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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 25TH APRIL, 2016

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on MONDAY, 25TH APRIL, 2016 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

18 April 2016

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 1 - 12) Minute of Meeting of 28 March 2016 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following applications for planning permission:-
	(a) 14/00848/PPP - Land North West of Whitmuir Hall, Selkirk (Pages 13 - 40) Erection of 19 holiday lodges with proposed access and land treatment on Land North West of Whitmuir Hall, Selkirk. (Copy attached.)
	(b) 16/00187/FUL - Dean Park, Peebles (Pages 41 - 50) External redecoration and installation of extraction flue at Dean Park, Peebles. (Copy attached.)
	(c) 15/01270/PPP - Land at former Conveniences, Craik (Pages 51 - 64) Erection of dwellinghouse on Land at Public Conveniences, Craik, Hawick. (Copy attached.)
	(d) 15/01217/FUL - Phase 2 Land North and North East of Easter Langlee Farmhouse, Galashiels (Pages 65 - 74) Works to amend ground levels and plot finished floor levels (revision to planning permission 12/00803/FUL) Phase 2 Land North and North East of Easter Langlee Farmhouse, Galashiels. (Copy attached.)

	(e) 15/01525/FUL - 2 Soonhope Farm Holdings, Peebles (Pages 75 - 86) Change of Use and alterations to form two dwellinghouses at 2 Soonhope Farm Holdings, Peebles (Copy attached.)
6.	Appeals and Reviews. (Pages 87 - 90) Consider report by Service Director Regulatory Services. (Copy attached.)
7.	Any Other Items Previously Circulated.
8.	Any Other Items which the Chairman Decides are Urgent.

NOTE

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

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

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

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

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

MINUTE of MEETING of the PLANNING AND
BUILDING STANDARDS COMMITTEE held
in the Council Headquarters, Newtown St.
Boswells on 28 March 2016 at 10.00 a.m.

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

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 29 February 2016.

DECISION

APPROVED for signature by the Chairman.

2. **DECLARATION OF INTEREST**

Councillor Fullarton declared an interest in application **14/00417/S36** in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

3. **APPLICATIONS**

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

DECISION

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

4. **APPEALS AND REVIEWS**

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

DECISION

NOTED that:-

(a) **there remained three appeals outstanding in respect of:**

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

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

- (i) **Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping on land and buildings at Wilton Mills 31-32 Commercial Road, Hawick – 15/00100/FUL**
- (ii) **External alterations and erection of 4 No flagpoles at Office West Grove, Waverely Road, Melrose - 15/01354/FUL**

(iii) **Erection of dwellinghouse and detached garage/annex on land West of Whistlefield, Darnick**

(c) **there remained one review on which a decision was still awaited in respect of land south of Camphouse Farmhouse, Camptown, Jedburgh**

(d) **There remained 3 Section 36 appeals outstanding in respect of:**

- **Land North of Nether Monynut Cottage (Aikengall (IIa)), Cockburnspath**
- **Cloich Forest Wind Farm, Land West of Whitelaw Burn, Eddleston**
- **(Whitelaw Brae Wind farm), Land South East of Glenbreck House, Tweedsmuir.**

5. **URGENT BUSINESS**

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

6. **SCOTTISH BORDERS DESIGN AWARDS**

The Chairman drew Members' attention to the fact that 2016 was the year of Innovation, Architecture and Design and that entries were being sought for the Scottish Borders Design Awards. The Design Awards, last held in 2013, were organised by Planning and Regulatory Services and were intended to recognise and promote examples of recent good design in the region. There were four categories: New Build – residential; New Build – non-residential; Placemaking – new developments that contributed to creating a sense of place; and work to existing buildings – including conversions and extensions. Entries were invited from owners, developers, agents and designers and these must be submitted by the closing date of 29 April 2016.

**DECISION
NOTED**

7. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 8 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

1. **MINUTE**

The Committee considered the private section of the Minute of 29 February 2016.

The meeting concluded at 13.05 p.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
14/00417/S36	Erection of No. 7 wind turbines 100m -110m high to tip	Long Park Wind Farm, Bow Farm, Stow

Decision: Agreed to object to the application for the following reasons:

1. The proposed development would be contrary to Policies G1, BE4 and D4 of the Scottish Borders 2011 Local Plan, in that the development would unacceptably harm the Borders landscape due to:

- (i) the siting of turbines T23 and T25 on ground at a higher level than adjacent turbines, and closer to the edge of containing topography and landform, so that the overall wind farm would have an unbalanced and more prominent appearance, with increased visibility and less visual coherence of the wind farm noticeable from a range of vantage points and with two specified new turbines that relate poorly to the remainder of the development, so that it detracts from the underlying character of the landscape; and
- (ii) the siting of turbines T23 and T25 in such a manner that they interact with and harm the setting of Stow Conservation Area, in particular as witnessed on approach from the north on the A7 where elements of the conservation village are seen with tree-covered hills as backdrop, above which the turbines project substantially.

2. The proposed development would be contrary to Policies G1, D4, BE4 and H2 of the Scottish Borders 2011 Local Plan, in that the development would give rise to unacceptable visual and residential amenity effects due to:

- (i) the increased level of visibility of the development and lack of good topographical containment of turbines T23 and T25 from a range of viewpoints including the Borders Railway and the A7 Trunk Road/Tourist Route;
- (ii) harmful and inappropriate visual impacts of the development in relation to properties at Allanshaws, in particular arising from turbines T26 and T27; and upon the residential amenity of Stow village due to the siting and prominence of T23 and T25 which are not well served by topography and landform, and which strongly interact with the residential setting/core of the village and the Conservation Area, from within which the new turbines would be visible above topography that currently provides screening to existing turbines; and
- (iii) the lack of certainty in relation to potential noise impacts on noise sensitive receptors including private residences.

15/01424/FUL and 16/00064/FUL	Erection of dwellinghouse with integral garage and erection of dwellinghouse With detached garage on Plots 6 & 7	Land North East of Romano House, Romano Bridge
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NOTE

Councillor Catriona Bhatia and Mr William Bealey spoke against the applications.

Application 15/01424/FUL

Decision: APPROVED subject to the following conditions and informative:

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

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

3. 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.

4. No development shall commence until detailed drawings, showing which trees are to be retained on the site are 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.

5. No development shall commence until the trees to be retained on the site have been protected by a chestnut paling fence 1.5 metres high, placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

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

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

6. The verge crossing serving the site must be completed to the Council's satisfaction using a block paved construction to the specification shown below:
 - 80mm thick approved block paving laid on 30mm sharp sand laid on 100mm DBM binder course laid on 250 type 1 sub-base.

This work must be carried out by a contractor first approved by the Council. The gradient of the parking/driveway must be not greater than 1 in 15 and the parking for a minimum of two vehicles must be provided prior to occupation of the dwelling and retained thereafter in perpetuity.

Reason: To ensure that adequate parking is provided within the site in the interests of road safety

7. A pre-construction and post-construction survey of the route along Halmyre Loan shall be undertaken and submitted to the local planning authority. Any remedial works identified as a result of the construction vehicles using this route, will require to be rectified by the developer within an agreed timescale. This includes any emergency remedial works.

Reason: To ensure that a suitable standard of access is maintained to the locality in the interests of road safety

8. The details of all boundary walls and/or fences to be submitted to and approved by the planning authority before development is commenced.

Reason: To safeguard the visual amenity of the area.

9. Notwithstanding the information submitted with the application, the means of water supply and of both surface water and foul drainage to be submitted to and approved by the planning authority before development commences.

Reason: To ensure that the site is adequately serviced.

Informative

The landscape proposals should incorporate the areas of planting shown in the plan submitted by the Council's landscape architect dated 15 February 2016.

Application 16/00064/FUL

Decision: APPROVED subject to the following conditions and informative:

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. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
- iii. location and design, including materials, of walls, fences and gates
- iv. soft and hard landscaping works
- v. existing and proposed services such as cables, pipelines, sub-stations
- vi. other artefacts and structures such as street furniture, play equipment
- vii. A programme for completion and subsequent maintenance.

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

3. 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.

4. No development shall commence until detailed drawings, showing which trees are to be retained on the site are 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.

5. No development shall commence until the trees to be retained on the site have been protected by a chestnut paling fence 1.5 metres high, placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

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

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

6. Before any development commences on site a revised plan of the parking and turning area shall be submitted to the local planning authority for approval. This plan needs to demonstrate that there is an adequate turning area to ensure vehicles can manoeuvre satisfactorily in order to re-join the road in a forward gear.

Reason: To ensure that adequate parking is provided within the site in the interests of road safety

7. A pre-construction and post-construction survey of the route along Halmyre Loan shall be undertaken and submitted to the local planning authority. Any remedial works identified as a result of the construction vehicles using this route, will require to be rectified by the developer within an agreed timescale. This includes any emergency remedial works.

Reason: To ensure that a suitable standard of access is maintained to the locality in the interests of road safety

8. The details of all boundary walls and/or fences to be submitted to and approved by the planning authority before development is commenced.

Reason: To safeguard the visual amenity of the area.

9. Notwithstanding the information submitted with the application, the means of water supply and of both surface water and foul drainage to be submitted to and approved by the planning authority before development commences.

Reason: To ensure that the site is adequately serviced.

10. The verge crossing serving the site must be completed to the Council's satisfaction using a block paved construction to the specification shown below:

- 80mm thick approved block paving laid on 30mm sharp sand laid on 100mm DBM binder course laid on 250 type 1 sub-base.

This work must be carried out by a contractor first approved by the Council. The gradient of the parking/driveway must be not greater than 1 in 15 and the parking for a minimum of two vehicles must be provided prior to occupation of the dwelling and retained thereafter in perpetuity.

Reason: To ensure that adequate parking is provided within the site in the interests of road safety.

11. Proposals for a revised design of detached garage shall be submitted for the approval of the planning authority prior to the development commencing and, once approved, the garage shall be developed in accordance with the approved plans. The garage to be a single storey building and shall not include any accommodation within the roof space.
Reason: To ensure a satisfactory layout and relationship with adjoining properties within the development.

Informative

The landscape proposals should incorporate the areas of planting shown in the plan submitted by the Council's landscape architect dated 15 February 2016.

16/00024/FUL

Erection of wind turbine 28.8m high to tip (renewal and amendment to previous consent 12/00950/FUL)

Land North West of Deanfoot Farmhouse, West Linton

NOTE

Mr Paul Aitken spoke against the application.

Decision: APPROVED subject to the following conditions:

1. At wind speeds not exceeding 10m/s at rotor centre height, the wind turbine noise level at each noise sensitive property shall not exceed the levels in table 1

Table 1

Location		Wind speed at rotor height in m/s averaged over 10 minute periods. Sound pressure levels in dB LA90, 10mins									
Property Name	Map ref	4	5	6	7	8	9	10	11	12	
Cottage Farm	315280 652836	19	20	21	25	29	33	36	38	40	
Linton Grange	315355 652453	15	17	18	21	26	30	32	34	36	
5 Dryburn Brae	315424 652378	15	16	17	21	25	30	32	34	36	
6 Dryburn Brae	315467 652310	14	16	17	20	25	29	31	33	35	

Reason: To protect the residential amenity of local residents

2. At the request of the Planning Authority, following a complaint to Scottish Borders Council relating to noise immissions from the wind turbines, the wind turbine operator shall shut down the turbine not later than 24 hours after receipt of the request and at his own expense employ an independent consultant, approved by the Planning Authority, to assess the level of noise emissions from the wind turbines (inclusive of existing background noise). The background noise level shall also be measured without the wind turbine operating. The noise of the turbine alone can then be calculated by logarithmic subtraction. If requested by the

Planning Authority the assessment of noise immissions shall include an investigation of amplitude modulation in a manner agreed with the Authority.

Reason: To protect the residential amenity of local residents

3. Should the wind turbine sound pressure level exceed the level specified in the above conditions the turbine shall cease operation until such time as it has been demonstrated to the Planning Authority that the sound pressure level, referred to in condition 1, can be achieved.

Reason: To protect the residential amenity of local residents

4. The development shall be removed, and the land restored to its former condition, within 20 years of the date of this planning permission, unless further planning permission in this regard is obtained.

Reason: To enable the planning authority to reconsider the planning position in the light of updated policy, and having regard to the nature of the development, which is likely to require to be upgraded as technology advances.

5. No development shall commence until the developer has provided the Planning Authority with the date of commencement of construction; the date of completion of construction; the maximum height of construction equipment; the latitude and longitude of the turbine.

Reason: To allow the records of Defence Estates Safeguarding to be amended and updated

6. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reasons:

(i) To maintain safety for both the trunk road traffic and the traffic moving to and from the development

(ii) To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network

7. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

16/00021/PPP

Erection of two dwellinghouses

**Land East of
8 Talisman Place,
Peebles**

NOTE

Mr K Simpson spoke against the application.

Mr Tim Ferguson, Ferguson Planning, spoke in favour of the application.

Decision: APPROVED subject to the following conditions and informatives and to a legal agreement:

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

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

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

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

4. The trees and hedges on and adjoining this site, which are identified to be protected, shall be protected at all times during construction and building operations, by the erection of substantial timber fences around the trees and hedges, together with such other measures as are necessary to protect them from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed. Once completed, the trees and hedges to be retained thereafter in perpetuity.
Reason: To ensure that adequate precautions are taken to protect trees and hedges during building operations.

5. The development to make provision for two off street parking spaces (excluding garage) and a vehicular turning area for each plot within the site, to be provided before occupation of the associated dwellinghouses and retained thereafter in perpetuity.
Reason: In the interests of road safety.

6. The first application for Approval of Matters Specified as Conditions to include schemes for junction and roadway improvements at the junction of Kingsmeadows Gardens and Kingsmeadows Road and for the site access from Kingsmeadows Gardens. Once the improvements and details are approved, the works then to be completed in accordance with the programme agreed under the schemes.
Reason: In the interests of road safety.

7. No development shall take place until the applicant has secured a programme of archaeological work in accordance with an approved Written Scheme of Investigation (WSI) outlining a Watching Brief. Development and archaeological investigation shall only proceed in accordance with the WSI.
The requirements of this are:
 - The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
 - If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery

of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.

- Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
- If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
- Initial 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. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
- The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once approved.

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.

8. The ridgelines of the proposed dwellinghouses to be no higher than the highest of the ridgelines of Kingsmeadows Stables that immediately adjoin the application site and White Cottage.

Reason: To safeguard the character of adjoining listed buildings and the residential amenity of the occupants

Informatives

1. It is recommended that the designs for both plots are submitted together and consist of similar or complimentary scale, layout and finishes, based upon two L-shaped designs forming a U-shaped overall built footprint with the open part of the U-shape facing north.
2. Please be aware that the owner of White Cottage claims that the development site contains drains and a septic tank used by that property.

**16/00013/LBC and
16/00015/FUL**

Replacement Windows

**149, High Street
Galashiels**

Application 16/00013/LBC

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 the provisions of Section 16 of the Town and Country Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The kitchen window shall be replaced with a vertically sliding sash window which matches the glazing pattern and external colour of the existing window, and the bedroom window shall be replaced with a tilt-and-turn window which matches the glazing pattern and external colour of the existing window. The existing windows, including boxes, shall be removed in their entirety prior to installation of the replacement windows, which shall be fitted into the opening to the same extent as the existing windows

Reason: To safeguard the special architectural and historic interest of the Listed Building

Application 16/00015/FUL

Decision: APPROVED subject to the following conditions:

1. The kitchen window shall be replaced with a vertically sliding sash window which matches the glazing pattern and external colour of the existing window, and the bedroom window shall be replaced with a tilt-and-turn window which matches the glazing pattern and external colour of the existing window. The existing windows, including boxes, shall be removed in their entirety prior to installation of the replacement windows, which shall be fitted into the opening to the same extent as the existing windows

Reason: To safeguard the character and appearance of the Conservation Area

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE

ITEM: **REFERENCE NUMBER:** 14/00848/PPP

OFFICER: Andrew Evans
WARD: Selkirkshire
PROPOSAL: Erection of 19 holiday lodges with proposed access and land treatment
SITE: Land North West Of Whitmuir Hall, Selkirk, Scottish Borders
APPLICANT: Mr Alan Williams
AGENT: Burnet Bell Architects & Enviroplan

PREVIOUS CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE:

This application was presented to the meeting of the Planning and Building Standards committee on 7th September 2015. Members resolved to continue the application at their September meeting, to enable:

- A site visit, and
- The agent to set out details of proposals for future investment in the existing accommodation and facilities at Whitmuir hall.

A site visit was subsequently arranged and carried out by the Planning and Building Standards Committee on 28th September.

The processing agreement for the application was also extended, to take the application through to the current (April 24th 2016) meeting of the PBS committee.

The Planning Officer wrote to the agent, initially on 8th October, and following further discussion, sent a subsequent email to the agent on 11th December, setting out what information was sought. It was suggested to the agent that any submission cover:

- *A synopsis of your clients investment plans for the existing business, including details of proposed investment in the leisure facilities.*
- *Phasing proposals, indicating how such investment would take place in parallel to the development proposals in application 14/00848/PPP.*
- *Consideration be given to entering in to a section 75 agreement, covering the site, and the neighbouring business, and committing to a the identified phased investment plan.*

The agent subsequently provided a brief position statement of January 11th. This can be viewed in full on the public access website. In brief summary, it sets out that:

- *The "In principle" nature of the current application means there is not yet detail on which to base financial viability and investment conclusions.*

- *Circa £10,000 of investment has been invested to upgrade the heating and air conditioning systems for the swimming pool and pool room.*
- *Whilst the agent believes enough material has been submitted to support the principle of the holiday lodge development at Whitmuir, the applicants are willing to accept appropriate planning condition/conditions to reassure the Council members that further detailed matters can be addressed at a later date.*

Following the submission of the position statement, the Economic Development service was re-consulted on the application, and advises that they have nothing additionally to say at this stage. The applicant has stressed that this is an “outline “in principle” application” and in turn, the Economic Development service advises that they remain “in principle” supportive. The applicant states that “such detailed concerns can only realistically be addressed at the detailed application stage” – in relation to the upgrading of existing swimming and other leisure facilities – The Economic Development service queries if this something SBC can make a condition at that stage, potentially via a section 75 agreement.

There is little robust evidence in the submission that is likely to fully satisfy the concerns expressed by Members at the meeting in September, although there is a commitment to continue to improve facilities at Whitmuir as part of the wider redevelopment. Accordingly, Members will need to consider whether the information submitted in response to the request by the Committee is sufficient to satisfy any outstanding concerns, and thus, whether to accept or refuse the application as it stands, or with the imposition of an additional planning condition/s or indeed a legal agreement.

Should Members be prepared to consider approval of the application, subject to imposition of an additional planning condition, great care should be taken with condition wording. Any condition relating to off- site investment / works being carried out would have to be very specifically worded to meet the relevant tests for the use of planning conditions. A suspensive planning condition (*a condition requiring works to be undertaken prior to any other development forming part of the permitted works*) may be appropriate depending on its requirements. Those requirements must however be reasonable and directly related to the development being proposed under this application. Advice on these matters can be provided by officers at the meeting as required.

The original report and recommendation relating to this planning considered by this Committee, at its September meeting is as follows:

SITE DESCRIPTION:

The site is located in rural countryside outside Selkirk. The site is directly to the north east of Whitmuir Hall, which is located in between the settlements of Selkirk and Midlem. The site is a southwest facing pasture, currently grazed, which generally slopes towards the southwest, but also contains localised peaks and ridges within the western half of the site which have been formed as a result from a previous quarry activity.

The south western corner was previously used as an off road bike track with tracks still delineated by rows of old tyres, now partly absorbed back into the ground. The site is bound to the east by a stone dyke wall which encloses the site from the minor road that connects Whitmuir to the A699. To the south and west, is Whitmuir Loch

Site of Special Scientific Interest (SSSI). This is a lowland basin mire of mesotrophic fen surrounding the loch which includes most of the mixed woodland that encloses the west and southern most corner of the site with further woodland enclosing the south-eastern edge of the site.

