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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 6TH MARCH, 2017

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the SCOTTISH BORDERS COUNCIL, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 6TH MARCH, 2017 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

27 February 2017

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 1 - 6) Minute of Meeting of 6 February 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Garden ground of the Stables, Bonnington Road, Peebles - 16/01239/FUL (Pages 7 - 22) Erection of dwellinghouse on garden ground of the Stables, Bonnington Road, Peebles. (Copy attached.)
	(b) Land North, South East and West Birneyknowe Cottage, Hawick - 14/00530/S36 (Pages 23 - 60) Erection of 15 turbines 132 high to tip, access track, compound, permanent anemometer mast and 2 no borrow pits. (Copy attached.)
	(c) Hutton Hall Barns, Hutton - 16/01430/FUL (Pages 61 - 76) Erection of poultry building and associated works. (Copy attached.)
	(d) Stonelea Stables, Ashkirk, Selkirk (Pages 77 - 84) 1. Discharge of planning obligation pursuant to planning permission 03/00344/OUT; 2. Removal of Condition No 3 from planning permission 04/00718/REM (occupancy restriction).
6.	Planning Review (Pages 85 - 138)

	A consultation on the Future of the Scottish Planning System – verbal update from Chief Planning Officer. (Copy attached.)
7.	Appeals and Reviews. (Pages 139 - 144) 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.
10.	Items Likely to be Taken in Private Before proceeding with the private business, the following motion should be approved:- 'That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph of Part 1 of Schedule 7A to the aforementioned Act'.
11.	Minute (Pages 145 - 146) Private Minute of the Meeting held on 6 February 2017 to be approved and signed by the Chairman. (Copy attached.)

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 6 February 2017 at 10.00 a.m.

Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Campbell, I. Gillespie, D. Moffat, S. Mountford, B. White.
Apologies:- Councillors J. Brown, J. Fullarton.
In Attendance:- Chief Planning Officer, Lead Planning Officer, Principal Roads Planning Officer, Solicitors (Ron Kirk and 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 9 January 2017.

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 the Appendix 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 one appeal outstanding in respect of Land North West of Whitmuir Hall, Selkirk.**
- (b) **a review request had been received in respect of the Erection of a dwellinghouse on Land East of Keleden, Ednam - 16/01425/PPP.**
- (c) **the Local Review Body had overturned the Appointed Officers decision to refuse the following:-**
 - (i) **the erection of 2 No dwellings for holiday let, and associated infrastructure works on land North West of 4 Rink Farm Cottages, Galashiels - 16/00844/FUL;**
 - (ii) **variation of Condition 3 of planning permission 06/00243/OUT and Condition 5 of planning permission 13/00897/PPP pertaining to access road Plots 1 & 2, site at the Putting Green, Auchencrow, Eyemouth.**
- (d) **there remained one Section 36 PLI outstanding in respect of Whitelaw Brae Wind Farm), land South East of Glenbreck House, Tweedsmuir.**

4. **PRIVATE BUSINESS
DECISION**

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

SUMMARY OF PRIVATE BUSINESS

1. **DEFECTIVE ROOF COVERING, RAINWATER GOODS AND DRY ROT AT 2 HIGH
STREET AND 12 MARKET PLACE, JEDBURGH**

The Committee considered a report by the Chief Planning Officer and agreed that a further report be presented to Committee as soon as possible.

The meeting concluded at 12.40 p.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/01061/FUL	Erection of four dwellinghouses, access landscaping and associated infrastructure works	Land South and West of Wellnage House, Duns

Decision: Approved subject to a legal agreement addressing contribution towards Education and 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 Local Planning Authority as specified in the drawing list on this consent notice.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials, including colour finish to be used in the construction of the external walls of the buildings have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
3. No development shall commence until a Construction Method Statement (CMS) has been submitted to and agreed in writing with the Planning Authority to outline specific details of all on site tree protection measures. The CMS shall include but not be limited to the following points;
(a) The location of protective fencing which shall be erected around the Root Protection Areas (RPAs) of all trees which are identified for retention on Drawing No; P348-SR-001 in accordance with BS5837:2012 and remain erected for the duration of the development.
(b) Details to agree how access roads will be constructed which fall within RPAs.
(c) Details to minimise the impact of construction works and practices upon the RPAs of all retained trees.
Reason: To ensure adequate precaution are taken to protect the retained trees during building operations as their loss would have an adverse effect on the visual amenity of the area.
4. No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.
Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.
5. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i. existing and finished ground levels in relation to a fixed datum, preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. other artefacts and structures such as street furniture, play equipment
 - vii. A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.

6. No development shall commence until Engineering Drawings of the new road junction incorporating pedestrian crossing points on both the new footway and the existing footway opposite have been submitted to and agreed in writing with the Planning Authority and thereafter be completed before occupation of the first dwellinghouse. The submitted drawings shall comply with the access specifications required by the Roads Planning Officer within their consultation response of the 15th Dec 2016 and listed within Informative Note 2. All work carried out within the public road boundary must be completed by an approved Council Contractor.
Reason: To achieve safe vehicular and pedestrian access to the site.
7. A vehicle turning area and two parking spaces, not including any garage space shall be provided within each plot prior to the occupation of each dwellinghouse hereby approved and shall be retained in perpetuity.
Reason: To provide and maintain adequate off road parking.
8. No development shall commence until the applicant has provided the Planning Authority with written confirmation from Scottish Water that Scottish Water do not have any objection to the location and siting of the development illustrated on Drawing No; P348-SR-001.
Reason: To avoid the development causing any adverse impacts upon local infrastructure.
9. No development shall commence until the means of surface water drainage which should make provision to route water away from dwellinghouses and avoid water flowing on to the public road has been submitted to and approved in writing by the Planning Authority and thereafter the development shall be completed in accordance with the approved details.
Reason: To ensure that the site is adequately serviced and avoid causing surface water problems at any neighbouring properties.
10. No development should commence until the applicant has provided evidence that the site will be serviced by a wholesome supply of drinking water of adequate volume. The supply should not have a detrimental effect on other private water supplies in the area.
Reason: To ensure that the site is adequately serviced without a detrimental effect on the water supplies of surrounding properties.
11. The area of ground to the north of the application site, immediately in front of Wellnage House and formerly identified as plots 1 & 2, shall be retained as maintained open space and kept free from development. A scheme for the on-going maintenance of the land shall be submitted to and approved by the Planning Authority prior to the commencement of the development and implemented thereafter in accordance with the agreed scheme.
Reason: In the interests of the visual amenity of the area and to protect the setting of the category B listed building Wellnage house.

Informatives

1. With reference to Condition 2, the render colour should be darker than off white which is indicated on the drawings and staining the timber a colour possibly grey will assist with integrating the development into its surroundings.
2. With reference to Condition 6, the following requirements of the RPO should be incorporated within the detailed access design and illustrated on the submitted drawing;
 - The first 6m of the proposed access onto Station Road to be surfaced to my specification i.e. 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.
 - The first 6m of the proposed access onto Station Road to have a gradient no steeper than 1 in 15.

- The visibility splays on the submitted plan to be provided prior to occupation of the first dwelling and retained thereafter in perpetuity.
 - No part of the proposed private access to exceed 1 in 8 in gradient (1 in 15 for parking and turning areas).
3. The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used. To limit the impact of the development upon the amenity of neighbouring residential properties it is recommended that any works which generate above average noise are carried out during the following hours;
- Monday – Friday 0700 – 1900
 Saturday 0700 – 1300
 Sunday (Public Holidays) – no permitted work (except by prior notification to Scottish Borders Council.

Contractors will be expected to adhere to the noise control measures contained in British Standard 5228:2009 Code of practice for noise and vibration control on construction and open sites.

For more information or to make a request to carry out works outside the above hours please contact an Environmental Health Officer.

VOTE

Councillor Ballantyne, seconded by Councillor Mountford moved that the application be approved.

Councillor Moffat, seconded by Councillor Campbell, moved as an amendment that the application be refused as it was contrary to policies EP7, EP13, G4, BE1, BE3 and BE6.

On a show of hands Members voted as follows:-

Motion - 5 votes
Amendment - 2 votes

The motion was accordingly carried.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/01239/FUL	Erection of Dwellinghouse	Garden ground of The Stables, Bonnington Road, Peebles

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

VOTE

Councillor Mountford, seconded by Councillor Gillespie moved that a site visit be arranged prior to a decision being taken on the application. This was unanimously agreed by all Members of the Committee present.

The motion was accordingly carried.

NOTE

Councillor Bell, Tweeddale East, although not as an objector, raised concerns regarding the process.
 Mr Marcus Russell and Mr Alan McCrone neighbours to the proposed site spoke against the application
 Mr Russell Brock, applicant spoke in support of the application.

Reference

16/01442/MOD75

Nature of Development

Modification of planning obligation
pursuant to planning permission
16/01442/MOD75

Location

Glentress Lodge,
Eshiels
Peebles

Decision: APPROVED modification to the Section 75 Agreement and that the relevant Clause be removed from the Agreement.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 MARCH 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/01239/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale East
PROPOSAL:	Erection of dwellinghouse
SITE:	Garden ground of The Stables, Bonnington Road, Peebles
APPLICANT:	Mr Russell Brock
AGENT:	Whitelaw Associates

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application was continued from the February meeting of the Planning and Building Standards Committee to enable the Members to visit the site and allow further appreciation of the main factors in determining the application, including access and relationship with surrounding property, including listed buildings.

SITE DESCRIPTION

The site is located within Peebles, to the south-west of the town off Bonnington Road. It consists of garden ground belonging to a dwellinghouse known as "The Stables", comprising of 0.145 hectares and lying to the south of the house. The site also lies to the west of the Category B Listed Building "Reiverslaw", immediately bordering on its western boundary wall and adjoining the glasshouse at the site's north-eastern corner. The site also lies to the west of a modern dwellinghouse within woodland known as "Witch Wood". An open field and stables adjoin the site to the west. The site is within the Peebles settlement boundary as defined in the Local Development Plan but not within the Conservation Area.

The site contained a line of trees on a north-south alignment through the site but these have now been removed, leaving just the northernmost tree. There was also a tree screen along the western boundary of the site with the adjoining field but this has also been cleared to the boundary fence, leaving only a couple of trees in the north-western corner of the site, the remainder of the trees then continuing along the field boundary to the north of the site. A few other trees have been retained adjoining the curtilage wall to "Reiverslaw".

The site has a slight slope from west to east and is currently has an open boundary to the north consisting of further garden ground belonging to the site owners who reside in "The Stables".

PROPOSED DEVELOPMENT

The application has been submitted in full for the erection of a dwellinghouse and double garage. The house will be sited relatively centrally within the site and of general T-shaped form, the main axis of the house running north-south and being

two storey in design. An eastern wing will project towards the “Reiverslaw” boundary of slightly lower height and 1¾ storey design. The pitched roof double garage will be attached to this wing via a garden wall and will face into an entrance courtyard which allows access to the house. Due to the slope of the site, the ground will be excavated and the house cut in towards the western boundary.

In terms of design, the house will have a 35° dual pitched roof clad in natural slate and walls will be a combination of wet dash render and natural stone. The stone will be used on the main house gables and the bay projection to the eastern wing. Windows within the house will be timber and generally of vertical emphasis with mullions and upper astragals. Three velux windows light bathrooms. The west facing elevation will have patio feature doors at ground floor level and a pitched roof glazed projection with first floor balcony. An angled glazed entrance porch will occupy the junction between the main house and eastern wing. The garage will be clad in matching slate and render to the main house with timber doors and upper astragalled windows.

Access to the site will be gained via an existing access from Bonnington Road which currently serves the recent dwellinghouse “Witch Wood” as well as stables and the application site used by the land owners and “Reiverslaw”.

The applicant has submitted a Supporting Statement which is available to view in full on the Council’s Planning Portal website. This refers to drainage, design, siting, legal issues, road capacity and impacts on trees. In particular, it states the following:

- Mains drainage can be connected to south of woodland at the site entrance and with ownership agreement.
- The scale of the house has been reduced with ridge height reductions of 1.2 – 2m, the siting realigned and design improvements added such as natural stone and projecting eaves.
- The junction sightlines comply with all relevant safety standards and the access track will only be used by the site landowners to access their stables rather than the rear of their property, controlled by Legal Agreement. Thus, the additional vehicular usage of the track will not be significant. The track has also not been straightened as shown in previous drawings relating to “Witch Wood”.
- Agree new planting and stone walling as part of any condition, including planting at the south-western corner of the site, to the rear of the plot and to the south. Applicant states his experience in tree and shrub production.

In response to objections from neighbours, the applicant has sent in further emails which are available to view in full on the Council’s Planning Portal, dated 13 November and 27 January. There is also a letter from him dated 12 February. These make a number of points in relation to right of access usage, the safety of the access, the lack of previously requested road improvement, the benefits of new-build to the local economy, precedent set by “Witch Wood”, full site height/level survey, restriction of access rights to The Stables, lack of impacts on neighbouring property and drainage solution being available for current problems. A series of three drainage options have also been submitted.

PLANNING HISTORY

Outline planning permission was applied for on the site in 2002 (02/00687/OUT) for two dwellinghouses, including additional land to the north of the current application

site. Although the Case Officer sought an amendment to only one house which it was considered could have been supported, the application was not amended and was refused for two houses, for the following reason:

“The proposal would be contrary to Policy N17 of the Finalised Structure Plan 2001 - 2011 and policies 2, 18 and 47 of the Tweeddale Local Plan in that it would result in the over-development of the site to the detriment of the setting of the Listed Buildings and amenity of the surrounding area. In addition, in the interests of road safety in that the existing vehicular access to the site is inadequate and is not capable of being improved to the appropriate standard.”

The current application represents revision to a similar application which was submitted in June last year (16/00771/FUL). This application was withdrawn in October and replaced with the current application. The revision represents a number of changes to the proposal which are outlined below in the relevant sections.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Raises no objections subject to improvement of the junction of the private access drive and Bonnington Road within public road verge, seeking replacement of the existing concrete surface with tarmac and a widening of the entrance splays within a scheme to be agreed and constructed before any occupation. States the reasoning behind the previously expressed concerns, acknowledging additional information regarding the land owner usage rights of the track being severed by the new development and the new house representing a negligible increase in vehicular movements. Re-appraised the junction issues in the knowledge of land ownership potential restrictions to track widening and provides comments on the good visibility available along the private track and on Bonnington Road itself. Seeks £1000 development contribution towards traffic management and the bridge study in the town. Accepts the revised levels for parking and turning within the site.

Education Officer: The development is within the catchment areas of Peebles High School and Priorsford Primary School, requiring contributions of £1051 and £4170 respectively, based upon management of capacity issues. Would allow the phasing of contributions but also states that contributions can change per year based upon the BCIS index.

Heritage and Design: Requested further information in relation to HES assessment of setting of listed buildings, namely a plan showing the clear arrangement of the house with adjoining houses and a plan showing heights in relation to adjoining houses and buildings. Once corrected information was received, raised no objections to the proposals, citing separation from Reiverslaw, intervening screening, massing reduction, ridge height being slightly lower than Reiverslaw, footprint being smaller than Reiverslaw and materials allowing impact to recess.

Landscape Architect: Supports the application subject to the provision of a revised drawing moving the house and garage two metres west, accurately plotting the southern boundary and track, providing full tree survey details and a detailed new planting plan. Recognises the site is within the Haystoun Designed Landscape and on the edge of the Tweed Valley Special Landscape Area. Previous tree felling has removed part of the backdrop to a listed building and increased visibility of the house. Therefore imperative remaining trees are kept and the development should be

moved westwards to achieve this. Also recommends reinstatement of sections of the tree belt to the north and south of the site, keeping the central western section open. Further survey information required.

Raises no objection to revised plan subject to additional tree species and a plan showing full protection of the retained trees during construction works. Comments on the various drainage proposals, commenting that there may be impacts on root systems with soakaway proposals but that measures such as root protection barriers could be used as long as there is care to avoid Root Protection Areas and care is taken during construction of drainage tracks. At this stage, unable to verify there is sufficient space for a soakaway system but that drainage tracks could use root protection barriers.

Statutory Consultees

Peebles and District Community Council: Response awaited.

REPRESENTATION SUMMARY

Letters of objection have been received to the application from the occupants of six properties in the vicinity of the site. These can be viewed in full on the Public Access website and the main grounds of objection can be summarised as follows:

- The site access is inadequate as it is narrow with limited visibility on a bend and no passing place, resulting in reversing manoeuvres onto Bonnington Road which is a busy road with cumulative development increasing traffic levels generally. Lack of pavements also add to pedestrian risks of increased traffic. The proposal does not resolve SBC Roads Planning objections. Track is long and reversing will still occur, similar to experiences at the Reiverslaw access.
- The claim that the site owners use the access and that the new house would merely replace such usage and not add to traffic numbers is not correct and is an attempt to replace theoretical use with actual use. It should not be considered. Photographic evidence is provided of apparent use only since August. In any case, usage would be far less than that represented by the proposal. The access will still be used for access to stables and this negates any replacement traffic argument. There is no traffic information submitted nor is the Police Scotland report substantiated. Two parking spaces are now claimed to exist on site but were not mentioned in the withdrawn application.
- The suggested junction improvements by SBC Roads Planning do not comply with current practice for separate houses, has limited visibility, restricted entrance width, unexpected and unsigned arrangements, radii issues and pedestrian conflict. The verges are owned privately by objectors, title deeds submitted. Query ability for SBC to sanction such work and who maintains the enhanced junction. Not in the wider public good.
- There is no legal entitlement to use the access to serve the application site for a new house, nor any ability to achieve any widening or passing places. The new application does not resolve the issues previously identified by SBC Roads Planning. "Witch Wood" has not contravened any access track alignment proposals.

- Long standing surface water drainage problems to properties on Bonnington Road which the proposal will worsen. No legal entitlement to reach the public drains within the Jubilee Park development via the land that now accommodates 23-27 Bonnington Road nor down the access track to Bonnington Road. No details supplied in relation to surface water..
- The development of “Witch Wood” was subject to restriction of no more houses within that plot of land resulting in appropriate development with space around it, unlike the current proposal which is overdevelopment to the detriment of the houses and listed property adjoining.
- The site owners and adjoining neighbours are in disagreement over a clause which, in the title deeds, alleges that no development of the land should take place and no buildings erected.
- The dwellinghouse is too large in size, too dominant and would have an overbearing impact on amenity and privacy of neighbouring properties. It could be moved further away. There are no 3D images but there will be unacceptable sunlight, noise and privacy impacts
- The dwellinghouse, by virtue of scale and siting, will have a detrimental impact on the character and setting of the listed building “Reiverslaw”, walls and glasshouse. The footprint will be the same as “Reiverslaw” and a ridge height of over 10m when viewed from “Reiverslaw”. The listing would become compromised. There is no information to allow proper assessment. Views between Conservation Officers have changed since 2002. There is no submitted Design Statement.
- The dwellinghouse design and finish will be out of context with others in the area.
- The proximity to adjoining walls could cause structural issues.
- Drawing 02 appears to show no allowance for the access track to the stables and suggests a movement south of the development by 3.6m making it more dominant.
- The clearance of trees from the site was premature and whilst not illegal, shows disregard for the planning process, the site setting and the local community. There are no precise details of any replacement planting. Drainage routes could impact on tree roots.
- There has been no direct approach from applicant to discuss proposals.
- Inadequate level details have been submitted, resulting in steep inclines at the site entrance.
- There have been frequent changes and inaccuracies in the proposals.

An email from the plot owner supporting the application has also been received and can be viewed in full on Public Access. This responds to the objections, including the following:

- The current landscape is different from that in 2002 due to recent developments.
- There has been little regard to the listed buildings in planning applications previously made by the objectors.
- The Heritage Officer has addressed the issues of scale and dominance in relation to Reiverslaw, Witch Wood having impacts itself on the adjoining property at Bonnycraig.
- The plot owner has a 50% share of the access road, the objectors having no greater a share combined. The access is acceptable to Roads Planning and there are other access improvements possible by the objectors.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD1 Sustainability
 Policy PMD2 Quality Standards
 Policy PMD5 Infill Development
 Policy HD3 Protection of Residential Amenity
 Policy EP5 Special Landscape Areas
 Policy EP7 Listed Buildings
 Policy EP10 Gardens and Designed Landscapes
 Policy EP13 Trees, Woodlands and Hedgerows
 Policy IS2 Developer Contributions
 Policy IS7 Parking Provisions and Standards

OTHER PLANNING CONSIDERATIONS

“Trees and Development” SPG
 “Privacy and Sunlight” SPG
 “Placemaking and Design” SPG

Scottish Historic Environment Policy (SHEP)

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings. In particular, siting, scale, design, impacts on road access, residential amenity, trees and landscape.

ASSESSMENT OF APPLICATION

Planning Policy

The site is within the settlement boundary of Peebles and is not allocated for any specific purpose, nor is it within the Conservation Area. The main Local Development Plan Policy to be applied is that governing infill development, PMD5 in the Local Development Plan. This Policy encourages development where a series of criteria are satisfied, including conforming with the area character, not leading to over-

development, respecting scale and design, adequacy of access/services and no significant impacts on residential amenity.

Assessing the application against these criteria:

- *The site must conform with the established land use of the area* - as the surrounding area is predominantly housing, this criterion is met. Other infill houses have been developed in this part of Peebles in recent years including development behind main frontage houses.
- *The site must not detract from the character or amenity of the area* – the house is of appropriate form, design, height and finishes and will comply with this criterion.
- *The site must not lead to overdevelopment* – the site is adequate to accommodate the house and garage proposed without the density of the area being contravened. The proportions of house and garden to overall plot are not excessive and do not appear out of context with the development pattern and spacings in this part of Bonnington Road.
- *Respects scale, form, design and materials* – the proposals are sympathetic to the site and surroundings as explained below.
- *Adequate access and servicing* – this can be met as explained below.
- *No significant loss of daylight or privacy* – the proposals are acceptable as explained below.

Officers were clearly in a position of being able to accept infill development on this land when considering the earlier application in 2002, albeit that application was for a larger area of garden ground. This application is for one house on the southern part of the site which is nearer “Witch Wood” but with greater spacing and separation from other houses to the north and east. It is therefore considered that the development, with appropriate conditions, will meet the various criteria listed in the appropriate infill development Local Development Plan Policy PMD5. The site is a suitable infill opportunity and the proposed development complies with the Policy.

Listed Buildings

The site lies to the rear of Reiverslaw, a Category B Statutorily Listed Building, complete with lodge house, walls, garage and glasshouse. Their protection and setting are governed by LDP Policy EP7. The Heritage and Design Officer had initially sought additional information regarding the development in order to fully understand the relationship of the proposed house with Reiverslaw to the north-east. A submission was then received showing this relationship indicating a 53m gap at the closest point from house to house. The glasshouse is closer at approximately 22m. The site itself does lie on higher ground than Reiverslaw which is estimated to be in the order of 3m difference in floor levels, the proposed house being excavated into the site and the rising ground to the west being retained.

The proposal suggests that the ridge height of the proposed house will be 8.2m above the finished floor level, this ridge height being shown to be just below the ridge height of Reiverslaw. The owners of Reiverslaw dispute the ridge level relationship, highlight errors on the revised drawing and believe this impact will be dominant and affect the setting and thus, conflict with Council and National Policy on setting of listed buildings. They also believe the footprint will be excessive and be the same as Reiverslaw, all contributing to a scale of house which would not be “subservient” to Reiverslaw and that would impact detrimentally on its setting. The quote is lifted from

the Heritage Officer's comments on the earlier withdrawn application submission where he felt the submitted design was too dominant.

The Heritage Officer was then responding to a design with almost 12m gable width and 25 degree roof pitch, being wholly two storey with asymmetrical pitches, cantilevered balconies and largely rendered walls. Whilst slate and other traditional materials and features were proposed, they did not produce an overall sympathetic and coherent design which integrated with, rather than competed against, Reiverslaw. The house was also not set into the slope of the site, leading to increased dominance from Reiverslaw.

The current application made various revisions to attempt to improve subservience with Reiverslaw and reduce impacts on the setting. These included the following:

- A reduction in overall footprint by approximately 30 square metres.
- A realignment of the house to straighten the skewed alignment
- A further movement of the house and garage two metres west.
- A restriction of the main two storey axis to a North/South alignment with a reduced height 1.75 storey wing to the east.
- An excavation of ground resulting in a reduction in height AOD of between 1.2 and 1.9m to ridge
- Various design and material improvements including gable width reduction, more sympathetic roof pitch and wider use of natural stone – see Design Section below.

Whilst a decision should be made on the acceptability of what the current submission is, rather than what was unacceptable about the withdrawn application, it is still important to note the progression and improvements in the design, in relation to how it impacts on the setting of the listed buildings.

The Heritage Officer now considers that the scale and design of the building have been reduced and improved to the extent that the impact on the setting of Reiverslaw is acceptable. He calculates that, in terms of footprint, Reiverslaw remains the dominant building and that, with ground level reduction, the new ridge will be just below that of Reiverslaw. The reductions, realignment, design and material changes, when combined with the distance and oblique view, determine that the impacts on setting do not substantiate a refusal of the application for these reasons. The principal elevation of Reiverslaw remains eastwards facing towards Bonnington Road and the impacts of the house on the rear setting towards the south-west do not justify refusal of the application. Subject to conditions securing a suitable natural stone sample and appropriate colours of external materials, the Heritage Officer is content that the impacts on the listed buildings are acceptable and in compliance with Local Development Plan and National Policy. I concur with these views. Although criticised by objectors, the quality and detail of the design statement wording in the applicant's submission have not led to any different conclusion.

Design and Residential Impact

Policies PMD2, PMD5 and HD3 of the Local Development Plan require appropriate design and quality standards to be applied to all new development and there to be no significant adverse effects on residential amenity.

In terms of design and materials, Policy PMD5 seeks respecting of the surroundings and PMD2 seeks scale, massing, design and materials to complement the highest

quality architecture in the area. The surroundings to the site are influenced by traditional buildings such as Reiverslaw and The Stables to modern houses such as Witch Wood and the new houses along the eastern side of Bonnington Road. Whilst the Heritage Officer suggested he did not wish to see a design which competed with the listed building at Reiverslaw, it is understandable that the design would pick up on the surrounding influences whilst not directly copying them. Thus, whilst Witch Wood is a highly successful timber clad contemporary design within the context of its wooded site, there is no reason to seek a similar timber clad design on a linear garden site between a walled garden and an open paddock. If elements of traditional materials such as slate, natural stone, wet render and timber detailing could be combined with an appropriate design, then there would be no reason to consider such a design inappropriate in the mixed age development context, complying with the relevant criterion in Policy PMD2.

The issue previously with the withdrawn application was that, whilst some of these materials were present, the wide plan depth, shallow roof pitch, skewed alignment, excessive floor level height and confused arrangement of windows, doors and elevations led to a design which was not integrated with, or complemented, its surroundings. However, the withdrawal of that application and resubmission of the current proposals has led to a design which responds better to its surroundings and, subject to appropriate external materials controlled by condition, can be considered acceptable and in compliance with Policies PMD 2 and PMD5.

The slate roofs of differing heights with integral gable end chimneys, projecting eaves and pitched dormer projections present a much more sympathetic roofscape than the previous design. The use of natural stone on the gable ends of the main house axis combined with feature panels on the 1¼ storey wing improve the design as do the banded and astragalged timber windows. These retain a strong vertical emphasis due to the use of mullions where necessary. The glazed porch and improved matching treatment of the garage improve the main front elevation and entrance. The elevation facing west is concealed to the public and contains more contemporary elements where their inclusion has less impact or comparison with surrounding architecture.

Overall, the relevant Local Development Plan Policies on design can be complied with at the next planning stage and subject to the aforementioned conditions

Residential amenity is covered by Local Development Plan Policy HD3 and the Supplementary Planning Guidance Note on Privacy and Sunlight. Amenity, privacy and sunlight concerns have been raised by residents of the neighbouring properties at Reiverslaw and Witch Wood, compounded by the perceived height of the dwelling and the elevated land on which it will be situated. However, the distance and alignment relationship of the proposed house with both affected houses and gardens is well within the guidelines and tolerances expected and advised in the relevant SPG.

The generous garden grounds around Reiverslaw result in 53m between houses corner to corner, separated by screening within the current grounds. The proposed gable nearest the grounds, in any case, only proposes two small bathroom windows to first floor with ground floor patio door overlooking screened by the wall. Whilst window to window overlooking is well within the guidelines, the potential overlooking of the outer garden ground of Reiverslaw justifies a condition to ensure no further windows are proposed on the eastern gable of the proposed house wing. All other windows proposed are distant and/or obliquely angled.

Although distances are less to Witch Wood, the same applies in relation to privacy impacts. There is an approximate distance of 34m house corner to corner but the houses are obliquely aligned to each other. Any line of sight from the habitable room windows at Witch Wood is at such an angle from the windows of the proposed house that, when combined with the distances, the impacts are not significant and well within the guidelines in the relevant SPG. This is also allowing for the increased height of the windows due to the rising ground. The immediately adjoining garden ground to Witch Wood is not as potentially overlooked as that of Reiverslaw, albeit the eastern gable window restrictions and intervening proposed garage will protect privacy to an improved degree. Proposed new planting around the proposed house will also help diffuse impacts, to be controlled by condition.

There is also no significant impact on daylight or sunlight to the aforementioned houses, albeit there are concerns raised. The distances and oblique angles mean that whether the 25 or 45 degree angles are assessed, there is no obstruction to daylight that would have any material impact on the properties. In terms of sunlight, the affected houses are again sufficiently distant not to experience such an impact that refusal would be substantiated. As the SPG and relevant Building Research Establishment advise, there are no obstructions above a 25 degree subtended line from potentially affected windows and, therefore, no further sun path analyses are required. Whilst some trees have been felled, there is also impact from the trees that remain both around the site and to the south and surrounding the potentially affected houses.

For the aforementioned reasons and subject to conditions, it is considered that Policies PMD2, PMD5 and HD3 of the Local Development Plan are met in relation to design and residential amenity.

Access and parking

Policy PMD5 of the Local Development Plan requires developments that generate traffic to be capable of being accessed safely and Policy IS7 seeks adequate parking provision. This development will be accessed from the private track that is shared between the owners of Witch Wood, Reiverslaw and The Stables, the latter accessing stables and a paddock to the south-west of the site. There is much information and comment in the objection letters regarding the legal rights to use this access for the development of a new house, the objectors believing there is no legal entitlement to use or widen this access. There is also much concern over the narrow and perceived unsafe nature of the access, leading onto an increasingly busy Bonnington Road. To clarify matters for Members of the Committee, all references to The Stables below refer to the plot owners' current dwellinghouse, the site being part of the garden ground. References to stables are actual stables within the paddock to the west of the site, also owned by the same owners.

These issues were made known during processing of the previous withdrawn application when Roads Planning were of the opinion that the access needed to accommodate two traffic flows at the junction either by junction widening or by a passing place within the site. The concern was that without such a provision, there would be too far to reverse for a car up the track leading to the unsafe possibility of cars reversing out onto the public road at the junction. Objectors and the applicant have differing opinions about their legal abilities to secure such improvements.

With the current application, the applicant has advanced an argument based upon replacement of traffic flows, claiming that the access is 50% owned by the plot owners who reside at The Stables and who, once the new plot is developed, will be

giving up their rear access usage to The Stables, only retaining their access to the stables and paddock to the south-west of the plot. The argument is that the new development will simply replace such traffic and that the junction is currently safe to accommodate the traffic flows. Counter arguments have been lodged to state that the access has only recently been used as a rear access to The Stables and that it has been introduced to suit the argument being advanced over replacement traffic flow. The objectors also argue that the traffic flows from the size of house proposed would far outweigh any occasional rear usage to serve The Stables and that the junction and track are incapable of safely accommodating the additional traffic.

Roads Planning have taken all the factors into account and have raised no objections, following re-appraisal of the access point and taking into account the replacement traffic claim. They accept there is little evidence to demonstrate current and proposed vehicle movements but accept the principle of replacement traffic could be partly comparable. In accepting that there would appear legal difficulties in improving the access, they have reassessed the junction. They have identified good forward visibility approaching the junction and adequate visibility when leaving the junction. They feel that drivers waiting to turn in can see along the track into the site to see if the track is clear. If it isn't, the waiting vehicle can clearly be seen from both approaching directions. Roads Planning are now accepting the proposal following the additional information on traffic usage replacement and the reappraisal of the junction. This is a position not accepted by the objectors who have lodged further concerns on the stance of Roads Planning, viewable on Public Access.

Roads Planning have some concern over the junction surface and potential for verge overrun if a vehicle is exiting and one is waiting to turn in. They identify that the verge crossing within public road boundary could be replaced with tarmac and that a scheme should be submitted, as a condition of planning permission, to secure the new surface with entrance splay enlargement to cope with verge overrun. As the works are within the public road boundary, Roads Planning identify that the works are achievable. Objectors have submitted title deeds claiming the verges are within their ownership and that there is no public good being served by the amendments within public verge, simply acceding to the wishes of one house developer.

Whatever the position on previous access usage to the rear of The Stables, the fact is that there are access rights, given also that the garden runs to the edge of the track. The rights do not appear to be disputed, just the pattern and frequency of usage. Given that there are rights, it is understandable why Roads Planning have reassessed the junction on the basis of net replacement traffic flows. However, as this was an important reason for the reassessment and ultimate acceptance of the proposal, it is essential that the access right to the rear of The Stables is extinguished as part of this application. Although the applicant makes this assertion in his supporting statement, there would still be the ability for the owner of The Stables to reach his garden ground via the track and paddock to which he would still retain access.

It is understood that the owners of The Stables would be willing to enter into a Legal Agreement to ensure that the only vehicular access they would take along the track in question would be to the stables and paddock and not to their actual house or garden. This could be included as an additional clause in the Legal Agreement required for development contributions.

In terms of all other access matters, it is clear that Roads Planning are not objecting to the junction and access, subject to the improvements identified being carried out within public road verge. This would be attached by planning condition to be carried

out to an agreed scheme before house occupation, by a contractor entitled to work within public road. Although objectors dispute how such work can be sanctioned within their ownership without their approval, the Council has previously successfully required and defended such works within public road under the Roads Scotland Act 1984. Although objectors claim it is facilitating and assisting one developer rather than it being in the wider public good, it will introduce a better junction for the current users which benefits road safety in the area. Any perceived increased usage of the access is accepted by Roads Planning on the basis of the improved junction and the current visibility available at the access. Any arguments over legal rights of usage remain private civil matters for discussion amongst the relevant landowners.

Subject to the aforementioned Legal Agreement and condition, it is considered that the development can be accessed safely and, thus, in compliance with the relevant Local Development Plan Policies.

