

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 27TH JUNE, 2016

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 27TH JUNE, 2016 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

20 June 2016

<b>BUSINESS</b>	
1.	<b>Apologies for Absence.</b>
2.	<b>Order of Business.</b>
3.	<b>Declarations of Interest.</b>
4.	<b>Minute.</b> (Pages 1 - 6)  Minute of Meeting of 30 May 2016 to be approved and signed by the Chairman. (Copy attached.)
5.	<b>Applications.</b>  Consider the following application for planning permission:-
	(a) <b>16/00364/PPP - Redundant Station Yard and Associated Access, Dolphinton, West Linton</b> (Pages 7 - 18)  Residential development comprising five houses and associated access at Redundant Station Yard and associated access, Dolphinton, West Linton (Copy attached.)
	(b) <b>16/00413/FUL - Land South of Deveron Cottage, The Loaning, Denholm</b> (Pages 19 - 30)  Installation of 15m monopole including antenna, ground-based cabinets and fence enclosure on Land South of Deveron Cottage, The Loaning, Denholm (Copy attached.)
6.	<b>Appeals and Reviews.</b> (Pages 31 - 36)  Consider report by Service Director Regulatory Services. (Copy attached.)
7.	<b>Any Other Items Previously Circulated.</b>
8.	<b>Any Other Items which the Chairman Decides are Urgent.</b>

9.	<p><b>Items Likely to be Taken in Private</b></p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”</p>
10.	<p><b>Minute</b> (Pages 37 - 38)</p> <p>Private Minute of 30 May 2016 to be approved and signed by the Chairman. (Copy attached.)</p>

**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

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**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

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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 30 May 2016 at 10.00 a.m.  
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Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Campbell, J. Fullarton, D. Moffat, S. Mountford, B. White.  
Apologies:- Councillors I. Gillespie, J. Brown.  
In Attendance:- Chief Planning Officer, Principal Roads Planning Officer, Chief Legal Officer, Democratic Services Team Leader, Democratic Services Officer (F Henderson).

1. **MINUTE**

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

**DECISION**

**APPROVED for signature by the Chairman.**

2. **APPLICATION**

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

**DECISION**

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

3. **APPEALS AND REVIEWS**

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

**DECISION**

**NOTED that:-**

**(a) there remained 3 appeals outstanding:-**

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

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

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

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

*The meeting concluded at 11.25 a.m.*

## APPENDIX I

### APPLICATIONS FOR PLANNING PERMISSION

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

DECISION: Approved as per recommendation subject to the addition of the following Informatives.

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:  
(a) the expiration of three years from the date of this permission, or  
(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.  
Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
4. The subsequent application(s) for the approval of reserved matters shall be accompanied by:
  - i. a site layout plan at a scale of 1:500 showing the position of all buildings, including the village hall, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
  - ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
  - iii. a landscaping plan at a scale of 1:200 showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
  - iv. details of the phasing of development;
  - v. details of existing and finished ground levels, and finished floor levels, in relation to a fixed datum, preferably ordnance datum.Reason: To ensure a satisfactory form of development.
5. The first application for the approval of matters specified in conditions submitted in relation to this approval shall include a detailed design statement and master plan which informs the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority

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

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

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

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

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

## INFORMATIVES

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

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**27 JUNE 2016**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/00364/PPP
<b>OFFICER:</b>	Dorothy Amyes
<b>WARD:</b>	Tweeddale West
<b>PROPOSAL:</b>	Residential development comprising five houses and associated access
<b>SITE:</b>	Redundant station yard and associated access, Dolphinton, West Linton
<b>APPLICANT:</b>	J Wilson
<b>AGENT:</b>	A G Walker

**SITE DESCRIPTION**

The redundant station yard at Dolphinton is located on the north west side of the A702 and is accessed off the minor public road serving the Dolphinton building group, Garvald Quarry and Garvald School. It is situated between the A702 and the new housing development of 4 dwellings. The development site covers an area of approximately 0.4 hectares.

**PROPOSED DEVELOPMENT**

A residential development of five houses is proposed and an indicative layout has been submitted. This has been revised to show only one unit along the initial length of the internal access road. This access road will join the minor road close to the junction with the A702.

As this is an application for planning permission in principle no further details have been submitted.

**PLANNING HISTORY**

The planning history relates to a larger site which includes the current application site. This larger site consists of the areas of land outlined in red and blue on the location plan.

04/01122/FUL – Erection of 12 dwellinghouses refused in May 2005 for the following reason:

The proposal is contrary to Policy 7 of the Tweeddale Local Plan insofar as a satisfactory access cannot be achieved with land controlled by the applicant, the proposal would have an adverse impact on countryside amenity, and the development is of an inappropriate design for the site.

The application was subsequently dismissed on appeal (P/PPA/140/249) on 20 December 2005 on the grounds that the development site lies partly outside the natural building group, and its extension would be harmful to the landscape quality and countryside amenity of the area. The design is poor in terms of siting and general details and these are sufficient to warrant refusal.

07/01379/FUL – Erection of fourteen (low cost) dwellinghouses refused in August 2008 for the following reasons:

- 1 The proposal would be contrary to Policy H9 of the Scottish Borders Structure Plan 2001-2011, Principle One and Policy H1 of the Scottish Borders Local Plan Finalised December 2005 and Policy 10 of the Tweeddale Local Plan 1996 in that the remote location of the site from essential strategic services is not sustainable. The erection of affordable housing on this site would put an excessive strain the existing infrastructure and lead to an unacceptable precedent for other similar developments in the area.
- 2 The proposal would be contrary to Policy N20 of the Scottish Borders Structure Plan 2001-2011 and Policy G1 of the Scottish Borders Local Plan Finalised December 2005 in that it would not be compatible with or respect the character pattern and style of dwellings in the surrounding area. The design and materials proposed for this site would have an adverse effect on the appearance of the group and would set an unacceptable precedent for other housing developments in the area.
- 3 The proposal would be contrary to Policy H5 of the Scottish Borders Structure Plan 2001-2011, Policy 7 of the Tweeddale Local Plan 1996 and Policy D2 of the Scottish Borders Local Plan Finalised December 2005 in that it would not represent a logical expansion of the existing building group leading to an adverse effect on the landscape character and amenity of the area. This would have an adverse effect on the natural group and would set an unacceptable precedent.

Other relevant applications

01/01491/OUT – Outline planning consent granted on 14 December 2001 for the erection of dwellinghouse on the site of the former garages, Station Yard, Dolphinton.

T029/96 – Outline planning consent was refused for the erection of a single dwellinghouse on the site of the former garages, Dolphinton Station Yard on 10 June 1996. The decision was dismissed at appeal on 10 March 1997.

## **REPRESENTATION SUMMARY**

Six letters of representation have been received, five containing objections to the proposals and one containing a general comment in relation to the road junction.

The objections can be summarized as follows:

- Potential drainage and flooding issues
- Site in a poor state of repair
- Additional traffic and road safety issues
- Historical significance of the area should be recognised
- Loss of privacy due to overlooking
- No improvements to infrastructure
- Issues relation to plots 1 and 2 (original plans)
- 

Comments relating to any discussions or lack of discussions between the applicant and local residents are not material to the consideration of this application.

