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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY 7 NOVEMBER 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, 7 NOVEMBER, 2016 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

31 October 2016

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	<p>Minute. (Pages 1 - 4)</p> <p>Minute of Meeting of 3 October 2016 to be approved and signed by the Chairman. (Copy attached.)</p>
5.	<p>Draft Supplementary Guidance & Draft Simplified Planning Zone Scheme - Central Borders Business Park, Tweedbank (Pages 5 - 74)</p> <p>Consider report by Service Director Regulatory Services. (Copy attached.)</p>
6.	<p>Applications.</p> <p>Consider the following application for planning permission:-</p>
	<p>(a) 16/00141/S36 & 16/00145/S36 - Fallago Rig 2, Longformacus (Pages 75 - 130)</p> <p>1. Erection of 12 additional turbines and associated infrastructure (ref: 16/00145/S36)</p> <p>2. Variation of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years (16/00141/S36) at Fallago Rig Wind Farm, Longformacus. (Copy attached.)</p>
	<p>(b) 16/00747/FUL - Peebles Nursing Home, Tweed Green, Peebles (Pages 131 - 142)</p> <p>Alterations and extension to Care Home, Peebles Nursing Home. Tweed Green, Peebles. (Copy attached.)</p>
	<p>(c) 16/00317/FUL - Hawthorn Bower, Tweed Avenue, Peebles (Pages 143 - 152)</p> <p>Erection of boundary wall with timber fence over and gates at Hawthorn Bower,</p>

	Tweed Avenue, Peebles. (Copy attached.)
(d)	16/00343/FUL - Priorsford, Tweed Green, Peebles (Pages 153 - 164) Increase in height of front (west) boundary wall, formation of opening in north boundary wall and installation of gates at Priorsford, Tweed Green, Peebles. (Copy attached.)
(e)	16/000792/FUL, 16/00793/FUL and 16/00796/MOD75 - 'Noanswood' and surrounding land at Orchard Farm by Hawick (Pages 165 - 172) 1. Removal of condition 1 (occupancy restriction) from planning consent 02/00456/OUT. 2. Removal of condition 1 (occupancy restriction) from planning consent 02/01656/REM. 3. Discharge of planning obligation pertaining to planning permission 02/00456/OUT.
(f)	Item No. 6 (f)- 16 00816 FUL# Land South West Of Carnethy, Medwyn Road, West Linton (Pages 173 - 180) Alterations to landscaping, access, fencing and garage location (amendments to previous consents 09/01098/PPP, 11/00983/AMC and 15/00531/FUL) on Land South West of Carnethy, Medwyn Road, West Linton. (Copy attached.)
(g)	16/00614/FUL - Todshawhaugh Farm, Roberton (Pages 181 - 188) Erection of agricultural building and formation of soil bund (retrospective). (Copy attached.)
7.	Appeals and Reviews. (Pages 189 - 194) Consider report by Service Director Regulatory Services. (Copy attached.)
8.	Any Other Items Previously Circulated.
9.	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

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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 3 October 2016 2016 at
10.00 a.m.

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

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 5 September 2016.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATIONS**

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

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 four appeals outstanding in respect of:-**

- (i) **Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles**
- (ii) **62 Castle Street, Duns**
- (iii) **Land North West of Whitmuir Hall, Selkirk**
- (iv) **22 Bridge Street, Kelso**

(b) **the Local Review Body had overturned the Appointed Officers decision to refuse the erection of dwellinghouse and garage, Garden Ground of Lindsfarne, The Loan, Gattonside – 16/00162/PPP**

(c) **there remained five reviews outstanding in respect of the following:-**

- (i) 5 East High Street, Lauder**
 - (ii) Field No 0328, Kilburn, Cardrona – 16/00494/FUL**
 - (iii) 62 Castle Street, Duns**
 - (iv) Land East of Langlee Mains Farmhouse, Galashiels**
 - (v) Field No 0328, Kilburn, Cardrona – 16/00495/FUL**
- (d) there remained two Section 36 appeals outstanding in respect of:**
- Land North of Nether Monynut Cottage (Aikengall (IIa)), Cockburnspath**
 - (Whitelaw Brae Wind farm), Land South East of Glenbreck House, Tweedsmuir.**

The meeting concluded at 10.40 a.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/00141/S36 & 16/00145/S36	1. Erection of 12 additional turbines and associated infrastructure (ref:16/00145/S36) 2. Variation of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of wind farm by a further 5 years (16/00141/S36)	Fallago Rig 2 Longformacus

Decision: Continued to the next available meeting of the Planning and Building Standards Committee to enable a site visit to be held.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/00043/FUL & 16/00058/LBC	Change of use from function hall and internal and external alterations to form 2 residential Flats	Orrock Hall Orrock Place Hawick

Decision: APPROVED planning application 16/00043/FUL, subject to the approval of the Scottish Ministers, a legal agreement addressing a contribution towards affordable housing and the following conditions:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. Notwithstanding the details indicated on the approved drawings, samples of the proposed new and replacement windows or details of the material, method of opening, glazing pattern, reflective glass and thickness and colour of the frames and astragals of all new and replacement windows to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.
Reason: To protect and enhance the character and appearance of the Listed Building and Conservation Area.
3. The flood mitigation measures contained within the agent's e-mail dated 26th August 2016 to be implemented as part of the development and following occupation of the flats.
Reason: To provide safe access and egress in the event that the surrounding area floods.

Decision: APPROVED Listed Building Consent application 16/00058/LBC, subject to the following conditions and informative:

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 development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

3. A programme of Historic Building Photography to be carried out before and during the works hereby approved. Photos should be clearly numbered and plans of the building annotated to reflect where photos were taken. Results to be submitted to the Planning Authority as a single pdf file in the form of a Historic Building Recording Report upon completion of the development and prior to occupation of the flats.
Reason: To preserve by record a building of historical interest.
4. Notwithstanding the details indicated on the approved drawings, samples of the proposed new and replacement windows or details of the material, method of opening, glazing pattern, reflective glass and thickness and colour of the frames and astragals of all new and replacement windows to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.
Reason: To protect and enhance the character and appearance of the Listed Building and Conservation Area.

INFORMATIVE

The Planning & Building Standards Committee in approving the application noted that the external walls of the building were showing signs of water staining. Members asked that the owners be reminded of their obligations to preserve the fabric of this category C listed building to ensure that its condition did not deteriorate. Members hoped that this approval would provide the catalyst for improvements to the external appearance of the building.

**DRAFT SUPPLEMENTARY GUIDANCE & DRAFT SIMPLIFIED
PLANNING ZONE SCHEME
CENTRAL BORDERS BUSINESS PARK, TWEEDBANK**

Report by Service Director Regulatory Services

PLANNING AND BUILDING STANDARDS COMMITTEE

7 November 2016

1 PURPOSE AND SUMMARY

1.1 This report seeks approval of Draft Supplementary Guidance (SG) and a Draft Simplified Planning Zone (SPZ) Scheme relating to the Central Borders Business Park at Tweedbank (Appendix A) to be used as a basis for public consultation.

1.2 The purpose of the Supplementary Guidance is to provide a framework vision for the future development of the sites which are allocated within the Scottish Borders Local Development Plan 2016. The purpose of the Simplified Planning Zone is to enable development to take place without the need for planning consent, provided the development complies with development parameters and conditions. It will create an employment led redevelopment, providing choice and quick delivery for businesses considering locating in this part of Scotland.

2 RECOMMENDATIONS

2.1 I recommend that the Planning and Building Standards Committee agrees to:

- a) Recommend approval of both the Supplementary Guidance and Simplified Planning Zone Scheme to Full Council as draft documents to be used as a basis for public consultation.**
- b) Agree to receive a report back following the consultation for both the Draft Supplementary Guidance and Draft Simplified Planning Zone Scheme.**

3 BACKGROUND

- 3.1 The Borders Railway 'Maximising the Impact: A Blueprint for the Future' states that the "Central Borders Business Park, located in Tweedbank, will be developed to respond to and capitalise on opportunities brought by the Borders Railway with the provision of new high quality office accommodation, suites and facilities. The current industrial park will be redeveloped with the refurbishment and reconfiguration of existing buildings which will provide modern manufacturing, office and other facilities to meet the needs of current and new businesses" (Scottish Government et al, November 2014).
- 3.2 The Local Development Plan 2016 identifies two Business and Industrial Safeguarding sites at Tweedbank, namely Tweedbank Business Park (north of Tweedbank Drive) (zEL59) and Tweedbank Industrial Estate (zEL39). A mixed use site (MTWEE001) lies immediately to the north. All three sites make up the Central Borders Business Park. The arrival of the Borders Railway offers a significant opportunity to create a high quality business park which both capitalises on the railway terminal and provides a supply of high quality business and industrial land for the Central Borders.
- 3.3 Working drafts of the draft documents were discussed at meetings of the Development Plan Working Group on 24 November 2015 and 29 June 2016.
- 3.4 This report was considered by the Planning and Building Standards Committee on 5 September 2016. It was agreed that consideration of the report be continued until the decision of Council on the final location of the Tapestry Building was known. Although the ultimate decision on the location of the Tapestry has not yet been confirmed, the possibility of it being located at Tweedbank cannot be ruled out. In any event, the possible Tapestry site at Tweedbank is outwith the boundary of the SG and SPZ and therefore reference to it has been removed.

4 SUPPLEMENTARY GUIDANCE

- 4.1 The Scottish Borders Local Development Plan 2016 takes forward the restructuring of the existing industrial estate, business park and mixed use site. The Draft Supplementary Planning Guidance has been prepared in order to lay down how the sites could be developed, creating a development vision, identifying opportunities the sites offer, highlighting potential constraints and encouraging high quality design and layout.
- 4.2 The Supplementary Guidance (SG) will provide guidance to any developer or any other interested parties and will be a material consideration in the determination of any planning applications. The SG must be read in conjunction with other Local Development Plan policies and guidance that encourage good placemaking and design. The SG has also informed the development of the Draft Simplified Planning Zone Scheme.
- 4.3 It is proposed that the Draft SG is subject to public consultation for a period of 12 weeks. Following consultation, it is intended that a report will be brought back to the Planning and Building Standards Committee as well as the Full Council to seek final agreement.
- 4.4 Once ultimately adopted by the Council, the Supplementary Guidance would be referred to the Scottish Government with the intention that it would achieve elevated status and would formally become part of the Adopted Local Development Plan 2016.

5 SIMPLIFIED PLANNING ZONE

- 5.1 A Simplified Planning Zone (SPZ) effectively grants planning permission in advance for specified types of development within defined areas. Within specified areas of the Central Borders Business Park the permitted uses would include business, general industrial, storage/distribution, hotel(s) and limited retail floor space within specific zones. Any development proposals which fall outwith the scope of the SPZ would have to apply for planning permission in the normal way. All proposals will require to go through the building standards process.
- 5.2 The aim of the SPZ is to assist in informing investment decisions as businesses and investors are able to establish with certainty and speed the acceptability of their proposals. The savings in terms of time, money and effort in considering these changes and the certainty offered by the SPZ status will help promote the Central Borders Business Park as a location to invest.
- 5.3 The SPZ offers scope to change the use of premises, build new premises and/or alter and extend existing buildings without the need for a formal planning application subject to their compliance with the detailed parameters and conditions detailed in the document.
- 5.4 The procedures for preparing SPZ Schemes, including publicity and public consultations, are set out in the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1995. Scottish Ministers are required to be notified of the intention to progress a SPZ Scheme. The Community Council will require to be consulted as well as the owners of land to be included in the Scheme. These procedures, amongst others, would be undertaken at the beginning of the 12 week consultation period of the SG. It should be noted, however, that objections to the Draft SPZ Scheme must be submitted within a period of six weeks from the date of the draft being advertised. Whilst the aforesaid Act requires that objections to the draft be submitted within a period of 6 weeks it would seem reasonable to extend this to 12 weeks to coincide with the Draft SG consultation period.

6 IMPLICATIONS

6.1 Financial

There are no substantive cost implications arising for the Council in respect of the Supplementary Guidance. In respect of the SPZ Scheme, the Council would forego the income accrued from planning application fees which would normally be required to be submitted for development within the SPZ zones. The Council would incur costs to implement the works associated with the Landscape Framework and the requirements identified within the Transport Statement. There is budget to cover the necessary consultation elements.

6.2 Risk and Mitigations

Risk of not producing guidance/SPZ Scheme

- a) The lack of guidance would cause uncertainty to developers and the public and be a barrier to effective decision making by the Council. This could result in ad hoc and inconsistent decision making with

policies in the Local Development Plan not being taken fully into account.

- b) Failure to produce the Supplementary Guidance would reflect badly on the Council's commitment to improve the design of new development through a placemaking approach and to promote the Central Borders Business Park as a key strategic and high quality site for businesses to locate.
- c) There may also be resource impacts within the Development Management section potentially resulting in delay in the processing of planning applications. In addition, it may ultimately impact on the quality of development and the thorough assessment of the environmental impact of development.

Risk of producing guidance/SPZ scheme

- a) There are no perceived risks related to the adoption of the guidance/SPZ Scheme by the Council. Adoption of the SPZ Scheme will provide economic benefits to the local economy, and hence the Council, from increased business rates and improved local employment opportunities.

6.3 Equalities

An Equalities Impact Assessment has been carried out on these proposals and it is anticipated that there are no adverse equality implications.

6.4 Acting Sustainably

a) **Economic Growth**

The proposed SG and SPZ Scheme will assist in promoting a strong, stable and sustainable economy which provides prosperity and opportunities for all.

b) **Social Cohesion**

The proposals contained within the proposed SG and SPZ Scheme will help to meet the diverse needs of people in the local communities.

c) **Protection of the Environment**

In accordance with the Environmental Assessment (Scotland) Act 2005 a screening assessment of the Supplementary Guidance has been undertaken in order to identify whether there will be potentially significant environmental effects. The screening exercise was undertaken using the criteria specified in Schedule 2 of the Act and no significant environmental issues were found.

6.5 Carbon Management – Climate Change (Scotland) Act 2009

It is not considered the Report brings any impact on the Council's carbon emissions.

6.6 Rural Proofing

It is anticipated there will be a neutral impact on the rural environment from the Supplementary Guidance/SPZ Scheme.

6.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes to be made.

7 CONSULTATION

- 7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.
- 7.2 The Chief Officer Economic Development, the Depute Chief Executive Place, the Corporate Transformation and Services Director, and the Service Director Assets and Infrastructure have also been consulted and any comments received incorporated into the final report.

Approved by

Service Director Regulatory Services **Signature**

Author

Name	Designation and Contact Number
Karen Ruthven	Planning Officer (Planning Policy and Access)

Background Papers:

- Transport Statement, Central Borders Business Park, Tweedbank Mott McDonald August 2016
- Arboricultural Assessment, Tree Preservation Order at Tweedbank Industrial Estate, Tweedbank
- Arboricultural Assessment, Trees at Tweedside Park, Tweedbank

Previous Minute Reference: This report was considered by the Planning and Building Standards Committee on 5 September 2016. It was agreed that consideration of the report be continued until the decision of Council on the final location of the Tapestry Building was known.

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 Jacqueline Whitelaw, Environment and Infrastructure, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk

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DRAFT SUPPLEMENTARY GUIDANCE (PART I)
DRAFT SIMPLIFIED PLANNING ZONE SCHEME (PART II)

CENTRAL BORDERS BUSINESS PARK
TWEEDBANK

INTRODUCTION

The Borders Railway ‘Maximising the Impact: A Blueprint for the Future’ states that the “Central Borders Business Park, located in Tweedbank, will be developed to respond to, and capitalise on, opportunities brought by the Borders Railway with the provision of new high quality office accommodation, suites and facilities. The current industrial park will be redeveloped with the refurbishment and reconfiguration of existing buildings which will provide modern manufacturing, office and other facilities to meet the needs of current and new businesses” (Scottish Government et al, November 2014).


Part I of this document is Supplementary Guidance (SG) which sets out the main opportunities and constraints of the business/industrial and mixed use land allocations at Tweedbank. It provides a framework vision for the future development of the sites which are allocated within the Local Development Plan (LDP).

Alongside the SG is a Simplified Planning Zone (SPZ) Scheme, forming Part II, which enables development to take place without the need for planning consent, provided the development complies with development parameters and conditions. It will create an employment led redevelopment, providing choice and quick delivery for businesses considering locating in this part of Scotland.


Both documents aim to encourage investment and an improved environment within the Business Park at Tweedbank, capitalising on the arrival of the Borders Railway.


Borders Railway


Maximising the Impact:
A Blueprint for the Future





BordersRailway
Edinburgh • Midlothian • Scottish Borders



The Scottish Government


Scottish Borders Council


Midlothian


EDINBURGH
THE CAPITAL, THE HEART


Scottish Enterprise


Visit Scotland

**DRAFT SUPPLEMENTARY GUIDANCE
CENTRAL BORDERS BUSINESS PARK, TWEEDBANK**



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CURRENT PLANNING POLICY & GUIDANCE

- **SCOTTISH PLANNING POLICY (SPP)**

Scottish Planning Policy promotes business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets. The planning system should allocate sites that are flexible enough to accommodate changing circumstances and allow the realisation of new opportunities.

- **STRATEGIC DEVELOPMENT PLAN (SESplan)**

SESplan is the Strategic Development Plan (SDP) for South East Scotland, including the Borders. It provides the strategic direction for regional land use policy for the period to 2032. The SESplan identifies a number of Strategic Development Areas (SDA), one of which is the Central Borders SDA, which includes Tweedbank. The SDP provides a means to support job creation through setting a Spatial Strategy for economic development with a focus on growing key sectors in a sustainable manner.

- **LOCAL DEVELOPMENT PLAN (LDP)**

The Local Development Plan incorporates various land allocations in Tweedbank, including business and industrial safeguarding, mixed use, key greenspaces and the Railway Station allocation. The LDP highlights that whilst there is a supply of land for business and industrial land within the Central Borders there is a need to provide an improved product so as to take advantage from the arrival of the Borders Railway. Therefore it is proposed to enhance the quality of the existing supply of industrial and business land at Tweedbank to provide for the anticipated demand. A number of policies included in the Local Development Plan will be applicable to this site including: Policy PMD1—Sustainability, Policy PMD2—Quality Standards, Policy ED1—Protection of Business and Industrial Land and EP13—Trees, Woodlands and Hedgerows.

- **CREATING PLACES AND DESIGNING STREETS**

Creating Places is a policy statement on architecture and place for Scotland. Designing Streets changes the emphasis of guidance on street design towards placemaking and away from a focus on the dominance of motor vehicles. The policy states that street design must consider place before movement and puts an emphasis on the creation of successful places through the creation of good street design.

- **PLACEMAKING & DESIGN SPG**

The aim of the SPG is to ensure that the Scottish Borders will be a quality place in which to live, providing attractive, sustainable towns and villages that are distinct and diverse. The SPG provides guidance in relation to successful placemaking and design principles and the impact this can have on the social and economic wellbeing of communities and the environment at large.



SITE CONTEXT & DESCRIPTION

SITE CONTEXT: The LDP takes forward the restructuring of the existing industrial estate and mixed use site to the east of the railway terminal. The Central Borders Business Park incorporates Tweedbank Industrial Estate and Tweedside Park which have many advantages and attractive development features. They are well located in terms of roads and footway access and are ideally placed to capitalise on the recent arrival of the Borders Railway. The sites have a good internal road layout, are serviced and benefit from a mature landscaping and screening scheme. The industrial estate is, however, suffering from an ageing and increasingly substandard building stock and the size and layout of both the buildings and external yard areas are not consistent with modern development requirements. There are therefore significant opportunities in the estates to create a high quality business park which capitalises on the railway terminal and provides a supply of high quality business and industrial land for the Central Borders.

Tweedbank village is a residential conurbation that was planned as a new village in 1970, located between Galashiels to the west and Melrose to the east. The settlement was planned to provide for residential expansion in the area as well as a new business and employment opportunity.

SITE DESCRIPTION: Tweedside Business Park (north of Tweedbank Drive) and the Tweedbank Industrial Estate are located within the eastern edge of the village. These are allocated for Business and Industrial Safeguarding within the LDP and are referred to as zEL59 and zEL39 respectively (see SG Plan 1). The recent completion and opening of the Borders Railway terminating at Tweedbank provides renewed interest and growth opportunity for these business areas along with the Mixed Use allocation (MTWEE001) to the east of the railway terminal (see SG Plan 1).

Tweedside Business Park (zEL59) and Tweedbank Industrial Estate (zEL39) provide important business and industrial land the wider area. The two adjacent business estates lie to the north of the A6091, with Tweedbank Drive bisecting the sites leading into the settlement centre.

SUPPLEMENTARY GUIDANCE: CENTRAL BORDERS BUSINESS PARK, TWEEDBANK

SG Plan 1: Local Development Plan 2016 Settlement Map—Tweedbank



SITE CONTEXT & DESCRIPTION

Tweedside Business Park was developed in 1989 and lies between Tweedbank Drive and the River Tweed. There are two sites within the Business Park which remain undeveloped, one located to the north west of the site and the other to the north east. The access road serves the various developed sites, including that occupied by the Scottish Public Pensions Agency, and parking provision.

Tweedbank Industrial Estate, built in the 1970s, is bordered by the A6091 to the south and Tweedbank Drive to the north. The site comprises a number of industrial units and vacant sites set within a relatively well established landscape setting. A number of components make up the estate, a triangular grouping of buildings and service yards to the north, a rectangular block of units to the south and perimeter developments to the east. Buffer landscaping is present adjacent to the roundabout, A6091 and the western edge of the site adjacent to existing housing and the Tweedbank Sports Complex. A loop road access arrangement serves the various sites from Tweedbank Drive.

The mixed use allocation to the east of the Railway Terminal is the site of a former quarry and is currently undeveloped.



View towards Business Park from Railway Terminus



View from Business Park towards Eildon Hills



Borders Railway Terminus



Scottish Public Pensions Agency Building, Tweedside Park



SITE OPPORTUNITIES & CONSTRAINTS

OPPORTUNITIES

- The location of the Borders Railway terminus at Tweedbank should act as a catalyst for the rejuvenation of the business park at Tweedbank, which is of high strategic importance in the Central Borders.
- The Business Park is highly visible from the A6091 which enhances the marketable profile.
- The sites benefit from transport links and connectivity between the railway terminal and major public and private employers within the area and wider community such as the Scottish Public Pensions Agency, Scottish Borders Council, Borders General Hospital, the Agriculture, Food and Rural Communities Directorate and the Animal Health and Veterinary Laboratories Agency.
- Transport links and connectivity to nearby tourist attractions, such as Abbotsford House, Melrose Abbey and Scott's View.
- Tweedbank is located within the Borders Strategic Green Network which consists of a network of green spaces and green corridors through, within and around settlements, linking open spaces within settlements to the wider countryside. They can assist in enhancing the biodiversity, quality of life and sense of place of an area. Furthermore, the settlement is surrounded by land protected by the Countryside Around Towns policy (EP6) of the LDP which aims to prevent piecemeal development, which would detract from the area's environment, and to avoid coalescence of settlements, thereby retaining their individual character.
- The sites are located within attractive boundaries whereby the structure planting undertaken when the estates were constructed in the 1970s and 1980s is now well established. A survey of all trees has been undertaken to inform possible pockets of land with development potential. These areas are identified within the Development Vision (SG Plan 2). Consent would be required to undertake any works to trees protected by the Tree Preservation Order (see SG Plan 5). The survey can also inform an ongoing future maintenance programme.
- Energy Efficiency—potential for energy generation on the site as well as opportunities for heat network development from waste water.
- The incorporation of a limited level of retail provision at the 'gateway' into the business park to serve both visitors to the area and users of the business park.
- The existing Tweedbank Sports Complex is located adjacent to the south western boundary of the Industrial Estate and includes an astroturf pitch, a 400m running track/athletics field and indoor bowls facility. There is an opportunity to improve access to this facility from both within the village and the business park.
- The implementation of a Simplified Planning Zone (SPZ) Scheme offers flexibility to businesses and encourages investment and rejuvenation of the existing business and industrial sites.
- Improved pedestrian and cycle links within the settlement as well as key linkages between the railway terminus and key existing employment sites such as Borders General Hospital and tourist sites such as Abbotsford House/Visitor Centre.
- Utilities generally follow the existing road network, the retention of the basic infrastructure alignments would avoid costly utility diversions. There is an aspiration to bring the southern part of the estate road, which is currently private, up to an adoptable standard.
- The development of a more integrated approach to public transport by linking buses to the new rail service. This would require coordination between the bus and rail operators.
- The site is visible from the A6091 to the south, for both vehicles and pedestrians/cyclists. Tweedbank is located within a sensitive landscape with the Special Landscape Area abutting the settlement to the south and east and the Eildon Hills feature as a prominent backdrop. The opportunity should be taken to reinforce this edge, which is currently defined by a post and wire fence, with appropriate planting, most likely with hedging.

- The industrial estate is suffering from an ageing and increasingly substandard building stock and the size and layout of both the buildings and external yard areas are not consistent with modern development requirements. This current situation offers an opportunity for the regeneration of the site, to provide a fit for purpose business park with improved architectural design and green infrastructure. There is the potential for higher densities of built form (than existing) on site.

CONSTRAINTS

- The location of significant gas and electrical infrastructure adjacent to the western edge of the Industrial Estate site. These high voltage supply lines are laid below ground and preclude development at this location.
- Careful consideration of potential impacts on the Special Landscape Area adjacent to the Business Park to the south (See SG Plan 4).
Existing trees within the Industrial Estate are protected by a Tree Preservation Order (see SG Plan 5). These trees have been the subject of a Tree Survey which is available as a background paper. It is intended that the Tree Preservation Order will be reviewed/amended.
- Development must protect the potential future extension of the railway line (See SG Plan 5).
- Since the opening of the Borders Railway in September 2015, passenger numbers have far exceeded those initially expected. As a result the railway terminal car park has regularly operated at capacity, with overflow parking encouraged temporarily in the adjacent Industrial Estate. Whilst it is accepted that passenger numbers may decrease after the initial surge in interest in the new Railway line, the parking levels provided are being assessed by Scotrail. A newly developed Business Park may potentially create more demand in the future. Additional provision may be required.

- The eastern most part of the Business Park is located within the National Inventory Battlefield—Battle of Darnick. This also adjoins the southern boundary of the Business Park (See SG Plan 5).
- Tweedside Park is immediately adjacent to the western most boundary of the Eildon and Leaderfoot National Scenic Area (NSA). The special qualities of the NSA must be given due consideration when assessing development proposals.
- There are limited social amenities within Tweedbank currently. The village offers a primary school, Gun Knowe Loch, a local shop, hairdressers, and bar/restaurant within the village centre but these are located a distance from the Business Park. There is also a Community Centre and an all weather sports complex which are detached from the other facilities.
- Any future extension of the railway line would impact upon some of the existing access links within the Business Park. This must be considered in respect of layout and access points.
- The Business Park is within varying ownerships which could act as a constraint when seeking to apply an overall scheme to improve the environment.
- The Council's Local Transport Strategy (2007/08) and more recently the Main Issues Report relating to the forthcoming Local Access and Transport Strategy (July 2015) identify a potential new road configuration at Tweedbank which would include the provision of a new road bridge at Lowood, replacing the existing Melrose Bridge (B6374). This would improve connection between Tweedbank and Melrose Road (B6374) in Galashiels removing pressure on the trunk road network (A6091) and on Abbotsford Road (A7) into Galashiels.

DEVELOPMENT VISION FOR THE CENTRAL BORDERS BUSINESS PARK

DEVELOPMENT VISION

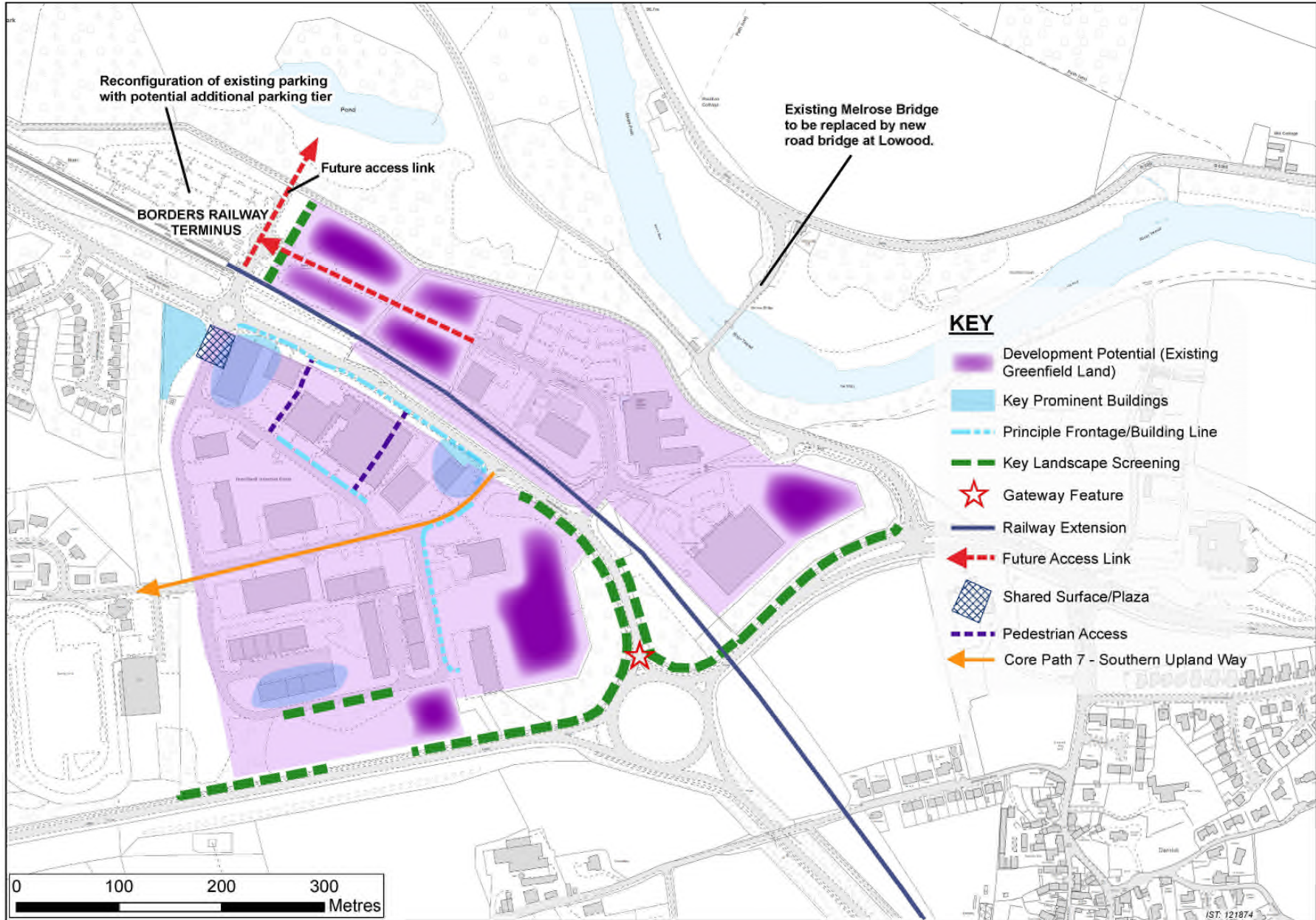
The aspiration is to develop a high quality business and industrial development that is not only sympathetic to the sensitive local context but is a flagship development for the Central Borders. The Development Vision should:

- ⇒ Optimise the opportunity for investment
- ⇒ Take advantage of the new investment of the railway
- ⇒ Create a setting that will encourage investment
- ⇒ Be sensitive to the landscape setting
- ⇒ Benefit Tweedbank as a whole as well as the individual land uses
- ⇒ Be low carbon

KEY PRINCIPLES

- Page 20
- A Focus initial development linked around the railway terminal/adjacent entrance to the business park to create a clear high quality gateway when accessing the business park from the railway terminal
 - B Create a people focused public space around this gateway to allow a safe pedestrian environment which is not car focused
 - C Development to follow a clear perimeter urban block arrangement with frontages placed onto defined building lines facing onto pedestrian friendly streets with internal parking courts behind
 - D Place individual 'signature' buildings at key locations to mark entrances and key routes
 - E Develop a suite of sensitively designed and located office buildings along the southern edge of the site , visible from the A6091 to mark and promote the business location to passing traffic but with a high quality landscaped edge
 - F The need for an overspill car park for the railway terminus to be monitored. This could be accommodated within existing boundaries of the railway terminus, partly through the restructuring of the existing layout and/or the provision of a further tier
 - G Create a low carbon built environment and infrastructure that will reduce carbon emissions
 - H Maintain a high quality landscape framework, improving upon and maintaining the existing structure planting taking into account the sensitive landscape context

DEVELOPMENT VISION FOR CENTRAL BORDERS BUSINESS PARK



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SG Plan 2: Development Vision

SITE CONSIDERATIONS

LDP SITE REQUIREMENTS

The LDP 2016 sets out the following in relation to the site allocations:

TWEEDBANK INDUSTRIAL ESTATE (zEL39):

- This is a strategic safeguarded business and industrial site as defined in Policy ED1. It is expected that it will become a Strategic High Amenity Site through the period of the LDP, whereby the restructuring of the existing Industrial Estate is necessary in order to promote the area as a high amenity estate through a more efficient use of land and buildings.

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Development on land immediately adjacent to the A6091 should be of high quality and design within the Class 4 use. Careful consideration would require to be given to landscaping, particularly along the southern edge of the site, in order to ensure an attractive edge to the business and industrial site.

TWEEDSIDE BUSINESS PARK (zEL59):

- This is a strategic high amenity safeguarded business and industrial site as defined in Policy ED1.

SITE EAST OF RAILWAY TERMINAL (MTWEE001):

- Access via existing Tweedside Park (zEL59) to the

east and from zRS1 to the west.

- Appropriate planting required on mutual western boundary with railway station.
- New site to be formed for mixed use purposes along with the restructuring of the existing landholdings within Tweedbank Industrial Estate.
- It is expected that the site would be developed for commercial mixed use. Housing would not be appropriate on this site, given it's proximity to the Railway Station (zRS1) and the business and industrial land to the east (zEL59).

LANDSCAPE CONSIDERATIONS

- Existing trees within the boundaries and on the perimeter of zEL39 are protected by a Tree Preservation Order. These trees were planted when the estate was first established and provide screening from Tweedbank Drive and the adjacent A6091 road as well as from the Melrose roundabout to the east. Further, trees to the north west and south west edges of the estate screen it from existing residential development and community facilities to the west.
- A survey of the trees has been undertaken and identifies potential areas for development, subject to the need for consent to undertake any work to the protected trees.

ENERGY EFFICIENCY

- In respect of the overall Central Borders Business Park, good, careful design at the outset will minimise the total energy demand for the lifetime of the development and encourage better standards of energy efficiency. Design considerations for the development will help to increase the efficiency of energy and water use. Siting of developments, their orientation and design should be considered to help reduce the energy demand of new buildings in addition to the building standards energy requirements. Opportunities for including an element of on-site renewable energy generation and water recycling will be encouraged, where it will be in accordance with the development parameters set out in the SPZ Scheme (See Part II).
- There is capacity for a local energy network by way of a district heating system. Buildings and open spaces should have renewables generation capacity. Heat recovery technologies would be key (water and air source) as well as photovoltaic and solar thermal. The potential for heat recovery from waste water should be explored.

SITE CONSIDERATIONS

VILLAGE CONNECTIVITY

- The main vehicular route through the village providing access to the sites is Tweedbank Drive, linking with the A6091 at either end of the village.
- Pedestrian connectivity within and through Tweedbank varies in definition and quality. A number of core paths and promoted paths lead through the village.
- 'Core Path 189: National Cycle Network—Route 1' runs adjacent to Tweedbank Drive and provides a key link between the railway terminus and beyond. Core and promoted paths within and adjacent to the sites must be maintained and enhanced where possible.
- The potential for new walking and cycling routes should also be considered where applicable.

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SG Plan 3: Village Connectivity



SITE CONSIDERATIONS

EXISTING UTILITIES

- Utilities generally follow adopted or road network routes. In order to avoid costly utility diversions, it is expected the existing basic infrastructure alignments will be retained. Of particular note in relation to considering future development, is the location of significant gas and electrical infrastructure adjacent to the western edge of the Industrial Estate. These high voltage supply lines are laid below ground and preclude development at this location.

TRANSPORT & ACCESS

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The potential future extension of the railway beyond its current terminus at Tweedbank must be considered. This would require the exclusion of development along the potential line as well as the reconfiguration of the entrance into the existing railway station car park. A Rail Route Protection Study (2015) undertaken by Mott MacDonald on behalf of Scottish Enterprise found that the extended railway line could extend under the existing road network at Tweedbank Drive/Tweedside Park which would suitably maintain access at this location.

A sympathetically designed footbridge would be required at the railway terminal to link with Tweedbank Drive in order to maintain a suitable access to the Business Park and beyond. An alternative access from the existing railway terminus into the Business Park to the east would require to be provided.

- A Transport Statement, undertaken by Mott MacDonald in August 2016, recommends that a holistic approach be applied to development of the area, including consideration and implementation of transport measures to facilitate sustainable access, which in turn will support the framework vision of this SG and Simplified Planning Zone. A summary of the key recommendations is contained within Appendix 3 of Part II of this document.
- Road and footpath connections to the adjacent road and path network are essential to encourage onward journeys to/from the railway terminus as well as important links within the business and industrial sites.
- The Border Weaver 'hop-on hop-off' bus service provides a useful link between the Borders Railway Terminal, local communities and visitor attractions. There appears to be an opportunity for a car/bike hire facility within the vicinity of the terminal to provide further opportunity for onwards journeys, particularly in view of the National Cycle Network which runs

- through Tweedbank.

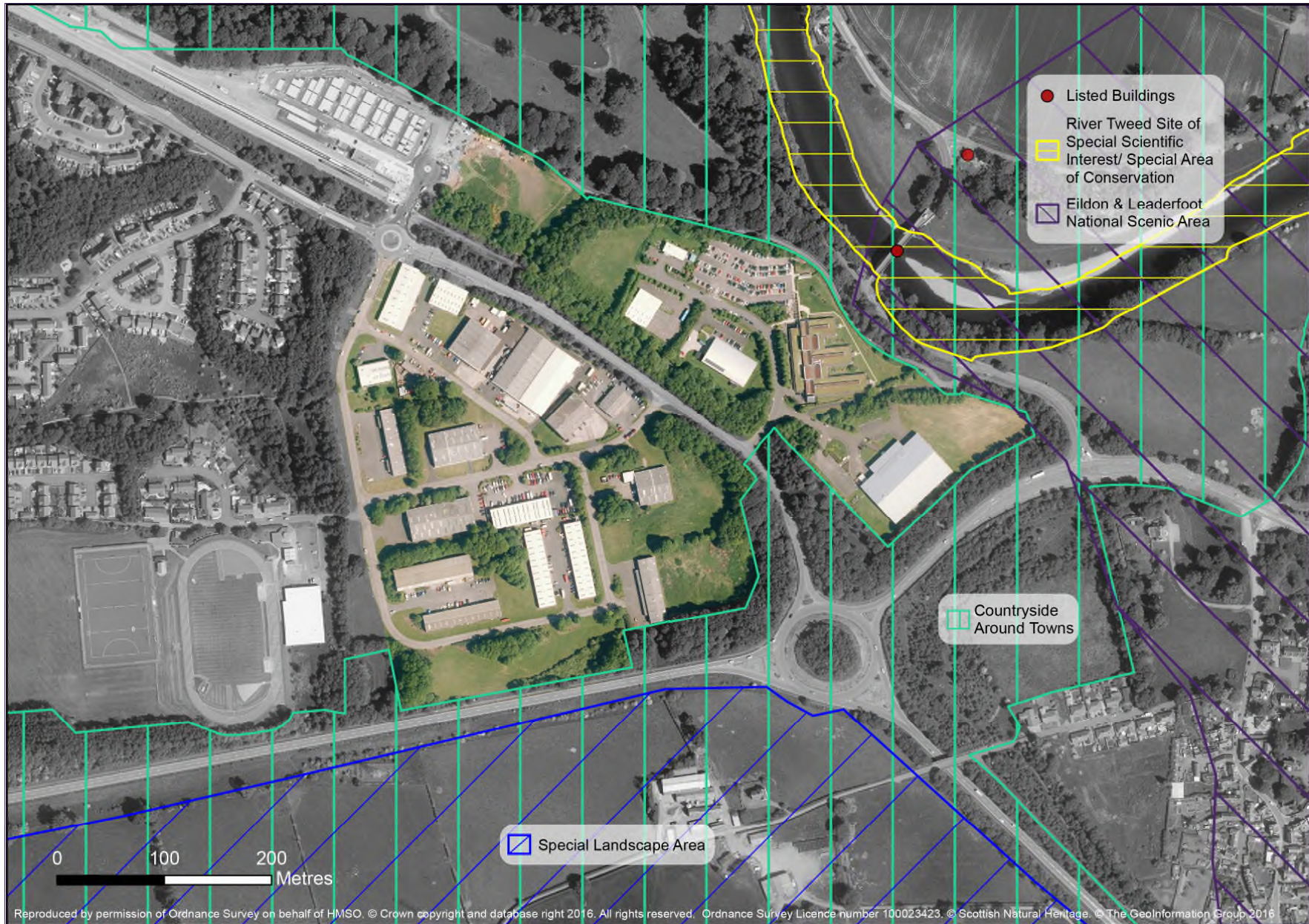
OTHER CONSIDERATIONS

- Tweedbank is located within the Borders Strategic Green Network which supports economic growth, tourism, recreation, the creation of an environment that promotes a healthier-living lifestyle, and the protection and enhancement of biodiversity, and will have the potential to improve the quality of the water environment, promote flood protection and reduce pollution.
- The eastern most part of the Business Park, off Tweedside Park, is within the National Inventory Battlefield of the Battle of Darnick. There would potentially be requirement for archaeological work within this area. The existing woodland defining the south eastern corner of the Industrial Estate is also within the National Inventory Battlefield. Whilst it is not considered that development within this area would be appropriate, any restructuring of the woodland would require to take this matter into account.
- Any issues relating to surface water flooding would require to be considered and addressed.
- Development must allow for the collection of waste, in line with the principles of Scotland's Zero Waste Plan and the Council's Waste Management Supplementary Guidance.

