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SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 1st February, 2016 at 10.00 am

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

Apology:- Councillor B. White.

In Attendance:- Chief Planning Officer, Development Standards Manager, Principal Roads Planning Officer, Solicitor (G Nelson), Environmental Health Officer (M R Fitzgerald), Democratic Services Team Leader, Democratic Services Officer (F Henderson).

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

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 11 January 2016.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATIONS.**

There had been circulated copies of reports by the Service Director Regulatory Services on applications for planning permission requiring consideration by the Committee. Following consideration of the applications the Chairman advised that Mary Rose Fitzgerald was leaving the Council to move to a new post and thanked her for advice to the Committee.

DECISION

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

3. **APPEALS AND REVIEWS.**

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

3.1 The Chairman requested an update from Mr Nelson with regard to Wind Farm Development appeals and Mr Nelson advised that the situation was very fluid and reported as follows:-

- **Hag Law, Romanno Bridge and Cloich, Peebles** - expected that the Reporters report would be sent to Scottish Ministers by mid February 2016 and that a decision from Scottish Ministers could be made within approximately 3 months thereafter (mid May 2016);
- **Land West of Muircleugh Farmhouse, Lauder** - expected to be completed mid February 2016 and a decision within 3 months;
- **Aikengall 2A** – decision expected May 2016

- **Kilrubie, Eddleston, Peebles** – Appeal just received and at an early stage.

The Chairman then asked that Members of the Committee receive a note giving a brief overview of the position in respect of all wind farm applications and potential applications, including a location map.

DECISION

(a) NOTED that:-

- (i) an appeal had been received in respect of the erection of windfarm comprising 7 No wind turbines up to 115m high to tip, access tracks, sub-station and ancillary works on Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles.**
- (ii) A review request had been received in respect of the Erection of a dwellinghouse on Land West of Craigerne Coachhouse, Edderston Road, Peebles – 15/01034/FUL**
- (iii) there remained two appeals outstanding in respect of:**
 - **Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge**
 - **Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick.**

- (b) AGREED that a briefing paper be prepared and circulated to Committee Members, detailing Wind Farm Development applications received, those in the process of scoping together with a map pinpointing proposed sites referred to in the applications and identifying wind farm developments already approved.**

PUBLIC SPEAKING AT MEETINGS PROTOCOL

4. There had been circulated copies of the Public Speaking at meetings Protocol with recommended amendments in terms of the content of the presentation which allowed speakers to make reference to a maximum of two visual aids (photomontages, photographs, maps, plans, etc) that had been lodged properly with the Council in respect of the application being considered and a minimum of 8 days in advance of the Committee.

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DECISION

AGREED TO RECOMMEND that the suggested amendments be incorporated into the Public Speaking at meeting Protocol as detailed in Appendix II to this Minute.

5. **SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN: EXAMINATION REPORT**

With reference to paragraph 5 of the Minute of 11 January 2016, there had been circulated copies of the reply received from the Chief Reporter. The Chairman proposed that the discussion of this matter be taken in private and this was unanimously agreed.

DECISION

AGREED.

PRIVATE BUSINESS

6. **DECISION**

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix III to this Minute on the grounds that it involved the likely

disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

1. **SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN: EXAMINATION REPORT**
The Committee considered a reply from the Chief Reporter and agreed that the matter be considered at the next meeting, once all responses had been received.

The meeting concluded at 12.15 p.m.

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APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
15/01173/FUL	Erection of poultry building and associated works	Hutton Hall Barns Hutton

DECISION: Approved subject to the following conditions and informatives:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority, in unless agreed in writing by the Planning Authority.

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

3 Any noise emitted by plant and machinery used on the premises shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2 The Unit shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason To protect the residential amenity of nearby properties

4 No development shall commence until a Badger Protection Plan, to include measures as set out in Informative 1 of this consent, 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

5 No clearance/disturbance of habitats which could be used by breeding birds, such as arable field, field margins and boundary features, shall be carried out during the breeding bird season (March-August) 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

6 No development shall commence until the full details of the finalised drainage scheme shall be submitted for the written approval of the planning authority, in consultation with SEPA, 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

7 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.

8 No development shall commence until the new access is formed at the location detailed in Site Plan Drawing 001E 15/12/2015 to the dimensions and specifications detailed in Informative No4 of this permission.