Tarmac, who have planning permission to operate Garvald Quarry located approximately 500m to the north west of Dolphinton within South Lanarkshire, have a legal agreement with

South Lanarkshire Council that all traffic travelling to and from this quarry will do so using the A702 junction at Dolphinton. Tarmac has also entered into a legal agreement with Transport Scotland to upgrade the junction of the A702 with the minor road. This is adjacent to the application site.

It is anticipated that this route will be used when Garvald Quarry reopens after the reserves at Newbigging Quarry are exhausted in potentially 5-6 years' time. It is anticipated that when the quarry is operational it will result in approximately 100HGV trips per day.

Tarmac therefore request that the Scottish Borders Council considers the implication of a future increase in traffic along the Robertson Back Road when determining the current planning application. The Council should also be satisfied that appropriate visibility splays are available in both directions from the proposed residential development onto the Robertson Back Road. Furthermore, the residential development should not compromise Tarmac's future ability to undertake the junction improvement works, which will require the widening of the A702 adjacent to the application site by up to four metres, installation of new signage, kerbing, drainage etc.

## **APPLICANTS' SUPPORTING INFORMATION**

In support of the application a number of documents have been submitted from the Local Development Plan examination process and which relate to the site.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

#### **Forward Planning**

In respect to the Proposed Local Development Plan as modified following the Reporter's recommendations, it should be noted that that plan now includes a site at Dolphinton - site ADOLP003 South of Sandy Hill with an indicative capacity for 5 units. It should also be noted that a number of site requirements have also been included and these are listed below:

- Existing landscaping on site to be retained. Landscape enhancement to the south and south east boundaries of the site adjacent to the A702 will be required. Buffer areas for new and existing landscaping will be required. The long term maintenance of landscaped areas must be addressed.
- The site coincides with the former site of Dolphinton Station. Further assessment of archaeology will be required and mitigation put in place.
- Vehicular access to be achieved off the minor road to the south west of the site and the development to be designed so that there is no adverse effect on the safety of the nearby junction between the minor road and the A702.
- Provision of amenity access to the countryside for pedestrians and cyclists.
- Potential contamination on site to be investigated and mitigated.

Whilst it is appreciated that this application is a Planning Permission in Principle and an indicative layout is shown, it should be noted that potential plots 1 and 2 appear tight in comparison to other potential plots on the site as well as neighbouring development elsewhere within the settlement. This is particularly the case when considering the requirement above in relation to landscape and the need for further landscape enhancement as well as the requirement for buffer areas. For that reason it is recommended that the applicant reconsiders the potential layout of the development or alternatively considers reducing the number of potential plots.

Based on the above and subject to reconfiguration of the layout to an acceptable alternative, it is considered that an application for residential development can be supported on the site.

## **Roads Planning**

The principle of housing on this site has previously raised no objections from this service. Whilst outline applications 04/01122/FUL & 07/01379/FUL were refused planning permission, there were no unsurmountable roads issues. In addition, the recently adopted Local Development Plan, includes this site for housing.

Whilst there are no objections in principle to housing on the site, there are some matters which need addressed in terms of the detailed design:

- The maximum number of new builds served by a private road is four. Depending on the layout for the proposed development, this may result in the need for the road to be constructed to an adoptable standard. However if the layout was designed in a manner that the first plot was served via the existing public road, even if it was just a pedestrian link depending on the close proximity of the plot to the public road, then the road serving the remaining four plots could remain private.
- Parking provision would be either 225% for curtilage parking or 175% for communal parking.
- Pedestrian provision to be incorporated into the design.

In summary, no objections to the principle of housing on this site and further comments pertaining to the layout will be dealt with at the detailed planning stage, should this proposal be granted permission.

It is noted that Transport Scotland has raised no objection to the proposal regarding the access onto the A702.

## **Education**

Contributions required for West Linton Primary School and Peebles High School.

## **Archaeology**

There are no known archaeological implications for this proposal.

## **Environmental Health**

The application appears to be proposing the redevelopment and change of use of land which was previously operated as a railway siding and goods yard. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

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

Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

## **Other Consultees**

### **Community Council**

No reply

## **Transport Scotland**

The Director does not propose to advise against the granting of permission

## **Scottish Water**

No reply

## **Health and Safety Executive**

The site lies within 1km of Ingraston quarry which although not currently operational has a valid planning consent for the extraction of sand and gravel. Using the PAHDI methodology, HSE has no interest in this development.

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Local Development Plan 2016**

PMD1 – Sustainability

PMD2 – Quality Standards

PMD5 – Infill Development

HD3 – Protection of Residential Amenity

EP5 – Special Landscape Areas

EP13 – Trees, Woodlands and Hedgerows

IS2 – Developer Contributions

IS6 – Road Adoption Standards

IS7 – Parking provision and Standards

IS9 – Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Special Landscape Area: Pentland Hills

Supplementary Planning Guidance:

Privacy and Sunlight Guide

Place Making and Design

Local Landscape Designations

## **KEY PLANNING ISSUES:**

Whether the proposals comply with the Local Development Plan policies for housing development within a settlement boundary and whether the development would result in any significant loss of residential amenity for existing residents.

## **ASSESSMENT OF APPLICATION:**

Policy

As noted elsewhere the site has been allocated within the new Local Development Plan as a housing site with a capacity for 5 housing units. An agent on behalf of the current applicant brought forward this site as part of the Development Plan process and the paragraphs below are the assessment of the site by the Reporter:

‘Dolphinton has no facilities itself, and looks towards West Linton, Peebles and Biggar for the provision of services. This is a disadvantage of allocating the site for

housing. I do not consider that development of the site would have a material impact on the housing land supply figures because this is a small, irregularly shaped site, which is likely to have a limited capacity, and I note that the number of houses presently suggested is 5.

House building has also taken place in the village in recent years, and this points towards it being a reasonably attractive location. I do not believe that development of this site would be likely to have a significant adverse impact on the special landscape area given its small size and its peripheral location. I also do not believe that there would be a significant adverse impact on the setting of the village. Indeed, I consider that a small scale residential development here would be a natural extension between its boundary and the A702, and that it would provide a reasonable visual link between this part of Dolphinton and the part lying on the eastern site of the A702.

Most importantly, it would improve and bring back into beneficial use an unkempt, brownfield site in poor condition. It appears that there has previously been residential accommodation on site. No overriding constraints have been drawn to my attention, which would prevent the site being allocated for housing.

Drawing these matters together, I consider that the advantages of a small residential development on this brownfield site on the edge of the village outweigh the disadvantage of a lack of facilities and services. In the circumstances, I believe that the site should be allocated for residential purposes with an indicative site capacity of 5 houses, and the development boundary changed to accommodate the allocation.

The planning authority has indicated that it accepts that a residential allocation here could be added to the proposed plan. Following a further information request, the planning authority identified 5 site requirements for the allocation. The requirements related to landscaping, archaeological assessment and mitigation, vehicular access, amenity access to the countryside for pedestrians and cyclists, and investigation and mitigation for potential contamination. No comments were received in response. I believe that the list of requirements appears to be reasonable in as far as it goes. Additionally, I believe that there should be a requirement that the development should have no adverse effect on the safety of the junction between the A702 and the minor road because of the proximity of the site access to that junction.'