- Views into the Business Park must be considered, both in terms of the visual prominence of buildings and uses as well as any potential impact upon the sensitive landscape setting. Careful consideration must be given to the fleeting views into the southern part of the Business Park from the A6091.

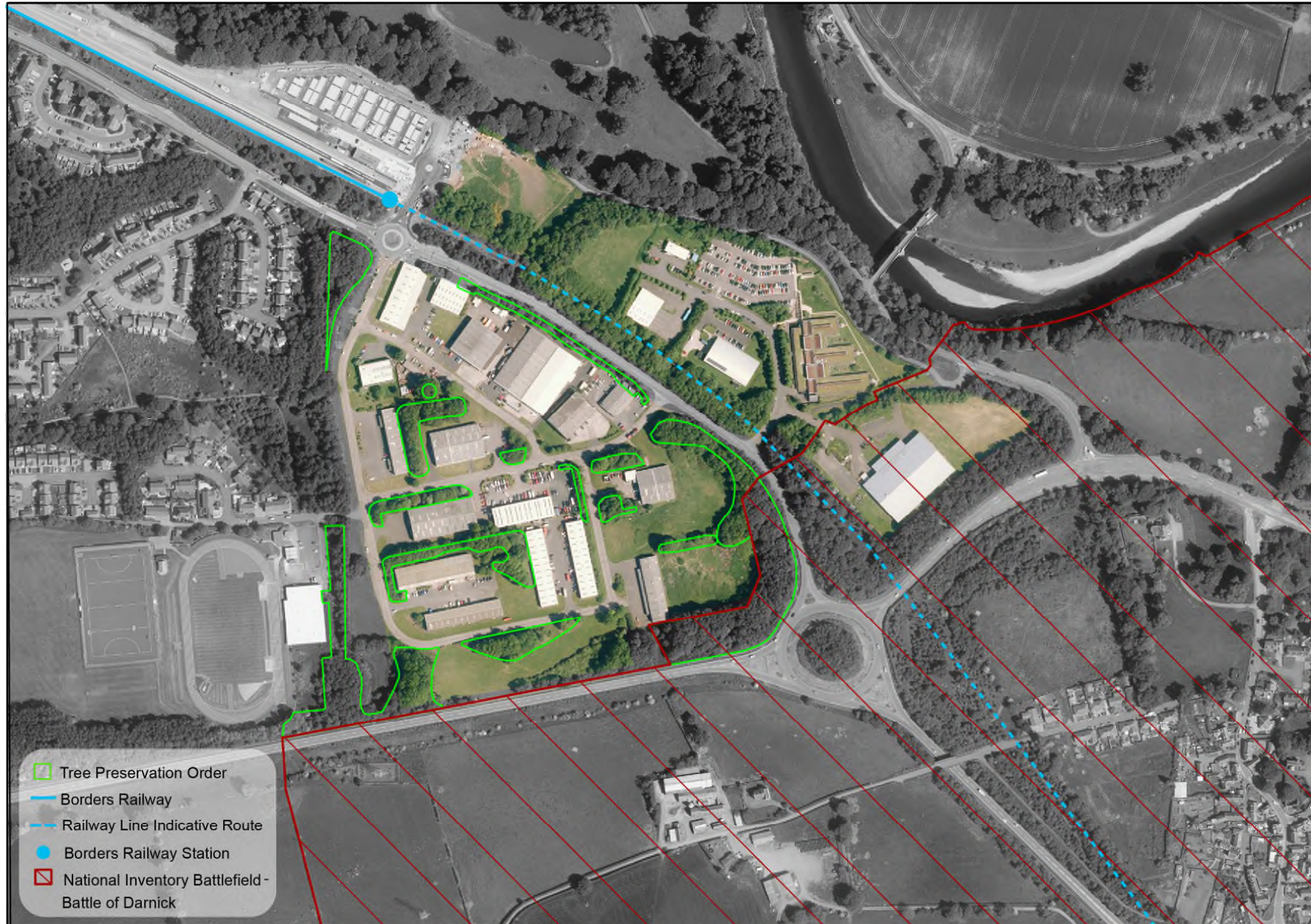
EXISTING SITE FEATURES & CONSIDERATIONS

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SG Plan 4—External Site Features and Considerations

EXISTING SITE FEATURES & CONSIDERATIONS



SG Plan 5—Internal Site Features and Considerations

SUBMISSION REQUIREMENTS

Part II of this document sets out certain instances in which development is permitted under the Simplified Planning Zone (SPZ) Scheme without the need for planning consent, subject to conditions and parameters.

WHERE THE SUBMISSION OF A PLANNING APPLICATION IS REQUIRED, THE FOLLOWING DOCUMENTS MAY REQUIRE TO BE SUBMITTED:

- Context study demonstrating an understanding of the local context
- Site photos: highlighting key views and how the design will respond to these
- 3D visualisation material: sketches or computer generated visualisations showing the development in context
- Design statement
- Energy statement
- Landscape plan
- Planting and landscape management scheme
- Drainage Impact Assessment - looking at impact on the catchment area and waste and surface water drainage solutions
- SUDS scheme for treatment of surface water run-off
- Transport assessment/statement
- Ecology assessment
- Archaeological evaluation and appropriate mitigation measures where necessary
- Developer contributions

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DRAFT SIMPLIFIED PLANNING ZONE SCHEME

CENTRAL BORDERS BUSINESS PARK

TWEEDBANK

Draft

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INTRODUCTION

WHAT IS A SIMPLIFIED PLANNING ZONE (SPZ)?

A Simplified Planning Zone (SPZ) is a defined area where the need to apply for planning permission is removed for certain types of development so long as the development complies with the details, conditions and guidance set out in the SPZ Scheme.

The SPZ Scheme offers flexibility to help businesses and industries grow and adapt as well as encourages new opportunities to locate within the Central Borders, whilst maintaining high standards of development, care for the built environment and for the sensitive landscape setting.

Under the Town and Country Planning (Use Classes) (Scotland) Order 1997 changes of use can occur without the need for planning permission. Under the Central Borders Business Park SPZ Scheme there is increased flexibility to change the use of properties. There is also scope to build new premises and/or alter and extend existing buildings without the need for a formal planning application subject to their compliance with the development parameters and conditions detailed in this document. The types of new/additional uses and new development that are approved within the SPZ area are set out in Stage 1 (pages 5 -12).

It is highlighted that if you propose to alter an existing building, erect a building or convert a building it is likely that the submission of an application for a Building Warrant will be required. This is a separate process which is not permitted by the SPZ Scheme.

It should be noted that the provisions of the SPZ Scheme do not affect existing businesses/users currently operating within the Business Park.

The aim of the SPZ is to assist in informing investment decisions as businesses and investors are able to establish with certainty and speed the acceptability of their proposals. The savings in terms of time, money and effort in considering these changes and the certainty offered by the SPZ status will help promote the Central Borders Business Park as a location to invest.

SPZ BOUNDARY

The provisions of this SPZ Scheme apply only to the area identified on the plan below (SPZ Plan 1). Areas outside of this boundary are subject to standard planning controls.

SPZ PLAN 1—SPZ AREA



SIMPLIFIED PLANNING ZONE SCHEME

SPZ DURATION

The provisions of this SPZ Scheme are valid for a period of **ten years** from the date of its commencement on **X**. Scottish Borders Council has the right to propose alterations to the Scheme including to add to, remove or otherwise alter the planning controls (see page 22).

HOW TO USE THE SCHEME

In using this SPZ Scheme there are three stages that require to be followed when proceeding with your development proposals within the Central Borders Business Park (see SPZ Figure 1).

Development is approved by this SPZ Scheme where it is in accordance with the development parameters (Stage 1), and complies with the conditions attached to the Scheme (Stage 2).

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SPZ FIGURE 1—OPERATION OF THE CENTRAL BORDERS BUSINESS PARK SPZ

Stage 1 | What type of developments are permitted?



The types of development and uses that are allowed by the Scheme and what still requires consent are set out in pages 6 - 12.

Stage 2 | Conditions and informatives



A number of standard planning conditions apply to the development proposals eligible under the Scheme along with additional information required by conditions.
There may be other matters you need to consider, such as the submission of an application for a building warrant or advertisement consent.
What additional information does the condition require?

Stage 3 | Notifications



Notify Planning Authority of development proposal in line with SPZ Scheme.
Notify Planning Authority of commencement and completion of development.

PLEASE NOTE THE SPZ SCHEME DOES NOT SEEK TO DISCOURAGE THE SUBMISSION OF FORMAL PLANNING APPLICATIONS FOR ANY OTHER USE UNDER NORMAL DEVELOPMENT MANAGEMENT PROCEDURES WHICH DO NOT FALL WITHIN THE REMITS OF THE SPZ SCHEME.

THE PROVISIONS OF THE SPZ SCHEME DO NOT AFFECT EXISTING BUSINESSES/USERS CURRENTLY OPERATING WITHIN THE BUSINESS PARK.

STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

SPZ ZONES

The SPZ has five zones:

Zone A: Mixed Use Zone—Zone A covers a mixed use site to the immediate east of the Railway Terminal. The Local Development Plan expects that the site will be developed for commercial mixed use purposes (housing would not be acceptable). Appropriate planting would be required along the mutual western boundary with the railway terminal, whilst allowing for pedestrian/vehicular permeability.

Zone B: Core Business Zone—Zone B covers Tweedside Park which is currently dominated by existing business uses. This zone will remain focused towards this type of use.

Zone C: Gateway Mixed Use Zone—Zone C is focused on the gateway into the Business Park from the railway terminal. This zone has a wider mix of uses, albeit some are restricted to a limited floorspace namely two units, each with a maximum floor area of 70m² (gross internal area) offering the opportunity for shop uses. Building heights in this area are less uniform and there is potential to reinforce the gateway character through the use of taller, landmark buildings. A shared surface / plaza is required at the access into the business park at the railways terminus roundabout in order to provide a setting for the key prominent buildings at this location and an attractive entrance feature.

Zone D: Tweedbank Industrial Estate—Zone D is a more traditional business and industrial site and the SPZ Scheme continues to safeguard this area for Class 4 (business), 5 (general industrial) and 6 (storage or distribution) uses to maintain its established function and protect it from inappropriate development that could undermine its existing and future operational capabilities.

Zone E: Tweedbank Industrial Estate Business Zone—Zone E will become a business focused zone with its more prominent location in respect of visibility from the Class A road to the south and on the entrance into the Business Park. The SPZ seeks to ensure high quality development at this location and gives careful consideration to planting along the southern boundary of the site in order to secure a degree of visibility but also an appropriate screen in view of the sensitive location of the site adjacent to the Special Landscape Area.

STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

WHAT TYPES OF DEVELOPMENT ARE APPROVED BY THE SPZ SCHEME?

Development is approved within the SPZ area subject to the development parameters set out in SPZ Table 2 and the text on page 11. This allows for certain changes of use, new buildings, external alterations and other minor works within the Central Borders Business Park. All development must also comply with the conditions attached to the Scheme (SPZ Table 3), the Design and Landscape Framework (Appendix 1), the Transport Design Guidance (Appendix 2) and Transport Statement (Appendix 3). Together, the development parameters and zoning of the Park will control the quantum of development and its location to ensure the main focus of the Park continues to be for business and industrial uses in accordance with Local Development Plan policies. SPZ Table 1 details the types of uses that are approved under this SPZ scheme, broken down into five zones and Plan 2 defines the boundaries of the zones. Page 11 details the types of new development, such as new buildings and extensions approved under this SPZ Scheme. A proposal for any other use or development type will not be permitted by this Scheme. **If you propose to alter an existing building, erect a building or convert a building it is likely this will require a Building Warrant application.**

SPZ Table 1

Zone	Uses and Developments Permitted
A	<p>Use Class 4—Business (e.g. Offices other than that specified under Class 2, research and development of products or processes, light industry*)</p> <p>Use Class 7—Hotels & Hostels (e.g. Hotel, boarding and guest house, hostel)</p>
B	<p>Use Class 4—Business (e.g. Offices other than that specified under Class 2, research and development of products or processes, light industry*)</p>
C	<p>Use Class 1—Shops (two units each with a maximum floor area of 70m²)</p> <p>Use Class 4—Business (e.g. Offices other than that specified under Class 2, research and development of products or processes, light industry*)</p>
D	<p>Use Class 4—Business (e.g. Offices other than that specified under Class 2, research and development of products or processes, light industry*)</p> <p>Use Class 5—General Industry (use for the carrying out of an industrial process other than one falling within the Class 4 (Business) definition)</p> <p>Use Class 6—Storage or Distribution</p>
E	<p>Use Class 4—Business (e.g. Offices other than that specified under Class 2, research and development of products or processes, light industry*)</p>

*Examples only, for a full list of uses please see The Town & Country Planning (Use Classes) (Scotland) Order 1997

SPZ PLAN 2—SPZ ZONES



STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

SPZ TABLE 2—DEVELOPMENT PARAMETERS

	Use Class	Parameter	Restrictions	Reason
DP1	Non classified (sui generis) - Sale and display of motor vehicles	Not permitted by the SPZ Scheme	Zones A, B, C, D & E—No development in Non-classified (sui generis): Sale and display of motor vehicles.	Non-classified (sui-generis): Sale and display of motor vehicles is not permitted by the SPZ scheme in the interests of protecting the strategic safeguarded and strategic high amenity safeguarded business and industrial sites.
DP2	Class 1 Shops	2 units each with a maximum floor area of 70m ² permitted in Zone C only	Zones A, B, D & E—No development in Class 1 permitted by the SPZ scheme. Zone C—Class 1 permitted by the SPZ scheme. No more than 2 contiguous Class 1 units are permitted by the SPZ scheme in Zone C.	Complementary uses that can support the viability and sustainability of the Business Park but are subject to specific controls to safeguard the main industrial and business function, and to avoid a scale of retailing that would normally be directed to town centres.
DP3	Class 2 Financial, Professional and Other Services	Not permitted by the SPZ Scheme	Zones A, B, C, D & E—No development in Class 2 permitted by the SPZ scheme.	Class 2 is not permitted by the SPZ scheme in the interests of protecting the strategic safeguarded and strategic high amenity safeguarded business and industrial sites.
DP4	Class 3 Food & Drink and hot food takeaway (sui generis)	Not permitted by the SPZ Scheme	Zones A, B, C, D & E—No development in Class 3 permitted by the SPZ scheme.	Class 3 is not permitted by the SPZ scheme in the interests of protecting the strategic safeguarded and strategic high amenity safeguarded business and industrial sites.
DP5	Class 4—Business	Permitted by the SPZ Scheme.	Zones A, B, C, D & E—Class 4 permitted by the SPZ Scheme.	To provide business floorspace as part of the Business and Industrial Land allocation in accordance with Local Development Plan policies.

STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

	Use Class	Parameter	Restrictions	Reason
DP6	Class 5—General Industrial and Class 6—Storage and Distribution	Permitted by the SPZ Scheme.	Zones A, B, C & E—No development in Class 5 and/or Class 6. Use Classes 5 and 6 are permitted by the SPZ Scheme in Zone D.	To provide a maximum quantum of general industrial and storage/distribution floorspace as part of the overall Business Park.
DP7	Class 7 Hotels and Hostels	Permitted in Zone A only	Zones B, C, D & E—No development in Class 7 permitted by the SPZ scheme. Zone A—Class 7 permitted by the SPZ scheme.	To direct this type of complementary use to Zone A to support users of the Railway terminal and the viability and sustainability of the Business Park.
DP8	Class 8 Residential Institutions Class 9 Houses Class 11 Assembly and leisure and theatre , motor vehicle or firearm sport (sui generis)	Not permitted by the SPZ Scheme.	Zones A, B, C, D & E—No development Classes 8, 9, and/ or 11 and non-classified (sui generis): theatre , motor vehicle or firearm sport	Classes 8, 9 and 11 and non-classified (sui-generis) theatre , motor vehicle or firearm sport is not permitted by the SPZ scheme in the interests of protecting the strategic safeguarded and strategic high amenity safeguarded business and industrial sites.
DP9	Class 10 Non-residential institutions	Not permitted by the SPZ Scheme.	Zones A, B, C, D & E—No development in Class 10 permitted by the SPZ scheme.	Class 10 is not permitted by the SPZ scheme in the interests of protecting the strategic safeguarded and strategic high amenity safeguarded business and industrial sites.
DP10	N/A	Not permitted by the SPZ Scheme.	Temporary buildings are not permitted within the SPZ boundary, unless with separate planning permission.	Temporary buildings are not permitted by the SPZ Scheme in the interests of amenity.

STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

Notes:

1. All measurements are in square metres (gross internal area) unless otherwise stated.
2. Units cannot be merged to form a larger planning unit where the resultant unit would be larger than the maximum permitted unit size identified for each zone, without separate planning permission.
3. Where existing floorspace is redeveloped the floorspace lost can be re-provided elsewhere within the SPZ area subject to compliance with the SPZ parameters.
4. The boundaries of the SPZ zones are shown in SPZ Plan 2.
5. Development activity and the parameter floorspace will be monitored throughout the Scheme and the Council will endeavour to publish an annual monitoring report of approved development. Developers are required to notify the Council of the commencement and completion of development using the forms in Appendix 4.

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STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

CHANGE OF USE

Change of use development is permitted provided that the proposed use and level of floorspace is within the provisions of the SPZ Scheme and is in accordance with the planning conditions.

CONSTRUCTION

New build and extensions development is permitted provided the proposed use and level of floorspace is within the provisions of the SPZ Scheme and is in accordance with the planning conditions, the Design and Landscape Framework (Appendix 1), Transport Design Guidance (Appendix 2) and Transport Statement (Appendix 3).

INFRASTRUCTURE

Development of infrastructure to support the functioning of the Business Park is permitted subject to compliance with the planning conditions, the Design and Landscape Framework (Appendix 1), the Transport Design Guidance (Appendix 2) and Transport Statement (Appendix 3). For the purposes of this SPZ Scheme, infrastructure proposals includes:

- New roads and pathways/cycleways and alterations to existing roads and pathways/cycleways, in both the private and public realms.
- New external lighting in both the private and public realm, and alterations to existing lighting.
- Infrastructure associated with the delivery of sustainable transport measures (examples include but are not limited to cycle parking, cycle docking stations, electric charging points, inductive charging points and bus stops/shelters).
- New waste storage and collection facilities, where these are strictly ancillary to the main use, or for the purpose of collecting waste in the public realm.

MINOR OPERATIONAL DEVELOPMENT

Minor operational development is permitted subject to compliance with the planning conditions and Design and Landscape Framework. For the purposes of the SPZ Scheme, minor operational development includes:

- Changes to the external appearance of buildings, including recladding, alterations to access, doors and windows
- Installation of plant to serve the existing or proposed building(s)
- Landscaping (including hard and soft materials) of individual plots
- Landscaping (including hard and soft materials, street furniture and public art)

DESIGN AND LANDSCAPE FRAMEWORK

The SPZ Scheme does not remove the requirement for good design or consideration of the built and natural environment. The Design and Landscape Framework (Appendix 1) for the SPZ is appended to this Scheme and must be considered in all development proposals, in accordance with the planning conditions.

STAGE 1 | WHAT TYPES OF DEVELOPMENT ARE PERMITTED?

WHAT STILL REQUIRES CONSENT?

Proposals Not Permitted by the Scheme

Proposals falling outside of the SPZ Scheme that require planning consent will be considered by way of a planning application and determined by the Council. Scottish Borders Council continue to welcome such submissions.

Permitted Development Rights

This Scheme does not affect existing permitted development rights afforded under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). The amended order, subject to specified criteria, allows for certain alterations and extensions to commercial properties and minor developments such as access ramps and the installation of vehicle recharging electrical outlets.

Any alterations or extensions to permitted development rights which may subsequently emerge through future regulatory change would also be available.

Other Consents

The SPZ Scheme relates only to planning permission. It is the developer's responsibility to ensure compliance with all other relevant legislation and requisite fees. **For example, separate approval will be required from the Local Authority for, if applicable, Building Warrants. Refer to page 19 for further guidance.**

Advertisement Consent

Proposals for signs and advertisements, unless having deemed consent, will require approval under the terms of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended) or its replacement.

Certain types of advertisement do not need permission under the regulations. As a guide you will normally need to apply for permission for most illuminated signs, advertisements using special structures for display such as poster hoardings and large signs or those positioned high up on buildings.

For a full list of advertisements which can be displayed without consent please see Schedule 4 of the Advertisement Regulations. The Advertisement Regulations are complex and it is always advisable to check the position with the Council's Development Management Section before proceeding.

STAGE 2 | CONDITIONS AND INFORMATIVES

PLANNING CONDITIONS AND INFORMATIVES

Development permitted by this SPZ Scheme is subject to planning conditions as shown in SPZ Table 3. Developers should note that some of the conditions are pre-commencement conditions, requiring details to be approved prior to development starting.

Where conditions require further details to be submitted to the Local Authority, Scottish Borders Council will endeavour to provide a response regarding the acceptability of the submitted information within 21 days of receipt.

It is the developer's responsibility to ensure that development is fully in compliance with these conditions and informatives.

VARIATION OR REMOVAL OF PLANNING CONDITIONS

Development carried out under the provisions of the SPZ must adhere to any relevant, applicable condition contained within the SPZ Scheme. There is no scope to vary or remove planning conditions attached to the SPZ Scheme other than in the circumstances when the Council choose to alter the Scheme.

Where developers wish to carry out development without complying with a condition contained within the SPZ Scheme, an application for planning permission must be submitted for consideration by the Council.

STAGE 2 | CONDITIONS AND INFORMATIVES

SPZ TABLE 3—SPZ CONDITIONS

1	All development shall comply with the parameters of the SPZ Scheme as set out in SPZ Table 2.	Reason: To ensure the development accords with the provisions of this Scheme.
2	All development shall accord with the terms of the SPZ Design and Landscape Framework, the Transport Design Guidance and Transport Statement as set out in Appendices 1, 2 and 3.	Reason: To ensure that all development accords with the terms of this Scheme.
3	For the avoidance of doubt, there shall be no retail from the Class 4, 5 and 6 units in the SPZ area. Any ancillary trade sales should be no more than 20% of the ground floor area of the unit.	Reason: To ensure that the main purpose of the site is retained for business and industrial uses.
4	Waste and recycling storage areas must be located away from principal frontages and be screened from the road.	Reason: To maintain and enhance the visual amenity of the area.
Page 44 9	Car and Cycle Parking	
	Car parking shall be provided in accordance with non-car accessibility Level D in the SEStran Parking Standards publication.	Reason: To ensure that adequate parking provision is made whilst encouraging the use of public transport.
	Provision shall be made for in the design of the development for the parking of cycles. This provision shall be safe, sheltered and secure in accordance with para 7.4 of Appendix 2—Transport Design Guidance. The cycle parking shall be available for use before the development is occupied and thereafter retained.	Reason: To ensure that cycle parking is available for the users of the development and to reduce reliance on the private car.
7	Car parking area(s) shall be permeable hardstanding with water attenuation, or other SUDS treatment as promoted in the SUDS For Roads Guide by SCOTS and SUDS Working Party. Loose material is not acceptable for any car park surface. Car parking spaces (each space measuring 2.5 x 5.0 metres) and aisles (6 metres wide) shall be clearly delineated on the ground. The car parking area(s) shall be available for use before the development/ the part of the development served by the car parking in question is occupied.	Reason: To attenuate drainage from the site in the interest of flood control; to keep the road free of loose material in the interests of pedestrian and vehicular safety; and to ensure that car parking is available for the occupiers/users of the development.
Contamination		
8	No development shall commence within Zone A until a detailed scheme to identify and assess potential contamination on site has been submitted to and	Reason: To Ensure that the potential risk to human health, the water environment, property and ecological systems arising from any identified land

agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the approved scheme. 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

contamination have been adequately addressed.

STAGE 2 | CONDITIONS AND INFORMATIVES

	required as part of the development construction detail, commencement must be agreed in writing with the Council.	
	Roads and Access	
9	No work shall commence on any works in respect of the formation, alteration or reconfiguration of a junction without the prior written approval of the planning authority. Fully detailed drawings of all proposed works shall be submitted for prior written approval and shall be developed in accordance with the design principles detailed in Appendix 2—Transport Design Guidance. The scheme thereafter agreed shall be implemented in full and in the approved manner.	Reason: To ensure that the standard of junction layout complies with the current standards and to minimise interference with the safety and free flow of traffic on the road network.
10	No fences or walls more than 900mm high which would affect driver visibility shall be erected within the visibility splay of a vehicular access.	Reason: To ensure that the access complies with approved standards in the interests of pedestrian and vehicular safety.
Page 46	Provision shall be made within the site for pedestrians and cyclists, in accordance with the Transport Statement (Appendix 3) of the Simplified Planning Zone Scheme and in agreement with the Local Planning Authority. The timeline for such provision shall be agreed in writing by the Local Planning Authority before the development is commenced.	Reason: To ensure a satisfactory level of provision for pedestrians and cyclists.
	Environment	
12	All development shall comply with the Design and Landscape Framework as set out in Appendix 1.	Reason: In the interests of the visual amenity of the area.
13	External lighting shall be provided in accordance with BS.5489, 1977. The lighting shall be installed for use before the development is occupied and shall thereafter be maintained.	Reason: In order to help make the site more secure.
14	The trees on this site which are covered by the Tree Preservation Order (SPZ Plan 3), shall be protected at all times during construction and building operations, by the erection of substantial timber fences around the trees, together with such	Reason: To ensure that adequate precautions are taken to protect trees during building operations.

STAGE 2 | CONDITIONS AND INFORMATIVES

14	<p>other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local 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.</p>	
Drainage and Flooding		
15	<p>No development shall commence within Zones D and E until surface water flood risk is assessed and precise details of surface water disposal have been submitted to and approved in writing by the Planning Authority and thereafter no development shall take place except in strict accordance with the approved details.</p>	<p>Reason: To ensure adequate drainage within the SPZ area and to ensure suitable mitigation of potential future flooding events.</p>
16	<p>The means of surface water disposal to be in accordance with Sustainable Urban Drainage principles 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.</p>	<p>Reason: To ensure that adequate and appropriate means are used in the disposal of surface water.</p>
Archaeology		
17	<p>No development shall take place within the National Inventory Battlefield— Battle of Darnick (part of Zone B and Zone E) until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist (s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If</p>	<p>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.</p>

STAGE 2 | CONDITIONS AND INFORMATIVES

	significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. 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.	
	Noise	
18	Any noise emitted by plant and machinery used on the premises 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 any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2. All plant and machinery 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.
	Odour / Air Quality / Pest Control	
19	No development shall commence until a plan for the management and control of potential nuisances (including odour, air quality, flies and other pests) that would be liable to arise at the development site as a consequence of and/or in relation to the operation or maintenance of plant, has first been submitted to, and approved in writing by the Planning Authority. Thereafter the approved nuisance control management plan shall be implemented as part of the development.	Reason - To ensure that the operation of the plant hereby approved has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties, by ensuring that all potential sources of nuisance are appropriately managed and controlled.

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STAGE 2 | CONDITIONS AND INFORMATIVES

INFORMATIVES

Developers must note that compliance with the conditions does not remove the requirement to obtain all other statutory consents. Informatives detailed below are a reminder for developers of some of the issues that they may need to consider.

SEPA

The applicant must consult the Scottish Environment Protection Agency concerning the proposed development, in respect of legislation administered by that organisation which is likely to affect proposed development.

Developers must be aware that early contact should be made with SEPA in order to ascertain whether the proposed development would be consentable under SEPA's regulatory regime, this is particularly the case for Class 5—General Industrial activities.

Phone: 03000 99 66 99 (Customer Enquiries)

Licensing

If you would like advice or help in making a new application for the grant of a license, or you would like to know whether you need a license for a particular purpose, please contact Scottish Borders Council's Licensing section:

Phone: 01835 826662

Building Standards

If you propose to alter an existing building, erect a building or convert a building it is likely that you will require a Building Warrant. A warrant will be granted if the proposals meet the requirements of the Building (Scotland) Act 2003. Application forms for a Building Warrant as well as guidance is available on Scottish Borders Council's website. For larger or more complex work, Building Standards will also provide preliminary advice in relation to the regulations.

Building Standards cover all aspects of construction as detailed within the Regulations and Technical Handbooks to:

- Secure the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings;
- Further the conservation of fuel and power; and
- Further the achievement of sustainable development.

Some work however, where it complies with the regulations and on certain building types, can be carried out without Building Warrant approval.

For further information please contact Building Standards:

Phone: 0300 100 1800

Drainage

The developer should consult Scottish Water in respect of legislation administered by that organisation which is likely to affect development.
Phone: 0800 077 8778 (Customer Helpline)

Road Construction Consent

Anyone who needs to build a new road or extend an existing road would require Road Construction Consent (RCC) from Scottish Borders Council. Please contact Scottish Borders Council's Roads Planning Service:
Phone: 01835 826641

Asbestos

There is a risk that existing buildings may contain asbestos. If asbestos is present, it should be disposed of by a licensed person(s) and the necessary precautions should be undertaken.

Tree Preservation Order

Trees within the existing Industrial Estate are protected by a Tree Preservation Order (SPZ Plan 3). Consent would be required from the Tree Officer of Scottish Borders Council to undertake work to or fell a protected tree.

Please contact Scottish Borders Council's Tree Officer:
Phone: 0300 100 1800

Ecology

Developers are reminded of their obligations under the provisions of the Wildlife and Countryside Act 1981 (as amended) and The Conservation (Natural Habitats) Regulations 1994 (as amended). This includes the requirement to undertake bat surveys prior to works that would affect trees and buildings, to undertake a breeding bird survey prior to any works that could affect vegetation during the bird breeding season, and to implement appropriate measures to control invasive species.

should be obtained prior to the commencement of works on site.

Scottish Natural Heritage

The developer should consult Scottish Natural Heritage in respect of potential licensing requirements for protected species.

Phone: 01463 725364

Email: licensing@snh.gov.uk

Advertisements

Any advertisement, other than that deemed within the terms of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, will require an application for advertisement consent (See page 12).

Land Ownership

The applicant is advised that the granting of planning permission through this SPZ Scheme does not remove the requirement to obtain consent from the owner to undertake the development and adjacent landowners in respect of any access required. Such consent

Draft

STAGE 3 | NOTIFICATIONS

NOTIFICATION REQUIREMENTS

Pre-development notification

Prior to the commencement of development under the provisions of the SPZ Scheme, it is the developer's responsibility to notify the local planning authority using the Pre-development Notification Form attached in Appendix 4.

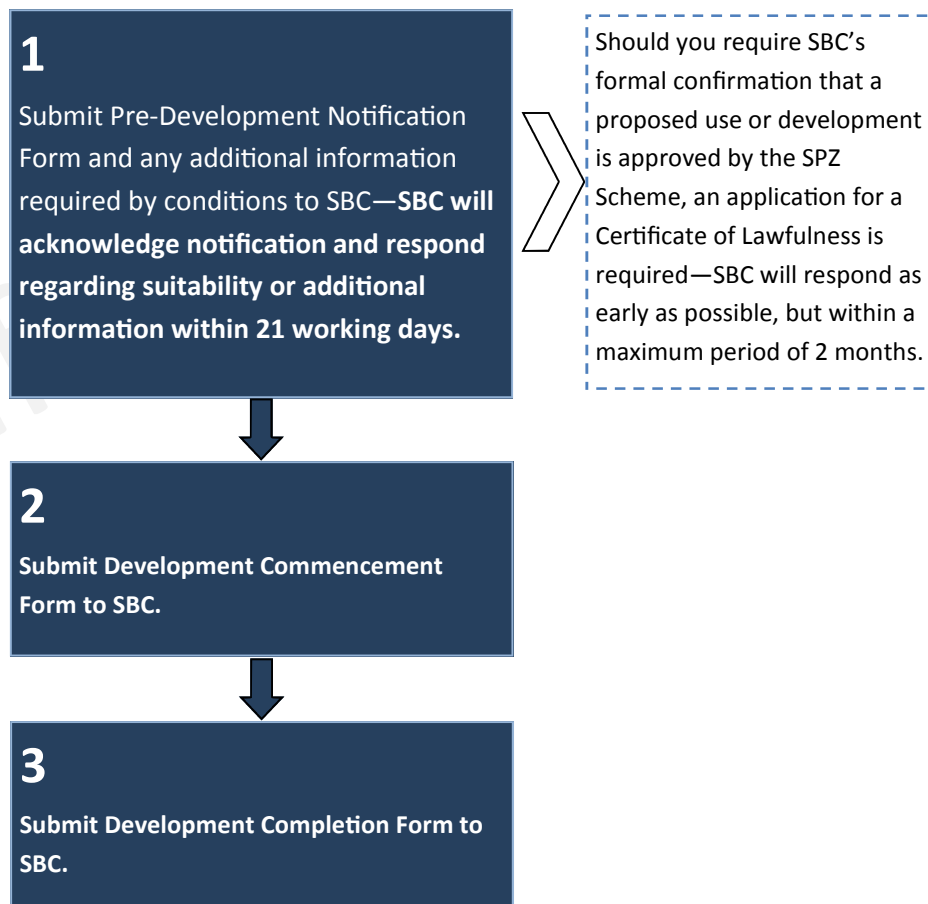
On receipt of a duly completed Pre-development Notification Form, the local planning authority will respond in writing within 21 days to acknowledge the development proposal. Failure to respond in writing within this period, or to request further information (with specified reasons) will be deemed to mean that the pre-notification requirement has been fulfilled.

It is important that accurate information is provided on this form to allow the Council to monitor development activity and ensure that development is in accordance with the SPZ development parameters. Failure to provide accurate information may lead to enforcement action being taken by the Council.

Commencement and Completion Notification

In addition to the Pre-development Notification Form developers are required to complete and return notification forms on commencement and completion of a development being carried out under the provisions of this SPZ Scheme (Appendix 4).

SPZ FIGURE 2—NOTIFICATIONS AND SUBMISSION OF INFORMATION



Miscellaneous information

Scheme Compliance and Rights of Appeal

Should prospective developers require SBC's formal confirmation that a proposed use or development is approved by the SPZ Scheme, an application for a Certificate of Lawfulness is required together with the requisite planning fee (Section 151 of the 1997 Act). SBC will endeavour to determine applications for a Certificate of Lawfulness in respect of the SPZ Scheme as early as possible, but within a maximum period of 2 months.

If the application is refused, the applicant will have the normal rights of appeal.

Environmental Impact Assessment

As set out in Circular 3/2011, any EIA development is explicitly excluded from SPZ Schemes.

Enforcement

If SBC considers that a development is in breach of the provisions of the SPZ Scheme, or other planning permission, the Council may take enforcement action. This action is undertaken at the discretion of the Council in accordance with SBC's Planning Enforcement Charter March 2014.

Monitoring Arrangements

For the SPZ Scheme to work efficiently, for outcomes to be measured and for it to achieve its primary objective of encouraging sustainable economic development, it is important that SBC are able to monitor the development activity. Using the information received through the pre-development notification process and the commencement and completion of development forms (Appendix 4).

Alteration of the SPZ Scheme

SBC intends that the SPZ Scheme will remain unaltered for the entirety of its period of operation (10 years). Under the provisions of Section 53 of the 1997 Act, however, the Council has the right to propose alterations to the Scheme including to add to, remove or otherwise alter the planning controls. In accordance with the regulations, alterations will be subject to further public consultation and will only come into effect 12 months from the date of adoption of the changes.

APPENDIX 1—Design and Landscape Framework

The Design and Landscape Framework for the Central Borders Business Park sets out criteria, parameters and guidance to deliver a successful place, that is locally distinctive, well designed, interconnected, accessible, a place of diversity, opportunity and a place to invest.

This Framework is designed as a working tool for developers to achieve a high quality built environment that integrates well with the area in terms of pedestrian and transport links. The Design and Landscape Framework sets standards on landscaping, layout and design to foster a dynamic business and commercially attractive environment that can offer opportunities for economic growth.

This framework should be read alongside the SPZ Scheme, with particular attention to its planning conditions.

HOW TO USE THE DESIGN AND LANDSCAPE FRAMEWORK

All developments must be considered against the guidance set out in this Design and Landscape Framework to ensure that the vision for the SPZ Scheme can be realised and maintained.

The Design and Landscape Framework is divided into the following sections:

- Sustainability
- Placemaking & Design
- Landscape Framework

SUSTAINABILITY

- Siting of developments, their orientation and design should be considered to help reduce the energy demand of new buildings in addition to the building standards energy requirements.
- Opportunities for including an element of on-site renewable energy generation and water recycling is encouraged, where it will be in accordance with the development parameters.
- There is capacity for a local energy network by way of a district heating system.
- Buildings and open spaces should have renewables generation capacity. Heat recovery technologies would be key (water and air source) as well as photovoltaic and solar thermal. The potential for heat recovery from waste water should be explored.

PLACEMAKING & DESIGN

Layout

- The position of new or extended buildings should respect existing building lines or establish new strongly defined building lines as set out in the Development Vision (SG Plan 2 of the Supplementary Guidance, page 11).
- The layout and positioning of new or extended buildings should allow for future development and be compatible with existing uses so as not to cause any unacceptable environmental impacts including loss of amenity or adverse effects on neighbouring properties in terms of the use, scale, noise, smell, traffic, hours of operation, vibration, dust or other general disturbance.
- Provision will be made for landscaping, screening and servicing in line with the Landscape Framework.
- Service yards, parking, refuse and storage space will be, where possible, located out of sight of surrounding roads or screened from view.
- Parking provision must meet the standards as set out within Appendix 2, para 8.0.

- Car parking areas will be designed to ensure that they are softened by landscaping but are also visible from the buildings to ensure security and safety.
- Developments should maximise the amount of permeable surfaces with suitable water attenuation measures to minimise surface water run-off.
- New developments will, where possible, ensure access to or connect to walking, cycling and public transport routes.

Building Design

- The use of distinctive building designs, roofscapes, exemplar quality materials with at least 50% of the frontage glazed is encouraged on the buildings located within the areas identified as 'Key Prominent Buildings', as identified within the Development Vision (SG Plan 2 of the Supplementary Guidance, page 11).
- Buildings will be designed to face the street with main entrances to the buildings visible from the road and adjoining footways.
- All building/structure heights (other than boundary treatments which will comply with the layout criteria) will not exceed two storeys, up to a maximum of 7 metres in height. This is with the exception of the 'key prominent buildings' at the entrances into the industrial estate as identified within the Development Vision of the Supplementary Guidance which could be up to three storeys, up to a maximum of 10 metres in height.
- Roofscapes should be of simple design to ensure consistency of ridge lines and heights throughout.
- The position of chimneys, flues or other external plant and equipment should be located at the least visible locations/positions, screened from view and should not protrude any more than one metre above the roofline.
- All developments will, wherever feasible, consider incorporating renewable or low carbon technology into the building design or layout.
- Elements such as street lighting, paving, landscaping and street furniture should have a unifying theme throughout the SPZ area.
- Boundary walls and fencing along the frontage of developments must not exceed 1.2metres in height (subject to compliance with condition 10) and should be of a material and design appropriate to the area.

- Plaza /shared surface arrangement between the key prominent building site to the south of the Railway Terminus and existing Eildon Mill site in order to provide setting to the buildings.
- It is possible that parking for the key prominent building to the west of the Eildon Mill site will need to be incorporated within the Eildon Mill site.
- The public realm outside the key prominent building to the west of the Eildon Mill site should extend across the road to create a large, clear, open and safe high quality public space making a clear connection between the building and it's parking area.

APPENDIX 2—Design and Landscape Framework

LANDSCAPE FRAMEWORK

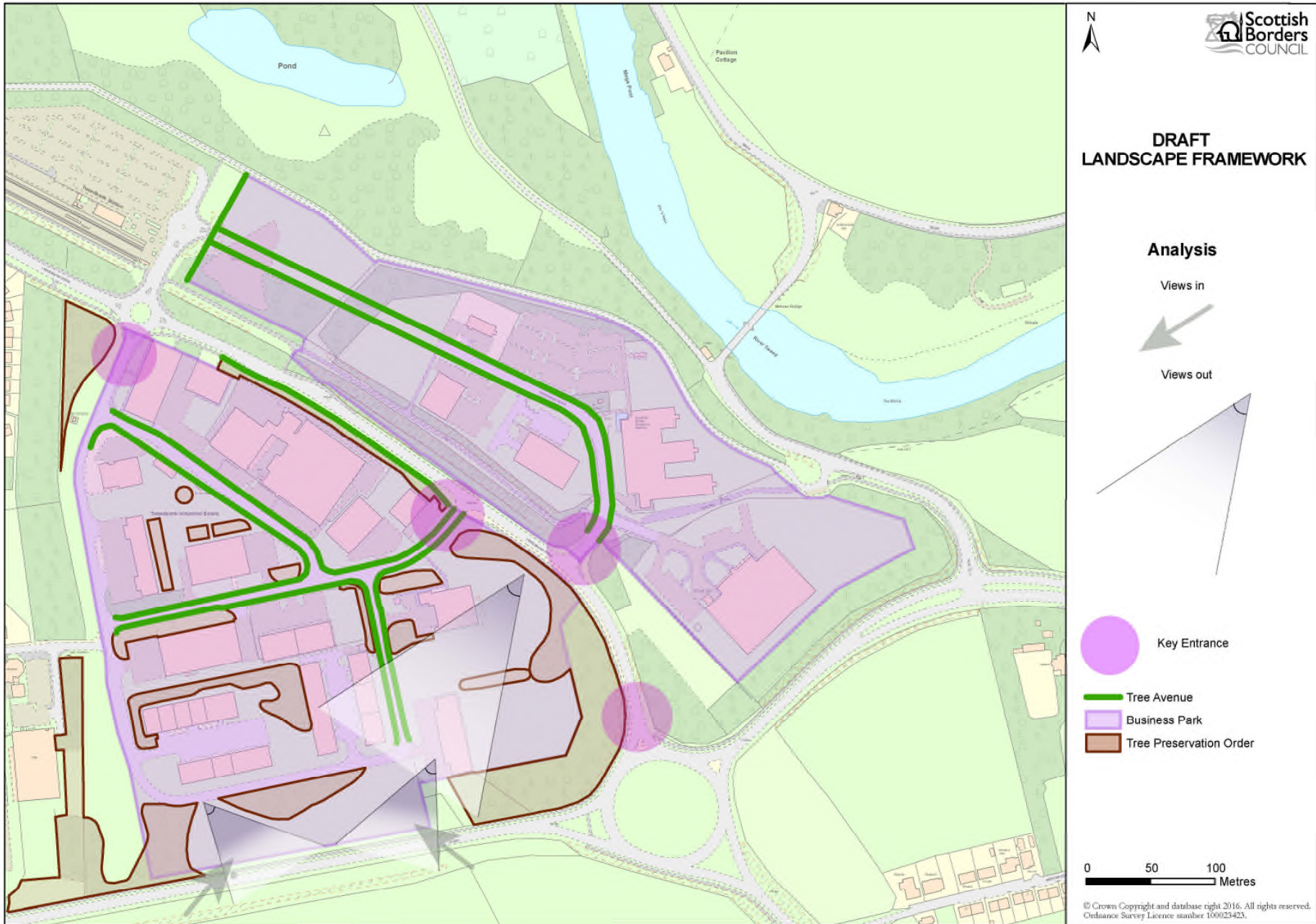
The Landscape Framework will be considered in conjunction with the Design Framework.

