpaths

Policy ED9 requires the impact on public access to be considered. There are no claimed rights of way or core paths on this area of land that would be affected by this development.

The Council's Access Officer advises that there is no consideration given by the applicant to enhancing public access around the site on completion of the development. Tracks to accommodate construction or service vehicles should be available for all types of non-motorised recreational users (pedestrians, equestrians and cyclists) after construction is complete. Where any access tracks pass through or nearby the development area, it may be useful to provide boards on-site detailing development information and information on routes that are accessible and those routes that are temporarily closed due to development. This would assist safe management of the site. Consideration should be given to creating a circular access route around the site utilising existing tracks, new access roads and where necessary

creating a new link path between Turbines T4 and T7 suitable for use by walkers, cyclists and horse riders. These issues can be secured by condition.

The Access Officer recommends that developer contributions should be sought for the promotion, maintenance and management of the wider path network in the local area. However, this is not considered to be appropriate as this would affect land outwith the applicant's control and is not a direct requirement of the development.

Ministry of Defence/Aviation

The Ministry of Defence originally objected to the application. Turbines 11 and 12 would be 12.6km from, detectable by and would cause unacceptable interference to the ATC radar used by RAF Spadeadam at Deadwater Fell. The radar is required to maintain awareness of aircraft movements for air traffic controllers and is necessary to achieving a safe and efficient air traffic service. The turbines would have a significant and detrimental effect on operations of air traffic services at RAF Spadeadam. The proposed development is also in the vicinity the Wigg Knowe threat radar facility, used by RAF Spadeadam electronic warfare tactics facility and may cause unacceptable interference to threat radar sites. Threat radars are employed during military exercises to train pilots against missile threats.

The Ministry of Defence maintained their objection in response to the SEI, adding that the development would also cause interference to the effective operation of the threat radar systems deployed at Larriston Fell.

The applicant has been in discussions with the Ministry of Defence to discuss mitigation to address these impacts and the Ministry of Defence has now withdrawn their objection. Mitigation has been agreed for the threat radar sites in the form of a management plan which will define protocols so that the wind turbines will be stopped for specific, pre-arranged periods when the threat radars are in use. This can be controlled by a condition.

The applicant has advised that this shut-down period is likely to be for a maximum of 240 hours per year. This would result in a 2.5% reduction in output from the wind farm (29,969 homes powered with the radar mitigation compared to 30,754 without). There would also be a 2.5% reduction in carbon dioxide savings (54,022 tonnes compared to 55,436 tonnes without).

Aviation warning lighting is required and will also be secured by a condition.

Economic and Socio-Economic Benefits

Wind energy developments can make an important contribution to the UK economy. Net economic impact is a material planning consideration and local and community socio-economic benefits include employment, associated business and supply chain opportunities.

SPP states that where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit. The Scottish Government's Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments advises that where local benefits are proposed through a shared ownership opportunity and there is an intention to secure a partner organisation, this may be taken into account in determining a planning application.

The ES outlines the socio-economic benefits of the development and these include:

- Direct and indirect job creation during the construction and operational phase of the wind farm and the use of local contractors;
- Investment in Scottish Borders economy and the payment of business rates;
- £180,000 per annum Community Benefit Fund for community projects;
- Shared Ownership Scheme allowing the community to invest in the project and receive an annual return.

It is accepted that some jobs would be created during construction if the developer uses local firms and businesses and there is the potential for employees to use local facilities and services, such as accommodation and shops. Following the construction phase a relatively low level of employment would be generated, though this would rise again during decommissioning.

The socio-economic benefits of the proposed wind farm development can be taken into account as a material consideration in assessing this application. It is accepted that there may be some economic gain. However, the potential for such benefits and thereby economic growth in the consideration of energy proposals must be balanced against any potential adverse environmental impacts that are likely to occur. In this case the claimed benefits do not result in any material impact on the acceptability of the scheme when taking all factors into account.

One issue raised in the representations received is the impact of the wind farm development on tourism. Tourism is a well-established and valuable contributor to the Borders economy based on the scenery and the natural and cultural environment. Whether the wind farm would deter visitors from this area is difficult to quantify. There is no evidence that the proposal would have significantly adverse effects on tourism in the Borders. Taking this into account, the potentially detrimental impact on the local tourism economy cannot be used as a reason to oppose this proposal.

Renewable Energy benefits

NPF3 is clear that the planning system must facilitate the transition to a low carbon economy and facilitate the development of technologies that will help to reduce greenhouse gas emissions from the energy sector. The efficient supply of low carbon and low cost heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. SPP contains the following targets:

- 30% of overall energy demand from renewable sources by 2020;
- The equivalent of 100% of electricity demand from renewable sources by 2020.

SPP supports the development of a diverse range of electricity generation from renewable energy technologies. Policy ED9 requires consideration of the scale of contribution to renewable energy generation targets and the effect of greenhouse emissions.

This proposed development would have a total installed capacity of 36MW, producing electricity equivalent to the domestic power consumed by 36% of households in the Borders and saving 50,000 tonnes of carbon emissions each year,

which would make a moderate contribution to the provision of sustainable renewable energy.

CONCLUSION

The Council remains supportive of wind energy development, as reflected in its policies and guidance. As required by policy considerations, the benefits of energy production and the dis-benefits of environmental impacts must be carefully weighed against one another.

In terms of landscape and visual impact, the scale of the turbines would dominate the landscape from certain viewpoints, there would be a degree of diminution of local features and there are local issues in relation to landscape character. However, the site does benefit from a degree of containment, limiting the visual impact to some extent, and the turbine height has been reduced, removing the requirement for MOD aviation lighting. The Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 offers some support for the development of very large turbines, however the turbine heights do aggravate the landscape and visual impacts. The cumulative impact of the various wind farms proposed for this area, should all the developments be approved and implemented, is a complex picture, based on hypothetical outcomes. The basic conclusion is that there is potential for a major change in landscape character over a significant area between Hawick and the Border ridge and coincident and sequential visual impacts from a variety of viewing positions. However, this is dependent on what is approved and implemented. Taking into account the limited number of receptors that would be significantly affected by the development and the lack of objections from statutory consultees, there are insufficient reasons to sustain a recommendation for refusal on landscape and visual grounds.

The direct impacts on known and unknown archaeological assets are highlighted in the report and a condition would secure a scheme of archaeological works to mitigate the loss and potential loss of these archaeological features. The significant adverse effects on the setting of Penchrise Pen fort and earthworks Scheduled Ancient Monuments, especially the cumulative impact should the Birneyknowe wind farm be approved on appeal, have been raised by Historic Environment Scotland and the Council's Archaeology Officer. However, neither has objected to the proposal. On balance, it is felt that the proposal would not have a major significant adverse impact on the Scheduled Ancient Monuments or other heritage assets to warrant a recommendation of refusal of the application.

Subject to the compliance with the recommended conditions, the proposed development would not generate noise levels that would detrimentally impact on the residential amenity of any of the sensitive receptors. In addition, the proposal does not give rise to any significant biodiversity impacts that cannot be mitigated against and this can be controlled by conditions. Finally, in relation to road and traffic impacts, no specific concerns have been raised by the Roads Planning Service that cannot be addressed by conditions.

It is accepted that the proposal would make a moderate contribution towards energy targets. Taking the above conclusions into account, it is considered that the detrimental impacts of the proposal are not so significant as to warrant refusal.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

Commencement and Conformity

1. The consent is for a period of 25 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be submitted to the Planning Authority no later than one calendar month after that date.
Reason: To define the duration of the consent.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the application, drawings, Environmental Statement and Supplementary Environmental Information (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application and approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. This consent may not be assigned without the prior written authorisation of the Planning Authority. The Planning Authority may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Planning Authority of an assignation having been granted.
Reason: To safeguard the obligations of the consent if transferred to another company.

Micro-Siting

4. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on Drawing Reference Figure 3.1a. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and Scottish Natural Heritage), micro-siting is subject to the following restrictions:
 - a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 3.1a unless a scheme of details, including wirelines showing the alternative positioning of the turbine have been submitted to and approved in writing by the Planning Authority (in consultation with Scottish Natural Heritage and SEPA) and thereafter no development shall take place except in strict accordance with the approved details;
 - b. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50m from the position shown on the approved plan (Figure 3.1a);
 - c. No micro-siting shall take place within areas of peat of greater depth than the original location;

- d. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- e. No micro-siting shall take turbines closer to watercourses or residential properties (not financially involved with the development);
- f. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

Reason: To control environmental impacts, while taking account of local ground conditions, and to restrict micro-siting to a reasonable distance to ensure that any movement of turbines or infrastructure does not give rise to significant change to the layout and appearance of the development.

Design and Operation of Turbines

- 5. No development shall commence until full details of the actual wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour, which should be non-reflective pale grey semi-matt) and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The development to be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that the turbines are compatible with the locality in terms of their appearance and noise output, to protect residential and visual amenities.

Substation and Ancillary Development

- 6. No development shall commence until final details of the siting, external appearance, dimensions and external materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the Environmental Statement and in the interests of the visual amenity of the area.

Signage

- 7. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 none of the wind turbines, buildings other structures, means of enclosure or plant shall display any name, logos, sign, lettering or other advertisement (other than health and safety signage) without the prior written approval of the Planning Authority.

Reason: To safeguard visual amenities.

Turbine Failure/Removal:

8. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement, then it will be deemed to have ceased to be required, and unless otherwise agreed in writing with the Planning Authority, the wind turbine foundation to a depth of 1.2m below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 6 months of the removal of the turbine, or any such longer period agreed by the Planning Authority.

Reason: To safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

Construction Hours

9. Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 18.00 on Monday to Friday inclusive and 08.00 to 14.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, development on the site shall be limited to concrete pours, turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.

HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

Reason: To safeguard residential amenity.

Noise

10. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. The development then to be carried out in accordance with the agreed Statement.

Reason: To safeguard residential amenity.

11. The rating level of noise emissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

- a. The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so;

- b. There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority;
- c. Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;
- d. The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph c above, and such others as the independent consultant considers likely to result in a breach of the noise limits;
- e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise emissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property;
- f. The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise emissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements

shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise emissions;

- g. Where a further assessment of the rating level of noise emissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph d above unless the time limit has been extended in writing by the Planning Authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (including coordinate s)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
			<3	4	5	6	7	8	9	10	11	12
Lurgiescleuch	35519 7	60683 7	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0
Langburnshiels	353411	60413 8	35. 0	35. 0	35. 0	35. 0	38. 2	41. 4	43. 7	44. 7	44. 7	44. 7
Slitrig Cottage	353576	60403 2	35. 0	35. 0	35. 0	35. 0	38. 2	41. 4	43. 7	44. 7	44. 7	44. 7
Wyndburgh Cottage	353622	60400 8	35. 0	35. 0	35. 0	35. 0	38. 2	41. 4	43. 7	44. 7	44. 7	44. 7
Shankendshiel	353323	60401 7	35. 0	35. 0	35. 0	35. 0	38. 2	41. 4	43. 7	44. 7	44. 7	44. 7
Home Covert	356235	60830 2	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0
Harwood	356519	60831 1	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0
Signal Box	352550	60555 2	35. 0	35. 0	35. 1	37. 2	39. 4	41. 1	41. 9	41. 9	41. 9	41. 9
Shankend Station	352400	60571 9	35. 0	35. 0	35. 1	37. 2	39. 4	41. 1	41. 9	41. 9	41. 9	41. 9
Shankend Farm	352323	60596 3	35. 0	35. 0	35. 1	37. 2	39. 4	41. 1	41. 9	41. 9	41. 9	41. 9

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (including coordinate s)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
			<3	4	5	6	7	8	9	10	11	12
Lurgiescleuch	35519 7	60683 7	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0	45. 0
Langburnshiels	353411	60413 8	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 9	46. 5	47. 2	47. 2
Slitrig Cottage	353576	60403 2	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 9	46. 5	47. 2	47. 2
Wyndburgh Cottage	353622	60400 8	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 9	46. 5	47. 2	47. 2
Shankendshiel	353323	60401 7	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 9	46. 5	47. 2	47. 2
Home Covert	356235	60830 2	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0	35. 0
Harwood	356519	60831	35.	35.	35.	35.	35.	35.	35.	35.	35.	35.

		1	0	0	0	0	0	0	0	0	0	0
Signal Box	352550	60555 2	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 5	43. 5	43. 5
Shankend Station	352400	60571 9	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 5	43. 5	43. 5
Shankend Farm	352323	60596 3	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 0	43. 5	43. 5	43. 5

Reason: To protect nearby residents from undue noise and disturbance and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

Shadow Flicker

1. No development shall commence until a written scheme has been submitted to and approved in writing by the Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Planning Authority from the owner or occupier of a dwelling which lawfully exist or for which planning permission has been granted at the date of this permission. The written scheme shall include mitigation measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved protocol unless the Planning Authority gives its prior written approval to any variations.

Reason: To offset impacts of shadow flicker on residential amenity.

Television interference:

13. No development shall commence until a Television Reception Mitigation Plan has been submitted to and approved in writing by the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any turbine forming part of the development, the results of which shall be submitted to the Planning Authority. The approved Television Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the developer/operator and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the development, the developer/operator shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of this development.

Air Traffic Safety

14. No development shall commence until the developer has provided written confirmation to the Planning Authority and the Ministry of Defence of the:
 - a. Anticipated date of commencement of each stage of construction;
 - b. The maximum height above ground level of construction equipment, each turbine and any anemometry mast and

- c. The position of each turbine (in latitude and longitude).

The developer shall provide the Planning Authority and Ministry of Defence with details of any changes to this information as soon as reasonably practicable.

Reason: In the interests of aviation safety.

- 15. Prior to the erection of the first wind turbine a scheme of aviation lighting for the wind farm shall be submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the consent.

Reason: In the interests of aviation safety.

Threat Radar

- 16. No development shall commence until a Radar Mitigation Scheme setting out measures to be undertaken to address the impact of the wind farm upon military testing and training, in particular, the operation of threat radar type equipment at the remote threat radar sites at Larriston Fell and Wigg Knowe and the military testing and training activities that utilise the radars, has been submitted to and approved in writing by the Planning Authority in consultation with the Ministry of Defence.