In relation to the five site requirements, the Council's Archaeologist considers that there are no archaeological implications for this site. Any potential contamination of the site can be covered by a condition if Members are minded to approve the application. The requirement for a detailed landscaping plan to help the development blend into the surroundings and the landscape can also be dealt with by condition. It is considered that this plan should also include a pedestrian link to the existing bus stop on the A 702 and an indication of access to the countryside for pedestrians and cyclists. It is noted that the applicant owns the land immediately to the north and that a track is shown within this ground. It might be possible to utilise this track to provide the required access to the countryside.

Roads Planning nor Transport Scotland have raised any objections to the proposal on road safety grounds. Further details of the internal road layout including the junction with the minor road will need to be considered at the detailed planning stage. They have not requested that there should be any changes to the access on roads safety grounds. It appears that the proposal will not have an impact on any road improvements required in connection with quarry vehicles but it is noted that this will lead to a significant increase in HGVs using the junction on a daily basis.

It is considered that the revised indicative layout demonstrates that 5 houses can be adequately accommodated within the site and that they will not result in overdevelopment.

Subject to the conditions noted above the application complies with the site requirements as noted in the Local Development Plan.

#### Residential Amenity

Issues relating to potential overlooking and loss of privacy for existing residents can be addressed at the detailed planning stage but the indicative layout demonstrates that adequate separation distances between the proposed dwellings and the existing dwellings can be achieved. There is some existing screen fencing and trees/shrubs in place and, if required, these can be enhanced.

#### Landscaping

There is an existing tree belt along the boundary of the site with the A702 trunk road of varying quality. The submitted indicative layout suggests that this will be reinforced as part of the development. Whilst this is both welcome and necessary, there is only a limited area available for this to be provided. Special attention will therefore need to be given to the issue to ensure that the landscaping required to both assimilate the development into its setting and to protect the amenity of the occupants living there is achievable. Landscaping will therefore need to form an integral part of the design of the development.

#### Drainage and Water

Due to the nature of the site along the existing entrance road it is slightly elevated above the existing entrance to the properties to the north at its narrowest section but then appears to be lower where plots 3,4 and 5 are shown. Clearly effective drainage of the site is an important consideration which can be dealt with at the detailed planning stage.

No information has been provided regarding the water supply but at this location it is anticipated that it will be from the public water supply. No response has been received from Scottish Water.

#### Developer Contributions

The proposed development attracts developer contributions towards Education and Lifelong Learning and Affordable Housing. The applicant has agreed to enter into a Section 75 Agreement to secure the required payment

### **CONCLUSION**

In conclusion it is considered that the application complies with the Local Development Plan in that it is for five housing units within an allocated housing site. The applicant has demonstrated that five houses can be accommodated within the site but further details relating to design, layout, landscaping, drainage and any contamination mitigation are required to be submitted for consideration at a detailed planning stage.

### **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the applications are approved subject to the following conditions and informatives and the completion of a legal agreement for development contributions:

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

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

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

(a) the expiration of three years from the date of this permission, or

(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

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

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

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

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

4. The number of houses forming part of the development hereby approved shall be limited to five.

Reason: To ensure a satisfactory form of development, and for the avoidance of doubt.

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

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



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

and thereafter

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

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

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

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

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

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

6. The development hereby permitted shall not be commenced before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved by the Planning Authority.

Reason: The Planning Authority is aware that drainage issues are likely to arise at this site, that have not been fully addressed in the outline/change of use planning application, which establishes only the land-use principle of the area of land identified in the submitted drawing(s).

## **Informatives**

### **1.Landscaping**

The landscaping scheme to be submitted at the detailed planning stage shall include details of the following:

- 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 pedestrian link to the existing bus stop and pedestrian/cyclist link to the wider countryside
- viii. A programme for completion and subsequent maintenance.

**2. Layout**

- The maximum number of new builds served by a private road is four. Depending on the layout for the proposed development, this may result in the need for the road to be constructed to an adoptable standard. However if the layout was designed in a manner that the first plot was served via the existing public road, even if it was just a pedestrian link depending on the close proximity of the plot to the public road, then the road serving the remaining four plots could remain private.
- Parking provision would be either 225% for curtilage parking or 175% for communal parking.
- Pedestrian provision to be incorporated into the design.

**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.

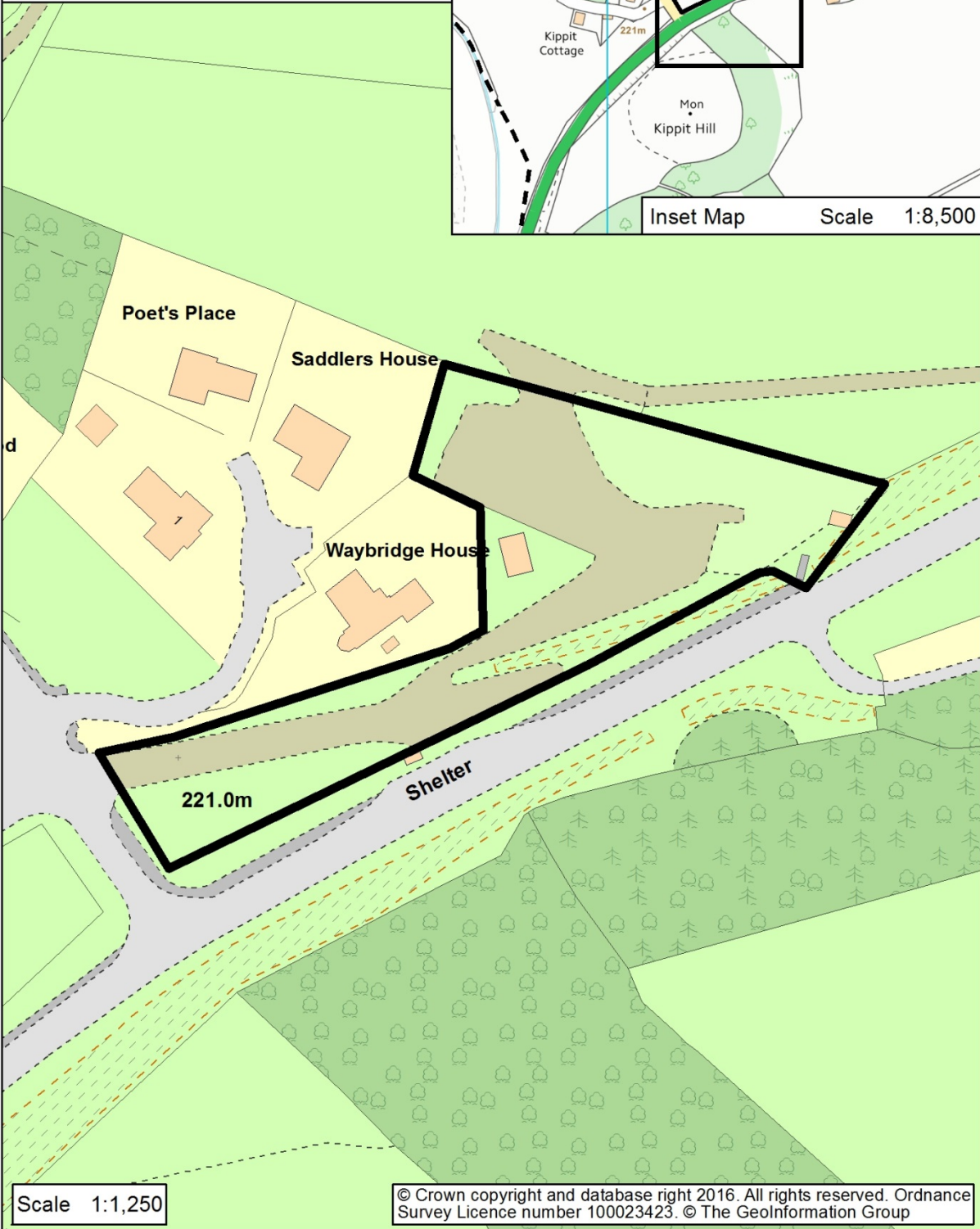
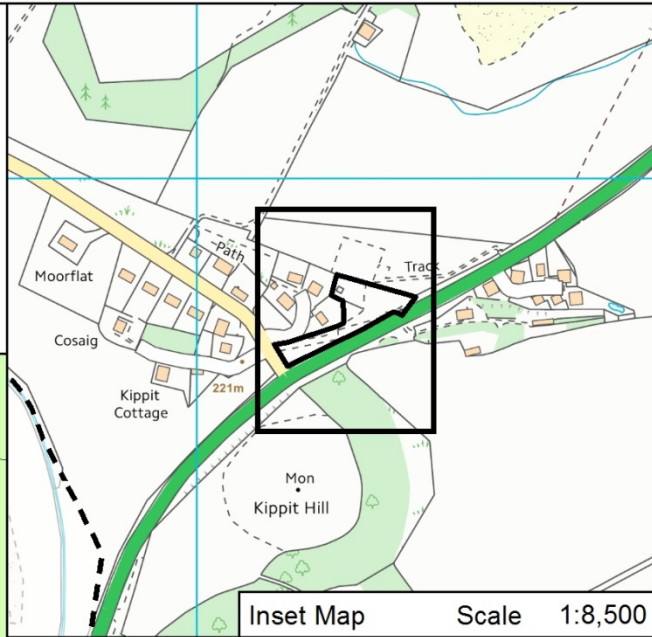
**Author(s)**

