SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTE of MEETING of the PLANNING AND
BUILDING STANDARDS COMMITTEE held in the
Council Headquarters, Newtown St. Boswells on 3
March 2014 at 10a.m.

Present: - Councillors R Smith (Chairman), M. Ballantyne, S. Bell, J. Brown, J. Fullarton, I.

In Attendance:- Development Standards Manager, Major Applications, Review and Enforcement
Manager, Managing Solicitor – Commercial Services, Democratic Services
Team Leader, Democratic Services Officer (Fiona Henderson).

ORDER OF BUSINESS
1. The Chairman varied the order of business as shown on the agenda and the Minute reflects the
order in which the items were considered at the meeting.

MINUTE
2. There had been circulated copies of the Minute of the Meeting of 3 February 2014.

DECISION
APPROVED for signature by the Chairman.

BUILT AND NATURAL HERITAGE
3. The Chairman welcomed Keith Robeson, Senior Countryside Ranger and Neil MacKay, Senior
Access Officer to the meeting to give a presentation to Members on Countryside and Access in
relation to Planning Applications. It was explained that the team – consisting of a Senior
Countryside Ranger, Senior Access Officer, Paths for All Co-ordinator, 3 access Rangers, a Senior
Path Warden and a Path Warden were primarily charged with the protection, enhancement and
promotion of countryside access to considerable natural and built assets of the Scottish Borders.
The key drivers were the Countryside (Scotland) Act 1967, Land Reform (Scotland) Act 2003 and
Health and Wellbeing Agenda. In particular the Countryside (Scotland) Act 1967 provided for
public access to open country to include cyclists and horse riding, to protect and maintain rights of
way, the creation of public paths and Long Distance Routes, the acquisition by planning authorities
of land for public access, Interpretation and Scottish Natural Heritage historically funded
countryside ranger services. In relation to promotion, it was highlighted that the Scottish Borders
contained six of Scotland’s twenty six Great Trails and seventy eight miles of Scotland’s National
Trail. There was a Paths Around programme which covered the thirteen major settlements; Guided
Walks programme; Walking Festival, Nature Festival and Heritage Festival; Interpretation and
public art and Educational outreach.

4. Neil Mackay went on to explain the Council’s duties under the Land Reform (Scotland) Act 2003
which included – powers to Uphold Access Rights; Core Paths Plan – maintenance of and
reasonable public access; advice and assistance to the Local Access Forum and promotion of the
Scottish Outdoor Access Code. In terms of the Core Paths Plan, it was explained that the plan
provided rights of responsible access, had taken 3 years to develop and required to be ‘sufficient
for the purpose of giving the public rights of responsible access throughout their area’. The plan
had to meet the needs of the users, provide a range of path types for a variety of users, assist
sound land management and consult and review. The Outdoor Access Strategy 2003 had to be
integrated into Local Transport and Access Strategy.
5. In terms of protection the Land Reform & Countryside Act imposed a statutory duty to maintain 1000km of Core Path Network, manage 1200km of promoted path network, Assert 3000kms of wider path network, provide a Bridge maintenance/replacement programme, assist and advise the Access Forum, Path maintenance programme, Manage Coldingham Bay (RNLI) and Lindean Loch and Policy (e.g. SPP11) - Access ‘material consideration’—(safeguard, diversions, new routes, definition of curtilage agreement, enhancement). The Team were also responsible for continual improvement at 32 Countryside./Heritage sites e.g. Colingham Bay, 250 Bridges, Major path upgrades e.g. Whithaugh, Roxburgh and Duns gateway, approximately 4,000 structures and 2,800 signposting. In terms of the Health and Wellbeing Agenda, this was undertaken by Denise Carmichael, Paths to Health Co-ordinator. The Walk It Project which had established 24 Active Groups in the Borders Towns, had initially been focused in areas of deprivation, but was now Borders Wide and had grown 330% over the last 5 years. Over 80 volunteer Walk Leaders had been trained and were managed under the project, with dual reporting lines to Scottish Borders Council and NHS Borders. There were many linked projects such as Day Centre Groups and between April 2013 and September 2013 there were 418 walks undertaken with 4728 Walkers attending. It was highlighted that Denise had won the Paths for All -Volunteer Project Manager of the Year 2013. The Chairman thanked Mr Robeson and Mr MacKay for their presentation, which would be circulated to all Members.

DECISION NOTED.

DECLARATIONS OF INTEREST

6. Councillor Fullarton declared a non pecuniary interest in terms of Section 5 of the Councillors Code of Conduct in respect of planning application 13/00615/FUL and left the meeting during its consideration.

APPLICATIONS

7. There had been circulated copies of reports by the Head of Planning and 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.

ADJOURNMENT

The meeting was adjourned at 12.50 p.m. for lunch and reconvened at 1.30 p.m.

URGENT BUSINESS

8. Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

APPLICATION

9. There had been circulated copies of report by the Head of Planning and Regulatory Services on an application for planning permission in respect of Modification on planning obligation pursuant to planning permission 97/00143/FUL and 03/02276/FUL.

DECISION DEALT with the application as detailed in Appendix I to this Minute.
HIGH HEDGES (SCOTLAND) ACT 2013

10. There had been circulated copies of a report by the Director of Environment and Infrastructure which outlined the provisions of the High Hedges (Scotland) Act 2013 which was expected to come into force on or after 1 April 2014, and sought approval of two key procedural decisions which would enable the Council to fulfil these new statutory obligations. The report explained that Formal notice of the commencement and implementation of the Act’s requirements had not yet been issued by the Scottish Government. Similarly, finalised guidance, which would set out the processes for the implementation of the Act had not yet been issued. However, it was necessary to consider the likely requirements of the Act and to make decisions on the schedule of fees and the scheme of delegation in order to be prepared for the Council to fulfil its statutory role in the process, which may be required to commence at short notice. The specific actions required were as set out in the recommendations in the report. The Members raised concerns with regard to the right to appeal. It was explained that the Act aimed to provide an effective means of resolving disputes over the effects of a high hedge and allowed home owners and occupiers to apply to a local authority for a High Hedge Notice. In terms of process, neighbours must attempt to resolve the issue themselves before applying for a High Hedge Notice. An application to the Council for a High Hedge Notice was a last resort. Unlike other applications, the Council would undertake a detailed technical on site survey and appraisal of the nature of the hedge, site characteristics and the relation to domestic properties and habitable rooms. Members were of the opinion that the level of fee proposed was too low considering that it was unlikely to fully cover the cost of providing the Notice. Councillor Mountford, seconded by Councillor Bell moved that the fee be increased to £400 and this was unanimously agreed. It was further agreed that a review be carried out after 6 months of operation. This report should also include a process flow chart and specify the grounds on which applications could be referred to Committee.

DECISION
(a) AGREED that:-

(i) the fee for High Hedge Notices be set at £400 per applicant;

(ii) that the process be reviewed after 6 months, with further clarification on the matters being referred to Committee, together with a flow chart of the process.

(b) AGREED TO RECOMMEND to Council that:-

(i) the Scheme of Delegation be amended to include the determination of High Hedges Notices in the delegation of powers to the Service Director Regulatory Services;

(ii) the Scheme of Administration be amended to enable the Planning and Building Standards Committee to determine cases where the officer delegation described in (i) above was not exercised.

PROPOSED REVIEW OF DEVELOPMENT CONTRIBUTIONS AND LEGAL AGREEMENT PROCESSES.

