

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 24TH APRIL, 2017

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 24TH APRIL, 2017 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

17 April 2017

<b>BUSINESS</b>	
1.	<b>Apologies for Absence.</b>
2.	<b>Order of Business.</b>
3.	<b>Declarations of Interest.</b>
4.	<b>Minute.</b> (Pages 1 - 6)  Minute of Meeting 27 March 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	<b>Applications.</b>  Consider the following application for planning permission:-
	(a) <b>Howpark Wind Farm - 16/00980/FUL</b> (Pages 7 - 46) Wind Farm development comprising of 8 no. turbines 100m height to tip and associated works, infrastructure, compounds, buildings and meteorological mast on Land North of Howpark, Farmhouse, Grantshouse. (Copy attached.)
	(b) <b>Bowbank Cottages, Eddleston - 17/00236/MOD75</b> (Pages 47 - 52) Discharge of planning obligation pursuant to planning permission T199-88 on Land South West and South East of Bowbank Cottages, Bellfield Road, Eddleston. (Copy attached.)
	(c) <b>Land South of Easter Langlee Recycling Centre, Galashiels - 16/00417/FUL</b> (Pages 53 - 72) Formation of Waste Transfer Station and Associated Works on Land South of Easter Langlee Recycling Centre. (Copy attached.)
	(d) <b>Land West of and including Golfer's Rest Former Station, Cardrona, Peebles - 17/00187/FUL</b> (Pages 73 - 92) Revised design pertaining to planning permission 09/01542/FUL to replace public bar/restaurant/function suite with 3 No. dwellinghouses and 4 No. flats on Land West

	of and including Golfer's Rest Former Station, Cardrona, Peebles. (Copy attached.)
	(e) <b>West Grove, Waverley Road, Melrose - 16/01583/FUL</b> (Pages 93 - 102) Change of use from Offices and alterations and extension to form gym/spa at The Offices, West Grove, Waverley Road, Melrose. (Copy attached.)
	(f) <b>Land South of Sunnybank, Forebrae Park, Galashiels - 17/00299/FUL</b> (Pages 103 - 114) Erection of dwellinghouse on Land South of Sunnybank, Forebrae Park, Galashiels. (Copy attached.)
	(g) <b>Land West of Glendouglas Lodge, Jedburgh - 17/00163/FUL</b> (Pages 115 - 120) Formation of access on Land West of Glendouglas Lodge, Jedburgh. (Copy attached.)
	(h) <b>Land West of Ovenshank Farm Cottage, Newcastleton - 17/00277/FUL</b> (Pages 121 - 128) Erection of telecommunications tower and associated equipment within fenced compound on land West of Ovenshank Farm Cottage, Newcastleton. (Copy attached.)
6.	<b>Appeals and Reviews.</b> (Pages 129 - 134)  Consider report by Service Director Regulatory Services. (Copy attached.)
7.	<b>Any Other Items Previously Circulated.</b>
8.	<b>Any Other Items which the Chairman Decides are Urgent.</b>
9.	<b>Items Likely to be Taken in Private</b>  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'.
10.	<b>Minute</b> (Pages 135 - 136)  Private Minute of the Meeting held on 27 March 2017 to be approved and signed by the Chairman. (Copy attached.)
11.	<b>Proper Maintenance of Land at the Former North Trinity Church , East Bowmont Street, Kelso</b> (Pages 137 - 142)  Consider report by Chief Planning Officer. (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

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

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**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 27 March 2017 at 10.00 a.m.  
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Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Brown, J. Campbell, J. Fullarton, I. Gillespie, D. Moffat, S. Mountford, B. White.  
In Attendance:- Chief Planning Officer, Lead Planning Officer, Principal Roads Planning Officer, Principal Officer Enforcement, Democratic Services Team Leader, Democratic Services Officer (F Henderson).

**1.0 MINUTE**

- 1.1 There had been circulated copies of the Minute of the Meeting held on 6 March 2017. February 2017.

**DECISION**

**APPROVED for signature by the Chairman.**

**2.0 APPLICATIONS**

- 2.1 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.**

**3.0 SUPPLEMENTARY PLANNING GUIDANCE: LANGTON EDGE, DUNS – PLANNING BRIEF**

- 3.1 There had been circulated copies of a report by the Service Director Regulatory Services which sought approval of Supplementary Planning Guidance in the form of a Planning Brief for Langton Edge, Duns. The report explained that the Langton Edge site at Hardens Road in Duns was allocated in the adopted Local Development Plan 2016 for housing (BD200). The site was allocated under policy PMD3 - Land Use Allocations. The Council had prepared the brief in order to lay down how the site could be developed, creating a development vision, identifying opportunities the site offers, addressing potential constraints, identifying required development contributions and encouraging good quality new development. The brief would provide guidance to any developer or any other interested party and would be a material consideration when determining planning applications. The planning brief was set out in Appendix A to the report.
- 3.2 The report brought forward the revised planning brief following the public consultation and a summary of the consultation responses were set out in Appendix B along with the Council's responses and recommended amendments to the brief, where considered appropriate. One key point to note was that a Section 50 Legal Agreement was put in place on the land as part of the granting of planning consent for housing associated with an extension to the Duns Golf Club in 1994. Part of the lengthy delay in referring the brief back to the Planning and Building Standards Committee was due to implications the Legal Agreement had on the implementation of the development. This was explained further in part 4 of the report, although fundamentally the Legal Agreement would require to be amended to allow development of the land. The amendment to the Legal Agreement would be subject to a separate formal application to the Council. The Chairman thanked Mr Johnston and his team for all their hard work.

**DECISION**

**AGREED** to approve the planning brief as **Supplementary Planning Guidance** to be used as a material consideration to any proposal for the development of the site.

**4.0 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) enforcement Appeals had been received in respect of:-

- (i) Erection of fence at 12 Merse View, Paxton – 16/00126/UNDEV; and
- (ii) Erection of Boundary fence and summerhouse in front garden of 1 Borthwick View, Robertson, Hawick – 16/00146/UNDEV

(b) there remained four appeals outstanding in respect of:-

• Land North West of Whitmuir Hall, Selkirk	• Broadmeadows Farm, Hutton
• Office, 80 High Street, Innerleithen	• 1 Borthwick View, Robertson, Hawick (Murphy-McHugh)

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

- (i) Erection of agricultural storage building with welfare accommodation in Field No 0328 Kirkburn, Cardrona – 16/01464/FUL;
- (ii) Erection of straw storage building in Field No. 0328 Kirkburn, Cardrona – 16/01506/FUL;
- (iii) Erection of machinery storage building in Field No. 0328 Kirkburn, Cardrona – 16/01507/FUL;
- (iv) Erection of machinery storage building in Field No. 0328 Kirkburn, Cardrona – 16/01513/FUL and
- (v) Erection of dwellinghouse on land East of Highland Brae, Lilliesleaf – 16/01536/PPP

(d) there remained two reviews outstanding in respect of:-

- Land East of Keleden, Ednam
- Field No 0328 Kirkburn, Cardrona

(e) that there remained three S36 Public Local Inquiry outstanding in respect of the following:-

- Whitelaw Brae Wind Farm), South East of Glenbreck House, Tweedsmuir.
- Variation of condition 2 to extend operational life of wind farm by additional 5 years at Fallago Rig 1, Longformacus

- **Erection of 12 additional turbines at Fallago Rig 2, Lonformacus.**

5. **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**

6. **MINUTE**

The Committee considered the private section of the Minute of 6 March 2017.

7. **URGENT BUSINESS**

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

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

The Committee received an update by the Principal Officer – Enforcement.

9. **REQUEST TO REDUCE DEVELOPMENT CONTRIBUTION REQUIREMENTS, ROSETTA, PEEBLES**

The Committee considered and approved a report by the Service Director Regulatory Services.

*The meeting concluded at 1.25 p.m.*

## APPENDIX I

### APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/00980/FUL	Wind Farm development comprising of 8 no turbines 100m height to tip and Associated works, infrastructure, compounds, buildings and meteorological mast	Land North of Howpark Farmhouse, Grantshouse

Decision: Continued to the next available meeting of the Planning and Building Standards Committee to receive detailed noise assessment information..

#### NOTE

Councillor Cook and Neil Simpson, Cockburnspath & Cove Community Council spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/01360/PPP	Residential development comprising 38 dwelling units with associated access, landscaping and open space	Poultry Farm, Marchmont Road Greenlaw

Decision: Refused for the following reason:

The proposed development is contrary to Policy PMD4 (Development Outwith Development Boundaries) of the Scottish Borders Council Local Development Plan 2016 in that:

- (i) the application site lies outwith the Development Boundary at Greenlaw;
- (ii) the application site is not an existing allocated housing site; and
- (iii) there are no strong reasons substantiating any view that it should be made the subject of any exceptional approval.

The identification and release of additional housing land to respond to any housing land shortfall in the Borders is specifically addressed in Policy HD4 (Meeting the Housing Land Requirement/Further Housing land Safeguarding) and therefore the release of unallocated land for housing development on the scale proposed would undermine the Council's planned approach to housing development set out in its Local Development Plan and would result in an unjustified and piecemeal development at a Local Planning Authority level.

#### NOTE

Mr Colin Smith, Turley on behalf of Applicant and Mr Gerry McCann, Chairman Greenlaw Community Council spoke in favour of the application.

