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

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

J. J. WILKINSON,
Clerk to the Council,

23 February 2015

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 1 - 10) Minute of Meeting of 2 February 2015 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Land North of Nether Monynut Cottage, (Aikengall 2A), Cockburnspath - 14/00169/S36 (Pages 11 - 24) Construction of wind farm comprising 19 no. wind turbines, associated access tracks, crane hardstandings, 1 no. meteorological mast, substation, construction compound and 2 no. borrow pits.
	(b) Land North East of Plummers Knowe, Cardrona - 15/00005/FUL (Pages 25 - 32) Formation of riding arena with boundary fence and formation of grass bund.
	(c) Land North East of 1 Old Braidlie, Hawick - 14/00826/FUL (Pages 33 - 44) Erection of 70m wind monitoring mast on land.
	(d) Stables, West Nisbet, Jedburgh - 14/01161/FUL (Pages 45 - 62) Change of Use, alterations and extensions to form two dwellinghouses from stables.
6.	Appeals and Reviews. (Pages 63 - 66) 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
fhenderson@scotborders.gov.uk

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 2 February 2015 at 10.00
a.m.

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

In Attendance:- Development Standards Manager, Major Applications, Review and Enforcement Manager, Principal Roads Planning Officer, Solicitor (G Nelson), Democratic Services Team Leader, Democratic Services Officer (F Henderson).

MINUTE

1. There had been circulated copies of the Minute of the Meeting held on 12 January 2015.

DECISION

APPROVED for signature by the Chairman.

APPLICATIONS

2. 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 the Appendix to this Minute.

APPEALS AND REVIEWS

3. 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) Appeal requests had been received in respect of the following:-

(i) Installation of anaerobic digestion sustainable energy plant at Ravelaw, Whitsome, Duns – 14/00763/FUL

(ii) Discharge of planning obligation pursuant to planning permission 06/01404/FUL on Land South of Meigle Row, Clovenfords – 14/01231/MOD75

(b) There remained one appeal outstanding in respect of Lylestane Farm, Oxton.

- (c) A review request had been received in respect of change of use from workshop (Class 4) to children's soft-play centre, ancillary café, sensory area (Class 11) and extension incorporating new welfare facilities at No 1 Works, Hillview Trading Estate, Guards Road, Coldstream – 14/00990/FUL**
- (d) There remained 2 reviews outstanding in respect of the following:-**
 - (i) 1 Prenderquest Farm Cottages, Eyemouth - 14/00951/FUL**
 - (ii) School House, Heriot – 14/01063/PPP**

The meeting concluded at 12.15 p.m.

APPENDIX

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
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 off A701, borrow pit, underground cabling, substation and compound and temporary construction compound	Land South East of Halmyre Mains Farmhouse (Hag Law Wind Farm) Romanno Bridge Peeblesshire

Decision: 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.

NOTE

Mr J Pratt on behalf of the Newlands Group and Mr G Hughes Chairman of Manor, Stobo and Lyne Community Council spoke against the application.

Mr R McMichael (West Coast Energy) spoke on behalf of the Applicant (Stevenson Wind Energy Ltd) in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/01261/FUL	Modification of condition No 3 of planning consent 02/00813/COU in respect of the occupancy period of the static caravans	Riverview Holiday Park, Mangerton, Newcastleton

Decision: 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.

Reference

Nature of Development

Location

14/00826/FUL

Erection of 26 dwellinghouses and associated infrastructure

**Land North East Of Peelwalls House
Ayton
Scottish Borders**

Decision: Approved subject to the following conditions and informatives and to a legal agreement requiring contributions toward education provision and the delivery of affordable housing on site and the delivery of footpath linking between the site and Ayton village (including a bridge over the Eye Water) which is to be completed in accordance with a scheme of details to be submitted and approved by the Council prior to the commencement of works and which shall require to be completed prior to the occupation of any house to which this permission relates.

- 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:
- 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;
 - No fires shall be lit within the spread of the branches of the trees;
 - No materials or equipment shall be stored within the spread of the branches of the trees;
 - Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
 - 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:
- existing and finished ground levels in relation to a fixed datum preferably ordnance
 - existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - location and design, including materials, of walls, fences and gates
 - soft and hard landscaping works
 - existing and proposed services such as cables, pipelines, sub-stations
 - other artefacts and structures such as street furniture, play equipment
 - 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 it 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 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 person¹. 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 person¹. 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.

NOTE

Mr Tunstall (Agent) spoke on behalf of the Applicant in support of the Application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/01332/FUL	Alterations and extension to dwellinghouse	14 Gallow Hill, 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. 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.

14/00169/S36 – Aikengall 2A Wind Farm – Conditions/Informative Notes/Matters for Legal Obligations

Duration of the Consent

- 1 The consent is for a period of 25 years from the date of Final Commissioning.

Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent.

Commencement of Development

- 2 The Commencement of the Development shall be no later than three years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

Reason: In accordance with s58 of the Town and Country Planning (Scotland) Act 1997. To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

Non-assignment

- 3 The Company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

Reason: To safeguard the obligations of the consent if transferred to another company.

Serious Incident Reporting

- 4 In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.

Implementation in accordance with approved plans and requirements of this consent

- 5 Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the application

including the approved drawings listed at Appendix 1 to this decision statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

Reason: to ensure that the Development is carried out in accordance with the approved details.

Design and operation of turbines

- 6 There shall be no Commencement of Development unless full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height shall not exceed 125 or 145 metres above ground level (to accord with the range of heights described within the Further Environmental Information received in December 2014). The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

All wind turbine blades shall rotate in the same direction.

None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority

Reason: To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area

Design of ancillary development

- 7 There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the ancillary development forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.

Micro-siting

- 8 All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 2.1a (within the December 2014 Further Environmental Information). Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH), and notwithstanding the proposals

contained within the Environmental Statement and Further Environmental Information, micro-siting is subject to the following restrictions:

- a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on the aforementioned Figure 2.1a;
- b. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50m from the position shown on the original approved plans;
- c. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

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

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

Borrow Pits

- 9 There shall be no Commencement of Development unless a scheme for the working of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include;
 - a. A detailed working method statement;
 - b. Details of the handling of any overburden (including peat, soil and rock);
 - c. Drainage, including measures to prevent surround areas of peatland from drying out;
 - d. A programme of implementation of the works described in the scheme; and
 - e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period.

The approved scheme shall thereafter be implemented in full.

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

Planning Monitoring Officer

- 10 There shall be no Commencement of Development unless the Planning Authority has approved the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the Council in the monitoring of compliance with conditions attached to this deemed planning permission during the period from Commencement of Development to the date of Final Commissioning and thereafter throughout the period of operation of the windfarm.

Reason: To enable the development to be suitably monitored during the construction phase to ensure compliance with the consent issued.

Ecological Clerk of Works

- 11 There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;
- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan and other plans approved in terms of condition 12 (“the EcoW works”); and
 - b. Require the EcoW to report to the Company’s nominated construction project manager any incidences of non-compliance with the EcoW works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12.

No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA. The EcoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

Construction and Environmental Management Plan

- 12 There shall be no Commencement of Development unless a Construction and Environmental Management Plan (“CEMP”) outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA.

The CEMP shall include (but shall not be limited to):

- a. a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. details of borrow pit excavation and restoration;
- d. a dust management plan;

- e. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- f. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- g. soil storage and management;
- h. a peat management plan;
- i. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- j. sewage disposal and treatment;
- k. temporary site illumination;
- l. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- m. the method of construction of the crane pads;
- n. the method of construction of the turbine foundations;
- o. the method of working cable trenches;
- p. the method of construction and erection of the wind turbines and meteorological masts;
- q. details of any watercourse crossings;
- r. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- s. a wetland ecosystems survey and mitigation plan¹
- t. a felling and tree management plan²

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented.

Construction Hours

- 13 Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on national public holidays. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.

¹ This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

² This requirement should be applied only where appropriate in the circumstances on the case and will not be relevant to all applications

HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays.

Reason: In the interests of local amenity.

Traffic Management Plan

- 14 There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:
- a. The routeing of all traffic associated with the Development on the local road network;
 - b. Measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - c. Details of all signage and lining arrangements to be put in place;
 - d. Provisions for emergency vehicle access;
 - e. Identification of a nominated person to whom any road safety issues can be referred; and
 - f. A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width, axle configuration of all extraordinary traffic accessing the site;
 - g. Swept path analysis for the abnormal loads, taking into consideration the size of the consented turbines
 - h. Details of road and junction widenings
 - i. Management of road drainage during construction and development
 - j. Details of timber extraction routes and anticipated number of vehicles movements
 - k. A written statement relating to the undertaking of road condition surveys and remedial works to respond to damage/deterioration caused by construction traffic.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

Reason: In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.

Habitat Management and Enhancement Plan:

- 15 There shall be no Commencement of Development unless a Habitat Management and Enhancement Plan (HMEP) has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The HMEP shall set out proposed long term management and enhancement of the wind farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to bats, otter, badger, butterflies, farmland and wading birds, moorland, cleugh woodland, scrub and grassland management.

The approved HMEP will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with SNH and SEPA.

Unless otherwise agreed in advance in writing with the Planning Authority, the approved HMEP shall be implemented in full.

Reason: In the interests of good land management and the protection and enhancement of habitats.

Species Mitigation and Management Plan:

- 16 Prior to the commencement of any works or development on the site a Species Mitigation and Management Plan shall be submitted to and approved in writing by the Planning Authority. All on-site works and development shall thereafter be carried out in accordance with the approved Plan.

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

Supplementary (Checking) Surveys:

- 17 Prior to the commencement of any works or development on the site, supplementary surveys for protected species (including otter, badger and breeding birds) shall be carried out by a suitably qualified person or persons in a manner appropriate to the phasing of the development. The results of these surveys should be used to inform construction activities and any required mitigation proposals for protected species on the site, which shall be agreed with the Planning Authority and strictly adhered to in the course of development.

Reason: to ensure that species protected by law are not harmed as a result of the development taking place.

Before-After-Control-Impact (BACI) monitoring programme

- 18 A Before-After-Control-Impact (BACI) monitoring programme shall be submitted to and approved in writing by the planning authority prior to commencement of the development. The programme should include a breeding wader survey at 1, 3, 5, 10 and 15 year intervals after the completion of the development, and monitoring of other key species such as protected mammals

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

Replanting of Forestry:

- 19 Notwithstanding the information contained within the Environmental Statement and the Further Environmental Information, there shall be no Commencement of the Development unless a revised woodland planting scheme to compensate for the removal of existing woodland ("the Replanting Scheme") has been submitted for the written approval of the Planning Authority in consultation with Forestry Commission Scotland Conservator.

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

- (a) details of the location of the area to be planted;
- (b) details of land owners and occupiers of the land to be planted;
- (c) the nature, design and specification of the proposed woodland to be planted;

- (d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- (e) the phasing and associated timescales for implementing the Replanting Scheme;
- (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- (g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the Planning Authority, the Development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

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

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

Reason: To secure replanting to mitigate against effects of deforestation arising from the Development, taking into consideration the lack of an acceptable Replanting proposal within the ES or FEI.