11. There had been circulated copies of a report by the Director of Environment and Infrastructure which set out proposed changes to the existing processes for negotiating Developer Contributions including revised arrangements for the drafting of associated Legal Agreements. Mr Bowie, Development Negotiator explained that there was a continuing need for the Council to improve the speed with which it determined planning applications in order to meet Scottish Government objectives. This would become even more important when the Regulatory Reform (Scotland) Bill which introduced the prospect of a financial penalty for poor performance was enacted. The time
taken to conclude legal agreements related to development contributions had been identified as a significant contributor in extending the time taken to release consent for planning applications in the Scottish Borders. The report summarised the identified routes considered by officers to address current deficiencies as well as highlighting the anticipated risks and benefits that may result from the proposed changes.

DECISION
(a) NOTED and endorsed the proposed procedural changes to processing Development Contributions and Legal Agreements.

(b) AGREED to the publication of amended Supplementary Planning Guidance.

REVIEW OF DEVELOPMENT CONTRIBUTION POLICY
12. There had been circulated copies of a report by the Director of Environment and Infrastructure which proposed an amendment to the Development Contributions Policy and a review of the Affordable Housing Supplementary Planning Guidance. The report considered whether the existing development contribution policy should be amended to remove the burden from small/medium-scale developments and to assist with the stimulation of new house-building. This included consideration of the impact that changing the thresholds in terms of residential unit numbers at which Development Contributions were sought would have upon receipts and values for Scottish Borders Council. Some small/medium-scale residential developers contended that development contributions were disproportionately onerous on smaller/medium-scale residential development projects. This, they asserted, directly constrained development activity consequently inhibiting and suppressing associated economic benefits. As, in predominantly rural authority areas, smaller/medium-scale developments could comprise of a proportionately high volume of planning applications, this negative impact could cumulatively be significant. Five options had been identified as part of the review and these were detailed in the report. Mr Bowie Development Negotiator was present to answer Members questions.

DECISION
AGREED to:

(a) retain policy position as existing in terms of thresholds for seeking Development Contributions;

(b) amend the threshold, as detailed in Option 4, at which on-site Affordable Housing was sought from 5 to 17 residential units, instead accepting a commuted sum for residential proposals for 2 – 16 units; and

(c) review Affordable Housing Policy implementation, the proposed amendments to the Supplementary Planning Guidance and issue for consultation.

APPEALS AND REVIEWS
13. There had been circulated copies of a report by the Head of Planning and Regulatory Services on Appeals to the Scottish Ministers and Local Reviews.

DECISION
NOTED that:

(a) there remained 3 appeals outstanding in respect of the following:

- Whitslade (Barrel Law), Selkirk
• Allanshaws Farmhouse (Shawpark), Galashiels
• Blythe Farm (Brunta Hill), Lauder

(b) review requests had been received in respect:-
(i) Erection of dwellinghouse with integral garage on Plot 1 Land South West of Blackhouse Farm Cottages, Reston - 11/01657/FUL
(ii) Erection of dwellinghouse with integral garage on Plot 2 Land South West of Blackhouse Farm Cottages, Reston - 11/01658/FUL
(iii) Removal of condition from planning consents B315/94 and 00/00458/FUL to allow residency to be outwith connection to business or agriculture at Kinegar House, Cockburnspath - 13/01121/FUL

(c) the Local Review Body had overturned the Appointed Officers decision to refuse the following:-
(i) Extension to dwellinghouse at 29 Headrig, Jedburgh - 13/00996/FUL
(ii) Extension to dwellinghouse at Briar Cottage, Ettrickhaugh Road, Selkirk - 13/01103/FUL

(d) there remained 2 reviews outstanding in respect of;-
• Deanfoot Road, West Linton
• Plot 2 Huntshaw Road, Earlston

PRIVATE BUSINESS
14. 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 Appendix I to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

MINUTE
1. The Committee approved the private section of the Minute of the Meeting of 3 February 2014.

MODIFICATION OF A PLANNING OBLIGATION
2. The Committee agreed to approve the recommendations contained in a report by the Director of Environment and Infrastructure.

The meeting concluded at 3:05 p.m.
APPENDIX

APPLICATIONS FOR PLANNING PERMISSION

<table>
<thead>
<tr>
<th>Reference</th>
<th>Nature of Development</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>13/01379/FUL</td>
<td>Erection of poultry shed (amendment to previous consent 12/00465/FUL)</td>
<td>Whim Poultry Farm Lamancha West Linton</td>
</tr>
</tbody>
</table>

Decision: Continued to enable a site visit to take place which would clarify how a barn system poultry unit operated and for the Environmental Health Officer to attend the next meeting of the Committee to answer questions on potential nuisance to residents of this type of unit. In particular Members requested information on:
- Noise levels and mitigation thereof
- Manure collection
- Dust levels and mitigation
- Implications of the number of hens being housed in the proposed system.

NOTE
Mrs Fiona Hodgkiss and Angie McDougall spoke on behalf of the objectors against the application. Mr Ian Campbell, applicant, spoke in support of the application.

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<tr>
<th>Reference</th>
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</thead>
<tbody>
<tr>
<td>13/00615/FUL</td>
<td>Erection of 2 wind turbines 77.9m to tip and associated infrastructure</td>
<td>Land North West of Shepherds House (Haud Yauds), Moorhouse Coldingham</td>
</tr>
</tbody>
</table>

Decision: Approved subject a legal agreement addressing contribution towards (i) archaeological study and evaluation and (ii) to maintenance/improvement of the public path and cycle networks; and the following conditions:

Commencement and Conformity:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications approved by the Planning Authority, but subject to any revisions required because other conditions have required non-material variations to be made, in response to matters arising.
   Reason: To ensure that the development is carried out in accordance with the approved details.

3. Prior to commencement of development, and prior to the commencement of any enabling works required to facilitate the development (including on-site ground investigation), a finalised site layout plan showing clearly any changes to siting/micrositing shall be submitted to, and approved in writing by the planning authority.

The micrositing of turbines shall respond to the requirements of the Scottish Environmental Protection Agency in respect of removing the easternmost turbine entirely off the M23 GWDTE described in the December 2013 Addendum to the Environmental Statement. The micrositing shall
also respond to the requirement to minimise risk to bats, as described in the planning consultation response of Scottish Natural Heritage dated 5 February 2014.

If found to be necessary, the site layout plan shall be supplemented by further wireline visualisations or other graphical material showing the visual impacts resulting from the changes. Reason: changes are necessary to respond to concerns relating to ecology, habitat and potentially archaeology. These changes are not material to nature of the development, but will be required to minimise environmental impacts. It is essential that the implications of any changes to layout are considered in terms of the visual effects they would cause.

Micrositing:

4. Notwithstanding any reference to a Micrositing requirement described in the Environmental Statement forming part of the planning application, all further Micrositing allowances are not agreed and any further change to layout shall be agreed formally in writing by the planning authority. Reason: to prevent the occurrence of potential adverse visual impacts, and adverse effects relating to ecology, habitat and archaeology.

Turbine Model:

5. Prior to commencement of development, precise details of the actual turbine intended for use at the site shall be submitted to and agreed in writing by the planning authority. These details shall include a technical specification which includes noise output. Only the turbines agreed in response to this condition shall be used, unless further consent to vary the turbine model has been 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 both visual and residential amenity.

Materials:

6. Prior to commencement of development, details of the external finishes of any items other than the turbines themselves which are on or above ground shall be submitted to, and approved in writing by the planning authority. Thereafter, the development shall be carried out in strict accordance with the details agreed in response to this condition. The details shall include the uppermost track surfacing, substation and transformer unit materials/colours/textures. Reason: to ensure that there is certainty relating to the visible components of the development, so that the development is visually compatible with its locality.

Road Safety:

7. Prior to commencement of development, the developer shall submit a detailed drawing of the proposed junction of the new access with the A1107 public road. Following consideration and approval by the planning authority, the junction shall be formed in strict accordance with the details approved in response to this condition. Reason: to ensure that the site access is constructed in such a way as to protect the safety of road (and site) users.