Trees and Landscape

Policies EP10 and EP13 apply to this site, relating to trees and landscape within development sites and the Haystoun Designed Landscape. The site also borders the Tweed Valley Special Landscape Area protected by Policy EP5. The site previously had a row of beech trees within it and further woodland on the western boundary which have now been removed. This removal and site clearance was not encouraged by the Department but, nevertheless, does not constitute any breach of planning control or legislation. The trees were not protected.

When Witch Wood was developed, the retention of trees within and around that site was considered an important part of that development, the house being fitted into its wooded setting and taking part of its influence from that setting. Those trees within that site are now protected by planning condition and it would be the intention to retain the remaining trees within the current application site, in order to maintain the backdrop to Reiverslaw, the integrity of the Haystoun Designed Landscape and the boundary of the Tweed Valley Special Landscape Area as identified by the Landscape Architect.

Whilst the tree removal that has taken place is regrettable, the Landscape Architect does believe that the development can be supported subject to adequate protection of the remaining trees and suitable replacement planting, including trees outwith the site to the south. Further revised plans were submitted moving the house over two metres westwards to reduce potential impacts on trees within and outwith the site and clearer notes were included on what trees were being retained, including trees to the north and south of the site. New planting proposals have also been submitted including replacement trees to all sides of the house, the western side being kept open in the vicinity of the main west-facing elevation.

The Landscape Architect is content that the revised drawing indicates acceptable proposals, repositioning the house and allowing for better retention of existing trees as well as acceptable new planting. However, further information would still be required before the development commences relating to definition of existing tree Root Protection Areas, additional new planting proposals, walling details and any further boundary enclosure details. Conditions can cover these requirements as well as the need for protective fencing around retained trees during construction works. Subject to these, the development can be considered in compliance with Policies EP5, 10 and 13 of the Local Development Plan.

Drainage

Policy PMD5 of the Local Development Plan requires development to be capable of adequate services, including drainage. Policy IS9 seeks waste water drainage to the public sewer within settlements and surface water to a suitable SUDs system. There is much comment in the objections on drainage and surface water flooding problems, including comment on the legal abilities of the applicant to achieve an access route to the public sewer connection within or near to the Jubilee Park development. It is noted by objectors that the applicant states that relevant drawings will be made available to view and that these had not been submitted. The applicant does claim he has the ability to connect to the public sewer.

The applicant has been asked to provide further details on how the site will be provided with satisfactory drainage and these have been shown schematically on three alternative plans. These all indicate a route eastwards down the access track, under Bonnington Road then travelling south and east along the edge of woodland bordering the former Cala Homes development before connecting to the sewer for foul drainage. Surface water would either be dealt with by soakaway on site or routed east of Bonnington Road into either a soakaway or redundant existing drain.

The drawings lack any further detail at this stage. However, the plot is within the town settlement boundary and it would be highly unlikely that adequate infrastructure and a drainage system could not be provided for the development. The issue, in any case, is a matter for Building Regulations and agreement at Building Warrant stage. Any legal restrictions and entitlement are not a matter for debate in assessment of the planning application and should not influence the decision on the application.

Nevertheless, given the presence of constraints such as listed walls, retained trees, excavation of ground and ground levels towards Bonnington Road, it would be justified to seek proposals by condition to enable the constraints and impacts to be considered, in liaison with Building Standards and the Landscape Architect. Subject to the condition, there would be no justifiable planning reason to oppose the application on the grounds of a claimed legal inability to achieve drainage.

Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. Any legal arguments over rights of access, land ownership and previous clauses on the land remain private legal matters to be discussed between the affected parties and should not affect the outcome of the application. Planning permission does not override the need for all necessary legal permissions to be met.

Developer Contributions

Local Development Plan Policy IS2 requires new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. This development will require contributions towards Peebles High School, Priorsford Primary School and Peebles Bridge/Traffic Management in the town. The contributions have been discussed with the applicant and it has been confirmed that they will be met via Section 69 Agreement. Thus, if Members are minded to accept approval of the planning application, consent can only be issued upon conclusion and registration of the Agreement.

CONCLUSION

Subject to the conditions listed below and the conclusion of a Legal Agreement covering development contributions and access restriction to “The Stables”, the development is considered to comply with the Local Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions and to a Legal Agreement, relating to development contributions and access issues:

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

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

2. The trees on and adjoining this site, which are identified as per Condition 1 to be protected, shall be protected at all times during construction and building operations, by the erection of substantial timber fences around the trees, together with such other measures as are necessary to protect them from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed. Once completed, the trees to be retained thereafter in perpetuity.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

3. A scheme of junction improvement of the access track with Bonnington Road shall be submitted for the approval of the Planning Authority, detailing a resurfacing of the concrete surface within public road verge with 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1. The scheme also to include enlargement of the access splays. Once approved, the scheme to be completed before occupation of the dwellinghouse.

Reason: In the interests of road safety.

4. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls, roofs, windows and doors of the buildings have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the eastern elevation of the eastern section of the dwellinghouse unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the privacy and amenity of the occupiers of adjacent property.

6. No development to be commenced until fully detailed design proposals for foul and surface water drainage have been submitted to and approved by the Planning Authority. Once approved, the development then to be carried out in accordance with the approved design proposals.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

DRAWING NUMBERS

- L1 Location Plan Rev A
- 01 Existing Site Plan
- 02 Proposed Site Plan Rev
- 02 Proposed Site Plan Rev D
- 04 First Floor and Roof Plans
- 05 South and West Elevations
- 06 North and East Elevations
- Revised Application – Applicant’s Statement

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.

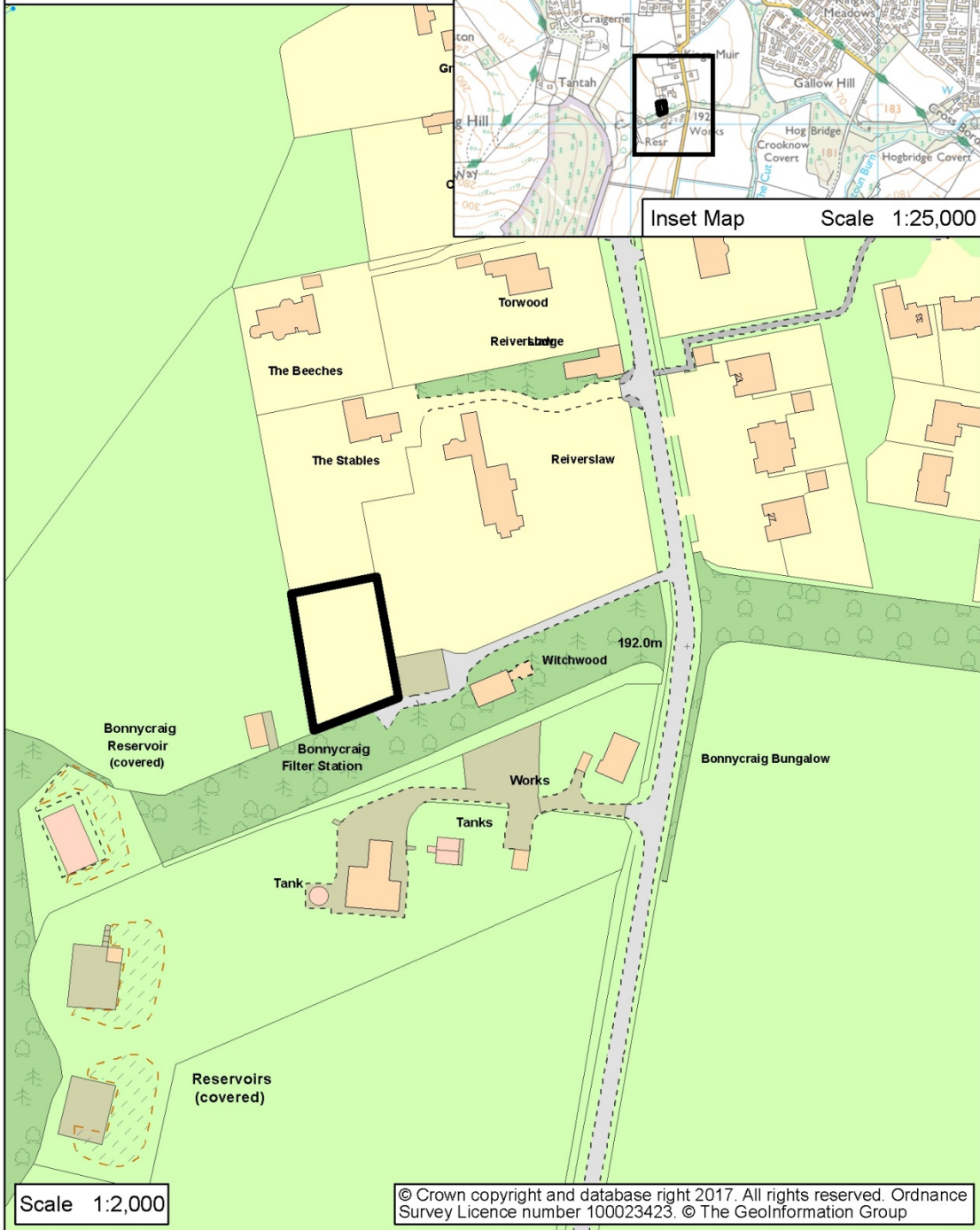
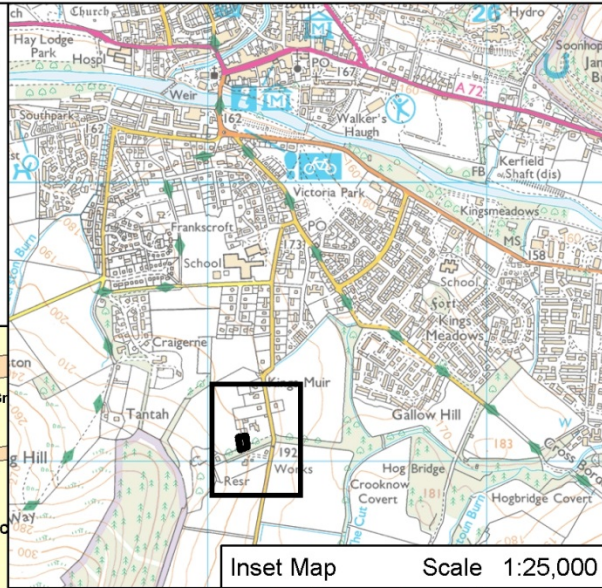
Author(s)

Name	Designation
Craig Miller	Lead Planning Officer



16/01239/FUL

Garden Ground Of The Stables
Bonnington Road
Peebles



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 MARCH 2017

**APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT
1989**

ITEM: **REFERENCE NUMBER:** 14/00530/S36

OFFICER: Julie Hayward
WARD: Hawick and Denholm
PROPOSAL: Erection of 15 turbines 132 high to tip, access track, compound, permanent anemometer mast and 2 no borrow pits
SITE: Land North, South, East and West of Birneyknowe Cottage Hawick
APPLICANT: Banks Renewables
AGENT: None

1.0 PURPOSE OF REPORT

1.1 To advise the Scottish Government of the response from Scottish Borders Council on the application by Banks Renewables to construct a 15 turbine wind farm on land north, south, east and west of Birneyknowe Cottage Hawick.

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 the Scottish Government (ECU), the body responsible for processing onshore Section 36 planning applications. In this instance, the application is required to be determined via Section 36 of the Electricity Act 1989 because the wind farm would have an output of more than 50MW. The ECU advertises the application and carries out consultation with other interested bodies. There is, therefore, no need for SBC 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.

3.0 SITE DESCRIPTION

3.1 The site is situated 4km to the south east of Hawick and 2km to the west of Bonchester Bridge and is 659 hectares in size.

- 3.2 The site is bounded to the north east by the A6088 Hawick to Bonchester Bridge road and to the south east by the minor public road between the A6088 and the B6399 Hawick to Newcastleton road. The site comprises of land predominantly used for rough grazing and there are small conifer plantations. There are several watercourses within the site. Topography within the site varies from a high point of 293m AOD at Hoggfield Hill and 220m AOD in the northern section of the site. Gradients are gentle with the exception of the north western side of Hoggfield Hill.
- 3.3 There are two residential properties at Birneyknowe, within the site. Hawthornside is situated to the east of the site and comprises of a number of houses, a falcon breeding business and a farm. Earlside is situated to the south west and comprises of a farmhouse and four houses. The surrounding area is characterised by scattered houses, farm steadings and small settlements. Hawick is situated 3.5km to the north west of the site boundary, Bonchester Bridge is 1.7km to the east and Jedburgh is 12km to the north east.
- 3.4 The Borders Abbeys Way, a long distance footpath, is 5km north west of the site. There are no claimed Rights of Way or Core Paths within the site but there is one permissive/customary path from Birneyknowe north to the A6088. There are a number of rights of way and promoted paths surrounding the site, in particular the Hawick Circular Riding Route (right of way BR120) approximately 1km away. The Borders Loop local cycle route follows the minor road along the southern boundary of the site. Several Hawick Common Riding ride-outs cross the site.
- 3.5 The site is situated adjacent to the south western boundary of the Teviot Valleys Special Landscape Area, designated within policy EP5 of the Local Development Plan 2016 and shown within the Council's Supplementary Planning Guidance on Local Landscape Designations 2012.
- 3.6 In terms of landscape character, the site lies at the intersection of three Landscape Character Areas (LCA):
- 10M: Grassland with Rock Outcrops: Midgard, an Upland Fringe type;
 - 11RL: Grassland with Hills: Rubers Law, an Upland Fringe type;
 - 4CHG: Southern Uplands Type with Scattered Forest: Caldcleuch Head Group, an Upland type.

The majority of the turbines are proposed within 11 RL.

- 3.7 The site is some distance from the River Teviot, which is a tributary of the River Tweed Special Area of Conservation (SAC). Buckstruther Moss Site of Special Scientific Interest (SSSI) is located within the site, adjacent to the north west boundary. Adderstonlee Moss SSSI is located outwith the site, to the west.

4.0 **PROPOSED DEVELOPMENT**

- 4.1 The development would comprise of:

- 15 turbines and foundations, with a maximum tip height of 132m and a maximum installed capacity of 4 MW (with a total installed capacity of 60MW);

- Crane hardstanding areas;
 - A new vehicular access from the A6088 and 9km of access tracks within the site;
 - Underground electrical cabling;
 - A wind monitoring (anemometer) mast 80m in height;
 - A site control building (14m by 7.6m and 3.5m in height to house the wind farm switch gear, protection equipment, metering and control equipment and an electricity sub-station within a compound (5,600 square metres in size);
 - A temporary construction compound (50m by 100m) for the construction period. This would include portacabin-type structures to be used for offices and welfare facilities, toilet facilities with a packaged treatment system, containerised storage areas, parking for cars and construction vehicles and a bunded area for the storage of fuels;
 - Nine water course crossings;
 - Two borrow pits to provide stone for the development, to be reinstated post-construction.
- 4.2 The development would have an 18 month construction period. The wind farm would have a 25 year operational life and a 12 month decommissioning period.
- 4.3 The turbines would be three bladed, 80m to hub, with a 104m rotor diameter and 52m long blades. The precise model would be selected upon consent being granted. They would have a semi-matt light grey finish and would be computer controlled to face the optimum wind direction. The proposal includes a micro-siting allowance of 50m for the turbines and associated infrastructure post consent following detailed ground investigation and clearance. The wind farm would be connected to the grid at the Hawick substation via overhead and/or underground cabling.
- 4.4 There is one 80m meteorological mast on the site but this would be replaced with a permanent 80m high slim-line lattice mast to monitor the turbines.
- 5.0 **NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF THE CURRANT PROPOSAL:**
- 5.1 Operational:
- Langhope Rig** is situated 15km to the north west of the site and consists of 10 turbines 121.2m in height.
- 5.2 Consented
- Windy Edge** is approximately 11.6km to the south west of the proposal and would consist of 9 turbines, 3 at 110m in height and 6 at 125m.

5.3 In the Planning System

Highlee Hill is a planning application for 13 turbines, 11 at 176m in height and 2 at 150m situated 7.5km to the south east of the Birneyknowe site. This was lodged in October 2016 and remains under consideration.

Pines Burn is a planning application for 13 turbines, 7 at 158.5m in height and 5 at 130m situated 3.4km to the south of the site. This was submitted in January 2017 and is under consideration.

5.4 Other Schemes

The only other relevant wind energy developments within 35km of this site are:

Long Park: The original scheme for 19 turbines at height of 100 and 110m is operational and is situated approximately 30km to the north of the Birneyknowe site. A Section 36 application to extend the wind farm with a further 7 turbines of 100m to 110m is with the ECU following the Council's decision to object to the proposal in March 2016.

Wauchope and Newcastleton Forest: A scoping opinion was issued by the ECU in March 2016 based on 90 turbines with a tip height of 132m at three separate sites (Wauchope East, Wauchope West and Newcastleton Forest).

6.0 **PLANNING HISTORY**

6.1 There is no direct planning history for the site apart from a three year temporary planning permission for the erection of an 80m high wind monitoring mast granted in 2012 (12/00338/FUL) and renewed in April 2015 (15/00475/FUL).

6.2 The Council was consulted by the ECU on a request for a Scoping Opinion submitted by the applicant in April 2012. This was for a 20 turbine wind farm of between 123m to 130m in height. The Council responded in May 2012. The design has evolved to the 15 turbines now proposed following feedback from consultees and a full technical appraisal.

7.0 **APPLICANTS SUPPORTING INFORMATION**

7.1 The Section 36 planning application is an EIA Development and is supported by a full Environmental Statement (ES) resulting from an Environmental Impact Assessment, which comprises the following documents, dated April 2014:

- Volume 1:
 - Non-Technical Summary
 - Planning Statement
 - Design Statement
 - Pre-application Consultation Report
 - Environmental Statement

- Volume 2:
Visualisations
Viewpoints
Cumulative Wireframes

7.2 The applicant submitted a response to SEPA's consultation on 22nd September 2014 and a document entitled "Connect2Renewables Scottish Borders Charter" in August 2015.

7.3 Further Environmental Information (FEI) dated August 2016 was submitted by the applicant in October 2016 and comprises of:

- Volume 1: Planning Statement and Further Environmental Information
- Volume 2: Visualisations
- Volume 3: Technical Appendices

7.4 This information has been available for viewing both within Council Headquarters and Hawick Library and on the Council's Public Access System. Re-advertisement and consultations were carried out upon receipt of this additional information.

7.5 Further information was submitted on 7th February 2017:

- Market Research: Final Report 11 January 2017

7.6 The applicant has recently submitted comments on the consultation responses in relation to landscape and visual impacts, policy, natural heritage and socio-economic considerations (15th February 2017) and the peat assessment (13th February 2017). These documents are available to view on Public Access.

8.0 REPRESENTATION SUMMARY

8.1 Third party representations are submitted to the ECU and it is for that authority to take the representations into consideration when assessing the proposed development on behalf of the Scottish Ministers.

8.2 At the time of writing this report the ECU has advised that a total of 417 third part representations in objection and 200 in support 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):

- PMD1: Sustainability
- PMD2: Quality Standards
- ED9: Renewable Energy Development
- HD3: Protection of Residential Amenity
- EP1: International Nature Conservation Sites and Protected Species
- EP2: National 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
EP13: Trees Woodlands and Hedgerows
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
- Biodiversity 2005
- Local Landscape Designations 2012
- Developer Contributions 2011
- Visibility Mapping for Windfarm Development 2003
- Ironside Farrar Study on Wind Energy Consultancy Landscape Capacity and Cumulative Impact 2013
- Borders Landscape Assessment 1998 Ash Consulting Group

10.2 **Scottish Government Policy and Guidance:**

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

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

- Circular 3/2011 Environmental Impact Assessment (Scotland) Regulations
- PAN 60 Planning for Natural Heritage
- 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
- Onshore Wind Turbines 2014
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

10.4 **Historic Environment Scotland Publications:**

- Historic Environment Scotland Policy Statement June 2016

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
- Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations 2015

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 from specialist officers at SBC in respect of the application as originally submitted and the FEI, where responses differ from that originally received. The responses are available to view in full on the Council's Public Access System.

11.2 **Landscape Architect:** Carried out a detailed assessment of the application in relation to policy D4 of the Scottish Borders Consolidated Local Plan Adopted 2011, the adopted policy at that time, and cannot support the application, observing that:

- The landscape does not provide the expansive, unenclosed landscape scale preferred by policy D4.
- The pattern of visibility is complex, reflecting the landform but the level of containment can be summarised as 'partial'.
- The proximity of Rubers Law and the Teviot Valleys Special Landscape Area means that this application would be likely to intrude on views and affect the character of those areas.
- The proposed development would affect the setting of Hawick, particularly on approach from the north.
- There are a variety of sensitive receptors within this 'upland fringe' landscape where settlement patterns are denser than would be found in the large scale upland locations. A large number of sensitive receptors would be affected in varying degree.
- The significance of Rubers Law as a landmark feature would be diminished. When viewed from the north, the backdrop to Hawick would become wind farm dominated and this constitutes an effect on landscape character.
- Coincident cumulative impact is not a determining issue but sequential cumulative impact is. This has a wider implication and considers the degree to which wind farms may be encountered on journeys across an area. By starting to fill in an area that is currently undeveloped, Birneyknowe would make a more significant contribution to sequential impact.

Re-consultation on FEI: The Further Environmental Information (FEI) includes further landscape analysis including additional viewpoint information (Viewpoint 33: A7 and Viewpoint 34: Appletreehall) and assessment of additional wind farm proposals which may affect the cumulative impacts associated with Birneyknowe. I have the following observations:

- Viewpoint 33: is taken from a point where the development would first become visible as a backdrop to Hawick. Whilst it is acknowledged that various effects from individual locations vary in terms of backdrop and screening, the overall appearance of the proposal when seen from the A7 on the southbound approach to Hawick is that it would compete with Rubers Law in appreciating the setting of the town. The view would change as an observer moved between Viewpoint 33 and Viewpoint 13 further down the hill.
- Viewpoint 34 indicates that there would be no significant impacts on Appletreehall due to the screening effects of intervening landform and vegetation. However, I note that selected viewpoint position is at the cross roads at the foot of the village. It lies in a dip and so screening can be expected at this location and this does not mean that other parts of the village higher up are similarly screened. There may be some greater effects, although still fairly limited, higher up in the village.
- The FEI contains an additional description of effects on viewpoints north of Hawick. This does not change my assessment of the application, which was largely related to the apparent misfit between the size and height of the proposed development and the scale and prominence of the receiving landscape and, in particular, the potential competition with the sensitive skyline feature of Rubers Law, which stands close by the site.
- The FEI includes a fresh assessment to address changes in the cumulative baseline with cumulative ZTVs of the applications at Windy Edge (Figure 2.7), Highlee Hill (Figure 2.8), Wauchope and Newcastleton (Figure 2.9) and Pines Burn (Figure 2.10). I am satisfied that there would be very little coincident cumulative impact with Windy Edge. However, figures 2.8, 2.9 and 2.10 indicate much larger areas of overlap of ZTV suggesting that cumulative effects will occur with these sites. This is borne out by Viewpoints 13a and 22a, which show considerable overlapping of the different schemes. A variety of sequential cumulative effects can also be anticipated with all of these schemes for people travelling through the area. Should they all be approved the character of the landscape would be radically altered all the way down to the Border ridge.
- A further change since my previous consultation reply has been the inclusion of the Landscape Capacity and Cumulative Impact Study (2013), by Ironside Farrar, as a material consideration in the assessment of wind energy applications. The two affected areas appear to be Landscape Character Areas 10: Grassland with Rock Outcrops: ii) Midgard and 11: Grassland with Hills: ii) Rubers Law. The study offers no capacity for wind turbines of 'Very Large' (100m+) category, such as Birneyknowe, in either of these areas.

- I conclude that the FEI does not provide any reason to change my previous consultation response. Indeed, the additional cumulative effects identified and reference to the landscape capacity study only reinforce my previous conclusion that this is not a suitable site for turbines of 132m height. I am content to remain with my original consultation reply and recommend that the application is refused.

11.3 **Archaeology Officer:** Has advised on the direct and indirect impacts and objects to the proposal:

- The proposal has the potential to directly impact unknown archaeological resources within the wind farm boundary and indirect impacts to the settings of regionally significant assets within the scheme and nationally significant Scheduled Monuments outside the wind farm boundary. There are also impacts to historic landscapes in the area.
- Whilst the wind farm design has helpfully sought to mitigate direct impacts, the introduction of a wind farm in this highly complex historic landscape will significantly affect the ability to experience, appreciate and understand the setting of several designated and undesignated monuments that add to the sense of deep time and place in the area.
- Most important and significantly impacted is the setting of the ancient citadel on the summit of Rubers Law, though there are other major significant impacts within 10km of the development. While some limited mitigation is possible, as proposed by Historic Scotland, this will not overcome the major significant impacts of the scheme on the historic environment.
- This scheme would result in a number of highly complex and interlinking impacts to the historic landscape around Rubers Law which cannot be mitigated through design. This is due to the presence of a large number of prehistoric and early medieval archaeological sites in an upland fringe area where destruction through land-use has been limited and interlinking settings are maintained.
- The major significant impacts of the scheme on the historic landscape and settings of designated and non-designated sites and monuments within it are not clearly outweighed by the development.

Re-consultation on FEI: I have reviewed the FEI, in particular the assessment of potential impacts to the settings of Penchrise Pen and Rubers Law (shown in FEI Viewpoint 19) and Historic Environment Scotland's comments. I can confirm that my comments on the original submission remain valid. The FEI has not altered my position with respect to significant impacts to the settings of forts on Penchrise Pen and Rubers Law. I maintain my objection to this scheme.

11.4 **Forward Planning:** This consultee identifies a range of relevant policy guidance, constraints and material considerations and concludes:

- There would be a significant adverse impact on the landscape as a result of this proposed development. The supporting information shows that there would also be an adverse visual impact from the local iconic

viewpoints, such as Rubers Law, as well as other hills and archaeological sites in the locality.

- The site is located within a landscape that is characterised by hill forts and Scheduled Monuments. These hill forts are appreciated when there is connecting visibility with other hill forts. These views will be interrupted by the proposed wind farm to the detriment of the landscape and the setting of these monuments.
- There is the potential for adverse cumulative impact issues on the landscape. The south west corner of the Scottish Borders is largely untouched by wind farm development and the proliferation of these sites will have an adverse impact on the landscape character.
- There is no capacity for large scale turbines in this Landscape Character Area.
- The applicant has not demonstrated how the proposed wind farm could be accommodated in the landscape without an unacceptable adverse impact on the landscape, iconic viewpoints and archaeological sites.

Re-consultation on FEI:

- An updated policy position is provided following the adoption of the Local Development Plan.
- An updated Ironside Farrar Landscape Capacity and Cumulative Impact study 2016 has been produced as part of the Council's new draft Renewable Energy Supplementary Guidance. This updated study does not alter the position regarding the proposal and re-enforces the conclusions of the 2013 study, although the Supplementary Guidance is currently out for public consultation and carries little weight.
- The Council continues to support wind energy proposals in appropriate locations but this proposal raises considerable policy issues in terms of its prominence within the landscape and from surrounding iconic viewpoints and scheduled monuments.

- 11.5 **Environmental Health:** In terms of contaminated land, the proposal is for the redevelopment of land which previously housed a tile works and apparent agricultural buildings and a condition is required that development is not permitted to start until a site investigation and risk assessment has been carried out and any requirement arising from this assessment for a remediation strategy and verification plan agreed with the Planning Authority prior to development commencing.

In terms of noise, a background noise survey was carried out but further information was requested on the issue of tone and on whether the 3 financially involved properties will receive a direct benefit from the development. This information has been satisfactorily submitted. The applicant has outlined noise mitigation measures for construction noise and these methods should be adopted as part of the Construction Method Statement. Conditions should control construction and operational noise.

- 11.6 **Ecology Officer:** A summary of the most pertinent matters are as follows:
- It is likely that any potential significant effect on the qualifying interests of the River Tweed SAC can be avoided provided best practice is adopted and appropriate mitigation implemented.
 - The proposal is not likely to impact on the important features of interest of Buckstruther Moss SSSI or any adverse impact on Adderstonlee Moss SSSI.
 - Micro-siting of some of the turbines and one of the borrow pits is required to reduce impacts on wet heath habitat and on calcareous grassland habitat.
 - 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.
 - A Habitat Management and Enhancement Plan is required that deals with a variety of habitats within and outwith the site, including replacement planting, measures for waders, buffer zones to enhance Buckstruther Moss SSSI and Adderstonlee Moss SSSI, habitat restoration at Fluther Moss, peatland management, wet heathland restoration, wetland retention, creation of habitat corridors including riparian trees and woodland scrub, stock control and predator control.
 - 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.
- 11.7 **Roads Planning Service:** No objections. The delivery route of the turbines needs to be agreed as considerable works will be required to existing roads, structures and third party land. Suitable access into the site can be achieved from the A6088, although the exact location and detail has to be agreed. A Traffic Management Plan (TMP) 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.
- 11.8 **Access Officer:** There are no claimed Rights of Way or Core Paths on this area of land. There are a number of rights of way and promoted paths surrounding the site from which the wind farm will be visible, in particular the Hawick Circular Riding Route (right of way BR120) is approximately 1km away. There is one permissive/customary path from Birneyknowe north to the A6088 within the site. Wind turbines should be set back at a reasonable distance from the rights of way and other potential recreational routes, at least the height of the turbine. The Land Reform Act provides for a right of responsible access through the site and so tracks to accommodate construction or service vehicles should be available for all types of non-motorised recreational users (pedestrians, equestrians and cyclists) once construction is complete.

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 on key environmental and technical issues, which are detailed below. Other responses are available to view on the Public Access System.

12.2 **Scottish Natural Heritage:** Advise that the proposal is not likely to impact on the internationally important features of interest of the River Tweed Special Area of Conservation (SAC), the nationally important features of interest of Buckstruther Moss SSSI or Adderstonlee Moss SSSI but raise the following issues:

- The widespread and adverse landscape and visual effects, particularly experienced within 10km, resulting from the often dominant scale and relatively poor design of the development within a settled area of diverse and transitional landscape character.
- The adverse, visually competing nature of the proposed turbines with regards the landscape setting of Rubers Law, a primary landscape feature and landmark hill of the southern Borders.
- The adverse impacts of the development on the landscape setting of Hawick, with such effects experienced from recreational and publically accessible areas within and around the town.
- The adverse landscape and visual effects of the development when seen in certain long to middle distance views and where the development will 'break' the skyline formed by the Southern Upland Hills.
- Micro-siting of one turbine is required to avoid species-rich grassland areas.
- A Habitat Management Plan is required.

Re-consultation on FEI: Their advice remains largely unchanged but with amendments to some of the detailed advice relating to likely landscape and visual impacts around and from within Hawick and updated advice regarding potential cumulative impacts that could arise depending on different planning scenarios.

12.3 **SEPA:** Object due to the lack of information relating to wetlands and peatland. A detailed map is required of peat depths for the whole site with all the built elements overlain so it can clearly be seen how the development has been designed to avoid areas of deep peat. Some of the turbines are located near or on areas containing Groundwater Dependant Terrestrial Ecosystems (GWDTEs); micro-siting and mitigation is required.

Conditions are required to secure:

- A Construction Environmental Management Plan (CEMP)

- An Environmental Management Plan (EMP)
- A Construction Method Statement (CMS)
- Decommissioning and Restoration Plan.

Re-consultation on FEI: A detailed peat depth survey confirmed that no peat is present within the proposed layout and so a carbon assessment is not required. Remove their objection, subject to micro-siting or appropriate mitigation and subject to the above conditions.

- 12.4 **Ministry of Defence:** Holding objection to the proposal due to the potential unacceptable impact upon the Eskdalemuir Seismological Recording Station.

The proposed turbines will be 15.3km – 16.5km from, detectable by, and will cause unacceptable interference to the ATC radar at RAF Spadeadam Deadwater Fell. However, the applicant has submitted mitigation measures and following an assessment of this the Ministry of Defence has agreed to a suspensive condition. Omni-directional red lighting or infra-red aviation safety lighting is required.

Re-consultation on FEI: There is capacity within the seismic ground vibration threshold for this development and the holding objection is removed, subject to a condition requiring confirmation of the position and height of each turbine upon completion.

- 12.5 **Transport Scotland:** The route to the site for abnormal loads will use the A68 trunk road and so the final route will need to be agreed before deliveries commence.

- 12.6 **Historic Environment Scotland:** Whilst the development is likely to have a range of adverse impacts to varying degrees to the setting of a number of scheduled monuments in its vicinity the effect is not so adverse as to raise such issues of national significance that would warrant an objection. However, the design layout should be re-evaluated to mitigate impact. The comments of the Council on the wider historic impacts of the development on the historic landscape should be taken into account.

- 12.9 **Community Councils:**

- **Denholm Community Council:** Object, due to the lack of information on transport routes for the turbines, the visual and cumulative impact, impact on tourism, construction traffic and question whether there is a need for this development in terms of green energy targets. Following consultation on the FEI they advise that their previous comments remain extant and are disappointed that the applicant has failed to address their concerns.
- **Southdean Community Council:** Object due to the adverse impact on the local landscape, cultural and historical settings, the local environment, tourism, residential amenities and traffic and the cumulative impact. Any benefits are outweighed by the impact. In respect of the FEI, the Community Council reiterates the above concerns and raises the issue of cumulative impact and questions the weight given to the economic benefits of the proposal as there is no route to market.

- **Hobkirk Community Council:** Object due to the number and height of the turbines and the resulting impact on the landscape, cultural and historic sites, residential amenities due to noise and shadow flicker, local businesses and wildlife and the cumulative impact of the development and the impact of construction traffic. They maintain their objection and have updated and expanded upon their concerns following the consultation on the FEI.
- **Upper Teviotdale and Borthwick Water Community Council:** Object due to the visual impact, traffic generation, the impact on recreation and the Hawick Common riding ride-outs, the lack of justification for the proposal in terms of renewable energy targets and the lack of local economic benefits. Maintain their objection following consultation on the FEI.
- **Hawick Community Council:** Object due to adverse landscape and visual impact, impact on birds, construction traffic, impact on businesses and tourism and cumulative impact

13.0 **KEY PLANNING ISSUES:**

13.1 Bearing in mind that the Council is a consultee rather than the determining authority, the following are the key issues are addressed in the following Assessment:

- Land use planning policy;
- Landscape and visual impacts, including landscape character and 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;
- Residential amenity including 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;
- Economic benefits attributable to the scheme;
- Benefits arising from renewable energy provision.

