

**Please find attached the Public Minutes in respect Item
6 on the agenda for the above meeting**

6.	<p>Committee Minutes (Pages 1 - 140)</p> <p>Consider Minutes of the following Committees:-</p> <ul style="list-style-type: none"> (a) Local Review Body 18 April 2016 (b) Civic Government Licensing 22 April 2016 (c) Scrutiny 28 April 2016 (d) Audit & Risk 9 May 2016 (e) Executive 10 May 2016 (f) Galashiels Common Good Fund 12 May 2016 (g) Eildon Area Forum 12 May 2016 (h) Local Review Body 16 May 2016 (i) LLP Strategic Governance Group 17 May 2016 (j) Hawick Common Good Fund 17 May 2016 (k) Teviot & Liddesdale Area Forum 17 May 2016 (l) Civic Government Licensing 20 May 2016 (m) Executive 24 May 2016 (n) Planning & Building Standards 30 May 2016 (o) Petitions and Deputations 31 May 2016 (p) Duns Common Good Fund 2 June 2016 (q) Berwickshire Area Forum 2 June 2016 (r) Local Review Body 6 June 2016 (s) Executive 7 June 2016 (t) Lauder Common Good Fund 8 June 2016 (u) William Hill Trust 8 June 2016 (v) Selkirk Common Good Fund 8 June 2016 	5 mins
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(a)	Local Review Body	18 April 2016
(b)	Civic Government Licensing	22 April 2016
(c)	Scrutiny	28 April 2016
(d)	Audit & Risk	9 May 2016
(e)	Executive	10 May 2016
(f)	Galashiels Common Good Fund	12 May 2016
(g)	Eildon Area Forum	12 May 2016
(h)	Local Review Body	16 May 2016
(i)	LLP Strategic Governance Group	17 May 2016
(j)	Hawick Common Good Fund	17 May 2016
(k)	Teviot & Liddesdale Area Forum	17 May 2016
(l)	Civic Government Licensing	20 May 2016
(m)	Executive	24 May 2016
(n)	Planning & Building Standards	30 May 2016
(o)	Petitions and Deputations	31 May 2016
(p)	Duns Common Good Fund	2 June 2016
(q)	Berwickshire Area Forum	2 June 2016
(r)	Local Review Body	6 June 2016
(s)	Executive	7 June 2016
(t)	Lauder Common Good Fund	8 June 2016
(u)	William Hill Trust	8 June 2016
(v)	Selkirk Common Good Fund	8 June 2016

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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held in the Council Chamber, Council
Headquarters, Newtown St Boswells, TD6
0SA on Monday, 18 April, 2016 at 10.00 am

Present:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M. Ballantyne,
J. Campbell, J. A. Fullarton, I. Gillespie, D. Moffat, S. Mountford and B White

In Attendance:- Lead Officer Plans and Research, Solicitor (G. Nelson), Democratic Services
Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 15/01354/FUL**

There had been circulated copies of the request from Rural Renaissance Ltd, per Felsham Planning and Development, 1 Western Terrace, Edinburgh to review the decision to refuse the planning application in respect of external alterations and erection of 4 no. flagpoles at West Grove, Waverley Road, Melrose. Included in the supporting papers were the Notice of Review, including the decision notice and officer's report of handling, papers referred to in the report, consultations, objections and a list of relevant policies. The papers included reference to a previous application and appeal to the Local Review Body which was refused planning consent. The current application differed only in regard to the siting and scale of the proposed flagpoles. Members initially referred to the proposed external alterations to the building and agreed that these were acceptable subject to regulation by planning conditions. Members also noted that in respect of the previous application the Local Review Body had not identified any objection to the principle of flag poles being erected at West Grove, concluding that 'an alternative proposal for the siting and scale of the flagpoles could be more acceptable'. Discussion therefore focused on the modifications proposed in terms of the reduction in height of the flagpoles to 5.2m and their siting at the south western extremity of the site, rather than in front of the principal elevation of the building. Members' opinions were divided about the acceptability of the proposal and also on the number of flagpoles that should be permitted.

VOTE

1. *Councillor Campbell, seconded by Councillor Gillespie, moved that the decision to refuse the application be upheld.*

Councillor Mountford, seconded by Councillor Moffat, moved as an amendment that the decision of the appointed officer to refuse the application be reversed and that, in principle, the application for planning permission for flagpoles be granted.

On a show of hands Members voted as follows:-

*Motion - 2 votes
Amendment - 7 votes*

The amendment was accordingly carried.

2. *Councillor Fullarton, seconded by Councillor Ballantyne, moved that the proposal within the application for 4 flagpoles be approved.*

Councillor Moffat, seconded by Councillor White, moved as an amendment that the approved number of flagpoles be reduced to 3.

On a show of hands Members voted as follows:-

Motion - 4 votes

Amendment - 5 votes

The amendment was accordingly carried.

The Local Review Body agreed that approval of the application be subject to a condition that the approved flags must not be used for business advertising and a condition worded in consultation with Environmental Health and the Chairman to regulate any potential impact on the neighbouring residential area in respect of noise from the flags and halyards.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, as detailed in Appendix I to this Minute.**

2. REVIEW OF APPLICATION 15/00100/FUL

There had been circulated copies of the request from Wilton Mills Ltd, per GVA Grimley Ltd, Quayside House, 127 Fountainbridge, Edinburgh to review the decision to refuse the planning application in respect of erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping on land and buildings at Wilton Mills, 31 – 32 Commercial Road, Hawick. Included in the supporting papers were the Notice of Review, including the decision notice and officer's report of handling, drawings, consultations, objections, support comments, a general comment, additional representation and a list of relevant policies. The Local Review Body considered pieces of new evidence that had been submitted with the Notice of Review as detailed in Appendix II to this Minute and concluded, for the reasons given, that determination of the review could be made with reference to this new evidence. The planning advisor summarised for Members the policies and planning guidance relevant to the review. Although the involvement of Aldi was noted members were advised that the review before them was in respect of an application for a Class 1 retail site at Wilton Mills and that the application must be considered De Novo. In their initial discussion Members indicated that they were content that the application was generally compliant with planning policy. Members noted the objection from SEPA and the comments of the Council's Flood Protection Officer with regard to flood risk mitigation. The focus of their discussion was therefore on the perceived economic benefits of the proposal for the town and the probable effect on the viability of businesses in Hawick town centre. It was recognised

that, as was the case in other towns, Hawick town centre was vulnerable and in decline in terms of the number of vacant units and decreasing footfall. It was also recognised that there were complex reasons for this including rent/rate issues, changing habits of shoppers and competition with on-line retail businesses. Members agreed that it was difficult to predict if a new store would exacerbate this situation or perhaps have a positive effect in terms of increased competition and provide a means of attracting people to stop and shop in Hawick rather than going elsewhere. Councillor Fullarton, seconded by Councillor Gillespie, proposed that the Local Review Body defer the decision to allow further procedure in the form of a hearing to specifically hear evidence on the impact of the proposed store on the vitality and viability of the town centre. However other Members expressed the view that there would be nothing to be gained by a hearing and the motion did not receive any further support. Members recognised that there was a balanced argument in favour and against the proposal but the fact that the development site was currently derelict and situated on a prominent route through town was a significant factor in Members' consideration of the application. Members noted that in the event they allowed the appeal, the application would require to be referred to the Scottish Government for approval due to the outstanding objection from SEPA. In concluding, on balance, to approve the application and refer it to the Scottish Government, Members noted that consent would be subject to detailed conditions to be agreed with planning officers and a legal agreement in respect of developer contributions should the Council's Development Negotiator decide that these were required.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to and as detailed in Appendix II to this Minute:-**
 - (i) referral to the Scottish Government;**
 - (ii) conditions to be agreed by officers; and**
 - (iii) a legal agreement in respect of developer contributions should these be required.**

MEMBERS

Councillors Ballantyne and Moffat left the meeting and therefore did not take part in the consideration of the review below.

3. REVIEW OF APPLICATION 15/01491/FUL

There had been circulated copies of the request from Mr & Mrs P Burns, 18 Weavers Linn, Tweedbank to review the decision to refuse the planning application in respect of the erection of a dwellinghouse and detached garage/annex on land west of Whistlefield, Darnick. The supporting papers included the Notice of Review, including the decision notice and officer's report of handling; consultations; representations; and a list of relevant policies. The Local Review Body noted that the principle of a dwellinghouse on the site was in accordance with planning policy. Discussion therefore focused on the design of the proposed development with particular reference to the scale of the roof area. Members recognised that there was an element of subjectivity in making a judgement as to whether the design was appropriate for the area. Reference was made to the relatively large roof area of the neighbouring property and Members were of the opinion that the proposed dwellinghouse would not be of an inappropriate form and massing. In general Members thought the design exciting and noted that the site was large enough to accommodate a house of this size. It was agreed that in addition to being subject to a legal agreement with regard to developer contributions there should be a condition to planning consent to ensure that the garage/annex remained ancillary to the main dwellinghouse.

DECISION

AGREED that:-

- (b) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan;**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to a legal agreement and conditions, as detailed in Appendix III to this Minute and to include the condition that the garage/annex remain ancillary to the main dwellinghouse.**

The meeting concluded at 1.10 pm

APPENDIX I

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00004/RREF

Planning Application Reference: 15/01354/FUL

Development Proposal: External alterations and erection of 4no flagpoles

Location: Office, West Grove, Waverley Road, Melrose

Applicant: Rural Renaissance Ltd

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to external alterations and the erection of 4no flagpoles at this office building at West Grove, Waverley Road, Melrose. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	9208.2.01
Planning Layout	9208.2.02
Floor Plans	9208.2.03
Elevations	9208.2.04
Elevations	9208.2.05

PRELIMINARY MATTERS

The LRB considered at its meeting on 18th April 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included : a) Notice of Review including Decision Notice and Officer's report; b) Papers referred to in report; c) Consultations; d) Objections; e) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the

conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Borders Local Plan 2011. The LRB considered that the most relevant of the listed policies was:

- Local Plan policy : G1

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was agreed that relevant policies, including policy PMD2, which will replace policy G1, did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

Other Material Considerations

- Scottish Planning Policy

Members recalled a planning application relating to these premises being referred to them in October 2015. The proposal was for alterations to the main building and 4no flagpoles at the front of the main entrance. Members visited the site and ultimately refused the plans in respect of the location and height of the flagpoles. Members refused the application and were reminded that the decision note stated that members considered “an alternative proposal for the siting and scale of the flagpoles could be more acceptable”.

Following the refusal the applicant lodged an amended application which is subject to this Review. The application sought to propose the same alterations to the main building, but to relocate the flagpoles to an alternative location on the western side of the site.

The alterations to the building included a K-render “Arran” roughcast finish which was a yellow / off white colour, dark aluminium cladding, a vertical sundial and lettering above the door. Members confirmed their agreement to support this part of proposal and that planning conditions could be attached to any consent granted in order to obtain more detailed information regarding some of these works.

Members noted that the plans proposed the relocation of the flagpoles onto the western side of the site and they considered this to be a more preferable location. Members acknowledged that the applicants had reduced the height of the flagpoles from approximately 8 or 9 metres to 5.2 metres. The flagpoles were located 0.5m apart and set back 1.5m back from the boundary fence. Members noted the 4no letters of objection submitted and the concerns they raised.

There were mixed feelings regarding the suitability of the flagpoles in principle, it being suggested that they were acceptable within the grounds of what is a commercial property but it was also stated that they served little practical purpose. It was suggested the lanyards in particular may cause noise issues to nearby residents and that Environmental Health should comment on this should the application be approved.

Discussion took place regarding the number of flagpoles and whether the proposal would be more acceptable if the number was reduced as there was some feeling that they had a cluttered appearance. It was agreed that for the proposal to be acceptable the number of flagpoles required to be reduced to 3no. It was further agreed that if the proposal was to be supported then a condition should ensure the flags were not used for advertisement purposes.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that, subject to the number of approved flagpoles being reduced to 3no, the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

DIRECTION

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

CONDITIONS

1) The number of flags approved to be limited to 3no

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

2) Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials and any colours to be used in the alterations to the front elevation as shown on drawing no 9108.2.04 has been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

Reason : The materials require further clarification to ensure a satisfactory form of development, which contributes appropriately to its setting.

3) The colour of the external render to be agreed with the Planning Authority

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

4) The flags not to be used for advertisement purposes

Reason : To ensure the flags are not used to advertise any business operations

5) The flagpoles and lanyards to be regularly maintained to ensure their satisfactory operation and steps to be taken to prevent any unacceptable noise levels

Reason : To ensure the proposal has no unacceptable adverse impact in terms of noise on nearby residencies

Informative – In relation to condition no 3 it is not considered that the use of the proposed colour of the “Arran” external render is suitable and an alternative colour should be agreed with the Planning Authority

In relation to condition no 5 any further guidance on carrying out any noise reduction measures should be discussed with the Council’s Environmental Health (Noise) section (contact DBrown@scotborders.gcsx.gov.uk) to give advice on best practice operations.

It was also the advice of the Local Review Body that in order to eliminate any potential unnecessary noise to nearby residencies at unreasonable times any flags should be removed from the flagpoles at night.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed..Councillor R Smith
Chairman of the Local Review Body

Date...10 May 2016.

APPENDIX II

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY INTENTIONS NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00005/RREF

Planning Application Reference: 15/00100/FUL

Development Proposal: Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping

Location: Land and Buildings at Wilton Mills, 31-32 Commercial Road, Hawick

Applicant: Wilton Mills Ltd

DECISION

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to notification to Scottish Ministers, conditions and the conclusion of a legal agreement in respect of developer contributions.

DEVELOPMENT PROPOSAL

The application relates to the erection of a Class 1 retail foodstore with ancillary works including car parking, access and landscaping. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	AT2342-LOC-01-A
Existing Layout	AT2342-EX-01-B
Other	AT2342-EX-02A
Site Plan	AT2342-PP-01K
Floor Plans	AT2342-PP-02D
Other	AT2342-PP-03C
Elevations	AT2342-PP-04-01E
Elevations	AT2342-PP-04-02E
Other	AT2342-PP-05
Other	AT2342-PP-07
Other	AT2342-PP-05
Other	A086735/SK004 REV A
Other	A086735 SKA010 REV 01

PRELIMINARY MATTERS

The Local Review Body (“LRB”) considered at its meeting on 18th April 2016, that the review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 (hereinafter referred to as the “1997 Act”).

After examining the review documentation at that meeting, which included : a) Notice of Review including the Decision Notice and Officer’s report; b) Drawings; c) Consultation; d) Objectors; e) Support comments; f) General comment; g) Additional representation; and h) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection.

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Border’s Local Plan 2011. The LRB considered that the most relevant of the listed policies was:

- Local Plan policies : G1, G2, G4, G7, BE1, BE2, BE4, NE3, NE4, ED3, ED5, H2, H3, Inf4, Inf6, Inf11

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was noted that policies PMD2, PMD3, PMD5, ED3, ED5, HD3, EP3, EP7, EP8, EP9, EP13, IS7, IS8, IS9, IS13 within the emerging Plan will replace the aforesaid Local Plan 2011 policies. Whilst there were some amendments within the updated policies it was considered that these did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

Other Material Considerations

National Planning Framework 3

Scottish Planning Policy

Scottish Historic Environment Policy 2011

Planning Advice Note 33 : Development of Contaminated Land 2000

Planning Advice Note 52 : Planning and Small Towns 1997

Planning Advice Note 59 : Improving Town Centres 1999

Planning Advice Note 1/2011 Planning and Noise

Planning Advice Note 2/2011 Planning and Archaeology

On-line Planning Advice on Flood Risk 2015

SBC Supplementary Planning Guidance on Contaminated Land Inspection Strategy 2001

SBC Supplementary Planning Guidance on Trees and Development 2008

SBC Supplementary Planning Guidance on Landscape and Development 2008

SBC Supplementary Planning Guidance on Biodiversity 2005

SBC Supplementary Planning Guidance on Privacy and Sunlight (Householder Developments) 2006

SBC Supplementary Planning Guidance on Placemaking and Design 2010

SBC Planning Brief on Commercial Road, Hawick 2009

Members noted new information had been submitted as part of the LRB appeal by the appellants which was not submitted during the application processing period. This comprised:

- (a) an updated vacant floorspace study carried out in January 2016; and
- (b) doc 10 – Dumfries and Galloway Retail Capacity Study extract;
- (c) doc 11- Competition Commission Report extract;
- (d) doc 12 - Retail comparison re Hawick / Galashiels;
- (e) doc 13 – Town Centre and Retailing Methodology report extracts;
- (f) doc 14 –Updated retail assessment tables; and
- (g) doc 15 – Statement on Flooding.

Members considered whether it was appropriate to have regard to each item of new information in terms of the Statutory test set out in section 43B of the 1997 Act.

While acknowledging that item (a) was new information, Members took the view that it was an update of information submitted within the application submission, which given it was carried out post the Officer's decision could not have been submitted earlier. Members therefore decided to accept item (a) in terms of section 43B(1)(a) of the 1997 Act.

Members considered that items (b) to (f) had been submitted by the appellants to the LRB as a response to the Officer's reliance in their decision to the retail capacity study carried out on behalf of the Council by the Robert Drysdale Consultancy in 2011 and that they therefore could not have been submitted before that point in time. Members further considered that this issue was a Material Consideration. Members therefore decided to accept items (b) to (f) in terms of section 43B(1)(a) and section 43B(2)(b) of the 1997 Act.

Members considered that item (g) relating to flooding was a material consideration given SEPA's outstanding objection to the appeal. Members took the view that it was an update of information submitted within the application submission, and were content given the date of the letter that it could not have been submitted earlier. Members therefore decided to accept item (g) in terms of section 43B(1)(a) and section 43B(2)(b) of the 1997 Act.

Members therefore concluded that all the new information could be considered by the LRB in their consideration of the Review.

During the presentation the planning advisor made the point that there were a number of relevant policies and material considerations of relevance to the proposal. However, there was not one which took precedence over all others, and it was the duty of members to consider all relevant policies and material considerations giving what they felt was adequate weight and balance to them in considering and determining the application under appeal De Novo. Clarification was provided to Members by the Legal Advisor that whilst Aldi were behind the proposal they were not the applicants (Wilton Mills Ltd) and that if planning consent was granted it would be for a retail foodstore, which could potentially be operated by someone other than Aldi.

Members noted that the site was now cleared and therefore any objections regarding the loss of the listed buildings previously on the site were not now material considerations.

Members also noted the site was on the edge of the town centre and a sequential test was consequently submitted by the Appellant which stated there were no suitable alternative site options within the town centre boundary and that the Council's Officer had concurred with this conclusion. Members concurred with this view.

Members further noted that a retail assessment had been submitted stating why the appellants considered the proposal would benefit consumers within the catchment area and that net impacts on the town centre retailers would be minimal.

Members agreed that this was a very difficult case to determine. The LRB in essence considered that fundamentally the main issues were judging any perceived economic benefits of a new store in the town and the opportunity to develop a derelict site against perceived impacts the proposal may have on the vitality and viability of the Hawick Town centre. Members were generally content that, other than this critical issue, that the application was capable of complying with Planning Policy subject to suitable conditions and potentially a legal agreement for developer contributions being imposed.

Members commented that the retail assessment was interpreted differently between the appellants and the planning officer and there were discrepancies between current town centre performance statistics stated by the appellants and the Council. Reference was made to two independent retail capacity studies carried out on behalf of the Council by Roderick MacLean Associates Ltd in 2008 and Robert Drysdale Consultancy on retail capacity in 2011. These did not accord with the findings of the appellants study. The appellants retail study was also at odds with objections submitted by consultants on behalf of other retailers in the town. In conclusion Members felt there was no absolute clarity to confirm what impacts the proposal may have on the performance of the town centre.

Members commented that the Aldi store may help stem consumer leakage outwith the town and that the proposal would create competition amongst retailers which is a standard challenge for any business. Ultimately consumers within the catchment area would determine which stores would thrive. Despite the appellants stating Hawick town centre was in a healthy state there was an acceptance by Members that it was vulnerable.

Comment was raised regarding the danger that this proposal could be the death of Hawick town centre which was already in an unhealthy position in terms of the high level of vacant units and decreasing footfall statistics. Whilst any direct competition to other national retailers within the town was not so much of an issue, impacts on the welfare of local traders was a concern.

Reference was made to how successful Aldi was operating in Galashiels although it was difficult to conclusively state what direct impact it may be having on Galashiels town centre. While it was stated ASDA and Tesco in Galashiels are likely to be having some impact on the Galashiels town centre, Members considered this difficult to quantify without further evidence. Consequently Members concluded it was difficult to predict the likely impacts the proposal would have on Hawick town centre.

Given the site's distance from the town centre there were mixed views as to how likely the proposal would be to encourage consumers to visit the town centre as part of a trip to the Aldi store.

Comment was made that the proposal was a risk to the vitality and viability of the town centre. However, members felt that the town centre was not operating successfully just now and whatever mechanisms were in place to alleviate this were not working. Consequently it was suggested it was a risk worth taking. Members further considered that the fact the site was derelict and in a prominent position was a material consideration that required to be accorded significant weight in reaching a decision.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

DIRECTION

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

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

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

3. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.

c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.

e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted suitably qualified industrial 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 conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. 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.

5. A sample of all materials to be used on all exterior surfaces of the development hereby approved shall be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved samples.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

6. Details of the sheet piling retaining wall proposed to the rear of the store (north west boundary), including a section drawing, to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

Reason: To safeguard the visual amenities of the area.

7. The proposed boundary wall treatment, using the salvaged stonework from the demolished buildings on the site and incorporating the former lettering "Wilton Mills" from the demolitions, to be completed in accordance with Drawing Number AT2342-PP-05 before the store becomes operational, unless otherwise agreed with the Planning Authority. A short section sample of the boundary wall first to be erected on site for the prior approval in writing by the Planning Authority.

Reason: To safeguard the visual amenities of the area.

8. Details of the number, position, material, dimensions and content of interpretation boards detailing the site's history, the buildings that were demolished within the site and the former mill lade and wheel pit to be submitted to and approved in writing by the Planning Authority before the development commences. The interpretation boards as approved then to be installed within the site before the store becomes operational and maintained thereafter.

Reason: Due to the loss of the Listed Buildings, the wheel pit and mill lade system from the historic environment and due to the importance of mitigation through an approved and implemented scheme of on-site interpretation.

9. Prior to the commencement of development, details of the finished road, pavements and parking surfaces, construction, levels and drainage systems to be submitted to and approved in writing by the Planning Authority and the development must thereafter be undertaken in accordance with the approved details before the development becomes operational.

Reason: To ensure an appropriate layout in the interests of road safety and to safeguard the visual amenities of the area.

10. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include:

- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
- ii. location of new trees, shrubs, hedges and grassed areas;
- iii. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- iv. programme for subsequent maintenance;
- v. a deadline date for completion; the developer to notify the Planning Authority that the works have been completed and are available for inspection.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

11. No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

12. Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by heras fencing or similar placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

- (a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;
- (b) No fires shall be lit within the spread of the branches of the trees;
- (c) No materials or equipment shall be stored within the spread of the branches of the trees;
- (d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
- (e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

13. Details of the surface water drainage to be submitted to and approved in writing by the Planning Authority, in consultation with SEPA, Scottish Water and Transport

Scotland, before the development commences. The approved scheme then to be completed as part of the development before the store becomes operational.
Reason: To ensure that the site is adequately serviced.

14. A noise Impact Assessment and details of refrigeration, air conditioning and any other noise emitting equipment that will be installed, including the noise level as specified by the manufacturer and whether there is any tonal characteristic associated with the equipment, to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be carried out and operated in accordance with any mitigation measures contained within the Noise Impact Assessment.

Reason: To safeguard residential amenities.

15. Noise levels emitted by any plant and/or machinery used on the premises must not exceed Noise Rating Curve NR30 when measured at the façade of the nearest noise sensitive residential property.

Reason: To safeguard residential amenities.

16. No development shall commence on-site until an Operational Plan has been submitted to and approved in writing by the Planning Authority. Once approved this document will form the operational parameters under which the development will be operated and managed. The plan to include:

- Hours of operation
- Delivery times
- Waste management/pest control
- Odour - mitigation and management of ventilation systems
- Air quality - idling of delivery vehicles and other emissions from the development.

Reason: To protect the amenity of nearby residential properties.

17. No fixed lighting shall be erected or installed within or on the boundaries of the site until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: To ensure that the lighting is designed to minimise the potential nuisance and disturbances of light spillage to neighbours and the surrounding area and to ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

18. Prior to the occupation of any of the consented development, the proposed site access junction with the A7 Commercial Road, as illustrated in WYG Transport Planning Drawing Number. A086735-SKA010 Rev.01, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland TRBO.

Reason: To ensure that the standard of infrastructure modification proposed to the trunk road complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

19. Prior to commencement of development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland TRBO.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

20. Prior to the occupation of any of the consented development, a barrier/boundary feature of a type approved by the Planning Authority, in consultation with Transport Scotland (TS-TRBO) shall be provided and maintained along the proposed boundary of the site with the A7 Commercial Road.
Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.
21. There shall be no drainage connections to the trunk road drainage system.
Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.
22. No part of the development shall be occupied until a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car has been submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. In particular this Travel Plan shall identify measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan.
Reason: To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.
23. A revised layout plan showing the proposed car parking and internal road layout to be submitted to and approved in writing by the Planning Authority before the development is commenced. The internal roads and car parking then to be completed in accordance with the approved drawing before the store opens to the public.
Reason: Reason: To ensure adequate access and on-site car parking is provided for customers to the store.
24. Prior to the commencement of the development the locations and details of taxi pick-up/drop-off points, covered cycle stands and trolley bays to be submitted to and approved in writing by the Planning Authority and these must thereafter be installed in accordance with the approved details before the development becomes operational and retained in perpetuity thereafter.
Reason: To ensure adequate provision for taxis and cyclists within the site and to discourage inappropriate abandonment of trolleys in the interests of road and pedestrian safety.
25. Details of the position, dimensions, materials, colour, content and method of illumination of any signs to be erected within the site or on the boundaries of the site to be submitted to and approved in writing by the Planning Authority before the signs are erected. The signs then to be erected in accordance with the approved details.
Reason: To safeguard the visual amenities of the area.
26. The details of any flood barriers proposed for the building or elsewhere in the site to be submitted to and approved in writing by the Planning Authority prior to their installation.
Reason: To safeguard the visual amenity of the area and to address issues of potential flood risk.
27. The flood mitigation measures contained within Part 4 of the Flood Risk Assessment November 2014 prepared by Terrenus Land & Water to be implemented as part of the development.
Reason: To address issues of potential flood risk as the site is at risk from flooding.

Informatives:

Landscaping (condition 10)

In relation to the Tree Report submitted with the application trees 279 and 283 have been felled since the report was prepared. It therefore is unnecessary to remove further trees near the Chicken Coops as this would create a large gap in the tree cover. This area should therefore be left alone and the proposed re-planting moved to the area alongside where trees have already been removed. The proposed tree removals at the eastern end of the site (numbers 292, 293, 294 and 295) can proceed.

The landscaping plan should be amended in respect of the 8 trees indicated along the Commercial Road frontage. These need to be trees of reasonable stature and 8 Tilia x euchlora, extra heavy standard root balled trees are preferred. This is an aphid free form of lime tree used extensively in street frontages elsewhere. It would also be prudent to allow for 75mm of medium grade bark mulch throughout the planting beds in order to minimise moisture loss and inhibit weed growth.

Drainage (condition 13)

This development will require two levels of treatment for all hardstanding areas including roads. SEPA encourage this first level of SUDS to be source control. Further guidance on the design of SUDS systems and appropriate levels of treatment can be found in CIRIA's C697 manual entitled The SUDS Manual. Advice can also be found in the SEPA Guidance Note Planning advice on sustainable drainage systems (SUDS). Please refer to the SUDS section of SEPA's website for details of regulatory requirements for surface water and SUDS.

Site Layout (conditions 23 and 24)

The Roads Planning Service advises that:

- There should be a minimum of 6 covered cycle stands provided.
- The pedestrian crossing adjacent to the service yard should be removed from the proposal.
- The parking at the top of the access road should be marked as staff only bays and these should be constructed in a different material to the public car parking spaces.

Signage (condition 25)

The developer is advised that the proposed signage may require Advertisement Consent.

Flooding (conditions 26 and 27)

The Council's Flood Protection Officer recommends that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

Construction Work

The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used.

The following are the recommended hours for noisy work:

Monday – Friday 0700 – 1900

Saturday 0900 – 1300

Sunday (Public Holidays) – no permitted work (except by prior notification to Scottish Borders Council).

Contractors will be expected to adhere to the noise control measures contained in British Standard 5228:2009 Code of practice for noise and vibration control on construction and open sites.

For more information or to make a request to carry out works outside the above hours please contact an Environmental Health Officer.

Listed Building Consent Conditions

The applicant is reminded of the conditions attached to the Listed Building Consents for this site that have implications for its redevelopment:

14/01437/LBC: Demolition of Clock Tower and Gate Lodge.

15/00747/LBCNN: Demolition of boundary wall and erection of replacement wall.

15/00971/LBCNN: Infill of former mill lade and wheel pit.

LEGAL AGREEMENT

The Local Review Body agreed that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of financial contributions towards:

- the manufacturing and placement of signage giving directions from the development site to the town centre
- pedestrian link improvements between the site and the town centre
- shop front improvements as part of the Council's scheme to provide grants to shop owners in the High Street to carry out repairs and enhancements to their shop fronts.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

3. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the

Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

4. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed...Councillor R Smith
Chairman of the Local Review Body

Date ...24 May 2016

APPENDIX III

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00006/RREF

Planning Application Reference: 15/01491/FUL

Development Proposal: Erection of dwelling house and detached garage

Location: Land west of Whistlefield, Darnick

Applicant: Mr & Mrs P Burns

DECISION

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to conditions and the conclusion of a legal agreement, as set out in this Intentions notice.

DEVELOPMENT PROPOSAL

The application relates to the erection of a house and a detached garage on land adjacent to Whistlefield, Darnick. The application drawings consist of the following:

Plan Type	Plan Reference No.
Location Plan	REC 09 DEC 2015
Site Plan	REC 03 FEB 2016
General	HOUSE REC 03 FEB 2016
General	GARAGE REC 03 FEB 2016

PRELIMINARY MATTERS

The LRB considered at its meeting on 18th April 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included : a) Notice of Review including Decision Notice and Officer's report; b) Consultations; c) Representations; d) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion,

the LRB noted the request from the appellant for a site inspection and one or more hearing sessions

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Border's Local Plan 2011. The LRB considered that the most relevant of the listed policies were:

- Local Plan policies : G1, G7 and NE4

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was agreed that relevant policies, including policies PMD2, PMD5 and EP13, which will replace the aforesaid Local Plan 2011 policies, did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight (Householder Developments) 2006
- SBC Supplementary Planning Guidance – Placemaking and Design 2010
- SBC Supplementary Planning Guidance – Trees and Development 2008
- SBC Supplementary Planning Guidance – Development Contributions (updated and revised 2015)

During the presentation by the planning advisor members noted what they considered to be a range of house types in the vicinity of the site. It was noted that the site was outwith the village conservation area.