8. Prior to commencement of development, and prior to the transportation of any components of the development that will require provisions to be made to accommodate abnormal loads, a detailed traffic management plan shall be submitted to and approved in writing by the planning authority. Transportation of all abnormal loads shall be undertaken in strict accordance with the details approved in response to this condition.
Reason: to ensure that the transportation of the development components does not prejudice the amenity and safety of users of the local road network, including those who are residents, affected most noticeably by the imposition caused by traffic movements.

9. Prior to commencement of the development, details of the measures to be implemented at the entrance to the site to prevent mud and dust entering the public highway shall be submitted to and approved in writing by the planning authority. The approved measures shall be implemented and shall remain in place throughout the construction of the development.
Reason: to ensure that measures are taken to minimise disruption to road users, and to ensure that road safety is maintained.

Decommissioning:

10. This permission shall expire and the development hereby permitted shall be removed thereafter in accordance with this condition after a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network (“First Export Date”). Written confirmation of the First Export Date shall be provided to the Planning Authority within 1 month of the First Export Date.

No later than 18 months prior to the end of the planning permission, or by such later date as may be agreed by the Planning Authority, a method statement for the decommissioning of the wind farm and the restoration of the application site shall be submitted to and approved in writing by the Planning Authority. This method statement shall include the removal of the above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic issues during the decommissioning period. Decommissioning in accordance with the approved method statement shall be completed within 6 months of the end of the period of this planning permission or any alternative timescale agreed with the Planning Authority in writing and shall include the dismantling and removal from the site of all turbines, buildings and ancillary development.
Reason: To ensure an indicative scheme is submitted by the wind farm operator and approved by the Planning Authority for the decommissioning of the wind farm at the end of its 25 year proposed lifespan.

11. Within 24 months following the end of the period of the consent, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site, and the land shall be restored and subject to aftercare, in accordance with a restoration and aftercare scheme that shall first have been submitted to, and approved in writing by, the Planning Authority. This scheme shall address any requirement for the retention of access tracks subject to the agricultural operations of the landowner. For the purposes of this condition 'restored' means the removal of all wind turbines, initial layer of turbine foundations, tracks and hardsurfaces as detailed in the approved scheme, all buildings and ancillary development and restoration of the site.
Reason: To ensure that a plan is in place for the restoration of the site and to provide for changes in circumstances relating to best practice towards the end of the life of the development.

Turbine Failure/Removal:

12. 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, 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.

Financial Provisions (Restoration):

13. Prior to commencement of development (excepting enabling works), details of the financial provisions, including the amount of the financial provisions and the name/details of the financial provisions provider, to be put in place to cover the costs of decommissioning and site restoration shall be submitted to and approved by the Planning Authority. Once approved, documentary evidence that the approved financial provisions are in place (including mechanisms for periodic review (every tenth year of operation) to ensure they are adequate to cover costs) shall be submitted to the planning authority. Thereafter, the approved financial provisions must be kept in place until they are required to complete site decommissioning and restoration in accordance with the DMS.
Reason: To secure decommissioning and reinstatement in the event of unforeseen circumstances, to ensure that environmental impacts arising from the development are acceptably reversed.

Noise:

14. Noise levels from the wind turbines where the occupier of the property has no financial interest in the development shall not exceed an external free field LA90, 10min level of the greater of 35dB(A) or 5dB(A) above the agreed prevailing background noise level during amenity hours, at any 10 metre height with wind speeds up to 12m/s and 43dB(A) during night hours. Any tonal elements in the noise spectra shall be assessed using the joint Nordic Method and the tone level shall not exceed 2dB above the ‘Masking Threshold for Tones in Noise’.

In the event of a justified noise complaint, the installation shall be shut down or limited in operation so as to ensure compliance with the above noise limit.
This limit shall include the cumulative noise from any other turbines in the vicinity.

Noise measurements shall be taken using the methodology contained in ETSU-R-97
Reason: to ensure that the development would not be prejudicial to residential amenity, and to ensure that steps are able to be taken to mitigate in the event of noise nuisance becoming an issue.

15. Prior to construction of the first turbines, the developer shall submit and have approved in writing by the planning authority a noise mitigation strategy that will enable any noise nuisance issues to be addressed in relation to the development. This shall include any measures necessary where cumulative noise from the development with other wind energy development proposals currently under consideration or approved by the planning authority is occurring. During the operational period of the wind farm, the measures described in the strategy submitted and approved in response to this condition shall be strictly adhered to at all times.
Reason: in the interests of the amenity of occupiers of noise sensitive premises.

16. From the First Export Date until the development is decommissioned, windspeed data from the site must be recorded continuously and collated in a form which enables the planning authority to check the noise monitoring conditions. At the reasonable request of the planning authority the recorded data shall promptly be made available to them. Where wind speed is measured at a height other than 10m above ground level, the wind speed data shall be converted to 10m height, accounting for wind shear by a method whose details shall also be provided to the planning authority.
Reason: to enable compliance with noise monitoring conditions to be checked.

Shadow Flicker:
17. Prior to the construction of the first turbine, a written scheme shall be 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 Local Planning Authority from the owner or occupier of a dwelling which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial 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 consent to any variations.

Reason: For the protection of amenity of local residents.

Television interference:

18. Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use 9 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the wind farm operator by the Planning Authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Planning Authority.

Reason: For the protection of amenity of local residents.

Archaeology:

19. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis the results of which will be submitted to 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 to afford a reasonable opportunity to record the history of the site.

Environmental Management:

20. At least two 2 months prior to the commencement of development (other than agreed enabling works) a full site specific environmental management plan (EMP) shall be submitted to and approved in writing by the Planning Authority (in consultation with SEPA and other agencies such as SNH as appropriate) and all work shall be carried out in accordance with the details in the plan approved in response to this condition. The plan shall include the following components (this list is not exhaustive):

(i) a study of the site and its environs to establish precisely how local water sources and supplies relate to and/or would be affected by the implementation of the development, plus mitigation in relation to this matter;
(ii) a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources (based on SUDS principles – Sustainable Urban Drainage Systems);
(iii) a plan for the management of flood risk, in particular in relation to parts of the site close to watercourses and proposed crossings of the watercourse;
(iv) a focussed waste management strategy;
(v) a strategy for management of dust arising during construction of the tracks, hardstandings and foundations;
(vi) details of measures proposed to contain all materials and fuels to be utilised during construction.
Reason: To control pollution of air, land and water.

21.  (a) Prior to Commencement of Development, the wind farm operator shall prepare a Construction Method Statement (to include a Risk Assessment) for the approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The Construction Method Statement shall comprise the following details:
- all on-site construction, and construction of access tracks, including drainage, mitigation, post-construction restoration, and reinstatement work, as well as the timetables for such work;
- any temporary diversions of rights of way and associated signage;
- surface water drainage measures to comply with national guidance on pollution prevention, including surface water run off from internal access roads;
- details of waste water management during construction;
- the arrangement for the on-site storage of fuel oil and other chemicals;
- the method, frequency and duration of ecological monitoring, particularly of watercourses, over the Construction Period of the wind farm development;
- details of the phasing/timing of construction of all components of the development including dates for delivery of components
- details of water supply;
- details of measures to reduce soil erosion;
- details relating to minimisation of environmental impact of road construction;
- details of any watercourse engineering works and measures for the implementation of buffer zones around existing watercourses and features;
- details of timescale for the restoration of the site, including the site compound and crane hardstanding areas;
- details of contingency planning in the event of accidental release of materials which could cause harm to the environment.

(b) Subject to the following paragraph, no work shall begin on the Development, apart from the enabling works, until the Construction Method Statement has been approved. Once approved, the works specified in the Construction Method Statement shall be carried out as approved, unless otherwise agreed in writing with the Planning Authority.