14.0 **ASSESSMENT OF APPLICATION:**

Planning Policy

- 14.1 Scottish Government policy, regional strategic policy and local planning policy and guidance all support renewable energy, including wind farms, provided that there are no unacceptable environmental impacts.
- 14.2 SPP sets out a Spatial Framework for determining appropriate sites for wind farms (Table 1). The site falls outwith Group 1: Areas where wind farms will not be acceptable, which includes National Parks and National Scenic Areas. Part of the site falls within Group 2: Areas of significant protection, as there is an SSSI within the site. The remainder falls within Group 3: Areas with potential for wind farm development where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

- 14.3 SESplan policy 10 requires Local Development Plans to set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national electricity and heat targets and taking into account economic, environmental and transport considerations.
- 14.4 The proposal has to be assessed against a number of Local Development Plan 2016 policies. Policy ED9 deals with renewable energy development and supports commercial wind farms where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. Proposals will be approved provided that there are no significant effects that cannot be satisfactorily mitigated. Where mitigation is not possible, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits outweigh the potential damage arising from it. The policy contains a number of criteria by which to assess the proposal.
- 14.5 It is therefore the detail of the proposal, and its impacts versus its benefits, which must be balanced in any decision. The primary topics requiring consideration by the Council are as follows:

Design Methodology:

- 14.6 The siting and design of the development has evolved since its initial 32 turbine layout at 152m in height, which is illustrated Chapter 4 of Volume 1 of the ES. The following changes have been made:
- The removal of turbines from the north eastern side of the A6088 and south eastern side of the minor road.
 - A reduction in the number and height of turbines and repositioning to reduce the negative visual impacts from key viewpoints.

Landscape and Visual Impacts

Theoretical Visibility

- 14.7 The Zone of Theoretical Visibility (ZTV) Maps (Figures 2.1b and 2.2b of the ES) illustrate the potential visibility of the turbines to hub height and blade tip height within 5km, 10km and 20km zones and the extent of landform containment. Within the key 5km range there is in excess of 65% potential visibility, with a broad swathe of visibility around the site and immediate surroundings but hill ridges provide a degree of screening to the north west, so that most of Hawick itself is screened from view. However, there is a further belt of visibility beyond the 5km range on higher ground to the north and west of Hawick. There is also a degree of screening to the south and east of the site provided by hills shielding much of Bonchester Bridge and to the north east by Rubers Law so that areas around Bedrule are largely screened. However, there is further visibility to the east at Bonchester Hill and Wolfelee Hill. There is more limited visibility beyond the 5km range to the south east, with the exception of Carter Bar and the A6088 down to Southdean.
- 14.8 The pattern of visibility is complex reflecting the landform but the level of containment is only partial. The site lacks the containment provided by the

landform that provides an acceptable degree of screening. The visual impacts, as a result of this, are discussed below.

Landscape Character

- 14.9 In terms of the Borders Landscape Assessment (1998) the site lies to the south east of Hawick at the intersection of 3 landscape character areas.
- 14.10 The majority of the application site is located within Landscape Character Type (LCT) 11RL: Grassland with Hills (Rubers Law) described as a diverse upland fringe landscape characterised by prominent discrete hills rising above surrounding grasslands. The key characteristics are steep, cone or dome-shaped hills, diverse surrounding landform types, land cover dominated by permanent pasture with locally frequent woodland cover, low to medium settlement density and individual hills as dominant focal points of views. Internal intervisibility is deemed to be varied in degree; visual diversity is a key characteristic of this landscape type. Externally intervisibility is intermediate to high, varying between higher open areas with important views to and from the adjoining uplands, upland fringes and valleys. Despite the relatively low settlement density, this landscape is one of high visual sensitivity, due to important views of the areas from the A7.
- 14.11 Turbines 1 and 5 would be located within LCT 10: Grassland with Rock Outcrops (Migard) described as a strongly undulating upland fringe landscape characterised by angular pasture covered hills with rugged knolls and rock outcrops. Internal intervisibility is relative low, due to the strong small scale relief and the abundance of vertical screening features. External intervisibility is categorised as intermediate in degree, varying from the open aspect of the higher ground and the enclosed, intimate hollows. Visual sensitivity is high due to its proximity to the large population centre of Hawick and the frequent views which are also available from the A7.
- 14.12 Turbines 3 and 4 would be located within LCT 4: Southern Uplands with Scattered Forest (Cauldcleuch Head), an upland landscape characterised by large-scale, rolling, heather and grassland covered hills. Internal intervisibility is considered to be intermediate in degree. There are numerous contiguous landscape types, ranging from the related forest covered type, to the upland valleys and the upland fringe grasslands and farmlands, all of which have significant views to and from the Southern Uplands. External intervisibility is high. Visual sensitivity is also high, due to the numerous important roads, in this case on the A7.
- 14.13 The site is not one of the nationally designated areas of Wild Land.

Landscape Capacity

- 14.14 The Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013 is referred to within Policy ED9 and is therefore is a material consideration in respect of this application. This uses the Borders Landscape Assessment to assess the suitability of each landscape character type (LCT) for differing turbine typologies. The application site straddles three character areas, upon which the report findings are as follows:

- LCT 11: Rubers Law - There is no capacity for turbine development in this Landscape Character Area due to the prominence, intervisibility, scenic values, designation as part of the Special Landscape Area and recreational value of this area. The landscape character, visual sensitivities and landscape value are considered to be high.
- LCT 10: Midgard - There is no capacity for very large turbine developments (over 100m) within this area.
- LCT 4: Cauldcleuch Head - there is capacity for large and very large turbines in more elevated upland areas where topographical containment reduces intervisibility. However, the two turbines proposed within this LCA are not within an elevated area where topographical containment exists to accommodate very large turbines.

14.15 The conclusion from this study is that there is no capacity for very large turbines in these Landscape Character Areas. If applications are submitted for turbines that exceed the suggested maximum turbine height within a particular area the onus is on the applicant, via the submission of more detailed information, to demonstrate how impacts on key constraints and significant adverse impacts can be mitigated. It is considered that the applicant has failed to demonstrate how the proposed wind farm can be accommodated within the landscape without an unacceptable adverse impact on the landscape and so it is considered that this is not a suitable site for turbines 132m high and the proposal is contrary to policy ED9.

Landscape Impact

- 14.16 An analysis of landscape character reveals that the site is largely within an 'Upland Fringe' landscape character type, meaning that it is intermediate in terms of landscape scale (between large scale open upland and small scale enclosed lowland) and does not provide the expansive, unenclosed landscape scale in which a wind farm can be satisfactorily accommodated. Topographical containment and therefore screening is partial.
- 14.17 The wind farm would be prominent from many viewpoints, by virtue of its scale and extent, and the vertical nature of the turbines would contrast significantly with other features in this landscape, such as trees, woodlands and buildings. There is a clear misfit between the size and height of the development and the scale of the receiving landscape. As a result, the development would appear as a dominant feature in the landscape.
- 14.18 Rubers Law is defined as an iconic viewpoint in the Councils' Supplementary Planning Guidance on Wind Farms and is a significant landscape feature. It is located to the north east of the site and benefits from a 360 degree view of the surrounding landscape. The nearest turbine is 4.5km from the summit and half that distance from the foot of the slope. It is considered that the significance of Rubers Law, as an important landmark feature in the Borders, would be diminished by the development due to the scale of the turbines and their proximity. The development would compete with the sensitive skyline feature of Rubers Law and would adversely affect its setting.

- 14.19 This is highlighted in certain viewpoints in the ES. Viewpoint 7 from the B6399 junction with the Hawthornside road shows that the turbines would dominate the view of Rubers Law; this is also the case with Viewpoint 17 taken from Swinnie looking south west towards the wind farm where the turbines would compete in the view of this important landmark, detracting from its setting. Viewpoint 19 from Penrise Pen and 20 from Maiden Paps show how the turbines would challenge the scale of the hill due to their height and topographical position, and Rubers Law's importance in the landscape.
- 14.20 Another consideration is the impact of the proposal on the landscape of Hawick. The FEI includes a detailed assessment of the effects on the landscape setting of Hawick. However, it is considered that when viewed from the north, the backdrop to Hawick would become dominated by turbines and this also constitutes an effect on landscape character. Viewpoint 13 in the ES from the roundabout on the A7 north of Hawick shows that the turbines would break the skyline and have a detrimental effect on the landscape setting of the town.
- 14.21 The site is situated within 1km of the south western boundary of the Teviot Valleys Special Landscape Area. Policy ED5 seeks to protect such areas from inappropriate development. This area covers a series of distinctive Borders valleys. Visually prominent hills include Minto Crag, Peniel Heugh, Dunion Hill, Minto Hills and Rubers Law, each of which has a strong relationship with the adjacent valleys and the wider landscape. The development of wind farms and the potential for visual impact of development on hills outside the Special Landscape Area is identified within the Forces for Change. One of the Management Recommendations is to consider the effects of development on hilltops, such as wind farms, which may be visible within the valleys.
- 14.22 The Zone of Theoretical Visibility (Figure 2.2b of the ES) indicates that the turbines would be visible from large areas of the Special Landscape Area at close range, negatively impacting on views into and out of the Special Landscape Area.
- 14.23 Scottish Natural Heritage has expressed concerns regarding the location, siting and design of the wind farm and the widespread landscape effects particularly with regard to the landscape setting of Rubers Law and Hawick, the long to middle distance views and where the development will break the skyline formed by the Southern Upland Hills.
- 14.24 The Council's Landscape Architect cannot support the proposal as the proximity of Rubers Law and the Teviot Valleys Special Landscape Area means that the wind farm would intrude on views and affect the character of those areas. In addition, the development would affect the setting of Hawick, particularly on approach from the north. The further environmental information has not changed this opinion.
- 14.25 It is considered that the development, by virtue of its siting, extent and scale would result in adverse effects on the landscape character of the area. It has not been demonstrated that the wind farm can be satisfactorily accommodated in the landscape, contrary to policy ED9.

Visual Impacts

- 14.26 The ZTV confirms the extent of theoretical visibility of the wind farm and viewpoints have been selected based on this to illustrate the visual impact of the development from various high sensitivity receptors.

Visual Impacts – Roads and Paths

- 14.27 The A7 is a major tourist route through the Borders. The ZTV demonstrates that the wind farm would potentially be visible from long sections of the A7 north of Hawick within the 10km range. This is demonstrated by Viewpoint 18 in the ES, where the wind farm extends across the landscape breaching the skyline. Viewpoint 13 from the Homebase roundabout on the northern edge of Hawick shows that the wind farm would be seen from views towards and over the town from the north. The varying height of the turbines, due to the topography of the site, the moving elements and the extent of the wind farm would result in a dominant development out of scale with the receiving landscape that would impact negatively on views. The FEI provides a further analysis of the visibility from Hawick and Viewpoint 33 is an additional visualisation at a point where the development would first become visible as a backdrop to Hawick. Whilst it is accepted that the effects from various points on the A7 approaching Hawick will vary in terms of backdrop and screening, the overall appearance of the proposal would compete with Rubers Law and adversely affect the setting of the town.
- 14.28 The A6088 runs from the A68 to the south of Carter Bar to the south east of Hawick. A number of photomontages have been provided for this stretch of road. Carter Bar itself is has been identified in the Supplementary Planning Guidance on Wind Energy as being of significant strategic importance and is safeguarded with a 7km buffer; it is a major route into the Borders. Viewpoint 27 in the ES shows that Carter Bar is 15km from the nearest turbine but the wind farm would be clearly visible, though not breaking the skyline and from a distance.
- 14.29 The wind farm would be visible to varying degrees for long sections of the A6088, most notable from Chesters (Viewpoint 16), 6.8km from the turbines. Viewpoint 1 is from the layby on the A6088 to the north west of Hawthornside adjacent to the footpath to Rubers Law and shows the turbines at close proximity (0.9km), dominant in the landscape, with Turbines 1 and 5 distinctly separate, and with Penchrise Pen behind in the distance. The wind farm would have a significant visual impact when viewed from this section of road. Viewpoint 6 is from Kirkton, where there would be no visibility of the wind farm.
- 14.30 There is a minor public road that runs along the south east boundary of the site from Hawthornside to the B6399 Hawick to Newcastleton road. Viewpoint 7 is from the junction of the two roads, with the turbines 2km away. The turbines would be very prominent in the landscape, with little tree screening or containment, breaking the skyline and interrupting views of Rubers Law. The only other viewpoint (Viewpoint 2) from this road is from Hawthornside where only 5 turbines would be partially visible due to topographical and forest screening. However, the minor road runs in close proximity to the turbines and provides panoramic views over the Borders. Although no photomontages have been provided along this route it is envisaged that the turbines would dominate views from this road, having an adverse impact.

- 14.31 There are a number of core paths, public rights of way, promoted paths and permissive paths within the 5km zone and Common Riding routes. These are linked to several significant hills within the area.
- 14.32 The Borders Abbeys Way is a strategic long distance footpath and links Hawick and Selkirk by a path to the north west of Hawick passing Drinkstone Hill, an iconic viewpoint in the Supplementary Planning Guidance on Wind Energy. Viewpoint 14 is situated on the Borders Abbey Way north of Hawick 6.4km from the nearest turbine. A number of turbines would be partially visible where the blades break the skyline and would appear as dominant and moving features above the ridgeline.
- 14.33 The Borders Cycle Loop follows the minor road along the south eastern boundary of the site, 140m from Turbine 4. Cyclists would experience prominent visual effects.
- 14.34 There are a number of Common Riding ride-outs that pass through the site (Bonchester, Denholm and Cogsmill) and there would be a significantly adverse impact on riders where the routes pass through the site due to the scale of the development and the proximity to these routes.
- 14.35 The impact on the landscape setting of Rubers Law has been assessed above and its cultural heritage and relationship with other hill forts is discussed below. The summit of Rubers Law is accessed by a number of paths, one of which starts from the A6088 opposite the site and the summit offers open, panoramic views popular with walkers. The nearest turbine would be 4.5km south west from the summit. It is accepted that the turbines would not break the skyline but due to the scale and proximity of the wind farm, the development would be a highly visible, dominant and distracting feature in the landscape and so would have a significantly adverse impact.
- 14.36 Bonchester Hill is part of a circular promoted path within 3.8km of the nearest turbine is within the Special Landscape Area. This is therefore considered a high sensitivity pedestrian receptor. The wind farm, due to its extent and turbine height would be prominent in the landscape when viewed from the top of Bonchester Hill looking west (Viewpoint 9). There would be clear, open views and the turbines would break the skyline and draw the eye away from Rubers Law, currently the most distinctive feature in the landscape when viewed from the summit looking north and west.
- 14.37 Minto Hill is 8.7km from the nearest turbine and another iconic viewpoint accessible to the public. Viewpoint 23 indicates that the whole wind farm would be prominent when viewed from the summit facing south, with some blades breaking the skyline. Currently Rubers Law is the most dominant feature in that view and, as with Bonchester Hill, the turbines would compete with Rubers Law for the viewer's attention, diminishing the hill's importance.
- 14.38 Although the Eildon Hills are over 20km from the site they are of significant strategic importance in terms of the wind energy Supplementary Planning Guidance and are within the National Scenic Area and so the impact of the development on the visitor's appreciation of these hills must be considered. The cultural heritage impacts, in terms of the relationship of the hill fort and other hill forts within the Borders are discussed below. Viewpoints 30 and 31

indicate that there would be long distance views of the wind farm but the turbines would be seen as being clustered at the base of Rubers Law.

14.39 Scottish Natural Heritage has raised concerns regarding the visual effects of the development from long to middle distance views and where the development would break the skyline formed by the Southern Upland Hills. The skyline formed by the Southern Uplands is free from large scale built development and is a strong, natural feature within more distant views. They consider that the proposal would compete with or break the profile of the skyline in certain important views, which is consistent with other concerns over landscape and visual impact. When viewed from the north the development would be seen as a large scale feature in the foreground breaking the skyline focussing the viewer's attention on the wind farm. This can be experienced in a number of viewpoints, but in particular they highlight Viewpoint 25 to the west of Roberton, Viewpoint 18 to the north of Hawick and Viewpoint 23 from Minto Hill.

14.40 In summary, it is considered that the visual impacts caused by the development on major and minor roads, footpaths and other walking routes and iconic hills in the surrounding area would be significantly adverse and so contrary to policy ED9 of the Local Development Plan.

Visual Impacts – Residential Receptors

14.41 Scottish Planning Policy advocates the identification in Local Development Plans of an area not exceeding 2km around settlements as a community separation for consideration of visual impacts.

14.42 There are no settlements within 2km of the nearest turbine, though there are a number of settlements within 5km.

14.43 The ZTV indicates that the development would be visible from the north, north west and south east of Hawick. Viewpoints 13 and 14 (and Viewpoint 33 in the FEI) show that the development would be highly visible from the north of Hawick on the A7, breaking the skyline with no intervening land form or vegetation. Viewpoint 12 is from Hawick Racecourse to the south of Hawick and indicates a high level of visibility, again with no screening. Scottish Natural Heritage has expressed concern regarding the adverse effects of the development on views from Hawick. They accept that the wind farm would be most visible from elevated areas to the north, west and south west and the effects would be varied in nature, but there would be varying degrees of adverse effects on visual amenity. These effects are outlined in detail in their response. Whilst these views have been expressed separately to the Energy Consents Unit, they are consistent with concerns held by Council officers over landscape and visual impact.

14.44 Kirkton would be 2.2km from the nearest turbine and the ZTV and Viewpoint 6 indicate that there is no visibility due to intervening woodland.

14.45 Bonchester Bridge would be 2.9km from the nearest turbine and the ZTV indicates that there is very limited visibility, restricted by vegetation, from all but three properties on the A6088 to the south, which would have direct views of all the turbines.

- 14.46 Denholm would be 6.3km from the turbines (Viewpoint 15) and buildings, land form and vegetation would screen the development from the village and so the impact would not be significant.
- 14.47 Chesters would be 6.7km from the nearest turbine and the turbines would be visible from properties on the western side of the village (Viewpoint 16), though there is partial screening from vegetation.
- 14.48 There is no photomontage from Hobkirk (3km) but Viewpoint 10 is from the B6357 to the east and indicates that all the turbines would be visible breaking the skyline. From the settlement itself, the ZTV indicates that blade tips of three turbines would be visible.
- 14.49 There are a number of residential properties within 2km of the site, including those at Hawthornside (1.1km to the east of the nearest turbine), Earlside (710m to the south west), 2 properties at Birneyknowe within the site (640m and 760m), Stonedge (1.3km to the south east) and three properties at Howahill (1.8km to the south east). There are also residential properties at Phantasy (1.6km), Weensmuir (1.9km), Midburn (1.3km), Adderston Shiels (1.6km) and Upper Tofts (1.9km).
- 14.50 The ES has assessed the impact of the development on 23 properties and concludes that the development would have significant visual effects on four residential properties within 2km of the turbines; of these, 3 have a financial interest in the scheme. One house at Earlside would be 810m from the nearest turbine and the impact is assessed as being moderate to substantial adverse, which would be significant but would not result in the property becoming an unsatisfactory place to live. For the remainder the overall effect is classed as moderate adverse, which are not concluded within the report as not being significant.
- 14.51 It is accepted that some of these properties are screened by topography and vegetation or orientated so that the principal views would face away from the wind farm, however, in the absence of wirelines or montages it is difficult to see how such an assessment could conclude that the impacts would be acceptable and not be overbearing.
- 14.52 The property at Earlside would be 810m from the nearest turbine. The ES states that the approach to the house and garden ground would be affected and that the impact would be moderate to substantial (significant) due to the close proximity of the development. It concludes that significant visual effects would not result in the property becoming an unsatisfactory place to live. The nearest viewpoint is no.7 from the B6399 junction with the Hawthornside road 2km from the nearest turbine and to the south west of Earlside. This shows that 13 of the turbines would be highly prominent in the landscape due to their height and proximity. This indicates that significant impacts would occur on residential outlook and it is considered that the development would affect day-to-day living and enjoyment of the landscape.
- 14.53 The properties at Hawthornside are between 1.1km and 1.3km from the nearest turbine and the ES concludes that the impact on these properties would be moderate adverse with some screening from vegetation. Viewpoint 2 from Hawthornside indicates that 5 turbines would be visible or partially visible. Again, the height and proximity of the turbines would result in a

significant level of change and it is felt that the development would have an overbearing impact on these properties.

- 14.54 It is concluded that the ES has failed to demonstrate that there would not be overbearing impacts on these residential properties or that the visual amenities of these properties would not be significantly affected.

Visual Impacts - Associated Infrastructure

- 14.55 The associated works would include crane hardstandings, a new vehicular access from the A6088 and 9km of access tracks, an 80m high wind monitoring mast, a site control building and compound and two borrow pits.
- 14.56 These ancillary developments are not shown in any of the viewpoints. Appropriate siting and design with mitigation measures would be required to protect the landscape character and visual amenities of the area.
- 14.57 It is the intention that the majority of the associated infrastructure is to be removed either at the end of the construction period or the operational life of the wind farm. To avoid unnecessary lasting impacts suitably worded conditions can agree the eventual removal of these structures.

Turbine Micro-siting

- 14.58 The ES states that a micro-siting allowance of 50m is appropriate for the turbines and 10m for all other infrastructure. The issue of micro-siting is important to consider. Consultees have requested that turbines are repositioned for ecological and archaeological reasons and the ES states that following ground investigations and clearance, some modification may be required. A degree of flexibility is therefore needed but this has to be balanced against the visual impact of the change.
- 14.59 A micro-siting planning condition would require the applicant to undertake wireframe analysis of any micro-siting requirements to illustrate that the turbine's revised position can be tolerated in the landscape without adverse visual impacts.

Cumulative Landscape and Visual Impact

- 14.60 Policy ED9 requires all cumulative landscape and visual impacts to be considered and recognises that in some areas the cumulative impact of existing and consented development may limit the capacity for further development.
- 14.61 The southern Borders is relatively undeveloped in terms of wind farms. The original ES includes a ZTV for Langhope Rig (Figure 2.47). There are few locations where there would be visual interactions and most of these would involve considerable distances; coincidental cumulative impact is therefore minimal.
- 14.62 The FEI includes a revised cumulative assessment as the baseline has changed significantly in this area since the application was submitted in 2014.
- 14.63 Figure 2.6 of the FEI shows the locations of operational wind farms, those approved and those with a current planning application and in scoping within

a 60km range. Table 8.1 shows the cumulative baseline as of July 2016 and the cumulative assessment focuses on Langhope Rig (operational), Windy Edge (approved) and Highlee Hill (in planning). It lists Pines Burn as in scoping but an application was submitted in January 2017. Wauchope and Newcastleton Forest is in scoping. The FEI assesses the “almost certain scenario” incorporating Langhope Rig and Windy Edge and the “possible scenario”, which includes Highlee Hill, Pines Burn and Wauchope and Newcastleton Forest. ZTVs have been provided of these wind farms (Figures 2.7 to 2.10 of the FEI). A number of cumulative wireframes have been provided.

- 14.64 The Council’s Landscape Architect has assessed the coincident cumulative impact, which is the impact on a receptor viewing more than one wind farm development from a single location. He considers that there would be little coincident cumulative impact with Windy Edge but the ZTVs indicate large areas of overlap suggesting that cumulative effects would occur from Highlee Hill (Figure 2.8), Wauchope and Newcastle Forest (Figure 2.9) and Pines Burn (Figure 2.10). This is borne out by Viewpoints 3 (Kirkton Fort) and Viewpoint 22 (Halleywell Hill, north of Hawick), which show considerable overlapping of the Birneyknowe, Wauchope, Highly Hill and Pines Burn schemes.
- 14.65 Viewpoint 9 shows the potential views from Bonchester Hill, where Pines Burn, Birneyknowe and Wauchope East and West are clearly visible, with Windy Edge and Langhope Rig visible in the far distance. Turbines would become a dominant feature in these views resulting in significant adverse impacts. 4.66 A similar scenario would be apparent from Rubers Law (Viewpoint 11) where the wind farms, if built, would have significant adverse effects that would alter the character of the landscape.
- 14.66 Scottish Natural Heritage advises that these schemes, if built, would result in a change to the landscape character of the Hawick and Liddesdale area, and promote a wider sense of an uncoordinated pattern of large scale wind farm developments. The different locational and siting principles and the lack of coordination between developments would have a range of adverse landscape and visual impacts across a wide area, contrary to their guidance Siting and Designing Wind Farms in the Landscape. In particular, Scottish Natural Heritage highlight Birneyknowe and Highlee Hill and the differing scale and turbine layout of each development in relation to landscape character and the skyline of the Southern Uplands; due to the proximity of the two developments (7.5km apart) there will be some areas where adverse combined impacts between the two developments will be experienced. They refer to Viewpoint 22 (Halleywell Hill) which demonstrates the awkward juxtaposition of the two proposals.
- 14.67 The FEI includes a sequential assessment for A class roads, the Borders Cycle Loop and Borders Abbey Way. The Council’s Landscape Architect has also assessed the sequential cumulative impact, which is the impact resulting from a receptor viewing more than one wind farm development whilst moving through the landscape. The introduction of a wind farm into an area where there were previously no wind farms is also considered, as an observer will encounter wind farms more frequently when travelling through an area previously free of turbines.

- 14.68 A variety of sequential cumulative effects can be anticipated with all of these developments for people travelling through the area. Should all the schemes be approved and built the character of the landscape would be significantly altered all the way down to the Border ridge. The combination of all four potential schemes would result in significant sequential cumulative impacts on the A6088, with turbines becoming a dominant feature of the journey from Carter Bar through to Hawick. Adverse effects would be experienced by southbound traffic on the A7 approaching Hawick (Viewpoints 13 and 22).
- 14.69 Scottish Natural Heritage as also advised that there would be some degree of sequential impact experienced when travelling along minor roads in respect of Birneyknowe and Windy Edge and from certain locations on the local road network with regards the combination of Birneyknowe and Highlee Hill.
- 14.70 For the reasons outlined above, it is considered that if all four proposed schemes are built (Birneyknowe, Highlee Hill, Pines Burn and Wauchope and Newcastleton Forest) there would be adverse coincident and sequential cumulative impacts resulting in a significant change in the landscape to a wind farm landscape.
- 14.71 The FEI contains an assessment of the cumulative impact on settlements and on residential receptors within 2km of the Birneyknowe site. The ZTV (Figures 2.7 – 2.10) shows that Highlee Hill, Wauchope and Newcastleton Forest and Pines Burn would be visible on the northern edge of Hawick. Windy Edge and Highlee Hill would be visible from Bonchester Bridge but no viewpoint or wireframe have been provided to show the extent of this visibility from the village. Highlee Hill, Wauchope and Newcastleton Forest and Pines Burn would be visible from Chesters but no updated viewpoint or wireframe has been provided to assess the impact on this settlement. Wauchope West and Pines Burn would be potentially visible from Hobkirk; this is shown in Viewpoint 10, though these are from the B6357 to the east and not from Hobkirk itself.
- 14.72 The impact on residential properties within 2km are assessed to be slight to moderate adverse and so not significant due to intervening landform, forestry/woodlands, buildings and the distance between schemes. In the absence of wireframes and viewpoints from these properties it is not possible to fully assess the cumulative impact of the one approved and four potential schemes on these properties.

Cultural Heritage Impacts

- 14.73 One of the criteria within policy ED9 of the Local Development Plan for the assessment of wind farm proposals is the impact on the historic environment, including ancient monuments and Listed Buildings and their settings. Policy EP8 seeks to protect national, regional and local archaeological assets from development.
- 14.74 The ES has identified all designated cultural heritage assets within 20km of the site and a 10km area was examined for non-designated sites and historic structures. This concludes that there are 6 significant effects to the setting of the Iron Age hillforts at Rubers Law, Bonchester Hill, Mid Hill, Denholm Hill and Kirkton Hill and to the setting of the signal station at Rubers Law. Four cumulative significant effects have been identified. The FEI includes an updated assessment which concludes that there is one significant effect to the

setting of Penchrise Pen hillfort and a programme of archaeological investigation is required in order to mitigate potential impacts to non-designated heritage assets within the site.

14.75 The Council's Archaeology Officer has objected to the proposal as the proposed wind farm has the potential to directly impact unknown archaeological resources within the wind farm boundary and pose indirect impacts to the settings of regionally significant assets within the scheme and nationally significant Scheduled Monuments outside the wind farm boundary. There are also impacts to historic landscapes in the area. Whilst the wind farm design has sought to mitigate direct impacts, the introduction of a wind farm in this highly complex historic landscape would significantly affect the ability to experience, appreciate and understand the setting of several designated and undesignated monuments that add to the sense of time and place in the area. Most important and significantly impacted is the setting of the ancient citadel on the summit of Rubers Law, though there are other major significant impacts within 10km of the development. While some limited mitigation is possible, this would not overcome the major significant impacts of the scheme on the historic environment.

14.76 The Council's Archaeologist has provided a comprehensive response that is available for Members to view in full on Public Access and this will be sent to the ECU with the Council's consultation response. The following is a summary of the points raised:

Direct Impacts:

14.77 The ES has not comprehensively identified all cultural heritage assets within the site. A more comprehensive study is required. Impacts to known assets should be mitigated through a programme of either micro-siting infrastructure or pre-development evaluation and recording through an agreed Written Scheme of Investigation.

14.78 Given the potential for the site to contain unknown later prehistoric, medieval and post-medieval archaeology an archaeologist supervised watching brief on all excavations where archaeology may be impacted is appropriate per an agreed Written Scheme of Investigation. Pre-development investigation may be required in some cases. These requirements should be secured by condition.

14.79 The ES suggests that there will only be one impact to a known feature at the site, a bucht (URS 6) of low value. It will be necessary to record this feature before development damages it.

14.80 Of more significant concern are the potential for impacts to the identified WWII era or post-war fixer station located in the north-eastern part of the site. The fixer station is of regional significance and a clear indication of the wartime activity in the area; few survive in Scotland and the site contributes significantly to the military heritage of the area. The fixer station, and other built assets such as dykes, should be avoided and clearly marked on the ground to avoid accidental damage. Conditions should address these issues.

14.81 The setting of the station is also important. This is linked to its wide open views primarily to the north, west and south which played a role in monitoring aircraft and also providing clear lines of sight for radio signal transmission.

Turbines 12 and 14 would have the effect of overpowering this setting through scale, dominance and incongruity; the two turbines and associated infrastructure should be removed or relocated.

Indirect Impacts:

14.82 Policy EP8 states that proposals that affect a Scheduled Monument or their setting must offer substantial benefits that clearly outweigh the national value of the site, show that there are no alternative means of meeting the development need and include a mitigation strategy acceptable to the Council. Setting is the way in which the surroundings of a structure or place contribute to how it is understood, appreciated and experienced. Assessments of setting must account for past and present relationships with natural and man-made elements in the surroundings and how the current landscape context contributes to the three aspects of the setting definition. This must then be balanced against the potential impacts of any new proposals within a setting.

14.83 The Council's Archaeology Officer and Historic Environment Scotland identify significant adverse impacts to the settings of a number of assets in the area:

Rubers Law

14.84 Historic Environment Scotland advises that the introduction of the turbines will create a significant visual effect in most views of the asset. In some key views, such as the junction of the B6399 looking north along Peat Law and the Maiden Paps, the wind farm will completely obscure the distinctive profile of the hill. There would be an impact in the visual relationship between the asset and Penchrise Hill where the closest turbines will degrade that visual relationship. Historic Environment Scotland recommends the relocation of the three closest turbines (1, 5 and 6) to mitigate the effect on the key visual relationship with Penchrise Hill fort. As with SNH, the views of Historic Scotland have been relayed directly to the Energy Consents Unit.

14.85 The Council's Archaeologist advises that Rubers Law is the most significant and iconic of the monuments in the vicinity of the proposal and home to a complex arrangement of cultural heritage including a prehistoric fort and a Roman signal station. It is the second most visible cultural heritage asset in the Borders behind Eildon North Hill. These are two of the largest Iron Age forts in Southern Scotland and their shared visibility is crucial to both sites' settings, as is the wide visibility of the hills from long distance. This high visibility is a key aspect of both Rubers Law's landscape and cultural heritage. It is understood and appreciated from within the wider landscape as a dominant landmark. The high visibility of the hill and the wide panoramic views were a primary reason for prehistoric settlement of the hill and it remains a significant local landmark.

14.86 Of particular relevance are the natural and man-made alignments on this hill, which significantly frame the visitor's experience of the surrounding landscape. There is an intentional, clearly visible south-western entrance to Rubers Law which naturally aims the sight lines from within the fort directly towards the proposed wind farm. Viewpoint 11 indicates how the wind farm would impact on this view. In addition the eye is drawn towards Penchrise Pen to the south west. The visitor experience of the hill is framed both by natural topography and archaeology with a tendency to focus on views to the

south-west, towards the wind farm. Wide panoramic views link Rubers Law to other prominent cultural heritage sites such as Eildon North Hill, Peniel Heugh, Woden Law and Penchrise Pen. At 132 metres tall (411 metres AOD) the wind farm would be the largest human structure in the landscape, as Viewpoint 1 from the A6088 looking towards Rubers Law shows.

- 14.87 The view to Penchrise Pen and its surrounding rich historic landscape is of prime importance to Rubers Law's setting and vice versa. It is the site of a significant contemporary fort and the only one in the immediate area that challenges Rubers Law for height and dominance. Viewpoint 11 and Figure 2.11b show the summit and fort of Penchrise Pen will remain visible from Rubers Law but this view would be dominated by the wind farm in the foreground, which will significantly detract from the appreciation and experience of both forts' settings.
- 14.88 While the removal of turbines 1, 5 and 6 would improve the ability to understand the intervisibility of the sites, the scale of the remaining wind farm elements would significantly impair the appreciation and experience of the forts' shared dominance of the intervening landscape.
- 14.89 This development would challenge the dominance of the hill and its archaeology from wider views. The historic setting of the hill is intimately bound with its landscape setting and is not merely a function of intervisibility between broadly contemporary assets. The wide ranging views toward the hillfort are essential to its setting. The view from Eildon North would be significantly impacted by the development as, even at a distance of 21km from the nearest turbine, the scale of the development would challenge the dominance of Rubers Law and diminish its scale relative to its surroundings.
- 14.90 The scale and apparent proximity of the development in views to and from the hillfort on Rubers Law, through key sight lines and towards major contemporary monuments would have a major significant adverse impact on its setting. While 'legibility' of other assets may not be lost, how Rubers Law is experienced as the primary cultural heritage asset within the wider landscape would change substantially with the introduction of a competing industrial element.

Penchrise Pen

- 14.91 There is a clear historic and current relationship between Penchrise Pen and Rubers Law. Both forts were intended to dominate and control a wide swath of their shared landscape. Penchrise Pen is the most dominant site in a locally rich historic environment and is prominent in the landscape from more distant views and is easily recognisable from Rubers Law. There is mutual understandability of the forts as citadels which links the sites and the landscape in between, including the wind farm site, and the many broadly contemporary settlements that are found in it. Visitors to the Pen will look over the northern and eastern views taking in Rubers Law as the key cultural heritage site in the area, but also other prominent sites on the Eildons, Peniel Heugh and Bonchester Hill. This intervisibility is not incidental. Turbines 1, 5 and 6 in this view would significantly detract from the ability to appreciate and experience this key element of Penchrise Pen's setting and this is demonstrated by Viewpoint 19.