Two letters of representation had been submitted. The first was from the occupier of the property known as Whistlefield, which is located closest to the proposed house on the eastern side, which confirmed support of the proposal. The second does not include an objection, but notes that in 1990 only two houses were built off Lye Road, which was the proposed access route to the appeal site, because to build three would require the road be upgraded to an adoptable standard. It is queried if these conditions still apply. It was confirmed that nowadays roads regulations state 4no houses can be built off a private road within a built up area without the need for it to be brought up to an adoptable standard.

Members noted that whilst the Roads Planner raised some concerns regarding the standard of Lye Road this did not justify a reason for refusal although the access immediately within the site was to be made up to a specified standard. Members also noted the condition and location of a beech tree located on the south west boundary of the site which the planning officer sought more detailed information on in order to confirm if its root systems would be affected by the proposed garage.

Members noted that the prime reasons of concern by the planning officer were the design of the house and the lack of information provided in relation to confirming the safety of the beech tree and trees on the southern boundary. The planning officer considered the

house design issues could be resolved if the width of the house was reduced, the eaves were raised and the size of the front projection was reduced.

Whilst acknowledging the planning officer's concerns regarding the proposed house and guidance stated within the Council's Placemaking and Design guidance, it was considered there was always an element of subjectivity with regard to design. In this particular instance members considered the plot was large enough to comfortably accommodate the house and the detached garage and that the design and finishing materials were interesting and quite appropriate in this instance and members were complementary towards the proposal.

Although accommodation was shown on the first floor of the garage, a condition would ensure it was not used as a separate residential unit to the main house. Members commented that the beech tree, on the south west boundary of the site, appeared to be in a poor condition and may have to be removed in any event. Members otherwise considered that the proposal would not endanger any trees.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

DIRECTION

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

CONDITIONS

1.No development shall take place until the applicant has secured and implemented a programme of archaeological work and reporting in accordance with a Written Scheme of Investigation (WSI) outlining an Archaeological Battlefield Survey. The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority.
- The developer shall allow sufficient time in advance of development for all archaeological works to be conducted to the satisfaction and written approval of the Planning Authority.
- The developer shall allow the archaeologist(s) access to all areas where development is to be undertaken.
- Results will be submitted prior to development to the Planning Authority for review and agreement in writing in the form of a Battlefield Survey Report.
- In the event that the report highlights areas of archaeological potential these will require further targeted evaluation prior to development.
- If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented.

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

2. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved. The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, d, and, e of this condition.

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

3. Mains water and foul drainage connections to be confirmed with Scottish Water prior to the commencement of the site

Reason : To ensure adequate service provision of the site

4. Parking to be provided on site for a minimum of 2no vehicles, excluding any garages, along with a turning area within the curtilage of the site

Reason : To ensure adequate parking and turning of vehicles within the site

5. The initial 2.0m of the private driveway from Lye Road into the site will require to be constructed to the following specification - 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1

Reason : To ensure that adequate access to the site for pedestrians and vehicles is provided and is at all times properly maintained.

6. A plan to be submitted confirming finished site and floor levels to be agreed with the planning authority prior to the commencement of any on-site works

Reason : To ensure the satisfactory development of the site

7. The garage hereby approved shall only be used as ancillary accommodation in connection with the use of the main property as a single private dwelling house and shall at no time be converted to a self-contained unit

Reason: The Planning Authority consider the site to be of insufficient size to accommodate an additional dwelling

8. The colour of the external render and the colour of the garage doors to be agreed with the planning authority

Reason : To safeguard the visual amity of the area

9. Where proposed hard surfaces or buildings pass beneath tree canopies, the developer shall carry out all excavation by hand digging where necessary and provide porous filling around the base of the tree, taking such further precautions as may be necessary to prevent any damage to any tree or its root system.

Reason: To protect the trees to be retained.

Legal Agreements

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards educational facilities and towards the re-instatement of the Borders Railway

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

5. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
6. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed...Councillor R Smith
Chairman of the Local Review Body

Date... 10 May 2016

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SCOTTISH BORDERS COUNCIL
CIVIC GOVERNMENT LICENSING COMMITTEE

MINUTE of Meeting of the CIVIC
GOVERNMENT LICENSING COMMITTEE
held in COMMITTEE ROOMS 2 AND 3,
COUNCIL HEADQUARTERS, NEWTOWN
ST BOSWELLS on Friday, 22 April 2016 at
11.00 a.m.

Present:- Councillors W. Archibald, J. Campbell, J. Greenwell, B. Herd, G. Logan,
D. Paterson, Councillor R. Stewart, T. Weatherston, B White.
Apologies:- Councillor J. Torrance.
In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader,
Licensing Standards and Enforcement Officers (Mr I Tunnah and Mr M.
Wynne), Democratic Services Officer (F Henderson), P.C. P. Robertson,
Inspector J. Scott - Police Scotland.

1. **MINUTES**

The Minutes of the Meetings held on 18 March 2016 and 5 April 2016 had been circulated.

DECISION

APPROVED and signed by the Chairman.

2. **LICENCES ISSUED UNDER DELEGATED POWERS**

There had been circulated copies of lists detailing the Civic Government and Miscellaneous Licences issued under delegated powers between 10 March – 13 April 2016.

DECISION

NOTED.

SUMMARY OF PRIVATE BUSINESS

LICENSING OF TAXI, PRIVATE HIRE VEHICLES AND DRIVERS – GAIL STEWART

1. The Committee considered a request for the suspension of a Taxi Driver Licence.

DECISION

AGREED not to suspend.

LICENSING OF TAXI, PRIVATE HIRE VEHICLES AND DRIVERS – JASON MARTIN

2. The Committee considered the grant of a Taxi Driver Licence.

DECISION

AGREED to grant.

MINUTES

3. The Private section of the Minutes of 18 March 2016 and 5 April 2016 had been circulated.

The meeting concluded at 11.40 a.m.

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SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCRUTINY COMMITTEE held in COMMITTEE ROOM 4, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on Thursday, 28th April, 2016 at 10.00 am

Present:- Councillors G. Logan (Chairman), W. Archibald, A. Cranston, I. Gillespie, B Herd and W. McAteer.
Apologies:- Councillors K. Cockburn, A. J. Nicol and J. Torrance
Also Present:- Councillor S. Aitchison.
In Attendance:- Clerk to the Council, Democratic Services Officer (P. Bolson).

1. MINUTE

There had been circulated copies of the Minute of 24 March 2016.

DECISION

NOTED for signature by the Chairman.

2. MATTER ARISING:

2.1 ROADS RETRUNKING AND ROADS CAPITAL SPEND

With reference to paragraph 7.4 of the Minute of 24 March 2016, there had been circulated copies of a briefing note providing Members with information relating to the capital costs of works to individual roads in the roads infrastructure. Mr Colin Ovens, Infrastructure Manager and Mr David Richardson, Asset Manager were in attendance to present the briefing note and provide additional information as required. The briefing note explained that officers had reviewed the comments from Transport Scotland in relation to a proposal to re-trunk A7 north of Galashiels and A72 Galashiels to Skirling and the position had been clarified that trunk roads were routes that were of strategic national importance and which followed the principles of:- providing the users with a coherent and continuous system of routes, serving destinations of importance to industry, commerce, agriculture and tourism; and defining nationally important routes which would be developed in line with strategic national transport demands. Mr Ovens emphasised that Transport Scotland would not be reviewing trunk road status on an individual basis and there were no current plans for a review of the strategic network as a whole. The report also explained that Transport Scotland was clearly of the view that the existing trunk roads through the Borders already met the function detailed above and that the non-trunk sections of A7 and A72 were of more local importance. Any future consideration by Ministers to trunk the above routes, which were managed locally, would bring with it an expectation that the stretches of road to be trunked would be of, or near to, trunk road standards.

2.2 With regard to the revenue costs of works to individual roads, Members were advised that the budget sat within Neighbourhood Services and that these figures were included in the Block Revenue allocation and were not recorded against specific roads. A number of questions were raised in terms of specific stretches of road and Mr Ovens and Mr Richardson provided clarification in terms of how the situations would be addressed. In some situations, the Council would be made aware of problems during routine inspections and in others, through reporting by members of the public. Action would be taken either directly by SBC or by providing advice to the landowner. Details of the capital spend on A7, A72 and A697 were provided within the briefing note and comparisons provided for each financial year from 2011/12 through to 2015/16. The Chairman thanked Mr Ovens and Mr Richardson for their attendance.

DECISION

NOTED the report.

3. **SUPPORT FOR HIGHLY ABLE LEARNERS IN SCHOOLS**

- 3.1 With reference to paragraph 8 of the Minute of 24 March 2016, Ms Donna Manson, Service Director Children and Young People was in attendance to provide Members with information on how schools within the Scottish Borders provided support for its young people, and in particular, highly able learners. Ms Manson introduced Ms Michelle Strong, Chief Officer Education; Ms Jacqueline Wilson, Headteacher at Kingsland Primary School, Peebles; and Mr John Clark, Headteacher at Berwickshire High School; who would provide additional information to Members in respect of how support had been successful in their particular areas. Ms Manson explained that the rationale Inclusion for All would be presented to the Executive Committee in May 2016 and this would detail how the Council would meet the needs of all learners, taking into account changes in legislation and plans for the provision of enhanced support in areas such as specialist needs and highly able learners. Ms Manson reported that Scottish Borders Council schools were currently in the top quartile and improving. SBC was also fully compliant with the National Development Framework.
- 3.2 Ms Strong explained that terminology used within the education system had changed over the years. Terms such as marked aptitude, talented, gifted, exceptional etc had been replaced with "highly able learners" as the accepted term. In order to promote inclusion for all learners, "Getting It Right for Every Child" (GIRFEC) had been implemented in the Scottish Borders in April 2016, developing and adopting a growth mindset for young people. The term "highly able learner" referred both to pupils who worked or had the potential to work ahead of their age peers and/or to pupils who were highly able across the curriculum as well as in one or more particular areas. It was emphasised that the Curriculum for Excellence took into consideration the development of the whole young person, including their enjoyment of learning, and support was tailored to suit each individual. In terms of education beyond school, Ms Manson advised Members that all options were discussed with parents and issues such as readiness to leave home were considered. Opportunities such as Modern Apprenticeships would be considered along with university, college etc and it was acknowledged that schools were often in the position of knowing the pupil well and therefore being able to tailor their curriculum and Individualised Plan (IEP) according to the ability of each young person.
- 3.3 Ms Wilson advised Members that there were in the region of 600 pupils attending Kingsland Primary School and just over 60 children in nursery education. There was obviously a wide range of abilities within the school and in terms of how each individual developed throughout their primary school years. In order to provide support for highly able learners in this environment, a number of activities were in place to encourage these young people. Activities included participation in master classes for those identified with particular skills; opportunities to work in different classes, accelerated work such as the Scottish Mathematical Council and additional support from the High School for pupils at level three and beyond. Further examples of local opportunities included partnership working with local clubs and taking part in national and local competitions. Members were advised that in some instances, pupils represented Scotland internationally. A number of other opportunities were available to highly able secondary pupils and these included developing talent and ability in sports such as pole vault, javelin and carting; musical ability and on occasion, the "once in a lifetime" ability shown by an individual young person in subjects such as mathematics. It was recognised that resilience was an important part of education and for highly able learners, who had perhaps experienced few or no hurdles in their lives, developing resilience would help them to deal with any future disappointments they might encounter. Mr Clark explained that "differentiation" was key across all subjects and this allowed a teacher to ensure pupils within a group were given work appropriate to their individual level and not all given the same work, as all pupils were unique; and "setting" when young people were grouped together according to ability in order to manage differentiation. However, there was a balance as having more able pupils in groups could be a help for those less able. These tools, when used as part of the overall strategy, were extremely beneficial at all levels of ability, as was the

use of mentoring within the school setting which ensured skills were developed to the maximum. There was a need to bring creativity to the curriculum to allow young people to develop, and links with universities and other organisations had been set up to assist in this. Examples to demonstrate how such links were used to benefit individual young people were given.

3.4 Discussion followed and Members raised a number of questions. It was emphasised that all aspects of a learner's journey were equally important and with regard to developing partnerships with local businesses, it was emphasised that development of business/entrepreneurial skills was as important as any other. Developing the young workforce within secondary schools was important and as well as young people going out into the community for work experience, businesses were also invited into schools. In terms of mentoring and social interaction, Mr Clark acknowledged that this was a very important issue and advised Members of a mentoring project which had been tested at Hawick High School, where senior pupils had been trained in 'Mentally Flourishing Schools'. This also involved the use of mobile 'phone technology and the use of an application called Toot Toot. Pupils could feed information about problems/concerns they had in to the Toot Toot online forum 24 hours per day and the school could then assess the issue and identify the most appropriate person to deal with each situation. Discussion followed about the options for young people who did not wish to go to university immediately following secondary school. Ms Manson explained the importance of getting the message across to communities that it was "socially acceptable" that university might not be the next step for every young person and that work experience could lead to professional qualifications in other ways. Ms Manson also acknowledged that the new IT contract with CGI could ultimately provide a range of opportunities for young people in the Scottish Borders.

3.5 A concern had been raised in relation to the number of qualifications a young person was permitted to study in 4th year at High School. Ms Strong explained that currently six or seven National examinations could be taken in one year whereas under the previous system it had been up to eight O levels over two years. Colleges and Universities were not looking at 8 or 9 qualifications and Universities were looking at Highers not Nationals, so it was important to look at the totality of qualifications required by pupils to meet their future roles. It was important to achieve a balance and allow other interests such as music, sport etc. to be continued and such hobbies and any work experience were also taken into account for further education placements. There was work to be done to look at exactly what young people were going on to study after school and therefore best tailor the qualifications and the number taken to reach that goal. Parents were also invited to contribute to these discussions. Invited to speak as Executive Member for Education, Councillor Aitchison commented that schools had a very complex task to assist all learners in reaching their potential and to ensure that ability challenges were met when a young person was highly able in a number of subjects. The Chairman thanked officers for their very informative and interesting presentation.

DECISION

NOTED the presentation.

4. SCHOOL TRANSPORT AND ESCORTS

4.1 With reference to paragraph 8 of the Minute of 24 March 2016, there had been circulated copies of a briefing note providing information on the existing practice for school transport. Ms Manson and Mr John Dellow, Team Leader Transport Services presented a summary of the provision within Scottish Borders Council. The Policy was scheduled for review within the next two years and would take account of the financial challenges in place at the time. Ms Manson explained that there was a statutory obligation to provide transport for all children who lived two or more miles from the catchment school and who were under 8 years of age; in the case of any other child, the distance was set at three miles from the school. Within the Scottish Borders, this transport was provided free of charge. Pupils enrolled at a Roman Catholic school were offered transport under the same restrictions where they lived within the designated catchment area of that school and

transport was also provided for pupils with additional support needs. Figures provided detailed that there were 178 contracts in place to provide 3,426 mainstream pupils with transport; a further 112 contracts existed for transport for pupils with additional support needs; 123 pupils required escort provision and 42 currently received a privilege lift (as defined in paragraph 4.2 of the briefing note). Within the primary and secondary school areas, the percentage of the school roll receiving school transport ranged from 40% in Berwickshire, 38% in Earlston, 18% in Eyemouth, 10% in Hawick to 8% in Galashiels. The Service was flexible and responsive and was delivered using Best Value principles. The Passenger Transport section managed all aspects of school transport provision and utilised a range of vehicles which were verified as meeting required legislation. The budget for school transport for 2015/16 was £5,016,300 and Ms Manson explained some of the issues facing the service e.g. increasing operator costs; supply in the market meeting the demand; and the number of licenced operators, drivers, vehicles and availability. There were examples of exceptional partnership working such as when bus operators were able to continue services during challenging weather conditions with the help of local people; the implementation of additional vehicles at short notice when a primary school was relocated; and when a bus driver ensured the safety of pupils alighting from the bus on which they were travelling.

- 4.2 Following discussion, a number of questions were raised. In terms of entitlement to free school transport being transferred along with a pupil when s/he moved to a different school, Ms Manson advised that a planned review of the existing Policy would address this issue, and emphasised that pupil safety was paramount at all times. Ms Manson advised that using the Borders Railway as part of school transport provision would present risk assessment challenges and suggested that train travel might be considered only in specific circumstances. Further discussion took place in respect of utilising unused seats on buses. Ms Manson explained that under the statutory provision requirement, seat allocation was for individual pupils and allocating this seat if the pupil was not in attendance raised a number of issues. This would also be reviewed as part of the current Policy which would be presented to Council for approval in due course.

**DECISION
NOTED:**

- (a) the presentation;
- (b) that information on transport received from parents would be included in the School Estates review; and
- (c) that there would be an incremental review of school transport linked to the Schools Estates review carried out over the next 12 to 24 months.

**5. SCRUTINY REVIEWS - UPDATE ON SUBJECTS INCLUDED IN THE FUTURE
SCRUTINY REVIEW PROGRAMME**

- 5.1 With reference to paragraph 4 of the Minute of 18 February 2016, there had been circulated an updated list of subjects which Scrutiny Committee had been asked to review and which included the source of the request, the stage the process had reached and the date, if identified, of the Scrutiny meeting at which the information would be presented. In addition, Members were also asked to consider further subjects for inclusion on this list for presentation at future meetings of the Committee. When deciding whether subjects would be reviewed by the Scrutiny Committee, Members required a clear indication from the initiator of the request as to which aspects of the subject they wished to be reviewed. This would enable the Committee to determine whether the subject was appropriate for consideration.
- 5.2 Discussion took place on the inclusion and timing of a review on Artificial Pitches and the Clerk to the Council was asked to explore the possibility of this subject being brought forward to the June meeting. With regard to Home Schooling, it was reported that no

further action had been taken at this time to write to the Minister with a view to considering a change in legislation affecting home schooled children and young people. The Council's Legal Services was currently looking into what could be included in such a letter and a private update would be given to the Scrutiny Committee at its next meeting.

DECISION

NOTED the proposed list of subjects for review by Scrutiny Committee as amended on 28 April 2016 and appended to this Minute.

6. **DATE OF NEXT MEETING**

The next meeting of the Scrutiny Committee would take place on Thursday, 9 June 2016.

DECISION

NOTED.

SUMMARY OF PRIVATE BUSINESS

7. **MINUTE**

The Committee approved the private section of the Minute of 24 March 2016.

The meeting concluded at 11.55 am

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SCOTTISH BORDERS COUNCIL AUDIT AND RISK COMMITTEE

MINUTES of Meeting of the AUDIT AND RISK COMMITTEE held in the Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 9th May, 2016 at 10.15 am.

Present:- Councillors M. Ballantyne (Chair), J. Campbell, I. Gillespie, A. J. Nicol, S. Scott and B White (Vice-Chairman). Mr M. Middlemiss and Mr H. Walpole.

Apologies:- Mr P. McGinley.

In Attendance:- Chief Executive, Depute Chief Executive People, Chief Financial Officer, Chief Officer Audit and Risk, Democratic Services Officer (P Bolson); Mr M. Swann – KPMG.

1. ORDER OF BUSINESS

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.

**DECISION
NOTED.**

2. MINUTE

There had been circulated copies of the Minute of 29 March 2016.

**DECISION
APPROVED for signature by the Chairman.**

- 2.2 With reference to paragraph 1.2 of the Minute, Mr Swann advised that the matter was still ongoing and he hoped to be able to report to the next meeting of the Audit and Risk Committee.

**DECISION
NOTED.**

3. SCOTTISH BORDERS COUNCIL LOCAL SCRUTINY PLAN 2016/17

- 3.1 There had been circulated copies of a report by Audit Scotland setting out its Local Scrutiny Plan 2016/17 for Scottish Borders Council. The Plan was based on a shared risk assessment undertaken by a Local Area Network (LAN) comprising representatives of all the main scrutiny bodies that engaged with the Council. The report only identified risks within the Council which had been identified by the LAN or where scrutiny was planned as part of a national programme. The National Scrutiny Plan for 2016/17 was available on the Audit Scotland website.

- 3.2 It was reported that satisfactory progress had been made since the report for 2015/16. With regard to Health and Social Care Integration, the building blocks were now in place, providing a solid base for moving forward and undertaking the further work still required. The report explained that Community Planning Partnerships (CPP) follow-up work by Audit Scotland had been carried out in the Scottish Borders. Progress by the CPP had continued towards its priorities which included: Grow the Economy; Reduce Inequalities; and Maximise the Impact from the Low Carbon Agenda. Progress included the development of a Performance Management Framework for all three priority areas and streamlining and rationalising the groups and subgroups which fed into the CCP. Areas for further improvement had been identified and these were detailed in the Plan. The Community Empowerment (Scotland) Act 2015 had placed new requirements on the CPP which would require further development of its improvement agenda throughout 2016.

During 2015/16, a joint inspection of services for children and young people had been undertaken and led by the Care Inspectorate. The findings of this inspection would determine the need for any follow up scrutiny.

- 3.3 Audit Scotland had received correspondence from a member of the public requesting a review of a Council decision relating to the awarding of the waste management contract for the Scottish Borders. Members were advised that Audit Scotland were required to investigate such matters as they saw fit and following scrutiny, found that relevant processes had been adhered to and appropriate progress had been made in relation to addressing areas for improvement. It was noted that SBC had also requested KPMG to look at this decision independently of the public request.
- 3.4 Discussion followed and Members requested clarification on how the LAN could influence the work being carried out at a local level. One of the benefits of the LAN was that the group was able to bring relevant partners together to achieve a shared understanding of the issues on a local and wider level.

**DECISION
NOTED.**

MEMBER

Councillor White joined the meeting during consideration of the following item of business.

4. **SCOTTISH BORDERS COUNCIL ANNUAL GOVERNANCE STATEMENT 2015/16**
- 4.1 With reference to paragraph 6 of the Minute of 11 May 2015, there had been circulated copies of a report by the Chief Executive seeking approval of the Annual Governance Statement to be published in the Council's Statement of Accounts for 2015/16. The report explained that the CIPFA/SOLACE framework "Delivering Good Governance in Local Government" urged Local Authorities to review the effectiveness of their existing governance arrangements against their Local Code and to prepare a governance statement in order to report publicly on the extent to which they complied with their own Code on an annual basis, including how they had monitored the effectiveness of their governance arrangements in the year, and on any planned changes for the coming period. Part of the Audit & Risk Committee's remit was to assess the effectiveness of internal controls, risk management and governance arrangements in place and this included 'being satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflected the risk environment and any actions required to improve it, and demonstrated how governance supported the achievements of the authority's objectives'. The Annual Governance Statement 2015/16 was detailed in Appendix 1 to the report and this explained the Governance Framework, including the key elements of the Council's governance arrangements and the Review Framework, outlining the annual review process, overall opinion and areas of further improvement. In terms of overall corporate governance, it was the Chief Executive's opinion that, although there were a few areas of work to be completed for full compliance with the Local Code, the overall governance arrangements of the Council were considered sound. The Annual Governance Statement was informed by the self-assessment of compliance against the Local Code by the officer self-evaluation working group, the work of internal audit, external audit and inspection agencies, and by Depute Chief Executives' and Service Directors' assurance statements. This Statement would be published in the Statement of Accounts 2015/16. A number of areas for further improvement to ensure compliance with the Local Code were highlighted and were detailed in Appendix 1, paragraphs (a) to (h). The Chief Executive advised Members that the Council had improved and developed its Governance Framework and continued to demonstrate that the governance arrangements within which it operated were sound and effective.
- 4.2 Members were advised that the implementation of the new ICT arrangements was expected to complete at the end of 2016/17 and acknowledged the related benefits associated with the implementation of ERP in terms of financial systems and processes

within the Council. Members were also advised that the Integration Joint Board for Scottish Borders Health and Social Care Integration was now established and operational.

- 4.3 Members raised a number of questions which were answered by officers. It was explained that the Local Code was reviewed on an annual basis and was a high level statement for the Council. The self-assessment group had concluded that revisions were required to the Local Code to ensure it reflected the changing context of Scottish Borders Council including SB Cares, Health and Social Care Integration etc. The revised Local Code would be presented for approval by Scottish Borders Council in due course. In terms of governance of ALEOs, Members were advised that each organisation was responsible for its own Governance arrangements. The Council's Audit and Risk Committee did maintain a strategic overview of governance for all ALEOs and could request that the arrangements were amended as necessary. It was agreed that the text at paragraph (a) of the Annual Governance Statement 2015/16 be amended to include detail specific to monitoring governance of ALEOs.

DECISION

- (a) **NOTED the details of the Annual Governance Statement 2015/16 as detailed in Appendix 1 to the report subject to amendments to text at paragraph (a) to include details specific to monitoring governance of ALEOs; and**
- (b) **APPROVED the actions identified by Management to improve internal controls and governance arrangements.**

5. INTERNAL AUDIT WORK 2015/16 TO MARCH 2016

- 5.1 With reference to paragraph 3 of the Minute of 29 March 2016, there had been circulated copies of a report by the Chief Officer Audit and Risk which provided details of the recent work carried out by Internal Audit, the recommended audit actions agreed by management to improve internal controls and governance arrangements and internal audit work currently in progress. During the period 1 to 31 March 2016, a total of two final internal audit reports had been issued, namely Salaries (including expenses) and Revenues (Council Tax and Non-Domestic Rates). There was 1 recommendation made (1 Priority 3 Low Risk) specific to one of these reports. Management had agreed to implement the recommendation to improve internal controls and governance arrangements. An executive summary of the final internal audit reports issued, including audit objectives, findings, good practice, recommendations and the Chief Officer Audit and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, was detailed in the Appendix to the report.
- 5.2 With reference to the final report on Salaries, it was noted that Management teams were more aware of the levels of overtime being worked and would continue to scrutinise to ensure that unforeseen increases in overtime did not occur except in emergency situations such as inclement weather or client welfare. The report also highlighted that line managers were responsible for the recovery of all equipment when staff left Council employment and for the completion of the HR Leaver form which ensured accurate and correctly authorised payment of salaries.
- 5.3 The report explained that some areas for improvement had been identified relating to existing systems for income charging, billing and collection. As these systems were soon to be replaced, agreement had been reached with the Chief Financial Officer that the project scope for a replacement system would address the improvements required during the design process. Further assurances had been received from Management that full reconciliation of physical to recorded Asset Register information would be addressed as part of the Business World ERP system project.

- 5.4 Discussion followed and Members were advised that there were a number of ways in which cover was provided during emergency and unexpected situations, including the use of flexible hours and time off in lieu. Officers provided clarification on a number of staff-related queries. In respect of staff absence and in particular when it related to work-based stress, assurance was given that staff welfare was a priority and that the SBC Absence Management policy enabled managers to monitor patterns of absence and how this could be dealt with throughout the year. Officers and staff also had the opportunity to discuss a range of issues during Performance Review and Development (PRD) meetings.

DECISION

- (a) **NOTED the final reports issued in the period from 1 to 31 March 2016 to deliver the Internal Audit Annual Plan 2015/16; and**
- (b) **ACKNOWLEDGED that it was satisfied with the recommended audit actions agreed by management.**

6. INTERNAL AUDIT ANNUAL REPORT 2015/16

- 6.1 There had been circulated copies of a report by the Chief Officer Audit and Risk presenting the Committee with the Internal Audit Annual Report for the year to 31 March 2016, which included the Chief Officer Audit and Risk's independent assurance opinion on the adequacy and effectiveness of the Council's overall control environment. In support of the overall governance arrangements of the Council, the Local Code of Corporate Governance and the Public Sector Internal Audit Standards required the Chief Officer Audit and Risk to provide an annual internal audit opinion and report to the Chief Executive on the adequacy and effectiveness of the Council's internal control and governance arrangements to support the preparation of the Annual Governance Statement. The Remit of the Audit and Risk Committee indicated that it should ensure an adequate framework of internal control, risk management and governance throughout the Council. The Chief Officer Audit and Risk's opinion, based on internal audit reviews, risk assessments and knowledge, was that the systems of internal financial control and internal control and governance arrangements were operating satisfactorily, with some improvements being identified. The Chief Officer Audit and Risk's Annual Report for 2015/16 was detailed at Appendix 1 to the report.
- 6.2 The report advised that two significant strategic developments for service delivery had been undertaken, each requiring different governance arrangements to be in place. In April 2015, the Limited Liability Partnership Strategic Governance Group (LLP SGG) was established to monitor and control functions required by the Council in connection with SB Cares when this organisation was set up to deliver adult care services. In April 2016, the Integrated Culture and Sports Trust (Live Borders) was established and the Council's Executive Committee, by means of a Member-Trustee Liaison Group, assumed a performance monitoring role for the delivery of the agreed outcomes.
- 6.3 During the discussion that followed, Members were advised that audit recommendations in respect of target dates were adhered to whenever possible and were followed up by Internal Audit, especially if they became overdue. There were occasions when recommendations were superseded and therefore no longer relevant when alternative solutions were required to manage the identified risks or when it was necessary to grant extra time to complete recommendations, eg delays in the implementation of a new IT system or lead in times for the implementation of new legislation. Ms Stacey explained the way in which this information was recorded and used in Covalent to trigger action notifications to officers. Members requested clarification regarding the number of audit days and type as presented in paragraph 3.2 of the report and Ms Stacey explained that specific pieces of work were sometimes completed within less than planned audit days and some used more to reflect the audit scope and any unplanned work relating to counter fraud was included in the "Other" category. Following discussion, it was agreed that the report should be amended to include more detailed information relating to the

analysis of audit type and audit days and that this should be applied to future reports. The process for managing Internal Audit time was outlined to Members and Ms Stacey emphasised that any areas for concern were highlighted in the Internal Audit mid-term performance and annual reports.