The landscape framework includes the following, these will be considered in relation to **all developments** within the SPZ area:

- Trees covered by the Tree Preservation Order (TPO) — consent will be required to undertake any works to the protected trees as detailed in SPZ Plan 3.
- A single entrance feature at the easterly entrance to Tweedbank to raise the profile and prominence of the Central Borders Business Park, as set out within the Development Vision (SG Plan 2 of the Supplementary Guidance, page 11).
Improved and co-ordinated entrance gateways at the three entrances off Tweedbank Drive as set out in SG Plan 2 of the Supplementary Guidance, page 11.
- In respect of the existing woodland structure, the Tweedbank Industrial Estate and adjacent Tweedside Park benefit hugely from a well-developed woodland structure, much of which is protected by a TPO, which it will be essential to maintain. It should remain a key part of the landscape framework along the edges of the Central Borders Business Park but internally, with the consent of SBC's Tree Officer, there may be scope to undertake works to existing trees.
- A new layer of avenue tree planting along the internal access roads will add another structural landscape element to this business park landscape. The value of avenue tree planting is the relatively limited land take associated with trees, their visual permeability (into site), while still providing a vertical element in the landscape when viewed moving through the landscape. The tree avenues, as set out in SPZ Plan 3, will, where appropriate take into account existing structural tree planting and

build on it rather than replace it e.g. avenue tree planting and beech hedging along both sides of Tweedside Park.

- A subordinate, but no less important, layer of ground cover planting adding a low level horizontal element to the landscape. This groundcover planting will be a simplified version of what has been in place and is now seen as tired and over mature. Beech planted as a single species groundcover will establish through annual maintenance into a block which offers simplicity of form and colour, alternating between a delicate green foliage from May to October and a rich bronze foliage throughout the winter period. The beech block planting can be used strategically, where this is desirable, to limit views and screen at a low level.



APPENDIX 2—Transport Design Guidance

1.0 Introduction

- 1.1 The layout of the existing Business Park is focused primarily on the movement of vehicles. Following the restructuring of the Business Park it is expected there will be a more equal balance between placemaking and movement, where placemaking provides an environment for social interaction and an improved pedestrian setting. Whilst the existing road layout is satisfactory for the most part, there is an opportunity to improve pedestrian/cycle links within the sites.
- 1.2 This guide has been produced to provide advice to prospective developers and occupiers. It does not require a standards based approach to design. Rather it provides a framework which is a guide to development. It refers to **Key Reference Documents** where necessary. Designers are encouraged to consider a design led approach in the context of the ethos for the sites including ensuring the correct balance between place and movement.
- 1.3 Any development which accords with the minimum guidance as set out in this Appendix is acceptable and does not need to be approved by the Local Planning Authority (LPA). If any development departs from this guidance but is in accordance with other local adopted guidance at that time then this does not need to be approved by the LPA. However, if the developer cannot achieve the minimum standards then they will be required to seek specific approval from the LPA.
- 1.4 The Simplified Planning Zone (SPZ) allows permission for the principle of new accesses across the Business Park, where they are required, but the detailed design of the access will need approval under Section 56 of the Roads (Scotland) Act 1984. Vehicular access from a public road or prospective public road should generally be taken via a dropped kerb footway crossing.

Key Reference Documents

- 1.5 Established guidance is contained within the following:
- Designing Streets, or its most recent successor
 - The National Roads Development Guide (SCOTS), or its most recent successor
 - Manual for Streets (1 and 2), or the most recent successor of these documents
 - SEStran Parking Standards
 - Cycling by Design 2010 (Transport Scotland)
 - SUDS for Roads and the SUDS Working Party (SCOTS)
 - Roads for All: Good Practice Guide for Roads (Transport Scotland)
- 1.6 The advice set out in this Appendix clarifies the way in which the aforesaid guidance is applied to the land within the SPZ area.

2.0 Place and Movement Hierarchy

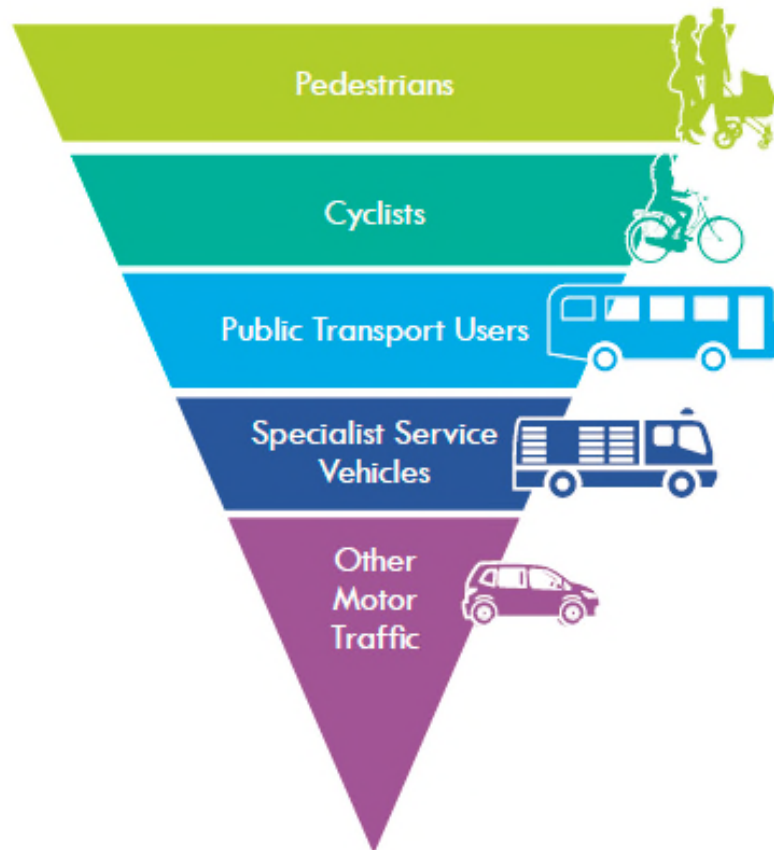
Place Hierarchy

2.1 The balance between place and movement changes with location, as described within the SPZ Zones on Page 5 of the SPZ.

User Hierarchy

2.2 The balance between place and movement changes with location however the user hierarchy remains the same and at all times within the Central Borders Business Park pedestrians and cyclists should be a primary consideration in the design of the park. Across the site all streets will be designed according to the user hierarchy shown below.

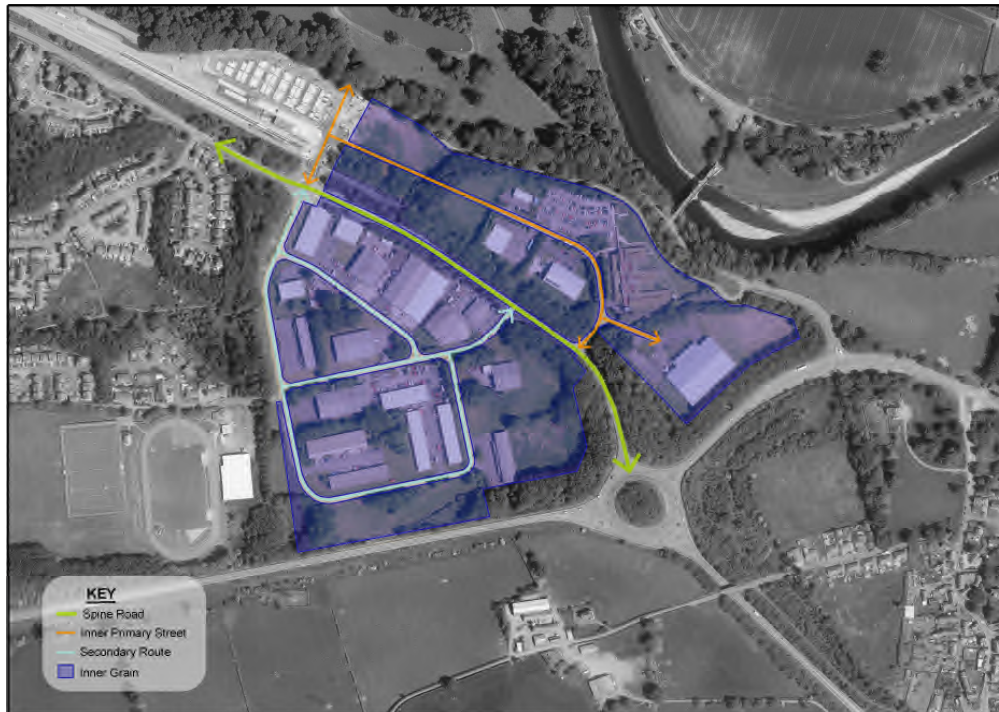
SPZ FIGURE 3—Design Hierarchy



Movement Hierarchy

2.3 Plan 4 shows the types of street within the Central Borders Business Park and these are described in SPZ Table 4.

SPZ Plan 4—Hierarchy of Streets



SPZ Table 4—Description of Street Hierarchy

Road Type	Name	Description
Spine Road	Tweedbank Drive	Main road though the Central Borders Business Park, providing the key access to the Railway Terminal from the A6091 and the Business Park itself. Provides access from the main external roads for movement of all modes including Heavy Goods Vehicles and Public Transport.
Inner Primary Street	Railway Station Access Road Tweedside Park	The streets are key routes within the Business Park which provide access to/from key development plots. The inner routes have high levels of pedestrian activity and should be designed at a pedestrian scale to prioritise non-vehicular movement and increase safety within the park.
Secondary Routes	All other streets	These streets are access routes to individual plots but are likely to be used by larger vehicles and are to be designed to prioritise pedestrians and cyclists.

3 Street Widths

3.1 The aim is to minimise carriageway width where there will be a significant pedestrian movement. Minimising width will minimise intimidation and contribute to a pedestrian scale. However, roads also need to be functional and serve the industrial and business movements. SPZ Table 5 sets out guidance on minimum carriageway widths for road types for the general areas within the SPZ.

SPZ Table 5—Street Widths

Road Type	Minimum Street Widths
Spine Road (Tweedbank Drive)	Existing width (no change)
Railway Station Access Road	Existing width (no change)
Tweedside Park	Existing width (no change). The future road linking Tweedside Park with the Railway terminal would be 7.3m wide as per the existing width of the carriageway.
Secondary routes	All other existing roads are 7.3m wide (carriageway) and there is scope to reduce this width to 6.3m on straight lengths of road and further to 5.5m for identified pedestrian crossing areas. Full detailed drawings of such carriageway narrowing shall be submitted to Scottish Borders Council for prior written approval. Thereafter the Scheme shall be implemented in full in the approved manner.

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3.2 There will be exceptions to the minimum carriageway widths as shown in SPZ Table 6 below.

SPZ Table 6—Street Width Exceptions

	Exceptions
1	Minimum widths are appropriate but when plots are developed the nature of development should be considered.
2	At all junctions and turning areas road widths should be checked using swept path analysis to ensure vehicles do not overrun the footways/cycleways. In areas where overruns are possible then design solutions should be provided.
3	On roads with dedicated on street cycle lanes the carriageway should be wider than the minimums identified above.

4.0 Speed Limits

4.1 SPZ Plan 5 shows the speed limits that are proposed to apply within the SPZ, and on which road design and forward visibility are based.

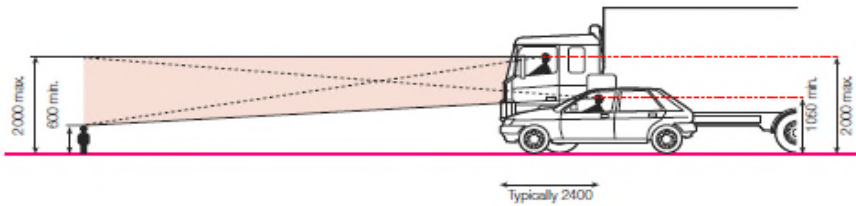
SPZ Plan 5—Proposed Speed Limits within Tweedbank Industrial Estate and Tweedside Business Park



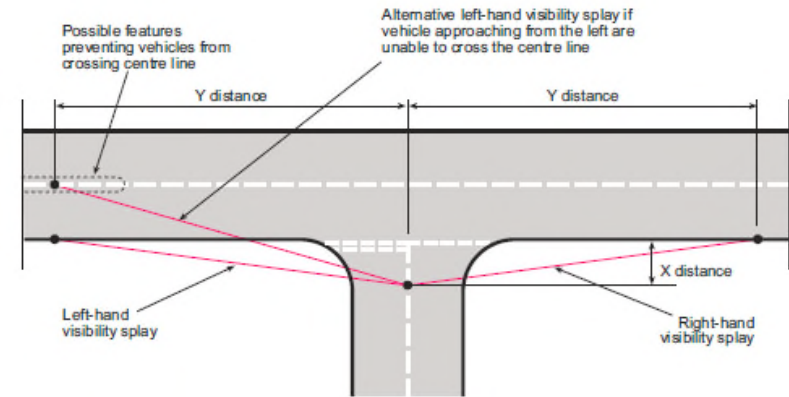
5.0 Highway Visibility

5.1 Vertical visibility, forward visibility and visibility at junctions, will be in accordance with SPZ Plans 6, 7 and 8 respectively. The forward visibility distance for bends in the road and Y distance for junction visibility splays will be to the stopping sight distance (SSD) values adjusted for bonnet length in SPZ Table 7. The X distance required for junction visibility splays is 2.4m.

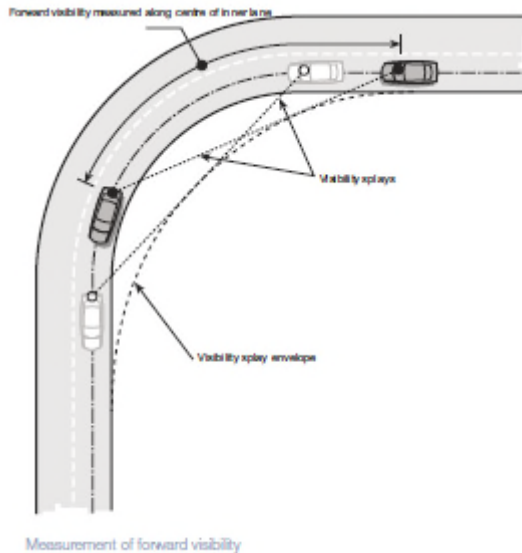
SPZ Plan 6—Cross Section of Vertical Visibility Envelope



SPZ Plan 7—Visibility Splays



SPZ Plan 8—Forward Visibility



SPZ Table 7—Stopping Sight Distance (SSD)

Speed	Kilometres per hour	16	20	24	25	30	32	40	45	48	50	60
	Miles per hour	10	12	15	16	19	20	25	28	30	31	37
	SSD (metres)	9	12	15	16	20	22	31	36	40	43	56
	SSD adjusted for bonnet length	11	14	17	18	23	25	33	39	43	45	59

6.0 Junction Spacing

- 6.1 On Tweedbank Drive the number of junctions will be limited in the interests of prioritising movement. Away from this street, there is less restriction on the number of junctions, or junction spacing.
- 6.2 The need for junctions will need to consider a range of factors such as need for access, impact of that access, interaction between junctions and the effect on road safety and user delay.
- 6.3 In relation to any new accesses, the SPZ allows permission for the principle of new accesses across the Central Borders Business Park, where new accesses are required, but the detailed design of the access will need approval under Section 56 of the Roads (Scotland) Act 1984.
- 6.4 SPZ Table 8 provides guidance on junction access spacing per area and is based on the visibility splays shown at SPZ Plan 7.

SPZ Table 8—Junction Spacing

Road Type	Guidance
Tweedbank Drive and the Railway Terminal access road	New junctions will only be allowed through consultation with the Local Roads Authority
Tweedside Park	Minimum 43m
All other streets	Minimum 25m

- 6.5 It should be noted that any departures from the minimum junction spacing in SPZ Table 8 above will be allowed as long as the developer accords with the guidance in the Key Reference Documents. If the developer is not able to accord with either the guidance in SPZ Table 8 or the Key Reference Documents then they will be required to reach agreement with the LPA.

7.0 Pedestrians and Cyclists Provision

- 7.1 'Roads for All: Good Practice Guide for Roads' by Transport Scotland details requirements for inclusive design in the construction and operation of road infrastructure. This guidance will apply for the road infrastructure in the Central Borders Business Park.
- 7.2 Cyclists should be able to share both road carriageways and pedestrian routes.

- 7.3 New routes for pedestrians and cyclists will be a minimum of 2.5m in a bound surface. Such provision must be made in/adjacent to the road boundary adjacent to the site frontage.
- 7.4 All new buildings should provide secure and weather protected cycle parking at least in accord with the guidance document—Cycling by Design 2010 by Transport Scotland.
- 7.5 The occupants of new buildings should provide for showering facilities for cyclists and pedestrians and storage facilities for cycle equipment. These facilities do not need to be within the occupied building but they do need to be within reasonable reach by foot from the building.

8.0 Car Parking

- 8.1 Car parking shall be provided on the basis of Non-car Accessibility Level D in the SEStran Parking Standards publication. Although these are maximum standards of provision they will generally be the expected level of provision with the maximum provision numbers for Level C acting as an absolute minimum provision.

APPENDIX 3—Transport Statement

A Transport Statement has been undertaken by Mott MacDonald on behalf of Scottish Borders Council to provide traffic and transport related information that will complement and support the SG and SPZ for the Central Borders Business Park.

A detailed review of existing conditions has been carried out in the vicinity of the proposed development and traffic analysis undertaken to predict potential future traffic levels in line with indicative phasing provided by SBC. This has informed the following key recommendations:

Non-motorised users

- Facilities for pedestrians and cyclists within the Business Park are limited and improvements to infrastructure and facilities will be required as part of the proposed development to better accommodate access for these users.
- Within the industrial estate (south of Tweedbank Drive) it is recommended that where development takes place on both sides of an internal access road, a 2m wide footway should be provided on both sides of the road. Where development is on one side of an internal access road, a 2m wide footway should be provided on that side of the road.
- To improve access for both cyclists and pedestrians using Core Path 7 it is recommended that a 3m wide shared use footway be provided.
To assist cyclists and pedestrians at the eastern end of Core Path 7 to cross Tweedbank Drive, it is recommended that a controlled crossing be considered on Tweedbank Drive between the priority access on the south side of the road and the Tweedbank Drive/Tweedside Park priority junction.
As there is no footway on the north side of Tweedbank Drive, a new link should be provided between the proposed new crossing point and the path that runs along the solumn of the former railway line, thus providing a connection to Core Path 189/NCN 1 and the proposed development area on the north side of Tweedbank Drive.
- Should the railway line be extended south of Tweedbank the section of path utilising the solumn of the former railway line could if necessary be replaced by a new section of footway along the northern verge of Tweedbank Drive between the controlled crossing point and the Tweedside Park priority junction. Preliminary investigation suggests that there is sufficient width for this to be accommodated.
- It is recommended that improved pedestrian linkage be provided from Tweedbank Drive into the proposed development area on the south side of Tweedbank Drive at locations between the existing east and west accesses. This will aid permeability for pedestrians along the northern boundary of the site between the two existing vehicular accesses.
- It is recommended that a shared use footway be provided between the Tweedbank Drive/Station Access roundabout and Tweedbank View on the west side of the internal access road. This will also provide enhanced connectivity to Core Path 7 that runs through the site.
- It is recommended that a raised shared use surface area be provided between the Tweedbank Drive/Station Access roundabout and the first priority junction within the site approximately 65m south of the roundabout. This will act as a traffic calming feature and will also assist in discouraging inappropriate vehicular use of this access.

Public Transport

- Should the railway line be extended south of Tweedbank, it is recommended that buses continue to serve the station, albeit via Tweedside Park, as access via the Tweedbank Drive/Station Access roundabout would be severed. In this event, bus stop infrastructure including bus stops, shelters and passenger information should be provided along Tweedside Park between its junction with Tweedbank Drive and the existing stop at the railway station.

Vehicular Access

- Should the railway line be extended south towards Hawick, the existing access into the station via the Tweedbank Drive/Station Access roundabout would be severed by the railway and access to the station would be taken via Tweedbank Park.
- The existing access into the Industrial Estate from the north east from Tweedbank Drive should become the priority access to the proposed development for use by business and industrial related traffic and the access via the Tweedbank Drive/Station Access roundabout be used to access the key prominent buildings to the south of the Railway Terminus and the Tweedbank Sports Complex.

Junction Assessment

- Full junction capacity analysis at each of the three junctions that currently provide access to the Business Park should be undertaken.

Parking Arrangements

- Designated spaces for cycle parking should be provided which should be dispersed across the proposed development area. Good visibility and lighting is necessary in these areas to ensure appropriate security.

Road Signage

- It is recommended that the signing strategy be extended to cover traffic travelling to the proposed Central Borders Business Park and that signing on both the A6091 roundabouts, as well as on Tweedbank Drive be amended to reflect this.
- It is further recommended that signing be provided on Tweedbank Drive to indicate to drivers that general access to the proposed development on the south side of Tweedbank Drive be taken via the priority access, whilst access to the key prominent buildings to the south of the Railway Terminus and the Tweedbank Sports Complex be taken via the Tweedbank Drive/Station Access roundabout.

Speed Limits

- The strategy should be kept under review and speeds along Tweedbank Drive should continue to be monitored.

Traffic Calming

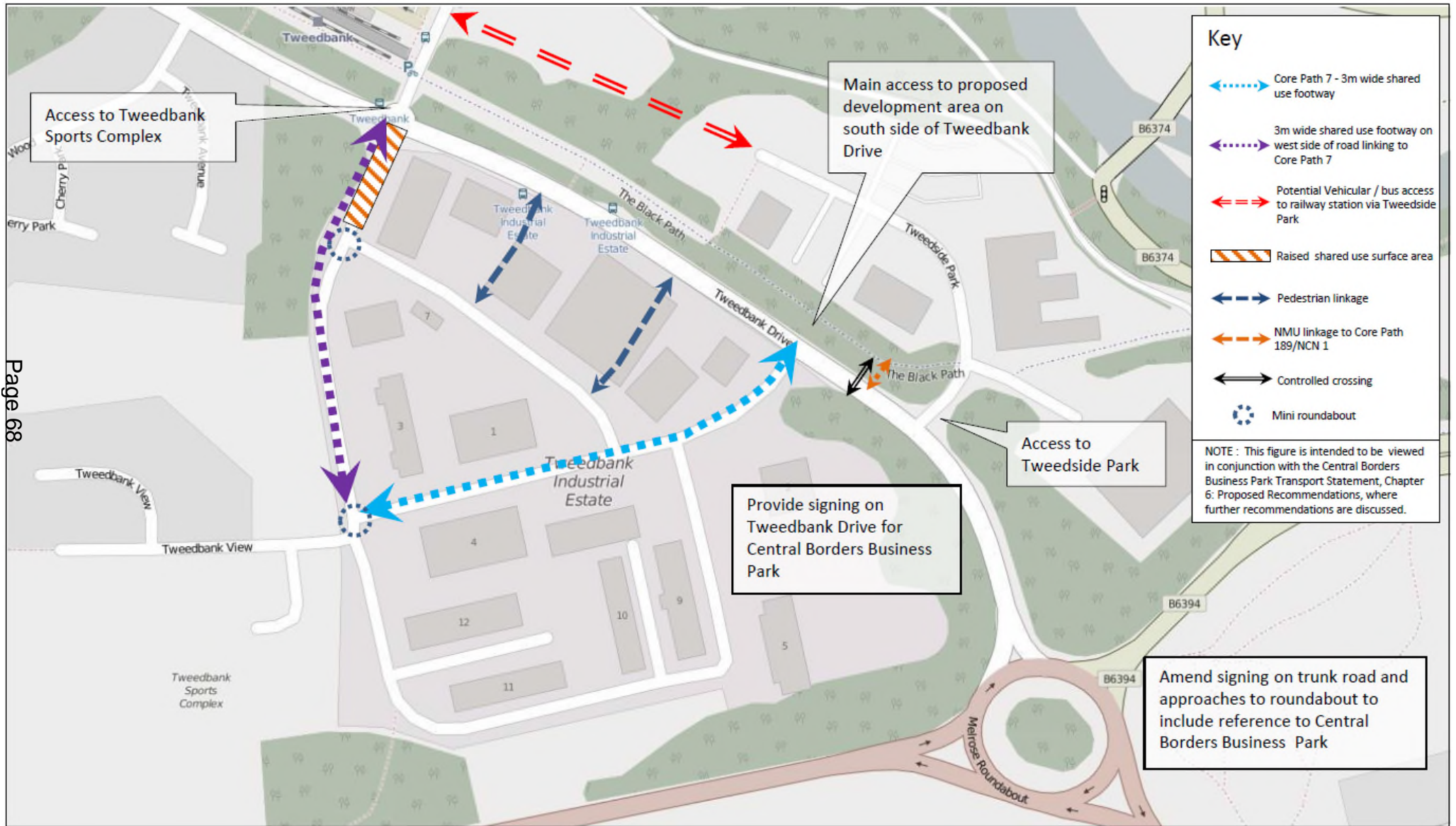
- It is recommended that ongoing monitoring of traffic volumes and speeds be undertaken and for the situation to be kept under review in consultation with the local community.

- Implementation of mini-roundabouts would act as traffic calming/speed reducing features on what is the longest straight length of road within the proposed development area. At mini roundabout at the most southerly of the above two referred junction locations would require the approach arm from Tweedbank View to be realigned in order for the mini-roundabout to be accommodated, within Tweedbank Industrial Estate, the provision of mini-roundabouts between Tweedbank Drive and Tweedbank View should be considered, to help provide traffic calming facilities in the vicinity of the key prominent buildings at this location.

The aforesaid recommendations are reflected in SPZ Plan 6.

Draft

SPZ Plan 6: Proposed Indicative Transport Measures



APPENDIX 4—Pre-development notification form

Notes for developers

By submitting this form you are notifying the Local Planning Authority (LPA), Scottish Borders Council, that you intend to carry out works that are permitted under the Central Borders Business Park Simplified Planning Zone (SPZ) Scheme.

Completion of this form is a mandatory requirement if development is undertaken under the provisions of the SPZ Scheme. It is essential that the LPA maintains an accurate record of the development activity so that the terms of the SPZ are not exceeded.

On receipt of this form, the LPA will acknowledge within 21 days to the agent or developer (if no agent is specified).

Acknowledgement of the form does not constitute the local planning authority's confirmation that the proposal is compliant with the SPZ. Developers requiring a formal decision from the LPA about the proposal's compliance with the SPZ must apply for a Certificate of Lawfulness of proposed use or development under section 151 of the Town and Country Planning (Scotland) Act 1997.

Please complete this form and return to the LPA together with the following minimum information:

- Site plan (scale 1:1250 or 1:2500)
- Block Plan (1:500 or 1:200)

All measurements should be provided in metric units and floor areas specified as gross internal area (GIA).

The completed form and plans should be sent by post / email to:

Regulatory Services
Scottish Borders Council
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA
onlineapplications@scotborders.gov.uk

Central Borders Business Park Simplified Planning Zone (SPZ)

Pre-development Notification Form

Part A: Developer Details

Applicant

Name	
Company/Organisation	
Address	
Postcode	
Telephone Number	
Email	

Agent

Name	
Company/Organisation	
Address	
Postcode	
Telephone Number	
Email	

Part B: Location of Proposed Development

Address/location of proposed development:

--

Part C: Details of the Proposed Development

Description of development or change of use (and Use Classes):

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With reference to SPZ Plan X, which zone (or zones) is the proposed development (please tick):

Zone A Zone B Zone C Zone D Zone E

Gross floor area and use of existing development (GIA):

Gross floor area and use of proposed development (GIA):

With reference to the Building Heights plan (Plan X), what is the height (metres) of the proposed development at its highest point (excluding plant)?

Does the proposal involve demolition of existing floorspace or other existing development?

Yes No

Estimated date of the commencement of works:

Part D: Developer Declaration

I/we hereby give notice of the intention to carry out the above development under the provisions of the Central Borders Business Park SPZ. I/we shall carry out the proposed works in accordance with the details included on this form and the associated scaled plans. I/we confirm that the development will be undertaken in accordance with the conditions and advisory notes of the SPZ. I/we understand that any material variation from the details I/we have provided will require a revised pre-development notification to be made. I/we also understand that the Local Planning Authority may take enforcement action if it considers that the proposed development is not permitted by the SPZ, or is not in accordance with the details that have been provided herewith.

Name:

Signature:.....

Date:.....

Submitted Information

I/we submit the following information (please tick):

- Site location plan (scale 1:1250 or 1:2500)
- Block plan (1:500 or 1:200)

Central Borders Business Park Simplified Planning Zone (SPZ)

Development Commencement Form

A person who has commenced development for which notification has been given under the terms of the SPZ, must, as soon as practicable after starting works, give notice to Scottish Borders Council by returning this completed Notice to: Chief Planning Officer, Regulatory Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, onlineapplications@scotborders.gov.uk

Address	
Reference Number	
Proposal	
Applicant	
Previous notification date	
Full name and address of person(s), company or body carrying out the development (if different from applicant)	
Full name and address of all owner(s) of the land to be developed (if different from applicant)	
Full name, address and contact details of person(s), company or body appointed to oversee the carrying out of the development	
START DATE	

Signed Date

Central Border Business Park, Tweedbank

Development Completion Form

A person who completes development for which notification has been given under the SPZ, should, as soon as practicable after completion, give notice of completion to Scottish Borders Council by returning this completed form to: Chief Planning Officer, Regulatory Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, onlineapplications@scotborders.gov.uk

Address	
Reference Number	
Proposal	
Applicant	
Notification Date	
COMPLETION DATE FOR DEVELOP-	

If the development is to be carried out in phases then this Notice must, as soon as practicable after each phase is completed, be returned to the address above.

Phase 1 completion date	
Phase 1 completion date	
Phase 1 completion date	
Phase 1 completion date	

Signed Date

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7th November 2016

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 16/00141/S36 & 16/00145/S36

OFFICER: Scott Shearer
WARD: Mid Berwickshire
PROPOSALS: 1. Erection of 12 additional turbines and associated infrastructure (ref: 16/00145/S36)
2. Variation of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years (16/00141/S36)

SITE: Fallago Rig 2
Longformacus
APPLICANT: EDF ER Energy Renewables Limited
AGENT: Amec Foster Wheeler Environment & Infrastructure UK Ltd

1.0 PURPOSE OF REPORT

1.1 To advise the Scottish Government of the response from Scottish Borders Council on the two related applications by EDF ER Energy Renewables Limited. The first application seeks permission to construct 12 additional turbines and associated infrastructure at Fallago Rig Wind Farm. The proposed development is hereafter referred as Fallago Rig 2. The second application seeks permission to vary Condition 2 of the original Fallago Rig Wind Farm consent to permit the original windfarm (hereafter referred to as Fallago Rig 1) to operate for an additional 5 years or to coincide with a 25 year operational life from commissioning the 12 turbine extension (if consented).

2.0 PROCEDURE

2.1 Scottish Borders Council (SBC) is a consultee as a 'relevant planning authority'.

2.2 The views of SBC will be provided to the Energy Consents Unit at Scottish Government (ECU), the body responsible for processing onshore Section 36 planning applications. In this instance, the Fallago Rig 2 proposal is required to be determined via Section 36 of the Electricity Act 1989 because the extended total capacity of the windfarm would be in excess of 50MW. The second application to extend the operational life of the existing wind farm is required to be determined under section 36C of the Electricity Act. The ECU advertises the applications and carries out consultation with other interested bodies. There is, therefore, no need for Scottish Borders Council to undertake a tandem process although consultation has taken place with relevant specialists within the Council.

- 2.3 It should be noted that if permission is granted, the local authority (rather than the ECU) would become the relevant enforcement authority responsible for monitoring compliance with the terms of an approval and any conditions imposed thereon.
- 2.4 The northern boundary of the site is close to the Scottish Borders/East Lothian political boundary. The whole site is however within the Scottish Borders Council administrative area. The ECU has sought the views of East Lothian Council as part of their process of consideration.

3.0 **SITE DESCRIPTION**

- 3.1 The application site is located within an upland area of gently undulating moorland within the Lammermuir Hills and near its northern edge. The northern edge of the site is the boundary between the Scottish Borders and East Lothian. The site extends towards North Hart Law to the west, Wedder Lairs to the south and across Meike Law to the East. The site includes the existing Fallago Rig Windfarm which consists of 48 turbines (41 of which are 125m to tip and 7 towards the northern fringes are 110m to tip) with associated tracks and substation. A 440kv overhead power line crosses through the site. The Dye Water and its associated tributaries run across the site.
- 3.2 The steading at Byrescleugh Farm lies 2.8km to the south east of the nearest proposed turbine. The nearest settlements to the site (not including the access road) are as follows:
- Gifford, 7.7 km to the north west
 - Cranshaws, 8km to the north east
 - Lonformacus, 9km to the east
 - Westruther, 9km to the south east
 - Oxton, 7.5km to the south west

Public Access and Paths:

- 3.4 Access within and around the site is for recreational use, mainly by walkers. The site itself contains two rights of way, the first being the Herring Road which connects Lauder to Dunbar and the second being a access from Byrescleugh. A customary path known as the Pylon Road is the main recreational access from Faseney Water (to the north east of the site).
- 3.5 The Southern Upland Way which is one of Scotland's Great Trails as a Coast to Coast route between Cockburnspath and Portpatrick is located to the south of the site and in places is approximately 3km away from the proposed development.

Landscape Designations:

- 3.6 The site is located within the Lammermuir Hills Special Landscape Area (SLA), as designated by policy EP5 of the Local Development Plan 2016 and shown within the 2012 Supplementary Planning Guidance Note on Local Landscape Designations.

Landscape Character:

- 3.7 The development site is situated within the core of Dissected Plateau Moorland Landscape Character Type (LCT) as indicated in the Borders Landscape Assessment (1998). The site borders the Central Lammernuir Plateau in East Lothian.
- 3.8 The landscape forms an expansive upland plateau with a generally simple landform of sweeping ridges with more defined hills and landmark features. The landscape is sparsely settled but it does form the backdrop to more settled valleys and lowlands within the Scottish Borders and East Lothian. Landcover is dominated by grass and heather moorland.
- 3.9 The existing windfarm is sited within a shallow bowl within the LCT. Other wind farms such as phases of Cystal Rig and Aitkengall are located within the same LCT with Dun Law occupying ground on a neighbouring upland LCT.

Designated Nature Conservation Sites:

- 3.10 The River Tweed Special Area of Conservation (SAC) lies approximately 1.5km to the east of the site. The SAC is designated for its Atlantic salmon, three species of lamprey and as a water course typically supporting water crowfoot species.

4.0 PROPOSED DEVELOPMENT

- 4.1 Application 16/00141/S36 seeks permission to vary condition 2 of the extant Fallago Rig 1 consent. This would allow the existing wind farm to operate for a further five years or coincide with a 25 year operational life from commissioning the 12 turbine extension to achieve a consistent operational period and decommissioning date for both developments.
- 4.2 Application 16/00145/S36 comprises of the following main development components;
- 12 new turbines producing around 3.45MW each and with each turbine having a maximum tip height of 126.5m
 - New access tracks and crane pads;
 - Two water course crossings;
 - Two borrow pits for sourcing rock suitable for tracks and hardstandings;
 - A temporary construction compound housing welfare facilities and a small car park;
 - A temporary compound housing batching plant, general storage facilities and fuelling facilities; and
 - An extension to the existing substation and control building, including cables and transformers which will utilise existing grid connection infrastructure.
- 4.3 10 of the 12 new turbines will be positioned around the southern edge of the existing wind farm with the other 2 being located towards the east on the upper part of Meikle Law.

- 4.4 The exact hub height and rotor dimensions may vary within the overall maximum blade tip height of 126.5m. The application has used the following parameters;
- Tip height of up to 126.5 comprising 74m hub, and 105 blade diameter; or
 - Tip height of up to 126.5 comprising 81.5m hub, and 90m blade diameter.
- 4.5 The developer has sought a micro-siting allowance of 50m for each turbine, their associated infrastructure and access tracks.
- 4.6 The proposed Fallago Rig 2 Wind Farm would make use of the existing access track onto the Development Site where available. Approximately 6.2km of new access tracks would be constructed within the site to the new turbine locations.
- 4.7 Fallago Rig 2 is intended to have an initial lifespan (covered by this planning application) of 25 years. At the end of this period, unless 're-powered' or unless a new planning permission is achieved that would extend the wind farm's life, it would be decommissioned and the site restored in agreement with a decommissioning method statement.

5.0 **NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF CURRANT PROPOSAL:**

Operational:

- 5.1 **Dun Law Phases 1 and 2** is situated 7km to the west of the site and, in total, consists of 61 turbines up to 75m in height.

Crystal Rig Phases 1 and 2 constitute the existing Crystal Rig wind farm, which is situated 7.5km to the north east of this site. It consists of 85 turbines up to 125m in height.

Aikengall is an operational phase of wind farm development of 15 turbines of 125m tip height, adjoining yet separate from Crystal Rig both in terms of its operation and its position entirely within East Lothian. It is situated 12km to the north east.

Toddleburn Wind Farm is located 12km to the south west and consists of 12 turbines between 110 and 125m high.

Penmanshiel is a recently constructed wind farm, consisting of 15 turbines which are 100m in height and is located 21km to the east of this site, next to Drone Hill Wind Farm.

Drone Hill is an operational wind farm consisting of 22 turbines, 76m height to tip, on Coldingham Moor approximately 24km east of the proposal.

Black Hill is an operational wind farm consisting of 22 turbines with a tip height of 78m, around 13km south east of the proposal.

Longpark Wind Farm is located 18.5km to the south west of the site and consists of 19 turbines at heights of 100 and 110m.

Consented:

- 5.2 **Crystal Rig 3** obtained consent for an additional 6 turbines of varying heights of 100 to 110m all of which are in East Lothian to be added to the existing Crystal Rig Wind Farm. This wind farm is presently is under construction.

Quixwood is a consented wind farm located approximately 17.5km north-east of the proposal, which would consist of 13 turbines of dual tip height (10 @ 115m, 3 @ 100m). This wind farm is presently is under construction.

Aikengall II (sometimes referred to as **Wester Dod**) project with which Aikengall 2a (and the original Aikengall) would be combined. Planning permission was granted on appeal further to a public inquiry for 19 turbines of up to 145m tip height. This cluster lies to the north-west of the turbines proposed for Aikengall 2A, but would also be flanked by Aikengall 2a turbines on the south-west and north-east. This wind farm is presently under construction.

In the Planning System:

- 5.3 **Aikengall 2A** is a scheme seeking permission under Section 36 for 19 turbines of 125 and 145m high. The Council objected to the proposal and determination from the ECU is awaited.

Inch Moor seeks permission for 16 turbines of 126.5m high and located 11km to the south east of this site. This application remains under consideration. The ECU has granted an extension of response time to SBC until the 15th of December 2016.

An application to extend **Longpark** with a further 7 turbines of 100 to 110m is under consideration of SBC.

An application was recently received to erect 8 turbines of 100m high at **Howpark** which is located alongside Penmanshiel and Drone Hill wind farms.

6.0 **PLANNING HISTORY**

- 6.1 The existing Fallago Rig Wind Farm was consented by the Scottish Government on the 9th November 2010 under Section 36 of The Electricity Act 1989 and Deemed Planning Permission under S57(2) of The Town and Country Planning (Scotland) Act 1997.

- 6.2 The proposals which obtained permission were a revised scheme which reduced the number of turbines from 62 to 48. SBC Officers recommended approval, on balance, to the revised scheme. This recommendation was overturned at the Development and Building Control Committee principally on grounds of cumulative landscape and visual impact of the proposed windfarm. The Ministry of Defence (MoD) also objected to the proposal on grounds that the development would have an adverse impact on the Brizlee Wood Radar Station. A Public Inquiry took place in February 2008 and a report was submitted to Ministers recommending refusal because of the detrimental impact on national security. On-going discussions between the MoD and the

then applicants resulted in the withdrawal of the MoD's objection. Ministers decided to re-open the inquiry and ultimately granted consent under S36 of The Electricity Act 1989 and deemed planning permission.