- 14.92 The presence of a large scale industrial wind farm below the summit of the Pen would directly compete with its dominance over the local landscape and the distant views to the north and east. This would significantly impair the appreciation and experience of the fort's setting and the key view towards Rubers Law. The presence of the wind farm would result in a significant adverse impact that affects the experience and appreciation of the forts in their shared setting.

Kirkton Hill

- 14.93 Historic Environment Scotland consider that the introduction of the turbines will create a significant visual effect on the whole south part of the site, including degrading views to Bonchester and Southdean hill forts. Turbines 1, 5 and 6 are particularly dominant and they recommend that these are re-sited or removed. Direct lines of sight to Bonchester and Southdean scheduled monuments should be avoided.
- 14.94 The Council's Archaeologist advises that Kirkton Hill retains a far more intimate setting focussed on the Buckstruther Moss, which is within the wind farm site boundary, and Adderston Lee Moss to the south and east of the fort. Views to Rubers Law, Bonchester Hill and Southdean Hill are prominent features of the setting of Kirkton Hill and these are dominant in views to the east across the wind farm site (Viewpoint 3). While the setting relationship with Rubers Law is largely obscured by modern forestry (which could be felled within the life of the wind farm thus opening up this view), the view to Bonchester and Southdean is still integral to the understanding of Kirkton Hill as an Iron Age fort linked to a wider Iron Age historic landscape. The setting of the fort is therefore tied into the other historic environment features as well as the land within the wind farm site.
- 14.95 Turbines 1, 5, 6, 14 and 15 would dominate this setting and the visual links to Bonchester Hill and Southdean Hill should be removed. The dominating effect over these forts from the large scale wind farm as a whole is seen as having a major adverse impact.

Bonchester Hill

- 14.96 The setting of the two Scheduled forts on Bonchester Hill is characterised by close associations with each other, Rubers Law, undesignated sites on the hill, the Rule Water and Fodderlee Burn valleys. These settlements on Bonchester Hill were constructed to control this more localised landscape, but more distant views to other hillforts and enclosed prehistoric/early medieval settlements is also important to the broader understanding of Bonchester Hill.
- 14.97 The proposed wind farm would significantly detract from the ability to appreciate and experience the setting to the west of the hill. The large scale of the development would dominate views of the valleys below the forts and would challenge the dominance of Rubers Law as the largest feature of this shared setting between the forts (Figure 2.11c). The appreciation and experience of the setting from Bonchester Hill would be heavily impacted. Turbines 13, 14 and 15 dominate the view of Kirkton Hill to the degree that the relationship with this ridge and its historic landscape is significantly degraded to the extent that the interrelationship between the two areas would be barely legible (Viewpoint 9). Bonchester Hill is also visible in the wider landscape as standing alongside Rubers Law and the two are understood

and appreciated together as prehistoric forts. Because Bonchester Hill is lower than, and dominated by, Rubers Law it is easier for large structures to dominate the views of it and its interrelationships. The impacts to the setting within the forts when viewing the hill from other heritage assets in the wider landscape would be of major significance. The scale of the wind farm will significantly detract from the setting of Bonchester Hill's forts.

Mid Hill

- 14.98 Historic Environment Scotland advises that while introduction of the most of the turbines would have a significant visual effect, two turbines (1 and 5) will be very dominant and they recommend deletion or relocation of the turbines to mitigate the effect.
- 14.99 The Council's Archaeologist advises that Mid Hill fort is associated with the Slitrig Valley with Penchrise Pen at its head. The landscape to the east and also the relationship with the valley of the Adderstonshiels Burn are also important. Mid Hill's setting is intimately connected with this wider landscape, dominated by Rubers Law in the views to the north and east, and Kirkton and Bonchester Hills are visible as historic landscape elements.
- 14.100 Views to the wind farm and the setting associated with the burn valley and hills that constrain it would be dominated by the large scale turbines (Viewpoint 4). The close proximity of the wind farm from Mid Hill will greatly diminish Rubers Law and the fort's shared setting with it by appearing as the largest structures in the landscape. Bonchester Hill will be almost completely obscured by Turbine 8 and diminished by the remainder of the wind farm. Turbines 1, 5 and 8 could be removed but the only means by which the diminishing effect of Rubers Law and Bonchester Hill can be mitigated in this view is through lowering the heights of all turbines and greatly reducing the scheme's footprint.

Denholm Hill Fort

- 14.101 Historic Environment Scotland advises that the introduction of the turbines will have a significant visual effect when viewing the proposed development from the site (Viewpoint 5). They recommend deletion or relocation of turbines 1 and 5 to mitigate the effect.

The Historic Landscape

- 14.102 In policy terms, historic landscapes are material consideration per SPP however, the Council's Archaeologist considers that the ES has not fully identified the full extent of the historic landscape. The character of this landscape is linked to a hierarchy of settlements and land management over time, with Rubers Law at the head and subsidiary settlements extending to south and west as far as the Slitrig and Teviot valleys. All elements contribute to the sense of connection fostered by interlinking settings and visible connections towards sites across to Rubers Law.
- 14.103 There is a great deal of complexity and interconnected setting in the historic landscape. This means that any large scale industrial development of the type proposed which is inserted into the landscape would be out of keeping with the historic landscape and would add a significantly incongruous and anachronistic element that dominates the experience, appreciation and the

understanding of the overall cultural heritage of the area. The area remains a legible prehistoric landscape dominated by Rubers Law and its fort and to a lesser degree by the forts on Penchrise Pen and Bonchester Hill.

14.104 The Council's Archaeologist concludes that this scheme poses a number of highly complex and interlinking impacts to the historic landscape around Rubers Law which cannot be mitigated through design. This is largely due to the presence of a large number of prehistoric and early medieval archaeological sites in an upland fringe area where destruction through land-use has been limited and interlinking settings are maintained. The major significant impacts of the scheme on the historic landscape and settings of designated and non-designated sites and monuments within it are not clearly outweighed by the development.

Cumulative Impact

14.105 The FEI includes an updated assessment of the cumulative impact assessment and includes viewpoints from various hills. Viewpoint 11 is from the summit of Rubers Law where the turbines proposed at Birneyknowe would be potentially viewed in conjunction with Wauchope, Pines Burn and with Langhope Rig, to a lesser extent. It is considered that the cumulative impacts would be significantly adverse.

14.106 The cumulative impacts of the wind farm developments for Kirkton Hill can be seen in Viewpoint 3. Pines Burn, Wauchope and Highlee Hill proposals would extend across the view with Birneyknowe prominent in the foreground. The cumulative impacts would greatly dominate and diminish heritage sites in the landscape through scale, numbers of turbines and kinetic movement. The cumulative impact from Bonchester Hill (Viewpoint 9) would be similar to those from Rubers Law and the extent, height and number of turbines would pose a major significant impact to the setting of Bonchester Hill.

14.107 For the above reasons it is considered that the proposal does not comply with Local Development Plan policies ED9 and EP8 in relation to the impact of the wind farm on cultural heritage assets.

14.108 It is accepted that the proposal would not affect any Listed Buildings, Conservation Areas or Gardens and Designed Landscapes.

Residential Amenity

14.109 An assessment of potential noise effects was carried out for the construction, operational and decommissioning stages of the proposed development and submitted as part of the ES. Environmental Health officers have assessed noise issues. After seeking clarification on certain issues they have raised no objection to the proposal.

14.110 A condition is required to secure the submission of a Construction Method Statement that includes predicted noise levels at sensitive receptors, noise control measures, procedures for communicating noisy works and dealing with noise complaints and mitigation measures for temporary lighting, vibration and dust suppression. Further conditions can control noise levels during the operational phase of the development.

14.111 The ES has carried out an assessment of the potential for shadow flicker effects and this has concluded that two properties, Birneyknowe Farmhouse and Birneyknowe Cottage, may be affected. Both properties are occupied by parties with a financial interest in the proposed development.

Ecology and Habitat Impacts:

14.112 Buckstruther Moss SSSI is within the site and Adderstonlee Moss SSSI is adjacent to the north west boundary of the site.

14.113 Scottish Natural Heritage has advised that the development is not likely to impact on the internationally important features of interest of the River Tweed SAC or the nationally important features of interest of Buckstruther Moss SSSI or the Adderstonlee Moss SSSI. They support the preparation and implementation of an Engineering Design and Construction Method Statement (EDCMS). A Habitat Management Plan (HMP) is required and this would include management of the SSSI catchments and the management and enhancement of habitats within the site to increase nature conservation value, particularly for birds such as breeding waders, and mitigation for the likely losses to Curlew as a result of the development. Conditions would secure mitigation measures, the HMP and the micro-siting of turbine 7 to protect species rich grassland.

14.114 The Council's Ecology Officer has requested the micro-siting of turbines and infrastructure to protective sensitive habitats and has identified that the development has the potential to impact on a range of species and habitats. Pre-commencement surveys are required with the results informing Species Mitigation and Management Plans. A Habitat Management and Enhancement Plan, compensatory planting and post construction monitoring are also required. In addition, an Ecological Clerk of Works should be appointed to ensure that ecological and habitat requirements are met during construction and decommissioning.

14.115 SEPA originally objected to the proposal due to the lack of information relating to wetlands and peatland. A detailed peat depth survey was submitted with the FEI and this confirmed that no peat is present within the proposed layout. SEPA has now withdrawn their objection subject to appropriate mitigation and conditions securing a Construction Environmental Management Plan, an Environmental Management Plan, a Construction Method Statement and a Decommissioning and Restoration Plan.

14.116 Taking into account these consultation responses the proposal does not give rise to any significant biodiversity impacts that cannot be resolved by planning conditions covering the aforementioned matters.

Traffic and Road Safety

14.117 The main traffic effects of the development would be during the 8 month construction phase with vehicles transporting staff, construction materials and the turbine components to the site. Access to the site would be via the A68, A698 and A6088. A new access would be formed from the A6088 into the site with 4.5m by 215m visibility splays.

14.118 Transport Scotland requires the route to the site for abnormal loads, via the A68 trunk road, to be agreed before deliveries commence. This can be controlled by a condition.

14.119 The Roads Planning Service has no objections to the principle of this proposal and is satisfied that a suitable access into the site can be achieved from the A6088, although the exact location and detail of this must be agreed. They do have concerns regarding the delivery of the turbine components, especially through Denholm. Considerable works would be required to the existing road network, including third party land. Exact details of what is proposed, reinstatement and a timetable for these works would need to be agreed.

14.120 A Traffic Management Plan would be required, including details for staff travel to and from the site, delivery of normal construction materials and the abnormal loads, all accommodation works required to the adjoining road network to facilitate delivery vehicles and the inspection/repair of any damage to the existing road network associated with the construction traffic.

Public Access/Path Network

14.121 In terms of public footpaths, there are no claimed Rights of Way or Core Paths within the site, though there is one permissive/customary path from Birneyknowe north to the A6088. Outwith the site there are number of rights of way and promoted paths from which the wind farm will be visible, in particular the Hawick Circular Riding Route (right of way BR120) is approximately 1km away.

14.122 The Council's Access Officer advises that the land Reform Act seeks a right of responsible access through the site once the development is completed and the tracks should be available for public use.

14.123 It is accepted that the proposal would not affect rights of way within or outwith the site, except during the construction phase, though there would be visual impacts upon completion.

Economic Benefit:

14.124 Wind energy developments can make an important contribution to the UK economy. Net economic impact is a material planning consideration and local and community socio-economic benefits include employment, associated business and supply chain opportunities.

14.125 SPP states that where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit. The Scottish Government's Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments advises that where local benefits are proposed through a shared ownership opportunity and there is an intention to secure a partner organisation, this may be taken into account in determining a planning application.

14.126 The FEI outlines the socio-economic benefits of the development and these include:

- Up to 10% community ownership offer;
- Connect2Renewables commitments targeting a minimum local economic benefit over the life of the wind farm, which includes funding and support for jobs, training and apprenticeships, improved facilities, environmental improvements, regeneration and sustainable economic growth;
- Funding for a Community Energy Contribution Scheme;
- Business rates;
- Direct and indirect job creation during the construction and operational phase of the wind farm.

14.127 The socio-economic benefits of the proposed wind farm development can be taken into account as a material consideration in assessing this application. However, the potential for such benefits and thereby economic growth in the consideration of energy proposals must be balanced with the likelihood that wind energy developments can and, in this case, will result in adverse environmental impacts, which are potentially of greater significance than the economic benefits.

Renewable Energy Benefits:

14.128 NPF3 is clear that the planning system must facilitate the transition to a low carbon economy and facilitate the development of technologies that will help to reduce greenhouse gas emissions from the energy sector. The efficient supply of low carbon and low cost heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. SPP contains the following targets:

- 30% of overall energy demand from renewable sources by 2020;
- the equivalent of 100% of electricity demand from renewable sources by 2020.

14.129 SPP supports the development of a diverse range of electricity generation from renewable energy technologies.

14.130 This proposed development would have a total installed capacity of 60MW, which would make a reasonable contribution to the provision of sustainable renewable energy.

15.0 CONCLUSION

15.1 Scottish Borders Council is supportive of the principle of large scale wind energy development, as reflected in its policies and guidance, which includes strategic SESplan policies. As required by all policy considerations, the benefits of energy production and the dis-benefits of environmental impacts must be weighed carefully against one another. This is made clear in SPP and reflected within the primary Local Development Plan 2016 policy consideration for this development, policy ED9.

15.2 Several key issues stand out in this report. There are clear benefits from the potential production of 60MW of electricity. This would make a reasonable

contribution to the delivery of sustainable renewable energy development and align with the objective of the Scottish Government to deliver the equivalent of 100% of electricity demand from renewable sources by 2020. The applicant has also outlined socio-economic benefits.

15.3 However, in planning terms, it is considered that these benefits are outweighed by the environmental impacts, as outlined in this report. The site location and the development proposed for it give rise to a number of issues that would be difficult to successfully mitigate:

- There is limited containment within the 5km range and consequently, significant visual impacts from a number of sensitive receptors, including public roads (such as the main tourist route of the A7 and the A6088), rights of way, iconic hills (especially Rubers Law and Bonchester Hill) Common Riding routes and dwellinghouses.
- The Ironside Farrar Landscape Capacity and Cumulative Impact Study July 2013, referred to within policy ED9, concludes that there is no capacity for very large turbine development within these Landscape Character Areas and the applicant has failed to demonstrate how the proposed wind farm can be accommodated within the site without unacceptable adverse impacts on the landscape.
- By virtue of the location, scale and extent of the wind farm, the proposal would be out of scale with the receiving landscape and would contrast significantly with other landscape features, appearing as a dominant feature in the landscape.
- The proposal would intrude on views into and out of the Teviot Valleys Special Landscape Area.
- The proposal would diminish the significance of Rubers Law as an important landscape feature in the Borders, due to the scale of the turbines and their proximity, competing with this sensitive skyline feature and adversely affecting its setting.
- The proposal would adversely affect the landscape setting of Hawick on approach from the north, dominating views and adversely affecting Hawick's landscape character.
- The proposal would be highly visible from the iconic panoramic viewpoint at the national border at Carter Bar.
- Significant cumulative effects would occur, with overlapping with other proposed wind farm schemes in the surrounding area and turbines becoming a dominant feature in some views resulting in significant adverse impacts and in some cases, such as views from Rubers Law, altering the character of the landscape. A variety of sequential cumulative effects can be anticipated for people travelling through the area significantly altering the character of the landscape, with turbines becoming a dominant feature of some journeys.
- The proposal would result in a number of highly complex and interlinking impacts on the historic landscape around Rubers Law which cannot be

mitigated through design. This is due to the presence of a large number of prehistoric and early medieval archaeological sites in an upland fringe area where destruction has been limited and where interlinking settings are maintained. The major significant impacts of the scheme to the historic landscape and settings of designated and non-designated sites and monuments within it are not clearly outweighed by the benefits of the proposed development.

- 15.4 A proposal with this many overriding planning issues cannot be supported, despite the potential level of renewable energy and economic benefits it would provide. The level of environmental impacts is considered to be unacceptable and outweighs the benefits that the scheme may bring.

16.0 RECOMMENDATION BY CHIEF PLANNING OFFICER

- 16.1 That the Council indicates to the Scottish Government that it **objects** to the application for a 15 turbine wind farm on the Birneyknowe site. The reasons for the objections are as follows:

16.2 Reason for Objection 1: Impact on Landscape Character:

The proposed development would be contrary to policies PMD2, EP5, and ED9 of the Scottish Borders Local Development Plan 2016 and policy 10 of the Strategic Development Plan 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape:

- There is no capacity for very large turbine development within these Landscape Character Areas and the applicant has failed to demonstrate how the proposed wind farm can be accommodated within the site without unacceptable adverse impacts on the landscape.
- By virtue of the location, scale and extent of the wind farm, the proposal would be out of scale with the receiving landscape and would contrast significantly with other landscape features, appearing as a dominant feature in the landscape.
- The proposal would intrude on views into and out of the Teviot Valleys Special Landscape Area.
- The proposal would diminish the significance of Rubers Law as an important landscape feature, due to the scale of the turbines and their proximity, competing with this sensitive skyline feature and adversely affecting its setting.
- The proposal would adversely affect the landscape setting of Hawick on approach from the north, dominating views and adversely affecting Hawick's landscape character.
- The proposal would be highly visible from the iconic panoramic viewpoint at the national border at Carter Bar.

16.3 Reason for Objection 2: Adverse Visual, Amenity and Cultural Heritage Impacts

The proposed development would be contrary to policies PMD2, ED9, EP8 and HD3 of the Scottish Borders Local Development Plan 2016 and policy 10 of the Strategic Development Plan 2013 in that, taking into consideration the following factors, it would give rise to unacceptable visual, amenity and cultural heritage impacts:

- Limited containment within the 5km range and consequent significant visual impacts from sensitive receptors, including public roads, rights of way, hill summits, Common Riding routes and dwellinghouses.
- Significant cumulative impacts on sensitive receptors and on landscape character, with an overlapping of schemes and with turbines becoming a dominant feature in the area.
- Significant impacts to the historic landscape and settings of designated and non-designated sites and monuments and it has not been demonstrated that the benefits of the proposal will clearly outweigh the heritage value of the asset or its setting.

16.4 Advisory Note:

Should the application be considered for approval, conditions would be required covering a number of different issues, including noise limits, roads matters, ecology, archaeology, micro-siting and environmental management

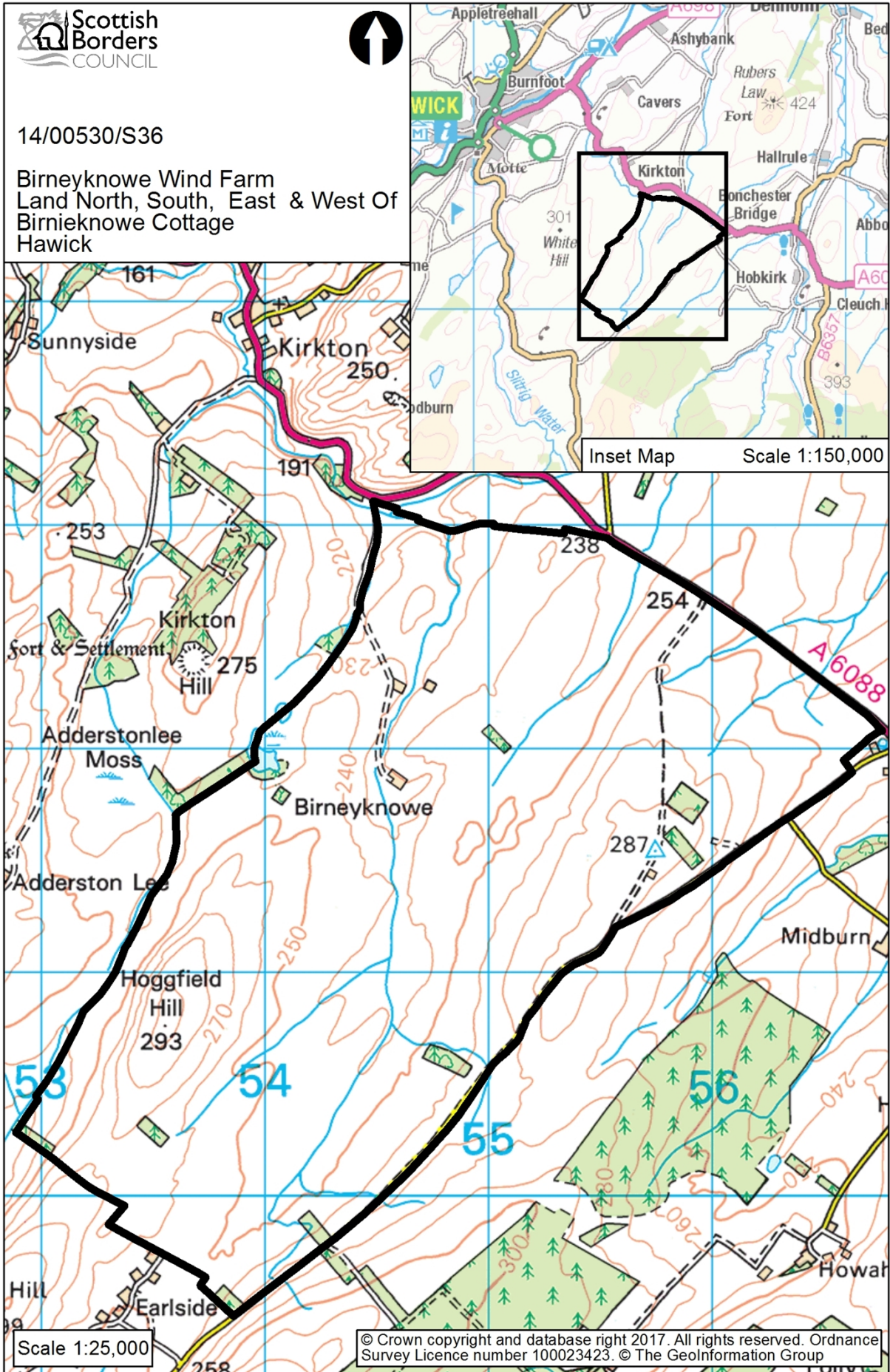
Approved by

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
Julie Hayward	Lead Planning Officer



PLANNING AND BUILDING STANDARDS COMMITTEE

6 MARCH 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 16/01430/FUL
OFFICER: Lucy Hoad
WARD: East Berwickshire
PROPOSAL: Erection of poultry building and associated works
SITE: Hutton Hall Barns Hutton Scottish Borders
APPLICANT: Maclean Eggs Ltd
AGENT: Kevin White Architecture

SITE DESCRIPTION

The application site is located at Hutton Hall Poultry Farm, Hutton accessed off a minor road from the B6460, 1.9KM east of the village of Allanton, The site rectangular in shape lies within the western section of an agricultural field bounded by the Caddy Burn to the west, minor public road to the south and east, and Whiteadder river/agricultural land to the north. Listed Buildings in the area to the north and east, include the B Listed Hutton Castle (restored dwelling), C Listed Hutton Hall Barns Farm steading, C Listed 2,3,4 and 5 Hutton Hall Barns Farm Cottages, C Listed East Lodge (Hutton Castle), C Listed West Lodge (Hutton Castle). Residential properties at Hutton Hall Barns lie at a distance of approximately 400m and the West Lodge lies at a distance of approximately 240m.

PROPOSED DEVELOPMENT

It is proposed to erect a single poultry shed to house free-range hens on Hutton Hall Barns Farm land. The proposed shed would house 32,000 birds, with a egg packing and storage area. The proposed shed would be of a steel portal framed construction and would measure approximately 120m by 24.5m by 7m high, finished in green profile sheeting. The shed will require extract ventilation and this is to be provided by 4No wall fans to be located on the north facing gable end of the building, 18No exhaust air chimneys and 18No fresh air inlet chimneys. The shed would be accessed via the existing access taken from the minor road to the east with extended internal track from existing shed.

PLANNING HISTORY

15/01173/FUL Erection of poultry building and associated works to house 32,000 birds was approved by committee 01.02.2016.

Records note that there are several poultry sheds with up to 40,000 birds sited on land at Hutton Hall Barns (managed by Border Eggs Ltd) approved under applications:

06/00326/FUL - Siting of Mobile Poultry Unit, Land East Of Hutton Hall Barns, Hutton Approved 24 March 2006.

07/01741/FUL - Modification of Planning Condition on Previous Application 06/00623/FUL in Respect of Extension of Period of Consent. Approved 12 December 2007.

07/01752/FUL - Erection of Mobile Poultry Unit, Extension of Access Road and Erection of Shed for Roadside Sales. Land North East of Hutton Hall Barns, Hutton. Approved 8 October 2007.

08/01746/FUL - Erection of Mobile Poultry Unit and Extension of Access Road. Land North East of Hutton Hall Barns, Hutton. Withdrawn 28 November 2008.

08/02047/FUL - Erection of Mobile Poultry Unit and Extension of Access Road. Land North East of Hutton Hall Barns, Hutton. Approved 25 March 2009

10/00036/FUL Erection of poultry unit for free-range hens and associated infrastructure Land North East Of Hutton Hall Barns Approved 10.05.2010

11/00302/FUL Erection of manure storage building Hutton Hall Barns Hutton Approved 10 May 2011.

14/01347/FUL Siting of mobile Poultry Unit land North East of Hutton Hall Barns, Hutton Approved 10.02.2015

15/01173/FUL Erection of poultry building and associated works Hutton Hall Barns Scottish Borders Approved 01.02.2016

The proposed shed is to serve company Maclean Eggs Ltd specialising in free-range egg production.

REPRESENTATION SUMMARY

5 letters of objection have been received. The principal grounds of objection as follows:

- Over provision of facility
- Poor design
- Adverse impact on the landscape
- Industrial scale and appearance
- Loss of prime agricultural land
- Sheds to both side of building group
- Encirclement of dwellings by poultry units
- Increase in the number of birds
- Loss of sustainable mixed use in area
- Road safety
- Increase in heavy traffic
- Inadequate passing places
- Inadequate access
- Increase in vermin
- Health impacts
- Loss of privacy
- Noise from fans
- Manure management
- Prevailing wind will carry odour to residents

Odour nuisance
Dust
Potential damage to natural wildlife habitats
Drainage
Impact on water supply
Regulation by SEPA PPC Licence required

APPLICANTS' SUPPORTING INFORMATION

The applicant submitted a Supporting Statement outlining the context of the proposal.

The company MacLean Eggs was set up in order to supply the free-range egg market in the UK. There is an existing egg production unit populated with 32,000 hens. The new shed will house 32,000 hens and include an egg packing and storage area.

During 2016 a number of supermarket chains such as Tesco, Morrison's and Aldi have made commitments to source eggs from cage free hens by 2025 and producers such as McLean Eggs seek to invest to meet the changing market demands.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Risk Officer: No objection on flood risk grounds. Notwithstanding, as this site is adjacent to the indicative flood extent and not anticipated to flood at the 1 in 200 year flood event I would not object to the proposed development on the grounds of flood risk. With respect to surface water flooding, suitable drainage and SUDS should be implemented.

Roads Planning: No objection. The proposal is unlikely to create a significant increase in traffic. Passing places are significant to cater for the slight increase in traffic. It is anticipated that linked journeys for feed, manure and egg collection with neighbouring unit will be undertaken.

Archaeologist: No objection subject to an informative in respect of potential for encountering archaeology finds.

Ecologist: No objection subject to conditions and informative in respect of protected species (badgers), and commencement of works (outwith bird breeding season). The Ecologist notes the operation on site will require to be controlled by SEPA under PPC regulations. SEPA have indicated that the site is likely to be consentable. Good practice mitigation measures in line with PPC regulations are likely to ensure that there will be no significant adverse impacts on the integrity of the River Tweed SAC.

Environmental Health Officer: No objection subject to agreement of an operational plan which will set out the detail for management of the operation of the development covering potential nuisances including noise, odour, air quality, flies and other pests). The Officer has reviewed the draft operational plan submitted by the applicant and has no further comments. Confirm that SEPA are the regulating authority for Noise, Odour, Site Housekeeping and Emissions to the Atmosphere.

Landscape Officer: No objection subject to conditions in respect of detailed landscape planting scheme, and agreement to colour treatment of the cladding.

Statutory Consultees

Community Council: Objection, seek refusal, main points raised

Bird numbers and capacity within fields
Proximity to watercourse and impact from pollution
Potential impact on fishing and ecology
Proposal would bring shed total to 7 with over 100,000 birds
Serious adverse impact on the amenity of residents of Hutton Hall Barns
Nuisance
Smell
Disturbance
Cumulative impact from all the sheds and birds in the same place
Impact on health and welfare of residents
Residents encircled by 2 companies

SEPA: No objection in principle. Taking into account the other poultry shed the operation on site will exceed the Pollution Prevention and Control (PPC) threshold of 40,000. This operation will require to be controlled by SEPA under the PPC Regulations. From our initial assessment the proposal is potentially consentable under the PPC Regulations.

SEPA have clarified that storage of manure within the PPC site falls under PPC certification and removal of manure from the site to third party would not be an issue for SEPA.

SNH: No objection. The operational activities will require a Pollution Prevention and Control (PPC) and we will be consulted on this. In terms of construction of the development no further assessment is required due to distance from site to watercourse, and scale and temporary nature of the works. Any impact will be negligible.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 Sustainability
PMD2 Quality Standards
ED7 Business, Tourism and Leisure Development in the Countryside
ED10 Protection of Agricultural Land and Carbon Rich Soils
HD3 Protection of Residential Amenity
EP2 National Nature Conservation and Protected Species
EP3 Local Biodiversity
EP8 Archaeology
EP13 Trees, Woodlands and Hedgerows
EP15 Development Affecting the Water Environment
EP14 Air Quality
IS8 Flooding
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

- Supplementary Planning Guidance on Biodiversity
- Supplementary Planning Guidance on Landscape and Development
- SBC Local Biodiversity Action Plan

KEY PLANNING ISSUES:

The key planning issues related to this application are whether the proposals would have an adverse impact on:

1. the landscape
2. the local ecology and watercourse
3. local historical buildings or archaeological sites
4. the amenity of residential properties

ASSESSMENT OF APPLICATION:

Background

The applicants have submitted in support of their application a Planning Statement supplemented by further supporting information to outline the background of the company, the rationale for the project, the proposed measures or mitigation they intend to carry out in order to avoid demonstrable harm to the locality. This is available on the Council's Public Access website.

Principle

Policy ED7 encourages proposals for business in the countryside provided that the development is to be used directly for agricultural or forestry operations and that the development respects the amenity and character of the surrounding area. The development must have no significant adverse impact on nearby uses, particularly housing. The use and scale of the development should be appropriate to the rural character of the area and should take into account accessibility considerations. Proposals that provide employment in villages or the countryside and contribute to the wider rural economy will generally be supported. The proposed development would clearly provide employment in the locality and would contribute to the wider rural economy, therefore consideration must be given to this proposal.

Impact on the Landscape

Concerns were raised by neighbours and the Community Council as to the visual impact on the rural landscape.

The introduction of a large building on site has the potential to create significant landscape impacts. In views into the site, consideration has to be given to the topography and level of containment, along with the screening function provided by any existing woodland.

The shed is to be sited within a natural dip in the landscape to the north west of (in alignment with) the existing shed. It is intended to utilise the existing access from the

public road to the southeast that serves the existing shed, extending the internal track.

The topography of the land means that the ground slopes down from the minor public road to the east towards the Caddy Burn to the west. The submission includes a site section to illustrate levels from the road through the site to the burn. The hedge-lined road to the east, where the West Lodge is located, and road to Hutton are the main visual receptors, and additional planting is proposed in order to provide screen cover from these viewpoints.

The proposed colour of the shed is matt Juniper Green and this is a typical colour found on buildings of this nature in the Borders countryside. This dark colour would match the existing shed and allow the building to visually recede in the rural setting. It is recommended that colour finish be controlled by condition to ensure a non-reflective effect is achieved.

Given the existing topography, woodland/hedgerow provision, and proposed planting, the shed would be visually contained within the landscape. In views from the minor road east and the surrounding fields the ridge of the proposed shed may be visible to public view. However, the fact that the cladding is a dark green colour will help to minimise the impact of the building when viewed from outwith the site, and additional planting would aid screening.

Given the screening, provided by additional planting and the distance from sensitive receptors, results in the actual visual impact being relatively small for external viewpoints.

The Landscape Officer has been consulted and does not object to the development. He has reviewed the submitted planting plan and is content with the proposed works.

Whilst the ridge of the shed may be visible from the minor roads at some points, it is considered that the mass of the building could be screened by an appropriate level of landscaping, and provided the planting plan is agreed and implemented the proposal would not have a significant adverse impact on the landscape quality of the rural area.

Loss of prime agricultural land

The site forms a small part of the field and there would be no adverse impact in terms of the availability of land given the scale of the development and the contribution that the proposal would make to agriculture.

Impact on cultural heritage

Given distance to historical properties it is not anticipated that there would be an adverse impact on the setting of any listed structures in the vicinity.

There are no archaeological implications stemming from this proposal. The archaeologist has been consulted on the application and does not object to the proposal. The officer reviewed information submitted by the applicant under previous application 15/01173/FUL to include historic field management practices, and is satisfied that an informative be appropriate in this instance, in respect of the potential of encountering any buried features as works progress.

Services

The applicant advises that a new electric supply installed in respect of the existing shed would be suffice to serve the proposed development. Water supply is to be taking from the connection at the existing shed (taken from public mains). It is intended that foul drains are to a new sewage treatment plant outfall to field tiles. Surface water is to be directed to new SUDS system. The applicant has provided an indicative plan detailing location of drainage however final works are to be designed by SAC. It would be prudent to use a condition to ensure that the details of drainage are agreed in conjunction with SEPA in order to protect the watercourse.

Impact on water environment and ecology

Concerns have been raised by objectors as to the impact on ecology and habitat.

Watercourse

The Caddy Burn (Special Area of Conservation River Tweed tributary) with pond feature runs along the western edge of the field. Concerns about pollution to the watercourse have been raised by objectors.

The ecologist has considered the matter and notes that SEPA would be controlling the development under PPC regulations. The officer considers that good practice mitigation measures in line with PPC regulations are likely to ensure that there will be no significant adverse impact on the integrity of the River Tweed SAC.

The applicant has advised that the Scottish Agricultural College is to be commissioned to design a suitable SUDS feature, most likely to be a multiple cell system based on infiltration basins with a final restricted piped outflow to the Caddy Burn, which will provide attenuation and treatment for rainfall events.

Drainage measures would require to be acceptable to the authority prior to works. As stated it would be prudent to ensure agreement to the final SUDs design, in consultation with SEPA, via condition.