(c) The enabling works shall not be carried out until details of them have been submitted to and approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. All of the enabling works shall be carried out in accordance with the approved details.
Reason: It is essential to ensure that all construction works are carried out in a controlled manner which minimises environmental damage; the CMS will provide a useable document identifying guidelines and conditions for construction, but which also gives recourse to mitigating action in the event of construction deviating from the CMS. The document, with the Environmental Management Plan required by Condition 20 of this permission, shall provide the Ecological Clerk of Works (required by Cond. 22 of this permission) with information with which to monitor construction and environmental management.
22. (a) Prior to the Commencement of Development (including the enabling works), the wind farm operator shall appoint an independent Ecological Clerk of Works (ECoW) under terms which have first been submitted to and agreed in writing by the planning authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency, and shall include that the appointment shall be for the period of wind farm construction, including micro-siting and the finalisation of the wind farm layout (which may require the ECoW to be in place prior to discharge of Condition 3), as well as subsequent post-construction restoration.

(b) The ECoW's principal terms of appointment are to impose a duty to monitor compliance with all the ecological and hydrological aspects of the Construction Method Statement, including post-construction restoration, which have been approved under the terms of Condition above. The ECoW's terms of appointment are to require the ECoW to report promptly to the wind farm operator's nominated Construction Project Manager any non-compliance with the hydrological or ecological aspects of the Construction Method Statement. The wind farm operator shall confer on (and comply instructions given in the exercise of) the ECoW the power to stop any construction or restoration activity on-site which in his or her view (acting reasonably) could lead to significant effects on the environment, and shall without delay, report the stoppage, with reasons, to the wind farm operator's nominated Construction Project Manager and to the Planning Authority, Scottish Natural Heritage and the Scottish Environmental Protection Agency.

Reason: The presence of an ECoW at the site is essential to enable unforeseen or unplanned occurrences relating to the environment on and in relation to the site, in particular when it relates to impact on biodiversity and/or the water environment, to be mitigated.

23. Prior to commencement of development, the developer shall submit to and have approved in writing by the planning authority, augmented mitigation proposals in respect of the construction of tracks on the site. The mitigation shall respond to the advice of the Scottish Environmental Protection Agency in its planning consultation response of 3.2.14, Paragraph 1.5.

Reason: to minimise the risk of harm to the GWDTE areas.

24. Notwithstanding the requirements of Condition 23, the development (in particular for the westernmost turbine) shall be undertaken in strict accordance with the mitigation measures identified in the ES, as augmented by the Addendum of December 2013, insofar as they relate to the minimisation of harm to GWDTEs.

Reason: to minimise the risk of harm to GWDTE areas.

Ecology and Ornithology:

25. Prior to the commencement of any works or development on the site a Species Mitigation and Management Plan (including measures to protect passage, wintering birds, badger and waterbodies) shall be submitted to and approved in writing by the Planning Authority. All on-site works and development shall thereafter be carried out in accordance with the approved Plan.

Reason: to ensure that reasonable protection is given to biodiversity on and utilising the site.

26. A Before-After-Control-Impact (BACI) monitoring programme shall be submitted to and approved in writing by the planning authority prior to commencement of the development. The programme should include monitoring of passage and wintering geese (pink-footed geese and graylag geese) at 1, 3, 5, 10 and 15 years intervals after the First Export Date, subject to review.

Reason: to ensure that the protected species are afforded due protection and to enable greater understanding of the impacts of development of this nature.

27. A Habitat Management and Enhancement Plan, including on-site and off-site measures as appropriate to moorland habitats to benefit protected bird species and including measures to maintain the reduced attractiveness of the development site to geese is to be submitted for the
approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme. 
Reason: this is required to offset the environmental impact of the development, and to enhance the site and its environs to benefit biodiversity.

**Air Traffic Safety:**

28. Prior to the erection of the first wind turbine, the developer shall provide written confirmation to the Local Planning Authority and the Ministry of Defence of the anticipated date of commencement of and completion of construction; the maximum height above ground level of construction equipment, the position of each wind turbine in latitude and longitude and the maximum height above ground level of each turbine and anemometry mast. The developer shall give the Planning Authority and the Ministry of Defence notice as soon as reasonably practicable if any changes are made to the information required by this condition. 
Reason: In the interests of aviation safety.

29. Prior to the erection of the first wind turbine, a scheme for aviation lighting for the wind farm consisting of Ministry of Defence accredited infra-red aviation lighting will be submitted for the written approval of the Local Planning Authority. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of this consent. 
Reason: In the interests of aviation safety.

**Signage:**

30. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on the turbines, other buildings or structures within the site without the written approval of the Planning Authority. 
Reason: To ensure that the development does not unduly prejudice public amenity.

31. No signage, other than that required for health and safety and for traffic management, shall be erected within the application site without the written consent of the Planning Authority. 
Reason: To ensure that the development does not unduly prejudice public amenity.

**Rights of Way/Public Path Network:**

32. Unless otherwise agreed in writing, all designated public paths (existing/diverted routes) shall be maintained free from obstruction during and after development. 
Reason: in the interests of the amenity and safety of users of the public path network.

**Construction Hours:**

33. Construction work shall only take place between the hours of 07:00 – 19:00 hours on Monday to Friday inclusive and 07:00 – 12:00 hours on Saturdays, with no construction work on a Sunday or local or national public holiday. Outwith these hours, works at the site shall be limited to concrete pours, turbine erection, emergency works and dust suppression, unless otherwise approved in writing by the Planning Authority. Works outside these hours may be carried out in the event of an emergency, provided that the Planning Authority is notified by telephone and writing as soon as reasonably practicable (and in any event within 48 hours) following the emergency first being identified, such notification to include both details of the emergency and any works carried out and/or proposed to be carried out. 
Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.
34. The delivery of any construction materials or equipment for the construction of the development shall be restricted to the hours of 07:00 – 19:00 on Monday to Friday inclusive, 07:00 to 12:00 on Saturdays with no such deliveries on a Sunday or local or national public holiday unless (a) previously approved in writing by the Planning Authority or (b) the delivery is necessary in the event of an emergency on the site. 
Reason: In the interests of minimising disturbance to local residents during the construction process.

NOTE
Mr George Matthews spoke on behalf of the objectors against the application. Mr Stuart Edwards, applicant, spoke in support of the application.

VOTE
Councillor Bell, seconded by Councillor Brown, moved approval of the application.

Councillor Ballantyne, seconded by Councillor White, moved as an amendment that the application be refused in terms of policies D4 Visual impact and generation of noise contrary to Supplementary Planning Guidance on Small Wind Energies.

On a show of hands Members voted as follows:-
Motion - 6 Votes
Amendment - 2 Votes
The Motion was accordingly carried.

In approving the application Members asked that it be recorded that they considered that this landscape had now reached capacity in terms of the number of turbines which could be accommodated.

13/01268/FUL Variation of conditions 33, 34 and 35 to allow de-commissioning and restoration according to an approved scheme within a period of 12 months following expiration of permission for the wind farm

Fallago Rig Wind Farm
Fallago Ridge
Longformacus

Decision: Approved subject to the following conditions set out in Part 2 below:

Part 2 - Conditions applying to only the deemed planning permission

Construction

10. The number of turbines shall not exceed 48 and the position of the turbines shall be as shown on plan reference 13286-078a.wor contained within the Supplementary Environmental Information submitted in October 2006, subject to micro-siting agreed in consultation with the Planning Authority through condition 21 attached to this consent. The blade tip height of turbines shall not exceed 125 metres in height, except turbines numbered 1, 2, 5, 11, 18, 22 and 37 on plan reference 13286-078a.wor contained within the Supplementary Environmental Information, which shall not exceed 110 metres in height. The colour and finish of the turbines shall be agreed with the Planning Authority prior to the erection of any turbine. Apart from the differences in height mentioned above, all turbines on the site shall be substantially identical in appearance, unless otherwise agreed by the Planning Authority.
11. All turbines and components shall be installed to meet the safety standards set by British Standard BS EN 61400-1: 2005 ‘Wind turbine generator systems: Safety requirements’ or International Electro-technical Commission IEC 16400.

