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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 2ND FEBRUARY, 2015

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COIUNCIL CHAMBER, SCOTTISH BORDERS COUNCIL, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 2ND FEBRUARY, 2015 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,
26 January 2015

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. Minute of Meeting of 12 January 2015 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Hag Law Wind Farm - 14/00738/FUL Construction of wind farm consisting of 8 No turbines up to 100m high to tip with associated external transformers, tracking, new site entrance of A701, borrow pit, underground cabling, substation and compound and temporary construction compound on land South East of Halmyre Mains Farmhouse (Hag Law Wind Farm)
	(b) Riverview Holiday Park, Mangerton, Newcastleton - 14/0126/FUL Modification of condition No 3 of planning consent 02/00813/COU in respect of the occupancy period of the static caravans at Riverview Holiday Park, Mangerton, Newcastleton
	(c) Land North East of Peelwalls House, Ayton - 14/00826/FUL Erection of 26 dwellinghouses and associated infrastructure on land North East of Peelwalls House, Ayton -
	(d) 14 Gallow Hill, Peebles - 14/01332/FUL Alterations and extension to dwellinghouse at 14 Gallow Hill, Peebles (Copies attached.)
6.	Appeals and Reviews. Consider report by Service Director Regulatory Services. (Copy attached.)

7.	Any Other Items Previously Circulated.
8.	Any Other Items which the Chairman Decides are Urgent.

NOTE

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

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

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

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

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

MINUTE of MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE held in the Council Headquarters, Newtown St. Boswells on 12 January 2015 at 10.00 a.m.

Present: - Councillors R. Smith (Chairman), M. Ballantyne (from para 6), J. Brown, J. Campbell, J. Fullarton, I. Gillespie, D. Moffat, S. Mountford, B. White.

In Attendance:- Development Standards Manager, Forward Planning Manager, Solicitor (G Nelson), Democratic Services Team Leader, Democratic Services Officer (F Henderson).

ORDER OF BUSINESS

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

WELCOME AND THANKS

2. The Chairman welcomed Councillor Joan Campbell back as a member of the Planning and Building Standards Committee and thanked Councillor Bell for his contribution to the Committee during his time as a member.

**DECISION
NOTED.**

MINUTE

3. There had been circulated copies of the Minute of the Meeting held on 8 December 2014.

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

SUPPLEMENTARY GUIDANCE: AFFORDABLE HOUSING REVIEW AND UPDATE

4. There had been circulated copies of a report by the Service Director Regulatory Services which sought approval of the Supplementary Guidance (SG) entitled 'Affordable Housing'. The report explained that the current Supplementary Planning Guidance (SPG) on Affordable Housing was approved on 10 January 2011, which had updated the SPG that was first approved in June 2005, and first amended in March 2007. This revised Supplementary Guidance (SG) had been updated to include new higher thresholds related to the on-site provision of affordable housing, which was designed to encourage the development of smaller housing sites by the smaller housing developer operating within the Borders. The thresholds would enhance the viability and help to facilitate the development of these sites. The updated Supplementary Guidance (SG) was contained in Appendix A to the report.
5. The thresholds for on-site provision were amended in line with the Committee decision on 3 March, and the position was that contributions towards affordable housing were not sought for single house developments; commuted payments would be acceptable for developments from 2-16 units; and that on site contributions would normally be required on developments of 17 units or above. This also recognised the long held position of the RSLs that they would normally seek to acquire 4 units or more prior to committing investment towards on-site AH delivery. The Forward Planning Manager was present at the meeting to answer Members questions. The Chairman requested that the map of the Borders showing details of commuted sums and types of developer contributions should be updated and circulated to Members. An annual review of the operation of the policy was also requested.

**DECISION
AGREED to :-**

- (a) **approve the use of the document as Supplementary Planning Guidance in the determination of planning applications pending the approval of the Local Development Plan; and**
- (b) **delegate the approval of the document as Supplementary Guidance as a part of the Local Development Plan, once the Local Development Plan had been adopted.**

MEMBER

Councillor Ballantyne joined the meeting.

DECLARATIONS OF INTEREST

Councillor Fullarton declared an interest in Application 14/00408/MOD75 in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

APPLICATIONS

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

DECISION

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

APPEALS AND REVIEWS

- 7. 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 outstanding an appeal in respect of Lylestane Farm, Oxtou.**
- (b) **review requests had been received in respect of the following:-**
 - (i) **Alterations and extension to reinstate dwellinghouse and erection of garage at 1 Prendergust Farm Cottages, Eyemouth – 14/00951/FUL; and**
 - (ii) **Erection of dwellinghouse and garage on land North East of School House, Heriot – 14/01063/PPP.**

The meeting concluded at 10.50 a.m.

APPENDIX I**APPLICATIONS FOR PLANNING PERMISSION**

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/00885/MOD75	Discharge of planning obligation pursuant to planning permission B255/95	Oxmuir, No.3 Hume Hall Holdings,

Decision: Approved, but also amended to include the discharge of the Section 75 legal agreement that was concluded to allow for the release of Planning Consent 06/00478/FUL.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/00408/MOD75	Discharge of planning obligation pursuant to planning permission 11/00200/PPP	Land North West of Wedderlie Cottages, Gordon

Decision: Approved.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/01218/FUL	Alterations and extension to dwellinghouse	27 Glen Road, Peebles

Decision: Approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. The external materials to be used on the extension or alteration shall match in all respects those of the existing building, and no other materials shall be used unless the prior written consent of the Local planning Authority is given for any variation thereto.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other openings shall be made in the walls of the extensions hereby approved unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.

NOTE

Mr Stuart Smith, Agent for the Applicant spoke in favour of the application.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 14/00738/FUL
OFFICER: John Hiscox
WARD: Tweeddale West
PROPOSAL: Construction of wind farm consisting of 8 No turbines up to 100m high to tip with associated external transformers, tracking, new site entrance off A701, borrow pit, underground cabling, substation and compound and temporary construction compound
SITE: Land South East of Halmyre Mains Farmhouse (Hag Law Wind Farm)
Romanno Bridge
Peeblesshire
APPLICANT: Stevenson Hill Wind Energy Ltd
AGENT: West Coast Energy Ltd

SITE DESCRIPTION:

The proposed site for Hag Law Wind Farm is situated on ridges of a range of hills south-east of the A701 near Romanno Bridge. These hills are known generally as the Cloich Hills, which lie between the Eddleston Water to the east, and Lyne Water to the west. The site extends westwards downhill from the turbine site to the A701, where access would be formed close to Halmyre Mains hamlet. The overall site area is described in the ES as being approximately 459 hectares. It goes on to state that development would occupy 6.6 hectares, which would equate to 1.4% of the total site area.

The 8 turbines would be sited in a generally linear manner along the three peaks of Green Knowe, Hag Law and Wether Law Hills; the turbine area would be accessed via a newly constructed access track that occupies the lower flanks of Wether Law (to the A701).

Landscape Character:

The development is situated entirely within the Upland Type, Plateau Outliers Landscape Character Type (LCT). The Cloich Hills are outlier hills to the Southern Uplands and Moorfoots, separated from greater upland masses by other LCTs having more of a valley character.

The 1998 Borders Landscape Character Assessment describes the LCA as follows:

- An upland plateau landscape characterised by hills and ridges covered by a mosaic of coarse grassland, heather and forestry, clearly separated from adjoining types by major river valleys

Its Key Characteristics are listed as:

- discrete hill masses separated from main plateau by major river valleys
- greater height difference between summits and valley floors
- mosaic of land cover types: heather moor, grassland and woodland plantation
- low density settlement, mainly confined to sheltered valleys

The following positive attributes of the LCA are further described:

- strong definition of topographic boundaries
- large amplitude of relief between valley floors and summits
- visual enclosure and backdrop features relatively common
- gradation of landscape scale between hill slopes and valleys
- visual harmony through integration of landform with diverse mosaic of land cover types
- valley routeways are of high archaeological significance

Under 'Negative Attributes' the following are mentioned:

- 'edge effects' from juxtaposition with adjoining major route corridors (A701, A703, A72) restrict qualities of isolation and tranquillity
- relatively high visual sensitivity due to major routes, together with network of minor routes on valley floors and lower hill sides
- occasional visually intrusive forest edges

Landscape Designations:

The site itself is not within any designated landscape areas. However, the following designations relate to the site:

- the Upper Tweeddale National Scenic Area is situated approximately 4km to the south of the nearest turbine
- the Tweedsmuir Uplands Special Landscape area is situated to the south of the site, the nearest turbine being approximately 3.7km distant
- the Tweed Valley Special Landscape Area is approximately 3.2km east of the nearest turbine
- the Pentland Hills Special Landscape Area is approximately 5.7km north-west of the site (nearest turbine)

The Portmore House Historic Garden/Designed Landscape is a little under 5km to the east of the nearest turbine.

PROPOSED DEVELOPMENT:

8 no. 100m high (to tip) turbines would be built along with associated tracks (approx 10.7km), crane pads, a borrow pit, transformer units at the base of each turbine, underground cabling within the site, a compound area and a substation. No control room building and no anemometry mast have been proposed. The turbines would be sited at the following heights above Ordnance Datum:

T1: 419m (NE of Wether Law summit)

T2: 455m (N of Wether Law summit)

T3: 463m (SW of Wether Law summit)

T4: 460m (between Wether Law and Hag Law summits)

T5: 456m (N of Hag Law summit)
 T6: 445m (on Hag Law summit)
 T7: 403m (on N of Green Knowe summit)
 T8: 368m (on S of Green Knowe summit)

The proposed access track would run from the A701 SW of Halmyre Mains up through the SW slopes of Wether Law, reaching Turbine no. 1 first at the northern end of the turbine row, although the proposed construction compound and borrow pit are proposed just SW of, and below T1 and T2.

A Micrositing allowance of 50m for all development components is requested to enable minor changes to be made to layout in response to ground constraints encountered during construction.

A lifespan of 25 years is proposed for the wind farm, at the end of which it would be decommissioned and the land restored to an agreed condition, unless further consent to extend the wind farm's life or to re-develop it ('re-powering') is obtained.

Infrastructure relating to grid connection (overhead/underground cable connection to an appropriate electricity station) would be the subject of a separate application to Scottish Government via Section 37 of the Electricity Act of 1989.

Development Visibility:

The ZTV material submitted as part of the ES (see, for example, Figure 5.5a 'Theoretical Visibility – Turbine Sections') shows that the main areas of visibility are as follows:

Out to 2.5km, the development would be theoretically visible prominently from most of the area. Topography precludes visibility of the turbines from a small area around Halmyre next to the A701 (although from the A701 within this zone the turbines are likely to be visible most of the time), and further from an area close to the Lyne Water near Bordlands. To the east and south-east, notwithstanding the presence of mature forestry plantations, the development would not be visible from sizeable areas of Cloich Forest.

Out to 5km, visibility is concentrated to the west, north-west, north and north-east and appears to be achievable (either to ground level at worst or to hub level at best) from around 50% of this 2.5km-5km ring. This area includes the settlements of Mountain Cross, Romannobridge, a section of the A701 and connecting routes from the A701 to West Linton.

Out to 7.5km, a section of the A72 near Kirkurd has potential visibility, a long stretch of the A702 is affected, more of the A701 near Leadburn and a significant stretch of the A703 heading from Leadburn towards Peebles. This area includes the settlements of West Linton, Blyth Bridge and Eddleston. From the east of Eddleston visibility increases as the land ascends to the east. Within this ring, it would appear that theoretical visibility extends to about 60% coverage.

The trend continues out to 10km where visibility is likely from further stretches of the A702 near Dolphinton (SW) and Carlups (NW) and then into the south-eastern slopes of the Pentland Hills. A section of the A721 west of Kirkdean is affected, more of the A703 heading north to Penicuik has a high level of theoretical visibility and high ground near Peebles comes into the picture.

The ZTV shows that beyond the 10km zone significant swathes of visibility occur within the Pentland Hills, still further along the A701 to the north-west of Penicuik, south-east of Penicuik through to the Moorfoot Hills and then to the south and south-east on higher ground of the Southern Uplands.

The ZTV demonstrates that theoretical visibility out to 10km is relatively high – this is an indicator that good topographical containment is not afforded to the scheme, inevitably because the turbines are proposed to be sited on prominent hill ridges.

NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRENT PROPOSAL:

Bowbeat: An operational wind farm approximately 9km to the east of the application site, within the Moorfoot Hills. The development was built in 2002, and consists of 24 turbines with a tip height of 80m. Its output is 31.2MW in total.

Mount Lothian: A current proposal in a major planning application to Midlothian Council, to which SBC has responded identifying its concerns about the landscape and visual impacts of the scheme. This scheme is currently at appeal with the DPEA. The site lies approximately 10km to the north-east of the Hag Law site. The development would consist of 9 turbines with a maximum tip height of 102m.

Spurlens Rig: A planning application for 6 turbines on this site near West Linton was refused in 2011. Tip height for each machine would have been 125m. This site is situated approximately 5km north-east of the Hag Law site. No appeal was made against this refusal.

Cloich Forest: The Cloich site is adjacent to Hag Law, just to the east and within the area of commercial forest known as Cloich Forest. 18 turbines with a tip height of 115m are proposed. Cloich is now to be the subject of a Public Inquiry, as a result of the objection submitted by SBC. The Inquiry sessions are scheduled for the end of May 2015.

There are other more peripheral schemes that may be of relevance to consideration of the Hag Law project. Those at **Glenkerie/Glenkerie Extension** and **Clyde/Clyde Extension** are examples of other significant projects with which Hag Law would have a sequential landscape and visual impact. Travellers using A-roads (e.g. A701) through Borders would potentially experience these schemes in sequence. However, the cumulative effects of Hag Law with these schemes may be of less significance than the effects that Hag Law would have by itself. This is because Hag Law would introduce large commercial turbines into an area where presently there are none.

PLANNING HISTORY:

12/01434/FUL - Erection of 10m high meteorological mast (retrospective) – approved 25.1.13 for a temporary period of 3 years.

13/00882/PAN – this is the Proposal of Application Notice that preceded the current application. Initially, the PAN related to a higher number of turbines on the site. However, this does not preclude changes to be made from PAN to application, as long as those changes do not present a fundamentally different type/level of development.

It should be noted that when the proposal was at Scoping stage, up to 25 turbines were proposed. At that time, the development was heading towards a Section 36

submission to Scottish Government as the output would have exceeded 50MW. The developer has opted to reduce the scheme in response to issues it has raised itself and in response to advice from consultees.

REPRESENTATION SUMMARY:

A total of 125 letters of objection and 1 letter of support have been received in respect of the application up to the date of writing this section of the report (19.12.14). The 125 letters of objection represent 100 households or third party groups. 18 households/parties have submitted more than one objection by different persons, whereas in the case of 3 persons, multiple objections have been submitted.

A summary of the matters of relevance raised in the letters of objection would be as follows:

- development fails to meet requirements of Scottish Planning Policy June 2014 – list of paragraphs and explanation provided
- adverse impacts on adjacent (designated) landscapes such as Pentland Hills/Tweed Valley/Tweedsmuir Uplands Special Landscape Areas (x3) and Upper Tweed National Scenic Area, due to high level of intervisibility
- development would add to adverse effects relating to Pentland Hills Regional Park – cumulative impact on views from the Park
- potential for shadow flicker to adversely affect residential amenity of properties in Halmyre due to elevation of site above them and proximity of turbines to homes - ES not giving issue adequate coverage
- potential for shadow flicker to adversely affect health of occupiers of nearby dwelling(s)
- shadow flicker also potential issue for Newlands School and Newlands Centre (with playgroup)
- turbines/development would have adverse impacts on landscape character and are not suited to this landscape area (including impacts caused by access tracks, borrow pit and hedgerow removal) – turbines on distinctive skyline and prominent on attractive hills – turbines rotating
- adverse landscape and visual impacts relating to the Meldon Hills and Glentress Forest
- SBC decision to object to Cloich should mean that Hag Law is also rejected, due to landscape and visual impacts
- together with Cloich, this proposal would amount to a saturation of wind farms in an inappropriate location
- concern that landscape and visual assessment does not adequately portray the likely landscape and visual effects of development
- concern that visual screening afforded by existing forestry could at any time be removed due to felling (harvesting)
- turbines are too close to residences/settlements, therefore would cause adverse visual impacts (including cumulative impacts with Cloich) on residential amenity – Romannobridge, Mountain Cross and West Linton cited
- relationship of turbines with Fingland Cottage, used for adults with mixed 'different abilities', would cause future visits by this group to cease
- potential adverse sequential impacts due to possibility that Mount Lothian and Cloich wind farms will also be present – A701 Scenic Route to Scotland impacted
- comparison to Bowbeat Wind Farm shows Bowbeat to be suited to its environs, whereas Hag Law is not due to ridge location

- adverse visual impacts also experienced from A702 and A703 – skyline development and out of scale with surrounding rounded hills
- potential adverse coincident cumulative landscape and visual impacts due to number of wind farm developments within 30km
- turbines at 100m tip height would be out of scale with underlying hills at 250m (turbines too large for receiving hills/landscape)
- potential for adverse landscape and visual impacts to harm tourism economy by being a deterrent to visitors – area described as ‘Gateway to the Borders’
- likely to be greater impacts on recreational resource including the public path network due to usage by walkers/riders and visitation within the site (Wether Law summit cited) than portrayed in the ES
- area acts as significant recreational resource in relation to broader area including Edinburgh – development has potential to harm this resource
- adverse impact on the recently designated Scottish National Trail (Cross Borders Drove Road), which lies in close proximity to the development – turbines too close to path
- potential for development to harm birds and wildlife habitat – impact of blade-strike on raptors mentioned and potential for development to affect bats and bees
- adverse visual impacts on the setting of historic asset – terracing at Noblehall
- harm to setting of Category A listed building – Spitalhaugh House – principal views from front elevation to turbines at 3.5km distance on ridge
- visual impact on setting of Portmore House – Category A Listed Building within Historic Garden/Designed Landscape
- adverse impacts of development on Historic Landscape
- unacceptable impact on the cultural significance of the area, notably the rich variety of ancient monuments, designed landscapes and historical buildings
- potential adverse impact on archaeology (subterranean archaeological resource)
- inappropriate industrialisation of rural environs
- potential adverse impact on residential amenity caused by generation of noise and vibration (although material presented within the ES not conclusive i.e. no noise impact surveys relating to properties within Halmyre Mains and other potentially suitable locations)
- statutory noise levels would be exceeded at 2 no. dwellings – Upper Stewarton and another unspecified dwelling
- data to enable proper assessment of wind impacts has not been provided and developer is not willing to publish as material is commercially sensitive
- concern that appraisal of wind resource has not been properly carried out, therefore the actual output from the wind farm is not assured
- potential for ground level works including earthworks, excavation and displacement to harm balance of water environment – potential risk of flooding caused by implementation of development (in relation to properties downhill from the site)
- concern relating to level of investigation discussed in ES covering ground water and surface water
- significant disturbance of peat and the water table
- potential for disturbance of water environment to harm private water supplies of residents in Halmyre

- proposed site boundary too close to Halmyre Mains Cottages
- concern that ES does not adequately assess potential environmental effects relating to Halmyre Mains
- concern that access would be located in unsuitable (dangerous) location on A701
- transportation of development would lead to adverse impacts on residential amenity – noise, vibration dust and delays
- ES not accurate in terms of swept path analysis – A701 not suitable for abnormal loads traffic – narrow, twisty and undulating in places
- transportation of abnormal loads on stretch of narrow road has potential to harm trees on opposite side of A701 (at Halmyre Mains)
- proposed route unclear – more than one route shown in ES
- location and heights of turbines not in accord with SBC Local Development Plan
- siting of turbines on crest of hills means that they would be highly visible over long distances
- rural Scotland becoming saturated with wind farms – remaining spaces should be preserved/protected
- unlikely that economic benefits including job creation would be substantial
- likely productivity of site in terms of energy production in relation to wind resource has not been adequately researched
- a windfarm of this size will not generate sufficient renewable energy to balance the cost of a damaged landscape
- Scottish Government targets for renewable energy generation will be met by already operational, consented and other applications awaiting determination, therefore no need for this wind farm scheme to be consented
- information relating to energy targets inaccurate/misleading
- likelihood that site would be re-developed rather than decommissioned towards the end of its intended lifespan
- development would set precedent for other wind farms and extensions in the locality
- alternative of offshore wind farms preferable as there is a great deal of space offshore
- developer's own ES confirms high level of adverse effects, but these have been underestimated
- concern relating to potential flashing red lighting as required by MoD
- potential electromagnetic interference harming residential amenity in West Linton and Romannobridge

A summary of the matters of relevance raised in the letter of support would be as follows:

- development would promote revenue for the surrounding area
- majority of people find wind turbines attractive – local opinion should not obscure this

Members are asked also to note that matters of 'grants' to the community, otherwise known as community funding, are not considered as part of the planning process and are not material planning considerations.