Protected species

The Ecologist considers that the survey findings of Feb 2016, submitted in respect of 15/01173/FUL are still relevant for this assessment given time frame. However, the officer advises that mitigation is required to minimise disturbance to badgers given activity in area noted. A supplementary checking survey would be required to cover an area of 400m diameter from the centre of the proposed development to inform an up to date mitigation plan for the area.

In respect of breeding birds, the officer advises that development works should be undertaken outwith the bird-breeding season. Should the applicant seek to commence works during this time period provision for checking surveys/mitigation measures would be required.

Given that these matters can be controlled via conditions it is considered that there are no over-riding concerns that would warrant refusal in terms of impact on protected species or habitat.

Impact on the amenity of residential properties

Local residents have objected to the development and their concerns include the additional number of birds, regulation of the scheme, noise, dust, odour, and vermin; the addition of a further shed leading to encirclement of the residential dwellings. All have these have the potential to have an adverse impact on the local residents.

The Community Council has raised objections to this application on the grounds that it would have a serious adverse impact on the health, welfare and amenity of residents at Hutton Hall Barns with several large poultry sheds already existing in the locality with associated impacts in terms of nuisance, smell and disturbance. The CC notes that the proposal would bring shed total to 7No with over 100,000 birds, and are concerned at the cumulative impact from all the sheds and birds in the same place with residents encircled by 2 companies.

It is noted that West Lodge lies over 200m away and the residential dwellings at Hutton Hall Barns are sited over 400m away from the proposed shed.

Bird Numbers

Records indicate that the existing sheds at Hutton Hall Barns could house up to 40,000 birds. These sheds are owned and managed by Borders Eggs Ltd. The proposed shed would house up to 32,000 birds in a free-range system managed and operated by Maclean Eggs Ltd. This company has an existing shed containing 32,000 birds. Should the application be approved bird numbers in respect of MacLean Eggs Ltd would increase to 64,000.

Regulation

SEPA has confirmed they the operation of the site will require to be regulated by SEPA under the PPC Regulations, as the collective number of birds from the proposed shed and existing shed shall exceed the Pollution Prevention and Control (PPC) threshold of 40,000 birds. From their initial assessment SEPA confirm that they have no concerns regarding the proposal at this stage and confirm from initial assessment that the proposal is potentially consentable under the PPC Regulations.

The Environmental Health Officer recommended that an operational plan be submitted and agreed. The applicant has subsequently submitted a draft operation plan to the authority to outline the procedures for the management and control of potential nuisances (e.g. noise, odours, air quality, flies and pests). The Environmental Health Officer has reviewed the documentation and confirmed he has no further comments.

As noted, it is for SEPA to control these matters through their regulatory role.

Dust and Air Quality

The supporting statement states that ventilation will be provided by 4No wall fans on the north facing gable end of the building and by roof ventilation provided by exhaust air chimneys and fresh air inlet chimneys. The applicant advises that the use of up to date ventilation systems results in little dust escaping from the shed. The applicant also advises that industry testing has proven that dust emissions levels from poultry units using state of the art ventilation systems such as the type for the proposed unit

do not exceed prescribed levels. The EHO advised that SEPA would be the regulating authority for emissions to the atmosphere (dust, ammonia).

Odour Pest Management

The objectors have referred to odour nuisance and flies/pests.

In the proposed shed manure will be collected on manure belts where it is air-dried making it unsuitable for flies to lay eggs. The belts will be emptied via a conveyor directly into trailers twice a week (west of the building). There is potential for spillage during the removal stage and a regular site clear would deal with any spillage on site.

Areas around the shed will be kept clean and tidy in order to minimise pests to include rodents. Measures to control flies include use of the Chemical Neporex that breaks the life cycle of the fly. Rodent control is to be carried out by a trained and LANTRA certified person, regular checks made to ensure that rodent control methods are effective.

An odour management plan would form part of the SEPA PPC process.

Waste Removal

The applicant advises that the proposed building will be mucked out twice per week in order to minimise the build-up of manure and odour with the intention that manure is to be removed by a neighbouring farmer to be used as fertiliser. Cover will be placed on manure conveyors to minimise dust and odour.

The draft operation plan notes that manure will be managed and regulated in accordance with the Standard Farming Installation Rules (SFIR), which underpin SEPA's PPC permit and the Nitrate Vulnerable Zones (NVZ) requirements. It states there are four main options for Maclean Eggs in how manure can be managed within these rules:

- Export to farmer within NVZ – his/her responsibility to comply with NVZ
- Export to farmer outwith NVZ – manure can be spread all year round
- Sell to W Murray Farming Ltd – see Appendix 1A of submission
- Store on Hutton Hall Barns farmland in covered field heaps – Maclean and Company's (family farming partnership) responsibility to comply with NVZ

SEPA has standing advice in relation to poultry farming that states:

All installations producing slurry shall provide a storage system capable of storing the maximum quantity of slurry which is likely to be produced in any continuous six month period, including allowance for rainwater which may fall or drain into the slurry storage system, unless a shorter period can be justified in a Farm Waste Management Plan. Please note that in making these calculations SEPA may take into account other disposal options such as contracts providing guaranteed access to adequate alternative storage capacity located outside the installation or contracts for the transfer of slurries to a person appropriately authorised by SEPA for the collection, recovery or disposal of the material

A waste disposal strategy would form part of the SEPA PPC process. SEPA clarified that removal of manure off site (third party uplift) would be an acceptable waste management method but would fall outwith the scope of the waste management regime. Storage of waste on site would be regulated by SEPA.

Disposal measures would require to be acceptable to the authority prior to works. It would be prudent to ensure agreement to the final waste disposal arrangements, in consultation with SEPA, via condition to ensure protection of residential amenity.

Noise

Concerns have been raised by objectors in relation to noise generation. The applicant has advised that the shed will require extract ventilation and this is to be provided by 4No wall fans to be located on the north facing gable end of the building, with provision of 18No exhaust air chimneys and 18No fresh air inlet chimneys.

The shed will be designed and operated as per the existing shed constructed following the grant of permission 15/01173/FUL. The poultry shed will be controlled by a climate and production computer, which controls ventilation and temperature, reducing odour build up. Fans will run for 24 hours per day to ensure a continuous supply of fresh air for the birds, however the applicant has stated that the number of fans required depends on environmental conditions within the shed. It is anticipated that only on an extremely hot day would all fans be running at full capacity.

Timing of vehicle movements will ensure noise is not created during night time periods. The applicant has advised that egg collection lorries (3No per week) will be on site for approximately one hour from between 0700 until 2000. Feed delivery times will be restricted to between the hours of 0700 and 2000. The times may vary only in extenuating circumstances for example severe weather.

Deliver and uplift of birds occurs on a 13-month cycle.

A noise management plan would form part of the SEPA PPC process.

The Environmental Health Officer has confirmed that environmental matters raised by the objectors are all subject to enforcement by SEPA who are the Regulatory Authority for Noise, Odour, Site Housekeeping and Emissions to the atmosphere.

The precise details of the management of the development shall require to be agreed with SEPA under the PPC permit through the submission and approval of an operational management plan, which forms the framework under which the development is to be managed. SEPA have not objected to the principle of the development and are satisfied that the development is potentially capable of being authorised under the Pollution Prevention and Control (PCC) Scotland Regulations 2000. Thus it will be for that permit process to ensure that the development will not have a negative impact on the amenity of neighbouring properties. As SEPA have indicated that the development has the potential to be consentable, there is no further role for the planning process in relation to these issues.

Impact on traffic and road safety

Concerns have been raised by neighbours as to an increase in traffic movements stemming from the proposal and road safety.

In respect of traffic journeys the applicant has confirmed that trips for egg collections and fallen stock will be linked with existing vehicle movements. Eggs will be taken by Noble Foods three times per week for processing and packing prior to dispatch.

There will be one additional articulated lorry load of feed per week delivered to site over and above existing traffic movements. There will be two tractor and trailer loads of manure moved per week from the proposed poultry house.

Birds are removed and sheds re-stocked every 56 weeks. There will be 8 additional traffic movements in each 13-month cycle.

The Roads Officer has not objected to the development. Any further comments in relation to the additional information on traffic journeys will be provided in time for committee.

It is considered that there is no significant change to traffic volumes and that the existing passing places are sufficient to cater for the slight increase in traffic.

CONCLUSION

It is accepted that the proposed development will be consistent with the Council's policies on economic development in the countryside. It is an appropriate building in terms of design, scale and massing and it is considered that due to the topography and proposed screening the visual impact will be negligible.

The proposal will not have a significant adverse impact on the ecology or landscape subject to appropriate mitigation measures being put in place.

The development will provide full time employment for two people and two part time posts on site/in the office, and will contribute to numerous other job opportunities within the processing and packing, and supply chain sectors (for example poultry shed staff, agricultural worker, staff at the egg processing and packing facilities, vehicle drivers, tractor drivers).

It is noted that neither SEPA nor the Environmental Health Officer has objected to the principle of the development.

Whilst the community council and neighbours object to the intensification of birds on site and associated dust and noise emissions, SEPA are satisfied that the development is potentially capable of being authorised under the Pollution Prevention and Control (PCC) Scotland Regulations 2000, which is the correct mechanism for assessment of waste/pest management and mitigation in respect of air quality, odour and noise, and shall be agreed as part of the Operational Management Plan to be regulated by SEPA.

The management and operational procedures to be agreed with SEPA should ensure that the measures that are put in place achieve the required standards in relation to environmental or health impacts. A condition is proposed to ensure that these details are also submitted to the Council before any livestock is introduced into the new building.

No other statutory consultees have objected to the proposal. Mitigation measures are considered to be acceptable in respect of visual impact on the landscape, ecological considerations, and archaeological concerns.

On the basis of the resolution of these outstanding matters, and the listed conditions the application can be supported.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

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, in unless agreed in writing by the Planning Authority.

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

2 No development shall commence until a Badger Survey and Badger Protection Plan, to include measures as set out in Informative 1 of this consent, shall be submitted to, and agreed in writing by, the Planning Authority. Thereafter, the works shall be carried out in accordance with the approved scheme.

Reason: In the interests of preserving biodiversity

3 No clearance/disturbance of habitats, which could be used by breeding birds, such as arable field, field margins and boundary features, shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Supplementary checking surveys and appropriate mitigation for breeding birds will be required if any habitat clearance is to commence during the breeding bird season.

Reason: In the interests of preserving biodiversity

4 No development shall commence until the full details of the finalised drainage scheme shall be submitted for the written approval of the planning authority, in consultation with SEPA, and all work shall be carried out in accordance with the approved scheme.

Reason: To ensure adequate protection of the water environment from surface water runoff

5 A sample of all materials to be used on all exterior surfaces of the development hereby permitted shall be submitted to and approved in writing by the Planning Authority before development.

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

6 All planting, seeding or turfing comprised in the approved details of Drawing 010 REV 10/02/2017 shall be carried out in the first planting and seeding seasons following the operation of the buildings or the completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

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

7 None of the poultry buildings hereby consented shall be occupied (or otherwise become operational) until a plan for the management and control of potential nuisances (including noise, odour, air quality, flies and other pests) that would be liable to arise at the site as a consequence of and/or in relation to, the operation (individually and/or cumulatively) of all the poultry buildings hereby approved, 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 protection of environmental and residential amenity

8 Noise levels emitted by any plant and machinery used on the premises should 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.

Reason: To safeguard the amenities the surrounding residential properties.

9 No lorry deliveries or upliftings shall take place between the hours of 11.00pm and 6.30am on any day.

Reason: To safeguard the amenities the surrounding residential properties.

Informatives

1 Mitigation is required to minimise disturbance to badgers. In line with the requirements of Condition No 4, the Badger Survey should extend to 400mm diameter from the centre of the proposed new development. The mitigation plan for badger agreed under 15/01173/FUL shall be updated and submitted for prior approval following the supplementary survey.

2 In line with the requirements of Condition No 4, the design of this SUDS scheme should include measures to protect badger (including appropriate fencing).

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

4. Taking into account the other poultry shed at the site, the operation on site will exceed the Pollution Prevention and Control (PPC) threshold of 40,000. As such, this operation will require to be controlled by SEPA under the PPC Regulations.

5. Details of SEPA regulatory requirements and good practice advice for the applicant can be found on the Regulations section of the SEPA website. For further advice for a specific regulatory matter, contact a member of the operations team in the local SEPA office at Burnbrae, Mossilee Road, Galashiels TD11 1NF (tel: 01896 754797).

SEPA advises that it is at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application an/or neighbour notification or advertising.

DRAWING NUMBERS

010REVF	Site Layout	10/02/2017
011REVA	Location Plan	14/11/2016
16074/04REVB	Floor Plans Elevations	14/11/2016
012	Site Sections	10/02/2017

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.

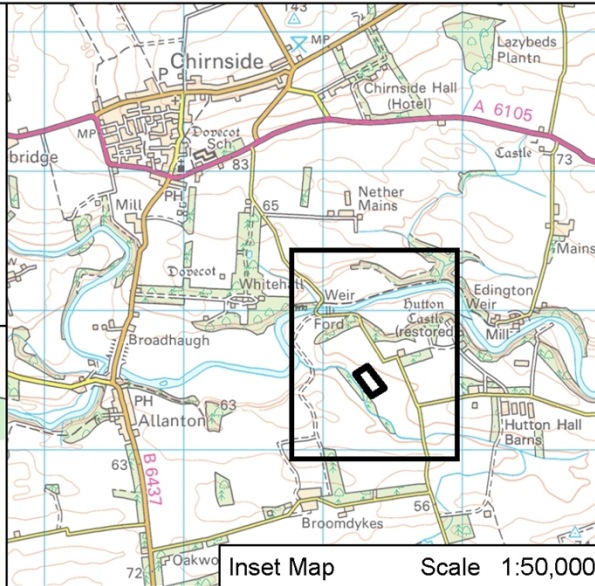
Author(s)

Name	Designation
Lucy Hoad	Planning Officer



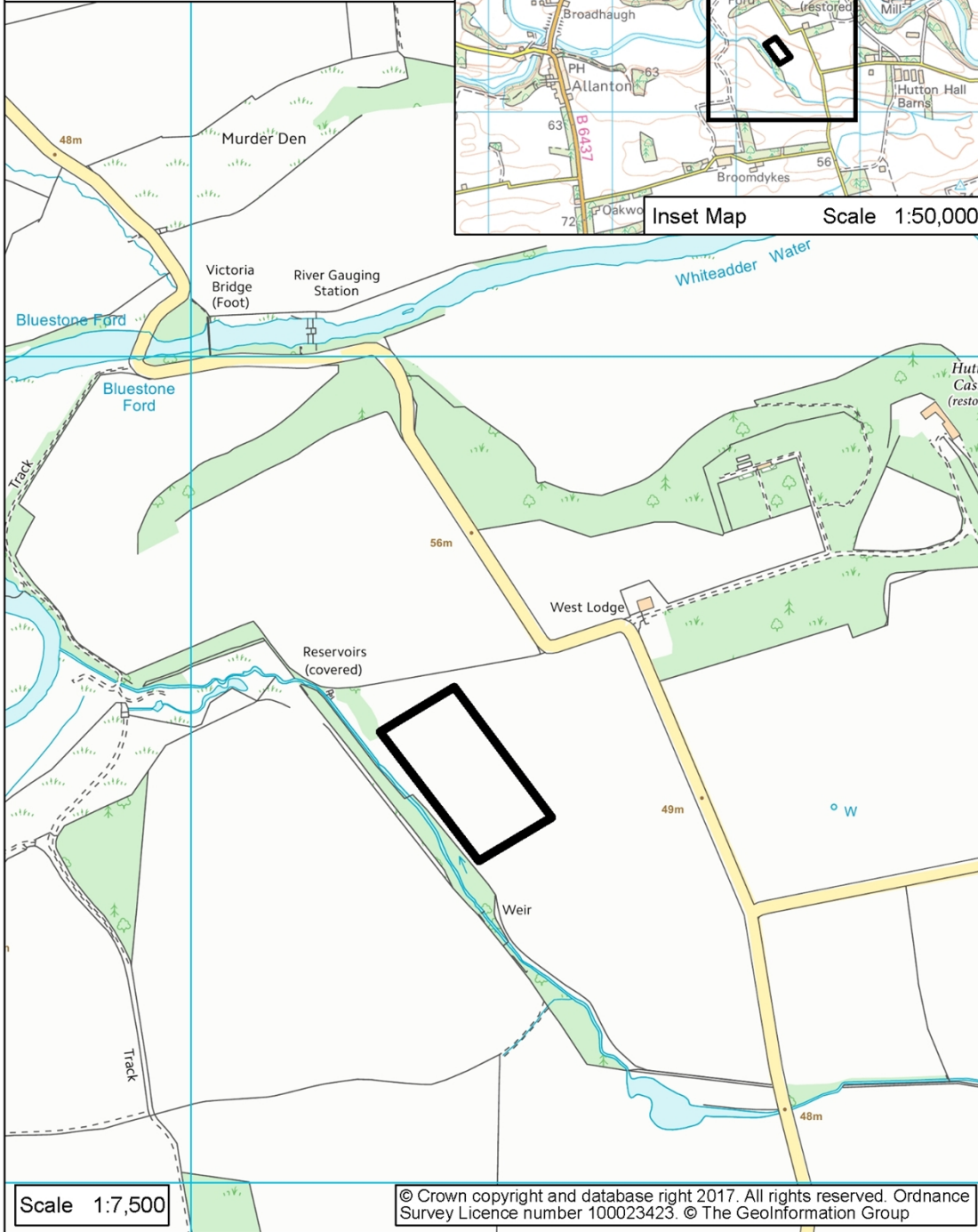
16/01430/FUL

Hutton Hall Barns
Hutton
Scottish Borders



Inset Map

Scale 1:50,000



Scale 1:7,500

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 MARCH 2017

**APPLICATION FOR PLANNING PERMISSION AND APPLICATION FOR
DISCHARGE OF A PLANNING OBLIGATION**

ITEM: **REFERENCE NUMBER:**
1. 16/01452/MOD75 &
2. 2. 16/01455/FUL

OFFICER: Mr A Evans
WARD: Selkirkshire
PROPOSAL: 1. Discharge of planning obligation pursuant to planning permission 03/00344/OUT;
2. Removal of Condition No 3 from planning permission 04/00718/REM (occupancy restriction).

SITE: Stonelea Stables, Ashkirk, Selkirk, TD7 4NZ
APPLICANT: Mr & Mrs D Spence
AGENT: Erich Planning & Property Consultants

SITE DESCRIPTION:

The site relates to the dwellinghouse and stable building erected to the north of Ashkirk, at Stonelea Stables. The house is subject to application 16/01455/FUL. The house, neighbouring stable and surrounding land (just over 11 acres) to the south, are subject to application 16/01542/MOD75. The stable building, house and garage adjoin the minor public road, and share an access with the public road. Along this boundary with the public road is a traditional stone wall. West of the site, on elevated ground, is mature woodland plantation.

PROPOSED DEVELOPMENT:

This is a pair of applications, seeking to remove occupancy restrictions on a dwelling outside Ashkirk. The supporting statement sets out that the business that originally provided the justification for the house is no longer in operation.

The application is brought to Committee as the modification seeks to remove a primary part of the Section 75 Agreement, which is beyond the scope of delegated authority.

For consistency, the associated planning application for the removal of the occupancy planning condition on a related permission is also presented to Members.

PLANNING HISTORY:

A generally chronological history of the site is as follows:

- The applicants originally owned the house known as "The Rookery" at the Woll.
- 98/01564/FUL: Full planning permission was granted in February 1999 for the erection of loose boxes, to accommodate five horses, within the paddock.

- The house at “The Rookery” was sold, and the applicants lived for a spell in a static caravan at the stables at Stonelea, prior to the current house being built.
- 00/00502/FUL: A planning application for the erection of a dwellinghouse on this site was refused in July 2000 for the following reason: *“The proposal is contrary to Policy 8 of the Ettrick and Lauderdale Local Plan in that the site is outwith any recognised settlement or building group and the need for the house has not been adequately substantiated”*. The Scottish Executive later dismissed a planning appeal lodged by the applicants.
- Permission was granted in November 2002 for the change of use of the loose boxes to livery stables and an application for the erection of an extension to the livery stables.
- 03/00344/OUT: An application for permission for a house was again refused; on the basis no suitable justification had been provided. The applicants appealed this refusal (appeal ref P/PPA/140/196). The then Scottish Executive Reporter concluded there was sufficient justification for a house. The reported noted in the earlier 2000 appeal, there did not appear need given the small scale of the business, but found that there was now sufficient difference in the proposals, and that the applicants were seeking to establish a business, and had started to do so on site. The Reporter made clear that a house was only acceptable here on the basis of a tied dwelling in connection with the business. In considering conditions, the Reporter made clear they considered an occupancy condition to be unnecessary, and that the occupation would be covered solely by a legal agreement. (Paragraph 18 of intentions letter). A legal agreement was subsequently concluded to tie the house, stables and land in the manner the Reporter required.
- 04/00718/REM: Application for reserved matters for erection of a dwelling was approved with conditions and informative on 18.10.2004. A condition was added to the consent limiting occupation. This is not a decision which would have been reached in the current application of policy and legislation.
- 06/01018/FUL: Erection of Double Garage – Approved.

CONSULTATION RESPONSES:

None.

REPRESENTATION SUMMARY

None.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

Policy PMD2 Quality Standards

Policy ED7 Business, Tourism and Leisure Development in the Countryside

Policy HD2 Housing in the Countryside

OTHER PLANNING CONSIDERATIONS

"New Housing in the Borders Countryside" SPG

KEY PLANNING ISSUES:

The key planning issues with this application are whether the legal severance of the house and stables business would still allow for compliance with Council Policies and Guidance on Housing in the Countryside and residential amenity. If not, consideration needs to be given as to whether this would pose any harm in planning terms.

ASSESSMENT OF APPLICATIONS

This property was originally refused planning permission by the Eildon Area Committee in 2003. Permission was subsequently granted on Appeal by the Scottish Government's reporter, subject to a planning condition and Section 75 Agreement. Following conclusion of the latter, the permission was issued.

There was no occupancy limitation in force on the outline approval. A reserved matters approval was subsequently granted for the house (04/00718/REM) which was subject to a condition limiting occupancy. This was done despite no equivalent condition being present on the outline permission.

The Section 75 Agreement can be viewed on Public Access under reference 16/01452/MOD75. The Section 75 Agreement included clauses as follows:

Clause 2 a – requires that occupation of the dwellinghouse is limited to someone who works on the adjacent livery stables, and to that persons family.

Clause 2 b – requires that the dwellinghouse must be tied with the livery stables and the land and no part of the indivisible unit is to be disposed of separately.

The removal of the clauses in the legal agreement, and removal of planning condition would have the effect of allowing the property subject to this application to then be lived in as an unrestricted stand-alone dwellinghouse.

Mr and Mrs Spence are now both retired, and intend to move to a smaller property. The property, comprising the house, stables, surrounding land and annexe have been marketed as a single unit since April 2014. The agent reports that any interested parties are being put off by the planning restrictions on occupancy contained in the legal agreement. This is despite the price having been reduced.

Planning Policy

The site is in a rural location outside of Ashkirk, so consideration is first required as to how the dwellinghouse was originally consented in this location, and how this would now 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 permissions are rarely appropriate and should generally be avoided. Scottish Planning Policy (2014) Paragraph 83 allows that where appropriate, the construction of single houses outwith 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 Government's 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 and Consideration of Restrictions

The removal of the S75 Clause and planning condition will not conflict with Policy HD3 of the Local Development Plan on protection of residential amenity.

Considering the applications in turn:

Legal Agreement

It is contended that the underlying original reason for a dwelling now no longer exists at this site. The stables were established but are understood not to have operated as a business from this site since 2006. Health issues meant that the business could not grow as was originally proposed. The application is accompanied by the Valuation Assessors deletion notice from 21 April 2006. The dwelling remains in situ, and its future occupation as an open market dwelling is considered acceptable, given the specific history of this site.

The MOD75 Application seeks to discharge the planning obligations set out in 2(a) and 2(b) of the 2004 minute of agreement, described above. The requirements of 2(c), which related implementation of the permission, are no longer relevant, but for sake of completeness, the agent also seeks to have all of the obligations a-c discharged.

It is accepted that the business which was originally present on the site, has failed. It is accepted that there was a genuine attempt to expand and develop this business;

however it did not prove successful. Against this background, having considered the specific merits of this case, it is acceptable that the request of the agent regarding the legal agreement be agreed to.

Occupancy Planning Condition

The imposition of an occupancy condition on an Approval of Matters Specified in Conditions (AMC) or reserved matters (REM) consent is not an approach that would be considered today, where such a condition was not present on the original outline or PPP permission.

The current understanding of such consents and conditions would be that the Planning Permission in Principle is the parent consent of the AMC application, and therefore the principle of the development is not being re-examined in the determination of the matters in condition. As such, any conditions on occupancy need to have been imposed on the parent PPP or "Outline" approval and so there would be a risk in seeking to continue to apply a condition which does not appear in the outline permission.

As such, and having accepted the argument as it relates to the legal agreement, there is no objection to the removal of the occupancy planning condition of the permission.

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, the proposed adjustments to occupancy limitations and legal agreement have no bearing upon the development contributions policy.

Consideration of other planning conditions of permissions

None of the remaining conditions of the Reporter's Decision Letter and Reserved Matters approval place any on-going burdens of any significance upon the dwelling, or relate to any issues which are still relevant. The other conditions of the reserved matters approval covered upgrading of the access, which was carried out, and the external materials of the house. A planning condition on a new planning 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.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

16/01452/MOD75

In respect of planning application 16/01452/MOD75, I recommend the modification to the Section 75 Agreement is approved and that the relevant Clause be removed from the Agreement.

16/01455/FUL

In respect of planning application 16/01455/FUL I recommend the application is approved.

DRAWING NUMBERS

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.

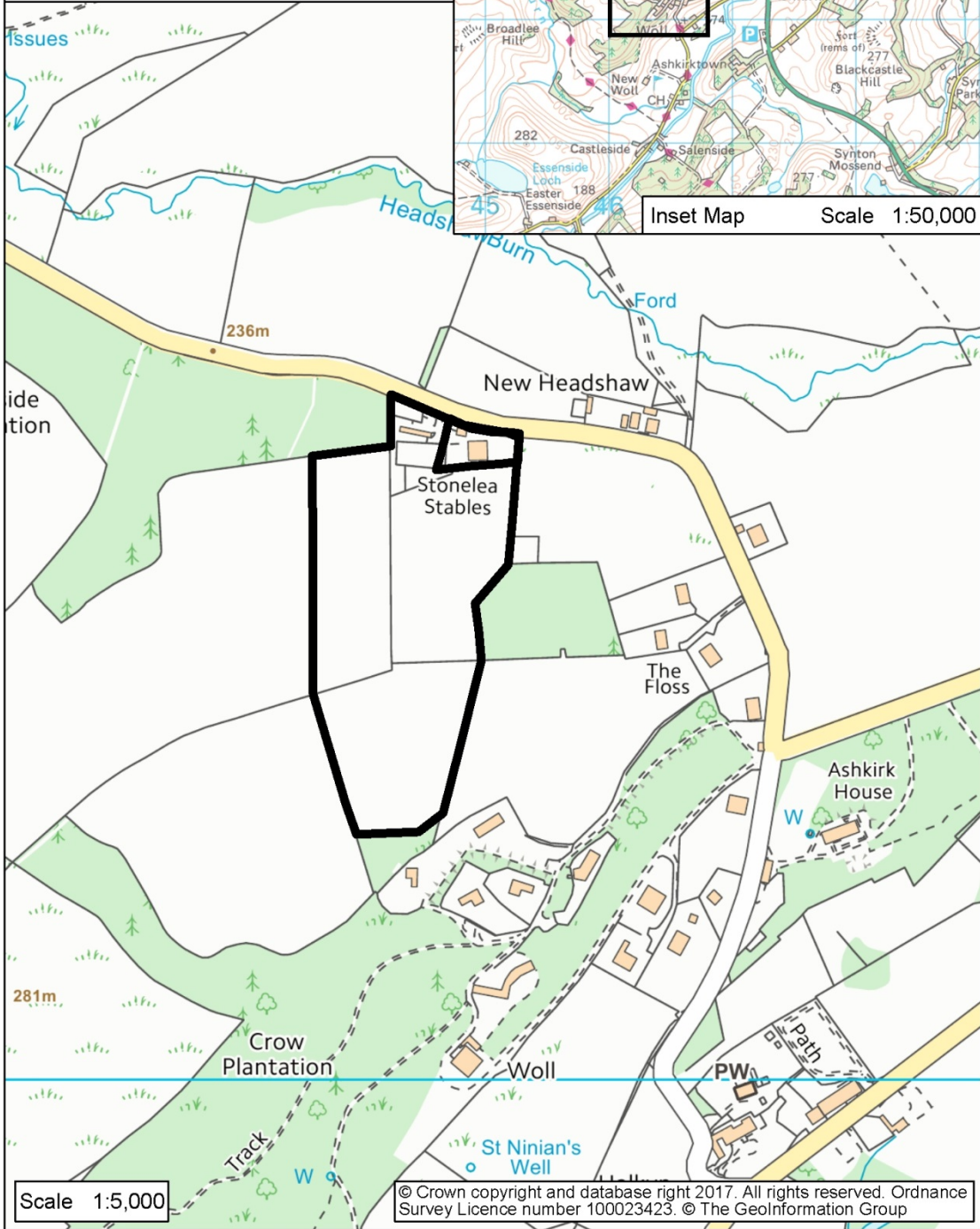
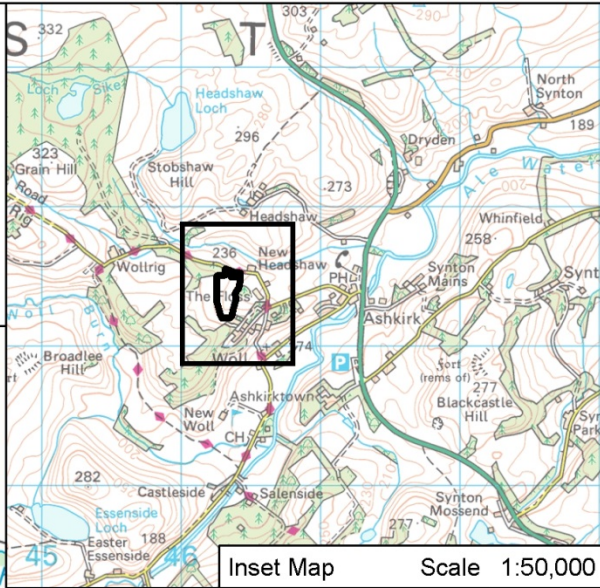
Author(s)

Name	Designation
Andrew Evans	Planning Officer

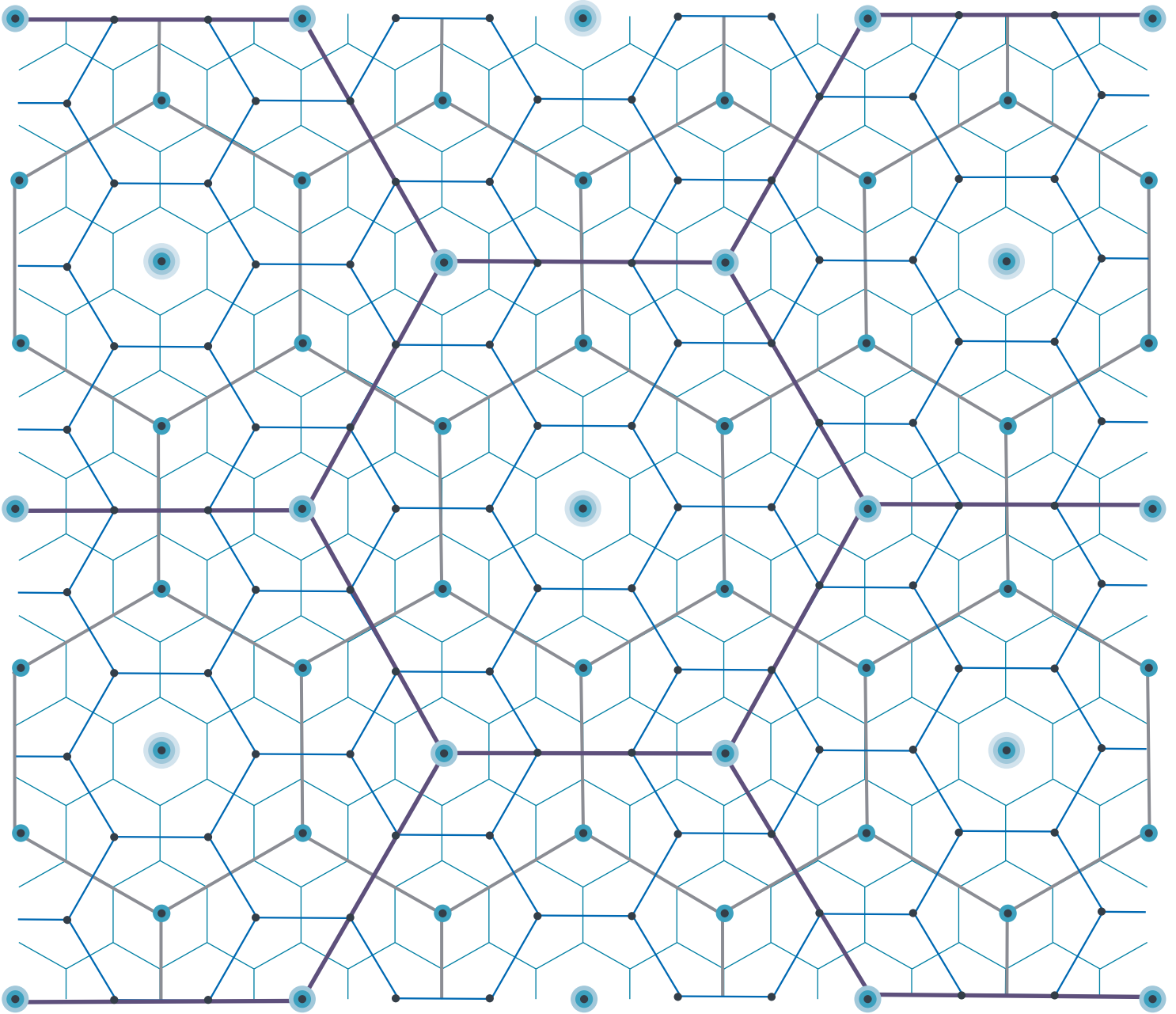


16/01452/MOD75 & 16/01455/FUL

Stonelea Stables
Ashkirk
Selkirk



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Places, people and planning

A consultation on the future
of the Scottish planning system

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FOREWORD

Scotland needs a great planning system.