Archaeology: Developer Funded Watching Brief

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

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

21 **Archaeology: Preservation *in situ* or Further Archaeological Investigation**

If significant finds, features or deposits of archaeological significance are discovered either as a result of initial archaeological investigation or through subsequent development works, no further works shall take place until the applicant has agreed in writing with the Planning Authority to either preserve remains *in situ* and clearly mark the area of discovery during development, which will always be preferred, or to conduct a scheme of further archaeological investigation as appropriate to the relative significance of the discovery. Further works shall not take place until archaeological investigation has been carried out to the satisfaction of the Council's Archaeology Officer and in accordance with a Written Scheme of Investigation (WSI) or addendum to an existing WSI. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority and disseminated appropriately.

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

Archaeology: Notification in advance of Archaeological Works

- 22 The developer shall give a minimum of two weeks notice of the commencement of the approved archaeological works in writing to the nominated archaeological contractor and to the Planning Authority. No works shall commence until the two week notice period has expired.

Reason: To allow sufficient time to prepare for the commencement of archaeological works.

Archaeology: Developer Funded Post-Excavation Research

- 23 In the event that significant archaeological materials are recovered either during the course of archaeological investigation or development, the developer will ensure that these undergo post-excavation research by a contracted archaeologist in accordance with a separate Post-Excavation Research Design (PERD) approved in writing by the Planning Authority.
- The results of post-excavation research will be submitted to the Planning Authority and disseminated appropriately through publication and community engagement within one year of the final on-site archaeological investigations and reporting.
 - The applicant's archaeological contractor shall ensure that the full archive of materials and records be submitted to Treasure Trove within one year of the completion of post-excavation research and archived appropriately according to national guidelines.

Reason: Development of the site has resulted in the recovery of significant archaeological materials, and it is therefore desirable to conduct appropriate analyses to preserve and disseminate the full archaeological record of the site's history.

Archaeology: Developer Funded Field Evaluation

- 24 No development shall take place until the applicant has secured and implemented a programme of archaeological work and reporting in accordance with a Written

Scheme of Investigation (WSI) outlining an Archaeological Field Evaluation. The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority.
- Access shall be afforded to the nominated archaeologist to evaluate the development site for the presence/absence, extent, character and likely age of archaeological remains.
- If significant finds, features or deposits are discovered all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for consultation which may result in further developer funded archaeological mitigation depending on the level of impact.
- Results will be submitted to the Planning Authority for approval in the form of a Data Structure Report (DSR) prior to development commencing. The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological mitigation as required.
- The developer will be expected to fund and implement all further archaeological work as required.

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

Noise:

- (25) *No condition proposed by SBC at this time, due to requirement for Noise matters to be further resolved. It is recommended that further dialogue takes place prior to finalisation of the decision. SBC would assist the applicant and ECDU in resolving issues and in constructing appropriate conditions.*

Shadow Flicker:

- 26 There shall be no Commencement of Development until a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any turbine forming part of the Development and which lawfully exist or for which planning permission has been granted at the date of this consent has been submitted to and approved in writing by the Planning Authority. The approved mitigation scheme shall thereafter be implemented in full.

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

Private Water Supplies:

- 27 There shall be no Commencement of Development unless a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. The approved method statement shall thereafter be implemented in full.

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

Water and Flood Risk Management:

- 28 There shall be no Commencement of Development unless the following matters have been addressed through submission of material to the Planning Authority for approval:
- (i) design details of new crossings or alterations to previous crossings to ensure that there is no decrease in flow conveyance and subsequently increased flood risk caused by the crossings;
 - (ii) details of regular maintenance relating to new water crossings and drains, to mitigate by reducing surface water runoff impact;
 - (iii) details of levels of discharges from SUDS or other drainage, confirming how it will be kept to existing Greenfield run-off rates;
 - (iv) written explanation of how it is proposed to manage the minimisation of sediment entering the surrounding water courses.

Reason: To minimise impact on the water environment and to ensure that flood risk is ameliorated.

Redundant turbines

- 29 If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall; (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and (ii) implement the approved scheme within six months of the date of its approval, all to the satisfaction of the Planning Authority.

Reason: To ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection

Aviation Safety

- 30 There shall be no Commencement of Development until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;
- the date of the expected commencement of each stage of construction;
 - the height above ground level of the tallest structure forming part of the Development;
 - the maximum extension height of any construction equipment; and
 - the position of the turbines and masts in latitude and longitude.

Reason: In the interests of aviation safety.

Aviation Lighting

- 31 Prior to the erection of the first wind turbine, the Company shall submit a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The

scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: In the interests of aviation safety.

Site Decommissioning, Restoration and Aftercare

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

There shall be no Commencement of Development unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The scheme shall detail measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- f. soil storage and management;
- g. sewage disposal and treatment;
- h. temporary site illumination;
- i. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;

- j. details of watercourse crossings;
- k. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

Financial Guarantee

- 33 There shall be no Commencement of Development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 32 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 32. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

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

Public Path/Access Protection, Enhancement and Management:

- 34 There shall be no Commencement of Development until a Public Path and Access Management Plan has been submitted to and approved in writing by the planning authority. The Plan shall include (but not be limited to) the following:
- (i) timings of any intended diversion, closure or obstruction of any public right of way (note that these are likely to need a separate consent)
 - (ii) measures for ensuring that paths kept open during development are safe and can be traversed without undue harm to the amenity of users
 - (iii) measures to ensure that users of the path network and accessible areas more generally are able to navigate through and adjacent to the site, including mapping and signage
 - (iv) any temporary installations such as gates, stiles and bridges and the duration of their installation
 - (v) proposals to restore original paths to an acceptable condition between construction and decommissioning and once full decommissioning has taken place
 - (vi) proposals to enhance public access within and adjacent to the site during the lifetime of the development.

Reason: The development would interact with a range of public paths and accessible areas, with development effects causing changes that require careful management to ensure that the experience of users is not harmed unacceptably or, where it will be harmed, that the level and nature of harm is limited and controlled to minimise development effects.

POTENTIAL LEGAL OBLIGATIONS – SUBJECTS FOR INCLUSION:

SBC requests that the developer provide regular funding towards maintenance and enhancement of the public path network, within a geographical area that shall first have been agreed. The reason for this is that if the development goes ahead it will cause a high level of change to the path environment, in particular to the Southern Upland Way and the Berwickshire Coastal Path. Implementation of the wind farm may be a deterrent to path users. The ability to deliver high quality maintenance and enhancement of the path network would help to offset perceived adverse effects.

SBC requests that the developer provide a one-off developer contribution via Section 69 to mitigate the historic environment impacts by LiDAR scan of the impacted area, outreach, education and interpretation.

It is suggested that it may be necessary to utilise legal obligations in relation to delivery of other offsetting or complementary works not within the application site. The use of any such obligations may arise in response to certain Planning Conditions including those relating to forestry planting and ecology/habitat.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 MARCH 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 15/00005/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale East
PROPOSAL:	Formation of riding arena with boundary fence and formation of grass bund
SITE:	Land North East of Plummers Knowe, Cardrona
APPLICANT:	Mrs C Bhatia
AGENT:	None

SITE DESCRIPTION

The site is located at Plummersknowe to the south-west of Cardrona village near Peebles. The site lies within the centre of an open rising field which has its lowest point adjoining the B7062 and its highest point adjoining existing dwellinghouses to the west. The site comprises a 44 x 20m area of the field with an access road already formed onto the track serving the existing dwellinghouses. The site already contains an agricultural storage building set against the northern boundary of the site within an area of levelled hardstanding. A woodland stand exists outwith the site to the north.

PROPOSED DEVELOPMENT

The application is presented to the Committee for determination in terms of the rules within the Scheme of Delegation for planning applications submitted by Elected Members.

The initial proposal was for a 40 x 20m horse riding arena, set parallel with the agricultural building and access road to Old Cardrona. The arena would be surfaced with sand and a 4m wide grass bund was proposed to the west of the site. The arena would be surrounded with low post and rail fencing. The arena would be for private schooling and training of horses only and there is no floodlighting proposed.

The plans were revised during the processing of the application by turning the arena 90 degrees so that it runs on a N/S axis, parallel with the internal access track. The arena would be the same in all other respects except there would be no grass bund to the west, although the bund to the north remains.

PLANNING HISTORY

Outline planning permission was initially granted on the site in 2007 following approval of 02/00946/OUT for the "erection of farm house and agricultural shed". Full planning permission for the detailed design of the farmhouse and shed were granted in February 2008, subject to three conditions relating to access visibility improvements at the junction with the B7062, submission of a landscaping scheme and water/drainage details. The details required by the access and landscaping

conditions have now been agreed and this development was confirmed as commenced in October 2012, by virtue of the access road and yard formation.

Planning permission for a previous stable building on the site was granted in April 2012 (12/00182/FUL). As the hay store and field shelter were mobile, a condition was imposed to ensure any relocation within the field was agreed with the Planning Authority.

A revised design of house and agricultural storage shed was granted permission in February 2013 but only the shed has been completed.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Environmental Health: Informatives should be imposed on any consent covering –

Lighting

If any floodlighting is to be provided the installation should be designed in accordance with the guidance produced by The Institution of Lighting Engineers. If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.

Stable Waste

During the use of the development refuse/waste materials (i.e. manure/soiled hay) may be produced on the site as a consequence. Therefore, it must be ensured that all such waste materials are not stored on site or disposed of in any manner (for example, burning) which would give rise to Statutory Nuisance conditions developing at neighbouring properties to the site.

Riding establishment

The Riding Establishments Act 1964 defines a Riding Establishment as “the carrying on of a business of keeping horses to let them out on hire for riding, or for use in providing instruction in riding for payment, or both, “ and requires such businesses to be licensed by the Local Authority. If the applicant intends the stables to operate as a riding establishment in the future, the premises will need to be licensed.

Statutory Consultees

INEOS: No objections in terms of the safety and engineering integrity of the Wilton-Grangemouth Ethylene Pipeline but any works within the Pipeline Wayleave would need to be notified to them.

Other Consultees

None

REPRESENTATION SUMMARY

None.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

Policy G1 Quality Standards for New Development
Policy EP2 Areas of Great Landscape Value
Policy H2 Protection of Residential Amenity
Policy D1 Business, Tourism and Leisure Development in the Countryside
Policy Inf9 Development Within Exclusion Zones

OTHER PLANNING CONSIDERATIONS:

“Local Landscape Designations” SPG

KEY PLANNING ISSUES:

The main determining issues with this application are impact of the proposed riding arena on the character of the landscape and the residential amenity of adjoining properties. The impacts of the nearby ethylene pipeline must also be considered.

ASSESSMENT OF APPLICATION:

Planning policy

Since the last application for a revised design of dwellinghouse and agricultural building were considered at this site, the land has now been included within the “Tweed Valley” Special Landscape Area and is now subject to its Management Recommendations. Other Local Plan Policies still also apply relating to development within the countryside (D1), residential amenity (H2) and impact of hazardous installations (Inf9). These will all be discussed below.