12. Prior to the erection or installation of any ancillary equipment or buildings, the design, colour and finish of the equipment and buildings shall be submitted to and approved in writing by the Planning Authority. Thereafter, the Development shall be implemented in accordance with the approved details.

13. All turbine blades shall rotate in the same direction.

14. No symbols, signs or logos or other lettering, other than those required for health and safety and for traffic management, shall be displayed on any part of the turbines nor any other building or structures without the written consent of the Planning Authority.

15. Prior to the installation of the turbines, the Company shall commission a survey measuring existing television reception quality, which shall be submitted to the Planning Authority. In the event that the Development is found to cause interference to television reception in the vicinity, following a complaint made to the Planning Authority within two years of the Final Commissioning of Development, the Company, shall take whatever action is deemed necessary, to remedy such impairment and alleviate the problem, to the satisfaction of the Planning Authority.

16. (a) Prior to Commencement of Development, apart from the enabling works outlined below, the Company shall prepare a Construction Method Statement (to include a Risk Assessment and an Environmental Management Statement) for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, the Scottish Environment Protection Agency, and Cranshaws and Ellemford and Gordon and Westruther Community Councils. The Construction Method Statement shall comprise the following details:

- a scaled map to include the anticipated layout and width of temporary and permanent tracks, cable routeing, turbine bases, crane standings, site storage compound, substation, on-site switch gear and equipment store and any ancillary buildings;
- all on-site construction, and construction of access tracks, including drainage, mitigation, post-construction restoration, and reinstatement work, as well as the timetables for such work;
- any temporary diversions of rights of way and associated signage;
- surface water drainage measures to comply with national guidance on pollution prevention, including surface water run off from internal access roads;
- the arrangement for the on-site storage of fuel oil;
- the working and re-instatement of borrow pits;
- the method, frequency and duration of ecological monitoring, particularly of watercourses, over the Construction Period of the wind farm development;
- the principles of the Land Management Plan referred to in condition 32 below.

(b) Subject to the following paragraph, no work shall begin on the Development, apart from the enabling works, until the Construction Method Statement has been approved. Once approved, the works specified in the Construction Method Statement shall be carried out as approved, unless otherwise agreed in writing with the Planning Authority.

(c) The provisions of this condition shall not prevent the following “enabling works” in advance of the approval of the Construction Method Statement:

- construction of the temporary site storage compound;
the sub-station platform; and
the permanent access track to the substation platform along the route shown on Figures
5.2, 5.3 and 5.3a of the Fallago Rig Wind Farm Environmental Statement dated May
2005 (subject to such modification as may be approved in advance by the Planning
Authority);
(d) The enabling works shall not be carried out until details of them (including any necessary
measures for public road improvements outwith the site, traffic management, works to be
implemented at the entrance to the site to prevent dust and mud entering the public
highway, or any related programme of monitoring the condition of public roads) have been
submitted to and approved in writing by the Planning Authority, in consultation with Scottish
Natural Heritage, the Scottish Environment Protection Agency and Cranshaws and
Ellemford and Gordon and Westruther Community Councils. All of the enabling works shall
be carried out in accordance with the approved details.

17. (a) The site compound shall be constructed in accordance with methods to be agreed with and
approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage, the
Scottish Environment Protection Agency and Cranshaws and Ellemford and Gordon and
Westruther Community Councils in advance of the commencement of the Development.
Thereafter, the site compound shall be constructed in accordance with the approved details.

(b) The site compound shall be removed and any works for the reinstatement of the land shall
be carried out within 6 months of the completion of the construction works, in accordance
with details approved in writing by the Planning Authority, in consultation with Scottish
Natural Heritage, the Scottish Environment Protection Agency and Cranshaws and
Ellemford and Gordon and Westruther Community Councils, before the completion of
construction works. Thereafter, the site compound shall be removed in accordance with the
approved details.

Roads/Transportation

18. Prior to the Commencement of Development, save in respect of the enabling works as provided for
in condition 16, the Company shall provide for the approval of the Planning Authority:
• detailed proposals for any necessary public road improvements outwith the site;
• a programme of necessary traffic management measures to cater for abnormal vehicle
movements; and
• details of the measures to be implemented at the entrance of the site to prevent dust and mud
entering the public highway.

Apart from the enabling works, no development shall take place on the site until the approved
measures have been implemented. The approved measures shall remain in place as appropriate
throughout the construction and decommissioning phases of the Development.

19. Prior to the Commencement of Development, apart from the enabling works as provided for in
condition 16, a programme of monitoring the condition of the public roads serving the site before,
during and after the construction and decommissioning phases of the Development shall be
agreed in writing with the Planning Authority. Thereafter, any remedial works, as approved by the
Planning Authority, or payment of extraordinary maintenance costs incurred by Scottish Borders
Council as a result of the site traffic, are to be carried out or paid within three months of completion
of the construction or decommissioning of the wind farm.

Rights of Way
20. Prior to the Commencement of Development, a plan shall be submitted to the Planning Authority showing the existing paths and rights of way within the site. Access along such paths and rights of way shall not be disturbed or disrupted during construction and Decommissioning, unless a detailed plan with respect thereto has been submitted for the approval of the Planning Authority and thereafter implemented in accordance with the terms and timescales set therein. Such plan shall include:

(a) the identification of any area proposed to be excluded from statutory access rights and the reasons for such exclusion;
(b) details of the closure or temporary diversion of any identified rights of way at the site and any associated signage;
(c) details of the measures to ensure safe public access along the identified or diverted paths, tracks and rights of way during the construction and decommissioning phases of the Development; and
(d) details for the reinstatement and upgrading of the affected routes, including details of waymarking and route interpretation.

This condition is without prejudice to the need to obtain any other consent, permission or order in connection with the disturbance or disruption of use of a path or right of way.

Micro-siting

21. (a) Following the formation of the access road and completion of the ground investigation studies, details of the precise micro-siting of each turbine and of all ancillary equipment and buildings shall be submitted for the approval of the Planning Authority prior to the erection or installation of the aforementioned turbines, equipment and buildings.
(b) The micro-siting shall be no more than 50 metres in any direction from the position of each turbine as it is shown on plan reference 13286-078a.wor contained within the Supplementary Environmental Information October 2006, unless agreed with the Planning Authority in consultation with the Ministry of Defence.
(c) The micro-siting shall maintain a 20 metre buffer zone to water courses as shown on plan reference 13286-079a.wor, unless agreed with the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage.

Noise

22. Prior to the installation of the turbines, their specification, with regard to noise predictions, shall be submitted to the Planning Authority for assessment and confirmation that the noise criteria in this approval will be met.

23. Noise monitoring arrangements for the proposed turbines shall be undertaken in accordance with a programme of work to be agreed with the Planning Authority. The programme shall be submitted to and approved by the Planning Authority prior to the installation of the turbines.

24. When assessed in accordance with the attached guidance notes, noise limits at the agreed sensitive receptors identified within section 8 of the Environmental Statement will be met inclusive of any tonal penalty.