The places where we live, work and play can have a major impact on our health, wellbeing, sense of identity and prosperity. Planning can nurture our places, our environment and our communities and guide future change so that it benefits everyone. Planning can co-ordinate and support investment, ensure that future growth reflects the needs of communities and is sustainable. Planning has a key role to play in delivering Scotland's Economic Strategy. The efficiency and reputation of the system has an important role to play in making Scotland an attractive place to invest.

We need to change the planning system so that it realises its full potential. Procedures and perceptions can be improved. Planning should not be bureaucratic and dull, but inspiring and influential. It should be dynamic, focused on outcomes, inherently efficient and effective. Our planning system should play a more active role in making development happen in the right places.

Our planning system has important strengths that have helped shape Scotland and there are examples of good practice around the country. However, we need to improve the performance of the system further so that it more effectively delivers for all of us. We need to improve the way the planning profession performs and is valued by others. This will need everyone's support – we all have a contribution to make. We can build on previous reforms and much can be done within the existing planning system through culture change and improvements to existing practices. We can also make some targeted changes to our planning legislation.

The independent panel who reviewed the system heard from communities, developers, professional planners and a wide range of organisations with an interest in planning. The panel set out clear recommendations for change. Since the panel's report was published in May 2016, the Scottish Government has discussed, with many different people, how we can make the system work better. The panel's ideas, and the enthusiasm of people who are interested in planning, have helped to shape our proposals for change. I am very grateful to those who have contributed to the review of the planning system.

I hope our proposals inspire you to comment on the future of planning in Scotland, and I look forward to hearing your views and ideas.

Kevin Stewart MSP

Minister for Local Government and Housing

OUR PROPOSALS FOR CHANGE

Planning should be central to the delivery of great places and a force for positive change. Scotland's economy needs a planning system which is open for business, innovative and internationally respected. Our people need a planning system that helps to improve their lives by making better places and supporting the delivery of good quality homes.

We recognise the unique contribution that the planning system can make to shaping the future of our places.

Scotland needs a planning system which helps growth to happen and unlocks the potential of our people and places. Our proposals have been developed in response to the independent review of the planning system which was published in May 2016. We believe that there should be four key areas of change:

- **Making plans for the future.** We want Scotland's planning system to lead and inspire change by making clear plans for the future. To achieve this, we can simplify and strengthen development planning.
- **People make the system work.** We want Scotland's planning system to empower people to have more influence on the future of their places. To achieve this, we can improve the way we involve people in the planning process.
- **Building more homes and delivering infrastructure.** We want Scotland's planning system to help deliver more high quality homes and create better places where people can live healthy lives and developers are inspired to invest. To achieve this, planning can actively enable and co-ordinate development.
- **Stronger leadership and smarter resourcing.** We want to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places. To achieve this, we can remove processes that do not add value, and strengthen leadership, resources and skills.

[Responding to this consultation](#)

We would like to hear your views on 20 proposals for improving the planning system. To help you respond to this consultation, we have set out a key question for each of the four areas of proposed change. More detailed technical questions are also provided for those who wish to answer them.

KEY CHANGES

Making Plans for the Future

We want Scotland's planning system to lead and inspire change by making clear plans for the future. We propose:

1__Aligning community planning and spatial planning. This can be achieved by introducing a requirement for development plans to take account of wider community planning and can be supported through future guidance.

2__Regional partnership working. We believe that strategic development plans should be removed from the system so that strategic planners can support more proactive regional partnership working.

3__Improving national spatial planning and policy. The National Planning Framework (NPF) can be developed further to better reflect regional priorities. In addition, national planning policies can be used to make local development planning simpler and more consistent.

4__Stronger local development plans. We believe the plan period should be extended to 10 years, and that 'main issues reports' and supplementary guidance should be removed to make plans more accessible for people. A new 'gatecheck' would help to improve plan examinations by dealing with significant issues at an earlier stage.

5__Making plans that deliver. We can strengthen the commitment that comes from allocating development land in the plan, and improve the use of delivery programmes to help ensure that planned development happens on the ground.

People Make the System Work

We want Scotland's planning system to empower people to decide the future of their places. We propose:

6__Giving people an opportunity to plan their own place. Communities should be given a new right to come together and prepare local place plans. We believe these plans should form part of the statutory local development plan.

7__Getting more people involved in planning. A wider range of people should be encouraged and inspired to get involved in planning. In particular, we would like to introduce measures that enable children and young people to have a stronger voice in decisions about the future of their places.

8__Improving public trust. Pre-application consultation can be improved, and there should be greater community involvement where proposals are not supported in the development plan. We also propose to discourage repeat applications and improving planning enforcement.

9__Keeping decisions local - rights of appeal. We believe that more review decisions should be made by local authorities rather than centrally. We also want to ensure that the system is sufficiently flexible to reflect the distinctive challenges and opportunities in different parts of Scotland.

Building More Homes and Delivering Infrastructure

We want Scotland's planning system to help deliver more high quality homes and create better places where people can live healthy lives and developers are inspired to invest. We propose:

10__ Being clear about how much housing land is required. Planning should take a more strategic view of the land required for housing development. Clearer national and regional aspirations for new homes are proposed to support this.

11__ Closing the gap between planning consent and delivery of homes. We want planning authorities to take more steps to actively help deliver development. Land reform could help to achieve this.

12__ Releasing more 'development ready' land. Plans should take a more strategic and flexible approach to identifying land for housing. Consents could be put in place for zoned housing land through greater use of Simplified Planning Zones.

13__ Embedding an infrastructure first approach. There is a need for better co-ordination of infrastructure planning at a national and regional level. This will require a stronger commitment to delivering development from all infrastructure providers.

14__ A more transparent approach to funding infrastructure. We believe that introducing powers for a new local levy to raise additional finance for infrastructure would be fairer and more effective. Improvements can also be made to Section 75 obligations.

15__ Innovative infrastructure planning. Infrastructure planning needs to look ahead so that it can deliver low carbon solutions, new digital technologies and the facilities that communities need.

Stronger Leadership and Smarter Resourcing

We want to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places. We propose:

16__ Developing skills to deliver outcomes. We will work with the profession to improve and broaden skills.

17__ Investing in a better service. There is a need to increase planning fees to ensure the planning service is better resourced.

18__ A new approach to improving performance. We will continue work to strengthen the way in which performance is monitored, reported and improved.

19__ Making better use of resources – efficient decision making. We will remove the need for planning consent from a wider range of developments. Targeted changes to development management will help to ensure decisions are made more quickly and more transparently.

20__ Innovation, designing for the future and the digital transformation of the planning service. There are many opportunities to make planning work better through the use of information technology. The planning service should continue to pioneer the digital transformation of public services.

01

**MAKING
PLANS
FOR THE
FUTURE**

We want Scotland's planning system to lead and inspire change by making clear plans for the future.

Proposal 1

Aligning community planning and spatial planning

Proposal 2

Regional partnership working

Proposal 3

Improving national spatial planning and policy

Proposal 4

Stronger local development plans

Proposal 5

Making plans that deliver

1.1___Development plans should provide a clear vision of how a place can grow and flourish. They should be of interest to everyone and inspire the confidence of communities and investors alike. Change is needed to make that happen and ensure plans better reflect the needs and expectations of society now, and in the future.

1.2___Plans should show where development will happen, and how our places may change over time. They should help us to design and deliver places where people can lead healthier lives, move around easily and have access to the homes, services, facilities, education and employment they need. They should set out a vision for places which are low carbon and resilient to the future impacts of climate change. Our planning system evolved to provide healthier places for people. We need to make sure that purpose continues to guide the plans we prepare today.

1.3___At present development plans are often complex, focused on technical written policies and restricted by procedures, rather than being inspirational and creating confidence. It can be difficult for people to understand what change is proposed, why it is needed, and where, how and when it will happen. Developers and investors also need to have confidence in a plan. While there are examples of good practice around the country, there is also often frustration with the process required to prepare them. At present, many plans are considered to be out of date by the time they are adopted – we need plans that can keep pace with the way that society works today.

1.4___Our proposals aim to simplify the existing system of development plans to make sure that planning authorities, and those they work with, focus on delivering outcomes rather than following lengthy and complicated procedures.

Proposal 1: Aligning community planning and spatial planning

1.5___The independent panel found strong support for a plan-led system. We want to see plans that allow planners to lead and innovate, delivering priorities that have been agreed through an open and evidence-led process.

1.6___Given the range of interests involved in planning, there should be an open and inclusive approach to understanding issues, considering options, defining priorities and agreeing proposals. People are at the heart of the system and our proposals seek to build more effective opportunities for people to influence their places. A much wider range of stakeholders, including all relevant local authority services, communities and developers, should share ownership and responsibility for preparing, promoting and delivering development plans. One of the keys to this is making sure that local authorities recognise the value of the development plan in realising their corporate objectives.

1.7___We propose introducing a statutory link between the development plan and community planning. This link could be achieved by ensuring that development plans take account of the work of Community Planning Partnerships. We will also support this as we bring forward guidance on both community planning and spatial planning. Co-ordinated working and including planners as key community planning partners will be essential.

Aligning Community Planning and Spatial Planning – East Ayrshire

The East Ayrshire Community Plan 2015-2030 sets out aspirational outcomes for East Ayrshire in the coming years. There are three shared priority areas, led by different community planning partners: Economy and Skills (East Ayrshire Council); Safer Communities (Police Scotland); and Wellbeing (the Health and Social Care Partnership). The East Ayrshire local development plan reaffirms the shared vision – in particular, the drive to promote the economy and skills is fully embedded across all aspects of the plan. The plan was used to explore land use issues including strategic locations for development, infrastructure and town centres. Key to the success of this alignment were partnership working, a shared focus on outcomes, governance and dynamic leadership.

Proposal 2: Regional partnership working

1.8 The Planning etc. (Scotland) Act 2006 reflected a two-tiered system of development plans, with strategic development plans covering our largest city regions (Glasgow, Edinburgh, Perth and Dundee, and Aberdeen) and local development plans for each local authority and the two national parks.

1.9 At present, strategic development planning authorities are tasked with preparing a plan which is approved by Scottish Ministers after a comprehensive examination process. The procedures for preparing strategic development plans mean that there is little time to actively work on delivering them. Strategic development planning authorities have no duties or powers to make sure their plans have a strong influence, either nationally or locally.

1.10 The independent panel recommended that strategic development plans are removed from the system and that we should focus instead on co-ordinating development and infrastructure at this scale. We agree, but we recognise that strategic planning has an important contribution to make to delivering a high performing planning system. Any changes to the system should support cross-boundary collaboration, and improve the co-ordination of strategic development and infrastructure priorities.

1.11 Planners working at a regional scale should play an active role in partnership working. Strategic planners could add significant value by helping to shape future spatial priorities for investment and providing timely evidence to support stronger joint decision making. Planning should contribute to wider regional activities, including economic and social infrastructure delivery, as well as supporting a clear dialogue between national and local tiers of government. Working together at a regional level would also allow local authorities to combine resources and share potential risks.

1.12 We agree that strategic development plans should be removed from the system, so that planners can better respond to and be involved in wider regional partnership working. Instead, we propose that the National Planning Framework (NPF) sets out regional planning priorities. By incorporating regional strategies at a national scale we would remove the procedural requirements associated with preparing and adopting four stand-alone strategic development plans. This would also give more weight to the spatial strategies for the regions as the National Planning Framework (NPF) is prepared and adopted by Scottish Ministers with input from the Scottish Parliament.

Regional working

1.13 We propose to replace these plans with new duties or powers for local authorities to work together on defining regional priorities. Views on what needs to be done at this scale are invited, but we suggest that the following actions would be beneficial:

- Helping to develop a strategy and delivery programme to be adopted as part of the National Planning Framework (NPF). We would want to see regional partnerships working with the Scottish Government, agencies and local authorities to make sure there is evidence to support the National Planning Framework (NPF) and then to implement their regional commitments through the delivery programme.
- Co-ordinating the work of local authorities to support the aspirations for housing delivery, as set out in the National Planning Framework (NPF).
- Bringing together infrastructure investment programmes to promote an infrastructure first approach, provide a co-ordinated audit of economic and social regional infrastructure, identify the need for strategic investment and support necessary cross-boundary working.
- Co-ordinating funding of infrastructure projects, potentially including an infrastructure levy, and working with others, in both the public and private sectors, to develop regional funding and finance packages that support their strategies for growth.
- Acting as a 'bridge' between local and national levels by making sure that local development plans support the delivery of wider strategic priorities. Partnerships involving business representatives as well as the public sector could provide a forum where regionally significant matters and common goals can be discussed and used to inform local strategies and development planning.

1.14 We would welcome views on the above actions. We believe they could form the basis of new duties to help planning authorities to be actively involved in regional partnership working. We are also open to considering making these actions discretionary powers which allow local authorities to decide whether this level of co-ordination would be of value. We would welcome views on working arrangements and governance. We are keen to avoid creating new partnerships where tasks can be achieved through existing arrangements.

1.15 Within the above context, the ongoing review of the National Transport Strategy and the consideration of regional partnership working. We would also welcome views on the potential to

reconsider the roles, responsibilities and areas of influence of regional transport partnerships in relation to land use planning and associated transport appraisals, prioritisation and delivery.

Regional geography

1.16 ___ The way in which local authorities and their partners are currently working together at a regional scale is dynamic, and this is relevant to the future of strategic spatial planning in Scotland.

1.17 ___ The emerging Tay Cities Deal (Perth and Dundee, together with Angus and the North of Fife) is bringing together economic development, planning and transport programmes to provide a joined up and branded approach to supporting future investment. In South East Scotland, regional planning and transport functions are increasingly aligning and linking with economic development and proposals for a city region deal. The three Ayrshire authorities are working together to prepare their own 'growth deal'. Joint working on the Glasgow and Clyde Valley City Region Deal, driven by economic development, is now established and moving forward. Aberdeen City and Shire have a long tradition of co-operation to provide a North East perspective on growth and development and their city deal supports taking this forward with strong private sector representation.

1.18 ___ There is also wider work across all seven cities, supported by the Scottish Cities Alliance. Regional land use partnerships, to help deliver the aims of the Land Use Strategy, will be explored further. Regional Marine Partnerships are being established to undertake marine planning. Our commitment to addressing climate change is also driving wider partnership working, for example in the Climate Ready Clyde Project.¹ The ongoing

enterprise and skills review² has been exploring the regional geography of economic development and includes proposals that combine stronger national oversight with additional regional coverage for the South of Scotland and developing regional partnerships across Scotland. This could also connect with emerging work on the development of a Scottish Rural Infrastructure Plan.

1.19 ___ All of these arrangements are potentially relevant to the future of strategic planning. We need planning to respond to changing regional priorities and groups, rather than focusing on fixed boundaries. We propose that existing strategic development planning authorities form part of, or are replaced with, partnerships whose membership extends beyond planning to include all those with a role in planning, prioritising and delivering regional economic development and investment in infrastructure.

1.20 ___ We would welcome views on the following options for the scale and coverage of regional partnership working:

- Rather than defining or fixing the boundaries of partnerships which may or may not reflect changing regional partnerships that emerge over time, local authorities could define the geography of their involvement in regional partnerships locally. This would allow, for example, strategic planning to better align with emerging city and growth deals.
- We could link strategic planning with the ongoing Enterprise and Skills Review and its proposals for regional working covering the Highlands and Islands, South of Scotland and regional partnership network.
- We could use the National Planning Framework (NPF) to identify priority areas where future regional partnership working should take place.

¹ <http://www.sniffer.org.uk/knowledge-hubs/sustainable-places/climate-ready-clyde/>

² <http://www.gov.scot/Resource/0050/00508466.pdf>

The Tay Cities Region – Partnership for Growth

The opportunity to secure a City Region Deal has brought together the leaders and chief executives of local authorities across the region to work together as a strategic partnership. The four authorities (Angus, Dundee City, Fife and Perth and Kinross Councils) are collaborating with their Community Planning Partners, the private sector and voluntary organisations to develop and deliver on an agreed vision for the region as a distinctive place. The partnership has identified how the region's potential can be unlocked, including by supporting key growth sectors and fostering innovation and skills development. The need to address social and economic inequalities in both urban and rural areas and support transport and digital infrastructure investment are also identified as key regional priorities.

Proposal 3: Improving national spatial planning and policy

1.21 ___ The role of Scotland's National Planning Framework (NPF) has developed and grown since the first, non-statutory NPF was adopted in 2004, and through its two versions as a statutory document in NPF2 (2009) and NPF3 (2014).³ We want to build on the growing awareness of NPF, and support our proposals for stronger co-ordination of regional planning by producing a spatial strategy that is prepared following even more joint working and involvement.

Alignment with wider policy

1.22 ___ We have already announced in the Programme for Government⁴ that the next Strategic Transport Projects Review (STPR) will be in line with the next iteration of the National Planning Framework (NPF) and a review of the National Transport Strategy is underway and will inform the next STPR. We recognise that we should consider spatial planning priorities as part of future reviews of the Infrastructure Investment Plan. This will allow for spending on infrastructure to be more clearly aligned with proposals for future growth, regeneration and development.

1.23 ___ We will continue to ensure that the National Planning Framework (NPF) brings together wider Scottish Government policies and strategies across all sectors, including but not limited to the Scottish Planning Policy (SPP), Energy Strategy, Climate Change Plan and Scottish Climate Change Adaptation Programme, Land Use Strategy, Digital Strategy, National Marine Plan and our national policy on architecture, Creating Places. We will also ensure that planning at this scale maintains its role as the spatial expression of Scotland's Economic Strategy.

1.24 ___ An enhanced national spatial strategy which provides greater clarity on regional priorities (informed by the work of regional partnerships) would have greater significance and relevance across Government policy areas. We therefore propose building on the provisions for the National Planning Framework (NPF) introduced by the 2006 Act by:

- Extending the review cycle to 10 years (with a 30-year vision), whilst making provision for interim updates to be made where necessary.

- Extending the existing period of 60 days of Parliamentary consideration to 90 days to allow for enhanced transparency and national democratic engagement.
- Giving the National Planning Framework (NPF) (together with the Scottish Planning Policy (SPP)) stronger status. Consistency of local development plans with the National Planning Framework (NPF) should also be independently tested and confirmed.
- Working closely with infrastructure providers to contribute to the delivery of the National Planning Framework (NPF). This will require careful consideration owing to the varying roles, responsibilities, legal and regulatory context within which each infrastructure provider works. A delivery programme for the National Planning Framework (NPF) should be developed in close collaboration with regional partnerships and there should be a strong sense of shared ownership of the actions it contains.

Streamlining planning policy

1.25 ___ Despite the aims of previous reforms for local development plans to be map-based, many are still lengthy and include a great deal of policy content. We believe this needs to change and that the National Planning Framework (NPF) and Scottish Planning Policy (SPP) could better support the planning system by having a stronger statutory status. This could be achieved by either making them part of the statutory development plan, or by ensuring that both are given due weight in decision making through their local implementation.

1.26 ___ Depending on the changes that are taken forward, we would consider whether the Scottish Planning Policy (SPP) preparation process also needs to be updated. For example, if it is given statutory weight, the Scottish Planning Policy (SPP) could be prepared alongside the National Planning Framework (NPF) and given the same level of consultation and consideration by Parliament.

1.27 ___ Either option could allow local development plans to focus on providing a clear and engaging spatial strategy, rather than acting as a rule book for decision making with very detailed and repetitive policies. However, place-based planning must recognise and reflect the diversity of planning in different parts of the country. Local development plans could still include policies where they are required to identify departures from the Scottish Planning Policy (SPP) that are justified on the basis of distinctive local circumstances.

³ <http://www.gov.scot/Resource/0045/00453683.pdf>

⁴ <http://www.gov.scot/Resource/0050/00505210.pdf>

Proposal 4: Stronger local development plans

1.28___As well as being engaging, development plans need to be strong and practical. Building on previous reforms, our proposals aim to ensure local development plans can better respond to their changing context. We agree with the independent panel that the ‘main issues report’ has not been an effective way of involving people. For consultation to be more effective, planning authorities should produce draft plans which are easy to access and understand, and set out clear proposals for people to comment on. It is important that draft plans are fully informed by robust evidence from the outset. We also agree that the lifespan of plans should be longer, and the time it takes to prepare them should be reduced.

1.29___We propose the following changes to local development plans:

- Removing the requirement for a main issues report to be prepared and consulted on. We would replace this with a requirement for a draft plan to be published and fully consulted on, before it is finalised and adopted. This would mean responses to the draft plan could be used to guide changes, and these changes could be explained in feedback to those who have been involved.
- Requiring local development plans to be reviewed every 10 years. We agree in principle with the independent panel that there should be a shorter plan preparation period to allow more time to focus on delivering the plan. However, we believe this could be better supported through guidance and training rather than by setting a fixed period.
- Making provision for plans to be updated within the 10-year review cycle. This would allow plans to be more responsive to change, but care will be required to avoid confusion. Our view is that the ‘triggers’ for updating a plan could be outlined nationally and agreed locally to provide some stability and make sure that plans are flexible but not in a constant review cycle. This is intended to improve scope to focus on delivery.
- Removing the provisions for statutory supplementary guidance to form part of the development plan so that people can find out everything they need to know about the future of their area in one place. This will mean that important content is included in the main body of the plan and therefore subjected to full

consultation and scrutiny through the examination process.

1.30___Alongside these changes, we propose working with local authorities to better define the relationship between development plans and development management, and the role of non-statutory supplementary guidance in informing decision making. At both the national and local level, there would be benefit in streamlining planning guidance on specific types of development, to provide a manual or set of advice that guides how applications for planning consents are considered. This would help to remove significant amounts of policy detail from the development plan.

Examinations

1.31___We accept the independent panel’s view that local ownership and responsibility for the development plan is undermined by current arrangements for a centrally administered examination of the plan, which is undertaken at the end of the preparation process. Current arrangements can be lengthy and result in a significant financial cost to local authorities. As the examination takes place late in the process, it is very difficult to address any significant issues that are outstanding at this stage.

1.32___It is important that a clear national and regional picture of requirements informs local development plans. However, decisions on the future of a place, including where development should happen, should be made locally, and local people should be fully involved. We want to ensure that people have more meaningful opportunities to influence where development should take place. However, this needs good evidence and input from professionals, so that everyone involved can properly understand the level of development required and how an area can support it, before specific development sites and proposals are considered and agreed.

1.33___Many people value the credibility that comes with a rigorous and independent process of scrutiny provided by examinations. Some planning issues can be very challenging and difficult decisions should not be avoided. Independent scrutiny can help to establish what is needed from a plan, that appropriate information has been gathered, that people will be properly involved and that, ultimately, developments will be delivered in line with the vision in the local development plan.

1.34___ We do not suggest removing examinations altogether but we agree with the independent panel that earlier scrutiny in the plan preparation process would be helpful. We propose that plans should be 'gatechecked' by an independent reporter at an early stage before the draft plan is prepared. Planning authorities would need to pass this stage before they can go ahead with developing and consulting on their draft plan. The gatecheck would establish whether the technical evidence is sufficiently sound to prepare a deliverable spatial strategy. We believe the following matters could usefully be assessed at this early but critical stage:

- That the development plan scheme sets out how the local community will be involved in developing proposals for change and has been framed in consultation with the relevant community councils.
- That the plan takes account of community planning.
- That the key outcomes required from the plan have been clearly defined.
- That the amount of land needed for housing over the plan period has been agreed.
- That the required environmental assessment work, including a flood risk appraisal, is carried out.
- That there has been an audit of existing infrastructure levels and necessary interventions have been prioritised, including the plan's transport appraisal and other types of infrastructure

1.35___ We propose that gatechecks are chaired by independent reporters from the Directorate for Planning and Environmental Appeals (DPEA) and supported by relevant specialists. Including the views of a citizen's panel at this stage would also support our broader aim of empowering communities. If necessary and appropriate, consideration could be given to using professional mediation to further resolve any issues arising at this stage.

1.36___ We recognise that as the preparation stage of a plan progresses, there may still be some issues to deal with and that an examination towards the end of the process may still be needed. Before the plan is finalised, we propose that unresolved issues would still be dealt with by an examination. We expect that the earlier gatecheck would mean there is less scrutiny at this stage and that this would reduce costs and timescales.

1.37___ Alongside these proposals for change, we believe we can work with planning authorities to make sure that the evidence base for local development plans is more streamlined and effective. Research into the Strategic Environmental Assessment (SEA) of development plans is underway, with a report due to be published later this year. We expect the findings of this research will help us to better understand how future assessment and reporting requirements could support and be proportionate to a new planning system. We have also made proposals on planning for housing in section 3 which aim to simplify requirements for defining housing figures within development plans.

1.38___ The whole local development plan process must be accompanied by strong project management and this should be a priority for further planning skills development.

South Ayrshire Local Development Plan (LDP)

The 2016 overall winner of the Scottish Awards for Quality in Planning was South Ayrshire Council. Its South Ayrshire Local Development Story Map is an online, interactive LDP, designed to be in a user-friendly and non-technical format. Layers of information, reflective of the local area, and building on a solid approach to mapping, have led to transformational change across the authority.

Proposal 5: Making plans that deliver

1.39 Decisions on planning applications should be made in accordance with a development plan which has been properly evidenced and prepared with the involvement of local people. However, at present some practices undermine the role of development plans. We want that to change, so that allocation of a site in a development plan gives more certainty that development will happen.

1.40 Where a plan is prepared with the local community and developers, it should be accepted that other proposals, which could undermine the plan's aims, will only be supported following additional scrutiny. Local authorities and infrastructure providers should be clear that they have shared responsibility to fulfil the commitments set out in the plan.

1.41 Proposed housing developments should be fully supported by the development plan. For developers and investors, an allocated housing site within a plan should bring certainty and confidence in the principle that development of the site will proceed in line with the delivery programme, providing more detailed considerations are addressed. Infrastructure providers also need to be convinced that allocated sites will be taken forward as programmed. Greater confidence in the deliverability of allocated sites should also mean there is greater confidence that other areas will be protected.

Planning permission in principle for allocated sites

1.42 We commissioned research⁵ to consider whether planning permission in principle should be attached to allocated sites within the development plan. The research has found that there is 'conditional support' for the proposed reform, but that this is 'complex and nuanced.' We have reservations about the amount of upfront work that would be needed to achieve this, and the implications arising for all those concerned as well as for development planning procedures. This would also need to be fully in line with and meet all European obligations for environmental assessment.

1.43 Whilst we agree that this approach has potential benefits, we are concerned that it may provide limited benefits which do not outweigh the extra time and complexity it would add. We would

like to hear people's views on whether this change would be either necessary or helpful, taking into account the research findings. We believe that a more strategic, zoning approach to housing allocations, such as improving the use of Simplified Planning Zones, could be a simpler way of strengthening the development plan and establishing the need for development at an early stage (see section 3).

A stronger commitment to delivery

1.44 There are other ways in which plans can provide more certainty. We propose the following:

- Setting out the minimum level of information needed to support allocations within the development plan. This will ensure consistent information is available and that there is enough detail to allow the planning authority to make an informed appraisal. It will also increase confidence that if a site is included in a plan, it can be delivered.
- Information on site assessment to be submitted by the site proposer and appraised before any site is allocated in the plan. This would include economic and market appraisal information to provide greater confidence about the effectiveness of sites and when they can be delivered. This could also allow for closer monitoring of performance. We recognise that this could have implications for resources – we would consider the practicalities of this in more detail if it is agreed that it should be taken forward.
- Encouraging a broader, zoned approach to meeting short and longer-term housing needs. Rather than piecing together individual sites promoted by developers, we want planners to have the confidence to guide how an area should grow over the long term. Priority sites should also be identified and enabled as far as possible.
- Stronger measures for public involvement for sites that have not been included in the plan. There must be good involvement in the development plan, so that sites which are allocated are fully discussed with communities before they are confirmed as allocations. For sites where there has not been this involvement as part of the plan making process, we think it is reasonable to expect developers to engage more with communities. Our proposals for fees (section 4) and increased community involvement (section 2) support this. It could also be argued that there should be less consultation on allocated sites, for example by reducing or removing

⁵ Research project to consider planning permission in principle for sites allocated in the development plan: Ryden in association with Brodies (December 2016) <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system>

requirements for consultation before the application is made. We would welcome views on this.

- Working with the statutory key agencies to make sure that their engagement at the development plan allocation stage is meaningful and informed by appropriate evidence. If they have agreed to a site being allocated in a plan, the key agencies and other infrastructure providers should not be in a position of advising against the principle of development on the site later on, unless there has been a clear and significant change in circumstances. Further front loading of engagement and evidence gathering in this way could have resource implications that will need to be considered further.

Programming delivery

1.45___Plans must lead to development on the ground. In practice this has proved challenging. While planning can set out what should happen in the future, achieving this depends on partnership with and buy-in from a wide range of public and private sector bodies.

1.46___We propose replacing ‘action programmes’ which support development plans with stronger ‘delivery programmes’ which have a clearer purpose. Delivery programmes would be a more major part of the development plan and we would want to see a stronger requirement for local authority-wide involvement in them, as well as other stakeholders with an interest in their delivery. We would expect delivery programmes to be detailed and practical. We would also expect planning authorities to monitor the programmes to identify whether commitments to deliver are being met. There may be scope for wider improvements to how information is managed to support delivery programmes. This will be considered further by the digital task force (section 4).

1.47___A sharper focus on delivery could introduce extra demands on time and resources for local planning teams. The move towards a longer review period is also intended to enable a stronger focus on delivery to emerge. Wider expertise may be required to address matters such as development economics, programming and costing of infrastructure. However, this would be a worthwhile investment if it leads to a far more thorough assessment of how the plan performs and stronger evidence for action. It would also help to reduce the level of work required at the development management stage.

1.48___We will therefore work with partners to support additional training and guidance to improve the preparation and monitoring of local development plan delivery programmes. We recognise that there are different delivery challenges in different parts of the country and will use pilot work to explore this further in collaboration with the Scottish Futures Trust. This will help to build skills and provide insights into how they can become more purposeful delivery programmes in the future system.

MAKING PLANS FOR THE FUTURE – CONSULTATION QUESTIONS:

KEY QUESTION

**A: Do you agree that our proposed package of reforms will improve development planning?
Please explain your answer.**

Optional technical questions

1. Do you agree that local development plans should be required to take account of community planning?
2. Do you agree that strategic development plans should be replaced by improved regional partnership working?
 - 2(a) How can planning add greatest value at a regional scale?
 - 2(b) Which activities should be carried out at the national and regional levels?
 - 2(c) Should regional activities take the form of duties or discretionary powers?
 - 2(d) What is your view on the scale and geography of regional partnerships?
 - 2(e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?
3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?
 - 3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?
4. Do you agree with our proposals to simplify the preparation of development plans?
 - 4(a) Should the plan review cycle be lengthened to 10 years?
 - 4(b) Should there be scope to review the plan between review cycles?
 - 4(c) Should we remove supplementary guidance?
5. Do you agree that local development plan examinations should be retained?
 - 5(a) Should an early gatecheck be added to the process?
 - 5(b) Who should be involved?
 - 5(c) What matters should the gatecheck look at?
 - 5(d) What matters should be the final examination look at?
 - 5(e) Could professional mediation support the process of allocating land?
6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?
7. Do you agree that plans could be strengthened by the following measures:
 - 7(a) Setting out the information required to accompany proposed allocations
 - 7(b) Requiring information on the feasibility of the site to be provided
 - 7(c) Increasing requirements for consultation for applications relating to non-allocated sites
 - 7(d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application
8. Do you agree that stronger delivery programmes could be used to drive delivery of development?
 - 8(a) What should they include?

02

**PEOPLE
MAKE THE
SYSTEM
WORK**

We want Scotland's planning system to empower people to decide the future of their places.

Proposal 6

Giving people an opportunity to plan their own place

Proposal 7

Getting more people involved in planning

Proposal 8

Improving public trust

Proposal 9

Keeping decisions local – rights of appeal

2.1___ People are at the heart of our proposals for reform. Everyone should have an opportunity to get involved in planning. People care about the places where they live, work and play, but many find the planning system complicated and uninspiring.

2.2___ We need a planning system that reaches out to people and encourages them to welcome and influence change. Previous reforms and legislation aimed to achieve this by giving people better opportunities to be informed and consulted early in the planning process. However, since then, a movement of community empowerment has grown across Scotland and public service reform has required service providers to respond to the principles of prevention, partnership, people and performance.⁶

2.3___ People rightly expect to have a stronger say in the decisions that affect them and their communities. Future changes to the planning system offer a valuable opportunity to achieve this. Moving from just informing or consulting people to involving them will take time and effort, but will improve confidence and trust in planning and lead to better outcomes.

Proposal 6: Giving people an opportunity to plan their own place

2.4___ We want to give people a stronger say in the future of their own place. New opportunities can arise where local people actively design, rather than comment on plans for the future. Local people know how their places work now, and are well placed to be involved in deciding how they can be improved in the future. Within any community there are many different views and priorities. However, where there are good opportunities for these to be fully discussed, people can reach a shared understanding on how future change and development can improve, rather than undermine, quality of life.

2.5___ Planning can lead a full and open discussion on the location, scale, pace, and design of change and development in our communities. To make that happen, planners need to do much more than simply consult communities on proposals from their local authorities or developers. People, and the relationships between them, are the key to successful planning. Community trust in the system can only grow if everyone is given a meaningful opportunity to get involved.

2.6___ We think that it is important to create a new right for communities to prepare plans for their own places. This could be achieved by giving communities the powers to create their own 'local place plans' and for these plans to be used as a framework for development within local development plans.

2.7___ We do not want to promote unreasonable protectionism. We believe that local place plans should help to deliver development, so that the choices that one community makes do not unfairly put pressure on others to take on a greater share of development. We want to see plans where communities say what they themselves will do to help deliver change in a sustainable way. Some communities have been doing this already, and we want others to get involved.

2.8___ In England 'neighbourhood plans' brought forward under the Localism Act (2011) give people the opportunity to influence the future of the place where they live or work. We want to consider similar opportunities for communities in Scotland. Whilst there is an existing space for community-led plans, there is no statutory link between such plans and the local development plan. We agree with the independent panel that community-led plans should have a clear connection with the statutory development plan. However, we also recognise that it is unlikely that all communities will have their own plans for some time. Building a culture of empowerment in planning so that people feel willing and able to bring forward their own plans will take time and an investment of resources.

2.9___ We have set out some possible key ingredients of local place planning in Figure 1. We propose changes to legislation which:

- Allow communities to prepare local place plans that set out where development requirements, as defined by the broader local development plan, can be met; and
- Place a duty on planning authorities to adopt these plans as part of the statutory development plan if the above requirement is met.

2.10___ We would support this with policy and guidance which makes sure that these plans begin to emerge as early as possible in the local development plan making process. To help inform this, we will commission further research to explore options for local place plans in more detail.