APPLICANTS' SUPPORTING INFORMATION:

The application is supported by a full Environmental Statement, which comprises the following components (all dated June 2014):

'Planning Documents' – this item contains an introduction to the scheme, describes site selection and the project itself, includes a needs and benefits section and a planning appraisal.

'Non-Technical Summary' – an executive summary/overview of the project.

'Pre-Application Consultation Report' – giving coverage to pre-application activity within local communities affected by the development.

'Design and Access Statement' – document discusses design evolution leading to current layout and gives an overview of access concerns.

Volume 1 'Written Text' – the main written, explanatory section of the ES giving detailed coverage to a range of environmental issues as well as setting the scene for the proposal (including a policy appraisal).

Volume 2 'Appendices' Part A and Part B, containing a range of statistical and graphical material to correspond with the remainder of the ES.

Volume 3 'Graphics and Figures', this being a document with most of the relevant maps, montages and wireline drawings forming part of the ES.

In December 2014, Supplementary Environmental Information was formally submitted in relation to matters raised in the objection by SEPA. The material covers primarily flood risk and matters pertaining to peat.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees:

Archaeology Officer:

Recommends that the application be refused, because the development would unacceptably harm the settings of 4 scheduled monuments of national importance and a historic landscape of at least regional importance, and because the benefits of the scheme do not outweigh the value of these assets.

A detailed analysis of the potential effects confirms the impacts on the four following monuments to be overwhelmingly harmful:

- Wether Law Cairn
- Romanno Mains Barrows
- Drum Maw Settlement
- Whiteside Hill Fort

These monuments are situated within, and contribute to the historic landscape "comprised of evidence for human activity from the Neolithic to the present, with an exceptional number of prehistoric settlements and features surviving and perceptible."

Advice relating to conditions that could help to mitigate in respect of direct impacts (i.e. to the unknown, subterranean archaeological resource) is provided, and which should be applied if permission is granted.

However, confirms that mitigation by removal of turbines would not be achievable and that the principle of introducing large-scale turbines here is an overriding issue due to the sensitivity of the location. Further, the introduction of access tracks in relation to Wether Law Cairn would be visually overly intrusive into the monument's setting.

Cumulative visual impacts with Cloich are also given coverage, but in its own right the Hag Law scheme promotes overriding concerns.

Roads Planning Manager:

No objection to the development as it does not promote any overriding, unacceptable road safety issues.

Conditions are recommended that would address matters of traffic management and construction of the access onto the A701.

Ecology Officer:

No objection to the proposal, as it is unlikely to cause a significant adverse impact on the ecological interest providing mitigation is implemented as identified in the ES and adopting recommendations for changes to the scheme and/or conditions.

In alignment with the SNH response, it is suggested that infrastructure components could be relocated onto ground where effects are less likely to impact on the River Tweed Special Area of Conservation.

Recommendations include: relocation of Turbine 2 so that impacts on bog habitat are reduced; mitigation measures for minimising habitat impacts (e.g. floating tracks); compensation for habitat loss through Habitat Management Plan; effects on the water environment controlled via Construction Method Statement and Drainage Management Plan; ensuring that habitat for bats, otter, badger, reptiles and protected birds are conserved.

A range of conditions is proposed.

The updated response on 16.1.5 indicates that although the FEI material overcomes SEPA's objection, there are other impacts on habitat that have not been addressed. In particular, it is proposed that the development at T5, T6 and T7 including tracks requires further attention in terms of mitigation.

Outdoor Access Officer:

Recommends that the application be refused. This recommendation is based upon the proximity of the development (turbines) to the Cross Borders Drove Road, which is adopted as part of the Scottish National Trail from Kirk Yetholm to Cape Wrath.

Conditions are recommended for use if permission is granted. These relate to:

- avoidance of obstruction of Cross Borders Drove Road

- requirement to advise about diversion of other path routes and changes to path infrastructure
- requirement to ensure adequate set-back distances of turbines from rights of way

In addition, it is requested that reasonable developer contributions are made towards maintenance/promotion of the path network.

Environmental Health Officer:

Advises that further information would be required prior to determination, as to date there are a number of areas where clarification (or correction of information) is required. Further information contained within the response would potentially give rise to planning conditions or informative notes, if planning permission is granted.

No change to their position in response to the FEI material received in December 2014.

Flood Risk Officer:

No objection. Request is made for detailed drainage design/pollution mitigation to be submitted.

The Flood Risk Officer provided an updated consultation response on 16.1.15. The response confirms that the applicant has provided information that gives comfort on relation to the following matters:

- confirmation of greenfield run-off rates
- satisfactory design of water crossing on Fingland Burn
- measures for sediment management agreeable
- content/provision of Construction Environmental Management Plan

Landscape Architect:

Does not support the application. Development considered primarily in relation to Local Plan Policy D4.

The principal concerns relate to:

- although the site itself is not within any landscape designations, a range of designations exist within 3.2 – 5.6km such as National Scenic Area and Special Landscape Area. Despite absence of designation on the site itself, Criterion 1 of the Policy is not fully satisfied
- relationship of site with surrounding landscape designations and landscape types makes the proposal not fully compatible with Criterion 2 of the Policy, which relates to locating wind farms in large scale upland landscapes
- overall lack of good topographical containment and high level of visibility from a range of areas make the proposal not compliant with Criterion 3
- the high level of visibility and nature of the proposal (ridgetop) in relation to high sensitivity receptors (including main road routes and settlements) render the proposal at odds with Criterion 4 of the Policy

- due to the effects on landscape character in particular when viewed from West Linton and environs, the proposal does not conform with Criterion 5(i) of the Policy
- proposal conflicts with Criterion 5(iii) of the Policy due to the adverse landscape impacts of Hag Law when appraised cumulatively with the Cloich Wind Farm proposal, in both a coincident and sequential sense
- concerns relating to potential landscape and visual implications of the access proposal where it ascends from the A701 in full view of the road (mitigation required)

Conclusion to this response reads:

“A variety of significant adverse impacts have been identified in the applicant’s ES. Section 5.13.9 states that adverse impacts are ‘reversible’ and 5.13.10 states that adverse impacts are ‘largely limited to the areas closest to the site’. However, the same can be said of any windfarm. 5.13.10 goes on to conclude that the impacts: “can be considered proportionate to the development of this commercial scale windfarm”.

The judgement for planning approval is compliance with policy, in particular, Policy D4. This application starts with a severe disadvantage because it is located within a small outlier of ‘large scale’ upland landscape surrounded by smaller scale river valley and upland fringe landscapes which contain a much greater number of sensitive receptors including residential properties, paths and 3 A class roads. There are designated landscapes on all sides. There is inadequate surrounding landform to provide effective topographical containment and so we find the application site sitting on top of a skyline ridge overlooking the Midland plain (LCT 8WL) and dominating views from that direction where the Cloich Hills form the south eastern skyline. There are also potential cumulative impacts with the neighbouring application at Cloich and sequential cumulative impacts caused by the extension of ‘windfarm affected landscape’ across the 3 A class roads where travellers are likely to encounter other windfarms on their onward journey. I cannot agree with the conclusion that the landscape and visual impacts are proportionate and I do not consider that the application satisfies policy D4.”

No change to this position in response to the FEI material received in December 2014.

Statutory Consultees

Scottish Environmental Protection Agency (SEPA):

Originally objected to the application, on the grounds of a lack of information relating to impacts to peatland. It offered to review its position if the developer addressed a range of issues and also recommended conditions for use if planning permission is ultimately granted.

Recommended re-siting (potentially via Micrositing) of Turbine 2 and the access track to Turbine 3, which are presently on bog habitat. If this was not possible, asked for justification of the proposal in its current form.

Relocation of the construction compound onto less sensitive habitat was recommended.

SEPA **withdrew** its formal objection to the proposal following the submission of information directly from the developer to SEPA in November 2014.

However, SEPA advised that conditions recommended in its original response should still be attached to any consent and that more broadly all comments (apart from Section 1) apply. This would still potentially lead to conditions being imposed that affect the layout of the scheme.

Scottish Natural Heritage (SNH):

Does not object to the proposal. However, a range of issues, which SNH points out are interrelated, are discussed which are potentially very significant to consideration of the application. In summary, these are:

- adverse impacts on landscape character and distinctiveness due to prominent siting of turbines
- adverse landscape and visual impacts relating to key transport routes (including key tourist routes) and settlements
- adverse landscape and visual impacts relating to Upper Tweed National Scenic Area
- extensive cumulative landscape and visual effects, in particular with Cloich Wind Farm – conflicting appearance of two schemes, should both be consented
- potential inappropriateness of establishing a wind farm development area where presently the locality is relatively wind farm-free
- proposal not likely to promote harmful impacts on Special Areas of Conservation or Special Protection Areas, as long as appropriate mitigation is implemented – ‘appropriate assessments’ not required
- although it has not been proposed in the ES, a Habitat Management Plan would be required
- borrow pit, construction compound and substation proposed on steeply sloping ground – relocation should be considered due to potential landscape and visual impacts and impacts to the River Tweed SAC
- construction of tracks would have potential to cause permanent change to land profiles – careful management/mitigation required

A detailed Appendix describing/expanding upon landscape and visual impacts and their significance is included with the planning consultation response.

On 30.12.14 SNH confirmed that it had no comment to make on the Addendum material received in December, as it does not relate to SNH concerns.

Ministry of Defence:

Originally objected to the application, on the grounds that development would interfere with Eskdalemuir Seismological Recording Station (turbine noise/vibration). However, the objection was **withdrawn** in October, following update of position relating to Eskdalemuir limitations.

Advises on requirement for conditions covering notification of final proposals to MoD and installation of directional lighting.

Historic Scotland:

Objects to the proposal on the following grounds:

- adverse impacts of turbines and access tracks on setting of a nationally important scheduled monument known as Wether Law Cairn

Notes concerns relating to other heritage assets (monuments, Inventory gardens/designed landscapes, Category A listed buildings) but none overriding in the manner of Wether Law Cairn. Gives detailed appraisal of effects on the Cairn.

Indicates that objection could potentially be removed with mitigation in respect of T2 and T3 and section of access track affecting setting of Cairn.

Advises that Micrositing of T1 would mitigate to some extent by moving this turbine out of direct sight between Wether Law cairn and Arthur's Seat.

Maintains original position in response to the FEI material received in December 2014.

Manor, Stobo and Lyne Community Council:

Objects to the application on the following grounds:

- adverse landscape and visual impacts relating to the Upper Tweed National Scenic Area – Policy N10 requires development to offer benefits of national significance to outweigh effects on NSA (SBC note – Policy N10 is a Structure Plan Policy and therefore is now obsolete)
- potential energy output from the development less than 0.1% of Scottish Government targets – not significant nationally (wind capacity for Scotland already at 98%)
- wind data not provided – essential to enable understanding of benefits development has potential to bring
- noise assessment incorporates serious errors and therefore is of no value to consideration of the application – does not take account of all relevant matters
- ES is of very poor quality, inhibiting appraisal of the proposal
- landscape and visual impacts relating to Newlands and neighbouring localities
- potential for residents in settlements on A701 to experience high levels of noise from turbines – noise arising does not comply with recommendations in ETSU-R-97

A detailed Appendix setting out this CC's reasons for objection is submitted as part of the objection. It discusses in detail matters of:

- landscape and visual impacts
- noise
- socio-economic benefits
- lawfulness/competence of the application (relating to noise/data)

This Community Council submitted a further response in January 2015, following re-consultation on the FEI material. The submission discusses principally flood risk, and the opinion that the ES/FEI does not give adequate coverage to the issue of flooding.

It is suggested that there is not adequate information upon which an accurate view can be taken.

The updated consultation reply was specifically drawn to the developers' attention on 12.1.15. The developer indicated, by return, that they had no further comment to make.

Peebles and District Community Council:

Objects to the application on the following grounds:

- visual impact in an area of outstanding natural beauty
- landscape impact in an environmentally sensitive area, where its economy is so dependent on the high standing of its environment and landscape
- relationship of development with adjacent 18-turbine scheme at Cloich Forest; would rather have no wind farms at Cloich/Hag Law but has preference to support Cloich out of the 2 proposals – view based on timing of submission, ownership of Cloich (in public ownership) and:
- view based on need for two sets of infrastructure to serve two separate developments – over-development of the sites

Carlops Community Council:

Whilst not stating an objection, listed a number of concerns, relating to the following issues:

- cumulative impact of the development with the adjacent Cloich development
- combined impact of both schemes would have very significant impact on landscape character – visibility from/relationship with Tourism traffic route and Pentland Hills cited
- area around site has rich archaeology which is not properly mapped – detailed archaeological survey required prior to construction

Eddleston Community Council:

Objects to the application on the following grounds:

- unacceptable visual impact in an area of scenic beauty;
- unacceptable impact on the natural environment, including water supplies and water courses;
- unacceptable impact on the built environment and amenity;
- unacceptable impact on wildlife;
- unacceptable impact on local infrastructure and roads.

Lamancha, Newlands and Kirkurd Community Council:

Objects to the proposal on the following grounds:

- adverse landscape and visual impacts on the surrounding area
- harm to ground environment (peat, soil, hydrology)
- development too close to residential housing and farmland

- adverse impact on amenity of area causing detriment to tourism value/attractiveness as destination
- noise levels unacceptable – harm to residential amenity
- access proposals likely to harm road safety
- potential for shadow/sun flicker to increase danger to road users
- access proposals give rise to adverse landscape impacts
- potential increase in run-off floodwater due to development, including access
- adverse impacts on heritage assets
- no clear indication of potential connection into electricity grid
- development has potential to create precedent for later phases to be added – concerns that this phase not economically viable

The updated response of 14 January 2015 reaffirms the reasons for objection originally cited, but adds the following:

- reiterates concern relating to flood risk, and absence of adequate detail/mitigation
- wind data should be provided (data currently not provided as applicants withhold it due to commercial sensitivity)
- inadequate Environmental Impact Assessment
- inadequate community involvement

West Linton Community Council:

Does not support the proposal for the following reasons:

- Scottish Borders has an over sufficiency of turbines – care should be taken on where to site new developments
- absence of full suite of wind data – needs to be provided before any decisions made
- concern that mode/route for grid connection is not known/stated
- potential for noise nuisance relating to residential properties, from turbines
- problems arising from increase in heavy traffic on road network
- lack of certainty relating to swept path of abnormal load vehicles, in relation to garden/road/bridge boundaries
- concern relating to potentially invasive nature of new road infrastructure
- lack of information/clarity relating to impact of works on flooding (run-off)

RSPB:

No objection to the proposal, but makes comments relating to birds and habitat that should be further considered by the planning authority.

Transport Scotland:

No objection, but recommends conditions relating to transportation/management of abnormal loads and nature of proposed signage/traffic control.

Edinburgh Airport:

No objection.

Midlothian Council:

Whilst formally objecting to the proposal, submits a range of observations/concerns, as follows:

Landscape and Visual Impact:

- The proposal sets a risk of precedent for large turbines in this location and increases potential for cumulative impact of turbines, as seen from the north in Midlothian, along the whole length of the northern edges of the Moorfoot and Lammermuir Hill ranges. To date the area of this proposal is devoid of large turbines and this Council considers this position should remain to help reduce potential for cumulative impact associated with turbines in the northern parts of the Moorfoot and Lammermuir Hills.
- concerned at the risk of considerable adverse visual impact from the proposed turbines on Gladhouse Reservoir SPA; from the Midlothian visitor routes of the road from Gladhouse Reservoir to the A703 (including views to the Pentland Hills) and from the A703 approaching Midlothian from the south; as well as on a number of communities in southern and south western Midlothian.

Scotways (Scottish Rights of Way and Access Society):

Objects to the development, due to the potential adverse impacts on the Cross Borders Drove Road, which forms part of the Scottish National Trail.

Joint Radio Council:

No objection.

NERL:

No safeguarding objection in relation to management of en route air traffic.

Scottish Badgers:

Does not identify any overriding planning issues relating to badgers.

The Coal Authority:

No objection.

Other responses:

No consultation responses have been received from the Scottish Wildlife Trust, Peebles Civic Society, Scottish Water or the Association for the Protection of Rural Scotland.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013:

Policy 10 – Sustainable Energy Technologies

Consolidated Scottish Borders Local Plan 2011:

Policy G1 – Quality Standards for New Development
Policy G4 – Flooding
Policy G5 – Developer Contributions
Policy BE1 – Listed Buildings
Policy BE2 – Archaeological Sites and Ancient Monuments
Policy BE3 – Gardens and Designed Landscapes
Policy BE4 – Conservation Areas
Policy NE3 – Local Biodiversity
Policy NE4 – Trees, Woodlands and Hedgerows
Policy NE5 – Development Affecting the Water Environment
Policy EP1 – National Scenic Areas
Policy H2 – Protection of Residential Amenity
Policy Inf2 – Protection of Access Routes
Policy Inf6 – Sustainable Drainage
Policy D4 – Renewable Energy Development

Emerging Scottish Borders Local Development Plan:

Members are advised that the LDP should not be material to the consideration of the proposal. Until the LDP has been the subject of an Inquiry by Scottish Ministers and the result of the Inquiry is published, its status will not change. The primary local policy document relevant to the application remains the adopted 2011 Local Plan.

OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy (2007)
- Wind Energy (2011)
- Biodiversity (2005)
- Local Landscape Designations (2012)

Scottish Government Policy and Guidance:

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

Scottish Government On-line Renewables Advice:

Circular 3/2011 Environmental Impact Assessment (S) Regulations 2011
PAN 60 Planning for Natural Heritage 2008
PAN 51 Planning, Environmental Protection and Regulation
PAN 1/2011 Planning and Noise
PAN 2/2011 Planning and Archaeology
PAN 1/2013 Environmental Impact Assessment

Historic Scotland Publications:

Scottish Historic Environment Policy (2011)

SNH Publications:

Siting and designing windfarms in the landscape (2014)
Assessing the cumulative impact of onshore wind energy developments
Plus a range of on-line advice on renewables provided by SNH

KEY PLANNING ISSUES:

- land use planning policy principle
- economic benefits attributable to the scheme
- benefits arising in terms of renewable energy provision
- landscape and visual impacts including residential amenity visual impacts, arising from turbines and infrastructure
- cumulative landscape and visual impacts with other wind energy developments
- physical and setting impacts on cultural heritage assets
- noise impacts
- ecological, ornithological and habitat effects
- impacts on peat and groundwater resource
- impact on road safety and the road network
- shadow flicker
- developer contributions

ASSESSMENT OF APPLICATION:

Land Use Planning Policy Principle:

National, regional and local planning policy positively supports the principle of delivering renewable energy via implementation of on-shore wind farms. Unless there are overriding environmental effects, consent should be given for well located and designed wind farms, in particular if mitigation measures are in place to address environmental effects.

Consideration must be given to the suitability of a site in perpetuity rather than temporarily; the new SPP published in 2014 confirms this. This acknowledges the potential to re-power sites as they reach the end of their intended operational life.

This site is on upland farmland/moorland, is not within a National Scenic Area and has no other designations that would prevent the principle being considered. It is not designated as a Special Landscape Area within the SBC Supplementary Guidance (Local Landscape Designations).

In terms of the SBC Wind Energy SPG Spatial Strategy adopted in 2010, the turbines would be situated where an Area of Minor Constraint (yellow) meets Areas of Moderate Constraint (Lower and Higher – light and dark blue respectively). The A701 has blanket coverage as an Area of Significant Protection (red), which extends either side of the road to protect its visual environs.

Economic Benefits:

The renewable energy industry is important nationally, leads to employment and investment during construction and during the lifespan of the development.

It is likely that the level of employment activity in particular during implementation would be significant. This would have the potential to promote use of local facilities and services including accommodation, shopping and recreation. Following

implementation of development, it would be likely that a relatively low level of employment would occur on a day-to-day basis; whereas at decommissioning stage there would again be a high level of activity.