Landscape Impact

The site forms part of a paddock which is relatively level from the B Road then begins to rise towards the west and other dwellinghouses at the nearby building group of Old Cardrona. This group includes two dwellinghouses with permission which are still to be commenced. The rise in the ground means that the site is visible from the B Road and from the Dirtpot Corner parking layby across the A72 to the east. A dwellinghouse consented by permission 12/01344/FUL is still to be erected within the paddock, although the agricultural building forming part of the same proposal has already been completed. Once constructed, the house – which will be sited immediately to the east of the current application site – would screen the arena from the B7062. In the fullness of time, therefore, the house and associated structures will read as a fully integrated group.

A full landscaping scheme was approved as part of the earlier permission 07/01859/FUL and the timing of this was included in the Legal Agreement and Minute of Variation that exist on the site. It needs to be completed before the dwellinghouse is occupied.

Although the site is now covered by a new local landscape designation (“Tweed Valley SLA”), the impact of the riding arena on the landscape will be minimal. The planting and the proposed house will reduce any visibility from the public roads to the east and across the river. The realignment of the riding arena means that the intrusion into rising land is minimised and, whilst a longer edge will be presented to

public view, there will be less cut and a more natural relationship with the ground levels. The riding arena will not affect any of the planting previously approved for the site.

The natural surfacing material combined with low post/rail fencing and lack of floodlighting all help blend the development more successfully into the landscape. Given that the SLA Management Recommendations include the need to seek opportunities to better integrate existing development into the landscape, it is considered that the proposal will achieve this, combined with the other elements of the associated development already approved.

The other Local Plan Policies relating to landscape impacts of development in the countryside are also met by the proposal, Policies D1 and EP2 requiring use and scale to be compatible with the rural character of the landscape. A horse riding arena would be consistent with the character with this rural location on the edge of a building group and with an emerging development to be associated with it.

Residential Amenity

The amenity of existing householders within the Old Cardrona building group to the west and above the site also needs to be considered, especially as there are also two dwellinghouses still to be constructed, both looking directly down onto the paddock. Although some intervening planting will be carried out, the main concerns would have been if there had been any floodlighting proposed and if the riding arena was to be run on a commercial business open to the general public. Neither of these is proposed although it would be logical to impose a condition in relation to the use of the arena, both to preserve residential amenity and acknowledge the comments of Environmental Health over commercial riding establishments. Their remaining comments which also cover lighting can be attached as an Applicant Informative. Overall, there will be minimal impact on residential amenity.

Ethylene Pipeline

The site for the undeveloped house lies partly within the Inner Zone of the Grangemouth – Wilton Ethylene Pipeline but both INEOS and the Health and Safety Executive (HSE) raised no objections to that application, with the HSE clarifying their more relaxed position with single dwellinghouses. The riding arena is further away from the pipeline than the approved dwellinghouse. INEOS have no concerns about the riding arena. Even though it has since changed orientation, it is no nearer the Pipeline than the alignment they were consulted on.

Applying the Health and Safety Executive standard guidance, there would be no objections to the use of the riding arena. It will not be open to the general public and being further away from the pipeline than the approved house, it is of lesser risk.

The proposal, therefore, complies with Local Plan Policy Inf9 on developments within exclusion zones.

CONCLUSION

The application complies with the relevant Development Plan Policies in that the impact of the proposed riding arena on the character of the landscape and the residential amenity of adjoining properties will not be significant and can be reduced by the emerging development, landscaping and the imposition of an appropriate condition. The impacts on the nearby ethylene pipeline are also acceptable.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is approved subject to the following condition and Applicant Informative:

1. The riding arena to be used for private purposes only and not for commercial business purposes in relation to the use of the arena by the general public.
Reason: To safeguard the amenity of adjoining residential property.

Informative

1. The Council's Environmental Health Service advises the following:

Lighting

If any floodlighting is to be provided the installation should be designed in accordance with the guidance produced by The Institution of Lighting Engineers.

If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.

Stable Waste

During the use of the development refuse/waste materials (i.e. manure/soiled hay) may be produced on the site as a consequence. Therefore, **it must be ensured that all such waste materials are not stored on site or disposed of in any manner** (for example, burning) **which would give rise to Statutory Nuisance conditions** developing at neighbouring properties to the site.

Riding establishment

The Riding Establishments Act 1964 defines a Riding Establishment as "the carrying on of a business of keeping horses to let them out on hire for riding, or for use in providing instruction in riding for payment, or both, " and requires such businesses to be licensed by the Local Authority.

If the applicant intends the stables to operate as a riding establishment in the future, the premises will need to be licensed. Current conditions of licence are discussed alongside health and safety issues applicable to the trade, within the CIEH publication *Health and safety guidance for inspections of horse riding establishments and livery yards*. A free copy may be downloaded from www.cieh.org/policy/inspections_horse_livery.html. Hardcopies may be purchased from CIEH Tel. 020 7827 5821.

Further information about the required standards is available from SBC's Regulatory Services, Environmental Health Team

Riding Establishment application forms are available from SBC's, Licensing Team.

DRAWING NUMBERS

Location Plan

Photograph

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.

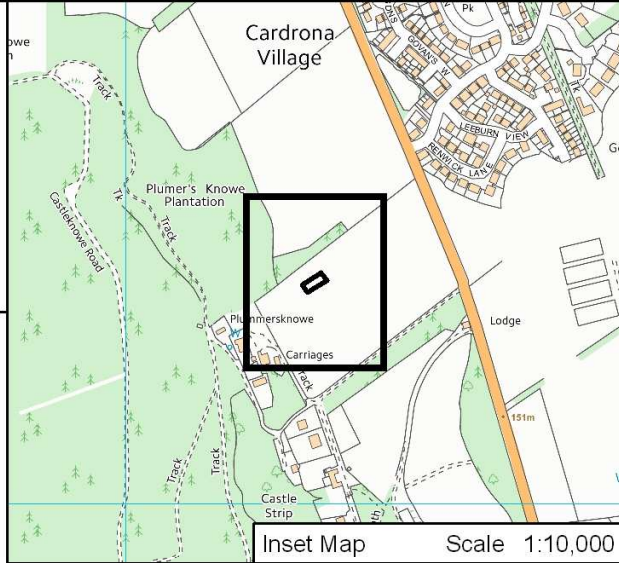
Author(s)

Name	Designation
Craig Miller	Principal Planning Officer



15/0005/FUL

Land North East Of
Plumers Knowe
Cardrona
Scottish Borders



Scale 1:1,250

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 MARCH 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 14/01325/FUL
OFFICER:	Julie Hayward
WARD:	Hawick and Hermitage
PROPOSAL:	Erection of 70m wind monitoring mast
SITE:	Land North East of 1 Old Braidlie Hawick
APPLICANT:	Infinis Energy Services Ltd
AGENT:	Jacobs

SITE DESCRIPTION

The site is situated approximately 4 km north west of Hermitage and 11 km north of Newcastleton on farmland at Braidlie. Braidlie is situated 2.5km to the south and Hermitage Castle is to the south east. The B6399 Hawick to Newcastleton road is to the east and the area is characterised by hills and conifer plantations.

PROPOSED DEVELOPMENT

The proposal is to erect a wind monitoring mast. This would be 70m high and 20cm in diameter. It would be a grey steel tube secured by a number of steel cables anchored to the ground. The proposal is to erect the mast for a 36 month period to collect wind data for the proposed Windy Edge wind farm proposal.

No restoration is required once the mast is removed and the site will revert to grazing land.

PLANNING HISTORY

13/00789/FUL: Wind farm development comprising of 9 No wind turbines up to 125m high to tip and associated infrastructure/buildings/access (revised scheme - eastern array removed, western array retained, turbine added to western array, tip heights all raised to 125m, access route changed). Land North East and North West of Farmhouse Braidlie (Windy Edge) Hawick. Pending consideration.

REPRESENTATION SUMMARY

Four representations have been received. These are available for Members to view on the Public Access System. The following planning issues have been raised:

- The proposed mast will be 70 metres high whereas the proposed turbines will be 125 meters high (55 meters higher). A mast of this height will not produce the correct data and will provide a misleading idea of what the proposed turbines will look like.

- Infinis concluded in June 2013 that such a mast is not required. The application for the wind farm was submitted and then amended without the need for a wind monitoring mast. The wind farm application should be withdrawn until it has been ascertained whether the site has potential for wind turbines and established what the wind resource is.
- The Windy Edge application is deficient as the information that would be gathered as a result of this mast being erected should have been submitted with the application. This mast application should be refused or suspended until the Windy Edge application has been determined. If the Windy Edge application is refused there would be no need for the mast application to proceed. If the Windy Edge application is approved, a new or revised wind mast application should then be filed for site specific data collection for identification of the appropriate model of wind turbine to be installed in keeping with whatever planning approval may have been given for Windy Edge.
- The mast would be in place for 36 months and the concern is that this would be used to collect data for the Windy Edge proposal and larger or different wind farm projects on the Braidlie lands. The data should be for Windy Edge and for no other purpose.
- If planning permission is granted for the mast it should be a condition that the mast be removed if the Windy Edge application is refused otherwise the mast could remain for 36 months, well past the decision on Windy Edge and there would be no need for further data collection.
- The MOD requires that the mast is fitted with aviation warning lighting. Any flashing red lighting would cause a significant distraction in a rural area; this lighting should be infra-red and invisible to human perception.

APPLICANTS' SUPPORTING INFORMATION

- The mast would be 70m in height and will operate on farmland at Braidlie, which is located approximately 4 km north west of Hermitage and 11 km north of Newcastleton. The application seeks permission to operate the mast for a period of up to 36 months, in order to provide an assessment of the potential for the site to accommodate wind turbines.
- The site is currently used for grazing. The site is surrounded by fields and blocks of commercial forestry. The site lies at an elevation of 320m AOD. The surrounding landscape includes a number of larger hills in the surrounding area which provide natural screening in all directions.
- The nearest residential property is at Braidliehope, approximately 940m from the proposed mast. The nearest residential area is Braidlie, approximately 2.5 km to the south.
- The mast location has been selected in order to allow accurate and representative measurements to inform the suitability of the site for wind turbine development.
- Existing agricultural activities will continue at the site with no other development at ground level being necessary.