No turbines shall become operational until those measures within the Radar Mitigation Scheme have been fully implemented and evidence of this has been submitted to and approved in writing by the Planning Authority, in consultation with the Ministry of Defence

The development then to be operated fully in accordance with the approved Radar Mitigation Scheme for the operational life of the wind farm or during the time that the remote threat radar sites at Larriston Fell and Wigg Knowe are retained by the Ministry of Defence for the purposes of military testing and training.

Reason: To secure mitigation of impacts on the threat radar type equipment at the remote threat radar sites at Larriston Fell and Wigg Knowe and the military testing and training activities that utilise the radars.

Road Safety

- 17. No development shall commence until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority. The TMP to include:
 - a. The detailed delivery route and vehicle numbers for all cars, HGV deliveries and abnormal loads associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - b. Details of all ancillary works required to the public road network to facilitate deliveries, including all signage and lining arrangements, a programme and timescales for implementation and reinstatement proposals after the development is complete and a programme and timescales for completion;

- c. Road condition survey of the 'C' Class road from Hawthornside to the B6399 carried out prior to the development commencing and details of any upgrading (passing places and strengthening) and a regime for routine maintenance during construction of the development. Any remedial works required as a result of damage/deterioration by construction traffic (to be highlighted in a post construction road condition survey) to be rectified at the expense of the developer after the development has been completed in accordance with an agreed timescale;
- d. Details of tree or hedge removal along the route for the abnormal loads and a scheme for replacement planting and a timescale for its implementation and completion;
- e. Swept path analysis drawings for agreed areas of concern along the route for the abnormal loads and remedial measures;
- f. Areas of the abnormal load route where the removal of street furniture, including lighting, is required and all temporary lighting measures required for the duration of the abnormal load movements;
- g. A detailed engineering drawing of the proposed access and visibility splays from the B6399;
- h. Name and contact details of a nominated person to whom any road safety issues can be referred.

The approved TMP thereafter to be implemented in full, unless otherwise agreed in advance in writing by the Planning Authority and all work within the public road boundary to be undertaken by a contractor first approved by the Council.

Reason: To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Council's specifications, in the interests of road safety.

Access Tracks

- 18. No development shall commence until details of the position, length, width, materials and drainage of the new and upgraded tracks within the site have been submitted to and approved in writing by the Planning Authority. The tracks then to be installed in accordance with the approved details. Newly formed hard surfaces should be attenuated to existing greenfield runoff rates.
Reason: To safeguard areas of ecological interest, watercourses and visual amenities and to ensure there is no increased flood risk to downstream receptors within Hobkirk and Bonchester Bridge.

- 1. No development shall commence until details of all watercourse crossings, culverts and alterations to existing crossings (position and design) have been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. These should be designed to convey the 1 in 200 year flow. The development then to be completed in accordance with the approved details.
Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on the water environment and thereby

minimising residual impacts on the River Tweed Special Area of Conservation.

Public Access

2. No development shall commence until a scheme for enhancing public access within the site upon completion of the development has been submitted to and approved in writing by the Planning Authority. This to include tracks used for construction or service vehicles and creating a new link path between Turbines T4 and T7 suitable for use by walkers, cyclists and horse riders, unless otherwise agreed in writing by the Planning Authority. Where any access tracks pass through or nearby the development area, sign boards to be erected detailing information on routes that are accessible and those routes that are temporarily closed due to construction.

Reason: To enhance public access and to assist with the safe management of the site.

Private Water Supplies

19. No development shall commence until a Private Water Supplies Risk Assessment has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the development. The Risk Assessment shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies that may be affected by the development.

Borrow Pits

20. No development shall commence until a site specific scheme for the working and restoration of each borrow pit forming part of the development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:

- a. A detailed working method statement based on site survey information and ground investigations;
- b. Details of the handling of any overburden (including peat, soil and rock);
- c. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- d. A programme of implementation of the works described in the scheme; and
- e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

The approved scheme shall thereafter be implemented in full.

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and

the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

1. Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority. Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

Archaeology

2. No development shall commence until the applicant has implemented a programme of archaeological mitigation in accordance with an approved Written Scheme of Investigation (WSI) that has first been submitted to and approved in writing by the Planning Authority.

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 mitigate the loss and potential loss of known and unknown archaeological features.

3. No development shall commence until a detailed scheme of cultural heritage enhancement has been submitted to and approved in writing by the Planning Authority. The approved scheme then to be implemented in full before the development hereby approved becomes operational.

Reason: To improve the understanding, appreciation and experience of heritage assets where their settings and historic landscape contexts are affected by the development.

Ecology:

4. No SUDS ponds or settlement lagoons shall be placed on areas deemed to Ground Water Dependent Terrestrial Ecosystems.

Reasons: To avoid impacts on wetland ecology.

5. No development shall commence until an Ecological of Works (ECoW) has been appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan (CEMP) and to oversee compliance with the Construction Environment Management Plan, Species Protection Plan, Ecological Monitoring Plan and Decommissioning, Restoration and Aftercare Plan ("the ECoW works"). The terms of the appointment shall be submitted for the approval in writing by the Planning Authority in consultation with SEPA and SNH. The terms shall include the requirement to:

- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction Environmental Management Plan and other plans; and

- b. Require the ECoW to report to the Company's nominated construction project manager, the Planning Authority and SEPA any incidences of non-compliance with the ECoW works.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.

- 6. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA. The CEMP shall include:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of "biodiversity protection zones";
- c. Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs;
- d. A Drainage Management Plan;
- e. A Site Waste Management Plan;
- f. An Accident Management Plan;
- g. Responsible persons and lines of communication;
- h. The role and responsibilities on site of an Ecological Clerk of Works (ECoW).

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on the water environment and thereby minimising residual impacts on the River Tweed SAC and that mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

- 1. No development shall commence until a Species Protection Plan, including measures for bats, otter, badger, red squirrel, breeding birds (including goshawk and crossbill), reptiles and amphibia as appropriate, has been submitted to and approved in writing by Planning Authority. This to be informed by pre-commencement surveys carried out no more than 8 months prior to construction works commencing. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that the species affected by the development are afforded suitable protection from the construction, operation and decommissioning of the development.

- 2. No development shall commence until a Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats including blanket bog, wet modified bog, acid grassland, marshy grassland, calcareous grassland, dry dwarf shrub heath and woodland 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 mitigate the loss of habitats as a result of the development.

3. No development shall commence until an ecological monitoring programme, including monitoring in years 1, 3, 5, 10 and 15 following construction, for breeding waders has been submitted to and approved in writing by the Planning Authority. This should also include proportionate post-construction monitoring of protected mammals (bats, otter, badger and red squirrel as appropriate) and habitats. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure suitable procedures are in place to monitor the impacts of the development on ecological interests.

4. No development shall commence until a monitoring and mitigation plan for goshawk has been submitted to and approved in writing by the Planning Authority, in consultation with SNH, RSPB and the Lothian & Borders Raptor Study Group. This should include mitigation proposals including curtailment of wind turbine operations in the event that there is a significant adverse effect on goshawk (Border Hills NHZ population) and further mitigation to be implemented as appropriate. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that the species affected by the development are afforded suitable protection from the construction, operation and decommissioning of the development.

Replanting of Forestry

5. No development shall commence until a forestry and woodland planting scheme to compensate for the removal of woodland areas and forestry within the site ("the Replanting Scheme") has been submitted to and approved in writing by the Planning Authority, in consultation with Forestry Commission Scotland.

The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- a. Details of the location of the area to be planted;
- b. Details of land owners and occupiers of the land to be planted;
- c. The nature, design and specification of the proposed woodland to be planted;
- d. Details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- e. The phasing and associated timescales for implementing the Replanting Scheme;
- f. Proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- g. Proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the

approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the developer shall submit an amended Replanting Scheme to the Planning Authority for approval in consultation with Forestry Commission Scotland. Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Forestry Commission Scotland.

Reason: To secure replanting to mitigate against effects of deforestation arising from the Development.

Decommissioning and Financial Guarantee

6. The Development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Planning Authority.

No development shall commence until a Decommissioning, Restoration and Aftercare Plan has been submitted to and approved in writing by the Planning Authority in consultation with SEPA and Scottish Natural Heritage. The Plan shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include proposals for the removal of the above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

No later than 3 years prior to decommissioning of the development the Decommissioning, Restoration and Aftercare Plan to be revised and submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The revised Decommissioning, Restoration and Aftercare Plan will provide updated and detailed proposals for the removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions.

The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved Plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA. Any decommissioning works shall be carried out in accordance with the approved Plan.

Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

7. No development shall commence until the developer/operator has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 34 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 34. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the developer/operator.

Informative:

In respect of condition 15 the aviation lighting should either be Ministry of Defence accredited 25 candela omni-directional red aviation lighting or infrared warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on the perimeter turbines. The turbines should be erected with this lighting installed.

DRAWING NUMBERS

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| Figure 3.6 | Typical Internal Watercourse Crossing |
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| Figure 3.1a | Site Plan |
| Figure 6.1 | Site Access and Visibility Splays |
| Figure 6.2 | Site Access Design |

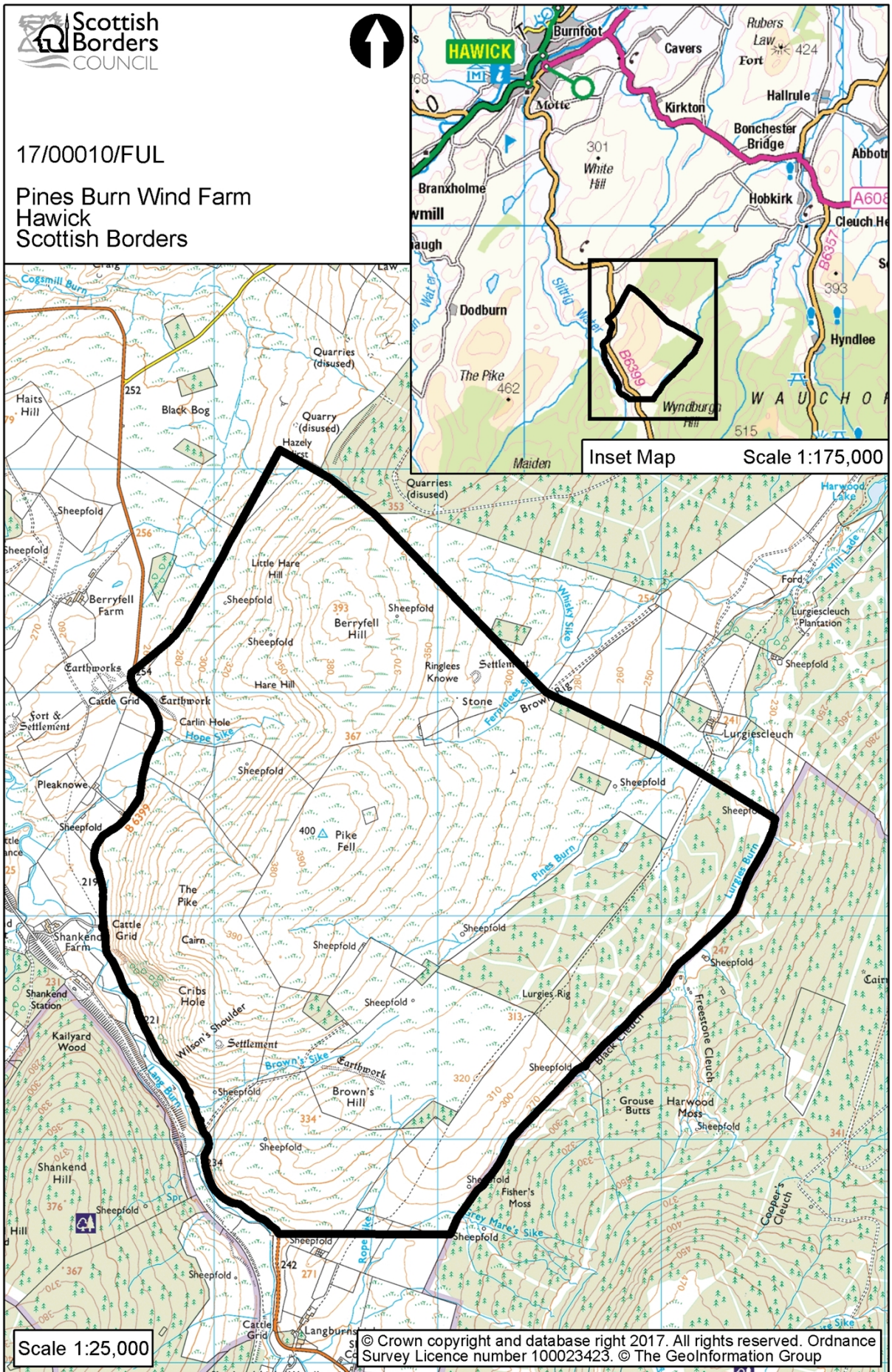
Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Julie Hayward	Team leader Development Management



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/00623/FUL
OFFICER: Paul Duncan
WARD: East Berwickshire
PROPOSAL: Erection of poultry building and associated works
SITE: Hutton Hall Barns, Hutton, Scottish Borders
APPLICANT: Mrs Angela Maclean
AGENT: Kevin White Architecture

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

This application was previously presented to the Planning and Building Standards Committee on 2 October 2017. At that meeting, the Committee resolved that it should be continued to allow Members the opportunity to visit the site themselves. Members visited the site on 30 October and the application is now presented for determination.

SITE DESCRIPTION

The application site is located around 400m south-west of the edge of Hutton Hall Barns hamlet, around 1.8km west of Hutton village, and 2.2km east of Allanton village. The site can be accessed from an existing field access located off the minor road which connects Hutton Hall Barns with the B6460 road around 1km to the south of the site. The site sits in the south-west of a large undulating agricultural field which partially borders the Cabby Burn to the south, and extends over a low ridge to a boundary on the north which is defined wholly by the same burn. To the east, the field boundary is established by the minor road, and overhead lines cross the far south west corner of the site.

PROPOSED DEVELOPMENT

It is proposed to erect a single poultry building to house 32,000 free-range birds for the purpose of egg production around 100m east of the minor road which connects Hutton Hall Barns with the B6460. The building would be of steel portal frame construction and would be partially dug into the side of existing slopes. A large level site would be created to accommodate the building which would have a footprint of approximately 122m by 29m with a ridge height of 7m and eaves height of 3m. The proposed building's dimensions were amended during the application process from an original footprint of roughly 120m by 25m with the same ridge height of 7m, but with an eaves height of 3.6m. Whilst this change resulted in a larger proposed building overall, the number of birds that would be housed remained the same. The building would be finished in juniper green coloured box profile steel sheeting with a 450mm dwarf wall. The building would require extract ventilation and this would be provided by 4 gable wall fans, and 38 exhaust air fans/ fresh air inlet chimneys, all computer controlled. As well as the main area for hens, the building would also house a staff toilet, a small office and a small egg store. Feed bins would be formed on concrete plinths outside the poultry building and there is an intention to cover the roof with photovoltaic (solar) panels.