Whether the implementation of wind farms promotes disbenefits to local economies (or, indeed national economies) in terms of potential to harm tourism and visitation is a matter still under scrutiny. The Scottish Borders is visited because of its attractiveness and for the recreational opportunities it offers. Whether the implementation of wind farms is harming, or has harmed Borders' tourism economy is not qualified. It would be true to state, however, that their implementation divides opinion – the presence of wind farms causes some to be deterred, some to be ambivalent and some to respond positively. At the present time, no published information describing potential tourism effects is material to the consideration of an application of this type.

It may therefore be concluded that in terms of economic benefits, there would be some mentionable gain, but not so significant as to be a major determining factor.

Benefits arising in terms of renewable energy provision:

The proposed wind farm would provide an output of up to 20MW, on the basis that each turbine would have the potential to generate 2.5MW.

This proposed additional generating capacity might be described as a modest contribution to national targets. In a recent decision by the DPEA Reporter on the appeal at Barrel Law, near Robertson in Borders (a comparable scheme – 8 turbines generating up to 24MW – ref. PPA-140-2046), the significance of such contributions raised interesting dialogue. Paragraphs 37 and 38 ('Benefits of the Proposal') of the decision follow:

“37. Barrel Law would have an installed capacity of up to 24 megawatts. The Scottish Government target for renewable electricity generation is for renewables to generate the equivalent of 100 per cent of gross annual consumption by 2020, with an interim target of 50 per cent by 2015. The latest statistics published in June 2014 indicate that in 2013, around 46.6 per cent of Scotland's electricity needs came from renewables. The 100 per cent target roughly equates to 16 gigawatts of installed capacity (all technologies, onshore and marine), of which the Barrel Law turbines could contribute 0.15%. This would be a small but useful contribution.

38. However, the recent statistics indicate that 6.8 gigawatts of capacity was operational in March 2014, with a further 6.5 gigawatts under construction or consented, giving a total of 13.3 gigawatts and leaving only an additional 2.7 gigawatts required by 2020 to meet the target. Against that, proposals for 7.2 gigawatts were in planning, more than two and a half times the amount needed to close the gap. I accept that some of these proposals will be at an early stage and might not be capable of completion by 2020, and that some will fail to win approval. However, others have been approved since March. I also accept that the target is not a cap, and that any additional capacity will help to reduce the UK's carbon emissions. However, the rate of progress and the availability of alternatives suggest that the weight that should be given to Barrel Law's contribution is not as great as it would have been with a larger shortfall against the target, or a lack of other schemes.”

Although the appeal decision primarily reflects one Reporter's opinion, it brings into question the significance of the contributions that would be made by small wind farm

proposals such as Hag Law, in particular as this contribution must be weighed against the significant environmental effects arising.

Landscape and visual impacts

The ES is supported by a range of graphical material supposed to portray the potential landscape and visual impacts of the development from a range of areas and/or receptors, represented by photomontage information taken from 35 viewpoints, in total.

Consideration should be given to the following observations, which relate to viewpoints which identify significant matters:

Viewpoint 1 – Cross Borders Drove Road:

This viewpoint is situated a little over 300m from the nearest turbines, and is situated close to the southern end of the row of turbines.

The way the montages have been put together is not as helpful as it might have been, because each montage merely shows Hag Law hill in isolation from the viewpoint itself – it is a long, narrow, horizontal montage section not giving full context by excluding what is at viewer level.

However, what the montages do not fail to show is how the two southernmost turbines in particular would dominate Hag Law, sitting on top of its ridge. The effect of placing turbines on a ridgetop above the receptor at close quarters is to exacerbate the apparent effect and cause the apparent scale of turbines to be appear greater.

The Cross Borders Drove Road forms part of the Scottish National Trail and is an important receptor in terms of its potential to be used as a regional and national long-distance walking route. Placement of the turbines would give rise to a very high level of visual impact for a section of the Trail – the montage represents the type of view users would obtain, although it does not enable an understanding of what the user's overall experience would be.

However, it confirms that for this receptor, potentially over several kilometres, the amenity of its users would be changed substantially by bringing the turbines into the close field of vision of walkers at the lower level. Given the attractiveness of the hills and the section of the Drove Road, this substantial change would be adverse, especially where the nearest turbine is so close at a little over 300m.

VP2 - A701, West edge of Romannobridge:

This viewpoint is approximately 3km from the turbine group showing on the ridgeline between two small hills. It shows how 6 of the 8 turbines proposed would appear as a line on the ridge very clearly from the A701, and in relation to Romannobridge settlement. The montage does not enable the full impression of the turbines to be understood, as from this stretch of road they would be the dominant, moving new component of what is currently a gentle scene of pastoral landscape with intervening tracts of woodland.

The A701 is an important tourist route to and from Scotland. It is important to ensure that the experience for users is not dominated by wind turbines. The Clyde/Extension schemes are prominent further south and the Glenkerie development comes sharply into focus for a brief period near Tweedsmuir. But, as yet, this general area is not

characterised by wind farms; nor is the sequential effect for travellers noticeable in and around the nearby populated sections of the route. Hag Law is highly prominent, benefitting from very little in the way of topographical screening. This is one of the viewpoints clearly demonstrating this type of effect, which is characteristic of the scheme.

VP3 – A701 near Whitmuir:

This viewpoint is situated approximately 2km from the nearest turbine, and is seeing the 5-6 turbines above mature plantations in the foreground. This view of the turbines is in the opposite direction to VP2, for road users travelling south.

It demonstrates again the likely prominence of the development in relation to the A701, and on the ridgeline above the road. The ES acknowledges that the effects from this location would be ‘significant adverse’. There is a strong likelihood that the turbines would feature prominently on the horizon for a significant distance where they are not shielded by foreground trees (not the plantation – lower down slopes towards the road).

VP4 – Mountain Cross Settlement:

This viewpoint is situated approximately 4km west of the development on the A701. It demonstrates how highly visible the row of turbines would be from this important route, but also how the turbines are situated on top of the topography for the most part.

The row would dominate its visual environs and cause the turbines to be eye-catching, challenging the primacy of the range of gentle hills.

VP5 – B7059 near Lyne Water:

In this montage it is possible to get a sense of the scale of the turbines in relation to the scale of the receiving landscape. Notwithstanding the relationship of the turbines with Whiteside Hill in the left of the picture, at least 3 of the turbines would be highly visible from this general direction and look too big for the underlying hills receiving them. The turbines ‘skyline’ very noticeably. This is an adverse and undesirable landscape effect.

VP6 – B7059 near Boghouse:

From this locale, the row of turbines fiercely competes with the undulating series of small hills, seeming to dominate the ridge and dwarf the scale of existing landscape components, such as the plantations and tree belts in the left half of the picture.

What is also apparent is the open and exposed nature of the Wether Law peak/monument area and the sloping fields in front of it within which it is proposed to locate the primary access.

VP9 – Bogsbank/Pirn Hill:

This viewpoint at around 4km to the west on a route connecting West Linton to the A701 allows the development to be seen (in terms of the turbines) in its most adverse visual form. The long line of turbines dominates the ridge and detracts from the gentle undulations of the plateau outliers. In this type of view, the turbines conflict with their receiving environs rather than harmonising.

This type of effect challenges landscape character by setting into the scene a new component that is so clearly visible and dominant that the underlying landscape loses its primacy. Again, this demonstrates the effects of placing turbines on top of topography rather than utilising topography to mitigate potential impacts.

VP10 – Black Meldon Fort:

This viewpoint is sensitive due to its status as a scheduled hilltop monument. It is a well-used hill for recreation (walking). The most noticeable effect from here, at a little under 4.5km, is that the Cloich proposal and the Hag Law proposal do not marry. Cloich and Hag Law look like what they are – two schemes designed very differently, close enough to be viewed coincidentally so that overall it might be perceived as one wind farm, but with part of that wind farm looking out of kilter with the remainder.

Notwithstanding the cumulative effects with Cloich, Hag Law by itself would be a visible intervention, even at this distance.

VP12 – West Linton:

This viewpoint is situated 5km away from the turbines, and is on the southern fringes of West Linton village. Unfortunately, the montage does not reflect the actual potential effects of the turbines as the contrast and picture quality is poor.

However, this view generally reflects the effects to be expected from environs in and around West Linton, from where views across the Cloich Hills are readily available.

From this direction and at this distance, it is possible to get an understanding of how small the hills are perceived to be, and therefore how the scale of the turbines is too great for the scale of the hills. Furthermore, it is from this side-on view that the overtly linear nature of the turbine grouping is witnessed. The montage depicts dominance rather than harmony, in particular because of the lack of topographical containment but also due to the way the turbines sit openly on the ridge, thus preventing the ridge from being the prime visual component of the landscape. Instead, the turbines become the focus of the view as the landscape does not have the capacity to absorb them.

VP13 – A702, north of Dolphinton:

This viewpoint is situated a little over 6.5km to the west of the turbine group, representing a stretch of the A702 which, according to the ZTV, has potential visibility of turbines to ground level most of the time from Penicuik through to Dolphinton and beyond.

It demonstrates the prominence of the turbines even at this distance, with six of the eight turbines showing hub upwards as a line along the horizon. It also demonstrates the lack of topographical containment once again.

VP15 – Core Path 154 above Eddleston:

In fact, this viewpoint is located at Milkieston Rings in a hilltop location approximately 6km east of the turbines. The main effect witnessed from this direction is the cumulative coincident landscape and visual effect of Cloich and Hag Law combined.

It might be argued that from this direction, due to the apparent scale of the Cloich Hills, Hag Law by itself would be reasonably well related to the scale of the hills, whereas Cloich from here is witnessed as quite dominant and having a skylining effect.

However, Hag Law and Cloich combined looks to a great extent like one wind farm, with the Hag Law smaller turbines (15m less than Cloich to tip) appearing like a small backdrop to Cloich. If Hag Law were to be developed in tandem with Cloich, it may be argued that from this direction the effects would be acceptable.

These effects are also seen from **VP21 (Dundreich Hill)** although from VP21 the view is highly panoramic – many phases of landscape are visible even in the montage. However, compared to Cloich the Hag Law turbines do appear to sit on the ridge (especially T1-T6) despite their lesser height. This is most apparent in Figure 5.33, where Hag Law is montaged by itself. It should be noted that in some climatic conditions, the turbines would appear much more clearly than the montage depicts.

VP18 – A703, Layby north of Millenium Farm:

This viewpoint is a little under 7km from the turbines and is elevated in relation to its environs, thereby giving a view on a clear day across several phases of landscape/hills. The low profile of the afforested Cloich Hills is readily apparent in the montage, and it may be argued that from here, either cumulatively with Cloich or by itself the Hag Law proposal does not harmonise with its receiving landscape.

With Cloich, the proposal looks like a poorly sited/ designed outlier to a main wind farm. It is neither close enough to be seen coherently with Cloich, nor far enough away to be seen with clear separation. It looks like a cluster of ‘outliers’ stacking together and causing a negative focal point that does not relate well to the profile of the hills.

Without Cloich, it has no coherence with its receiving environs when viewed from this area because the view is of the line (albeit jumbled/staggered) more or less end-on. The scale of the turbines from this area looks too great for the hills as they sit on top of the ridge in a group, which together would be intensified by proximity of turbines within the group, drawing attention to Hag Law as an anachronism in the landscape.

Similar effects are witnessed from **VP 26 at Leadburn/A701**, although at greater distance (just less than 8.5km).

VP22 – Carlin’s Loup, Carlops:

This montage is taken from the top of the rocky mound, giving an opportunity to look across the landscape where, at just under 8km distant, the Cloich Hills are readily visible.

From this viewpoint, the wirelines/montages demonstrate once again how prominent the turbines would be and how the row skylines along the top of the hills.

VP23 – Auchencorth Moss:

This viewpoint is a little less than 8.5km to the north-west of the development. From here the Cloich Hills and the development would be viewed clearly together. The wirelines/montages show from this direction how the Cloich and Hag Law do not harmonise with each other and how both schemes appear to sit on the hills. Hag Law

is slightly more prominent due to the ridgeline siting of the turbines and is also more gappy.

VP27 – A702/A766 Junction:

This viewpoint is 9.5km from the turbines, looking south-east towards the cluster. The most noticeable effect here is that of the coincident cumulative relationship of Cloich and Hag Law. There is no coherence between the two schemes, although they would be seen adjacent to one another. Hag Law from this angle looks "gappy" and poorly laid out, and more prominent on the ridge than Cloich despite the shorter turbines.

Notwithstanding the distance, this incoherence would be observed in the landscape and if both Cloich and Hag Law were developed, the view of both wind farms together would be 'jarring'.

By itself, the Hag Law scheme from here is again shown to be too great in terms of vertical scale in relation to the scale of the hills.

VP29 – Cademuir Hill:

This viewpoint doubles up as a heritage viewpoint due to the importance and designation as a scheduled monument site. It is a popular destination for walkers and relates to the John Buchan Way (it is regularly taken in as part of the JBW experience as a detour).

This viewpoint looks through to Cloich and Hag Law via the White and Black Meldons. Several of the turbines are seen behind or on top of Black Meldon from here, and despite the distance at just over 10km, the presence of turbines moving in the landscape would easily be seen on clear days.

A significant effect when viewing the wind farm from here is that cumulatively Hag Law and Cloich do not harmonise. Hag Law looks like a part of the Cloich proposal that should be 'designed out' to promote visual coherence (especially T4, T5 and T6).

By itself, the scheme would add a prominent, kinetic and intrusive development that does not benefit from topographical containment and which skylines, partially on top of the Black Meldon hill.

Conclusion in respect of Landscape and Visual Impacts (not including residential amenity and cultural heritage):

Hag Law would occupy a prominent ridgetop location which has high levels of visibility from settlements and from important highways and path routes. It has no real topographical containment, which is somewhat inevitable as the turbines are to be sited on top of the hill ridges.

By itself, it would appear as a poorly designed and laid out development, which from some vantage points looks like an intense and jumbled cluster and from others would appear as a dominant linear feature on top of the landscape. The scale of the turbines from some views is too great in relation to the scale of the hills which accentuates the prominence and dominance of the turbines.

The proposed access route would give rise to adverse impacts on the landscape as it crosses land sloping down to the A701 at Halmyre, and it is unlikely that mitigation

would soften the visual effects adequately because this area in front of Wether Law is so open and highly visible from the A701 and from viewpoints further afield. Reference to diagrams on Page 10 of SNH's May 2014 Guidance 'Siting and Design of Wind Farms in the Landscape' just above paragraph 2.19 may be of interest as it gives an example of insensitive siting and design of wind farm infrastructure which is quite similar to the potential effects relating to Hag Law.

The proposed siting of the borrow pit and compound give rise to concerns relating to visual impact because they would be sited close to the Wether Law summit (less than 400m away) and because even once restored in line with the new profile shown on Figure 8.6 (near the back of Volume 3 of the ES) the appearance of the pit site would conflict with the natural curvature of the slopes and hills, which are open to view from the A701. An unnatural looking hollow would appear; given the overall worked borrow pit area would be around 160m x 100m, the resultant re-profiled area would not be harmonious with its setting, which is made more sensitive due to its relationship with Wether Law.

Cumulatively with Cloich the scheme does any real coherence, the different design of each being so apparent and there being such a strong level of coincident viewing that the disharmony is easily viewed from a range of viewpoints/areas.

Visual Impacts Relating to Residential Amenity:

Although there is no graphical information showing the likely visual impacts of the development on individual residences, Appendix 5.9 'Residential Amenity Tables' includes a brief written assessment of the likely impacts on all dwellings within 2.5km. Figure 5.12 (within Volume 3) is a map identifying the locations of all the properties assessed.

The application would have benefitted from a section including photomontages, or at least wireline drawings from these properties. Without such information available, it is difficult to make an assessment of how the properties are likely to be affected. The ES does confirm that a range of properties would be affected in a 'significant adverse' manner. It identifies 12 properties (although at some of the property locations there are more than one residence) within the 2.5km range that would experience this level of adverse impact.

When turbines are positioned up above residential receptors, and where the users of those receptors (including the garden and access areas) have views to the turbines, the apparent effects of height are exacerbated, or accentuated due to the sense that the resident is underneath the turbines. The sense of proximity to the moving structures is increased due to this relationship.

The Hag Law site is up above the A701 and within quite close proximity. The access site is in between some of the residences most affected by views of the turbines themselves, which would also be affected by the access proposals, including how they would change the appearance of the slopes up to Wether Law.

The relationship between the development and the residential receptors on the A701 gives rise to immediate concerns because of future visibility/proximity. Viewpoint 6, although not specific to the area concerned (is further back away from the A701 to the west) gives an idea of how the turbines might appear on the horizon, albeit they would be closer when viewed from those residences. The montage includes some of the buildings/dwellings at Halmyre and also includes the slope and the Wether Law summit.

Most of the residences expecting a significant adverse visual impact are a little under or over 2km from the nearest turbine. However, the sense of proximity is likely to appear more intense, with the turbines appearing closer due to their elevation. The settlements of Mountain Cross, Romannobridge and West Linton would have strong visibility towards the development at fairly close range. The environs of these settlements would develop an association with Hag Law as it dominates the nearby ridge.

Viewpoint 2 close to Romannobridge shows how at 3km the turbines are a new and strong visual intervention up above the village. The montage includes dwellings closer to the site that would experience a high level of change, and this change would be associated with the settlement as a whole as well as with the individual residences within it. The experience at Mountain Cross would be similar but less intense as it is nearer 4km away; further out at West Linton (5km) the wind farm would be a prominent associated item with a high level of visual interplay with the village.

Although the information presented is limited in this context, it would appear that the relationship of the wind farm with a range of sensitive receptors as described in the ES is less than ideal, and indeed with the entire settlement at Romannobridge (Halmyre) the development would become a dominant component of the environs, changing the nature of daily life in and around the settlement. For those residents predicted to have a 'significant adverse' impact on their visual amenity, notwithstanding the proposed access, the situation would be bordering on overwhelming with the turbines sometimes closer than 2km and elevated above.

In conclusion, it is considered that the development would give rise to issues of adverse visual impact that are of high significance; and, rather than these impacts being just about tolerable, they are considered to be unacceptable, especially with such a high number of dwellings (including the settlements) experiencing strong visibility of the turbines elevated above their valley environs. Furthermore, the chosen location for the site access and the proposal to construct it across the open slopes of Wether Law would be highly intrusive and very challenging to mitigate at all due to the gradient and exposed nature of the access area.

The relationship between the wind farm and residential receptors is disharmonious and would give rise to an unacceptably high level of adverse visual impact.

Visual Impacts Relating to Cultural Heritage:

The issue of visual impact on heritage settings is discussed in detail within the consultation responses of Historic Scotland and the SBC Archaeology Officer. Neither favours the development in its current form; indeed, it seems likely that the principle of developing a commercial wind farm in this general location raises very significant heritage issues.

First, and taking into account the presence of a range of scheduled monuments of national importance, the scheme is considered to give rise to overwhelming harmful effects, in particular in relation to the Wether Law cairn, which is a hilltop cairn within the ridge proposed for accommodating the wind farm. Because Wether Law is a hilltop monument and because the hill itself is discernible as the location of the monument, and because the turbines and infrastructure are proposed so close to it, this is the most clear cut overriding harmful visual impact on setting. Historic Scotland, while not raising any major concerns about the effects on other

monuments, has objected because of the setting impacts for Wether Law. It should be noted that whereas Historic Scotland indicates that turbine and infrastructure removal would potentially overcome its objection, this view is not shared by the SBC Archaeology Officer.

In relation to a further 3 scheduled monuments, the SBC Archaeology Officer has identified overriding concerns relating to setting impact. In respect of each, the consultation reply gives detailed advice about why the impacts are unacceptable. In each case, the interrelationship of the monuments with other monuments and their settings is key to consideration of the visual effects.

In terms of Whiteside Hill Fort, its relationship with the nearby Flemington Burn and Lyne Water valleys, and with Drochil Hill Fort are influential.

In relation to the scheduled Drum Maw settlement, its relationship with the Flemington Burn and Fingland Burns and the impact of the turbines on the setting is of high concern.

In respect of the Romanno Mains Barrows, there is a wider relationship with nearby Wether Law, the Fingland Burn and the Lyne Water Valley. This is impacted adversely by the turbines being present on the ridgeline directly above the monument.

In relation to Historic Landscape, it is advised that the richness of heritage in this Cloich Hills locale is second in the Borders only to that of the Cheviot foothills and Southern Uplands south of Hawick. The introduction of the wind farm is described as out of keeping and incongruous within the surviving historic features of the landscape. This issue is highly similar to that of the Cloich wind farm, which promoted an objection to that scheme. In the case of Cloich, the following text was included in the report:

“The placement of the development at Cloich would be prominent in an area that is highly sensitive to visual change, in particular because it is a Historic Landscape but equally because it would cause an unacceptable level of harm to the settings of SAMs.”