- Relevant technical and safety aspects have been considered with respect to set-back distances from public roads, footpaths and buildings.
- No hedge removal or watercourse crossings are required. There is no surface water within the immediate area of the proposed development.
- No restoration will be required following removal of the wind monitoring mast from the site.
- The mast will be a temporary structure, designed as a single steel tube construction, up to 70 m in height, and less than 20 cm in diameter. The mast will be made of corrosion resistant material and will be a pale grey colour.
- The installation design requires the mast to be based on a 'floating' square plate laid on top of the existing level ground. This eliminates the need for the construction of any ground penetrating foundation support. The mast will be secured by a number of steel cables, leading to anchors up to 35m from the mast base. There will be up to six anchor points, depending on ground conditions.
- The height has been chosen for the mast as it allows collection of wind data (speed and direction) at heights that enable wind turbines to be identified that are appropriate for the proposed Windy Edge Wind Farm site (application submitted on 28th June 2013, reference number 13/00789/FUL).
- Anemometers and wind vanes will be attached to the mast to measure wind speeds and wind direction and will be mounted on steel booms between 0.75m and 2.1m long on the side of the mast.
- The mast is located more than topple height (77m) from any Public Right of Way, footpath, building or road. It will not be necessary to fence off the installation.
- Meteorological data will be downloaded remotely and analysed. Normal operation does not require the site to be attended, but there will be intermittent inspection and maintenance visits.
- After up to 36 months the mast will be removed and those limited areas of the site that were directly affected by the footprint of the mast will revert to their former use for grazing.
- Vehicular access to the site will be taken via the B3699 public highway and onto an existing farm track. Access to the site can be achieved via an existing field access. No access improvements and no new access tracks are proposed as part of the development.
- The mast will be transported to site using 4x4 all-terrain vehicles with trailers. No specialist vehicles, cranes or lifting equipment are required for the installation. It is expected that two vehicles will access the site per day during the installation. The operation of the mast will not give rise to any significant additional traffic.

- Access will also be required for the dismantling of the mast at the end of the temporary period. This will be carried out by similar vehicles to those used during installation.
- The mast is a lightweight structure of unobtrusive design and temporary nature required to establish the technical feasibility of this site to support a wind energy development. It will be situated in a rural location not subject to environmental designations or specific site constraints. This development will not result in significant adverse impact upon the amenity or natural conservation, landscape and historic environment of the surrounding area. The proposed mast is consistent with the development plan and national renewable energy planning policies.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Whilst I have no objections to this proposal, it should be noted that my support for this application does not indicate any support would be forthcoming for any further applications associated with this apparatus.

Ecology Officer: No response to date.

Archaeology Officer: There are no known implications for this proposal.

Statutory Consultees

Scottish Natural Heritage: In relation to the Langholm - Newcastleton Hills Special Protection Area (SPA), we do not consider that the mast is likely to have a significant effect on the qualifying interest of the site, breeding hen harrier. However, as a precautionary measure, we advise that the mitigation measures are put in place to avoid impacts on hen harrier, which would also benefit other species of bird.

Ministry of Defence: No safeguarding objections. The mast should be fitted with aviation lighting, in the interests of air safety. The height of the development would necessitate that aeronautical charts and mapping records are amended therefore a condition is required that certain information is submitted prior to the development commencing.

Upper Liddesdale and Hermitage Community Council:

- Infinis advised in June 2013 that such device was not necessary. The application should be postponed until clarity is sought.
- The data that would be collected by this mast would support the Windy Edge proposal, which was submitted three years ago. The data would be too little and too late. The fundamental, underlying rationale for this application is flawed and this application should be refused.
- The concern is that the real purpose of the wind mast is to collect data not only for Windy Edge but for some other larger/different wind turbine project on the Braidlie lands. The applicant should state that the data is being gathered solely for the current Windy Edge application and for no other purpose.

- The application should be suspended pending determination of the Windy Edge application. If the Windy edge application is refused there would be no need for the mast; if the Windy Edge application is approved a new or revised wind mast application should be filed for site specific data collection for identification of the appropriate model of wind turbine to be installed in keeping with whatever planning approval may have been given for Windy Edge.
- If the Windy Edge application is refused it should be a condition that the mast is then removed otherwise it could remain in place for 36 months and there would be no continued need for data collection.
- The MOD requires that the mast is fitted with aviation warning lighting. Any flashing red lighting would cause a significant distraction in a rural area; this lighting should be infra-red and invisible to human perception.
- The application for the wind farm was submitted and then amended without the need for a wind monitoring mast. Such a mast is therefore superfluous to the design of the wind farm. The Windy Edge application should be withdrawn until it has been ascertained whether the site has potential for wind turbines and established what the wind resource is.
- The proposed mast will be 70m high whereas the proposed turbines will be 125 meters high. A mast of this height will not produce the correct data and will provide a misleading idea of what the proposed turbines will look like.

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Policy 10: Sustainable Energy Technologies

Consolidated Scottish Borders Local Plan 2011

Scottish Borders Consolidated Local Plan Adopted 2011

Policy G1: Quality Standards for New Development

Policy BE1: Listed Buildings

Policy NE1: International Nature Conservation Sites

Policy NE3: Local Biodiversity

Policy H2: Protection of Residential Amenity

Policy D4: Renewable Energy Development

Proposed Local Development Plan 2013

Policy PMD2 Quality Standards

Policy EP7: Listed Buildings

Policy ED9: Renewable Energy Development

Policy HD3 Protection of Residential Amenity

Policy EP1: International Nature Conservation Sites and Protected Species
Policy EP3: Local Biodiversity

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance: Wind Energy May 2011
Supplementary Planning Guidance: Biodiversity December 2005

The Borders Landscape Assessment 1998

Briefing Note on Meteorological/Anemometer Masts (October 2012)

In considering this application, Members may wish to have regard to the Briefing Note presented to the Committee in October 2012, which provided some general background to applications of this type and which set out the following conclusions:

1. Any mast application must be considered on its own merits and that it is inappropriate for the Planning Authority to give any weight to the potential for the site to be developed subsequently for a wind farm or the erection of a wind turbine.
2. In the absence of any specific planning policy the general rural development and environment policies of the Development Plan should be applied to the consideration of any application. Officers will set out very clearly in the Committee report the policy context which Members should take into account when determining mast applications.
3. The assessment of the application should consider the specific policy criteria and the circumstances of the locus. It is legitimate to analyse in detail the potential impact the mast will have on any natural/built heritage assets and the visual and landscape qualities of the locality. Any application must be determined on its own merits and there will be circumstances, where it is appropriate to refuse planning permission due to those impacts. However, the recent appeal decisions by the Directorate of Environmental and Planning Appeals (DPEA) are a material consideration that Members must take account of.
4. Even in sensitive landscapes, where the mast has been visible to a wide range of receptors, decisions by the DPEA, Local Review Bodies and other planning Authorities have been influenced by the slender design of the structures and their temporary nature.
5. It is also legitimate to seek further information on the proposed development, its impacts and the justification for the mast in the particular locus applied for. However, it is inappropriate to seek a justification for the need for a mast. It is only in the limited situations where there is a specific policy requirement that the need can be questioned.

KEY PLANNING ISSUES:

- Whether the proposed wind monitoring mast would have an unacceptable impact on landscape character, the visual amenities of the area, residential amenities or nature conservation;

- Whether adequate access can be achieved.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy D4 of the Local Plan sets out the criteria by which to assess wind energy development to safeguard the built environment, natural heritage, landscape, archaeological heritage, tourism and recreation.

There is no specific reference in policy D4 or the Council's Supplementary Planning Guidance: Wind Energy to the installation of wind monitoring masts associated with proposed wind energy developments and it would not be appropriate to assess the current application against this policy or the SPG. Rather, it is appropriate to consider whether the development is appropriate on its own planning merits.

Policy G1 of the Local Plan requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Landscape and Visual Impact

The site is within farmland to the north of Newcastleton. The B6399 Hawick to the Newcastleton road is 3.5km to the east and the minor road between the B6399 and the A7, serving Hermitage Castle, is 2.5km to the south.

The Borders Landscape Assessment identifies this site as falling within Landscape Character Type No.4: Southern Uplands Type with Scattered Forest. The key characteristics of this uplands landscape are large scale, rolling heather and grassland covered hills with locally prominent, scattered, large coniferous plantations.

Due to the lightweight, slender nature of the proposed wind monitoring mast, despite its height, the visual impact is limited and such structures are difficult to see in the wider landscape, particularly from long range. Such masts, although they may be retained for a number of years, are by their construction and function, not designed to be permanent structures. At some stage, when the mast reaches the end of its useful life, it will be removed and the site reinstated to its former condition and use.

The site is not within any landscape designation. Although the mast would be visible in the immediate area it is considered that the mast does not have a significantly detrimental impact upon the landscape character of the wider surrounding area. The mast is not prominent when viewed from local roads, such as the B6399 and the minor road between the B6399 and the A7 to the south of Hermitage Castle, due to the distances involved, topography and the conifer plantations.

The single slender structure would only be visible in distant views and, as the development is reversible, there would be no lasting visual or landscape impact.

The purpose of the mast is to establish the suitability of the meteorological conditions at the site for the generation of energy from wind power and there is a current planning application to erect wind turbines at Windy Edge. The determination of this application is not an appropriate occasion at which to consider the merits or otherwise, of wind energy development in this area.

Residential Amenities

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

The mast would be sited in an isolated rural area characterised by scattered houses and communities. The nearest residential property to the proposed mast is at Braidliehope, approximately 940m to south west of the site. Braidlie is approximately 2.5 km to the south.

It is considered that there are no residential properties in the immediate vicinity of the mast that would be affected by the proposal in terms of loss of light, privacy or outlook.

Natural Heritage

Policy NE1 of the Local Plan seeks to protect sites of international importance for nature conservation from development. Policy NE3 advises that the Council will seek to safeguard the integrity of habitats which are important for the maintenance and enhancement of local biodiversity.

Scottish Natural Heritage advises that the proposal would not affect the breeding hen harrier qualifying interest of the Langholm - Newcastleton Hills Special Protection Area (SPA), which is 2.5 km from the site, but request, as a precautionary measure, that mitigation measures are put in place to avoid impacts on hen harrier, which would also benefit other species of bird. This would be secured through a planning condition.

Whilst the installation of the mast would require some limited ground works for the anchors of the guy wires and base of the mast, it is considered that this work and the temporary presence of the mast would have no unacceptable impact upon the natural environment, provided that the site is restored to its former use at decommissioning and subject to conditions.

Access Issues

Vehicular access to the site would be via the B3699 onto an existing farm track and field access. No access improvements or new access tracks are proposed as part of the development. The mast will be transported to site using 4x4 all-terrain vehicles with trailers and no specialist vehicles, cranes or lifting equipment are required for the installation. During the operational phase of the mast, access will only be required intermittently for inspection and maintenance.

The Roads Planning Service has no objections to this proposal but advises that support for this application does not indicate any support would be forthcoming for any further applications associated with this apparatus.

Built Heritage and Archaeology

Policy BE1 states that Listed Buildings will be protected against works which would have a detrimental effect on their listed character, integrity or setting. Hermitage Castle is a category A Listed Building situated 3.5km from the proposed mast site. It is considered that the proposal would not adversely affect the setting of the castle due to the distance involved, topography and slim nature of the mast.

Policy BE2 seeks to protect Scheduled Ancient Monuments, nationally important sites not yet designated or any other archaeological or historic site. The Council's Archaeology Officer advises that there are no known implications for this proposal.

Aviation Lighting

The Ministry of Defence has request that masts of this height be fitted with aviation lighting with a minimum intensity 25 candela omni-directional red lighting or infra-red lighting at the highest practicable point.