DECISION

- (a) NOTED the Internal Audit Annual Report for 2015/16.**
- (b) AGREED that:-**
 - (i) the report be amended to include more detailed information relating to the analysis of audit type and audit days and that this should be applied to future reports; and**
 - (ii) Internal Audit Annual Report for 2015/16 be published on the Council's website.**

7. PENSION FUND ANNUAL GOVERNANCE STATEMENT 2015/16

With reference to paragraph 7 of the Minute of 11 May 2016, there had been circulated copies of a report by the Chief Financial Officer seeking approval of the Pension Fund Annual Governance Statement to be published in the Statement of Accounts 2015/16 of Scottish Borders Council Pension Fund. The report explained that the Local Government Pension Scheme (Scotland) Regulations 2014 required Administering Authorities to measure their governance arrangements set out against standards set by Scottish Ministers. These standards were established via a number of best practice principles. Part of the Audit and Risk Committee's remit was to assess the effectiveness of internal controls, risk management, and governance arrangements in place for the Scottish Borders Council Pension Fund. This included being satisfied that the Pension Fund Annual Governance Statement demonstrated compliance with its governance policy and best practice principles and identified any actions required to improve governance arrangements. The Pension Fund Annual Governance Statement 2015/16 detailed the Governance Framework, including the key elements of the Pension Fund's governance arrangements, as shown in Appendix 1 to the report. It was the Chief Financial Officer's opinion that the overall governance arrangements of the Pension Fund were considered sound. The Annual Governance Statement was informed by the self-assessment of the Fund's compliance with the best practice principles; the work of professional accountancy staff; and the work of internal audit, external audit and inspection agencies and included any improvement actions which had been identified. This Statement would be published in the Pension Fund Annual Report and Accounts for the year to 31 March 2016. The Chief Financial Officer advised Members that controls relating to the Pension Fund were operating effectively and that full compliance had been recorded for all applicable principles as detailed in Appendix 1. The annual review of the overall governance framework for the Pension Fund had identified two areas where improvements could be made, namely: development of a communications plan to improve awareness and understanding of stakeholders and encourage maximum membership of the Fund; and full evaluation of the implications of new national policy on freedom of choice of pension sums. Discussion followed in respect of how the Pension Fund might be affected by the new national policy changes and the need for identified risks to be included in the Pension Fund Risk Register. Members were advised that a three year review would be carried out and reported to Members at that time. With reference to paragraph (h) of the Pension Fund Annual Governance Statement 2015/16, it was agreed that this should be amended to demonstrate that all professional advice had been sought.

DECISION

- (a) NOTED the Pension Fund Annual Governance Statement 2015/16 as detailed in Appendix 1 to the report subject to amendments to text at**

**paragraph (h) to demonstrate that all professional advice had been sought;
and**

- (b) AGREED to approve the actions identified by Management to improve internal controls and governance arrangements.**

The meeting concluded at 12.30 pm

SCOTTISH BORDERS COUNCIL EXECUTIVE COMMITTEE

MINUTE of Meeting of the EXECUTIVE COMMITTEE held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Tuesday, 10 May 2016 at 10 a.m.

Present:- Councillors S Bell (Chairman – Economic Development Business), C Bhatia (Chairman Other Business), S Aitchison, J Brown, M J Cook, V Davidson (from para 4), G Edgar, D Moffat, D Paterson, R Smith.

Also Present:- Councillors J. Fullarton, I Gillespie.

Apologies:- Councillor J. Mitchell, D. Parker, F Renton.

In Attendance:- Chief Executive, Corporate Transformation and Services Director, Chief Officer Economic Development, Service Director Regulatory Services, Group Manager Housing Strategy & Services, Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

ECONOMIC DEVELOPMENT BUSINESS

Present: Mr J Clark, Mr G Henderson

CHAIRMAN

Councillor Bell chaired the meeting for consideration of the Economic Development business.

1. ECONOMIC DEVELOPMENT UPDATE

1.1 With reference to paragraph 4 of the Minute of 2 February 2106, there had been circulated copies of a briefing note providing an update on recent Economic Development activities. The Chief Officer Economic Development, Mr Bryan McGrath, referred to the paper and highlighted the main points. Under the Business section of the update it was reported that for the 3 month period 1 January 2016 to 31 March 2016 the Business gateway team assisted 77 business start-ups, of which 9 had the potential to be high growth. The advisers had delivered 23 start-up workshops and 26 Growth workshops with 273 attendees. During the same period four start-up workshops were held in Peebles, Hawick and Kelso with a total of 80 attendees. In 2015-2016, the Scottish Borders Business Fund received 43 applications and approved 37 grants valued at £107,960.65 supporting projects with a value of £243,947.02. These projects were forecast to create 43 jobs and safeguard 57.5 jobs with a forecast economic impact of £953,745 GVA. The Scottish Borders Business Loan Fund offered loans of between £1,000 and £20,000 over terms of up to three years. In 2015-16, the Loan Fund received 11 applications and approved 7 loans valued at £129,504. These loans were forecast to create 12.5 jobs and safeguard 29 jobs with a forecast economic impact of £393,420 GVA. Scotland's Employer Recruitment Incentive - SERI Scheme – The Scottish Government had confirmed funding for the SERI Scheme in 2016/17. The Scheme was re-launched on 1 April and was targeted at those furthest from the workplace. Eight additional places were available for the Scottish Borders and Barnardo's Works had been contracted to deliver this support.

1.2 In terms of Regeneration it was reported that the Scottish Borders Railway Ambassadors Pilot had been extended into the 2016 season. A weekend service would be provided in April, Fridays would be added for May and June, whilst Thursday would also be covered in July and August. The service would then taper off into the autumn and finish at the end of October. Support had been given to the National Archaeology conference in

Galashiels on 28 May and the forthcoming visit of the Flying Scotsman. Selkirk Business Improvement – Steering Group had appointed a new Project Manager, who was progressing the business plan development and consultation processes. A revised timescale for the BIDS ballot process had been identified, the ballots now scheduled for November 2016.

- 1.3 In terms of Tourism and Events, it was reported that the new walking site www.walkscottishborders.com was now live. This was the sister site to www.cycllesscottishborders.com which had been running since 2012. Both sites were now 'mobile friendly' and were available for use by businesses wishing to link to the cycle and walk network or by visitors requiring access to route information and visitor information on tablets and mobile phones. In relation to Funding, The Leader Programme was open, with application deadlines set for 31 May and 31 August 2016. The programme Coordinator and Facilitator were continuing to work with a range of potential applicants. The new Forth Fisheries Local Action Group, covering the Scottish Borders, East Lothian and Fife, had received a funding allocation of just over £1m for the period 2014-2020. The new Action Group would make recommendations on European Maritime Fisheries Fund(EMFF) local development applications. Scottish Borders Council was the lead partner for the three areas and had employed EMFF Programme Co-ordinator, based in Eyemouth, to support the development of projects, and applications to the fund, from groups and businesses across the whole FLAG area. In response to a question from Elected Members in relation to Fishing, Shooting and Equestrian events, the Chief Officer Economic Development agreed to bring a more detailed report to the next meeting. The Committee welcomed the draft Cycling Strategy and a consultation event was suggested and expressed disappointment at the level of applications for the RSA Funding and noted that work would be undertaken to raise awareness of opportunities for local businesses.

DECISION

NOTED the update.

2. BUSINESS GATEWAY ANNUAL REPORT AND BUSINESS PLAN 2016-17

There had been circulated copies of a report by the Corporate Transformation and Services Director which summarised the Business Gateway Service's performance in 2015/16 and sought approval of the Business Plan for the delivery of Business Gateway Services in the Scottish Borders to 31 March 2017. The report explained that 2015/16 saw the majority of national targets being achieved by the Business Gateway team with a particularly good performance with business starts. Over 1500 business people attended Business Gateway events, an increase of 150% on the figure for 2014/15. In addition, Business Gateway advisers were heavily involved in other local actions, most notably the launch of the Borders Railway and the recent flood events. The Business Plan for 2016/17 fully uses the new European Regional Development Fund confirmed on 31 March 2016. The plan showed a boost to the start-up team as well as a new geographical focus for the Growth Advisers, using the Council's 'Localities' Map. There would be an increase in the number of events delivered across the whole area. Emphasis would be applied in the areas of Exporting and Innovation for local businesses. In the next 12 months Business Gateway would continue to deliver against the National Service Specification and would aim to achieve the outcomes set out in the new ERDF operation plan. Using EU Funds, the Business Plan would enhance service delivery at the local level by aligning to the priorities in the Local Outcome Improvement Plans (LOIP) and the Scottish Borders Economic Strategy 2023. Mr McCreadie, Principal Officer – Business (Acting) answered Members questions and the Chairman thanked Business Gateway for the help following the recent flooding.

DECISION

AGREED:-

- (a) **to acknowledge the strong performance and positive impact of the service in 2015-2016;**

- (b) to approve the 2016-2017 Business Plan for Business Gateway in line with the national service specification, including the proposed reporting indicators in Table 2 of the report; and
- (c) that an annual review meeting be organised in November 2016 with a range of Business Gateway customers to allow elected members to directly receive feedback on service delivery and areas for further improvement.

3. **SOUTH OF SCOTLAND COMPETITIVENESS STRATEGY 2016-2023**

There had been circulated copies of a report by the Corporate Transformation and Services Director which sought approval for the new South of Scotland Competitiveness Strategy 2016-2023 and its associated Action Plan. The report explained that the South of Scotland Alliance agreed to develop a new South of Scotland Competitiveness Strategy for the period 2016 to 2023. Work on the new Strategy had enabled the Alliance to analyse the up-to-date economic data for the region, reflect on the lessons learned from the successes and shortcomings of the last 10 years and consult with the partners and stakeholders on whom the successful delivery of any new Strategy would partly depend. It was highlighted that despite the notable successes of the South of Scotland Alliance and other partner agencies, the regional economy had continued to struggle in recent years. Growth had not kept pace with the rest of the country and GVA per head actually fell between 2007 and 2013, from 72% of the national average in 2007 to only 70% in 2013. Average weekly wages had also slipped over the same period, from 89% of the national average to 87% - in monetary terms, a gap of more than £65 per worker, per week. The finalised Strategy and its Action Plan were agreed by the Alliance on 15 April 2016 and the documents were set out in Appendix 1 and 2 of the report. Approval for the documents was now being sought from Scottish Borders and Dumfries & Galloway Councils. In response to questions the Chief Executive confirmed that while the Chief Financial officer was leading on the City Deal project he was kept apprised of the work of the South of Scotland Alliance. The Chief Officer Economic Development advised that the Action Plan recognised the importance of good broadband and a report on future broadband proposals would be presented to a future meeting.

DECISION

AGREED to:-

- (a) approve the new South of Scotland Competitiveness Strategy 2016 -2023 and its associated Action Plan as set out in Appendix 1 and 2 to the report; and
- (b) request that the South of Scotland Alliance regularly monitors progress on delivery of the actions set out in the Action Plan.

OTHER BUSINESS

CHAIRMAN

In the absence of Councillor Parker, Councillor Bhatia chaired the meeting.

4. **MINUTE**

The Minute of meeting of the Executive Committee of 19 April 2016 had been circulated.

DECISION

APPROVED for signature by the Chairman.

5. **STRATEGIC HOUSING INVESTMENT PLAN PROGRESS FOR 2015-2016**

There had been circulated copies of a report by the Service Director Regulatory Services to advise Members of the affordable housing completions, and progress made in the delivery of the Strategic Housing Investment Plan (SHIP) projects for the period 2015-2016. The Strategic Housing Investment Plan (SHIP) was the

sole document for targeting affordable housing investment in Scottish Borders. Annual updates had previously been submitted to the Scottish Government in November of each year with the current SHIP 2015-2020 being submitted in October 2014 when it changed to bi-annual submissions. This report advised Members that for the financial period 2015-2016, 220 new affordable houses were delivered. This meant that over the 4 year period 2012-2016, a total of 467 new affordable homes have been delivered, which averaged at 116 units per annum exceeding the Council's target of 100 new affordable homes per annum. The report further detailed the Strategic Housing Investment Plan Progress update and financial implications. Members welcomed the report and noted that a press release would be issued. The Group Manager Housing Strategy and Services and the Housing Strategy Manager answered Members questions.

DECISION

AGREED to endorse the progress made in the delivery of affordable housing projects in 2015-2016 as set out in the Strategic Housing Investment Plan 2015-2020

6. **LOCAL ACCESS AND TRANSPORT STRATEGY – CONSULTATION REPONSES**

There had been circulated copies of a report by the Service Director Regulatory Services to advise members on the results of a recent consultation exercise that would help provide advice on the development of a Local Access and Transport Strategy for the Scottish Borders. The report explained that the development of a Local Access and Transport Strategy (LATS) was a key document for the Scottish Borders, providing a focus for transport issues throughout the Local Authority area and beyond, whilst detailing key projects and longer term aspirations. A Main Issues Report (MIR) provided the basis for consultation with stakeholders and the general public and asked a number of specific questions that would help mould the Officers' overall approach to the main strategy document. A twelve week consultation period for the LATS concluded on 23 October 2015, with 31 responses received from statutory consultees, community councils and the general public. A list of the people and organisations that responded had been provided in Appendix A to the report. The Chairman expressed concern about the poor response to the consultation and in particular that there had been no comments received on a proposed new bridge for Peebles. In terms of de-criminalised parking it was noted that a report would be brought to Council in June. It was highlighted that integrated ticketing was an issue across Scotland and progress was slow as there were so many different operators. Members expressed particular concern regarding damage to roads caused by forestry traffic and the need for a more radical approach and make direct representation to the Scottish Government for more funding. The Service Director Regulatory Services advised that an Action Plan would be developed to accompany the Strategy

DECISION

- (a) **NOTED the lack of responses from the recent consultation exercise undertaken as part of the development of the Local Access and Transport Strategy for the Scottish Borders.**
- (b) **AGREED:-**
 - (i) **that an action plan would be developed to accompany the Strategy; and**

- (ii) that an options report on the issues caused by timber transport be brought to a future meeting and that the Timber Transport Officer be invited to attend.
- (c) **NOTED** that a report on de-criminalised parking would be presented to the Council meeting in June 2016.

7. **PRIVATE BUSINESS
DECISION**

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 9 of part 1 of schedule 7A to the Act.

8. **MINUTE**

The Committee approved the Private Minute of 19 April 2016.

The meeting concluded at 12 noon.

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SCOTTISH BORDERS COUNCIL GALASHIELS COMMON GOOD FUND SUB COMMITTEE

MINUTE of Meeting of the GALASHIELS
COMMON GOOD FUND SUB COMMITTEE
held in the Transport Interchange, Galashiels
on Thursday, 12 May, 2016 at 5.00 pm

Present:- Councillors B White (Chairman), B Herd; Community Councillor R. Kenney.

Apologies:- Councillors S. Aitchison and J. G. Mitchell

In Attendance:- Estates Surveyor (J. Morison), Community Services Managing Solicitor (C. Donald), Capital & Investments Manager (K. Robb), Democratic Services Officer (F. Walling).

1. **MINUTE.**

There had been circulated copies of the Minute of 18 February 2016.

DECISION

NOTED the Minute

2. **FINANCIAL MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2016**

There had been circulated copies of a report by the Chief Financial Officer providing details of the income and expenditure for year 2015/16 including balance sheet values at 31 March 2016 and proposed budget for 2016/17. Capital Investments Manager, Kirsty Robb, explained that during the course of revaluation of the Common Good assets, information contained in the title deed for Old Gala House indicated that the whole of the property should have been included. An amended report was tabled at the meeting which reflected the net property revaluation gain of £102,560 leading to an increase in reserves of £67,951 after a depreciation adjustment of £36,192. This gain was detailed in the Balance Sheet, shown in Appendix 2 of the amended report and in the Property Portfolio shown in Appendix 3 of the amended report. Mrs Robb explained that in addition to now being shown in the 2015/16 accounts there would be a re-statement of the 2014/15 account. She went on to highlight the other main points of the report. With regard to the investment in the Newton Fund, over the full year to 31 March 2016 the Quarter 4 rally had not quite got the full value of the Newton Fund back to its March 2015 level, resulting in a 1.5% fall in like for like market value over the year. Nevertheless the closing market value of investments at 31 March 2016 yielded a 1.3% unrealised gain since inception. Common Good Fund dividends received in 2015-16 amounted to £496, approximately 2.0 % of funds invested. Members discussed the accounts and received answers to their questions. A query was raised as to why a figure had been put into the 2016/17 budget for property expenditure as Members understood that the Common Good was not responsible for maintenance of any property. Mr Morison explained that a nominal figure of £1000 had been put in for Property Expenditure for reasons of prudence. With regard to paragraph 2.3 of the Minute of 18 February 2016 Mrs Robb confirmed that investigations were still being carried out into the source from which the income from the Ladhope Trust was being generated.

DECISION

(a) **NOTED within the appendices of the amended report the:-**

- (i) **actual income and expenditure for 2015/16 in Appendix 1;**
 - (ii) **final Balance Sheet value as at 31 March 2016 in Appendix 2;**
 - (iii) **summary of the property portfolio in Appendix 3; and**
 - (iv) **current position of the investment in the Newton Fund in Appendix 4.**
- (b) **AGREED the proposed budget for 2016/17 as shown in Appendix 1 to the amended report.**

3. **TREE PLANTING NEXT TO GALASHIELS GOLF CLUB, LADHOPE**

With reference to paragraph 4 of the Minute of 4 September 2014, there had been circulated copies of a report by the Service Director Assets and Infrastructure seeking consent to plant a mixture of native trees on the land next to Galashiels Golf Club at Ladhope. The report explained that the Ladhope Trust land was classed as a Common Good asset and that in October 2014 a new lease had been granted to the Golf Club for the 9 hole course. An area of 28.1 hectares (69 acres) next to the golf course was currently overgrown grass, gorse and small trees. Part of this area used to be leased to the Golf Club when it was an 18 hole course. Previous discussions with Borders Forest Trust to plant the area with trees did not progress and now the Forestry Commission and Tweed Forum proposed to plant a mixture of trees on the area. Funding for tree planting and associated deer fencing was available from Forestry Commission Scotland through a 30 year forestry Grant Scheme contract. Tweed Forum had agreed to act as agent for the funding application without charge. The Estates Surveyor introduced to the meeting Hugh Chalmers of Tweed Forum and David Kennedy of the Forestry Commission, Scotland who provided further information about the proposals. A site meeting had been held and there was confidence that the area would make a good new woodland without restricting public access. The proposed planting would leave footpaths intact and wide enough to keep the views available over Galashiels. A plan and aerial photograph showing the initial planting design were attached to the report. It was explained that longer term there could be an opportunity for mountain bike trails through the Ladhope land as well as part of the neighbouring Glendearg property where a similar tree planting scheme was being progressed with Tweed Forum and the Forestry Commission. Mr Kennedy outlined the sequence of events that would take place following an official grant application to the Forestry Commission and confirmed that the project was at a very early stage. The importance of early consultation with Galashiels Community Council and other local groups was agreed. The committee of the Golf Club had no objections subject to there being an open area between the fairways and the tree planting area and subject to the majority of vehicle access being from Glendearg. Mr Kennedy answered questions about design in terms of proposed species of trees and proportion of each species. However he stressed that this was as yet only a draft design. Members agreed they would like to see a detailed planting design prior to the official grant application being taken forward. However they were happy to approve the project in principle.

DECISION

AGREED:-

- (a) **to approve, in principle, the planting of trees as shown on the plan attached to the report, with Tweed Forum acting as agent, Forestry Commission Scotland as funder and with a Forestry Commission approved contractor carrying out the work;**
- (b) **that a detailed planting design, in terms of type and proportion of each species, be circulated by email to Members of Galashiels Common Good Fund Sub Committee for information and agreement; and**

- (c) **a public consultation meeting be held on the proposals and that Galashiels Community Council and other appropriate local groups be invited to the meeting to give their views.**

The meeting concluded at 5.55 pm

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SCOTTISH BORDERS COUNCIL EILDON AREA FORUM

MINUTE of Meeting of the EILDON AREA FORUM held in the Waverley Chambers, Transport Interchange, Galashiels. on Thursday, 12 May, 2016 at 6.30 pm

- Present:- Councillors B White (Chairman), S. Aitchison, V. M. Davidson, I. Gillespie, (from para 6), B Herd, D. Parker.
Community Council representatives:- R. Kenney (Galashiels), T. Cotter (Lilliesleaf, Ashkirk & Midlem), P. Docherty (Oxton & Channelkirk), R. French (Newtown and Eildon), J. MacKenzie (Parish of Stow), J. Paton-Day (Earlston), S. Manion (Chief Officer Health and Social Care Integration), K. Langley (Scottish Fire & Rescue Service), Inspector M. Bennett, PC Nick Walker (Police Scotland).
- Apologies:- Councillors M. Ballantyne, G. Edgar, J. G. Mitchell, J. Torrance and M Crausaz (Ettrick and Yarrow), Tweedbank CC, Inspector A Hodges.
- In Attendance:- Assistant Engineer – Road Safety and Traffic Management (G. Haldane), Democratic Services Officer (F. Walling).
- Members of public – 5

1. ORDER OF BUSINESS

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.

2. MINUTE

- 2.1 There had been circulated copies of the Minute of 18 February 2016.

DECISION

APPROVED for signature by the Chairman.

- 2.2 With regard to paragraph 6 of the Minute, Councillor Aitchison gave an update on the pre-consultation process held prior to a review of the school estate provision across the Borders. He reported that the response to the pre-consultation had not been as great as anticipated although the response in Galashiels had been good. Useful input had been gained in all areas which would be taken forward to inform the review in respect of each of the catchment areas of the nine secondary schools.

DECISION

NOTED.

3. VARIOUS STREETS, GALASHIELS - TRAFFIC REGULATION ORDER

There had been circulated copies of a report by the Service Director Assets and Infrastructure seeking approval for amendments to the Various Streets, Galashiels Traffic Regulation Order (TRO). The report explained that the previous amendment to the Galashiels TRO had been carried out in 2014. Since then comments had been received from members of the public and Local Members regarding further changes. These had been collected into this proposed amendment. Details of the amendments, which were proposed to aid the movements of vehicles in the town and to facilitate additional

provision for taxis, were shown in Appendix A to the report and described in Appendix B to the report. Statutory consultation on the proposals had been carried out and no adverse comments or objections had been received.

DECISION

AGREED to approve the proposed amendments to The Scottish Borders Council (The Borders Regional Council (Various Streets, Galashiels) (Regulation of Traffic) Order 1990)

4. VARIOUS STREETS, SELKIRK - TRAFFIC REGULATION ORDER

There had been circulated copies of a report by the Service Director Assets and Infrastructure seeking approval for amendments to the Various Streets, Selkirk Traffic Regulation Order (TRO). It was explained that since the previous amendment in 2008 a number of comments had been received from members of the public and Local Members regarding further changes. The amendments shown in Appendix A to the report and described in Appendix B to the report were proposed to aid the movements of vehicles in the town, including the formalisation of the existing waiting restriction marked on Scott's Place which was not included in any previous amendments. Statutory consultation on the proposals had been carried out and no adverse comments or objections had been received. Following consultation regarding traffic management issues at Knowepark Primary School, additional amendments were proposed. Assuming no adverse comments or objections were received during consultation it was proposed to include these in the amendment. A plan of the proposals and draft schedule were shown in Appendix C to the report.

DECISION

AGREED to approve:-

- (a) the proposed amendments to the Scottish Borders Council (The Burgh of Selkirk (Prohibition and Restriction of Waiting and One-Way Traffic Working) Order 1972); and**
- (b) the further amendments to the Scottish Borders Council (The Burgh of Selkirk (Prohibition and Restriction of Waiting and One-Way Traffic Working) Order 1972), shown in Appendix C to the report, assuming no adverse comments or objections were received.**

5. VARIOUS STREETS, MELROSE - TRAFFIC REGULATION ORDER

There had been circulated copies of a report by the Service Director Assets and Infrastructure seeking approval for amendments to the Various Streets, Melrose Traffic Regulation Order (TRO). The report explained that since the previous amendment to the TRO in 2008 there had been comments received from members of the public and Local Members regarding further changes. These had been collected into this proposed amendment. The amendments were shown in Appendix A to the report and described in Appendix B to the report. They were proposed to aid the movement of vehicles in the town and the loading/unloading of vehicles. No adverse comments or objections were received during the period of consultation.

DECISION

AGREED to approve the proposed amendments to The Scottish Borders Council (Various Streets, Melrose) Traffic Regulation Order 2008.

MEMBERS

Councillor Davidson left and Councillor Gillespie joined the meeting during the presentation below. In the absence of a Scottish Borders Council Member from the Selkirkshire Ward the meeting was inquorate and continued on an informal basis.

6. TACKLING RURAL CRIME

PC Nick Walker was in attendance to give a presentation on Preventing Rural Acquisitive Crime in the Scottish Borders. He explained the definition of Rural Crime which was crime that occurred outwith cities and towns with populations of less than 2000. It included wildlife crime, vandalism/fire raising and theft. The focus of the presentation was thefts from farms and rural businesses, with machinery/tools, quad bikes, ATVs, tractors, livestock and fuel/oil being commonly targeted. From a chart giving figures for the past three years PC Walker summarised the extent of the problem in terms of the value stolen, detection rates, and the location of incidents which indicated that the problem was Borders-wide. In 2014/15, the most recent complete year's figures available, the total value stolen was over £347,000. There were currently six ways in which Police Scotland was working with partners to prevent rural acquisitive crime as follows: direct crime prevention advice; media engagement; partnership "walk and talk" events; forensic security marking; rural "no cold caller zones"; and SBAlert messaging system. PC Walker gave further details of each measure and distributed leaflets with further information. The rural "no cold caller zones", scheme was started in Berwickshire in 2011. There were currently 46 zones involving 4500 residents. The scheme was owned by the community and facilitated by Police. The SBAlert messaging system, an emergency community messaging system, was launched in 2014 and involved a partnership between Scottish Borders Council, Police, Scottish Fire and Rescue Service, NHS Borders and others. There were currently 3500 members who received messages by email, text or voice message. In particular members of the Area Forum were interested to hear more about the forensic security marking scheme. Funded by Police and Scottish Borders Council there were 200 SelectaDNA Marking Kits available for farms, delivered by Community Police Officers and the Scottish Fire and Rescue Service. The scheme was supported by the National Farmers Union of Scotland. SelectaDNA was used to mark and protect property, with a unique DNA code being registered on a secure database. The fact that property was marked in this way would be highlighted in signs displayed on the premises to indicate that the home/business was protected. In response to questions following the presentation PC Walker explained the process by which a community could set up a "no cold caller zone". With regard to the security marking kits he confirmed that these could also be purchased on-line.

DECISION

NOTED the presentation

7. THE 'BEST BAR NONE' INITIATIVE.

The Best Bar None (BBN) initiative was a national programme administered by the Scottish Business Resilience Centre, with partners and local co-ordinators contributing to the ambition of the scheme. The aims were to promote a safer community; promote social responsibility; raise standards in licensed venues and reward well managed venues. PC Walker explained that the scheme was launched in the Scottish Borders in August 2015 at the Queens Head in Kelso. There were independent assessments carried out in December 2015 and an Awards Event held in March 2016. The focus of the scheme this year was Galashiels and the central Borders area. Licensed venues could apply to the local scheme, be assessed by trained assessors, gain bronze, silver or gold accreditation and win awards at both local and national level. The assessment criteria were based around the five key elements of the Licensing (Scotland) Act 2005. The benefits to the community and premises of taking part in the BBN scheme were summarised in the presentation. In addition to supporting the local community and its priorities the scheme made commercial sense for venues and businesses. A key benefit, exclusive to BBN premises were savings of 10-20% on insurance premiums and enhanced cover options. The presentation concluded by listing the premises in the Scottish Borders, which had achieved gold and silver awards under the BBN scheme in 2015.

DECISION

NOTED the presentation

8. **UPDATE ON DOG FOULING.**

On behalf of the Neighbourhood Area Manager, PC Walker summarised a new refreshed approach being taken to tackle dog-fouling in the Scottish Borders. In 2014 the Scottish Household Survey rated animal nuisance, such as noise and dog fouling, as the most common problem. Within the Scottish Borders there had also been an increase in the number of reports of dog fouling. This issue was being looked at by Scottish Borders Council in the wider context of responsible dog ownership. The 'Responsible Dog Ownership Strategy and Action Plan', recently approved by Scottish Borders Council, set out what the Council would do to encourage and promote responsible dog ownership and the Council's commitment to tackling the antisocial behaviour of irresponsible dog owners. The approach outlined in the strategy included the objective to reduce the number of dog fouling instances through education, partnership working and enforcement. Officers had been investigating options to enhance its environmental enforcement activities. In this connection Council agreed to appoint a private company to carry out focused enforcement activity for a pilot period of twelve months. As part of the strategy the Council would work with communities on developing local solutions; develop an 'anti dog-fouling toolkit' which could be used by local communities; and promote key initiatives such as The Green Dog Walkers. It was confirmed that material to promote responsible dog ownership, in the form of posters, would be available to Community Councils from the Neighbourhood Services section of the Council. The Chairman thanked PC Walker for his presentations.

DECISION

NOTED the presentation

9. **PARTNER UPDATES**

9.1 **NHS Borders**

Chief Officer Social Care and Health, Susan Manion, was in attendance to give an update on behalf of NHS Borders. Ms Manion reported that on 29 April NHS Borders had held a celebrating excellence in staff event where a number of staff awards had also been given for quality and excellence in the Social Work team. Currently there was a consultation "Health in your Hands" being carried out with events held across the region. Comments from the consultation would be considered by the Board in June. With regard to the Accident and Emergency Department at the Borders General Hospital, although there had been challenges at the beginning of winter recent performance figures had improved with, at the end of April, 97.6% of patients being treated within 4 hours against the national average of 93.1%. With regard to the national legislation around Health and Social Care integration Ms Manion reported that in the Scottish Borders the Health and Social Care Joint Board went live on 1 April 2016, with a 3 year strategic plan and budget having been agreed in March. As part of the joint work going forward the Board would be consulting on the work around new GP contracts for joined-up care.

9.2 **Scottish Fire and Rescue Service**

Galashiels Station Manager, Keith Langley, circulated a report and summarised the main activity with which Scottish Fire and Rescue Service (SFRS) had been involved in the Eildon area since the last meeting of the Area Forum. After giving statistics in relation to response and resilience activity Mr Langley highlighted areas of partnership working and prevention and protection activity carried out. This was key to reducing the number of fires, casualties and losses, thus minimising the economic and social impact of fire on communities. SFRS staff in all local stations provided home fire safety visits all year round. All stations were also participating in the British Heart Foundation initiative 'Call Push Rescue' and would soon be involved in the Out of Hospital Cardiac Arrest (OHCA) project. To date over 800 members of the public had taken part in the free CPR training provided by stations. SFRS were working in partnership with TD1 and Community Learning Development to develop and pilot a diversionary project in Galashiels for youths through the summer holidays. This would run one day a week, include inputs from partner agencies and would result in a recognised award for participants. SFRS Safeguarding Policy and Procedure for Protection of Children and Adults at Risk of Harm was implemented to link into adult and child protection. The policy had created closer ties

with Social Services and ensured that those people and families that fire crews identified as at risk were brought to the attention of Social Services. As summer approached SFRS would focus activities in the areas of country and outdoor safety, fire related anti-social behaviour, holiday safety and derelict property. The report concluded with reference to the Retained Duty System (RDS). A national recruitment campaign was on-going for RDS firefighters at identified stations within the Scottish Borders. A local initiative, in partnership with Radio Borders, included acknowledgement to local employers for release of employees to serve their local community.