6.3 In 2014 planning permission was received to vary conditions 33, 34 and 35 of the deemed planning approval for the Fallago Rig Wind Farm under application 13/01268/FUL. The application was uncontentious and enabled conditions to be varied to allow for decommissioning, restoration and aftercare of the site to take place according to an approved scheme within a period of 12 months following the expiring of the original planning consent instead of within the 25 year operational period.

7.0 APPLICANTS SUPPORTING INFORMATION

7.1 The Section 36 planning application is supported by a full ES, which comprises the following documents, all dated February 2016:

- Volume 1 - Non Technical Summary
- Volume 2 - Environmental Statement
- Volume 3 - Figures
- Volume 4 - Appendices
- Volume 5 - Planning Statements
- Volume 6 - Design and Access Statement
- Volume 7 - PAC Report
- Volume 8 – Borrow Pit Report

7.2 In accordance with regulations of Section 36C against which the variation of condition proposal is being considered, the original Environmental Statement for the extant Fallago Rig Wind Farm was required to be submitted. This information was provided on the 4th of July 2016 as an addendum to application 16/00141/S36. Re-advertisement and consultation exercises were carried out on receipt of this additional information.

8.0 REPRESENTATION SUMMARY

8.1 Third party representation are submitted to the ECU and it is for that authority to take these in to consideration when assessing the proposed developments on behalf of the Scottish Ministers.

8.2 At the time of writing this report, objections from two third parties are noted to have been received by the ECU. This does not include submission by Community Councils.

9.0 DEVELOPMENT PLAN POLICIES

9.1 **Local Development Plan 2016 (LDP):**

Policy Reference	Policy Name
PMD1	Sustainability
PMD2	Quality Standards
ED9	Renewable Energy Development
HD3	Protection of Residential Amenity

EP1	International Nature Conservation Sites and Protected Species
EP3	Local Biodiversity
EP5	Special Landscape Areas
EP7	Listed Buildings
EP8	Archaeology
EP9	Conservation Areas
EP10	Gardens and Designed Landscapes
EP15	Development Affecting the Water Environment
IS2	Developer Contributions
IS5	Protection of Access Routes
IS8	Flooding
IS9	Waste Water Treatment Standards and Sustainable Urban Drainage

9.2 **SESplan Strategic Development Plan June 2013:**

Policy 1B The Spatial Strategy: Development Principles
Policy 10 Sustainable Energy Technologies

10.0 **OTHER PLANNING CONSIDERATIONS:**

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

- Renewable Energy (2007)
- Wind Energy (2011)
- Visibility Mapping for Windfarm Development (2003)
- Biodiversity (2005)
- Local Landscape Designations (2012)
- Developer Contributions (2010)

- Ironside Farrar Study (2013) on Wind Energy Consultancy Landscape Capacity and Cumulative Impact

10.2 **Scottish Government Policy and Guidance:**

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

10.3 **Scottish Government On-line Renewables Advice:**

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

10.4 **Historic Scotland Publications:**

- Scottish Historic Environment Policy (2011)

10.5 **SNH Publications:**

- Siting and designing windfarms in the landscape (2014)
- Visual Representation of Wind Farms (2014)
- Assessing the cumulative impact of onshore wind energy developments (2012)

10.6 **Other Publications:**

ETSU-R-97 - The Assessment and Rating of Noise from Wind Farms

11.0 **CONSULTATION RESPONSES**

11.1 The following consultation responses have been received in by specialist officers at Scottish Borders Council. A summary of the consultation responses received to each application (16/00145/S36 & 16/00141/S36) is provided within each section.

11.2 **Landscape Architect** - 16/00145/S36: The Landscape Architect has made a detailed assessment of the proposed scheme in relation to Policy ED9 of the LDP. The consultee does not object to the proposal, observing that;

- The existing landform screen views to the north and north west
- Less containment is afforded to the east, south and west where there will be distant views beyond 10km of the development
- The Southern Upland Way is considered to be the main affected receptor where the additional turbines increase the impact of the wind farm from Twin Law Cairns. However, the overall effect is not sufficient to affect the recommendation.
- Landscape changes as a result of the development are generally contained to areas close to the site within the LCT and with few impacts on skylines.
- The presence of the existing wind farm and the 440kv overhead powerline means the site is characterised by large structures so the level of change as a result of these proposals is diminished. Similarly effected on 'wild land' is minimal because of this context.
- Cumulatively, the proposal has been designed to fit with the existing array and the overall change is minimal.
- Separation distance to other scheme is sufficient.
- The effects by the associated works are localised and can be mitigated by conditions.

16/00141/S36: No objection.

11.3 **Archaeologist** - 16/00145/S36: Content with the findings of the ES and no objection is raised, recommending that;

- Design accounts for the historic environment and mitigates impact on Scheduled monuments, particularly the Munity Stones. Effects remain for the Scheduled Byrescleugh settlement, the undesignated Twin Law Cairns and Tilting Cairn however the proposals are not recommended to alter the setting of these assets.
- The majority of heritage assets exist at lower elevation however there is still potential to discover buried archaeology, possibly of regional

significance. Mitigation of direct impacts can be handled via a condition seeking agreement of a Written Scheme of Investigation.

16/00141/S36: No archaeological implications for this proposal. Extending the life of the existing wind farm will have no direct or indirect impacts on the historic environment beyond what is consented.

- 11.4 **Forward Planning** - 16/00145/S36: This consultee identifies the range of relevant policy, guidance and material considerations. In summary whilst acknowledging the extension of existing wind farms and consequent cumulative impact issues are contentious, the Ironside Farrar Study, commissioned to guide policy development and which is therefore a material consideration, does recognise there is an opportunity to extend Fallgo Rig.

16/00141/S36: No objection has been raised.

- 11.5 **Environmental Health** - 16/00145/S36: Commented in relation to noise and risk to private water supply. A Construction and Operational noise assessment was agreed with SBC in accordance with current best practice with Cumulative noise addressed within the ES. Conditions to control noise limits of the development, investigation of complaints and cease of operation until resolution the event of noise exceeding the specified limits are recommended. No concerns have been raised regarding the risk to private water supplies.

16/00141/S36: No comment.

- 11.6 **Ecology Officer** – 16/00145/S36: No objection has been raised. A summary of the most pertinent matters are as follows:

- It is unlikely that the development will have a significant adverse effect on the integrity of the Dye Water which forms part of the River Tweed SAC.
- The borrow pits are adjacent to the watercourse so detailed mitigation will be required.
- Recommend that floating tracks are used in area of active blanket bog with a peat depth of $\geq 0.5\text{m}$.
- A variety of protected species have been identified and a condition is recommended for pre-construction checking surveys where the findings should inform further mitigation through a Species Mitigation and Management Plan.
- Identifies requirement to provide a Habitat Management and Enhancement Plan to deal with a variety of habitats within and out with the site which includes measures for blanket bog, other wetland habitats, grassland, heathland habitats and breeding waders.
- The appointment of an Ecological Clerk of Works is recommended to ensure compliance with pre-construction obligations, habitat management and decommissioning ecological requirements.
- A post construction species monitoring programme is required.

16/00141/S36: Recommend that the relevant discharged ecological conditions for the original consent should be amended to account for the extension of the operational life of the wind farm. This should include a revised monitoring protocol under Condition 23, a revised Operational Protocol under Condition 24 and a revised Land Management Plan under

Condition 25. The terms of the ECoW regarding any operational ECoW obligations and decommissioning may also need to be amended.

- 11.7 **Roads Planning Service** - 16/00145/S36: The proposed delivery route catered for the construction of the original wind farm. A Traffic Management Plan will be required to ensure the construction is carried out in a controlled manner which mitigates impacts upon the public road and provides mitigation for abnormal loads. A pre and post construction survey will establish if any damage to the road network is required to be remedied. A detailed drawing of the junction from the public road into the site is also required for approval. Suggest that a Section 96 agreement will be required between the Council and the developer with regards to extraordinary expense in road maintenance as a result of construction traffic associated with the proposal.

16/00141/S36: No objection to the proposed extension of time.

- 11.8 **Access Officer** – 16/00145/S36: Continue to object because the Southern Upland Way incurs significant cumulative impacts where the wind farm will be theoretically visible for over 10km along the route at distances of less than 3km in some locations. Turbine 60 is close to the Herring Road so it is likely that the construction of this turbine would interfere with the route.

At a meeting with the developers, attended by the Access Officer it was agreed that a draft condition requiring the temporary diversion of this path and its reinstatement along its historic route, along with the provision of signage and interpretation boards across the site would overcome concerns raised about the impact of the development on paths within the site.

12.0 **OTHER IMPORTANT CONSULTATION RESPONSES (SUBMITTED TO SCOTTISH GOVERNMENT):**

- 12.1 As members are aware, the Council is a consultee in the Section 36 application process and does not undertake any outside consultation itself. Nevertheless, some of the responses received by the ECU have been made known to the Department and Members may be interested in the more significant responses which are detailed below.

- 12.2 **Scottish Natural Heritage (SNH)** – 16/00145/FUL: The development is likely to have a significant effect on the Atlantic salmon qualifying interest of the River Tweed Special Area of Conservation (SAC). Recommend objection unless a condition is attached to require mitigation in the form of a Construction Environment Management Plan (CEMP).

- 12.3 No objection has been raised on landscape and visual grounds, but the following comments are made:

- Strategic design objectives of the extension are broadly acceptable.
- Siting of additional turbines towards the upper limits of the topographical bowl means that the extension presents some adverse visual impacts, primarily from the west and south where the appearance of the array will be intensified and from the east where turbines appear to 'sit up' as more prominent features.
- No modification is sought however the adverse effect could be addressed by constructing turbines of a lower height to integrate more harmoniously with the existing array and smooth simple profile of the Lammermuir Hills.

- From the north, the new turbines may slightly extend and/or intensify the appearance of the array but there is also a good sense of design integration with the existing turbines.
- Recommend use of a micro-siting condition to avoid turbines moving further up the hill slope.

12.4 An updated response of 22nd Aug 2016 advised that;

- In areas of deep peat there may be valid reasons for micro siting, a planning condition should test the validity of such reasoning.
- Turbine lighting should be of an infrared rather than visible type to reduce landscape visual effects.
- Recommend the full range of ecological mitigation and enhancement measures identified in the ES are implemented, additionally it is advised that; breeding population of curlew should be included within the Outline Management Plan, mitigation will be require to protect black grouse lek if any are discovered before construction and an outline decommissioning and restoration plan in accordance with SNH guidance should be agreed.

16/00141/S36: No objection is raised to the extended lifespan of the existing windfarm. A limited number of turbines along the northern edge of the existing development are viewed to have a detrimental impact on landscape character and amenity. Retention of these turbines for a short period is pragmatic; however these locations may not be suitable for future repowering. The consent process should provide safeguards to ensure that future re-development secures an improved siting and design.

12.5 **Scottish Environmental Protection Agency (SEPA)** – 16/00145/FUL: An email from SEPA to the ECU on 15th June 2016, clarified a Peat Management Plan can address the agreement of peat depth used in the reinstatement of borrow pits. Otherwise comments from their original response remain relevant and advise that conditions are used to address the following matters;

- A CEMP to protect the water environment
- Invertebrate surveys are carried out pre, during and post construction
- Protection Ground Water Dependent Terrestrial Ecosystems (GWDTs) from construction operations.
- Decommissioning and Restoration measures.

16/00141/S36: No construction work is associated with development so there will be minimal risk of pollution of the water environment or from waste management. Decommissioning of the extant windfarm was required to be agreed 5 year prior to cease of operation and it is noted that the application intends to decommission both sites simultaneously.

12.6 **East Lothian Council** - 16/00145/FUL: Object on grounds that Turbines 49, 50 and 60 are judged to have an adverse landscape and visual impact. Omission of Turbines 45 and 50 and reduction of 60 to bring the hub and blades below the skyline are recommended to address these concerns. If approved, conditions covering decommissioning and noise are recommended.

16/00141/S36: Turbines 22, 26, 34, 37, 36 and 48 of the existing array are viewed to have an adverse landscape and visual impact. On granting consent it should be stipulated that paragraph 170 of SPP does not apply whereby these locations are not deemed to be suitable for wide turbine development in

perpetuity. An additional noise condition is recommended to cover cumulative impact of Fallago Rig 1 & 2.

- 12.7 **Historic Environment Scotland (HES)** – 16/00145/S36: Proposal will impact on a number of heritage assets, while not significant enough to warrant objection it is recorded that the tips of turbines 52 - 56 will affect the experience and appreciation of the Munity Stones (Scheduled Ancient Monument). The applicants provided HES with a technical note explaining why the locations of the turbines are not being reviewed.
- 12.8 Other notable consultee responses to the ECU on application 16/00145/S36 have included:
- Ministry of Defence – No objection, although agreement to the use of Infrared Aviation Lighting and a condition to mitigate against impacts on the air defence radar at Brizlee Wood is recommended.
 - NATS – objected on grounds that the proposal would have an unacceptable impact on aviation safety. The applicants have advised that a contract was being signed by NATS and EDF ER to resolve this objection.
 - RSPB – No objection, recommend that a habitat management plan, a breeding bird protection plan, employment of an Ecological Clerk of Works and post construction monitoring to mitigation ornithology impacts.
 - Transport Scotland – Conditions are required to agree route of abnormal loads on the trunk road and additional signage or temporary traffic control measures.
 - Marine Science Scotland – Inclusion of a condition for post construction water quality monitoring overcomes original objection.
 - Scottish Water – Recommend use of floating roads where peat is 0.5m thick.
 - Scotways – A conditional access management plan addresses concerns expressed on Muir Road (Right of Way BB107) and pylon road however remain to object on grounds that the proposal has; an adverse effect on the recreational amenity of the Southern Upland Way, micro-siting may lead to the turbines being positioned at a greater height and the cumulative impact on the Lammermuir Hills.
- 12.9 Other than those previously referred to above, all other consultation responses to the EDC on application 16/00141/S36 ultimately raised no concerns in response to this development.
- 12.10 The **Lauderdale Community Council** oppose application 16/00145/S36 on the basis that is not required to meet Scottish or UK renewable targets.
- 12.11 Since the report was originally prepared for the October meeting, responses were received from the **Lammermuir Community Council** and **Gordon and Westruther Community Council** objecting to the proposals. Other additional third party representations have been received including documentation from the applicant. Members are able to view each of these pieces of correspondence on Public Access.
- 13.0 **KEY PLANNING ISSUES:**
- 13.1 Bearing in mind that SBC is a consultee rather than the determining authority, the following are the key issues to be reported in the following Assessment:

- land use planning policy principle
- economic benefits attributable to the scheme
- benefits arising in terms of renewable energy provision
- landscape and visual impacts including residential amenity visual impacts, arising from turbines and infrastructure
- cumulative landscape and visual impacts with other wind energy developments
- physical and setting impacts on cultural heritage assets
- noise impacts
- ecological, ornithological and habitat effects
- impact on road safety and the road network
- impacts on the public path network and public access on accessible land
- Fallago Rig 1 suggested variation condition

14.0 **ASSESSMENT OF APPLICATION:**

Planning Policy Principle:

- 14.1 Scottish Government Policy, regional strategic policy and local planning policy/guidance are supportive of the principle of constructing wind energy projects unless, with regard to the specific circumstances, the environmental harm caused outweighs the benefits of energy provision.
- 14.2 Assessed against Table 1 of SPP 2014, the site falls outside of Group 1 designations (National Parks and National Scenic Areas), meaning that it is located within an area where further wind farm development *may* be acceptable. It is therefore the detail of the proposal which is key in this case. The primary topics requiring consideration by the Council are as follows:

Economic Benefit:

- 14.3 Wind Energy development is important in terms of the contribution it makes to the economy in the UK and internationally, alongside other forms of alternative energy production. Associated with implementation, planning and operation are employment opportunities for a wide range of contributors both directly and indirectly across supply chains.
- 14.4 Fallago Rig 1 is operational and successful in making its contribution to the energy industry. Adding 12 turbines to the existing wind farm conceives a sizable cluster of 60 turbines which can consolidate the Central Lammermuir operations as a sizeable economic entity.
- 14.5 Scottish Government identifies this type of contribution as important and valuable to the Scottish Energy Industry. However, the potential for such benefits and thereby economic growth to be supported in consideration of energy proposals must be balanced with the likelihood that wind energy developments in particular can bring high levels of environmental impact which are potentially of greater significance than the economic benefits

Renewable Energy Benefits:

- 14.6 Fallago Rig 1 has an installed capacity of 144MW. The proposed development would add up to 41.4MW and it is therefore acknowledged that

Fallago Rig 2 would make a reasonable contribution to the provision of sustainable renewable energy.

- 14.7 Extending existing wind farms provides a degree of logic because it provides opportunities to take advantage of existing infrastructure. Furthermore, the presence of an existing development can to some extent offset environmental and visual impacts and concerns. Fallago Rig 2 broadly follows this principle.
- 14.8 Additionally, it should be borne in mind that extending the operational life of Fallago Rig 1 would allow the existing wind farm to continue to contribute to the renewable energy production for a further five years.

Design Methodology:

- 14.9 The siting and design of the development has evolved since its initial 20 turbine layout which is illustrated in Figure 7.6a in Volume 3 of the ES. The following changes have been made;
- Removal of turbines from northern edge of the Lammermuir Hills, away from the skyline of East Lothian.
 - A reduced number of turbines to the south with the turbines being located on lower elevations of Wedder Lairs and Hunt Law to attempt to keep the additional turbines within the topographical bowl of the existing windfarm which is defined by the summits of these hills.
 - Attempts to replicate the pattern of the siting of existing turbines and the spacing between one another within the layout of Fallago Rig 2 so that the additional turbines appear alongside Fallago Rig 1 as “one wind farm”.

Landscape and Visual Impacts:

Landscape Capacity

- 14.10 Policy ED9 gives significant weight to The Landscape Capacity and Cumulative Impact Study 2013 being an initial reference point for landscape and visual assessments for wind energy developments. Table 6 (iii) considers the potential for further windfarm development within the LCT where it is recommended that despite the area nearing capacity there is;

“still capacity for limited development within small areas around Fallago Rig taking advantage of areas with lower intervisibility and topographical containment for further windfarm developments of large or very large sized turbines.”

- 14.11 Figure 6.1c within the study which provides a spatial study for the potential for turbines of over 100m within the Scottish Borders, and the assessment has identified that the location of the application site for Fallago Rig 2 is one of the few areas to have a ‘Medium Low Capacity’ for additional turbines.
- 14.12 In light of the findings of The Landscape Capacity and Cumulative Impact Study 2013, it is considered that the development of Fallago Rig 2 is being located within an area where there may be landscape and visual capacity to accommodate the proposals.

Wild Land

- 14.13 The site is not one of the nationally designated areas of Wild Land. Landscape qualities of the landscape have already been affected by the presence of the existing windfarm and largescale overhead power line. The addition of 12 extra turbines would not have a significant impact on the landscape, due to the presence of the existing development.

Theoretical Visibility

- 14.14 According to the submitted Zone of Theoretical Visibility (ZTV) mapping showing potential visibility (refer to Figure 7.4 and 7.5 Volume 3 of the ES), the ZTV illustrates that Fallago Rig 2 is well contained by landform which provides screening of the development to the north and north-west. The ZTV does show that across the study area that 10-12 wind of turbines may be visible in association with Fallago Rig 1. Apart from the immediate surroundings there is very little visual impact on receptors within 10km range, with the exception of the Southern Upland Way.
- 14.15 Because the proposal relates to the extension of an existing wind farm, the theoretical visibility of Fallago Rig 2 compared to Fallago Rig 1 is extremely important as part of the consideration of the landscape and visual impact of this development. A comparative ZTV has been submitted, see Figure 7.11c. This analysis shows that there are very few locations where there will be new visibility as a result of Fallago Rig 2 with the ES indicating that visibility of only Fallago Rig 2 accounts for only 1.42% of the total study area. While there will be visibility of Fallago Rig 2, this is almost always in association with the existing wind farm. Areas subjected to the additional visibility are generally areas of little population. The settlement of Leitholm to the south east appears to be the nearest new settlement affected by Fallago Rig 2 but due to Leitholm being over 15km from the development, actual visibility of Fallago Rig 2 will be minimal.
- 14.15 The proposed development will unquestionably result in an increase in the scale of the combined windfarm at Fallago Rig from certain locations and this will be discussed further below. Nevertheless the theoretical visibility of the new development is considered to closely match the theoretical visibility of the existing windfarm. This concludes that the theoretical visual impact of the new development is considered to be minimal based on its association with the existing windfarm.

Landscape Impact

- 14.16 The Landscape Capacity and Cumulative Impact Study 2013 undertaken by Ironside Farrar acknowledges that the presence of the existing Fallago Rig 1 as well the Crystal Rig/Aikengall cluster has led to the northern part of the Lammermuir Plateau LCA to practically become a Wind Turbine Landscape. The site and the majority of its surroundings fall within the Lammermuir Hills SLA. The description of the SLA within the Local Landscape Designations SPG does not mention Fallago Rig 1; its presence along with the 440kv overhead powerline is significant within the landscape.
- 14.17 The acceptability of landscape impacts depends on the level of change of the existing character 'pre-development' weighed against the 'post-development' impact of the proposals. The context of existing large structures at the site means that the effect of the development has to be considered against the established baseline. The ZTV illustrates that the effects of the development are largely restricted to the immediate surroundings with the cumulative ZTV

showing there to be few new affected areas. Because the effects of the development are confined to areas close to the existing wind farm, the Council's Landscape Architect has observed that there is relatively few impacts on important skylines and that the character changing effects are confined to the receiving LCT. This also means that the impact on the SLA is limited.

- 14.18 The siting of the additional turbines has attempted to contain them within the topographical bowl where Fallago Rig 1 is located. SNH have identified viewpoint (VP) 7 from the east and VP15 in the west as areas where the additional turbines have a poorer design relationship. ELC have also identified an adverse impact from VP7. From these VPs the new turbines appear more evidently "up and down" in the landscape than the existing windfarm. Additionally from VP15, SNH advise that the proposal fails to integrate as successfully as Fallago Rig 1 with the smooth profile of the skyline of the Lammermuir Hills. It is conceded that as a result of these impacts the development is not fully compliant with SNH guidance on Siting and Designing Wind Farms in the Landscape 2014.
- 14.19 Despite these concerns, SNH advise that they are not seeking any modifications. It is considered that because the turbines are being added to an existing wind farm array these less favourable landscape changes are somewhat diluted. Additionally, from VP7 it is worth noting that there are views across to the Crystal Rig and Aikengall cluster so the viewer does understand that you are within a Wind Turbine Landscape therefore visibility of turbines from VP7 is expected.
- 14.20 Policy ED9, recommends that wind development should be supported unless there are "unacceptable significant adverse effects". Because of the developments relationship to the existing wind farm it is the view of SBC Officers that prominence of certain new turbines from a small number of viewpoints is not significantly adverse to warrant refusal and the wider landscape impacts are tolerable.

Visual Impact

- 14.21 The ZTV analysis confirms that the extent of theoretical visibility would be very similar to that of existing Fallago Rig 1 with the containing landform around the site, generally screening views to the north and north-west outside of the 5km range. A selection of key viewpoints (VPs) has been selected to illustrate the visual effects of the development from important public locations. As previously stated, because this is an extension to an existing wind farm it is critical to determine if the visual impact of the additional turbines is supportable.

Visual Impacts – Roads and Paths

- 14.22 SNH have identified VP3 in the east and VP11 in the south as public roads where the previously identified landscape concerns will be noticeable. In the case of VP3, the extent of effect on this route is clear where the two eastern turbines 49 and 50 appear prominent. The VP is close to the development so some impact is not unexpected. This road is however a minor route where there is already high visibility of the existing array. By virtue of the prominence of turbines presently in the north eastern corner of the array the impact of the proposed Fallago Rig 2 turbines is tolerable.

- 14.23 Turning to VP11, this is a junction of two well used A and B class roads. As a result of the proposed development the wind farm does extend across the skyline with its prominence increased with turbines 59 and 60 giving rise to an element of stacking. If the turbines were to be reduced in height, the tips of the southern grouping would align with those behind. From this location, the impact of the Fallago Rig 2 turbines still allows the extended array to be read as one wind farm. While the increase in impact is not ideal from this VP, the distance to the development provides some mitigation.
- 14.24 VP10, which is just on the 10km cusp to the east of the windfarm from Kirtonhill. From this location Fallago Rig 2 brings the overall development closer to the VP and extends the extent of the array. The extended wind farm does, however, remain within the containing bowl from this VP.
- 14.25 The ZTV identifies that there will be significant visibility from the Southern Upland Way (SUW) towards the proposed Fallago Rig 2. VPs 9 and 4 show the impact of the development from these locations and Figure 7.9b-7.9f provide a sequential assessment of various visual impacts along the route using wirelines.
- 14.26 Section 7.9.21 & 22 of the ES concedes that this is a significant receptor but that the effect overlaps with significant effects from Fallago Rig 1. The SUW is unquestionably already affected by the existing wind farm and while the additional turbines may not significantly affect any new parts of the route, VP4 illustrates that Fallago Rig 2 will increase the magnitude of the wind farm.
- 14.27 The impact of the development upon the SUW is arguably the greatest single impact on receptors in the Scottish Borders. Some of the new turbines are more prominent than the existing turbines from points along the SUW, as shown by VP4. This part of the SUW falls within the receiving LCT which has been described within The Landscape Capacity and Cumulative Impact Study 2013 as a landscape which is becoming a wind turbine landscape. As a result of this existing context it will probably not be surprising for users of the route to have views of prominent turbines.
- 14.28 The increased impact of the development on the SUW cannot be disputed. Nonetheless, given the existing context for receptors along the SUW where wind turbines are already directly visible and in the absence of any objection from the Landscape Architect on the visual impact of the proposal, it is considered that the impact on the SUW alone is not significant enough to warrant objection against Policy EP9.

Visual Impacts – Residential Receptors

- 14.29 Scottish Planning Policy (SPP) advocates the identification in Local Development Plans of an area not exceeding 2km around settlements as a community separation for consideration of visual impacts. No settlements are located within this distance of the site. The lack of viewpoints from settlements illustrates that the development of Fallago Rig 2 will have little impact on more densely populated areas. There are two settlements (Gifford and Westruther) towards the outer edge of the 10km area. VP8 from outside of Gifford shows that there is no impact the area surrounding the settlement. In terms of Westruther the ZTV does indicate that 1-3 turbines may be visible

from around the Cemetery however this impact is not considered to be significant.

- 14.30 Within 5km of the site the ZTV identifies that there are 5 residential properties, 4 of which are identified as being involved with the development within the ES. The unrelated property of Trottingshaw is the furthest of the five from the proposed development. Each of these 5 properties are already impacted visually by the existing windfarm. Fallago Rig 2 will contribute towards additional impacts for these houses and this is to be expected. Given the existing baseline of visual impact which these properties are subjected to, the description in the ES of Fallago Rig 2 having a 'slight' effect on these dwelling is not disputed.
- 14.31 Section 14 of the ES has considered Shadow Flicker. The applicants have applied a test under National guidance on Shadow Flicker provided by the Scottish Government and report that the result find shadow flicker is scoped out of the ES. Given that the closest property is some 2.8km from the site then these findings are expected.
- 14.32 Overall, it is considered that the proposed wind farm extension will not have unacceptable adverse impacts upon residential receptors in local communities or nearby dwellinghouses.

Visual Impact from East Lothian

- 14.33 SNH have provided commentary on the impact of the development from viewpoints to the north, particularly from settled areas of East Lothian where is observed that;

“while there is an appreciable but slight extension to the overall extent of the array, there is also a favourable sense of design integration of the proposed turbines.”

- 14.34 East Lothian Council (ELC) has raised concerns about the development of Fallago Rig 2. The comparative ZTV information suggests that from East Lothian there are practically no new receptors as a result of this development. From selected viewpoints various parts of Fallago Rig 2 will be visible however this is practically always alongside the existing windfarm with SNH viewing the integration of the proposal to be reasonable. Various VPs from East Lothian show the development to extend the existing wind farm across the skyline which is not ideal but visibility of this change from settled areas is often from distances of over 15km from the development. On balance, it is not considered that the visual impacts of the development from East Lothian are significant enough to warrant object from SBC. The concerns raised by ELC remain a matter for the determination of the ECU.

Turbine Micro-siting

- 14.35 The issue of micro-siting is important to consider. Should the turbines have to be moved to a higher altitude then they may start to come out of the confining topographical bowl and will become more visually prominent in the landscape. If there is a clear habitat or technical reason to micro-site a turbine then a degree of flexibility is needed but this has to be balanced against the visual impact of the change.

- 14.36 To avoid an adverse visual impact, Members are asked to consider recommendation of a micro-siting planning condition which will require the applicants to undertake wireframe analysis of any micro-siting requirements to illustrate if the turbine new position can be tolerated in the landscape with the preference being that there is no discernible change. The applicants have suggested that they would be content with such a request.

Visual Impacts of Associated Infrastructure:

- 14.37 The presence of the existing windfarm means that the associated development is generally adding to existing infrastructure which is already present on site. The works are predominantly all localised around the existing windfarm and due to its isolated location, works relating to; new tracks and bridges, borrow pits and an extension to the existing substation themselves do not have any detrimental impact on the landscape and visual amenity of the surrounding area.
- 14.38 It is the intention that the majority of the associated infrastructure is to be removed at the end of the operational life of the wind farm. To avoid unnecessarily lasting impacts suitably worded planning conditions can agree the eventual removal of these components.

Cumulative Landscape and Visual Impacts:

- 14.39 In Paragraph 125 of the SESplan Strategic Plan, the cumulative issue in the Borders is given coverage:

“Consideration of location, landscape, environmental quality and community impacts will be required for onshore developments. For example, wind farms in East Lothian, the Scottish Borders and West Lothian currently contribute to the SESplan area; however, concerns have been expressed about cumulative impacts and LDPs should undertake an assessment of the impact of development.”

- 14.40 Berwickshire has been the subject of a high level of pressure in recent times, for further developments to be added to the current baseline. This is reflected in the summary of other relevant schemes earlier in this report.
- 14.41 Figure 7.10b of the ES shows the pattern of existing development around the site with the principal cumulative effect being the current proposal's association with Fallago Rig 1. As considered previously, the cumulative impact of Fallago Rig 2 with Fallago Rig illustrated by the comparative ZTV illustrates that the proposed development will have a very limited additional visual impact with few new receptors. As discussed previously some existing receptors will experience an intensification of magnitude but because the proposal has been designed to fit with the existing array, Fallago Rig 2 forms part of the existing cluster of turbines and generally avoids the provision of isolated or incongruous turbines within the landscape. The Council's Landscape Architect has advised that the cumulative change is “generally minimal”.
- 14.42 SNH observe that from some viewpoints the existing separation of Fallago Rig to the Crystal Rig/Aikengall cluster is marginally narrowed. Nevertheless, both SNH and SBC's Landscape Architect share the view that the sense of separation between these clusters is not diminished. The development of

Fallago Rig 2 is therefore judged to accord with the cluster and space strategy which is often promoted with large wind energy development.

- 14.43 There is no other consented wind energy development which is viewed to materially affect the cumulative impact of this proposal.
- 14.44 The application is considered to comply with cumulative impact requirement listed within Policy ED9.

Landscape and Visual Impact of Extending the Operational Life of Fallago Rig 1:

- 14.45 Fallago Rig 1 presently has consent to operate until 2038. In landscape and visual terms, the containment provided by the topographical bowl where the development is located and the limited impact of the development from settled areas means Fallago Rig 1 is generally perceived to be a good site for wind energy development.
- 14.46 There is a logic to the simultaneous operation and end point of the combined schemes. Fallago Rig 2 has been designed as an extension to the existing windfarm and not as a separate entity. If Fallago Rig 1 were to be removed when Fallago Rig 2 was still operational then there would be a sporadic form of development within the landscape. Extending the operational life of Fallago Rig 1 will enable Fallago Rig 2 to be seen alongside the existing development as a single wind farm for its whole operational life. At the shared end of their operational lives, both developments will be able to be decommissioned simultaneously which is cost effective and minimises local disruption which would be caused by two separate decommissioning periods. Despite benefiting from separate consents, the decommissioning of Fallago Rig 1 alongside Fallago Rig 2 can be governed by both consents having suitable decommissioning requirements which can be governed through planning conditions.
- 16.47 The Landscape Architect has not voiced any concerns regarding this particular application. Despite SNH and ELC raising concerns of the prominence of some of the turbines along the northern edge of the existing array, retention for a short time is not opposed. Caution has been expressed that granting an extension to Fallago Rig 1 should not be read as an acknowledgement that the whole site is suitable for wind development in perpetuity, under paragraph 170 of SPP. Provided that the further consent of operational time of Fallago Rig 1 remains time-limited, as advised in paragraph 170 of SPP then any proposals for further retention or future repowering outwith the specified period which can be controlled by condition and would fundamentally require determination of such proposals through relevant planning or Section 36 processes.
- 14.48 Overall, should Fallago Rig 2 be consented, extending the operational life of Fallago Rig 1 for a short time period to dovetail with the operational life of Fallago Rig 2 is an obvious decision in landscape and visual terms and complies with relevant requirements of Policy ED9.

Cultural Heritage Impacts:

- 14.49 The Council's Archaeologist has not objected to the addition of 12 turbines and associated works. The development site is located at an elevation above

known heritage assets but it is recorded that during the development of Fallago Rig 1 an Anglo-Saxon farm steading and several fit pits from approximately 10,000 years ago were discovered. This evidence suggests that the development of Fallago Rig 2 may also encounter buried archaeology, therefore mitigation in the form of a Written Scheme of Investigation is recommended and has been accepted by the developers.

- 14.50 Turning to indirect impacts, the Council's Archaeologist has suggested that application 16/00145/S36 (the extension) will not adversely affect the setting of surrounding heritage assets. HES have raised concerns about the impact of the development on the setting of the Munity Stones which is a cairn approximately 2km to the east of the site. The setting of the cairn is characterised by its location on a gentle southwest facing slope of Byreclough Ridge. Figure 8.4 of the ES does suggest that the upper part of the blades of turbines 52, 53, 54, 55 and 56 will creep over the hillslope which is unfortunate. In response to HES comments the applicants provided a Technical Note on Fallago Rig 2: Effect on the Setting of Munity Stones which illustrates that a previous design of the wind farm had a worse effect on the setting of the cairn. While turbines 52-56 do continue to break the skyline, this is by a much shorter part of the turbine with the intervening landform continuing to rise to the north which helps provide some containment.
- 14.51 HES have conceded that the proposal will not affect the understanding of the cairn but it will disrupt its sense of place. While it is not suggested that the development will not impact on the setting of the Munity Stones, in light of HES not raising a formal objection coupled with the advice provided by the Council's own Archaeologist, on balance, it is considered that the proposal will not have a significant enough impact on the affected cairn or any other heritage assets to warrant objection against LDP Policy ED9 or EP8. Fundamentally, it will be the role of the ECU to determine if the concerns raised by HES require further mitigation.
- 14.52 The extension of the operational life of Fallago Rig 1 poses no detrimental implications upon any cultural heritage assets.

Ecology and Habitat Impacts:

- 14.53 SNH have advised that the development is located close to the River Tweed Special Area of Conservation (SAC) where the development has potential, particularly during the construction process to have an effect on the Atlantic salmon qualifying interest of the SAC. The impact of the development on the SAC has attracted an objection to the development from SNH. However, this objection can be mitigated by the imposition of a planning condition to require the agreement of a Construction Environment Management Plan (CEMP) which in particular should protect the water environment and would address SNH's objection.
- 14.54 In addition to the impact of the development on the SAC and the need for a CEMP, the Council's Ecologist has identified that the development has the potential to impact on a range of species, including protected species and habitats. In order to comply with LDP policy provision covering biodiversity various forms of mitigation will be required to be undertaken. Mitigation measures will include; pre-commencement species surveys where the findings of these investigations should inform Species Mitigation and Management Plans, Habitat Management and Enhancement Plans and post

construction species monitoring. In addition an Ecological Clerk of Works is recommended to be appointed to ensure that ecological and habitat requirements are upheld during construction and also decommissioning requirements of the development are upheld.

- 14.55 The ES identifies that areas of deep peat lie along much of the new access route and turbine locations. The Council's Ecologist has recommended that use of floating roads should be used in areas with a peat depth of $\geq 0.5\text{m}$ instead of areas with a peat depth of $>1\text{m}$. There has been some dubiety about which would be the right depth in which to use floating roads to ensure that peat is not unnecessarily disturbed or destroyed. A view was sought from SNH however at the time of writing, no view has been received, therefore an appropriately worded planning condition is recommended to agree when floating roads are required to be used.
- 14.56 Taking into account the consultations responses of the specialist in these matters, the proposals do not give to any biodiversity impacts, including impacts on the SAC that cannot be resolved by a suite of planning conditions covering the aforementioned matters.
- 14.57 No consultee concerned with biodiversity has raised any significant concerns that the extension of the operational of Fallago Rig 1 will have a detrimental impact on ecology and from an ecological perspective decommissioning both sites simultaneously would be logical. The Council's Ecologist has noted that relevant post development conditions which are still pertinent for Fallago Rig 1. It is recommended that the relevant conditions of the original Fallago Rig consent for on-going compliance and management of ecological interest and suitable decommissioning should be re-imposed. Fundamentally, these requirements are similar to the protective measures sought as mitigation to Fallago Rig 2 and it would be at the discretion of the developers to formally seek to change any of the original conditions.

Residential Amenity (Noise):

- 14.58 Environmental Health officers have fully assessed noise issues. A noise assessment for the proposed development has been carried out and extended to include the cumulative noise effects from Fallago Rig 1 and Fallago Rig 2. Environmental Health Officers are satisfied with the findings of the noise assessments which have been carried out. Noise generated by the development of Fallago Rig 2 has not been found to detrimentally affect the amenity of affected residential properties subject to the imposition of planning conditions to set appropriate noise levels and proper investigation and resolution of noise complaints.
- 14.59 The noise limits set for Fallago Rig 1 under its original permission would remain unchanged and conditions covering these matters should be re-imposed as part of its consent to extend its operational life.

Traffic Management and Road Safety:

- 14.60 The site will be accessed via the route which successfully served the development of Fallago Rig 1. There are no reasons why the development would not comply with LDP Policy ED9 in relation to trunk road and traffic impacts with no overriding concerns raised by Transport Scotland or the Council's Roads Planning Officer (RPO). Planning Conditions can seek the

agreement for a Construction Traffic Management Plan which will also require the provision of mitigation measures to cater for abnormal loads using the route and a separate condition will ensure that the junction from the public road into the site can appropriately cater for vehicles accessing the development.

- 14.61 The Roads Planning Officer has advised about possibly entering into a Section 96 agreement. This is a formal agreement to ensure that damage to the public road caused by the development will be repaired by the developers. This obligation would have to be undertaken using a legal agreement. This type of obligation was not used during the construction of Fallago Rig 1; therefore it is not appropriate to pursue such an agreement for Fallago Rig 2. Appropriately worded planning conditions can be used to ensure that the developer is liable for damage caused to the public road network as a result of works from this development.

Public Access/Path Network:

- 14.62 The development would have the potential to have significant effects on the public path network. There are, as explained in the consultation response of the SBC Access Officer and also Scotways, paths within and crossing the site that may be physically affected and indirectly affected by the development and its infrastructure. In addition, paths outwith the site which will be indirectly affected by the development of Fallago Rig 2 have been identified.

Public Paths and General Access within the Site

- 14.63 During a meeting with the applicants, the impacts of the development upon the identified access routes within the site. Of particular concern was the siting of Turbine 60 which is less than 80m from the historic core path known as the Herring Road. The route of the core path along the affected area is not understood to be its original route. It was agreed with the developers that the impact on this route can be mitigated by diverting this path during construction phases and then realigning with its original route which should follow its route depicted in a plan from the 1960 which is held by the Council's Access Officer. This mitigation can be covered by a suitably worded planning condition which forms part of an Access Management Plan. Additionally, the access management plan can agree appropriate signage and interpretation boards across other routes within the site to provided mitigation of the effects of Fallago Rig 2 on these routes.

Paths outwith the Site

- 14.64 The cumulative impact of the development upon the SUW remains to receive objections from the Council's Access Ranger and Scotways.
- 14.65 The overriding concern of access specialists is that the development gives rises to an increased visibility of turbines which detrimentally affects the experience of users using this route. The landscape and visual impact from this receptor was thoroughly considered in detail earlier in this report.
- 14.66 While it is regrettable that the development will detract from the outlook and experience from this nationally important route, it is perceived that this effect will be for a short distance in comparison to the total length of this route. Bearing in mind that the route is already affected by the existing wind farm

and the characterisation of the wider landscape, the detrimental impact of the development from the SUW in wider land use planning terms it not judged to be significantly adverse in its own right to recommend refusal of this proposed development against Policy ED9.

- 14.67 No access concerns have been raised by consultees in response to application 16/00141/S36.

Fallago Rig 1 Suggested Variation Condition

- 14.67 Within application 16/00141/S36, it is suggested that Condition 2 of the original permission which stated;

“The consent is for a period from the date of this consent until the date occurring 25 years after the date of the Commissioning of Development. Written confirmation of the date of Commissioning of Development shall be provided by the Company to Scottish Ministers, the Planning Authority, and to National Air Traffic Services no later than one calendar month after that event.”