The wider landscape surrounding the site is a pastoral landscape with shelterbelts and large parkland trees interspersed within the field pattern. Notable surrounding features include;

- Selkirk Race course (“Gala Rig” on O.S.) to the north west of Whitmuir Loch,
- A path which runs along the eastern edge of Whitmuir Loch connecting the minor road to the south of Whitmuir Hall and the A699,
- A tree lined avenue along the northern access road at its connection with the A699
- Approximately 7 dwelling houses are located within the vicinity of Whitmuir Hall.

The site is not subject to any formal landscape designations.

PROPOSED DEVELOPMENT:

Planning Permission in Principle is sought for the erection of 19 Holiday Chalets. Although permission is sought in principle, the application includes an indicative road layout, and indicative proposals for the treatment of the land and for enhanced landscape planting.

PLANNING HISTORY:

- 90/01539/OUT - A previous planning approval obtained consent for the erection of 25 self-catering chalets with new internal road access within the site. No detailed application followed this approval.
- 08/00890/FUL - In 2008 planning approval was obtained for the extension to the existing leisure centre at Whitmuir Hall to provide function area, café and changing facilities as well as the formation of a new access.
- 09/00577/OUT - In 2009, a planning application sought consent for the erection of 28 holiday chalets, this application was withdrawn following a range of concerns expressed by the department about the application which most significantly related to; compliance with Scottish Borders Tourism Strategy (SBTS), landscape and visual impact, drainage concerns and impacts upon the SSSI.
- 10/01123/PPP - A resubmission of the withdrawn 2009 application was made in 2010, which sought to address the concerns previously raised. Subsequently, in December 2012 this application was refused by elected members, contrary to officer recommendation. The application was for the erection of 28 holiday lodges with proposed access and land treatment. A subsequent appeal to the DPEA was dismissed by the appointed Scottish Government Reporter. The Reporter’s Report is available in full on the DPEA website under Planning appeal reference: PPA-140-2040, with the reporter’s decision dated August 1st 2013.

REPRESENTATION SUMMARY:

This current application was publicised by means of a notice in the Southern Reporter, a notice on the national planning notification website, and via direct postal notification of the 4 immediate neighbours within the 20m buffer of the application site.

Objections were received to the application, and these can be viewed in full on the public access website. At the time of preparing the report a approximate total of 42 representations had been received. 40 of these were objections, with 2 representations (Neither supporting nor opposing).

A summary of the matters of relevance raised in these letters of objection and representation is as follows:

- Complaints about the process, fee arrangements, of there being multiple agents.
- Complaints about the Pre-Application consultation, Proposal of Application Notice timing.
- Extensive reference is made to the Reporter's Decision letter from the previous planning decision on the site, and that this should preclude any consideration of these proposals.

Objections were made that the proposals:

- are not a sustainable form of development
- will have overriding adverse visual impact
- will cause light pollution
- will have an adverse impacts on private water supplies
- will not suitably address foul drainage concerns
- will have an adverse impact on wildlife and habitat:
- Impact on protected species and a Site of Special Scientific Interest
- Adverse impact on local bird populations, and on their habitat

Further objections were made to **principle and detail of this business** in this location:

- Objectors highlight that Scottish Planning Policy (paragraph 95) stresses that the aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside.... If this development is allowed to go ahead the character of Whitmuir would be lost forever.
- Contended that Whitmuir Hall has only 12.5% occupancy which demonstrates that there is no demand for additional chalet/homes accommodation in this area
- The proposals will exacerbate the decline of the existing accommodation at Whitmuir Hall, not improve it.
- The type of accommodation proposed is not what is required in the Borders
- The proposals are not economically viable.
- SBC should support local businesses and ensure they are not undermined by "the wrong kind" of development.
- The Self Catering tourist accommodation market is declining
- The proposals have no connectivity with the existing tourist development.
- The proposals are seen as a means of establishing buildings on the site, to be subject to future housing conversion or development

- Poor internet reviews of the existing accommodation were reproduced, and provided to the Council.
- A spreadsheet showing occupation figures for the existing accommodation is provided (based on figures from Wyndhams marketing agency, and “local observations”)
- Extensive detailed comments regarding the adequacy of any business information to be lodged in support of the application.

Objections were received in terms of the **landscape impacts** arising from the proposed development as follows:

- The Borders Landscape Assessment sets out the hamlet lies within a designated national scenic area and an environmentally sensitive area - sensitive to change. It is especially important for any development to fit in with its surroundings.
- The surrounding area and hamlet cannot accommodate this scale of development.
- The proposals will have an adverse impact on the view from the Rig Racecourse during the common riding.

Traffic, Road Safety and access concerns and objections can be summarised as follows:

- Current maximum capacity of Whitmuir Hall is 80 persons, this combined with the proposed additional accommodation, would mean at least 150 people together with their cars totally swamping the existing settlement and existing tiny access roads.
- Conflict with local horse riding.

Finally, other objections can be summarised as:

- Loss of farmland.
- The applicant makes no effort to engage with neighbours or the local community
- Non-compliance with planning policies, particularly in relation to rural development, impacts on neighbouring amenity, travel and transport

APPLICANTS’ SUPPORTING INFORMATION:

The application is supported by:

- Supporting Planning Statement , which includes:
 - Phase 1 Ecology Report by Corvus Consulting
 - Environmental Impact Report
 - Engineers Report (URS)
 - Tourism Report (by Tourism Resources Company, 2010)
 - a community engagement report due to this application falling in to the category of “Major Development”
 - Landscape Strategy (By Circle)
- Landscape Design Statement

MAJOR DEVELOPMENT REQUIREMENTS

Due to the application site measuring 4.4ha, the application, as noted above, falls in to the category of “Major Development” in the Hierarchy of Development. This

means that Pre-Application Consultation had to be undertaken, and an event held by the applicant's agent, and a subsequent Pre-Application Consultation (PAC) report lodged with this planning application.

The PAC report is set out in appendix A of the Supporting Planning Statement, and reports on the public pre application even held on June 5th 2014. The Planning Department is satisfied that the statutory pre-application requirements have been fulfilled.

PROCESSING AGREEMENT

A planning processing agreement has been concluded with the applicant, which set out a route for the application to progress to a committee decision in August of 2015. Agreement was subsequently confirmed on an extension to the agreement to September meeting of the PBS committee.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees:

Outdoor Access Officer: **No response** received.

Roads Planning Service: Identified **no objection in principle**.

Confirmed this current submission appears to largely have taken account of the roads issues and concerns which the RPS had highlighted in previous correspondence. Pleased to see that the location of a new access into the site at the north eastern boundary on the brow of the hill is still proposed.

The RPS engineer was disappointed that the internal vehicular connection has been removed. This link is required to minimise and aid traffic flow throughout and in particular will assist with reducing traffic flow and conflict at the southern boundary of the overall Whitmuir site which has always been a cause of local concern. A link between the sites will ensure that vehicular trips on the public road network surrounding the site are kept to an absolute minimum. Chalet occupiers will utilise the new access to the north for the majority of their stay, whilst only really requiring to use the existing entrance on arrival to check-in before using the link to travel to their chalet. The impact on the existing exit to south will be minimal or potentially even no impact at all as chalet occupiers who are checking out are likely to travel back through the lodge park and exit via the new access. Should a link not be included, all check-ins and signing outs will result in the use of the southern exit. The RPS goes on to confirm:

- A review of the internal traffic management should be included as part of any 'detailed' application.
- The location of the new and upgraded passing places as shown on the marked up drawing accords well with RPS comments and site meeting's for previous proposals.
- A detailed junction layout will be required for the proposed new access onto the public road, including details of its construction. This should be included within any subsequent 'detailed' application.

- The passing places (localised road widening) are to be constructed generally as per the detail specified in RPS standard drawing, DC-1.

The RPS does not object to this tourism development. They are content that the proposed public road improvements, together with the new access, the improved visibility splays and the necessary measures described earlier to minimise traffic flow at the southerly exit are sufficient to enable their support for this development.

Ecology Officer: 23.09.14: (First Response): Confirmed **no objection** in principle, subject to appropriate mitigation.

Noted the SEPA response of August 5 2014 which provides standing advice at www.sepa.org.uk/planning.aspx . An SNH response is pending and the ecology officer indicated he may respond further once this document is lodged. Previous SNH responses for 10/01123/FUL (27 September 2011 & November 20 2012) highlighted concerns regarding foul and surface water treatment, construction methods and boundary/SSSI management and stated that the proposal submitted was to be in accordance with the advice of SEPA and SBC. The Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014 proposes the construction of a Natural Ecological Wastewater Treatment Plant which will include a reed bed. The potential impacts of this proposal on Whitmuirhall Loch SSSI will be considered by SNH and I may then comment further.

Notes the Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014. The development lies close to Whitmuirhall Loch SSSI designated for its basin fen and hydromorphological mire range. Most of the site is poor semi-improved grassland and tall ruderal vegetation with area of semi-improved neutral grassland associated with rocky knowes within the site. The Ecology response (19 September 2011) for a previous application on the same site (10/01123/PPP) indicated further survey and information requirements. The Planning Support Statement of July 15 2014 (Section 5) acknowledges that further survey and information is required. It refers to the need for more information on protected species such as bats and badgers, both on site and adjacent to the site; impacts of site lighting; that the used tyres should be carefully removed to avoid impacts on amphibians and reptiles, timing of works to avoid impacts on flora and fauna particularly during the breeding bird season; the need for sensitive habitat and biodiversity enhancement.

Bats

The proposed access track to the north (previously in the south) and the changes to chalet locations are welcomed as this has the potential to avoid disturbance, to the south, where bat species could have been impacted. The site and adjacent habitat is used as foraging habitat and potential roosting and perching by bats (according to the Phase 1 ecology report carried out by Corvus Consulting September 2009) therefore mitigation is required in the form of a 'Lighting design strategy for light sensitive biodiversity'. However, if any trees are to be disturbed or felled bat surveys will be required.

Bats are protected under The Conservation (Natural Habitats &c.) Regulations 1994 (as amended). It is illegal to intentionally or deliberately kill or injure them, intentionally, deliberately or recklessly damage, destroy, or obstruct access to any place used for shelter or protection including resting or breeding places (all roosts, whether occupied or not), or deliberately, intentionally or recklessly disturb them.

Badgers

Badgers are known to be present in this area and also use it for foraging and commuting. A Badger Protection Plan, to be informed by survey, is required.

The European Badger (*Meles meles*) is protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004). Badgers are protected from being disturbed, killed, injured or taken and their setts are protected from damage, obstruction or destruction.

Birds

There is potential for breeding birds to use the trees and habitat in the vicinity. Potential impacts on breeding birds are to be avoided.

All wild birds are afforded protection and it is an offence to deliberately or recklessly kill, injure and destroy nests and eggs of wild birds. Additionally for those species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any bird whilst it is nest-building or at or near a nest containing eggs or young, or to disturb any of its dependent young. There may be a requirement, depending on habitats within the sites, to survey sites in the breeding season and to avoid damage to breeding birds, their nests and eggs by avoiding development or the commencement of development during the breeding birds season (March - September). Mitigation may involve provision of alternative nest sites, protection of breeding habitats where appropriate and the design of the site should protect and enhance foraging habitat for breeding birds as appropriate.

Recommendations

1. A mitigation plan is required in regard to lighting design which is sensitive to the needs of bats. The type of lighting and timing of lighting which minimises impacts on biodiversity, e.g. Bats and badgers, should be carefully considered for both the construction phase and the final development. The mitigation plan should include a 'Lighting design strategy for light sensitive biodiversity'. This may include darker wildlife corridors. If any mature trees are to be felled or disturbed they will need to be surveyed for bats to prevent impacts on roosting or foraging bats. If surveys are to be carried out any surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys or roost surveys in trees should be conducted between May and September (optimally May - July). Preliminary roost assessments can be undertaken at any time of year. If evidence of bats or their roosts is found in surveys, the developer may be required to submit a mitigation plan for bats as part of their submission to the Planning Authority.
2. A Badger Protection Plan is required to protect any setts in the area and badger foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting, timing of works, badger-proof fencing around settlement ponds). This Badger Protection Plan will need to be informed by a badger survey to be carried out by a suitably qualified person. It is also a requirement that prior to the commencement of works the site contractors are given a toolbox talk and information sheet by the developer's consultant ecologist to explain the requirements of the mitigation on site. Prior to the commencement of works the Badger Protection Plan including the details of the toolbox talk and the survey details will be

submitted, in writing, to the Planning Authority for approval. Any works shall thereafter be carried out in accordance with the approved scheme.

3. Site clearance to be carried out outside of the breeding season. No vegetation or scrub clearance shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Checking surveys and appropriate mitigation for breeding birds will be required if works are proposed during the breeding bird season.
4. Prior to commencement of works a Biodiversity and Habitat Management Plan is to be prepared by a suitably qualified person. It will relate to the proposed 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). A pond or SUDS feature, which is proposed, 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.
5. Tyres on site to be carefully removed to avoid impacts on amphibians and reptiles. Works to be guided by a suitably qualified person.
6. 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.

Second Response:

Confirmed on 05/08/15 that the Ecology Officer is content for these matters to be dealt with by means of planning conditions, as recommended in the earlier consultation response of the Assistant Ecology Officer

Landscape Architect:

Commented on all the previous applications and felt that due to the site topography and its relationship with the surrounding area the development of the site for holiday chalets accommodation would not have a negative impact on the wider landscape. Confirms has studied the revised layout submitted in support of this application and is of the opinion that the reduction in the number of units will have a beneficial impact on the development and has allowed a more considered layout to be developed. The access road appears to be more sympathetic to the site topography and the reduction in the number of units has resulted in smaller and more discrete groupings of chalets. While inevitably there will be some modifying of the topography to accommodate the chalets and any parking associated with each unit would expect this to be kept to the absolute minimum and detail to be provided at the more detailed planning stage to demonstrate this is the case. Every effort will have to be made to make any platforms and consequent changes in levels fit the undulating nature of the site. In respect of the main access road through the site the Landscape Architect suggests this is kept to the absolute minimum width in conjunction with suitably

located and frequent passing places, as this will significantly reduce their visual impact on the site and be in keeping with a development of this scale. The Outline Proposals drawing only indicates the main access road through the site and at the next stage we will need detail of the tracks and parking associated with each unit.

Planting should be native species with the concentration on reinforcing the existing woodland which surrounds the site. Management of the grassland should encourage and enhance the existing species. A management plan for all areas of the site, following development, will be required to ensure that the biodiversity of the site is being considered.

If all the above can be satisfactorily addressed at the more detailed stage of the process, sees no reason why this application cannot be supported.

Environmental Health:

22.10.14:

Amenity and Pollution - The application is for the development of 19 holiday chalets. The application form indicates that the development will be serviced with a water supply from Scottish Water. No indication has been given regarding how the chalets will be heated this may have an impact on noise and/or air quality. I would request that the applicant provides more details on the heating plan for the chalets, see conditions.

Contaminated land - It is recommended, that by way of an Informative Note, the applicant is made aware of potential land contamination that may have occurred through unrecorded infilling of the quarry. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations, or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.

Economic Development:

22.10.14: First Response:

The provision of new holiday lodge accommodation fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target by:

- Ensuring the region's accommodation offerings are in direct relation to consumer demands and where opportunities are available, act as an attractor of demand in themselves.
- Increasing volume of overnight visitors.
- Increasing overnight visitor spend.

Economic Development supports this application in principal, on condition that the following provisions are met:

- Submission of a full business plan that includes full financial projections, current occupancy levels for the existing accommodation and a marketing plan to identify key customers and target markets for the new development in the locality

- That there is a commitment by the applicant to work with Business Gateway (Tourism) advisors to ensure that both the existing and new facilities are of a high standard and quality.

11.06.2015: Second Response: Reiterated the first paragraph of their first response. Confirmed that the application fits with the Local Development plan policy ED7, Business Tourism and Leisure in the countryside as:

- a. The development is to be used for Leisure and recreation and is in accordance to the Tourism strategy (outlined above)
- b. The development has an economic/operational need that cannot be accommodated within a development boundary of a settlement due to unique nature of rural holiday let accommodation.

The Business Plan provided has identified that the projected break-even point of 8 weeks at 15% occupancy with no borrowing requirement for capital costs means that this is projected to be a viable business. We **remain supportive, in principle**, of this application, on condition that the following provision is met:

- i. That the applicant continues to work with Business Gateway (Tourism) Adviser throughout the development period to ensure that both the existing and new facilities are of a high standard, with an ambition to qualify for Visit Scotland Quality Assurance or other tourism industry standard award.
- ii. Applicant should also commit to submitting updated formalised business plans and financial information to Business Gateway where appropriate.

Statutory Consultees

Scottish Environmental Protection Agency (SEPA):

5.8.14: Direct the Planning Authority to their standing advice.

Scottish Natural Heritage (SNH):

25.8.14: Confirmed there are natural heritage interests of national importance near to the proposed development site, but these **will not be affected** by the proposal. A protected species licence may be required. SNH confirm they have previously responded to applications for similar proposals at this location on 27 September 2011, and 20 November 2012. The current application retains many elements of the original applications, including the provision for wastewater treatment.

The development site is close to Whitmuirhall Loch SSSI, which is designated for its basin fen and hydromorphological mire range. Basin mires such as Whitmuirhall Loch depend on high, stable water levels and low nutrient conditions in order to maintain their special interests. The SSSI lies at the foot of a sloping field, which is the site of the development. As such, SNH are primarily concerned with the potential impacts of nutrient enriched silt, soils, drainage waters and wastewater produced as a result of the construction and operational phases of the development.

SNH note that the foul water drainage system will incorporate a number of reed beds and swales, and that the entire arrangement will be lined with impermeable membranes. The final effluent will then be pumped to a watercourse outside the Whitmuirhall Loch catchment. The arrangement described above is essential to ensure that there is no nutrient leakage to groundwater which may affect the SSSI.

As detailed in SNH's responses to the previous planning applications, they would expect a Construction Method Statement, detailing how protection of the SSSI will be ensured during construction operations, to be agreed with SBC prior to the commencement of any development at the site. Ideally this would be submitted as part of a full planning application for the development.

European Protected Species – Bats

Protected Species - Badgers

Previous ecological surveys at this location have highlighted the presence of bats and badgers, with recommendations for further surveys to be carried out to inform the requirement for mitigation and/or species licences. SNH therefore advise that SBC ask the applicant to carry out surveys for bats and badgers. If they could be affected by the proposal, you should also request that the applicant submits a species protection plan before determining this application. Once you have received this information, we would be pleased to advise further if necessary.

NOTE – SNH subsequently clarified it was for SBC to confirm Survey requirements. SBC's Ecology Officer subsequently stated that he is content for these further species surveys to be required by planning condition.

Scottish Water:

No response received.

Selkirk and District Community Council:

11.09.14: The Royal Burgh of Selkirk and District Community Council remains in support of the provision of visitor accommodation in the Scottish Borders in appropriate locations - where it can be demonstrated there will be no significant adverse impacts. With regard to these latest outline proposals for Whitmuir, the Community Council is pleased to note the reduced numbers of chalets and appreciate the applicant's attempt to reduce the development impact upon the local environment and infrastructure.

However having discussed this application and its context at Whitmuir, the Community Council is concerned that the proposals still raise a number of fundamental issues concerning business viability, access, the planned sequence of development, impacts upon various aspects of the environment, servicing and design. None of these are - in the Community Council's opinion - satisfactorily addressed within this application and it is to be hoped that much more detailed evidence concerning the above will be forthcoming.

It is further noted that previously planned improvements and maintenance to the existing leisure facilities at Whitmuir are still to be completed and such an apparent lack of commitment hardly encourages any belief for the success of these latest proposals. The CC is also aware that the majority of the residents still seem strongly opposed to any development for both technical and environmental reasons and we consider that their concerns should be fully investigated and resolved.