9.3 **Police Scotland**

Inspector Mike Bennett was in attendance to give a report on activity within the Police Scotland Multi Member Ward Plans for Galashiels and District, Selkirkshire and Leaderdale and Melrose. Copies of the report were circulated at the meeting. Inspector Bennett summarised the ongoing work of Police Scotland, along with partners, to focus on the greatest concerns identified by local residents. With regard to reducing violent crime Police continued to target patrols in areas where violent crime had been reported. Work to focus on inconsiderate driver behaviour had included community officers being trained in the use of speed guns. Young driver education events had also been held to encourage safer and responsible driving. Inspector Bennett went on to give some statistics in relation to the number of fixed penalty tickets issued for various traffic offences. With regard to parking he referred to the concern raised at the last Area Forum meeting about parking in Selkirk. During March and April in Selkirk there had been 19 parking tickets issued for various offences and 19 warnings were administered where drivers were moved on. On Saturday 2 April 2016 a number of Members of the Scottish Borders Licensing Board, Licensing Forum and Licensing Standards Officers joined PC Lackenby, PC Robertson and Inspector Bennett, conducting checks on licensed premises in the Scottish Borders. This culminated in a visit to Galashiels at 3 am to observe dispersal from local nightclubs. Councillors Herd and White, who had taken part, commented that the late night visits had been very useful and complemented the police for their professional role and the way situations had been handled. In response to a question about the role of Street Pastors, Inspector Bennett confirmed that Police Scotland had a very positive view about the value of Street Pastors in their provision of support to vulnerable people. Inspector Bennett concluded his report by referring to Police Scotland's public consultation process. In the past this had been by hard copy consultation questionnaires. This year the consultation process was moving online to a digital format and consultation would be open all year. He urged people to take part in the consultation, stressing that Police Scotland needed opinions from the public to inform policing and to identify priorities. Everyone's view across Scotland would be taken on board at national and local level. This was a vital tool for residents to be able to shape the way their public services should operate.

DECISION

NOTED the updates.

10. **COMMUNITY COUNCIL SPOTLIGHT**

10.1 **Newtown And Eildon Community Council**

Community Councillor Veronica Lenartowicz introduced herself to the Area Forum and said that she was pleased and excited to give a presentation on the 'Dog Friendly Newtown' initiative. Also present to give further information was Laura Aitken from the organisation Braw Puppy. Ms Lenartowicz explained that there had been a first phase consultation by way of a community event on Saturday 2 April 2016 in the Community Wing in Newtown St Boswells. This was attended by over 90 people with 63 dogs. 25 dogs were microchipped at the event. Agencies represented included Braw Puppy, Green Dog Walkers, Keep Scotland Beautiful, and the local Veterinary Practice. Donations had also been received from local businesses, the Community Council and Scottish Borders Council. Those attending the event put forward ideas for future activities which included talks and demonstrations, a drop-in advice clinic and classes for puppies and adolescents. Ms Lenartowicz summarised the next steps which would firstly involve more

consultation and involvement of the local community. The aims would then be to identify priorities and set up active groups and dog classes. Ms Aitken explained more about Braw Puppy and gave details of the types of support that the group could offer through classes, talks and workshops. The presentation then moved on to address 'the Poo Problem'. Ms Lenartowicz identified ways of tackling this issue emphasising the importance of persuasion and education. She maintained that the approach must be community driven and through pride in the community to work towards a poo-free village. Measures that had been proved to reduce the problem were 'poo patrols' and the 'ring of shame' whereby a white circle was sprayed around the deposit to highlight its position and hopefully shame the offending dog owner who failed to pick it up. In conclusion Ms Lenartowicz explained that the intention was for the group to become sustainable through fund raising activities and events. She summarised the vision for the future, the aims being for residents to take control of their community; to have clean streets, paths and verges; and to have lots of fun dog events including annual family fun days. The Chairman thanked Ms Lenartowicz and Ms Aitken for their attendance and interesting presentation.

**DECISION
NOTED**

10.2 Any Other Items From Community Councils

Mr Luke, of Newton and Eildon Community Council, asked the Council to give consideration to the installation of a defibrillator in a suitable position on the outside of the building in the vicinity of the main entrance at Council Headquarters in Newtown St Boswells. He pointed out that this could be of potential use for Council staff as well as residents of the surrounding area. Members agreed that this was a good suggestion that should be taken forward.

**DECISION
AGREED to take forward the suggestion and look at the feasibility of placing a defibrillator outside the entrance at Council Headquarters.**

11. OPEN QUESTIONS

There were no open questions.

**DECISION
NOTED**

12. FUTURE AGENDA ITEMS

The following items were suggested for future meetings:

- a) Scotrail – reliability of signalling/timetabling issues on Borders line;
- b) Community Empowerment Bill - update

**DECISION
NOTED**

11. DATE OF NEXT MEETING

The next meeting would be held on Thursday 8 September 2016 at 6.30 pm at the Transport Interchange, Galashiels.

The meeting concluded at 8.25 pm

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held in Council Chamber, Council
Headquarters, Newtown St Boswells, TD6
0SA on Monday, 16 May, 2016 at 10.00 am

- Present:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), J. Campbell,
J. A. Fullarton, I. Gillespie, D. Moffat, S. Mountford and B White
- Apologies:- Councillors M. Ballantyne
- In Attendance:- Lead Officer Plans and Research, Solicitor (G. Nelson), Democratic Services
Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 15/01323/FUL**

There had been circulated copies of the request from Angela Fairbairn, per Andrew McCafferty Associates, Burn House, Collessie, Fife, to review the decision to refuse the planning application in respect of the erection of a dwellinghouse on land north east of The Cottage, Lauder Barns, Lauder. Included in the supporting papers were the Decision Notice, Notice of Review, officer's report, consultations, objections and concern, a support comment and list of relevant policies. The Local Review Body considered pieces of new evidence that had been submitted with the Notice of Review as detailed in Appendix I to this Minute and concluded, for the reasons given, that determination of the review could be made with reference to this new evidence. In their initial discussion Members agreed that the three houses in the vicinity of the site formed a recognised building group. Members had sympathy with the applicant in that the site had previously had planning consent which had now lapsed and in principle they were content that the proposed dwellinghouse would be a suitable and appropriate addition to the building group. Members' discussion focused on the Council's Housing in the Countryside Policy and the fact that the allowable extension of the building group had been taken up by outline consent for two dwellings on land adjacent to the site, albeit that development had not commenced on that site. Members recognised the anomalous situation that, had work begun on the adjacent development site there could have been further expansion of the building group permitted in the new plan period which was about to commence. Members therefore turned their attention to other material factors affecting the suitability of the proposed development including the facts that there had been previous building consent, that this was a brownfield site and that any on-site contamination issues could be addressed by the proposal. Members agreed that, should the application be approved the height of the proposed fencing on the curtilage of the plot should be reduced. However, they were content with the orientation of the site.

VOTE

Councillor Fullarton, seconded by Councillor Smith, moved that the decision to refuse the application be upheld.

Councillor Moffat, seconded by Councillor White, moved as an amendment that the decision to refuse the application be reversed and the application approved.

On a show of hands Members voted as follows:-

Motion

- 3 votes

Amendment - 5 votes

The amendment was accordingly carried.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;
- (d) the development was not fully consistent with the development plan but that there were other material factors which justified departure from the Development Plan; and
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions and a legal agreement, as detailed in Appendix I to this Minute.

2. **REVIEW OF REFUSAL OF APPLICATION 15/01557/FUL**

There had been circulated copies of the request from Book Developments, per Camerons Ltd, 1 Wilderhaugh, Galashiels, to review the decision to refuse the planning application in respect of erection of a dwellinghouse on land south west of 76 St Andrew Street, Galashiels. Included in the supporting papers were the Notice of Review including the Decision Notice, officer's report, consultations and a list of relevant policies. The Local Review Body noted that new information had been submitted with the Notice of Review as detailed in Appendix II to this Minute and concluded, for the reasons given, that determination of the review could be made with reference to this new information. In discussing the application Members were generally complimentary about the innovative design of the proposed house but opinion was divided about whether the design was suitable and appropriate for this particular location where it would be highly visible from the surrounding properties and gardens.

VOTE

Councillor Moffat, seconded by Councillor Campbell, moved that the decision to refuse the application be upheld.

Councillor Fullarton, seconded by Councillor Mountford, moved as an amendment that the decision to refuse the application be reversed and the application approved.

On a show of hands Members voted as follows:-

Motion - 5 votes

Amendment - 3 votes

The motion was accordingly carried.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;
- (d) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and
- (e) the officer's decision to refuse the application be upheld for the reasons detailed in Appendix II to this Minute.

3. **REVIEW OF REFUSAL OF APPLICATION 15/01484/FUL**

There had been circulated copies of the request from Mrs M Dick, 5 East High Street, Lauder to review the decision to refuse the planning application in respect of replacement windows at 5 East High Street, Lauder. The supporting papers included the Decision Notice, Notice of Review, officer's report, drawings and a list of relevant policies. The Planning Advisor referred to the relevant policies and also circulated to the Local Review Body copies of an extract from the updated Supplementary Planning Guidance on Replacement Windows and Doors (2015). Members noted that the property concerned was within the Conservation Area at Lauder and on the Area of Prime Frontage of the High Street. Members also noted that the applicant was attempting to meet the needs of the policy by replicating the appearance and opening mechanism of the existing windows which were of traditional design and material similar to adjoining properties. In principle they were not opposed to the use of double glazing in the replacement windows nor to the use of uPVC. However, they were concerned that the proposed white uPVC units with 'stick-on' glazing bars would not accord with policy and would differ in appearance from the windows being replaced. After further discussion Members agreed that before coming to a decision as to the suitability of the appearance of the proposed replacement windows it would be helpful to see an actual sample of the uPVC window frame and stick-on glazing bars.

DECISION

AGREED:-

- (a) that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) that the review could not be considered without further procedure in the form of a physical production;
- (c) to request the applicant to provide a sample of the proposed uPVC window frame and stick-on glazing bars for examination at the Local Review Body meeting of 18th July 2016, when consideration of the review of the application would be continued.

The meeting concluded at 12.20 pm

APPENDIX I

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00007/RREF

Planning Application Reference: 15/01323/FUL

Development Proposal: Erection of dwelling house

Location: Land north east of the Cottage, Lauder Barns, Lauder

Applicant: Angela Fairbairn

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and gives notice that it intends to grant planning permission subject to conditions and the conclusion of a legal agreement as set out in this intentions notice.

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on land to the north east of the Cottage at Lauder Barns. The application drawings consist of the following:

Plan Type	Plan Reference No.
Location Plan	A4
Location Plan	LOC-01
Site Plan	PL-01
Elevations	
Other	EX-01

PRELIMINARY MATTERS

The LRB considered at its meeting on 16th May 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 (the "1997 Act").

After examining the review documentation at that meeting, which included:
a) Decision Notice; b) Notice of Review; c) Officer's report; d) Consultations; e) Objections and concern; f) Support comment; and g) List of policies;
the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions

Members noted that new information had been submitted namely:

- 1) a photomontage of the proposal,
- 2) photos of the site and surrounding area
- 3) reference to Reporter's recommendations regarding the Local Development Plan in respect of housing land supply

Members considered whether it was appropriate to have regard to each item of new information in terms of the Statutory test set out in section 43B of the 1997 Act.

While acknowledging that items 1 & 2 were technically new information, Members took the view that as the Planning Officer was well aware of characteristics of the site and surrounding area, and how the proposal would appear in relation to other buildings, that this information did form part of the Planning Officer's considerations during the determination of the proposal. Accordingly Members were content that items 1 & 2 could be considered without applying the section 43B test of the 1997 Act. In terms of item 3, Members considered that both they and the Planning Officer would have been aware of the Reporter's recommendations with regards to the Local Development Plan, and that this would have been a material consideration when the Planning Officer determined the proposal. It was therefore decided item 3 was also not truly new information and that the section 43B test of the 1997 Act did not require to be considered.

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD2 and HD2

The LRB noted that although these new policies replaced policies G1 and D2 respectively within the consolidated Local Plan, it was considered that the new policies did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008

- SBC Supplementary Planning Guidance – Placemaking and Design 2010
- Scottish Planning Policy

Members noted that in 2004, against officer recommendation, the Eildon Area Committee considered that the 3no houses in the vicinity of the site comprising of the Lauder Barns farmhouse (to the east), The Cottage (to the west) and Riverside (to the north) formed a recognised building group and consequently approved an outline application for a house on the site subject to this Review. Planning officers acknowledged the Committee's acceptance of the building group and determined consequent applications within the building group taking this on board. The LRB confirmed that they considered the aforesaid houses to form a recognised building group of 3no houses.

Members noted that following the aforesaid outline approval in 2004, a consequent Reserved Matters application in 2006 was approved. However, Members noted that these consents lapsed in 2009.

Members also noted that planning approval has been given for the principle of two new-build dwellings on land to the immediate northeast of the site (07/02397/OUT). That decision was taken at a time when planning policy allowed for the potential for building groups to expand by up to 100% within any one statutory development plan period. The Council's Housing in the Countryside Policy has since been revised, and now only allows for the addition of two new dwellings within the statutory development plan period.

There was a delay in the approval being released for the 2no houses to the north east due to the Legal Agreement regarding Development Contributions being sorted out. The approval for these 2no plots was granted in November 2013 meaning the consent expires in November 2016, if works on the Development remain uncommenced.

Members acknowledged that as works had not commenced on the two houses approved in terms of the planning consent 07/02397/OUT prior to the new Local Development Plan being adopted, that in terms of the Council's current Housing in the Countryside Policy the expansion limit of two new dwellings within a statutory development plan period remains taken up by that consent.

Members did have sympathy with the applicant in that the site previously had planning consent but noted that the proposal did not now comply with the Housing in the Countryside policy as the 2no allowable number of houses the policy could allow had already been taken up.

Comment was made that when it came to renew these consents consideration should be given as to whether the Planning Officer could give consideration to only granting consent to, for example, a single unit which would allow the site subject to this Review to effectively become the second approval within the group. However, it was confirmed that the renewal of the application could only be judged as to whether the proposal did or did not comply with policy, and it was not reasonable nor legitimate to withhold the renewal of a consent when it otherwise complied with policy

The LRB considered that the house design and the proposed finished materials were appropriate for the location. They did consider that the proposed 1.8m boundary fence would be inappropriate in the rural location and noted that the applicant was agreeable to some other type of boundary treatment. Members agreed that if the application was to be approved an alternative means of boundary treatment should be agreed.

In light of their conclusion that the proposal did not fully comply with the Housing in the Countryside policy, Members considered whether there were any material considerations to outweigh this and justify approval. Members considered the following matters to be material considerations:

- The history of a previous full permission for the site;

- That had any works commenced in respect of the houses approved in terms of 07/02397/OUT prior to the new LDP being adopted, then this proposal would have complied with the Housing in the Countryside policy;
- the fact the site was brownfield, and this proposal represented an opportunity to address any on-site contamination issues; and critically
- that the house was well designed and appropriate for this location and would complement and improve the building group as a whole;

CONCLUSION

After considering all relevant information, the Local Review Body concluded that although technically the proposal exceeded the stated extent to what Development Plan policy would allow the building group to be extended, Members considered that there were other material considerations which on balance allowed them to support the proposal.

DIRECTION

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

CONDITIONS

1. Details of all proposed means of boundary enclosure shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced.
Reason: To ensure appropriate screening is carried out in this rural setting.

2. Mains water and foul drainage connections to be confirmed with Scottish Water prior to the commencement of the site
Reason : To ensure adequate service provision of the site

3. A plan to be submitted confirming finished site and floor levels to be agreed with the planning authority prior to the commencement of any on-site works
Reason : To ensure the satisfactory development of the site

4. Transport Scotland requires that the width of the access shall be at least 5.5 metres wide for a distance of 5 metres from the nearest edge of the trunk road carriageway
Reason : To ensure that the access is wide enough to allow vehicles to enter and exit the access at the same time without conflict

5. Any noise emitted by plant used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason : To protect the residential amenity of nearby properties.

6. The Unit shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason : To protect the residential amenity of nearby properties.

7. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at

their expense) to identify and assess potential contamination on site. **No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.**

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, d, and, e of this condition.

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, **shall be required by the Developer before any development hereby approved commences.** Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

Informative

Notwithstanding that any works required to the junction with the A68 and out with the verge of the same, if required at all, would be both minimal and in the wider interests of all users of the same access, it is not clear whether or not, or to what extent, the Applicant would have any legal right to carry out such works.

For her own reassurance, and in advance of making a new planning application for this proposal, the Applicant is strongly advised to establish whether or not there would be any legal obstacle to her carrying out the works that Transport Scotland had identified.

Transport Scotland also stated that the applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk round boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Where any works are required on the trunk road, contact details are

provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal. Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation. Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

Legal Agreements

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards educational facilities and towards the re-instatement of the Borders Railway

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Councillor R Smith
Chairman of the Local Review Body

Date...6 June 2016

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00008/RREF

Planning Application Reference: 15/01557/FUL

Development Proposal: Erection of dwellinghouse

Location: Builder's yard, Land south west of 76 St Andrew Street, Galashiels

Applicant: Book Developments

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

The development would conflict with Policies G1 and G7 of the Consolidated Local Plan 2011 and Supplementary Planning Guidance "Placemaking and Design" 2010 because the scale, form and design of the development would, in this backland location, lead to an unacceptable visual impact on the character of the surrounding area and neighbouring built form

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on land to the south west of 76 St Andrew Street in Galashiels. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Location Plan	9249/1.01
Existing layout	9249/1.02
Existing elevations	9249/1.03
Site Plan	9249/1.04
Floor Plans	9249/1.05
Sections	9249/1.06
Elevations	9249/1.07

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 16th May 2016 that the Review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) Notice of Review including decision notice; b) Officer's Report; c) Consultations and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

Within the Notice of Review it was noted that new material had been submitted. This related to a statement by the appellants that the proposal was an affordable property. Members noted that the applicant had submitted this information but it was received by the Planning Officer after the application had been determined. Members noted there was some disagreement between the applicant and the Planning Officer as to what the deadline was within the Processing Agreement for the submission of this information leading up to the determination of the application. Members, although satisfied the Planning Officer had acted properly, had some sympathy with the applicant regarding the misunderstanding of the submission date. Members agreed that the information could be accepted by them under 43B(1)(a) of the 1997 Act on the basis that it could not have been raised before that time. It was considered that in order to ensure this uncertainty did not happen again, Planning Officers should state within Processing Agreements a date when any further information should be submitted "before" which would eliminate any dubiety.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were :

- Local Development Plan policies : PMD2 and PMD5

The LRB noted that although these new policies replaced policies G1 and G7 respectively within the consolidated Local Plan, it was considered that the new policies did not raise any new material considerations in this instance.

Members noted the proposed location of the new house, its relationship with surrounding properties and gardens and that the plans proposed a hipped zinc roof with brick walls. Members noted that in order to ensure daylighting into the property yet minimise any privacy or neighbouring amenity issues, external windows comprised of high rooflights and a window on a stairwell. An internal courtyard was incorporated within the design which allowed daylighting to main rooms via hit and miss brickwork and the use of translucent glass bricks. Members noted there had been no third party objections and

considered that the planning officer considered it would be an improvement on the historical use of the site as a workshop.

Members considered the design to be innovative and confirmed the design could be supported in many development case scenarios, but debated whether the proposed design was appropriate in this particular location. In this instance it was considered that the proposal was on a backland site which would be highly visible from surrounding properties and gardens and in essence would be a focal point within the general area. While considering a more traditional designed house may be acceptable in this location, Members considered the overall massing, design and finishing materials of the proposed house to be out of character, in particular the zinc roof, with the surrounding properties.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

3. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
4. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Councillor R Smith
Chairman of the Local Review Body

Date...6 June 2016

SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the LIMITED LIABILITY PARTNERSHIP - STRATEGIC GOVERNANCE GROUP held in Council Chamber, Council Headquarters, Newtown St Boswells on Tuesday, 17th May, 2016 at 2.00 pm

Present:- Councillors F. Renton (Chair), J. Brown, J. Greenwell, J. G. Mitchell and B White.
In Attendance:- E Torrance (Chair Project Board), J Wilson (Chairman SB Cares), P Barr (Managing Director SB Cares), D Collins (Finance and Commercial Director SB Cares), L Crombie (Operations Director SB Cares), Democratic Services Officer (P Bolson).

1. **WELCOME**

The Chairman welcomed everyone to the meeting of the Limited Liability Partnership Strategic Governance Group (LLPSGG).

DECISION NOTED.

2. **MINUTE**

There had been circulated copies of the Minute of the meeting of 15 March 2016.

DECISION APPROVED the Minute for signature by the Chairman.

3. **MATTER ARISING**

With reference to paragraph 3 of the Minute of the meeting of 15 March 2016, it was noted that a representative from the NHS had not been appointed to the Limited Liability Partnership - Strategic Governance Group (LLP SGG). Following discussion, it was agreed that the Chairman would write to Mr John Raine and Ms Jane Davidson of NHS Borders to ask that the appointment of a representative from the NHS be addressed as a matter of priority and that the letter should include a list of the dates for future scheduled meetings of the LLP SGG.

DECISION AGREED that the Chairman would write to Mr John Raine and Ms Jane Davidson of NHS Borders to ask that the appointment of a representative from the NHS be addressed as a matter of priority and that the letter should include a list of the dates for future scheduled meetings of the LLP SGG.

4. **SB CARES FINAL OUTTURN 2015/2016**

4.1 There had been circulated copies of a report by the Financial and Commercial Director of SB Cares informing the LLP SGG of the unaudited financial outturn for 2015/16. Ms Collins summarised the report highlighting that after paying the Council the £480k contribution SB Cares delivered a small surplus of £2k.

There had been some variances in the figures last reported to Members in February 2016. Income for the year was lower than forecast after payment of the £480k contribution and this had been offset by orders of ability equipment and transformation funding received from SBC.

Direct costs had increased by £128k in the last quarter, the main reason being additional costs in relation to supplies and services from SBC for the provision of additional equipment and maintenance; transport charges for day services; high costs ageing vehicle repair costs; and utilities costs which had been higher due to low estimated midyear readings being used to inform the forecast. Ms Collins advised that processes were now in place to manage these direct cost variances at the end of the year.

- 4.2 During the discussion that followed, Members requested clarification on a number of points. A vehicle review was in progress to consider the availability and suitability of the fleet currently being used. Mr Barr confirmed that ability equipment was now being sold via the Ability Store but not yet via Care Homes or Care at Home services. Profit made from such sales would be invested back into SB Cares services. A further report would be presented to Members in August 2016.

DECISION

NOTED:-

- (a) SB Cares financial outturn position for 2015/16;**
- (b) that SB Cares achieved the target contribution of £480k agreed by Scottish Borders Council; and**
- (c) that the contribution of £480k would inform Scottish Borders Council's revenue outturn position 2015/16.**

5. KEY PERFORMANCE INDICATORS AS AT 31 MARCH 2016 (COPY ATTACHED.)

- 5.1 There had been circulated copies of a report by the Operations Director of SB Cares which provided an update on the Key Performance Indicators (KPIs) for SB Cares as at 31 March 2016. The current KPIs covered the number of clients being supported across all SB Cares services; the average number of carers supporting clients; absence levels; and the number of staff employed including the number of posts currently being recruited. Ms Crombie explained that there had been a slight decrease of five in the number of home care clients in March 2016 and an increase in the average number of hours per week from 5877 to 5895. This was, in the main, the result of some existing clients requiring additional support on their return home from hospital and other new clients needing larger care packages. The Appendix to the report detailed a small increase in the average number of carers per client and this was associated with higher than normal cover required for holidays and training and to cover the exceptional absence during March 2016. Further information about the number of staff and Full Time Equivalent (FTE) figures were detailed in the Appendix to the report and Ms Crombie advised Members that 7 new staff had recently been appointed and a further 3 posts were currently being recruited to.
- 5.2 Ms Crombie advised Members that due to the full range of information on rotas, hours worked and FTE details not being available to HR/Payroll for input to the system, the figure for absence levels for February 2016 was not 7% and this would be amended. The new HR/Payroll system would provide information and reports from the start of the financial year 2016/17 and SB Cares was working with Shared Services to ensure that the data in relation to absence etc would provide accurate and meaningful reports. Information was requested in relation to agency costs and Mr Barr agreed to provide a "pyramid of performance actions" for the next meeting of the LLP SSG. Members were advised that the protection period for some home care staff had now come to an end. The proposed new rota system for permanent staff would provide a service covering 24 hours/7 days a week and this would lead to a reduction in the use of relief staff.
- 5.3 In response to a question about recruitment, Ms Crombie advised that the recent recruitment drive had been successful in most areas and there had not been many staff leaving the service. In relation to training, Ms Crombie acknowledged that ensuring that staff were available to undertake training and the recording of what development was

completed required some improvement and this was being addressed. SB Cares managers were currently working with SBC's Organisational Development team to ensure all required training courses were available to staff within mandatory timescales. Mr Barr confirmed that SB Cares employed some staff for relief hours but the organisation did not issue any zero hours contracts. The rates of pay were the same for both relief and permanent staff; the relief hours rate incorporated a small annual leave element to compensate for not being able to take the time off, as per SBC staff terms and conditions.

DECISION

NOTED the Key Performance Indicators for SB Cares as at 31 March 2016.

6. CARE INSPECTORATE

- 6.1 There had been circulated copies of a report by the Operations Director of SB Cares giving the updated position on the inspection of SB Care services by the Care Inspectorate. Ms Crombie advised that since the last report to LLP SGG in February 2016, the Care Inspectorate reports on Waverley and Saltgreens Care Homes, and Berwickshire Dementia Day Services had been finalised. Action plans had been developed by these units to meet all requirements and recommendations and Ms Crombie was able to confirm that all actions had now been implemented. . SB Cares were in receipt of draft Inspection reports for Care at Home East and Care at Home West and Action Plans were due to be submitted to the Care Inspectorate in response to these reports. Further Inspections were being carried out in the Learning Disability Day Services. Victoria Park in Peebles had received their draft report and the Action Plans for the above-mentioned services were as detailed in the Appendices to the report. One further inspection was currently taking place at the Katharine Elliot Centre, Hawick and this would be reported to the LLP SGG in due course.
- 6.2 Ms Crombie clarified a number of points raised by Members. There was concern that under "Quality of Staffing", the gradings awarded in some reports by the Care Inspectorate had been "3 - Adequate". Ms Crombie confirmed that recommendations had been implemented and the relevant Action Plans reflected the improvements made. Members were advised that SB Cares were investing resources into Quality Assurance and it was noted that staff had been involved in this process. With reference to Victoria Park Day Services, Members were advised that clients and their families were involved in the recruitment and appointment processes for staff. Ms Crombie explained how this was facilitated whilst ensuring that all HR policies were followed. Quality of the Environment related to clients' safety and privacy, as well as the physical environment of the building. By way of further explanation, Members were informed that appropriate infection control measures being in place was a condition of registration with the Care Inspectorate therefore when the Care Inspectorate upgrade those measures, SB Cares have to review and improve the processes in place within their establishments. This often required both capital investment and effective management of the environment eg now two sluices were necessary.
- 6.3 A discussion followed in respect of care provision generally. It was noted that the locality of a care home or other housing provision was important to clients and that further development of extra care housing would add to the choice available alongside existing care home provision. There were other challenges to be met in respect of appropriate accommodation provision for some clients and Ms Crombie advised that these would be dealt with on an as and when required basis. Members were also advised that a review of the Council's Dementia Strategy was about to commence and that the LLP SGG would be updated in due course.

DECISION

(a) NOTED:-

- (i) the significantly improved Care Inspectorate grades achieved for Berwickshire Dementia Day Service;
 - (ii) the draft Reports for Home Care East & West and Victoria Park Day Service;
 - (iii) the progress being made to deliver the requirements and recommendations set out in appendix 1 to the report;
 - (iv) that all actions identified for Saltgreens, Waverley and Berwickshire Dementia Day Service had been implemented to meet all requirements and recommendations; and
 - (v) that SB Cares Management would continue to monitor the delivery of agreed action plans and report progress to the LLP SGG on a quarterly basis.
- (b) **AGREED** that visits to both SB Cares and private Care Homes be arranged for members of the Limited Liability Partnership Strategic Governance Group and that the Operations Director would facilitate visits to SB cares Care Homes and Chief Social Work Officer would facilitate the visits to the private Care Homes.

7. **DATES OF FUTURE MEETINGS**

Future meetings of the LLP SGG had been scheduled as follows:

9 August 2016;
8 November 2016;
7 February 2017;
7 March 2017; and
6 June 2017.

DECISION

NOTED the dates for scheduled meetings of the Limited Liability Partnership Strategic Governance Group.

8. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business contained in the following items on the ground that they involved the likely disclosure of exempt information as defined in paragraphs 6 and 8 of the part 1 of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

9. **MINUTE**

Members approved the Private Section of the Minute of 15 March.

10. **SB BUSINESS PLAN FOR 2016/17**

Members considered the Business Plan for SB Cares for the period 2016/17.

The meeting concluded at 3.20 pm

**SCOTTISH BORDERS COUNCIL
HAWICK COMMON GOOD FUND SUB-COMMITTEE**

MINUTE of Meeting of the HAWICK
COMMON GOOD FUND SUB-COMMITTEE
held in Lesser Hall, Town Hall, Hawick on
Tuesday, 17 May, 2016 at 4.00 pm

Present:- Councillors G Turnbull (Chairman), A Cranston, W McAteer, S Marshall,
D Paterson, R Smith, Mrs A Knight, Mr J Little.

In Attendance:- Managing Solicitor (R Kirk), Estates Surveyors (J Morison and N Curtis),
Property Officer (F Scott), Capital and Investment Manager (K Robb - Items 1
to 10), E Moir (Trainee Solicitor), Democratic Services Officer (J Turnbull).