Reason: In the interest of road safety.

9 Prior to the development becoming operational at least two new passing places shall be provided at agreed locations between the application site and the B6460 in accordance with a scheme of details that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of road safety.

10 All planting, seeding or turfing comprised in the approved details of landscaping Drawing 001E 15/12/2015 shall be carried out in the first planting and seeding seasons following the operation 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.

11 The development shall be operated and managed in accordance with the MacLean Eggs Ltd Operational Plan 18/12/2015 unless otherwise agreed in writing by the Planning Authority.

Reason: To protect the amenity of nearby residential properties.

Informatives

1 In line with the requirements of Condition No 4, the Badger Protection Plan should detail the measures to protect badgers foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, timing of works and sensitive security lighting away from woodland).

2 In line with the requirements of Condition No 6, the design of this SUDS scheme should include measures to protect badger (including appropriate fencing).

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

4 In line with the requirements of Condition No 8, the new access shall be sited and formed to the following dimensions and specifications:

- The new access to be located where the existing passing place is.
- The new access to have 5.5m throat width with minimum 8m radii.
- Visibility splays of 2.4m by 90m to be provided in either direction
- The first 5m of the new access to be surfaced to the specification:

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

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

5 Details of SEPA regulatory requirements and good practice advice for the applicant can be found on the Regulations section of the SEPA website. For further advice for a specific regulatory matter, contact a member of the operations team in the local SEPA office (tel: 01896 754797).

6 The site is not at risk from a flood event with a return period of 1 in 200 years. The applicant should be made aware that flooding can occur from other sources including run off from surrounding land.

NOTE: Site visit held on Monday, 25 January 2016.

VOTE

Councillor Brown, seconded by Councillor Mountford, moved that the application be approved on the terms recommended by the officer and with an amendment to condition 9.

Councillor Fullarton, seconded by Councillor Gillespie, moved as an amendment that the application be refused in terms of Policies NE5, NE3 and R1.

On a show of hands Members voted as follows:-

<i>Motion</i>	<i>-</i>	<i>5 Votes</i>
<i>Amendment</i>	<i>-</i>	<i>3 Votes</i>

The Motion was accordingly carried.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
15/01395/FUL	Erection of Dwellinghouse	Land West of 123 Forest Road, Selkirk

DECISION: Approved subject to a legal agreement addressing contributions (towards Education & Lifelong Learning and Waverley), and the following conditions and informatives:

Conditions

1. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
2. 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 Local Planning Authority.
Reason: To retain effective control over the development which is on a sloping site.
3. No development shall commence until precise details of water supply have been submitted to and approved in writing, in consultation with Scottish Water, by the

Planning Authority. Thereafter no development shall take place except in strict accordance with those details.

Reason: To ensure an adequate supply of water is available to serve the site and to ensure that existing users are not compromised.

4. No development shall commence until a scheme for sustainable urban drainage (SUDS) for surface water treatment and foul water drainage has been submitted to and approved in writing by the planning authority, in consultation with SEPA. Thereafter no development shall take place except in strict accordance with the approved scheme.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
5. The external section of the flue above the roof slope to be painted a matt black colour before the flue is installed and thereafter so retained in perpetuity.
Reason: To safeguard the visual amenity of the surrounding area.
6. No development shall take place until a Construction Method Plan has been submitted to and approved in writing by the Planning Authority. Thereafter, construction of the development hereby approved shall only take place in strict accordance with the Method Plan so approved.
Reason: To ensure that the construction of the development takes place with minimum off-site disruption, particularly in relation to the use of the public road and footpath adjacent to the site.

Informatives

1. The Environmental Health Service of the Council advises, with regards the proposed flue, as follows:

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

- The location of the flue should take into account other properties that may be downwind.
- The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.
- The flue should be terminated with a cap that encourages a high gas efflux velocity.
- The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
- The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
- If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .
- In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on - [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)
- Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.
- The use of waste wood requires and Exemption to be granted by the Scottish Environmental Pollution Agency.

- Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.
2. As noted above, flues can give rise to smoke and odour complaints which may be actionable under Environmental Health legislation. Appropriate precautions should therefore be taken to avoid problems arising in this case. Any adjustments to the flue in terms of location, height or size (from that approved under this consent) that may be needed to address potential nuisance issues may require a fresh planning application. Prior to considering any changes, the applicant should consult the Planning Authority.