In the case of Hag Law, which shares the Cloich Hills with the Cloich wind farm proposal, issues are similarly overriding and are not mitigatable.

Physical Impacts on Cultural Heritage:

The consultation response of the SBC Archaeology Officer has confirmed that although the ES has undervalued the potential archaeological resource, there are no issues relating to impacts on subterranean archaeology that are overriding. A suite of conditions has been proposed which would enable analysis and recording if the development goes ahead, and protection of assets encountered in-situ where appropriate.

Impacts on Residential Amenity Arising from Noise:

In this respect, the planning department takes its specialist advice from the Environmental Health Officer.

It can be seen within the planning consultation response that a significant number of issues remain that are required to be addressed prior to determination. Unless noise

information is improved and clarification given, the noise specialist for SBC cannot make the full assessment and is not in a position to indicate precisely what noise issues are, what their implications are and whether mitigation/control of noise is achievable.

The developer has not submitted the material requested by the SBC noise specialist, and as a result noise remains a matter that has the potential to be influential in the recommendation. In the absence of accurate information, and in acknowledgement of the clear concerns being raised, this would preclude support of the application. This is because it is not known whether the principle of introducing Hag Law would be acceptable, in particular when noise is measured with Cloich Wind Farm adjacent.

Ecological, Ornithological and Habitat Effects:

Although no consultees have identified any fundamental concerns relating to biodiversity and habitat, SNH, SEPA and the SBC Ecology Officer have all identified potential issues that could be addressed through mitigation. Mitigation in this context is likely to involve relocation of various components of the scheme on grounds only relating to this subject area.

For example, the SBC Ecology Officer and SNH have agreed/advised that to minimise risk to the River Tweed Special Area of Conservation (SAC) consideration should be given to moving the borrow pit, construction compound and substation onto lower, more level ground. The ability to move these items may be within the gift of the developer to a certain extent, if a Micrositing allowance were to be permitted within a planning permission. However, it seems likely that the changes being suggested by SNH and the Ecology Officer would relocate the items further away than 50m. The developer would be required to assess whether revisions could be made to re-site the items mentioned; or, in the event of permission being granted, it could be appropriate to apply a condition that identifies these items as 'not approved' and requiring to be approved post-consent. This would be reasonable, because if it can be accepted that the wind farm is acceptable in principle, it must also be accepted that infrastructure including a substation and construction compound is inevitably required.

In relation to the borrow pit, and in the context of SPP Para 243, it would appear that SNH is questioning the appropriateness of introducing any borrow pits here. Borrow pits should only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries, they are time-limited and tied to a particular project and appropriate reclamation measures are in place.

However, one borrow pit would appear to be proportionate to the level of development being proposed, and if implemented in an agreeable location that is not harmful to the landscape or to biodiversity and habitat, it is likely that the principle of its creation can be accepted, in particular if its restoration can be properly managed to minimise all environmental effects.

The Water Environment:

This topic has promoted a great deal of interest from objectors, in particular because of concerns that interference with the water resource could lead to flooding overland and downhill towards the properties at Halmyre, but also due to potential impacts on drinking water.

Displacement of soil would inevitably cause change to the ground and therefore development would need to be undertaken with mitigation in place to ensure that water supplies are not harmed and that flood risk is managed. However, there is no overriding reason to resist the development in terms of its potential impact on the water resource.

The SBC Flood Risk Officer has indicated in the consultation reply that care needs to be taken in managing the surface water due to potential increase in overland water flow during development. There is no indication that any increased risk of flooding is such that it would lead to a reason to resist the development. In the event of planning permission being granted, suitable conditions would be proposed.

Further, SEPA has indicated that although the development has the potential to affect Ground Water Dependent Terrestrial Ecosystems (GWDTEs) the effects are manageable. Again, conditions would be appropriate to deal with this issue. One such condition would require the compound to be re-sited to protect GWDTEs.

Peat:

The ground environment that would be affected by the development is peaty and is therefore of value as a natural resource. This promoted an objection by SEPA to the scheme as originally submitted.

However, no consultees with specialist expertise relating to peat and habitat have raised overriding concerns about impacts on peat. The material submitted in the Addendum (December 2014) enabled SEPA to withdraw its objection. The scheme would affect the peat resource but not so harmfully that it would present a reason to refuse. In the event of permission being granted, it would be necessary to impose suitable conditions. It is possible that any such conditions might lead to revision of the layout to overcome certain issues.

Impact on Road Safety and the Road Network:

The proposal has given rise to a lot of adverse comment from the public in terms of impacts on road safety. The nature of the section of road that would provide the new site access has been mentioned repeatedly insofar as it is considered by many to be unsuitable due to alignment, undulation, limited forward visibility and the speed/nature of traffic using the road.

This is not reflected in the planning consultation replies of the two specialists available to SBC. In technical context, it may be considered that the placement of a new access to serve the wind farm, with abnormal loads included, is acceptable.

It is a little concerning that the new access would be sited fairly near several domestic properties with no connection to the wind farm. During the construction period there would be potential disturbance to residents of properties at Halmyre Mains and Halmyre House. However, taking into consideration the responses of the relevant consultees, any such impact to amenity would not translate to a significant road safety concern. The proximity of the proposed access to the aforementioned properties is not so close that the relationship between the residences and the development would be dangerous 'per se'.

There are no significant concerns relating to the formation of the access in terms of road safety. All secondary matters could be handled via conditions.

Shadow Flicker:

There is the potential for the sun to shine through moving turbines as it rises in the east, and for shadow to be cast towards properties in Halmyre/Romannobridge. There is reasonable separation between the dwellings and the turbines in the context of shadow flicker, but nonetheless it is plausible (it has not been demonstrated otherwise) that properties could be affected.

It would therefore be appropriate to require shadow flicker to be mitigated/managed if it becomes a problem. This could be secured via suitable planning conditions, if permission is granted.

Developer Contributions:

Having regard to the nature of the development and its predominantly occurring effects, i.e. those which are most significant to the recommendation of the application, it is considered that it would be appropriate to seek developer contributions in respect of the following matters, in the event of consent being granted:

- financial contribution towards the upkeep and maintenance of the public path network and areas of public access in particular where those paths/areas relate to important walking destinations and are most impacted by the development
- financial contribution towards the archaeological analysis of the historic landscape at and adjacent to the Hag Law site, potentially through LiDAR aerial surveying

CONCLUSION:

In relation to national, regional and local planning policy, applications for onshore wind development are to be supported unless there are overriding reasons to refuse. There is no cap to the amount of energy that may be produced by wind generation in mainland Scotland. 20MW is relatively little compared to the potential output of many of the wind farms operational or approved in Borders, but it would be commensurate with outputs from the like of Black Hill and Drone Hill in Berwickshire, and Glenkerie in Tweeddale. It is acknowledged that implementation, operation and decommissioning of the development would give rise periodically to high employment and investment.

However, the scheme itself would be built in a location which does not lend itself easily to accommodating a wind farm. It is sensitive due to:

- the visual interrelationships between the site and different landscape character areas including designated landscapes
- the proximity of roads, walking routes, residences and settlements to the site from which visibility is high
- the open and ridgeline nature of the site, which is highly visible from many vantage points
- the lack of topographical containment afforded to the site as these are small but prominent hills
- the sensitivity of the landscape from a heritage point of view, in particular because of the presence of a range of scheduled monuments of national importance whose settings it is important to protect

- the relationship of the site with that of the proposed Cloich Wind Farm just to the east, due to the potential coincident landscape and visual impacts that could occur; and
- the relatively wind farm free nature of the locality in general, taking into consideration the presence of only Bowbeat Wind Farm (Moorfoot Hills), previous refusals relating to Spurlens Rig and Auchencorth Wind Farms and the SBC objection to Cloich which has triggered a public inquiry.

Hag Law does not conform to the usual requirements for wind farms in terms of its landscape and visual impacts. The Cloich Hills are small and the turbines would dominate them in terms of scale; containment is poor due to the nature of the landscape meaning that the turbines would be highly visible from many vantage points; the linear nature of the scheme and the placement of turbines on the ridges of distinctive hills is at odds with the subtle and attractive nature of the locality (as described by the LCA – ‘visual harmony’); the proposed access, infrastructure and the turbines would relate poorly to the landscape, would compete with the settings of several monuments and would cause adverse visual impacts in relation to the Scottish National Trail.

The consultation responses of those specialists with an interest in landscape and visual impacts are aligned in that Historic Scotland, SNH, the SBC Landscape Architect, the SBC Access Officer and the SBC Archaeology Officer are all advising that the scheme has adverse effects that are potentially overriding. Four of these specialists object due to the landscape and visual impacts. Cumulative impacts with the Cloich scheme are highly relevant, particularly because the two schemes are a visual mismatch - the designs of each are very different.

Furthermore, there is strong public opinion expressed within the objections that identifies with these concerns.

In terms of the relationship with sensitive receptors (residences, school, public buildings), it is primarily the relationship between the development and the settlements at Romannobridge/Halmyre but to a certain extent the relationship with Mountain Cross and West Linton (reflected in the consultation response of the SBC Landscape Architect) that causes a high level of concern relating to visual impact. Each of these settlements would have a new and strong visual relationship with the development which would appear to march along the ridgeline and create a sense of dominance – the wind farm would not maintain the current relationship between the settlements and the hills but would make a new and powerful visual statement, again due to the placement and layout of the turbines and infrastructure on ground that slopes down from the site to a location close to settled sections of the A701.

The high level of visibility associated with usage of the important A701 Tourist Route from Carlisle to Edinburgh and the A702/A703 routes is a major adverse effect, in particular because the A701 is relatively free from views to wind farms from the north side of Clyde Wind Farm apart from limited and short-lived views of Glenkerie. The introduction of a wind farm with any visibility this close to the A701 in particular would be problematic, but the sheer prominence and dominance of the Hag Law scheme show it to be highly conflicting with its environs when viewed from long stretches of this road.

The visual relationship with the Scottish National Trail is also highly problematic due to the proximity of turbines to the pathways forming part of the national trail.

Again, these issues are aired in many of the letters of objection received which have identified a strong feeling that the relationship would be unacceptable.

In the matter of potential noise impacts on residential amenity, this is again a repeated concern identified in objections and is also highlighted in the consultation response of the one specialist available to SBC. It is possible that the noise output of Hag Law combined with Cloich would not comply with limits endorsed within the ETSU-R-97 guidance and remains an outstanding issue. The developer has not come forward with the additional material required to enable proper judgement to be made in this regard.

Taking into consideration the information surrounding the remainder of topics covered in this report, it is considered that the above matters of landscape and visual impact (including heritage and amenity impacts) and noise are those which override the acceptability of the scheme. All others might be managed via conditions or legal obligations.

It is clear from SPP that development must be appropriate to its receiving environs – ‘the right development in the right place’ and suited to a development in perpetuity. Even if this were a marginal scheme it would be important to take this into consideration. Scotland’s landscapes are an important asset therefore great care must be taken to ensure only the highest quality and most suitable wind energy developments are accepted. Hag Law is not a marginal case. Its design, appearance, impact on landscape character and untenable relationship with residential settlements cause clear and overriding adverse effects that no mitigation would prevent or substantially reduce.

For these reasons, the application is recommended for refusal.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is refused for the following reasons:

1. The proposed development would be contrary to Policies G1, BE2 and D4 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) and the Council's Supplementary Planning Guidance on Wind Energy in that the development would unacceptably harm the Borders landscape including Historic Landscape due to:

- (i) the prominence of the application site and the ability of the turbines to be seen as highly prominent and poorly contained new components of the landscape from a wide area, as represented by viewpoints and ZTV information within the ES
- (ii) the unacceptable vertical scale of the turbines in relation to the scale of the receiving landscape and absence of good topographical containment, causing the underlying landscape/landform to be overwhelmed
- (iii) the impacts on landscape character arising from a high level of intervisibility between several landscape character areas/types with recognised landscape quality (including the Upper Tweeddale National Scenic Area)
- (iv) the appearance of the development resulting from its placement on a line of hills ridges, linear layout design, its scale in relation to other wind energy development with which it has cumulative landscape effects and the potential visual confusion caused by the proximity of the proposed Cloich Wind Farm to Hag Law, there being no visual coherence between the two windfarms

- (v) the siting and prominence in a Historic Landscape, within which the development would appear as an incongruous and anachronistic new item; and
- (vi) the introduction of a large commercial wind farm in an area which does not have the capacity to absorb it without causing overriding harm, and which is presently wind farm free.

2. The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) and the Council's Supplementary Planning Guidance on Wind Energy in that the development would give rise to unacceptable visual and residential amenity effects due to:

- (i) the high level of visibility of the development and lack of good topographical containment
- (ii) the adverse effects experienced by users of the public path network, in particular the Scottish National Trail, and areas generally used for recreational access (including vehicular access routes to such areas)
- (iii) the potentially unacceptable level of visual impact caused by the design of the development, in particular the dominance of the turbines in proximity to sensitive receptors (residences, school, public buildings), within the settlements at Romannobridge/Halmyre, Mountain Cross and West Linton
- (iv) the lack of certainty relating to the application of noise limitations in relation to certain noise sensitive receptors, in particular because it has not been demonstrated that it is possible to meet recommendations within ETSU-R-97 due to the potential cumulative noise effects from Hag Law and Cloich Wind Farms; and
- (v) the overriding harmful visual impacts relating to settings of a range of scheduled monuments within a culturally rich landscape.

DRAWING NUMBERS

Figure 2.1 (29.4.14)	Site Location Plan
Figure 2.2 (30.4.14)	Site Layout & Application Boundary
Figure 2.3 (29.4.14)	Typical Wind Turbine Detail
Figure 2.5 (11.4.14)	Typical Access Track etc.
Figure 2.6 (12.5.14)	Typical Access Detail
Figure 2.7 (11.4.14)	Typical Substation Building

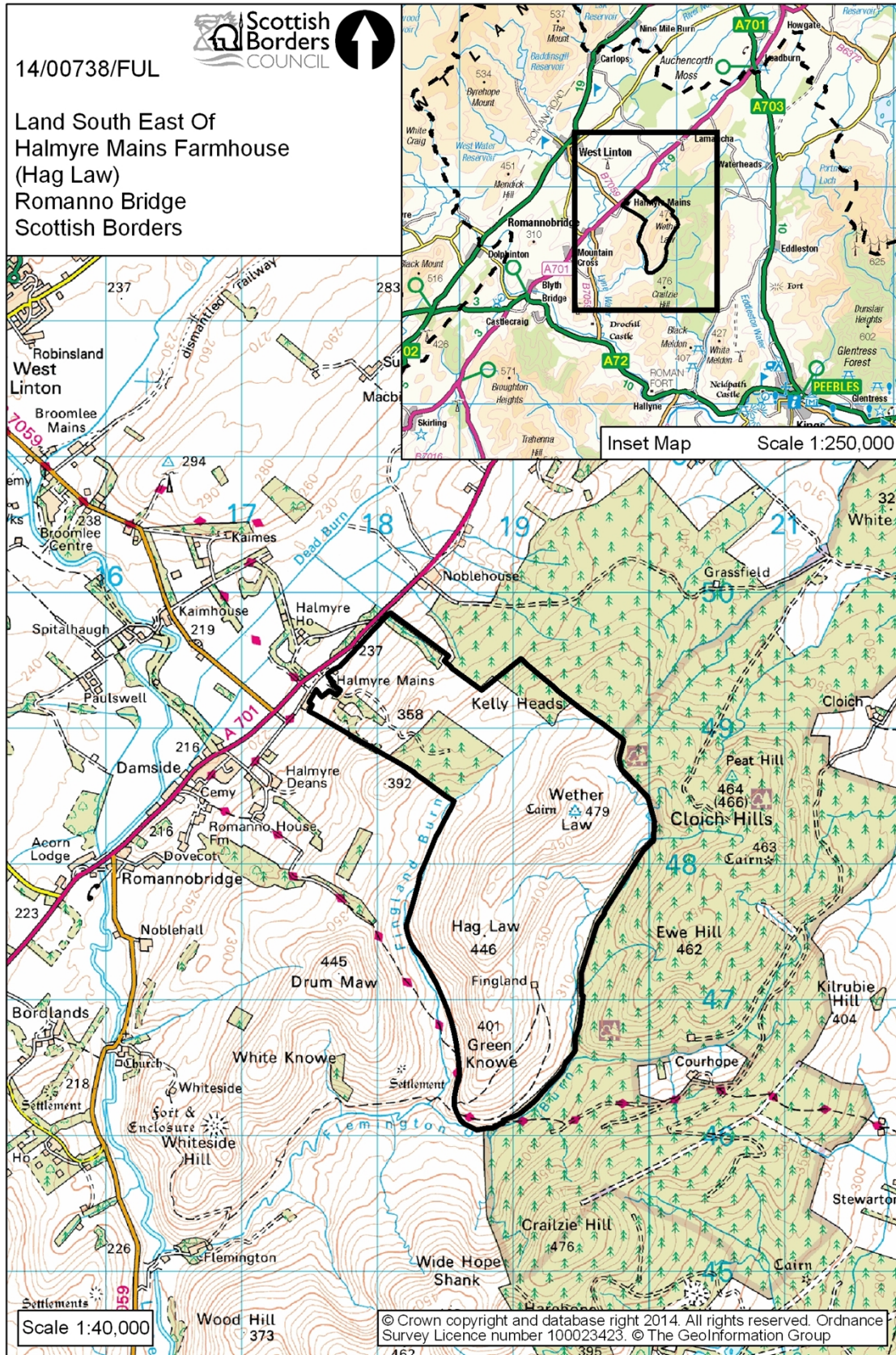
Approved by

Name	Designation	Signature
Brian Frater	Service Director (Regulatory Services)	

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

Author(s)

Name	Designation
John Hiscox	Planning Officer (Major/Wind Energy Development)



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 14/01261/FUL
OFFICER:	Julie Hayward
WARD:	Hawick and Hermitage
PROPOSAL:	Modification of condition No 3 of planning consent 02/00813/COU in respect of the occupancy period of the static caravans
SITE:	Riverview Holiday Park Mangerton Newcastleton
APPLICANT:	Mr Phil Kelly
AGENT:	Montgomery Forgan Associates

SITE DESCRIPTION

Riverview Caravan Park is situated to the south east of Newcastleton and accessed by minor roads from the B6357. The Liddel Water is to the west, the disused railway cuts through the eastern part of the park and Mangerton Farm is to the south. The caravan park comprises of approximately 16 timber style lodges and static caravans and there are some touring pitches. Access is from the minor public road and the holiday park is landscaped with trees and shrubs. A car parking area and sewage treatment plant are situated on the western boundary, separated from the river by trees and a field.

PROPOSED DEVELOPMENT

Full planning permission (02/00813/COU) was granted on 20th August 2002 for the change of use of land and part of a farm outbuilding to form a static caravan park comprising of 41 pitches. This was subject to the following condition (no.3):

“The caravans are to be used for holiday purposes only and not for permanent residential use, their occupation to be limited to 1 March to 31 January in any twelve month period.

Reason: Use for normal residential occupation would be contrary to the Council's policy on tourism and housing in the countryside.”

This planning application has been submitted to vary this condition. The agent has suggested the following form of words:

“All existing holiday caravans within the site shall be occupied for holiday use only and not as a main or sole residence or as temporary or permanent residential accommodation to the satisfaction of Scottish Borders Council as Planning Authority. The owners/operators of the park shall maintain an up to date register of the names and all owners and occupiers of individual caravans on the site and of their permanent home addresses and shall make this information available at all reasonable times to the Planning Authority.”

The application is presented to the Planning and Building Standards Committee as it constitutes a major development due to the site area.

PLANNING HISTORY

02/00813/COU: Change of use of land and part of farm outbuilding to form static caravan park. Approved 20th August 2002.

03/00288/FUL: Variation of condition on previous consent 02/00813/COU to allow installation of static caravan on Plot 17 for use as permanent residential accommodation. Approved 20th March 2003.

07/01470/FUL: Removal of condition restricting the occupancy period of caravans (02/00813/COU). Withdrawn 29th October 2007.

07/01472/FUL: Erection of maintenance and storage shed with hardstanding area. Approved 7th January 2008.

08/00410/FUL: Erection of storage buildings and timber decks to holiday units. Approved 14th April 2008.