#### VOTE

*Councillor Brown, seconded by Councillor Fullarton moved that the application be refused as per the Officer's recommendation.*

*Councillor Moffat, seconded by Councillor Ballantyne moved as an amendment that the application be approved, subject to it only be for residential development with there being no specific number of units specified.*

*On a show of hands Members voted as follows:-*

*Motion - 6 votes*

*Amendment - 3 votes*

*The Motion was accordingly carried.*

**Reference**

17/00236/MOD75

**Nature of Development**

Discharge of planning obligation  
pursuant to planning permission  
T199-88

**Location**

Land South West and  
South East of Bowbank  
Cottages, Bellfield Road  
Eddleston

Decision: Continued to the next available meeting of the Planning and Building Standards Committee to allow the legal aspects of the Section 50 Agreement to be fully investigated.

**NOTE**

Mr Richard Spray, No1. Bowbank Cottages, Bellfield Road, Eddleston spoke against the application.

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

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

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/00980/FUL
<b>OFFICER:</b>	Mr Scott Shearer
<b>WARD:</b>	East Berwickshire
<b>PROPOSAL:</b>	Wind farm development comprising of 8 no turbines 100m height to tip and associated works, infrastructure, compounds, buildings and meteorological mast
<b>SITE:</b>	Land North Of Howpark Farmhouse Grantshouse
<b>APPLICANT:</b>	LE20 Ltd
<b>AGENT:</b>	Farningham Planning Ltd

**INTRODUCTION**

The application was continued from the Planning and Building Standards meeting on the 27th of March to allow for further information about the noise impacts of the development to be provided. An additional response has been received from the Council's Environmental Health Officers and the applicants have provided a response to the representation received from the Borders Network of Conservation Groups, both of these communications are available on Public Access. Following the submission of the additional details the chapter of this report on **Residential Amenity (Noise)** has been updated.

Members will need to consider the additional information received to determine whether the noise implications of the proposed development are acceptable when considered against relevant provisions of the Local Development Plan 2016.

**SITE DESCRIPTION**

The application site is located on sloping pasture land above Howpark Farm on the south western side of Coldingham Moor. The site extends to 135ha and is used for sheep and cattle grazing with drystone walls dividing the land into fields. The site is bisected by Howpark Road which runs in a north/south direction. Penmanshiel Wind Farm which consists of 14 turbines of 100m tip lies directly to the north west of the site and Drone Hill Wind Farm which consists of 22 turbines of 76m tip lies directly to the north east. Harelaw Burn runs across the western side of the site and the site also contains thin strips of plating at various locations.

The nearest residential properties are located at the Howpark hamlet which lies approximately 300m to the south of the site. The nearest settlements (not including access track) are as follows;

- Grantshouse, 1.5km to the south west
- Coldingham 5.5km, to the east
- Reston, 5.7km to the south east

- Cockburnspath, 5.8km to the north west

Landscape Designations:

The site itself is not within any designated landscape areas. The following designations do however relate to the site;

- Berwickshire Coast Special Landscape Area is approximately 970m to the north
- Lammermuir Hills Special Landscape Area is approximately 8km to the west

Press Castle Designed Landscape is a little under 2.6km to the south west of the site.

**PROPOSED DEVELOPMENT**

The application seeks consent to install 8no wind turbines with a minimum capacity of 20MW. The turbines are to have maximum tip height of 100m and indicated hub height of 60m. The array of turbines is roughly linear with two rows of four turbines.

The site will be accessed via the south east from a new access track. The associated infrastructure proposed includes a substation and control room building, a 1MW storage battery, a permanent metrological mast (up to 60m in height), access tracks, temporary construction compounds and associated ancillary engineering works.

The proposed wind farm would have an operational life span of 25 years after which the wind farm would be decommissioned.

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

A list of these sites are included within Table 7.4 of the Environmental Statement (ES) and identified on Figure 7.13 of the Landscape and Visual Impact Assessment (LVIA). The most pertinent sites are those closest to this site and are noted below;

Operational:

**Drone Hill** - 22 turbines, 76m in height located directly to the north east, approved on appeal.

**Brokholes** - 3 turbines, 79m in height located 3.5km to the south, approved by SBC.

**Aikengall (Wester Dod)** – 16 turbines, 125m in height, located 11.5km to the west.

Consented (including under construction):

**Penmanshiel** – 14 turbines, 100m in height, located directly to the west, approved on appeal.

**Moorhouse** – 2 turbines, 77.9m in height, located directly to the northwest of Drone Hill Wind Farm, approved by SBC.

**Quixwood** – 13 turbines, 115m in height located 4km to the south west, approved by SBC.



**Neuk Farm** – 2 turbines, 110m in height, located 5.5km to the west, approved on appeal by the Local Review Body

**Fernylea** – 2 turbines, 125m in height, located in East Lothian 7.5km to the west.

**Hoprigshiels** – 3 turbines, located 7.5km to the west, approved on appeal by the Local Review Body.

**Aikengall 2 and 2a** – 38 turbines 125 – 145m in height located 10km to the west, both approved on appeal.

## **PLANNING HISTORY**

15/00083/SCO – This is the Scoping Opinion that preceded this application. The scoping exercise, which is intended to address the extent of information to be included within the Environmental Statement, sought an opinion on the same number and height of turbines proposed within this application.

15/01415/PAN – This is the Proposal of Application Notice that preceded this application.

## **REPRESENTATION SUMMARY**

In total objection comments from 24 different addresses have been received. Each of these representations are available in full on *Public Access*. The main grounds of objection are noted below;

- Planning and Building Standards Committee determined in 2014 that there was no further capacity for wind energy development in the area
- Over provision of facility in area
- Original application at Drone Hill included turbines of 102m which were viewed to be inappropriate
- Adverse landscape and visual impact
- Detract from the setting of the Berwickshire Coast SLA
- Poorly related to Penmanshiel and Drone Hill Wind Farms
- Different design to neighbouring turbines will exacerbate their visual impact
- Turbines higher than those at Drone Hill and some will occupy higher ground leading to increased prominence
- Development is located outwith bowl which contained Drone Hill
- Detrimental cumulative impacts with other wind farms in East Berwickshire
- Control building poorly sited and fails to integrate with surrounding area
- Negatively impact on the Southern Upland Way, the Berwickshire Coastal Route and other walking and cycling routes
- Adversely affect the setting of the Winding Cairn SAM
- Renewable energy benefits of the proposals do not outweigh the landscape and visual impacts
- Photomontages are inaccurate
- Visual assessments within the ES are understated
- Adversely affect residential amenity
- Affected residential properties have been omitted from the submitted Residential Visual Amenity Assessments
- Adversely affect tourism assets particularly High View Caravan Park
- Site conflicts with SBC spatial strategy for wind farm development

- Conflicts with provisions of the Local Development Plan, SBC Structure Plan and SPP
- The Landscape Character Type is not suitable for wind energy development
- Noise nuisance
- Development will cause shadow flicker which cannot be mitigated.
- Loss of Trees
- Inadequate screening
- Impinge on water supply
- Development will negatively affect health of residents in close proximity to the proposals
- Scottish Government's Renewable targets are already met
- Road network cannot accommodate delivery and construction vehicle use

## **APPLICANTS' SUPPORTING INFORMATION**

The application is supported by an ES which includes the following documents;

- Volume 1 - Non Technical Summary
- Volume 2 - Main Report and Figures
- Volume 3 - Technical Appendices
- Volume 4 - Landscape and Visual Impact Assessment Figures
- Planning Statement
- PAC Report

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Access Officer:** No Rights of Way or Core Paths are directly affected. 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. The proposal will be visible from a number of recreational paths / routes which are used for walking, cycling and horse riding. The scale, cumulative and sequential impact of the development has an unacceptable landscape and visual impact upon recreational routes. If approved, planning conditions requesting a study of the paths within the site and a developer contribution to promote the Core path Network are recommended.

**Archaeology Officer:** Support principle of development, subject to mitigation. Direct Impacts – Despite the design mitigating many impacts on known heritage assets, there are still areas of sensitivity such as fields containing Scheduled Atton, settlement and evidence of pit alignment in addition to knowledge of archaeological discoveries during other wind farm developments on neighbouring sites. A watching brief is recommended to mitigate the known and potential loss of archaeological resource across the whole site and significant discoveries should be preserved in situ.

Indirect impacts – Individually and cumulatively, the development poses an adverse impact to the setting of the Winding Cairn. A judgement is required if this impact is contrary to archaeology policies of the Local Development Plan (LDP). Agree with the recommendations of Historic Environment Scotland (HES) that the impact on the scheduled monument is moderately adverse and while this should not preclude development the negative impact on its setting can be off set through a contribution towards the North Berwickshire landscape archaeology project which will increase the understanding, appreciation and experience of the affected historic environment.

The developments impact on the Drone Hill Chain Home Radar Station is underestimated in the ES. The asset does not coincide with the caravan park and is associated with other WWII air defences in the area. The radar station is of regional significance and the effects of the development on it are recommended to be medium. Under ES assessment criteria this would require mitigation may be possible through on-site interpretation which would require negotiation with the land owners.

**Ecology Officer:** No objection. Planning conditions are recommended to mitigate impacts on and compensate the loss of ecological interests. Recommend conditional measures include; the appointment of an Ecological Clerk of Works, an Environmental Management Plan, Species and Habitat Protection Plans, Ecological Monitoring and agreement of Decommissioning and Restoration Strategies. Advise that the Ornithological assessment should be submitted in due course as supplementary information.

**Environmental Health:** Additional information provided by the applicant has clarified an error in the ES. No objection is raised subject to conditions being imposed to restrict noise levels of the turbines, ensure the development is operated appropriately and agree a procedure to investigate noise complaints.

**Forward Planning:** Identifies the range of relevant policy, guidance and material considerations. Conclude that the proposal does not accord with the recommendations of the Ironside Farrar Study (2013) for the scale of the turbines proposed in this area. The presence of two windfarms adjacent to the site should be taken into consideration when assessing the merits of the proposal and whether this is a suitable addition to these windfarms from a cumulative perspective.