25. Noise levels at any Noise Sensitive Premises from the combined effect of the wind turbines where the proprietor or the occupier of the property has no financial interest in the Development shall not exceed an external free-field LA90, 10 min level of the greater of 40dB(A) or 5dB at any 10 metre height wind speed up to 12m/s above the prevailing background noise level from 07:00-23:00, and the greater of 43dB(A) or 5 dB at any 10 metre wind speed height up to 12 m/s above the prevailing background noise level from 23:00-0:700. The data provided in the noise assessment
presented in the Environmental Statement provides the prevailing background noise level at various wind speeds and the methodology used within that document should be the basis for assessment of future investigations for consistency’s sake. Any assessment of compliance with this condition shall be made in accordance with the guidance notes attached to this consent.

26. Wind speed data must be maintained for a period of no less than 12 months from the Commissioning of the Development, and for each 12 month period of operation of the Development and be made available to the Planning Authority on request.

Archaeology

27. No development shall take place on the site in the vicinity of the archaeological features mentioned below until the following works have been undertaken or details agreed:

(a) fencing has been erected, in a manner and at locations to be agreed with the Planning Authority around the features reference 6, 10, 14 and 23, as identified in the Environmental Statement table number 12.1 and features reference A, H, J, L1 and L2 as identified in the Environmental Statement table number 12.2; and no works shall take place within the area inside that fencing without the prior agreement of the Planning Authority;

(b) a plan has been submitted for the consideration and written approval of the Planning Authority to indicate the precise route of the proposed access track in the vicinity of John Dippie’s Well (located at NT 646 559). Thereafter, if considered necessary by the Planning Authority, fencing shall be erected around the well in the same manner as required above by clause (a) of this condition in relation to other features, and no works shall take place within the area inside that fencing without the prior agreement of the Planning Authority;

(c) the sections of new access track in the vicinity of Byrecleugh Steading Scheduled Ancient Monument, as referred to in Annex 5 of the Supplementary Environmental Information dated October 2007, shall be surveyed and laid out under direct archaeological supervision.

28. No development shall take place until the Company has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Ecological issues

29. (a) Prior to the Commencement of Development (including the enabling works), the Company shall appoint an independent full-time Ecological Clerk of Works (ECoW) acceptable to the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The terms of the appointment shall be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency, and shall include that the appointment shall be for the period of wind farm construction, including micro-siting and the finalisation of the wind farm layout, as well as subsequent post-construction restoration.

(b) The EcoW’s in terms of appointment are to impose a duty to monitor compliance with all the ecological and hydrological aspects of the Construction Method Statement, including post-construction restoration, which have been approved under the terms of condition 16 above. The EcoW’s terms of appointment are to require the ECoW to report promptly to the Company’s nominated Construction Project Manager any non-compliance with the hydrological or ecological aspects of the Construction Method Statement. The Company shall confer on (and comply instructions given in the exercise of) the ECoW shall have the power to stop any construction or restoration activity on-site which in his or her view (acting
reasonably) could lead to significant effects on the River Tweed SAC, and shall without delay, report the stoppage, with reasons, to the applicant’s nominated Construction Project Manager and to the Planning Authority, Scottish Natural Heritage and the Scottish Environmental Protection Agency.

30. Prior to the Final Commissioning of the Development, plans for the method, frequency and duration of ecological monitoring over the operational life-span of the proposed Development are to be submitted to, and approved in writing by, the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The monitoring shall be carried out in strict accordance with the terms set out in the agreed monitoring plan.

31. Prior to the Final Commissioning of the Development, the Company shall submit an operational protocol for approval in writing by the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. This will set out details for working practice and wind farm maintenance over the operational life-span of the wind farm. The wind farm shall be operated in strict accordance with the terms of the operational protocol.

32. Prior to the Commencement of Development save in respect of any enabling works as provided for in condition 16, the applicant will submit a detailed Land Management Plan for approval in writing by the Planning Authority in consultation with Scottish Natural Heritage. The Land Management Plan will set out proposed long-term management of the wind farm site and should provide for the maintenance of dwarf shrub heath habitat on site. The Land Management Plan, as approved shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.

Decommissioning and restoration

33. Within 12 months after the end of the period of the consent granted under section 36 of the Electricity Act 1989 as provided for in condition 2, those parts of the Development requiring decommissioning and restoration in accordance with the conditions of this consent shall be removed and the land restored, in accordance with the decommissioning restoration and aftercare scheme required by the planning condition 34.

34. Within 5 years prior to the expiry of the consent granted under section 36 of the Electricity Act 1989, a decommissioning restoration and aftercare scheme shall be submitted for the approval of the Planning Authority outlining the programme of decommissioning of the Development and the restoration and aftercare of the site. The decommissioning restoration and aftercare scheme will include details of all site decommissioning including the removal of all wind turbines together with their foundations to a depth of 1.2m, ancillary equipment and buildings to be dismantled and work to remove other infrastructure from the site and details of site restoration and aftercare to restore the land to its former condition or other such condition as may be agreed with the Planning Authority. It will include provision for the appointment of an Ecological Clerk of Works acceptable to the Planning Authority (in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency), whose role will be to oversee implementation of the plans so approved. The decommissioning restoration and aftercare scheme will include the method, frequency and duration of ecological monitoring, particularly of watercourses, over the decommissioning period of the Development. Six months prior to the expiry of the section 36 consent, the decommissioning restoration and aftercare scheme shall be reviewed by the Company and the Planning Authority, and any alterations deemed appropriate and mutually acceptable shall be made. Within twelve months, or any alternative timescale agreed by the Planning Authority, of the wind farm ceasing to be used for the generation of electricity, the decommissioning restoration and aftercare scheme as referred to above shall be submitted to the Planning Authority. Within this submission a timescale
for completion of the restoration of the site shall be agreed with the Planning Authority, thereafter
the works shall be completed in accordance with the agreed timescales.

35. The site shall be restored to such condition as set out in the agreed decommissioning restoration
and aftercare scheme

36. Following the decommissioning and restoration of the site in accordance with planning condition 33
and aftercare requirements contained in the decommissioning restoration and aftercare scheme
required by condition 34 shall be implemented in accordance with the programme approved
therein.

Financial Bond

36.(a) Prior to the Commencement of Development, the Company shall provide to the Planning
Authority details of the bond or other financial provision which it proposes to put in place to
cover all decommissioning and site restoration costs on the expiry of this consent.

(b) No development shall commence on the site until the Company has provided documentary
evidence that the proposed bond or other financial provision is in place and written
confirmation has been given by the Planning Authority that the proposed bond or other
financial provision is satisfactory.

(c) The Company shall ensure that the approved bond or other financial provision is
maintained throughout the duration of this consent.

(d) The bond or other financial provision will be subject to a five yearly review, paid for by the
Company, from the Commencement of Development, to be conducted by a competent
independent professional who has relevant experience within the wind energy sector and
provided to the Company, the landowners, and the Planning Authority.

GUIDANCE NOTES RELATING TO CONDITIONS 24 AND 25

These notes form part of conditions 24 and 25. They further explain these conditions and specify the
methods to be deployed in the assessment of complaints about noise emissions from the wind farm.

GUIDANCE NOTE 1

(a) Values of the $L_{A,90,10min}$ noise statistic should be measured at the complainant's property, using a sound
level meter of IEC 651 Type 1, or BS EN 61672 Class 1, standard (or the equivalent relevant UK adopted
standard in force at the time of the measurements) set to measure using a fast time weighted response.
This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent
relevant UK adopted standard in force at the time of the measurements).

(b) The microphone should be mounted at 1.2-1.5m above ground level, fitted with a 2 layer windshield or
suitable equivalent approved by the local Planning Authority, and placed outside the dwelling.
Measurements should be made in "free-field" conditions, so that the microphone should be placed at least
3.5m away from the building facade or any reflecting surface except the ground.