Name	Designation
Dorothy Amyes	Planning Officer



Redundant Station Yard  
And Associated Grounds

Dolphinton  
West Linton  
Scottish Borders



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**27 JUNE 2016**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 16/00413/FUL  
**OFFICER:** Mr A Evans  
**WARD:** Denholm and District  
**PROPOSAL:** Installation of 15m monopole including antennas, ground-based cabinets and fence enclosure  
**SITE:** Land South Of Deveron Cottage, The Loaning, Denholm  
**APPLICANT:** Cornerstone Telecommunications Infrastructure Limited (CTIL)  
**AGENT:** The Harlequin Group

**SITE DESCRIPTION**

The application site is sloping scrub land located next to a corner of agricultural field on the southern side of Denholm. The site is located at the South East of existing dwellings at "The Loaning". The site is located beyond the Denholm development boundary. The site is accessed via The Loaning, which as it progresses towards the site from the village, diminishes in standard from a public road down to a track/bridleway. This route is part of the Border Abbeys Way, and is a Core Path. The nearest dwellings are the existing houses at The Loaning, the nearest of which is located just over 130m to the North West (scaled from OS).

**PROPOSED DEVELOPMENT**

Full planning permission is sought for the erection of a single 15m high telecommunication monopole. The proposed installation would comprise:

- The 15m high tower, mounted on which would be:
  - 3no. new antennae on a headframe at the top of the tower
  - 2no. transmission dishes (300mm in diameter)
- A level concrete base and low (500mm) retaining wall would be formed at the foot of the tower.
  - On this base, in addition to the pole, would be located equipment cabinets.
  - The base (and monopole) would be enclosed by 1.2m high stock proof fencing.

The existing field gate and pedestrian gate adjoining the site would be retained.

The applicant is CTIL (Cornerstone Telecommunications Infrastructure Limited). This company creates and manages a single telecom grid previously belonging to both Vodafone and Telefonica (branded as O2).

## **PLANNING HISTORY**

None.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

#### **Roads Planning Service:**

No objections in principle to this proposal. The public Right of Way (BR135) which provides access to this site must be kept open during the construction period for this proposal. The developer should liaise with the Council's Access Team to ensure the Right of Way is protected during the construction period and no adverse damage is inflicted on the path as a result of construction vehicles accessing the site.

#### **Access Officer:**

No objection to this proposal. However, the Borders Abbeys Way (Core Path 1) lies adjacent to this site and should remain open to the public and free from obstruction at all times. The track should remain protected during the works but if any damage is done to the track then it should be reinstated to the same or an improved condition.

### **Statutory Consultees**

#### **Denholm and District Community Council:**

Report the following observations from comments made by residents at the Community Council meeting held on 18th May:

1. Proximity of this proposed development is very close to local residents.
2. Closeness of the mast to the adjoining Borders Abbey Way.
3. The location is very visible from within the conservation village of Denholm.
4. Health concerns by local residents after reading available data re the siting of this type of antenna near to housing.
5. The track and right of way being damaged due to vehicular traffic for construction and maintenance.
6. No alternative sites were proposed by the developer at the time of the planning request, only unsuitable ones when pressed for information.

Although the CC acknowledges the benefits of improved telephone coverage, the siting of this mast at the proposed site is causing residents to have many concerns.

## **REPRESENTATION SUMMARY**

This application did not require any publicity, there being no notifiable premises within 20m of the site.

At the time of the finalisation of this report, 19 contributions had been made to the application. This comprised 2 representations, and 17 Objections to the application. Furthermore, the applicant has also submitted correspondence supporting the application.

## Objections

The objections made and issues raised therein can be viewed in their entirety on the public access website. Whilst there is some overlap between topics and issues, the objections raised can be briefly and broadly summarised as follows:

- Proximity to housing
  - The proposed mast is too close to existing buildings, and to housing on The Loaning, and the School.
- Health Impacts
  - Technical, scientific and legal advice cited by objectors confirms health impact concerns from this technology.
  - Negative environmental and psychological effect on people.
  - The NRPB guidelines are insufficient.
  - The Local Authority is unconcerned about placing such a mast within 100 metres from occupied housing.
- Impact on Amenity
  - Loss of personal amenity is a valid planning consideration.
  - Genuine public perception of danger is a valid planning consideration.
  - Concerns, even when not based on any logic or scientific proof, should be accepted by the Planning Authority as a material consideration.
- Access Impacts / Relationship to Border Abbeys Way and Impacts on Tourism
  - Proposals will have a detrimental effect visually for tourism.
  - The mast will be seen from several beauty spots such as Minto Hills, Fatlips Castle and the Teviot valley.
  - Access up to the site would be using the single track road which serves the six houses in the cul-de-sac at The Loaning, which is not suitable.
  - This access has trouble in the winter, with run off causing flooding.
  - Scottish Borders Council promotes the Borders Abbeys Way, complimenting Denholm as being picturesque. The erection of the proposed mast will put blight on the landscape.
  - Local hotels and restaurants will see a decline in Borders Abbey Way walkers who want to avoid the unsightly area on the Jedburgh to Hawick section.
- Visual Impact
  - The height and location of the mast is in a sensitive residential area too close to houses.
  - Rejection by the operator of the alternative sites must not be allowed on the grounds of economics and competition.
  - Sharing an existing mast should take place instead.

- Proximity to and adverse impact upon Denholm Village and Conservation Area.
  - Denholm is a conservation village visited by many people due to its beauty and location, the area is frequently used by walkers and it is contended the mast will have a detrimental effect visually.
  - The monopole will be seen from conservation area within Denholm.
  - Whilst in the village the proposed monopole would not be preserving Denholm's distinct appearance as stated in the Denholm Conservation Area Statement.
  