Representations have been received in relation to the negative impact that the lights associated with the mast would have on the area. Therefore a condition will be placed upon the planning consent requiring aviation warning lighting to be fitted and an informative would ensure that this is infra-red lighting so that the lighting would not result in an unacceptable level of light pollution.

Other Issues

A number of representations have been received querying the need for a wind monitoring mast as the planning application for a wind farm at Windy Edge was submitted some time ago.

The agent has advised that the mast is required and the type proposed would provide accurate and representative measurements. The developer has erected a wind monitoring mast at Sundhope 3km to the north east of this current site (granted planning permission in June 2011 and renewed in August 2014), which provides data for the Windy Edge wind farm proposal. The function of the mast is not to indicate how high the proposed turbines would appear. Even if this application is approved, and there would then be two wind monitoring masts in the area, there would be no cumulative visual impact due to the distance between the two masts, the topography of the area and the slim, lightweight nature of the structures.

Although linked to the Windy Edge wind farm proposal, this application has to be assessed on its own planning merits. For the reasons outlined above, the proposal is considered to be acceptable, subject to a condition limiting the planning permission to a temporary period of 36 months. The decision on this application would have no bearing on the wind farm application. A period of 36 months is considered reasonable and in line with other wind monitoring masts elsewhere in the Borders. It would be unreasonable to defer determination of this application until a decision has been reached on the wind farm application. It would also be unreasonable to attach a condition to any planning permission for the mast that is has to be removed if the wind farm application is refused; the applicant has a right to appeal any such decision and may wish to retain the mast during this process.

CONCLUSION

The proposal to erect a wind monitoring mast in this location is considered to comply with policy G1 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the temporary mast would not have a significant long term impact on the landscape character of the area or the visual amenities of the wider area or on residential amenities. This conclusion should not be taken as an indication of the acceptability of a wind farm development on this site.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

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

1. Approval is granted for a limited period of three years from the date of this consent and, unless application is made and consent obtained, the wind monitoring mast shall be removed and the ground reinstated to its original condition at the expiry of the three year period.
Reason: To safeguard the amenity of the area.
2. The reinstatement of the site to be completed within 6 months of the decommissioning of the wind monitoring mast.
Reason: To ensure the satisfactory restoration of the site.
3. Bird deflectors are to be located along the length of each guy wire at a minimum interval of 5m, with these arranged on adjacent wires such that the resulting pattern of deflectors is staggered to provide maximum visual impact to birds, upon the completion of each guy wire. The deflectors to be monitored regularly at suitable intervals and maintained throughout the lifetime of the structure.
Reason: To prevent adverse impacts on the Langholm - Newcastleton Hills Special Protection Area (SPA) and other bird species.
4. No development shall commence until the developer has first provided the Planning Authority with documentary evidence that the Defence Geographic Centre at the Ministry of Defence has received, and confirmed its acceptance of, the following details:
 - a. Precise location of development.
 - b. Date of commencement of construction.
 - c. Date of completion of construction.
 - d. The height above ground level of the tallest structure.
 - e. The maximum extension height of any construction equipment.
 - f. Details of aviation warning lighting fitted to the structure.
Reason: To allow the records of the Ministry of Defence to be amended and updated for safeguarding purposes.
5. Aviation warning lighting shall be fitted at the highest practicable point on the wind monitoring mast. The lighting device so installed shall be a minimum intensity 25 candela omni-directional infra-red light. It shall be maintained in good working order at all times and for the entire duration that the mast remains in situ.
Reason: Appropriate aviation warning lighting requires to be fitted to the wind monitoring mast in the interests of aircraft safety.

Informative:

In respect of condition 5, the developer is encouraged to install infra-red lighting so that the lighting would not result in an unacceptable level of light pollution.

DRAWING NUMBERS

- 1.1 Site Location
- 1.2 Site Layout
- 1.3 Indicative Elevation

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.

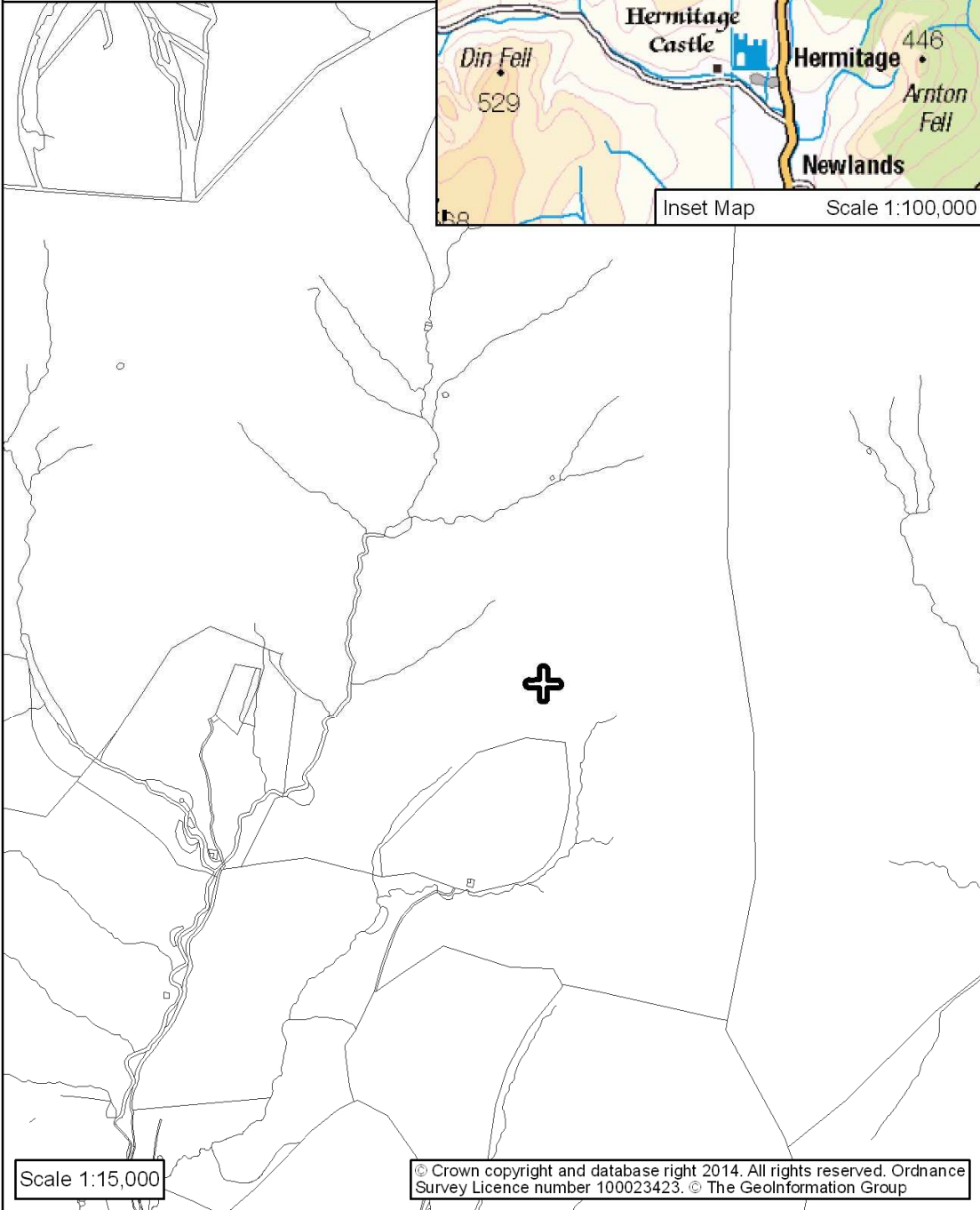
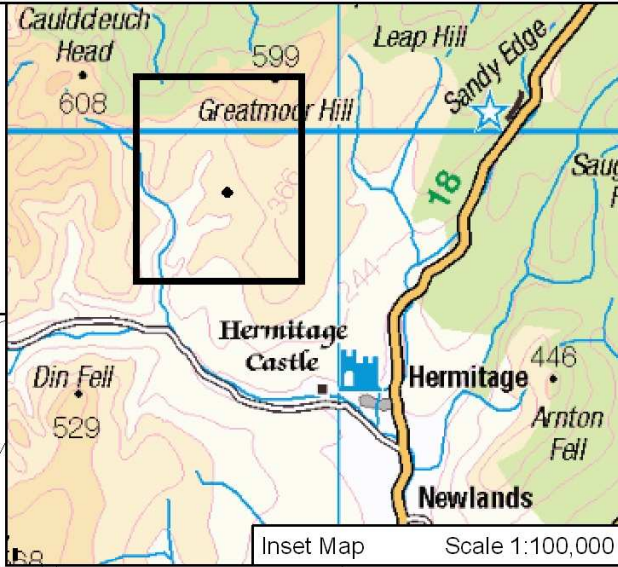
Author(s)

Name	Designation
Julie Hayward	Principal Planning Officer



14/01325/FUL

Land North East Of
1 Old Braidlie
Hawick
Scottish Borders



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SCOTTISH BORDERS COUNCIL**PLANNING AND BUILDING STANDARDS COMMITTEE****2 MARCH 2015****APPLICATION FOR PLANNING PERMISSION**

ITEM:	14/01161/FUL
OFFICER:	Deborah Chalmers
WARD:	Jedburgh & District
PROPOSAL:	Change of Use, alterations and extensions to form two dwellinghouses from stables
SITE:	Stables West Nisbet Jedburgh Scottish Borders
APPLICANT:	Lothian Estates
AGENT:	Lothian Estates

SITE DESCRIPTION

The application site lies within the defined settlement boundary for Nisbet, as identified in the Consolidated Local Plan 2011. The site is located within the Nisbet Conservation Area, but the building within it is not listed.

The site is located on the edge of Nisbet, in its south west corner. There is a former stable block on the site, measuring 38m x 5.8m, with an extension on the rear, south elevation, measuring 5m x 4m. The building is 2.6m to the eaves and 5.6m in overall height and sited within the centre of the application site.

To the south of the stable there is a grassed area, bounded to the south by a 1m high timber post fence, separating the application site from the adjacent field. A timber post and wire fence surrounds the site to the west, with a field beyond and there is a stone dyke along the south east boundary with the B6400. To the north of the stable building, there are mature trees along the north west section of the boundary. A low stone wall runs along the north and eastern boundary with the B6400, which forms the boundary of the application site from the north west corner to the south east. There are currently two existing entrance points, located in the north west corner and in the eastern boundary. There is a raised section of planting/grassed area to the north of the building, bounded by a stone wall of around a metre in height. There are no immediate neighbouring properties adjacent to the application site. However, there are a number of properties located beyond the B6400, to the east of the application site.

The building is single storey, with a pitched roof and hipped on the gable elevations. The building is visually in a good condition, with all walls and roofing intact. The walls are finished in white render, the roof is slate and the majority of the remaining openings, are timber (painted brown). There are eight openings on the north elevation, with two openings on the south elevation. The extension on the south elevation

includes a hipped roof. There is a slight drop in levels from the north down to the south, which is minimal.