Is replaced with the following condition;

*“The consent is for a period to 24 January 2043. Written confirmation of the date of decommissioning shall be provided to Scottish Minister, the Planning Authority and to national Air Traffic Services within six months of the date of consent, **UNLESS** the Company provides written confirmation to the same parties of the Commissioning of Fallago Rig 2. In the event that the Company provides written confirmation of the Commissioning of Fallago Rig 2, this consent is for a period from the date of this consent until the date occurring 25 years after the date of the Commissioning of Fallago Rig 2”*

- 14.68 Fallago Rig 1 was commissioned on the 24th of January 2013. The suggested condition, provides a further 5 years of consent from the original 25 year period which would expire on the 24th of January 2038 or to a period to coincide with Fallago Rig 2, subject to obtaining agreement with the directly affected regulatory authorities which includes SBC. The condition provides the developers with flexibility to match the period of consent for both wind farms to provide the economic, visual and decommissioning benefits considered above. Ultimately, the precise wording of the condition which is an amended to the original Section 36 consent and not the deemed planning permission is a matter for the ECU, however the suggested condition appears to adequately achieve the aims of the proposed development and there is logic in this approach.

15.0 CONCLUSION FOR APPLICATION 16/00145/S36

- 15.1 Scottish Borders Council remains positive towards the principle of wind energy development, as reflected in its policies and guidance. As required by policy considerations, the benefits of energy production, and the disbenefits of environmental impact must be weighed carefully against one another. This is made clear in the 2014 SPP and reflected within the primary LDP Policy consideration for this development, Policy EP9.
- 15.2 Several key issues stand out in this report. There are clear benefits from the potential production of 41.4MW of electricity which will be added to the

installed capacity of 144MW at this site. This would make a large contribution to delivery of sustainable renewable energy development and align with the broad objective of Scottish Government to become 100% self-sufficient in producing energy. However, these benefits have to be finely balanced against the environmental impacts of the development which mainly relate to landscape and visual effects.

- 15.3 In landscape and visual terms the existing Fallago Rig Wind Farm is still considered to be generally a good site for wind energy development owing to its containment within a topographical bowl with little impact on settled locations. The location of the additional development proposed by Fallago Rig 2 are found to be located within an area which is recognised within our Landscape Capacity and Cumulative Impact study as being an area where there may be opportunity to extend the existing Fallago Rig Wind Farm.
- 15.4 Cumulative theoretical visibility analysis finds that the development is well associated with the existing windfarm, only giving rise to very minimal areas of new visibility with the development seen to generally fit into the design of the existing array. The proposal does result in an increase in magnitude of the combined windfarm from affected locations. Close analysis of the key viewpoints establishes that the presence of the existing windfarm and acknowledgement that the area is viewed as being part of a wind turbine landscape. Importantly, the perceived landscape and visual change as a result of this development is found to be limited.
- 15.5 The impact of the development upon the Southern Upland Way does represent a negative effect which arises from the development of Fallago Rig 2. The basis of the concern is centred on the developments visual effects on the route. Owing to the visibility of the existing windfarm from this route, the impact of the proposed development on the Southern Upland Way alone is not considered to be a unacceptable significant adverse impact to outweigh the benefits of the proposed development.

RECOMMENDATION BY CHIEF PLANNING OFFICER FOR APPLICATION 16/00145/S36:

That the Council indicate to the Scottish Government that it does not object to application 16/00145/S36 for the construction 12 additional turbines and associated infrastructure at Fallago Rig Wind Farm, subject to the imposition of the recommended schedule of conditions.

Reason for Recommendation for application 16/00145/S36:

On balance, by virtue of the siting and design of the turbines and infrastructure and its integration with the existing wind farm, the mitigation proposed and the acceptable visual relationship of the development with landscape character, private residences and other sensitive receptors, the proposals would accord with planning policies (listed above) relating to:

- development quality
- renewable energy
- protection of cultural heritage
- protection of biodiversity and habitat
- protection of recreational access

- protection of residential amenity

16.0 CONCLUSION FOR APPLICATION 16/00141/S36

- 16.1 The consented wind farm is already operational and produces electricity yields which contribute to the renewable targets set by the Scottish Government. The proposed development of Fallago Rig 2 has been designed as an extension to Fallago Rig 1 and not as a separate windfarm. Aligning the operational time of the existing windfarm means it can continue to generate electricity for the period of consent of Fallago Rig 2 and importantly consolidate the development as one wind farm for the duration of their combined operational lives.
- 16.2 The additional operational time for Fallago Rig 1 will be proportionately relatively short, approximately 5 additional years from commencement of its original consent period. In landscape and visual terms allowing the retention of Fallago Rig 1 avoids each of these wind energy developments being removed separately which means that Fallago Rig 2 will not be left standing alone in the landscape which would undermine the integrity of its design and appear visually disruptive. Aligning the period of consent for both developments enables both wind farms to be decommissioned simultaneously which is efficient and minimises the impact of these works in the local area which two separate decommissioning processes would cause.
- 16.3 On recommending no objection to the related application which seeks permission to extend Fallago Rig, it is considered that agreeing to extend the operational life of the existing wind farm is pragmatic and does not conflict with Council LDP Policies on Renewable Energy or any relevant material considerations. No grounds of objection to the extension of the operational life of Fallago Rig 1 have been raised by any specialist Council Officers consulted as part of this application.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES) FOR APPLICATION 16/00145/S36:

That the Council indicate to the Scottish Government that it does not object to application 16/00141/S36 to vary of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years.

Reason for Recommendation for application 16/00145/S36:

The variation proposed under Section 36C of the Electricity Act 1989 (as amended) is suggested to be agreeable, subject to the imposition of the relevant planning conditions of the original consent which remain necessary to ensure on-going compliance with the original permission

List of Proposed Conditions and Informative Notes for Application's 16/00145/S36 & 16/00141/S36

Separate Schedules of Conditions and appendixes to this report are attached, providing the list of items referred to ECU for further consideration.

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.

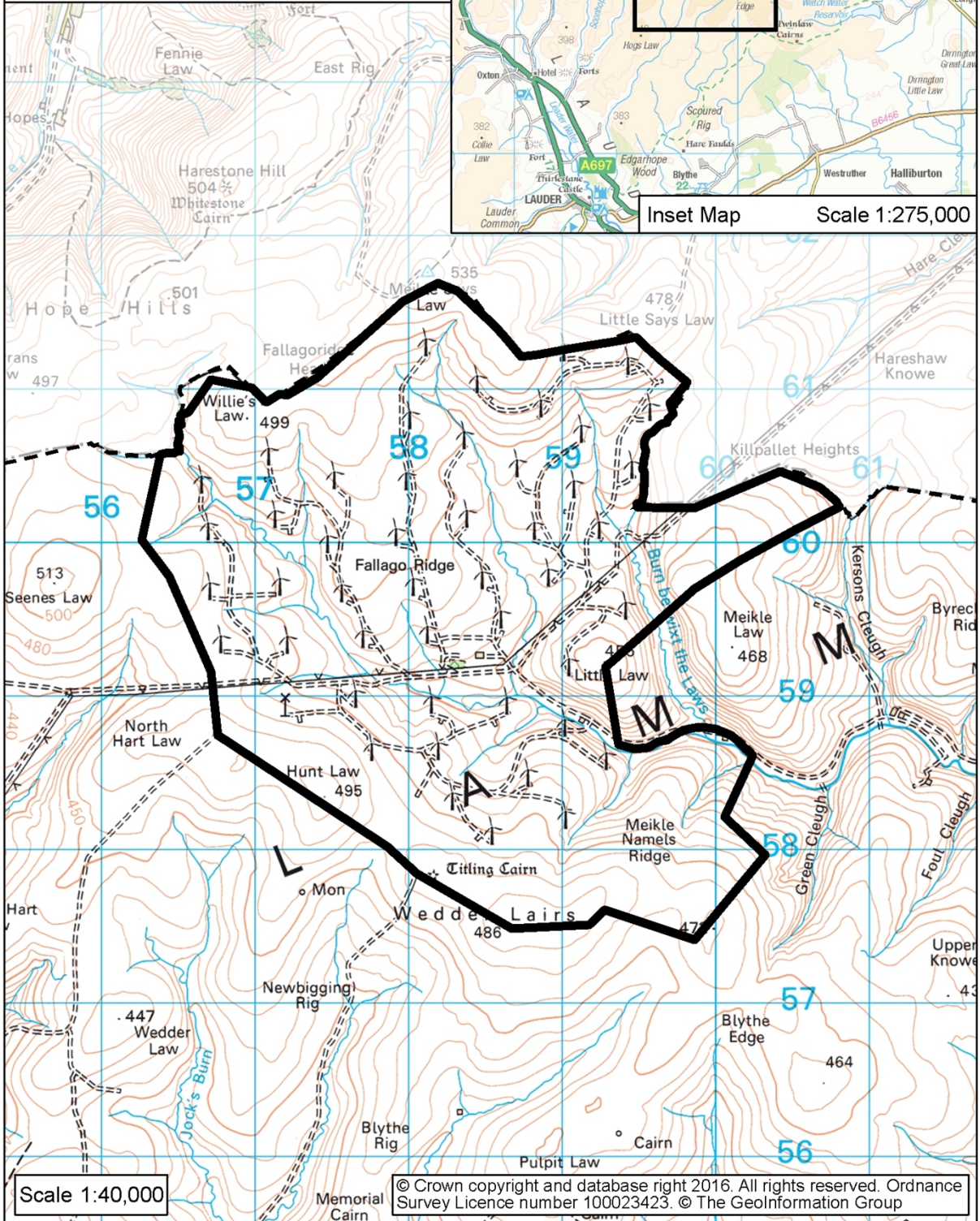
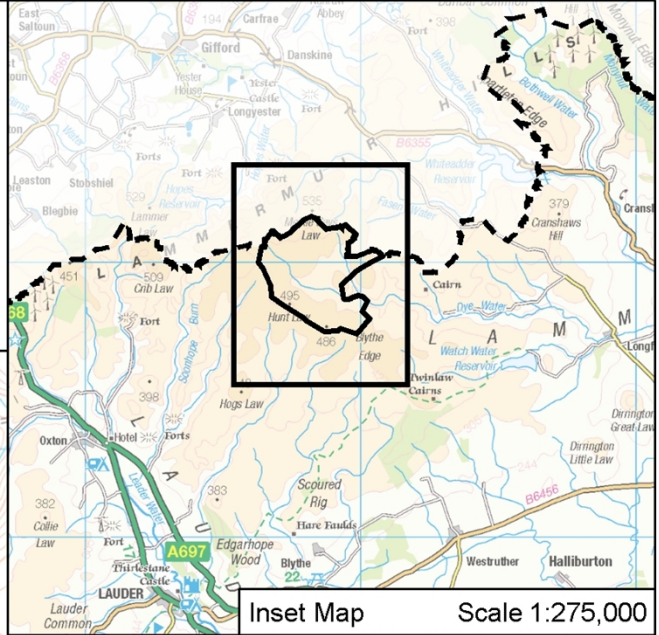
Author(s)

Name	Designation
Scott Shearer	Assistant Planning Officer



16/00141/S36 & 16/00145/S36

**Fallago Rig 1
Longformacus**



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16/00141/S36 – Variation of Condition 2 of the Fallago Rig Wind Farm to extend the operational life of the wind farm by a further 5 years

PART 1 - Conditions applying only to section 36 consent

For information the conditions imposed by Scottish Ministers on the Section consent are as follows:

General

1. The consent is for a period to 24 January 2043. Written confirmation of the date of decommissioning shall be provided to Scottish Ministers, the Planning Authority and to national Air Traffic Services within six months of the date of consent, UNLESS the Company provides written confirmation to the same parties of the Commissioning of Fallago Rig 2. In the event that the Company provides written confirmation of the Commissioning of Fallago Rig 2, this consent is for a period from the date of this consent until the date occurring 25 years after the date of the Commissioning of Fallago Rig 2

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

2. In the event of the Development not generating electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more turbines installed and commissioned from time to time, the Company must immediately notify the Scottish Ministers in writing of that situation and shall, if the Scottish Ministers direct, decommission the Development and reinstate the site in accordance with the restoration and aftercare scheme referred to in condition 34 or otherwise approved by the Scottish Ministers. The Scottish Ministers shall have due regard to the circumstances surrounding the failure to generate and shall take the decision on decommissioning following discussions with the Company, the Planning Authority and other such parties as the Scottish Ministers consider appropriate.

Assignment of Consent

3. The Company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers shall consult with the Ministry of Defence before issuing such authorisation and may grant consent (with or without conditions) or refuse such authorisation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

PART 2 - Conditions applying to only the deemed planning permission

Construction

4. All turbine blades shall rotate in the same direction.
5. No symbols, signs or logos or other lettering, other than those required for health and safety and for traffic management, shall be displayed on any part of the turbines nor any other building or structures without the written consent of the Planning Authority.

Roads/Transportation

6. Prior to the Commencement of Development, apart from the enabling works as provided for in condition 16, a programme of monitoring the condition of the public roads serving the site before, during and after the construction and decommissioning phases of the Development shall be agreed in writing with the Planning Authority. Thereafter, any remedial works, as approved by the Planning Authority, or payment of extraordinary maintenance costs incurred by Scottish Borders Council as a result of the site traffic, are to be carried out or paid within three months of completion of the construction or decommissioning of the wind farm.

Rights of Way

7. Prior to the Commencement of Development, a plan shall be submitted to the Planning Authority showing the existing paths and rights of way within the site. Access along such paths and rights of way shall not be disturbed or disrupted during construction and Decommissioning, unless a detailed plan with respect thereto has been submitted for the approval of the Planning Authority and thereafter implemented in accordance with the terms and timescales set therein. Such plan shall include:
 - (a) the identification of any area proposed to be excluded from statutory access rights and the reasons for such exclusion;
 - (b) details of the closure or temporary diversion of any identified rights of way at the site and any associated signage;
 - (c) details of the measures to ensure safe public access along the identified or diverted paths, tracks and rights of way during the construction and decommissioning phases of the Development; and
 - (d) details for the reinstatement and upgrading of the affected routes, including details of way-marking and route interpretation.

This condition is without prejudice to the need to obtain any other consent, permission or order in connection with the disturbance or disruption of use of a path or right of way.

Noise

8. Noise monitoring arrangements for the proposed turbines shall be undertaken in accordance with a programme of work to be agreed with the Planning Authority. The programme shall be submitted to and approved by the Planning Authority prior to the installation of the turbines.
9. When assessed in accordance with the attached guidance notes, noise limits at the agreed sensitive receptors identified within section 8 of the Environmental Statement will be met inclusive of any tonal penalty.
10. Noise levels at any Noise Sensitive Premises from the combined effect of the wind turbines where the proprietor or the occupier of the property has no financial interest in the Development shall not exceed an external free-field LA90, 10 min level of the greater of 40dB(A) or 5dB at any 10 metre height wind speed up to 12m/s above the prevailing background noise level from 07:00-23:00, and the greater of 43dB(A) or 5 dB at any 10 metre wind speed height up to 12 m/s above the prevailing background noise level from 23:00-0:700. The data provided in the noise assessment presented in the Environmental Statement provides the prevailing background noise level at various wind speeds and the methodology used within that document should be the basis for assessment of future investigations for consistency's sake. Any

assessment of compliance with this condition shall be made in accordance with the guidance notes attached to this consent.

11. Wind speed data must be maintained for a period of no less than 12 months from the Commissioning of the Development, and for each 12 month period of operation of the Development and be made available to the Planning Authority on request.

Ecological issues

12. (a) Prior to the Commencement of Development (including the enabling works), the Company shall appoint an independent full-time Ecological Clerk of Works (ECoW) acceptable to the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The terms of the appointment shall be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency, and shall include that the appointment shall be for the period of wind farm construction, including micro-siting and the finalisation of the wind farm layout, as well as subsequent post-construction restoration.

(b) The ECoW's in terms of appointment are to impose a duty to monitor compliance with all the ecological and hydrological aspects of the Construction Method Statement, including post-construction restoration, which have been approved under the terms of condition 16 above. The ECoW's terms of appointment are to require the ECoW to report promptly to the Company's nominated Construction Project Manager any non-compliance with the hydrological or ecological aspects of the Construction Method Statement. The Company shall confer on (and comply instructions given in the exercise of) the ECoW shall have the power to stop any construction or restoration activity on-site which in his or her view (acting reasonably) could lead to significant effects on the River Tweed SAC, and shall without delay, report the stoppage, with reasons, to the applicant's nominated Construction Project Manager and to the Planning Authority, Scottish Natural Heritage and the Scottish Environmental Protection Agency.
13. Prior to the Final Commissioning of the Development, plans for the method, frequency and duration of ecological monitoring over the operational life-span of the proposed Development are to be submitted to, and approved in writing by, the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The monitoring shall be carried out in strict accordance with the terms set out in the agreed monitoring plan.
14. Prior to the Final Commissioning of the Development, the Company shall submit an operational protocol for approval in writing by the Planning Authority, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. This will set out details for working practice and wind farm maintenance over the operational life-span of the wind farm. The wind farm shall be operated in strict accordance with the terms of the operational protocol.
15. Prior to the Commencement of Development save in respect of any enabling works as provided for in condition 16, the applicant will submit a detailed Land Management Plan for approval in writing by the Planning Authority in consultation with Scottish Natural Heritage. The Land Management Plan will set out proposed long-term management of the wind farm site and should provide for the maintenance of dwarf shrub heath habitat on site. The Land Management Plan, as approved shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.

Decommissioning and restoration

16. Within 12 months after the end of the period of the consent granted under section 36 of the Electricity Act 1989 as provided for in condition 2, those parts of the Development requiring decommissioning and restoration in accordance with the conditions of this consent shall be removed and the land restored, in accordance with the decommissioning restoration and aftercare scheme required by the planning condition 34.
17. Within 5 years prior to the expiry of the consent granted under section 36 of the Electricity Act 1989, a decommissioning restoration and aftercare scheme shall be submitted for the approval of the Planning Authority outlining the programme of decommissioning of the Development and the restoration and aftercare of the site. The decommissioning restoration and aftercare scheme will include details of all site decommissioning including the removal of all wind turbines together with their foundations to a depth of 1.2m, ancillary equipment and buildings to be dismantled and work to remove other infrastructure from the site and details of site restoration and aftercare to restore the land to its former condition or other such condition as may be agreed with the Planning Authority. It will include provision for the appointment of an Ecological Clerk of Works acceptable to the Planning Authority (in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency), whose role will be to oversee implementation of the plans so approved. The decommissioning restoration and aftercare scheme will include the method, frequency and duration of ecological monitoring, particularly of watercourses, over the decommissioning period of the Development. Six months prior to the expiry of the section 36 consent, the decommissioning restoration and aftercare scheme shall be reviewed by the Company and the Planning Authority, and any alterations deemed appropriate and mutually acceptable shall be made. Within twelve months, or any alternative timescale agreed by the Planning Authority, of the wind farm ceasing to be used for the generation of electricity, the decommissioning restoration and aftercare scheme as referred to above shall be submitted to the Planning Authority. Within this submission a timescale for completion of the restoration of the site shall be agreed with the Planning Authority, thereafter the works shall be completed in accordance with the agreed timescales.
18. The site shall be restored to such condition as set out in the agreed decommissioning restoration and aftercare scheme
19. Following the decommissioning and restoration of the site in accordance with planning condition 33 and aftercare requirements contained in the decommissioning restoration and aftercare scheme required by condition 34 shall be implemented in accordance with the programme approved therein.

Financial Bond

20. (a) Prior to the Commencement of Development, the Company shall provide to the Planning Authority details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration costs on the expiry of this consent.

(b) No development shall commence on the site until the Company has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory.

(c) The Company shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.

(d) The bond or other financial provision will be subject to a five yearly review, paid for by the Company, from the Commencement of Development, to be conducted by a competent independent professional who has relevant experience within the wind energy sector and provided to the Company, the landowners, and the Planning Authority.

Appendix 1 – Drawing Numbers

Figure 1.1 Site Context
Figure 1.2 Site Boundary

Appendix 2

GUIDANCE NOTES RELATING TO CONDITIONS 9 and 10

The Guidance Notes 1 – 4 appended to the original Fallago Rig Deemed Planning Permission and the updated consent, ref 13/01268/FUL should be referred to for noise monitoring obligations listed within Condition 9 and 10 of this permission.

16/00145/S36 – Fallago Rig 2 Wind Farm

Conditions and Informative Notes

Conditions Attached to Section 36 Consent

1. Duration of the Consent

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

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

Reason: To define the duration of the consent.

2. Commencement of Development

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

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

3. Non-assignment

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

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

4. Serious Incident Reporting

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

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

5. Aviation

There shall be no commencement of development unless an Air Defence Radar Mitigation Scheme (“the ADRM scheme”) has been submitted to and approved in writing by the Planning Authority to mitigate the adverse impacts of the Development on the air defence radar at Remote Radar Head (RRH) Brizlee Wood and the air surveillance and control operations of the MOD. No turbines shall become operational until:

- i. the mitigation measures which the approved ADRM Scheme requires to be implemented prior to the operation of the turbines have been implemented; and
- ii. any performance criteria specified in the approved ADRM Scheme and which the approved ADRM Scheme requires to have been satisfied prior to the operation of the turbines have been satisfied.

Reason: Unless mitigation is undertaken, the wind farm would have an unacceptable impact on the Primary Surveillance Radar and the Remote Radar Head, Brizlee Wood, Northumberland, with consequent implications for national security.

Conditions Attached to Deemed Planning Permission

6. Implementation in accordance with approved plans and requirements of this consent

Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the application including the approved drawings listed at Appendix 1 to this decision statement (as supplemented or amended by any further or additional environmental information) and other documentation lodged in support of the application.

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

7. Design and operation of turbines

There shall be no Commencement of Development unless details of the external finish and colour of the wind turbines and any external transformer units have been submitted to and approved in writing by the Planning Authority. The tip height of the turbines shall not exceed 126.5 metres above ground level. The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the Development is decommissioned.

All wind turbine blades shall rotate in the same direction.

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

All turbines and components shall be installed to meet the safety standards set by British Standard BS EN 61400-1: 2005 'Wind turbine generator systems: Safety requirements' or International Electro-technical Commission IEC 16400.

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

8. Design of sub-station and ancillary development

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

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

9. Design of water course crossings

There shall be no Commencement of Development unless final details of all the water course crossings over the Dye Water and the Black Burn have been submitted to and approved in writing by the Planning Authority.

The crossings shall be clear span and not impede flow in the water courses. The water course crossings shall be constructed in accordance with the approved details.

Reason: Further information is required to ensure a satisfactory form of development which protects the water environment.

10. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 4.1. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH) micro-siting is subject to the following restrictions:

- i. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on the aforementioned Figure 4.1 unless a scheme of details including wirelines showing the alternative positioning of the turbine have been to and agreed in writing by the Planning Authority (in consultation with SNH) and thereafter no development shall take place in strict accordance with the agreed arrangement;
- ii. No micro-siting shall take place within areas of peat of greater depth than the original location;
- iii. No wind turbine, building, mast, access track or hardstanding shall be moved more than 50m from the position shown on the original approved plans;
- iv. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems
- v. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

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

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

11. Borrow Pits

There shall be no Commencement of Development unless a site specific scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include;

- i. Topographic surveys of pre-construction profiles; and a detailed working method statement based on site survey information and ground investigations;
- ii. Details of the handling of any overburden (including peat (if present), soil and rock);
- iii. Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- iv. A programme of implementation of the works described in the scheme;
- v. A dust management plan; and
- vi. Full details of the reinstatement, restoration and aftercare of the borrow pit(s).

The approved scheme shall thereafter be implemented in full.

Within 3 months of cessation of extraction of each borrow pit, post extraction topographical surveys shall be undertaken of the restored borrow pit profiles, the details of the topographic surveys of pre-construction profiles and the post extraction profiles shall be submitted to the Planning Authority.

Reason: To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures

contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

12. Borrow Pits – Blasting

Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.

Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at agreed blasting monitoring locations. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

13. Ecological Clerk of Works

There shall be no Commencement of Development unless the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;

- i. Impose a duty to monitor compliance with the ecological and hydrological measures required, the Construction and Environmental Management Plan (condition 14), the Land Management Plan approved in accordance with condition 22, and the species protection plans in accordance with condition 23, approved by virtue of the conditions attached to this deemed planning permission;
- ii. Require the EcoW to report to the Company's nominated construction project manager and the Planning Authority any incidences of non-compliance with the ecological and hydrological measures listed in the conditions at the earliest practical opportunity;
- iii. Require the ECoW to submit a monthly report to the Planning Authority (summarising works undertaken on site); and
- iv. Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The EcoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and until the completion of all post construction restoration works.

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

14. Construction and Environmental Management Plan

There shall be no Commencement of Development unless a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The details of the CEMP shall be submitted to the Planning Authority at least 6 weeks before Commencement of Development.

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

- a. a **site waste management plan** (dealing all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. a **construction method statement** for the formation of the construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing together with measures to ensure the hydrological connectivity is maintained and that tracks do not become preferential pathways of ground water;
- c. site specific details for management and operation of any **concrete batching plant** (including disposal of pH rich waste water and substances);

- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning (if required) and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a **pollution prevention and control method statement**, including arrangements for the storage and management of oil and fuel on the site;
- f. **soil storage** and management;
- g. a **peat management plan**, to include details of vegetated turf stripping and storage, peat excavation (including volumes), handling, storage and re-use;
- h. a **drainage management strategy** to greenfield rates 5L/s/hectare (whichever is the least), demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- i. a **surface water and groundwater management and treatment plan**, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- j. measures to prevent ground water seeping into excavations, and measures identified to mitigation incursion of ground water in excavation should it occur;
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the maintenance of visibility splays on the entrance to the site;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines;
- r. details of watercourse crossings;
- s. **post-construction restoration**/ reinstatement of the working areas not required during the operation of the Development, including construction access tracks, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

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

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

15. Floating Roads

Floating roads shall be installed in areas where peat depths are in excess of $\geq 0.5\text{m}$, unless the use of floating roads where peat depths are in excess of 1m have been agreed in writing with the Planning Authority in consultation with SNH. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented in strict accordance with the approved details.

Reason: to ensure peat is not unnecessarily disturbed or destroyed.

16. Construction Hours

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

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

Reason: To protect the amenity of the local area and localised ecological interests.

17. Traffic Management Plan (TMP)

There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:

- a. The routing of all traffic associated with the Development on the local road network;
- b. Measures to ensure that the specified routes are adhered to, including monitoring procedures;
- c. Details of all signage, traffic control measures and lining arrangements to be put in place;
- d. Details of removal of any street furniture or infrastructure and the reinstatement;
- e. Provisions for emergency vehicle access;
- f. Identification of a nominated person to whom any road safety issues can be referred; and;
- g. Details of access to the site by abnormal loads/vehicles, including the number and timing of deliveries, an indicative delivery programme, the length, width and axle configuration of all extraordinary traffic accessing the site.

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

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

18. Road Condition Surveys

There shall be no Commencement of Development, unless a programme of monitoring the condition of the public roads serving the site before, during and after the construction of the Development has been submitted to and approved in writing by the Planning Authority. Thereafter, any remedial works, as approved by the Planning Authority, or payment of extraordinary maintenance costs incurred by the Planning Authority as a result of the site traffic, are to be carried out or paid within three months of Final Commissioning of the Development.

Reason: to ensure that any damage to the public road network is rectified.

19. Access Management Plan

a. There shall be no Commencement of Development until an access management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scotways and thereafter the development shall be undertaken in strict accordance with the agreed details unless any variation is agreed thereto. The access management plan shall identify all the existing national and local recreational routes within the 'Fallago Rig Wind Farm Site'. The access management plan shall include the following details;

- i. a route for the temporary diversion of Core Path 16 (Right of Way BB107) west of its existing route to follow the inside field boundary and details of its implementation;
- ii. a programme to re-instate Core Path 16 (Right of Way BB107) along its original historic route following the completion of construction works at Turbine 60;
- iii. a signage scheme including way-markers (at 500 metre intervals on CP16) and details of its implementation throughout the proposed development site and existing Fallago Rig Wind Farm Site;
- iv. details which shall be included on interpretation boards to direct and provide information provide information on the historic Muir route; and
- v. a programme for the annual maintenance (including vegetation management) of all recreational routes within the proposed development site and existing Fallago Rig Wind Farm Site;

Access along the routes, other than any alterations to Core Path 16 (Right of Way BB107) agreed in section a. shall not be disturbed or disrupted during construction and decommissioning, unless a detailed plan with respect thereto has been submitted to and approved in writing by the Planning Authority and thereafter implemented in accordance with the terms and timescales within the approved plan. Such a plan shall include:

- i. the identification of any area proposed to be excluded from statutory access rights and the reasons for such exclusion;
- ii. details of the closure or temporary diversion of any identified rights of way at the site and any associated signage;
- iii. details of the measures to ensure safe public access along the identified or diverted paths, tracks and rights of way during the construction and decommissioning phases of the Development; and
- iv. details for the reinstatement and upgrading of the affected routes, including details of way-marking and route interpretation.

Any agreed reinstatement and upgrading of the affected routes shall be carried out within 6 months of the Final Commissioning of the Development.

This condition is without prejudice to the need to obtain any other consent, permission or order in connection with the disturbance or disruption of use of a path or right of way.

Reason: In the interests of recreational users of the Lammermuirs.

20. Water Quality Monitoring Plan (WQMP)

There shall be no Commencement of Development unless a Water Quality Monitoring Plan (WQMP) has been submitted to and approved in writing by the Planning Authority, in consultation with Marine Scotland Science, SNH and SEPA.

This plan should be cognisant of the guidelines set out in Marine Scotland's Generic Monitoring Programme for Monitoring Watercourses in relation to Onshore Wind Farm Developments (October 2015).

A minimum of 12 months pre-construction water quality monitoring shall be carried out at locations along the Dye Water and at one or more suitable control sites, to be agreed and set out in the WQMP.

Water quality monitoring and fisheries surveys will thereafter continue through construction and continue for two years from the date of Final Commissioning, the results of which shall be forwarded to the ECoW, and be made available to SNH, MSS and the Planning Authority upon request.

Reason: To ensure that water quality, fauna and flora are protected during construction.

21. Ecological Monitoring Programme

There shall be no Commencement of Development unless a plan for the method, frequency and duration of ornithological monitoring over the construction, operational and decommissioning life-span of the 'Development' has been submitted to, and approved in writing by the Planning Authority, in consultation with Marine Scotland Science, SNH and SEPA.

The monitoring shall be carried out in strict accordance with the terms set out in the approved monitoring plan and the results of which shall be forwarded to the ECoW, and be made available to SNH, MSS and the Local Authority upon request.

Reason: to monitor the watercourses over the operational life-span of the wind farm development and confirm, by monitoring, that no significant effects are occurring to the River Tweed SAC and other fauna and flora in the 'Proposed Development Site'.

22. Land Management Plan (LMP)

There shall be no Commencement of Development unless a land management plan has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The land management plan shall comprise land identified in the outline land management plan (Figure 1.1 of Appendix 9.F to the Environmental Statement) as Habitat Enhancement Area 4.

The land management plan shall compensate the loss of habitat resulting from the installation of turbines T56, T57 and T60 (Figure 4.1) together with their associated areas of hard standings and tracks; and mitigate the effects of displacement of birds and other ecology as a result of the construction works and the operation of the wind turbines hereby permitted through the implementation of the following objectives:

- i. Objective 1- Improvement to the condition of Blanket Mire Vegetation in Habitat Enhancement Area 4; and
- ii. Objective 2 – Improve habitat in Habitat Enhancement Area 4 to Increase the breeding bird population of golden plover, curlew and other breeding waders

The implementation of the approved land management plan shall commence within 12 months of the Commencement of Development.

The land management plan shall set out provisions for monitoring and review by a steering committee that will have responsibility for overseeing implementation of the land management plan. These reviews shall take place in years following completion of the works in year 1, 3, 5, 10, 15 and 20 or as otherwise agreed with the Planning Authority. Any amendments required following the reviews shall be submitted to the Planning Authority for written approval and then be carried out within 12 months of approval.

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

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

23. Ecological Protection Plans

There shall be no Commencement of Development unless supplementary ecological surveys for protected species have been carried out by a suitably qualified person. The surveys shall comprise:

- i. Otter;
- ii. Badger;
- iii. breeding birds;
- iv. reptiles; and
- v. Amphibia
- vi. Bats

The survey results and any mitigation measures required for protected species on site shall be set out in a species mitigation and management plan, which shall inform construction activities. The plan shall be submitted to and approved in writing prior to the Commencement of Development by the Planning Authority, in consultation with SNH, and the approved plan shall then be implemented in full.

Reasons: to ensure birds, especially breeding birds, are afforded suitable protections from the construction, operations and decommissioning of Fallago Rig 2.

24. Programme of Archaeological Works

There shall be no Commencement of Development unless a Written Scheme of Investigation (WSI) outlining a programme of archaeological work has been submitted to and approved in writing by the Planning Authority in consultation with the Council Archaeology Service. The terms of the approved WSI shall be observed prior to and during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ, the recording and recovery of archaeological features which cannot be so preserved and the reporting of results of the programme, including any subsequent investigations deemed necessary by the Planning Authority, to the Planning Authority for approval. The approved scheme of archaeological works shall thereafter be implemented in full.

Reason: To ensure the protection or recording of archaeological features on the site.

25. Peat Landslide Management

There shall be no Commencement of the Development until a detailed peat landslide risk assessment, addressing the construction phase of the development and post-construction monitoring, has been approved in writing by the Planning Authority.

The peat landslide risk assessment shall comply with best practice contained in "Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments" published by the Scottish Government in January 2007, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval. The peat landslide risk assessment shall include a scaled plan and details of any mitigation measures to be put in place.

Prior to Commencement of Development, the Company shall appoint and pay for an independent and suitably qualified geotechnical engineer acceptable to the Planning Authority, the terms of whose appointment (including specification of duties and duration of appointment) shall be approved by the Planning Authority.

The Company shall undertake continuous monitoring of ground conditions during the construction of the Development. Continuous analysis and call out services shall be provided by the geotechnical engineer throughout the construction phase of the Development. If a risk of peat failure is identified, the Company shall install such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer and shall monitor ground conditions. Any remediation work considered necessary by the geotechnical engineer shall be implemented by the Company to the satisfaction of the geotechnical engineer. Monitoring results shall be fed into risk analysis reports to be submitted to the Planning Authority on a quarterly basis during the construction of the Development.

Reason: To minimise the risk of peat failure arising from the Development.

26. Noise

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (Appendix 3), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables (within Appendix 3) at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the wind farm operator has submitted to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The

proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

f) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.

27. Television Reception

There shall be no Commencement of Development unless a Television Reception Mitigation Plan has been submitted to, and approved in writing by the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any wind turbine forming part of the Development, the results of which shall be submitted to the Planning Authority.

The approved Television Reception Mitigation Plan shall thereafter be implemented in full.

Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the Company and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: To ensure local television services are sustained during the construction and operation of this development.

28. Redundant turbines

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall;

- a) by no later than the date of expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- b) implement the approved scheme within six months of the date of its approval.

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

29. Aviation Safety

There shall be no Commencement of Development until the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;

- the date of the expected commencement of each stage of construction;
- the height above ground level of the tallest structure forming part of the Development;
- the maximum extension height of any construction equipment; and
- the position of the turbines and masts in latitude and longitude.

Reason: In the interests of aviation safety.

30. Aviation Lighting

Prior to the erection of the first wind turbine, the Company shall submit a scheme for aviation lighting for the wind farm to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

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

Reason: To protect aviation safety.

31. Site Decommissioning, Restoration and Aftercare

i. The Development will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for decommissioning and restoration of the Development Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation from the Development.

ii. Within 5 years prior to the expiration of this consent a detailed decommissioning, restoration and aftercare plan, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide detailed proposals for the removal of the Development, the treatment of ground surfaces (including consideration of the removal of access tracks should they no longer be required), the management and timing of the works and environment management provisions which shall include:

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

- i. temporary site illumination;
 - j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - k. a programme of monitoring the condition of the public roads serving the site before, during and after the decommissioning of the Development, together with measures to carry out any remedial works, as approved by the planning authority, or payment of extraordinary maintenance costs incurred by the council as a result of the site traffic. The works shall be carried out or paid within three months of Final Decommissioning of the Development.
 - l. details of watercourse crossings;
 - m. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.
- iii. 6 months prior to the commencement of decommissioning of the Development, the approved detailed decommissioning, restoration and aftercare plan shall be reviewed by the Company and the Planning Authority, in consultation with SEPA and SNH. Any changes to the plan as required by the Planning Authority, SEPA or SNH shall be made by the Company and shall be submitted in writing for approval by the Planning Authority, in consultation with SEPA and SNH. The approved plan shall then be implemented in full.
- iv. 6 months prior to the commencement of decommissioning of the Development, details of the appointment of an Ecological Clerk of Works shall be submitted to and approved in writing by the Planning Authority (in consultation with SNH and the SEPA). The decommissioning ECoW shall oversee the implementation of the detailed decommissioning, restoration and aftercare plan.
- v. The Development Site shall be decommissioned, restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

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

32. Site Decommissioning, Restoration and Aftercare

- i. The Development will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for decommissioning and restoration of the Development Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation from the Development.
- ii. Within 5 years prior to the expiration of this consent a detailed decommissioning, restoration and aftercare plan, shall be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide detailed proposals for the removal of the Development, the treatment of ground surfaces (including consideration of the removal of access tracks should they no longer be required), the management and timing of the works and environment management provisions which shall include:
 - a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - c. a dust management plan;
 - d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - f. soil storage and management;

- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. a programme of monitoring the condition of the public roads serving the site before, during and after the decommissioning of the Development, together with measures to carry out any remedial works, as approved by the planning authority, or payment of extraordinary maintenance costs incurred by the council as a result of the site traffic. The works shall be carried out or paid within three months of Final Decommissioning of the Development.
- l. details of watercourse crossings;
- m. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

Points a – m noted above are not exclusive and the decommissioning and restoration plan should cover all development and aftercare undertakings which are deemed to be required by the Planning Authority to suitably address the physical impact of the development upon the site.

iii. 6 months prior to the commencement of decommissioning of the Development, the approved detailed decommissioning, restoration and aftercare plan shall be reviewed by the Company and the Planning Authority, in consultation with SEPA and SNH. Any changes to the plan as required by the Planning Authority, SEPA or SNH shall be made by the Company and shall be submitted in writing for approval by the Planning Authority, in consultation with SEPA and SNH. The approved plan shall then be implemented in full.

iv. 6months prior to the commencement of decommissioning of the Development, details of the appointment of an Ecological Clerk of Works shall be submitted to and approved in writing by the Planning Authority (in consultation with SNH and the SEPA). The decommissioning ECoW shall oversee the implementation of the detailed decommissioning, restoration and aftercare plan.

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

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

Reason: To ensure the decommissioning and removal of the Development concurrently with Fallago Rig 1 in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

33. Financial Guarantee

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

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

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

Appendix 1 – Drawing Numbers

Figure 1.1	Site Context
Figure 1.2	Site Boundary
Figure 3.1	Site Layout and Constraints
Figure 3.2	Design Iterations
Figure 4.1	Site Layout
Figure 4.2	Indicative Turbine
Figure 4.3	Typical Road Types
Figure 4.4	Typical Culvert
Figure 4.5	Typical Bridge / Culvert
Figure 4.6	Turbine Foundation
Figure 4.7	Crane pad hardstanding
Figure 4.8	Substation
Figure 4.9	Cable Trench
Figure 4.10	Indicative Construction Compound
Figure 4.11	Indicative Batching Plant
Figure 4.12	Indicative Construction Programme
Figure 4.13a	Borrow Pit A
Figure 4.13b	Borrow Pit B
Figure 8.1	Designated Assets and ZTV to Blade Tip
Figure 8.2	Non Designated Heritage Assets
Figure 9.1	Ecological Designated Sites
Figure 9.2	NVC Survey Map
Figure 10.1	Location of Extension and Designated Ornithological Sites
Figure 11.1	Hydrological Features
Figure 11.3	Hydrological Constraints
Figure 12.1	Noise Monitoring Locations
Figure 13.1	Construction traffic route
Figure 16.1	Infrastructure locations

Appendix 2 - Definitions:

'Final Commissioning' Means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

'First Commissioning' Means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

'Commencement of Development' Means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997.

The 'Development' (Fallago Rig 2 wind farm) is defined as 12 turbines, each to a height of up to 126.5m to blade tip and an installed capacity 3.45MW, and their supporting infrastructure comprising access tracks, crane hard standings, a transfer and control building (and electricity sub-station if required), two borrow pits and two temporary construction compounds authorised by this consent and deemed planning permission.

For the purposes of the conditions, "the company" means EDF Energy Renewables Limited Registered number: 06456689. Registered office: 40 Grosvenor Place, London, SW1X 7EN , and its permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers in accordance with condition 3.

'Fallago Rig Wind Farm Site' comprises Fallago Rig 1 and Fallago Rig 2 Wind Farms. And is defined as the site area set out in Figure 1.1 of the Environmental Statement.