There is an existing access into the site from the minor road which would be upgraded to the Roads Authority's required specifications. A new access track would connect the proposed building with the minor road and a large area of hardstanding would be formed to the north-west and west of the building. Surface water drainage would be dealt with by a Sustainable Urban Drainage System (SUDS) with outflow to the Cabby Burn.

A substantial planting scheme featuring around 1850 trees has been proposed to help screen the building and smooth flowing mounds would also be formed from excavated material to the north, west and south of the building to screen the building.

PLANNING HISTORY

There is no planning history at this site but there have been a number of poultry developments previously approved in the vicinity:

- 06/00326/FUL - Siting of Mobile Poultry Unit, Land East Of Hutton Hall Barns, Hutton. Approved 24 March 2006. Later modified in Respect of Extension of Period of Consent 07/01741/FUL.
- 07/01752/FUL - Erection of Mobile Poultry Unit, Extension of Access Road and Erection of Shed for Roadside Sales. Land North East of Hutton Hall Barns, Hutton. Approved 8 October 2007.
- 08/02047/FUL - Erection of Mobile Poultry Unit and Extension of Access Road. Land North East of Hutton Hall Barns, Hutton. Approved 25 March 2009.
- 10/00036/FUL - Erection of poultry unit for free-range hens and associated infrastructure Land North East Of Hutton Hall Barns. Approved 10 May 2010.
- 14/01347/FUL - Siting of mobile Poultry Unit land North East of Hutton Hall Barns, Hutton. Approved 10 February 2015.
- 15/01173/FUL - Erection of poultry building and associated works Hutton Hall Barns Scottish Borders. Approved 1 February 2016.
- 16/01430/FUL - Erection of poultry building and associated works. Hutton Hall Barns Hutton Scottish Borders. Approved 6 March 2017.

REPRESENTATION SUMMARY

Letters of objection have been received from 10 separate households. The principal grounds of objection can be summarised as follows:

- Adverse impact on the landscape
- Industrial appearance
- Concentration of poultry buildings/ encirclement of dwellings
- Elevated site
- No consideration to residents north of the site (visual impact)
- Planting scheme unimaginative
- No minimum height has been defined for the screening mounds. Additional cross section plans should be provided and the existing Y-Y section should be with updated min/ max heights.
- 400m ruling to proximity of neighbours

- Noise from ventilation system
- Road safety
- Unnecessary formation of new junction
- Increase in traffic, including articulated lorries at unsocial hours
- Environmental Assessment required
- Prime agricultural land
- Adverse impact on local amenity/ tourism businesses
- Close to SSSI
- The development would act as a deterrent to any future renovations and maintenance of nearby listed buildings
- The development would erode the setting and character of nearby listed buildings
- Increase in vermin
- Manure management/ uncovered trailers
- Inadequate muck shed capacity
- Odour nuisance/ prevailing wind will carry odour to residents
- Dust
- Litter
- Employment benefits have not been demonstrated
- Uncertainty regarding whether the field meets stocking density regulations
- Planning conditions attached to a previously approved neighbouring poultry building have not been adhered to.

In addition to the objections received from members of the public, objections were also received from Hutton and Paxton Community Council and comments were received from Edrom, Allanton and Whitsome Community Council. The site is located within the boundary of the latter, therefore the comments received from Edrom, Allanton and Whitsome CC are listed under the later Statutory Consultees section. Hutton and Paxton CC grounds for objection are summarised here and are as follows:

- This could amount to a total of seven very large poultry buildings with around 140,000 birds encircling a small hamlet of residents who were living there before this enterprise arrived. The mix of local housing and intensive poultry farming is not appropriate and a tipping point has now passed.
- This is an industrial development being placed around an existing community.
- The CC supports objections from residents covering issues such as odour, vermin, manure spillage, visibility and traffic. These objections are valid.
- Manure storage, disposal and management are inadequate.
- The development would be contrary to the Prime Agricultural Land policy.

APPLICANT'S SUPPORTING INFORMATION

The applicant has provided a substantial supporting statement which sets out the detail of the proposed development, future operations, and the reasons for it. The full document can be found on the Council's Public Access system but the key points are as follows:

- The free-range egg market in the United Kingdom remains popular with pressure continuing to be exerted on food businesses by not only welfare groups, but by customers wishing to buy and consume free-range eggs.
- Free range egg production means hens are given access to outdoors during the daytime in line with legislation. European Union egg marketing legislation stipulates that for eggs to be termed 'free range', hens must have continuous daytime access to

runs which are mainly covered with vegetation and a maximum stocking density of 2,500 birds per hectare.

- During 2016 several large supermarket chains committed to source eggs from cage-free hens by 2025. The date of 2025 is to allow producers such as Maclean Eggs to obtain planning consent and to make the significant investment in creating additional free range poultry houses to meet these changing market demands.
- It is intended that the proposed new poultry unit would come on stream during 2018. A contract is available for these eggs.
- Based on poultry industry standards the proposed development could provide up to two full time and two part time posts within the poultry house and the office.
- The applicant wishes to develop and grow a good agri-business in line with government policy while still protecting the natural environment.
- The proposal meets with the requirements of the Scottish Borders Corporate Plan for the five-year period 2012/13 to 2017/18 and Scottish Borders Economic Strategy 2023 by encouraging sustainable economic growth.

Separately, the applicant has also responded to objections and provided Freedom of Information request results to enquiries made by the applicant to Scottish Borders Council and SEPA for information on any complaints made regarding the working practices of MacLean Eggs or any related businesses at Hutton Hall Barns between 1 April 2016 and 31 May 2017. The applicant sought this information as evidence that the objections made to this application do not reflect actual complaints that have arisen in connection with their businesses. This correspondence is all available on the planning pages of the Council's website.

CONSULTATION RESPONSES

Scottish Borders Council Consultees

Roads Planning Service: No objection, subject to conditions requiring the construction of a passing place between the site and the B6460 and the access to be suitably surfaced.

Environmental Health Service (Amenity and Pollution): No objection, subject to conditions to require a plan for the management and control of potential nuisances, and confirmation of water supply arrangements. A condition and informative has also been requested in relation to drainage arrangements. There are no comments with respect to potential land contamination concerns.

Ecology Officer: No objection, subject to condition requiring mitigation with respect to a potential impact on badgers. There are no concerns with respect to breeding birds. The Ecology Officer notes that SEPA have no objections to the development with regard to possible pollution prevention and control, which SEPA would in future regulate once the number of birds on the overall poultry site (i.e. including the two most recently approved poultry buildings) exceeds 40,000. The site is 900m to the south west of the Whiteadder Water, designated as an SAC/ SSSI as a tributary to the River Tweed. Connectivity exists to the designated site via the Cabby Burn.

Archaeology Officer: No objection and no mitigation required. Records indicate the former presence of cultivation terracing on the site. These terraces were identified in the 1920s, but have since had their visible elements removed. Evidence of prehistoric activity has been recorded in the area surrounding Hutton Hall Barns and this suggests a low level of archaeological potential in areas where sub-soils can contain cut features and deposits of human origin. The recorded presence of cultivation terraces historically indicates that buried features (such as furrows or the remains of platforming) may have existed below top-soil

depth. Evidence has subsequently been presented that the field has undergone substantial sub-soiling and stone removal which suggests buried archaeology will not now be present within the field.

Landscape Architect: No objection subject to conditions and minor changes which have since been adopted. The main visual receptors would be the properties at Hutton Hall Barns and a short section of the public road to the west of the site. At distances of 400m and more the visual impact of the new building is expected to be fairly limited but, as originally submitted, may have been visible on the skyline as viewed from Hutton Castle Barns. Requested adjustments have involved moving the building a little further south and a little lower down the slope and making more use of excavated material to create smooth flowing earth mounds that would provide partial screening. In view of the limited number of affected receptors and the separation distance from the nearest house and the improvements to the design through the above earthworks and planting mitigation measures, the Landscape Architect is satisfied that the building can be successfully accommodated into the landscape without undue landscape or visual impacts. Once the planting has developed, the building should be virtually invisible from sensitive receptors.

Flood Officer: No objection. SEPA flood mapping indicates that the site is not at risk from a flood event with a return period of 1 in 200 years. The applicant has provided topographical information in the form of 2 cross sections which confirm that the development site is at an acceptable height in relation to the Cabby Burn and outwith the functional floodplain. The proposed screening mound to the southern boundary of the site is also outwith the functional floodplain and will not affect local flooding issues. The applicant should be aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

Statutory Consultees

Edrom, Allanton and Whitsome Community Council: The Community Council have not objected to the proposals but do make the following comments and observations:

- HGV collections and deliveries should be made via designated routes avoiding times of school transport.
- At least two passing areas should be constructed on the minor road from the B6460.
- Where possible, all vehicles should maintain a voluntary speed restriction on access routes.
- Clear signage is required at the junctions from B6460 and B6437 in both directions.
- Transport, storage and removal of manure should adhere to relevant legislation and guidelines.
- Due diligence should be shown regarding any spillage of manure during transport and prompt clearance of such spillage.
- It would be preferable for screening to be implemented as soon as practical and maintained for the lifetime of the buildings.

Other comments have also been provided regarding gritting and maintenance of public roads but are not relevant to the consideration of this application.

SEPA: No objection. The site is not currently regulated by SEPA however the overall poultry site (i.e. including the two most recently approved poultry buildings) will fall within the remit of the Pollution Prevention and Control Regulations (PPC) once the threshold of 40,000 birds is exceeded. Once permitted under PPC, SEPA will be the lead agency. If permitted, the PPC licence will need to be varied to reflect the increase for the third poultry building or

they could apply for this capacity from the outset – this decision is for the applicant. SEPA have no concerns regarding the proposal at this stage and have confirmed from an initial assessment that the proposal is potentially consentable under the PPC Regulations.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 Sustainability
PMD2 Quality Standards
ED7 Business, Tourism and Leisure Development in the Countryside
ED10 Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3 Protection of Residential Amenity
EP2 National Nature Conservation Sites and Protected Species
EP3 Local Biodiversity
EP7 Listed Buildings
EP8 Archaeology
EP13 Trees, Woodlands and hedgerows
EP15 Development Affecting the Water Environment
EP16 Air Quality
IS7 Parking Provision and Standards
IS8 Flooding
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy
SBC Biodiversity SPG

KEY PLANNING ISSUES:

The key issues with this proposal are:

- The landscape impacts of the proposed poultry building.
- The potential impact on biodiversity.
- The potential impact on amenity within the area, including residential amenity.
- The impact of associated traffic movements on the surrounding road network.

ASSESSMENT OF APPLICATION

Policy Principle

Local Development Plan policy ED7 (Business, Tourism and Leisure Development in the Countryside) aims to allow appropriate employment generating development in the countryside whilst protecting the environment and ensuring that development is appropriate to its location. In principle, proposals for business development in the countryside will be approved where the development is to be used directly for agricultural operations or for uses which by their nature are appropriate to the rural character of an area. This proposal therefore has policy support in principle.

The policy caveats that support with a list of additional, detailed considerations. To meet the requirements of the policy the development must respect the amenity and character of the surrounding area and have no significant adverse impact on nearby uses, particularly housing. The use and scale of the development should be appropriate to the rural character

of the area and any impact on roads and transportation should be taken account of. These matters are all considered below, and are assessed alongside other linked planning policies.

Impact on the landscape

A potential adverse visual impact on the rural landscape was one of the primary concerns cited in objections and is a key consideration in assessing the proposal. Local Development Plan Policy PMD1 (Sustainability) sets out the Planning Authority's sustainability principles in determining all planning applications within the Scottish Borders. These principles include the protection of natural resources and landscapes. This proposed site is not located within an area of designated landscape protection.

In considering the impact on the landscape, a primary consideration is the appearance of the structure itself and its suitability within a rural setting. Objectors have referred to the proposed building having an industrial appearance, but it is not considered that the building would have a wholly dissimilar appearance to other agricultural buildings found within the Borders, particularly in materials and design, although it would undoubtedly be amongst the larger of such buildings. The impact of the structure must also be considered in the context of where it would be sited, beneath a low ridge on south facing land, separating the primary visual receptors which are to the north of the site. Early discussions with the applicant resulted in the building being moved slightly further south to increase the natural screening from the landform. Excavated material from the site preparation would be used to create smooth flowing earth mounds to the west, south and north of the proposed building which would further aid its concealment.

The site would otherwise be most prominent from a short section of the public road to the west of the site. The screen mounds and planting would eventually almost entirely screen the building from the road. The access into the site would however be prominent and the retention of the stone dyke would be desirable where possible. Other key visual receptors would include the neighbouring properties including the property at Hutton Castle Barns, around 400m to the north. At such distances, the visual impact resulting from the erection of the building should be limited but the building may be visible on the landscape until the substantial proposed planting scheme of around 1850 trees becomes established, when it should be entirely screened from view. In the interim period, the natural landform and screening mounds with soften the impact of the building.

The proposed planting scheme has been subject to various revisions during the application process to increase planting and to replace the planting of ash resulting from the spread of the Ash Dieback disease. An appropriate mix of native species is proposed, to be planted at irregular intervals. A 5m strip would be kept clear to avoid overhead lines but should not diminish the overall effect of the scheme.

There is an intention to cover the roof with photovoltaic panels. These are not shown on the submitted plans but raise no concerns and would be unlikely to require approval through a planning application. No drawings have been provided for the proposed feed bins or their location but this can be covered by condition.

A concern that residents at Hutton Hall Barns are being encircled by poultry buildings has been put forward and this concern is acknowledged. However, in landscape terms, because all of the buildings are largely screened from the building group itself, it is considered that there would be no unacceptable adverse impact resulting from the development either in isolation or cumulatively, taking account of previously approved developments within the area.