08/00702/FUL: Erection of portable office building. Approved 24th December 2013.

09/01503/CLEU: Certificate of Lawful Use: that the occupation of caravans for holiday purposes, and not for permanent residential use, for up to 11 months in any 12 month period (1 March to 31 January) is lawful by virtue of planning permission 02/00813/COU. Refused 23rd December 2009. Appeal allowed 17th March 2010.

REPRESENTATION SUMMARY

There are no representations.

APPLICANTS' SUPPORTING INFORMATION

- Planning permission (02/00813/COU) was granted on 20th August 2002 for a change of use of land and part of a farm outbuilding to form a static caravan park on land at Mangerton Newcastleton. The holiday park is open for 11 months of the year in compliance with condition 3 of the planning permission and the existing caravan site licence, which requires a closure period in February each year.
- In 2009 a Certificate of Lawfulness was issued on appeal which certifies that the caravans can be lawfully used for holiday purposes for up to 11 months (1st March to 31st January) by virtue of conditions attached to the planning permission.
- State it is recognised that the tourism sector plays an important economic role in the Scottish Borders and the applicant seeks permission to vary condition 3 of the planning permission to allow the existing 36 holiday caravans to be used on an all year basis. They request that condition 3 is varied on that basis, as set out above.
- Such a condition would ensure that the caravans are used only for holiday accommodation and would allow the applicant the additional flexibility of

being able to provide accommodation to holiday makers throughout the year. The amendment to condition 3 would still achieve the aim of national and local policies which support tourism related developments in rural areas.

- Lilliardsedge Holiday Park recently obtained planning permission for year round holiday occupancy (13/00241/FUL), which sets a reasonable precedent.
- The Scottish Government has an aspiration to grow tourism in Scotland by 50% by 2016 and increase the amount of tourist accommodation by 20% during this period. The proposed variation to the holiday occupancy condition would aid a successful and established local business and contribute towards the Scottish Government and Scottish Borders Council tourism targets.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections.

Environmental Health: The applicant wishes to amend the wording of a condition to use static caravans for tourist accommodation. Given the changes proposed there will be an increase in the public use of the private water supply that serves the holiday park. I note that the supply was tested this year by the Council and passed. However with the proposed changes to the supply may require a risk assessment.

Flood Protection Officer: The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site may be at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

There is not a significant risk of flooding at this site, only a small section of the north west corner is anticipated to be flooded during a 1 in 200 year flood event. I would state that as there is no significant flood risk to the site at present, it would be suitable to change the condition to allow for caravans to be used on a year round basis for holiday usage. Therefore I would have no objections on the grounds of flooding.

Archaeology Officer: There are no implications.

Statutory Consultees

Newcastleton Community Council: No response.

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Policy 15: Water and Flooding

Consolidated Scottish Borders Local Plan 2011

Policy G4: Flooding

Policy BE8: Caravan and Camping Sites

Policy H2: Protection of Residential Amenity

Policy D1: Business, Tourism and Leisure Development in the Countryside

Proposed Local Development Plan 2013

Policy ED7: Business, Tourism and Leisure Development in the Countryside

Policy ED8: Caravan and Camping Sites

Policy HD3 Protection of Residential Amenity

Policy IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

None

KEY PLANNING ISSUES:

Whether the condition can be varied to achieve the applicant's aim of more flexibility by being able to provide holiday accommodation throughout the year whilst achieving the Council's aim of ensuring that the static caravans remain available for holiday makers and do not become residential units, which would be contrary to the Council's housing in the countryside policies.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy BE8 of the Scottish Borders Consolidated Local Plan Adopted 2011 supports caravan and camping facilities in locations that are environmentally acceptable and that fit with wider tourism, economic and regeneration objectives. Policy D1 encourages tourism development in the countryside that is in accordance with the Scottish Borders Tourism Strategy.

This is an established static caravan park with a range of mobile homes and lodges in private ownership and available for sale. Of the 41 pitches granted planning permission 16 have static caravans or lodges sited on them and there are also some touring pitches available for caravans and motor homes.

Planning permission (03/00288/FUL) was originally granted for the static caravan park in 2002 with a condition that the caravans are to be used for holiday purposes only and not for permanent residential use, their occupation to be limited to 1 March to 31 January in any twelve month period. The proposal at that time complied with the Structure Plan and Local Plan policies for tourism in the countryside. The condition was to ensure that the static caravans are retained as holiday accommodation and not used as permanent residential units, as this would be contrary to the Council's housing in the countryside policies.

This condition was varied for plot 17 in 2003 to allow the static caravan on this plot to be use as permanent residential accommodation. The original plan had been for the steading building to be converted into accommodation for a warden but the applicant then decided to use one of the static pitches. This approval was subject to a

condition restricting the occupancy of the static caravan to a person employed in connection with the holiday park or any dependants.

An application for a Certificate of Lawful Existing Use (09/01503/CLEU) was submitted in 2009 that sought to establish that the occupation of the static caravans for holiday purposes, and not for permanent residential use, for up to 11 months in any 12 month period (1st March to 31st January) was lawful by virtue of planning permission 02/00813/COU. This application was the result of an enforcement investigation by the Council into an alleged breach of planning control following complaints made by members of the public that the caravans were being used for non-holiday, residential purposes.

The main issue in respect of the application was the interpretation of condition 3 of the planning permission 02/00813/FUL and in particular, the term “holiday purposes” and whether the operation of the caravan park was in breach of this condition.

The Council considered “holiday purposes” to mean no single unit shall be occupied for a continuous period of three months or more by the same individual or family and no unit shall be occupied in any calendar year (31 March to 1 January) for a cumulative period of five months or more by the same individual or family. The Council took the view that if a person or group were to occupy the caravans for 11 months consecutively and continually, that would not amount to “holiday purposes” and to do so failed to comply with the condition, as holiday occupation is not a continuous use.

The applicant, Mr Phil Kelly, was of the view that any individual or group could use the caravans for holiday purposes for up to 11 months of the year (1 March to 31 January) but not in February or for permanent residential use but there was no restriction about continuous occupation or cumulative occupation by any person.

The Council concluded that the information submitted with the application did not demonstrate conclusively that the way the static caravans were occupied at that time met the terms of the condition, as interpreted by the Council, or sufficient time had elapsed to prevent the Council pursuing enforcement action. The application was therefore refused.

The applicant appealed this decision and the subsequent appeal was allowed by the Reporter, granting a Certificate of Lawful Existing Use. The Reporter concluded that there was insufficient evidence had been submitted to substantiate the Council’s claims that there had been a breach of the condition. The Reporter allowed the appeal and issued the Certificate of Lawful Existing Use confirming that the use of the caravan park site was lawful by virtue of planning permission 02/00813/FUL, and the attached condition 3.

The agent advises that the reason for seeking a variation in this condition is to allow flexibility in terms of occupation to provide accommodation to holiday makers throughout the year. The condition proposed by the agent seeks to ensure that the holiday status of the park remains unchanged.

The Council has previously allowed modifications to conditions on caravan parks within the Borders to remove the clause requiring a month’s break in occupation, for example, Lilliardsedge Caravan Park Jedburgh and Deanbrae Holiday Park Cavers Hawick, and so the proposed variation of condition 3 would be in keeping with other holiday parks in the Borders that have less restrictive occupancy conditions, which is a reasonable and fair approach.

The proposed condition would enable effective control of the development to be achieved, whilst allowing the site operator the additional flexibility of being able to provide accommodation to genuine holidaymakers throughout the year, contributing to the variety of accommodation available in the Borders. The modified condition would also allow monitoring of the caravan park to take place, which has not been possible previously, to ensure compliance with the condition. There is therefore no sound planning reason to withhold permission.

Flooding

Policy 15 of the SESplan states that Local Development Plans should avoid any new development in areas at medium to high flood risk. Policy G4 of the Local Plan refers to developments where there is an identified flood risk; developments will not be permitted if it would be at significant risk of flooding or would materially increase the risk of flooding elsewhere.

The Council's Flood Protection Officer advises that there is not a significant risk of flooding at this site; only a small section of the north west corner is anticipated to be flooded during a 1 in 200 year flood event. He advises that as there is no significant flood risk to the site at present, it would be suitable to change the condition to allow for caravans to be used on a year round basis for holiday usage and has no objections.

Impact on Residential Amenities

Policy H2 of the Local Plan states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The site is situated in a rural location outwith Newcastleton. Mangerton Farmhouse and Mangerton Mill are situated to the south of the caravan site. It is considered that the year round use of the static caravans for holiday purposes would not affect the residential amenities of occupants of the units within the site or of nearby residential properties.

CONCLUSION

There have been concerns in the past that the static caravans were being occupied as permanent residential units. However, the proposed variation of the occupancy condition would achieve the applicant's aim of more flexibility by being able to provide holiday accommodation throughout the year whilst achieving the Council's aim of ensuring that the static caravans remain available for holiday makers and do not become permanent residential units, which would be contrary to the Council's housing in the countryside and tourism policies. The varied condition would allow the caravan park to be monitored to ensure compliance with the condition and policy BE8 of the Scottish Borders Consolidated Local Plan Adopted 2011.

The proposed variation in the occupancy condition would not harm the residential amenities of occupants of nearby houses and the site is not at a significant risk if flooding, in compliance with policies H2 and G4.

RECOMMENDATION BY SERVICE DIRECTOR REGULATORY SERVICES:

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

1. This consent relates only to the change of use of land to form a static caravan park within the red line indicated on approved drawing H395/03 Rev "A" on application 02/00813/COU, the development of the remainder of the site to be the subject of a further application for planning permission.
Reason: To enable the Council to maintain effective control of the development and in recognition of the potential flood risk on the lower parts of the site.
2. The placement of caravans on stances 21-41 not to occur until the completion of development to the satisfaction of the Council on stances 5-20.
Reason: To secure the orderly development of the site and minimise visual impact on the landscape.
3. The holiday lodges and caravans within the site shall be occupied for holiday use only and shall not be used as a person's sole or main residence or as temporary or permanent residential accommodation. The owners/operators of the holiday park shall maintain an up-to-date register of the names of all owners and occupiers of the individual caravans and lodges on the site and their main home addresses, and shall make this information available for inspection by an authorised officer of the Planning Authority at all reasonable times.
Reason: The accommodation on the site is not designed for permanent occupation and permanent residential use would be contrary to the Council's housing in the countryside policies.
4. The existing trees on the site to be retained to the satisfaction of the Planning Authority.
Reason: To safeguard the visual amenity of the area.
5. The caravan stances to be formed no higher than 50mm above the existing highest ground level occupied by each individual stance, but preferably lower.
Reason: To safeguard the visual amenity of the area.
6. Further landscaping proposals to be submitted for the approval of the Planning Authority in relation to the visitor parking area at the northern boundary of the site.
Reason: To safeguard the visual amenity of the area.
7. In the event of the railway being reinstated upon the track bed of the former Waverley Line, the development to be adjusted in accordance with the provisions of approved plan ref. H395/05 on application 02/00813/COU subject to further agreement with the Planning Authority on additional planting and revision to stances and parking areas that may be considered necessary.
Reason: To accord with Development Plan policy on maintaining railway routes.
8. Further details of the following to be agreed with the Planning Authority before the development is commenced:
 - colour of caravans.
 - external lighting.

- materials to be used for roads, parking and other hard surfaces.
- sewage treatment works.
- alterations to the existing steading building.
- LPG tanks.
- playspace/recreational areas.

Reason: To secure the orderly development of the site and minimise visual impact on the landscape.

9. The existing passing places on the D38/3 public road to be cleared of vegetation and enlarged, and the accesses into the site to be formed, all to the specification of the Planning Authority before the first caravan is occupied.
Reason: In the interests of road safety.

10. The landscaping indicated on the approved drawings on application 02/00813/COU, including the woodland areas and augmentation of riverbank planting outwith the current application site, to be implemented during the first available planting season following commencement of development, and to be maintained in perpetuity to the satisfaction of the Planning Authority.
Reason: To safeguard the visual amenity of the area.

Informatives

The applicant should contact an Environmental Health Officer to discuss the need for a private water supply risk assessment.

The Council's Flood Protection Officer recommends that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. It would also be advisable for the applicant to develop an evacuation plan for the buildings during times of flood warning.

A number of flood protection products such as floodgates and air-vent covers are also commercially available and details of these can be found by calling Emergency Planning on 01835 825056 who may be able to offer discounts for the products.

DRAWING NUMBERS

5409/C/01 Location Plan

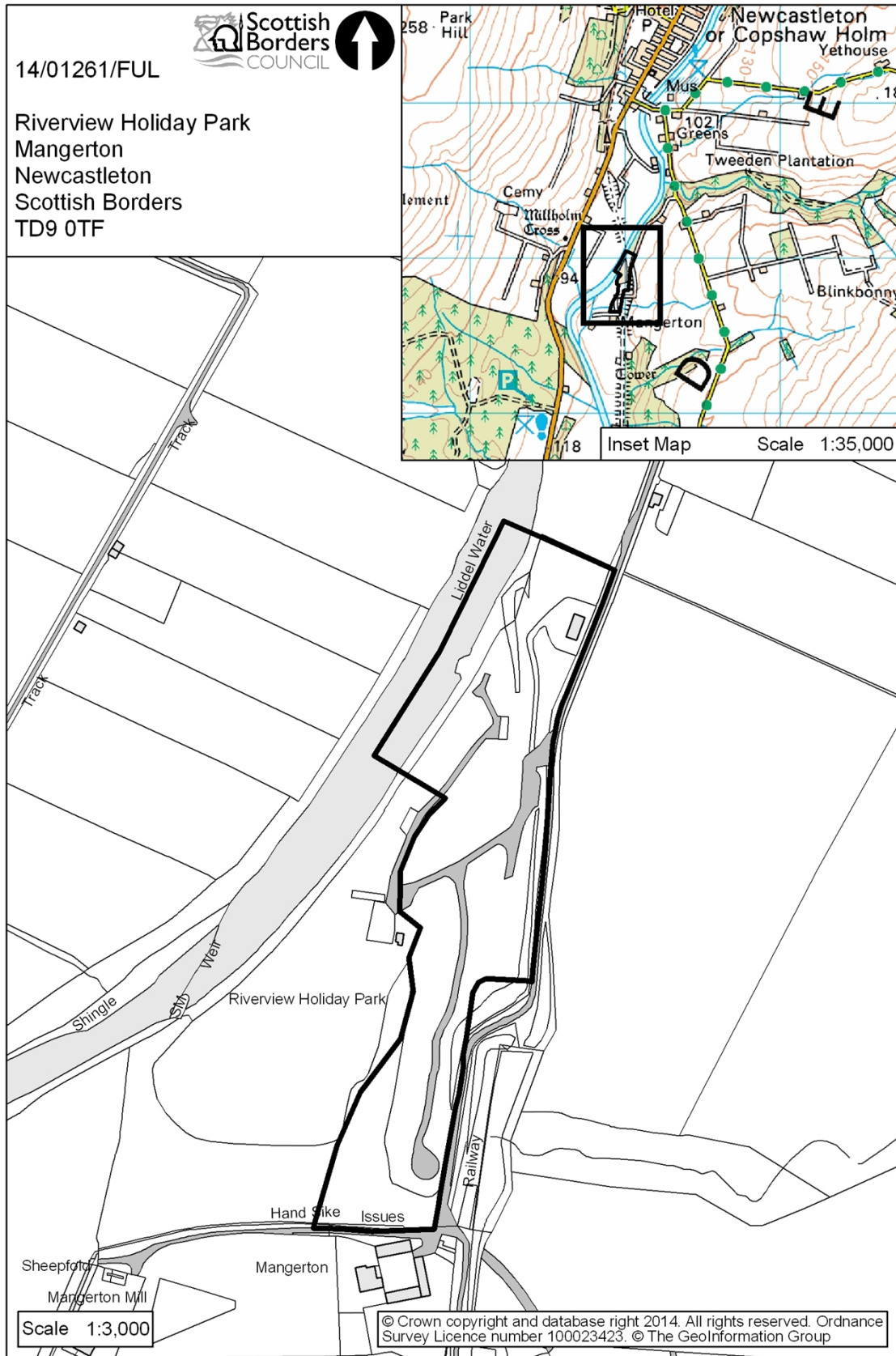
Approved by

Name	Designation	Signature
Brian Frater	Service Director Regulatory Services	

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

Author(s)

Name	Designation
Julie Hayward	Principal Planning Officer



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	14/00826/FUL
OFFICER:	Lucy Hoad
WARD:	Berwickshire
PROPOSAL:	Erection of 26 dwellinghouses and associated infrastructure
SITE:	Land North East Of Peelwalls House Ayton Scottish Borders
APPLICANT:	Misail Limited
AGENT:	JWPC Ltd

SITE DESCRIPTION

The site area (1.35 hectares) comprises an area of meadow located adjacent to the north east of Peelwalls House (B listed) and adjacent to a small building group of five residential properties forming part of a larger approved scheme for 36 retirement houses, which has been commenced, including the creation of road infrastructure that extends through the current application site. The site lies outwith the development limits of any settlement, with the nearest being Ayton, approximately 1Km to the north east. The site and properties are accessed off the B6355. The site lies adjacent to ancient woodland with the Eye Water located to the North and is situated 20m above the water course.

PROPOSED DEVELOPMENT

This is a full planning application for the erection of a total of 26 dwellinghouses, consisting of 7 detached houses, 1 pair of semi-detached and 4 terraces of houses (split into four blocks of 6, 4 and 3) forming a courtyard area. The proposed house types are traditional 2 and 1½ storey buildings, with slate roofs and external walls wet dash render/cast stone with elements of timber cladding (porches). The courtyard provides off-curtilage parking and the individual properties have car parking provision.

The layout plan illustrates a single access point from the B6533 coming into a village green to the east overlooked by several detached houses and terminating at a formal courtyard arrangement to the west with linked housing. The site layout has been modified so that an additional internal linkage is provided for between the courtyard area and village green to allow circulation of traffic within the scheme.

Enhanced landscaping is incorporated within the scheme to include new woodland planting and hedgerows to strengthen boundary edges.

PLANNING HISTORY

In 1998 full planning permission was granted for the development of 36 retirement/care dwellings to be sited in the meadow lying to the north of Peelwalls House which was, at the time, a care home. The intention was that these houses would be related to the operation of the care home. That permission was, as a result, subject to a legal agreement whose principal purpose was to restrict the occupancy of these dwellings, but which also sought to make a connection with the operation of the nursing home.

A new access replacing the existing access was to be formed. That new access was also to provide the access point for the adjacent private dwelling to the north of the site. The development envisaged 36 single storey 1 and 2 bedroom dwellings set in 5 small courtyard groups with a mixture of detached and semi detached properties with separate parking, car port areas and pedestrian linkage and a limited variation in design detail and finishes.

The permission was granted by the then Planning and Development Committee in April 1998, with the formal decision issued, upon completion of the agreement, on 27th October 1998. Within the 5 year lifetime of the permission, work was undertaken on the site by the owner to implement it. It is therefore a matter of fact that the original planning permission and legal agreement remain live today and are capable of being continued to completion. Five houses were constructed along with some associated infrastructure, including roads, but development at the site subsequently ceased, with the completed houses remaining unoccupied for the period thereafter. This was the result of the closure of the care home, itself caused by the financial collapse of the operating company.

In 2004 full planning permission was granted for a revision to the layout of the original scheme for 36 retirement/care dwellinghouses. The future occupancy and disposal of properties was restricted by condition and agreement which intended to prevent being them marketed in an unrestricted general housing market.

The Peelwalls Care Home has never re-opened and, as a result, the five houses so far constructed have remained unoccupied for a period of around ten years. Eventually, in 2013, permission was minded to be granted for the conversion of the former nursing home to a residential property, enabling the building, which is category B Listed, to be brought back into use. That decision has had the effect of separating the intended use of the associated housing from the parent nursing home.

In 2014, a modification of the original legal agreement was approved by this Committee but only in respect of the five properties that have been built out. This approval allowed a modification to the agreement to the effect that the restriction on occupation would be limited to the definition of "affordable housing" as opposed to persons aged 55 or over, as originally stipulated.