Appendix 3

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the LA90,10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS

4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound

level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

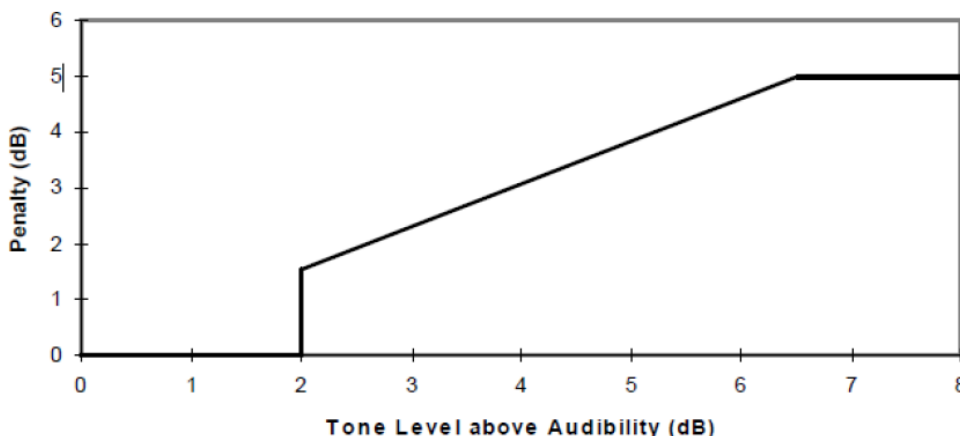
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e). Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
West Hopes	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Fasney Cottage	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Killpallet	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Byrecleugh	33.4	33.4	33.4	33.5	33.7	33.9	34.2	34.4	34.7	35.0	35.4	35.7

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Measured wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
West Hopes	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.7	34.4	34.9
Fasney Cottage	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0
Killpallet	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0	33.0
Byrecleugh	33.0	33.0	33.0	33.0	33.0	33.9	35.3	36.7	38.0	39.3	40.6	41.8

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
West Hopes	355757	662730
Fasney Cottage	360968	663362
Killpallet	362880	660551
Byrecleugh	362821	658010

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

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SCOTTISH BORDERS COUNCIL**PLANNING AND BUILDING STANDARDS COMMITTEE****7 NOVEMBER 2016****APPLICATION FOR PLANNING PERMISSION**

ITEM:	REFERENCE NUMBER: 16/00747/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale West
PROPOSAL:	Alterations and extensions to care home
SITE:	Peebles Nursing Home, Tweed Green, Peebles.
APPLICANT:	Mansfield Care Ltd
AGENT:	D & H Farmer

SITE DESCRIPTION:

Peebles Nursing Home is situated in Peebles Conservation Area near the River Tweed. It is a substantial detached building, formerly several dwellings converted into a single use some years ago. It is essentially a two-storey traditional stone and slate building with various extensions added incrementally on the front and rear over time.

The western frontage faces onto Tweed Green. The southern end is demarcated by the end of the building and adjoins a pedestrian lane connecting Tweed Green to Tweed Avenue. On the opposite side of the lane is the dwelling known as Priorsford. The eastern walled boundary aligns with Tweed Avenue. On the opposite side of the public road is a private residence (1 Tweed Avenue) and a large hall known locally as the Drill Hall. The northern boundary wall adjoins a long traditional building occupied by a local business.

A range of photographs submitted as part of the application package show in some detail the external appearance of the building which is not statutorily listed.

PROPOSED DEVELOPMENT:

The development comprises the following elements:

- alterations to western (frontage) boundary wall comprising:
 - reinstatement of northern section to former height
 - rebuild of southern section to match height of northern section (height to match either side of pedestrian opening)
- demolition of 2 no. existing single storey front extensions
- erection of 2 no. new flat-roofed single storey extensions on front elevation to provide day room and extension to existing day room
- partial downtakings at ground floor level on rear (east) and side (north) elevations, followed by erection of 3 no. single storey extensions to provide a laundry room, additional bedrooms and associated rooms/passages

The building and curtilage of the Nursing Home were heavily flooded when existing flood defences provided by gates and walls were overwhelmed at the end of 2015. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, the Nursing Home requires extensive repairs to be undertaken before it can be brought back into use.

The property owners have taken the opportunity to re-evaluate the future requirements of the nursing home, and therefore although in part the works are borne out of an ambition to improve flood resilience, the development also seeks to enlarge and rationalise available rooms/accommodation. The Design and Access Statement explains the rationale, including the reinstatement of the front wall to a previous height and the replacement of the front conservatory which was damaged in the last flood event. Although there is increased demand for places, the owners seek to reduce the number of double rooms in the home and provide additional bedrooms on the ground floor.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application was continued from the September meeting of the Planning and Building Standards Committee, along with other applications in Tweed Green (16/00317/FUL and 16/00343/FUL), in order to consider flood risk assessment information that had been submitted prior to the Committee and to seek the advice of the Flood Protection Officer.

The Flood Risk Assessment Report is available in full on Public Access for Members to inspect. This Report has been amended and Members are referred to the Report dated 17 October on Public Access. This summarises that the application will not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change, raising water levels generally by between 4mm and 24mm in five different locations in the vicinity of the new wall and throughout Tweed Green. It concludes that the proposed works will not result in any additional properties being flooded.

The report recognises that the Nursing Home and 18 Tweed Green are key elements in the basic defence for the whole of the Tweed Avenue area and that regular maintenance programmes need to be implemented for all components of the drainage and flood protection system.

Members should also note the agent letter of 31 August 2016 online which states the following:

As the existing flood protection manages the flooding up to a 1 in 200 year event, increased footprint usage with the extensions will not reduce the flood plain storage area.

The flooding in Dec 2015 was resultant from failure of the flood defences. The rebuilding, strengthening and raising of the wall is only to give greater freeboard allowance against exceptional events.

Occupancy of the Nursing Home will increase from 28-32, although this is likely to reduce to 30 in future.

The provision of a higher proportion of rooms on the ground floor allows safer evacuation without use of a lift.

Land to the side and rear of the Home are not currently used for parking and the provision of three parking spaces does not reduce the provision, which is adequately catered for on surrounding streets.

PLANNING HISTORY:

09/01135/FUL – Alterations to roof, dormer window and installation of three rooflights – APPROVED

00/00359/FUL – Formation of door in boiler room, extension to boundary wall, erection of gates and installation of satellite dish – APPROVED

93/01473/FUL – Alterations to building, removal of garage, portakabin units with link corridor – APPROVED

92/01312/FUL – Erection of extension – APPROVED

90/01392/FUL – Alterations and extension - APPROVED

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Objects to application as the proposal will result in a loss of parking and turning abilities within the site, resulting in only three remaining spaces on site and the need to reverse out onto a street with restricted parking and boundary walls.

Following additional information from agent, removes objection but will be amending Traffic Orders to extend the double yellow lines on the opposite side of the junction, at the applicant's expense. Also requires a Condition to cover further details of the parking area and junction visibility.

Social Work: Supportive as a care home is required in this area. Ensure all flood defences are in place.

Flood Protection Officer: The consultee raises an objection to the proposals. A summary of the consultation response is as follows:

- SEPA material indicates that the site is at risk from a flood event with a return period of 1 in 200 years (0.5% annual risk of a flood occurring in any year).
- The property was affected by flooding during December 2015 from the River Tweed, at an estimated 1 in 55 year flood event leading to evacuation.
- The extensions are substantial and will both result in flood plain storage loss and place people and property at further risk of flooding.
- A Flood Risk Assessment could be provided but is advised against as there is no real prospect of compensatory storage close to the site.
- If the reinstatement of the boundary wall is back to an original height, then object as has the potential to increase flood risk to other properties.
- Flood resilient materials are necessary.

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Q_{med} would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and manning's values.

- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200 year event but during the winter the area was inundated to a greater extent than the FRA's prediction.

Following the submission of the revised Flood Risk Assessment, acknowledges the merit in raising the wall to provide additional protection to the Care Home but notes that shows that there will be level increases at the five location points in the Tweed Green/Tweed Avenue area, with Tweed Green seeing an increase in flood depth of approximately 25mm at the 1 in 200 year plus climate change level. An increase in flood depth will occur along the length of Tweed Green from the Tweed Bridge to the Care Home. This area will already be flooded to a significant depth during a 1 in 200 year plus climate change event but there is an increased degree of flood risk. "As part of our duties within the Flood Risk Management (Scotland) Act 2009, we would not permit any development that would potentially increase the flood risk at another property".

In relation to the extension, there are still significant issues. Firstly, the proposed extension seeks to increase the amount of bedrooms and thus vulnerable people that will at risk of flooding. Secondly, as was experienced in December 2015 there is an issue with safe access and egress. Increasing the number of vulnerable people at this location would place additional pressures on the emergency services during a large flood event. Thirdly, extending onto flood plain would reduce storage capacity by placing a building where functional flood plain currently is. This would need to be compensated for elsewhere and I would note that there are no suitable possibilities close to the site. Note that SEPA are not in a position to respond to this application due to the wider national context on this type of issue. We are of a similar viewpoint and simply aim to state the facts in this response.

Archaeology Officer: No known implications.

Estates Officer: Response awaited.
Statutory Consultees:

Peebles and District Community Council: Response awaited.

Non Statutory Consultees:

SEPA: Objects to the application as it lies within functional floodplain and will place greater numbers of vulnerable residents at risk of flooding, quoting the position of the Nursing Home within the medium flood risk zone of SEPA maps and quoting the recent flood event last December when flood defences were breached and residents had to be relocated/evacuated. Accepts all parts of the application except the extensions which increase the ground floor bedrooms from 9 to 15, exposing to risk increased numbers of vulnerable residents.

Includes a series of photographs to back up objections referring to Storms Frank and Desmond.

If the Council are minded to approve the application, then notification to the Scottish Ministers may be necessary.

Responding to the FRA, maintain their objection identifying deficiencies in the FRA which need to be addressed including flow estimates, model set up and output, sensitivity analysis, presentation of results and calibration of model with historic flood events. Even if such

deficiencies were resolved, objection would still be maintained due to the increasing number of vulnerable persons being exposed to potential flood risk.

Peebles Civic Society: No objections.

REPRESENTATION SUMMARY

None.

CORRESPONDENCE SUBMITTED DURING CONSIDERATION PERIOD OF THE APPLICATION:

Members should note the response of the agent dated 28 July with amended plans, the amended Flood Risk Assessment of 17 October and the agent statement of 31 August.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

PMD1 - Sustainability
PMD2 - Quality Standards
HD3 – Protection of Residential Amenity
EP9 – Conservation Areas
IS7 – Parking Provisions and Standards
IS8 - Flooding

OTHER PLANNING CONSIDERATIONS

National Policy and Advice:

- Scottish Planning Policy (2014)
- Online planning advice on flood risk (June 2015) – NB this publication supersedes Planning advice Note (PAN) 69
- The Flood Risk Management (Scotland) Act 2009

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposed development would be compatible with the character of the building in its Conservation Area setting and whether the proposed development would both increase the flood risk to vulnerable residents and materially increase the flood risk to other properties.

ASSESSMENT OF APPLICATION

This application, together with the other applications presented to the Committee in the Tweed Avenue/Green area, would normally have been determined through delegated powers in that the recommendation is one of refusal for a “Local” category of application. However, given the overall flood risk issues in the area and the need to determine the applications on a coherent and consistent basis taking into account cumulative impacts as well as those of potential precedent, it was considered appropriate to present the applications to Committee for determination, enabling full discussion on the matters and allowing applicants the opportunity to state their cases.

Policy and Flood Risk

Scottish Planning Policy (SPP) promotes a precautionary approach to flood risk. The planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. The Local Development Plan expands further within Policy IS8 by stating that new development should not be in areas where there is a significant risk of flooding and should not result in reduction or interference with functional flood plain operation.

These aims principally apply to new development. In the case of existing development and properties that already lie within such flood areas, there has to be sympathy with property owners who wish to secure their properties against further flooding and damage. This proposal partly relates to proposed mitigation against flooding of the property, following the floods in December 2015/Jan 2016. A number of properties suffered the same fate in the Tweed Avenue/Green locality and, like those other properties, Peebles Nursing Home has had to undergo extensive repairs in the first half of 2016.

As Members will note, the Council has discussed the flooding with residents of Tweed Green and Tweed Avenue and is working towards a way of providing increased protection to the “at risk” homes in Peebles. This would be designed on the basis of a Property Level Protection Scheme where the aim has to be to stop or reduce the ingress of water into the actual properties themselves – rather than their curtilages. Government money is being made available through this scheme and meetings continue with residents about the solutions available under this scheme.

In terms of this application, and the other two presented to the same Committee meeting, the issue is not whether the Council can support the protection of properties on a case-by-case basis, but whether the protection they now seek to their curtilage boundaries will materially increase the probability of flooding to other properties, contrary to SPP and LDP Policy IS8. The Council has a duty to ensure that this would not be the case, especially when faced with accumulation of such curtilage protection schemes at Tweed Green. In addition, this proposal seeks to add new floorspace to the ground floor in several locations, not all being straightforward replacement. This additional floorspace results in a reduction in the capacity of the functional floodplain.

Furthermore, both SEPA and the Flood Protection Officer object to the increase in numbers of vulnerable residents within the property and across the ground floor, stating that this is against Scottish Planning and Local Development Plan Policies in terms of siting high sensitivity uses within functional flood plains.

The Council’s Flood Protection Officer advises that a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green. The advice is that, without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, the Council should not be approving such applications.

Although a Flood Risk Assessment has been suggested by the Flood Protection Officer, he is not expecting to lift his objections given the lack of opportunities to create local compensatory storage. In his opinion, the displacement of flood water within the functional floodplain caused by the new and enlarged extensions would be likely to have material consequences on other properties in the Tweed Green area. This may not only lead to flooding of properties not previously flooded but also raise flood water levels in properties previously flooded. It also seems unlikely that SEPA would withdraw their objection as theirs is to the principle of increasing risk to vulnerable residents within a floodplain.

The issue of the raising of the front wall has been mentioned by the applicant for Priorsford but has not been objected to by SEPA. The Flood Protection Officer opposes the raising of the wall back to former levels, consistent with his response to building or raising of walls elsewhere in the vicinity. The wall appears to have been at a lower height for some considerable time and it is difficult to agree with SEPA's acceptance of it being raised again, especially when the application seeks to place a temporary flood gate in the current frontage gap. This is, again, the sort of displacement of flood water and curtilage protection that has concerned the Flood Protection Officer on the other two applications being presented to the Committee and simply contributes to the concerns over material impacts on other properties, on a cumulative basis.

Unless this could be demonstrated not to be the case through the submission of a Flood Risk Assessment and satisfactory responses to the increased vulnerability concerns, then the application must be considered to be against LDP Policy IS8 and cannot be supported. The Council will continue to work with the property owners and residents of the affected area in order to encourage the protection of the buildings themselves from flood risk.

At the September Committee, Members were in receipt of Flood Risk Assessments for this and the Hawthorn Bower applications being considered in the Tweed Green area and considered that more time was required to assess the findings. As there would also be implications for the third application, that was also continued.

The Assessment summarises that the application will not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change, raising water levels generally by between 4mm and 24mm in five different locations in the vicinity of the new wall and throughout Tweed Green. This will not result in any additional properties being flooded. It is contended that as the current wall protects the Home to a 1 in 200 year level and all that is sought is extra freeboard, there should be no objection to increased numbers of residents being at risk behind the wall.

The report recognises that the Nursing Home and 18 Tweed Green are key elements in the basic defence for the whole of the Tweed Avenue area and that regular maintenance programmes need to be implemented for all components of the drainage and flood protection system.

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Q_{med} would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and Manning's values.
- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200

The Flood Risk Assessment was amended and resubmitted on 17 October. This summarises that the application will not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change, raising water levels generally by between 4mm and 24mm in five different locations in the vicinity of the new wall and throughout Tweed Green. This, it is claimed, will not result in any additional properties being flooded.

The report recognises that the Nursing Home and 18 Tweed Green are key elements in the basic defence for the whole of the Tweed Avenue area and that regular maintenance programmes need to be implemented for all components of the drainage and flood protection system.

SEPA are now in receipt of the revised Flood Risk Assessments and will respond with their comments in time for the Committee meeting. They have indicated that the Assessments do not address the concerns they raised but their final responses will be awaited. They also acknowledge the difficulty with cumulative impacts of such proposals in a flood risk area and whether they need to be formulating a Policy on all such cases, whether that be objection in principle to all or objection until Flood Risk Assessments can prove otherwise.

If SEPA maintain their objection and should Members be minded to approve this application, then notification to the Scottish Ministers would not be necessary. The reason for this is that the consultation to SEPA was on a discretionary and not mandatory basis, the latter only being required where the erection of new buildings are proposed in a flood risk area. This does not include walls or extensions to an existing building, thus the Council have no requirement to notify to Ministers.

In terms of the response from the Flood Protection Officer, it is acknowledged that there is merit in raising the wall to provide additional protection to the Care Home but also noted that there will be level increases at five location points in the Tweed Green/Tweed Avenue area, with Tweed Green seeing an increase in flood depth of approximately 25mm at the 1 in 200 year plus climate change level. An increase in flood depth will occur along the length of Tweed Green from the Tweed Bridge to the Care Home. Whilst this area will already be flooded to a significant depth during a 1 in 200 year plus climate change event, there is an increased degree of flood risk. The Flood Protection Officer states *"As part of our duties within the Flood Risk Management (Scotland) Act 2009, we would not permit any development that would potentially increase the flood risk at another property"*.

In terms of Policy IS8, the test is whether the magnitude of increase is "material". Compared to the two other cases at Committee, the view is that this potential increase is "material", both in amount of water level raising and the spread of effects. Although the FRA claims it will not result in properties being flooded that would not already be flooded, the Flood Protection Officer believes the level of inundation has to be considered in terms of impact and damage.

There is no withdrawal of objection from the Flood Protection Officer and it has to be concluded that this element of Policy IS8 continues to be contravened. It is a decision of balance and judgement but Members will need to consider the advice of the Flood Protection Officer and SEPA on this case, given the findings of the revised Flood Risk Assessment.

In relation to the extensions and predicted increases in bedrooms and resident numbers, there are still significant issues identified by the Flood Protection Officer. Firstly, the proposed extension seeks to increase the amount of bedrooms and thus vulnerable people that will be at risk of flooding. Secondly, as was experienced in December 2015, there is an issue with safe access and egress. Increasing the number of vulnerable people at this location would place additional pressures on the emergency services during a large flood event. Thirdly, extending onto flood plain would reduce storage capacity by placing a building where functional flood plain currently is. This would need to be compensated for elsewhere and it is noted that there are no suitable possibilities close to the site. The Flood Protection Officer notes that SEPA are not in a position to respond to this application due to the wider national context on this type of issue and is of a similar view, simply aiming to state the facts on this case.

It is accepted that numbers of residents are only increasing from 28 to 32 and that the Nursing Home exists and is simply aiming to protect its curtilage and occupants. However, this appears to be causing material increases in flood risk for other property in the area. Given that and the contents of Policy IS8 which clearly discourages certain uses (including care homes) within such flood risk areas, there can be considered to be no compliance with the Policy. It might be argued that if the property is seeking to protect itself from the 1 in 200 year flood level (including climate change) and proposes a suitable height of wall raising, the objection in relation to flood plain occupation and water displacement is addressed. However, SEPA and the Flood Protection Officer cannot consider such walls to be formal flood defences built to the standards required and, moreover, the substantial footprint increase behind such walls still has to be considered in terms of impact on the functional flood plain.

In summary, the application is in contravention of Local Development Plan Policy IS8 in that it is likely to result in a material increase in flood risk to other properties in the area and will be putting at risk greater numbers of people classed as vulnerable to flood events.

Conservation Area and Design

The property is located within the Peebles Conservation Area in a prominent position facing Tweed Green. The removal of the front conservatory garden rooms and replacement with deeper, more substantial flat roofed extensions are an improvement on the current frontage, being well designed to match in with the parapet and cornice design of the retained front porch. They will be clad in natural whinstone and pre-cast surrounds, finished with double glazed sash windows and dark framed cupolas.

The pitched roof extension to the northern gable has now been redesigned with smaller slated pitched roofs, valleys and grey coloured wet render. The other two extensions to the rear will follow a similar design with sandstone coloured quoins.

All extensions will not harm the general character of the building and, whilst increasing floorspace, are done sensitively and are appropriate in design in the locations intended. The front of the building will benefit from the amended designs compared to the existing lean-to extensions.

The wall increase is intended back to the height that currently exists at the northern edge of the perimeter wall at present. It is explained that this was lowered when the conservatory was erected, suggesting it has been at a lower height since the early 90s. Provided it is carried out in matching stone and copings, there are no concerns with regard to impact on the character of the building or Conservation Area.

Overall, there are no amenity or aesthetic reasons why the proposals would not be considered acceptable in the Conservation Area. Subject to conditions on matching materials, there would be no reason to consider the proposals inconsistent with LDP Policy EP9.

Road Safety

The current Nursing Home has access from Tweed Avenue to the rear and provides parking and turning space, continuing along the rear of the building. As a result of the extensions, this parking and turning space will be significantly curtailed, resulting in only three end-in spaces. The Roads Planning Service objected to the application as a result of this reduction in provision, leading to road safety impacts in the vicinity. It was difficult to understand how the facility, in its enlarged state, could operate safely with such limited provision, especially taking into account the narrow and restricted roads in the area and the regular full

occupation of public parking space in the immediate vicinity. The application was, therefore, considered to be contrary to Local Development Plan Policy IS7 on adequacy of parking provision.

However, the agent has now provided further information which has satisfied Roads Planning with regard to staff and visitor parking numbers and what provision previously existed. He can now accept the application but will need to extend the double yellow lines opposite the junction into the Nursing Home through amending Traffic Orders. The cost will be retrieved from the applicant. A condition will also be necessary to agree further details of the parking area and any visibility improvements necessary.

CONCLUSION

Subject to conditions on matching materials, the proposals would comply with Policy EP9 on works within a Conservation Area and IS7 on parking provision. However, after consideration of the revised Flood Risk Assessment, the application must be considered to be against LDP Policy IS8 and cannot be supported. The appropriate approach to flood protection should be a holistic and consistent one which does not raise the possibility of materially increased flood risk to other properties in the vicinity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is refused for the following reason:

The application is contrary to Policy IS8 of the Scottish Borders Local Development Plan in that the proposal is likely to materially increase flooding to other properties within the Tweed Avenue/Green area of Peebles and expose flood risk to an increased number of vulnerable residents.

DRAWING NUMBERS

Design and Access Statement
Photographs
Existing Ground Floor Plan D004
Proposed Ground Floor Plan D005 Rev B
Location Plan D006
Proposed Elevations D007 Rev A
Existing Elevations D008
Flood Risk Assessment

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.

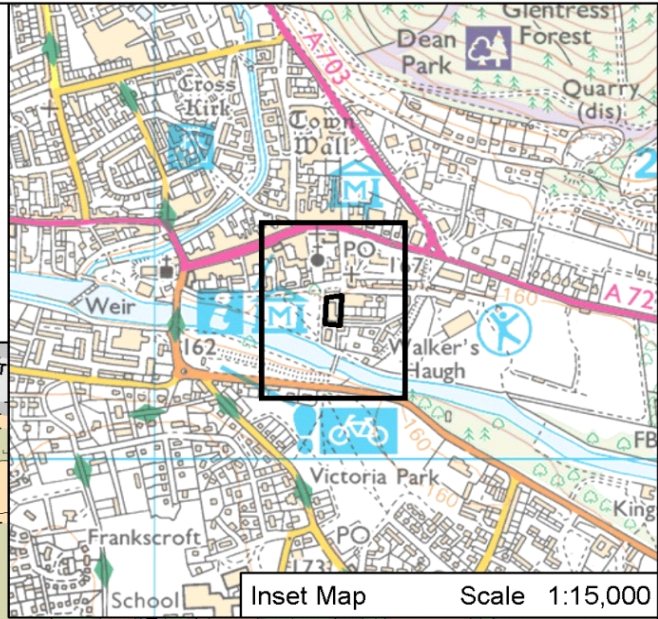
Author(s)

Name	Designation
Craig Miller	Planning Officer

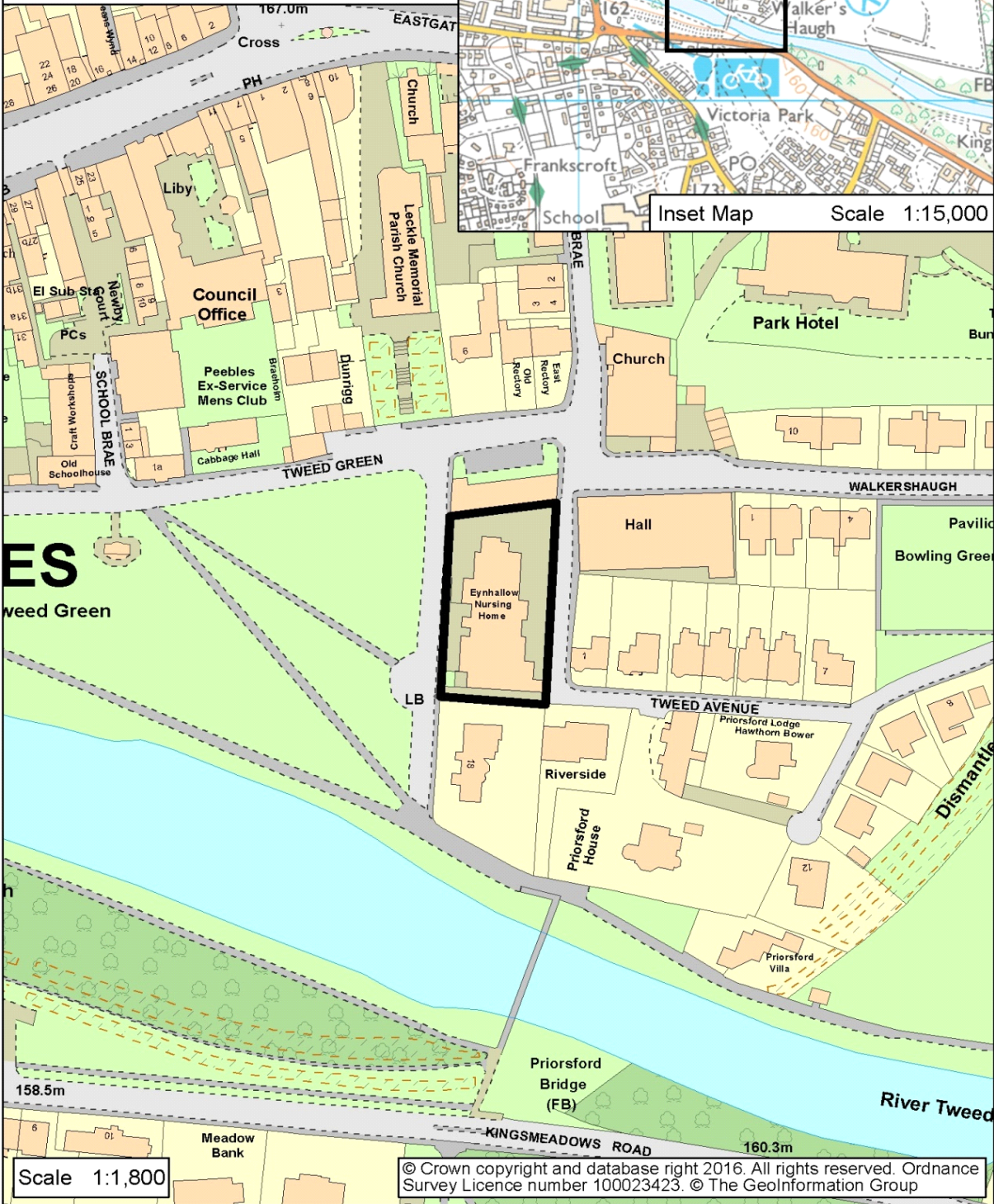


16/00747/FUL

Peebles Nursing Home
Tweed Green
Peebles
EH45 8AR



Inset Map Scale 1:15,000



Scale 1:1,800

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 NOVEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 16/00317/FUL
OFFICER: Mr C Miller
WARD: Tweeddale West
PROPOSAL: Erection of boundary wall with timber fence over and gates.
SITE: Hawthorn Bower, Tweed Avenue, Peebles
APPLICANT: Mr & Mrs Fleming
AGENT: D & H Farmer Architects

SITE DESCRIPTION:

Hawthorn Bower is a large single storey dwelling on Tweed Avenue, in the Conservation Area near the River Tweed. It is situated centrally to its plot and has substantial perimeter boundaries on all sides. Its western boundary is defined by a brick wall approximately 1.6m in height and its southern boundary a brick wall of around 3m in height. The north boundary wall is the entrance side and includes a pedestrian access. This is a whinstone wall of changing heights, but with the main section being approximately 1m high over a length of around 35m. The remaining eastern boundary comprises a mature (mainly evergreen) hedgerow; the vehicular access to the curtilage is located at the southern end of this eastern boundary.

The property adjoins the public road on the northern and eastern boundaries, and private gardens on the western and southern boundaries.

PROPOSED DEVELOPMENT:

The development comprises the following elements:

- erection of a brick wall (1.093m) with a vertically slatted timber fence on top (0.727m) along the length of the east boundary, following removal of existing hedgerow
- erection of 2 no. 1.2m height gate posts

It should be noted that the proposals were revised on 20 April 2016, in that the height of the fence proposed on top of the new wall has been reduced so that the overall height of this new boundary would be 1.8m instead of 2m as originally proposed. The timber fence has been revised so that the timbers would run horizontally instead of vertically.

The development are the applicant's proposals for mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Hawthorn Bower were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Hawthorn Bower has had to undergo extensive repairs in the first half of 2016.

Erection of brick wall/fence wall on northern boundary

The applicants wish to provide an impermeable perimeter structure to prevent further flood water from entering the curtilage. The existing hedgerow does not provide a barrier to flooding, whereas the other boundaries do perform this function to greater and lesser extents.

Erection of gate posts in south-east corner of perimeter:

These are proposed to provide attachments for a demountable flood barrier, which would be installed in front of the existing large vehicular access gate.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application was continued from the September meeting of the Planning and Building Standards Committee, along with other applications in Tweed Green (16/00343/FUL and 16/00747/FUL), in order to consider flood risk assessment information that had been submitted prior to the Committee and to seek the advice of the Flood Protection Officer.

The Flood Risk Assessment Report is available in full on Public Access for Members to inspect. This Report has been amended and Members are referred to the Report dated 17 October on Public Access. This summarises that the application will not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change, raising water levels by 2cm in the vicinity of the new wall which will not be above the lowest house threshold level in the part of Tweed Avenue opposite the wall.

The report indicates that the route the flood waters take are through and over the small wall running parallel to the River Tweed, next to the driveway of Priorsford House. The report states that small measures to remove openings and a minor increase in the wall height would further protect all the properties in Tweed Avenue from more events of this nature.

The agent responded to SEPA objections in a letter which is viewable online dated 27 September, followed up by the amended FRA Report dated 17 October. The applicant submitted comments which are viewable in full on Public Access dated 18 October. His comments include the following:

Planning permission is only required due to being in the Conservation Area. As other locations close to the river could carry out such work without planning permission outwith the Conservation Area, all should be treated equal.

Twelve planning applications are listed for works in the vicinity of Tweed Avenue since 1993 without any flood risk assessment or requirement for such assessment, including two house extensions after the current application was submitted.

A wall of 900mm with 200mm cope was approved in 2008 at Priorsford Villa without flood risk assessment requirement.

15 properties were neighbour notified and none have objected, all having been flooded out in Dec 2015 without the proposed wall in place.

A temporary flood barrier could be installed without planning permission with the same predicted effects as claimed by SEPA and SBC Flood Protection Team.

Expresses concerns over the Property Level Protection scheme and states that the house has already been deemed beyond any further resilience protection methods under this scheme. Believes it is better to prevent flood water reaching the house itself, either through his own proposals or the Council taking wider action. The solum poses difficulties and flood water should not be pumped out to the detriment of other properties. The PLP scheme provides no protection to outbuildings and under the property's insurance policy, egress of flood water into the curtilage is classed as flooding of the property.

The applicant wishes permission to be granted without further delay or unduly onerous conditions.

PLANNING HISTORY:

There is no planning history relevant to consideration of this application.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer:

The consultee initially raised an objection to the proposals. A summary of the consultation response is as follows:

- SEPA material indicates that the site is at risk from a flood event with a return period of 1 in 200 years (0.5% annual risk of a flood occurring in any year).
- current and previous flood risk issues are acknowledged and understood
- as discussed during public consultation with residents of Tweed Green and Tweed Avenue, the Council is working towards a holistic way of providing increased protection to the at risk homes in Peebles (to be discussed at further public meeting)
- SBC does not presently have enough information to show that building walls or creating an opening within a wall that holds back flood waters would not impact detrimentally on residents elsewhere within Peebles (in this instance there is the potential for detrimental effects for other residents)
- duties of SBC require that any development that would potentially increase the flood risk at another property is not permitted
- (as an example) a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green
- without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, an objection is raised on the grounds of flood risk

- applicant encouraged to wait until next public discussion and the suggestions that the Council make within this before employing a consultant to undertake a Flood Risk Assessment, if they choose to do so.

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Qmed would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and manning's values.
- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200 year event but during the winter the area was inundated to a greater extent than the FRA's prediction.

Following the submission of the revised Flood Risk Assessment, notes that the FRA confirms no additional flooding will occur as a result of the proposed wall. The FRA took level points throughout the area and states that there will be level a maximum level increase in the Tweed Green/Tweed Avenue area of approximately 7mm at a 1 in 200 year plus climate change flood event, which is negligible. At lower return periods, do not anticipate there will be an increase in flood risk to other properties in the area. **Objection is removed.**

The wall should be constructed using flood resistant materials and appropriate construction techniques. Recommend the applicant reviews Online Planning Advice on Flood Risk.

Roads Planning Service: No objection on road safety grounds, although provides commentary on existing/proposed visibility concerns.

Archaeology Officer: No known archaeological implications.

Statutory Consultees:

Royal Burgh of Peebles Community Council: No response.

Non Statutory Consultees:

SEPA: Objection in response to the submitted Flood Risk Assessment. To reconsider their objection, suggest the deficiencies in the FRA must be addressed including flow estimates, model set up and output, sensitivity analysis, presentation of results and calibration of model with historic flood events. The FRA must also demonstrate that there is no increase in flood risk elsewhere as a result of the wall. Do not recognise that the wall is a formal flood defence structure. Unlikely to support any development where an increase in flood levels is demonstrated elsewhere in Peebles.

Peebles Civic Society: No objection.

REPRESENTATION SUMMARY

There has been one letter of support submitted by a Peebles Community Resilience group, and no letters of objection.

A summary of the matters covered in the letter of support would be:

- urgent repairs and improvements to flood defences in area badly flooded in December 2015.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

PMD1 - Sustainability
PMD2 - Quality Standards
HD3 – Protection of Residential Amenity
EP9 – Conservation Areas
IS8 - Flooding

OTHER PLANNING CONSIDERATIONS

National Policy and Advice:

- Scottish Planning Policy (2014)
- Online planning advice on flood risk (June 2015) – NB this publication supersedes Planning advice Note (PAN) 69
- The Flood Risk Management (Scotland) Act 2009

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposed development would be compatible with the Conservation Area setting and whether the proposed development would materially increase the flood risk to other properties

ASSESSMENT OF APPLICATION

This application, together with the other applications presented to the Committee in the Tweed Avenue/Green area, would normally have been determined through delegated powers in that the recommendation is one of refusal for a “Local” category of application. However, given the overall flood risk issues in the area and the need to determine the applications on a coherent and consistent basis taking into account cumulative impacts as well as those of potential precedent, it was considered appropriate to present the applications to Committee for determination, enabling full discussion on the matters and allowing applicants the opportunity to state their cases.

Policy and Flood Risk

Scottish Planning Policy (SPP) promotes a precautionary approach to flood risk. The planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. The Local Development Plan expands further within Policy IS8 by stating that new development should not be in areas where there is a significant risk of flooding and should not result in reduction or interference with functional flood plain operation.

These aims principally apply to new development. In the case of existing development and properties that already lie within such flood areas, there is, of course, sympathy with property owners who wish to secure their properties against further flooding and damage. This proposal seeks to mitigate against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Hawthorn Bower were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Hawthorn Bower has had to undergo extensive repairs in the first half of 2016.

As Members will note, the Council has discussed the flooding with residents of Tweed Green and Tweed Avenue and is working towards a way of providing increased protection to the “at risk” homes in Peebles. This would be designed on the basis of a Property Level Protection Scheme where the aim has to be to stop or reduce the ingress of water into the actual properties themselves – rather than their curtilages. Government money is being made available through this scheme and meetings continue with residents about the solutions available under this scheme.

In terms of this application, and the other two presented to the same Committee meeting, the issue is not whether the Council can support the protection of properties on a case-by case basis, but whether the protection they now seek to their curtilage boundaries (including cumulatively) will materially increase the probability of flooding to other properties, contrary to SPP and LDP Policy IS8. The Council has a duty to ensure that this would not be the case, especially when faced with accumulation of such curtilage protection schemes at Tweed Green.

The Council’s Flood Protection Officer initially advised that a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green. The advice was that, without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, the Council should not be approving such applications. The applicant, himself, had objected to part of the Priorsford application for the same reasons of heightened flood risk.

Although it is appreciated that, for one domestic property carrying out some boundary walling work, the requirement for a Flood Risk Assessment may seem onerous, no technical information (at the time of the September Committee) had been submitted to enable the Flood Protection Officer to lift his objections. In his opinion, securing such a large curtilage from flood risk (as opposed to just the house itself) would be likely to have material consequences on other properties in the Tweed Green area. This may not only lead to flooding of properties not previously flooded but also raise flood water levels in properties previously flooded.

Unless this could be demonstrated not to be the case through the submission of a Flood Risk Assessment, then the application must be considered to be against LDP Policy IS8 and could not be supported. The Council would continue to work with the residents of the affected area in order to encourage the protection of the buildings themselves from flood risk.

In the run-up to the September Committee, Flood Risk Assessments were submitted for this and the Nursing Home applications being considered in the Tweed Green area and it was therefore considered that more time was required to assess the findings. As there would also be implications for the third application, that was also continued.

The Assessment carried out an analysis of historic flooding events, hydrology, modelling and, ultimately, the impacts of the property alterations on the flood risk level. It concluded that the application would not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change, raising water levels by 2cm in the vicinity of the new wall which would not be above the lowest house threshold level in the part of Tweed Avenue opposite the wall.

The Assessment also indicated that the route the flood waters take are through and over the small wall running parallel to the River Tweed, next to the driveway of Priorsford House. The report states that small measures to remove openings and a minor increase in the wall height would further protect all the properties in Tweed Avenue from more events of this nature.

In addition to the Assessment, the agent and applicant submitted statements in support of the application which can be viewed in full on Public Access and were summarised earlier in this report.

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Qmed would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and manning's values.
- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200

The Flood Risk Assessment was amended and resubmitted on 17 October. SEPA are now in receipt of the revised Flood Risk Assessments and will respond with their comments in time for the Committee meeting. They have indicated that the Assessments do not address the concerns they raised but their final responses will be awaited. They also acknowledge the difficulty with cumulative impacts of such proposals in a flood risk area and whether they need to be formulating a Policy on all such cases, whether that be objection in principle to all or objection until Flood Risk Assessments can prove otherwise.

If SEPA maintain their objection and should Members be minded to approve this application, then notification to the Scottish Ministers would not be necessary. The reason for this is that the consultation to SEPA was on a discretionary and not mandatory basis, the latter only being required where the erection of new buildings

are proposed in a flood risk area. This does not include walls or extensions to an existing building, thus the Council have no requirement to notify to Ministers.

In terms of the Council's Flood Protection Officer response, it is now noted that the Flood Risk Assessment confirms no additional flooding will occur as a result of the proposed wall. The Assessment took level points throughout the area and states that there will be level a maximum level increase in the Tweed Green/Tweed Avenue area of approximately 7mm at a 1 in 200 year plus climate change flood event, which is considered negligible by the Flood Protection Officer. At lower return periods, it is still not anticipated there will be an increase in flood risk to other properties in the area. The objection is, therefore, removed although it is recommended that the wall should be constructed using flood resistant materials and appropriate construction techniques.

Whilst it may be the case that SEPA maintain their objection, the Flood Protection Officer is now satisfied with the proposal after viewing the revised Flood Risk Assessment and it must now be considered proven that this scheme will not materially increase the probability of flooding to other properties which is the test of LDP Policy IS8

Conservation Area

The property is located within the Peebles Conservation Area and the proposed wall and fencing will certainly provide a harsher visual boundary to the small cul-de-sac it borders onto compared to the current hedging. Nevertheless, there are high brick walls already along the southern rear of the property and this proposal; is not for a 1.8m high wall but a combination of brick walling and fence topping. Provided the brick is selected carefully and there is an appropriate timber stain on the fencing, there do not appear to be any amenity or aesthetic reasons why the proposals would not be considered acceptable. It is being carried out at the side of the dwellinghouse and not along the main elevation onto Tweed Avenue where such boundary treatment and height would be less acceptable. Subject to conditions, there is no reason to consider the proposals inconsistent with LDP Policy EP9.

CONCLUSION

Subject to conditions, the proposals comply with Policy EP9 on works within a Conservation Area and Policy IS8 on flooding in that the proposals are sympathetic to the character of the Conservation Area and have now been proven not to materially increase the probability of flooding to other properties in the vicinity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

Conditions

1. A sample of the walling material and the colour of the fence stain to be agreed with the Planning Authority before the development commences.
Reason: To safeguard the character of the property and the amenity of the Conservation Area.

Informative

1. The Council Flood Protection Officer advises the following:

We would expect the wall to be constructed using flood resistant materials and appropriate construction techniques. We also recommend the applicant reviews the Online Planning Advice on Flood Risk. The applicant should ensure that the wall can withstand the pressure of the increased water height to mitigate against collapse during a flood event.

DRAWING NUMBERS

Boundary Wall Elevation D002 Rev A
Site Plan D003
Location Plan D004
Photographs
Flood Risk Assessment

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.