Ecology

Pollution arising from poultry buildings is controlled by local authorities until overall farm sites (i.e. cumulative bird capacity across multiple poultry buildings) exceed capacity for 40,000 hens, at which point regulatory control would pass to SEPA. The applicant has confirmed that they are in the process of applying to SEPA for a Pollution Prevention and Control (PPC) permit for their previously approved poultry buildings nearby. If members were minded to approve this application the applicant would apply to SEPA to modify that PPC permit accordingly. SEPA have been consulted on the application and no objection has arisen from their initial assessment of the proposal. SEPA have also confirmed that the proposal is potentially consentable under PPC regulations.

In terms of protected species, badgers are known to be active within the area and the Council Ecology Officer requires mitigation as a precaution. A condition is therefore attached requiring the implementation of a Badger Protection Plan similar to that agreed at the previous approved 16/01430/FUL poultry building nearby. The applicant has written to agree to this. There are no concerns with regards to breeding birds as the site is not considered to provide a suitable habitat. In conclusion, any potential effects on protected species can be mitigated satisfactorily.

The site is located around 1km south west Whiteadder Water, designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) as a tributary to the River Tweed. Connectivity exists via the Cabby Burn, but SEPA have raised no concerns with respect to any potential impact on the Burn and the proposal would not impact the designated sites.

Neighbouring amenity

Members will note from the letters of objection that considerable concern has been raised about the effect the proposed poultry would have on residential amenity. There is concern that the poultry unit would lead to increased levels of odour nuisance, vermin, noise, dust and litter which would result in an unacceptable adverse effect on the amenity of nearby residential properties.

Such matters would be assessed under Local Development Plan policy HD3 (Protection of Residential Amenity) which is used to ensure that development does not have an adverse effect on neighbouring residential amenity. The application site in this instance is located approximately 400m south west of the closest residential property. There has been reference by at least one objector to a 400m rule governing the distance from such developments to residential properties. Whilst such a clause applies to agricultural permitted development rights, this simply requires the submission of a planning application for consideration for poultry developments within 400m of the curtilage of a dwelling house, so that impacts can be assessed and does not preclude developments within this distance. The Scottish Government's Prevention of Environmental Pollution from Agricultural Activity guidance note encourages agricultural developments to be sited 400m from residential developments, but this is a good practice recommendation rather than a requirement. For clarity, it is noted that while the *curtilage* of the nearest dwelling is within 400m of the proposed building, the nearest house would be located over 400m from it.

Whilst the proposed building would be located some distance from the nearest residential property, impacts on residential amenity must still be assessed. Members will be aware however that the free-range poultry business is heavily regulated and modern poultry buildings such as that proposed are set up to minimise impacts on neighbouring dwellings. The proposed building would incorporate many of the latest technologies, including computer controlled climate system connecting to 4 gable fans and 38 exhaust air fans and

fresh air inlet chimneys which would help reduce the amount of noise, smells and dust emanating from the building. Environmental Health have considered the proposal and have no objection subject to conditions including the agreement of a nuisance management plan. The applicant has submitted such a plan which details the applicant's proposals for mitigating and reducing nuisances. The nuisance management plan has had an initial inspection by Environmental Health and is to their general satisfaction. A condition is proposed to require the management plan to be formally agreed and would provide the option to amend the plan for practical operational reasons in the future. It should be noted that many of the potential amenity impacts would ultimately be controlled via the previously mentioned PPC permit that the applicant would apply to SEPA for. A planning condition is also proposed to control noise nuisance emanating from plant or machinery.

A number of objections have raised concerns with existing and proposed manure practices. A manure management plan has been provided which sets out proposed arrangements for dealing with foul waste arising from the development. This states that hen manure produced on the site (by MacLean Eggs) would be sold to MacLean and Company (the family farm business) to be stored in the family farm manure store. It is important to note that were any manure to be stored on the site this would be regulated by SEPA by means of the PPC. The manure collected by MacLean and Company would be stored in the family farm manure store, which is understood to be covered, until capacity was reached, when it would then either be spread on the family farm, exported for spreading by other farmers or collected by contractors.

It is understood that the family farm does not need additional manure supplies, so the additional excess which would result from the proposed development would result in an increase in the volume of manure being sold to other farmers. This is complicated by the location of the farm and proposed site within the Lothian and Borders Nitrate Vulnerable Zone (NVZ), where water is at risk of pollution from agricultural nitrate. NVZs cover a large area of rural Scotland and limit the period within which manure can be spread during 'closed periods'. However, there are no such controls over manure-spreading on farms outwith NVZs and excess manure would be sold to such farms during the exempt period where necessary. Environmental Health have inspected the manure management plan and have no objections to the proposals. The applicant has also provided correspondence which indicates that there is good demand for hen manure for spreading on land both within the NVZ and outwith the NVZ.

A concern has also been raised regarding potential littering on the site but there is no reason to believe the proposed development would give rise to such a problem.

Road safety, access and parking

The applicant has given consideration to potential roads and access issues, and details of vehicle trips, as well as proposed access alterations have been put forward as part of their application. The site would be accessed via an existing field access which would require a major upgrade to the Roads section's specifications. An increase in traffic has been a particular focus of objection and it has therefore been appropriate down the anticipated post-construction vehicle trips that would result from the development. The applicant has stated that one load of feed would be delivered to the site, by articulated lorry, per week. Eggs would be collected by the three egg collection trips per week which already service the existing poultry buildings. No additional egg collection trips are therefore anticipated. Manure would be collected by two tractor and trailer loads per week. At the end of the flock cycle every 13 months, birds would be removed from the building to allow it to be cleaned and made ready for restocking. This would require an envisaged four loads over two days. Pullets (young female birds before the point of lay) would then be delivered to the site by another four loads over two days. It must be assumed that there would be additional trips

associated with staff/ management movements and occasional visits to the building by the various specialist services referred to in the operational plan. Overall however, the increase in traffic would be relatively modest and the road network is considered capable of accommodating the trips associated with the development, in isolation and cumulatively, subject to the construction of an additional passing place at a location to be agreed between the access to the site and the B6460. The Roads Planning Service have raised no objection to the proposal, subject to conditions requiring the construction of a passing place between the site and the B6460 and the access to be suitably surfaced. Similarly to previous applications, a condition would be attached to control the hours of deliveries and collections.

Services

Surface water drainage would be dealt with by a SUDS scheme – likely to be a multiple cell system based on infiltration basins with a final restricted piped outflow to the Cabby Burn - which would be designed by consultants from the Scottish Agricultural College for review and sign off by SEPA. Discharge from the single staff toilet would be dealt with by way of a septic tank with discharge to a soakaway to land. Mains water is available at the applicant's farm steading to the north and would be extended to this poultry house. This would be controlled by planning condition to ensure an appropriate supply is available.

Mains power supply is proposed and is available close to the proposed building. As referred to above, there is also an aspiration to mount photovoltaic panels on the roof of the building to power operations and potentially provide a surplus back to the grid.

Other matters

It has been suggested that the proposal could adversely affect the setting and character of listed buildings in the area, or act as a deterrent to investment in the maintenance of such buildings. The nearest listed buildings are the category C listed cottages and steading buildings at Hutton Hall Barns over 500m from the proposed site. Local Development Plan policy EP7 seeks to conserve and protect the character, integrity and setting of listed buildings. The development would not be visible from these buildings, and it is not considered that the development would affect their setting, integrity or character. There is no reason to believe the development would act as a deterrent to investment in the area. The Archaeologist was minded to seek archaeological mitigation but the applicant has provided evidence which suggests buried archaeology will not be present within the field.

Whilst the site is recorded as Prime Agricultural Land it forms a small part of the field and there would be no adverse impact in terms of the availability of land given the scale of the development and the contribution that the proposal would make to agriculture. The cumulative effects of the proposals have been considered under separate headings above. There are no further cumulative impact concerns. There was no requirement for an EIA.

There is no flood risk associated with the proposal but an informative would be added to provide the applicant with the Flood Officer's advice with respect to flood risk from other sources.

There has been an objection which refers to previous non-compliance with conditions attached to previous planning approvals. It should however be noted that there have been no recent allegations reported to the Planning or Enforcement services in connection previous poultry buildings and there is no reason to believe the applicant would not comply with conditions in the future. The objector will be advised of the process for formally referring such complaints to the Planning Authority enforcement service should they wish to do so.

Finally, it should be noted that objections related to animal welfare or stocking density regulations do not raise material planning concerns and would be controlled under the appropriate regulatory regimes.

CONCLUSION

There is clear policy support for the principle of the proposed development which meets the requirements of the Council's policies on economic development within the countryside, and could provide up to two full time and two part time jobs. The focus of the assessment has therefore been on the potential adverse impacts which could result from the development.

The building itself is appropriate in terms of design, massing and materials and a major planting scheme, together with screening mounds, will ensure the building sits comfortably within the landscape. Any adverse impact on the landscape will be limited, particularly once the planting scheme becomes established.

In terms of amenity considerations, the building would be located a significant distance from residential properties and, subject to compliance with conditions and other regulatory controls, the development would not have an unacceptable adverse impact on amenity. The site would eventually be regulated by SEPA and a PPC permit would be required. Nevertheless, a nuisance management plan would be required by condition to provide further control of potential nuisances which objectors have also raised. Overall, SEPA and Environmental Health are both broadly satisfied by the proposals in principle, subject to the further controls afforded by the PPC permit process and the proposed planning conditions.

Traffic and road safety concerns have been raised but only a modest increase in traffic is anticipated. The Roads Authority considers that this could be reasonably accommodated by the existing network subject to the formation of a new passing place. The existing access would be suitably upgraded to meet the new resulting access needs.

Any potential ecological concerns would be satisfactorily mitigated. There are no concerns with respect to archaeology and there would be no adverse impacts upon the character, integrity or setting of listed buildings.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

It is recommended that the application is approved subject to the following conditions and informatives:

Conditions

1. The development hereby permitted shall not be carried out other than in complete accordance with the plans and specifications approved by the Planning Authority, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. The Badger Protection Plan approved in connection with the development approved under planning application 16/01430/FUL shall be adapted for the proposed site and submitted and approved in writing by the Planning Authority prior to the commencement of development. Thereafter, development shall be carried out wholly in accordance with the approved Protection Plan.
Reason: In the interests of preserving biodiversity.

3. Prior to the occupation of the development, a plan for the management and control of potential nuisances (including noise, odour, air quality, flies and other pests) that would be liable to arise at the site as a consequence of the development shall be submitted and approved in writing by the Planning Authority. The approved development shall operate in compliance with the approved nuisance control management plan thereafter unless otherwise agreed by the Planning Authority.
Reason: To ensure that the operation of the poultry building hereby approved has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties, by ensuring that all potential sources of nuisance are appropriately managed and controlled.
4. No development shall commence until the full details of the finalised SUDS drainage scheme have been submitted for the written approval of the planning authority, in consultation with SEPA. The agreed scheme to be implemented in full thereafter, and completed prior to the occupation of the development.
Reason: To ensure adequate protection of the water environment from surface water runoff.
5. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that demonstrates that the public mains water supply is available and can be provided for the development. Prior to the occupation of the building, written confirmation shall be provided for the approval of the Planning Authority that the development has been connected to the public mains water supply.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
6. No development shall commence until a new passing place to the specification details in Roads Drawing DC-1 has been provided at a location to be agreed with the Planning Authority between the existing access to the site and the B6460.
Reason: in the interests of road safety.
7. Prior to the commencement of development, detailed drawings showing required improvements to the access to the site which reflect the requirements outlined in Informative number 3 of this consent shall be submitted and approved in writing by the Planning Authority. Thereafter, the existing access shall be upgraded in accordance with the detailed drawings prior to the occupation of the approved building.
Reason: In the interest of road safety.
8. All planting, seeding or turfing comprised in the approved details of Drawing KW-142-ME 001-H shall be carried out in the first planting and seeding seasons following the occupation or completion of the development, whichever is the sooner, and the planning authority shall be advised once works are completed. Thereafter all planting, seeding and turfing shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.
Reason: To ensure that the proposed landscaping is carried out as approved.
9. Prior to the commencement of development, further details of proposed screening mounds (including precise details of mound coverage and heights) shall be submitted and approved in writing by the Planning Authority. Thereafter, the development shall be undertaken wholly in accordance with the approved details and screening mounds fully formed prior to the occupation of the building, unless otherwise agreed by the Planning Authority.
Reason: To ensure the development is accommodated sympathetically into its wider surroundings.

10. No lorry deliveries or uplifting shall take place between the hours of 11.00pm and 6.30am on any day.
Reason: To safeguard the amenities the surrounding residential properties.
11. Any noise emitted by plant and machinery used on the premises shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2. The Unit shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason: To protect the residential amenity of nearby properties
12. No development shall commence until details of materials to be used on all exterior surfaces of the development hereby permitted have been submitted to and approved in writing by the Planning Authority. The development to be undertaken wholly in accordance with the agreed details thereafter.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
13. No external food storage bins/ silos shall be erected until details have been submitted to and approved in writing by the Planning Authority. The external food storage bins/silos to be erected wholly in accordance with the agreed details thereafter.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting.

Information for the applicant

1. The applicant should be aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.
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.
3. With respect to condition 7 the Roads Authority's required dimensions and specifications are listed below:
 - The new access to be located where the existing field access is located.
 - The new access to have 5.5m throat width with minimum 8m radii.
 - Visibility splays of 2.4m by 90m to be provided in either direction
 - The first 5m of the new access to be surfaced to the specification below:

40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary. There should be no unauthorised advertising signing, and the lay-by must be kept tidy and litter free.

4. Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of the SEPA website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at: Burnbrae, Mossilee Road, Galashiels, TD11 1NF, tel 01896 754797

DRAWING NUMBERS

Location Plan KW-142-ME 002 Revision F
Site Plan KW-142-ME 001 Revision H
Elevations 107MC-DR-0001 Revision P02
Section Plan KW-142-ME 003 Revision B

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.