Members of the Public 5

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 31 March 2016.

DECISION

APPROVED the Minute for signature by the Chairman.

2. **FINANCIAL ASSISTANCE**

2.1 Hawick Welcome Initiative

There had been circulated copies of an application from Hawick Welcome Initiative requesting financial assistance of £1,300 towards a series of events to celebrate the 20th Anniversary of the project, and, in turn, support the sustainability of their brochure and hosts. Members discussed the application, congratulated the project on its success in promoting the town and unanimously agreed the application for grant assistance.

- 2.2 The Sub-Committee requested clarification regarding the pricing structure of Hawick Town Hall to organisations such as Hawick Welcome Initiative, now that the venue was part of the Cultural Trust under Live Borders. The Clerk would ascertain outwith the meeting and advise Members accordingly.

DECISION

AGREED to award a grant of £1,300 to Hawick Welcome Initiative towards a series of events celebrating the 20th Anniversary of the project.

MEMBER

Councillor Cranston joined the meeting during consideration of the above report.

3. **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2016**

- 3.1 With reference to paragraph 3 of the Minute of 16 February, there had been circulated a report by the Chief Financial Officer providing details of the income and expenditure for the Hawick Common Good Fund for the year 2015/16 including balance sheet values as at 31 March 2016 and proposed budget for 2016/17. Appendix 1 to the report provided the actual income and expenditure for 2015/16. This showed a surplus of £27,005 and a projected surplus of £49,504 for 2016/17. Appendix 2 provided a balance sheet value to 31 March 2016. It showed a decrease in the reserves of £18,113 due mainly to the depreciation adjustment. Appendix 3 provided a breakdown of the property portfolio showing actual rental income and property expenditure to 31 March 2016 where

applicable and the 2015/16 depreciation charge. Appendix 4 showed the value of the Newton Fund to 31 March 2016.

- 3.2 Members asked for clarification on a number of points and were advised that in comparison with other investment funds held by the Council, the Newton Fund continued to give security as well as a fairly healthy dividend each year. However, the market was volatile with uncertainties over Brexit and the market in China. There would be a Members' briefing in September with Newton informing of their future investment plans and this would give Members the opportunity to ask questions of the Fund Managers. Mrs Robb would circulate to Members the cost of managing the Newton Fund. The Sub-Committee also requested that a five year projected spend be presented to a future meeting of the Sub-Committee for consideration.

DECISION

(a) AGREED:-

- (i) The proposed budget for 2016/17 as shown in Appendix 1 to the report; and**
- (ii) To request five year projected spend, in terms of Hawick Common Good Fund, be reported to a future meeting of the Sub-Committee.**

(b) NOTED:-

- (i) The actual income and expenditure for 2015/16 in Appendix 1;**
- (ii) The final balance sheet value as at 31 March 2016 in Appendix 2;**
- (iii) The summary of the property portfolio in Appendix 3; and**
- (iv) The current position of the investment in the Newton Fund in Appendix 4.**

4. COMMON HAUGH

- 4.1 There had been circulated a briefing note by the Asset Manager advising that the Council would be undertaking repairs to the surface of the car park area at the Common Haugh as part of the repair programme being carried out under the Bellwin Scheme. Whilst undertaking the assessment under Bellwin, the opportunity had been taken to assess all the car park surface to identify if there were any other areas which would benefit from repair. This exercise had identified a further 475 square metres which could be repaired but could not be included within the Bellwin claim. The majority of the additional repairs were towards the pedestrian entrance near the Burns Club, with approximately 75 square metres being near the Lawson Footbridge. The permanent repair to these additional areas had been priced at £14,000.
- 4.2 The Memorandum of Understanding, (MOU), between The Hawick Common Good Fund and Scottish Borders Council, confirmed that the car park would be maintained by the Roads Authority of Scottish Borders Council *"on a prioritisation process, to a similar standard as the Roads Authority applies across its entire adopted road network"*. The MOU further confirmed that *"the Roads Authority shall only be financially liable for any repair works they identify. If the Hawick Common Good Fund required such repair works to be carried out to a higher standard the difference in costs shall be funded by the Hawick Common Good Fund"*.
- 4.3 It had been estimated that for the Roads Authority to undertake the repairs to the additional areas, *"to a similar standard as would be applied across its entire adopted road network"*, would be in the region of £500. This therefore would be the only financial contribution from the Roads Authority if it was the Hawick Common Good Sub-Committee's decision to undertake the repairs to a higher standard. The repair works were programmed to be undertaken during the second half of June, following Hawick

Common Riding. The Committee discussed the report and it was agreed to request that the Council proceed with the additional repairs which could not be included within the Bellwin claim, the costs of the repairs to be funded from the Hawick Common Good Fund budget.

**DECISION
AGREED**

- (a) **That additional repair works be undertaken at the Common Haugh Car Park on the 475 square metres which could be repaired but could not be included within the Bellwin claim; and**
- (b) **The cost of the additional repairs, estimated at £13,500k, be funded by the Hawick Common Good Fund.**

5. **HAWICK FLOOD GROUP**

Councillor Marshall advised that Hawick Flood Group had requested the Sub-Committee consider the installation of a barrier to both entrance and exit of the Common Haugh Car Park. This would deter motorists from using the car park when a flooding event occurred. At the last two flooding events this area had been chaotic and dangerous with spectators and motorists congregating in the area.

DECISION

AGREED to request the Asset Manager investigate the cost of installation of a barrier to the exit and entrance of the car park and report back to Members.

DECLARATION OF INTEREST

Councillors McAteer and Marshall, as Members of Hawick Flood Group, declared a non-pecuniary interest in the above item but remained for consideration of the report.

6. **PROPERTY UPDATE**

6.1 Woodlot

With reference to paragraph 4 of the Minute of 16 February, Mr Morison advised that following the Woodlot Associations' presentation, there had been no interest in taking on management of the Burgh Woodlands. Discussion with the Woodlot Association was continuing but a potential tenant seemed unlikely.

6.2 Common Haugh Circus

The Bid Kid Circus had confirmed their dates and would use the grassed area next to the Common Haugh Car Park. The dates were Thursday, 21 to Sunday 24 July 2016.

6.3 Common Haugh BT Wayleave

BT have requested a wayleave to install an underground duct and cables from Albert Road to the proposed new electronic information sign at the pedestrian entrance to the Common Haugh. A plan, attached with the report, showed the route which was eight metres long. No payment was proposed from BT for the wayleave as it was requested as part of the Council's project for information signs. The Sub-Committee agreed that the Estates Manager arrange for the wayleave to be signed and returned to BT and asked that if possible the installation works be completed when the Common Haugh repairs were being carried out.

6.4 Common Haugh – Electric Charger

The Sub Committee requested that the Fleet Manager be asked to relocate and reinstate the electric charging point.

6.5 Common Haugh – Sandbag store

The Sub-Committee requested that the dedicated car parking space next to the sandbag store be hatched to ensure that vehicles did not park in this area. This would ensure that the sandbags were accessible from the store.

- 6.6 St Leonards Farm
Mr Morison advised that the he would rearrange a visit to the property.
- 6.7 Pilmuir Farm
Mr Scott advised that the repair work to Pilmuir had been instructed and that repairs to the verges would be carried out before the Common Riding.
- 6.8 The Common Riding Hut, St Leonards
Mr Scott would investigate the damp in the hut. He also reported that expenditure was required to the Millpath Stables and the gates to the Moors were due to be replaced.
- 6.9 Estates Surveyor
The Chairman advised that this was the last meeting Mr Morison would attend as he was leaving the employment of Scottish Borders Council. Members thanked Mr Morison for his guidance in the past and wished him well for the future in his new venture.

DECISION

- (a) **NOTED the reports.**
- (b) **AGREED:-**
- (i) **To request that the Fleet Manager relocate and reinstate the electric car charging point at the Common Haugh Car Park; and**
- (ii) **To request that the car parking space next to the sandbag store be hatched, to ensure no parking in this area.**

7. **HORNSHOLE**
With reference to paragraph 5 of the minute of 16 February 2016, Mr Kirk, advised that he was establishing with the owners' solicitors, the actions required to secure the title and would report back to the next meeting.

DECISION NOTED.

8. **WILLIESTRUTHER RESERVOIR**
With reference to paragraph 7 of the minute of 31 March 2016, Mr Scott, clarified that the cost of SEPA managing a high risk reservoir was £419 for 2016/17. Williestruther reservoir was registered as high risk. To appeal against the registration category would cost in the region of £5k to £10k.

DECISION NOTED.

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

PRIVATE BUSINESS

10. **MINUTE**
Members approved the private section of the Minute of 31 March 2016.
11. **HAWICK GOLF CLUB**
Members considered a private presentation by Hawick Golf Club.

12. **PILMUIR FARM**

Members considered a private briefing note by Estates Surveyor.

13. **APPLICATION FOR FINANCIAL ASSISTANCE**

Members re-considered the application for financial assistance from Escape Youth Services.

The meeting concluded at 5.55 pm

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SCOTTISH BORDERS COUNCIL **TEVIOT AND LIDDESDALE AREA FORUM**

MINUTES of Meeting of the TEVIOT AND
LIDDESDALE AREA FORUM held in Lesser
Hall, Town Hall, Hawick on Tuesday, 17th
May, 2016 at 6.30 pm

Present:- Councillors G Turnbull (Chairman), A Cranston, W McAteer, S Marshall,
D Paterson, R Smith, Community Councillors: Mr M Grieve (Burnfoot), Ms G
Frew, (Denholm) Mr C Griffiths (Hobkirk), Mr T Stevenson (Upper Teviotdale
& Borthwick Water), Mr F Wight (Hawick).

Apologies:- Mr W Roberts (Denholm), Mrs M Short (Hawick).

In Attendance:- Neighbourhood Area Manager (Mr F Dunlop), Inspector Carol Wood (Police
Scotland), Station Manager Mr R Bell (Scottish Fire and Rescue Service)
Democratic Services Officer (J Turnbull).

Members of the Public:- 6 in attendance

1. **MINUTE**

There had been circulated copies of the Minute of the meeting held on 19 April 2016.

DECISION

AGREED to approve the Minute.

2. **DOG FOULING**

- 2.1 The Chairman welcomed Mr Craig Blackie, Neighbourhood Area Manager, who was in attendance to give a presentation on the Council's new strategy relating to responsible dog owners. Mr Blackie began his presentation by advising that through a recruitment process, a private contractor, 3GS, had been appointed and it was hoped that their enforcement officers would commence at the end of May or June. A pre-start survey had been carried out by customer services, of which 500 residents had taken part. The survey would be repeated throughout the trial, which would last for one year, and would be part of the evaluation of the strategy. Regular updates would also be presented to Area Forums with a full evaluation after one year. Another aspect of the new strategy was a poster campaign. The poster highlighted that anyone allowing their dog to foul and then not picking up prior to disposal into a suitable bin would be fined £80.00. The enforcement Officers would also be able to issue tickets for littering. Mr Blackie further advised that the scheme was the first in Scotland and other local authorities would be monitoring the trial. Mr Blackie acknowledged that two enforcement officers would be covering a large area. However, they would be working shifts to cover dawn to dusk and their patrol routes would not be published, deployment would be through intelligence led information.
- 2.2 Mr Blackie continued that a new Green Dog Walker (GDW) initiative had also been launched. The scheme was a non-confrontational, friendly way to change attitudes about dog fouling. Volunteers wore a GDW accessory to show they had taken the pledge to always: clean up after their dog; carry extra dog waste bags; be happy to be approached to give a dog waste bag to those without and be a friendly reminder to other dog walkers to clean up after their dogs. The Green Dog Walker scheme would also be evaluated throughout the trial period. Councillor Paterson, Executive Member for Environmental Services, stated that he hoped that the new schemes would be a success and encouraged responsible dog ownership.
- 2.3 Members asked for clarification on a number of points. Mr Blackie advised that officers would collate information received from 0300 100 1800 calls, through the dedicated website at www.scotborders.gov.uk/dogfouling, the public and Members. This information

would then be used to allocate the following weeks deployment of enforcement officers. The enforcement officers would issue tickets electronically and the fee could be paid to 3GS direct or at a contact centre. Any profit would be split between 3GS and the Council. Any unpaid fines would be pursued through the Procurator Fiscal for prosecution. The Chairman thanked Mr Blackie for attending the meeting and the informative presentation.

DECISION

NOTED the report.

3. STREET CLEANING

With reference to paragraph 4 of the minute of 19 April 2016, 4Earth Solutions had provided a quotation for chewing gum removal and application of their Gum Stopper product for areas within the town centre. Members discussed the quotation, copies of which had been circulated prior to the meeting. Several Members expressed concern at the combined cost of the process and the financial sustainability on the Quality of Life budget. The Chairman expressed his disappointment, as following consideration of other processes which had implications for health and safety and lack of Council manpower, he had been working under the Forum's instructions to investigate options to improve the streets in the town centre. Following a further debate it was agreed not to proceed with the process.

DECISION

AGREED no further action.

4. NEIGHBOURHOOD SMALL SCHEMES AND QUALITY OF LIFE

- 4.1 With reference to paragraph 5 of the minute of 19 April 2016 there had been circulated a report by Service Director Neighbourhood Services seeking approval for proposed new Neighbourhood Small Schemes and Quality of Life Schemes from the Area Forum. The following Neighbourhood Small Schemes had been requested for consideration by Teviot and Liddesdale Members: grass cutting at The Mote, Hawick, once in May and once in August; contribution towards the removal of a derelict garage at the rear of Lochpark Road, Hawick and removal of unwanted trees at Minto Churchyard, to allow regeneration at their bases. The following Quality of Life Schemes had been requested for consideration: provision of bus shelter at Newcastleton and a contribution to Hawick Welcome Initiative.
- 4.2 The Neighbourhood Area Manager, Mr Dunlop, was in attendance and advised that he was unable to give an update on the carry forward of the remaining Small Schemes budget from the last financial year, but would be able to do so at the next Area Forum. However, he advised that the carry forward of the unallocated Quality of Life budget from the previous financial year had been approved. Therefore, £3,019 would be carried forward to the Hawick and Hermitage ward budget and £190 to the Hawick and Denholm ward budget respectively.
- 4.3 Mr Dunlop further advised that the Hawick and Hermitage Ward councillors had requested removal of vegetation from the islands in the river Teviot between the Coble Cauld and Lawson Bridge be brought forward as a small scheme. Permission for the work was currently being sought from Scottish National Heritage and cost for the vegetation removal was being obtained. When approval was granted and costs were available he would bring forward for consideration at the Area Forum. Members requested that an update on the Pay & Display scheme 2015/16 be included in the report at the next meeting and this was noted.

DECISION

(a) AGREED the following new Neighbourhood Small Schemes for implementation:-

(i) Grass cutting at The Mote, Hawick

£600

(ii) Contribution towards the removal of a derelict garage at the rear of Lochpark Road, Hawick	£495
(iii) Removal of unwanted trees at Minto Churchyard.	£434

(b) **AGREED the following new Quality of Life Schemes for implementation:-**

(i) Supply and install bus shelter at Newcastleton	£7,755
(ii) Contribution to Hawick Welcome Initiative	£2,000

5. **POLICE SCOTLAND**

5.1 Inspector Carol Wood, Police Scotland was in attendance to present an update report on the Multi Member Ward Plan, which had been circulated prior to the meeting. The report highlighted that with regard to the Drug Dealing and Misuse priority, a number of stop and searches had been carried out in April. Of these, three individuals had been reported for possession of drugs. The Road Safety priority showed that a number of road checks had been carried out. Three conditional offers had been issued for speeding and two warnings for the anti-social use of a vehicle. Four drivers had been charged for driving without insurance and a number of other related drug offences. A male had also been arrested and charged with drink driving. With regard to the Violent Crime priority a man had been charged with possession of a lock-knife. With regard to the to the Anti-Social Behaviour priority, six police warnings had been administered.

5.2 Inspector Wood went on to refer to the new Air Weapon Legislation which came into effect on 1 July 2016. Any person who possessed, purchased, used or acquired an air weapon would be required to have a certificate to legally hold them. Police Scotland recognised that a number of these types of weapons would no longer be used or required. As a result an 'amnesty' would be held where people could surrender their air weapons at Galashiels police station. Provisional dates for the surrender campaign were Monday 23 May to Sunday 12 June 2016 between 8 am and 10 pm.

5.3 The Forum again expressed concern that the crime statistics were still not being reported at meetings. The Clerk was asked to write to the Chief Constable requesting that statistics be provided on a regular basis to ensure openness and transparency. The Forum also asked that PC Paterson be commended for establishing a good rapport with his local, rural community.

DECISION

- (a) **NOTED the report; and**
- (b) **AGREED that the Clerk write to the Chief Constable requesting crime statistics be provided to the Area Forum on a regular basis.**

6. **SCOTTISH FIRE & RESCUE SERVICE**

Station Manager, Russell Bell, Hawick Fire Station, presented information on response and resilience activities since the last meeting. An update report had also been circulated prior to the meeting. Mr Bell advised that there had been three house fire incidents with one fatality. There had been two unwanted fire alarm signals, both domestic; six special service incidents with three casualties and one woodland fire. Mr Bell went on to advise that Hawick wholetime crews had completed their initial swift water training and now all staff were trained as boat operators. Mr Bell further advised that the Scottish Fire and Rescue Service, out of hospital cardiac arrest response trial, had been extended for a further six months. Hawick was now a live asset and was on standby to meet the needs of local communities. Since the trial began five lives had been saved. Mr Bell concluded his report by informing that the spring season thematic period was now active and focused on grass and wildland fires, rubbish and refuse fires and derelict property.

DECISION

NOTED the report.

7. **OPEN QUESTIONS**

Councillor McAteer advised that CCTV had been installed at the Common Haugh.

**DECISION
NOTED.**

8. **COMMUNITY COUNCIL SPOTLIGHT**

- 8.1 Community Councillor, Chris Griffiths, (Hobkirk) advised that the Community Council had held their Annual General Meeting, all officers had been re-elected. Heart Start training was about to commence and would be live on 2 July 2016. Hobkirk Community Council would be celebrating the Queen's birthday with an afternoon picnic on 12 June at Laidlaw Hall.
- 8.2 Community Councillor Gwen Frew (Denholm) reported that they were to receive a presentation from the Hawick Flood Prevention Scheme on 18 May. On the 28 May it was the annual bogey race and May Fair and on 4 June they would be welcoming the Hawick Coronet. They were also celebrating the Queen's birthday by hosting a picnic on the village green. The Community Council had donated medallions to all school children in the village to commemorate the Queen's birthday.
- 8.3 Community Councillor Michael Grieve (Hawick) advised that their Treasurer, Mr Batten, had retired. The Coronet's night had been a success and this year they had made a small profit. They were presently planning the Carnival and the music line up would be announced shortly.
- 8.4 Community Councillor French Wight (Hawick) thanked everyone who had assisted with the clean-up.

**DECISION
NOTED the reports.**

9. **DATE OF NEXT TEVIOT AND LIDDESDALE AREA FORUM MEETING**

The next meeting of the Teviot and Liddesdale Area Forum would be held on Tuesday, 16 August 2016 at 6.30 pm in the Lesser Hall, Hawick.

The meeting concluded at 7.40 pm.

SCOTTISH BORDERS COUNCIL
CIVIC GOVERNMENT LICENSING COMMITTEE

MINUTE of Meeting of the CIVIC
GOVERNMENT LICENSING COMMITTEE
held in COMMITTEE ROOMS 2 AND 3,
COUNCIL HEADQUARTERS, NEWTOWN
ST BOSWELLS on Friday, 20 May 2016
2016 at 11.00 a.m.

Present:- Councillors W. Archibald, J. Campbell, J. Greenwell, G. Logan, D. Paterson,
T. Weatherston.
Apologies:- Councillor B. Herd, R. Stewart, J. Torrance, B. White.
In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader,
Licensing Standards and Enforcement Officers (Mr I Tunnah and Mr M.
Wynne), Democratic Services Officer (F Henderson), P.C. C. Lackenby, P.C.
P. Robertson, Inspector M. Bennett - Police Scotland.

1. **MINUTE**

The Minute of the Meeting of 22 April 2016 had been circulated.

DECISION

APPROVED and signed by the Chairman.

2. **LICENCES ISSUED UNDER DELEGATED POWERS**

There had been circulated copies of lists detailing the Civic Government and
Miscellaneous Licences issued under delegated powers between 14 April – 11 May 2016.

DECISION

NOTED.

LICENSING OF TAXI, PRIVATE HIRE VEHICLES AND DRIVERS – GLEN STEELE

3. There had been circulated copies of an application submitted by Mr Glen Steele for the
grant of a Taxi Driver Licence together with a letter of objection dated 18 April 2016
received from Police Scotland. Mr Steele was present at the meeting.

4. Inspector Bennett confirmed the information provided in the Police objection that Mr
Steele had submitted an application for the grant of a Taxi Driver Licence to Scottish
Borders Council. Mr Steele had three convictions, which he had declared on his
application. Inspector Bennett reported that the conviction on 14 August 2010 related to
Mr Steele being issued with a fixed penalty ticket after shouting and swearing in Wilton
Lodge Park, Hawick. On 31 October 2010 Mr Steele was charged with a Breach of the
peace after shouting a racist comment at a group of people after an argument and on 1
January 2014 Mr Steele was issued with another fixed penalty ticket for Breach of the
peace after a family dispute in Hawick. In light of these convictions the Police were of the
opinion that Mr Steele was not a fit and proper person to be the holder of a Taxi Driver
Licence, in terms of Schedule 1, paragraph 5(3)(a)(ii) of the Civic Government (Scotland)
Act 1982.

5. On being invited to address the Committee, Mr Steele explained that the conviction in
August 2010 had been when he had been drinking alcohol in the Wilton Park with his
friends, the Police had arrived and poured the alcohol away and he had shouted and
sworn at them. In terms of the incident in October 2010, Mr Steele advised that had been
with a friend who had a problem with the person Mr Steele had been convicted of
shouting at, however Mr Steele had no recollection of shouting. The incident on 1

January 2014 occurred on New Year's Day when Mr Steele had had a disagreement with his father. The Members raised concerns with regard to the nature of Mr Steele's recurrent misbehaviour and in particular the racial element involved in one, although there was some consideration in relation to granting a licence for a shorter period.

VOTE

Councillor Weatherston, seconded by Councillor Logan, moved that the application be refused.

Councillor Paterson, seconded by Councillor Campbell moved as an amendment that the application be granted for a period of 6 months.

On a show of hands Members voted as follows:

Motion - 4 votes

Amendment - 2 votes

The application was accordingly refused.

DECISION

REFUSED to grant a Taxi Driver Licence to Glen Steele on the grounds that he was not fit and proper due to the recurrent nature of his previous convictions.

SUMMARY OF PRIVATE BUSINESS

1. **APPLICATION FOR GRANT OF ITINERANT METAL DEALER LICENCE – BRIAN HUNTER**

DECISION

AGREED to defer the matter to a future meeting.

2. **STREET TRADER LICENCE – ROSEANN FINN**

DECISION

AGREED not to grant the request for suspension.

3. **TAXI DRIVER LICENCE – JOHN ADAM**

DECISION

AGREED that additional medical information was required within 14 days otherwise the matter would be deferred to a future hearing.

4. **TAXI DRIVER LICENCE – ALEXANDER LINTON**

AGREED that additional medical information was required within 14 days otherwise the matter would be deferred to a future hearing.

MINUTE

5. The Private section of the Minute of 22 April 2016 had been circulated.

The meeting concluded at 12.25 p.m.

SCOTTISH BORDERS COUNCIL EXECUTIVE COMMITTEE

MINUTE of Meeting of the EXECUTIVE
COMMITTEE held in the Council Chamber,
Council Headquarters, Newtown St Boswells,
TD6 0SA on Tuesday, 24 May, 2016 at 10.00
am

- Present:- Councillors D. Parker (Chairman), S. Aitchison (Chairman - Education Business), C. Bhatia, J. Brown, V. M. Davidson, G. Edgar, J. G. Mitchell, D. Moffat, D. Paterson, F. Renton and R. Smith
- Also present:- Councillor I. Gillespie.
- Apologies:- Councillors S. Bell, M. J. Cook; Mr G. Donald, Mr J. Walsh.
- In Attendance:- Depute Chief Executive – Place, Corporate Transformation and Services Director, Service Director Children and Young People, Chief Financial Officer, Clerk to the Council, Democratic Services Officer (F. Walling).

EDUCATION BUSINESS

Present:- Mr. G. Jarvie, Mrs J. Aitchison, Ms A. Ferahi, Miss E. Page.

CHAIRMAN

Councillor Aitchison chaired the meeting for the education business. Prior to commencement of the agenda items he welcomed three P5 children from Knowepark Primary School, Selkirk, along with their teacher, to tell the Committee about their success in the competition organised by Sinclair Duncan to design a tartan scarf for 'Cash for Kids'. The girls described how they selected from up to eight colours and put together the tartan designs, one of which was the winner and the other two runners-up in the competition. The three successful 'Cashmere for Kids' designs, displayed in frames, had been brought along for Members to see, as was an actual cashmere scarf made up from the winning entry. All profits from scarves made up in 100% cashmere from the winning design would go to Cash for Kids. Members congratulated the pupils on their success.

1. **ORDER OF BUSINESS**

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.

MEMBER

Councillor Davidson joined the meeting before consideration of the following item.

2. **PRESENTATION - UPDATE ON ONLINE PAYMENTS FOR SCHOOLS**

Senior Manager Business Strategy and Resources, Jason McDonald, gave an update on progress on online payments for schools, by way of a presentation. Project Manager Stephen Fotheringham was also in attendance to provide further information. Mr McDonald firstly referred to the Scottish Borders Council's ambition with regard to online payments for schools which reflected the national objective to roll out the system across Scotland. In addition to old processes being time consuming for staff and parents, online payments facilitated improved service; they reduced the requirement for students to carry

money and provided for greater anonymity in the provision of free school meals. The project had been introduced in October 2014 and rolled out in 4 phases. Progress was monitored carefully after each phase before a decision was taken to launch the next phase. This allowed any issues to be resolved and lessons to be learned. The objectives were to improve customer experience; reduce cash and cheque handling in schools; reduce administration time on meals and school trips; and to increase catering revenue. With regard to accessibility, there were alternatives for families without internet access to ensure that no families were excluded. The objectives had largely been met and Scottish Borders Council was now the first Council in Scotland to provide online payments across all schools. Other successful outcomes included increased parental choice; parental approval and good parental engagement through payment for a range of services including trips, activities, uniforms and photographs. The system had also resulted in increased social inclusion. Activation rates had been in excess of 84% across all schools with some schools achieving 100%. Significant savings in manual cash handling and administration left more time for higher value tasks. In a discussion of the presentation Mrs Aitchison wholeheartedly endorsed the system from a parent's point of view and Members welcomed the positive outcomes of the project noting that it had been very well received. The Chairman congratulated the project team.

**DECISION
NOTED:-**

- (a) the positive outcomes of the online payments for schools project;**
- (b) that administration processes would be streamlined; and**
- (c) that a monitoring report would be brought back on:-**
 - (i) the performance of the automated system including activation rates;
and**
 - (ii) accessibility for all families.**

3. ECCLES/LEITHOLM PRIMARY SCHOOL

There had been circulated copies of a report by the Service Director Children and Young People proposing changes to the status of Eccles/Leitholm Primary School in that it was proposed that the school be mothballed for a temporary period and that the decision to do so be reviewed within 12 months. The report outlined the background to the falling pupil roll at Eccles/Leitholm Primary School, leaving 3 pupils at the school for school session 2016/17. Arrangements for accommodating the pupils within other Scottish Borders schools were described and included transport, staffing and the educational and social benefits to be achieved through the process. The Service Director drew Members' attention to the section of the report which referred to the School Estates Review. During the pre-consultation for the Review the Council had engaged with school communities which currently had a pupil roll of less than 20 pupils regarding future sustainability. The intention was for the Council to intervene at an early stage, should there be a prediction of falling rolls. These ongoing discussions would be represented within the report going to Council in June 2016. In the ensuing discussion Members recognised that the situation at Eccles/Leitholm was a sad reflection of the changing age profiles in many rural areas. Parent representative, Mrs Aitchison, urged the Council to undertake early engagement with schools which had rolls of less than 50 pupils as she believed there could be other schools under threat in that size category. Members recognised that school rolls could fall at an alarming rate creating a downward spiral, if parents felt their children's learning experiences started to be affected by the size of the school. The Service Director stressed that there would be further engagement during the Summer on proposals relating to the School Estates Review when all comments would be picked up about provision within a locality. She had noted in responses to the pre-consultation that the

public commented on the need to rationalise provision in terms of the number of schools whilst recognising the importance of rural schools.

**DECISION
AGREED:-**

- * (a) to recommend to Council that Eccles/Leitholm Primary School be mothballed with immediate effect for a temporary period;
- (b) to review the status of the school within the next 12 months; and
- (c) in the interim to provide transport to Coldstream Primary School for any new pupils who moved into the existing catchment of Eccles/Leitholm area.

4. ADDITIONAL SUPPORT NEEDS PROVISION IN EARLSTON

With reference to paragraphs 4 – 7 of the Executive Committee meeting of 13 May 2014, there had been circulated copies of a report by the Service Director Children and Young People informing Members of the preparation work which would now be carried out in advance of the opening of the Additional Support Needs (ASN) provision in Earlston. The Service Director, Mrs Manson, provided a summary with the aid of presentation slides. She referred firstly to Scottish Borders Council's existing and continuing ASN provision through Broad General Education (2 years to end of S3) and the Senior Phase (S4 to beyond school), identifying the schools with enhanced provisions. There was a presumption of mainstream education for children with additional support needs and Mrs Manson stressed the importance of an individualised approach for every child. With the aim of high quality "inclusion for all" there needed to be the right environments both in mainstream and ASN provision. The Council had to have both high quality universal school provision and specialist provision able to meet the learning, support and care needs of children with complex needs. The key areas for consideration in taking forward the "inclusion for all" commitment were summarised in the report. In 2013 Scottish Borders Council had identified the need to develop a full time purpose built specialist education and care centre for young people with complex needs, both physical and learning within Scottish Borders. The aim of the additional provision was to offer a service that would reduce the number of children who accessed very specialist provision out of the Scottish Borders as well as providing an enhanced level of provision for our children with the most profound and complex needs. The provision would initially be for primary aged children currently attending the existing provisions in the autistic spectrum classes at St Ronan's and at Wilton Primary School but would also provide for those children who may have complex sensory impairments. Mrs Manson highlighted the educational and well-being benefits of having this specialist provision. The design of the proposed purpose built centre was described in the report and visual images attached to the report as appendices. A 3D model of the building and display boards had also been brought to the meeting for Members to examine. Having regard to the Schools (Consultation) (Scotland) Act 2010 full engagement with stakeholders would take place in May and June 2016 with families, children and staff, the school communities involved and the Earlston community. The naming of the new provision would also be considered as part of an informal consultation. A report would then be brought back to the Executive Committee in August 2016 with relevant formal statutory consultation papers. Members welcomed the report and the progress in relation to the additional ASN provision and received answers to their questions. Mrs Manson agreed that there was an opportunity to enhance the project through additional creative fundraising. There was also a real opportunity for inward investment in terms of provision of placements for children from outside the Scottish Borders. In response to a further question Mrs Manson stressed that this was additional provision and was not replacing existing ASN provision. In respect of children with complex needs receiving more support from the additional provision there would be flexibility in the staff resource which would move with the child. The Chairman commended the staff for the work carried out on the project.