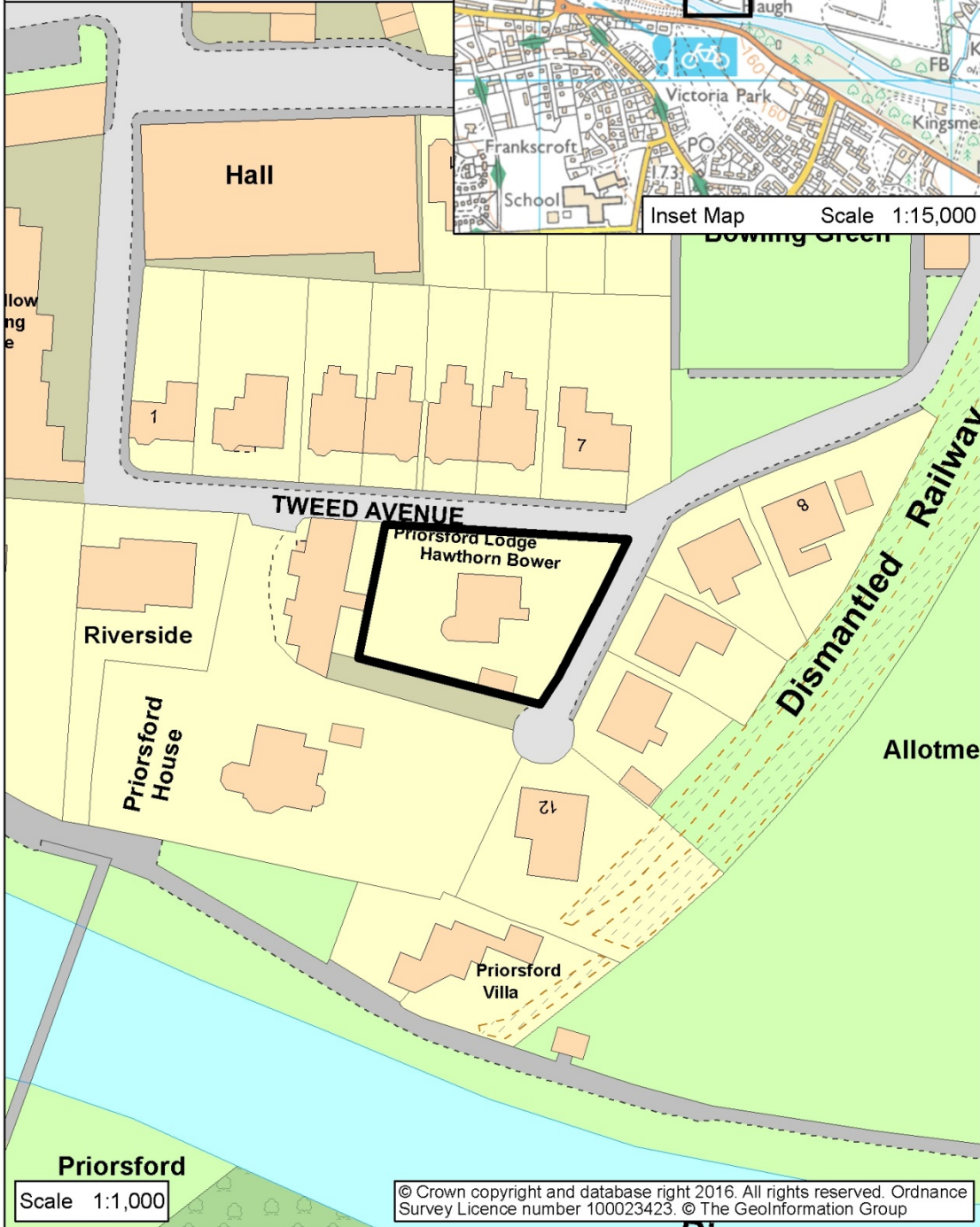
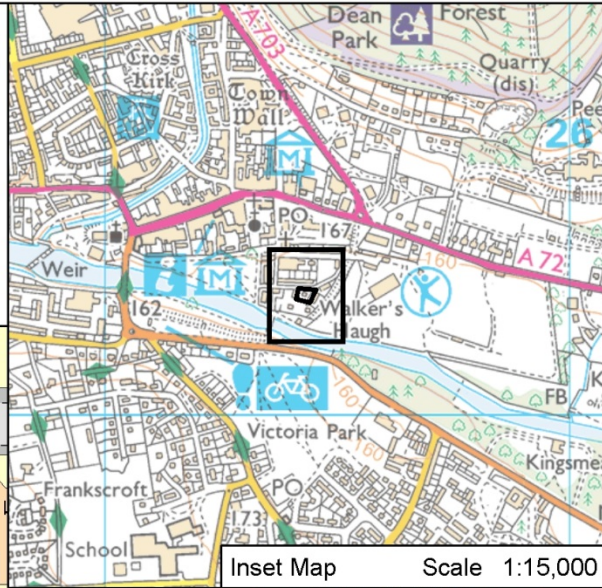
Author(s)

Name	Designation
Craig Miller	Lead Planning Officer



16/00317/FUL

Hawthorn Bower
Tweed Avenue
Peebles
EH45 8AS



Scale 1:1,000

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 NOVEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 16/00343/FUL
OFFICER: Mr C Miller
WARD: Tweeddale West
PROPOSAL: Increase in height of front (west) boundary wall, formation of opening in north boundary wall and installation of gates
SITE: Priorsford, Tweed Green, Peebles
APPLICANT: Mr Alan Packer
AGENT: n/a

SITE DESCRIPTION:

Priorsford is a substantial two-storey dwelling facing onto Tweed Green in Peebles Conservation Area. The River Tweed is situated close to the property's southern boundary. To the east are situated the curtilages to Riverside and Priorsford Villa, two substantial detached dwellings. To the north, beyond a pedestrian lane, is the Peebles Nursing Home (currently in a state of disrepair and unoccupied following December/January floods). Tweed Green is to the west, a formal area of public space with paths and trees.

Priorsford is situated fairly centrally to its own curtilage. The southern boundary is a substantial whinstone wall, approximately 1.7-1.8m in height. The eastern boundary comprises a block wall with fence panelling above, giving an overall height of approximately 2m. The north wall is a substantial whinstone wall approximately 1.8m in height. The front boundary is formed by a low section of stone wall with a pedestrian gate to the centre and vehicular access towards the southern corner of the plot. The dwelling has been modernised and extended recently.

PROPOSED DEVELOPMENT:

The development comprises the following elements:

- increase in height of stone wall on western boundary from 850mm to 1250mm – a 400mm increase;
- installation of gates in the pedestrian and vehicular accesses
- retention of a new pedestrian opening in the north curtilage wall

The development all relates to proposed mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Priorsford were heavily flooded when existing flood defences provided by gates and walls were overwhelmed. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Priorsford has had to be undergo extensive repairs in the first half of 2016.

Increase to height of boundary wall on west elevation

The applicants wish to increase the likelihood of the western boundary wall keeping floodwater out of the curtilage of the property. The existing 850mm wall did not deflect the floodwater in December and it is therefore hoped that adding 400mm to the height, bringing the overall height to 1250mm, would be sufficient to keep floodwater out in future flooding events.

Installation of gates in the west elevation

New gates to match existing wall heights would be installed in the 3 openings. These would all be specialised flood-resistant gates intended to supplement the boundary walls in keeping water out of the curtilage. To date, drawn details of the gates have not been provided. However, if the principle of installation of gates in all 3 openings is accepted, it would be appropriate to require details to be submitted and approved through a planning condition.

Retention of new pedestrian opening in the north wall:

The intention of this new opening is to permit escape from the curtilage for pedestrians if the property becomes inundated with flood water in the future. The intention is to enable a temporary flood gate to be installed if flooding appears likely; it is also intended that the gate would be removed to enable pedestrian escape (the flood gate would have to be removed if swift evacuation became necessary).

Members may note that this element of the development has already been undertaken and is applied for in retrospect. All other elements have not yet been carried out.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application was continued from the September meeting of the Planning and Building Standards Committee, along with other applications in Tweed Green (16/00317/FUL and 16/00747/FUL), in order to consider flood risk assessment information that had been submitted in the run-up to the Committee meeting and to seek the advice of the Flood Protection Officer.

Since the continuation, the applicant has now submitted a Flood Risk Assessment Report which is available in full on Public Access for Members to inspect. This Report has been amended and Members are referred to the Report dated 11 October on Public Access. This summarises that the application will not cause any additional detriment to any other property in the area for a 1 in 200 year storm with climate change.

The report indicates that the route the flood waters take are through and over the small wall running parallel to the River Tweed, next to the driveway of Priorsford Villa. The report states that small measures to remove openings and a minor increase in the wall height would further protect all the properties in Tweed Avenue from more events of this nature.

PLANNING HISTORY:

12/00103/FUL – Change of use from day care centre to dwellinghouse – APPROVED and implemented. An Informative Note in the Decision Notice advises

the applicants to implement flood risk strategies due to the situation of the building in the flood plain.

12/01138/FUL – Alterations and extension to dwellinghouse – APPROVED and implemented as part of the change of use/conversion consented under 12/00103/FUL. An Informative Note again referred to management of flood risk in undertaking the development.

93/01473/FUL – Alterations to building and removal of garage - APPROVED

92/01413/FUL - Alterations to existing building to form 4, 2 bedroom flats & extension to form 8, 2 bedroom flats - REFUSED

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer:

The consultee initially raised an objection to the proposals. A summary of the consultation response is as follows:

- SEPA material indicates that the site is at risk from a flood event with a return period of 1 in 200 years (0.5% annual risk of a flood occurring in any year).
- current and previous flood risk issues are acknowledged and understood
- as discussed during public consultation with residents of Tweed Green and Tweed Avenue, the Council is working towards a holistic way of providing increased protection to the at risk homes in Peebles (to be discussed at further public meeting)
- SBC does not presently have enough information to show that building walls or creating an opening within a wall that holds back flood waters would not impact detrimentally on residents elsewhere within Peebles (in this instance there is the potential for detrimental effects for other residents)
- duties of SBC require that any development that would potentially increase the flood risk at another property is not permitted
- (as an example) a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green
- without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, an objection is raised on the grounds of flood risk
- applicant encouraged to wait until next public discussion and the suggestions that the Council make within this before employing a consultant to undertake a Flood Risk Assessment, if they choose to do so.

In response to the initially submitted Flood Risk Assessment, sought further information as follows:

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Qmed would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and manning's values.
- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200 year event but during the winter the area was inundated to a greater extent than the FRA's prediction.

Following the submission of the revised Flood Risk Assessment, notes that the current level of the wall would not be overtopped during a 1 in 200 year plus climate change flood event and currently provides a freeboard of approximately 239mm.

As the application to raise the wall further will have no impact upon flood risk within the immediate vicinity of the property and will provide a total freeboard of 434mm, **can remove objection** to the application in relation to flood risk.

With respect to the vennel, unsure of the reason to open up the wall as there remains a risk of flooding as a direct result. Advises that the wall remains as is or a flood gate is installed. In terms of the applicant wishing to open up the wall, this does not increase flood risk elsewhere.

The wall should be constructed using flood resistant materials and appropriate construction techniques. Recommend the applicant reviews Online Planning Advice on Flood Risk.

Roads Planning Service: No objection on road safety grounds.

Statutory Consultees:

Royal Burgh of Peebles Community Council: No response.

Non Statutory Consultees:

SEPA: Application raises the issues of right to protect one's own property and the requirement not to increase flood risk to other peoples' property. Feels the FRA does not demonstrate there will be no increased flood risk elsewhere and that even if it did, ad hoc protection will lead to a cumulative position where additional properties could not protect their own properties without impacting on others, thus resulting in a first come first served basis. Seeking an internal solution to this problem and how to approach it but unable to achieve this soon.

Peebles Civic Society: No objection.

REPRESENTATION SUMMARY

There has been one detailed letter of objection to the application submitted by a nearby resident, and one letter of support submitted by a Peebles Community Resilience group. It should be noted that the letter of objection also includes an indication of support for part of the scheme and objection to another.

A summary of the issues raised in the letter of objection would be as follows:

- application seeks planning permission for both (i) raising the existing boundary wall separating the property from Tweed Green and (ii) creating a new opening in the existing northern boundary wall; support is offered for part (i) of the application and to objection is raised to part (ii)
- understand and support increase of flood defences by raising height of the west boundary wall and installing higher and stronger flood barriers in that wall
- object to part (ii) due to serious concerns about the creation of the opening in the northern boundary wall because of its siting and the potential increased flood risk to the houses in Tweed Avenue
- northern boundary wall of Priorsford, which separates the property from the public pend, is an integral part of the flood defence for the Tweed Avenue properties.
- new pedestrian opening is east of the location of the public flood gate.
- to protect Tweed Avenue and ensure the public flood gate in the pend is as effective as originally envisaged the opening should either (i) not be allowed and the wall reinstated to its original configuration or (ii) if it is to be permitted, should be moved to the western (i.e. upstream) side of the public flood gate and the present opening built up.
- in December 2015 floods, floodwater was held back from entering Tweed Avenue by Priorsford's northern boundary wall.
- if the opening is given permission and is allowed to remain, the same level of flood protection for Tweed Avenue will only be achievable if the Priorsford demountable barriers on Tweed Green are in place. The protection of the houses in Tweed Avenue should not depend on the action or inaction of the owners of one property
- to mitigate flooding into Tweed Avenue from the new opening the applicants have said they would install a flood gate across this opening. This however

would be another privately owned and operated flood gate which will be outwith the control of those most affected by any failure to erect it.

- if the opening is to be permitted any demountable flood barriers need to be erected on the pend side of the opening and be controlled by the local residents or the local flood resilience group (i.e. in the same manner as the existing public flood gate in the pend)

A summary of the matters covered in the letter of support would be:

- urgent repairs and improvements to flood defences in area badly flooded in December 2015.

The applicant has submitted a Flood Risk Assessment Report which is available online, the amended Report being dated 11 October 2016. He has also made several email representations which Members should be aware of online, the most notable being dated:

- 17 March 2016
- 6 June 2016
- 12 July 2016
- 7 September 2016
- 13 September 2016
- 21 September 2016

These explain, and expand upon, the reasons for the proposals which are to provide improved and increased flood defences to the property together with an escape point through the northern wall should the flood defences fail.

The Flood Risk Assessment carries out an analysis of historic flooding events, hydrology, modelling and, ultimately, the impacts of the property alterations on the flood risk level. It concludes that the 1 in 200 year level at the property was 239mm below the lowest part of the front wall, allowing for climate change. Consequently, raising the wall any height above the current level would have no impact on other properties in terms of raising flood waters to their properties. The Assessment also recommended that the flood gates to the property were available for the community Resilience group to put in place and that regular maintenance was required of all components of the drainage and flood protection system.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

PMD1 - Sustainability
PMD2 - Quality Standards
HD3 – Protection of Residential Amenity
EP9 – Conservation Areas
IS8 - Flooding

OTHER PLANNING CONSIDERATIONS

National Policy and Advice:

- Scottish Planning Policy (2014)

- Online planning advice on flood risk (June 2015) – NB this publication supersedes Planning advice Note (PAN) 69
- The Flood Risk Management (Scotland) Act 2009

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposed development would be compatible with the Conservation Area setting and whether the proposed development would materially increase the flood risk to other properties

ASSESSMENT OF APPLICATION

This application, together with the other applications presented to the Committee in the Tweed Avenue/Green area, would normally have been determined through delegated powers in that the recommendation is one of refusal for a “Local” category of application. However, given the overall flood risk issues in the area and the need to determine the applications on a coherent and consistent basis taking into account cumulative impacts as well as those of potential precedent, it was considered appropriate to present the applications to Committee for determination, enabling full discussion on the matters and allowing applicants the opportunity to state their cases.

Policy and Flood Risk

Scottish Planning Policy (SPP) promotes a precautionary approach to flood risk. The planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. The Local Development Plan expands further within Policy IS8 by stating that new development should not be in areas where there is a significant risk of flooding and should not result in reduction or interference with functional flood plain operation.

These aims principally apply to new development. In the case of existing development and properties that already lie within such flood areas, there is, of course, sympathy with property owners who wish to secure their properties against further flooding and damage. This proposal relates to proposed mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Priorsford were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Avenue/Green locality and, like those other properties, Priorsford has had to undergo extensive repairs in the first half of 2016.

As Members will note, the Council has discussed the flooding with residents of Tweed Green and Tweed Avenue and is working towards a way of providing increased protection to the “at risk” homes in Peebles. This would be designed on the basis of a Property Level Protection Scheme where the aim has to be to stop or reduce the ingress of water into the actual properties themselves – rather than their curtilages. Government money is being made available through this scheme and meetings continue with residents about the solutions available under this scheme.

In terms of this application, and the other two presented to the same Committee meeting, the issue is not whether the Council can support the protection of properties on a case-by case basis, but whether the protection they now seek to their curtilage

boundaries (including cumulatively) will materially increase the probability of flooding to other properties, contrary to SPP and LDP Policy IS8. The Council has a duty to ensure that this would not be the case, especially when faced with accumulation of such curtilage protection schemes at Tweed Green.

The Council's Flood Protection Officer advises that a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green. The advice is that, without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, the Council should not be approving such applications.

Although it is appreciated that, for one domestic property carrying out some boundary walling work, the requirement for a Flood Risk Assessment may seem onerous, no technical information (at the time of the September Committee) had been submitted to enable the Flood Protection Officer to lift his objections. In his opinion, securing such a large curtilage to flood risk (as opposed to just the house itself) would be likely to have material consequences on other properties in the Tweed Green area as well as the creation of an opening in the north wall. This may not only lead to flooding of properties not previously flooded but also raise flood water levels in properties previously flooded.

The applicant has been in dialogue with the Department and the Flood Protection Team on the issues and his written supporting statements are listed above in this report and available to view online. The most recent and detailed responses from the applicant are dated 12 July and three in September, listing the reasons why he considers the application should be approved. Members should be aware of his comments which explain the main reasons for protecting the property at the curtilage boundary, not at the house itself.

Of these reasons, it is not accepted that the original planning permission contained any conditions or Informatives explicitly stating that flood protection had to be at the property boundary. Indeed, the Informative stated that water resilient materials had to be used on the ground floor of the property, indicating an acknowledgement on the part of the Council that flood waters may reach the building itself. However, it is also acknowledged that the Informative did request that a procedure was developed, as part of a (Flood Action) Plan, for the deployment of the flood protection measure currently used at the property. These were demountable barriers across the driveway and pedestrian entrances at the perimeter. In terms of the other reason in relation to the benefits of Property Level Protection, the applicant argues that whilst important, the defence of the property as substantial as Priorsford would be extremely difficult at the face of the building itself. Nevertheless, they acknowledge that protection is important both at the perimeter and at the building itself.

The Flood Protection Officer had seen the applicant's reasons but maintained a position of objection to the September Committee for the reasons previously mentioned. Unless it could be demonstrated not to be the case through the submission of a Flood Risk Assessment, then the application was considered to be against LDP Policy IS8 and could not be supported. The Council would continue to work with the residents of the affected area in order to encourage the protection of the buildings themselves from flood risk.

In the run-up to the September Committee, Flood Risk Assessments for the other two applications being considered in the Tweed Green area were submitted and it was considered that more time was required to assess the findings. As there would also be implications for this current application, it was also continued. A separate Flood

Risk Assessment for this application was submitted following the September Committee meeting.

The Assessment carried out an analysis of historic flooding events, hydrology, modelling and, ultimately, the impacts of the property alterations on the flood risk level. It concluded that the 1 in 200 year level at the property was 239mm below the lowest part of the front wall, allowing for climate change. Consequently, raising the wall any height above the current level would have no impact on other properties in terms of raising flood waters to their properties. The Assessment also recommended that the flood gates to the property were available for the community Resilience group to put in place and that regular maintenance was required of all components of the drainage and flood protection system.

The Flood Protection Officer initially commented on the Flood Risk Assessment by seeking further information as follows:

- The estimate of the 200 year design flows need improvements as they seem to have underestimated the 1 in 200 year flow ((JBA accepted 200yr + CC is 765.6m³/s).
- The methodology used to derive design flows (rainfall runoff or statistical method) and what technique has been adopted. An estimation of Qmed would also be useful.
- The modelling approach including details of sensitivity analysis, model calibration and manning's values.
- There were issues with the modelling of Priorsford Bridge which may have skewed the accuracy of the flow data.
- Last winter it was estimated that Peebles experienced a 1 in 55 year flood event. It appeared throughout that the FRA was referencing the winter floods as a 1 in 200 year + CC event. Figure 4 shows the flood extents at a 1 in 200 year event but during the winter the area was inundated to a greater extent than the FRA's prediction.

The Flood Risk Assessment was amended and resubmitted on 17 October. SEPA are now in receipt of the revised Flood Risk Assessments and will respond with their comments in time for the Committee meeting. They have indicated that the Assessments do not address the concerns they raised but their final responses will be awaited. They also acknowledge the difficulty with cumulative impacts of such proposals in a flood risk area and whether they need to be formulating a Policy on all such cases, whether that be objection in principle to all or objection until Flood Risk Assessments can prove otherwise.

If SEPA maintain their objection and should Members be minded to approve this application, then notification to the Scottish Ministers would not be necessary. The reason for this is that the consultation to SEPA was on a discretionary and not mandatory basis, the latter only being required where the erection of new buildings are proposed in a flood risk area. This does not include walls or extensions to an existing building, thus the Council have no requirement to notify to Ministers.

In terms of the Council's Flood Protection Officer response following the submission of the revised Flood Risk Assessment, it is noted that the current level of the wall would not be overtopped during a 1 in 200 year plus climate change flood event and currently provides a freeboard of approximately 239mm. As the application to raise the wall further will have no impact upon flood risk within the immediate vicinity of the

property and will provide a total freeboard of 434mm, the Flood Protection Officer now removes the objection to the application in relation to flood risk.

With respect to the vennel, there is uncertainty over the reason to open up the wall as there remains a risk of flooding as a direct result. It is advised that the wall remains as is or a flood gate is installed. In terms of the applicant wishing to open up the wall, however, this does not increase flood risk elsewhere. The new wall should be constructed using flood resistant materials and appropriate construction techniques.

Whilst it may be the case that SEPA maintain their objection, the Flood Protection Officer is now satisfied with the proposal after viewing the revised Flood Risk Assessment and it must now be considered proven that this scheme will not materially increase the probability of flooding to other properties which is the test of LDP Policy IS8. The issue of opening up the existing wall can be advised through Applicant Informative.

Conservation Area

The property is located within the Peebles Conservation Area and the proposed increase in wall height from 850mm to 1250mm will cause no aesthetic issues provided it is carried out with matching stone and coping. The wall height has context along the southern boundary and elsewhere in Tweed Green, steppings in height being a local feature. Although there are no details of the enhanced flood barriers intended to the current openings, these can be controlled by planning condition. The opening to the northern wall has already been carried out, the applicant explaining that the works were necessary due to the wall becoming unstable after the last flood. It would be the intention to install a temporary flood gate in this wall.

There are no amenity or aesthetic reasons why the proposals would not be considered acceptable in the Conservation Area. Subject to conditions on matching materials and details of the flood gates, there is no reason to consider the proposals to be inconsistent with LDP Policy EP9.

CONCLUSION

Subject to conditions, the proposals comply with Policy EP9 on works within a Conservation Area and Policy IS8 on flooding in that the proposals are sympathetic to the character of the Conservation Area and have now been proven not to materially increase the probability of flooding to other properties in the vicinity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

Conditions

1. The wall to be extended using matching materials and coping, samples of which should firstly be submitted to, and approved by, the Planning Authority.

Reason: To safeguard the character of the property and the amenity of the Conservation Area.

2. Details of all proposed flood gates to be agreed with the Planning Authority before their installation.

Reason: The property is at risk of flooding and to safeguard the character of the property and the amenity of the Conservation Area.

Informative

1. The Council Flood Protection Officer advises the following:

We would expect the wall to be constructed using flood resistant materials and appropriate construction techniques. We also recommend the applicant reviews the Online Planning Advice on Flood Risk. The applicant should ensure that the wall can withstand the pressure of the increased water height to mitigate against collapse during a flood event.

DRAWING NUMBERS

Supporting Statement
Elevations
Location Plan
Flood Risk Assessment

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.

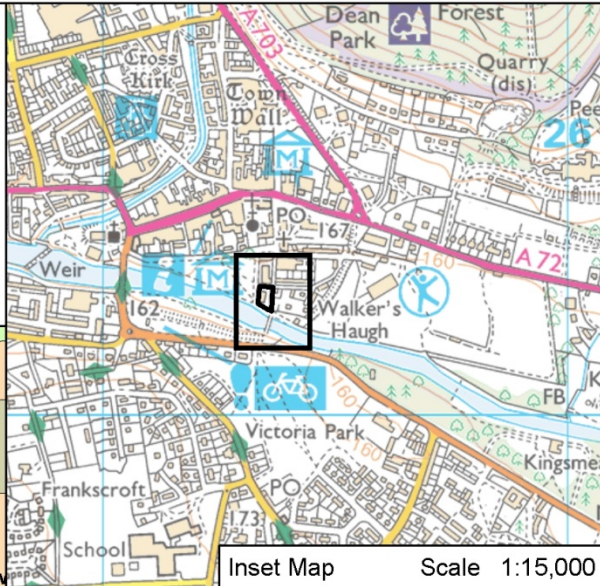
Author(s)

Name	Designation
Craig Miller	Lead Planning Officer

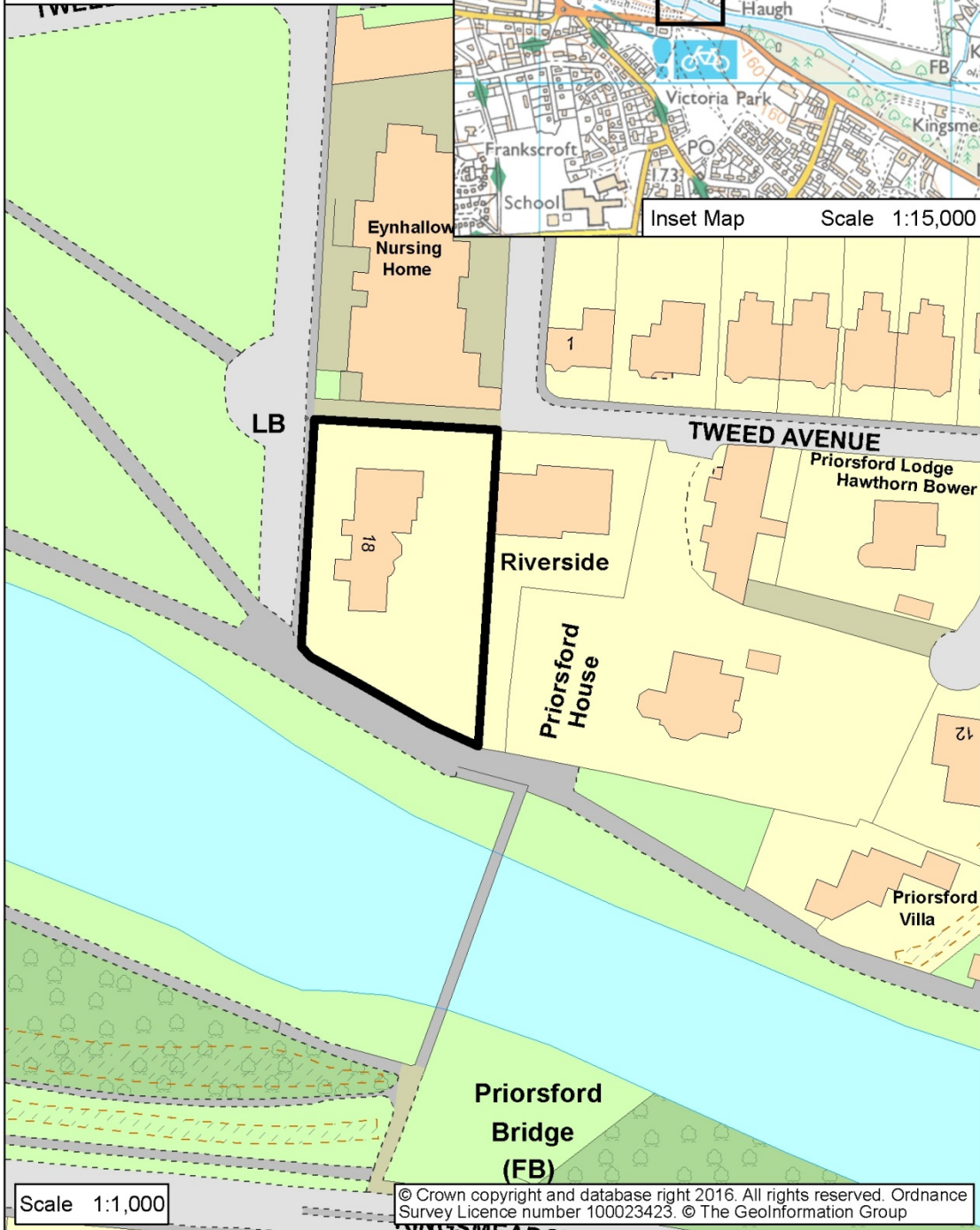


16/00343/FUL

Priorsford
18 Tweed Green
Peebles



Inset Map Scale 1:15,000



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 NOVEMBER 2016

**APPLICATIONS FOR PLANNING PERMISSION TO MODIFY CONDITIONS AND
APPLICATION FOR DISCHARGE OF A PLANNING OBLIGATION**

ITEM:	REFERENCE NUMBERS:
OFFICER:	1. 16/000792/FUL, 2. 16/00793/FUL & 3. 16/00796/MOD75
WARD:	Andrew Evans
PROPOSAL:	Hawick and Denholm
	1. Removal of condition 1 (occupancy restriction) from planning consent 02/00456/OUT.
	2. Removal of condition 1 (occupancy restriction) from planning consent 02/01656/REM.
	3. Discharge of planning obligation pertaining to planning permission 02/00456/OUT.
SITE:	“Noanswood” and surrounding land at Orchard Farm, by Hawick
APPLICANT:	Mr and Mrs Mick Blacklock
AGENT:	Kate Jenkins, Ericht Planning & Property Consultants

SITE DESCRIPTION

The application relates to the dwelling “Noanswood”, located to the north west of Orchard Farm, outside Hawick. The house sits in an elevated position, north of the minor road from Hawick. The house has a slated roof and rendered walls, and was constructed in 2003.

PROPOSED DEVELOPMENT

The 3 submitted applications seek to remove the agricultural occupancy conditions from the planning permissions for this house, and also to discharge the planning obligation covering the occupation of the house in relation to neighbouring agricultural land. The applications can be summarised as follows:

Application 16/00792/FUL seeks to remove the occupancy condition from the outline planning consent for the dwelling; in effect, this creates a new planning permission for the development, with different conditions, as per the definition of a Section 42 application within Circular 3/2013.

Application 16/00793/FUL also seeks to remove the occupancy condition, this time from the reserved matters consent for the dwelling; Again, this would result in a new planning permission for the development, with different conditions, as per the definition of a Section 42 application within Circular 3/2013.

Application 16/00796/MOD75 is made under section 75A of the Town and Country Planning (Scotland) Act to discharge a planning obligation (also comprising an agricultural occupancy restriction) contained within a variation of Minute of Agreement pertaining to a 1993 section 50 Agreement.

PLANNING HISTORY

Site of Noanswood

Application 02/00465/OUT: Erection of dwellinghouse. This dwelling was consented in principle on the basis of providing a dwelling for a retiring farmer. A condition, condition 1, was imposed to this effect. It states:

- 1. Occupation of the proposed dwellinghouse to be limited to a person employed or last employed in agriculture as defined in Section 277 of The Town and Country Planning (Scotland) Act 1997 or any dependant of such a person residing with him or her but including a widow or widower of such a person.*

Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside.

The remaining conditions, 2-5 of this consent covered: submission of reserved matters (2), provision of vehicular access and a layby (3), provision of parking and turning (4), and agreement of the means of water supply and of foul and surface drainage details (5).

Application 02/01656/REM: Erection of dwellinghouse. A condition was imposed on the reserved matters consent limiting the occupation of the dwelling in the same manner as the condition of the outline planning permission. It states:

- 1. Occupation of the proposed dwellinghouse to be limited to a person employed or last employed in agriculture as defined in Section 277 of the Town and Country Planning (Scotland) Act, 1997 or any dependent of such a person residing with him or her but including a widow or widower of such a person.*

Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside.

The remaining conditions, 2-5 of this consent covered: completion of vehicular access to the site (2), agreement of render colour (3), agreement of a sample of the basecourse material (4), and submission, agreement, and completion or landscaping details (5).

Relevant Neighbouring Site History

Application R138/91: A 1991 application for a new tied dwelling reached the status of "minded to approve", before subsequently being withdrawn in 1993.

Application R359/91: Permission was granted for a tied dwelling on the same site at R138/91, which was implemented. This dwelling is now known as "Woodside Cottage".

Application 11/00610/FUL: Permission was forthcoming in 2011 for the removal of an occupancy condition from planning consent R359/91 at "Woodside Cottage", The Orchard. It was accepted that there is a building group present at Orchard Farm, which comprised the farmhouse, Orchard House to the NE of the farm steading, and Noanswood to the North West. This application is raised by the agent in the supporting justification to the current applications.

REPRESENTATION SUMMARY

The planning applications were publicised by means of direct postal notification of the one neighbouring dwelling within the statutory 20m notification distance. Further publicity was carried out in the form of a press notice and an advert on the national public notices website, "Tell me Scotland". No representations or objections were received.

APPLICANTS' SUPPORTING INFORMATION

Supporting statements were provided for each of the applications, setting out the applicant's case. In summary, the house was permitted for a retiring farmer. It has since had its ownership transferred to the family of the retired farmer.

In relation to the applications, points are made as follows:

Application 16/00792/FUL and Application 16/00793/FUL

- The agent contends that the farm now has no need for a second agricultural worker's dwelling.
- The house was in any case intended and approved on the basis of a justification for a retiring farmer.
- The land is now not in Mr Graham's (the retiring farmer) ownership, having been transferred to his daughter and her husband (the current applicants) in 2002/03.
- It is contended that in terms of the guidance set out in circular 4/1998, the conditions imposed on the consent no longer meet the tests, particularly in terms of enforceability, and reasonableness.

Application 16/00796/MOD75

- The supporting statement sets out the relevant clause being discharged, and provides grounds why this is required.
- It is confirmed that the application seeks to discharge the occupancy restriction contained in the second clause of the 2002 variation.
- It is confirmed that the Applicant is not seeking to modify or discharge the restrictions on further dwellings on the land.
- It is contended that in terms of the 5 tests for planning obligations, the occupancy restriction fails the reasonableness test, given the context of:
 - The advice within the relevant national circular;
 - The position advocated within the 2014 version of SPP;
 - The policy position set out in the LDP;
 - The existing situation in terms of occupancy and ownership, which has existed for 13 years; and
 - DPEA appeal decisions in respect of discharge of occupancy obligations.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

None

Statutory Consultees

None

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

None

Scottish Borders Local Development Plan 2016:

HD2 – Housing in the Countryside

OTHER PLANNING CONSIDERATIONS:

- Scottish Borders Council Supplementary Planning Guidance: New Housing in the Borders Countryside
- Scottish Planning Policy (2014)
- 4th November 2011 letter from Scottish Government Chief Planner to all Local Authorities, on “Occupancy Restrictions and Rural Housing”.
- Planning circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.
- Planning Circular 4/1998 “The use of Conditions in Planning Permissions”.

KEY PLANNING ISSUES:

The key issues for consideration in this application are:

- Assessment of applicable planning policy, particularly in relation to the policy in force for new housing in the countryside.
- Consideration of circumstances.
- Consideration of the existing restrictions.

ASSESSMENT OF APPLICATION:

Planning Policy

The site is in a rural location outside of Hawick, so consideration is first required as to how the dwellinghouse was originally consented in this location, and how this would not be considered in terms of policy HD2 (Housing in the Countryside) of the Scottish Borders Council Local Development Plan 2016.

The current policy relating to Housing in the Countryside is Local Development Plan 2016 policy HD2 which allows for new housing where there is an existing building group or if it can be demonstrated that there is an economic / agricultural need. However, current advice from Scottish Government is that occupancy restrictions on planning consents are rarely appropriate and should generally be avoided. Scottish Planning Policy (2014) Paragraph 83 allows that where appropriate, the construction of single houses out with settlements should be allowed provided these are well-sited and designed to fit with local landscape character, taking account of landscape

protection and other plan policies. It also advises that occupancy restrictions on housing should generally not be imposed.

The advice of the SPP is a consideration, and one which post-dates both the issue of planning permission and the adoption of the original development plan against which this dwelling would have been originally assessed. Primary consideration must, however, be given to the prevailing LDP.

Scottish Government Chief Planner Letter

In 2011 the Scottish Government Chief Planner wrote to all Planning Authorities clarifying the Governments views on the use of conditions or planning obligations to restrict the occupancy of new rural housing.

The letter sets out that Scottish Planning Policy promotes a positive approach to rural housing. It states that development plans should support more opportunities for small scale housing development in all rural areas, including housing which is linked to rural businesses. It does not promote the use of occupancy restrictions.

The letter is categorical in setting out that the Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided. It goes on to advise that where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.

Assessment

This existing house was constructed in 2003. It was originally consented on the basis of providing a dwellinghouse for a retiring farmer. It is now the desire of the applicants to remove the restrictions in place on this dwelling.

Consideration of restrictions

Reserved Matters Permission Condition

The planning condition attached to the Reserved Matters approval is arguably superfluous, given that it was attach to the original outline permission and need not have been attached again to the reserved matters approval. This condition would only now be imposed on a full or outline consent. As such, the Planning Authority should agree to the removal of this condition, irrespective of the merits of the other applications and requests.

Outline Planning Permission Condition

The changed circumstances at this dwelling now mean continuing the agricultural occupancy condition can no longer be justified. The accommodation was allowed for a retiring farmer, and as such, is not a requirement for the ongoing operation of the farm; it follows that it is reasonable that the retired farmer not be tied in perpetuity to the occupation of this house. Furthermore, given the national advice set out in the SPP and in the letter from the Chief Planner, it is considered that it would be, in this case, difficult to argue against the lifting of the occupation restrictions.

Furthermore, it is accepted that the conditions present on the Reserved Matters and Outline planning consents are now unenforceable. The submitted statement sets out

that the dwelling has been occupied for over 10 years in breach of condition, and it is therefore considered that it would be immune from any enforcement action.

Legal Agreement

A 1993 section 50 agreement provided that no further dwellings were to be building on the lands at Orchard Farm, other than the dwelling consented in 1991 (Refs: R138/91 and R359/94) for a for a son of Mr Graham. This dwelling is now known as "Woodside Cottage".

Class 3 of the 1993 section 50 agreement was subsequently adjusted in a 2002 variation to allow the dwelling (now known as Noanswood) to be constructed. (Refs: 02/00465/OUT / 02/01656/REM). This 2002 variation of the section 50 allowed the building of the house at Noanswood, but also imposed additional limitations, the relevant one here being that "*occupation of the dwellinghouse be limited to a person employed or last employed in agriculture...*"

Set out within the supporting statement for the MOD75 application, are examples of similar applications subject to appeals to the Department of Planning and Planning Appeals (DPEA). In each of the cases cited, the appeals were allowed.

It is considered that in the specific context of this dwelling at Noanswood, and the specific circumstances arising, that the legal restriction on occupation can no longer be justified. It would be reasonable to allow the retired farmer and his family who are successors in title, to have this property unburdened from the occupancy limitation present in the legal agreement.

Financial Implications / Development Contributions Policy and Guidance

Policy IS2 of the Scottish Borders Local Development Plan 2016 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.

In this case, it is clear that the proposed adjustments to occupancy limitations and legal agreement have no bearing upon the development contributions policy.

Consideration of other planning conditions of permissions

Having considered the wording of the planning conditions it is clear that none of them place any on-going burdens of any significance upon the dwelling. A planning condition on this permission (to tie to or retain previous conditions) is not therefore needed.

CONCLUSION

The proposed development is considered acceptable and in compliance with policy HD2 of the Scottish Borders Council Local Development Plan 2016.

RECOMMENDATIONS BY CHIEF PLANNING OFFICER:

16/000792/FUL

In respect of planning application 16/000792/FUL I recommend the application is approved.

16/00793/FUL

In respect of planning application 16/00793/FUL I recommend the application is approved.

16/00796/MOD75

In respect of planning application 16/00796/MOD75 I recommend the application is approved subject to the necessary legal adjustment of the existing section 50 and 75 agreements.

DRAWING NUMBERS

16/000792/FUL - Location Plan - OS Extract
16/000793/FUL - Location Plan - OS Extract
16/00796/MOD75 - Location Plan - OS Extract

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.