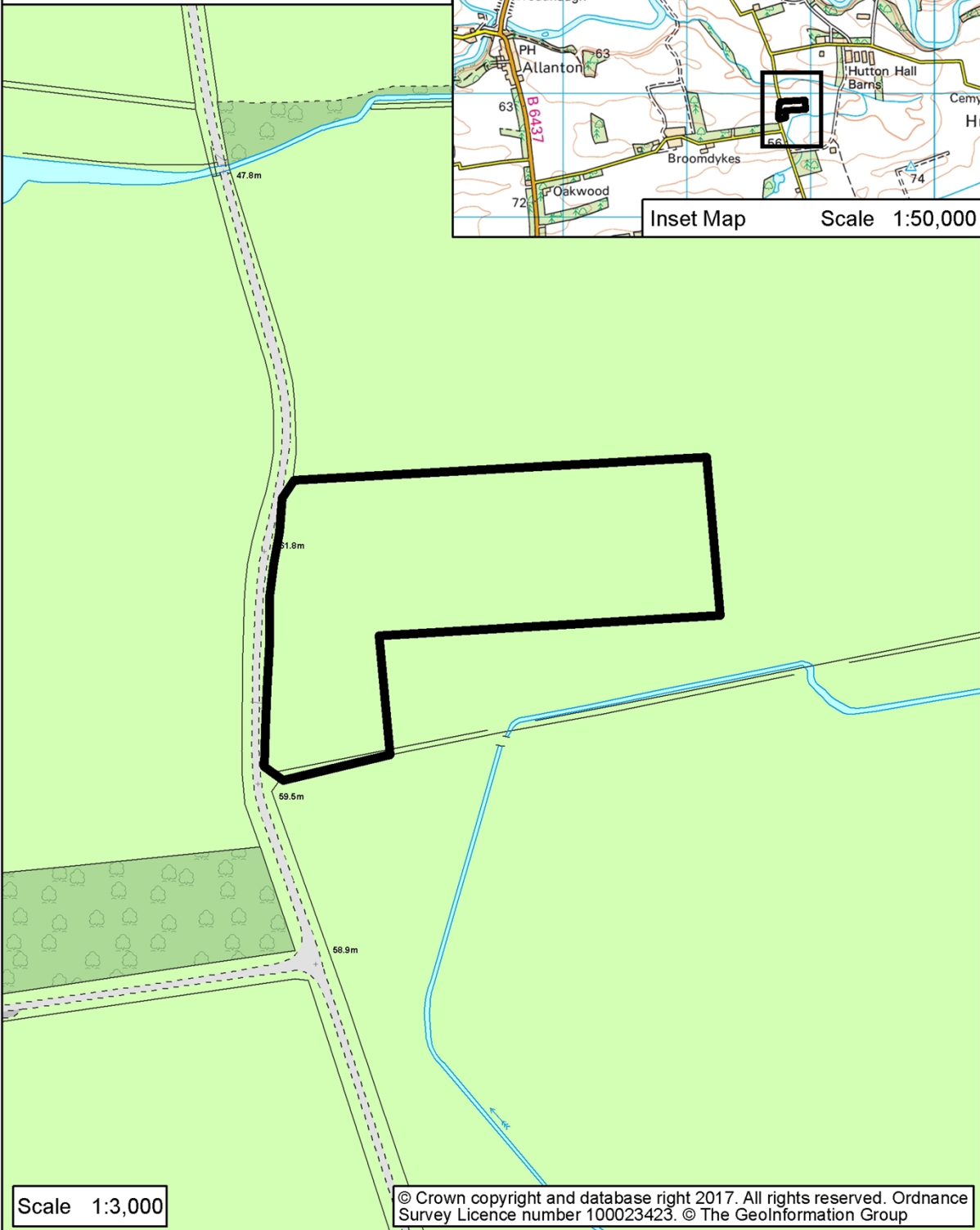
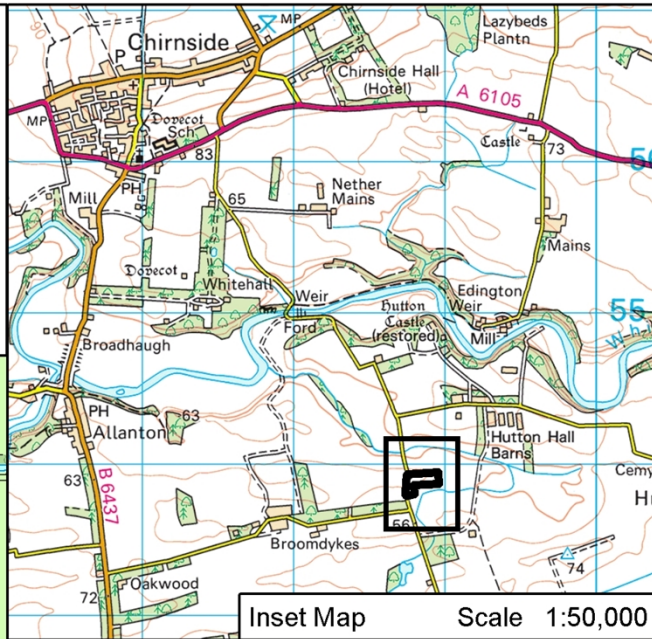
Author(s)

Name	Designation
Paul Duncan	Assistant Planning Officer



17/00623/FUL

Hutton Hall Barns
Hutton



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/00228/FUL
OFFICER: Andrew Evans
WARD: Hawick and Denholm
PROPOSAL: Erection of dwellinghouse
SITE: Land South East Of Craigard, Canongate, Denholm
APPLICANT: SSPM Calton Homes Ltd
AGENT: Martin McMullen Architect

SITE DESCRIPTION

The application site is located behind the Canongate in Denholm. To the north of the site is located the property known as Denholm Farm Cottage, which fronts onto the Canongate. To the south of the site is the garden ground of Braeside Cottage and to the east of the site is located allocated housing land (RD4B & ADENH001). The recent housing development at Croftfield Court is situated to the south east of the site and to the west of the site is located existing terraced housing onto the Canongate. The site is bound by a variety of existing fencing and hedging. The site is generally level, though there is a slight rise towards the rear of the site from the Canongate.

PROPOSED DEVELOPMENT

The application seeks full planning permission for the erection of 5 dwellings. The proposed dwellings would be 1.5 storey and 2 storeys in height. Plot one positioned to the north of the site entrance would incorporate a detached dwelling 1.5 storeys in height. It has been designed to mirror the scale, form, and external design of the existing neighbouring house at Craigard on the opposite side of the access. The remaining houses would be located towards the southern end of the site and would incorporate a pair of storey semi-detached dwellings located towards the south of the site, with a further 2 (2 storey) detached dwellings forming a small courtyard.

PLANNING HISTORY

The site has been subject to previous applications as follows:

Reference	Proposal	Decision
03/01252/FUL	Deletion of one dwellinghouse from previous consent and repositioning of access road	Approved with conditions and informatives 30.10.2003.
97/00317/CON	Alterations and extension to dwellinghouse and erection of 3 dwellinghouses.	Approved with conditions 30.01.1998.

REPRESENTATION SUMMARY

Members are reminded that all comments received to the application are available to view in full on the Public Access website. At the time of writing this report, a total of 12 separate objections had been received. The main points of the objections can be summarised as follows:

- Density - Too many houses.
- Amenity impacts, loss of views, overlooking.
- Poor design.
- Parking and road safety effects. Increase in traffic and parking on the Canongate, and increase in traffic at the junction with the Minto Road.
- Flood risk

Two Separate submissions were also made in support of the application. These highlighted the benefits the development would bring. In summary:

- The village is in need of new small private homes, the proposed houses are of a size that local people can afford, as opposed to the large executive type houses which are generally out with the local community's budget.
- Not only will the development give the possibility of work to local tradesman whilst under construction, it will also help support the future of the local primary school and all local businesses will benefit from the residents when the development is completed.

APPLICANTS' SUPPORTING INFORMATION

The applicant submitted a statement in support of the application which sets out in depth the applicant's consideration of the site, in terms of issues and planning policies applicable. It responds to the points raised in the Community Council submission. A copy of this supporting statement is available for members to view in full on Public Access.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: First response: No objections in principle to this proposed development which lies within the settlement boundary of Denholm. The proposed development has been designed in such a manner that it does not require a public road to serve the units. The first unit fronts onto Cannongate, therefore the remaining four units can be served by a private access. Notwithstanding the above, the construction details for the private access and parking areas must be submitted for approval and thereafter constructed as per the agreed scheme of details. The access and parking areas must be fully formed prior to any of the units being occupied, unless otherwise agreed. As the access will be private, the refuse vehicle may not enter the site, therefore some consideration will need to be given to bin storage/collection point. Providing the above points are satisfactorily addressed, I will not object to this application.

Second Response: No objections in principle to the amended layout. Whilst a few of the spaces are slightly divorced from the properties they are intended to serve, the parking area is fairly compact therefore this should not create a significant inconvenience. The bays will need to be adequately marked out and identified. It is

noted that there are no visitor parking spaces formally marked out within the parking area, however there are informal areas where a car can park without impacting on manoeuvring within the site.

A number of points (including construction details, parking area dimension, completion prior to occupation and bin storage/collection) which were raised during the initial consultation still need to be satisfactorily addressed. Provided these points can be addressed either by appropriately worded planning conditions or the submission of further details, RPS will not object to this application.

Education: Confirms the site is located within the catchment area for Denholm Primary School and Jedburgh Grammar and a development contribution is sought for the Primary School only.

Archaeology: There are no known implications for this proposal. While the site formerly formed part of the Denholm Hall Farm steading, and was possibly in existence from the late 18th century, the site has been extensively used since the steading buildings and horse engine were demolished at the close of the 19th century. In particular, later 20th century maps suggest a number of sheds occupying the site. Much of the older archaeology will have been disturbed by this. There is additionally some potential for encountering medieval and early post-medieval archaeology. While the exact layout of medieval and post-medieval Denholm is unknown, it is likely that road name 'Cannongate' refers either to a town wall or burgh ditch through which the road passed. It is difficult to assess the development of the town from historic mapping due to the extensive 18th century planning of the town. However, there is a low risk that archaeology pertaining to a town wall or burgh ditch will exist within the development area.

There is a low risk of encountering medieval and early post-medieval archaeological deposits or features within the development area. Given this, I recommend that an archaeological evaluation take place over 10% of the development area prior to development commencing. Further work may be required in advance should significant archaeology be encountered. If consented, I recommend an archaeology planning condition.

Access Officer: Consulted 17.02.2017. No response received. Consultation expired.

Heritage and Design Officer: Consulted 17.02.2017. No response received. Consultation expired.

Housing Section (Social Work): Consulted 17.02.2017 and 28.09.2017. No response received.

Statutory Consultees

Denholm Community Council: First Response: The application was discussed at the 15 Mar 17 meeting of the D&DCC. Chair described the planning application, which was a new submission following earlier applications for fewer houses on the site in 1997 (3 houses), 2003 (1 house) and 2008 (no details), for which outline planning permission had been granted, but no development undertaken. The meeting was unanimous in its objections to the new application, expressing concerns over many issues, including the following:

- (1) The apparent proposed over-development of the very small site.

- (2) The site is within the Denholm conservation area, and the house fronting onto Canongate does not appear to be in keeping with the surrounding houses;
 - (3) The validity of the boundaries shown on the diagrams.
 - (4) The actual ownership of land on and adjacent to the site, versus that assumed within the application.
 - (5) The utility of the parking spaces portrayed, some of which appeared to be inaccessible. Furthermore, two parking spaces immediately adjacent to the property "Gowanlea" would impact on the owner's access to his garden gate.
 - (6) The lack of space for collection of waste bins serving the properties proposed.
 - (7) The visual impact of the proposed two-storey houses on the surrounding properties, compared with the "1½ " storey houses in the earlier applications.
 - (8) The viability of the proposed access track for vehicles, which appeared to be a single width track, which would cause significant problems for residents within the site, and consequently to other Canongate residents. This factor is exacerbated by the inclusion of the proposed house at Plot 1; if this were excluded, then the road could be a two lane track.
 - (9) The very serious impact on road and pedestrian safety for all the local residents resulting from the inevitable increased number of vehicles accessing Canongate via the junction with Minto Road.
 - (10) The potential problems of flooding on the site, following the experience in recent years, and the viability of the existing drains.
 - (11) Comments regarding the existing trees on and adjacent to the site appeared inconsistent with reality.
 - (12) The possibility of reinstating the "Right of Way" footpath between Canongate and Jedward Terrace on the A698 had apparently not been considered.
- The above objections were voiced both by members of the CC and members of the public in attendance, and the viability of the whole scheme was met with universal scepticism.

Second Response: No response.

Architectural Heritage Society of Scotland: No response.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD5: Infill Development

HD1: Affordable and Special Needs Housing

HD3: Protection of Residential Amenity

EP8: Archaeology

EP9: Conservation Areas

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS5: Protection of Access Routes

IS6: Road Adoption Standards

IS7: Parking Provision and Standards

IS8: Flooding

IS9: Waste Water Treatment and Sustainable Urban Drainage

IS13: Contaminated Land

Other considerations:Supplementary Planning Guidance

Development Contributions (2015)

Affordable Housing (2015)

Placemaking and Design (2010)

Trees and Development (2008)

Designing out Crime in the Scottish Borders (2007)

Householder Development (incorporating Privacy and Sunlight Guide) (2006)

KEY PLANNING ISSUES:

Whether the proposals would represent a suitable infill development within the Denholm settlement boundary and whether the proposed development would be acceptable in terms of road safety, residential amenity and archaeology. Whether the matters raised in opposition to the application are of sufficient weight to outweigh the requirement for the application to be determined in line with prevailing policy.

ASSESSMENT OF APPLICATION:Principle

The application requires to be assessed principally in terms of policy PMD5 of the LDP on infill development. This sets out that for sites within the Development Boundary, where relevant criteria are met, housing can be accepted. Supplementary Planning Guidance on Placemaking and Design and on Householder Development is also relevant to the consideration and determination of this application.

Policy PMD5 is generally supportive to suitable infill development provided it meets certain criteria. Development on non-allocated, infill or windfall sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the noted criteria are satisfied. These require that development does not conflict with the established land use of the area; does not detract from the character and amenity of the surrounding area; and that the individual and cumulative effects of the development can be sustained by the social and economic infrastructure. Furthermore the development must not lead to over development or 'town and village cramming'.

The policy also requires that development respects the scale, form, design, materials and density in context with its surroundings; and that adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity. Finally, the policy requires that proposals do not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

In the case of this application, the proposals are considered compatible with the surrounding land use which is primarily residential in nature. The revised proposals are considered to be acceptable in terms of their fit with the character and amenity of surrounding area. The revised proposals are also of acceptable scale, form, design, materials and density. Whilst objectors cite that the dwellings on the Canongate are 1.5 storeys, it is noted that the proposed dwelling on plot one is reflective of this scale and follows the pattern of development locally by providing a continuation of the street frontage. The remaining proposed plots within the site are 2 storeys, which is not considered incongruous. It is therefore accepted that the proposed development

would not result in any significant conflict with the requirements of Policy PMD5 of the LDP on Infill Development

Placemaking and Design

Policy PMD1 of the Local Development Plan sets out relevant sustainability criteria applicable to all development proposals. In determining planning applications and preparing development briefs, the Council will have regard to the sustainability principles in policy PMD1 which underpin all the Plan's policies.