REPRESENTATION SUMMARY

Two letters of objection were received in response to the application. A brief summary of the main planning issues raised is as follows:

- Consent was granted for a residential care village supported by the former nursing home Peelwalls House
- A S75 legal agreement exists which is a burden on the land
- The legal agreement restricts the development of the land to low density, low elevation developments suitable for over 55 years of agent and restricts the number of roads accessing the B6533 in the vicinity of Peelwalls House
- The owner of Peelwalls House has not provided consent to discharge/modify these restrictions and until permission is granted the application cannot be approved
- No neighbour notification has been received at Peelwalls House in respect of the development
- The application is contrary to the Local Plan
- Concerns over density of the site/cramming
- Detrimental to the environment and residential amenity
- Loss of privacy, noise nuisance
- Inadequate access, increase traffic and road safety
- Poor design and insufficient parking
- Inadequate screening
- Impact of setting of listed building
- No demand for housing locally
- Impact on protected species

The full content of each letter can be found on the Council's *Public Access* website.

APPLICANTS' SUPPORTING INFORMATION

In support of the application the applicant has submitted a number of reports including:

- Drainage Assessment
- Tree Planting Plan
- Planning statement
- Design and Access Statement
- Transport Assessment
- Swept Path Analysis

All of which can be read in full on the *Public Access* website.

DEVELOPMENT PLAN POLICIES:

Consolidated Local Plan 2011

G1 Quality Standards for New Development
G2 Contaminated Land
G5 Developer Contributions
H1 Affordable Housing
H2 Protection of Residential Amenity
H3 Land Use Allocations
Inf 3 Road Adoption Standards
Inf 4 Parking Standards
Inf 5 Waste Water Treatment Standards
Inf 6 Sustainable Urban Drainage
Inf 11 Development that generates Travel Demand

BE2 Archaeological Sites and Ancient Monuments
NE3 Local Biodiversity
NE4 Trees, Woodland and Hedgerows
EP5 Air Quality

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy
Designing Streets
Designing Places
SPG Biodiversity
SPG Affordable Housing
SPG Developer Contributions
SPG Designing out Crime in the Scottish Borders
SPG Trees and Development
SPG Landscape and Development
SPG Green Space
SPG Placemaking and Design

CONSULTATION RESPONSES:

All of which can be read in full on the *Public Access* website.

Scottish Borders Council Consultees

Environmental Health: No comment

Flood Officer: No objection on flood grounds. The site lies approximately 20m above the two nearby watercourses. An informative is required in respect of potential flooding from other sources and SUDs design. The officer notes that the updated drawing numbered 3090 04 Rev D shows all the dwellings with their associated finished floor levels. The floor levels generally speaking are all acceptable but if the three houses in the South West corner of the site could be raised slightly that would be better. There is no SUD's information submitted as of yet but I would require the plans and calcs showing that the existing drainage already installed is fit for purpose and fits with the proposed development and existing SUD's pond.

The agent has provided further plans 3090 04 Rev F forward to the Flood Officer who has raised no concerns with regard to floor levels. The SUDs details have not been received at the time of writing the committee report. It is anticipated that a verbal update may be provided should further details be made available.

Ecologist: No objection subject to conditions and informatives in respect of protected species, enhancement of habitats, agreement and implementation of an approved SUD scheme, and protection of trees and the water environment.

Roads Planning: No objection subject to conditions and informatives in respect of engineering road works, construction materials, parking, visibility splays and drainage. The road within the development shall require Road Construction Consent. A Section 7 agreement shall require to be entered into between the Council and Scottish Water to take account of the proposed drainage layout.

Landscape Architect: No objection subject to conditions in respect of additional tree planting and protection of existing trees. No major landscape or visual reasons to oppose the development. A Tree survey and Landscape Plan with planting schedule is required to be agreed.

Education and Lifelong Learning: Contributions are sought in respect of Eyemouth High School £4205 per unit.

Housing: No objection. It is expected that the proposal will require on-site delivery to satisfy the Affordable Housing policy requirements. There may be a potential role for collaboration with Berwickshire HA to provide these units. This would have to be progressed through SBC's SHIP and related processes to prioritise potential grant funding and programming in due course.

Development Negotiator: No objection.

Affordable housing - Six units are to be delivered on site in a manner fully compliant with SBC Affordable Housing Policy.

Education: Contributions are sought towards the provision of the new Eyemouth High School from each of the standard housing units.

Access: The applicant has agreed in principle to settle a commuted sum to the Community Council for provision and maintenance of path and supporting infrastructure between the proposed development and Ayton.

Play facilities: In respect of play facilities provision of on-site facilities is sought to be financed and installed by the developer (factoring costs to incoming residents).

Access Officer: No objection. There are no known core paths/promoted paths/rights of way that are directly affected by this proposal. In terms of the opportunity for additional footpath provision the developer should be aware that the provision of a new pathway and on-going maintenance would require to be the responsibility of the site's developer.

Forward Planning: Objection. The application cannot be supported because it is contrary to development plan policy to include the requirements of policy G8 Development Outwith Development Boundaries – the officer regards this as being the wrong development in the wrong place. There is no need for further housing land in Ayton or vicinity as there is a generous and effective 5 year housing land supply existing. Housing land already allocated in Ayton is better located in relation to the facilities of Ayton and from sustainability prospective.

Heritage and Design Officer: No objection subject to a condition in respect of agreement of external materials (to include sample of wet dash), and details of the proposed paving and road materials. The officer advises that the development, being sited to the rear of Peelwalls House and stables, will not have an adverse impact on the setting of the listed buildings. The officer considers that the proposed scheme is a significant improvement on the previous extant approval with completion of the scheme providing an opportunity to tidy up a brownfield site.

Archaeologist: No objection subject to an informative in respect of buried archaeology. There are no known archaeological implications. There is low potential for encountering buried archaeology where development has not taken place. If buried features or artefacts of potential antiquity are discovered the council should be contacted for further discussions. Further investigations secured by the development may be required if significant archaeology is discovered.

Statutory Consultees

Ayton Community Council: No objection but concerns raised in respect of traffic management and remoteness of the site to Ayton. The CC supports the application in principle.

Main points raised include:

The community council notes this is a partly developed site with 5 properties completed and infrastructure in place.

The site requires improvement and completion in order to prevent further deterioration of the approach to Ayton.

The council is supportive of revisions sought by the roads officer in respect of shared roadways with traffic calming measures and provision of green space.

Concerns are raised in respect of the remoteness of the site from the village and road safety at the junction of the development and B6533.

There is poor pedestrian access to the school and local services at Ayton (over 1Km away). The access to the village is via the B6533 with limited pedestrian service and public transport.

The community council seeks an alternative safe pedestrian route to the village as improved access to the village from the development would help secure the limited services available to the wider community.

It is understood the access shall be financed by the developer via a developer contribution associated with the planning approval.

The preference is for a safer route to the village via a footbridge over the Eye Water and a right of way via Bleachfield as opposed to the Victoria Jubilee Bridge (not safest option)

The community council would seek an extension of the 30mph speed limit to cover the area of the junction

Scottish Water: No objection in respect of connection to the water network as the number of units proposed is lower than originally proposed for the site. No response in respect of extent of public drainage infrastructure in locality.

SEPA: No objection subject to condition in respect of SUDs and informative in respect of regulatory advice. SEPA are satisfied that connection to the public sewer is not feasible. As the developer is using an already authorised sewage treatment system, SEPA are satisfied with the proposals for foul drainage. As a result we are now in a position to remove our objection to proposed development on foul drainage grounds. It should be noted that we still expect a condition in respect of agreement of the SUDS scheme. If this is not attached then please consider this representation as an objection.

Architectural Heritage Society of Scotland: No response received to date.

Berwickshire Civic Society: No response received to date.

KEY PLANNING ISSUES:

The key issues are whether the development complies with development plan policies and planning policy guidance regarding the provision of housing development in the countryside, and whether there are material factors arising from the partial implementation of an existing permission that would be significant in the determination of this application. In assessing those factors, Members will need to consider the weight that should be attached to the legal agreement attached to that earlier permission.

If the principle is accepted, consideration should be given to further matters of detail, including design, layout, ecology, traffic, infrastructure and parking and whether these are acceptable. Key issues also relate to the compliance with national and local policy guidance documents Designing Streets and Placemaking and Design.

ASSESSMENT OF APPLICATION:

Planning Policy Principle

Policy G8 states that where Development Boundaries are defined on Proposals Maps, they indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. Development should be contained within the Development Boundary and proposals for new development outwith this boundary and not on allocated sites identified on the proposals maps will normally be refused.

Exceptional approvals may be granted provided strong reasons can be given that:

1. it is a job-generating development in the countryside that has an economic justification under Policy D1 or D2, OR
2. it is an affordable housing development that can be justified under in terms of Policy H1, OR
3. there is a shortfall identified by Scottish Borders Council through the housing land audit with regard to the provision of an effective 5 year housing land supply, OR
4. it is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary

AND the development of the site:

5. represents a logical extension of the built-up area, and
6. is of an appropriate scale in relation to the size of the settlement, and
7. does not prejudice the character, visual cohesion or natural built up edge of the settlement, and

8. does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area

Policy D1 Business, Tourism and Leisure Development within the Countryside states that proposals for business, tourism or leisure development in the countryside will be approved and rural diversification initiatives will be encouraged provided that:

- the development is to be used directly for agricultural, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area or
- the development is to be used directly for leisure, recreation or tourism, appropriate to a countryside location and is in accordance with the Scottish Borders Tourism Strategy or
- the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic/or operational need for the particular countryside location and that it cannot be reasonably accommodated within the development boundary of a settlement

Affordable housing or community benefit

Policy G8 seeks to prevent developments outwith the settlement boundary unless there is exceptional justification, including proposals for job generating development under policies D1 or D2, proposals which would provide affordable housing to meet an identified local need or proposals which offer significant community benefits that outweigh the need to protect the development boundary. To satisfy Policy G8, any proposal must also be considered a logical extension of the settlement, be of appropriate scale and character and have an appropriate landscape impact.

The site lies outwith the development limits of any settlement (nearest Ayton at 1km) and the site is not considered to be a logical extension of the settlement. In terms of policy D1 it would be a requirement to demonstrate that there is an economic pr operational need for housing in this particular location as opposed to accommodation within the settlement boundary. Proposals would have to be supported by detailed business plans. The dwelling houses applied for under the current application are not considered to fall within this category.

There is little question that, were this application to be submitted on an undeveloped site in this location, it would fail to comply with housing in the countryside policies and should be refused. There is no need for further housing land in Ayton or the vicinity as there is a generous and effective 5 year housing land supply existing. Housing land already allocated in Ayton is better located in relation to the facilities of Ayton and from sustainability prospective. This is not a site to which housing development would ordinarily be directed.

However, the existence of the earlier permission which has been partially implemented and, critically, can still be developed, is an important material consideration, as are the conditions and obligations to which that permission is subject. While there is undoubtedly a conflict with policy, these aspects cannot be overlooked and attention therefore turns to whether these considerations are overriding. The following section therefore covers these aspects.

Legal matters and Material Considerations

Neighbour notification

The owner of Peelwalls made representation to the department to state that he had not been neighbour notified of the application and that he had not provided consent to discharge/modify the restrictions of the planning obligation and until such permission is granted the application cannot be approved. The notification had gone out under a former address and been returned to the Council.

A new notification was issued so that the neighbour has had the opportunity to consider the plans and make further representation to the Council, and has not been disadvantaged by the delay in notification. In response to the comment made in representations that the application is inappropriate given the existence of an extant legal agreement, the Legal service has confirmed that the existence of a Planning Obligation does not, in itself, necessarily prevent the granting of a further planning permission. Nor does the lack of consent from an interested party to a discharge of that Obligation prevent the granting of a Planning Permission on affected subjects. Thus it is deemed proper to consider the proposals.

The Existing Planning Obligation

The previous planning approval for the buildings on the site was tied to the nursing home with occupancy controls. The existence of a Planning Obligation on development subjects is a material consideration in assessment of the planning application. The Planning Obligation was put in place to seek to regulate the development of a Care Village. Its precise obligations relate to an access route, landscaping, and the provision that the houses to be built should be occupied only by those who are:

- (1) By reason of infirmity are in need of housing in a sheltered environment; or
- (2) Are Over 55 years; or
- (3) Employed by the care village.

Consideration requires to be given to the question of whether if, at this time, there is a continuing need for the restriction, and, if such a restriction continues to serve a planning purpose.

Current circumstances

It must be acknowledged that there has been a significant change of circumstances in this case. The scheme as consented envisaged that Peelwall House, as a Nursing Home, would be the central element in a Care Village and provide care services to those resident in the individual dwellings within that village. Peelwalls House is no longer a nursing home, and a change of use has been approved for the property to return to being a private dwelling (subject to conclusion of legal agreement). Therefore there is no possibility of a care village being established.

Extant permission

Notwithstanding the absence of any care element, the earlier planning permission has been implemented and the developer could proceed to build out all housing units consented by the earlier permission. This is a material consideration which must be taken into account.

Should those dwellings be constructed they could no longer be subject to any restrictions regarding the use of the care facilities - since no such facilities exist. They would however be subject to an age restriction.

The Council, as Planning Authority, must give consideration to the reasonableness of that condition in the significantly changed circumstances. As a matter of law, the houses can be built. This therefore poses a further question as to whether it is reasonable to maintain a restriction that such houses should be subject to the age control. In the absence of a care facility, it is difficult to contend that such continued restriction remains reasonable.

Turning to the tests in Circular 3/2012, which is concerned with Planning Obligations, the Planning Authority has to consider if, at this time, there is a continuing need for the restriction and whether such a restriction continues to serve a planning purpose. If an application were to be submitted to vary or remove the agreement, it would be difficult to identify any need, nor planning purpose in maintaining that restriction at this juncture. If the restrictions were to be removed, the existing permission for the remaining 31 houses could be completed without any restriction on occupancy.

In these circumstances, it is considered that these factors point towards it being reasonable to conclude that little weight can be placed on the existence of the planning obligation in the determination of this application, and that is a view shared by Legal colleagues. To reach that conclusion, then, is to acknowledge that the Council is not in a strong position were it to insist upon the enforcement of the restrictions on occupancy. That, in turn, means that the developer could proceed to develop out the remainder of the 1998 permission, with only the procedural issue of an application to remove the legal agreement standing between them and an unrestricted development.

That being the case, a further factor for consideration is the appropriateness of the design and layout of the development for which permission exists. That leads into consideration of whether the completion of that scheme is desirable or whether, having regard to more recent policy on placemaking and design, improvements should be encouraged to at least ensure that the development would be more compatible with the rural location that the very suburban layout permitted.

This leads to the determining choice in this case: is it better to resist the development on the policy grounds and risk the developer either leaving the site in its currently partially developed state or proceeding with a poor design and layout, or is it preferable to acknowledge the limited effect of the agreement and seek an improved design so that even though the development will still appear very isolated, it at least sits more appropriately in its setting.

Layout and Design

Policy G1 advises that proposals should create developments with a sense of place, designed in sympathy with Scottish Borders architectural styles and having regard to the location of the development. Layouts should provide for linkages with built up areas including public transport connections, and provision for bus laybys, and new paths and cycleways, linking where possible to existing path networks. Development should incorporate open space, appropriate hard and soft landscaping works, including structural/screen planting, to help integrate the development with its surroundings and the wider environment. Policy INF4 requires housing proposals to incorporate adequate provision for car/cycle parking provision within the development layout.

The applicant has submitted a Design and Access Statement with the application which provides an analysis of the site, and details the proposed layout and design of the houses. It is accepted that contextual analysis is a key aspect of positive placemaking (as set out in the Council's SPG: Placemaking & Design and Designing Streets) and this would demonstrate that the applicant has reasonably sought to relate to the most positive aspects of the partially developed site in the layout of streets and spaces and building design.

Detailed discussions have taken place with the applicant and the layout has evolved since the pre-application discussions and original submission. The amendments made during the processing of the application have resulted in changes to the layout to include the provision of an internal link to improve permeability, a more even spread of parking throughout the scheme, provision of traffic calming measures, with the inclusion of tree and shrub planting in key locations, and providing landscaping features, to soften visual amenity. It is noted that the level and distribution of parking provided within this scheme is supported by the Roads Officer. Minor revisions may be required to layout to ensure a separate pedestrian access to Plot 30 is achieved.

Overall, the layout is considered to be more acceptable, with the developer agreeing to make funds available in conjunction with the community council in order to provide a footpath link from the development site to join existing paths, with the aim of providing good connectivity to the village of Ayton. This is considered to meet the policy requirements in terms of providing linkage to the surrounding areas for pedestrians. Issues to be considered in more detail include landscaping treatment/maintenance to include boundary treatment, secondary fabrics, and surface treatments in order to provide cohesion throughout the scheme. The revised layout has addressed the essential elements required and now provides for a scheme that is more responsive to its context within the area than the very suburban layout for which permission exists.

Landscape

The submitted plans show commitment to enhanced planting at the site to include new woodland and hedgerows to boundaries. Formation of strong boundary edging to the site will visually contain the building group within the wider rural setting. Plots 20-23 were required to be pulled forward to reduce the effect of overshadowing from existing boundary trees and the revised layout addressed this concern. A tree planting plan has been submitted, however the Landscape Architect has requested further details be submitted to include planting schedule. The details have not been received at the time of writing the committee report. The requirement for a Tree Survey to identify root

protection areas of existing trees and a Landscaping Plan to include the planting schedule can be secured by condition.

The Landscape officer was consulted on the application and advises that there are no major landscape or visual reasons to oppose the development.

House Design

The community has sought a resolution to the site which currently displays a partially constructed road layout and drainage scheme, and which could be improved and completed to prevent further deterioration on the approach road into the village. It is noted that the applicant has upgraded the built out units to provide habitable living quarters.

The aspirations for this site are to provide a high quality, sustainable residential development that integrates well with its immediate surroundings. Policy G1 requires that housing development should be of a scale, massing, height and density appropriate to its surroundings. It should be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality. The scheme consists of traditional 2 and 1.5 storey buildings that reflect the local vernacular style. A cohesive approach has been taken through the use of similar materials –slate, render and timber clad features, together with a limited colour palette. It is considered that the proposed design of the houses is of an acceptable quality.

The design has included the formation of a small village green partially encircled by detached properties linked to a formal courtyard development provided by a set of terraced blocks. The scale, mass and form of the proposed housing are considered to be appropriate for this rural location, and the changes in eaves height provide variety to the development. In terms of design quality and density, the proposal is regarded as being a significant improvement on the approved scheme which consisted of plain bungalows situated within cul-de-sacs taken off the main access. It should be noted that there is a reduction in unit numbers with the current proposal providing for 26 units in total as opposed to the 31 units yet to be constructed under the extant consent.

With the reduced number of units linked to the layout improvements provides for a successful design approach. Careful choice of colour palette should allow the housing development and existing 5 units to knit together and ensure the properties recede rather than stand out long views into the site from the approach road, and this aspect could be covered by condition.

The Heritage and Design Officer has no objections to the proposed scheme but seeks samples of the wet dash render and agreement of the materials and finishes for the eaves fascias and bargeboards and these details can be agreed through a condition. Details in respect of sustainable energy sources have yet to be finalized.

Amenity

Within the site adequate residential amenity can be provided for residents, with each property having an area of garden ground. Provision of supervised courtyard areas to include shared surfaces allows for the creation of public space within this scheme. Policy H2 requires that the potential impact of any development on existing and

surrounding properties is taken into account to include issues of overlooking and loss of privacy. The owners of Peelwalls House and Mayar have raised concerns over the proposed development to include loss of privacy, overlooking and noise. The proposed dwellings nearest the existing properties are at a sufficient distance apart from these neighbours. It is noted that the closest property facing the Lodge House has no windows on flank elevation directly facing the house.

There are no significant issues of loss of light or privacy stemming from the proposals.

Listed Buildings

There are three listed buildings in the immediate area to include Peelwalls House (B Listed), the walled garden (C Listed) and The Lodge (C Listed). It is understood that the houses and the development site are now all under separate ownership. Concerns have been raised by the neighbour at Peelwalls House as to the impact on the listed buildings, from the development in the adjacent meadow. The setting of Peelwalls House primarily relates to the southern aspect i.e. the front of the house to include the open parkland and winding drive from the south lodge. The walled garden lies to the west of the main house and is enclosed by structural planting. The Lodge (north) sits at a distance from the main house and adjacent to the roadside and entrance to the development site. The Heritage Officer has been consulted on the application and has no objections to the development subject to conditions in respect of external materials and finishes. The Officer has advised that the proposals are improvement on the extant permission.

It is not considered that the development would have an adverse impact on the setting of the listed buildings due to the location of the site to the rear of the main house and unlisted stables. It is noted that additional landscape planting is proposed to the southern boundary of the site which will screening at this location.