PROPOSED DEVELOPMENT

Full planning permission is sought for the change of use, alterations and extensions to form two dwellinghouses from the existing stables.

The proposal proposes the reuse of the stable building and involves the addition of two extensions on the rear elevation. On the north elevation, the existing five openings will be retained, one door and four windows, with boarding proposed below the windows. There are two existing window openings on the north elevation, which will be retained as windows. The only new additional opening is an entrance door, serving Cottage No.1. One existing opening will be blocked up as part of the proposal.

On the south elevation, the two existing openings will be retained as a window and door, while three new windows are proposed. The proposal includes the demolition of the existing extension and the erection of two extensions on the south elevation, each measuring 8m x 6.5m. The extensions will be 2.4m to the eaves and 4.8m in overall height, which sits below the roof ridge of the existing building. The extension roofs will be hipped, to match the existing stable building. Two windows are proposed on the south elevation, of both extensions. On the inner elevations, a set of doors are proposed, while on the outer elevations, a window, door and set of double doors are proposed.

The cottages will be finished in slate roofing, cast iron rones and downpipes, with zinc verges and ridges. The applicant has yet to confirm the material and finish of the proposed windows and doors. The remaining walls will be re-pointed and painted. The proposed water supply is to connect to the existing main supply, while the surface water drainage and foul drainage is to be connected into the existing village system.

PLANNING HISTORY

There is no planning history covering the application site.

REPRESENTATION SUMMARY

Six letters were received in response to the application. Three supported the principle of the development but raised concerns in respect of road safety, while three objected to the proposal. A brief summary of the main planning issues raised is as follows:

- Impact on road safety;
- Inadequate access proposed;
- The new access will be dangerous, due to the speed of vehicles passing through the bends on the existing road;
- Visibility will be limited and hazardous; and
- Lack of provision for roadside delivery vehicles to park.

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

DEVELOPMENT PLAN POLICIES:

Consolidated Local Plan 2011

G1 Quality Standards for New Development
G2 Contaminated Land
G5 Developer Contributions
G7 Infill Development
H2 Protection of Residential Amenity
Inf 4 Parking Standards
Inf 5 Waste Water Treatment Standards
Inf 6 Sustainable Urban Drainage
BE2 Archaeological Sites and Ancient Monuments
BE4 Conservation Areas
NE3 Local Biodiversity
NE4 Trees, Woodland and Hedgerows

OTHER PLANNING CONSIDERATIONS:

SPG Biodiversity
SPG Developer Contributions
SPG Trees and Development
SPG Placemaking and Design
SPG Guidance on Householder Development

CONSULTATION RESPONSES:

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

Scottish Borders Council Consultees

Environmental Health (Contaminated Land):

Initially responded on the 30th October, requesting the completion of a Contaminated Land Survey.

According to the information provided by the site owner, fuel storage was undertaken on the site, with the remainder of the site having been used as stables. This fuel storage undertaken on the site is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development, is not permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.

Ecologist:

Initially responded on the 14th October, requesting that a bat and bird survey is undertaken for the application site.

The Ecology Officer responded on the 12th January to the bat and bird survey submitted. A non breeding brown long eared bat roost was identified within the stables,

along with activity in the surrounding area. A number of barn swallows were recorded in the building. Based on the information submitted, the development is not considered to detrimental to the maintenance of populations of the bat species identified at favourable conservation status in their natural range. The Officer requests that the following conditions are attached to planning permission:

- Prior to development, the developer submits a protection plan for the bats;
- Prior to development, a copy of the license and statement in writing from SNH must be submitted;
- No works to commence during the breeding bird season;
- Provision of 10 nest cups/ledges for barn swallows.

Roads Planning:

The Roads Planning Service have taken into consideration the comments raised by the objectors, regarding the proposed access to the site.

No objection in principle to the revised arrangements for a single access, provided that the following matters are addressed:

- A service lay-by, minimum of 3m x 6m with associated entry and exit tapers, must be constructed to the 'Service lay-by specification', at the access to cater for associated service vehicles;
- Parking and turning, excluding any garages, for a minimum of two vehicles per property must be provided within the curtilage of the property, prior to the property being occupied and retained thereafter in perpetuity;
- The construction of the parking and turning area must be confirmed and suitable drainage put in place if the surface is not free draining. This is to ensure that surface water does not drain from the site onto the adjacent public road;
- The visibility splays mentioned above must be kept clear of all obstructions over 0.75m above the adjacent carriageway at a distance of 2.4m back from the carriageway edge and retained thus in perpetuity;
- The existing accesses must be closed off to traffic to the satisfaction of the Council prior to occupation of the first dwelling;
- A drawing must be provided taking all of the above into consideration and showing how the applicant proposes to address the issues.

Landscape Architect:

Notes that the northern access takes out a medium sized tree and opens up the proposed properties to view and exposure to the north. It was suggested that a better arrangement in terms of setting for the cottages would be to continue using the established access from the east side. This would allow retention of the tree and give some privacy to the frontages of the two cottages.

However, does not object to the proposed arrangement if the suggested alternative cannot be achieved.

Education:

No response to date. However, there is no education requirement towards Ancrum Primary School to Jedburgh Grammar School.

Right of Way Officer: No response to date.

Development Negotiator:

Advised that in terms of current policy, development contributions would be required, in respect of affordable housing commuted sum, for £3,875.

Archaeologist:

There are potential archaeological implications for this proposal and mitigation is required. The Officer concludes that there is a low potential for encountering human burials, and a moderate potential for medieval and post-medieval archaeology during development. This includes any ground works that may affect sub-soils. Given the low to moderate potential, it is recommended that a watching brief is needed on excavations needed for this development.

The surviving building itself is of local heritage significance, though it should be noted that there is potential for stones within the building to have been re-used from the medieval church. The building could therefore contain carved stones of regional importance. Given this potential, and the alterations proposed, it is recommended that an archaeologist undertake a BASIC level survey of the building but also examining the building fabric for carved stones once the existing render is removed. When stones are removed from the building during development, these should also be set aside and inspected for any surviving carved stones that might be associated with the former Nisbet Church and burial ground. This inspection could take place during the recommended watching brief above. The contract for all work can be conducted under a single Written Scheme of Investigation prepared by a suitably qualified archaeologist.

Therefore, two conditions are recommended; Developer Funded Watching Brief and Developer Funded Historic Building Survey.

Statutory Consultees**Crailing, Eckford and Nisbet Community Council:**

The Community Council raise no objection in principle of the proposed development, but highlight "major concerns" over the proposed access arrangement, and so support representations made by the residents within Nisbet.

They advise that the proposed access is directly onto the B6400 and would be hazardous for the following reasons:

- Proximity to a blind corner;
- Visibility would be restricted in both directions;
- There is a busy intersection nearby;

- Traffic using the B6400 can travel at speeds of up to 60mph; and
- There is no provision at the roadside for delivery vehicles.

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposal comply with the Development Plan Policies and Supplementary Planning Guidance (SPG), regarding the conversion of building for residential use within a settlement boundary, amenity, safe access, parking & turning provision, archaeological implications, ecological implications and contaminated land.

ASSESSMENT OF APPLICATION:

Planning Policy

The application site is located within the defined settlement boundary of Nisbet, therefore the conversion provisions outlined within Policy D2, do not strictly apply in this instance, although the principles set out within it still provide a useful guide to appropriate conversion of rural buildings. However, the proposal must be assessed against Policy G1 and G7, along with SPG: Placemaking and Design.

Policy G7, advises that within Development Boundaries, development on non-allocated sites, infill or windfall sites, including the re-use of buildings, will be approved if;

- In the case of gap sites, it can be justified under Policies BE6 and Inf11
- In the case of employment land the proposed new use can be justified under Policy ED1 to prevent the loss of employment land with prospects of future use;
- In the case of garden ground or backland sites, it can be justified under Policy H2 to safeguard the amenity of residential areas.

In all cases, the following criteria will apply to proposed infill development;

- i) where relevant, it does not conflict with the established land use of the area; and
- ii) it does not detract from the character and amenity of the surrounding area; and
- iii) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over development or town and village cramming, and
- iv) it respects the scale, form, design, materials and density of its surroundings; and
- v) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- vi) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overlooking or overshadowing.

Policy G1 states that development must be compatible with, and respect the character of the surrounding area, neighbouring uses and neighbouring built form. Development

must be satisfactorily accommodated within the application site, incorporating hard and soft landscaping works, to help integrate the development with its surroundings and the wider environment. Development must provide appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings. The proposal must be of an acceptable scale, massing, height and density, with is appropriate to its surrounding and , where an extension or alteration is proposed, appropriate to the existing building.

Principle of development, layout, design and materials

The proposal to change the existing stable building to two residential properties does not conflict with the established land use of the wider Nisbet area. The application site is located within the settlement boundary, which is characterised by residential properties, the majority of which lie to the east of the B6400. The proposed development is compatible with and respects the character of the surrounding area, neighbouring uses and neighbouring built form.

The proposal will bring a prominent range of buildings back into reuse, to the benefit not only of the site, but also to its wider conservation area setting. The proposed alterations to the building will generally enhance the character and appearance of the surrounding area, including through use of appropriate materials and finishes.

The applicant indicates that the materials include slate roofing, walls re-pointed, re-painted and the windows/doors will be replaced although details have yet to be agreed. A planning condition will ensure that appropriate materials, colours and finishes are used, the roofing is natural slate and the windows/doors are finished in timber.

The access point along the north boundary breaks into the existing raised grassed area and includes the removal of one tree. This raised area, combined with its trees, planting and stone dyke around the boundary to the north, all contribute to the character and amenity of the Nisbet, especially from the north west approach road. Furthermore, the existing trees along the north west boundary contribute to the amenity and form a natural boundary between the application site and adjacent field.

It is considered that the trees along the north west boundary should be retained and this can be controlled through a planning condition, as their removal would have an unfortunate visual impact on this part of the site, which is significant, given its prominent position at the western entrance to the settlement. Likewise, the raised areas and stone dyke boundary is an important feature and should be retained, acknowledging that the new access will need to be formed through it.

A condition should be attached to planning permission, requesting further details to be submitted in respect of a landscaping plan, including; existing trees, those to be felled, replacement planting, trees to be retained and all soft/hard landscaping proposals, which will also include the area to the north of the buildings. A suitable scheme will ensure that the proposed development does not result in an adverse impact upon the wider character of the Conservation Area. The proposed plans indicate a fence along the eastern boundary; however, it is considered that such a proposal would be out of keeping with the wider area, where stone dykes and timber post and wire fencing is characteristic. Therefore, a condition is proposed as a means of seeking details of the

means of enclosure, to ensure that the boundaries are more appropriate to the setting. This will also ensure that the existing access points are suitably closed off with an acceptable boundary treatment.

The proposal respects the scale, form, design, materials and density of its surroundings, utilising the existing building. The proposed extensions are in keeping with the scale and proportions of the host building and would remain a subordinate, but visible, element of the overall scheme. There is evidence of a previous single storey flat roofed extension, extending along the rear elevation of the stable building and there is an existing single storey extension. The flat roofed structure was removed in recent years, due to a poor condition. Therefore, given that the previous extensions were not aesthetically pleasing visually, it is considered that the proposed development will result in an improvement to the building and bring it back into use.