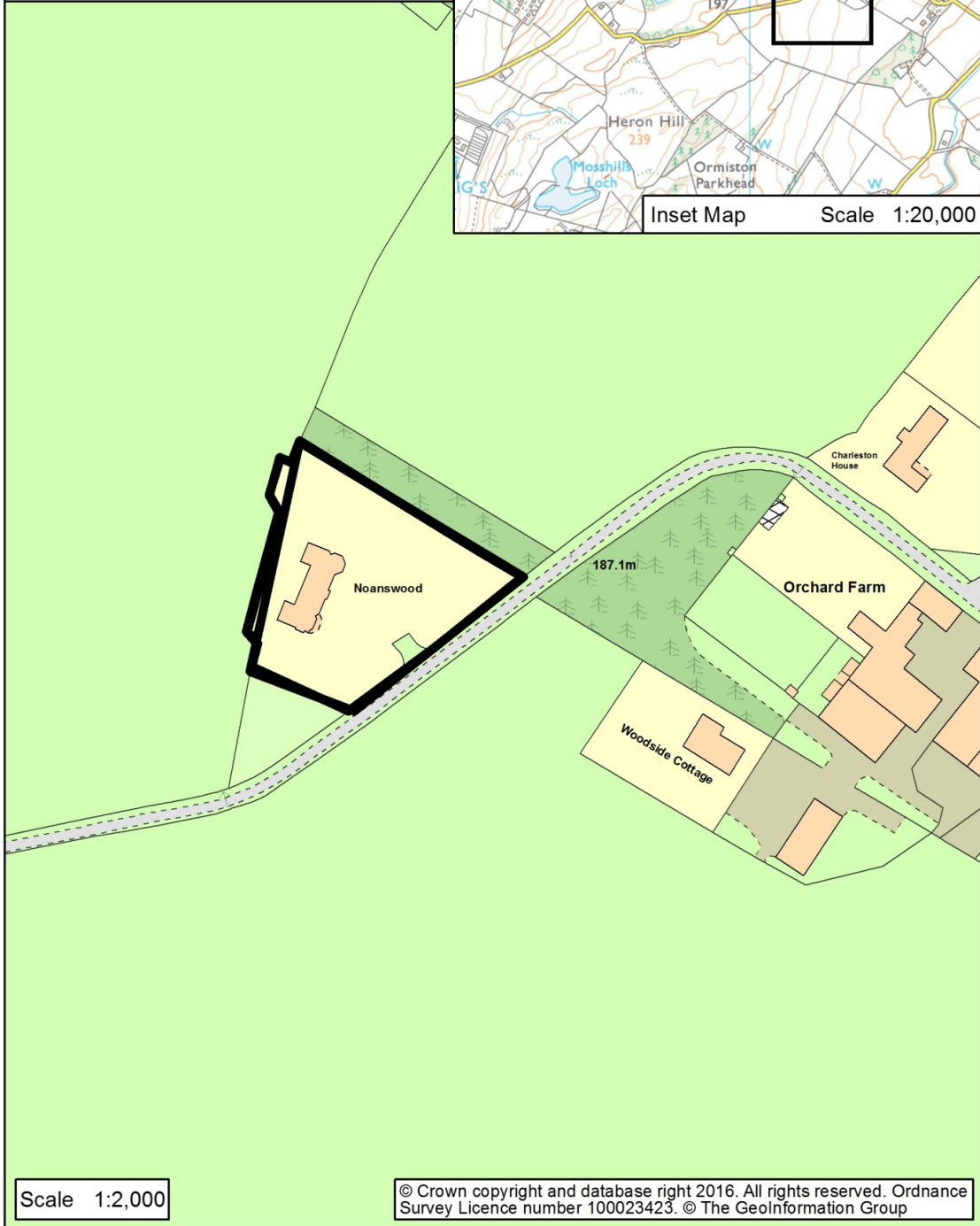
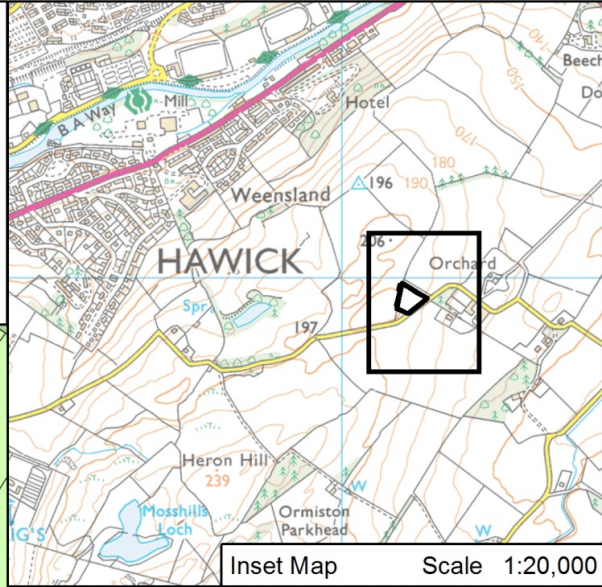
Author(s)

Name	Designation
Andrew Evans	Planning Officer



16/00792/FUL, 16/00793/FUL
& 16/00796/MOD75

Noanswood
Orchard Farm
Hawick



Scale 1:2,000

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 NOVEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 16/00816/FUL
OFFICER: Dorothy Amyes
WARD: Tweeddale West
PROPOSAL: Alterations to landscaping, access, fencing and garage location (amendments to previous consents 09/01098/PPP, 11/00983/AMC and 15/00531/FUL)
SITE: Land South West Of Carnethy, Medwyn Road, West Linton
APPLICANT: Arc Scotland
AGENT: Gray Macpherson Architects LLP

SITE DESCRIPTION

The site is a small development of three houses lying south west of the detached property called Carnethy on Medwyn Road, West Linton. The site is bordered by woodland to the east, south and west and to the north by the rear gardens of residential properties along Medwyn Road.

Of the three dwellinghouses, plot 1 has recently been completed and plots 2 and 3 are nearing completion. The properties will be known as 1-3 Medwyn Court.

PROPOSED DEVELOPMENT

The current proposal is for the alteration to the landscaping, access, fencing and garage locations (as approved by the previous consents).

The alteration to the approved landscaping plans is for the introduction of 6 unallocated parking spaces along the eastern boundary of the site, change to the approved surface for the access driveway and the introduction of low level lighting along the access and on the central area of landscaping.

Along the narrow access track a 2.4m high timber fence is proposed along the boundary with Carnethy and gabion baskets will be placed along the boundary with Cairn Muir. The erection of the fence is a legal requirement of the sale of the site to the current owner. As it will be over 2m in height it requires planning consent. The gabion baskets are required to secure the existing fence belonging to Cairn Muir.

The locations of the detached garages have changed only slightly, the garage on plot 1 is set further back from the front elevation, the proposed garage on plot 2 is also to be located further back and at a different angle to the main house and on plot 3 the proposed garage is forward of the front elevation. The external stairs on all three garages have been removed and internal stairs are now proposed.

Mention has been made by some of the objectors that the attic space has been turned into additional accommodation. As this is an internal alteration, it is not considered to be development and planning permission is not required. The additional roof lights and small windows are minor amendments that can be treated as non-material variations to the approved scheme.

PLANNING HISTORY

Planning permission in principle was granted on appeal on 23 February 2011 for the erection of 3 dwellinghouses on this site (09/01098/PPP) and a subsequent detailed application (11/00983/AMC) was approved in October 2011.

In December 2015 (15/00531/FUL) the Planning and Building Standards Committee approved an application for changes to the design of the three houses. The main changes were the addition of detached double garages on each plot.

Under 09/01098/PPP, a section 75 Legal Agreement was entered into in respect of the payment of contributions towards education provision for West Linton Primary and Peebles High School. This planning obligation was modified in late 2013 (13/01139/MOD75) in order that the required contributions could be paid in equal instalments on the completion of each house.

REPRESENTATION SUMMARY

Five representations have been received and the objections to the proposal can be summarised as follows:

- Lighting not acceptable – condition 3 on original consent did not allow any lighting or kerbs
- Additional living space in attics
- Extra parking is excessive
- Light pollution from headlights in parking spaces
- Development does not correspond to original consent
- Inaccuracies in application
- No SUDS details and potential impact on neighbouring properties
- Gabions may not be fit for purpose

APPLICANTS' SUPPORTING INFORMATION

No supporting Information has been submitted.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Section

No objections to the amendments to the private road layout.

Landscape

The height of the proposed fencing along the boundary to Carnethy should be no greater than the height of the existing fencing at the Carnethy entrance to the access road to prevent it being obtrusive in the landscape from the views on Medwyn Road. This should not exceed 2.4m or the height of the existing fence, whichever is lower on the opposite side of the access (i.e. on the Cairn Muir boundary) anywhere along its length.

Where the existing fence on the boundary of Cairn Muir is raked a detail should be submitted to show how this will accommodate the gabion basket detail at the base. It is my opinion that the timber fence should follow the angle of the gabion baskets so that the bottom rail is above the line of the baskets. Where turf is being laid adjacent to the fence posts it is recommended that the base of the posts should be treated with preservative to prevent rot. Confirmation is required on whether the gabion baskets require keying into the ground for stability and if drainage is required behind them. This information should be added to the drawings if required.

Parking bays - these should not be easily visible to neighbouring properties once the planting has had a chance to establish. To ensure adequate establishment of the woodland planting tree numbers should be counted on completion of the site and any dead, dying or missing plants replaced. A programme of maintenance should also be introduced.

Statutory Consultees

None

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD2 - Quality Standards for New Development

HD3 - Protection of Residential Amenity

EP13 - Trees Woodlands & Hedgerows

IS7 - Parking Provision and Standards

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Trees and Development

Landscape and Development

KEY PLANNING ISSUES:

The key planning issues are whether the proposed amendments are acceptable or whether they raise issues in relation to residential amenity, road safety or the overall landscaping of the site.

ASSESSMENT OF APPLICATION:

There are a number of issues which require clarification before assessing the current proposals.

Ownership:

There is a current ownership dispute for a strip of land along the access which was formerly part of the garden ground of Carnethy. The original access, as approved in an earlier planning consent, was wider than the land which was sold to current owner. It appears that the services may have been laid under this strip of land. This is a legal issue but as the current application includes this land, it was necessary for new notifications to be sent out to the owners. This was undertaken in August 2016.

Trees on the site:

The application form states that there are no trees on the site. The overall site contains a woodland area which has now been fenced off. There are no trees in the areas where the current proposals are located.

SUDS:

One objector has raised an issue relating to potential flooding of his land and the need for a SUDS scheme to be submitted as part of this application. The application is for minor amendments to an approved scheme and it would not be appropriate to request the submission of a SUDS scheme to be submitted as part of this application.

However, condition 7 on the original planning permission in principle decision does require the submission of details of the proposed SUDS and it states that : ‘...No dwellinghouse shall be occupied until the planning authority has confirmed in writing that the surface water drainage system has been satisfactorily installed.’

The developer will be made aware that this condition still applies and will be asked to submit the required information before the first house is occupied.

Assessment

Since the approval of the original planning permission in principle and subsequent application for the consideration of matters specified in the conditions, the site has been sold and, as is common for many developments, amendments have been sought as the development progresses. The main considerations are whether the original conditions are still valid and whether the proposed amendments are acceptable. Members may recall consideration of a previous application for minor revisions to the development earlier this year. The current proposals are again for relatively minor changes which do not affect the overall character of the approved scheme. However, it is considered that they cannot be treated as non-material variations due to the wording of conditions on the original permission.

Lighting

Several objectors to the proposal make reference to the original appeal decision in which Condition 3 is as follows:

*The proposed site access details submitted pursuant to condition 1 shall take the form of a private driveway, without kerbs, footways or lighting.
(Reason: to ensure that the appearance of the access is appropriate and that its effect on neighbouring residents is acceptable.)*

The current application proposes low level lighting along the narrow access and on the central planting area. The main area of concern is along the access where some of the lighting will be illuminated by sensors. There will also be a narrow kerb along the edge of the gravel. It is considered that what is proposed is in the form of a private driveway and does alter the aim of the condition to establish an informal approach. It will not have a footway or wide concrete kerbs except at the junction with Medwyn Road. The proposed lighting is not high-level traditional street lighting which would be out of place in this semi-rural location, and which was the arrangement the condition was seeking to avoid.

Furthermore, the erection of the 2.4m high sound proof fence that the developer is legally required to erect will have the effect of creating a narrow, dark access at night time and therefore some form of lighting is appropriate for the safety of residents and visitors to the site. As the fence is a legal requirement made after the reporter's decision and the original applicant was one of the owners of Carnethy, this effect could not have been anticipated at the time of the original decision. Indeed, the installation of lighting as currently proposed would not require planning permission at other established private residential sites.

As the lighting will be contained by the fences and on sensors there will be minimum impact on the residential amenity of neighbouring properties. It is considered that the proposed lighting is acceptable, subject to a condition requiring the submission of further details of the design of the lighting.

The grey gravel used on the surface of the access is similar to that previously approved and the construction method provides a permeable surface which was a requirement on the original permission.

The six additional parking spaces will also be finished in the same material. Currently, the dwellinghouses have two parking spaces within each plot (the garages are not considered as parking spaces) and the addition of six additional spaces is not considered to be excessive and will provide off road visitor parking. Roads Planning have raised no objections to the proposed amendments and the Council's landscape architect considers that, due to the existing and proposed planting, the location of the parking spaces should not have any significant impact on neighbouring properties. There are existing conditions in place regarding the landscaping of the site and some of the required planting has already taken place. This aspect of the scheme is considered to be acceptable.

Due to the sloping nature of the ground, the construction of the access has involved cutting down below the base of the existing boundary fence of Cairn Muir. In order to ensure that the fence is stable it is proposed to install gabion baskets along its length. This is considered to be a necessary measure provided that the baskets are securely fixed to the ground. This aspect can be controlled through a condition.

As already noted, for the length of the access along the boundary with Carnethy, it is proposed to erect a 2.4m high timber sound proof fence. No details of the design of the fence have been provided. As noted above, the height of the fence has been specified in the sale contract. Although it would be preferable for the fence to be at a lower height, similar to the existing boundary fence close to the entrance, the boundary fence of Cairn Muir rises to a height of over 2m along part of its length. A new fence of an appropriate design would not be out of place or have a significant adverse impact on the character of Medwyn Road. If Members are minded to approve the application, a condition can be placed on the consent requiring the submission and approval of further details.

The amended location of the garages is considered to be acceptable as the new locations will not result in any loss of residential amenity or raise issues relating to road safety. The removal of the previously proposed external stairs and the substitution with internal stairs is a minor design amendment which is considered to be acceptable.

CONCLUSION

In conclusion, it is considered that the proposed amendments to the original scheme are acceptable in that they are appropriate to the development and do not detract from semi-rural nature of the site, they can be adequately accommodated on the site and they will not affect the spatial character of the area or have any significant impact on the residential

amenity of existing properties. The proposals comply with the Local Development Plan policies relating to quality standards and protection of residential amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. Before any further development takes place on the site, details of the proposed low level lighting will be submitted to and approved by the planning authority.
Reason: To ensure that the lighting is appropriate to the site and its surroundings.
2. Before the gabion baskets are installed along the access, details of the proposed method for securing the gabions to the ground shall be submitted to and approved by the planning authority.
Reason: To ensure a satisfactory form of development and that the stability of the structure is appropriately addressed.
3. Before the fence along the access and the boundary with Carnethy is erected, details of the design and materials of the fence shall be submitted to and approved by the planning authority.
Reason: To ensure a satisfactory form of development appropriate to its surroundings.

DRAWING NUMBERS

P01A – Site/Location Plan

P03 B – Block Plan

P03B – Access road and landscape proposals

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.

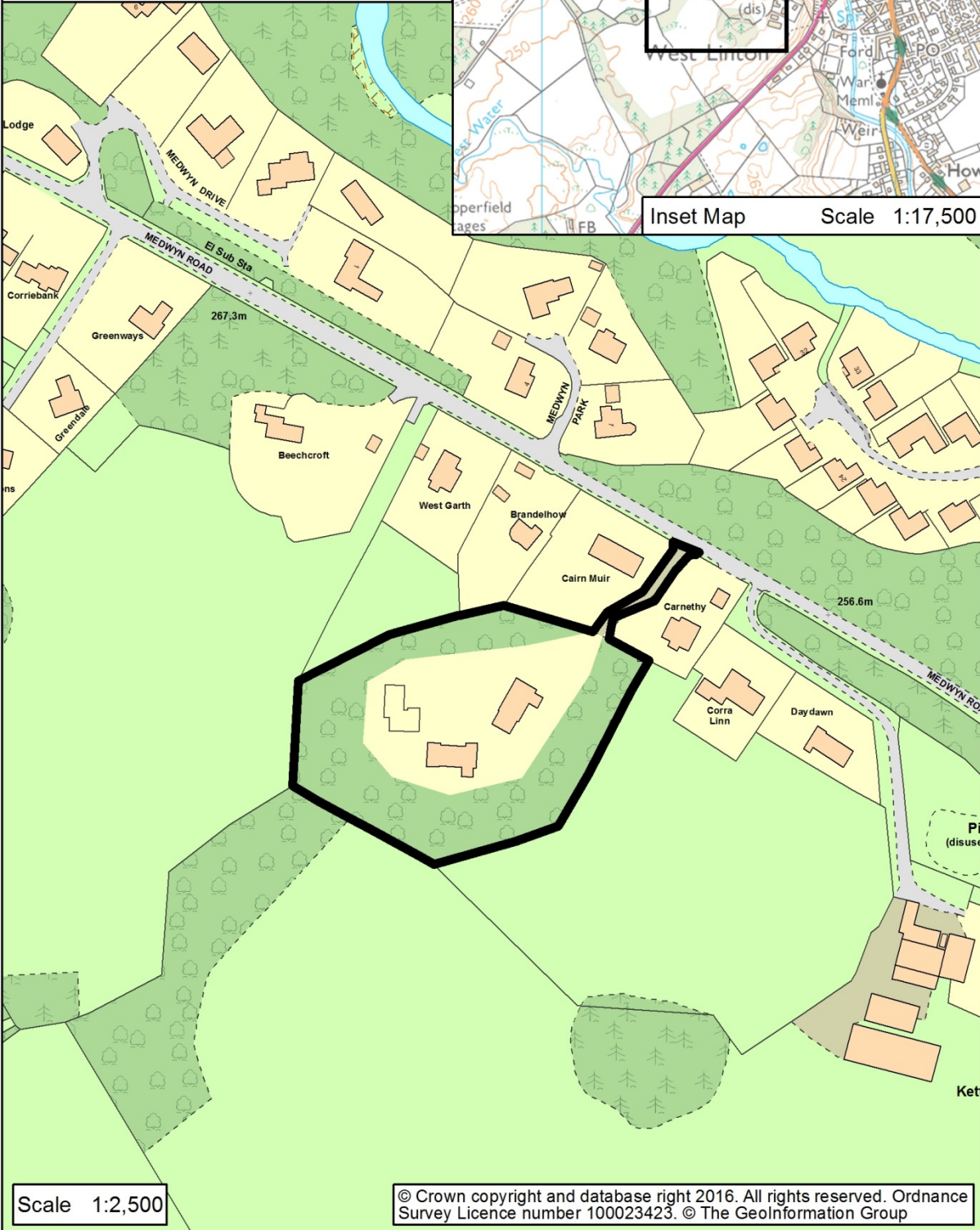
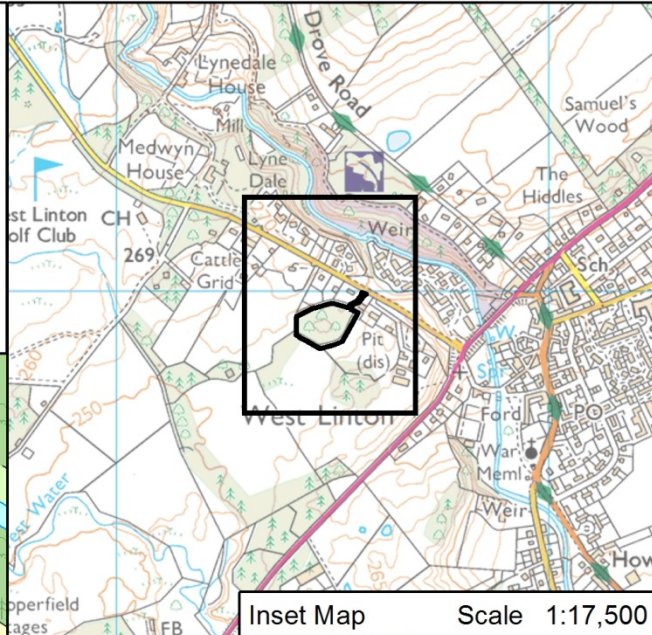
Author(s)

Name	Designation
Dorothy Amyes	Planning Officer



16/00816/FUL

Land South West Of Carnethy
Medwyn Road
West Linton



Scale 1:2,500

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 NOVEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 16/00614/FUL
OFFICER: Julie Hayward
WARD: Hawick And Hermitage
PROPOSAL: Erection of agricultural building and formation of soil bund (retrospective)
SITE: Todshawhaugh Farm Roberton
APPLICANT: J C Hobday & Son
AGENT: John Thorburn & Sons (Construction) Ltd

SITE DESCRIPTION

Todshawhaugh Farm is situated to the south west of Hawick, accessed from the B711, the A7 to Roberton road, by a road that also serves Highchesters Farm. The farm comprises of the farmhouse and a number of modern and traditional farm buildings. The Borthwick Water loops around the farm steading to the north and west.

PROPOSED DEVELOPMENT

This application seeks retrospective planning permission for works that have been carried out at the farm.

An agricultural building has been erected on the south western edge of the farm steading. This is 36.5m by 24.4m and 8m in height with 2m concrete panels on the sides with openings above and concrete panels, timber boarding and gates on the gables. The roof is steel profile cladding.

A bund has been formed to the west of the farm steading adjacent to the Borthwick Water. This is 56m long, 12m wide and 1.7m in height constructed from spoil from excavations to form a level site for the new agricultural building.

PLANNING HISTORY

95/00700/FUL: Erection of steel framed farm building. Approved 12th July 1995.

06/02148/FUL: Erection of agricultural building. Approved 13th December 2006.

REPRESENTATION SUMMARY

No representations have been received.

APPLICANTS' SUPPORTING INFORMATION

- Planning Statement
- Site Photos

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer: Parts of the site are 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 year.

I would state that the part of the site which does lie within the functional flood plain is the earth bund and the part which does not lie within the flood plain contains the agricultural building. Therefore, I have no objections on the grounds of flood risk to the agricultural building. I would, however, object to the building of a soil bund within the functional flood plain. I require evidence to show that the applicant is not increasing flood risk downstream caused by loss of storage capacity. A Flood Risk Assessment (FRA) would need to be undertaken to show this.

Re-consultation: This bund, although large, has not blocked the natural flow path upstream of the bund, which follows the historical mill lade that runs from upstream of the bund to the road next to the ford. Mapping on the National Library of Scotland show the path that the Mill Lade used to take. I would state that the applicant has submitted photos to show that this was the flow path taken by the water during the winter storms and that the land north east of the bund still filled up with flood water during these storms.

I would further state there are no properties that would potentially be affected by small reductions in functional flood plain at this site as they are all raised well above the Borthwick Water. The property which would be most likely to be affected is owned by the applicant and I do not feel that this property has been placed at increased flood risk by these works.

Therefore, as there are no significant alterations to the flow mechanics at this site that would significantly reduce the storage capacity at the site and increase flood risk to property downstream, I no longer have any objection to this application on the grounds of flood risk.

Statutory Consultees

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

The agricultural building is located to the south of the Borthwick Water within the immediate area of the farm. It is shown on the SEPA Flood Map to lie outwith, but immediately adjacent to, the 0.5% annual probability flood extent and may therefore be at medium to high risk of flooding. The use of the building is classed as low vulnerability and given it is shown to lie outwith the functional floodplain is unlikely to have an impact on flood risk elsewhere. We have no objection to the development of the agricultural shed.

The earth bund, which has been created with the land excavated from the site of the agricultural shed, is on the north bank of the Borthwick Water. It lies

immediately upstream of Todshawhaugh Farm, which is on the south bank, and Highchesters Farm which also lies on the north bank. The earth bund is within the 0.5% annual probability flood extent and as such may lead to an increase in flood risk through the loss of storage and conveyance within the functional floodplain.

Insufficient information has been provided to determine the impact of the bund on surrounding land and properties. There may be a beneficial impact to some properties behind the bund although some properties may also be adversely impacted through water being diverted toward them earlier or increased flood levels. Properties behind a defence may also be at increased flood risk should the embankment fail. In order to determine whether the bund has no negative impact to existing properties we would require submission of a Flood Risk Assessment. We would request removal of the bund should there be any increased flood risk to properties.

Re-consultation: Photos and anecdotal information have been provided in support of this application. The information indicates that the properties have not been impacted by flooding in the 40-years or more of inhabitation by current owners. In the determination of planning applications we refer to the 0.5% annual probability (1 in 200-year) flood extent as the functional floodplain and from our knowledge this scale of event has not been seen in this area. We do not operate a river gauging station on the Borthwick Water but the flow recorded downstream on the River Teviot during the 5th December 2015 flood event has been calculated as having a return period of approximately 1 in 30 years (1.33% annual probability).

The information indicates that during high flows water leaves the channel upstream of the embankment and flows east through fields before returning to the watercourse downstream of the bridge to Todshawhaugh Farm. However, this information is not sufficient to determine the impact of the embankment of flood levels during all return period events up to the 1 in 200 year return period.

In the absence of flood modelling we are unable to determine the impact of the embankment on flood levels in the Borthwick Water and whether the structure will result in an increased flood risk to adjacent land and property. As such we are unable to alter our position based on the information provided. A Flood Risk Assessment may only serve to highlight a significant flood risk which would result in us objecting in principle to the development.

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

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

Local Development Plan 2016

PMD2: Quality Standards
ED7: Business, Tourism and leisure Development in the Countryside
HD3: Protection of Residential Amenity

IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy

Supplementary Planning Guidance:

Placemaking and Design January 2010

Guidance on Householder Developments July 2006

KEY PLANNING ISSUES:

- Impact of the development on the visual amenities of the area;
- Whether the development affects the residential amenities of occupants of neighbouring properties;
- Whether the site is at risk of flooding and whether the development would increase the risk of flooding elsewhere.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy ED7 states that proposals for business development in the countryside will be approved provided that the development is used directly for agriculture, which by their nature are appropriate to the rural character of the area. The building is for accommodating cattle at the farm steading and so complies with policy ED7.

Siting, Design and Impact on Visual Amenities

Policy PMD2 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 farm building is well related to the steading and is of a similar design and materials to existing buildings. Although large, it is in keeping with the scale of other buildings at the farm. Considerable excavation works have taken place to form a level site for the building which has left an embankment to the rear but this is screened by the building.

The bund, though extensive, is a maximum of 1.7m high and located amongst a number of trees. It is a soil bund at the moment but vegetation will grow over it in time.

The farm is situated considerably lower than the public road and there is intervening tree screening. The farm building and bund are not prominent in the landscape and do not harm the appearance of the area.

One concern regarding the bund is that the soil has been piled up around the bases of the trees adjacent to the Borthwick Water, which may impact on the health of these trees. The applicant has advised that she intends to sow the bund with grass seeds and plant willows, which would give it a more natural appearance.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Advice on light and privacy is contained within the Supplementary Planning Guidance: Guidance on Householder Developments July 2006.

The only residential property close to the farm building is the farmhouse, owned by the applicant. There are no residential properties close to the bund. The developments therefore do not harm the light or privacy of occupants of neighbouring properties.

Flooding

One of the policy principles contained within Scottish Planning Policy 2014 (SPP) is flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. To achieve this, the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. Piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity.

SPP advises that Local Development Plans should use a flood risk framework to guide development. Where built development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water-resistant materials and construction should be used where appropriate and Flood Risk Assessments (FRA) required for development in the medium to high category of flood risk.

In applying the risk framework Planning Authorities should take into account the proposed use of the site, depth of flood water, flow rate and path, loss of storage capacity, effects of floods on access, including by emergency services, and existing flood protection methods.

Policy 15 of the SESplan states that Local Development Plans should avoid any new development in areas at medium to high flood risk. 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 floodplains to convey and store flood water should be protected.

SEPA and the Council's Flood Protection Officer have no objections to the farm building.

SEPA advises that the earth bund on the north bank of the Borthwick Water is within the 0.5% annual probability flood extent and as such may lead to an increase in flood risk through the loss of storage and conveyance within the functional floodplain. They advise that insufficient information has been provided to determine the impact of the bund on surrounding land and properties. There may be a beneficial impact to some properties behind the bund although some properties may also be adversely impacted through water being diverted toward them earlier or by increased flood levels. Properties behind a defence may also be at increased flood risk should the

bund fail. The Flood Protection Officer had similar concerns and both requested that a Flood Risk Assessment be prepared and submitted.

The Flood Protection Officer visited the site to look at the bund and the flow paths that still exist and the applicant submitted photos to establish whether this embankment has any effect on the flow patterns or water levels.

Both SEPA and the Flood Protection Officer were consulted on the anecdotal information and photos submitted by the applicant.

SEPA advises that the information indicates that during high flows water leaves the channel upstream of the bund and flows east through fields before returning to the watercourse downstream of the bridge to Todshawhaugh Farm. However, this information is not sufficient to determine the impact of the bund on flood levels during all return period events up to the 1 in 200 year return period. In the absence of flood modelling they are unable to determine the impact of the bund on flood levels in the Borthwick Water and whether the structure will result in an increased flood risk to adjacent land and property. As such SEPA are unable to alter their position based on the information provided and still request that a Flood Risk Assessment be submitted.

However, the Flood Protection Officer now advises that the bund, although large, has not blocked the natural flow path upstream of the bund, which follows the historical mill lade that runs from upstream of the bund to the road next to the ford. Mapping on the National Library of Scotland show the path that the Mill Lade used to take and the applicant has submitted photos to show that this was the flow path taken by the water during the winter storms and that the land north east of the bund still filled up with flood water during these storms. There are no properties that would potentially be affected by small reductions in functional flood plain at this site as they are all raised well above the Borthwick Water. The property which would be most likely to be affected is owned by the applicant and he does not feel that this property has been placed at increased flood risk by these works.

Therefore, as there are no significant alterations to the flow mechanics that would significantly reduce the storage capacity at the site and increase flood risk to property downstream, the Council's Flood Protection Officer now has no objection to this application on the grounds of flood risk.

The applicant has again been requested to submit a Flood Risk Assessment to address SEPA's concerns but the applicant has advised that she wishes to have the application determined based on the information submitted to date.

The concerns raised by SEPA are noted and carry considerable weight. However, the Flood Protection Officer has visited the site and considered local conditions, historical maps and photos taken when the area flooded previously. He advises that there are no properties that would potentially be affected by small reductions in the functional flood plain with the exception of the applicant's property.

Taking this into account, it is therefore recommended that the planning application be approved with the objection from SEPA in place. If Members are minded to approve the application, it would have to be referred to Scottish Ministers.

CONCLUSION

The development complies with policies PMD2, ED7 and HD3 of the Scottish Borders Local Development Plan 2016 as the agricultural building and bund do not harm the visual amenities of the area or the residential amenities of occupants of neighbouring properties.

The agricultural building is not at risk from flooding however the bund is on an area of ground at risk from a flood event with a return period of 1 in 200 years within the flood plain. SEPA has objected to the application as a Flood Risk Assessment has not been submitted that demonstrates that the development is not increasing flood risk downstream caused by the loss of storage capacity. The Council's Flood Protection Officer has looked closely at the local situation and is satisfied that there are no properties that would potentially be affected by small reductions in the functional flood plain caused by the formation of the bund.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the approval of the Scottish Ministers and the following condition:

1. The bund to be sown with grass seeds and planted with willows, as appropriate, during the first planting and seeding seasons following the granting of planning permission, in accordance with a scheme that has first been submitted to and approved in writing by the Planning Authority. The planting to be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting and seeding.
Reason: To enhance the visual amenities of the area.

DRAWING NUMBERS

7439/01	Floor Plan and Elevations
7439/02	Site Plan
7439/03	Location Plan
7439/04	New Bund on Old Farm Track
7439/05	Specifications
7439/06	Specifications

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.

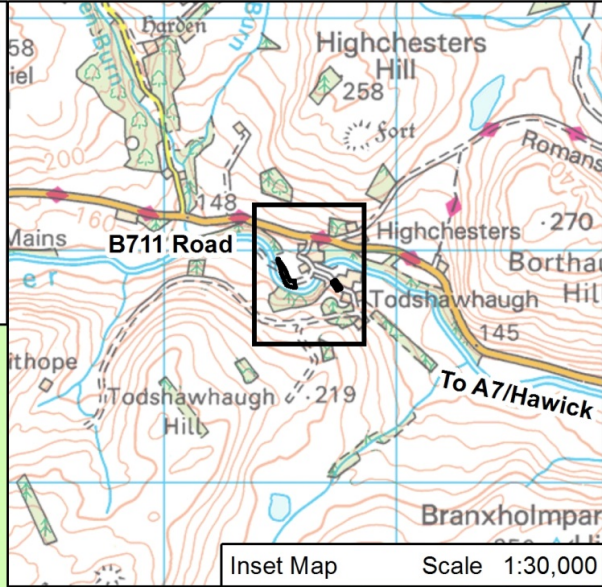
Author(s)

Name	Designation
Julie Hayward	Lead Planning Officer

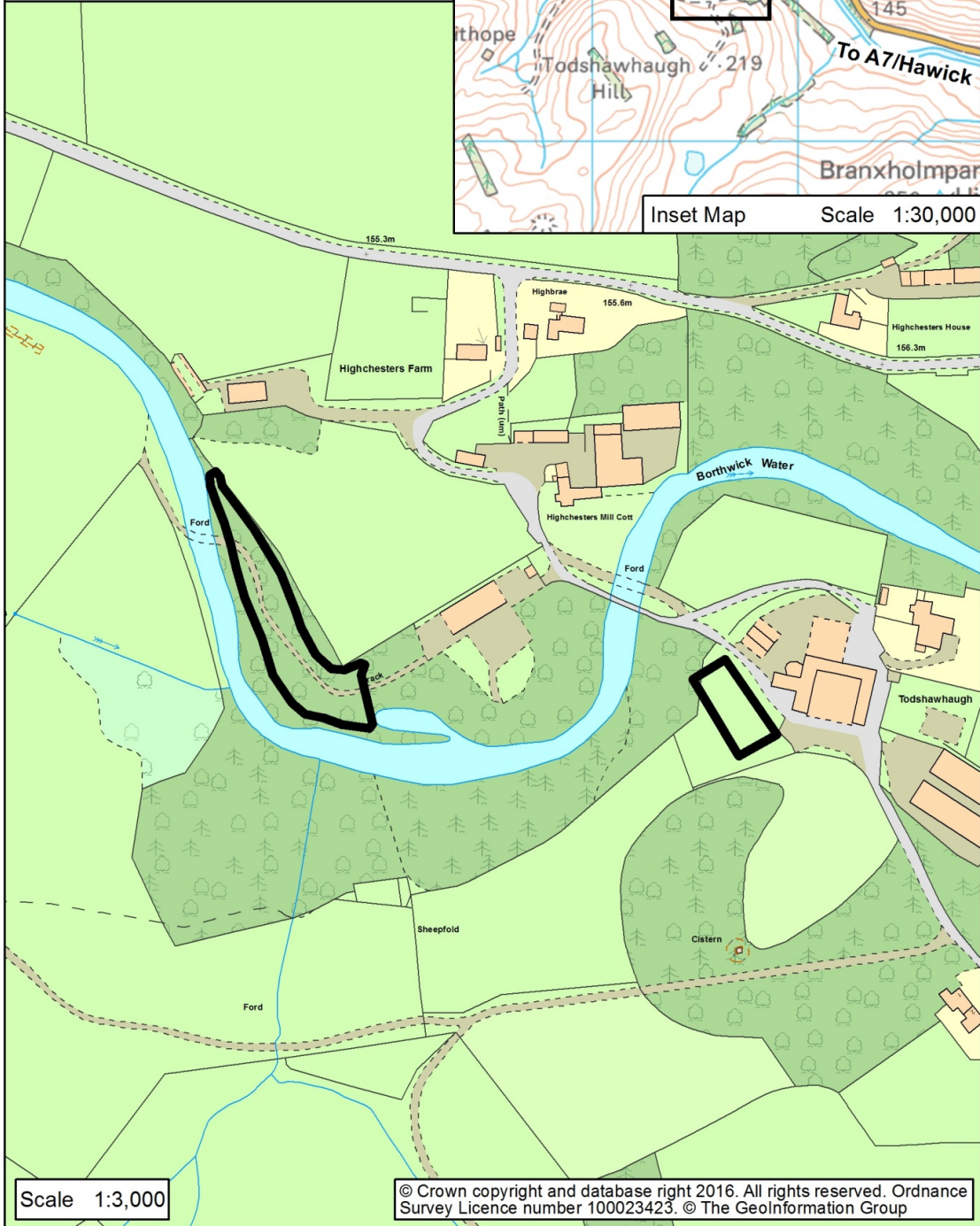


16/00614/FUL

Todshawhaugh Farm
Roberton
Scottish Borders



Inset Map Scale 1:30,000



Scale 1:3,000

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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

7th November 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

- 3.1 Planning Applications

Nil

- 3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

- 4.1 There remained 4 appeals previously reported on which decisions were still awaited when this report was prepared on 27th October 2016. This relates to sites at:

<ul style="list-style-type: none"> Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles 	<ul style="list-style-type: none"> Land North West of Whitmuir Hall, Selkirk
<ul style="list-style-type: none"> 62 Castle Street, Duns 	<ul style="list-style-type: none"> 22 Bridge Street, Kelso

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 16/00953/FUL
Proposal: Removal of existing summer house and erection of garden room
Site: Beechwood, Lawyer's Brae, Galashiels
Appellant: Mr & Mrs Doyle

Reason for Refusal: The development would, by virtue of its prominent siting and large scale, be visually unsympathetic to the character of its surroundings, contrary to Policies PMD2 and HD3 of the Local Development Plan 2016, resulting in an adverse visual impact in this location.

6 REVIEWS DETERMINED

- 6.1 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.2 Reference: 16/00126/FUL
Proposal: Replacement windows and door
Site: 62 Castle Street, Duns
Appellant: Alan John Redpath

Reason for Refusal: The application contravenes Policy BE1 and G1 of the Consolidated Local Plan 2011 and the terms of the Replacement Windows and Doors SPG in that the proposals lack sufficient information regarding the condition of the existing windows and door and the design of the proposed replacement windows including their frame material and the design of the replacement door would result in having a harmful effect upon the special historic and architectural character of the grade B listed building. Policy provisions contained within the emerging Local Development Plan would not alter this recommendation.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.3 Reference: 16/00397/FUL
Proposal: Change of use of land to commercial storage and siting of 42 No storage containers (retrospective)
Site: Land East of Langlee Mains Farmhouse, Galashiels
Appellant: Wilson G Jamieson Ltd

Reason for Refusal: The proposal does not comply with Scottish Borders Council Local Development Plan Policies ED7, EP6 and PMD2 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary; and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character and amenity of this site and the surrounding area, principally through the landscape and visual impacts that would result from such an industrial type and scale of operation being accommodated at this highly visible countryside location.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.4 Reference: 16/00494/FUL
Proposal: Erection of poultry building and erection of alter, sacred well and stance for statue
Site: Field No 0328, Kirkburn, Cardrona
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2- Tweed Valley in that the proposed building and structures 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 PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building and structures that would justify an exceptional permission for them in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a design or scale that appear suited either to the proposed use for which it is intended or the size of the holding on which it would be situated, which further undermines the case for justification in this location. 3. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety. 4. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the uses proposed for the building would not have an adverse impact on the local environment and the amenity of nearby residents.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 Reference: 16/00495/FUL
Proposal: Extension to form animal flotation unit

Site: Field No 0328 Kirkburn, Cardrona
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building 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 PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a design or scale that appears justified by the size of the holding on which it would be situated, which further undermines the case for justification in this location. 3. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 27th October 2016.

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

9.1 Reference: 14/00169/S36
Proposal: Construction of Wind farm (Revised Scheme) comprising 19 no. wind turbines, associated access tracks, crane hardstandings, 1 no. meteorological mast, substation, construction compound and 2 no. borrow pits
Site: Land North Of Nether Monynut Cottage (Aikengall IIa), Cockburnspath
Appellant: Community Windpower Ltd

Reasons for Objection: 1. Impact on Landscape Character: The proposed development would be contrary to Policies G1 and D4 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) in that the development would unacceptably harm the Borders landscape due to: (i) the prominence of the application site and the ability of the turbines and infrastructure to be seen as highly prominent and poorly contained new components of the landscape from a wide area due to their siting beyond the containment

limitations of the receiving landscape (upland edges), as represented by viewpoints and ZTV information within the ES (ii) the unacceptable cumulative effects of the turbines and infrastructure with other consented or operational development at Crystal Rig, Aikengall, Hoprigshiels and Ferneylea resulting from the coalescence of schemes over different phases of landscape, between which is an absence of adequate separation which, together with a lack of good topographical containment, would cause the underlying landscape character to be overwhelmed; and (iii) the adverse effect of the development on the underlying landscape resulting from its disharmonious appearance, dominance, massing, spread and layout design, and its combined relationship with other wind energy development with which it has overriding and harmful cumulative landscape effects, most noticeably with earlier phases of the Aikengall array but also with Crystal Rig.

2. Adverse Visual and Amenity Impacts: The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) in that the development would give rise to unacceptable visual and residential amenity effects due to: (i) the high level of visibility of the development and lack of good topographical containment resulting from some of the turbines and infrastructure creeping over the upland edges and down the outer upland slopes (ii) the messy, unbalanced, cluttered and dominant appearance of the development due to the design layout, in particular due to increased overlapping, overtopping and intensification of the turbines within the visual envelope of the development and the lack of bridging effects with Aikengall II (iii) the adverse effects experienced by users of the public path network, in particular users of the Southern Upland Way and areas generally used for recreational access (iv) the potentially unacceptable level of visual impact caused by the dominance of the turbines in relation to a number of private residences, in particular Star Cottage near Paitshill (v) the failure to demonstrate that the noise impacts on noise sensitive receptors would be within acceptable limits (vi) the adverse visual impacts relating to settings of scheduled monuments at Edin's Hall & Broch, and Shannabank Hill Fort.

3. Road Safety and User Amenity: The proposed development would be contrary to Policies H2, G1 and D4 of the Scottish Borders 2011 Local Plan, in that the proposed vehicular access proposals are unacceptable due to: (i) the high level of unnecessary adverse impact on amenity and safety of residents and road users caused by the implementation of new and upgraded infrastructure to enable the transportation of abnormal and other loads to and from the site.

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Michael Shiel, concluded that the development would make a worthwhile contribution towards the achievement of the Scottish Government's targets for renewable energy generation. The development would have a number of adverse landscape and visual impacts but none to the extent that he judged them to be unacceptable. In particular, the effects are mitigated to a degree because the wind turbines would be seen in the context of those already built and under construction on Monynut Edge. As a result, the landscape and visual impact would be less than if this were a stand-alone development. The reporter also stated that there would be no other unacceptable environmental impacts, subject to appropriate mitigation measures, that can be secured through conditions. The development is acceptable when considered against the criteria in paragraph 169 of Scottish Planning Policy. The development benefits from the presumption in favour of development that contributes toward sustainable development introduced

by Scottish Planning Policy and would not conflict with the relevant policies in the extant and emerging development plans for the area. Finally the reported concluded that the proposed development generally meets the requirements of Schedule 9 of the Electricity Act.

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained one S36 PLIs previously reported on which a decision was still awaited when this report was prepared on 27th October 2016. This relates to a site at:

<ul style="list-style-type: none">(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir	<ul style="list-style-type: none">
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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.

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