Archaeology

The wider area surrounding Peelwalls contains substantial evidence for buried prehistoric archaeology. The Archaeologist has been consulted on the application and has no objections to the development subject to an informative. The site has been partially developed and the officer advises that there is low potential for encountering buried archaeology where development has not taken place. Thus no mitigation is sought at this stage. It is recommended that an informative be applied to consent to ensure that should any buried features or artefacts of potential antiquity be discovered the council should be contacted for further discussions and should significant archaeology be discovered further investigations secured by the development may be required.

Access and Traffic

The site is to be accessed using the existing junction off the B6355 formed as part of the earlier approval. It is noted that Road Construction Consent (RCC) has expired on the original scheme and a fresh RCC is required.

Road safety

It is noted that concerns in respect of traffic movement at the junction and road safety have been raised by the community. The Community Council seek a reduction in speed limit on the B6355 from 60 to 30mph. The Roads Officer has advised that their concerns over speed on this section of road have been passed to the traffic section for investigation and action if deemed necessary.

Permeability and connections

The Roads Officer stated that he was prepared to accept the development at this location, given the exceptional circumstances surrounding the application, but this was on the basis that the layout was revised to include an additional internal link, traffic calming measures, and surface details/treatments. A revised plan was submitted by the agent detailing the required link to include a swept path analysis. It is considered that the improved layout with additional internal linkage provides for good connectivity within the site and, with a new pedestrian access link proposed from the site to link to Ayton, this should improve travel options for residents to access the village.

The Roads Planning Officer has been re-consulted on the revised layout and has no objections to the development subject to further agreement being reached in respect of materials, parking bays, visibility splays and details of the surface water management scheme. In respect of drainage the development will need to be carried out in accordance with plans to be agreed with Scottish Water and SEPA. It is considered that any minor revisions sought to layout and drainage arrangements can be covered by conditions.

Road Construction Consent will be required for the construction of the associated roads and footways. It should be noted that the Roads Officer will not be able to support planting and structures within service strips and this may have implications in respect of landscaping proposals. The officer is particularly concerned with regard to where the road narrows in the vicinity of plots 22 -25. It is noted that Landscaping details require to be agreed by condition allowing the issue to be addressed at that stage.

Water supply

Scottish Water has indicated that there is capacity in the system to accommodate the development.

Foul Drainage

It is proposed to use the existing sewage treatment plant installed in 2007 for the proposed development. The agent has advised that the sewage treatment plant was designed as part of a scheme comprising 35 No 3-bedroomed properties, together with a Residential Care Home Peelwalls House with 22 residents and 4 staff. The plant was installed circa 2007 and comprised a Klargester sewage treatment plant, together with a settlement pond and reed bed, with an outfall into the adjacent river, the Eye Water. Consent was obtained for the outfall from SEPA in November 2006.

The agent provided further details in respect of public sewer records from Scottish Water. This demonstrated that there are no gravity main drainage on the eastern side of the Eye Water river, apart from a rising main drain which comes from the village of Ayton and travels east. The nearest gravity main drain is around 900 metres (0.6 miles) from the site, close to 'The Lodge' in High Street Ayton, on the western side of the Eye Water.

SEPA accept that connection to the public sewer is not feasible. As the developer is using an already authorised sewage treatment system, SEPA are satisfied with the proposals for foul drainage. On this basis, SEPA have agreed to removed their original objection to the development on foul drainage grounds. A revision to Controlled Activities Regulations license may be required, but that remains a matter for the developer to address directly with SEPA.

Surface Water Treatment

SEPA and the Council's Road and Flood Officers seek further details in respect of the surface water drainage system. The agent has confirmed that the surface water drainage has been partially installed. The design and adequacy of the system shall require to be demonstrated through submission of calculations and flow rates with further upgrades to meet the standards required for adoption by Scottish Water. A condition to ensure agreement with all agencies is advised in this respect. SEPA have notified the Council that, without imposition of such a condition, they would have formally objected to the application.

Finished floor levels

The officer advised that in general he would want the finished floor levels to be at least 300mm above road channel level.

Developer Contributions

In line with policy in respect of developer contributions, the following matters will need to be addressed:

Affordable Housing

The agent has agreed to provide six units on site to satisfy the requirement for affordable housing in line with supplementary planning guidance. This provision would be over and above the five units that already exist, which is a further benefit to this overall scheme. An affordable housing schedule will require to be submitted for approval with works not commencing on site until the terms and conditions of the schedule have been agreed.

Education

Residential units that comprise affordable housing within the definition of SBC Affordable Housing policy will be exempt from E&LL contributions. In respect of the 20 standard/market units (i.e. non affordable housing units) a sum of £4205 (indexed) is sought for Eyemouth High School. This equates to a total of £84,100.

Play facilities

Play facilities, fully equipped and with appropriate supporting infrastructure (surfacing, fencing, bins etc) will require to be provided on site and in accordance with the specifications as laid out in supplementary planning guidance (Green Space). The developer will be required to make arrangement for the future inspection and maintenance costs through a factor agreement with incoming residents. This matter will be covered by condition.

Footpath

The developer has agreed to provide funds for the installation and future maintenance of a footpath and associated infrastructure in conjunction with the Community Council, to provide connectivity from the site to the village of Ayton. This may be required to be part of the S75 agreement and is, again, a benefit that would not have been achieved under the implementable scheme.

Ecology

It is noted that there are areas of woodland and watercourses adjacent to the site which would support a range of species resulting in a high quality of biodiversity. Concerns, in respect of protected species using the site, have been raised by neighbours. The ecologist has been consulted on the application and has no objection to the development provided several conditions are applied to consent in respect of protected species and habitat enhancement. In particular, the officer notes that there is a high potential for bats and badgers to use the area for commuting and foraging. As badgers setts are known to be present in the general area a Badger Protection Plan is required (to be informed by a badger survey to include a 50m buffer survey zone around the site). A license from SNH will be required if setts are within the recognised disturbance distance. Further conditions are recommended to include control over tree removal and clearance of habitat during the bird breeding season.

With the provision of additional landscaping there is the opportunity for biodiversity habitat and enhancement. A detailed Biodiversity and Habitat Management Plan is required prior to commencement of works which should include details of type of lighting used and the timing of lighting during both the construction phase and for the final development. This inclusion is to take account of the light sensitive nocturnal species that use the site. Provision of wildflower areas on site is regarded as being appropriate for encouraging biodiversity. Submission of the plan and agreed mitigation measures can be secured via a condition attached to consent.

Conclusion

There are several factors which are material considerations to be weighed up in reaching a recommendation in respect of this application.

In the context of Local Plan Policy G8, the application is deemed to be contrary to housing in the countryside policy. The site clearly lies outwith the settlement boundary

of Ayton and there are other appropriate housing sites defined within the development plan that could meet the housing need identified in the Berwickshire area.

The brownfield nature of the site, with the road and drainage network partially installed, and the exceptional circumstances of the extant consent which provides for 36 dwellings at this rural location to serve a care home purpose no longer in existence are, however, significant material considerations. An application for Peelwalls House to revert back to private residential use has been approved by the council pending conclusion of legal agreement in respect of developer contributions. The link to the House has been severed with the titles now under separate ownership.

Whilst the proposal is contrary to the development plan in respect of new housing in the countryside policies, due consideration must be given to the significant change in circumstances and the intended purpose of the legal agreement to seek to regulate the development of the care village.

Given that the care home is no longer in existence, there is no possibility of the care village being established. However, with the extant consent in place the applicant could proceed to build out the remainder of the dwellings to the original design. Whilst the properties could not in effect be subject to any restriction in respect of the use of the care facilities, as these no longer exist, they would be subject to restrictions in respect of age.

Against that background, there is an opportunity to secure a better development in terms of design quality than the original scheme proposed of plain bungalows erected around small culs-de-sac. Design guidance in respect of new residential housing has evolved over the last decade to provide for developments with a strong sense of place to provide for enhanced quality of living. The key qualities sought being sense of identity, safe and pleasant spaces, ease of movement, a sense of welcome, adaptability, and good use of resources. The submitted plans depict a small residential scheme with enhanced woodland planting that blends the development to the former estate surroundings. Because of the topography of the area and strong landscaping edges the housing will be visually contained within this rural environment.

In views in to the site from the approach road to Ayton, the proposed dwellings would sit comfortably within the wider landscape and could be an appropriate solution for a dilapidated and abandoned site in this rural location. The proposals represent an improvement on the initial scheme under the extant permission, and the scheme meets the policy requirements for the site in respect of standards contained within National Policy, Designing Streets as well as the Councils adopted Placemaking and Design SPG.

The applicant has endeavoured to accommodate the requirements within the SPG advice while working within the constraints of this project, namely the existing stock of housing, (upgraded to provide habitable properties) and the partially developed infrastructure to include roads and drainage to include SUDs feature. The plans have been examined by the specialists, and provided conditions are applied in respect of proposed drainage works and the surface water system, the proposal meets planning policy requirements.

On balance, taking into account the full facts and circumstances, it is considered that

this scheme can be supported and there are benefits to be gained in achieving a better designed housing development. However, there are a number of other minor details that still require further attention to ensure that this is a high quality development. It is considered that matters such as landscape, drainage, access and ecology can be adequately mitigated or addressed through the imposition of planning conditions.

REASON FOR DECISION :

The proposed design and layout of the residential development is considered to be acceptable in terms of density, layout, design and landscaping in accordance with development plan policies G1. Whilst the proposed development lies outwith the development limits of any settlement on an unallocated site, contrary to policy G8, the scheme provides betterment in terms of design in relation to the original scheme approved and partially built under the extent consent. The proposals are considered to be appropriate for this rural location resulting in the completion of a building group compatible with the character of the surrounding area, neighbouring uses and built form.

Recommendation:

Approve subject to satisfactory conclusion of a legal agreement (in respect of delivery of affordable housing on site and contributions towards education provision and the provision and maintenance of a footpath link to Ayton), conditions & informatives

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 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 No development shall commence until a programme of phasing (to include the affordable housing dwellings) has first been submitted to and agreed in writing with the Planning Authority, thereafter the development shall be carried out in strict accordance with the approved details unless any variations to the phasing programme are agreed with the Planning Authority.
Reason: To ensure that the development of the estate proceeds in an orderly manner.
- 4 A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until the completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form: Development at (Note 1) Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council. The development comprises (Note 5) Further

information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone (01835) 825060, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6). Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

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

- 6 Before any part of the development hereby permitted is commenced detailed drawings showing which trees are to be retained on the site shall be submitted to, and be approved in writing by the Local Planning Authority, and none of the trees so shown shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Local Planning Authority.
Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are retained and maintained.

- 7 Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by a fencing 1.5 metres high, 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.

- 8 No development shall commence until a tree survey (according to BS5837:2012) is submitted for the prior approval of the Planning Authority, to establish the Root retention areas of the trees and all the potential effects of construction on retained boundary trees (in particular the trees to the south west of the site).
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.

- 9 No development shall commence until a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing with the Planning Authority, and thereafter no development shall take place except in strict accordance with those details. Details of the scheme shall include:
- 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.
- 10 No development shall commence until details of provision and siting of the on-site play facilities, works schedule and maintenance details have been submitted to and agreed in writing by the Planning Authority. Thereafter, the play area shall be implemented in accordance with a timescale that forming part of the works schedule so agreed.
- Reason: To ensure a satisfactory form of development
- 11 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.
- 12 The areas allocated for parking on the approved plan shall be properly consolidated, surfaced and drained before the dwellinghouses in each phase of the development (as required by condition 3) are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.
- 13 The proposed roads, footpaths and turning spaces indicated on the approved drawings shall be constructed in such a manner as to ensure that each dwelling, before it is occupied, shall be served by a properly consolidated and surfaced carriageway and footpath. The materials shall be in line with the details contained informative 6.
- Reason: To ensure that the proposed estate is laid out in a proper manner with adequate provision for traffic.
- 14 Public parking bays outwith any dwelling curtilage shall not be allocated to any specific dwelling. All parking bays shall be a minimum of 2.5m x 5.0m, or, where they are up against a wall/fence or other structure, they shall be 2.5m x 6.0m.

The bays shall be designed in accordance with the details contained in informative 6.

Reason: In the interest of road safety

- 15 Where curtilage parking is to be provided using side by side bays, a separate pedestrian access to the dwelling shall be provided to ensure satisfactory pedestrian access to the property at all times and therefore not encourage vehicles to be parked on-street to allow pedestrian access.
Reason: In the interest of road safety
- 16 No development shall commence until works for the disposal of sewage and surface water drainage have been provided on the site to serve the development in accordance with details to be submitted to and approved in writing by the Planning Authority before development commences.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
- 17 No development shall commence until the applicant has demonstrated to the Planning Authority that an adequate water supply is available to serve the whole of the development. Reason: To ensure that the development is adequately serviced with water without a detrimental effect on the water supplies of surrounding properties.
- 18 No development shall commence until details of all the surface treatments are submitted to and agreed in writing by the Planning Authority. Thereafter, the surface treatments shall be implemented in accordance with the approved details. The materials shall be in line with the details contained informative 6.
Reason: To ensure a safe and satisfactory form of development appropriate to its surroundings.
- 19 No development shall commence until a Badger Protection Plan (including the details of the toolbox talk and the survey details as per informative 2) shall be submitted to, and agreed in writing, by the Planning Authority. Thereafter, the works shall be carried out in accordance with the approved scheme.
Reason: In the interests of preserving biodiversity
- 20 No felling or disturbance of trees which could be used by roosting bats shall be carried out without the express written permission of the Planning Authority. Checking surveys and appropriate mitigation for bats shall be required if any such works are to occur.
Reason: In the interests of preserving biodiversity
- 21 No clearance/disturbance of habitats which could be used by breeding birds, such as hedgerows, shrubs and trees, shall be carried out during the breeding bird season (March-September) without the express written permission of the Planning Authority. Supplementary checking surveys and appropriate mitigation for breeding birds will be required if any habitat clearance is to commence during the breeding bird season.
Reason: In the interests of preserving biodiversity
- 22 No development shall commence until the full details of the finalised SUDS

scheme shall be submitted for the written approval of the planning authority, in consultation with SEPA and Scottish Water, and all work shall be carried out in accordance with the approved scheme.

Reason: To ensure adequate protection of the water environment from surface water runoff

- 23 No development shall commence until a Biodiversity and Habitat Management Plan as per the details required in informative 3) shall be submitted to, and agreed in writing by, the Planning Authority. Thereafter, the works shall be carried out in accordance with the approved scheme.
Reason: In the interests of preserving biodiversity
- 24 The finished floor levels of the building(s) hereby permitted shall be consistent with those indicated on a scheme of details which shall first have been submitted to and approved in writing by the Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site.
Reason: To ensure that the proposed development does not have an adverse effect upon the amenity currently enjoyed by adjoining occupiers.

Informatives

- 1 There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits) or artefacts (e.g. pottery, ironwork) of potential antiquity are discovered, please contact the planner or Archaeology Officer for further discussions. Further investigation secured by the development may be required if significant archaeology is discovered.
- 2 A Badger Protection Plan is required to protect any setts in the area and badger foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting, timing of works, badger-proof fencing around settlement ponds). This Badger Protection Plan will need to be informed by a badger survey to be carried out by a suitably qualified person. It is also a requirement that prior to the commencement of works the site contractors are given a toolbox talk and information sheet by the developer's consultant ecologist to explain the requirements of the mitigation on site.
- 3 The Biodiversity and Habitat Management Plan shall be prepared by a suitably qualified person. It will relate to the proposed housing development, and is required to be submitted, in writing (including plan/maps), for approval by the Planning Authority. It will enhance the local habitat network for biodiversity and could include measures for locally native woodland and scrub, hedgerows and grassland enhancement with wildflower areas. A planting scheme may include native trees and shrubs (FCS Native seed zone 204). The type of lighting and timing of lighting which minimises impacts on biodiversity, e.g. badgers and bats, should be carefully considered for both the construction phase and the final development. The Plan should include a 'Lighting design strategy for light sensitive biodiversity'. This may include darker wildlife corridors. A pond or SUDS feature, which is already required, can also enhance the local habitat network for bats. Well designed this can form part of the wider green network and can

promote biodiversity. The developer may also consider the provision of swift bricks and bird nesting sites such as the Schwegler 1N Deep Nest Box which can be attached to mature trees or posts to provide nesting opportunities for a range of bird species. Any works shall thereafter be carried out in accordance with the approved scheme.

- 4 To protect the water body which is in the vicinity of the development area. Adopt SEPA Pollution Prevention Guidelines PPG1, PPG5 (general guidance and works affecting watercourses), PPG 3, 4, 7, 13 (site drainage), PPG 2, 8 (oil storage) and PPG 6 (construction and demolition) as appropriate.
- 5 As appropriate protect riparian woodland/vegetation on boundary with an appropriate no development buffer (adopting BS5837:2005 *Trees in relation to construction*).
- 6 The development shall be carried out in accordance with the following engineering requirements.
 - The road within the development shall require construction consent (RCC).
 - A Section 7 agreement shall be required between the Council and Scottish Water which takes the proposed drainage layout into consideration.
 - All prospectively adoptable public roads without associated footways/paths must be constructed using approved block pavements. The type and colour must be agreed in writing with the Council prior to the pavements being laid, construction details to be agreed via the RCC.
 - All prospectively adoptable public roads with associated footways/paths must be constructed using hot rolled asphalt, construction details to be agreed via the RCC.
 - Where parking bays are outwith a dwelling curtilage and are to be adopted as public, these must not be allocated to any specific dwelling.
 - A drawing showing the proposed public utility layout must be submitted as part of the RCC process. This is to ensure that any services within the road verge can be accessed at all times. This requirement may impact on the proposed landscaping as I will not be able to support any planting and structures within service strips. This is of particular concern where the road narrows, especially in the vicinity of plots 22 to 25.
 - Nose-in parking spaces which are to be adopted as public must have a minimum of 600mm hard standing along the edges where they are not adjacent to a footway/path. This is to allow occupants of the vehicle to manoeuvre around it freely.
 - All prospectively adoptable public roads, footways and footpaths, and any work within these areas, must be carried out by a Council approved contractor.
 - Where any prospectively public drain is not located within a public road or footway/path, a formal agreement must be in place prior to the road being adopted to ensure that the Council have a right of access in perpetuity for maintenance purposes.

- All parking bays must be a minimum of 2.5m x 5m or, where they are up against a wall/fence or other structure, they must be 2.5m x 6m. It would appear from the drawing 3090:04 that this is not the case, particularly at plots 30 and 31.
 - Where curtilage parking is to be provided using side by side bays, a separate pedestrian access to the dwelling must be provided. This is to ensure satisfactory pedestrian access to the property at all times and therefore not encourage vehicles to be parked on-street to allow pedestrian access. Plot 30 causes some concern re this.
 - All visibility splays must be kept free from obstruction in perpetuity. This includes any walls, fences, trees or any other obstruction.
 - The surface water scheme must be upgraded to a standard suitable for adoption by Scottish Water. A scheme of details must be submitted for approval in writing by the Council and Scottish Water, and thereafter completed to an agreed timescale prior to the development being completed
- 7 The agent is advised to be aware of potential flooding from other sources to include run-off from surrounding land, blocked road drains and surcharging sewers. The Flood Officer advises that the surface water system be designed in accordance with industry standard and that the system is checked against a 1 in 200 year plus a 20% allowance for climate change storm event. Any surcharging of the system during such an event should also be retained on site and not increase flood risk within the site or outwith the site. Flow paths in the event of surcharging should also be investigated to ensure that these do not adversely affect property.

Drainage model inputs and outputs should provide the detail of how the design for the surface water system has come about. Generally speaking this shows manholes, pipe runs, gradients etc which are assessed over various storm return periods to ensure the functionality of the system. The attenuation pond storage calc should also be included to ensure that the storage volume is such, whereby it is not overtopped in an extreme storm event (1 in 200 year plus a 20% allowance for climate change). Calculations are required to show what the greenfield run-off rates for the site are pre and post development. This should tie in with the discharge rate to the watercourse, we ask that the discharge rate is limited to greenfield run-off rate or 5 litres/second/hectare, whichever is lower.