Other Consultees:

Association for the Protection of Rural Scotland:

18.12.14: This APRS, whilst not directly consulted on the application **objected**, because the site is not allocated for development in the Scottish Borders Consolidated Local Plan, approved in 2011. In the view of the APRS the proposal is also:

- contrary to Structure Plan Policy N3, National Nature Conservation Sites, in that it could adversely affect the neighbouring Whitmuirhall Loch Site of Special Scientific Interest, in particular due to potential adverse effects on water quality from foul drainage and run-off from the site;
- contrary to Local Plan Principle 1, Sustainability, in that it will introduce light pollution to a rural area currently free of such pollution;
- contrary to Local Plan Policy D1, Business, Tourism and Leisure Development in the Countryside, in that it does not respect the amenity and character of the surrounding area and is of an excessive scale inappropriate to the rural character of the area;
- contrary to Local Plan Policy G1, Quality Standards for New Development, in that it is incompatible with and does not respect the character of the surrounding area;
- contrary to Local Plan Policy INF11, Developments that Generate Travel Demand, in that it is not accessible to existing or proposed bus corridors or train stations; indeed it will generate substantial additional vehicle traffic on a narrow single-track road with limited visibility, with consequent adverse effects on road safety;
- contrary to Local Plan Policy NE3, Local Biodiversity, due to its likely adverse effects on protected species known to be present on or near the site, particularly badgers and bats.

The Association therefore respectfully requests your Council to refuse this application on the grounds set out above.

DEVELOPMENT PLAN POLICIES:

SESPlan Strategic Development Plan 2013:

This plan has replaced the structure plan. However no specific policies relevant to the determination of this current application.

Consolidated Scottish Borders Local Plan 2011:

Policy D1	Business Development in the Countryside
Policy G1	Quality Standards for New Development
Policy G2	Contaminated Land
Policy G4	Flooding
Policy BE2	Archaeological Sites and Ancient Monuments
Policy H2	Residential Amenity
Policy Inf2	Access Routes
Policy Inf4	Parking Provisions and Standards
Policy Inf5	Waste Water Treatment Standards
Policy Inf6	Sustainable Urban Drainage
Policy NE2	National Nature Conservation Sites
Policy NE3	Local Biodiversity
Policy NE4	Trees, Woodlands and Hedgerows
Policy NE5	Development Affecting the Water Environment

OTHER PLANNING CONSIDERATIONS:

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

- Biodiversity (2005)
- Local Landscape Designations (2012)
- Householder Development (2008)

Scottish Government Policy and Guidance:
Scottish Planning Policy (SPP) (June 2014)

Scottish Government Directorate for Planning and Environmental Appeals:
Decision Notice – Case PPA-140-2040, appeal decision dated 1 August 2013

KEY PLANNING ISSUES:

The main determining issues are whether the proposal represents an appropriate tourism development within the countryside. Consideration must also be given to other matters relating in particular to the ability to provide safe access, impact on adjoining residential properties and impact on the adjacent Whitmuir Loch SSSI.

ASSESSMENT OF APPLICATION:

Revisions in Comparison to previous application / appeal:

The current application makes the following changes in comparison to the previous scheme:

- The number of lodges is reduced from 28 to 19.
- Revisions to layout and detailing of the indicative proposals

Land Use Planning Policy Principle:

In terms of the principle of development, the site is located within an area of rural countryside. Policy D1 of the Consolidated Scottish Borders Local Plan is therefore relevant. It sets out the Council position in relation to proposals for Business, Tourism and Leisure Development in the Countryside.

Members will recall their previous consideration of an application for a larger scheme on this site. That application was refused, and then appealed to Scottish Ministers. The reporter set out in his detailed reasoning as follows:

“There is no equivalent policy in SESplan to policy E21 Tourism Development of the consolidated structure plan and the broad strategies in SESplan have little direct bearing on the assessment of the proposal. The key policies therefore are local plan policies D1 Business, Tourism and Leisure Development in the Countryside, G1 Quality Standards for New Development and Inf11 Developments that Generate Travel Demand.”

The reporter confirmed he had:

“no reason to doubt the assurance that the details of the development will be of high quality. However, application of policies D1 and G1 requires that the issues of integration in the landscape and impact on the rural character of the area must be

assessed at the in principle application stage having regard to the indicative proposals.”

Integration in the landscape and impact on the rural character of the area

Placemaking and Design Considerations are set out in a relevant SPG and through the criteria of Policy G1 (Quality Standards for New Development) of the Consolidated Scottish Borders Local Plan. An indicative revised layout plan is considered to be capable of compliance with policy G1. Full arrangements will be subject to detailed consideration at any subsequent application for Approval of Matters Specified in Conditions.

Landscape and visual impacts, and impacts on rural character

The Reporter's decision noted:

According to the Borders Landscape Assessment the site lies broadly within the Eildon Hills landscape character area and within an area defined as an upland fringe type, Type 11 Grassland with hills. This lies within a designated national scenic area and an environmentally sensitive area. The council's supplementary planning guidance Landscape and Development advises that in these areas it is especially important for any development to fit in with its surroundings. According to the landscape appraisal the site is representative of the Type 11 landscape, which is described as sensitive to change. The site and its surroundings are acknowledged to be of a high scenic value. It adjoins Whitmuirhall Loch SSSI, which is accessible to walkers from the core path network.

In this respect, the comments of the Council's Landscape Architect are of significant. She advises that due to the site topography and its relationship with the surrounding area the development of the site for holiday chalets accommodation would not have a negative impact on the wider landscape.

The Council's Landscape Architect has studied the revised layout submitted in support of this application and is of the opinion that the reduction in the number of units will have a beneficial impact and has allowed a more considered layout to be developed.

The indicative position of the proposed access road appears to be more sympathetic to the site topography and the reduction in the number of units has resulted in smaller and more discrete groupings of chalets. This is also beneficial in terms of the impacts upon the rural character of the wider area. The resultant reduced development is now considered to be appropriate in terms of such considerations.

The Council Landscape Architect is quite clear in her consultation response that the site for holiday chalets accommodation would not have a negative impact on the wider landscape.

Economic case and consideration of proposed tourism business:

Policy D1 of the Consolidated Scottish Borders Local Plan encourages the development of tourist facilities and accommodation within the region, provided several criteria are met. These include the need for a proposal to accord with the provisions of Scottish Borders Tourism Strategy (SBTA); provide no adverse impact the local economy or surrounding and neighbouring uses, minimisation of the

impacts on the landscape and nature conservation, the ability to achieve satisfactory access and infrastructure as well positive visual impacts.

In respect of this current application, the proposal must be assessed against current development plan policies, but also against the background of approval for self-catering chalets in “outline” under consent 90/01539/OUT. The granting of this consent is material to the consideration of the current application. However, it is accepted that the time period that has lapsed since this previous approval and the evolution of planning policies and also tourism trends, which are an important consideration for any tourist related development, necessitates that the development is robustly tested against the policies of the current development plan.

Visit Scotland was consulted on the application. No response was forthcoming.

The Council Economic Development Service, and by extension its business advisors within the Business Gateway, were consulted on this latest application. The response from Economic Development confirms that the provision of new holiday lodge accommodation fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target. It was further confirmed that the Economic Development service supports this application in principle, on condition that their identified comments were met, namely:

- the Submission of a full business plan that includes full financial projections, current occupancy levels for the existing accommodation and a marketing plan to identify key customers and target markets for the new development in the locality, and
- secondly that there is a commitment by the applicant to work with Business Gateway (Tourism) advisors to ensure that both the existing and new facilities are of a high standard and quality).

Following the submission of a business plan by the agent, a second consultation was carried out with Economic Development colleagues, who advised that the application fits with the Local Development Plan policy ED7, Business Tourism and Leisure in the Countryside, as it is in accordance to the Tourism strategy (outlined above) and that the development has an economic/operational need that cannot be accommodated within a development boundary of a settlement due to unique nature of rural holiday let accommodation.

Economic Development confirm in their final consultation response on this current application that the Business Plan provided has identified that the projected break-even point of 8 weeks at 15% occupancy with no borrowing requirement for capital costs means that this is projected to be a viable business. They remain supportive, in principle, of this application, on condition that the following provisions are met:

- i. That the applicant continues to work with Business Gateway (Tourism) Adviser throughout the development period to ensure that both the existing and new facilities are of a high standard, with an ambition to qualify for Visit Scotland Quality Assurance or other tourism industry standard award.
- ii. Applicant should also commit to submitting updated formalised business plans and financial information to Business Gateway where appropriate.

Archaeology

The Archaeology Officer in the determination of the previous application on this site identified that there is evidence of a medieval village, tower and garage at Whitmuir with the possibility that evidence of these features could be located within the site and due to the proximity of the development to the loch there is further potential to discover unknown prehistoric archaeology.

It is still considered that there is reasonable evidence that the development of this site could unearth archaeological remains, therefore in order to comply with development plan policies relating to archaeology, it is recommended that a condition be imposed to require the developer to undertake an archaeological site evaluation prior to commencing development. The undertaking should take the form of trial trenches and will permit diligent recording and analysis of its results and any archaeological features which may be uncovered.

Subject to appropriate archaeological conditions, the proposed development is considered to comply with policy BE2 of the Consolidated Scottish Borders Local Plan (2011) on Archaeology.

Impacts on Residential Amenity and Privacy

Policy H2 of the Consolidated Scottish Borders Local Plan sets out criteria to ensure the protection of residential amenity. This is supplemented by the adopted SPG on Householder Development which set out criteria to ensure the protection of residential privacy, amenity and outlook.

In this instance, the department is satisfied that the development proposals would be capable of complying fully with policy H2. Furthermore, the department is satisfied that a detailed development proposal could be brought forward which complied fully with the privacy and amenity standards set out in the SPG on Householder Development, in terms of the impacts of the proposed development upon the nearest residential dwellings.

In terms of neighbouring uses to the south and south east of the site there are a number of residential properties. However, in this case the distance, topography and existing woodland belts surrounding the application site provide sufficient separation and screening from neighbouring housing so that there is not considered to be any justifiable conflicts between this existing and the intensified tourism related use.

The further revised layout which has broken up and reduced the development from earlier proposals provides an indicative form and scale of development that is considered to be appropriate within this rural area and for such reason illustrates that the volume of self-catering units which are proposed can be provided in a manner which will respect the amenity and character of the surrounding area as required by criterion 4 of Policy D1.

Ecological and Habitat Effects (including impacts on Trees, Woodland and Hedgerows):

There are significant and important matters arising in relation to natural heritage and the water resource. These have been appraised carefully by specialist consultees:

- SBC Ecology Officer
- Scottish Natural Heritage
- Scottish Environmental Protection Agency

It remains the case with this latest application that issues relating to the ground environment, biodiversity and habitat have either been suitably addressed or are mitigatable. Conditions to address these matters are set out in detail in this report.

Ecology and Biodiversity issues are covered by Local Plan Policies. Policy NE2 of the Consolidated Scottish Borders Local Plan relates to National Nature Conservation Sites, and Policy NE3 of the same plan relates to Local Biodiversity. The application is accompanied by an ecological report from Corvus Consulting (Appendix 1 in the planning statement). The Council Ecologist and SNH were both consulted on this application, and whilst the adjoining SSSI is noted, and care will have to be taken so as not to adversely impact upon it, it is apparent that suitable arrangements can be made in any detailed development proposals to deal with concerns.

Policy NE4 of the Consolidated Scottish Borders Local Plan on Trees, Woodlands and Hedgerows seeks to protect these from adverse impacts and loss as a result of insensitive development. It is clear that the site could be developed in a detailed manner accommodating the requirements of this policy, and the requirements of the adopted SPG on Trees and Development.

With regards impacts on watercourses, Policy NE5 of the CSBLP on Development Affecting the Water Environment sets out that the Council will aim to protect the quality of the water resource, and requires developers to consider how their proposals might generate adverse impacts and to building in measures to minimise such impacts, and to restore and enhance the water environment.

Scottish Natural Heritage (SNH) are the body concerned with protecting natural heritage sites, including the Whitmuirhall Site of Special Scientific Interest (SSSI). This SSSI at Whitmuir is notified for its basin fen and hydromorphological mire features. SNH have advised that this proposed development is located outwith the designated site and that the proposed development is not considered to cause direct impacts upon it. However, the key issues that this development poses for the SSSI relate to the effects of the foul and surface water treatment methods and the construction methods and boundary / SSSI management methods to ensure that the development does not detract from its special qualifying features and the value of its setting.

SNH advised on the previous application on this site, that the detailed information in the form of the Engineering Report which accompanied that application and in particular drawing no S106427/A003/FD01, illustrated a satisfactory foul drainage treatment method which will not have any adverse implications upon the SSSI.

In terms of these current proposals, section 5.1 onwards of the planning statement supporting the application sets out arrangements for water management (which are elaborated on in the accompanying engineers report by URS in Appendix B), Surface Water Treatment and Waste Water Management. The URS report includes a Foul Water Drainage Strategy.

It is noted that the application site is located in close proximity to a number of sensitive receptors. Objectors have suggested that the proposed development will result in the pollution of the SSSI. It is legitimate for the planning authority to assess the impact of the development upon the water environment, but clearly it must take account very closely of the advice of the key regulators

A more detailed assessment of the potential for pollution will be undertaken as part of SEPA's decision to grant a Controlled Activities Regulations (CAR) licence for the works. In terms of the planning assessment, it is important to note that SEPA have previously suggested that the scheme which has been detailed is in principle capable of authorisation.

Fundamentally, it remains the case that both SEPA and SNH are satisfied that suitable drainage treatment methods exists and the precise detail of these works can be conditioned for conclusion at the detailed application stage.

Species

The Council's Ecology Officer has suggested the further surveys are required (via planning condition) to assess the impact of the development upon bats. SNH also has a role as the licensing authority for European Protected Species (which bats are listed as being). It has been clarified that these further surveys can be subject to planning condition in this case.

This position is logical, as further survey work can accompany any subsequent application for matters specified in conditions covering the specific design proposals for the site.

In order to protect the qualities of local biodiversity as required by Local Plan Policy NE3, further conditions relating to the appropriate clearance of the site to avoid the breeding bird season, suitable removal of the tyres on the site to avoid impact on reptiles and the need for a Landscape and Habitat Management Plan are recommended.

Trees Woodlands and Hedgerows

Policy NE4 of the CSBLP seeks to protect existing trees, woodlands, and hedgerows from adverse impacts arising from inappropriate development. The indicative proposals show a layout which could comply with policy NE4.

Drainage Arrangements

The Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014 proposes the construction of a Natural Ecological Wastewater Treatment Plant which will include a reed bed. The potential impacts of this proposal on Whitmuirhall Loch SSSI will be considered by SNH and the Ecology Officer indicates may then comment further.

Contaminated Land

The Council's position with regards contaminated land is set out in policy G2 of the CSBLP, and expanded upon in the Contaminated Land Inspection Strategy. In this instance, the Contaminated Land Officer is content that any historic contamination issues can be dealt with by means of an applicant informative. Subject to such an informative, the proposals are considered acceptable in terms of policy G2 of the Local Plan, and the Contaminated Land Inspection Strategy.

Access. Strategic Transportation considerations, and Impacts on Road Safety and the Road Network:

Strategic Transportation considerations

The Reporter noted in his decision that:

Criterion 8 of policy D1 requires tourism and leisure development to take account of accessibility considerations in accordance with local plan policy Inf11 Developments that Generate Travel Demand. Policy Inf11, which aims to promote sustainable travel patterns, states that the council is committed to guiding development to locations which are accessible to existing or proposed bus corridors and railway stations and which maximise opportunities for walking and cycling.

The Reporter took the view that the scheme provided shared accommodation for families and other groups. It was likely, therefore, that the occupancy levels and traffic generation per unit would be significantly higher than average for longer established self-catering tourist developments. He considered that 28 holiday lodges had the potential to be a significant travel generating development.

The Reporter took the view that:

Selkirk town centre with its shops, restaurants and other facilities is approximately 5 kilometres away and the site is inaccessible to public transport except by taxi. There is no public bus route along the A699. It is not disputed that using a car may be the only method of transport for most of the visitors. Given the inconvenient distance from Selkirk for walking and cycling I am in no doubt that the majority of holidaymakers based in the lodges would be dependent on the private car during their stay and that there would be few exceptions to this pattern of travel by persons choosing to cycle or walk.

This view in effect would render large sections of the Scottish Borders unsuitable for tourist development. There are many roads within the Scottish Borders not served immediately by bus services. It is in the very nature of a rural tourist development, that it is not likely to be on an immediate public transport link. This does not in isolation, in the departments view, amount to a significant, or determinative reason for refusal of these proposals.

The Reporter concluded that the proposed development failed to accord with the development plan. This is not a view shared by your officers.

Access to Site and Road Safety

Policies Inf2 (Access Routes) and Inf4 (Parking Provisions and Standards) are relevant to the application. The application is supported by drawing S106427/A003/RD01. This sets out a series of improvements to the public road to better accommodate additional traffic.

The Roads Planning Service was consulted on the application, and confirms that the development proposed is acceptable in principle. Any issues arising can be dealt with fully through planning conditions.

In terms of access, the Roads Planning Officer has previously advised that the principle of a new opening along the north eastern boundary of the site addresses previous access concerns while reducing conflict with residential traffic to the south.

The Planning Department remains of the view that whilst piercing through this wall is regrettable, as it is an intrinsic feature of the site; however, the indicative plans reuse the removed stone within a new entrance which will provide a pleasing feature as the

entrance into this development. A junction detail will be required for this access onto the public road including construction details, should Members be minded to approve this application this can be sought by condition. In addition, construction specifications for the acceptably positioned passing places and road widening will be required. This was the same position as was taken by this department as during the processing of the previous application on the site.

It would be expected that, pending further information on the size, scale, design etc of each unit, there may be a requirement for two car parking spaces. The site is capable of accommodating these parking requirements. This will require being tested against the success of their integration within the site and will be a matter for assessment at the detailed application stage.

Balancing of Considerations

The Reporter's decision set out that:

25. Scottish Planning Policy requires planning authorities to proactively support development that will contribute to sustainable economic growth and to high quality sustainable places (paragraph 33). It urges them to support economic development in all areas by taking account of the economic benefits of proposed development in their decisions and promoting development in sustainable locations, particularly in terms of accessibility (paragraph 45). SPP notes that the tourism industry is one of Scotland's largest business sectors and states that planning authorities should support high quality tourism related development (paragraph 47). The aim should be to enable development in all rural areas, which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality (paragraph 92). The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses (paragraph 95).

26. The Land Use Strategy for Scotland indicates that it is a principle of sustainable development that regulation should continue to protect essential public interests whilst placing as light a burden on businesses as is consistent with achieving its purpose. Another principle is that landscape change should be managed positively and sympathetically, considering the implications of change at a scale appropriate to the landscape in question.

27. On balancing these strands of national planning policy and land use strategy, I am mindful of the need for a positive approach to tourism development and support for rural business. However, the weight that may be attached to the potential economic benefits of the scheme is much reduced by the harm to the scenic and environmental quality of the area and the adverse effect on the promotion of sustainable travel patterns.

The Reporter concerns on the impacts arising from this development in terms of promotion of sustainable travel patterns are set out in para 27. He placed emphasis on the need for development to accord with sustainable patterns of transport. Such emphasis is not however present within policy D1 of the CSBLP. The reporter quite correctly identifies that policy D1 is not the sole policy against which these proposals must be tested. It is however the pre-eminent policy of the consolidated plan in relation to Tourist Development proposals in the Countryside.

The reporter concluded that

- *the proposal would cause unacceptable harm to the amenity and character of the scenic landscape surrounding Whitmuirhall Loch, which is sensitive to change and contributes significantly to the attractiveness of the area for tourism and public recreation, and*
- *that there was in his view no combination of material considerations of sufficient weight to offset the failure to accord with the provisions of the development plan aimed at protecting the amenity and character of the area. This of itself was sufficient reason to refuse planning permission.*
- *Failure to accord with the policy promoting sustainable patterns of travel adds further weight against the granting of permission.*

The planning department remains of the view that the proposed development is in fundamental compliance with adopted planning policies. The modified proposal illustrates a scheme that is sensitive to its location in terms of limited visual, landscape and environmental impacts. Matters pertaining to the specifics of the development, and its supporting infrastructure can all be suitably dealt with through planning conditions. This limited impact, aligned with the potential to generate economic growth and investment in the Borders through the expansion of an existing tourist facility, means that there is a significant planning balance in the development's favour.