In addition, Policy PMD2 sets out the Council's position in terms of quality standards for all new development and sets out specific criteria on Placemaking & Design.

In the case of the current proposals, the proposed development has been revised, from a series of detached dwellings, to a pair of connected semi-detached houses, and with the housing repositioned to minimise amenity and overlooking of neighbouring housing. The housing is now arranged around a small courtyard area with a pair of connected semi-detached houses to the rear of the site, and 2 detached dwellings located either side. The detached dwelling located to the north east of the entrance would remain as per the original layout.

It is contended that the revised layout creates a sense of place compatible with the character of the surrounding area and neighbouring built form and would not result in any significant conflict with the principal requirements of policy PMD2. In terms of criteria (j) which relates specifically to external materials, it would be appropriate to add a condition to any consent requiring the submission and agreement of the proposed external materials and surfaces of the proposed dwellings to ensure compatibility with the immediate surrounding area.

It is contended that, subject to the undernoted planning conditions, the proposed development would not result in any significant conflict with the requirements of policy PMD2 of the Local Development Plan. Furthermore, the proposed development is considered to represent an acceptable form and scale of development, in keeping with adopted policy and guidance in relation to placemaking and design.

Impact on Residential and Neighbouring Amenity

Policy HD3 of the Local Development Plan sets out that residential amenity will be afforded protection. The Council has adopted supplementary planning guidance on Householder Development which sets out standards for privacy and amenity.

The impact of development on neighbouring amenity is a material planning consideration. The Scottish Government's Scottish Planning Policy (SPP) states the need for high quality layout in housing developments in order to protect residential amenity.

Policy HD3 sets out that development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against: a) the principle of the development, including where relevant, any open space that would be lost; and b) the details of the development itself particularly in terms of: (i) the scale, form and type of development in terms of its fit within a residential area, (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sun

lighting provisions. These considerations apply especially in relation to garden ground or 'back land' development, (iii) the generation of traffic or noise, (iv) the level of visual impact. In the case of this application, the proposed relationships with the adjoining dwellings are considered acceptable.

The Council's supplementary guidance on householder developments sets out criteria in relation to privacy, sunlight and residential amenity to ensure that any overshadowing or overlooking is to an acceptable level. Existing neighbours as well as proposed dwellings are entitled to a degree of protection of amenity and privacy. In the case of this application the layout has been adjusted due to concerns from third parties about the impacts on the neighbouring dwelling to the North East of plot two.

The relationship of plot one to neighbouring housing is noted. It is considered desirable in placemaking terms that this house reflect the scale and architectural language of the neighbouring house known as Craigard on the opposite site of the proposed entrance. Consideration has also been given to the potential impact upon the rear garden of the neighbouring dwelling, and the proposed new house on plot two of the site has been repositioned and designed to minimise overlooking of the rear of Craigard.

The nearest other dwellings are sufficiently distant from the site that the proposed dwellings would not have an unacceptable adverse impact on the residential amenities of occupants of these properties. There are no other properties in the surrounding area that would be affected by the proposal.

Consideration must also be given to the relationships between the dwellings proposed in the development and the potential for window to window overlooking. Suitable relationships are shown between the windows of the proposed dwellings and the existing dwellings on the neighbouring terraced dwellings on Canongate to the point where the 18m window to window distance prescribed in the supplementary guidance is met. The nearest dwellings are sufficiently distant from the site and it is considered that the proposed dwellings would not affect the residential amenities of occupants of these existing dwellings.

Taking the above matters into consideration the proposed development complies with policy HD3 of the Local Development Plan. Subject to the noted planning condition relating to prevention of additional windows openings in the dwelling proposed on plot 2, the proposed development can be considered to comply with the requirements of Policy HD3 and supporting supplementary guidance on householder development.

Permitted Development Rights

Given the compact nature of the site, consideration was given as to whether it would be prudent to remove Permitted Development rights for extension of the dwellings. However, as the site is located within the Conservation Area, there is no need to remove Permitted Development rights as any proposals for alterations and/or extensions to dwellings in conservation areas will require the benefit of planning consent under the General Permitted Development Order (as amended).

Conservation Area

As stated above, the application site is located within the Denholm Conservation Area. As such, Policy EP9 of the Local Development Plan is relevant. This sets out that the Council will support development proposals within or adjacent to a

Conservation Area which are located and designed to preserve or enhance the special architectural or historic character and appearance of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes. In the case of the current proposals, the amended development proposals will make a positive contribution to the character and appearance of the conservation area in compliance with the principal aims of policy EP9. Conditions covering external materials and surface finishes will ensure a high quality development that will have a positive impact on the wider conservation area.

Archaeology

Policy EP8 of the Local Development Plan sets out the Council's position in terms of Archaeology. In the case of this application, the Archaeology Officer comments that the proposed development can be accepted, however it would be appropriate to impose a planning condition requiring the submission and agreement of a Written Scheme of Investigation outlining an Archaeological Field Evaluation. Subject to such a condition, the proposals are considered to comply with the requirements of policy EP8 of the Local Development Plan.

Impact on traffic and road safety

Amongst other material planning considerations, opposition was received from third parties on the grounds road safety. Members will be aware that road safety, access, parking and accessibility are all material planning considerations.

Policy IS6 of the Local Development Plan sets out Road Adoption Standards. On non-trunk roads new roads, footpaths and cycle ways within developments must be provided and constructed in accordance with the Council's adopted standards to secure Road Construction Consent, with the exception of development which can be served by a private access. In this case, the site has been designed to result in a private access arrangement.

Policy IS7 on Parking Provision and Standards sets out that the development proposals should provide for car and cycle parking in accordance with approved standards.

Policy PMD2 of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (o) requires that street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access, Criteria (r) requires that development provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycle ways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns, Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

In the case of the current proposals, the amended site plan indicates that the dwellings would be served off of a new vehicular access onto the Canongate. The amended site layout indicates that 2 parking spaces would be provided per dwelling. Objectors cite concerns in terms of the capability of the Canongate to accommodate

additional traffic, and concern over the adverse impact of additional traffic at the junction with the Minto Road.

Members will note from the comments submitted by the Roads Planning Service that the application can be supported, subject to clarification and agreement of the road construction details. There is a limited degree of conflict between some parking spaces and indicated hedging locations however this minor matter can be resolved via condition. It would also be appropriate for the waste collection point to be clarified. Again, this can be achieved via the imposition of planning condition. Members will also note from the papers that RPS has confirmed in their second consultation response that they have no objections to the amended layout provided the points raised in their initial response are satisfactorily addressed. These can be covered by condition and applicant informative.

Whilst no dedicated or nominated parking for visitors etc. is provided, the layout is such that there would be sufficient space within the informal courtyard for a limited degree of undefined visitor parking to take place.

In summary, the proposed access and parking arrangements are generally acceptable. Subject to conditions relating to the fine detail of the arrangements, the application is considered to comply with the requirements of policies IS7 (Parking Provision and Standards) and PMD2 (Quality Standards) of the Local Development Plan.

Trees, Woodland and Hedgerows

Policy EP13 of the LDP on sets out that existing trees and hedgerows should be protected. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, both of which are relevant to these proposals.

The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction.

In the case of these proposals, the development set out in the submitted application and the applicants supporting statement, it is noted that the applicant intends to preserve the yew tree in the SE corner of the site.

Subject to appropriate levels of protection which can be controlled by condition, the proposed development would comply with policy EP13 of the Local Development Plan, and the adopted SPG on Trees and Development.

Access

Policy IS5 of the LDP seeks to protect Access Routes and sets out that development that would have an adverse impact upon an access route available to the public will not be permitted unless a suitable diversion or appropriate alternative route can be provided by the developer.

According to our records, a right of way runs along the Canongate and there would appear to be no right of way through the application site. There is a footway in the Crofffield Court development, to the south of the application site, which may have had potential to connect in with the application site however there is limited space within the site to accommodate a footway connection without significantly impacting

on layout or neighbouring amenity. Whilst the development cannot reasonably connect with surrounding streets, it is contended that the application can be accepted in its current form. Furthermore the proposed development will not impact on the nearby right of way.

Flooding

The proposed site is outwith SEPA's 1 in 200 year flood extent. Though flooding and flood risk is raised in objections to the application, this is in relation to the sloping nature of surrounding land. The site is not located within an area of identified flood risk.

Policy IS8 (Flooding) of the Local Development Plan sets out that at all times, avoidance will be the first principle of managing flood risk. New development should therefore be located in areas free from significant flood risk. Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of functional flood plains to convey and store floodwater should be protected, and development should be located away from them.

Whilst historic flooding of culverts and field drains has occurred over surrounding land, and the site itself may be flooded by surcharged culverts, the same can be said of any sloping site or site adjoining a culvert or drain. The higher land south of the site was formerly agricultural, and in recent years has seen the Cruden housing development constructed across it. This is served by roads and sewers. This application site is not considered intrinsically to be at significantly adverse risk of flooding. The site is a suitable infill development site, surrounded by housing on all sides. An informative note will alert the applicant to the reported instances of flooding.

Water Supply and Drainage

Policy IS9 of the LDP covers waste water treatment standards and sustainable urban drainage. Water and drainage services would require confirmation in due course, and this could be ensured via standard planning condition.

Development Contributions

Policy IS2 of the LDP is relevant and is supported by our approved SPG on development contributions.

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

The LDP policy sets out how Development Contributions are collected and sought, in line with the provisions of Circular 3/2012 on the use of Section 75 Planning Agreements. The policy also provides for the use of Section 69 or where appropriate, other legal agreements.

In the case of this application, contributions were identified in terms of:

- Affordable Housing (£17,000 commuted sum)
- Education (£12,190 contribution in terms of Denholm Primary School)

The applicant has expressed a willingness to enter into the necessary agreement to obtain consent. The applicant has expressed he may wish to have further discussions on viability of the development prior to commencement of development.

CONCLUSION

Taking all matters as set out on the papers above, it is considered that the proposed development would represent an acceptable form of infill development consistent with local development plan policies and supporting planning guidance covering, but not limited to, placemaking and design and the protection of residential amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved, subject to conclusion of the required legal agreement with regards development contributions, and subject to the undernoted conditions.

- 1 No development shall commence until full details of all external materials for the approved dwellings, and full details of the surfacing of all shared surfaces and footways have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.

Reason: To maintain effective control over the development.

- 2 No development shall take place until the applicant has secured and implemented an approved programme of archaeological work and reporting in accordance with a Written Scheme of Investigation (WSI) outlining an Archaeological Field Evaluation. 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.
- Limited intervention of features, or expansion of trenches will only take place if approved in writing by the Council's Archaeology Officer
- 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.
- Further development work shall not take place until the Planning Authority has determined the potential for further archaeological impacts and, if required, a further requirement for mitigation.

- Development should seek to mitigate the loss of significant archaeology through avoidance by design 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).
- The results of additional excavations and an appropriately resourced post-excavation research design shall be submitted to the Council for approval within 1 year of the final archaeological works, and published in an appropriate publication within 3 years.

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.

- 3 No development shall commence until full details of the road construction, makeup, material and road surfaces are submitted to and approved in writing by the planning authority. A scheme of further refinements to the detail of the parking bays shown on the approved site layout plan shall also be submitted to and approved in writing by the planning authority before commencement of development. Thereafter the development is to be completed in accordance with the approved details.

Reason: To maintain effective control over the development.

- 4 No development shall commence until a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are submitted to and approved in writing by the planning authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

- 5 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 elevations of the building hereby approved on Plot 2 unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.

DRAWING NUMBERS

Reference	Plan Type	Received
P-008	Site Plan	25 th September 2017
P-001 AMENDED	Plot 1	23 rd June 2017
P-010 AMENDED	PLOTS 3 & 4 GROUND FLOOR PLANS	23 rd June 2017
P-011 AMENDED	PLOTS 3 & 4 FIRST FLOOR PLAN	23 rd June 2017
P-003 AMENDED	PLOT 1 GABLE ELEVATIONS	22 nd June 2017
P-006 AMENDED	PLOTS 2-5 GABLE ELEVATIONS	22 nd June 2017
P-004 AMENDED	PLOTS 2-5 LAYOUT	22 nd June 2017
P-005 AMENDED	PLOTS 2-5 FRONT AND REAR ELEVATIONS	22 nd June 2017
P-012 AMENDED	PLOTS 3 & 4 FRONT ELEVATIONS	22 nd June 2017