DECISION

- (a) **NOTED:**
- (i) that the Additional Support Needs (ASN) provision in Earlston was expected to open in January 2017;
 - (ii) the continuation of the following ASN provisions in the Scottish Borders:

Nursery/Primary Age Enhanced Provision:

1. Early Learning and Childcare ASN Provision in Langlee;
2. Teviot Primary Complex Needs Provision situated in Wilton Primary School;
3. Eildon Primary Complex Needs Provision situated in Langlee Primary School;
4. Berwickshire Primary Complex Needs Provision situated in Chirnside Primary School (to be housed in the new Duns Primary School provision);
5. Tweeddale Primary Complex Needs Provision situated in Halyrude Primary School.

Secondary Age Enhanced Provision:

6. Teviot Secondary Complex Needs Provision situated in Hawick High School;
7. Eildon Secondary Complex Needs Provision situated in Galashiels Academy;
8. Berwickshire Secondary Complex Needs Provision situated in Berwickshire High School;
9. Tweeddale Secondary Complex Needs Provision situated in Peebles High School;
10. Howdenburn Schoolhouse, Jedburgh.

- (b) **AGREED to:**
- (i) informal engagement from May 2016, which would share the opportunities the Earlston provision presented, with:
 1. children with profound and complex needs and their families;
 2. the community of Earlston and the school communities of Earlston Primary School and Earlston High School; and
 3. staff groups.
 - (ii) informal engagement with the stakeholders above regarding the naming of the provision in Earlston; and
 - (iii) bring forward relevant formal statutory consultation papers in respect of the Schools (Consultation) (Scotland) Act 2010 to the Executive Committee in August 2016 regarding:
 1. the relocation of the existing provision of spectrum classes in Innerleithen Primary School and Wilton Primary School grounds; and
 2. the establishment of the new provision in Earlston.

ADJOURNMENT

The Chairman adjourned the meeting at 11.20 am to give Members the opportunity of viewing the model and display boards for the proposed building at Earlston. The meeting reconvened at 11.45 am.

OTHER BUSINESS

CHAIRMAN

On the resumption of the meeting, Councillor Parker took the Chair for the remaining business.

5. MINUTE

The Minute of meeting of the Executive Committee of 10 May 2016 had been circulated.

DECISION

APPROVED for signature by the Chairman.

6. COMMUNITY GRANT SCHEME - GENERIC BUDGET 2016/17

There had been circulated copies of a report by the Chief Executive recommending three applications for funding from the Community Grant Scheme (CGS) Generic Budget. The applications recommended for approval were:-

- (i) Heads Together who made a request for a support grant of £1,500 to part fund the increased rental costs of the relocation to new premises. Heads Together was a Borders- based charity providing support for people who were suffering the effects of brain injury:
- (ii) Borders Water Rescue Team applied for a contribution of £5,000 towards the total cost of £48,944 for the purchase of a fully adaptable 4 x 4 emergency response vehicle; and
- (iii) Borders Islamic Society with a grant request for £4,270 as a contribution to the start-up costs of £6,120 for a small Family and Community Centre to provide a range of new services. The Borders Islamic Society was a registered charity with aims that included the provision of services and activities to the Muslim community.

The total budget available for 2016/17 was £12,032 and the total value of grant requests was £10,770. After receiving some additional information from the Funding and Project Officer about the organisations concerned, Members supported the applications. With regard to the support grant to Heads Together it was agreed that this be subject to the group ensuring it could meet the full costs of rental from Year 2.

DECISION

AGREED to approve grants to the value of:-

- (a) **£1,500 to Heads Together, on condition that the organisation revised its fundraising plans to bridge this gap in future years;**
- (b) **£5,000 to the Borders Water Rescue Team, on condition that it secured the required match funding; and**
- (c) **£4,270 to the Borders Islamic Society.**

7. **SYNTHETIC PITCH PROGRAMME - PEEBLES 3G PROJECT**

With reference to paragraph 3 of the Minute of 29 September 2015 there had been circulated copies of a report by the Corporate Transformation and Services Director proposing that the planning application for the proposed 3G Pitch at Victoria Park in Peebles (15/01460/FUL) be withdrawn. The report explained that there had been significant issues in identifying a suitable site for a full-size, synthetic 3G Pitch in Peebles. In total, 24 different sites across the town had been considered and examined in detail with the current preferred site agreed by the Executive Committee as being at Victoria Park. There continued to be significant public interest, both positive and negative, in the Planning Application for the new pitch at Victoria Park and the Tweeddale Councillors faced difficulties in respect of this issue. Local Councillors had concluded that the Planning Application for the Pitch at Victoria Park should be withdrawn, in order to allow alternative sites to be investigated further and to provide adequate time for the Tweeddale Councillors to consult with the wider community of Peebles. The report noted that this change in the pitch programme would require a re-profiling of the capital plan as approved at Council on 11 February 2016. Members discussed the report and expressed the hope that the community of Peebles could come together to decide what they would like so that Tweeddale was not left without a 3G pitch facility. However, it also needed to be made clear that no new sites would be included in the proposed further consultation for Peebles, but a review of the sites which had been considered previously, and the potential size and cost of any future pitch on the sites left which had not been discounted for other reasons. It was agreed that a further report be brought back to Executive in June setting out the way forward for the 3G Pitch programme but that more time be given to the Tweeddale Councillors to consult about a site for the Peebles 3G pitch before bringing back proposals.

DECISION

AGREED:-

- (a) **to withdraw the Planning Application for the new 3G Pitch at Victoria Park, Peebles, to allow for a further period of consultation; and**
- (b) **that a further report be brought to the Executive Committee in June 2016 setting out the way forward for the 3G Pitch programme.**

The meeting concluded at 12.05 pm

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 30 May 2016 at 10.00 a.m.

Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Campbell, J. Fullarton, D. Moffat, S. Mountford, B. White.
Apologies:- Councillors I. Gillespie, J. Brown.
In Attendance:- Chief Planning Officer, Principal Roads Planning Officer, Chief Legal Officer, Democratic Services Team Leader, Democratic Services Officer (F Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 25 April 2016.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATION**

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

DECISION

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

3. **APPEALS AND REVIEWS**

There had been circulated copies of a report by the Service Director Regulatory Services on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

(a) there remained 3 appeals outstanding:-

- (i) Land South East of Halmyre Mains farmhouse (Hag Law), Romanno Bridge;**
- (ii) Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles; and**
- (iii) Land North East and North West of Farmhouse Braidlie (Windy Edge, Hawick).**

(b) review requests had been received in respect of the following:-

- (i) Erection of dwellinghouse and upgrade access track at Redundant Water Treatment Works, North East of Broughton Place Cottage, Broughton – 15/00890/PPP;**

- (ii) **Change of use from Class 4(Office) to Class 2 9Beauty Therapy Salon) at Block 2, Unit 6, Cherry Court, Cavalry park, Peebles – 15/01498/FUL;**
 - (iii) **Erection of two dwellinghouses on Land South of Primary School, West End, Denholm – 15/01552/FUL; and**
 - (iv) **Removal of Condition 3 of planning permission 04/02011/FUL pertaining to occupancy of the dwellinghouse, Craigie Knowe, Blainslie Road, Earliston – 16/00041/FUL.**
- (b) **the Local Review Body had overturned the Appointed Officers decision to refuse the following:-**
- (i) **Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping on Land and Buildings at Wilton Mills, 31 -32 Commercial Road, Hawick – 15/00100/FUL;**
 - (ii) **Erection of dwellinghouse on Land North East of The Cottage, Lauder Barns, Lauder – 15/01323/FUL;**
 - (iii) **External alterations and erection of 4 No Flagpoles outside Office West Grove, Waverley Road, Melrose – 15/01354/FUL; and**
 - (iv) **Erection of dwellinghouse and detached garage/annex on Land West of Whistlefield, Darnick – 15/01491/FUL**
- (c) **the Local Review Body had upheld the Appointed Officers decision to refuse the erection of dwellinghouse Builders at Yard on Land South West of 76 St Andrew Street, Galashiels – 15/01557/FUL**
- (d) **there remained two reviews outstanding:-**
- (i) **Land South of Camphouse Farmhouse, Camptown, Jedburgh; and**
 - (ii) **5 East High Street, Lauder**
- (e) **there remained 3 Section 36 Appeals Outstanding in respect of:**
- (i) **Land North of Nether Monynut Cottage (Aikengall (IIa)), Cockburnspath;**
 - (ii) **Cloich Forest Wind Farm, Land West of Whitelaw Burn, Eddleston; and**
 - (iii) **(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir.**

The meeting concluded at 11.25 a.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
12/01488/PPP	Residential Development Comprising Of 25 Dwellinghouses (including affordable housing) Formation of Playing Field and Erection of Village Hall.	Land to South and West of Swinton Primary School, Coldstream Road Swinton.

DECISION: Approved as per recommendation subject to the addition of the following 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 subsequent application(s) for the approval of reserved matters shall be accompanied by:
 - i. a site layout plan at a scale of 1:500 showing the position of all buildings, including the village hall, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
 - ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
 - iii. a landscaping plan at a scale of 1:200 showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
 - iv. details of the phasing of development;
 - v. details of existing and finished ground levels, and finished floor levels, in relation to a fixed datum, preferably ordnance datum.Reason: To ensure a satisfactory form of development.

5. The first application for the approval of matters specified in conditions submitted in relation to this approval shall include a detailed design statement and master plan which informs the

development of this site and any future phases of development shown on the indicative concept plan 1991-00 02 dated Nov 2012. The detailed design statement shall include proposals for the erection of the village hall hereby approved along with a programme for implementation and completion.

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

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 (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.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

Reason: To ensure that the proposed landscaping is carried out as approved.

8. No development shall take place until a scheme for the provision of public open space, playing field and an equipped play area has been submitted to and approved in writing by the Local Planning Authority. The scheme so submitted shall include-
 - i. type and location of play equipment, seating, fences, walls and litter bins
 - ii. surface treatment of the play area
 - iii. proposals for the implementation/phasing of play area(s), public open space and playing field in relation to the construction of houses on the site.

Reason: To ensure that proper provision is made for recreational facilities at the site.

9. All works required for the provision of open space, playing field and play area(s) shall be completed in accordance with the scheme approved in writing by the planning authority.

Reason: To ensure that the development is carried out as approved.

10. No development shall commence until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, and in consultation with Scottish Water, which describes how appropriate surface water drainage, foul water drainage and water supply arrangements are to be achieved. Thereafter, the surface water drainage treatment, foul water drainage treatment and water supply shall all be implemented in accordance with the approved details. Surface water must be dealt with by way of a Sustainable Urban Drainage System, the details of which shall first be agreed in writing by SEPA and supported by a drainage strategy which shall include details for long term maintenance of SUDS features.

Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation and to ensure that there would be no adverse impacts upon the drainage and water supply arrangements serving residential properties within the surrounding area.

11. Unless otherwise agreed in writing and in advance of the commencement of development, the all trees and hedges within the application site shall all be fully protected in accordance with

the requirements of BS 5837:2012. All measures required on-site to protect these trees and hedges for the duration of construction works shall be maintained in accordance with the requirements of BS 5837:2012. Any variations to the above requirements shall not be implemented unless subject to the prior written approval of the Planning Authority.

Reason: In the interests of preserving the health and vitality of the existing trees and hedges, the loss of which would have an adverse effect on the visual amenity of the area including the settlement at Swinton.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. 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 conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. 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.

13. Core Path 73 which bounds the northern boundary of the application site shall be brought up to an adoptable standard between the village green, Wellfield and Coldstream Road before the first dwelling hereby approved is sold, completed or occupied (whichever is the earliest), unless otherwise agreed in writing by the local planning authority. The path shall, at all other times, be kept free from obstruction.

Reason: In order to maintain and enhance pedestrian connectivity through the village.

14. The affordable housing units hereby approved shall meet the definition of “affordable housing” as set out in the adopted Scottish Borders Council Local Development Plan 2016 and any accompanying “affordable housing” supplementary planning guidance.

Reason: To ensure the affordable housing units hereby approved comply with the Council’s definition of affordability.

INFORMATIVES

1. With regards Condition 1, to meet sight-line requirements the new road junction onto the A6112 to serve the development will have to be located further south to a position just outside the application site boundary but within land in the control of Ladykirk Estate. This is to ensure the optimum position for the access and to accord with the provisions of the newly Adopted Local Development Plan. The street lighting, footway and 30 mph speed limit will all have to be extended out from the village to the new junction at the applicant’s expense. The extension of the speed limit will be dependent on a successful traffic order. Similarly, the applicant will be responsible for the re-siting of the village gateway, village sign and school sign as appropriate.
2. In respect of Condition 4, dedicated parking, including parking for disabled people, and adequate provision for service deliveries will be require for the village hall.

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SCOTTISH BORDERS COUNCIL PETITIONS AND DEPUTATIONS COMMITTEE

MINUTE of Meeting of the PETITIONS AND DEPUTATIONS COMMITTEE held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Tuesday, 31 May, 2016 at 10.00 am

Present:- Councillors A. J. Nicol (Chairman), S. Bell, D. Parker, D. Paterson, J. Torrance and T. Weatherston

In Attendance:- Engineering Team Leader - Traffic and Road Safety, Clerk to the Council, Democratic Services Officer (F. Walling).

Petitioner:- Ms Christine Hamilton.

CHAIRMAN

The Chairman welcomed Ms Hamilton to the meeting and asked for a round of introductions.

1. **DECLARATIONS OF INTEREST**

Both the Chairman and Councillor Weatherston explained that although they had visited the nursery which was referred to in the petition they felt that this did not prejudice their ability to objectively consider the petition being presented and therefore did not declare an interest in terms of Section 5 of the Councillors Code of Conduct.

DECISION NOTED.

2. **MINUTE**

There had been circulated copies of the Minute of 1 March 2016.

DECISION APPROVED and signed by the Chairman.

3. **THE PETITIONS PROCEDURE**

There had been circulated copies of an extract from the Scottish Borders Council Petitions Procedure which set out the process to be followed at the meeting.

DECISION NOTED.

4. **ROAD SAFETY ON SPYLAW ROAD.**

- 4.1 There had been circulated copies of a petition, submitted to the Council on 29 March 2016, entitled 'Road Safety on Spylaw Road'. The form was accompanied by 126 signatures in total. There had also been circulated copies of a briefing note by the Depute Chief Executive (Place) which was in response to the petition. The Principal Petitioner, Seonaid Blackie, was the owner of Castlegate Nursery and out-of-school club on Spylaw Road in Kelso, and Ms Hamilton was in attendance to present the petition on her behalf. In a statement accompanying the petition it was explained that there was concern about

the speed of traffic driving past the nursery premises which were situated approximately half way along Spylaw Road. This was a wide, no-through road with a combination of commercial and private traffic to, for example, a Council depot, Border Concrete, an exercise gym and haulage yard. Parents' absolute best intention was always to keep their children with them at all times, but they had huge concerns that if their child got away from them the possibility of a resulting accident was greatly increased by the speed and sometimes poor driving of those passing. The nursery owner had previously asked for road signage to be considered but on review by the Council and Police Scotland this had been turned down. The owner understood that Castlegate was a private nursery but there was provision for approximately 130 families on a weekly basis. It was suggested that as the Council provided signage for schools and 20 mph limits at peak times it would seem arbitrary for the nursery not to be considered for similar measures. The statement referred to the previous advice from the Council that 'general guidance for school signage did not apply to nurseries where the children were almost exclusively escorted to and from the premises'. In response it was emphasised that parents often had more than one child with them and that very young children did not yet understand the danger of running away from their parent. It was suggested that the number of signatures with the petition clearly emphasised the concern of parents, staff and visitors to the premises.

4.2 In support of the statement Ms Hamilton explained that she had run the nursery business with her mother Seonaid Blackie for the past 23 years and they had been in the premises on Spylaw Road for the last 9-10 years. She gave further information about the key concerns of parents in relation to the speed of passing traffic, much of this being HGV traffic to commercial premises. She added that even when children were taken out wearing high visibility vests drivers failed to reduce their speed. Ms Hamilton asked why, when Council premises such as schools were provided with signage there was no such facility to keep children safe in the case of a nursery. With regard to the traffic monitoring carried out by the Council she believed the average of speeds recorded would not be a true reflection of the speed of traffic passing the nursery as the measurements had been taken outside the nursery premises where many cars would be stopping. In response to a Member's question Ms Hamilton believed that concern about the speed of traffic on Spylaw Road was an issue for the whole of the day but with particular sensitivity being related to the location of the nursery and the times of the day when children were arriving and departing.

4.3 The Council's response to the petition was presented by Philippa Gilhooly, Engineering Team Leader for Traffic and Road Safety. Ms Gilhooly advised that Council officers had visited the site on the afternoon of 18 April, the morning of 19 April and the morning of 10 May 2016 to monitor the volume and speed of traffic and number of pedestrians. Conditions were dry and sunny on all three days. Ms Gilhooly apologised for the fact that there was speed monitoring equipment malfunction on 19 April so there were no recorded speeds for that day. Results showed that the average speed of vehicles using Spylaw Road were 18.5mph and 21.3mph on the two days for which measurements were obtained, which was well below the 30mph speed limit. These were speeds the Council would welcome elsewhere. Pedestrian volumes were low and all children were accompanied. Further details of the volume, type and speed of vehicles and number of pedestrians were provided in an Appendix to the paper. Of most concern to the Council officer was the number of vehicles associated with the nursery that reversed on to the live carriageway. Ms Gilhooly advised that in view of these vehicle volumes and speeds the Council would not propose to make any physical changes to the road or signs. As previously explained to the nursery owner none of the signs regulated by the Traffic Signs Manual were appropriate for use outside a nursery. She explained that while Traffic Signs Regulations for the United Kingdom had recently been reviewed, in this case the situation was unchanged. Where the Council had installed part time 20mph schemes outside schools, as agreed by local Police Scotland representatives, these could only operate at main school run times and not at nursery times as the expectation was that all nursery children would be accompanied by a responsible adult. Any speed reducing measures that were introduced needed to be justifiable, proportional and balanced, and in this

instance officers did not believe any speed reducing measures were required. Ms Gilhooly believed that, as was the case in many other areas, the issue was one of perceived speed from the perspective of pedestrians. Should the occasional vehicle be travelling at excessive speed along Spylaw Road, the recommendation would be for the nursery to contact Police Scotland.

4.4 In answer to questions Ms Gilhooly confirmed that the Scottish Government no longer allowed Councils to put in place advisory 'twenty's plenty' schemes; the only option being to set up a mandatory scheme. Such a scheme would not be appropriate, nor considered necessary for Spylaw Road, being reserved for residential areas and needing the support of Police Scotland as well as the Council to enable this to be enforced. In this respect she advised that in terms of traffic speeds there were many other residential areas of the Borders where the need for a mandatory 20 mph scheme was greater than for Spylaw Road. She also highlighted that, from the average speeds revealed in the measurements made in Spylaw Road, a 20 mph limit would not have any effect. A Member suggested that the speed monitoring results would have been more accurate if the monitoring equipment had been placed halfway down the road rather than outside the nursery building. It was also pointed out that, in addition to average speeds, figures giving the spread of results or 85 percentile would have been useful. In response to a point made by Ms Hamilton that 40% of the children attending the nursery were Council funded, Ms Gilhooly advised that the regulations regarding signage applied to all nurseries in the Borders.

4.5 In the ensuing discussion Members expressed sympathy with the petitioner and the concern expressed by those associated with the nursery. It was clear that, if it were an option, Members would have supported the introduction of an advisory 20 mph zone for the whole of the industrial area and signs to encourage motorists to reduce their speed. However they accepted that these options were not possible under current regulations. In response to the petition it appeared that the only option that could be further investigated by the Council was the suggestion of painting a warning sign on the road. Members also encouraged Ms Hamilton to explore any private solutions which could be pursued to raise drivers' awareness of the location of the nursery in order to persuade them to reduce their speed. The Chairman thanked Ms Hamilton for her attendance and for presenting the petition.

DECISION

- (a) NOTED the petition.**
- (b) AGREED to refer the petition to the Chief Officer Roads with the recommendation that officers explore:-**
 - (i) the feasibility of painting a 'SLOW' road marking on Spylaw Road at the approach to Castlegate Nursery; and**
 - (ii) any other option that may be available to the Council to persuade drivers along Spylaw Road to reduce their speed.**

The meeting concluded at 11.20 am

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SCOTTISH BORDERS COUNCIL DUNS COMMON GOOD FUND SUB-COMMITTEE

MINUTES of Meeting of the DUNS
COMMON GOOD FUND SUB-COMMITTEE
held in the Council Chamber, Newtown
Street, Duns on Thursday, 2nd June, 2016 at
6.00 pm

Present:- Councillors F. Renton (Chairman) and J. Greenwell.
Community Councillor A. Affleck.
Apologies:- Councillor D. Moffat.
In Attendance:- Principal Solicitor (H MacLeod), Democratic Services Officer
(P Bolson).
Members of the Public:- 0

1. **MINUTE**

There had been circulated copies of the Minute of the Duns Common Good Fund Sub-Committee of 3 September 2015.

DECISION

AGREED to note the Minute.

2. **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2016**

There had been circulated copies of a report by the Chief Financial Officer which provided the year end outturn for the Duns Common Good Fund for 2015/6 including balance sheet values at 31 March 2016 and the proposed budget for 2016/17. Appendix 1 gave the details of the actual income and expenditure for 2015/16, showing a deficit of £2,219 with a projected deficit of £2,632 for 2016/17. Appendix 2 gave the balance sheet value as at 31 March 2016 and this showed a decrease in the Reserves of £2,219, details of which were included in the report. With regard to 10 South Street, progress had been made and the outcome of this was that the property would pass to the Queen's and Lord Treasurer's Remembrancer (QLTR) to be sold. Should a sale be successful, then the proceeds would remain with the QLTR, however all survey costs incurred to date would be refunded to Duns Common Good. The value of the building had been written off in full with £2,500 land value remaining. As and when the property is sold, this asset and related reserves in the balance sheet would be removed with no impact on the Income and Expenditure account. Upon full disposal of 10 South Street, the cash balance would increase by the amount of the survey cost refund. More importantly the annual erosion of cash from the Common Good Fund will cease. The projected deficit of £2,632 in 2016/17 was based on the retention of 10 South Street with no allowance for the survey refund. This was the most prudent approach at this time and reflected the most recent confirmed information held. If the property transferred as described, it was expected that this would change to a surplus position.

DECISION

(a) NOTED:-

- (i) the actual income and expenditure position for 2015/16 as detailed in Appendix 1;**
- (ii) the final balance sheet value to 31 March 2016 as detailed in Appendix 2; and**
- (iii) the summary of the property portfolio as detailed in Appendix 3.**

(b) AGREED the proposed budget for 2016/17 as shown in Appendix 1.

3. 10 SOUTH STREET, DUNS

Members received a verbal update on the current situation regarding the disposal of 10 South Street, Duns. Ms MacLeod was present to explain the progress made so far and the next steps in the process to conclude this matter. Members were advised that a property survey had been completed and the Queen's and Lord Treasurer's Remembrancer (QLTR) would now require to obtain title to then sell the property at auction. The Royal Warrant had now been granted. Members were advised that the process to obtain the Deed of Gift would normally take between 6 and 8 weeks, however as this had already begun, it was anticipated that the paperwork would be in place by the end of July. A further report to the Sub-Committee on 1 September 2016 would provide updated information on progress to date at that time.

DECISION

NOTED the update.

The meeting concluded at 6.10 pm

SCOTTISH BORDERS COUNCIL BERWICKSHIRE AREA FORUM

MINUTES of Meeting of the
BERWICKSHIRE AREA FORUM held in
Council Offices, Newtown Street, Duns on
Thursday, 2 June 2016, at 6.30 pm

- Present:- Councillors M. J. Cook (Chairman), J. Campbell, J. Greenwell, D. Moffat, and F. Renton.
Community Councils:- Coldingham – Rhona Goldie; Duns – Anne Affleck; Edrom, Allanton & Whitsome – Trixie Collin; Foulden, Mordington and Lamberton – Howard Doherty; Gavinton, Fogo and Polwarth – Keith Dickinson; Gordon & Westruther – Trevor Jones; Grantshouse – Kym Bannerman; Lammermuir – Mark Rowley; Reston and Auchencrow – David Torr; Swinton and Ladykirk – Bill Purvis.
- Apologies:- Councillor J. A. Fullarton.
Community Councils:- Burnmouth; Cockburnspath; Coldstream and District; Greenlaw & Hume; Hutton and Paxton.
- In Attendance:- Sergeant J McGuigan, Police Scotland; Station Manager M Acton, Scottish Fire and Rescue Service; D Silcock, SB Local Area Manager; Democratic Services Officer (P Bolton).

Members of the Public:- 1

- 1. WELCOME**
The Chairman welcomed those present to the meeting.
- 2. ORDER OF BUSINESS**
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.
DECISION NOTED.
- 3. MINUTE**
There had been circulated copies of the Minute of 3 March 2016.
DECISION APPROVED the Minute for signature by the Chairman.
- 4. PENMANSHIEL COMPENSATORY PLANTING SCHEME 4.1** The Chairman introduced Mr Andy Tharme, Ecology Officer at SBC and Mr Steven Adlard, Woodland Consultant with the Scottish Agricultural College (SAC Consultants) who were present to update Members on the Penmanshiel Compensatory Replanting Scheme. Mr Tharme explained the background to this Scheme, the Scottish Government/Forestry Commission Policy in relation to the Control of Woodland Removal and the need to compensate for the loss of woodland by the developer. This Scheme was as a direct result of the development of the Penmanshiel Windfarm and required that the area of woodland lost was replaced by the same area of replanting, ie 1ha for 1ha. Agreement was reached by SBC and the developer RES, with SBC leading the implementation of the Scheme under a Section 69 Planning Agreement. The target area was set at 110.1ha and would extend as far as 20ha around Penmanshiel, with areas for the replanting of different species of tree being specified. The Scheme would be in place for 15 years, with planting taking place during years 1 - 5 and benefits would include biodiversity, water quality, flood protection, access, recreation, landscape and community engagement.

- 4.2 The Scheme was put out to tender in July 2015 and SAC Consulting was appointed and the Scheme was initiated in November of the same year. Community groups, landowners, tenants and organisations could make application to the tree planting grant scheme and assistance to complete their applications was available from SAC. There were criteria to be met to qualify for a grant and contract conditions applied to any agreement. Mr Tharme explained that a key decision was awaited in respect of the Basic Payment Scheme and this had necessitated a delay in the launch and publication of full details of the Scheme. Up to date information was available online and further publicity had been/would be delivered via road shows at Duns Show, Kelso Show and workshops across the area.
- 4.3 Mr Tharme and Mr Adlard answered a number of questions in relation to planting and fencing of individual schemes. With regard to connecting a number of different amenity areas, Mr Adlard advised that joined up schemes were more likely to score points in the recreational/community benefit category. Small schemes of 0.25ha would be considered under the Scheme however fencing costs for such areas were likely to be higher in comparison to the size of the scheme. It was noted that a particular challenge existed in evidencing that the present scheme delivered benefit additional to that deliverable through existing forestry schemes. Officers would reflect on this. After further discussion, it was agreed that an update presentation would be brought to the Forum in due course.

**DECISION
NOTED.**

5. **POLICE SCOTLAND**

Sergeant J McQuigan attended the meeting to present the Police Scotland report for Berwickshire for the period up to 25 May 2016. The report detailed the Ward Plan Priorities for East Berwickshire, namely Road Safety; Misuse of Drugs; Rural Thefts; and Antisocial Behaviour. For Mid Berwickshire the priorities were Road Safety; Inconsiderate Driver Behaviour; and Antisocial Behaviour. In terms of road safety and inconsiderate driver behaviour, the report indicated an increase in the number of drink driving detections in rural locations during this reporting period. An event for young drivers took place at Charterhall on 21 and 22 May with about 90 young people attending to experience and develop driving skills under the supervision of the emergency services. The Skills for Life programme, which had been reported to the Forum previously, was being delivered throughout May and June in Duns and currently seven young drivers were taking part. There had been 11 drugs-related offences detected in Berwickshire during the reporting period with one significant operation taking place in and around Duns. The report provided information about new legislation for air weapons which would come into effect on 1 July 2016 and which would require anyone who possessed an air weapon to hold a valid certificate of possession. An amnesty would be in place from 23 May until 12 June 2016 whereby people would be able to surrender their weapons at a nominated police station if they did no longer required or used them. People who already held a valid firearms licence were not required to re-licence their air weapon. However, they would be expected to include details of any air weapons they possessed within any future application. Further information was available at www.scotland.police.uk The report advised that during 2016, the public consultation by Police Scotland on identifying priorities for policing in local communities would be available online during and would be open for the whole year. The consultation could be accessed at www.surveymonkey.co.uk/r/8LMB9WX Members were advised that Wardens were now in place and would visit areas only where there was dog fouling had been reported. Members' questions were answered in relation to fly tipping and the procedure for Police reports being presented to the local Community Councils. The Chairman thanked Sergeant McQuigan for attending the meeting.