**Landscape Architect:** The Landscape Architect has made a detailed assessment of the proposed scheme in relation to Policy ED9 of the LDP and identified landscape and windfarm guidance. Does not object to the proposal and the following key observations have been made;

- Proposal affects five different character areas. In an undeveloped landscape this effect would be considerable however the character changing effects are substantially reduced as the proposal would be seen against other turbines.
- Increase in scale of turbines is to a degree offset by proposal linking existing windfarms to create a single unified cluster.
- The proposed array responds to the underlying shape of the ground and the pattern of development at Drone Hill and Penmanshiel.
- Site falls within LCT19: Coastal Farmland viewed in isolation the proposal is out of scale with the receiving landscape.
- Additional planting strengthens landscape framework and should be secured by condition.
- Impact on the amenity of the five closest properties requires further consideration and screen planting may provide mitigation.
- Proposal appears to create a single windfarm on Coldingham Moor and avoids visual tension with existing windfarms.
- Cumulatively landscape and visual impact is minimised by existing windfarm development on Coldingham Moor.
- Ironside Farrar's Study does not offer support for a large scale windfarm in this location. A detailed landscape and visual assessment has not resulted in the Landscape Architect finding grounds to warrant objection largely because most of the effects of the impacts of the development are already evident and the additional effects would not exacerbate the existing impacts.

**Roads Planning Service:** Have assessed the impact of the development on the section of public road immediately after A1 junction through to the site entrance and Howpark Road crossing. Impact on the trunk road which includes the junction on to A1 is a matter for Transport Scotland. Recommend that a Traffic Management Plan (TMP) should be approved to agree how the traffic associated with the wind farm is managed to minimise the impact on all other road users in the surrounding network. A list of detailed points for inclusion in the TMP has been provided.

### **Statutory Consultees**

**Community Council (Abbey St Bathens, Bonkyl and Preston):** Object, siting following grounds;

- Adverse landscape and visual impact, particularly from viewpoints 11 and 13
- Cumulative impact where the location has reached saturation point.

**Community Council (Cockburnspath and Cove):** Object, siting following grounds;

- Development would add the array of varying turbine heights which would have a detrimental cumulative landscape and visual impact.
- Proposal sited on high ground where they will appear taller and less well contained in the landscape.
- Detrimentally add to noise levels and impact require more rigorous noise assessments
- Detract from the residential amenity and amenity of tourist attractions and facilities
- National wind energy targets have been met
- Detract from the setting of the Berwickshire Coast Special Landscape Area.

**Community Council (Grantshouse):** Object, siting following grounds;

- Detrimental to environment
- Detrimental to residential amenity
- Fail to integrate with height and design of turbines on neighbouring wind farms and will not impact the landscape and visual impact of the existing group
- Loss of view
- Coldingham Moor and Drone Hill are saturated by wind energy development
- Fails to comply with provisions of development plan, most notably cumulative impacts
- Detrimental impact on local tourism attractions and facilities

**Community Council (Reston and Auchencrow):** Noted that no prior engagement from the applicants before lodging the application was carried out. No formal response to the merits of the proposal has been provided at the time of writing.

**East Lothian Council:** Questions are raised about the accuracy of some of the submitted visuals and choice of viewpoints in East Lothian. Based on the information provided, the proposals appear to have a minimal visual impact on the setting of East Lothian. If consented the proposals would exist for a period without Dronehill or Penmanshiel but given their low elevation and limited spread, when viewed by themselves from East Lothian the proposals will have a limited visual impact by themselves.

**Joint Radio Council:** No objection.

**Historic Environment Scotland (HES):** Identify that the Winding Carin (Scheduled Ancient Monument) and Category A-listed Renton House are national historic environment interests affected by the proposals. The proposal is recommended to have a moderate adverse impact on the settings of both assets. However the impact is not of a scale to raise issues of national significance concluding that no objection is raised. Justification for this assessment is provided within an annex of the consultation response provided by HES.

**Ministry of Defence (MOD):** No objection. Recommend all turbines are fitted with suitable lighting so they are identified by aircraft and precise details of the construction period, height of equipment and location of each turbine is provided so flight charts are updated with this information.

**NATS Safeguarding:** Following further assessment, an updated response has been provided confirmed that NATS are satisfied that the impact of the development on the St Abbs aeronautical radio station site is not detrimental to its operations and the original objection has been withdrawn.

**Scottish Environmental Protection Agency (SEPA):** Original concerns expressed about the siting of Turbine 8 have been addressed by additional information which confirmed that the turbine is not being located in an area of groundwater. During construction de-watering may take pollution from this location into a nearby water course however SEPA are satisfied that this can be mitigated by agreeing a Construction Environment Management Plan (CEMP) which will also include measures to protect the environment from pollution as a result of this development as set out in the ES. Recommend that conditions are attached to control the siting of SUDS or settlement lagoons outwith Groundwater Dependent Terrestrial Ecosystem (GWDTE) and agree the details to dewatering of turbine foundations. Content that the development should not impact on private water supplies and no peat is present on the site.

**Scottish Natural Heritage (SNH):** The proposal will not affect any sites designed for their nature conservation interest. The proposal will have a degree of localised landscape and visual impact in addition to the Drone Hill/ Penmanshiel/ Moorhouse combined wind energy development. The nature of the additional effects of the proposal by way of increasing the extent, linkage and intensification of the existing array are primary considerations. The proposals are considered to meet their guidance for siting and designing windfarms and SNH recommend that it represents an appropriately designed extension to the combined array in landscape and visual terms. On reaching this recommendation, a range of observations are noted within SNH's appraisal of the proposal. In summary, these are:

- Concerns about the landscape and visual impact of the Drone Hill and Penmanshiel developments have been raised. These proposals will not adversely alter the design or appearance of the combined development or landscape character.
- The proposal relates to the skyline impacts of existing arrays
- A coherent relationship with the design and operation of the existing turbines in the array is recommended, particularly heights and rotational speeds which will be evidence from close range.
- Proposal bridges a narrow gap between wind farms
- Proposed landscaping in Figure 7.7e is welcomed and should be secured as part of any consent

- The location of the substation control building is prominent and an alternative layout re-positioning the building behind the existing stone wall should be explored and further details of earthworks and planting to mitigate landscape impact should be agreed.
- Support proposals for a Construction Management Plan (CEMP), mitigation measures in the ES and support use of an Ecological Clerk of Works.

A detailed Appendix describing/expanding upon landscape and visual impacts and their significance is included with the planning consultation response.

**Transport Scotland:** No objection, but recommends conditions relating to transportation/management of abnormal loads and nature of proposed signage/traffic control.

#### **DEVELOPMENT PLAN POLICIES:**

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

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

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

<b>Policy Reference</b>	<b>Policy Name</b>
PMD1	Sustainability
PMD2	Quality Standards
ED9	Renewable Energy Development
HD3	Protection of Residential Amenity
EP3	Local Biodiversity
EP5	Special Landscape Areas
EP7	Listed Buildings
EP8	Archaeology
EP9	Conservation Areas
EP10	Gardens and Designed Landscapes
EP15	Development Affecting the Water Environment
IS2	Developer Contributions
IS5	Protection of Access Routes
IS8	Flooding

#### **OTHER PLANNING CONSIDERATIONS:**

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

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

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

**Scottish Government Policy and Guidance:**

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

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

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

**Historic Scotland Publications:**

- Scottish Historic Environment Policy (2011)

**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)

**Other Publications:**

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

**KEY PLANNING ISSUES:**

- Land use planning policy principle
- Economic benefits attributable to the scheme
- Benefits arising in terms of renewable energy provision
- Landscape and visual impacts including residential amenity visual impacts, arising from turbines and infrastructure
- Cumulative landscape and visual impacts with other wind energy developments
- Physical and setting impacts on cultural heritage assets
- Noise impacts
- Ecological, ornithological and habitat effects
- Impact on road safety and the road network
- Shadow flicker
- Developer contributions

**ASSESSMENT OF APPLICATION:**

**Planning Policy Principle**

Scottish Government Policy, regional strategic policy and local planning policy/guidance are supportive of the principle of constructing wind energy projects

unless, with regard to the specific circumstances, the environmental harm caused outweighs the benefits of energy provision.

Policy ED9 of the Local Development Plan 2016 (LDP) is specifically concerned with Renewable Energy Development. This policy promotes the need for assessments to be made against the principles set out in Scottish Planning Policy 2014 (SPP), in particular the Spatial Framework set out in Table 1.

Considered against Table 1 of SPP, the proposed development is not located within a Group 1 area by being located in either a National Park or National Scenic Area. Group 2 lists various designations and interests where there will likely be a need for significant protection from wind farms. One of the listed sensitivities of the Group to is the provision of 2km separation of the development from a recognised settlement in the LDP. Turbine No. 8 (T8) is located 1.94km Gransthouse meaning that the site does fall within a Group 2 Area of Significant Protection. Where wind farms fall within categories of significant protection listed within Group 2, their development *may* still be appropriate however in this case, the development must demonstrate that its visual impact on Grantshouse is not adverse or the impact can be mitigated.

Considered against the Council's Wind Energy SPG Spatial Strategy, adopted in 2011, the turbines would be situated in an Area of Search with Minor Constraints. This can be qualified as a site which is outwith areas of protection such as national or local planning designations.

Having tested the proposal against national and local spatial framework considerations for wind farm developments, the site is not located within an area which would automatically preclude the development of a wind farm. The precise impacts of the proposal must however be assessed against relevant LDP policy criteria to establish if the development of a wind farm at this site is suitable. This assessment will be carried out within the remainder of this report.