NOTE

Mr S Davidson, agent for the applicant, spoke in support of the application.

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APPENDIX II

Public Speaking at Meetings Protocol

Planning and Building Standards Committee

Introduction

Scottish Borders Council will permit public presentations on planning applications in the circumstances and subject to the limitations set out below.

The opportunity to make a verbal presentation applies only to applications that are determined by the Planning and Building Standards Committee. Separate arrangements apply to applications that are determined by Council and applications that are subject to review by the Local Review Body.

1. Speakers

Public speaking at the Planning and Building Standards Committee is at the discretion of the Chairman of the Committee. However, under normal circumstances the following Groups will be allowed to make verbal representations in respect of each planning application:

- Up to 3 objectors, who have already provided written representations during the course of the application process (Group 1)
- Up to 3 supporters, including the applicant or his/her agent who have already provided written representations during the course of the application process (Group 2).
- Any Member of the Council representing the Ward within which the application lies (Group 3).

Only one speaker per household will be permitted.

2. Registration

Parties will be advised of the opportunity to speak through acknowledgement of application and acknowledgement of representation letters.

Any supporter or objector who may wish to speak at Committee is required to register that interest in writing with the Planning case officer. Anyone registering such an interest will subsequently be notified when a particular application is due to be considered by Committee. Notification will normally be given one week before the date of the meeting. Parties will then be asked to re-affirm their wish to speak at the meeting to the Committee Clerk no later than 12.00 noon on the working day preceding the meeting.

Any Member, who is not a member of the Committee, wishing to speak at the Committee should register that request with the Committee Clerk no later than 12.00 noon on the working day preceding the meeting.

Where more than the permitted number of speakers have expressed an interest in speaking it is for parties to decide in advance of the Committee meeting who should speak. If agreement cannot be reached it shall be at the sole discretion of the Chairman to decide who should speak.

3. Time Allocation

Each Group of speakers (Group 1, Group 2 and Group 3) will be allowed up to six minutes in which to make their representations. Groups will be encouraged to nominate one speaker. Where this is not possible it will be for each group of speakers to decide in advance how the permitted time is allocated between individual speakers.

The allocation of time should be notified to the Committee Clerk prior to the commencement of the meeting. The allocation of time will be monitored by the Committee Clerk, and will be strictly enforced.

4. Content of Presentations

Presentations should focus on matters that have already been raised in writing. Presentations should not introduce new matters. Speakers should ensure that their statement relates only to relevant planning policies and material considerations directly related to the application under consideration. Speakers will give their presentations to the Committee from a lectern in the Council Chamber. During presentations reference can be made to a maximum of 2 visual aids (photomontages, photographs, maps, plans, etc) that have been lodged properly with the Council in respect of the application being considered and a minimum of 8 days in advance of the Committee. No other audio visual material or handouts will be permitted.

Guidance on what does and does not constitute a material planning consideration is available at the undernoted link.

<http://www.scotland.gov.uk/Publications/2009/07/03153034/11>

The Chairman may intervene to curb irrelevant or inappropriate comments, repetition of points made by an earlier speaker, or deviation from the matter being discussed. Direct comments or criticisms of a personal nature against any individual involved in the planning process will not be permitted.

5. Questions

There shall be no questioning or cross examination of any parties other than by the Committee Chairman who may question a speaker in order to clarify points he/she has made. At the conclusion of their presentation parties shall return to the public gallery and shall take no further part in the Committee proceedings.

6. Order of Speakers

Following a brief introduction of the item by the Chairman of Committee the order of speaking shall be as follows:

- Elected Member(s) who are not members of the Committee.
- Parties objecting to the application.
- Parties supporting the application.

Officers will present the item and their recommendation at the conclusion of the oral presentations following which the Members of the Committee will debate and determine the application.

7. Deferred Items

If an item has been deferred for a site visit or other reason, parties will not normally be invited to make further presentations unless the proposed development has changed significantly, and a further round of consultation has taken place.

8. Behaviour at Planning and Building Standards Committee Meetings

All those in attendance at Committee meetings must be aware that the purpose of the meeting is for Members of the Committee to make decisions on planning applications. Public Speaking procedures are intended solely to assist this process within the guidance set out above.

Any unreasonable or disruptive behaviour will lead to the removal of those persons from the Chamber and/or the suspension of the meeting.

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