- Alternative Siting
  - A lower impact siting should take place.
  - The monopole would be better situated higher up the hill where there is woodland, and to the west where the line of houses is further away from it.
  - A mast could be situated significantly further away from Denholm.
  - An alternative location was proposed within objections, at grid reference NT56900 17688, with access from grid reference NT56735 17760. (Adjacent to "Little Rulwood" on the Dene Road).
  - Officers of Scottish Borders Council should recommend an alternative site to Members of the Council which will be well away from homes within Denholm.

All of the objections received can be viewed in full on the Public Access website.

### **Agent Supporting Submissions**

The agent for the application provided written response to matters raised, which can also be viewed on the website, and can also be summarised as follows:

- Proximity to Housing
  - The mast will be located some 140m from the edge of the village and the grounds of the nearest house.
  - The main siting determinant is that the mast can provide coverage to the intended recipients. In this instance it is for the inhabitants, businesses and visitors to Denholm, although will also cover a wider area.
  - A willing landowner, ground conditions, access, proximity to power, planning considerations all need to also be taken into account. In this instance, to be able to provide 2G/3G/4G coverage across the village and over a wider area, this location on elevated land overlooking the village was considered to be the best option - it 'scores' highly on the determinants above.
  - The location is set on a rising hillside with some tall mature trees close by which help to integrate the mast into the landscape.
  - Mobile phone masts have now been a common feature across the UK for decades and provide vital communications links especially in rural areas however in terms of their proximity to housing that 140m is certainly not uncommon in rural areas such as Denholm.
  - In urban areas masts are located far closer to residential properties and often on the roofs of multi-storey buildings.



- OFCOM's site finder website indicates the spread of phone masts and also proximity to housing: <http://www.sitefinder.ofcom.org.uk/search>.
  - Often these installations can be 10m-15m from residential properties i.e. closer than this proposed mast by a factor of x10.
- Health Impacts
    - Government policy sets out any health impacts and concern should not be addressed through the planning system.
    - An ICNIRP Certificate accompanied this application.
    - SPP states that it is not necessary for planning authorities to treat radiofrequency radiation as a material consideration.
    - OFCOM Audits on particular communications installation to ensure ICNIRP compliance. These invariably come in thousands of times below the ICNIRP guidelines.
    - Radio waves used are not 'microwave'. They are radio waves appearing on a quite separate part of the radio spectrum.
    - Microwave links are sometimes used to link a site into the larger network (in the absence of fibre) but these links are via line-of-sight and the public would have no exposure to them.
- Access Road
    - The access road can be accessed by a 4-wheel drive vehicle easily.
    - The installation is small scale and requires little in the way of plant, machinery or activity. Construction, using heavy vehicles will be finished in a matter of days.
    - Vehicles will not need to 'come and go' over an extended period of time. This should result in no damage to the existing track.
    - Ongoing maintenance is very limited and would only be required once or twice per year and would not involve heavy vehicles.
    - The mast will only visible in short range views from the 'Way'. Whilst it may also be visible in some long range views, its size (and colour) set against the landscape would mean that it would be difficult to identify.
- Proximity to village (Conservation Area).
    - The mast will be located 400m from the nearest boundary of the conservation area.
    - Other locations considered included potential street pole locations within Denholm, where the applicant has statutory rights to locate apparatus, however it is considered these would have far greater impact than the pole currently being proposed.

## **DEVELOPMENT PLAN POLICIES:**

### **Proposed Local Development Plan 2016**

- PMD2 Quality Standards for New Development
- HD3 Protection of Residential Amenity
- EP5 Local Landscape Designations
- EP9 Conservation Areas
- IS15 Radio Telecommunications

## **OTHER PLANNING CONSIDERATIONS**

### **National Policy and Advice**

Scottish Planning Policy  
PAN 62 Radio Telecommunications 2001

### **Supplementary Planning Guidance**

SPG – Local Landscape Designations

## **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Development Plan Policies on installation of radio telecommunications equipment and consideration of impacts on adjoining residential properties, and landscape designations.

## **ASSESSMENT OF APPLICATION**

### Policy Principle

Policy IS15 of the Local Development Plan sets out that such telecommunications proposals will be assessed against siting and design considerations.

Criterion A requires that such equipment should be positioned and designed sensitively to avoid unacceptable effects on the natural and built environment, including areas of landscape importance and areas of ecological interest.

Criterion B requires developers must demonstrate that they have considered all options for minimising the impact of development.

The single monopole mast proposed is a response to the lack of coverage in the village. It is visually of lesser impact than a lattice type tower. The aim of this application is to provide enhanced mobile coverage, of benefit to the whole of Denholm, and the surrounding area more generally. This is consistent with national policy aimed at improving connectivity across Scotland.

### Consideration of Alternative Sites

Criterion B of Policy IS15 of the Local Development Plan requires developers must demonstrate that they have considered all options for minimising the impact of development.

Opponents of the application have suggested that there are alternative locations where this proposal could be sited. It is correct that there are alternatives but there is a limit to the extent to which these alternatives can be used as a means to resist a proposal. The policy requires a demonstration that other sites have been considered. That does not mean that a proposal can be rejected merely because these other sites exist; an assessment of the merits of the proposal for which permission is sought is still the primary test for the suitability of the development.

In support of the planning application, the agent has submitted an "industry standard site specific assessment", which includes details of the consideration of alternative locations for the proposed mast that they carried out (This is available for examination on the planning pages of the Council's website).

The assessment document sets out that the agent gave consideration to alternative locations at Corrieston, Hassendean Bank, Farmland to the East of the Village, Honeyburn Farm, and at Denholm Mill. For various technical, and visual impact planning reasons these sites were discounted. This is detailed in the agent's assessment. The agent's submissions also set out that a potential siting within the Conservation Area on a "Streetpole" type installation was also considered and discounted.

It should be noted that the application site benefits from a topographical and tree backdrop, which minimises the overall visual impact of the monopole.

An alternative site was suggested within objections, at grid reference NT56900 17688. This alternative site would have Access from grid reference NT56735 17760. (Adjacent to "Little Rulwood" on the Dene Road).

It should be noted that this site suggested by objectors is in the approximate position of the "Corrieston" site that was discounted by the agent. The site selection details lodged by the agent sets out that the "Corrieston" site was discounted because of technical difficulties, and the agent considered that it would not provide as good coverage to Denholm as the chosen option.

With any development proposal, there is always an alternative site. While that will have a bearing on site selection and, to a lesser extent, the suitability of a proposal in planning terms, an otherwise acceptable site cannot be rejected because other sites that might be deemed more suitable are available. Members must therefore consider the suitability of the proposal for which permission is sought and not whether better sites exist.

### Health

Objections have been received on the grounds of adverse impacts on health arising from the proposed telecoms equipment and its radio emissions. Objections have also been made highlighting perceived fear of risk to health from the mobile telecommunications installation.

Policy IS15 (Radio Telecommunications) of the LDP is quite clear that health and safety considerations are not matters for the planning system and this is derived from national planning policy, contained within planning policy which state, in paragraph 300, that:

*"Planning authorities should not question the need for the service to be provided nor seek to prevent competition between operators. The planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radio frequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration."*

Accordingly, it is not for the planning process to take concerns over radiation into consideration in determining planning applications.