## **Design Methodology**

The layout has attempted to follow the linear pattern of the developments at Drone Hill and Penmanshiel and responds to the shape of the ground. The height of the turbines, including their hub height to blade length correspond with those being used at Penmanshiel but will differ from those used at Drone Hill Wind Farm. SNH have advised that the proposals broadly satisfy the principles in their guidance on "Siting and Designing Wind Farms in the Landscape" and responds to the existing Drone Hill/Penmanshiel/Moorhouse (hereinafter referred to as the Drone Hill Cluster) in landscape and visual terms.

## **Landscape and Visual Impacts:**

### **Landscape Character**

Figure 7.8a illustrates that the development site is situated at the north western corner of Landscape Character Type (LCT) 19Co: Coastal Farmland: Coldingham as indicated in the Borders Landscape Assessment 1998. This assessment describes the LCA as being;

"a diverse coastal landscape of rolling farmlands and rugged sea cliffs."

The site is very close LCT 21CM: Coastal Moorland: Coldingham Moor which is another coastal type which lies immediately to the north and contains the majority of



the wind farms at Penmanshiel and Drone Hill. Immediately to the west lies LCT 26EyW: Pastoral Upland Fringe Valley: Eye Water, which is described as an 'Upland fringe type'. The development will have direct effects on both these LCTs, particularly LCT 21CM.

The applicants have presented the opinion at Fig 7.8b in the ES and supplemented by further information that by accounting for existing wind farm developments in the immediate area that the receiving LCT now displays the characteristics of Coastal Moorland. This is a reasonable suggestion to make, however the site contains improved grassland and includes enclosed fields which is a defining characteristic of LCT 19Co and not 21CM. Because the site is located at an intersection of three LCTs, there are overlaps in character. It is considered that it is reasonable to conclude that, as advised by the Landscape Architect, the site is located within LCT 19Co but that, because it is located on the edge of the LCT, it should be recognised the location does display features of neighbouring LCTs. Ultimately, the LCT of the receiving landscape is of secondary importance to whether the proposal is suitable in landscape terms and it is this that will be discussed within this report.

### **Landscape Capacity**

Policy ED9 gives significant weight to The Landscape Capacity and Cumulative Impact Study 2013 by Ironside Farrar being an initial reference point for landscape and visual assessments for wind energy developments. This study is based on the LCT's which are also referenced as Landscape Character Areas (LCAs) of Borders Landscape Assessment (ASH Consulting Group for SNH, 1998).

The section above covering Landscape Character advises that the applicants and the Planning Authority do not necessarily agree on the classification of the receiving Landscape Character Area (LCA). To address this difference of view, the application has been considered against both corresponding LCTs of Ironside Farrar's study: LCT19 ii and 21. Both of these LCTs fall within a wider landscape area identified as the Coastal Zone. Table 6.1(iv) considers the potential for further windfarm development in LCT's within this area. It is revealing that both LCT 19ii and 21 are recommended to only have some capacity for medium sized turbines. Medium sized turbines are qualified within the study as being turbines between 25 – 50m high. Both study areas are noted to have increased capacity for potential wind energy development towards the west of their areas which is where this site is located, but this does not necessarily recommend that there is capacity for larger turbines. *(N.B. Ironside Farrar's study was approved prior to the determination of Penmanshiel Wind Farm, but the study made reference to the submission of this application.)*

To help consider the landscape impacts of this application, it is important to outline key views on the landscape impact which were expressed as part of the assessment of neighbouring wind farm schemes. These are as follows;

- The Council opposed the development of a wind farm containing 76m high turbines at Drone Hill and 100m high turbines at Penmanshiel. Central to the Council's opposition to these schemes were concerns that these developments would have adverse landscape and visual impacts and the Council defended these views at appeals.
- In their response to this application, SNH have made reference to the serious concerns they raised against Penmanshiel which was based on the landscape and visual impact of the combined Drone Hill and Penmanshiel developments.

- On determining the last application for wind turbines in this landscape where consent was obtained for two 76m high turbines at the P&BS Committee on 3<sup>rd</sup> March 2014, Members observed that the landscape had reached saturated point, noting in the minute that;

“In approving the application Members asked that it be recorded that they considered that this landscape had now reached capacity in terms of the number of turbines which could be accommodated.”

Information gathered about the Council’s recommendations on neighbouring wind farm proposals and recommendations within Ironside Farrar’s Study clearly suggest that this landscape does not have the capacity to support large turbines. It is however material to consider the decision’s by the Reporter to approve windfarm developments at Drone Hill and more latterly Penmanshiel. These approvals have introduced large turbines into the landscape and both of these wind farms are now in existence. The prevailing character of the landscape which would receive this proposed development is now different to the landscape when applications at Drone Hill and Penmanshiel were being considered. The current proposal must be considered against these prevailing circumstances. Consideration of the landscape, visual and cumulative impacts will determine whether this landscape has further capacity for the additional turbines proposed.

### **Theoretical Visibility**

The submitted Zone of Theoretical Visibility (ZTV) mapping (refer to Figure 7.6a and 7.6b) shows the areas which will be affected by the development. The Council’s Landscape Architect has suggested that the main visual impacts are expected to be within a 10km range of the development, therefore this assessment is generally focused on the impacts within this area.

According to the ZTV, there is a spread of visibility to the west extending onto the slopes of Ecclaw Hill through to Horseley Hill in the south. The valley corridor which contains the A1 and East Coast Railway Line limits the views of the development except from a couple of stretches within the 10km area. There are immediate views of the development towards the east however the rising coastal slope screens views from the coastline. Figure 7.8a suggests that 5-6 different LCAs in and around the 10km radius will have varying degrees of visibility of the development. The applicant indicates that within the 30km study area of the ZTV, 58.3% of the area will have visibility of the development; much of this is suggested to be attributed to the North Sea. It is advised that the land based visibility is 15.1% of the study area.

Cumulative impacts will be considered later in this report but because the development is directly adjacent to an existing complex of wind energy developments at the Drone Hill Cluster, it is important to note the findings of the Cumulative ZTV, shown in Figures 7.2a and 7.2b of the submission. The applicant states that Howpark Wind Farm would only add 1.1% of new areas of theoretical visibility, that is, additional areas where the Drone Hill Cluster is not already theoretically visible. The additional visibility of the proposal in association with its existing cluster is very minimal.

### **Landscape Impact**

The landscape is not an “upland type” where the siting of wind farms would normally be preferred. The introduction of eight 100m high turbines will affect the character of the receiving landscape and other areas where the development will be visible from.

Critically, the landscape character of the area has been changed by the presence of wind farms on sites adjacent to this application. This means that large wind turbines are now a feature of this landscape. Whatever one's view on the visibility of the Drone Hill Cluster, the acceptability of landscape (and visual) impacts of this proposal depends on the level of change of the existing character 'pre-development' weighed against the 'post-development'.

The existing Drone Hill Cluster is prominent from many viewpoints. The vertical nature of the turbines contrasts with the landscape. This is particularly apparent from Viewpoint (VP)5 where there is an important view across the A1 corridor. The present gap between the two schemes provides both windfarms with their own identity and they do appear separate from one another. From VP5, this proposal fills the gap between the two schemes. The scale and positioning of this development acts as a link between the existing Drone Hill and Penmanshiel windfarms to create a larger cluster which arguably sits more comfortably in the landscape than the existing, separate wind farms. This unifying effect can also be viewed from other western VPs; VP7, VP11 and to a degree, VP2.

VP5 also encapsulates the setting of landscape setting of Grantshouse. The VP illustrates how the rising landform above Grantshouse is already affected by turbines. This proposal will intensify the number of turbines behind the settlement. The closest turbine of this proposal is no closer to Grantshouse than the closest turbine at Penmanshiel to the settlement. The proposal retains level of separation presently afforded to Grantshouse from turbine development and because the turbines are of a similar typology to those at Penmanshiel the proposal is not considered to have an adverse effect on the setting of Grantshouse.

The proposal will increase the extent of the Drone Hill Cluster across Coldingham Moor from both the east and west as shown in VP4 and VP6. The Howpark turbines will be apparent from these VPs as the turbines are viewed in near and middle ground. Although the extent of the Drone Hill cluster is increased as a result of this proposal, the additional turbines do generally relate to the skyline of the existing array which helps produce a level of coherency.

Turning to the impact of the proposal on landscape designations, the application site is not designated for its scenic value but it does lie close to the Berwickshire Coast SLA. The focus of the designation is the coastline stretch. VP3 is located within the SLA and VP14 looks along the coast from East Lothian. From VP3 the development is only visible through the existing wind development where the turbines in the foreground will remain the most apparent. VP14 provides an important panorama along the coastal headland of the SLA which is an important skyline. The proposal has limited impact on this view and both SNH and ELC are satisfied that the development does not impact on striking character of the landscape from VP14.

VP15 shows the development from the Eyemouth Coastal path which is within the SLA. The proposal does extend and intensify the array on the skyline. This view is distant and the development extends away from the coastline area.

The effect of the proposal on the SLA is considered to be limited. This judgement aligns with the observation of the Reporter during the determination of Penmanshiel where that development was not viewed to have an adverse effect on the SLA. The proposal is not viewed to adversely affect the setting of any other landscape designation or affect an area of wild land.

## Visual Impact

The ZTV analysis confirms that the proposed development will almost always be visible alongside the existing Drone Hill Cluster. A selection of key viewpoints (VPs) has been selected to illustrate the visual effects of the development from important public locations.