It is considered that subject to conditions, the proposed development complies with Policy G1 and G7, of the Consolidated Local Plan 2011 and SPG: Placemaking and Design.

Contaminated Land

Policy G2, states that where development is proposed on land which is contaminated, or suspected of contamination, the developer will be required to carry out any necessary site investigations and assessments to identify any actual or possible significant risk to public health or safety, or to the environment.

The Environmental Health Officer (Contaminated Land) raised no objections to the proposal, however requests that a condition is attached to any planning permission, requesting a site investigation and risk assessment to be carried out. The condition will ensure compliance with Policy G2 of the Consolidated Local Plan 2011.

Archaeology

Policy BE2 aims to give Scheduled Ancient Monuments and other archaeological or historical sites, strong protection from any potentially damaging developments. The Archaeology Officer advised that there are potential archaeological implications for this proposal and mitigation is required. He advised that two conditions must be attached to planning consent, to ensure compliance with Policy BE2, in respect of a Developer Funded Watching Brief and Developer Funded Historic Building Survey.

Amenity

Policy H2 states that development which is judged to have an adverse impact upon the amenity of existing or proposed residential areas will not be permitted. It is not considered that the proposed development will result in any adverse impacts upon the wider residential properties within Nisbet, given the distance away or upon the amenity of the occupants in the proposed cottages. A condition will be attached requesting details of the means of enclosure. This will ensure compliance with Policy H2 and the SPG: Guidance on Householder Developments.

Water Supply, Foul Drainage and Surface Water Disposal

The proposal includes utilising the existing public water supply and foul drainage, mains system within Nisbet. No exact details have been submitted in respect of the proposed surface water disposal proposed relating specifically to the site. Therefore, a condition is proposed requesting such details prior to the development, to ensure compliance with Policy Inf5 and Inf6.

Access, parking and turning area

This is the key issue in the determination of this application and is the matter referred to in all representations received, including from the Community Council.

Policy Inf4 states that development proposals should provide for car and cycle parking in accordance with the Council's published adopted standards, or any subsequent standards which may subsequently be adopted by the Council. There are two existing access points in the site, one along the eastern boundary and one in the north west corner of the application site. However, the proposal includes closing off the existing access points and forming a new access along the northern boundary. Six letters of representation were received, raising concerns regarding the proposed access point. The concerns include: inadequate road safety, inadequate access, dangerous access point onto a fast road, poor visibility and lack of provision for roadside deliver vehicles to park.

Having regard to the concerns raised in the representations and by the Community Council, the Roads Planning Service undertook a road traffic survey in order to ascertain the average speed vehicles travel along the B6400 close to the application site.

The two existing accesses serving the site are significantly sub-standard, owing to poor junction visibility and would not be suitable for re-use. The replacement access will be of a higher standard and, in that sense, would be an improvement on the current situation, regardless of the intended use of the buildings.

The speeds of vehicles as they travel through the s-bends at this location are relatively low, with the result that, whilst the available visibility is limited, it is acceptable given the speeds involved. Approaching the proposed junction from the west, traffic speeds are between 25 and 30mph. The sight distance required for exiting vehicles associated with these speeds is 43m. From the south east, traffic speeds are slightly slower being between 20 and 25mph. The sight distance required in this direction is 33. A driver approaching from the west has a minimum of 43m forward visibility in which to see any vehicle which may be sitting on the main road waiting to turn right into the site.

The Service concluded that the existing access points are not suitable for the proposed development and could use of the existing openings could not be supported. However, the formation of a new access point along the northern boundary was supported, subject to conditions. The Roads Planning Officer advised that the following conditions require to be attached to any planning consent, to ensure that the proposal complies with Policy Inf4;

- A service lay-by must be created, as per the approved drawings, to the Council's specification;
- A drawing showing the required visibility splays must be submitted to and approved by the Planning Service, showing 2.4m x 33m to the east and 2.4m x 43m to the west;
- Parking and turning area to be provided and retained;
- The existing access points must be closed off prior to occupation;
- Details of the levels within the parking and turning area must be submitted.

Conservation Area

Policy BE4, outlines that development within or adjacent to a Conservation Area that would have an unacceptable adverse impact on its character and appearance will be refused and all new development must be located and designed to preserve or enhance the special architectural or historic character of the Conservation Area.

The proposed conversion of the building will have a positive impact on the site and the wider Nisbet Conservation Area, in accordance with Policy BE4. The proposed design, materials and finish will respect the existing building. It is considered that the area to the north of the building, which includes the raised landscaped area, contributes to the amenity, character and appearance of the Nisbet Conservation Area, especially from the western approach. However, subject to a condition, requesting the submission of a satisfactorily landscaping plan, it is not considered that the wider proposal will result in any adverse impact upon the character or appearance of the wider Conservation Area, in accordance with Policy BE4.

Ecology

Policy NE3 states that the Council will seek to safeguard the integrity of habitats both within and outwith settlements which are of importance for the maintenance and enhancement of local biodiversity. The policy aims to safeguard and enhance local biodiversity in line with the council's policies.

The applicant undertook a bat survey, as requested by the Council's Ecology Officer. The Officer was re-consulted and advised that there was evidence of bats and swallows within the existing building. However, he was content that, subject to conditions, the proposal will not result in any adverse impacts upon the local biodiversity, including habitats and species within the application site, in accordance with Policy NE3 and SPG: Biodiversity.

Landscape Architect

The Landscape Officer advised no objection to the removal of one tree to accommodate the proposed access, given that the existing access points are not satisfactory for the proposed development. A condition will be attached to planning consent, requesting the submission of a Landscape Plan, including; trees to be felled, trees to be retained and all hard and soft landscaping to be undertaken within the site.

The condition will also ensure that no trees are felled, without the consent of the Planning Service, to ensure that the proposal does not adversely impact upon the amenity or character of the Conservation Area. The condition will cover the raised area to the north of the building and ensure that a satisfactory landscaping proposal is achieved for the proposal which respects the surrounding area, in accordance with Policy NE4 and SPG: Trees and Development.

Development Contributions

There are no contributions sought towards education, however development contributions of £3,875 will be sought towards affordable housing. The applicant intends to settle this via a Section 69 legal agreement, to ensure compliance with Policy G5, as contained within the Consolidated Local Plan 2011.

REASON FOR DECISION :

The proposed development complies with Policies G1, G2, G5, G7, H2, Inf4, Inf5, Inf6, BE2, BE4, NE3 and NE4 of the contained within the Consolidated Local Plan 2011 and Supplementary Planning Guidance: Biodiversity, Developer Contributions, Trees and Development, Placemaking and Design and Guidance on Householder Development. The principle of development is acceptable and it is not considered that the proposed use will conflict with any surrounding land uses or result in an adverse impact upon the surrounding area, Conservation Area, occupants in neighbouring residential properties or visual amenities of the wider area. Suitably worded conditions, will ensure the proposal does not give rise to adverse impacts in respect of; contaminated land, access, parking, surface water drainage, archaeology, ecology or biodiversity.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is approved subject to the following conditions, informatives and legal agreement in relation to affordable housing contributions:

1. No development shall be commenced until a scheme to deal with potential contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include: -
 - a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d and e of this condition; and thereafter
 - b) Where required by the desk study, undertaking a detailed investigation of

the nature and extent of contamination on site, and assessment of risk such contamination presents;

- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan);
- d) Submission of a Validation report (should remedial action be required) by the development which will validate and verify the completion of works to a satisfaction of the Council;
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

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

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

- 2. No development shall be commenced until a full species protection plan for bats has been submitted to and approved in writing by the Planning Authority. Any approved protection plan must be implemented prior to works commencing and no development shall take place except in strict accordance with the approved protection plan, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that the proposed development does not adversely impact upon bats or birds within the site.

- 3. No development shall be commenced until the developer has provided to the Planning Authority;
 - a. a copy of the relevant European Protected Species Licence; or
 - b. a copy of a statement in writing from SNH (licensing authority) stating that such a licence is not necessary for the specified development.

Reason: To ensure that the proposed development does not adversely impact upon bats or birds within the site.

- 4. No development shall commence during the breeding bird season (March – August) without the express written permission of the Planning Authority. A supplementary breeding bird survey and subsequent mitigation may be required if works are to commence during the breeding season.

Reason: To ensure that the proposed development does not adversely impact upon bats or birds within the site.

- 5. No development shall be commenced until a plan showing the location of 10 nest cups/ledges for barn swallows, to be located at suitable locations within the redeveloped site or on other suitable buildings within the immediate vicinity, has

been submitted and approved by the Planning Authority.

Reason: To ensure that the proposed development does not adversely impact upon bats or birds within the site.

6. The service lay-by shall be completed as per the approved drawing 'WNS002', before the development hereby approved is first brought into use. The bay so approved shall be available for the use of vehicles at all times and shall be constructed to the following specification;
' 40mm layer of 14mm size close graded bituminous surface course to BS 4987 laid on a 100mm layer of 28mm size dense base (roadbase) to the same BS laid on a 310mm layer of 100mm broken stone bottoming blinded with sub-base, type 1'.

Reason: To ensure that deliveries can be made without obstruction of the public road.

7. No development shall be commenced until a drawing showing the required visibility splays, 2.4m x 43 metres to the west and 2.4m x 33 metres to the east, for the new access, have been submitted and approved by the Planning Authority. The development hereby approved shall not be brought into use until the visibility splays approved have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level and therefore maintained free of obstruction at all times.

Reason: In the interests of road safety and to ensure adequate visibility for and of emerging vehicles.

8. Parking and turning for two vehicles, excluding garages, must be provided within the site prior to the occupation of the dwellinghouse and thereafter in perpetuity.

Reason: To ensure sufficient parking and turning area within the site.

9. No development, other than the formation of a new access, shall be commenced until the existing vehicular access points to the site have been stopped up and their use permanently abandoned. Such works shall be completed concurrently with the provision of the new vehicular access hereby approved being first brought into use.

Reason: To ensure that the development is carried out as proposed and to minimise the number of accesses into the development, in the interests of road safety.

10. No development shall be commenced until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) outlining a Watching Brief, which has first been submitted to and approved in writing by the Planning Authority and must be implemented during relevant development works. The requirements of this are:
 - The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the

Planning Authority;

- Access shall be afforded to the nominated archaeologist to supervise, relevant development works, investigate and record features of interest, and recover finds and samples;
- If significant finds, features or deposits are discovered all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for consultation which may result in further developer funded archaeological mitigation;
- If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented; and
- Results shall be submitted to the Planning Authority for approval in the form of a Data Structure Report (DSR) within one month following completion of all on-site archaeological works.