Applicants are required to submit of a "Declaration of Conformity with ICNIRP Public Exposure Guidelines" – which has been submitted with the application. The current application is accompanied by an ICNIRP (International Commission on Non-Ionising Radiation Protection) certificate, which relates to the output of the equipment

proposed to be sited here. The ICNIRP Declaration certifies that the site is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the ICNIRP for public exposure as expressed in the EU Council recommendation of July 1999.

There are many examples, particularly in more urban settings, of masts in closer proximity to other properties than is the case here.

### Conservation and Built Heritage

Policy EP9 of the LDP seeks to protect Conservation Areas from inappropriate development.

Objectors have cited that the site is in proximity to the "Conservation Village". Denholm does indeed have a Conservation Area. However the site is not within the Conservation Area, the outer boundary of which is located just over 380m to the North West of the site.

The proposed development is not considered to have any significant impact on the Character or appearance of the wider Denholm Conservation Area at this distance, and in this proposed relationship between the Conservation Area and the application site. The mast may be visible from some parts of the Conservation Area, but only distantly and not prominently given the backdrop. In most locations, however, including the village green, the mast would not be visible. Given the distance involved, there is not considered to be an unacceptable impact upon the wider Denholm Conservation Area.

There is considered to be no conflict with policy EP9 (Conservation Areas) of the LDP.

### Landscape and Visual Impact

Scottish Planning Policy directs that there is to be "*careful consideration of development and the impacts that may result on the landscape*". The Council has adopted Supplementary Planning Guidance on Local Landscape Designations, and on Landscape and Development. The site is located within the Teviot Valleys Special Landscape Area. Care therefore has to be taken in the micro-siting of any large structures.

Section 7 of the SPG on Local Landscape Designations sets out Supplementary Planning Policies. Policy B of the SPG is relevant here, and sets out that "*The Council will use the Statements of Importance attached to each of the proposed Special Landscape Areas (SLAs) as a material consideration in the determination of planning applications*"

The management recommendations for the Teviot Valleys Special Landscape Area (SLA) set out that the authority should "*Consider the effects of development on hilltops, such as masts or wind farms, which may be visible within the valleys*"

Policy EP5 of the Local Development Plan on Special Landscape Areas sets out that in assessing proposals for development that may affect SLAs, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development, including the visual impact. Proposals that have a significant adverse impact will only be permitted where the landscape impact

is clearly outweighed by the social or economic benefits of national or local importance.

The location chosen in the current application benefits from a partial backdrop provided by the trees and rising landform from certain views, particularly the west and north. It also relates the development to the built environment it is primarily intended to serve. An alternative site away from this backdrop of trees and topography would appear more isolated and raise issues in terms of greater visual and landscape impact. The scale and colouring of the proposal are such that it would not appear prominent in longer range views.

An application site being located within an SLA would not necessarily preclude or prevent development from occurring. Indeed, it should be noted that the SLA covers all land around the Denholm Settlement boundary.

It is considered that the proposed site represents an acceptable landscape setting for the telecommunications installation. The proposed location is not considered incongruous and the presence of telecommunications installations in the countryside, on the edge of settlements and indeed within them is not unusual.

#### Trees, Woodland and Hedgerows

Policy EP13 of the Scottish Borders Council Local Development Plan (2016) on Trees Woodlands and Hedgerows sets out that the Council will give protection to the woodland resource.

Overgrown vegetated scrub is located on the sloping land to the immediate north west of the site. It is proposed to fell two existing 3m high Hawthorn trees in the corner of the site. These are not significant specimens, and their loss poses no issue or policy conflict. This has been confirmed verbally by the Council Landscape Architect.

To the north east of the site is located the footpath and track leading to the site, with a much more significant mature Ash tree located on the far side of the access gates to the neighbouring field. This mature 18m high ash tree to the west of the site is located 9.5m (from trunk) from the nearest part of the retaining wall on the site, on the far side of the field access. This mature tree is partially located at a higher topographic level than the application site and will remain the principal visual focal point in the vicinity of the application site. BS 5837 Trees in relation to construction is relevant here.

The Landscape Architect was informally consulted on the proposals and has confirmed that he is content with the relationship to the remaining trees (in particular, the mature Ash which is nearest), and content with the proposed Hawthorn tree removals. It would be prudent for the retained mature tree to be protected by means of a protective fence for the duration of construction works on the site. A suitable wording for a planning condition is set out at the end of this report.

Subject to appropriate protection being provided to this Ash tree during construction, it is considered that no unacceptable impact will arise. It is appropriate to require a protective fence to BS 5837 to be provided for the duration of construction works.

This impact on surrounding trees and shrubbery is considered acceptable. The proposals are considered acceptable when assessed in terms of Policy EP13 of the

LDP, and in terms of the adopted supplementary planning guidance on Trees and Development.

### Access and Tourism

Policy IS5 of the Local Development plan seeks to protect Access Routes.

The Community Council raised the proximity to the Border Abbeys Way in its representation. Objection has also been received highlighting the perceived adverse impacts that the proposals would have on this adjoining access Route. The Borders Abbey way is a long distance circular route joining several Borders towns.

The Council Access Officer was consulted on the application. It is confirmed that the proposals are not objected to so long as the right of way is kept open. This will be ensured by planning condition.

The notion advanced in objections that a single monopole installation in this proposed location would result in a significant adverse impact on tourism within the village is not one to which significant weight can be attached to. Along its length the Borders Abbey Way, in addition to navigating through Special Landscape Areas with scenic views, also enters and exists several Borders towns. The route is characterised by a variety of landscapes, including urban. Along the route, there are a variety of masts and other structures, including pylons and windfarms, as well as the Selkirk and Ashkirk transmitters, which are visible in the landscape. There are other examples of masts close to rights of way, including the Borders Abbeys Way, as is the case at Todlaw near Jedburgh. It would therefore be difficult to conclude that a single monopole would affect the enjoyment of the route to the extent that it should be refused permission, however close to the route itself it might be. Furthermore, it is considered that rather than being a hindrance upon the local tourist industry, the resultant improvement in mobile telecommunications would if anything, add to users' experience of the route.

Subject to the noted planning condition requiring this route to stay open and free from obstruction during the construction of the pole, the proposals can be considered to comply with policy IS5 of the LDP. A requirement to upgrade or enhance the surface of the path is not considered justifiable in this case.

### Residential Amenity Impact

Policy HD3 of the Local Development plan seeks to protect residential amenity.

The Council has adopted Supplementary Planning Guidance on Householder Development which sets out standards in terms of privacy and amenity. In this case, the site proposed causes no conflict with these SPG standards on these grounds or in visual terms, given the 140m distance to and relationship with the nearest dwelling in The Loaning. There is considered to be no conflict with either policy HD3, or with the standards set out in the adopted SPG on Householder Development.

## **CONCLUSION**

Subject to the conditions and Applicant Informative listed below, the development is considered in compliance with Development Plan Policies on telecommunication proposals in a Special Landscape Areas with acceptable impacts on adjoining residential properties, and controllable impacts on neighbouring trees, and continuing public access.

## RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions

1. The existing mature ash tree to the east of the site (Highlighted in green on approved drawing 201) is to be protected during construction of the mast by a temporary fence, the full details of which are to be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter the protective fencing is to be erected prior to commencement of development, and to be retained for the duration of construction works on the site.  
Reason: To protect the neighbouring mature ash tree, which makes a significant contribution to the site setting.
2. The adjoining public Right of Way (BR135) "Border Abbeys Way" is to remain free from obstruction during the construction of the development hereby approved.  
Reason: To ensure public rights of access are not diminished during construction works on the site.

### Applicant Informative

1. The developer should liaise with the Council's Access Team to ensure the Right of Way is protected during the construction period and no adverse damage is inflicted on the path as a result of construction vehicles accessing the site.

### DRAWING NUMBERS

201 – Proposed Site Plan  
301 – Proposed Site Elevation

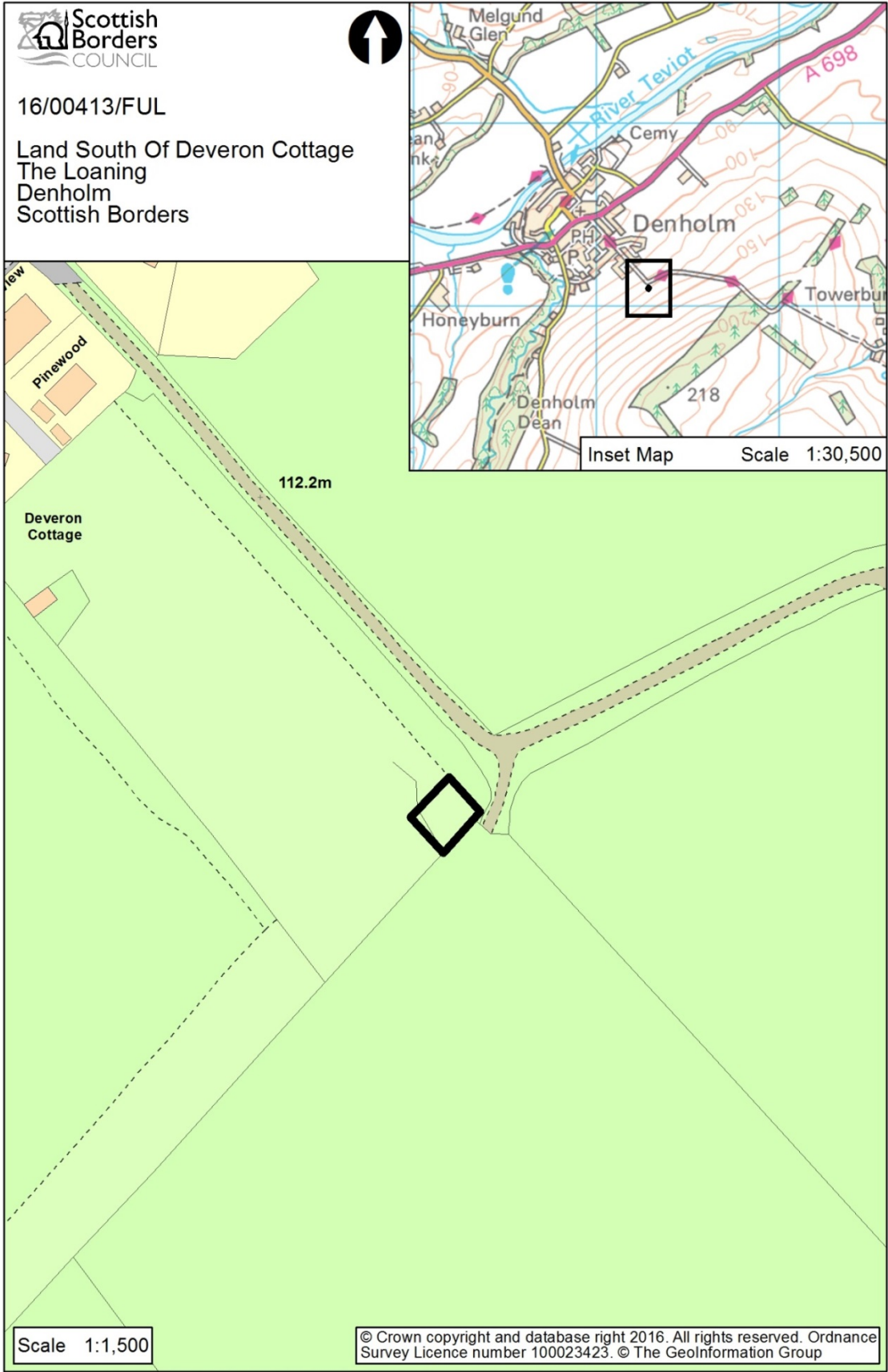
### **Approved by**

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
Andrew Evans	Planning Officer





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## **PLANNING APPEALS & REVIEWS**

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### **Briefing Note by Chief Planning Officer**

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## **PLANNING AND BUILDING STANDARDS COMMITTEE**

**27<sup>th</sup> June 2016**

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### **1 PURPOSE**

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

### **2 APPEALS RECEIVED**

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

### **3 APPEAL DECISIONS RECEIVED**

- 3.1 Planning Applications

- 3.1.1 Reference: 13/00789/FUL  
Proposal: Wind farm development comprising of 9 No wind turbines and associated infrastructure/buildings/access (further revised scheme - tip heights of Turbines 1, 2 and 4 reduced to 110m - all others to remain at 125m)  
Site: Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick  
Appellant: Windy Edge Wind Farm Ltd

Reasons for Refusal: 1. The proposed development would be contrary to Policies G1 and D4 of the Scottish Borders 2011 Local Plan, in that the development would unacceptably harm the Borders landscape due to: (i) overridingly adverse impacts on landscape character arising from placement of turbines and infrastructure on a sensitive and distinct landscape with grandeur, historical, remoteness and wilderness qualities, which can be observed and experienced from a range of public paths and recreational access areas; (ii) the introduction of an array of large commercial turbines into a locality which is significantly remote from main

settlements and road networks and where no logical reference can be made to any other similar man-made interventions (including noticeable electrical infrastructure) or settlement, which is characterised by simplistic landforms with which the development does not harmonise; thereby the development would appear as an incongruous and anachronistic new item; and (iii) the introduction of a medium-sized commercial wind farm in an area which is presently free from wind farm development and which provides a spatial separation between areas occupied by wind farms in Borders. 2. The development conflicts with Policy D4 of the Consolidated Scottish Borders 2011 Local Plan, in that by virtue of its adverse impact on: (i) the ability of National Air Traffic Services to safely manage en route non-military air traffic due to impacts on the Great Dun Fell radar serving Prestwick Airport; it would be incompatible with national objectives relating to protection of public safety at a UK level and the obligations set out in international treaties.

Grounds of Appeal: The proposed development accords with the Development Plan and can also draw support from other material considerations. The Appellant has two main Grounds of Appeal that relate directly to the issues set out within the Reasons for Refusal, which relate to Landscape impact of the proposed development on the Borders landscape and Aviation: impact on the ability of NATS to manage effects of the proposed development on Great Dun Fell radar. The Appellant states that the Appeal and the evidence submitted in support of it demonstrates that the landscape impacts of the proposed development will be acceptable and the Aviation impacts are capable of being mitigated and a solution is currently available. The Appellant and NATS are in the course of concluding a contract which will enable an agreed technical solution to be implemented.