### Visual Impacts – Roads and Paths

The A1107 which also forms part of National Cycle Route 78 is a significant tourist route within Eastern Berwickshire. The ZTV demonstrates that the development will be visible along the stretch of this road which crosses Coldingham Moor and in particular will be visible traveling towards the development from the south east. VP4 along with the Sequential Route Assessment at Figure 7.11 illustrates the impact on this route. VP4 shows the turbines alongside those at Drone Hill and in front of Penmanshiel. As stated above the proposed turbines generally relate to the skyline from this VP, except Turbine 4 which visually sits up more than any other in the array. In particular from this VP the differences from this scheme against Drone Hill will be apparent with the following differences noticeable;

- Turbine designs
- Layout, where turbines at Drone Hill stack behind one another against the lateral spread of Howpark
- Operational, i.e. rotational speed and blade sweep

VP5 was identified as an important landscape viewpoint and because it is on the A6112 Duns to Grants House Road increases its significance. The siting of the turbines helps to fill in the gap at the existing cluster and their height corresponds well to the turbines at Penmanshiel. From this VP the extent of the development from Penmanshiel across the south western slope of Coldingham Moor is increased. Visually, the scale of the proposed turbines will be accentuated from this VP because they are positioned in front of the smaller than those at Drone Hill. It is also noticeable that T4 appears as an outlier from this VP and because it sits up in front of Drone Hill highlights the eastern spread across Coldingham Moor.

The ZTV identifies that there will be visibility of the development from the Southern Upland Way (SUW). VP6 to the west of the site shows that the proposed development will extend the spread of the Drone Hill Cluster across the skyline. This could impinge further on the attractiveness of the route when traveling east.

The identified impacts at the VPs are new visual impacts and will be experienced across a number of other VPs to differing levels. These impacts will be noticeable, especially from close proximity and create elements of visual confusion, more often between the differences of Howpark and Drone Hill.

To understand the level of noticeable changes, further details of the proposed turbines were requested; however, the choice of turbine type is not yet available which is not uncommon at this stage of a wind farm development. It is perceived that the turbine type should closely match those used at Penmanshiel, given the design similarities between the two to minimise visual disruption. The adverse visual impacts caused by T4 were identified to the applicants. It has been suggested that this turbine could be micro-sited. Provided micro-siting was on a lower ground level, this may address its prominence as an outlier.

## **Cumulative Landscape and Visual Impacts**

The existing wind farm developments at Drone Hill and Penmanshiel have changed the character of the landscape. Again, it is important to consider the level of change arising specifically as a result of this proposal. Crucial within this deliberation is the Cumulative ZTV which confirms that Howpark Wind Farm would only add 1.1% of new areas of theoretical visibility to areas where there is visibility of the Drone Hill Cluster. In comparison, Penmanshiel Windfarm provided significantly more additional theoretical visibility at a level of 10.9% to its baseline which was set by the visibility of Drone Hill Wind Farm. This development would lead to the Drone Hill Cluster being more visible in the landscape; however the level of additionality is marginal.

The proposal will increase visibility of the Drone Hill Cluster. This is particularly apparent from the west and south east and the effects for this have already been discussed above. The addition of the proposed scheme is not considered to introduce windfarm development on LCAs which are not already impacted by the existing array.

The design differences of the turbines which would be used in this development, particularly alongside Drone Hill turbines has been a criticism of the proposal within the visual impact section. There are already locations where visibility of both Penmanshiel and Drone Hill wind farms reveal noticeable differences in appearance and operations of these two wind farms. It is not suggested that the addition of Howpark would resolve any visual issues between the existing schemes. Nevertheless, the addition of 8 additional turbines which relate to the positioning of turbines in the existing array may not appear visually discordant in the landscape. This view is shared by SNH who advise that; “we do not consider that the addition of the Howpark turbines will substantially or adversely alter the design or appearance of the combined development”.

The manner in which the proposal is added to the existing wind farms conforms with the ‘cluster and space’ concept which is often promoted with large wind energy development. There are other large wind energy developments in the areas that will create further cumulative impacts notably to Quixwood to the south and large turbines at Hoprigshiels, Neuk Farm and Ferneylea. These schemes are on the opposite side of the A1 corridor. The windfarms at Crystal Rig and Aikengall add to the cumulative and sequential effects which will be experienced within the wider landscape. This proposal maintains the existing separation distances from these other large consolidated windfarm sites and does not unacceptably alter the pattern of wind farm development in Berwickshire.

The assessment of this application has found that the existing Drone Hill Cluster is a reoccurring visual feature within the affected landscape. The cumulative impacts caused by this application are minimised as a result of the majority of the impacts already being evident in the affected area and by the limited additionality attributed to this proposal.

### **Conclusion in respect of Landscape and Visual Impacts (not including residential amenity and cultural heritage)**

The assessment of landscape and visual assessment is complex and this has been illustrated by the various considerations posed by this proposal. The observation made by Members on determining the development at Moorhouse which added to this cluster is acknowledged but legislation requires that the Council is required to determine the application against the provisions of the LDP, unless material

considerations indicate otherwise. Policy ED9 recommends that wind development should be supported unless there are “unacceptable significant adverse effects”.

In an undeveloped landscape this type, the introduction of eight 100m high turbines would be difficult to support. This view would be consistent with the view of Officers expressed in response to wind farm developments at Penmanshiel and Drone Hill. However, these wind farms are now present and their existence significantly alters the character of the landscape and backdrop which this proposal will be viewed against.

Unquestionably, this latest proposal does result in further adverse impacts on the landscape and visual amenity which are particularly apparent within the local landscape around the development. The proposal will extend and intensify views of the existing cluster and give rise to noticeable operational differences between the different schemes. These impacts need to be balanced against the principle of this proposal helping to unify the existing Drone Hill Cluster within the landscape and evidence that the development will add only a limited amount of new visibility of the existing cluster in the affected area. The new adverse impacts caused by this development would not be necessarily be welcome, but they are significantly diluted by the proposal being added to a backdrop of two existing wind farms. On considering the impacts of this application, SNH have stated that;

*“we do not consider the proposal significantly compromises the form or legibility of the existing combined development and its current relationship to the landform and features of local landscape character.”*

Consideration of the landscape and visual impacts of this development is finely balanced. Weighing the identified impacts which would be caused by this proposal, against the impacts of the established Drone Hill Cluster it will be located beside, the new visual impacts are not judged to be significantly adverse. It is the view of officers and SNH that that proposed development does not warrant objection on landscape and visual grounds against the requirements of Policy EP9.

### **Visual Impacts – Residential Receptors**

It has already been identified that the proposal lies within an Area of Significance of SPP because T8 lies within 2km of Grantshouse. The topography between Grantshouse and the development site does rise quite significantly and a planting belt encloses the north eastern edge of the settlement. Because of the intervening landform and planting, there should not be any visibility of the development from Grantshouse itself. On that basis, the proposal is not considered to have an adverse visual impact on residential receptors within this settlement.

The ZTV suggests that there would be visibility from Oldhamstocks in East Lothian. This village is close to 9km to the northwest. VP12 shows the view from Oldhamstocks. The proposal is only seen through Penmanshiel and as a result of this against the distance the proposal does not have an adverse visual impact on this settlement. The other settlements around 10km for the site which are suggested to have a degree of visibility are part of Chirnside and Eyemouth. Both these settlements are over 10km from the development so any visual impacts on each of these settlements would be negligible.

Within 3km of the site, the ZTV suggests that 36 residential properties or groups of properties (which includes Grantshouse) will be affected by this development. This is a high number of properties which would be theoretically affected by this

development. It should be acknowledged that visibility of the development would be experienced in the context of the existing Drone Hill Cluster. Because of the landform and the layout of the proposal alongside the existing cluster, it is considered that it is properties towards the south which will be more affected by this proposal because the development occupies their skyline.

The nearest property to the development is a bungalow known as Hazelfield (Property No 1 on Fig 7.12) which is 720m to the nearest turbine. An additional wireline was provided to illustrate the impact of the development on this dwelling and also the site immediately to its north west which has planning permission for one dwellinghouse. This VP demonstrates that Penmanshiel is already visible and Howpark, in particular T7 will extend towards and increase the magnitude of turbine development from this property. The applicants have suggested the introduction of a planting strip along the field boundary to the north of Hazelfield which would help to provide some mitigation to the affected outlook from this property.

Renton Barns (No 6 on Fig 7.12), 1–5 Renton Cottages (No7 on Fig 7.12) and Renton House (No 22 on Fig 7.12) will all be affected by this proposal to varying degrees. VP2 from Renton Barns shows how the proposal fills in part of the gap between the existing development and its correlation to the scale of Penmanshiel, however it also demonstrates the extension of turbines towards these receptors which dominates their outlook. This view will be experienced from 1-5 Renton Cottages as well. It is also important to note the finding of Figure 11.10e from the upper floor of Renton House which although has been carried out for cultural heritage purposes reveals the scale and lateral spread of the development. This particular view will only be experienced from the upper floor of Renton House however its affect is considerable.

Properties towards the east and north eastern areas within the 3km area will be affected by this proposal as well. These properties will see the increased extent of the cluster and some properties may perceive the operational differences between the different developments noted above. To a degree, this impact is already visible between Penmanshiel and Drone Hill for properties on this side. The properties located on this side of the development are located on higher grounds level on Coldingham Moor than those to the south so impact on their visual amenity is not quite as severe.

The introduction of turbines of the scale proposed will often impact on the amenity of residential receptors. SPP gives weight to recognised settlements which this proposal does not adversely affect. The proposed development does raise some new visual impacts on individual residential receptors, particularly those to the south of the proposal. The proposal may diminish the outlook and the attractiveness of these properties but more often than not this impact is already experienced by windfarms which are already present in the environment. Weighing the present impact of existing windfarm upon the amenity of existing houses against the impacts of this proposal, the new impacts are not judged to be significantly adverse to warrant refusal against LDP policy provision covering residential amenity. If Members are minded to approve this proposal it is recommended that plating to mitigate some of the impact on Hazelfield can be secured by condition.