(c) The measurements should be synchronised with measurements of the 10-minute arithmetic average
wind speed and with operational data from the turbine control systems.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously
log the arithmetic mean wind speed and arithmetic mean wind direction data in 10-minute periods from the
hub height anemometer located on the site meteorological mast to enable compliance with the conditions
to be evaluated. Such data shall be 'standardised' to a reference height of 10 metres as described in
ETSU-R-97 at page 120 using a reference roughness length of 0.05m.

GUIDANCE NOTE 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points for the
range of wind speeds, wind directions, times of day, turbine operations requested by the Local Planning
Authority excluding periods of rainfall. In specifying such conditions the Local Planning Authority shall
have regard to those conditions which were most likely to have prevailed during times when the
complainant alleges there was disturbance due to noise.

(b) A least squares, "best fit" curve of a maximum 2nd order should be fitted to the data points and this will
define the rating level at each integer wind speed.

GUIDANCE NOTE 3

Where, in the opinion of the local Planning Authority noise emissions at the location or locations where
assessment measurements are being undertaken contain a tonal component, the following rating
procedure should be used:

(a) For each 10-minute interval for which \( L_{A90,10min} \) data have been obtained as provided for in Note 1, a
tonal assessment shall be performed on noise emissions during 2-minutes of each 10 minute period. The
2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data
are available. Where clean data are not available, the first available uninterrupted clean 2-minute period
out of the affected overall 10-minute period shall be selected. Any such deviations from standard
procedure shall be reported.

(b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level
difference, \( DL_{tm} \) (Delta \( L_{tm} \)), shall be calculated by comparison with the audibility criterion given in Section
2.1 on pages 104-109 of ETSU-R-97.

(c) The margin above audibility shall be plotted against wind speed for each of the 2-minute samples. For
samples for which the tones were below the audibility criterion or no tone was identified, a value of zero
audibility shall be substituted.

(d) A linear regression shall then be performed to establish the margin above audibility at the assessed
wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple
arithmetic average shall be used.

(e) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure
below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm
noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.
GUIDANCE NOTE 4

If the rating level is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This shall be achieved by repeating the steps in Note 2, with the wind farm switched off and determining the background noise at the assessed wind speed, $L_3$. The wind farm noise at this speed, $L_1$, shall then be calculated as follows, where $L_2$ is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

The rating level shall be re-calculated by adding the tonal penalty (if any) to the derived wind farm noise $L_1$. If the rating level lies at or below the values set out in the conditions then no further action is necessary. If the rating level exceeds the values set out in the conditions then the Development fails to comply with the conditions.

APPLICATION 13/00636/FUL

Decision: Approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Further details of the road, ground and finished floor levels, including retaining walls and banking to the northern edge of the site, shall be submitted for the approval of the planning authority before the development commences.
   Reason: To safeguard the visual amenity of the area.

3. The layout of the site shall accord with the approved plans unless otherwise agreed in writing by the Planning Authority.
   Reason: To ensure the development is carried out in accordance with the approved site layout.

4. A sample of all materials to be used on all exterior surfaces of the development hereby permitted shall be submitted to and approved in writing by the Planning Authority before development.
   Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

5. Prior to commencement of development details of the arrangements for water supply and foul drainage to serve the plots are to be confirmed in writing with the Planning Authority.
   Reason: To ensure that the development can be adequately serviced.
6. No development is to take place until further detailed technical information outlining a comprehensive scheme for the mitigation of surface water run off to both the proposed development subject to this consent and to existing and future house plots down slope has been submitted to and approved by the Planning Authority. Thereafter the development is to be completed in accordance with the agreed details prior to the occupation of the houses hereby approved.
   Reason: To ensure that the development can be adequately serviced, to maintain effective control over the development, and to mitigate surface water flood risk.

7. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
   i. existing and finished ground levels in relation to a fixed datum preferably ordnance
   ii. location and design, including materials, of walls, fences and gates
   iii. soft and hard landscaping works
   iv. A programme for completion and subsequent maintenance.
   Reason: To ensure the satisfactory form, layout and assimilation of the development.

APPLICATION 13/01392/FUL

Decision: Approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The layout of the site shall accord with the approved plans unless otherwise agreed in writing by the Planning Authority.
   Reason: To ensure the development is carried out in accordance with the approved site layout.

3. The elevations and materials of the “Ascot” House type hereby approved shall be in accordance with the details previously approved by the Planning Authority under drawing CLOV/ASC/01A of planning approval 06/01404/FUL and associated approved details of materials.
   Reason: To maintain effective control over the development.

4. Prior to commencement of development details of the arrangements for water supply and foul drainage to serve the plots are to be confirmed in writing with the Planning Authority.
   Reason: To ensure that the development can be adequately serviced.

5. No development is to take place until further detailed technical information outlining a comprehensive scheme for the mitigation of surface water run off to both the proposed development subject to this consent and to existing and future house plots down slope has been submitted to and approved by the Planning Authority. Thereafter the arrangements so agreed shall be completed prior to the occupation of the houses hereby approved.
   Reason: To ensure that the development can be adequately serviced, to maintain effective control over the development, and to mitigate surface water flood risk.

6. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
   i. existing and finished ground levels in relation to a fixed datum preferably ordnance
   ii. location and design, including materials, of walls, fences and gates
   iii. soft and hard landscaping works
iv. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

7. 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 northern elevation of the house in Plot 64 (as indicated on the approved drawing) 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.

13/01234/PPP Erection of two dwellinghouses (renewal of previous consent 07/00979/OUT)

Land South of the Old Manse Teviothead Hawick

Decision: Approved subject to the approval of the Scottish Ministers, a legal agreement securing a contribution towards affordable housing and the following conditions and informatives:

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

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

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

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

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

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

3. 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.

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

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.

5. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
i. existing and finished ground levels in relation to a fixed datum preferably ordnance

ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored

iii. location and design, including materials, of walls, fences and gates

iv. soft and hard landscaping works

v. existing and proposed services such as cables, pipelines, sub-stations

vi. other artefacts and structures such as street furniture, play equipment

vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

6. The finished ground floor level of the dwellinghouses, hereby approved, to be 171.06m Above Ordnance Datum (AOD) and any variation thereto, must be approved in writing by the Planning Authority.

Reason: To ensure that the dwellinghouses are not at significant risk of flooding.

7. No development shall take place until a scheme showing the details of a pedestrian access from the site to the A7, which has an adequate free board above the flood levels predicted in the Flood Risk Assessment submitted by Scott Wilson dated September 2009, is submitted to and approved in writing by the Planning Authority. The agreed escape route to be provided and available for use prior to the occupation of the dwellinghouses.

Reason: In the interest of public safety and to ensure that in the event of a flood at the site a safe escape route is available for residents.

8. No development shall take place until a scheme for the long term maintenance of the flood embankment, including proposals for the management of trees on the embankment, is submitted to and approved in writing by the Planning Authority. Thereafter, the terms of that scheme must be implemented in strict accordance with the details and timescales contained therein. Any variations thereto, must be agreed in writing by the Planning Authority.

Reason: To ensure that the dwellinghouses are not at significant risk of flooding.

9. The raised area at the southern end of the site shown on the approved Drawing Number 1 as an extension to the flood banking to be assessed to ensure its structural integrity against flood waters and to demonstrate that it ties into the existing embankment and higher ground to the south. This assessment to be submitted to and approved in writing by the Planning Authority before the development commences. Any works identified to be carried out as a result of this assessment to be completed before the dwellinghouses are occupied.

Reason: To ensure that the dwellinghouses are not at significant risk of flooding.