Method of Appeal: Written Representations & Site Visits

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Dan Jackman, concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusal to grant planning permission. He considers that the proposal would not impact on the setting of Hermitage Castle and Chapel. He therefore allowed the appeal and granted planning permission subject to 27 conditions and 3 advisory notes.

### 3.2 Enforcements

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 17<sup>th</sup> June 2016. This relates to sites at:

<ul style="list-style-type: none"> <li>Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge</li> </ul>	<ul style="list-style-type: none"> <li>Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles</li> </ul>
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## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 15/00890/PPP  
Proposal: Erection of dwellinghouse and upgrade access track  
Site: Redundant Water Treatment Works, North East of Broughton Place Cottage, Broughton  
Appellant: Mr Stewart Kane

Reason for Refusal: The development conflicts with Policies G1 and BE4 of the Scottish Borders Consolidated Local Plan 2011, and with adopted Supplementary Planning Guidance from 2011, in that due to: - the poor relationship of the chosen paint colour on the shopfront with the colours and tones of surrounding materials in conservation area buildings and structures; and - the prominence of the shopfront in the conservation area and street scene due to its position at the end (focal point) of the High Street; the inappropriate colour stands out as an incongruous and eye-catching item, harming both the character and the appearance of the conservation area, to the detriment of public amenity.

- 5.2 Reference: 15/01521/PPP  
Proposal: Erection of three dwellinghouses  
Site: Land North of Bonjedward Garage, Jedburgh  
Appellant: Lothian Estates

Reasons for Refusal: 1. The proposal is contrary to Policy D2: Housing in the Countryside of the Scottish Borders Consolidated Local Plan Adopted 2011, Policy HD2: Housing in the Countryside of the Proposed Local Development Plan 2013 and Supplementary Planning Guidance on New Housing in the Borders Countryside 2008 in that the site is not within the recognised building group at Bonjedward and it does not relate well to this group and would therefore not be an appropriate extension to the existing pattern of development. The development would result in sporadic development within the countryside harming the character and appearance of the area. 2. The proposal is contrary to Policy H2 of the Scottish Borders Consolidated Local Plan Adopted 2011 and policy HD3 of the Proposed Local Development Plan 2013 relating to the protection of residential amenity in that siting residential housing adjacent to industrial buildings and three main public roads would have a significant adverse impact on the residential amenity of occupiers of the proposed houses.

- 5.3 Reference: 16/00114/FUL  
Proposal: Erection of cattle court incorporating storage areas and staff facilities and erection of animal feed silo  
Site: Field No 0328 Kirkburn, Cardrona  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies G1, EP2 and D1 of the Scottish Borders Consolidated Local Plan 2011 and Supplementary Planning Policies relating to Special Landscape Area 2- Tweed Valley in that the proposed building and silo will be prominent in height, elevation and visibility within the landscape and will have a significant detrimental impact on the character and quality of the designated landscape. 2. The application is contrary to Policies G1 and D1 of the Scottish Borders Consolidated Local Plan 2011 in that the submitted Business Plan does not adequately demonstrate that there is an overriding justification for the building and silo of the scale and design proposed that would justify an exceptional permission for them in this rural location and

the building does not appear to be designed for the purpose intended. The development would appear, therefore, as unwarranted development in the open countryside. 3. The application is contrary to Policy BE2 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that the building and silo would not have an adverse impact on the setting of the archaeological site of Our Lady's Church and Churchyard adjoining the application site.

- 5.4 Reference: 16/00136/FUL  
Proposal: Change of use from storage barn, alterations and extension to form dwellinghouse  
Site: Land and Storage Barn East of Flemington Farmhouse, West Flemington, Eyemouth  
Appellant: Mr And Mrs J Cook

Reason for Refusal: The proposed development is contrary to Policy D2 of the Consolidated Local Plan 2011 in that the building has no architectural or historic merit which would justify its retention by means of securing a non-rural agricultural use. In addition the level of intervention proposed to the fabric of the structure exceeds what would be regarded as a conversion of a non-residential building to dwellinghouse.

## 6 REVIEWS DETERMINED

- 6.1 Reference: 15/00890/PPP  
Proposal: Erection of dwellinghouse and upgrade access track  
Site: Redundant Water Treatment Works, North East of Broughton Place Cottage, Broughton  
Appellant: Mr Stewart Kane

Reasons for Refusal: 1. The proposal is contrary to Policy D2 - Housing in the Countryside and Supplementary Planning Guidance on New Housing in the Borders Countryside and Policy HD2 - Housing in the Countryside of the proposed Local development Plan in that the site for the new house is not within the recognisable building group at Broughton Place and it does not relate well to this group. 2. The proposal would be contrary to Policies D2 and G8 of the Scottish Borders Consolidated Local Plan 2011 and Policies HD2 and PMD4 of the Proposed Local Development Plan in that the stated need for the dwellinghouse would not justify the proposed development in this specific location. 3. The proposed dwellinghouse would be contrary to Policy D2 of the Scottish Borders Consolidated Local Plan 2011 and Policy HD2 of the Proposed Local development Plan in that satisfactory access and other road requirements cannot be met.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.2 Reference: 15/01498/FUL  
Proposal: Change of use from Class 4 (Office) to Class 2 (Beauty Therapy Salon)  
Site: Block 2 Unit 6 Cherry Court, Cavalry Park, Peebles  
Appellant: Ms K McFadzean

Reason for Refusal: The proposed change of use of the premises to Beauty Therapy Salon would be contrary to Adopted Local Plan Policy ED1 in that it is not a Class 4, Class 5 or Class 6 use, and the site (Cavalry

Park) is safeguarded for employment uses in the Adopted Local Plan, having more particularly been identified as a Strategic Employment Site; a designation which requires that all other uses be resisted. Further, the Beauty Therapy Salon would not constitute a complementary commercial activity or enhance the quality of the business park as an employment location, and as such does not comply with the Policy ED1 of the emerging Local Development Plan.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.3 Reference: 16/00041/FUL  
 Proposal: Removal of Condition 3 of planning permission 04/02011/FUL pertaining to occupancy of the dwellinghouse  
 Site: Craigie Knowe, Blainslie Road, Earlston  
 Appellant: Aileen Cockburn

Reason for Refusal: The establishment of a new residential property in an isolated rural location in the absence of any restrictions upon its occupancy for the purposes of ensuring that it would only ever be used to serve a specific business' identified operational requirements, would be directly contrary to the Council's rural housing policy; and specifically, Policy D2 of the Adopted Scottish Borders Consolidated Local Plan 2011 and the guidance of the approved Supplementary Guidance Note on New Housing in the Borders Countryside. Further, it is not considered that there are any material considerations - including the Applicant's supporting case and the advice and guidance of the SPP and Circular 4/1998 - that outweigh the need to determine this application in accordance with the Council's adopted Housing in the Countryside Policy. Accordingly the application is only reasonably refused.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Amendment to wording of planning condition)

## 7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 17<sup>th</sup> June 2016. This relates to sites at:

• Land South of Camphouse Farmhouse, Camptown, Jedburgh	• 5 East High Street, Lauder
• Land South of Primary School, West End, Denholm	•

## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

## 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 17<sup>th</sup> June 2016. This relates to sites at:

• 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	•

### Approved by

**Ian Aikman**  
Chief Planning Officer

Signature .....

### Author(s)

Name	Designation and Contact Number
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**Background Papers:** None.

**Previous Minute Reference:** None.

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

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