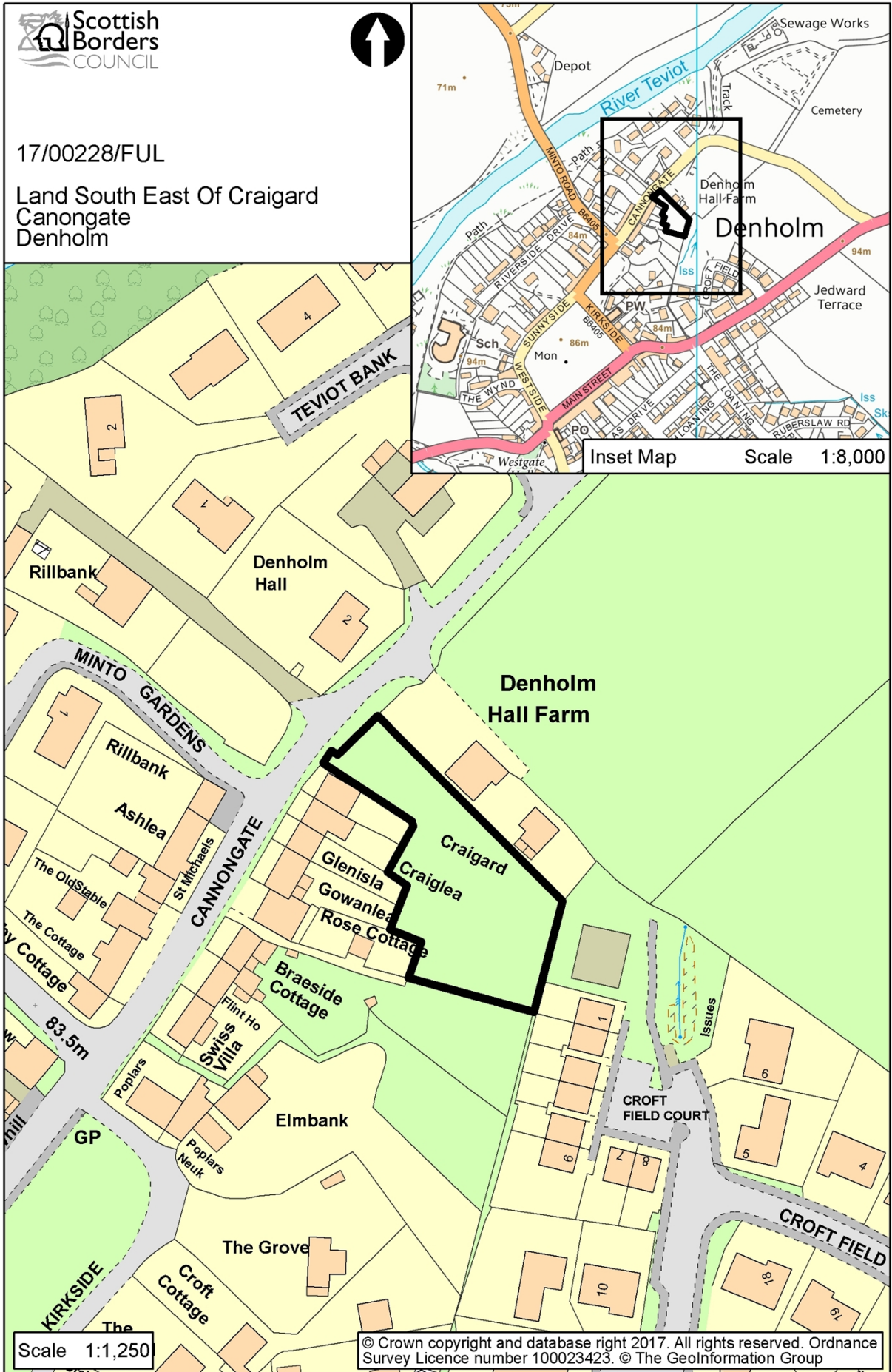
Approved by

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

Name	Designation
Andrew Evans	Planning Officer



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/00652/FUL
OFFICER: Paul Duncan
WARD: East Berwickshire
PROPOSAL: Change of use from joiner's workshop and alterations to form dwellinghouse
SITE: Former Joiner's Workshop, The Row, Allanton
APPLICANT: Mr Alex Spence
AGENT: IRD Design

SITE DESCRIPTION

The proposed site is located within the village of Allanton, at the end of The Row, a short lane off Allanton Main Street. The property is a single storey joiner's workshop of rubble construction, with a pantile roof and a timber gable and doors on the west elevation. No part of the site is listed but the site is located within Allanton Conservation Area. The site can be viewed, briefly, from the Main Street but is not prominent. Beyond the site to the west, a number of sheds sit adjacent to open fields and a car repair garage operates adjacent to the building to the north. Dwellinghouses sit opposite the site to the south west and south east of the site, and further along The Row.

PROPOSED DEVELOPMENT

The proposal is to convert the joiner's workshop to a single dwellinghouse by altering the existing building and extending it by creating a new box dormer on the roof. The property would change use to class 9 (house).

The existing structure would largely remain intact, but a new door and new windows would be formed on the front (south) elevation. The existing side (west) elevation timber gable would be rebuilt in a more contemporary style with large eaves height windows and a new stone chimney completing the gable. The side elevation corners would be rebuilt in matching stone to replace the existing brickwork. The rear (north) elevation adjacent to the car repair garage would remain unaltered.

A new box dormer would be created on the front elevation roof to accommodate a second bedroom. Velux rooflights would also be positioned on the roof to light an open plan living area with a vaulted ceiling on the ground floor. Solar panels would be placed on the front elevation roof. Parking would be physically separate to the dwelling house, sitting in an area to the rear of the property.

PLANNING HISTORY

There is no planning history on the site and no local planning history which is relevant to the consideration of this application.

REPRESENTATION SUMMARY

Objections were received from seven individual members of the public from 5 separate households. Two letters were from the same household, one letter gave no address and one representation was received after the 21 day period for neighbour notification. The objections can be viewed in full on the Public Access website. A summary of the issues raised by objectors is listed below.

- The site is located within the only part of the village with commercial businesses
- A busy car repair garage operates behind the site
- A conflict of uses would arise as surrounding properties are not residential
- Disruption during the development phase and in installing utilities
- Noise complaints could arise against the adjoining car repair garage even though this is a well-established business
- The development would be detrimental to existing residential amenity, including privacy of neighbouring properties and noise during construction
- The building would be unsuitable as a dwellinghouse as it backs onto the motor mechanic's business, resulting in noise and fume nuisance, and a lack of privacy
- Poor design in a designated Conservation Area
- Loss of building with interesting history and character
- Size of dormer would be out of keeping
- Dormer would result in listed roof being removed
- Dormer would be visible from the main road in a conservation area
- Height of building is not suitable for a 2 bedroom property
- Neighbour has had solar panels refused
- Road safety
- Increased traffic
- Inadequate access
- Inadequate parking
- The Row is a private road
- Poor visibility at the junction to Main Street
- The development would prevent access for emergency services
- The proposed parking arrangement crosses the adjacent car repair garage entrance
- Access to the car repair garage and agricultural field would be obstructed during construction
- Walkers and others who pass by would be affected
- Detrimental to environment
- No site visit
- Inadequate utilities/ services
- Inadequate screening
- Value of property
- Does existing building have sufficient foundations
- The proposal has been refused before
- Five properties would have to agree for disruption to the land for amenities to be put in
- This will be a noisy building, with a lot of glass, that has to be cleaned on a regular basis

APPLICANT'S SUPPORTING INFORMATION

A Design and Access Statement and 3D imagery were submitted as part of the application. The Design and Access Statement sets out the reasoning for the proposed design, explaining that a simple design was chosen to ensure the proposed dwelling retains the

existing sense of place. The existing roof height and footprint was therefore retained, to avoid a change in the overall massing and scale of the building.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016

PMD1 Sustainability
PMD2 Quality Standards
PMD5 Infill Development
HD3 Protection of Residential Amenity
EP1 International Nature Conservation Sites and Protected Species
EP2 National Nature Conservation and Protected Species
EP9 Conservation Areas
IS2 Developer Contributions
IS7 Parking Provision and Standards
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy
Biodiversity Supplementary Planning Guidance
Development Contributions Supplementary Planning Guidance
Placemaking and Design Supplementary Planning Guidance
Privacy and Sunlight Guide Supplementary Planning Guidance

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Heritage and Design Officer: No objection. A condition requiring written approval of the external finishes and colours is recommended. Allanton grew up as a linear settlement around the crossing points of the rivers and was the estate village for the nearby Blackadder Estate, with a number of the buildings in the village displaying this linkage with matching decorative slate roofs from around the 1850s. Whilst the property is within the conservation area it is not listed (a resurvey has taken place of Allanton a number of years ago).

The applicant has submitted a simple Design and Access Statement which provides some background information; the application drawings also include some 3D imagery which is helpful. The intervention proposed to carry out the conversion from store to a small house works within the existing envelope apart from adding a dormer using simple windows and glazed doors and a largely glazed gable. Overall the proposals will not have an adverse impact on the special character and appearance of the conservation area.

In terms of detailed design, careful consideration of the external colours to be used for the joinery is required; in particular it might be sensible to look at painting the exterior timber of the new flat roofed dormer a red / orange colour similar to the pantiles to reduce its visual impact and the new glazed doors and windows might look much better to be a dark colour, say grey or a dark red or blue rather than being finished a brilliant white – this could be covered by an appropriate condition. The proposed solar panels should ideally have black edges rather than silver frames, this will reduce their impact.

Roads Planning Service: No objections provided the area shown for parking is tied to this property and retained in perpetuity.

Ecology Officer: The Ecology Officer provided initial comments which identified the need for a bat survey and breeding bird survey to be undertaken in accordance with the Council Biodiversity SPG. This was undertaken in August. The Ecology Officer has since updated her comments with respect to bats and birds.

The results of a preliminary bat roost assessment in conjunction with one dusk emergence and one dawn swarming survey for bats found no evidence of any current or historic use of the structure by bats, in spite of the moderate suitability of the structure and the surrounding habitat to support bats. Soprano pipistrelle *Pipistrellus pygmaeus* bats were observed foraging in close proximity to the site. In these circumstances, a licence is not required. However, it is possible that bats may use the structure in small numbers during the winter hibernation period. Therefore contractors and anyone working on the building should maintain vigilance in case any bats are encountered during works, and should be aware of procedures to follow. An informative is recommended.

No active bird nests were found, however historic nesting material was found above the garage door on the western elevation. Again, contractors should maintain awareness of what to do in the event of encountering an active nest site and the mitigation plan outlined in the Bat and Breeding Bird Survey should be followed, as recommended. A condition is recommended.

There are no protected sites within 1km that are likely to be impacted by this development.

Environmental Health Service (Amenity and Pollution): Conditions are required with respect to foul drainage, water drainage and water supply. Informatives are required with respect to wood burning stoves and a stove was noted on the submitted plans. So long as it is less than 45kW no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

Environmental Health Service (Contaminated Land): No comment.

Education and Lifelong Learning: The proposed development is within the catchment area for Chirnside Primary School and Berwickshire High School. A contribution of £2,438 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £5,866. This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Statutory Consultees

Edrom, Allanton and Whitsome Community Council: The road around the workshop is in use for a working garage which requires uninterrupted access for customers and emergency services. Access is also needed at all times to the agricultural land and privately used garages at the end of The Row. It is difficult to see how this proposal could avoid significant disruption to that access, especially during the construction phase. The road is narrow with insufficient room for a pavement as needed for new dwellings and accessed by a sharp turn from the Main Street.

Any parking outside the property needs to be strictly controlled to maintain access for existing residents and users. A minor issue would be access and storage of "wheelie bins" as it is unclear whether the property has any external space.

Having looked at the building it is apparent that this is a rebuild rather than a conversion. The stonework is very likely to require extensive dismantling and reconstruction. This will make the problems even worse as the time for the project would be extended significantly.

The plans on the website also show solar panels which have already been refused for neighbouring properties.

The Community Council is dismayed that there has not been a site visit.

KEY PLANNING ISSUES:

The key planning issues for this application are whether the development would comply with planning policies with respect to:

- infill housing development within a settlement;
- impact on the character and appearance of Allanton Conservation Area;
- placemaking and design;
- protection of residential amenity; and
- access and parking.

ASSESSMENT OF APPLICATION:

Principle

The site is located within the village's settlement boundary but has no allocated use within the Local Development Plan. Whilst formal industrial estates are normally safeguarded for employment uses, no specific policy protection is afforded to this small part of Allanton where a small number of businesses have operated. The appropriate policy to assess the principle of the development against is therefore Local Development Plan policy PMD5 (Infill Development). This policy most commonly applies to undeveloped land within settlements but also applies to the reuse of buildings within settlement boundaries with no allocated use. Policy PMD5 reflects Scottish Planning Policy, which promotes the contribution of infill development can make to the housing land supply. Policy PMD5 is therefore broadly supportive of infill development, subject to the detailed assessment of related considerations and impacts. These are considered and assessed below.

Conflict of uses

Policy PMD5 supports suitable infill development where it does not conflict with the established land use of an area. To assess the proposal against Policy PMD5, a determination as to the established land use of the area is required. In this case, the area is considered to be primarily residential in character. The Row itself is mainly residential, with three existing dwellings to the east of the proposed site, whilst land north of The Row is also in residential use. Dwellinghouses sit to the south east and south west of the proposed site. The areas of the village beyond are also primarily residential in character. The presence of the adjacent car repair garage does not alter this and the nearby sheds have a limited role in characterising the area. The agricultural fields beyond them are outwith the settlement. As the established land use of the area is residential the proposal would represent suitable infill development opportunity in terms of policy PMD5.

Members will note that a number of objectors have raised concerns about a possible conflict of uses between the proposed residential use and, more specifically, with the car repair garage which operates adjacent to the proposed site. These include concerns relating to parking arrangements and disturbance during construction which are addressed later in this report. Perhaps the main concern relating to conflict of uses is the potential for future noise and fume emission nuisance complaints to arise from residents of the proposed new dwelling house against the existing car repair garage. These concerns are acknowledged and appreciated. It is however common within the Borders for workshop spaces such as the

adjacent car repair garage to be situated within primarily residential areas, and indeed, this has been the case at this location where the car repair garage is already operating in close proximity to existing dwellinghouses. Ultimately there is no provision within relevant Local Development Plan policies to assess proposals against potential nuisance complaints by future occupants of proposed developments. It is instead for the developer to conclude whether a dwellinghouse in this location would be attractive for potential future occupants and ultimately a viable proposition.

Neighbouring amenity

Members will be familiar with Local Development Plan policy HD3 (Protection of Residential Amenity) which seeks to protect the amenity of both existing and proposed new housing developments. Members will also be familiar with the Privacy and Sunlight Supplementary Planning Guidance which supplements policy HD3 and outlines the Council's detailed standards in the protection of residential amenity impacts, including loss of sunlight and window to window overlooking. In this instance given the limited alterations proposed there are no privacy or sunlight impact concerns resulting from the proposed development. Whilst the alterations to the building will result in a multitude of new window and glazed door openings, these either face west, where there are no residential neighbours, or face south. The openings facing south do so towards dwellinghouses at Blackadder Gardens which sit over 20m from the proposed site, in compliance with the Privacy and Sunlight SPG. The intervening property boundary is defined by trees and hedging which limit any amenity impact further. The proposal therefore complies with relevant planning policies with respect to residential amenity.

Concerns have also been raised regarding possible noise nuisance resulting from construction work. Given the modest scale of development the developer should be capable of delivering the conversion without significant adverse impact on neighbours. Ultimately if unacceptable nuisance did arise this could be controlled by Environmental Health. It should of course be noted that in this longer term, nuisance would be less likely to arise from a dwellinghouse than the existing workshop use.