10. The means of water supply and of both surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development commences. If a private water supply is to be used, no development to be commenced until a report by a qualified person has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of water to the development in terms of the quantity, quality and impacts on other supplies in the vicinity. The development then to be completed in accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

11. A design statement to be submitted to the Planning Authority with the first full or Approval of Matters Specified in Conditions application setting out the justification of the design rationale and demonstrating an appropriate form, scale and design of development and external materials taking reference from the character of the site and its context.

Reason: To ensure a high standard of design, given the character of the site and its context, to safeguard the visual amenity of the area.
12. The roofing material to be natural slate.  
   Reason: To safeguard the visual amenity of the area.

13. A drawing showing the upgrading of the access onto the public road, visibility splays at the junction 
   of the access with the public road and the position, width and surfacing materials of the proposed 
   access road from the junction with the public road to the site to be submitted to and approved in 
   writing by the Planning Authority with the first detailed or Approval of Matters Specified in 
   Conditions application for this site. The works then to be completed in accordance with the 
   approved details before the dwellinghouses are occupied.  
   Reason: To ensure adequate and safe access to and from the site.

14. Parking and turning for two vehicles, excluding garages, must be provided for each dwellinghouse 
   within the site before the dwellinghouses are occupied and retained in perpetuity.  
   Reason: To ensure adequate parking and turning is provided within the site

Informatives

In respect of condition 11, the building group at The Old Manse, Teviothead is attractive, unspoilt and 
retains much of its intrinsic vernacular charm. The new dwellinghouses must be of the highest standard 
and be compatible with and complimentary to the existing buildings in terms of scale, form, proportions, 
design and external materials and finishes.

The Council’s Flood Protection Officer also advises the applicants to take into account the potential for 
flooding arising for other sources such as road drainage, overland surface water run-off and surcharged 
culverts.
Change of use from outbuilding and alterations to form dwellinghouse
Outbuilding South of the Old Manse Teviothead Hawick

Decision: Approved subject to the approval of the Scottish Ministers, a legal agreement securing a contribution towards affordable housing and the following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
   i. existing and finished ground levels in relation to a fixed datum preferably ordnance
   ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
   iii. location and design, including materials, of walls, fences and gates
   iv. soft and hard landscaping works
   v. existing and proposed services such as cables, pipelines, sub-stations
   vi. other artefacts and structures such as street furniture, play equipment
   vii. A programme for the implementation, completion and subsequent maintenance.
   Reason: To ensure the satisfactory form, layout and assimilation of the development.

3. The finished ground floor level of the dwellinghouse, hereby approved, to be 171.06m Above Ordnance Datum (AOD) and any variation thereto, must be approved in writing by the Planning Authority.
   Reason: To ensure that the dwellinghouse is not at significant risk of flooding.

4. No development shall take place until a scheme showing the details of a pedestrian access from the site to the A7, which has an adequate free board above the flood levels predicted in the Flood Risk Assessment submitted by Scott Wilson dated September 2009, is submitted to and approved in writing by the Planning Authority. The agreed escape route to be provided and available for use prior to the occupation of the dwellinghouse.
   Reason: In the interest of public safety and to ensure that in the event of a flood at the site a safe escape route is available for residents.

5. No development shall take place until a scheme for the long term maintenance of the flood embankment, including proposals for the management of trees on the embankment, is submitted to and approved in writing by the Planning Authority. Thereafter, the terms of that scheme must be implemented in strict accordance with the details and timescales contained therein. Any variations thereto, must be agreed in writing by the Planning Authority.
   Reason: To ensure that the dwellinghouses are not at significant risk of flooding.

6. The means of water supply and of both surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development commences. If a private water supply is to be used, no development to be commenced until a report by a qualified person has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of water to the development in terms of the quantity, quality and impacts on other supplies in the vicinity. The development then to be completed in accordance with the approved details.
7. This permission shall only permit the conversion and adaptation of the existing structure. 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 building. 
Reason: Permission has been granted for the conversion of an existing building to habitable accommodation in a location where a new dwelling would not otherwise be appropriate.

8. Samples of the timber cladding, render and slate to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be implemented in accordance with the approved scheme. 
Reason: To safeguard the character and appearance of the building.

9. The colour of all external joinery, including the doors and window frames, to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be implemented in accordance with the approved scheme. 
Reason: To safeguard the character and appearance of the building.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order); 
   (i) There shall be no addition or extension to the dwellings (including the insertion of dormer windows or chimneys); 
   (ii) There shall be no further building, structure or other enclosure constructed or placed on the site; 
   (iii) No additional window or other opening shall be made in any elevation; unless an application for planning permission in that behalf has first been submitted to and approved by the Planning Authority. 
Reason: To safeguard the character, appearance and setting of the building to be converted.

11. A drawing showing the visibility splays at the junction of the access with the public road to be submitted to and approved in writing by the Planning Authority before the development commences. The visibility splays then to be completed in accordance with the approved details before the dwellinghouse is occupied. 
Reason: To ensure adequate and safe access to and from the site.

12. Parking and turning for two vehicles, excluding garages, must be provided within the site before the dwellinghouse is occupied and retained in perpetuity. 
Reason: In the interests of road safety.

13. Prior to the commencement of the use hereby approved, the three windows in the side elevation to the garden (east elevation) and the window to bedroom 3 in the end elevation to the garden (south elevation) of the outbuilding shall be obscure glazed in accordance with a scheme of details that have first been submitted to and approved in writing by the Planning Authority before the development is commences and thereafter so retained. 
Reason: To safeguard the privacy of the occupiers of the adjoining property.

14. No demolition or conversion works shall be carried out during the breeding bird season (March-September) without the express written permission of the Planning Authority. Checking surveys will be required if any demolition works, conversion works or habitat clearance are to commence during the breeding bird season. 
Reason: To protect protected species within the site.
15. Four nest cups/ledges for swallow located at suitable locations within the redeveloped site or on other suitable buildings in the immediate vicinity of the site and two bird nest boxes to be attached to mature trees are to be provided. This work to be carried out by a suitably qualified person before the dwellinghouse is occupied.

Reason: To protect protected species within the site and to provide nesting opportunities.

Informatives

In respect of condition 11, the consultation response from the Roads Planning Service is attached for the information of the applicant. The existing hedge to the west of the access at the junction with the minor public road must be relocated.

In respect of condition 15, an appropriate bird nest box would be the Schwegler 1N Deep Nest Box. Further information can be found at:

http://www.birding.uk.com/fact-file/21-guides/139-nest-boxes

The applicant should adopt water resilient materials and construction methods as appropriate in the development as advised in PAN 69. As well as this, a number of flood protection products such as floodgates and air-vent covers are also commercially available for the existing property and details of these can be found by calling the Council’s Emergency Planning who may be able to offer discounts for the products. The applicant should take into account the potential for flooding arising for other sources such as road drainage, overland surface water run-off and surcharged culverts.

The person in charge of the conversion should be made aware of the accepted standard procedure of working with bats (see Bats in Buildings leaflet (3NB) 250311 which is available from www.bats.org.uk). If bats were to be found during the conversion works all work should stop until Scottish Natural Heritage or the relevant bat expert has discussed how it should go forward.

14/00147/MOD75 Modification on planning obligation pursuant to planning permission
97/00143/FUL and 03/02276/FUL

Land North East of Peelwalls House, Ayton

Decision: Approved for the following reason:

Having regard to the exceptional circumstances of this site, the request to modify the existing legal agreement by amending the Third Clause to allow for the restriction on age to be replaced with a restriction on local identified needs housing is acceptable as the units will be restricted to affordable housing which will meet wider policy objectives.

VOTE

Councillor Ballantyne, seconded by Councillor Mountford, moved approval of the application.

Councillor Fullarton, seconded by Councillor Bell, moved as an amendment that the application be refused.

On a show of hands Members voted as follows:-

Motion - 5 Votes
Amendment - 3 Votes

The Motion was accordingly carried.