**DECISION
NOTED the report.**

6. **DOG FOULING**

The Chairman welcomed Mr Craig Blackie, SBC's Neighbourhood Area Manager to the meeting to provide an update on how the Council was working to decrease dog fouling in the area. 3GS was a private company now employed by SBC for a trial period of one year to reduce dog fouling. Two wardens were now in post and would operate on an intelligence-led basis, ie would respond to complaints of dog fouling at specific locations. A full report would be submitted to Council at the end of the trial. Mr Blackie explained how the wardens would operate and the facilities which were available to them. Problem with littering could also be dealt with by the wardens, again on an intelligence-led basis. Mr Blackie explained that a Green Dog Walker campaign was currently running in Newtown St Boswells. The project, which encouraged dog walkers to clean up where dog fouling had been left by others, had been successful so far and further information was available on the Council website. It was noted that clean up bags were not provided by SBC. Mrs Bannerman, who currently co-ordinated the Woofs Campaign in Berwickshire, asked whether funding could be provided to cover the cost of bags for Woofs for one year only to allow the payment system for subscribers to become fully operational. Mr Blackie advised that there was no budget within Neighbourhood Services however he suggested that there might be another option and Mrs Bannerman agreed to contact Mr Blackie directly to discuss this matter further. Discussion followed and a number of questions were answered by officers. The wardens' role in the trial year was to revitalise enforcement and identify the culprits. Depending on the outcome of the trial, there were other duties such as checking dogs for chipping which could be added to their remit. Mr Blackie confirmed that there was an on the spot fine of £80 for the dog owner for each offence. The costs for running the warden service would be covered by any fines and SBC and 3GS would receive an equal share of any remaining profit. The Chairman thanked Mr Blackie for attending the meeting.

**DECISION
NOTED.**

7. SCOTTISH FIRE AND RESCUE SERVICE

There had been circulated copies of a report by the Scottish Fire and Rescue Service (SFRS) informing the Forum of SFRS activity since 3 March 2016. The report explained that there had been 4 occurrences of fires in houses/buildings which had resulted in 2 casualties; 8 open fire incidents with no casualties; 10 Special Service incidents giving rise to 2 casualties; and 18 non-deliberate unwanted fire alarm signals. Station Manager Matt Acton went on to inform Members activity currently taking place in Berwickshire. In addition to free home safety visits throughout the year, Members were advised that, as part of the Scottish Borders Community Planning Partnership's Reducing Equalities Strategy, SFRS along with the Scottish Borders Safer Communities team would be jointly leading on the "Keeping People Safe" theme. Within the theme, it had been identified that older people were more likely to suffer a fall in the home which resulted in admission to hospital and of those, a high percentage were in the 75+ age group. A collaborative approach with other Community Partners would enable a more generic role to be adopted by SFRS and would allow officers to assess all aspects of risk within the home. This approach was being piloted in Cheviot area and further information would be provided in due course. Other work being progressed in Berwickshire included Firesharp; implementation of the Safeguarding Policy and Procedure for Protection of Children and Adults at Risk of Harm; development of a partnership with the local Domestic Abuse Advocacy Service and involvement with the Multi-Agency Risk Assessment Conference (MARAC); delivery of road safety awareness sessions in secondary schools; participation in the event for Young Drivers in May; and fire safety audits. An update on the partnership with the British Heart Foundation was provided and Station Manager Acton advised that all 356 of SFRS stations across the country were now equipped with training kit and would act as the base for local people to learn CPR skills. The Out of Hospital Cardiac Arrest national trial was currently running at three stations within SBC area, one of which was in Coldstream. Further updates would be provided in due course. The summer Thematic Action Plan would focus on: Wildfire; rubbish and refuse fires; and outdoor safety and the Ward Plans for Berwickshire were available on the SFRS website. The Chairman thanked Station Manager Acton for his attendance.

**DECISION
NOTED the report.**

8. OPEN QUESTIONS

There were no Open Questions raised at the meeting.

**DECISION
NOTED.**

9. FUTURE AGENDA ITEMS

Items for future Agendas were proposed as follows:-

- (a) Public Health Issues in Berwickshire – the Chairman would contact Mr Tim Patterson, Joint Director of Public Health.
- (b) Broadband Provision in Berwickshire – following a wide ranging discussion, it was agreed that a separate meeting dedicated to this issue be arranged for June 2016.

**DECISION
AGREED.**

10. COMMUNITY SPOTLIGHT

No items were raised at the meeting.

**DECISION
NOTED.**

11. BERWICKSHIRE FLAG

11.1 There had been circulated copies of a Briefing Paper by the Clerk to the Council advising of the options available in respect of flying a Berwickshire Flag on the north side of the Scotland/England border at Lamberton Toll. The Briefing Note explained the background to this item and the Chairman detailed the Coats of Arms which might be considered for use on a Berwickshire Flag, namely:

- (i) that no further action was taken in respect of a Berwickshire flag;
- (ii) the existing Berwickshire Coat of Arms and whether this should be the original County Arms or those of the District Council, bearing in mind that the old County Arms did not relate to the same boundaries as those of the existing Wards of East and Mid Berwickshire of Scottish Borders Council. It would be possible for Scottish Borders Council or another entity, such as the Berwickshire Civic Society, to petition for either of these.
- (iii) a new, non-heraldic flag (ie one with no heraldic symbols), with the final design being approved by the Lord Lyon, who would ensure that the design and colours were not in conflict with other flags and that the design also was a suitable representation of the area. Care would need to be taken to ensure that that all the communities within Berwickshire were supportive of such a flag. In designing a new flag, consideration would need to be given to simplicity, the use of meaningful symbols and colours, and how the flag would look either when flying from a flag pole in strong wind or conversely when hanging in windless conditions.

Further details were included in the Briefing Note in respect of what would be required to further progress a Berwickshire flag and the associated costs.

11.2 During the discussion that followed, Mr Silcock confirmed that consideration could be given to funding being granted from the Quality of Life Fund to cover costs associated with this project. The Chairman summarised the options for consideration. Community Council representatives were given the opportunity to air their views. However, the Chairman advised that they were non-voting members of the Forum. On this basis, Elected Members considered the following:

- (a) that no further action be taken in respect of a Berwickshire flag;
- (b) that a community consultation be carried out to ascertain the views of all Berwickshire residents prior to any decision being made ; and
- (c) that work be carried out to develop a Berwickshire Flag which would subsequently be flown alongside the Saltire and the Union Flag on the North side of the Scotland/England border at Lamberton Toll.

Councillor Moffat, seconded by Councillor Campbell, moved that a community consultation be carried out to ascertain the views of all Berwickshire residents prior to any decision being made.

- 11.3 Councillor Renton, seconded by Councillor Greenwell, moved as an amendment that work be carried out to develop a Berwickshire Flag which would subsequently be flown alongside the Saltire and the Union Flag on the North side of the Scotland/England border at Lamberton Toll.

VOTE

Motion: 2 votes.

Amendment: 3 votes.

The motion was accordingly carried.

DECISION

AGREED that work be carried out to develop a Berwickshire Flag and that Transport Scotland be approached for permission for the Berwickshire Flag to be flown alongside the Saltire and the Union Flag on the North side of the Scotland/England border at Lamberton Toll.

17. **DATES OF FUTURE MEETINGS**

Future meetings of the Berwickshire Area Forum were scheduled for:-

1 September 2016;

1 December 2016;

2 March 2017;

15 June 2017.

DECISION

NOTED.

The meeting concluded at 9.10pm.

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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held in the Council Chamber, Council
Headquarters, Newtown St Boswells, TD6
0SA on Monday, 6 June, 2016 at 10.00 am

Present:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M Ballantyne
(from paragraph 3), J. Campbell, J. A. Fullarton, I. Gillespie, D. Moffat,
S. Mountford and B White

In Attendance:- Lead Officer Plans and Research, Solicitor (G. Nelson), Democratic Services
Team Leader, Democratic Services Officer (F. Walling).

1. **DECLARATION OF INTEREST**

In terms of Section 5 of the Councillors Code of Conduct, Councillor Gillespie declared an interest in Item 5 of the agenda (application 16/00041/FUL) and left the meeting during the consideration of this review.

MEMBER

Councillor Ballantyne did not take part in the determination of application 15/00890/PPP detailed below, as she was not present at the start of the consideration.

2. **REVIEW OF APPLICATION 15/00890/PPP**

There had been circulated copies of the request from Mr Stewart Kane, per Suzanne McIntosh Planning Ltd, 12-14 Lochrin Buildings, Gilmore Place, Edinburgh, to review the decision to refuse the planning application in respect of the erection of a dwellinghouse and upgrade access track at redundant water treatment works, north east of Broughton Cottage, Broughton. Included in the supporting papers were the Notice of Review which included the Decision Notice and Officer's report; papers referred to in the report; consultations; objections; additional representations; and a list of relevant policies. The Legal Advisor confirmed to Members that the Equality Act 2010, referred to in the Notice of Review, was a material consideration to the determination of the Review. Copies of Section 149 of the Act, referred to by the appellant, were provided at the meeting. Members noted the details of a previous similar application for a dwellinghouse on this site which had been refused consent and was subsequently dismissed at appeal. After initial discussion about the application site Members were in agreement that the proposal was contrary to housing in the countryside policy. Concern was also expressed about the suitability of the proposed access at the junction onto the A701. Their attention then turned to any other material considerations and in particular to the case submitted by the appellants regarding the need for a house of a design to meet the specific needs of their disabled son and his carers. Members expressed sympathy with the needs of the appellant's disabled son but, after lengthy debate, concluded that a specific need for the house in the proposed location had not been demonstrated.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) **the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**

- (d) **the officer's decision to refuse the application be upheld for the reasons detailed in Appendix I to this Minute.**

2. **REVIEW OF APPLICATION 16/00041/FUL**

There had been circulated copies of the request from Mrs Eileen Cockburn, per Alistair MacDonald, The Strone, Longnewton, St Boswells, to review the decision to refuse the planning application to remove Condition 3 of planning consent 04/02011/FUL pertaining to occupancy of dwellinghouse at Craigie Knowe, Earlston. Included in the supporting papers were the Notice of Review including the Decision Notice; Officer's Report; papers referred to in the report; and a list of relevant policies. The Local Review Body considered a piece of new evidence that had been submitted with the Notice of Review as detailed in Appendix II to this Minute and concluded, for the reasons given, that determination of the review could be made with reference to this new evidence. Members noted that planning consent was granted for the house and associated business in 2004. The condition which was the subject of the appeal had been added to ensure occupancy of the house was tied with the proposed business, as otherwise the house would be contrary to the Council's policy on housing in the countryside. A legal agreement had also been entered into which ensured no further houses were built on the land and that the house and business were not sold off separately. It was confirmed that the appeal related solely to the removal of the planning condition. Members noted that the appellant's husband had regrettably passed away and that the business did not now operate. Careful consideration was given to the wording of the condition and there was acceptance that, as circumstances had changed, the condition which was specific to the original applicant's business was now too narrow. Members emphasised the need to maintain the reasoning which was the basis of the decision to allow a house to be built at this location. However, after discussion it was agreed that the condition could be made more flexible in order to allow more options for the land to be operated for other agricultural or equestrian uses and to ensure that occupancy of the house was tied to that use.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;**
- (c) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) **the proposal would be contrary to the Development Plan but that there were other material considerations that would justify departure from the Development Plan; and**
- (e) **the officer's decision not to remove the condition be upheld but that the wording of the condition be amended as detailed and for the reasons given in Appendix II to this Minute.**

3. **REVIEW OF APPLICATION 15/01498FUL**

There had been circulated copies of the request from Ms Kayleigh McFadzean, per M S Sim, 3 Castle Craig Gardens, Blyth Bridge, West Linton, to review the decision to refuse the retrospective planning application in respect of change of use from Class 4 (Office) to Class 2 (Beauty Therapy Salon) at Block 2, Unit 6, Cherry Court, Cavalry Park, Peebles. The supporting papers included the Notice of Review which included the Decision Notice, Officer's Report and consultation from the Roads Planning service; papers referred to in

the report; consultation from Economic Development; and a list of relevant policies. Members noted that Cavalry Park was identified as a Strategic High Amenity Site and that policy ED1 of the newly adopted Local Development Plan 2016 stated that in such sites Development would be predominantly for Class 4 use. However the policy also stated that other complementary commercial activity may be acceptable if it enhanced the quality of the business park as an employment location. Members' opinions were divided as to whether this business was a complementary commercial activity within Cavalry Park or whether the more appropriate location for such a business was the town centre. In their consideration Members pointed out that this appeared to be an established and successful business, that it provided employment, that it provided diversity within the business park and that there were advantages to the present location such as easy parking and access. It was also noted that there were unoccupied units on this section of Cavalry Park suggesting that the demand for Class 4 uses was limited.

VOTE

Councillor Moffat, seconded by Councillor Brown, moved that the decision to refuse the application be upheld.

Councillor Ballantyne, seconded by Councillor Mountford, moved as an amendment that the decision to refuse the application be reversed and the application approved.

On a show of hands Members voted as follows:-

<i>Motion</i>	<i>- 2 votes</i>
<i>Amendment</i>	<i>- 6 votes</i>

The amendment was accordingly carried.

Members were advised that there were other unauthorised uses within Cavalry Park which required the submission of retrospective applications. Members expressed concern that the owners of the units were allowing tenants of the wrong class of use to take occupation.

DECISION AGREED:-

- (a) that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, as detailed in Appendix III to this Minute.**

The meeting concluded at 1:10 pm

APPENDIX I

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00010/RREF

Planning Application Reference: 15/00890/FUL

Development Proposal: Erection of Dwellinghouse and upgrade of access track

**Location: Redundant Water Treatment Works, North East of Broughton Place
Cottage, Broughton**

Applicant: Mr S Kane

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

- 1 The proposal is contrary to Supplementary Planning Guidance on New Housing in the Borders Countryside and Policy HD2 - Housing in the Countryside of adopted Local Development Plan 2016 in that the site for the new house is not within the recognisable building group at Broughton Place and it does not relate well to this group.
- 2 The proposal would be contrary to Policies HD2 and PMD4 of the adopted Local Development Plan 2016 in that the stated need for the dwellinghouse would not justify the proposed development in this specific location.
- 3 The proposed dwellinghouse would be contrary to Policy HD2 of the adopted Local Development Plan 2016 in that satisfactory access and other road requirements cannot be met.

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on the site of a former redundant water treatment works in a field to the north east of Broughton Place Cottage, near Broughton. The application drawings consisted of the following drawings :

Plan Type

Plan Reference No.

Location Plan	051105/LOC
Planning layout	141412/PL/01
Site Plan	141412/PL/02

PRELIMINARY MATTERS

The Local Review Body (the “LRB”) considered at its meeting on 6th June 2016 that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) Notice of Review including the Decision Notice and the Officer’s report; b) Papers referred to in report; c) Consultations; d) Objections; e) Additional representations and f) List of policies the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal only against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies within the LDP 2016 were :

- Local Development Plan policies : HD2 and PMD4

The LRB noted that although these new policies replaced policies D2 and G8 respectively within the consolidated Local Plan 2011, it was considered that the new policies did not raise any new material considerations in this instance.

OTHER MATERIAL CONSIDERATIONS

SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008

Scottish Planning Policy

Equality Act 2010

The Equality Act 2010 had been referred to in the appellant’s submissions and in particular section 149 as a key material consideration to this application, however no extract had been provided. The Council’s Legal representative explained to the LRB the terms of section 149 “the public sector equality duty” of the Equality Act 2010 and provided them with an extract of it for reference. The Council’s Legal representative confirmed that the disabilities suffered by the appellant’s son referred to within the appellant’s appeal meant that the public sector equality duty was applicable to this case and that accordingly it was a material consideration to the determination of the application. The LRB was reminded that as with any material consideration it was for Members to decide how much weight should be given to it and in the event they considered the development was otherwise contrary to the Development Plan whether this material consideration justified departure from the Development Plan.

Although the Housing in the Countryside policy can allow more flexibility in the Southern Housing Market Area in respect of extending what are considered to be dispersed housing groups, it was confirmed Broughton is located within the northern housing market area and therefore this part of the policy was not relevant.

Members noted that a previous similar application (07/01075/FUL) by the same applicant for a dwellinghouse on this site was refused consent on the grounds that it was contrary to the Housing in the Countryside policy in that it did not relate to a building group, there was no other justified need for the house and that the access was unsatisfactory. A subsequent appeal was dismissed by a Reporter.

Members noted objections had been submitted by six parties and the Upper Tweed Community Council regarding the current proposal.

Members noted the location of existing properties within the vicinity of the application site and a wooded area on the northern side of the application site which the planning officer had considered to be a natural and strong boundary which defined the setting on the group. Members considered the application site fell outwith any recognised building group and considered the proposal had no connection with the sense of place created by the existing buildings. Consequently it was considered that the proposal did not comply with the Housing in the Countryside policy in that it was not considered an appropriate addition to the existing group of buildings.

Having decided that the proposed location of the proposal was contrary to the Housing in the Countryside policy, consideration was then given to any other material considerations. This primarily related to the case submitted by the appellants regarding the need for the house to achieve better facilities for the appellant's disabled son.

Members noted that the appellant had stated that:

- (i) policy PMD4 could support proposals outwith development boundaries if they would offer significant community benefits that outweigh the need to protect the development boundary.
- (ii) The community benefits would be that the family will continue to live in Broughton where the children will attend school and where the family operate their business.
- (iii) the specific medical needs of the applicant's family are the most significant material consideration which must, in this case, outweigh any planning policy objection to this proposal.
- (iv) although the family had recently moved to a single storey house within the village supplied by Eildon Housing which had been altered to accommodate disabled needs, that they considered it remained inadequate for the needs of the family.

In respect of the issue of whether the proposal delivered community benefits that would outweigh the need to protect the development boundary Members considered that as the family already live in Broughton the proposal would not offer any improved or other community benefits.

The LRB expressed sympathy with the needs of the appellant's disabled son and acknowledged that as he grows older his needs will likely increase. Members consequently gave careful consideration to whether the material consideration of "the public sector equality duty" justified departure from the Development Plan.

In considering this issue, the LRB considered that it was a further material consideration that the family had recently moved to a single storey house within the village supplied by Eildon Housing which had been altered to accommodate disabled needs, which better met their needs than their previous home.

The LRB was concerned that locating this house for special needs in this remote location could be problematic in terms of gaining an appropriate access to the site, particularly for emergency vehicles and any support care staff. The LRB considered from the evidence presented that this issue would likely be significant in the winter time. Members considered there appeared to be uncertainties as to whether the appellant had the necessary ownership of land to upgrade the access route to standards required by Roads Planning and Building Standards. Members expressed concern as to the suitability of the access at the junction onto the A701 where the single lane bridge would not allow two vehicles to pass. Consequently the LRB did not consider this was a suitable site for the needs of the appellant's family.

The LRB did not consider that the appellant had demonstrated a specific need for the house to be located in the proposed location, which would otherwise be contrary to Planning Policy. The LRB observed that there were two allocated housing sites within the village within which the appellant could potentially build a custom designed house for the family's needs in compliance with Planning Policy.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Cllr R Smith
Chairman of the Local Review Body

Date.....16 June 2016

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00011/RREF

Planning Application Reference: 16/00041/FUL

**Development Proposal: Removal of Condition no 3 of planning permission
04/02011/FUL pertaining to occupancy of dwellinghouse**

Location: Craigie Knowe, Blainslie Road, Earlston

Applicant: Eileen Cockburn

DECISION

The Local Review Body (LRB) decided that an occupancy condition remained necessary but that planning condition no 3 required to be amended to read:

“The occupation of the dwellinghouse hereby approved shall be limited to a person solely or mainly involved, or last employed, in the operation of the adjoining land for agriculture, as defined in section 277 of the Town and Country Planning (Scotland) Act 1997, or equestrian or other use approved by the Planning Authority, or any dependent of such person residing with him or her including a widow or widower of such person.

Reason: The site is in a rural area where it is not the Council's policy to permit unrestricted residential development, and permission has therefore only been granted on account of the demonstrated operational enterprise needs

DEVELOPMENT PROPOSAL

The application relates to the removal of condition no 3 which was attached to planning permission ref 16/00041/FUL pertaining to the occupancy of a dwellinghouse. The application drawings consisted of the following drawing :

Plan Type	Plan Reference No.
Location Plan	16/00041/FUL

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 6th June 2016 that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 (the “1997 Act”).

After examining the review documentation at that meeting, which included: a) Notice of Review including the Decision Notice; b) Officer’s Report; c) Papers referred to in the report and d) List of policies the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the adopted Local Development Plan 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal only against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 was :

- Local Plan policy : HD2

Other Material Considerations

SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008

Scottish Planning Policy

Circular 4/1998 – The Use of Conditions in Planning Permissions

Circular 3/2012 – Planning Obligations and Good Neighbour Agreements

Within the Notice of Review it was noted that new material had been submitted. This related to a letter stating that the selling agents had marketed the property as a rural business premises. The letter stated that “the subjects were actively marketed, encouraging interest particularly from those with rural or equestrian background”. Within the officer’s report reference is made to the fact that this information was requested during the processing of the application but this was not submitted. This request was made by the planning officer to seek confirmation that any interested purchasers were aware of the tied occupancy requirement.

Members agreed that the issue to which the new material related was a material consideration in this application and that as such in terms of Section 43B(2)(b) of the 1997 Act it was appropriate that the LRB had regard to it.

Members noted that planning consent was granted in 2004 for this house and associated business. The proposal for housing in the countryside was supported on the business case submitted and a condition was attached to the consent to ensure occupancy of the house was tied with the proposed business. The condition stated that:

"The occupation of the dwellinghouse hereby approved shall be limited to a person solely or mainly employed in the operation of the adjoining land and building as a Horse

Breeder, Potato Merchant, Horse Feed Merchant or Farrier or other business approved by the planning authority.

Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside."

A legal agreement was also entered into which ensured no further houses were built on the land and that the house and the business were not sold off separately.

Members noted that the appellant's husband has regrettably passed away and the business does not now operate. The house is now for sale and the appellant wishes to have the aforesaid planning condition removed. It was confirmed that the proposal solely related to the removal of the planning condition and the LRB were not requested to consider amending the legal agreement. Members observed that they did consider that the legal agreement remained necessary.

Members were advised that 3no options were available to them in determining this appeal. These were:

- 1) Uphold the planning officer's recommendation and retain the wording of the condition
- 2) Overturn the planning officer's recommendation and remove the condition, or
- 3) Amend the wording of the planning condition

Whilst clearly having sympathy with the appellant's circumstances, Members acknowledged that the approval was granted for this house solely on the grounds that the identified business would operate from the site and if the condition was removed then any party could reside on the site without any business ties and that this would be contrary to Council's policies on housing in the countryside. This was a concern as it was considered some type of business should be operated from the site in order to maintain the spirit and reasoning as to why the house was allowed in the first instance.

The LRB considered that the house had only been on the market six months which was not considered a long enough period of time to test the market and to justify the complete removal of the planning condition. Members were also not satisfied that it had been demonstrated that the house had been specifically marketed for relevant business uses, rather than just within the general housing market.

However, the LRB acknowledged that the condition as currently framed did not technically allow the applicant, as the widow of someone operating a relevant business, to remain in the house and that the condition needed to be amended to address this. Members further considered that the condition was overly narrow and specific to the appellant's husband's business operations which consequently may limit options for any other interested parties to take occupancy of the house and operate a business as identified within the planning condition. Consequently Members considered that the condition could be made more flexible in allowing more options for the land to be operated for other agricultural or equestrian uses, and ensure that occupancy of the house was tied to that use.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the planning condition should be amended to allow more flexibility for the land to be operated for an agricultural or equestrian use associated with the occupancy of the house.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

3. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

4. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Cllr R Smith
Chairman of the Local Review Body

Date ...16 June 2016

APPENDIX III

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 16/00013/RREF

Planning Application Reference: 15/01498/FUL

Development Proposal: Change of use from Class 4 (Office) to Class 2 (Beauty Therapy Salon)

Location: Block 2 Unit 6 Cherry Court, Cavalry Park, Peebles

Applicant: Ms K McFadzean

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to a retrospective proposal for a change of use from Class 4 (office) use to class 2 (beauty therapy salon). The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	15/01498/FUL

PRELIMINARY MATTERS

The LRB considered at its meeting on 6th June 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included : a) Notice of Review including the Decision Notice, the Officer's report and consultation from Roads Planning; b) Papers referred to in report; c) Consultation – Economic Development and d)

List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

REASONING

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the adopted Local Development Plan 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal only against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policy : ED1

Members noted that the policy ED1 – Protection of Business and Industrial Land in the newly adopted LDP 2016 stated that with regards to Strategic High Amenity Sites (which is what Cavalry Park is identified as) Development will be predominantly for Class 4 use. The policy also states that other complementary commercial activity e.g. offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location. Members noted that the Council's Economic Development section had objected to the proposal as they considered the proposed Class 2 use was contrary to Development Plan policy.

Within the LRB appeal statement reference was made to what the appellants describe as a similar precedent made by the LRB previously within Cherry Court. That proposal related to a change of use to a dental surgery. However, Members considered that the practice only required a modest portion of the floor space of the existing business to operate which was in essence only a part change of use and the main use of the building would remain in a Class 4 use. The proposal subject to this appeal was wholly for a Class 2 use and therefore Members considered there were differing material circumstances between the proposals and the previous decision could not be considered a direct precedent for the current proposal.

In the planning officer's report reference was made to other unauthorised uses within Cavalry Park which required the submission of retrospective applications. These were being checked by the Council's enforcement team. Concern was raised as to why there appeared to be several unauthorised businesses operating within the Park. It was confirmed SBC planning officers had no involvement in these unauthorised uses and the duty to check whether planning consent should fall between the owners of the units and tenants.

Members noted that the proposal was retrospective and that the appellant had been operating her business from the premises since 2013. There were mixed opinions as to whether proposals such as this should be located within the town centres where they would normally be expected to be found and would in turn add footfall to the town centre, whilst others considered this was an appropriate location for the business and was easier accessed for visiting clients.

Members noted that the new adopted LDP did identify the site as a Strategic High Amenity site which sought a preference for Class 4 uses. It was accepted this proposal was a Class 2 use. However, some Members considered that this proposal was a complimentary use which enhanced the offering of uses within the Park, it provided employment, it provided diversity and there appeared to be other available empty units within Cavalry Park which suggested the demand for solely Class 4 uses was limited. On balance Members considered these to be overriding issues in the determination of the application.

CONCLUSION

Members considered that the reasons set out above amounted to the necessary extenuating circumstances as well as being a complimentary use which allowed support of the proposal in accordance with policy ED1.

DIRECTION

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

CONDITIONS

When the business use ceases to operate from the premises any subsequent use from the site must revert back to a Class 4 Use of the schedule of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

Reason : To ensure compliance with Local Development Plan policy

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

5. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
6. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Cllr R Smith
Chairman of the Local Review Body

Date ...16th June 2016

SCOTTISH BORDERS COUNCIL EXECUTIVE COMMITTEE

MINUTE of Meeting of the EXECUTIVE
COMMITTEE held in the Council Chamber,
Council Headquarters, Newtown St Boswells
on Tuesday 7 June 2016 at 10.00 am

Present:- Councillors D. Parker (Chairman), S. Bell, C. Bhatia, G. Edgar, J. G. Mitchell, D. Moffat, D. Paterson, F. Renton, R. Smith.

Also Present:- Councillors I. Gillespie, A. Nicol.

Apologies:- Councillors S. Aitchison, J. Brown, M. Cook, V. Davidson.

In Attendance:- Depute Chief Executive (People), Depute Chief Executive (Place), Chief Financial Officer, Corporate Transformation and Services Director, Clerk to the Council, Democratic Services Officer (K. Mason).

1. **MINUTE**

The Minute of meeting of the Executive Committee of 24 May 2016 had been circulated.

DECISION

APPROVED for signature by the Chairman.

2. **CORPORATE PERFORMANCE REPORT: ANNUAL SUMMARY (2015/16) and
QUARTER 4, 2015/16**

With reference to paragraph 3 of the Minute the Executive Committee of 16 February 2016, there had been circulated copies of a report by the Chief Executive presenting a summary of 2015/16 performance with details contained within Appendix 1; Appendix 2 of the report providing quarterly performance information. A summary of the main changes made to performance indicators was provided at Section 4 of the report, followed by a high level summary of performance in Section 5. Appendices 1 and 2 of the report provided more detail for each Performance Indicator (PI). All information contained within the Appendices was also made available on the SBC website using the public facing part of SBC's Performance Management software (Covalent). This could be accessed at http://www.scotborders.gov.uk/info/691/council_performance/1353/our_performance_as_a_council and by clicking on "Scottish Borders Performs". The annual performance information would be used within the management commentary section of SBC's Draft Statement of Accounts, submitted to KMPG and Audit Scotland by 30 June 2016, and for any other annual performance reporting requirements. The Corporate Performance and Information Manager was in attendance to present the report and Members commented on a number of areas. The Depute Chief Executive People referred to the improvements in the level of reading and presented statistics in relation to pupils in primary 1 schools in Langlee and Burnfoot. Primary 4 pupils in the same schools also showed a significant increase in passing attainment tests. Parents were now involved in the process which allowed education to be taken home as well as in the classroom. In response to a question raised about changes in the measurement of the unemployed and the lack of a correction figure because the information had gone from a different base, a rough quantity of the difference was asked for to enable comparison of the ongoing data with the past data, and the Corporate Performance and Information Manager undertook to provide the information. She also undertook to investigate the addition of a third sector supplement as a way of encapsulating wider community funding as opposed to funding influenced by the Scottish Borders Council. Officers were complimented on the new format of the report.

DECISION

NOTED:-

- (a) the changes to performance indicators outlined in Section 4 of the report as part of a continuous improvement agenda; and**
- (b) acknowledged the performance information presented in Section 5 of the report, and within Appendices 1 and 2 of the report, and the action being taken within Services to improve or maintain performance.**

1. 2015/2016 UNAUDITED REVENUE OUTTURN

There had been circulated copies of a report by the Chief Financial Officer providing a statement comparing final revenue outturn expenditure and income for 2015/16 with the final approved budget for the year and explanations for significant variances. An unaudited outturn underspend of £1.284m was achieved in the 2015/16 revenue budget. The £1.284m underspend (0.49% of Final Approved Budget) was delivered following a number of earmarked balances approved by the Executive Committee during 2015/16. In total, these amounted to £12.720m and related to a number of 11.55 initiatives across departments and specifically included £1.906m of carry forward for Devolved School Management (DSM). A high level summary of the outturn position in each Council department was detailed in section 4 of the report. Overall, as required in the Financial Plan, savings of £7.825m were successfully delivered during 2015/16. Of these, £6.620m (85%) were delivered permanently. The remaining £1.205m (15%) of savings were achieved on a temporary basis and thus particular emphasis was being placed on permanent delivery of these savings during the early part of 2016/17. Concern was expressed in relation to the delay in migration within the SWAN project which had created a significant overspend in 2015/16 which had been offset by underspends in other areas primarily due to a hold on non-essential discretionary spend in the last quarter of the year. The Chief Financial Officer advised of sensitive position including the legal position with the contract relating to the SWAN project. Due to the delay in switchover, the Council was still paying the previous contractor for 16 sites which had not as yet migrated. As with Dumfries and Galloway Council, the intention was to put a contingent asset into the Council's accounts. Members noted the favourable outturn position and thanked the Corporate Management Team and staff for all their financial management across the Council.