### **Visual Impacts of Associated Infrastructure**

The positioning of the substation and control building is fairly prominent adjacent to Howpark Road, this impact is and associated work is localised. The design of the control building generally appears acceptable, however its precise siting and

associated works such as fencing, hardstanding and lighting may increase its prominence in the local landscape. A feature of the LCA is the division of the land with drystone walls which are apparent at the location of the substation, in particular the control building should respect these boundaries. The principle of this aspect of the proposal is not objectable however further details to ensure that the proposals do not harm the local landscape are required. This can be achieved by suitably worded planning conditions.

It is the intention that the majority of the associated infrastructure is to be removed at the end of the operational life of the wind farm. To avoid unnecessarily lasting impacts suitably worded planning conditions can agree the eventual removal of these components.

The Council's Landscape Architect welcomes the structure planting across the site which provides some landscape mitigation. As advised by SNH the precise detail of the planting and all other earthworks can be agreed by condition.

### **Turbine Micro-siting**

The ES states that a micro-siting allowance of 20m is appropriate for the turbines. The Council's Ecology Officer has recommended the micro siting is required for T5 and potentially T8 and micro-siting is required for T4 for visual reasons. The issue of micro-siting is important to consider and a degree of flexibility is suitable after investigations of the ground conditions. Due to the design methodology of this proposal any micro-siting should account for the linear pattern of the development and its coherence in the skyline beside the Drone Hill Cluster.

A micro-siting planning condition would require the applicant to undertake wireframe analysis of any micro-siting requirements to illustrate that each turbine's revised position can be tolerated in the landscape without adverse visual impacts.

### **Residential Amenity (Noise)**

Policy ED9 of the LDP requires that noise impacts of wind energy proposals upon communities and individual dwellings must be considered. Specialist advisors in Environmental Health have provided assistance to determine if noise generated by the proposed development either individually or cumulatively in association with noise from other neighbouring schemes will have an unacceptable impact on residential receptors.

A noise assessment has been carried out and contained within the ES. It is confirmed that the assessment has been undertaken against the guidance produced by the Department of Trade and Industry in The Assessment and Rating of Noise from Wind Farms, reference ETSU-R-97 and good practice guidance produced by the Institute of Acoustics (IoA). Both of these guidance notes are generally accepted within the industry to set relevant protocols for noise assessments. The assessment included details of noise emission predictions which have been calculated for each affected receptor, taking account of noise generated by the proposed development, plus its cumulative noise impacts in association with other wind farms within the Drone Hill Cluster.

It has been advised that the presence of existing turbines in the area made it very difficult to establish background noise levels for this proposed development which was free from noise from other sources, principally the noise from Drone Hill and the construction of Penmanshiel. This led the applicants to acquire their background



noise data from the data used within the assessment for other neighbouring schemes, principally Penmanshiel. The Council's Environmental Health Officer (EHO) has confirmed that this approach is permitted under IoA guidance.

The Council's EHO has confirmed that the submitted noise assessments have been examined against ETSU-R-97 guidance which is accepted by the Scottish Government as the relevant guidance to assess noise emission levels from wind farm developments for the purpose of planning applications. The EHO is satisfied that appropriate noise predictions have been undertaken using recommended noise modelling methodology, incorporating relevant corrections factors and accounting for noise problems caused by other adjacent developments.

The assessment indicates that unmitigated noise emission levels from this development would exceed suitable noise limits derived from ETSU guidance at three residential receptors and High View Caravan Park. These receptors are located to the south and south east of this site. This information is illustrated in Table 10.7.1 and 10.7.2 in Appendix 10.7 with the receptors subjected to excessive noise levels highlighted in red.

The ES recommends that noise limits at the receptors which are identified as being detrimentally affected by this development would be as a result of downwind conditions. A range of mitigation measures are outlined within the ES and in particular the operation of certain turbines in a low noise mode during conditions when the wind is blowing from the site towards the identified receptors. Noise emission levels with the applied mitigation measures are detailed at Tables 10.7.3 (which sets operational noise levels for the Howpark development when measured in isolation) and 10.7.4 (which sets cumulative noise levels for the Howpark development when measured with the Drone Hill Cluster) have been provided. This information along with Figure 10.7.4 illustrates that the proposed mitigation reduces noise impact from the development to levels where even the worst affected properties falls within the recommended ETSU limits.

The limits set in each of these tables where mitigation has been applied demonstrates that the development can be operated so that it will not give rise to unacceptable noise impacts on local receptors. The Council's EHO has advised that they are satisfied with these limits and that they have been calculated appropriately. It is anticipated that the cumulative noise limits would be the most relevant, however the individual limits would be appropriate if a situation where other neighbouring developments were all no longer in operation.

It is recommended that a standard planning condition which has been adopted by the Scottish Government is used to restrict the noise generated from this development to the reduced levels. It is normal for noise limits to be broken down to set different day and night time limits, with quieter limits used at night. The EHO has advised that the cumulative and individual noise limits have been set to the more onerous or quiet level when measured from the affected property, meaning that the development would be operated to the quieter level at both day and night.

If planning permission were to be obtained, it would be the responsibility of the developer to operate the development within the limits set by the planning condition. The condition sets a requirement on the operators of the development to appoint independent noise consultants to record the noise emissions from the development and to investigate and resolve noise issues and complaints to the satisfaction of the Planning Authority.

In conclusion, it is recommended that the subject to the compliance with the recommended planning condition that the proposed development will not generate noise levels which will detrimentally impact on the residential amenity of any affected receptors. On this basis the proposed development is not opposed on grounds of its noise impacts against Policy ED9.

### **Shadow Flicker, Interference and Aviation**

The applicants have applied a test under national guidance on Shadow Flicker provided by the Scottish Government. This investigation has revealed that Howpark Farm Cottage will be affected by shadow flicker for 23 minutes between 04:44 and 05:07 hrs from the 15<sup>th</sup> to 21<sup>st</sup> of July. This assessment is accepted and it is acknowledged that this impact is not significant due to the time of day when the effect would occur.

Shadow flicker from the development will theoretically occur for 26 minutes at High View Caravan Park between the hrs of 19:00 and 20:00 from 8<sup>th</sup> to 10<sup>th</sup> of May and 1<sup>st</sup> to 2<sup>nd</sup> of August. This impact would occur at a time of day when it would be noticeable. The affected time period is short and limited to a small number of days but because it affects a holiday park this could detract from a person's visit, especially if they are only there for a short period of time. This can be mitigated by shutting down the turbine in question (T4) during the period it would affect the caravan park as suggested in the ES.

The assessment does not predict that any cumulative shadow flicker impacts will take place as a result of this development. Overall, the shadow flicker impacts are limited and mitigation to avoid adverse impacts on High View Caravan Park can be controlled via condition.

It was originally suggested that the proposed development would adversely affect an aeronautical radio station at St Abbs. Further investigations have been carried out by NATS and it has been confirmed that the development will not harm its operation.

### **Ecology and Habitat Impacts**

The proposed development is not located within an international or nationally important area of nature conservation and known protected species.

SEPA originally objected to the proposal due to the potential for T8 to impact on wetland ecology. Further investigation into the ground condition around T8 has confirmed that there is not significant ground water present. This assessment has allowed SEPA to remove their objection. They have recommended that pollution from T8 could infiltrate the watercourse particularly during the construction process however this can be mitigated through a Construction Environmental Management Plan. To further mitigate the impact of the development on wetland ecology, conditions to restrict the siting of a SUDS or settlement lagoon in areas of Groundwater Dependent Terrestrial Ecosystems and methods of dewatering turbine foundations are recommended.

SEPA are satisfied that peat should not be present in this site and that the siting of the development is far sufficiently far enough away from private water supply sources so that runoff from the development should not interfere with these supplies.

The Council's Ecologist has scrutinised the range of habitat and species surveys which have been submitted. The development would impact on certain species and

habitats however there are no significant impacts where the proposed development would be considered unacceptable against Policy EP3. It is recommended all ecological impacts can be mitigated through conditions covering;

- Micro-siting
- The appointment of an independent Ecological Clerk of Works to monitor compliance with ecological and hydrological commitments provided within the ES
- Agreement of a Construction Environmental Management Plan (CEMP)
- Protection plans for identified protected species
- Habitat Management Plan to compensate for the loss of habitat and enhance existing habitats (including wet modified bog)
- An Ecological Monitoring Programme
- Decommissioning and after care strategy to suitably remove the development from the affected environment

The suggested biodiversity enhancement programmed illustrated at Fig. 7.7e is welcomed by both the Ecologist and SNH. This programme could further enhance other habitats which are affected by this development and this can be secured by a condition agreeing a Habitat Management Plan. The Ecologist sought for further information to complete the ornithological assessment of the EIA. To date, this information has not been submitted in this manner, but the Ecologist has advised that this should not delay the determination and can be sought as supplementary information and it is suggested that this can be requested as an informative.

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.

### **Cultural Heritage Impacts**

The Council's Archaeologist is generally content that the design mitigates the majority of direct the impacts on known heritage assets. Part of the Atton settlement Scheduled Ancient Monument (SAM) is located within the buffer of the site access track meaning the development may interfere with this SAM. The development of windfarms in neighbouring sites has led to archaeological discoveries. To mitigate the known and potential loss of the archaeological resources within the development site, it is recommended that a watching brief is conducted at all times during excavations required for development.

The proposed development will impact the setting of the Winding Cairn SAM which is located approximately 700m to the south west of T8 and the Category A listed Renton House which is 1.8k to T5. HES have expressed concerns that the proposed development will have degrees of moderate adverse impact on the setting of both of these national heritage assets.