CONCLUSION:

It is considered that the proposal complies with Council policies on tourism development in the countryside. The proposal would result in the extension of an existing tourist facility that would positively contribute to the local economy and Borders tourist industry. Provided that a high quality of layout, design, materials, landscaping, drainage proposals and construction methods are agreed at the detailed application stage, it is considered that the proposal would not have a detrimental impact on the environment or visual amenities of the area or have an adverse direct or indirect effect on the adjacent site of national natural heritage importance. The proposal would not harm the residential amenities of occupiers of properties in the surrounding area and adequate access can be provided.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the undernoted conditions and informatives.

1. No development shall commence until the details of the layout, siting, design, external appearance of the building(s), the means of access thereto, the landscaping of the site have been submitted to and approved in writing by the Planning Authority.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - (a) the expiration of three years from the date of this permission, or
 - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

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

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
5. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Planning Authority before the development is commenced. Details shall include; the phased construction of the units, construction of the surface water and foul drainage measures, construction of site access roads, construction of internal roads, implementation of internal and external planting framework and construction of site features/facilities.

Reason: To ensure that the development proceeds in an acceptable manner.
6. The occupation of the chalets shall be restricted to genuine holidaymakers/tourists for individual periods not exceeding 6 months in total within any consecutive period of 12 months and not as permanent residential occupation. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: Permanent residential units in this location would be contrary to the Council housing in the countryside policies.
7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of

archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis the results of which will be submitted to the Planning Authority

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

8. The first planning application for the approval of reserved matters submitted subsequent to this planning permission shall be accompanied by a both bat and badger surveys carried out by a suitably qualified person and submitted for the approval of the Planning Authority, in liaison with Scottish Natural Heritage, with any mitigation measures to be implemented in line with approved guidelines.

Reason: To safeguard the ecological interests of the site.

9. A Badger Protection Plan is required to protect any setts in the area and badger foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting, timing of works, badger-proof fencing around settlement ponds). This Badger Protection Plan will need to be informed by a badger survey to be carried out by a suitably qualified person . It is also a requirement that prior to the commencement of works the site contractors are given a toolbox talk and information sheet by the developer's consultant ecologist to explain the requirements of the mitigation on site. Prior to the commencement of works the Badger Protection Plan including the details of the toolbox talk and the survey details will be submitted, in writing, to the Planning Authority for approval. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To safeguard the ecological interests of the site.

10. Prior to commencement of works a Biodiversity and Habitat Management Plan is to be prepared by a suitably qualified person. It will relate to the proposed 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). A pond or SUDS feature, which is proposed, 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.

Reason: To safeguard the ecological interests of the site.

11. No development shall commence until a Construction Method Statement and an Environmental Management Plan which includes opportunities to enhance the biodiversity of the site has been submitted for the approval of the Planning Authority in liaison with Scottish Natural Heritage.

Reason: To safeguard the ecological interests of the site.

12. Any site clearance to be undertaken outside of the breeding bird season (March–August). Within the breeding season, the express written permission of the Planning Authority must be obtained for any clearance works to take place. Checking surveys and appropriate mitigation for breeding birds will be required if works are proposed during the breeding bird season. The tyres currently located within the site can only be removed by a suitably qualified ecologist.
Reason: To safeguard the ecological interests of the site.
13. The first planning application for the approval of reserved matters submitted subsequent to the planning permission shall be accompanied by a Tree Survey. The survey shall include the impacts that the development will have on the sites existing woodland boundaries and along the route of the proposed new southern access to the site. The survey shall include detailed drawings showing which trees are to be retained on the site. The survey shall be submitted to, and be approved in writing by the 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 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.
14. No development shall take place except in strict accordance with a scheme of soft and hard landscaping works for the site which includes off site planting provision to the north west of the site as intimated on Figure 2 of the Landscape Appraisal Report which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. other artefacts and structures such as furniture, play equipment and sculptures
 - v. programme for completion and subsequent maintenance.
- Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
15. The first planning application for the approval of reserved matters submitted subsequent to this planning permission shall be accompanied by:
- i. a detailed junction layout including its detailed of construction for the new access to the north east of the site on to the public road, and
 - ii. a written review of the internal traffic management, to be submitted for approval by the Planning Authority.
- Reason: To provide safe vehicular access.
16. Prior to commencement of development, a scheme of details setting out the location and details of new passing places and localised road widening shall be submitted to and approved in writing by the Planning Authority. Thereafter the details set out in the approved scheme shall be constructed in accordance with the Council's Standard Drawing DC-1 and implemented prior to the bringing in to use of the first unit.
Reason: To provide safe vehicular access.
17. Details of the external lighting for the chalet development to be submitted to and approved in writing by the Planning Authority before the development is

commenced. The development then to be implemented in accordance with the approved scheme.

Reason: To prevent light pollution occurring from the development and safeguard ecological interests.

18. No walls, fences, hardstandings or ancillary buildings to be erected within the site without the prior approval of the Planning Authority.

Reason: To safeguard the visual amenity of the area.

19. Tyres on site to be carefully removed to avoid impacts on amphibians and reptiles. Works to be guided by a suitably qualified person.

Reason: To safeguard the ecological interests of the site.

INFORMATIVES

1. With regards condition 17, a mitigation plan is required in regard to lighting design which is sensitive to the needs of bats. The type of lighting and timing of lighting which minimises impacts on biodiversity, e.g. Bats and badgers, should be carefully considered for both the construction phase and the final development. The mitigation plan should include a 'Lighting design strategy for light sensitive biodiversity'. This may include darker wildlife corridors. If any mature trees are to be felled or disturbed they will need to be surveyed for bats to prevent impacts on roosting or foraging bats. If surveys are to be carried out any surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys or roost surveys in trees should be conducted between May and September (optimally May - July). Preliminary roost assessments can be undertaken at any time of year. If evidence of bats or their roosts is found in surveys, the developer may be required to submit a mitigation plan for bats as part of their submission to the Planning Authority.
2. The applicant is advised to contact SEPA and SNH in advance of drawing up detailed development plans, to seek further guidance on steps to protect the water body which is in the vicinity of the development area. The developer should 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.
3. The applicant is advised of potential land contamination that may have occurred through unrecorded infilling of the quarry. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations, or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.

DRAWING NUMBERS

Figure 1.2 (March 2015) Application Boundary

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

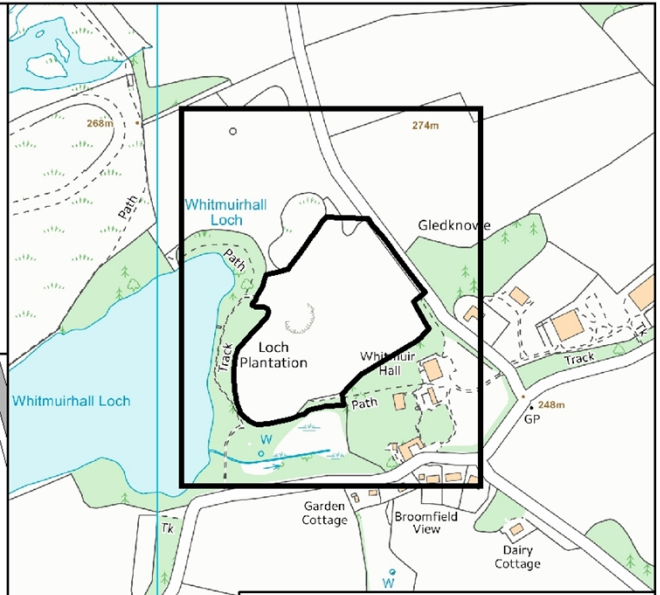
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

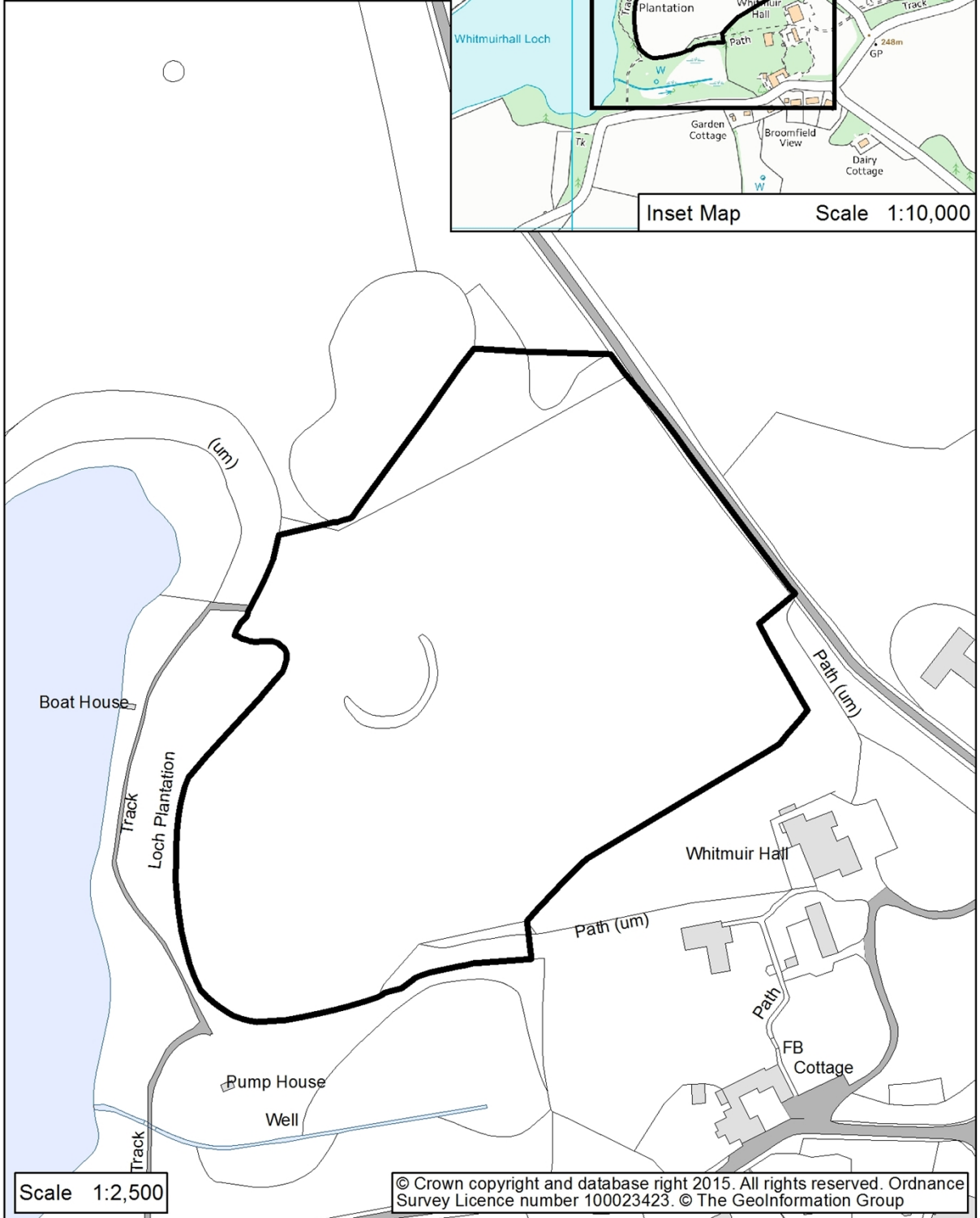
Name	Designation
Andrew Evans	Planning Officer (Development Management)



14/00848/PPP
Land North West Of Whitmuir Hall
Selkirk
Scottish Borders



Inset Map Scale 1:10,000



Scale 1:2,500

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/00187/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale East
PROPOSAL:	External redecoration and installation of extraction flue
SITE:	Dean Park, Peebles
APPLICANT:	A & R Peebles Ltd
AGENT:	Camerons Ltd

SITE DESCRIPTION

The site comprises of a former garage and, latterly, café premises at the corner of Dean Park and Northgate, Peebles. The building is partially single storey facing Dean Park and has a two storey element at the corner of Northgate. It currently consists of six display windows along the ground floor frontage and with entrance doors on the Dean Park and Northgate frontages. The building has a castellated eaves with pitched sheeting roof. It is not listed but lies within Peebles Conservation Area and, together with the adjoining premises, abuts a Category B Listed Building occupied by Holland and Sherry.

PROPOSED DEVELOPMENT

The application is for planning permission to install a new extract flue through the roof and repaint the application premises in a mid to dark grey – BS00A13. These works are part of overall works to run an Indian Restaurant from the premises. The flue will be taken through the southern roof slope on the Dean Park section of building. The plans indicate that the flue will be one metre above the ridge of the roof. The agent has provided information regarding the ventilation and odour control system served by the flue, stating it will be designed in accordance with DEFRA guidance on commercial kitchen ventilation systems.

The entire frontage of the application premises will be painted in grey, signage details already having been agreed as part of a previous ADV application 15/01458/ADV. Other details shown on the submitted drawings do not require planning or advertisement consent, including the replacement extract grille and internal opaque film applied to windows.

PLANNING HISTORY

The building has a history of planning applications, permissions and advertisement consents, the most notable being as follows:

99/00066/COU – Change of Use to form job centre, childrens' nursery and 4 flats

02/01847/FUL – Alterations and subdivision to form garage, showroom and offices

03/01092/COU – Change of use and alterations to form learning centre

07/02101/CON: 07/02102/FUL – Demolition of buildings, erection of retail/office units and 8 flats (minded to approve subject to Legal Agreement)

09/00247/FUL – Change of use from education centre and alterations to form café and childrens' soft play area

09/01488/FUL – Change of use from garage/showroom and alterations to form restaurant and hot food takeaway (withdrawn)

15/01458/ADV – New illuminated and non-illuminated signage

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Environmental Health Officer:

In relation to the external ventilation duct, there can be noise and odour problems unless installed, sited and maintained in accordance with DEFRA guidance on Commercial Kitchen Exhaust Systems. No objections, provided that any permission granted has an appropriate condition addressing these matters attached as well as conditions on noise limits and maintenance in relation to noise limits.

Statutory Consultees

Peebles and District Community Council: Response awaited.

Peebles Civic Society: No objections.

REPRESENTATION SUMMARY

Objection representations have been received to the application from 16 occupants in the vicinity of the site, relating to ten different households. These can be viewed in full on the Public Access website and the main grounds of opposition can be summarised as follows:

- The application is not in accordance with the previous café approval. Disagreement that the new restaurant use falls within Use Class 3 of previous approval and the approved flue was not installed.
- The application is invalid as insufficient details of the ventilation system are provided and should be refused in accordance with the 1997 Act. There are also other errors in the forms.
- The external alterations are not in keeping or sympathy with the surrounding buildings, contravening Local Plan and Local Development Plan Policies on Quality Standards and Conservation Areas.
- The flue, in the absence of information to the contrary, could vent odours and noise to the detriment of residents in the vicinity, venting at bedroom level, contrary to Local Plan and Local Development Plan Policy on Air Quality. There is insufficient information and there could be more than one.
- The external alterations, by virtue of increased noise, traffic and odour, will have an adverse impact on the adjoining listed building, contrary to Local Plan and Local Development Plan Policy on Listed Buildings.

- The painting is only part of the overall premises and would result in unsatisfactory appearance in a Conservation Area.
- Asbestos removal is a danger from the roof if carried out inappropriately.
- The maintenance contract for the flue contains no access for residents.
- The use will increase disturbance from customers through additional noise, traffic and pedestrian movements, especially later in evening. Parking will create congestion and road safety risks. Increased impacts from take-away likelihood.
- Concerns over waste storage.
- Concerns over illuminated signage.
- Lack of adequate neighbour notification.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

Policy G1 Quality Standards for New Development
 Policy BE1 Listed Buildings
 Policy BE4 Conservation Areas
 Policy EP5 Air Quality
 Policy ED5 Town Centres
 Policy H2 Protection of Residential Amenity

Proposed Local Development Plan 2016

Policy PMD2 Quality Standards
 Policy ED3 Town Centres and Shopping Development
 Policy HD3 Protection of Residential Amenity
 Policy EP7 Listed Buildings
 Policy EP9 Conservation Areas
 Policy EP16 Air Quality

OTHER PLANNING CONSIDERATIONS

“Shop fronts and Shop signs” SPG
 SHEP

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Development Plan Policies on external alterations to a property within a Conservation Area and defined Town Centre and consideration of potential impacts on adjoining residential properties.

ASSESSMENT OF APPLICATION

The Use

It will be noted that a number of the representations raise issues in relation to the perceived change of use of the premises as a result of the intention to re-open the former café/soft play facility as an Indian restaurant. Many of the comments made in representations relate to this and the perceived impacts of a more intensive use of the premises, including noise and parking disturbance resulting from later opening hours and the potentially increased take-away usage. It has also been contended

that no Class 3 “Food and Drink” has fully been implemented as a result of the lack of installation of the external flue approved under 09/00247/FUL.

The Department have considered this matter fully and responded to some of the objectors on the question of Use Class. The Council’s Chief Legal Officer has also verified the Department’s position on this matter. The 2009 consent for “Café and Childrens’ Soft Play Area” was implemented and established Class 3 “Food and Drink” Use within the premises, which remains the authorised use. Whilst the previous occupant only operated during the daytime and offered a limited range of food, operation on the basis of different hours and different cuisine is still within Use Class 3 and does not require planning permission as there is no change of use.

The removal of the ancilliary play area does not alter this position nor does the lack of implementation of the previously approved roof flue (which was substituted with a rear wall vented solution). An element of take-away can feature in any Class 3 Use without there being a change to “Sui Generis”, depending on the scale of the take-away element. Whilst this is feared to be of greater scale upon operation of the new restaurant by some who have made representations, the Department is unable to allow speculation to affect consideration of the Use Class at this stage. As advised to some of the objectors, the Department can reassess the position, if need be, once the restaurant is established and in normal day to day operation.

The planning application is, therefore, only for the external extract flue and repainting of the property. Any representations relating to the perceived use or impacts arising from the way the property may be used cannot be considered to be valid for the purposes of assessing this application, nor can any comments on the previously approved signage, albeit further details on illumination and fascia treatment are still to be agreed by condition. The impacts only of the flue and repainting of the frontage are the matters that should be considered.

Visual Impact

The visual impact of the flue should be assessed against the Consolidated Local Plan and Local Development Plan Policies governing Quality Standards, Residential Amenity, Conservation Areas and Setting of Listed Buildings. Whilst the representations claim there is insufficient information on the flue to enable it to be considered, it is considered that there is sufficient information on position, height, shape and width to enable the visual impacts to be properly assessed.

A flue was approved as part of the 2009 implemented consent for the café but not installed. This was a small flue on the front slope of the roof facing Dean Park towards the corner with the Northgate. There would have been visibility of this flue from Dean Park, though of lesser width, height and head profile than what is now proposed. The agent has demonstrated that, in the current proposal, only the cowl head is likely to be visible from the public realm although it is accepted that more of the flue will be visible from bedroom windows in Dean Park.

The full amount of projection visible above the roof ridge would be, at most, one metre. Although of thicker dimension than that previously approved, it will be set to the back slope of the roof as opposed to the front. Given this, the commercial nature and origins of the building, the projecting castellations, chimneys in the vicinity and the much higher two storey section of the building to the corner with Northgate, the impacts are not obtrusive to the extent that the visual amenity of the residents or Conservation Area would be significantly compromised.

The provision of a roof flue would not have any demonstrable visual impacts on the B Listed Building occupied by Holland and Sherry to the east of the premises. The principal elevation and setting of the building looks away from Dean Park and the character of the building would not be compromised by the proposed flue.

The minor nature of the visual change represented by the flue should also be considered in the context of the significant change that would result from redevelopment and rebuilding of the site through the addition of flats, shops and offices as minded to grant under application references 07/02101/CON and 07/02102/FUL

The new flue is seen as an alternative to that previously approved under the 2009 consent. Verification is awaited from the agent that the latter will not be implemented if the new flue is granted permission. To avoid roof clutter and duplication, it would be advisable to impose a planning condition to control this matter. The colour and surface finish would also be controlled by planning condition to ensure visual impact is further minimised.