⁶ Commission on the Future Delivery of Public Services (2011) www.gov.scot/resource/doc/352649/0118638.pdf

Figure 1: Key considerations for local place plans

Pre-plan preparation

- Community bodies should be able to register their interest with a local authority if they want to prepare a local place plan. Community bodies could include existing groups (for example community councils) or any group of a certain size/location. Definitions of a range of community bodies can be found in land reform and community empowerment legislation and we would consider this further.
- Local authorities would have a duty to consider applications from community bodies to prepare a local place plan and will need to monitor activity in its area. Where available this could be supported by the use of digital mapping.
- Community bodies should give some indication of:
 - The boundary of the area the local place plan will cover. In many cases communities could define their own areas, but in others the local development plan or locality plans could highlight where they would add most value.
 - Who they have (and intend to) involve and how, whether there is wider community interest in a local place plan, and the issues it would cover.
- If a community body is endorsed by the local authority, it would be this body the local authority empowers to prepare a local place plan.
- Where another body wants to make proposals under community empowerment or land reform legislation, these proposals could help to shape both the local place plan and local development plan. We would encourage communities to work together and with others.

Plan preparation

- It is the community body's responsibility to prepare the plan. They must make sure that the plan is: generally in line with local and national planning policies and other legislation; that they consult their community and get their approval; and that the plan plays a positive role in delivering development.
- Local place plans need a mechanism to 'sign them off'. In England, a referendum is held and if more than 50% of the vote is in favour of the plan it is approved. While we agree with this in principle, it can introduce further costs and so we will look at using information technology to make this part of the process affordable in the event that this proposal is supported.
- Local authorities would have a duty to adopt the local place plan as part of the local development plan, unless they think the plan opposes the wider aims of the local development plan. The issues above can be assessed at the proposed development plan gatecheck.
- Arrangements for local place plan proposals to be rolled forward into replacement plans would need to be included in legislation or guidance but could be partly addressed by new powers to update plans.
- If the local authority does not adopt the local place plan as part of the development plan, the community body could appeal to Scottish Ministers.

Building local community capacity

2.11___ We will also continue to support innovation and the use of new techniques for involving communities in development planning and decision making.

2.12___ Through our design-led ‘charrette’ programme we have supported communities to take part in planning. Whilst there are many excellent examples of communities being proactively involved, we believe that action needs to be prioritised in and around communities where change is needed most. By refocusing and adding to our funding programme to support involvement, including charrettes, in the coming years we will help communities with the greatest levels of need to develop plans for their area as a priority. Community Planning can help to show where that investment can best be targeted.

2.13___ We recognise that communities vary and they may come up with a range of plans. Our proposals would not try to fully control the form that local place plans might take. For example locality plans which emerge as part of wider community planning could also be used in development planning where land use is relevant. We would welcome views on how communities might be identified and defined in the legislation and your ideas on the process that communities could follow when preparing local place plans, as set out in Figure 1.

2.14___ Section 1 sets out our proposals to improve development plans. It is vital that communities play an active role in preparing local development plans for their areas. Community councils already have a statutory role in the planning system and could play a key part in empowering people to get involved in planning. There are also many other organisations which could contribute to local place planning, and we expect that growing empowerment will add to this in the future. Current legislation says that community councils must be told when a development plan main issues report has been published. While we recognise that this is the legal minimum and that many planning authorities will do much more, we consider that there is value in providing more opportunities for community councils to be involved in preparing local development plans.

2.15___ We propose giving community councils a stronger role in planning by introducing a new duty to consult them in preparing plans. While in many cases, community councils will already be actively engaged in development planning, we believe that wider changes to the way in which plans are prepared (as set out in section 1) could include a stronger role for communities at key stages of decision making.

Isle of Rum – Community Land Use Plan

In 2015 the Isle of Rum Community Trust were assisted by PAS to produce a community land use plan. The community worked in partnership with organisations including The Highland Council and Scottish Natural Heritage to explore how its aims of increasing Rum’s population to a more sustainable level, offer a better range of housing and improve tourism could be achieved. The plan needed to carefully balance these aims with protection of the unique natural and built heritage of the island. The collaboration produced a plan which was effectively ‘owned’ by the community. The plan was subsequently adopted by The Highland Council as supplementary guidance, which in turn forms part of the statutory local development plan.

2.16 We also recognise that we need to provide support, training and guidance to help make sure community councils realise their full potential to contribute to the planning process. We offer support to community councils by working with the Improvement Service, Edinburgh Napier University and the Community Council Liaison Officers to encourage networking and the sharing of good practice. This has included launching a community council website (www.communitycouncils.org.uk); funding a series of digital engagement workshops for community councillors; hosting networking events for Community Council Liaison Officers (CCLO) twice a year; and setting up a CCLO knowledge hub to support improvement and development.

2.17 As these organisations are voluntary and therefore limited in what they can achieve, we will continue to encourage them to engage earlier in the process to help them actively shape proposals rather than just react to them. We do not believe that existing arrangements for community councils to be consulted on planning applications should be removed.

Design-led Charrettes and the 2016-2017 Activating Ideas Fund

The Scottish Government provides funding to help community groups, local authorities and third sector organisations design the future of their areas. Charrettes can bring together views about how an area should change and use these views to form proposals which are explored and tested in a collaborative way over a focused timeframe. The approach is design-led – it allows options for change to be clearly visualised, and in turn this has helped to inspire a much wider range of people to get involved in planning. This year, the programme has been accompanied by an opportunity to access further funds which can be used to help deliver the outputs from charrettes.

Proposal 7: Getting more people involved in planning

2.18 Local authorities and organisations, including community councils, can do more to make sure that a broader cross-section of society takes on the challenge of active citizenship and gets involved in planning.

Children and young people

2.19 Children and young people have a significant and particularly relevant contribution to make to deciding the future of our places. The United Nations Convention on the Rights of the Child⁷ states that the best interests of the child must be a top priority in all decisions and actions that affect children. This underlines the role that planning should play in creating good quality places that provide opportunities for leisure, play and culture, and support the children's right to have the best possible health. Plans which are put in place now will decide where and how today's children will live and work in the coming decades. For example, decisions affecting climate change are relevant not only to people now, but also to future generations.

2.20 The independent panel recommended that there should be a new right for young people to be consulted on the development plan. Set within the framework of public bodies duties under both equalities legislation and arising from Article 12 (the right to an opinion and for it to be listened to and taken seriously) of the Convention, we are already aware that planning authorities are working to involve children and young people in their development plans. Examples in Aberdeen City, Dundee City, Tayplan and Highland have been recently recognised in our Scottish Awards for Quality in Planning.

2.21 It could therefore be suggested that planning authorities already have the scope to involve children and young people in their development plans. Recent draft guidance on Children's Service Plans noted a wide range of existing structures to support the engagement of children and young people e.g. local youth councils, pupil councils, young people's organisations, young people's committees and other formal and informal structures.

2.22 However, the independent panel reported that they had found little evidence of engagement with young people. We agree that more can be done to actively promote these examples rather than introduce a statutory requirement prioritising enhanced engagement for one set of people over another.

2.23 We will therefore bring forward proposals that will require planning authorities to consult more widely, including by using methods that are likely to involve children and young people in the process. We will do this as a priority through secondary legislation using existing powers and recommend that the early examination gatecheck includes a test of the steps taken by the planning authority to engage children and young people in preparing the development plan. In addition, we will encourage planning authorities to work with organisations such as YoungScot, Youth Scotland, the Children's Parliament and PAS to develop and expand the use of innovative methods for involving children and young people in planning.

⁷ <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

2.24 We would like to work with other organisations to support planning authorities to work with schools to educate and involve young people across Scotland in planning. We will also show what can be achieved by specifically seeking to involve children and young people in preparing national planning policies. The Place Standard⁸, a simple tool that is available for anyone to use, provides an excellent opportunity to involve people of all ages and have conversations about the quality and future of our many different places. The Royal Town Planning Institute has also been working to inspire young people who may be interested in a career in planning, and Scotland benefits from an active network of young planners.

Barriers to engagement

2.25 We recently commissioned research to identify the factors that limit involvement in the planning system. We will consider the findings of this work and take appropriate steps to ensure that the barriers to involvement for all groups within society are tackled.

Greening Dunfermline Town Centre – A Placemaking Approach Led by Young People

The Scottish Government supported Greenspace Scotland to work with Youth Scotland, Youth First and the Fife Youth Advisory Group on a pilot placemaking project to improve the town centre in Dunfermline. The project trained and empowered young people to develop their role in helping to lead changes to their places. It used innovative, interactive ways of engaging people in planning and delivering town centre improvements. The young people used tools (the Place Standard and the Town Centre Toolkit) and this led to working with the local community to find opportunities for urban greening and increasing the connections between local greenspaces and the town centre, and making it a more attractive and enjoyable place. You can find out more details about the project at: http://www.scotlandstowns.org/greening_dunfermline_town_centre

⁸ <http://www.placestandard.scot/#/home>

Proposal 8: Improving public trust

2.26 Planning authorities can go further to make sure they actively involve people. In preparing a development plan, there is already a requirement to set out how consultation will be undertaken. Some authorities have used imaginative and inspiring ways to involve people in preparing their development plan, but there is still room for improvement. People are contributing their own time when they get involved in planning, and we must use that time effectively.

Development Plan Schemes

2.27 Development Plan Schemes define how and when people will be involved in preparing development plans. There is currently no requirement to consult on the content of development plan schemes. We propose requiring that community councils are involved in their preparation and will also extend this to the key agencies and other infrastructure providers. Measures to involve children and young people should be set out within the Development Plan Scheme. To reflect the need for shared corporate 'ownership' of the development plan, the development plan scheme should also have the input and authorisation of the local authority convenor and chief executive.

2.28 While additional involvement at this stage may add a little time to the plan preparation process, this will help to ensure that people are able to shape how, when and why they get involved at each stage in the development planning process. We also propose that the new early stage independent examination of development plans allows for the approach to community engagement to be agreed alongside key components of the plan's evidence base.

Engagement in development management

2.29 Involvement in planning is not just a matter for the public sector. Developments where the existing community have been fully involved from the start can often have a smoother journey through the planning process. At present, many developers consult local people on their plans for major developments but the effectiveness of current arrangements varies. While there are examples of good practice, limiting consultation to the current statutory requirements can mean that communities remain frustrated, uninvolved and often disappointed that their views do not appear to have been heard. In turn, this can lead to conflict, undermine positive

outcomes and eventually result in substantial costs and delays.

2.30 Developers can benefit where they take communities with them, rather than meeting local resistance to change at every stage. Communities also have much to gain from helping to shape change, rather than reacting to it. Planning must be done with, rather than to, communities.

2.31 Involving people more fully at an early stage is essential. Whilst we can achieve much through training and good practice, we also want to look at how the statutory requirements can be improved to encourage everyone to get involved at the earliest stage possible. Planning authorities are already able to require further involvement beyond the statutory minimum.

We propose:

- To improve and clarify the statutory requirements for pre-application consultation (PAC) for major and national developments, for example to require developers to hold more than one public meeting. We will consider how any second meeting or event can focus on giving more active feedback to communities. This will make sure that communities hear how their views have been taken into account before any formal planning application is submitted. We also recognise that the quality of the conversations which are held is fundamentally important, and that procedures will need to be supported by training and improved practice to make sure that people are listened to properly. We would welcome views on whether this can be accommodated within the current 12 week statutory timescale.
- To strengthen requirements for community involvement in the case of development sites which have not been allocated in the development plan. As noted in section 1, we believe developers should have to undertake fuller and more meaningful engagement as the site will not have been discussed with the community while the plan was being prepared. We propose requiring that both the local authority and relevant community council should agree the approach to be taken for these cases and the cost should be met by the site promoter.

2.32 Alongside this, we also want to see high quality and innovative training of the development sector in community involvement as a further priority. Much can be achieved from our continued work to mainstream the use of the Place Standard tool in informing plans and decisions.

Repeat and retrospective applications

2.33___The independent panel reported that repeat applications can cause communities concern by contributing to a sense of frustration and undermining their trust that views are being listened to. Some applicants may also be reluctant to withdraw inactive or so-called 'legacy cases' from the system in order to keep their right to submit a further application for no additional fee.

2.34___We propose:

- Removing the applicant's right to submit a revised or repeat application at no cost if an application is refused, withdrawn, or an appeal is dismissed. Requiring a fee for all applications for planning permission is proposed to encourage a 'right first time' approach, to help to address community concerns and reflect the cost of processing repeat applications.
- Substantially increasing fees in cases requiring retrospective planning consent.

2.35___Our wider proposals on planning fees (section 4) also aim to encourage fuller involvement in the planning process and deter practices which undermine community trust in the planning system.

Enforcement

2.36___It is important that development receives appropriate consent and that unauthorised development is minimised. People lose confidence in the system where unauthorised development is undertaken whilst the vast majority respect due process.

2.37___The integrity of the development management process depends on the ability of planning authorities to take effective enforcement action where necessary. Public trust can be undermined where unauthorised development, which is unacceptable in planning terms, is allowed to go ahead without intervention. Research⁹ into planning enforcement in Scotland shows that the overwhelming majority of enforcement cases are resolved informally and flexibly. As a result, much of the enforcement activity carried out by authorities may go unrecorded in national data. Nevertheless, appropriate powers must be available to deal with

those breaches which cannot be resolved like this or in cases which merit formal action.

2.38___The Planning etc. (Scotland) Act 2006 introduced stronger powers for planning authorities to take formal action to deal with cases where there has been a breach of control. We believe that there is scope to further improve how planning enforcement works. As well as proposals to increase fees for retrospective applications, we propose the following:

- To make it easier for planning authorities to recover costs associated with taking enforcement action. If, for example, planning authorities incur costs through taking direct action against a landowner who has not complied with the requirements of enforcement notices, the landowner could be required to pay these costs. Introducing charging orders similar to those available in building standards legislation could help to ensure that planning authorities can recover their costs from the person responsible.
- To substantially increase the financial penalties for breaches of planning control.

2.39___We will also continue to work with Heads of Planning Scotland (HoPS) and planning enforcement officers to develop good practice and consistent approaches to planning enforcement across Scotland.

⁹ Planning Enforcement in Scotland: Research into the use of existing powers, barriers and scope for improvement. <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system/>

Proposal 9: Keeping decisions local – rights of appeal

2.40 There have been calls for planning reform to introduce a third party right of appeal, also referred to as an ‘equal’ or ‘balanced’ right of appeal. We believe that this would work against early, worthwhile and continuous engagement that empowers communities by encouraging people to intervene only at the end of the process rather than the beginning where most value can be added. This would also ignore the important role of elected members in representing communities in planning decisions and community involvement in the development plan process, whilst delaying and undermining much needed development. Nationally, it would be a disincentive to investment in Scotland, compared to other administrations and, moreover, mean that more decisions are made by central government, without such a right necessarily being representative of the wider community. We support the view of the independent panel on this issue and do not propose a new right of appeal for third parties to challenge development decisions.

2.41 However, we recognise that there are opportunities to look at how we can improve communities’ trust in the planning system in a more positive way, and so we are now asking for views on the degree to which more decisions should be considered locally.

2.42 It is important that applicants have recourse to a review of a decision on a planning application. Local review bodies were established by the Planning etc. (Scotland) Act 2006 to review decisions on certain ‘local developments’¹⁰ where that decision was taken by a planning officer, rather than by elected members. We believe there is scope to build on this move towards greater local responsibility by:

- Expanding the range of planning applications which are subject to local review. We will review the hierarchy of developments to explore the extent to which reviews of decisions can be handled locally.
- For major developments which accord with the development plan, we think there could be scope for decisions granting permission to be determined under delegated powers and reviewed by the local review body rather than appealed to Scottish Ministers.

- Making provision for a wider range of other consents to be delegated. This would allow decisions on applications to be reviewed by the local review body, rather than appealed to Scottish Ministers.

2.43 Apart from the cases that are currently handled by local review bodies, all other appeals are submitted to Ministers and most are decided by an independent reporter. If fewer appeals are determined centrally, this would allow Ministers to make more decisions themselves, rather than delegating most decisions to reporters. We would welcome views on whether this would help to ensure there is democratic accountability at all levels. In all cases, a professional planning view would still be needed, and that view would need to be taken into account when making decisions.

2.44 We realise that the success of this change depends on the ability of the decision makers to make sound decisions that are rooted firmly in clear planning principles and policies. We are therefore also proposing training for all local elected members who are involved in a planning committee or a local review body and would welcome views on whether they should be tested on completion of training.

2.45 The appeal process can add significant administrative cost and, where decisions are not made swiftly, this can involve all parties in further delay. We therefore propose to introduce a fee both for appeals to Ministers and for a review of a planning decision by the planning authority. These measures, together with those in section 4, are intended to move decision-making to the appropriate level of government whilst recognising the need to fund the planning system more effectively.

2.46 In all these decisions, we agree with the independent panel that those making the decisions should clearly summarise in their decision notice how community views have been taken into account. We will address this through guidance and practice.

¹⁰ Local developments are those which are not categorised as either major developments in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 or as national developments in the National Planning Framework (NPF).

Recognising the distinctiveness of all our communities

2.47___ We recognise that planning in our island communities presents a different set of issues to many other parts of Scotland. Whilst Scotland's inhabited islands are diverse, they share particular challenges, including added development and infrastructure costs. Development in an island setting tends to be more gradual and finely grained and so changes to the planning system which focus on larger scale development are less likely to be relevant. Island communities can be particularly vulnerable to the impacts of climate change, including increased severe weather events and coastal erosion. More immediately, running a planning service in these circumstances can bring logistical challenges.

2.48___ There are also island-specific opportunities, including a more readily identifiable community, strong local relationships extending to a tradition of self-sufficiency in many places, and a resource-rich high quality environment that supports good quality of life.

2.49___ An improved planning system should respond to the unique circumstances of all our communities and this principle underpins many of the wider proposals set out here. For example, some scope to depart from national policy within the local development plan will benefit island communities where their circumstances demand a more tailored approach. Island communities could also lead the way in putting many of the proposed changes in place, including by preparing local place plans. The proposals to broaden the scope for regional working could help the authorities to share skills to help address resourcing challenges.

2.50___ Alongside our work to develop more detailed proposals for the Planning Bill and accompanying non-legislative changes, we will continue to work with the six local authorities who are represented on the Islands Strategic Group, to ensure any proposals for change are sufficiently flexible to respond to their unique but varied local circumstances. We will also look at opportunities for innovation, including using digital technology to overcome travel and distance barriers.

2.51___ We have also considered the independent panel's recommendation that the powers of the Cairngorms National Park Authority should be reviewed. Whilst the arrangements for planning in the Cairngorms vary from those in the Loch Lomond and The Trossachs National Park, we recognise that the character, capacity and sensitivities of each park are also quite distinctive. As a result, we are not proposing to debate or change these arrangements as part of the wider review of the system as a whole.

2.52___ We are aware that a well-functioning planning system is vital for the business activities of Scotland's farmers and rural communities. We will be examining a number of planning issues, such as permitted development rights, which could potentially contribute to the development of economic activity in rural Scotland. We will also be examining what measures need to be taken to increase the supply of affordable housing available for retiring tenant farmers.

PEOPLE MAKE THE SYSTEM WORK – CONSULTATION QUESTIONS

KEY QUESTION

B: Do you agree that our proposed package of reforms will increase community involvement in planning?
Please explain your answer.

Optional technical questions

9. Should communities be given an opportunity to prepare their own local place plans?
 - 9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?
 - 9(b) Does Figure 1 cover all of the relevant considerations?
10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?
 - 10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?
11. How can we ensure more people are involved?
 - 11(a) Should planning authorities be required to use methods to support children and young people in planning?
12. Should requirements for pre-application consultation with communities be enhanced?
Please explain your answer(s).
 - 12(a) What would be the most effective means of improving this part of the process?
 - 12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?
 - 12(c) Are the circumstances in which PAC is required still appropriate?
 - 12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?
13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?
14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?
15. Should current appeal and review arrangements be revised:
 - 15(a) for more decisions to be made by local review bodies?
 - 15(b) to introduce fees for appeals and reviews?
 - 15(c) for training of elected members involved in a planning committee or local review body to be mandatory?
 - 15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?
16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

03

**BUILDING MORE
HOMES AND
DELIVERING
INFRASTRUCTURE**

We want Scotland's planning system to help deliver more high quality homes and create better places where people can live healthy lives and developers are inspired to invest.

Proposal 10

Being clear about how much housing land is required

Proposal 11

Closing the gap between planning consent and delivery of homes

Proposal 12

Releasing more 'development ready' land for housing

Proposal 13

Embedding an infrastructure first approach

Proposal 14

A more transparent approach to funding infrastructure

Proposal 15

Innovative infrastructure planning

3.1___ More must be done to support the delivery of the homes that people need, now and in the future. This is a high priority. While many factors are currently limiting the number of homes being built across Scotland some of the solutions need to come from the planning system. Planning can assist by ensuring enough land is available for development, but can go further by actively enabling development. Infrastructure has a critical role to play in supporting housing delivery.

3.2___ The benefits of housing development go beyond making sure that everyone has somewhere to call home. Health and improved quality of life is supported by well designed, functional places. Housing in the right places can help to sustain community facilities, contribute to the economy and support jobs in the construction sector. The need to deliver more homes is in all our interests.

3.3___ We agree with the independent panel that planning must move away from debating overly complicated housing figures and focus much more on enabling development. We must all adapt to different market circumstances if the development sector is to contribute to the wider outcomes communities need. Existing communities have a critical role to play in accepting that further development is necessary if we are to ensure that everyone has a home. Developers also need to work effectively with planning authorities and communities to achieve this.

Proposal 10: Being clear about how much housing land is required

3.4___ We believe that there is a need to change the way we plan for housing. We agree with the independent panel that there is too great a focus on debating precise numbers rather than delivering development and creating good quality places to live.

3.5___ We need to act now to resolve ongoing challenges in housing delivery. Changes in practice could have a more immediate impact than statutory amendments. We want to introduce a more strategic and aspirational approach to establishing the number of homes required at a higher level. By agreeing the amount of land required for housing much earlier in the plan preparation process, planning and housing authorities, developers and communities can move forward and focus on delivery.

National aspirations for housing development

3.6___ The independent panel called for housing targets to be set nationally. We are also aware that planning and housing authorities will need to continue to collaborate and engage with stakeholders locally, to make sure there is proper consideration of local circumstances and commitment to delivering on the targets which are agreed. National or regional targets within the National Planning Framework (NPF) could provide some clarity, but would have little practical effect if it is not consistent with local and developer priorities and commitments to investment.

Glasgow Commonwealth Games Athletes' Village – Low Carbon Infrastructure

The Athletes' Village is a 35-hectare residential community now established in the East End of Glasgow. The 700 homes and 120-bed care home, as well as the adjacent Emirates Arena, are powered by a district heating system comprising a combined heat and power energy centre and 28km of pre-insulated pipes supplying heat and constant hot water. The system is approximately 30%-40% more efficient than conventional heating schemes, providing residents with substantial cost benefits. This system, alongside a Fabric First Approach to housing design as well as the use of solar PV panels, contributed to a 95% carbon reduction on 2007 levels. To ensure the site remains sustainable for years to come, the energy centre has been future-proofed to include capacity for an additional combined heat and power engine, boiler and thermal store. This will accommodate connection to further phases of housing development planned for the site. When fully operational it will also generate and export electricity to the national grid.

3.7 Fundamentally, we want to improve the focus on delivery and quality of place-making but also provide greater clarity and confidence on planning for all those involved. To support this, we agree that the National Planning Framework (NPF) should be clear on our national and regional aspirations for housing delivery, and for these aspirations to be used to guide and inform the way we plan for housing at the local level. The estimated range of homes required over a 10-year period could provide a clear picture of what we are working towards, but also be sufficiently flexible to allow for changing market circumstances.

3.8 We have undertaken some initial work to explore how this could be achieved. The independent panel recommended that we strengthen the links between local authority housing strategies and local development plans. We have already made progress in reducing the debate around housing figures, by ensuring that the Housing Need and Demand Assessment (HNDA), which provides the evidence base for land use planning and housing policy, is submitted to our Centre for Housing Market Analysis for appraisal as 'robust and credible'. This, together with the development of the HNDA Tool, is helping to reduce the cost and complexity of HNDAs, and limits the debate on numbers to an extent.

3.9 Several changes could be explored further:

- The HNDA tool can be used to quickly derive housing estimates under a range of scenarios. These estimates could be produced on the basis of agreed policy assumptions so that the National Planning Framework (NPF) provides a strategic steer on national and regional aspirations for housing.
- Providing more support to local authorities and certainty to developers by 'signing off' the number of homes that are needed at an early stage in the production of local development plans. This could be done either centrally, or through the early gatecheck that is proposed to form part of the examination process.
- Improving monitoring of housing land availability, including by making audit information more transparent through publication of a housing sites register online.

3.10 Views on these options would be welcome. On the basis of the responses to the consultation, we will revisit policy and guidance on effective housing land and related guidance to housing managers.

Proposal 11: Closing the gap between planning consent and delivery of homes

3.11 ___ We are already taking steps to support housing delivery. Our More Homes Scotland approach supports an increase in the supply of homes across all tenures, and a commitment to deliver 50,000 affordable homes over the current parliamentary term. The approach includes more investment for housing, from support for the affordable housing target to a Rural Housing Fund and Housing Infrastructure Fund.

3.12 ___ To further support housing delivery, planning needs to play a different role in delivering good quality homes in the right locations. More attention needs to be given to delivery, including place making principles. Planners should be pro-actively involved in securing development on the ground rather than reacting to proposals for housing. Planning authorities should work with others to define where development should take place in an agreed plan, and secure commitments to its delivery from all relevant parties. They need to be clear on infrastructure requirements, its cost and how it will be financed.

3.13 ___ The development of housing can be complex, involving developer, market and financial confidence. The gap between the numbers of planning consents which are granted each year and the number of homes which are built needs to be closed.

Actively enabling development

3.14 ___ Sites which are not being progressed are not only lost opportunities, but undermine the purpose of the local development plan by adding to the pressure for land to be released elsewhere. A stronger focus on the local development plan delivery programme can go some way towards improving our understanding of what makes a development happen or not happen. In turn this can improve the capacity of planning authorities to make informed decisions when allocating land for housing in the plan and granting consent.

3.15 ___ Land allocated in development plans needs to be supported by appropriate evidence that it can be developed. More can also be achieved by having a sharper focus on delivery of development proposals at the application stage. We propose also requiring, as part of national standards on validation requirements, that all major applications for housing are accompanied by appropriate information on the development viability. This will help planning authorities to identify and address any delivery

blockages. We recognise that there are some challenges, as well as benefits arising from this proposal. To ensure clarity and to avoid delay at validation stage, further guidance on this would be needed.

3.16 ___ If a site does not progress as predicted in the local development plan delivery programme or if there is insufficient evidence that an application is deliverable, a range of tools are already available to planning authorities so that they can manage the situation. Using existing land assembly powers, local authorities can enable development themselves, remove the allocation from the plan or bring forward alternative sites instead. We want to see more planning authorities and their partners intervening to unblock developments using these and other tools.

3.17 ___ It is currently unusual for a planning authority to take such steps. A change in direction is needed so that we can unlock housing sites for development, make sites available at a range of scales, and ensure that rates of house building increase. Rather than simply allocating land and waiting for development to commence, planning authorities should actively seek out new ways of delivering development where progress is slow. There is a need to increase choice in the housing market, and to support progressive local authorities who want to shape their area and drive development. This will complement delivery by the private sector and reduce over-reliance on others to find solutions.

3.18 ___ In moving to a more active delivery role, we have a significant opportunity to diversify housing provision to support the expansion of new and alternative delivery models so that we can deliver a greater choice and range of housing. This can include models such as custom and self-build (which already makes a significant contribution in rural and island areas), Build to Rent, Private Rented Sector (PRS), and specialist provision such as supported homes for the elderly. Alternative models and the promotion of a broader range of sites through the development plan could be considered, together with more targeted use of publicly-owned land. Expanding how we deliver homes would also support small and medium-sized developers and expand capacity within the development industry if we can achieve greater rates of construction.

Planning and land reform

3.19___Proposals that emerged from earlier work on land reform could be instrumental in helping planning to fulfil this role. We are determined to see more land across Scotland in community ownership and have set an ambitious target of reaching one million acres by 2020. We will continue to support and encourage local communities to take advantage of opportunities that are open to them in this area, including through the Scottish Land Fund which makes £10 million per year available for developing plans and buying the land itself. In some cases, communities themselves may choose to exercise their right to buy land to help deliver development. We are currently consulting on a Land Rights and Responsibility Statement. The vision states that ‘A fair system of land rights and responsibilities should deliver greater public benefits and promote economic, social and cultural rights.’

3.20___We want to see a clear, accessible, effective and efficient system of legislation and policy which allows for the compulsory acquisition and purchase of legal interests in land and property for the public benefit. We will support interim measures, such as amendments to guidance, ahead of changes to legislation. Although they will not form part of the Planning Bill, we will investigate proposals which give local authorities more confidence and tools to acquire land which is not being used as allocated within the development plan. We will also explore how best the intended Compulsory Sale Orders legislation could complement existing tools to tackle the problem of abandoned buildings and land, and support wider measures that aim to secure the productive use of vacant and derelict land.

3.21___The responsibility for delivery should be shared, not just by local authorities and agencies but also by those who have control of the land. Ministers are committed to consult with stakeholders on whether a development land tax approach could help to tackle the issues associated with sites being held in the hope of improved market conditions. Such an approach would require sites to be released or a tax paid.

3.22___Collectively, these proposals will play a critical role in helping to deliver more homes and tackling market failures. They will also help the planning system to enable development and achieve place making objectives.

Self-build – Maryhill, Glasgow

Glasgow City Council is bringing forward serviced plots for self-build as part of its housing strategy. The project will test the local appetite for self-build homes and offer an alternative option for those who want to stay living in the city. The small site, accommodating six plots, forms part of a wider regeneration area where a contemporary urban village is planned. If a design passport and code is followed, there is no need for self-builders to go through the formal planning process.

Proposal 12: Releasing more 'development ready' land for housing

3.23___ Our proposals for development planning aim to make plans more flexible but also stronger and more certain. We believe that longer-term planning, supported by zoning for housing, could help to achieve this. We are currently piloting the use of Simplified Planning Zones (SPZs) for housing development. Within these areas, development can go ahead without the need for an application for planning consent, as long as it is in line with a clear and agreed scheme which sets out development parameters, design guidelines and other criteria, and environmental assessment requirements have been met.

3.24___ We believe greater use can be made of this type of approach (effectively a way of consenting masterplans) to support development. To encourage their use we want to broaden the use and scope of a zoned approach to housing by updating provisions for Simplified Planning Zones. The independent panel recommended SPZs be rebranded. We would like to invite views on this idea of creating these as 'Ready Planned' or 'Consented Development' zones. Where potential locations for these zones are identified in the development plan, community involvement could form an integral part of the process. An alternative approach for this could be for the local authority to put in place a general consent for key sites or areas they want to promote for development.

3.25___ We propose using the outcomes from the ongoing pilot work to identify how the statutory requirements and procedures can be made more flexible, to allow them to be introduced in a wider range of circumstances, to consider linkages with development planning, and to look at ways to speed up the preparation process. Figure 2 sets out the relevant procedures that could be updated.

3.26___ We recognise that preparing SPZs requires time and potentially financial support from planning authorities, with no planning application fee to follow. We want the development sector to be willing to frontload their investment and contribute to scheme preparation work, including masterplanning and assessments. As SPZs provide certainty about the concept of development earlier on in the process without going through the planning application process, they can offer an uplift in the value of the land and possibly an earlier return on investment.

3.27___ SPZs are often put in place through partnership involving the planning authority and developer. To strengthen this, we will consider how we can resource the procedures for delivering SPZs on a wider scale. We are aware some planning authorities have had reservations about SPZs due to concerns that without a planning consent to provide a framework for discussions it would be harder to access developer contributions. We will look at the use of conditions or unilateral obligations to secure greater certainty on delivery. We will also look at how the proposed new finance and funding mechanisms for an infrastructure first approach could support the use of SPZs.

3.28___ To continue to build momentum and experience in the meantime, we will continue to provide financial support to encourage additional SPZs for housing in the coming months.

Figure 2: Better use of zoning to support the long-term planning of housing

Preparation of SPZ schemes has parallels with preparing local development plans, with opportunities for engagement, a draft placed on deposit for representations and opportunities for modification and a Public Local Inquiry at the end of the process. However, the current legislative requirements predate the last planning reform, and we want to ensure the process is brought in line with this wider review. We propose:

- Encouraging the preparation of SPZs as an integral part of preparing the development plan, as recommended in the existing guidance.¹²
- Promoting more inclusive community engagement such as charrettes informing SPZs.
- Removing the requirement for a Public Local Inquiry to be held at the end of the process of preparing a SPZ.
- Removing the blanket restriction for SPZs in conservation areas.
- Accompanying SPZs by a commitment to ensure that other consents supporting development will be managed by the planning authority drawing on the success of the planning protocol supporting Enterprise Areas.
- Including SPZs in the plan delivery programme.
- Examining the interface between plan and project level environmental assessment requirements, and scope for technical guidance to ensure a robust but proportionate approach is taken.

¹² Planning and Compensation Act 1991: Simplified Planning Zones, (1995) Circular 18/1995
www.gov.scot/Publications/1995/08/circular-18-1995

The Hillington Park Simplified Planning Zone

This award-winning SPZ Scheme was prepared in a partnership between Renfrewshire Council and Glasgow City Council, and MEPC Hillington Park (now Patrizia), who owns and manages the majority of the site. Initiated by the landowner, preliminary studies and a risk assessment were prepared by consultants instructed by the landowner to shape and inform the SPZ scheme. The scheme deals with the planning issues 'up front' and confirms what type of development, and how much, is allowed, providing greater certainty for developers and stakeholders. It removes the need for repetitive planning applications, covering the same range of planning issues, which will save time and cost for the existing organisations and new businesses looking to invest in the park. It also benefits the planning authorities by reducing the resources needed to manage development in this dynamic area.¹¹

¹¹ www.gov.scot/Publications/2015/11/4983/10
www.renfrewshire.gov.uk/article/2480/Hillington-Park-Simplified-Planning-Zone

Proposal 13: Embedding an infrastructure first approach

3.29 Good quality places have to function properly, and infrastructure plays a critical role in supporting this. Infrastructure can have a significant effect on the quality of a place, with new construction offering wider opportunities for improvements. We want infrastructure to help us build places that function properly so people have choices about how they move around, can access the facilities they need, and can live sustainable and healthy lives. Infrastructure planning, like housing development, should be recognised as key part of place making.