In terms of impact on the SAM the turbines will appear obvious from the cairn, but does not challenge its dominance on the spur it is found or disrupt its relationship with other contemporary monuments in the surrounding area. Turing to Renton House, the impact will be on views from the house rather than views to this listed building. The development will impact on views from the upper level of the building as highlighted in VP2 however HES advise that the impacts do not cause sufficient harm to the setting of the house.

The Archaeologist agrees that with the recommendations of HES that the impact on the Winding Cairn is moderately adverse and while this should not preclude development, to achieve compliance with policy provision this impact should be mitigated. It is recommended that mitigation can be achieved through a developer contribution towards the North Berwickshire landscape archaeology project which will increase the understanding, appreciation and experience of the affected historic environment. Contributions to this scheme have been agreed as mitigation to archaeological setting implications of neighbouring wind energy developments which sets precedence for this form of mitigation in this area. The developers have agreed in writing to enter into this agreement.

The recommendations of the archaeologist that the impacts of the development upon the Drone Hill Chain Home Radar Station have been underestimated in the ES are accepted. It would be desirable to pursue the mitigation which is suggested by the Archaeologist. The station and surrounding pill boxes are located on third party land which is presently quite overgrown. Delivery of the improvements would require considerable engagement and agreement with a third party. This is outwith the control of the developers. Additionally, no mitigation was sought from Drone Hill wind farm which would have had a similar impact on the Chain Home Radar Station. In this context it is recommended that this mitigation would not be appropriate to pursue through the means of any planning permission.

The development does not detrimentally affect the setting of any other listed building or Conservation Areas.

On balance it is the view of Officers that the proposal will not have a significant enough impact on the affected cairn or any other heritage assets to warrant objection against LDP Policy ED9 or EP8 subject to the mitigation suggested above.

### **Economic and Socio-Economic Benefits**

The renewable energy industry is important nationally, leads to employment and investment during construction and during the lifespan of the development.

It is likely that the level of employment activity in particular during implementation would be notable. This would have the potential to promote use of local facilities and services including accommodation, shopping and recreation. Following implementation of development, it would be likely that a relatively low level of employment would occur on a day-to-day basis; whereas at decommissioning stage there would again be a high level of activity.

Eastern Berwickshire is recognised as being a popular tourist area. The number of caravan and camping facilities within the area are evidence of this with visitors often attracted by the areas attractiveness and recreational opportunities. Whether the implementation of wind farms is harming, or has harmed Borders' tourism economy is not quantified. It would be true to state, however, that their implementation divides opinion – the presence of wind farms causes some to be deterred, some to be ambivalent and some to respond positively.

High View Caravan Park on Drone Hill is a significant visual receptor directly to the east of the proposal. Because this site is a caravan site and not a residential development, it is not afforded the same level of protection under Policy HD2 which protects residential amenity. Turbines are however already significantly visible from High View Caravan Park. VP1 illustrates that the development will bring large turbines closer into the western view from this tourist facility. At the present time, no

published information describing potential tourism effects is material to the consideration of an application of this type.

It may be concluded that in terms of economic benefits, there may be some gain. Conversely there may not be any socio-economic benefits, as suggested by third party representations. The potential impacts of the development upon these considerations are noted; nevertheless neither is viewed to be significant enough to be a major determining factor against the policy provision.

### **Renewable Energy Benefits**

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.

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

This proposed development would have a total installed capacity of 20MW. This level of benefit is moderate compared to other schemes and its contribution is noted.

### **Public Access / Path Network**

There are no Rights of Way or Core Paths which are located within the site which will be affected by this development.

The Access Ranger has raised concerns that the development gives rises to an increased visibility of turbines which detrimentally affects the experience of users using recreational routes within 6km of the site. Most notably this includes the SUW and National Cycle Route 78 and to a lesser extent the Berwickshire Coastal Path. The landscape and visual impacts of the development from these well used accesses area highlighted within Figure 7.11, VP4, VP6 and VP15 respectively. It is regrettable that the development will detract from the outlook from these recreational routes. These routes are already significantly affected by wind farm development in this area. Bearing this in mind, the detrimental impact of the proposal in wider land use planning terms is not judged to be significantly adverse in its own right to recommend refusal of this proposed development against Policy ED9.

It has been recommended that developer contributions should be sought to mitigate the impact of the development on the core path network however this is not considered to be appropriate as this will affect land outwith the developer's control. Mitigation to improve public access throughout the site is however feasible and could relate to access through the existing Drone Hill wind farm.

### **Traffic Management and Road Safety**

The site benefits from being close to the A1 which take the majority of traffic movements associated with this development, limiting the impact on non-trunk roads.

There are no reasons why the development would not comply with LDP Policy ED9 in relation to trunk road and traffic impacts with no overriding concerns raised by Transport Scotland or the Council's Roads Planning Officer (RPO). Planning Conditions can seek the agreement for a Traffic Management Plan which will also require the provision of mitigation measures to cater for abnormal loads using the route and a separate condition will ensure that the junction from the public road into the site can appropriately cater for vehicles accessing the development.

## **CONCLUSION**

Scottish Borders Council remains positive towards the principle of wind energy development, as reflected in its policies and guidance. As required by policy considerations, the benefits of energy production, and the disbenefits of environmental impact must be weighed carefully against one another. This is made clear in the 2014 SPP and reflected within the primary LDP Policy considerations for this development, Policy EP9.

Wind farm developments exist in locations immediately next to this proposal. It is acknowledged that this proposal has been designed as an extension to the existing wind farm array, which provide the background position for the current application. This proposal does give rise to adverse impacts, most notably landscape and visual impacts, but these are limited, with very few locations from where turbines are not already visible. All environmental disbenefits attributed to this proposed development have been thoroughly assessed against the impacts of the established windfarm developments in this location. It is considered, on balance, that the scale of change is not so significant as to warrant refusal. A range of planning conditions and a legal agreement is recommended to provide further mitigation to the environmental, community and cumulative impacts of this development.

The matters raised in representations have been evaluated as part of this assessment however there are no material considerations that would justify a departure from policy provision in this specific case.

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

I recommend the application is approved subject to a legal agreement addressing contribution towards North Berwickshire landscape archaeology project and the following conditions:

### **Commencement and Conformity**

1. This consent is for a period of 25 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority no later than one calendar month after that date.  
Reason: To define the duration of the consent.
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. This consent may not be assigned without the prior written authorisation of the Planning Authority. The Planning Authority may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Planning Authority of an assignment having been granted.  
Reason: To safeguard the obligations of the consent if transferred to another company

### **Micro-siting**

4. No development shall commence until a revised location for Turbine No 4 has been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be undertaken in strict accordance with the agreed details.  
Reason: Turbine No 4 requires to be repositioned so that it appears less obtrusive in the landscape.
5. All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 4.1, except Turbine No 4. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH) micro-siting is subject to the following restrictions:
  - i. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the position shown on the aforementioned Figure 4.1 unless a scheme of details including wirelines showing the alternative positioning of the turbine have been submitted to and agreed in writing by the Planning Authority (in consultation with SNH) and thereafter no development shall take place in strict accordance with the agreed details.
  - ii. No micro-siting shall take place within areas of peat of greater depth than the original location;
  - iii. No wind turbine, building, mast, access track or hardstanding shall be moved more than 20m from the position shown on the original approved plans;
  - iv. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems
  - v. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

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

Reason: to control environmental impacts while taking account of local ground conditions, and to restrict Micrositing to a reasonable distance to

ensure that any movement of turbines or infrastructure does not give rise to significant change to the layout and appearance of the development.

### **Turbine Model**

6. No development shall commence until, precise details of the actual turbine intended for use at the site shall be submitted to and agreed in writing by the Planning Authority. These details shall include a technical specification which includes noise output. Only the turbines agreed in response to this condition shall be used, unless further consent to vary the turbine model has been agreed in writing by the planning authority.  
Reason: to ensure that the turbines are compatible with the locality in terms of their appearance and noise output, to protect both visual and residential amenity.

### **Substation and Ancillary Equipment**

7. No development shall commence until final details of the siting, external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.  
Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the environmental statement and in the interests of the visual amenity of the area.

### **Air Traffic Safety:**

8. Prior to the erection of the first wind turbine, the developer shall provide written confirmation to the Planning Authority and the Ministry of Defence of the anticipated date of commencement of and completion of construction; the maximum height above ground level of construction equipment, the position of each wind turbine in latitude and longitude and the maximum height above ground level of each turbine and anemometry mast. The developer shall give the Planning Authority and the Ministry of Defence notice as soon as reasonably practicable if any changes are made to the information required by this condition.  
Reason: In the interests of aviation safety.
9. Prior to the erection of the first wind turbine, a scheme for aviation lighting for the wind farm shall be submitted for the written approval of the Planning Authority in consultation with the MOD. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of this consent.  
Reason: In the interests of aviation safety.

### **Turbine Failure/Removal:**

10. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement then it will be deemed to have ceased to be required, and unless otherwise agreed in writing with the Planning Authority, wind



turbine foundation to a depth of 1.2m below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 6 months of the removal of the turbine, or any such longer period agreed by the Planning Authority. Reason: to safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

### **Signage:**

11. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on the turbines, other buildings or structures within the site without the written approval of the Planning Authority. Reason: To ensure that the development does not unduly prejudice public amenity

### **Construction Hours:**

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

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

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

### **Road Safety:**

13. There shall be no Commencement of Development unless a traffic management plan has been submitted to and approved in writing by the Planning Authority. The traffic management plan shall include:
  - a) All construction traffic must be restricted to access via the A1. A sign in/sign out procedure must be in place to prevent vehicles exiting via the Howpark road.
  - b) Swept path analysis of the junctions and the minor public road leading to the site for the abnormal loads including details of tree pruning (this will require the agreement of the owners).
  - c) A detailed engineering drawing of the proposed access from the minor public road.
  - d) The junction with the minor public road must be to the following specification for the first 10 metres: 'a 40mm layer of 14mm size close graded bituminous surface course to BS 4987 laid on a 100mm layer of 28mm size

dense base (roadbase) to the same BS laid on a 310mm layer of 100mm broken stone bottoming blinded with sub-base, type 1'.