Subject to the conditions mentioned, the proposed flue will not have an adverse impact on visual amenity and can be considered to be in compliance with the relevant Local Plan and Local Development Plan Policies on design, residential amenity, impact on Conservation Areas and Listed Buildings.

The same Policies should be used to assess the proposed change in paint colour on the frontage from a mid stone/mushroom colour to BS00A13, which is described as "Storm Grey". This could be more accurately described as a mid-dark grey and, despite representations to the contrary, is not considered to be an inappropriate colour for Peebles Conservation Area where darker colours are often encouraged. The colour picks up context from darker whinstone properties in Northgate and, although the remainder of the properties in Dean Park are lighter stone colour, there is no detriment in having a mix of building colours in a street scene provided the colour, in itself, is matching local vernacular. This variety of wall colours is demonstrated throughout Peebles Conservation Area and, more locally to the application site, in Northgate.

There has been representation that the remainder of the frontage to the Holland and Sherry building junction will be left in the current mid-stone colour and that this would not look appropriate in the street scene or Conservation Area. For the reasons mentioned above, it is not considered that variety in building frontage colour is inappropriate in itself provided the colour is sensitive and has local context – as per the proposed colour. It also assists that the division between the proposed and existing colour is defined by moulded quoins in Northgate and a vertical pilaster as part of the continuing frontage in Dean Park. This provides a stronger visual break and more logic to a change in colour. The colour will also integrate with the illuminated signage and window graphics approved as part of 15/01458/ADV.

It is therefore considered that the repainting will not have an adverse impact on visual amenity and can be considered to be in compliance with the relevant Local Plan and Local Development Plan Policies on design, residential amenity, impact on Conservation Areas and Listed Buildings.

Residential Amenity Impact

The property is located within defined Town Centre in the Consolidated Local Plan and Local Development Plan, covered by Policies ED5 and ED3 respectively. These

Policies encourage a mix of uses appropriate to commercial centres, including Class 3 “Food and Drink” uses. Whilst such uses are encouraged, potential impacts on residential properties still need to be considered, even if there may be an understanding that impacts are more likely as a result of the mix of uses that co-exist with each other in a town centre.

In Dean Park, it is appreciated that the southern side (including the application site) is within the town centre boundary and the northern residential side lies outwith. In such fringe areas, the impacts of town centre uses can be felt more acutely and assessment of the impacts against Policies covering residential amenity and air quality must also be considered and weighted, taking into account the fringe location.

For reasons previously mentioned, however, those impacts can only be restricted to assessment of the subject of the planning application – the external flue and its associated ventilation/odour control system. As there is no change of use, there can be no consideration given to other amenity impacts such as customer noise, increased parking, later opening hours etc.

There have been representations that the information submitted by the agent in relation to the flue extract system is inadequate and that the application should not be processed or determined until such information is provided. The agent has provided statements in answer to questions from officers, stating the following:

- The extract system and flue will be purpose designed by a competent and experienced mechanical engineer in accordance with the Best Practice Guide for design and operation of commercial kitchen ventilation systems published by DEFRA.
- The system is to achieve a high level standard of odour control with fine and carbon filtration, the extract fan, ductwork and flue terminal designed to minimise external noise.
- Appropriate maintenance contract in place, replacing fine filters fortnightly, carbon filters six monthly and ductwork cleaned six monthly in line with DEFRA guidance.

The agent has stated that this information has been passed to Environmental Health and the Committee will note the Environmental Health response. Whilst this acknowledges the potential for such installations to cause noise and odour problems if not properly installed and maintained, it goes on to accept the proposal subject to conditions controlling the installation and subsequent operation. These conditions would ensure DEFRA installation/maintenance, specific noise limits on the operation of the flue or extract machinery and maintenance/servicing to allow compliance with the noise limits. It is noted with the previous consent that the only condition attached related to noise limits. However, it is clear that the different nature and scale of proposed food production requires a greater level of filtration and extraction to satisfy Environmental Health, thus the suggested conditions.

Whilst there is concern from representations that additional detail should be available at this stage, Environmental Health have not requested it and are content that the suggested conditions provide adequate control and protection in terms of noise and odour impacts. They have similarly not considered it necessary to seek an Air Quality Assessment. As they are the Service within the Local Authority principally responsible for protection of residential amenity and pollution issues in relation to

noise and air quality, the response confirms that local residential amenity can be protected through imposition and enforcement of the suggested conditions without the need to seek additional details. This represents all reasonable precautions being taken to ensure minimisation of impacts in operation of the restaurant. If issues then still arise which lead to justifiable complaints, not only can the conditions be enforced but also Environmental Health have the backing of other appropriate regulations in handling resolution of the complaints. Whilst some objectors have asked for access to the maintenance contracts, this would be a matter for Environmental Health to enforce.

With the suggested conditions, the application can be considered to be in compliance with Local Plan and Local Development Plan Policies on protection of residential amenity and air quality.

Other issues

Whilst other concerns have been raised by objectors, they mainly relate to issues regarding the intended usage of the premises which are not material factors in a decision on this planning application. There has been reference to works intended to the asbestos roof although the application is not taken to represent any form of alteration to the roof, except for the insertion of the flue. Advice has already been provided to objectors and the contractors over the necessary precautions and steps in relation to asbestos works – which are a matter primarily for the Health and Safety Executive to advise and enforce. It would be advisable, however, to attach an Applicant Informative to alert the applicant to the issue and to follow the right procedures, given what is known about the roof.

Comment was also made about potential lack of neighbour notification but this was checked and there were found to be no deficiencies. All premises within 20m were notified and a duplicate was sent out to the person who didn't appear to receive their first notification.

CONCLUSION

Subject to the conditions and Applicant Informative listed below, the development is considered in compliance with Development Plan Policies on external alterations to a property within a Conservation Area and defined Town Centre with acceptable and controllable potential impacts on adjoining residential properties.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions

1. The flue not to be installed until further details are provided of the colour and surface finish for the approval of the Planning Authority and, once approved, the flue to be installed in accordance with the approved details.
Reason: To safeguard the amenity of the Conservation Area and surrounding properties.
2. The flue hereby approved under this consent shall be the only external flue installed on the premises.
Reason: The implementation of the previously approved flue would be unnecessary and lead to a cluttered arrangement.

3. Any noise emitted by the flue or machinery attached thereto will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from the flue or machinery attached thereto should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2. The flue and machinery attached thereto 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. The flue or machinery attached thereto shall be installed and maintained to the specification of the Planning Authority in accordance with the DEFRA guidance document “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems”
Reason To protect the residential amenity of nearby properties.

Applicant Informative

1. The applicant should be aware that the roof may contain asbestos and that all statutory precautions are undertaken when carrying out any works to the roof to insert the approved flue. Guidance on asbestos should be viewed on the Health and Safety Executive website and all relevant precautions and mitigation followed.

DRAWING NUMBERS

Section - 9243-03-02
Elevations – 9243-03-01
Design Statement

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

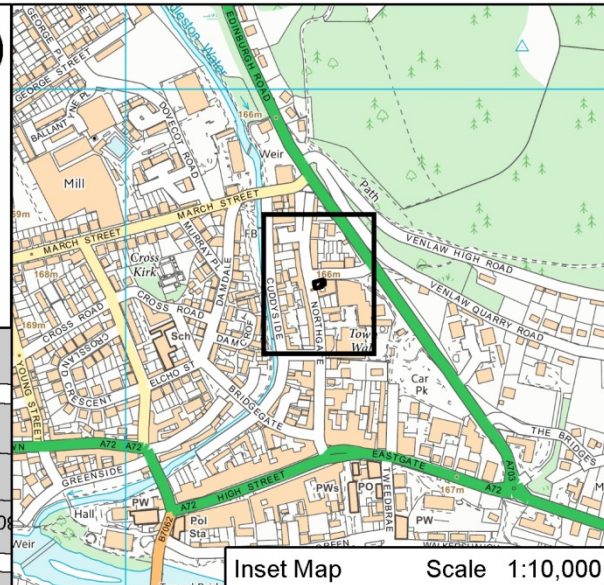
The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

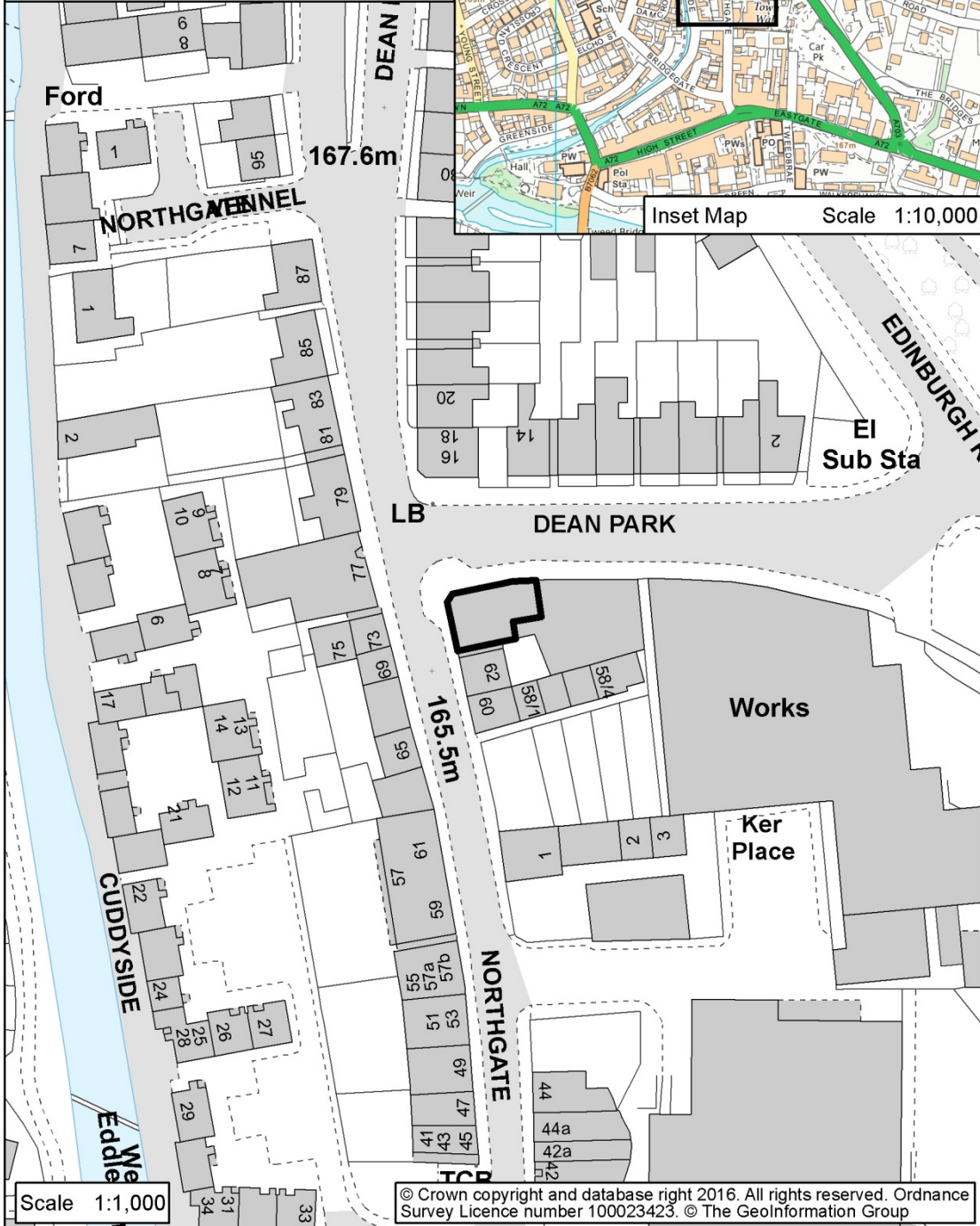
Name	Designation
Craig Miller	Lead Planning Officer



16/00187/FUL
 Dean Park
 Northgate
 Peebles



Inset Map Scale 1:10,000



Scale 1:1,000

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE

ITEM:	REFERENCE NUMBER: 15/01270/PPP
OFFICER:	Julie Hayward
WARD:	Hawick and Hermitage
PROPOSAL:	Erection of dwellinghouse
SITE:	Land at Public Conveniences, Craik, Hawick
APPLICANT:	Mr Trevor Kelly
AGENT:	None

SITE DESCRIPTION

Craik is situated to the south west of Hawick and is accessed by a minor public road from the B711 Hawick to Roberton road. Craik comprises of a number of houses surrounded by commercial forestry plantations, which are now being felled.

The site is situated to the south west of the existing forestry cottages and was formerly owned by Forestry Commission Scotland. There are vacant buildings on the site of blockwork and timber used by the Forestry Commission Scotland as workshops, storage, a deer larder and public conveniences and a public car park. There is a burn with a pedestrian bridge and public road on the north east boundary and a right of way and fields to the north west. A vehicular access from the public road is on the south eastern boundary of the site at a lower ground level and this leads to the site and into the forest. There is a strip of woodland along the north east boundary, trees on the south east embankment and to the south west.

PROPOSED DEVELOPMENT

The proposal is to erect a dwellinghouse and garage on the site. No details of the design or materials have been submitted as this is a Planning Permission in Principle application. A site plan indicates that the dwellinghouse would be sited towards the south west boundary to take into account the risk of flooding to the north eastern part of the site.

Drainage would be via a septic tank and soakaway and a private water supply would be utilised. The proposed dwellinghouse would be accessed from the public road via the existing Forestry Commission access road.

PLANNING HISTORY

There is no planning history for this site.

REPRESENTATION SUMMARY

Six objections have been received and these can be viewed in full on the Public Access website. The main planning issues can be summarised as follows:

- Concern that the existing water supply does not have sufficient capacity to serve another house and the proposal would affect the existing houses. The water supply does not meet the required standards and there are shortages in the summer months. The water supply source spring is on Forestry Commission land, but was installed to the houses in 1998. There are eleven shares, 10 houses and the share owned by the Howpasley Estate serves a water trough in a field behind the houses in Craik; this cannot be turned off when there are sheep grazing.
- Flooding.
- Overlooking.
- Loss of trees.
- The proposed vehicular access would be opposite existing houses.
- Inadequate infrastructure in terms of drainage, roads, power supply and telephone lines.
- There is an existing right of way crossing the bridge onto the public road and this should be maintained.

APPLICANTS' SUPPORTING INFORMATION

- Topographical Survey
- Flood Risk and Water Supply Report
- Revised Information: Water Supply

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Whilst I have no objections to the proposal in principle, there are several concerns regarding access to the site. Should access be along the route indicated blue on the plan 2014-034, then I would have no objections. Should access be via the small bridge off Forest Road, then confirmation must be provided that the bridge is suitable for the loadings associated with a dwelling. Furthermore, this bridge, and the plot itself, would appear to have a core path crossing over it. Access along this path must be retained at all times should approval be issued. Parking for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of the plot prior to occupation and be retained thereafter in perpetuity.

Director of Education and Lifelong Learning: No response.

Environmental Health: It is understood that private water supply and drainage arrangements may be made. If so, these can impact on public health if not properly installed and maintained. A condition and informative regarding the water supply are required.

Re-consultation: Scottish Government Guidance is that a private water supply must be able to supply one cubic metre (or 1000 litres) of water per day for every five persons who will be using the supply. The minimum recommended capacity is three day's reserve to allow for supply interruption/failure. Based on the lower (for safety) tank estimate of 7000 litres, and allowing for three days reserve, this is sufficient for 11 – 12 people. This doesn't however include the additional draw-off for the sheep trough. Additional storage seems to be required, as is a more accurate assessment of the numbers of people using the water supply.

Re-consultation:

Water Quantity:

Based on the information in the Cademuir Designs Water Report and the occupancy levels provided currently 17 people plus 3 in the proposed house results in 20 persons. Scottish Government Guidance is to assume consumption of 200 litres/person/day and for this water supply this equates to 4,000 litres per day. The Guidance also requires a three days reserve, which requires a 12,000 litres tank capacity.

The Report states that the tank holds 10,000 gallons. This equates to approximately 11 day's reserve.

Having regard to the above, the supply meets the requirements of the Guidance. Any past shortfalls in the supply may therefore be attributable to excessive water consumption or leakage in the supply system.

Water Quality:

In terms of water quality, we would expect the point of use of the supply to be tested and if necessary fitted with the appropriate treatment equipment. This would be required to discharge the condition in our consultation response.

As regards the unsatisfactory test report, this related to a sample drawn from one specific property. We are required by the Private Water Supplies Regulator to bring such test failures to the attention of all known users of the supply, hence the letter to the neighbours. The property was fitted with treatment equipment and the subsequent re-test was found to pass the standard. This information is property specific and would not normally be reported to others.

Flood Protection Officer: I have marked in blue on the attached plan the area that is shown to be in the SEPA 1 in 200 year maps. This should be forwarded to the applicant to help their decision making on the positioning of the house.

Re-consultation: The site may be at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

Having inspected the Indicative Flood Mapping alongside the proposed location of the property, I would state that this property is not anticipated to be at risk of flooding and I would have no objections on the grounds of flood risk.

Statutory Consultees

SEPA: Object to this planning application on the grounds of lack of information in respect of flood risk and that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.

Review of the SEPA Flood Map indicates that this site, or parts thereof, are within the 0.5% annual probability (or 1 in 200-year) flood extent and as such is potentially at medium to high risk of flooding. The flood risk is associated with the small watercourses running to the east and south of the site, which are upper tributaries of the Borthwick Water.

In order to remove the objection to this application we require further information to show the site to be free from flood risk. Information should also be provided to demonstrate that safe access can be achieved during a flood event.

Re-consultation: We remove our objection to the development on flood risk grounds. Topographic information has now been provided showing the site to be elevated in excess of 5m above the adjacent watercourses. We are satisfied that this is sufficient information to show the development site to be out with the functional floodplain.

Upper Teviotdale and Borthwick Water Community Council: Whilst we would normally support single house development in the countryside in this instance there are a number of problems which affect the existing community. Prior to 1985 the community had suffered from constant interruptions, shortages and contamination to its private water supply. In 1986 a new supply was obtained with the assistance of grant aid from the then Roxburgh District Council. A Deed of Renunciation and Servitude and Declaration of Conditions was drawn up between The Secretary of State for Scotland (Forestry Commission Scotland), 10 households and FCS, who were legally bound to this agreement which called on all parties to renounce all rights to the original supply and share equally the new supply. None of the 11 shareholders are allowed to create new shares without the agreement of all other parties. FCS has sold the plot to the applicant including the water whilst still retaining part of their original usage and has not consulted. After 1986 an application was made to accommodate a further property and this was rejected by the Forestry Commission on the grounds that there was not adequate reserves to accommodate a 12th share. The Community Council would have no objection to this house if a separate water supply was found.

The application also states that the development would not require trees to be felled. Prior to the application 3 large conifers over 90 years old were felled on the side of the site.

Other Consultees

None.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles
Policy 15: Water and Flooding

Consolidated Scottish Borders Local Plan 2011

G1: Quality Standards for New Development
G4: Flooding
G5: Developer Contributions
NE3: Local Biodiversity
NE4: Trees, Woodlands and Hedgerows
H2: Protection of Residential Amenity
Inf4: Parking Provision and Standards
Inf5: Waste Water Treatment Standards
Inf6: Sustainable Urban Drainage
D2: Housing in the Countryside

Proposed Local Development Plan 2013

PMD2: Quality Standards
HD2: Housing in the Countryside
HD3 Protection of Residential Amenity
EP3: Local Biodiversity
EP13: Trees, Woodlands and Hedgerows
IS2 Developer Contributions
IS7 Parking Provision and Standards
IS8: Flooding
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

New Housing in the Borders Countryside December 2008

Trees and Development March 2008

Landscape and Development March 2008

Householder Developments (Privacy and Sunlight Guide) July 2006

KEY PLANNING ISSUES:

- Whether the proposal complies with the Council's policies on housing in the countryside;
- Whether adequate access, parking, drainage and water supply can be achieved;
- Whether the site is at risk of flooding.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy D2 of the Scottish Borders Consolidated Local Plan Adopted 2011 requires that the site is well related to an existing building group of at least three houses or

buildings capable of conversion to residential use. Any consents for new build granted under the building group part of the policy should not exceed two houses or a 30% increase in addition to the group during the Local Plan period. No further development above this threshold will be permitted. Calculations on building group size are based on the existing number of housing units within the group at the start of the Local Plan period. This will include those units under construction or nearing completion at that point. The cumulative impact of the new development on the character of the building group, landscape and amenity of the surrounding area will be taken into account in determining applications.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the existence of a group will be identifiable by a sense of place which will be contributed to by natural and man-made boundaries. Sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field and the new development should be limited to the area contained by that sense of place. Any new development should be within a reasonable distance of the existing properties within the building group and this distance should be guided by the spacing between the existing properties in the building group. The scale and siting of new development should reflect and respect the character and amenity of the existing building group.