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

11. No development shall be commenced until the applicant has secured and implemented a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Historic Building Survey. This will be formulated by a developer contracted archaeologist(s) and approved in writing by the Planning Authority. In accordance with the WSI, access shall be afforded to the nominated archaeologist(s) to allow archaeological investigation, at all reasonable times. Results will be submitted to the Planning Authority for review in the form of a Historic Building Survey Report prior to development commencing. The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological investigations, reporting and dissemination of results as required. The developer will be expected to fund and implement all further archaeological work.

Reason: To preserve by record a building of historical interest.

12. No development shall commence until samples of all materials, finishes and colours, to be used on the exterior surface of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The development thereafter to be completed in accordance with the approved materials.

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

13. The windows and doors hereby approved shall be timber and the roof shall be natural slate.

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

14. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i. existing and finished ground levels in relation to a fixed datum preferably ordnance, including the parking and turning area;
 - ii. existing landscaping features and vegetation to be retained, felled and restored;
 - iii. location and design, including materials, of existing and proposed, walls, fences and gates within the site;
 - iv. soft and hard landscaping works;
 - v. A programme for completion and subsequent maintenance.

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

15. 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.

16. No trees within the application site, other than that shown to be removed on the approved drawings, shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Local Planning Authority.

Reason: The existing trees represent an important visual feature which the Local Planning Authority considered should be substantially maintained in the interests of maintaining the character of the Conservation Area.

17. No development shall take place until details of the proposed means of enclosure around the site have been submitted to and approved in writing by the Planning Authority. The development then to be completed in accordance with the approved details.

Reason: To enable the proper effective assimilation of the development into its wider surroundings, having regard to the location of the site within the conservation area.

18. Notwithstanding the details approved, no development shall commence until precise details of the surface water disposal have been submitted to and approved in writing by the Planning Authority and thereafter no development shall take place except in strict accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

Informatives:

1. A copy of the consultation response from the Environmental Health Officer is attached for the attention of the applicant.
2. A copy of the consultation response from the Ecology Officer is attached for the attention of the applicant. In respect of condition no.2, the applicant should note that, any mitigation required should at least provide a 'like for like' replacement of what will be lost. This should include the provision of bat boxes additional to any licensing requirements, as enhancements.
3. A copy of the consultation response from the Roads Planning Officer is attached for the attention of the applicant.
4. A copy of the consultation response from the Archaeology Officer is attached for the attention of the applicant.

DRAWING NUMBERS

WNS001: Existing and Proposed Elevations (28.01.2015)

WNS002: Access Details (13.10.2014)

WNS003: Location Plan (13.10.2014)

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.

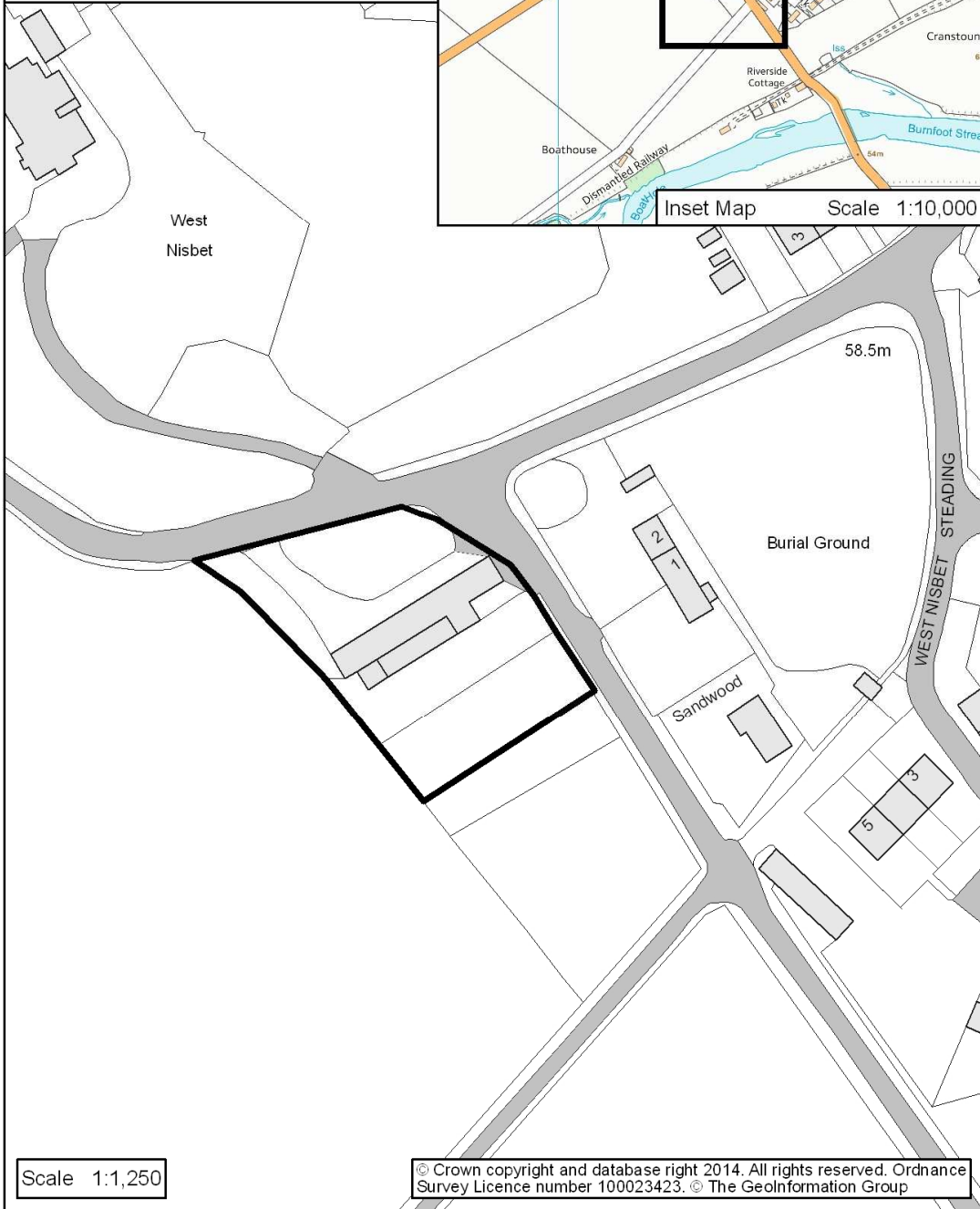
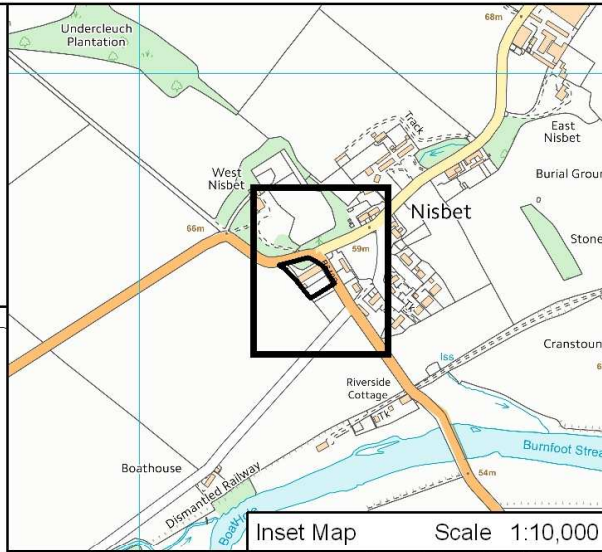
Author(s)

Name	Designation
Deborah Chalmers	Planning Officer



14/01161/FUL

Stables
West Nisbet
Jedburgh
Scottish Borders



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PLANNING APPEALS & REVIEWS

Briefing Note by Service Director Regulatory Services

PLANNING AND BUILDING STANDARDS COMMITTEE

2nd March 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

Nil

- 2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 14/00617/MOD75
Proposal: Discharge of planning obligation pursuant to planning permission 99/00638/OUT
Site: Site of Former Farm Cottage, Lylestane Farm, Oxtun
Appellant: Adam Wilson & Isabelle Campbell Young

Reasons for Refusal: The establishment of a new residential property in an isolated rural location in the absence of any restrictions upon its occupancy for the purposes of ensuring that it would only ever be used to serve a specific business' identified operational requirements, would be directly contrary to the Council's rural housing policy; and specifically, Policy D2 of the Adopted Scottish Borders Consolidated Local Plan 2011 and the guidance of the approved Supplementary Guidance Note on New Housing in the Borders Countryside. Further, it is not considered that there any material considerations, including the advice and guidance of Circular 3/2012, that outweigh the need to determine this application in accordance with the Council's adopted Housing in the Countryside Policy.

Grounds of Appeal: 1. The obligation fails to meet the tests of necessity and reasonableness and is not justified in planning policy. 2. The Council's reason for refusal is misconceived. The grant of the Application (and therefore the Appeal) would not establish a new residential property in the countryside. The Application related (and this Appeal relates) to a planning obligation attaching to an existing property.

Method of Appeal: Written Representations

Reporter's Decision: Sustained

Summary of Decision: The Reporter, David A Russell, concluded that Circular 3/2012 requires that planning obligations must meet all five tests in paragraph 14. He considered that this obligation fails the tests of necessity and reasonableness. Accordingly he felt that it was not necessary for him to address in detail the remaining three tests. He therefore concluded that the planning obligation as a whole should be discharged.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 18th February 2015. This relates to sites at:

- Meigle Row, Clovenfords
- Ravelaw Farm, Whitsome, Duns

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 14/01074/FUL
Proposal: Change of use from store, partial demolition and alterations to form 3 No garages
Site: Store, Union Street, Hawick
Appellant: Mr Michael Johnson

Reason for Refusal: The proposal is considered to be contrary to policies G1, G7, BE4 and Inf4 of the Scottish Borders Consolidated Local Plan Adopted 2011 as the proposed alterations to the building to include a profile metal sheeting roof that would appear as a flat roof would harm the character and appearance of the Conservation Area and the visual amenities of the area. In addition, the conversion of the building into three garages is considered to be an overdevelopment of the site that would result in difficulties when accessing and egressing the westerly garage, which would cause potential conflict between users of the existing parking spaces adjacent to the site and users of the proposed garages.

6 REVIEWS DETERMINED

6.1 Reference: 14/00951/FUL
Proposal: Alterations and extension to reinstate dwellinghouse and erection of garage

Site: 1 Prendergust Farm Cottages, Eyemouth
Appellant: Mr Brian Downs

Reason for Refusal: The proposal would constitute overdevelopment of the existing building and the rear extension would be of an unsympathetic design and massing, which draws attention to the discordant scale between the existing house and proposed extension, all of which would detract from the character and appearance of the dwelling, contrary to Policies G1 of the Consolidated Local Plan 2011.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.2 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.3 Reference: 14/01063/PPP
Proposal: Erection of dwellinghouse and garage
Site: Land North East of School House, Heriot
Appellant: Mr Colin Hood

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Plan Policy D2, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that it is not in keeping with the character, sense of place and setting of the building group at Heriot or with the landscape and amenity of the surrounding area, principally through the unsympathetic extension of the building group beyond its defined sense of place, into a previously undeveloped field.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

7 REVIEWS OUTSTANDING

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 18th February 2015.

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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