DECISION

AGREED to:-

- (a) note the content of the report and the outturn position prior to Statutory Audit;**
- (b) note that this draft unaudited outturn position would inform the budgetary control process and financial planning process for the current and future years; and**
- (c) approve the adjustments to earmarked balances as noted above and detailed in Appendix 1 to the report.**

4. BALANCES AS AT 31 MARCH 2016

There had been circulated copies of a report by the Chief Financial Officer providing an analysis of the Council's balances as at 31 March 2016. The Council's General Fund useable reserve (non-earmarked) balance was £5.638m at the end of the financial year. The 2015/16 balances were before a series of technical accounting adjustments, the effect of which were expected to be broadly neutral. Adjustments required as a result of the Statutory Audit process would be reported at the conclusion of the Audit. There were a number of areas of potential pressures identified for 2016/17 which, if not addressed during the financial year, might require the drawdown of further resources from the useable reserve.

The total of all useable balances, excluding developer contributions, at 31 March 2016 was £29.910m compared to £26.536m at 31 March 2015. It should be noted that the 2015/16 figures included £12.720m of balances earmarked for use in 2016/17 and future years (2014/15 £7.492m of balances earmarked for use in 2015/16 and future years). The Chief Financial Officer confirmed that Developer Contributions as detailed in Appendix 3 to the report were constantly monitored and applied as quickly as possible within the time period.

DECISION

NOTED:-

(a) **the revenue balances as at 31 March 2016 as detailed in Appendices 1 and 2 to the report including movement in the Allocated Reserve since the last reporting period; and**

(b) **the balance in the Capital Fund as detailed in Appendix 3 to the report.**

5. CAPITAL FINANCIAL PLAN 2015/16 – FINAL UNAUDITED OUTTURN

There had been circulated copies of a report by the Chief Financial Officer providing a statement comparing the final capital outturn for 2015/16 with the final budget for the year and identifying the main reasons for any significant variations. The final capital outturn statement for 2015/16 was included in Appendix 1 to the report and included reasons which had been identified by the Project Managers and Budget Holders for the variances to the final approved budget. This identified an outturn expenditure of £44.953m which was £2.956m below the final revised budget of £47.909m. The chart in paragraph 4.6 of the report demonstrated that there had been an increase in the cumulative net movement between 2015/16 and future financial years compared to the previous financial year. With regard to the Transport Interchange and the change in the eligible expenditure criteria for external funding and items not reaching defrayal before project financial close resulting in the total grant receivable for the project being reduced by £251k, it was noted that discussions continued with the Scottish Government regarding the funding of this project. It was also confirmed that the old bus station next to the Transport Interchange had now been demolished.

DECISION

AGREED:-

(a) **the final outturn statement detailed in Appendix 1 to the report;**

(b) **to note the adjustments to funding detailed in Appendix 1 to the report;**

(c) **to note the final block allocations detailed in Appendix 2 to the report; and**

(d) **to note that the results would inform the capital planning, monitoring and control processes for the current (and future) years.**

6. CORPORATE DEBTS WRITE OFFS IN 2015/16

There had been circulated copies of a report by the Chief Financial Officer, as required by the Financial Regulations, detailing the aggregate amounts of debt written off during 2015/16 under delegated authority. The report covered the areas of Council Tax, Non-Domestic Rates, Sundry Debtors, and Housing Benefit Overpayments. The total value of write-offs increased from £0.627m in 2014/15 to £0.679m in 2015/16. There were ongoing risks associated with the management of the Council's debts and these may lead to an increase in the level of debts that might require to be written off as irrecoverable in future years. These were identified in paragraph 6.2 of the report. The Chief Financial Officer confirmed

that the Council was happy with the service provided by Sheriff Officers, Walker Love, and answered questions relating to council tax and non-domestic rates surcharges.

DECISION

NOTED the debtor balances written off during 2015/16 under delegated authority.

7. REQUEST FOR THE REMOVAL OF A SECTION OF ROAD FROM THE COUNCIL'S LIST OF PUBLIC ROADS

There had been circulated copies of a report by the Service Director Regulatory Services seeking approval for the removal of part of the D148/4 Samieston and Upper Samieston road from the Council's List of Public Roads. The Council had been asked by the land owner if a section of the aforementioned road could be removed from the List of Public Roads. Following discussions with the various interested parties, it was proposed to remove the section of road shown on the plan attached to the report from the Council's List of Public Roads as requested.

DECISION

AGREED to the removal of part of the D148/4 Samieston and Upper Samieston Road, as shown between points A and D on the plan attached to the report, from the Council's List of Public Roads subject to there being no substantive representations made against the proposal.

8. REQUEST FOR THE INCLUSION OF A ROAD IN THE COUNCIL'S LIST OF PUBLIC ROADS

There had been circulated copies of a report by the Service Director Regulatory Services seeking approval for the causeway, serving Allanbrae and other properties, in Allanton to be added to the Council's List of Public Roads. The causeway, which served a number of properties at the northern end of Allanton - shown red on the plan in Annexe A to the report - was originally private with a vehicular right of access over the causeway for the properties along this section. In October 1964, the residents along the causeway entered into an agreement with Berwickshire County Council whereby the residents along this private road would fully fund the upgrading of the road to a standard suitable for adoption, after which Berwickshire County Council would add the road to their List of Public Roads. Upon receipt of the financial contribution, Berwickshire County Council carried out the agreed works. However it was unclear from the limited correspondence on record whether the road was formally added to the List of Public Roads at that time. There was currently no record of this road on the Council's List of Public Roads.

DECISION

AGREED to the inclusion of the causeway in question on the Council's List of Public Roads.

9. CORPORATE TRANSFORMATION PROGRESS REPORT

With reference to paragraph 7 of the Minute of 16 February 2016, there had been circulated copies of a report by the Corporate Transformation and Services Director on progress in developing and delivering the Council's Corporate Transformation Programme since the last update report and setting out planned activity in the reporting period to August 2016. This was the fifth quarterly progress report since the Programme was established in February 2015. The current areas of work within the Programme were set out in the tracker in Appendix 1 under the 8 Corporate Priorities and included a brief description of the purpose of each, a summary of progress made to date (rating them Red, Amber or Green) and setting out key milestones in the next quarter. Section 4 of the report set out the key highlights over the last reporting period. The Corporate Transformation and Services Director highlighted the key points in the report and answered questions in regard to projects relating to children and young people, digital connectivity and the waste plan.

DECISION

NOTED the continued progress made in developing and delivering the Corporate Transformation Programme.

10. BROADBAND IMPROVEMENTS UPDATE

With reference to paragraph 6 of the Minute of 2 February 2016, there had been circulated copies of a report by the Corporate Transformation and Services Director providing a further update on the progress which had been made in delivering improved broadband services in the Scottish Borders. Digital connectivity was critical to the economic development and competitiveness of the Scottish Borders. Scottish Borders Council had contributed significantly to the roll-out of the Scottish Government's Digital Scotland Superfast Broadband (DSSB) programme, providing £8.4M over two years to help extend the roll-out as far as possible in the Scottish Borders. More than 70 new superfast broadband cabinets had been installed as part of the roll-out, connecting over 19,500 premises in the Scottish Borders. The roll-out would continue until the end of 2017, aiming to serve approximately 94% of all the premises in the area. The Scottish Government had also put in place the Community Broadband Scotland (CBS) programme to support those communities and locations where the DSSB roll-out would not reach. Although good progress was being made with the DSSB programme, there was a range of challenging issues still to be addressed in relation to providing superfast broadband services across the Scottish Borders. These issues presented a significant impediment to allowing everyone access to better broadband services in an equitable way. The Corporate Transformation and Services Director highlighted the key points in the report. Members expressed concern that despite making a significant financial contribution of £8.4m to the current roll-out of the Scottish Government's DSSB programme, the service being delivered within areas was inconsistent and depended on a property's distance from the connection cabinet. If the cable to a property was longer than 1.2km, then there would likely be no increase in broadband capability. While a list of such affected properties had been requested, they could only be identified if people signed up to superfast broadband to allow a check to be made on connectivity and download levels/speeds. A whole postcode area could be marked as 'live' with superfast broadband if just one property was connected. While there were very complex technical issues associated with the infrastructure, the nature of potential solutions was also changing with the dynamics involved. Discussions were continuing with Scottish Government and the providers. In relation to the recommendation detailed in paragraph 2.1(b) of the report, the Chairman undertook to let Members have sight of the letter to the Scottish Government before it was sent and advised the letter would also be copied to local parliamentarians.

DECISION

AGREED:-

- (a) to note the progress made on delivering the Digital Scotland Superfast Broadband Programme as set out in Appendix 1 to the report;**
- (b) to express concern over the range of issues affecting the delivery of superfast broadband in the rural areas of the Scottish Borders and that a letter setting out these concerns and seeking clarification be sent to the Scottish Government and copied to local Parliamentarians;**
- (c) that a draft of the letter be issued to Members prior to being sent to Scottish Government;**
- (d) to note the work being done with Community Broadband Scotland to tackle gaps in superfast broadband provision across the South of Scotland; and**

- (e) **to ask the Corporate Transformation and Services Director to prepare a report on the contribution that the new CGI contract could make to the overall improvement of digital connectivity in the Scottish Borders.**

11. **SCOTTISH BORDERS CYCLE TOURISM STRATEGY – DRAFT FOR CONSULTATION**

There had been circulated copies of a report by the Corporate Transformation and Services Director seeking approval for a consultation exercise for the Draft Scottish Borders Cycle Tourism Strategy 2016-2021. The Scottish Borders had a long-established and substantial leisure cycling offer as well as world-class mountain biking. It had been agreed that a strategy for cycle tourism in the Scottish Borders should be developed to provide a strategic framework for the development of cycling in the area. The Draft Scottish Borders Cycle Tourism Strategy was set out in Appendix 1 to the report. It detailed the product strengths, the challenges and the ambitions of using cycling as a means to deliver economic benefit for the Scottish Borders economy. It also highlighted key issues that needed to be addressed to achieve that. The document would be used as the focus for a consultation exercise ensuring that all relevant partners, stakeholders and interested groups were fully involved in finalising the strategy. An Action Plan would also be produced as part of the consultation process. The Chief Officer Economic Development was in attendance and answered Members' questions. A request was made that Newcastleton Business Forum be added to the list of stakeholders to enable them to be included in the initial consultation process. Although Members were in favour of encouraging cycling, concern was expressed about the safety of cyclists using certain "A" roads and that they should be encouraged to use "B" roads and where appropriate cycle paths. The Chief Officer Economic Development agreed that safety was an important issue but the big attraction of roads in the Scottish Borders was that they were quieter than roads in other areas; he confirmed that a safety and awareness campaign needed to be put in place without making tourism cycling off putting.

DECISION

AGREED:-

- (a) **to note the Draft Scottish Borders Cycle Tourism Strategy 2016-2021 as set out in Appendix 1 to the report;**
- (b) **that a consultation exercise built around the Draft Strategy should be undertaken over the Summer period; and**
- (c) **to ask the Corporate Transformation and Services Director to present a report to the Committee following completion of the consultation process.**

12. **SYNTHETIC 3G PITCH PROGRAMME**

With reference to paragraph 7 of the Minute of 24 May 2016, there had been circulated copies of a report by the Corporate Transformation and Services Director seeking agreement on the way forward for the Council's 3G Synthetic Pitch Programme in the light of the Executive Committee decision on 24 May 2016 to withdraw the Planning Application for the proposed 3G pitch at Victoria Park in Peebles. Given the position relating to Peebles it was now recommended that Jedburgh was brought forward to 2017/18 and Peebles was slipped to 2018/19 pending further public consultation prior to a further decision in respect of how a 3G pitch could be progressed in Peebles. With regard to the 3G pitch in Peebles, the Chairman would write to the six Tweeddale Members to advise that the Corporate Transformation and Services Director would take forward the scope, timescale and consultation process in consultation with them. Councillor Bell submitted that the consultation must follow the best practice outlined in the Council's "Community Engagement Toolkit (2015)".

**DECISION
AGREED:-**

- (a) that the Jedburgh pitch be brought forward for delivery in 2017/18 and the Peebles pitch be slipped for delivery in 2018/19;**
- (b) that the additional funding requirements for the Jedburgh 3G pitch be considered as part of the six month review of the Council's Capital programme;**
- (c) to approve a timing movement from 2018/19 to 2016/17 to the value of £60,000 to allow design works to commence in respect of the Jedburgh 3G pitch.; and**
- (d) that the Corporate Transformation and Services Director take forward the scope, timing and consultation process for the Peebles 3G pitch, in consultation with the six Tweeddale Members.**

The meeting concluded at 11.55 a.m.

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**SCOTTISH BORDERS COUNCIL
LAUDER COMMON GOOD FUND SUB-COMMITTEE**

MINUTES of Meeting of the LAUDER
COMMON GOOD FUND SUB-COMMITTEE
held in The Leader's Office, Council
Headquarters, Newtown St Boswells on
Tuesday, 7th June, 2016 at 2.15 pm

Present:- Councillors D. Parker (Chairman), I. Gillespie and J. Torrance

Apologies:- Community Councillor A. Smith.

In Attendance:- Capital and Investment Manager (K Robb), Principal Solicitor (H MacLeod),
Estates Surveyor (J Morison), Democratic Services Officer (P Bolson).

1. MEMBER

Councillor Parker had intimated that he would join the meeting at the conclusion of the Executive Committee meeting. In his absence, it was agreed that Councillor Torrance would Chair the meeting.

2. MINUTE.

There had been circulated copies of the Minute of 23 February 2016.

DECISION

NOTED for signature by the Chairman.

3. MONITORING REPORT FOR PERIOD TO 31 MARCH 2016

There had been circulated copies of a report by the Chief Financial Officer giving details of the income and expenditure for the Lauder Common Good Fund for the year 2015/16 to 31 March 2016, including the proposed budget for 2016/17 and the projected balance sheet values at 31 March 2016. Appendix 1 to the report detailed the income and expenditure position for 2015/16 and Mrs Robb explained that this showed a surplus of £49,788 with a projected surplus of £49 for 2016/17. Appendix 2 contained the balance sheet value to 31 March 2016 showing a projected increase in reserves of £36,194 due to the surplus generated in the year and the movements in the value of investments. The Property Portfolio performance was detailed in Appendix 3 and listed the actual income and property expenditure to 31 March 2016 where applicable and any depreciation charges for 2015/16. Appendix 4 listed the Newton Fund investment to 31 March 2016. Ms Robb advised that overall, 2015/16 had been a successful year for Lauder Common Good Fund with dividends of £4,886 being received in total from the Newton Fund. The proposed budget for 2016/17 was based on a distribution from the Newton Fund of 2.0% of the market value at 31 March 2015. Discussion followed and Ms Robb explained that money could be transferred into the Common Good Fund at any time to manage future applications for financial assistance. She went on to advise that the Newton Fund managers would be visiting Scottish Borders Council in September 2016 and that Members would have an opportunity to raise questions with them at that time. Confirmation of details would be circulated in due course.

DECISION

(a) NOTED the report and detail in Appendices 1 to 4 to the report.

(b) AGREED the proposed budget for 2016/17 as detailed in Appendix 1.

4. **PROPERTY UPDATE: LAUDER COMMON CATTLE GRID.**

There had been circulated copies of a briefing note by Mr Morison, Estates Surveyor giving the background details of the current situation in relation to the cattle grids on Lauderhill leading to Whitlaw. Mr Morison explained that historically, Mr Forrest who farms at Whitlaw had cleaned out the cattle grid nearest the farm whilst other arrangements were in place for a second grid nearer Lauder. The track between the two cattle grids had been informally maintained in previous years by Mr Forrest however no formal agreement had been reached as to future maintenance. Mr J Forrest and Mr J McLean had contacted Mr Morison suggesting that agreement might be reached whereby they would continue to maintain the track and Lauder Common Good would assume responsibility for the cattle grids. The costs for a major repair to the cattle grid at Whitlaw had been estimated at a maximum of £2,000. Discussion followed and it was agreed that the Sub-Committee would write to Mr Forrest advising him that Lauder Common Good Fund would meet the cost of a major repair to the cattle grid on this occasion. In addition, the letter would also reiterate that the Trustees of the Fund would not be bound to maintaining the grid in future years.

DECISION

AGREED that the Council's Principal Solicitor, Ms MacLeod, on behalf of Lauder Common Good Fund respond to Mr J Forrest advising him that:-

- (a) **Lauder Common Good Fund would meet the cost of repairs to the cattle grid at Whitlaw on this occasion up to a maximum of £2,000; and**
- (b) **the letter would also reiterate that the Trustees of the Fund would not be bound to maintaining the grid in future years.**

5. **LAUDER LIBRARY FUND TRUST**

With reference to paragraph 7 of the Minute of 23 February 2016, it had been noted that financial reports on Lauder Library Fund would be presented to the Sub-Committee on an annual basis. On the advice of the Capital and Investment Manager, Members agreed that the sum of £600 be passed on the Library to cover its running costs for the year. The annual running costs of the Library were approximately £1,000 and Members noted that a small top-up request for financial assistance might be submitted to Lauder Common Good Fund Sub-Committee. It was the expectation, however, that Lauder Library would be self-funding.

DECISION

- (a) **NOTED.**
- (b) **AGREED that £600 be granted to the Lauder Library to cover running costs for 2016/17.**

The meeting concluded at 2.35 pm

SCOTTISH BORDERS COUNCIL WILLIAM HILL TRUST SUB-COMMITTEE

MINUTES of Meeting of the WILLIAM HILL TRUST SUB-COMMITTEE held in The Leader's Office, Council Headquarters, Newtown St Boswells on Tuesday, 7th June, 2016 at 2.35pm

Present:- Councillors I. Gillespie (Chairman), D. Parker and J. Torrance.
Apologies:- Community Councillor W. Windram.
In Attendance:- Capital and Investment Manager (K Robb), Principal Solicitor (H MacLeod), Democratic Services Officer (P Bolson).

1. **MINUTE**

There had been circulated copies of the Minute of 23February 2016.

DECISION

NOTED for signature by the Chairman.

2. **FINANCIAL MONITORING REPORT FOR TWELVE MONTHS TO 31 MARCH 2016**

There had been circulated copies of a report by the Chief Financial Officer giving details of the income and expenditure for the William Hill Trust Fund for the year 2015/16 to 31 March 2016, including the proposed budget for 2016/17 and the projected balance sheet values at 31 March 2016. Appendix 1 to the report detailed the income and expenditure position for 2015/16 and Mrs Robb explained that this showed a surplus of £8,654 with a projected deficit of £15,433 for 2016/17 directly related to the payment schedule for work undertaken at the Gibson Park in Melrose. Appendix 2 contained the balance sheet value to 31 March 2016 showing a projected increase in reserves of £6,168 due to movements in the value of investments. Appendix 3 showed the value of the Newton Fund investment to 31 March 2016. Ms Robb advised that overall, 2015/16 had been a successful year for the William Hill Trust Fund with dividends of £3,643 being received in total from the Newton Fund. The proposed budget for 2016/17 was based on a distribution from the Newton Fund of 2.0% of the market value at 31 March 2015. Ms Robb went on to advise that the Newton Fund managers would be visiting Scottish Borders Council in September 2016 and Members would have an opportunity to raise questions with them at that time. Confirmation of details would be circulated in due course.

DECISION

NOTED:-

(a) **NOTED the report and detail in Appendices 1 to 3 to the report.**

(b) **AGREED the proposed budget for 2016/17 as detailed in Appendix 1.**

3. **APPLICATION FOR FINANCIAL ASSISTANCE.**

There had been circulated copies of a request for financial assistance on behalf of Melrose Rugby Football Club (RFC). The application explained the history of Melrose RFC and listed the range of community activities that the Club was involved in locally. The application further explained that the financial assistance being sought was to enable the Club to take forward plans under a major 1983 Legacy Project. This Project would focus on celebrating that Melrose was the worldwide home of rugby and that the 7s game would be played as part of the Olympic Games for the first time this year. Melrose RFC wanted to (a) create new facilities at the Greenyards in Melrose which would allow people to train and play rugby and football on a daily basis; and (b) further develop their Clubhouse to provide a community based facility which would take account of local consultation responses. Consultation would be required to take this project forward. The

financial assistance that had been requested would be used to employ two consultancy companies to (i) undertake a local consultation and assist in the development of a Business Model; and (ii) to provide the technical resource in association with the project development. The total fees for the afore-mentioned consultations amounted to £20,826 (+ VAT). Funding of £5,000 each from the William Hill Trust Fund and the Community Grant Scheme had been requested to match fund Melrose Rugby Club's own commitment to the Project of £10,826. The application included Melrose RFC's Accounts for year ending 31 March 2015 along with detail of the fees to be charged by the consultants. Discussion followed in relation to the plans being proposed by Melrose RFC and some clarification was provided in response to questions by Members.

DECISION

AGREED that the application for financial assistance submitted by Melrose Rugby Football Club be approved in the sum of £5,000.

The meeting concluded at 3.05 pm

SCOTTISH BORDERS COUNCIL

SELKIRK COMMON GOOD FUND SUB COMMITTEE

MINUTE of Meeting of the SELKIRK
COMMON GOOD FUND SUB COMMITTEE
held in Committee Room 3, HQ on
Wednesday, 8 June, 2016 at 3.00 pm

Present:- Councillors G. Edgar (Chairman), M. Ballantyne, V. M. Davidson (from para 3.2) and Community Councillor T Combe

In Attendance:- Solicitor (J Webster), Senior Finance Officer (J Yallop), Estates Surveyor (J Morison), Democratic Services Officer (F Walling)

1. **DECLARATIONS OF INTEREST**

Community Councillor Combe declared an interest in the application for financial assistance from Scott's Selkirk Association (para 3.2) and left the meeting while this was being discussed.

2. **MINUTE**

There had been circulated copies of the Minute of 17 February 2016.

DECISION

APPROVED the Minute for signature by the Chairman

3. **FINANCIAL MONITORING REPORT TO 31 MARCH 2016**

- 3.1 There had been circulated copies of a report by the Chief Financial Officer providing the details of income and expenditure for the Selkirk Common Good Fund for the year to 31 March 2016, including balance sheet values to 31 March 2016 and proposed budget for 2016/17. Senior Finance Officer, John Yallop, highlighted the main points of the report and appendices. Appendix 1 to the report provided the actual income and expenditure for 2015/16. This showed a surplus of £30,579 and a projected surplus of £26,369 for 2016/17. The surplus for 2015/16 was more than projected due to lower than anticipated grant payments and property costs. Appendix 2 to the report provided a balance sheet value as at 31 March 2016. This showed a decrease in the reserves of £47,788 mainly due to the depreciation adjustment. A breakdown of the property portfolio was detailed in Appendix 3, showing where applicable the actual rental income and property expenditure to 31 March 2016 and the 2015/16 depreciation charge. Appendix 4 showed the value of the Newton Fund to 31 March 2016. The report explained the effects of uncertainty in the investment market during 2015/16. Despite a rally in Quarter 4 the value of the Newton Fund did not get back to its March 2015 level, resulting in a 1.5% fall in like for like market value over the year. However the closing market value of Selkirk Common Good investments at 31 March 2016 yielded a 4.0% unrealised gain since inception. Common Good dividends received in 2015/16 amounted to £2,960, approximately 2.3% of funds invested. Mr Yallop answered Members' questions in particular about the cash balance, with the view being expressed that more should be invested in the Newton Fund. Mr Yallop was asked to track the cash balance on a quarter by quarter basis over the last two years and to calculate how much could be invested based on an amount which was 10% lower than the lowest cash balance, but no more than £100k.

MEMBER

Councillor Davidson joined the meeting.

- 3.2 Mr Yallop drew attention to the application from Scott's Selkirk Association for the annual grant to cover the rent of the Green Shed for the 2015/16 financial year. Although this was on the agenda for discussion at a later stage of the meeting, Members agreed that in view of the nature of this standing financial arrangement with Scott's Selkirk it was appropriate to consider this in conjunction with the financial monitoring report. Having declared an interest Community Councillor Combe therefore left the meeting while this was being discussed. With reference to paragraph 2 of the Minute of 17 February 2016, Mr Yallop clarified that Scott's Selkirk Association currently paid an annual rent of £1,175 by monthly direct debit to Selkirk Common Good Fund for the Green Shed which the association maintained for use by other groups in the town. In return, an annual grant of £1,175 was paid back to the Association for carrying out that role. However, although £1,175 had been received in rent for 2015/16 the application from Scott's Selkirk was in retrospect as no grant had been paid for that year. Members agreed that a grant of £1,175 should be paid retrospectively for 2015/16 and that from 1 April 2016 they confirmed that this financial arrangement with Scott's Selkirk should be recorded in the accounts on a 'notional' basis. Members noted that the grant application received was for £1,200 but that the actual amount due was £1,175 as stated. It was also agreed that any rent from the association received to date for the 2016/17 financial year be re-imbursed prior to the arrangement being recorded on a 'notional' basis. It was also agreed that this arrangement with Scott's Selkirk be approved for two years after which time it would be reviewed and that an annual report be provided by Scott's Selkirk to the Selkirk Common Good Fund Sub Committee identifying full uses and occupiers of the hut.
- 3.3 Members' discussion moved on to consider other areas of the proposed 2016/17 budget. With regard to grants and donations it was agreed that, in view of the surplus funds, the grants payable budget should be increased from £16.5k to £26.5k, thereby reducing the proposed surplus in 2016/17 to £16,369. After receiving answers from the Estates Surveyor to questions about potential property maintenance requirements Members agreed to keep the property cost budget as stated, on the understanding that an in-year increase in budget may be required. There were further questions about the maintenance responsibilities in respect of the Victoria Hall and the use of the adjoining flat, in the light of the transfer to LiveBorders. It was noted that LiveBorders would have full responsibility for maintenance of the whole property but Members agreed that any contractual lease should include an oversight of maintenance and sublets etc. In concluding consideration of the financial monitoring report, Councillor Davidson referred again to the Central Support Service Charges to which Selkirk Common Good Fund had historically been committed, and which were shown to be high in comparison to those charged to other Common Good Funds. Mr Yallop agreed to pursue this issue with the Chief Financial Officer.

DECISION

(a) NOTED:-

- (i) the actual income and expenditure for 2015/16 shown in Appendix 1 to the report;**
- (ii) the final Balance Sheet value to 31 March 2016 in Appendix 2 to the report;**
- (iii) the summary of the property portfolio in Appendix 3 to the report; and**
- (iv) the current position of the investment in the Newton Fund in Appendix 4 to the report.**

- (b) **AGREED** the proposed budget for 2016/17 shown in Appendix 1 to the report subject to the following amendments:-
- (i) to pay to Scott's Selkirk Association the retrospective annual grant of £1,175 for the management of the Green Hut, for 2015/16 plus the re-imbursment of rent paid by the Association since 1 April 2016;
 - (ii) that the financial arrangement with Scott's Selkirk Association in respect of the Green Hut be moved to a notional grant and charge from 1 April 2016, subject to the receipt of an annual report and subject to the arrangement being reviewed after a two year period;
 - (iii) to increase the grants and donations budget to £26.5k; and
 - (iv) to invest a further amount in the Newton Fund based on an amount which was 10% lower than the lowest cash balance tracked over the last two years, but no more than £100k.
- (c) **AGREED** to pursue with the Chief Financial Officer the historical level of Central Support Charges applied to Selkirk Common Good and the possibility of re-imbursment for these.

4. **APPLICATIONS FOR FINANCIAL ASSISTANCE**

4.1 **Selkirk Chamber of Trade**

There had been circulated copies of an application from Selkirk Chamber of Trade for a grant of £4,000 to allow the Chamber of Trade to round off its involvement with the very successful Pop-up Shops initiative. The Chamber of Trade had originally conceived the idea and it had run the project since January 2013. The application gave details of how the project had been funded to date and grants received. The Chamber had been left with a deficit of just over £4,000 and following discussions about how best to carry the project forward it had been agreed that as of 30 April 2016 the administration of the project would be passed over to the owners of the shops currently in use. The Chamber of Trade would no longer run the project but would continue to support it in the future, noting the increase in footfall the project brought to the High Street. Members recognised the value of the Pop-up Shops initiative and the increased vibrancy brought to the town. Although they did not welcome retrospective applications for financial assistance they unanimously approved this grant to the Chamber of Trade.

DECISION

AGREED to grant £4,000 to the Selkirk Chamber of Trade.

4.2 **Selkirk Silver Band**

There had been circulated copies of an application from Selkirk Silver Band for a grant of £750 towards the costs of competing at the National Brass Band Championships in Cheltenham in September 2016. It was explained that this was the first time in 12 years that the band had qualified for the Finals. This was a great opportunity for the band to compete in the Championships and to represent the Scottish Borders and Scotland. Members congratulated the band and gave the application their unanimous support.

DECISION

AGREED to grant £750 to Selkirk Silver Band.

5. **PROPERTY**

The Estates Surveyor, James Morison, gave a verbal update on current property issues. With regard to repairs needed to the wall on Buccleuch Road the Property Manager had obtained a quote for repair in five phases, the total cost being £5.5k. After discussion Members agreed to authorise the repair in full but requested that this should be carried

out in phases with an invoice being submitted for each phase. Although the works on the ramp at the Green Hut had been completed it was noted that there was now a problem with the fit of the door allowing water to run in. Mr Morison agreed to ask the Property Manager to investigate this. Discussion continued on the repairs required to the old parapet at the bridge over the mill lade, in Victoria Park. This was not owned by the Common Good but Mr Morison was asked to look into how repairs could be funded through a community scheme, indicating that the Common Good would be prepared to contribute. Members were in favour of a suggestion to erect a small plaque drawing attention to this historical feature after repairs had been completed.

**DECISION
AGREED:-**

- (a) to approve repairs to the wall alongside Buccleuch Road to be carried out in five phases;
- (b) to request the Property Manager to investigate the fit of the door on the new ramp at the Green Hut; and
- (c) that the Common Good Fund would contribute towards the repair of the parapet at the bridge over the mill lade in Victoria Park if this could be pursued through a community scheme.

6. **ITEMS LIKELY TO BE TAKEN IN PRIVATE
DECISION**

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix 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.

7. **MINUTE**

Members approved the private section of the Minute of 17 February 2016.

8. **PROPERTY**

Members considered an update by the Estates Surveyor.

The meeting concluded at 5.15 pm