It is accepted that there is a building group at Craik comprising of eleven existing houses. The majority are on the north east side of the public road, comprising of 6 two storey semi-detached forestry cottages and a modern detached bungalow. There are also a number of houses situated around Craik Farm steading to the north of the site.

The site is considered to be well related to the building group. Although the site is separated from the existing houses by the burn and tree belt, the site is within the sense of place as there is an inter-relationship between the cottages and the site; historically the cottages were built to house forestry workers and the depot on the site was used by the Forestry Commission. The site is also brownfield land as the buildings are vacant and have been partially demolished. That previously developed condition is significant as there remains an intervisible connection to the existing group.

There are eleven existing properties within the building group and so it would be possible to erect a new dwellinghouse within the building group under the 30% rule contained within policy D2 of the Local Plan. There have been no other planning permissions for residential development within the building group within this current Local Plan period and so the proposal complies with the thresholds contained within policy D2.

Landscape and Visual Impacts

Policy G1 of the Scottish Borders Consolidated Local Plan Adopted 2011 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 Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the scale and siting of new development should reflect and respect the character and amenity of the existing building group.

This is an application for Planning Permission in Principle and so no details of the design or materials of the dwellinghouse have been submitted. The building group is characterised by traditional two storey forestry workers houses, more modern bungalows and traditional farm cottages. The houses are built with stone and rendered walls and slate is the predominant roofing material. It is important that the proposed dwellinghouse reflects the scale and materials of the existing houses and this will be dealt with via the detailed planning application for the proposal.

Craik is an isolated building group situated at the end of the public road and surrounded by forestry plantations. The site is well screened by existing trees and woodland and is not prominent in the landscape. The existing buildings on the site are in a state of neglect, with some partially demolished. The removal of these buildings would improve the visual amenities of the area.

It is considered that with appropriate design, materials, boundary treatment, landscaping and tree retention the proposal would not harm the visual amenities of the area.

Impact on Residential Amenities

Policy H2 of the Scottish Borders Consolidated Local Plan Adopted 2011 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. The Council's Supplementary Planning Guidance: Householder Developments July 2006 contains advice on overshadowing/loss of light and overlooking/loss of privacy.

The site is well screened from the houses to the north east by the mature tree belt. The indicative site plan shows that the proposed dwellinghouses would be sited approximately 60m from these houses. It is considered that the proposal would not harm the light or privacy of the occupants of neighbouring properties.

Access and Parking

Policy Inf4 requires that car parking should be provided in accordance with the Council's adopted standards.

The vehicular access to the site is via the existing Forestry Commission road. There is sufficient space within the site for on-site parking and turning.

The Roads Planning Service has no objections to the proposal provided that their requirements regarding parking and access are met. These can be controlled by planning conditions.

The previous use of the site by the Forestry Commission as a workshop and for storage, together with the public toilets and car park would have generated a certain level of traffic. The proposed use as residential would result in less traffic using the existing public road and access.

The bridge over the burn and the plot are crossed by a core path. Access along this path must be retained at all times should the application be approved. This can be controlled by a condition.

Flooding

Policy G4 of the Local Plan refers to developments where there is an identified flood risk; developments will not be permitted if it would be at significant risk of flooding or would materially increase the risk of flooding elsewhere.

Policy IS8 of the Local Development Plan advises that as a general principle, new development should be located in areas free from significant flood risk and developments will not be permitted if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere. The ability of flood plains to convey and store flood water should be protected.

The SEPA Flood Map indicates that parts of the site are within the 0.5% annual probability (or 1 in 200-year) flood extent and as such is potentially at medium to high risk of flooding. The flood risk is associated with the small watercourses running to the east and south of the site. SEPA objected to this planning application on the grounds of lack of information in respect of flood risk and that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.

Topographical information has been submitted and a site plan showing that the proposed dwellinghouse would be sited outwith the section of the site at risk of flooding. SEPA has now withdrawn their objection and the Council's Flood Protection Officer has no objections to the proposal.

Water Supply and Drainage

Policy Inf5 requires the use of private sewerage in the countryside provided that it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater. Policy Inf6 requires a SUD system for surface water drainage.

The application form states that foul water drainage would be to a septic tank and soakaway, though no details have been provided. No details have been provided of the surface water drainage. The water supply would be taken from a private supply.

The means of foul water and surface water drainage would be controlled by a condition.

A number of objections have been received from residents in Craik who are concerned about the impact of the proposal on their water supply. Residents are concerned that there is insufficient water to serve a new dwellinghouse, as the water supply has run dry in the summer months, and the quality of the water supply is also an issue.

Environmental Health has provided the applicant with the minimum standards for the quantity of water required for a dwellinghouse per day. A Water Report and additional information assessing the existing water supply has been submitted by the applicant. The water supply comes from two springs on Forestry Commission land that is piped into a 45,000 litre tank on the hillside above the properties. The supply serves 10 houses, the Forestry Commission depot and a field trough owned by the Howpasley Estate used by sheep. The applicant's information concludes that the water supply is adequate to serve the proposed dwellinghouse, though rainwater harvesting would be required to reduce the amount of water consumed.

Environmental Health has been re-consulted on the information submitted. Based on current occupancy levels (17 people) plus 3 people in the proposed dwellinghouse and Scottish Government Guidance that assumes consumption of 200 litres of water/person/day, the demand on this water supply would be 4,000 litres per day (20 people x 200 litres). The Guidance also requires a three days reserve, which requires an additional 12,000 litres. The Report states that the tank holds 45,000 litres, which equates to approximately 11 day's reserve.

Having regard to the above, Environmental Health advises that the supply meets the requirements of the Scottish Government Guidance.

In terms of water quality, Environmental Health would expect the point of use of the supply to be tested and if necessary fitted with the appropriate treatment equipment. This would be required to discharge their requested condition.

Developer Contributions

Policy G5 of Local Plan states that where a site is acceptable but cannot proceed due to deficiencies in infrastructure or due to environmental impacts the Council will require developers to make contributions towards the cost of addressing such deficiencies.

No developer contributions are required towards education facilities or affordable housing.

CONCLUSION

It is considered that the proposal complies with policies G4, Inf4 and D2 of the Scottish Borders Consolidated Local Plan Adopted 2011 and Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 and Householder Developments (Privacy and Sunlight Guide) July 2006 as the previously developed site is well related to an existing building group. Appropriate siting and design would ensure that the proposal would not affect the residential amenities of occupants of neighbouring properties or the visual amenities of the area. The flood risk has been addressed and adequate access and on-site parking can be achieved.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

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

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

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

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

3. The dwellinghouse to be sited outwith the area outlined in blue on Drawing Number: 15/01270/PPP#2000.
Reason: To ensure that the dwellinghouse is sited outwith the area of the site that is at risk of flooding.
4. No development should commence until that the applicant has provided evidence that the site will be serviced by a wholesome supply of drinking water of adequate volume. The supply should not have a detrimental effect on other private water supplies in the area.
Reason: To ensure that the site is adequately serviced without a detrimental effect on the water supplies of surrounding properties.
5. The means of surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development is commenced. The development then to be implemented in accordance with the approved details.
Reason: To ensure that the site is adequately serviced.
6. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition.
Reason: To ensure that the development does not have a detrimental effect on public health.
7. Parking and turning for a minimum of two vehicles, excluding garages, must be provided within the site before the dwellinghouse is occupied and retained in perpetuity.
Reason: To ensure adequate off-street parking is provided, in the interests of road safety.
8. The existing access from the public road must be utilised to serve this dwellinghouse, as shown in blue on Drawing Number 2014-034. No direct vehicular access to be provided over the bridge to the north of the site from Forest Road.
Reason: It has not been demonstrated that the existing bridge is suitable for the loadings associated with a dwellinghouse.
9. No development shall take place except in strict accordance with a scheme of soft landscaping works which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
 - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. programme for completion and subsequent maintenance of all existing and proposed planting.
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
10. Details of all proposed means of enclosure shall be submitted to and approved in writing by the Planning Authority before the development is

commenced. 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.

11. The right of way through the site to be kept open and free from obstruction or encroachment during the construction of the dwellinghouse and thereafter.

Reason: To ensure the right of way remains open and free from obstruction.

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

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

13. Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by a heras or similar fence 1.5 metres high, placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

(a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;

(b) No fires shall be lit within the spread of the branches of the trees;

(c) No materials or equipment shall be stored within the spread of the branches of the trees;

(d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;

(e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

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

Informatives

Water Supply

In respect of condition 4, as the proposal may result in the general public consuming the water from the private water supply, the supply will be classed as a Type A. This will mean that the supply will be subjected to annual water testing and a risk assessment of the supply. The applicant should contact an Environmental Health Officer before becoming operational to discuss testing of the water.

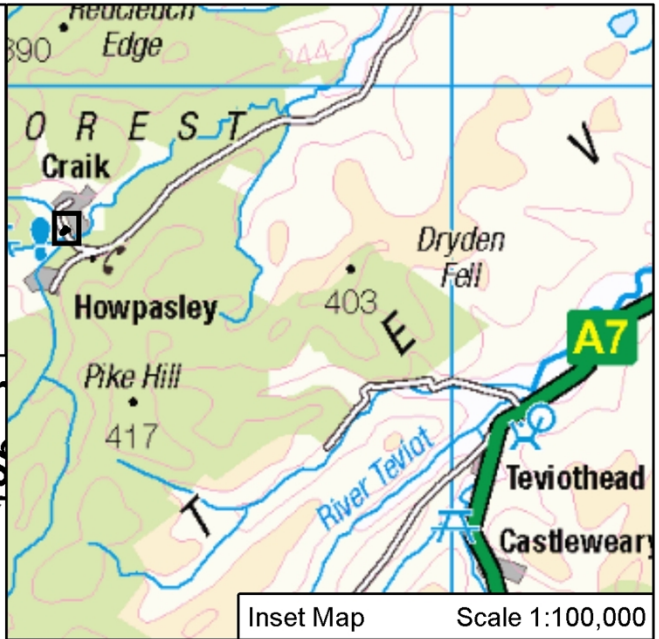
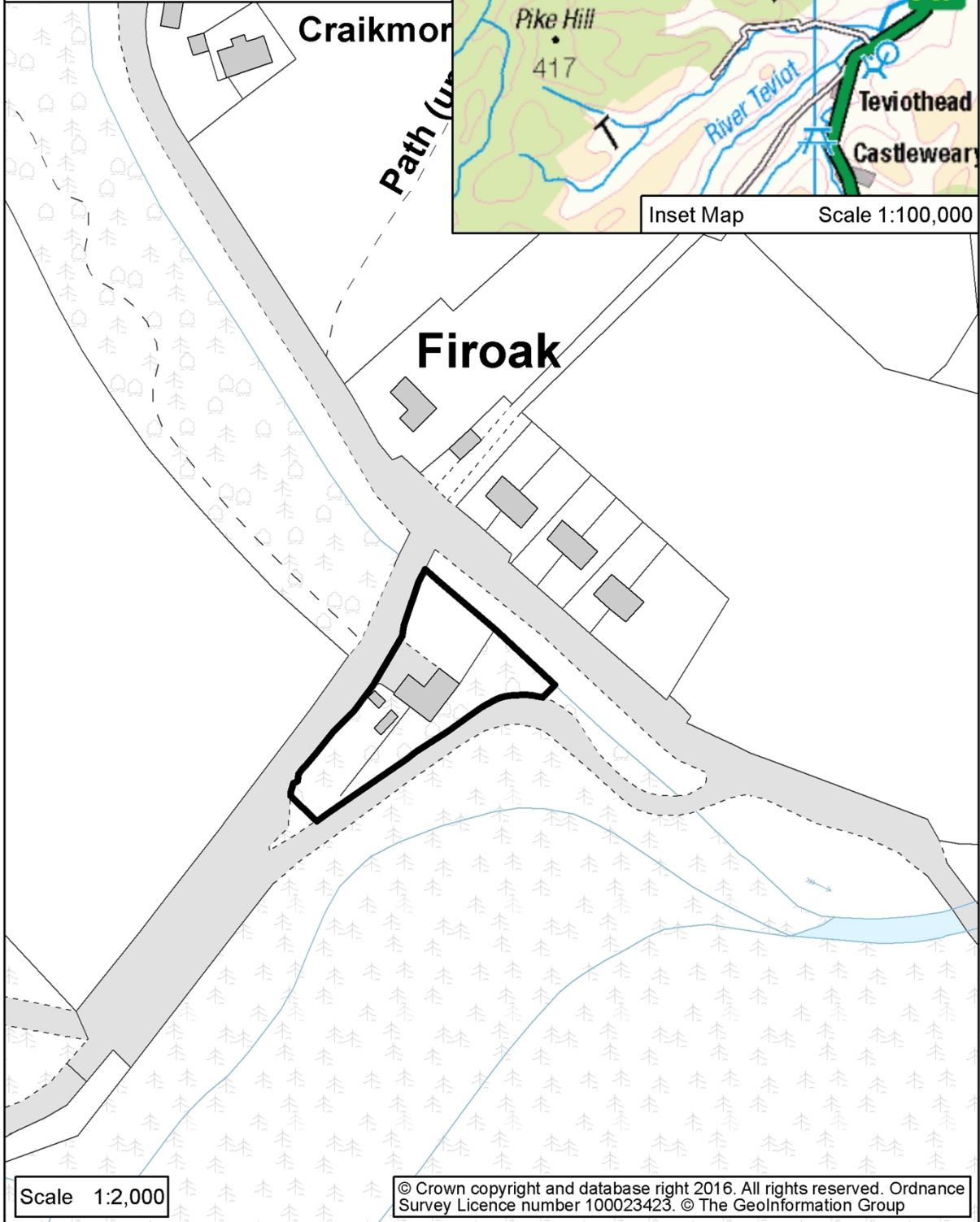
Private Drainage

In respect of condition 6, private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.



15/01270/PPP
Land At Public Conveniences
 Craik
 Hawick



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 15/01217/FUL
OFFICER:	Carlos Clarke
WARD:	Galashiels and District
PROPOSAL:	Works to amend ground levels and plot finished floor levels (revision to planning permission 12/00803/FUL)
SITE:	Phase 2 Land North And North East Of Easter Langlee Farmhouse, Galashiels
APPLICANT:	Persimmon Homes East Scotland
AGENT:	None

SITE DESCRIPTION

The site comprises the north-western 'panhandle' portion of the Easter Langlee housing development currently under construction. The site is located east of the C77 public road, beyond which is housing within and adjoining the Coopersknowe Crescent residential area. The site is lower than neighbouring land to north and south. To the north is the Council's landfill site, which includes associated recycling facilities including an aggregate recycling site. To the south is a cottage and Easter Langlee House.

PROPOSED DEVELOPMENT

The site forms part of Phase 2 of the housing development which was approved under planning reference 12/00803/FUL in November 2012. The site comprises land that would accommodate 43 houses. The original planning permission was issued subject to conditions, including Condition 3 which required that it be developed in accordance with approved ground and floor levels. The applicant commenced work on site with raising the site levels to well above the levels approved under that condition. This application seeks retrospective approval for the levels undertaken to date, and for their completion. The resulting house levels would be up to 4m higher than approved in the north-western corner (plot 170) though most house floor levels would be changed by 2-2.5 metres. The changes could not reasonably be considered within the scope of the condition without public and statutory consultation and, therefore, require determination of the current planning application. This application does not, however, seek to vary the original condition nor does it seek consent for any changes to the housing development in itself. The housing development approved under the original consent would, therefore, still be bound by the original schedule of conditions, but allow for this portion to be implemented on the new, higher levels.

This application requires referral to the Planning and Building Standards Committee because the size of the site identifies it as a 'Major' development within the Hierarchy of Developments (Scotland) Regulations 2009. The site falls within the area for which pre-application consultation was undertaken for the overall housing development (under 10/01725/PAN) and, therefore, it has not been subject to additional pre-application consultation.

PLANNING HISTORY

Phase 1 (11/00832/FUL) of the Easter Langlee housing development was consented for 118 residential units in October 2011, and an amendment covering 49 of the houses was approved in May 2012 (12/00194/FUL). Phase 2, which proposed 396 units and includes this particular site, was approved in November 2012 (12/00803/FUL). There have been other approvals since (14/00226/FUL and 14/00227/FUL) that have increased housing numbers within the overall development by 27 units, though no further applications directly affect this particular site.

REPRESENTATION SUMMARY

Two representations raise matters including:

- Unattractive roadside frontage will result
- Landscaping at higher level will obscure sightlines on the road
- Effects on surface water and ground water
- Diminished effectiveness of the bund as regards noise and odour from the aggregates and landfill site. The noise and odour has increased/become more obvious since the land was raised. The bund will need increased to restore its height
- Query why this work went ahead without permission. The increase should be removed and levels returned as per the approved plan

APPLICANT'S SUPPORTING INFORMATION

The applicant submitted comments from noise and air quality consultants during the processing of the application.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

G1 Quality Standards for New Development
G2 Contaminated Land
H2 Protection of Residential Amenity
H3 Land Use Allocations
INF6 Sustainable Urban Drainage
BE2 Archaeological Sites and Ancient Monuments
NE1 International Nature Conservation Sites
NE3 Local Biodiversity
NE4 Trees, Woodlands and Hedgerows
EP5 Air Quality

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy 2014
SPG Trees and Development 2008
SPG Landscape and Development 2008
SPG Placemaking and Design 2010
Easter Langlee Master Plan Revision C Approved 10 June 2011
Easter Langlee Planning Brief 2006

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer: The site is not at risk in a 1 in 200 year event. He would require that post development run-off rates do not exceed the pre-development greenfield rates, as was discussed in 12/00803/FUL. So long as surface water and overland run-off are managed in a suitable manner and flows routed around housing, if necessary, then he has no objections

Roads Planning Service: No issues from a roads planning perspective, so no objections

Landscape Service: Brief comments, not a full consultation response - If the proposed revision lifts the house sites in a way that minimises slopes and the need for retaining walls then that should be beneficial. In particular, it will reduce the stress on adjoining tree root systems. Another effect will be to lift the houses up so that they are more visible but we have already accepted that by allocating the land for housing.

Environmental Health Service: Advise that an assessment of increased exposure to noise and odour should be undertaken. Following subsequent submission of information from the applicant's consultants, the EHS advised that further information was required regarding noise. Again, following further consultant's information, the EHS concluded that the consultants have given justification for their conclusions, rather than just saying that further assessment is unnecessary, and if that is their professional opinion, then so be it.

As regards potential contamination from the landfill, their Contaminated Land Officer advises that, excluding the ground gas issue, which was assessed separately (under 12/00803/FUL), the concerns in this area related to a trench feature and ponding of water, along with uncertainties associated with the landfill. This had been assessed under the previous application and concluded that concentrations of contaminants within site soils did not exceed selected thresholds and were suitable for residential use. Similarly, groundwater quality did not exceed selected thresholds. On the basis of the assessment undertaken, the CLO sees no concerns regarding the proposals to raise levels.

Archaeology Officer: Trenches previously excavated in this area in 2008 failed to identify archaeological features or deposits. Therefore, this proposal has no archaeological implications.