Built heritage, placemaking and design

Members will have noted that a number of objections have suggested the building, and particularly its roof, may be listed. This is not the case. The building is not listed, either in part or in full. Whilst a significant number of buildings in Allanton have been listed for their decorative slate roofs, this property has a simple pantile roof. There are no listed buildings in the immediate vicinity of the proposal site and no impact on the setting of listed buildings would result from the proposed development.

The proposed site does sit within Allanton Conservation Area however and must therefore be assessed against Local Development Plan policy EP9 (Conservation Areas) which aims to preserve or enhance the character or appearance of conservation areas.

In assessing the proposal under Policy EP9, it should firstly be noted that it is the conversion of an existing building that is proposed, and that this conversion could help achieve a sustainable long term purpose for the building. The suitability of the existing building for conversion has been questioned by objectors. Whilst not directly applicable for this particular infill development, Policy HD2 (Housing in the Countryside) does set out the Planning Authority's criteria for conversion proposals, which are worth referencing here. These require a building to stand substantially intact, normally to wallhead height, without requiring significant demolition. Conversions in the countryside should relate to buildings with architectural or historic merit which are capable of conversion and be physically suited to residential use. Conversions should be in keeping with the scale and architectural

character of the existing building. Whilst the existing building in this instance has limited historic interest, the remainder of the criteria are considered to be met in this case. A condition would be applied to provide assurance that the development is undertaken as a conversion and not as a newly erected dwellinghouse.

Assessment of the proposal against policy EP9 (Conservation Areas) also requires detailed consideration of the proposed design. Policy PMD2 (Quality Standards) also provides a policy context for consideration of design, and is supplemented by the detailed guidance provided within the Placemaking and Design Supplementary Planning Guidance (SPG) which provides advice for developers and also sets out the Council's expectations in terms of good design. In this instance, the impact of the proposal is limited to the alterations to the existing building which in this case are, principally, the new box dormer, new door and window openings, a new roof, and the new gable end. Of these, the most significant component is the new box dormer, which has been a focus of comments relating to design which have been received from objectors. It has correctly been pointed out that this new box dormer would be visible from Main Street, however it should equally be noted that there is already a more prominent and larger double-width box dormer on The Row. Whilst the new box dormer would be visible from Main Street, it would barely be so. The 3D images and elevation drawings show the dormer having a somewhat heavy appearance, a result of the contrast between the red pantile roof and the proposed black slate of the dormer. This would be improved by use of red or orange painted timber, to match the pantile roof. If members were minded to approve this application, a condition is recommended to control the external material used in the development. The other alterations, including new timber windows and a new timber door are acceptable in principle but further control could be asserted by planning condition. The new gable on the west elevation would make a bold and contemporary feature at one of the least sensitive sides of the building.

Finally, the use of solar panels will not always be appropriate within a conservation area. In this less prominent part of the conservation area however, solar panels will have no detrimental impact to the character and appearance of the conservation area. Contrary to objector comments no planning applications for solar panels have been refused in the immediate vicinity.

In summary, the proposed conversion would ensure a sustainable future use for the building and the proposed alterations, subject to additional control by means of conditions, would not adversely affect the character or appearance of the conservation area and would be suitable in terms of placemaking and design standards. The proposal therefore satisfies Policy EP9, Policy PMD2 and complies with the standards set out within the Placemaking and Design SPG.

Access and parking

The development is to be served from The Row with parking and turning provided to the side and rear of the site. Objectors have identified a number of concerns in connection with the proposed access arrangements, including the visibility at the junction with Main Street and the condition and suitability of The Row. Access proposals have been fully assessed by the Roads section however, who consider the proposed arrangements to be satisfactory. The Row is a private road but the applicant has indicated that the owner has a right of access. In terms of proposed parking arrangements, which are assessed against policy IS7, the Roads section have requested that the proposed parking area be tied to the dwellinghouse and retained in perpetuity. This would be controlled by an appropriately worded condition were members minded to approve the application. Objectors have also raised a concern that the proposed parking arrangements for the proposed new dwelling house could conflict with and disturb the operations of the adjacent car repair garage, given that the parking areas sits across from the garage entrance, and that vehicles are parked in and around the garage. It

is accepted that there is some potential for conflict in this regard, but it is equally noted that this land is already tied to the existing joiners workshop and could be used for parking under the existing use.

Objectors have also raised a concern that the proposal would result in an increase in traffic. The existing permitted use of the property could itself generate vehicle trips however, and a modestly sized dwelling house such as that proposed would not be expected to lead to a substantial increase in traffic.

Whilst there may be some disruption during construction there is no reason to believe access would be obstructed to neighbouring properties, the nearby fields, the general public or to the emergency services as objectors are concerned, as it should be possible to develop the site whilst maintaining access. In any event this would ultimately be a legal matter between the developer and those who have a right of access and the developer should satisfy themselves that the development can be delivered without impinging on neighbouring property or access rights, including those of the adjacent car repair garage.

In summary, it is contended that the proposed change of use will not result in an unacceptable increase in traffic or result in a conflict with the operations of the existing car repair garage. Parking arrangements are acceptable and the Roads Planning Service has confirmed no objections. Taking all the points discussed above into consideration, the proposed change of use is acceptable and in accordance with local development plan policy IS7 covering parking provision and standards.

Development Contributions

Local Development Plan policy IS2 establishes the policy basis for securing development contributions and is supported by the Council's approved Supplementary Planning Guidance on development contributions. The proposed development in this instance is located within the catchment areas for Chirnside Primary School and Berwickshire High School. Currently, a contribution of £2,438 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £5,866. These are index linked and subject to annual variation. The developer has indicated a preference to settle this by way of a Section 75 legal agreement, which would allow payment at a later date.

Other matters

The Ecology Officer identified the need for a bat and breeding bird survey to be undertaken prior to the determination of the planning application, in accordance with the Council Biodiversity SPG. This survey was undertaken during the summer and the Ecology Officer has since provided further comments, recommending an informative to advise the developer of their responsibilities with respect to the potential presence of bats, and a planning condition to ensure appropriate mitigation of risks identified in the surveys which were carried out.

Were Members minded to approve this application conditions would be applied to ensure the development is suitably serviced in terms of water supply and drainage. It would be anticipated that waste collection would be dealt with in the normal manner.

As Members may be aware the perceived potential effect of a development on neighbouring property prices – whether positive or negative – is not a material planning consideration.

Finally, objectors have raised a concern that the proposal site was not visited as part of the application assessment process. This is incorrect. The site was the subject of a full site visit and Members should be assured that Planning Officers visit all planning application sites as

part of the assessment process. Not all consultees are able to visit every site, but this is normally acknowledged within responses. This may have been the cause of confusion in this instance.

CONCLUSION

Subject to a legal agreement and compliance with the proposed schedule of conditions, the development would comply with the relevant Local Development Plan policies including PMD5 (Infill Development) and EP9 (Conservation Areas). The proposal would provide a modestly sized dwelling house in an area which is broadly residential in character, achieving the sustainable reuse of an existing building by means of a conversion which would respect the character and appearance of the Conservation Area without adversely affecting neighbouring amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

It is recommended that the application is approved subject to the aforementioned Section 75 legal agreement and the following conditions and informatives:

Conditions

1. This permission shall only permit the conversion and adaptation of the existing structure as a single dwelling unit. It shall not purport to grant permission for the erection of a new dwelling nor for any extensive rebuilding which would be tantamount to the erection of a new dwelling.
Reason: Permission has been granted for the conversion of an existing building to habitable accommodation.
2. Notwithstanding the description of the materials in the application, no development shall commence until precise details of the materials and finishes to be used in the alteration of the building, including details of new windows and doors, have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
3. No solar panels shall be fixed to the building until precise details have been submitted to and approved in writing by the Planning Authority, and thereafter no such panels shall be fixed to the building except in strict accordance with those details.
Reason: The proposed solar panels require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
4. The area shown for parking on the Location Plan shall be used parking of vehicles associated with the dwellinghouse hereby approved and must be properly consolidated prior to the occupation of the dwellinghouse. The parking area shall thereafter be retained and maintained in perpetuity for parking of vehicles ancillary to the use of the property as a dwellinghouse.
Reason: To ensure satisfactory provision of parking.
5. No drainage system other than the public mains sewer shall be used to service the property without the written consent of the Planning Authority.
Reason: To ensure that the development does not have a detrimental effect on public health.

6. Prior to occupation of the property written evidence shall be supplied to the planning Authority that the property has been connected to the public water drainage network.
Reason: To ensure that the development does not have a detrimental effect on public health.
7. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the building(s), written confirmation shall be provided to the approval of the Planning Authority that the development has been connected to the public mains water supply.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
8. Prior to the commencement of development, the developer shall submit in writing to the Planning Authority confirmation that the development shall be carried out in strict accordance with all the measures outlined in the Species Protection Plan for breeding birds as provided in the Bat and Breeding Bird Survey report (Findlay Ecology Services, August 2017). No development shall commence during the bird breeding season unless the development is implemented wholly in accordance with the SPP.
Reason: in the interests of biodiversity and the mitigation of the impacts of development on protected species.

Informatives

1. In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652) for further guidance. Works can only recommence by following any guidance given by SNH. The developer and all contractors to be made aware of accepted standard procedures of working with bats at www.bats.org.uk. Further information and articles available at:
http://www.bats.org.uk/pages/bats_and_buildings.html
http://www.bats.org.uk/pages/existing_buildings.html
http://www.bats.org.uk/publications_download.php/1404/Bats_Trees.pdf

2. Stoves and Use of Solid Fuel

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission. Accordingly this advice can assist you to avoid future problems:

- The location of the flue should take into account other properties that may be downwind.
- The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.
- The flue should be terminated with a cap that encourages a high gas efflux velocity.
- The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
- The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

If you live in a Smoke Control Area you must only use an Exempt Appliance and the fuel that is approved for use in it:

<http://smokecontrol.defra.gov.uk/appliances.php?country=s>
<http://smokecontrol.defra.gov.uk/fuels.php?country=s>.

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available at:

[http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

Drawing Numbers

Location Plan
Elevation Plan 17/252-A1-002

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.

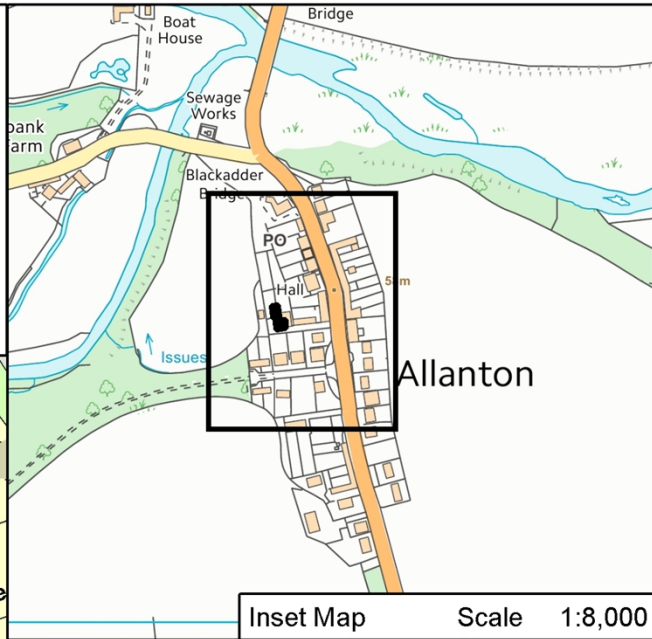
Author(s)

Name	Designation
Paul Duncan	Assistant Planning Officer



17/00652/FUL

Former Joiner's Workshop
The Row
Allanton



PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE**6th November 2017**

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**

- 2.1.1 Reference: 17/00087/FUL
Proposal: Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated development and landscaping works
Site: Land North East of 3 The Old Creamery, Dolphinton
Appellant: Mr Alastair Brown

Reasons for Refusal: 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.

Grounds of Appeal: There is clear policy support through policies PMD4, HD2 and ED7 for the proposed development given the unique set of circumstances. The design of the proposed development and associated soft landscape works, including the creation of screening landform, will ensure it integrates into the countryside at the proposed location. There is not a range and choice of employment sites available which are highly accessible to communities throughout the area in proximity to the site of

the appeal. This is confirmed by the Economic Development response to the application.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 26th October 2017. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
• Units 9 and 10, 6 - 8 Douglas Bridge, Galashiels	•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/00308/FUL
Proposal: Erection of boundary fence (retrospective)
Site: 33 Justice Park, Oxtun
Appellant: Mr Marc Ridgway

Reason for Refusal: The proposal is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it is not compatible with, and does not respect, the open plan nature and character of the surrounding area, in that it is overbearing relative to the adjacent public footway, and is an incongruous form of development within the context of the wider street scene.

6 REVIEWS DETERMINED

6.1 Reference: 17/00257/FUL
Proposal: Replacement windows and installation of chimney flue
Site: 5 High Street, Innerleithen
Appellant: Mr & Mrs David & Jane Gordon

Reasons for Refusal: Condition - The application is contrary to Policy EP16 of the Scottish Borders Local Development Plan in that the proposed

flue is of insufficient height to allow fumes to disperse properly without adversely affecting the air quality and residential amenity of surrounding property occupiers. – Informative - Please note that the replacement windows may still be proceeded with under planning permission reference 15/01079/FUL.

Method of Review: Review of Papers & Hearing

Review Decision: Decision of Appointed Officer Upheld

- 6.2 Reference: 17/00380/FUL
Proposal: Variation of Condition No 3 of planning consent
10/00156/FUL to allow short term letting
Site: Jordonlaw Granary, Jordonlaw Road, Westruther
Appellant: Susan And Chris Edge

Reason for Refusal: The proposal does not comply with Adopted Local Development Plan Policies PMD2 and ED7 in that it has potential to generate increased road safety concerns principally because the proposed variation to Planning Condition No 3 attached to Planning Consent 10/00156/FUL would allow the existing residential annexe ('The Granary') to be operated as a short-term or holiday let accommodation unit, which would be a new separate residential use over and above (that is, in addition to) the operation of the existing residential use of 'Jordonlaw Farmhouse'. This would promote an increase in the volume of traffic requiring to use the sub-standard junction between the public road (B6456) and access road at Jordonlaw Farm, with potential to increase road safety concerns for road users at and around the same road junction.

Method of Review: Review of Papers

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

- 6.3 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.4 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

- 7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 26th October 2017. This relates to sites at:

• Land at Hardiesmill Place, Gordon	• 1 Glenkinnon, Ashiestiel Bridge, Clovenfords
• Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston	•

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

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 26 October 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

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