- 8 Details of regulatory requirements and good practice advice for the applicant can be found on SEPA website at www.sepa.org.uk/planning.aspx. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in the local SEPA office at: SEPA Galashiels, Burnbrae, Mossilee Road, TD1 1NF, Tel: 01896-75479

DRAWING NUMBERS

Loc Plan A	Location Plan	25 July 2014
3090:04 Rev F	Site Layout	

Elevations and Plans

3090:05	House Type A	25 July 2014
3090:06 A	House Type B	25 July 2014
3090:07	House Type C & D	25 July 2014
3090:08	House Types E & F	25 July 2014
3090:09	House Type G	25 July 2014
3060:10	House Types H & J	25 July 2014
3090:11	House Type K	25 July 2014
3090:12	House Type L	25 July 2014
3090:14	House Type M	25 July 2014
3090:15	House Type A,B,C,D	25 July 2014
3090:19	House Type L	25 July 2014
3090:20	House Type M	25 July 2014
3090:21	Site sections	25 July 2014

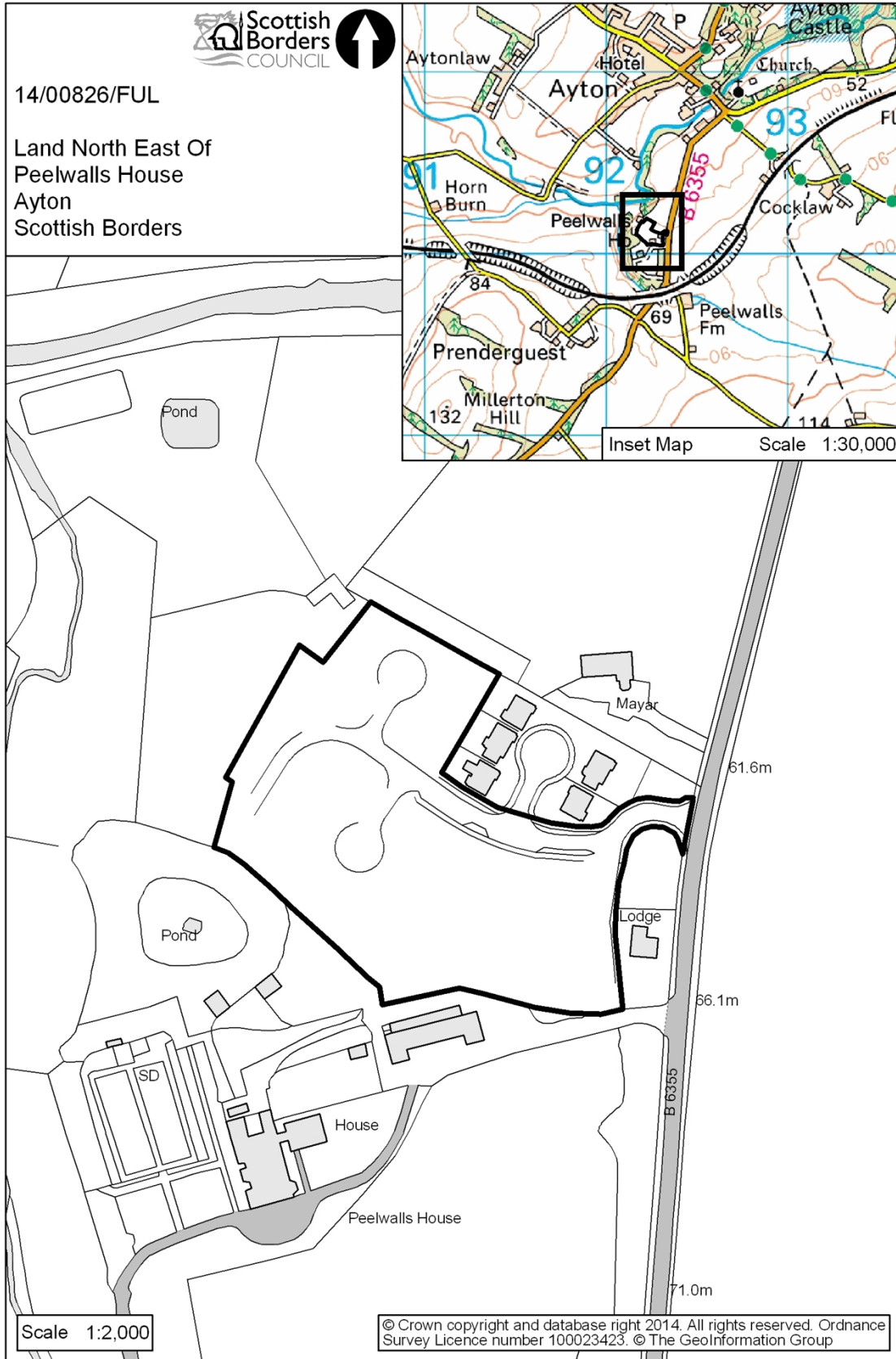
Approved by

Name	Designation	Signature
Brian Frater	Head of Planning and Regulatory Services	

The original version of this report has been signed by the Head of Planning and Regulatory Services and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Lucy Hoad	Planning Officer



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 FEBRUARY 2015

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER:14/01332/FUL
OFFICER: Mr C Miller
WARD: Tweeddale East
PROPOSAL: Alterations and extension to dwellinghouse
SITE: 14 Gallow Hill, Peebles
APPLICANT: Mr Shanks and Mrs Logan
AGENT: D & H Farmer

SITE DESCRIPTION

The application site consists of a single storey detached dwellinghouse located on the western side of Gallow Hill, Peebles. The property looks out over green space and is bordered by other single storey houses, including houses at Crookston Court to the rear.

PROPOSED DEVELOPMENT

The proposals are to the rear of the dwellinghouse and involve replacement of the current conservatory with a single storey link and 1½ storey extension. Both will be clad in roof tiles and dry dash render to match the existing house. Four sets of white uPVC patio doors are proposed on the south-western elevation of the link and extension with the upper bedroom patio doors leading onto a glass and grey steel balcony.

The ridge lines of the link and extension are both lower than the main house ridge and all other walls are blank except for a pair of obscure glazed windows at ground floor facing north-east. Additional daylight is provided by a series of velux windows.

The application has been submitted by a senior official of the Council and is, consequently, presented to Committee for determination.

PLANNING HISTORY

None.

APPLICANTS' SUPPORTING INFORMATION

None.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

None

Statutory Consultees

Peebles and District Community Council – Community Councils are not generally consulted on householder applications outwith Conservation Areas. Peebles and District Community Council were not consulted on this application nor did they request a formal consultation. However, they did make a representation which expresses concerns that the proposed development is overly large and out of proportion in relation to the size of the back garden. They feel that it constitutes over-massing given its elevated position relative to neighbouring properties.

Other Consultees

None

REPRESENTATION SUMMARY

None.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

Policy G1 Quality Standards for New Development
Policy H2 Protection of Residential Amenity

OTHER PLANNING CONSIDERATIONS:

“Privacy and Sunlight” Supplementary Planning Guidance

KEY PLANNING ISSUES:

The main determining issues with this application are whether the proposals comply with Development Plan Policies and Supplementary Planning Guidance (SPG) on extensions to dwellinghouses in residential areas and, in particular, the design, scale and potential impacts on privacy and daylight.

ASSESSMENT OF APPLICATION:

Planning policy

Extensions to dwellinghouses outwith Conservation Areas are covered by Policies G1 and H2 of the Consolidated Local Plan. G1 seeks to raise quality of all developments and in relation to extensions, requires scale, massing and height to be appropriate to the surrounding area and to the character of the existing building. Policy H2 also seeks good “fit” of design within a residential area and careful consideration of impacts on surrounding properties, especially in relation to loss of privacy. The latter aspect is developed further within the “Privacy and Sunlight” SPG which contains advice on minimum overlooking distances as well as daylighting and sunlighting angles.

For the reasons set out in this report, it is considered that the proposals are in compliance with these Policies and Guidance.

Design

The property is located at Gallow Hill in Peebles which is a modern estate of houses to the south-east of the town. The immediate context of the property is of single storey houses of similar age, design and height, stepping down to the south-west and overlooking a large grassed area. The application proposes to extend the property entirely to the rear which will result in minimal impact from street view, maintaining the uniform nature of the houses and their ridgelines naturally following the topography.

The north-east elevation of the link and extension will be partly visible from the public street; the roofs and upper walls may be visible between existing houses but the lower parts will be concealed by a neighbouring garage and conifer hedging. The link is set in slightly from the gable of the existing house which allows its original roof shape to remain, thereby retaining the character of the house and relationship to the street scene.

To the rear, there is a sharp drop in levels from the rear face of the house and existing conservatory, sloping down to the north-western boundary in particular but also to the south-west. The slope has been used to achieve a two storey section at the rear of the extension connected to the house via a single storey link following the removal of the existing conservatory. The drop in levels still allows for pitched roofs to the link and extension with ridge lines below that of the main house, albeit with an asymmetrical roof pitch to the main extension.

The use of a lower link to an extension at right angles is a design approach used successfully elsewhere for rear extensions, particularly where it is not evident from the public street. Provided the upper floor extension does not cause significant impacts on neighbouring properties, then it is considered that the design approach and height are appropriate to the design and character of the house. The existing house remains largely unaffected from the public view.

In terms of scale of development, the Community Council have concerns over this, believing there will be overmassing in relation to neighbouring properties. Whilst impacts are discussed in the next section, the proposal does make efficient use of the significant drop in levels to enable overall ridge heights that are slightly lower than the existing house roof. The floor area occupies less than 25% of the available rear garden area and replaces an existing conservatory. Sufficient space has been allowed to the boundaries to retain the screen fencing on the north-eastern and north-western sides and the trees along the north-western boundary.

Permitted development rules would permit 50% usage of the available rear garden area with a single storey extension up to 4m in height. Even upper floor extensions can be permitted development in rear gardens in certain circumstances subject to sufficient distances to boundaries. The proposed design is therefore appropriate in relation to the character of the house and the surrounding setting, given it is utilising the drop in levels, not exceeding the existing ridge height and occupying less than 25% of the rear garden.

In terms of materials, integration with the existing house will be helped by matching roof tiles, wall render, basecourse material and white uPVC patio doors.

Impact on neighbouring amenity

Policy H2 and the “Privacy and Sunlight” SPG seek to ensure that householder extensions do not have significant adverse impacts on their immediately adjoining residential neighbours. This is in relation to the main impacts on amenity caused by privacy or daylight/sunlight reduction together with an overall assessment of impacts caused by dominance.

In the case of the proposed link and extension, those impacts have clearly been assessed and addressed in the submission. Although the Community Council have expressed some concerns regarding overmassing impacts on neighbouring properties, there have been no third party objections lodged.

The properties to the north-east and south-west will not experience significant impacts due to separation distances and the level of mature screening. Applying the 25° daylighting rule from the SPG to the nearest habitable room window to the north-eastern property, there is comfortable clearance and no obstruction. The application also proposes shower and landing ground floor windows facing this property. However, they will be obscure glazed and face into a high fence and higher conifer hedge. Similarly to the south-west, the adjoining property is well screened by a high conifer hedge which will ensure no overlooking, even from the upper floor proposed bedroom 12m from the hedge. The distance and the hedge also determine that there would be no daylighting impacts on that property.

The impacts on the Eildon Housing Association scheme below the site to the north-west are potentially greater because of the proximity and elevation of the application proposals: The Crookston Court houses are semi-detached single storey houses with two rear facing windows per property. The agent has provided a 25° daylighting section from the habitable window of the most affected house which demonstrates no obstruction and clearance, meaning no unacceptable impact upon daylight. This is partly due to a combination of design devices, including accommodating an asymmetrical roof pitch and locating the extension 4.25m from the Crookston Court boundary. The potential daylighting impacts on the closest house are, therefore, still within the guidance in the SPG and are considered to be acceptable.

In terms of overlooking of this property, the extension itself will have no windows on the NW facing wall and only two velux windows in the roof which are high level and could not provide a view out to Crookston Court. Any oblique view from the upper bedroom patio doors is also within the buffer separation rules contained within the SPG, taking into account the angle of windows and level differences. Impacts are reduced further, especially at ground level, through the presence of screen fencing and trees. As the insertion of windows on the north-western wall of the extension would not require planning permission in the future, it would be important to ensure permitted development rights are restricted on this wall.

The initially submitted plan showed a balcony serving the upper floor bedroom. This could have led to concerns over direct overlooking from the balcony to the Crookston Court houses. However, this has now been altered to a Juliet balcony which has no floor projection beyond the face of the extension and would, thus, not allow any wider viewing than that already afforded by the patio doors. Should there be an intention in the future to seek a projecting balcony, this would require a new planning application.

In conclusion, the proposals accord with Local Plan Policy H2 and the guidance in the relevant SPG. Through careful design and the amendment of the balcony, the

link and extension can be accommodated within the rear garden without significant detriment to the amenity of adjoining residential properties.

CONCLUSION

The proposals comply with Development Plan Policies and Supplementary Planning Guidance on extensions to dwellinghouses in residential areas in that the design and scale of the extension are in keeping with the character of the existing building and any impacts on privacy and daylight of adjoining residential properties are acceptable and within the published guidance.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the north-western elevation of the building(s) unless an application for planning permission in that behalf is first submitted to and approved in writing by the Planning Authority.
Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.

DRAWING NUMBERS

D001 Existing Floor Plan
D005 Floor Plans
D006 Proposed Elevations
D007 Daylight Projections
D008 Location Plan/Block Plan
Photographs

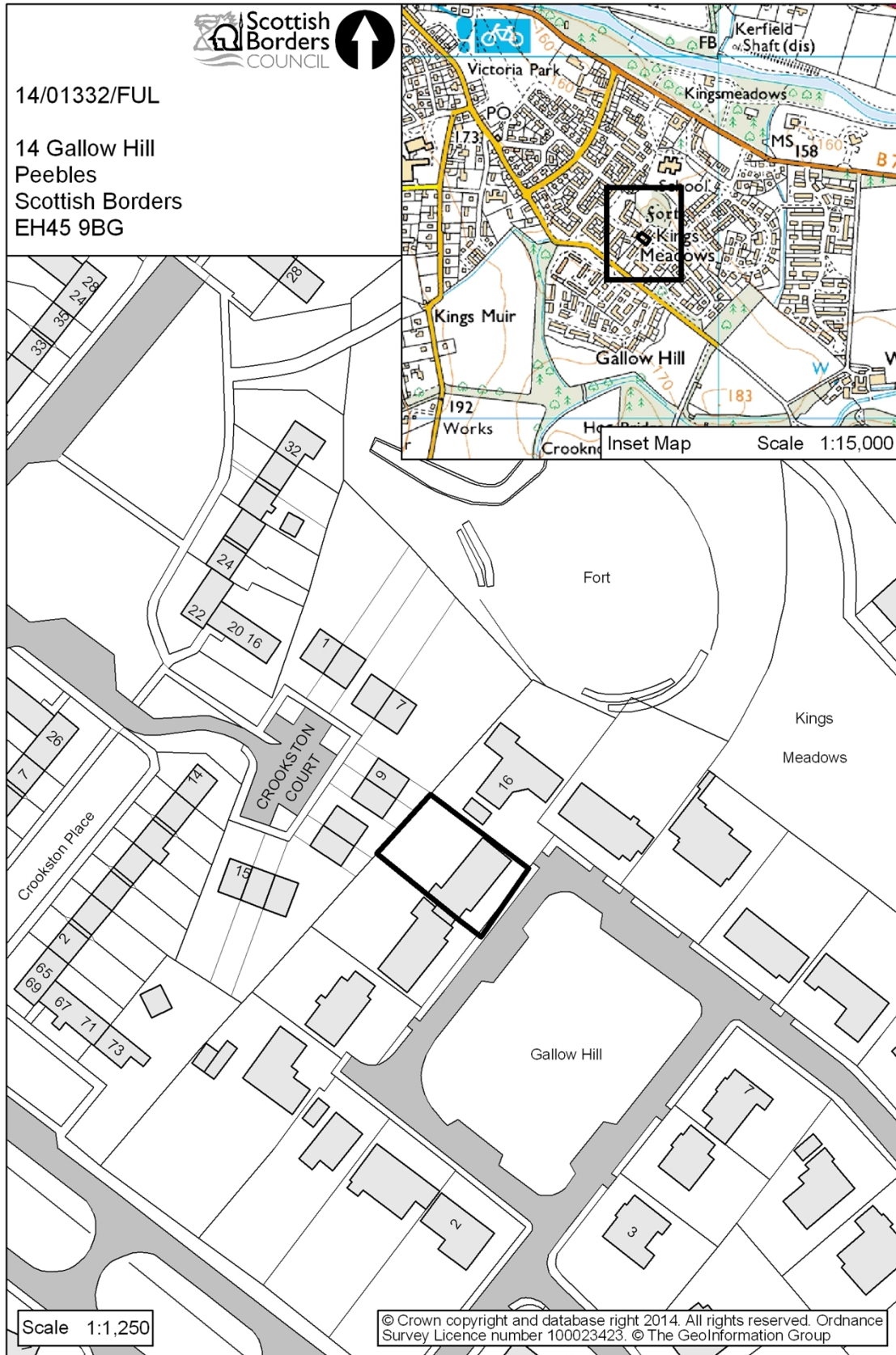
Approved by

Name	Designation	Signature
Brian Frater	Service Director (Regulatory Services)	

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

Author(s)

Name	Designation
Craig Miller	Principal Planning Officer



PLANNING APPEALS & REVIEWS

Briefing Note by Service Director Regulatory Services

PLANNING AND BUILDING STANDARDS COMMITTEE

2nd February 2015

1 PURPOSE

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

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 14/00763/FUL
Proposal: Installation of anaerobic digestion sustainable energy plant
Site: Ravelaw Farm, Whitsome, Duns
Appellant: Ivor Gaston & Son

Reason for Refusal: Having regard to the 250m appropriate separating distance between the proposed anaerobic digester and any sensitive receptors recommended by Scottish Planning Policy, the proposed development would give rise to unacceptable impacts on the living conditions of neighbouring residents, by particular reason of odour, contrary to Policies G1 and H2 of the Scottish Borders Local Plan.

Grounds of Appeal: The appellant believes that the proposal: 1. Has no significant siting, design or visual impacts. 2. Will not have an unacceptable impact on residential amenity. 3. Adheres to criteria regarding traffic and access, storage of hazardous substances, waste, water supply and biodiversity. 4. Complies with the Development Plan and all related planning policy in particular with regard to the requirement of national and local governments to support renewable energy development. 5. Will support sustainable economic development as promoted by SPP as it will sustain a local business, create new local employment and provide other spin-off employment/business as part of constructing/servicing the plant. 6. Is smaller than AD Plant approved by SBC in the recent past and which have been approved despite the proposals being under the 250 metre guideline outlines in SPP. There is clear precedence therefore that the proposal should be treated in the same way as other AD Plants within the region.

Method of Appeal: Written Representations

2.1.2 Reference: 14/01231/MOD75
Proposal: Discharge of planning obligation pursuant to
planning permission 06/01404/FUL
Site: Land South of Meigle Row, Clovenfords
Appellant: B D W Trading Ltd

Reason for Refusal: Appeal against non-determination of application.

Grounds of Appeal: Following the decision of the Scottish Ministers, in obligations Appeal POA-140-2002, the Appellant believes the £70,000 Roads Network Contribution should be discharged.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 1 appeal previously reported on which a decision was still awaited when this report was prepared on 22nd January 2015. This relates to a site at:

- Lylestane Farm, Oxton •

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 14/00990/FUL
Proposal: Change of use from workshop (Class 4) to children's soft-play centre, ancillary cafe, sensory area (Class 11) and extension incorporating new welfare facilities
Site: No 1 Works, Hillview Trading Estate, Guards Road, Coldstream
Appellant: Mr and Mrs Jon & Anna Standing

Reasons for Refusal: 1. The proposals would be contrary to Policy Inf4 and Inf11 of the Consolidated Local Plan 2011 in that the proposed change of use could cause unacceptable adverse impacts on road and pedestrian safety, and may harm the estate through the introduction of mixed use traffic demand. 2. The proposed change of use would be contrary to Policy ED1 of the Consolidated Local Plan in that that change of use to form children's soft play centre would result in the loss of employment floor

space. Benefits to the surrounding area and community do not outweigh the need to retain the site for Class 4, 5 and 6 employment. The proposal is incompatible with neighbouring employment uses, could blight the Estate, and could cause long term harm through the introduction of mixed use.

6 REVIEWS DETERMINED

7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 22nd January 2015. This relates to sites at:

- 1 Prendergust Farm Cottages, Eyemouth
- School House, Heriot

Approved by

Brian Frater
Service Director Regulatory Services

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

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