Statutory Consultees

Scottish Environment Protection Agency: Originally made no objection and no comment. In response to this department asking for their specific view on the issue of noise/odour from the recycling/landfill site, they further advise that they are unable to quantify what, if any, adverse impact may be experienced by existing or proposed householders adjacent their regulated sites. They suggest consultation with the Council's Environmental Health Service for their advice and local knowledge.

They confirm that soil used in the raising of the ground was obtained within the site and did not require waste management regulation. The landfill site is regulated by SEPA under the PPC license. The aggregate recycling area is controlled under a Waste Exemption. It is not envisaged that raising the land will impact on the ability of these two facilities to operate. SEPA has received complaints from properties to the south-west - 1 in 2015; 2 in 2014; 1 in 2012 and 1 in 2011. They are aware that noise in the area can resonate but they are not aware that this has altered in any significant way now that the land has been raised as no noise complaints have been received recently.

The landfill site is due to close at the end of 2017 depending on the time taken to deposit the required volume of waste to fill the cells. It will be capped and landfill gas collected for energy use. Once it is capped and the aftercare plan in place it is not envisaged there will be an issue with odour from the site unless there are operational issues with the gas collection system. SEPA has received odour complaints from new properties in the Persimmon development which have been occupied over the last two years. As far as they know there are approximately 150 houses occupied with 18 complainants.

The aggregate site is regulated under an exemption and will continue to operate. Any concern regarding noise, dust and odour from regulated sites would be dealt with under SEPA's enforcement policy.

Scottish Natural Heritage: They have no comments to make on this application and are content to rest on all their previous responses to this phased development (12/00803/FUL), noting the actions that have been taken in mitigation for protected species and adjacent habitats and designated sites.

KEY PLANNING ISSUES:

Whether the proposed raising of the site levels will have acceptable implications in terms of landscape and visual impacts; archaeology; ecology; drainage; and, amenity implications for existing neighbouring properties and, whether or not the housing development proposed on the site will be at a materially increased risk from contamination, noise or air quality issues arising from the adjacent landfill and recycling activities

ASSESSMENT OF APPLICATION:

Principle

The site is allocated for housing in the Consolidated Local Plan 2011 and this proposal will facilitate the delivery of the approved housing development. It will also not prejudice the Local Development Plan 2016 for the same reason.

Ecology

This part of the site is not near statutory designations. There would appear to be no implications for badgers that would undermine mitigation measures required under Condition 12 of 12/00803/FUL.

Archaeology

As noted by our Archaeology Officer, this part of the housing development contains no archaeological interest

Land contamination

Ground gas and ground water implications from the adjacent landfill site are accounted for under Condition 6 of 12/00803/FUL. The Council's Contaminated Land Officer does not advise that the increases in ground levels proposed here would have any implications for the previous evaluations of potential land contamination from the landfill site.

Roads

The Roads Planning Service does not raise any concerns regarding the implications of the raising of levels for the road and parking network within the approved development. They also separately advise that there is negligible change to visibility on the C77 as a result of landscaping required at the north-western road side of the site (under 12/00803/FUL) which was designed to be outwith the visibility splays for the C77 in any case.

Flooding and surface water drainage

The site is not designated at flood risk. Ponding within the site during the works is understandable given the levels and huge rainfall experienced at the time of the initial period of this application. It would have occurred even with the old levels. However, the proposed levels would not lead to run-off to neighbouring land because the topographical relationship is not materially different. The Flood Protection Officer has raised no concerns. The applicant has advised that the standing water would be removed for company health and safety reasons before works re-start and controlled during the construction for the same reasons, up until the formal drainage scheme is in operation for the housing development. Because the development is bound by the requirement to implement a drainage scheme to maintain greenfield levels under 12/00803/FUL, it would still be bound by that requirement. However, because the level changes could have direct implications for any measures already to be implemented (and to be adopted by Scottish Water) it is prudent to reiterate the requirement specifically for the new scheme of levels so there is no doubt.

Noise and air quality

The site is south of the landfill site and associated recycling works, including aggregate recycling area, which is located beyond a bund that marks the northern boundary of this site. Consent 12/00803/FUL is bound by Condition 22 which requires off-site planting to firm up planting on the bund and that requirement will be unchanged as a result of the amended levels.

With respect to this proposal, SEPA have been unable to quantify if the changes in levels would have a material implication for impacts on air quality or noise. It is to be noted that SEPA are the enforcing authority for the landfill and recycling operations. The Council's Environmental Health Service (EHS) did, however, ask for further information. In response, the applicant's consultants concluded that the changes in levels would not have any bearing on original conclusions (at the time of 12/00803/FUL) on air quality. The EHS have not challenged this conclusion. As regards noise, the EHS did consider more scrutiny was required and, in response, the applicant's consultants reviewed the matter and concluded that noise will not be a factor that would be affected by the change in levels in this case because the bund between the site and the aggregates area would still be effective. The EHS appears to have accepted this conclusion. Ultimately, as much clarity as possible has been sought from all parties on these matters, and there is no firm evidence that the changes in levels proposed here would have implications for the amenity of the householders within the development site, or existing residents in the surrounding area.

Neighbouring amenity

The raising of the ground, road and house levels would have no material implications for neighbouring amenity in terms of outlook, daylight, sunlight or privacy loss.

Landscape and visual implications

This application is largely retrospective. The proposed level changes have largely been completed on site, although not fully, since there are some adjustments still required to complete the levels. The applicant submitted a revised site plan during the processing of the application which, though not changing the proposed levels, compares them against the levels on site now, rather than the levels as they were before the unauthorised works. This is helpful by way of comparison with on-site circumstances. The levels so far completed on site are very similar to the levels for which consent is sought. Perhaps another half-metre or thereby of fill is still required, and more cut in to the rear but, otherwise, what is on site is a good indication of what is proposed as the final levels.

Tree buffers are protected by the original consent for trees to the north and south. Though the level information on the submitted plan is a little ambiguous on the north side, it is understood that no levels are to be changed within the buffer there, or to the south. Because this is not clear on the plan, however, a condition is recommended to ensure buffers are protected.

The houses and road network would be set up to 4m above the approved levels (in the north-west corner) though, over the site, the level changes are generally 2-2.5m higher than approved. In wider landscape terms, the changes will have no real bearing. The houses will still be below the bank to the north side, and their levels will be lower than the road to the west (the new site plan misses out most of the existing road levels, but the original plan shows them clearly). The houses will relate well to each other, the road network and gardens. Retaining walls are required to the north, but only up to 2m high, which is less than would have been required under the original scheme (the plan shows an extra wall behind plot 170 when only one will be needed - the applicant confirms this is an error). Screen planting of the walls is agreed under 12/00803/FUL, and a condition tallying this proposal with that planting is recommended here.

Screen planting is required to the north-west end of the site, between gardens and the roadside, and its implementation is a condition of the original planning consent. The proposed changes to the levels will have no direct physical bearing on whether the landscaping can be achieved. The gardens along here will bank up a little towards the houses, but they are still below the road level. The houses and garden fencing will be more directly visible from the road. However, in the long term, the landscaping required here should screen the fencing on the new levels, as it was intended to do on the approved levels. Houses and garden fencing were always going to be visible from the road, at least until landscaping matures. Raising the levels may expose them more directly, but the net visual implications of doing so will not be significant. Ultimately, it is considered that the site is capable of accommodating the housing development on these higher levels in a manner which is still appropriate to the landscape setting of the site and without adverse impact on views from the relatively short stretch of passing public road.

Conclusion

The location of the site, and landscaping required along the western boundary, means that the landscape and visual implications of the proposed development are acceptable. There are no additional archaeological or ecological implications, nor adverse impacts on neighbouring amenity. Surface water can be managed by a suitable drainage scheme. It is also not considered that there is sufficient evidence to conclude that raising the levels of the houses will lead the approved houses (or neighbouring properties) to be materially more exposed to contamination, air or noise from the nearby landfill and recycling site any more than would have been the case under the original planning consent, the potential implications for which were fully addressed, where necessary, by the conditions imposed on

the original approval. Therefore, the proposed development will accord with the Consolidated Local Plan 2011 and relevant supplementary planning guidance, subject to compliance with the schedule of conditions

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application be approved subject to the following conditions and informative note:

1. A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until 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.

2. Surface water shall be managed during the construction period in a manner which maintains pre-development greenfield run-off rates and the surface water drainage scheme for the housing development approved under 12/00803/FUL shall be implemented and operated to maintain existing greenfield run-off levels having accounted for the changes in levels approved under this consent
Reason: To ensure that the level changes approved under this consent do not lead to run-off from the site onto neighbouring property and to ensure the approved housing development itself is adequately serviced by a surface water drainage scheme as required under 12/00803/FUL and which accounts for the approved changes in levels.

3. Retaining wall material specifications and planting of retaining walls shall be as approved under the principal planning consent 12/00803/FUL; retaining walls shall not exceed the heights specified on the approved plan; and no additional retaining walls shall be erected unless otherwise agreed with the Planning Authority
Reason: To tally the varied retaining wall requirements with the specifications and landscaping required under the principal planning consent.

4. No ground level changes are approved within the tree buffers required under planning consent 12/00803/FUL. Tree buffers shall be protected in accordance with the measures approved under Condition 5 of that consent
Reason: To ensure trees of public amenity value are protected during the works

Informatives

1. The Notes for Condition 1 should be completed as follows:

Note 1: Insert address or describe the location of the development

Note 2: Delete “subject to conditions” if the planning permission is not subject to any conditions

Note 3: Insert the name and address of the developer

Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)

Note 5: Insert the description of the development.

Note 6: Insert the application reference number.

2. This consent approves changes in levels within the area of the application site, subject to conditions directly related to the physical consequences of the level changes. The housing development on the site is, however, otherwise bound by the schedule of conditions applied to it by planning consent reference 12/00803/FUL, including on and off site planting. If levels need adjusted to allow tree protection fencing (as covered by Condition 4), the applicant should establish with the Planning Authority whether or not such changes are non-material.

3. If levels on the remainder of the original development site (under 12/00803/FUL) need adjusted to tie in with the levels approved here, the applicant must establish with the Planning Authority whether or not such level changes fall within the scope of the original planning consent.

DRAWING NUMBERS

01-LP-PHA	Location Plan
PH-LOC	Location Plan
02-01-EL A	Site Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

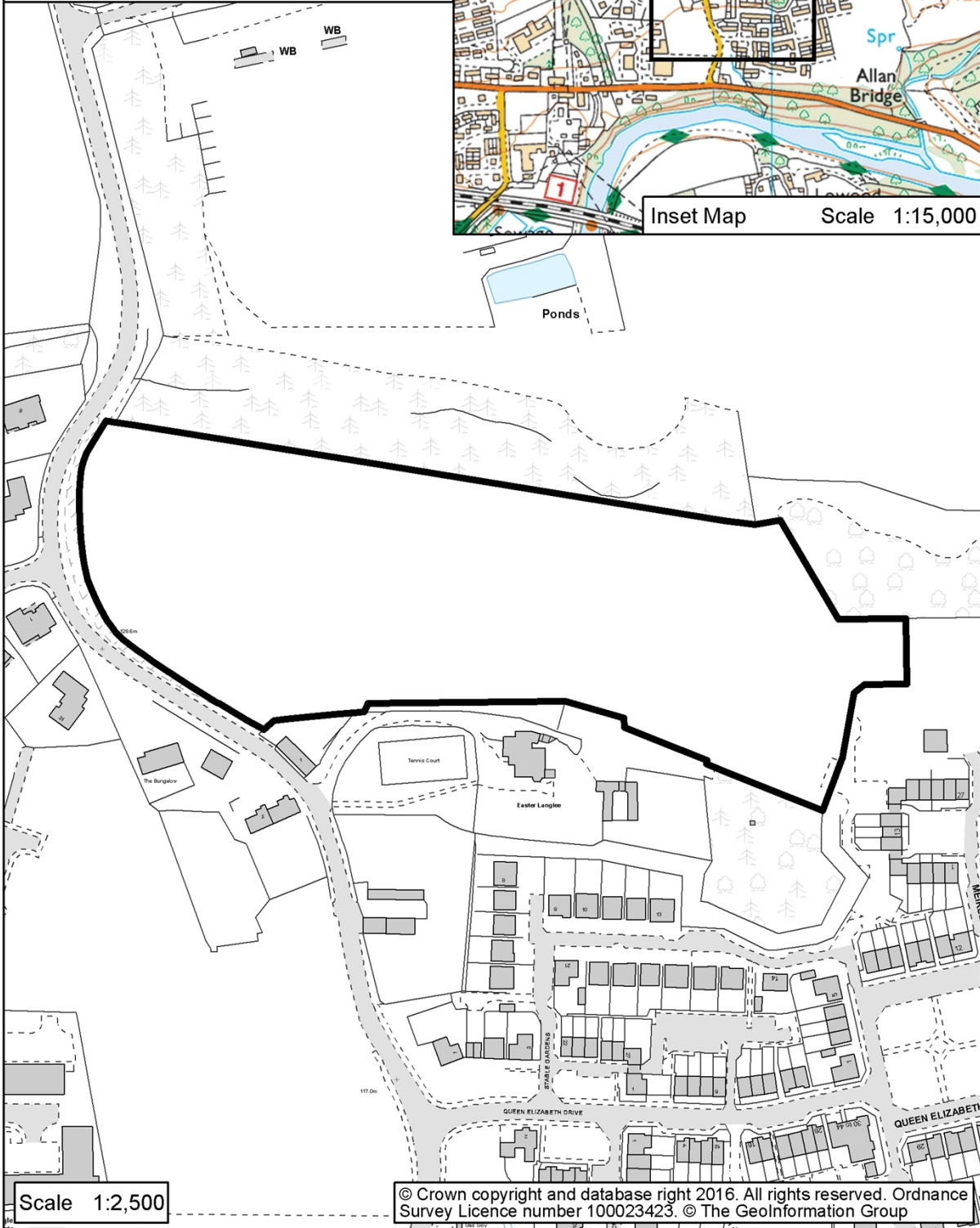
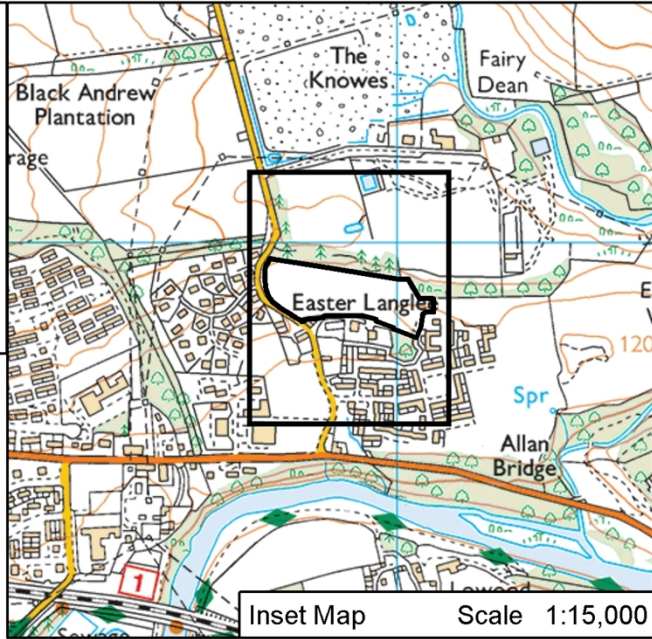
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Carlos Clarke	Lead Planning Officer



15/01217/FUL
Phase 2 Land North And North East
Of Easter Langlee Farmhouse,
Galashiels



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 15/01525/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale West
PROPOSAL:	Change of Use and alterations to form two dwellinghouses
SITE:	2 Soonhope Farm Holdings, Peebles
APPLICANT:	Mrs Josephine Jeffrey
AGENT:	AD Architectural Design

SITE DESCRIPTION

The site consists of an existing stone and slate building at Soonhope, Peebles, on the road leading to the holiday chalets and the alternative entrance to Peebles Hydro Hotel. The building is two storey and hipped roofed, formerly used for storage and light industry. It contains timber windows and doors, including garage doors to the south elevation. There are detached dwellinghouses to the north and south, the building also bordering on an elevated open field to the west and the access road and Soonhope Burn to the east. The building contains a lean to sheeted, stone and brick extension to the north. A gravelled parking area lies within the site to the south and the rear is fenced close to the building, bordering on to another private garden. The building does not lie within Peebles Conservation Area but does lie within Special Landscape Area 2: Tweed Valley.

PROPOSED DEVELOPMENT

The application is submitted as a full application for conversion of the building to form two dwellinghouses, the building being subdivided down the centre. Two pedestrian entrances will be formed to the south elevation, enclosed by timber lined porches. The building will be converted without any further additions to the footprint, using the existing walls and roof. Several rooflights will be installed, especially to the north elevation. Windows and doors will be installed in existing and new openings in timber, the windows being tilt and turn and all glazing being split with astragals. The lean-to outbuildings to the north will be retained and the stone element re-used within the floorspace.

1800mm high fencing is proposed to the rear northern boundary and retaining walls to the western boundary will be retained with a patio formed between them, timber balustrading lining each edge of the patio. Although not entirely clear from the site plan, the current parking area seems to be proposed for continued parking at the front of the building although further parking spaces serving three adjoining houses lie to the south along the burn edge.

PLANNING HISTORY

The building was part of an initial approval for residential use in 1990 before being superseded by consents relating to workshops, a foundry, gallery and shop.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning:

Initially sought a condition for a localised road widening given the narrowness of the lane and the additional traffic to be generated. Also commented on the lack of clarity of whether the frontage will be utilised for parking but accepted there was sufficient in the vicinity in any case. Following further information on the industrial uses of the building in the past, accepts the localised widening request can now be an Applicant Informative rather than insisted upon via condition, being a desirable improvement but not essential for the development to be approved.

Flood Protection Officer:

Flood risk mapping indicates the site may be at risk from a 1 in 200 year flood event. Following site inspection, it was felt that the site was at minimal risk from the Soonhope Burn, the burn being likely to break out of its bank downstream of the site and run away down the road or into the housing downstream. There is also a concrete step of 0.5m which protects the site further and there was also no evidence of the burn overtopping its bank in the more recent flood events in Peebles. Recommends water resilient materials and construction methods as per PAN 69.

Education Officer: Response awaited.

Archaeology Officer:

This former corn and flour mill dates from the early 19th century and, although added to at upper floor level at some point in its history, still remains of local historical significance. A condition covering an Historic Building Survey will be required once any soft stripping or ground excavations are carried out. Report was subsequently provided and meets the suggested condition.

Ecology Officer:

The building has the potential to support bats and breeding birds, especially given the conducive high quality woodland and riparian landscape. Prior to determination, a bat survey would be required identifying any roosts and, depending on the findings, further surveys and licensing may then be required. A survey for breeding birds would also be necessary before any works commence, works being limited to being outwith the breeding birds season unless prior agreement is given. If there are interests, further surveys and a mitigation plan would be necessary.

Following a survey for bat roosts, satisfied that there was no evidence of bats and very low suitability given the good condition of the building. No further surveys are required although procedures must be followed with SNH if any bats are encountered. Similarly, surveys showed that there was no evidence of breeding birds although if any works are intended during the breeding bird season, then further surveys and a mitigation plan will be required.

Environmental Health:

Plans indicate the properties will have solid fuel appliances which can cause smoke and odour issues, thus an Applicant Informative will be required. As the building was a former mill, there is also potential contamination requiring a condition covering site investigation and risk assessment.

Statutory Consultees

SEPA:

Object to the application on the grounds of flood risk. Whilst the adjoining house approved in 2009 lay just outwith the 1 in 200 year envelope, the new flood map from January 2014 indicates more extensive flooding showing the application site now to be within the envelope. Insufficient information was provided to overcome the objection in the form of a Flood Risk Assessment or other topographical information and floor levels should be above the 1 in 200 year level plus freeboard.