3.30 We agree with the independent panel that infrastructure is the most significant challenge for planning at this time. It also presents a significant opportunity to support the delivery of the homes that we need. An infrastructure first approach to development should ensure that existing infrastructure capacity is properly understood, can help to identify where additional investment should be prioritised to enable future development, and can be achieved where delivery is co-ordinated. Better infrastructure planning can help to achieve efficiencies, build in long-term resilience and support innovation. We need to ensure that we understand and make best use of our existing capacity and make improvements to meet the needs of future generations.

National level co-ordination

3.31 The independent panel proposed that a national infrastructure agency or working group be set up to better co-ordinate infrastructure delivery. An enhanced National Planning Framework (NPF), which informs and is informed by, the Infrastructure Investment Plan, could play a key role in helping to prioritise future infrastructure spend.

3.32 Our view is that this is not the right time to create a new, additional infrastructure agency at a national level. This would take time to establish, would need significant extra resourcing and, rather than bringing them closer together, may further distance infrastructure planning from spatial planning. We recognise, however, that all infrastructure providers should be behind our shared commitment to sustainable growth and development.

3.33 Instead, to support our commitment to delivering 50,000 affordable homes this Parliamentary term and to address failings in the delivery of market housing, we propose establishing a national infrastructure and development delivery group, comprising appropriate representation from the Scottish Government and its agencies, public and private sector infrastructure providers and the Scottish Futures Trust. The group would:

- Ensure that knowledge about the key areas for growth and future development, as set out in the National Planning Framework (NPF) and local development plans, is used to help prioritise our future infrastructure spending as reflected in the Infrastructure Investment Plan.
- Work with local government and the development industry to broker solutions and support delivery at key housing sites across Scotland.
- In the first instance, contribute to developing more detailed proposals for an infrastructure levy.
- Consider how developer contributions could work with wider funding and finance solutions, including city deals, to secure investment that fully supports regional priorities for growth.
- Encourage better co-ordination of development plan strategies and infrastructure capital investment plans and programmes. It is also essential that development plans better understand and reflect on infrastructure investment priorities in order to achieve an infrastructure first approach. The group could oversee and consider regional infrastructure audits, prepared by regional partnerships.

3.34___ This group would not need additional legislation to become established or deliver on the duties set out above.

Regional partnerships

3.35___ Stronger co-ordination in infrastructure planning and investment at a regional scale is particularly relevant to planning and delivering development. We agree with the independent panel that co-ordination should be significantly improved at this level. As set out in section 1, our proposals aim to ensure that planning is better placed to respond to the partnerships at the regional level that are already, and will continue to, emerge and develop.

3.36___ Our proposals to replace strategic development plans with regional partnership working would empower planners to advise on spatial priorities for infrastructure investment. At this scale, the infrastructure first approach would be supported where partnerships provide fuller and more reliable evidence for strategic decisions about investment. This could be achieved by a regional audit of infrastructure capacity which brings together, for example transport, schools, healthcare facilities, water, flooding, drainage, sewerage, energy, telecommunications, digital and green networks. The Strategic Transport Projects Review, carried out by Transport Scotland, should also work alongside spatial planning to form an essential part of strategic investment planning at both the regional and national scale.

3.37___ We have considered the independent panel's recommendation that infrastructure providers are given duties to support proposals set out in the development plan. While we agree with this in principle, we recognise that different corporate structures exist across the various infrastructure providers. A general duty could be introduced, but it would have little value if it cannot be clearly defined or if compliance with the duty is difficult to demonstrate or enforce. In addition, scope for such a duty to be imposed on some infrastructure providers will be limited by matters reserved to the UK Government.

3.38___ Improved communication and co-ordination is needed to strengthen awareness of, and commitment to, development plan delivery. In return, development plans must provide the clarity and certainty that is needed to support the case for investment in infrastructure. We will work with the key agencies and wider infrastructure providers, including those relating to digital and telecommunications and the energy networks, to see how we can achieve a greater level of commitment to development plans.

Dundee Waterfront – Regeneration – Infrastructure and Placemaking

This £1 billion transformation over 30 years comprises of 240 hectares split into five focused zones, and aims to enhance physical, economic and cultural assets. Led by infrastructure, the Central Waterfront zone has created ready-made development sites. Dated infrastructure and buildings have been removed to make way for a newly formed grid iron street pattern mixed-use extension to the city centre, which provides plots ready for development. These sites have been promoted in brochures showing the plot sizes and dates for site availability, whilst design and planning guidance is provided for developers, making the city investor ready. Beyond this, connecting the city with the River Tay, providing open space and other cultural assets means that this infrastructure first approach is carried out with placemaking at its heart.

Proposal 14: Creating a fairer and more transparent approach to funding infrastructure

3.39 Planning and development already contributes significantly to funding any required expansion in infrastructure that is needed to deal with the effects of development. We agree with the independent panel that existing arrangements focusing on the use of Section 75 planning obligations need to be reconsidered, taking into account the delay and uncertainty associated with current arrangements. We will consider changes to clarify the scope of current provisions in Section 75.

3.40 Current legislation allows those who enter into planning obligations to apply to modify or discharge the agreement, regardless of how recently these have been entered into and how fundamental these have been to supporting development delivery. We have seen increasing uncertainty about whether commitments to providing infrastructure will come forward in the longer term. We propose restricting the ability to modify and discharge terms of planning obligations introduced by the 2006 Planning Act so that commitments made when planning permission is granted are respected by those who entered into the obligation or who acquire the land.

3.41 In addition, in the coming year we will carry out an intensive and closely targeted improvement project involving a small number of authorities to improve timescales for concluding Section 75 obligations. This will build on earlier work which developed the 10 good practice principles¹³, and will develop, test, measure and put in place changes which reduce the timescales for planning obligations. The aim is to share lessons learned more widely across the country.

Infrastructure levy

3.42 Improvements to practice in Section 75 obligations will not fully close a gap in infrastructure funding which has emerged following the 2008 recession and the steep decline of housing delivery that arose at that time. In addition, it will not tackle challenges in securing collective contributions for strategic infrastructure. Following the recommendations of the independent panel, we commissioned research into a new development charging mechanism for Scotland. This could help to deliver strategic infrastructure that is needed to support development across a wider area and

would help to build a more confident, infrastructure first approach to planning and development.

3.43 We have considered past measures to capture land value uplift and the experience of implementing the Community Infrastructure Levy in England and Wales. We have also considered how a new charge mechanism could be developed which takes into account market differences across the country as this will affect the viability of securing or recouping infrastructure costs.

3.44 Whilst the detailed design of such a mechanism will be challenging, we believe a solution can be found which strikes the right balance between simplicity and ability to respond to varying market circumstances. We propose that the Planning Bill includes an enabling power to introduce a new infrastructure levy for Scotland. Whilst we would develop and consult on more detailed proposals for this levy at a later stage, we propose that it should be based on the following key principles:

- It should be applied to most development types, with some potential exemptions.
- Permission to adopt and put in place a charging mechanism is granted by Ministers based on the submission of a business case prepared by the planning authority/authorities.
- The income from the charge should be collected locally.
- The fund will not replace national level infrastructure investment, as defined in the Infrastructure Investment Plan and National Planning Framework (NPF).
- The fund will not replace site specific contributions which are needed to mitigate the impacts of individual developments not covered by the levy and secured through Section 75 planning obligations or other methods.

¹³ www.gov.scot/Topics/Built-Environment/planning/Roles/Scottish-Government/Reform-Projects/Planning

Proposal 15: Innovative infrastructure planning

3.45___ We are exploring wider opportunities for innovative infrastructure planning.

3.46___ An expert group involving all relevant parts of the Scottish Government, Heads of Planning Scotland, the Association of Directors of Education and the Scottish Futures Trust has been established. The group has considered the issues around funding and delivering new schools and is discussing how we can best address this in planning as well as in local authorities more widely. The work of this group will inform the need for future guidance as well as the more detailed proposals for an infrastructure levy as work progresses in the coming year.

3.47___ Land use and transport planning should be integrated to ensure that their impact on connectedness, accessibility, and 'active travel' (walking and cycling) are brought together and used to improve quality of place. Transport Scotland has begun a review of the National Transport Strategy which will inform the next Strategic Transport Projects Review and will consider transport governance, including the role of regional transport partnerships, as part of this. This should reflect the proposals for change set out here. In addition, we have confirmed that a review of the Strategic Transport Projects Review will be closely aligned with the review of National Planning Framework (NPF) 3.

3.48___ Green infrastructure also has a critical role to play in supporting quality of life and sustaining the environment. The links between planning, place, environmental quality and health are very clear. Research, including work by the Glasgow Centre for Population Health underlines the importance of access to good quality greenspace and wider quality of place in helping to address inequalities and overcome longstanding patterns of poor health and vulnerability. This is a key aspect of the place standard and a priority for planning future development and regeneration. Green infrastructure also provides economic benefits, for example estimates value the benefits of the Central Scotland Green Network national development at around £6 billion over the 35 years to 2050. This should continue to be a key placemaking priority within development planning.

3.49___ The forthcoming consultations on the draft Energy Strategy will raise opportunities to plan strategically in locating new low carbon energy infrastructure and to target a roll out of energy efficiency measures. These will need to be considered by planning in the context of an infrastructure first approach to development.

3.50___ Section 72 of the Climate Change Act (2009) introduced a specific requirement for development plan policies to require new developments to install and operate low and zero-carbon generating technologies. An independent study recently found no evidence that there is any added value from this requirement – instead, building standards are driving down emissions. Whilst planning needs to be firmly committed to the principles of climate change mitigation and adaptation, this review provides an opportunity to streamline procedures that have not demonstrated added value and focus on where we can most benefit action on climate change, key to this being the location of development. We are therefore seeking views on whether to retain the current legislative requirements for these technology centred policies, or remove them.

3.51___ We are liaising closely with the Scottish Government Digital Directorate to ensure that any proposals for change support wider government ambitions on digital connectivity (broadband and mobile coverage). Opportunities include extending permitted development rights and continuing to provide strong planning policy support for the development of infrastructure networks.

BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE – CONSULTATION QUESTIONS

KEY QUESTION

- C: Will these proposals help to deliver more homes and the infrastructure we need?
Please explain your answer.**

Optional technical questions

- 17.** Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?
- 18.** Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?
- 19.** Do you agree that planning can help to diversify the ways we deliver homes?
19(a) What practical tools can be used to achieve this?
- 20.** What are your views on greater use of zoning to support housing delivery?
20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?
20(b) What needs to be done to help resource them?
- 21.** Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?
- 22.** Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?
22(a) What actions or duties at this scale would help?
- 23.** Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?
- 24.** Do you agree that future legislation should include new powers for an infrastructure levy?
If so,
24(a) at what scale should it be applied?
24(b) to what type of development should it apply?
24(c) who should be responsible for administering it?
24(d) what type of infrastructure should it be used for?
24(e) If not, please explain why.
- 25.** Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

04

**STRONGER
LEADERSHIP
AND SMARTER
RESOURCING**

We want to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places.

Proposal 16

Developing skills to deliver outcomes

Proposal 17

Investing in a better service

Proposal 18

A new approach to improving performance

Proposal 19

Making better use of resources – efficient decision making

Proposal 20

Innovation, designing for the future and the digital transformation of the planning service

4.1___Planners can help to make great places and we see strong examples of this across the country. However, good quality development and efficient service needs to be the norm. We want planning to re-establish itself as a visionary profession, rather than the micro-management of the built environment the panel referred to. We need to avoid planning activities that do not add value. Now, more than ever, we must focus properly on how cost effective the planning service is, and ensure that future changes make processes simpler and more efficient wherever possible.

4.2___We now have an exceptional opportunity to redesign the planning service to better reflect the principles of public service reform. People, partnership, prevention, performance and place have formed the foundations for the proposals for change we have set out here. Many of the wider changes aim to remove unnecessary procedures, and 'rebalance' the system so that we can focus on achieving outcomes through direct intervention, creativity and imagination.

Proposal 16: Developing skills to deliver outcomes

4.3___Planning can be recognised as a positive force for change. Like any public service it will be measured by what it delivers. Those outcomes must be the focus for all those involved in planning. By gaining a wider, place-based perspective, the valuable role that planning plays in ensuring that the public good is considered in decisions about the future of our places will be better understood and valued. Planning can provide a long-term perspective, and is therefore particularly well placed to tackle important issues such as development delivery, health, inclusion, environmental quality and climate change.

4.4___We will continue to work with Heads of Planning Scotland (HoPS) and the Royal Town Planning Institute (RTPI) Scotland to look at how planning can improve its reputation as a visionary profession that creates great places for people. Leadership is central to this. Planning needs to better articulate the value that it can contribute to society and the economy and should do more to highlight its achievements. The proposals we have outlined to improve community involvement and better align spatial and community planning are intended to support this.

4.5___Education is key to this and our proposals for involving children and young people will help to build greater awareness and involvement in place making. We also agree with the independent panel that planning graduates have a vital role to play. It is critical that we make future generations of planners resilient and adaptable to change, and give them the confidence to challenge and inspire others. An understanding of the different cultures and sectors will help with this. We have asked the RTPI Scotland to look into opportunities for a graduate intern scheme.

4.6___The capacity and resilience of the planning profession in Scotland as a whole needs to be considered in view of the recommendations set out here. The independent panel recommended further work on skills development and shared services.

4.7 We have asked the RTPI Scotland to undertake an audit of skills, and Heads of Planning Scotland to explore options for shared services. Given the many long established relationships between planners in and across the public and private sectors, we believe we can greatly improve the way we exchange knowledge, skills and experience. However we recognise that there may be a significant need for further training. The immediate priorities include: leadership; project management; mediation and brokerage; development finance and economics; viability; costing and funding solutions; working with communities; and creativity and innovation. The emphasis is on efficiency. Not every authority can be expected to have skills in every area. However, there is a need to ensure that they have access to specialist skills when necessary.

4.8 There are some challenges – mainly resources. However, much can be done to help authorities to help one another. This willingness to work together needs to be carefully balanced with the pressures on planners. Time away from desks to either assist others or improve personal skills is not always possible in the current climate. This needs to be addressed, and we look forward to seeing the results of the RTPI and Heads of Planning Scotland’s work on skills and shared services.

4.9 It is also essential that the planning profession looks to other built environment professionals. The profession should continue to work with the Royal Town Planning Institute (RTPI) Scotland, Royal Institution of Chartered Surveyors (RICS), Royal Incorporation of Architects in Scotland (RIAS), Institution of Civil Engineers (ICE), the Chartered Institute of Housing and others to lead collaborative approaches to improving places and delivering development.

Royal Town Planning Institute – Future Planners Initiative

This initiative aims to reach out to young people aged 11-18 to raise awareness of and foster their interest in planning. Volunteer RTPI Ambassadors have been appointed to visit schools and discuss the importance of planning. This gives planners an opportunity to help develop a wider understanding of how the built environment affects everyone’s lives. More than 100 Ambassadors have been participating in the initiative, visiting schools throughout the UK and Ireland. A short film ‘How do we plan our world?’ was also developed and posted online to support school visits.



Proposal 17: Investing in a better service

4.10___The planning service must have the resources it needs to deliver the world-class service our communities deserve and our economy needs.

4.11___Consultation on proposals to increase in the overall cap in planning fees for most types of development is ongoing.¹⁴ We have been cautious about increasing fees, conscious of the need to align resourcing with performance improvement. It is critical that we continue to ensure that Scotland is an attractive place to do business. However, we are aware that the maximum planning fee in Scotland is currently less than 10% of that in England, Wales and Northern Ireland and that the overall cost of processing planning applications in planning authorities is not currently covered by the application fee for most categories of development. This is not a sustainable approach to resourcing a system that needs to be focused on quality and efficiency.

4.12___Development management is currently subsidised by other local authority service areas. Other organisations, including agencies and the Government's planning functions, are not funded under current arrangements but help to support the effectiveness of the service.

4.13___In light of our proposed reforms, now is the time to have a wider discussion on resourcing our planning system. We should be prepared to move towards full cost recovery that extends beyond the day-to-day business of processing applications in development management teams and into wider areas. Pre-application discussion, statutory consultees, central government support from brokerage to ePlanning and subsequent approvals of matters such as planning conditions can all contribute to creating investor confidence. This is not simply about increasing revenue. The performance of our planning system needs to be at the centre of any changes we make.

4.14___We will therefore bring forward further proposals for changes to current resourcing arrangements which are more flexible and will ensure that the costs to applicants are more closely aligned with the service provided. At this stage, we believe the consultation should include proposals for:

- A revised maximum fee.
- Higher fees for retrospective planning applications and for applications relating to sites not supported by the adopted local development plan (as described in section 1).
- Charging for appeals and reviews of decisions (see section 2).
- Agencies, who have a critical role to play in the development management process, having the ability to charge for services.
- Discretionary charging, including for pre-application discussions.
- Discretionary charging for establishing Simplified Planning Zones (see section 3).
- Removing the developer's right to submit a revised or repeat application at no cost (see section 2).
- Removing provisions for recovering advertising costs and including these within a revised planning fee.
- Arrangements for funding of relevant central government functions such as front line service delivery in the eDevelopment programme and other elements supporting operation of the planning service in Scotland provided by the Planning and Architecture Division.
- Improving clarity and ensuring the fees structure is proportionate and reflects the types of development coming forward, for example by providing a fixed rate fee for polytunnels.
- Enhanced service standards or fast tracked applications where a higher fee is paid and accompanied by a processing agreement.

¹⁴ <https://consult.scotland.gov.uk/planning-architecture/consultation-on-raising-planning-fees>

4.15 ___ Our aim would be to fully recover the costs of a high performing development management process, and those other parts of public services that directly support it.

4.16 ___ In recognition of the diversity of the planning service across Scotland, we will look at the extent to which authorities can opt out of charging fees where they believe this will support wider objectives, such as regeneration and reversing depopulation of remote island and rural areas. We should not look at a planning application as an opportunity to extract gain – these proposals are designed to meet processing costs, helping Scotland to be the best place to deliver the planning service and to do business.

Proposal 18: A new approach to improving performance

4.17 ___ Higher fees must be accompanied by a much improved service. Whilst planning authorities' performance has improved in recent years, we fully understand the concerns of the development industry that fee increases need to be accompanied by strong performance in every authority. We agree with the independent panel that monitoring is important and that we need to provide better support for authorities to help them improve and learn from each other.

4.18 ___ We already have a High Level Group to support improving performance and will continue to pursue delivery of an improved performance agenda.

4.19 ___ It is the planning authorities' responsibility to improve their own performance and they have made significant progress since the introduction of their Planning Performance Framework (PPF). It is also important that all parties play their part in supporting the planning service through early engagement, provision of appropriate supporting information and striving to meet timescales. We think the time is right to improve the PPF monitoring system and suggest that Heads of Planning Scotland lead further consideration of the following improvements:

- A stronger focus on customers' experience of the planning service within service improvement plans.
- '360 degree' feedback from service users for all authorities in Scotland.
- Continued support from the Improvement Service.
- Improved peer review.

- Identifying a national performance co-ordinator who champions improvement across all planning authorities and leads the sharing of expertise and experience.

4.20 ___ Given that planning should be measured by its outcomes, we will also explore the scope for measuring performance on the basis of the quality of places. To some extent, this is achieved by the Scottish Awards for Quality in Planning and the RTPI's annual Awards for Planning Excellence. Wider work to promote the role of the planning profession could be supported if we can show the level, type and quality of change which has been achieved. This would not only demonstrate success but also help to identify priorities for future action. We could achieve this, for example where the Place Standard is used to evaluate places 'before and after' development, and communities could also play a role by giving feedback. We will commission research to explore the scope to develop a practical plan to achieve this.

4.21 ___ Our proposals to increase resourcing must be accompanied by a stronger assurance that performance will improve to a high standard in every authority. Whilst we have no current plans to implement the penalty clause in the Regulatory Reform Act, we have no plans to remove it. We believe it remains essential to have this option in place as an assurance that action can be taken where it is demonstrated that performance is consistently poor and actions are not being taken to improve. However, we strongly favour a more positive supportive approach, rather than a sanction, and we very much recognise the impact that applicant behaviour can have on planning authority performance. We are committed to continuing our work with the High Level Group on performance to ensure we provide a supportive and fair improvement agenda.

Proposal 19: Making better use of resources: efficient decision making

4.22___ We want to simplify, streamline and clarify procedures so that planners can focus on activities that add most value.

Permitted development rights

4.23___ Heads of Planning Scotland are looking at the scope to extend permitted development rights and remove the need to apply for planning permission for more development types. This could also be supported by making changes to the Use Classes Order. At this stage, the types of development where we think there is scope to remove certain applications from the system are:

- Digital telecommunications infrastructure.
- Development which helps to meet our wider commitment to reducing emissions that cause climate change. These could be wide-ranging and include different types of microgeneration equipment; installations supporting renewable heat networks; cycle networks, parking and storage; and facilities to support low carbon and electric vehicles.
- Development which supports the resilience of the farming sector. This includes polytunnels and changes of use from agricultural buildings to housing.
- Allotments and community growing schemes.
- Changes to the use of premises within town centres to stimulate vitality.
- Elements of development within the aquaculture sector

Handling applications

4.24___ Where an application for planning permission is required, we agree with the independent panel that a more consistent approach to setting requirements for the validation of planning applications should help to overcome some of the delays and time spent on casework. Recent work undertaken by Heads of Planning Scotland, in collaboration with industry, will provide fuller guidance on this that can be used by all planning authorities, applicants and key agencies. In addition, we will strengthen planning advice to clarify the grounds upon which an application can be refused where the applicant has not provided the information required to reach a decision.

4.25___ As recommended by the independent panel, we will commission research on aligning consents procedures. Based on advice from stakeholders, this work will particularly focus on scope to bring together the handling of applications which are administered by local authorities and will make recommendations which read across to the work of the digital task force. Effective brokerage of applications, such as the arrangements we introduced to support Enterprise Areas, can also have significant benefits for applicants and the Programme for Government confirms our commitment to develop this further.

Procedural improvements – development management

4.26___ More generally, we would welcome views on whether targeted improvements can be made to further streamline development management procedures as a whole.

4.27___ In particular, we believe there is scope to simplify and clarify procedures for approving the detail of proposals that are granted planning permission in principle. To provide greater flexibility, we would welcome views on whether a new provision should be introduced to amend the duration of a planning permission in principle, after permission has been granted. Annex H of Circular 3/2013¹⁵ sets out current procedures on this.

4.28___ We would also like to hear views on whether there is scope to make requirements for pre-determination hearings and determination of applications by ‘full council’ more flexible. For example, pre-determination hearings could be required for proposals which do not need a decision by full council, and we could allow planning authorities to choose whether pre-determination hearings should be in front of a committee or the full council.

Proposal 20: Innovation, designing for the future and the digital transformation of the planning service

4.29___ There are many benefits to be gained from digitally enabling transformation of our public services. We have already achieved much through the success of our eDevelopment programme over the past decade. It has led to the use of online applications and redesigning business practices around the user needs. However, in planning we are only now coming into line with the minimum capability of current and developing technology, and have yet to realise the full potential of the fast-moving information age.

4.30___ As an example, we recently commissioned research on the potential of three-dimensional visualisations in planning. This is just one way in which technology might transform the way people become involved with, appreciate and get excited about the future of their places. We will continue to explore and promote new visualisation technology by taking forward the research recommendations in a new programme of work.

4.31___ We will appoint a digital task force to look at opportunities to develop and integrate new information technology solutions in support of the continued digital transformation and improvement of the planning service. We expect the task force will explore a range of opportunities, including data sharing, mobile technology, the use of drones, and expanding online applications to wider development-related consenting regimes.

Development.scot

eDevelopment.scot is a business transformation programme, delivering digital planning and building standards services across Scotland. We have developed online application portals to support and enable the modernisation of these services. The planning and building standards application services have historically involved large volumes of paper documents and large-scale plans and architectural drawings. These days, most documents and plans supporting development-related applications are routinely created digitally. Now they can be submitted digitally too, which is much more convenient and cheaper for customers. The end result is less paper to handle, postage and the removal of all unnecessary practices and associated excess costs, radically changing public service processes to fit. Electronic delivery also saves time, with days being cut every time correspondence or documents transfer between applicant and authority. The eDevelopment services deliver what the customer wants – open, accessible online services, available 24/7.

STRONGER LEADERSHIP AND SMARTER RESOURCING – CONSULTATION QUESTIONS:

KEY QUESTION

**D: Do you agree the measures set out here will improve the way that the planning service is resourced?
Please explain your answer.**

Optional technical questions

- 26.** What measures can we take to improve leadership of the Scottish planning profession?
- 27.** What are the priorities for developing skills in the planning profession?
- 28.** Are there ways in which we can support stronger multidisciplinary working between built environment professions?
- 29.** How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?
- 30.** Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?
30(a) Do you have any ideas on how this could be achieved?
- 31.** Do you have any comments on our early proposals for restructuring of planning fees?
- 32.** What types of development would be suitable for extended permitted development rights?
- 33.** What targeted improvements should be made to further simplify and clarify development management procedures?
33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?
33(b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?
33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle?
33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?
- 34.** What scope is there for digitally enabling the transformation of the planning service around the user need?

NEXT STEPS

We are committed to taking forward a positive and ambitious programme of planning reform over the coming months. Some of our proposals for change will be achieved through a Planning Bill and related secondary legislation, but there also is much that can be achieved ahead of these changes.

Alongside consultation on the proposals set out here, in 2017 we will continue to take forward research that will help to support future changes to the system. We will also set up and develop the work of the digital task force and reconvene the six working groups who have helped us to develop this paper to explore the emerging proposals further.

We are keen to ensure that our national planning policies remain up to date and relevant to the wider planning system. We will therefore publish the National Planning Framework (NPF) 3 Monitoring Report later in 2017, and thereafter consider the timing of NPF 4 and revision of Scottish Planning Policy (SPP).

Additional consultations

We recognise that the proposals set out here remain at an early stage, and that in some cases there will be benefit from more detailed consultation on more detailed changes. In the coming year we will therefore consult further on:

- More detailed proposals for enhanced fees and discretionary charging, taking into account emerging proposals.
- Extended permitted development rights, informed by the ongoing work of Heads of Planning Scotland.

Impact assessments

We are considering the impact of implementing our proposals.

An Equalities Impact Assessment (EQIA) will help us understand policy impacts on people because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. This will allow us to identify (and mitigate) negative impacts and proactively look for opportunities to promote equality.

A Business Regulatory Impact Assessment (BRIA) will allow us to assess the likely financial costs and benefits and the associated risks of the proposals that might have an impact on the public, private or third sector.

A Children's Rights and Wellbeing Assessment (CRWIA) will allow us to assess whether the proposals will advance the realisation of children's rights in Scotland and protect and promote the wellbeing of children and young people.

You can find our partial impact assessments at: <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system/>

In mid-2017 we will also provide an update on the outcome from this consultation, the analysis of consultation and a summary of the proposed legislative changes. Alongside this, we will publish a Strategic Environmental Assessment (SEA) Environmental Report. Views will be invited at this stage, in line with the requirements of the Environmental Assessment (Scotland) Act 2005. We will also update the BRIA and EqIA at this time.

Testing the proposals – research, pilots and exemplars

Several key changes to the planning system would benefit from further testing and practical consideration, not least the proposals that aim to improve development delivery. During 2017:

- We will commission further research to inform proposals for local place plans, alignment of consents and monitoring of the outcomes from the planning system.
- We will pilot Simplified Planning Zones. We have identified a number of early projects to explore a zoned approach to housing through early SPZs. We will continue to encourage involvement in this programme over the coming months.
- We will work with the Directorate for Planning and Environmental Appeals to explore proposals, including for an early gatecheck to support the development plan examination.
- We will further explore the ways in which we can significantly strengthen development plan action programmes. We will invite the Scottish Futures Trust to work with planning authorities to explore

the extent to which proposals can be more fully specified, costed and linked with sources of finance.

- We will design our 2017-18 charrette programme to reflect the opportunities for place planning and wider involvement outlined in section 2.

We would like to hear from any planning authorities, developers or communities, including community councils, who wish to work with us to explore how the proposals set out here could work in practice. Please contact planningreview@gov.scot

Culture change, skills and performance

Many of the changes will depend on continuing efforts to change the way the planning profession goes about doing its business on a day-to-day basis. We believe there is a need for culture change in the profession, on the part of professionals in the public and private sectors alike. We will therefore work with Heads of Planning Scotland, COSLA, the Improvement Service and the Royal Town Planning Institute Scotland to:

- Design and launch a graduate intern scheme.
- Establish a skills database.
- Design a training programme for the planning profession in Scotland, focusing on, but also extending beyond, planning authorities to include the development sector, communities and key agencies.
- Identify priorities for shared services.
- Revise the guidance on Planning Performance Frameworks.

Getting involved

Views are now invited on the proposals set out in this consultation paper. Respondents are asked to focus on the questions provided for each of the four areas of change.

Responses to the consultation should be submitted to Planning and Architecture Division of the Scottish Government by 5pm on Tuesday 4 April 2017.

NEXT STEPS - CONSULTATION QUESTIONS

Optional technical questions

35. Do you think any of the proposals set out in this consultation will have an impact, positive or negative, on equalities as set out above? If so, what impact do you think that will be?

36. What implications (including potential costs) will there be for business and public sector delivery organisations from these proposals?

37. Do you think any of these proposals will have an impact, positive or negative, on children's rights? If so, what impact do you think that will be?

38. Do you have any early views on whether these proposals will generate significant environmental effects? Please explain your answer.

RESPONDING TO THIS CONSULTATION

We are inviting responses to this consultation by 4th April 2017

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/planning-architecture/a-consultation-on-the-future-of-planning>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 4th April 2017

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

Planningreview@gov.scot or

Planning and Architecture Division
The Scottish Government
2-H South
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form which can be accessed at <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system/>. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Planningreview@gov.scot or

Planning and Architecture Division
The Scottish Government
2-H South
Victoria Quay
Edinburgh
EH6 6QQ

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

6th March 2017

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

- 2.1.1 Reference: 16/01284/MOD75
Proposal: Discharge of planning obligation pursuant to planning permission 00/00244/OUT
Site: Broadmeadows Farm, Hutton
Appellant: Mr Alistair Cochrane

Reason for Refusal: The proposal would be contrary to policy HD2 paragraph (F) of the Local Development Plan 2016 and supplementary planning guidance New Housing in the Borders Countryside 2008. With no planning obligation in place and no linkage to the farm land the house could be sold to anyone not connected with agriculture. The removal of the planning obligation would contradict the policy justification for granting planning permission for the house, running counter to the encouragement of sustainable rural development. It is considered that the principle secured by the existing Section 75 agreement (vital to acceptability of the development) should be upheld in these circumstances.

Grounds of Appeal: 1. The Section 75 occupancy restriction should be removed to allow the continued operation of the farm as a single, viable farming unit. 2. Such restrictions are no longer appropriate to farm dwellings and are not to be used and the legal agreement does not comply with the tests set out in Scottish Government Circular 3-2012. 3. Circumstances, at the farm, have materially changed since planning permission was issued in 2001. 4. Specific circumstances explained in various application and appeal documents explain why the removal of the legal agreement is required to allow the continued operation of the farm. 5. The Local Development Plan and Supplementary Guidance reasons for refusal apply to new build housing in the countryside and not existing housing. This appeal does not refer to, nor will it require, new build housing. As such, the reason for refusal should be dismissed.

Method of Appeal: Written Representations

2.2 Enforcements

2.2.1 Reference: 14/00028/COND
Proposal: Non compliance with condition no 2 of
13/01142/FUL
Site: Office, 80 High Street, Innerleithen
Appellant: Michael Todd

Reason for Notice: Installation of UPVC windows and doors without
planning permission

Grounds of Appeal: 1. Copies of the enforcement notice were not
served as required by the Act. 2. The period specified in the notice (to
comply with the steps to be taken) falls short of what should reasonably
be allowed. 3. The steps required by the notice to be taken exceed what is
necessary to remedy any injury to amenity caused by the breach stated in
the notice.

Method of Appeal: Written Representations

2.2.2 Reference: 16/00105/UNDEV
Proposal: Erection of fence
Site: 1 Borthwick View, Roberton, Hawick
Appellant: Gillian Murphy-McHugh

Reason for Notice: Without planning permission, erected a fence
exceeding one metre in height where it fronts a road and extends beyond
the line of the wall of the principal elevation nearest a road.

Grounds of Appeal: The Appellants neighbour erected the fence and she
decided to temporarily mask it but putting boards on her side of the posts.
The enforcement order gives two options 1) apply for planning permission
or 2) remove the extra height and return it to how it was. The Appellant
feels that it makes no sense to take option 1 until she knows whether or
not her neighbour has been granted retrospective planning permission. If
her neighbour removed his fence then inevitably her side will be destroyed
also, however if he retains the fence, then both sides should remain in
which case an additional application fee should not be relevant as it is one
and the same thought she will pay the additional fee if deemed necessary.

Method of Appeal: Written Representations

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained one appeal previously reported on which a decision was still awaited when this report was prepared on 24th February 2017. This relates to a site at:

- | | |
|------------------------------------------------|---|
| • Land North West of Whitmuir Hall,
Selkirk | • |
|------------------------------------------------|---|

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 16/01422/FUL
Proposal: Erection of cattle building with welfare accommodation
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 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 EP8 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the building would not have an adverse impact on the setting of the archaeological site of Our Lady's Church and Churchyard adjoining the application site. 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 any traffic generated by the proposal can access the site without detriment to road safety.

6 REVIEWS DETERMINED

Nil

7 REVIEWS OUTSTANDING

7.1 There remained one review previously reported on which a decision was still awaited when this report was prepared on 24th February 2017. This relates to a site at:

- | | |
|-------------------------------|---|
| • Land East of Keleden, Ednam | • |
|-------------------------------|---|

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

- 8.1 Reference: 16/00141/S36
Proposal: Variation of condition 2 to extend operational life of wind farm by additional 5 years
Site: Fallago Rig 1, Longformacus
Appellant: Amec Foster Wheeler Environment & Infrastructure UK Ltd

Reasons for Objection: It would be inappropriate to extend the permission for the existing turbines on the basis of the decision to object to application 16/00145/S36 for the additional 12 turbines.

- 8.2 Reference: 16/00145/S36
Proposal: Erection of 12 additional turbines
Site: Fallago Rig 2, Longformacus
Appellant: Amec Foster Wheeler Environment & Infrastructure UK Ltd

Reasons for Objection: The proposed development would be contrary to Policy ED9 of the Scottish Borders Local Development Plan in that: a) it would result in unacceptable cumulative visual impacts b) it would be detrimental to the landscape character of the area, resulting in the proposed turbines extending out with the natural confines of the landscape bowl the existing windfarm sits within c) the acceptability of noise impacts on residential receptors were not proven d) the wider economic benefits of the development were not proven, and e) there would be unacceptable adverse impacts on recreational receptors on the Southern Upland Way.

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

- 10.1 There remained one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 24th February 2017. 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"> |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

Name	Designation and Contact Number
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Background Papers: None.

Previous Minute Reference: None.

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

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

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