Following additional topographic information to show the floor levels of the development in relation to the base of the burn and adjoining residential properties, the information was still felt to be insufficient to demonstrate the site was outwith the flood risk envelope. Acknowledged information that lower residential development had not been impacted by flooding but this is over only a limited period and there is also potential for the narrow burn to become blocked due to the wooded steep banking and livestock gate. In the absence of a Flood Risk Assessment, still maintain the objection.

Peebles and District Community Council: Response awaited.

REPRESENTATION SUMMARY

None.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

Policy G1 Quality Standards for New Development
Policy G4 Flooding
Policy G5 Developer Contributions
Policy G7 Infill Development
Policy EP2 Areas of Great Landscape Value
Policy H2 Protection of Residential Amenity
Policy Inf4 Parking Provisions and Standards
Policy Inf11 Developments That Generate Travel Demand

Local Development Plan 2016

Policy PMD2 Quality Standards
Policy PMD5 Infill Development
Policy EP5 Special Landscape Areas
Policy HD3 Protection of Residential Amenity
Policy IS2 Developer Contributions
Policy IS7 Parking Provisions and Standards
Policy IS8 Flooding

OTHER PLANNING CONSIDERATIONS

“Privacy and Sunlight” SPG
“Placemaking and Design” SPG
“Local Landscape Designations” SPG

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Development Plan Policies and Supplementary Planning Guidance on conversion development within residential areas, design and flood risk.

ASSESSMENT OF APPLICATION

Planning policy

The building at Soonhope lies just inside the settlement boundary and any proposal to convert it to residential use is covered, and encouraged, by Policies G7 and PMD5. A series of criteria are set down for compliance, the most relevant being those relating to compliance with the established land use of the area, no detrimental impacts on amenity, appropriate access, sympathetic design and no detrimental impacts on residential amenity. Compliance with these criteria are discussed below.

The established land use on the road leading from the A72 to Soonhope has certainly changed in recent years to that of a more residential nature, modern houses having been built immediately south of the application site which have left the commercial/industrial use of the building somewhat incongruous in its setting as it now stands. The conversion of the building to two houses would be wholly in compliance with the nature of the residential land use which has now emerged in the immediate vicinity and, especially, with the uses immediately adjoining the northern and southern boundaries of the site. The criteria of Policies G7 and PMD5 are met in this respect as are the relevant parts of Policies G1 and PMD2.

Design

Policies G1,G7, PMD2 and PMD5 look for sympathetic and appropriate design, not just to integrate with the amenity of the surrounding area but also in relation to the character of the building itself. As mentioned by the Archaeology Officer, the building was a former mill and still exhibits these features and qualities, despite the demolitions and new-builds that have occurred to the south of the building. Retention of the building would benefit the area and retain a sense of the building’s past and history. It is in very good condition and eminently suited in both scale and condition to conversion, a simple subdivision down the centre leaving ample room for two dwellinghouses without the need to enlarge or extend the footprint. The two timber porches to the front merely provide some focus to the building frontage and are aesthetically pleasing and appropriate to the architecture of the building. The slate roof and whinstone walls will be retained as they are which add to the suitability of the proposals.

Other elements of the design are equally as appropriate, existing openings being re-used where possible and larger openings being partially infilled with timber lining. New openings are minimised and the doors and windows will be timber replacements with astragals shown throughout. There is perhaps a lack of detail on colours of timberwork and astragal profile but these can be controlled by planning condition. New openings will be simply punched through the whinstone and will respect other

existing openings in scale and position. In terms of the roof, this is in similarly good condition and rooflights are proposed, four to the rear northern slope and only two to the front. Overall, all the amendments and additions to the exterior of the premises are sympathetic and represent a light touch in keeping with the traditional quality and appearance of the building. The proposals will comply with the relevant criteria within Policies G1, G7, PMD2 and PMD5 on sympathetic design and with the Policies and SPG relating to protection of the landscape qualities of Special Landscape Area 2: Tweed Valley, recognising the appropriate treatment of a traditional former mill on the rural edge of the settlement.

Residential Impact

Policies G1 and H2 of the Consolidated Local Plan and PMD2 and HD3 of the Local Development Plan require there to be no significant adverse effects on residential amenity. Given the change in use from the former industrial/gallery uses of the building, residential amenity will be greatly improved through reduction in intensity and nature of activities. There will, obviously, be an increase in the nature of overlooking to the houses immediately either side of the property but for reasons of distance, position of existing houses, lack of gable windows and elevation to the rear, any increase in the nature of overlooking will be minor and acceptable in terms of the relevant Local Plan Policies. There have also been no third party representations from adjoining proprietors.

I am content that the relevant Local Plan and LDP Policies on residential impact are complied with.

Access and parking

Policies G7 and Inf11 of the Local Plan and PMD5 of the Local Development Plan require developments that generate traffic to be capable of being accessed safely. Roads Planning have accepted that the road and track leading to the site, whilst narrow and capable of being improved, also serves a number of existing houses and the holiday chalet development through the gate to the north. Crucially, it also served this building when it was in industrial/storage/gallery use, generating a different character and nature of traffic. As the application is simply swapping one type of traffic generation for another, Roads Planning are only looking for their advice on creating a localised widening opportunity on the track to be included as an Applicant Informative.

There is also some doubt about exactly what is proposed to the gravelled frontage of the building, it being marked on the proposed plans as "Mutual Area". The capacity of this area for parking will be reduced by the proposed front porches and waste/biomass storage areas but it could still provide some curtilage parking, any overspill being accommodated within the existing parking area along the burn edge. Given the lack of clarity, it would be reasonable to impose a planning condition requesting a curtilage and parking plan for the front of the premises.

Subject to the Informative and the condition, the relevant parts of Policies G7, Inf11 and PMD5 would be complied with.

Flooding

Policy G4 of the Consolidated Local Plan and IS8 of the Local Development Plan require all new development to be free of significant flood risk, not create an unmanageable problem elsewhere and protect floodplains. As the proposal is a

conversion with little floorspace increase except for two front porches, the latter two elements of the Local Plan Policies can be considered to be complied with. This leaves the issue of the flood risk which the new use of the building would be more sensitive to.

Although not a determining issue with the adjoining dwellinghouse in 2009 (as the Flood Risk map excluded the area at that time), SEPA have now noted that their revised Flood Risk map includes the footprint of the property within the 1 in 200 year flood risk zone. Their sustained position is that, without a Flood Risk Assessment, they cannot be sure that the property would be free of flood risk and, as such, they maintain their objection.

The Council's Flood Protection Officer has visited the site and provided information to SEPA in the form of photographs. Levels have also been given to SEPA as well as anecdotal evidence about recent flood history not affecting new houses at lower levels than the proposed conversion. The Flood Protection Officer recognises that the floor level of the proposed conversion is higher than the nearest house (which has not flooded) and that any out of bank event from the Soonhope Burn would occur downstream away from the application site. SEPA feel this information, in itself, is insufficient and are concerned about blockages. Their position to oppose the application is countered by the acceptance of the Council's Flood Protection Officer.

In considering other such cases, the Council have accepted the advice of their own Officers, recognising that securing of a future for existing buildings of architectural merit can, in some cases, outweigh the potential impacts of flood risk. Although the floor level is already at least 0.5m above ground level, further ground level raising within the building would also not be practicable. The application would be consented with an Applicant Informative relating to using flood resilient materials and design in accordance with PAN69.

In this particular case, it is also noted that the flood risk zone changed to include a site previously not included, which indicates some marginality to the risk. As policies would only oppose developments that were at *significant* risk, it is considered that the conversion proposals represented by this application should be considered acceptable – also noting that there is no creation of unmanageable flood risk elsewhere and no additional substantial displacement of functional flood plain. Given that SEPA continue to object on this matter, however, any decision by the Committee to approve the application would be subject to notification to Scottish Ministers.

Developer Contributions

Local Plan Policy G5 and Local Development Plan Policy IS2 require new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. This development will require contributions towards affordable housing, Peebles High School, Kingsland Primary School and Peebles Bridge/Traffic Management in the town. The contributions have been discussed with the agent and it has been confirmed that they will be met via Section 75 Agreement. Thus, if Members are minded to accept approval of the planning application, consent can only be issued upon conclusion and registration of the Agreement.

Other issues

Whilst the curtilage of the development is well established and there is no necessity to seek a landscaping scheme, additional clarification of the fencing design and extent is required. This can be controlled by an appropriate condition.

The matters raised by Environmental Health can also be controlled by condition and an Applicant Informative as can the requirements of the Ecology Officer, following the submission of a bat roost survey. The request for an Historic Building Survey by the Archaeology Officer has already been met and there would be no need for a planning condition in this respect.

CONCLUSION

Subject to the conditions and Informatives listed below, notification to the Scottish Ministers and the conclusion of a Legal Agreement covering development contributions, the development is considered to comply with the Local Plan and Local Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas, design and flood risk.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions and informatives, notification to the Scottish Ministers and to a Legal Agreement:

1. Further details of the colour of all external timber doors, windows and cladding and the profile/pattern of astragals to be submitted for the approval of the Planning Authority before the development is commenced and, once approved, to be implemented in accordance with the approved details.
Reason: To safeguard the character of the building and the amenity of the area.
2. A curtilage plan of the southern forecourt of the premises indicating parking spaces and fuel/waste storage areas to be submitted for the approval of the Planning Authority before the development is commenced and, once approved, to be implemented in accordance with the approved details.
Reason: In the interests of road safety.
3. Further details of the style and extent of boundary fencing to be submitted for the approval of the Planning Authority before the development is commenced and, once approved, to be implemented in accordance with the approved details.
Reason: To safeguard the character of the building and the amenity of the area.
4. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

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

A 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

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.

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).

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

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

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

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

5. If works are to commence during the breeding bird season (March-August), supplementary surveys for breeding birds and a mitigation plan will be required to be submitted for the approval of the Planning Authority. Before development on the site begins, a scheme for the protection of birds shall be submitted to and approved in writing by the planning authority. Any works shall, thereafter, be carried out in accordance with the approved scheme.
Reason: To safeguard potential ecological interests at the site.

Informatives

1. It is recommended that you consider the formation of a passing place/localised widening on the access road leading to the site, in a position and of a specification firstly agreed with the Planning Authority. Please contact the Roads Planning Service who would be happy to meet and discuss the details.
2. The Council's Flood Protection Officer advises the following:

I would recommend that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

As access and egress to the development may also be affected by flood waters, should approval be given, I would recommend 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.

3. The Council's Environmental Health Officer advises that 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.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

4. The Council's Ecology Officer advises the following:

If bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652) for further guidance. Works can only recommence by following any guidance given by SNH and /or a suitably qualified ecologist. The developer and all contractors should be made aware of accepted standard procedures of working with bats at www.bats.org.uk. Further information and articles available at: http://www.bats.org.uk/pages/bats_and_buildings.html , http://www.bats.org.uk/pages/existing_buildings.html

DRAWING NUMBERS

Location Plan

Proposed Elevations – 507/04/104

Typical Sections – 507/04/103

Ground Floor – 507/04/101

First Floor – 507/04/102

Existing – 507/04/99
Block Plan – 507/04/100

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

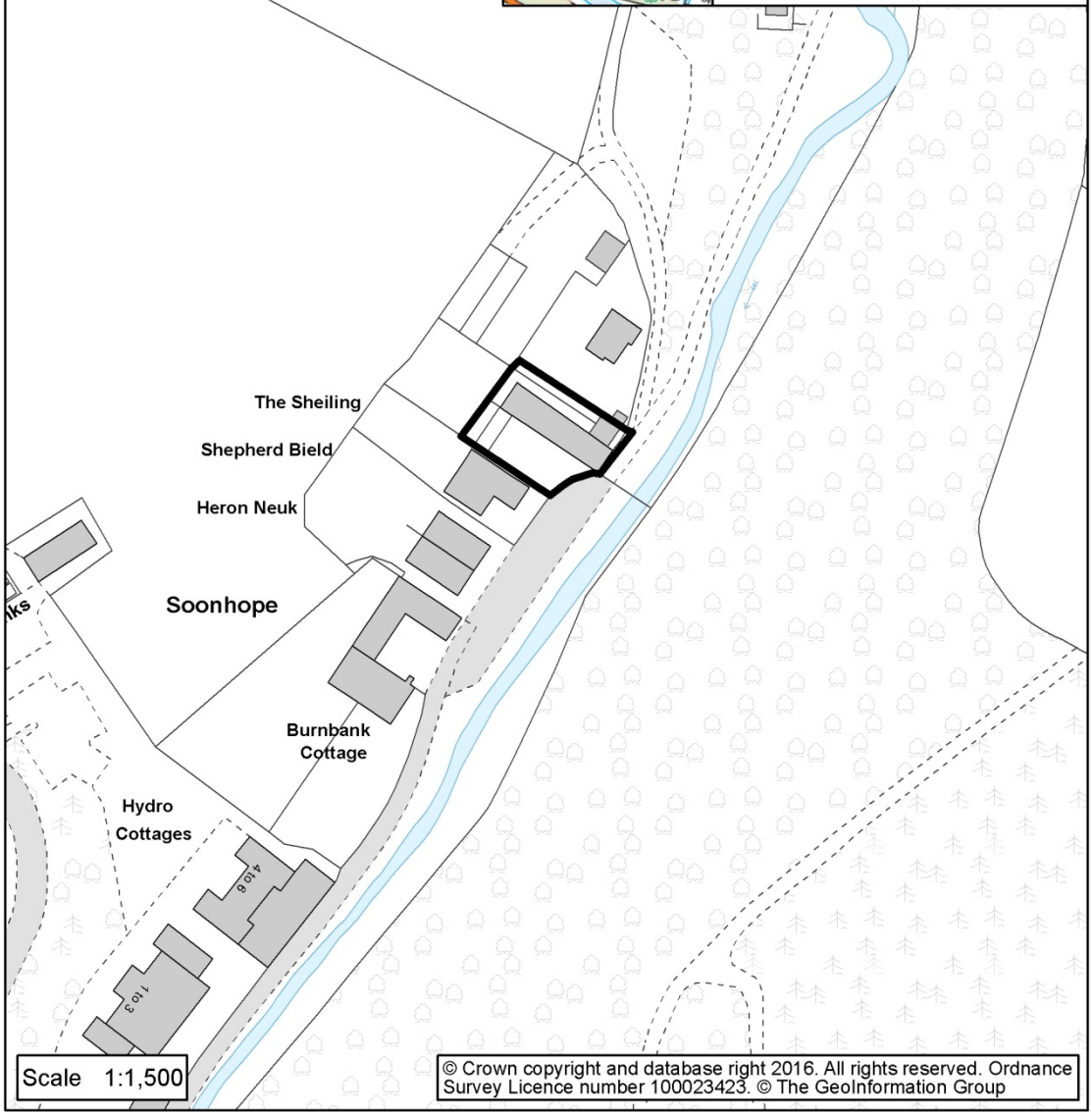
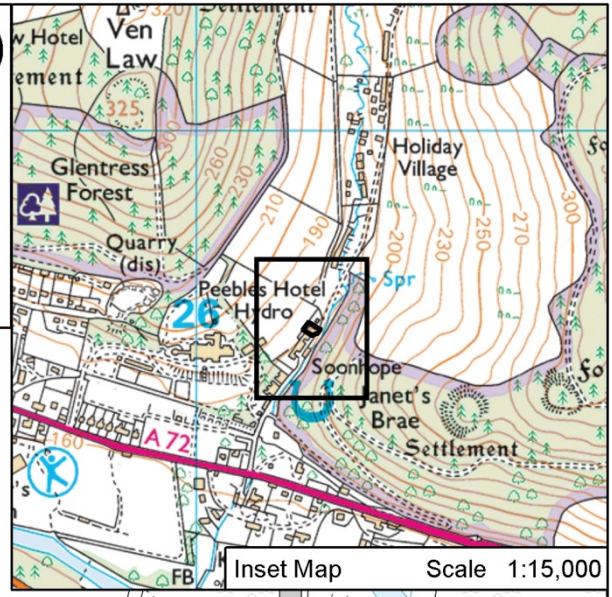
The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Craig Miller	Lead Planning Officer



15/01525/FUL
2 Soonhope Farm Holdings
Peebles



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

25th April 2016

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

Nil

- 3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

- 4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 14th April 2016. This relates to sites at:

<ul style="list-style-type: none"> Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge 	<ul style="list-style-type: none"> Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick
<ul style="list-style-type: none"> Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles 	<ul style="list-style-type: none">

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 15/01323/FUL
Proposal: Erection of dwellinghouse
Site: Land North East of The Cottage, Lauder Barns,
Lauder
Appellant: Angela Fairbairn

Reasons for Refusal: 1. Notwithstanding that the site is well-related to the existing building group at Lauder Barns, and taking account of a live outline planning consent (07/02397/OUT) for two dwellings within the same building group, the proposal is contrary in principle to Adopted Local Plan Policy D2 in that approval would increase the number of new dwellings capable of being developed within the current Local Plan period in association with the existing building group at Lauder Barns, above two, which is the maximum number of additional dwellings that are explicitly allowed by Policy D2 in relation to a building group of three existing dwellings. Furthermore, there is no operational need for a new dwellinghouse to be located at the site to serve any agricultural business, or other business with a justifiable requirement for a full-time worker to be accommodated on-site, on a permanent basis; and there are no other considerations material to this planning decision that outweigh the need to determine this application in strict accordance with planning policy. 2. The design and layout of the proposal are contrary to Adopted Local Plan Policies D2 and G1, and the advice of the approved 'Place-Making and Design' Supplementary Planning Guidance Note, in that these are unsympathetic to the prevailing sense of place within, and setting of, the building group at Lauder Barns and to the character and appearance of the surrounding landscape. This is because the elevation facing the access road (the South Elevation) would not have the appearance, or setting, of a principal elevation, but instead, would have a notably secondary, even 'rear elevation', character. The visual impact of this would be further exaggerated by the erection of a 1.8m high boundary fence along the boundary with the access road, which would convey a very strong visual impression of the land to the south of the dwellinghouse being a rear garden area when this would more sympathetically be a front garden area.

- 5.2 Reference: 15/01484/FUL
Proposal: Replacement windows
Site: 5 East High Street, Lauder
Appellant: Mrs M Dick

Reason for Refusal: The design of the replacement windows fails to comply with Policies G1 and BE4 of the Consolidated Scottish Borders Local Plan (2011), and with the advice contained within the Council's approved Supplementary Planning Guidance note on Replacement Windows and Doors (2015), in that: (i) the proposed use of stick-on glazing bars would result in an adverse impact upon the appearance and character of the building and would be detrimental to the wider character and appearance of this part of Lauder's Conservation Area; and (ii) with respect to the front and side elevations only, the proposed replacement window material (uPVC) and use of double glazing, would cumulatively result in an adverse impact upon the appearance and character of the building and would be detrimental to the wider character and appearance of this section of the Area of Prime Frontage/Core Area within Lauder's Conservation Area.

5.3 Reference: 15/01557/FUL
 Proposal: Erection of dwellinghouse
 Site: Builders Yard, Land South West of 76 St Andrew Street, Galashiels
 Appellant: Book Developments

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

6 REVIEWS DETERMINED

Nil

7 REVIEWS OUTSTANDING

7.1 There remained 4 reviews previously reported on which decisions were still awaited when this report was prepared on 14th April 2016. This relates to sites at:

<ul style="list-style-type: none"> Land South of Camphouse Farmhouse, Camptown, Jedburgh 	<ul style="list-style-type: none"> Land and Buildings at Wilton Mills, 31 - 32 Commercial Road, Hawick
<ul style="list-style-type: none"> Office West Grove, Waverley Road, Melrose 	<ul style="list-style-type: none"> Land West of Whistlefield, Darnick

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLIs previously reported on which decisions were still awaited when this report was prepared on 14th April 2016. This relates to sites at:

<ul style="list-style-type: none"> Land North of Nether Monynut Cottage (Aikengall IIa), Cockburnspath 	<ul style="list-style-type: none"> Cloich Forest Wind Farm, Land West of Whitelaw Burn, Eddleston
<ul style="list-style-type: none"> (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir 	<ul style="list-style-type: none">

Approved by

Ian Aikman

Chief Planning Officer

Signature

Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
Email: PLACEtransrequest@scotborders.gov.uk