- e) Temporary over-run areas must be constructed to the above specification.
- f) Detailed engineering drawing of the proposed access across the Howpark Road including traffic management measures.
- g) Road condition surveys to be carried out prior to works commencing and upon completion of the construction phase. Any remedial works required as a result of damage/deterioration by construction traffic must be rectified at the expense of the developer. This will ideally be by way of a section 96 agreement.
- h) No additional site access to be constructed without prior approval of the Planning Authority.
- i) A programme for the works is required to ensure the avoidance of conflict between key stages of construction.
- j) The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority and all work within the public road boundary must be undertaken by a contractor first approved by the Council.

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

#### **Shadow Flicker:**

- 14. No development shall commence until a programme to mitigate the Shadow Flicker which would affect High View Caravan Park as identified within Chapter 14 of the ES has been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be operated in strict accordance with the agreed details.

Reason: To safeguard the amenity of the tourist facility.

- 15. No development shall commence until a written scheme shall be submitted to and approved in writing by the Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to Local Planning Authority from the owner or occupier of a dwelling which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved protocol unless the Planning Authority gives its prior written consent to any variations.

Reason: For the protection of amenity of local residents

#### **Television interference:**

- 16. Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide for the investigation by a qualified independent television

engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use 9 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the wind farm operator by the Planning Authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Planning Authority.

Reason: For the protection of amenity of local residents.

**Noise:**

17. The rating level of noise emissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

a) The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so.

b) There shall be no First Commissioning of the Development until the Company has received written approval from the Planning Authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those

which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority, and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise emissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.

f) The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise emissions within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise emissions.

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

**Table 1 Cumulative operational noise limits for the Howpark development when measured with Drone Hill, Penmanshiel Moor, Moorhouse and Penmanshiel Farm expressed in dB L<sub>10</sub>-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Receptor	Wind Speed Metres per second							
	5	6	7	8	9	10	11	12
Brockholes Farm	25.6	27.9	30.1	31.3	33.9	32.7	33.1	33.1
1 Brockholes Farm Cottages	25.6	28.0	30.2	31.5	34.1	32.8	33.3	33.3
Berryhill	24.5	27.3	29.6	30.9	33.7	32.2	32.5	32.5
Broomiebank	27.8	29.4	31.1	32.2	34.1	33.7	34.3	34.3
Greenwood Farm	28.5	30.0	31.6	32.7	34.6	34.3	35.0	35.0
Renton Schoolhouse	27.8	29.4	31.0	32.1	33.9	33.6	34.3	34.3
Butterdean Paddirow	24.0	26.7	29.0	30.3	33.0	31.6	32.0	32.0
Butterdean Farm	24.2	26.7	29.0	30.2	32.7	31.6	32.0	32.0
Atton Cottage	29.5	30.9	32.5	33.5	35.4	35.0	35.8	35.8
Butterdean Cottage	24.9	27.5	29.9	31.1	33.6	32.4	32.8	32.8

Renton House	30.7	32.3	34.1	35.2	37.0	36.6	37.2	37.2
Renton Burns	31.5	33.0	34.7	35.7	37.4	37.2	37.8	37.8
The School House	28.6	30.5	32.5	33.7	35.6	35.1	35.6	35.6
Blackburn Mill	19.1	21.4	23.4	24.6	27.3	25.9	26.5	26.5
4 Renton Barns Cottages	32.7	34.3	36.1	37.2	38.8	38.6	39.1	39.1
The Rookery	30.9	32.7	34.8	35.9	37.7	37.3	37.8	37.8
1 Renton Barns Farm Cottages	32.8	34.4	36.2	37.2	38.9	38.6	39.1	39.1
Harelawbrae	30.4	32.7	35.1	36.3	38.3	37.7	38.1	38.1
Harelawside Farm	30.7	33.0	35.3	36.4	38.4	37.8	38.2	38.2
Renton House Cottage	32.3	34.2	36.2	37.3	39.0	38.7	39.1	39.1
The Beeches	31.5	33.4	35.5	36.6	38.4	38.0	38.5	38.5
Rentons Barn Farm	32.9	33.9	34.9	35.8	36.9	37.1	37.9	37.9
Rigwell	25.4	28.9	31.7	33.1	35.8	34.3	34.6	34.6
Blackburn Rigg	25.8	29.3	32.2	33.4	36.1	34.7	34.9	34.9
Howpark Farm	36.5	37.7	39.2	40.1	41.4	41.3	41.9	41.9
The Coverage	36.8	38.1	39.6	40.6	41.9	41.8	42.3	42.3
Howpark Farm Cottage	37.2	38.5	40.1	41.0	42.4	42.2	42.7	42.7
8 Blackburn Cottages	22.1	25.4	28.1	29.5	32.3	30.6	30.9	30.9
Blackburn Bungalow	23.0	26.5	29.3	30.7	33.6	31.8	32.0	32.0
Blackburn View	22.0	25.5	28.1	29.5	32.6	30.7	30.9	30.9
South Penmanshiel Farm	30.3	33.6	36.6	37.9	39.8	39.3	39.5	39.5
Penmanshiel Farm	31.2	34.6	37.5	38.7	40.7	40.2	40.4	40.4
6 Penmanshiel Farm Cottages	29.3	32.5	35.3	36.6	38.6	38.0	38.2	38.2
Myrtle Cottage	34.5	35.6	36.7	37.8	39.2	40.1	41.4	41.4
Laverock Braes Farm	33.5	34.6	35.7	36.9	38.3	39.2	40.5	40.5
Springhill Farm	35.0	36.1	37.2	38.3	39.7	40.7	42.1	42.1
Bowshiel	24.5	27.7	30.5	31.8	34.3	33.2	33.4	33.4
2 Bowshiel Farm Cottages	24.6	27.9	30.7	32.0	34.7	33.4	33.6	33.6
Old Cambus	26.8	29.5	32.1	33.4	35.5	34.9	35.3	35.3
Headchesters	30.7	33.3	36.0	37.2	39.1	38.8	39.2	39.2
Neuk Farmhouse	19.3	21.9	24.1	25.4	28.1	26.7	27.2	27.2
Tower Farm	22.4	25.0	27.3	28.5	30.9	29.9	30.4	30.4
3 Tower Cottage	22.5	24.9	27.2	28.4	30.8	29.9	30.3	30.3
Moorside	27.4	30.0	32.6	33.9	36.0	35.4	35.8	35.8

Ebenezer Cottage	27.1	29.7	32.2	33.5	35.6	35.0	35.4	35.4
Townhead	26.1	28.8	31.4	32.7	34.9	34.1	34.5	34.5
Girnal	27	29.5	32.0	33.2	35.3	34.7	35.2	35.2
Stockbridge Cottage	19.4	22.1	24.4	25.7	28.4	26.9	27.4	27.4
Old Cambus East Mains	28.1	30.5	32.9	34.0	36.0	35.6	36.1	36.1
Pease Lye	22.4	24.7	26.9	28.1	30.5	29.6	30.1	30.1
Redheugh Farmhouse	29.6	31.5	33.5	34.7	36.5	36.4	37.1	37.1
Woodend	23.4	25.6	27.8	29.0	31.3	30.5	31.0	31.0
3 Old Cambus West Mains Cottages	25.5	27.9	30.3	31.5	33.7	33	33.5	33.5
Delgany	25.0	27.5	29.8	31.1	33.3	32.6	33.1	33.1
Old Cambus Quarry	25.4	27.5	29.7	30.9	33.0	32.4	33.0	33.0
Pease Bay Caravan Park	22.7	24.8	26.8	28.1	30.5	29.6	30.2	30.2
High View Caravan Park	37.0	38.0	39.1	40.1	41.3	42.1	43.2	43.2
The Cottage	36.1	37.5	39.1	40.1	41.5	41.4	41.9	41.9

**Table 2 Individual operational noise limits for the Howpark development when measured alone expressed in dB L, 10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Receptor	Wind Speed Metres per second							
	5	6	7	8	9	10	11	12
Brockholes Farm	23.8	24.3	24.8	25.0	25.2	25.0	25.2	25.2
1 Brockholes Farm Cottages	23.9	24.4	24.9	25.1	25.3	25.1	25.3	25.3
Berryhill	22.5	23.0	23.5	23.7	23.9	23.7	23.9	23.9
Broomiebank	26.9	27.4	27.9	28.2	28.3	28.2	28.3	28.3
Greenwood Farm	27.4	27.9	28.4	28.6	28.8	28.6	28.8	28.8
Renton Schoolhouse	27.1	27.6	28.1	28.3	28.5	28.3	28.5	28.5
Butterdean Paddirow	22.2	22.7	23.2	23.4	23.6	23.4	23.6	23.6
Butterdean Farm	22.7	23.2	23.7	23.9	24.1	23.9	24.1	24.1
Atton Cottage	28.7	29.2	29.7	29.9	30.1	29.9	30.1	30.1
Butterdean Cottage	23.3	23.7	24.2	24.5	24.7	24.5	24.7	24.7
Renton House	30.2	30.6	31.1	31.4	31.6	31.4	31.6	31.6
Renton Burns	31.2	31.7	32.2	32.4	32.6	32.4	32.6	32.6
The School House	28.0	28.5	29.0	29.2	29.4	29.2	29.4	29.4
Blackburn Mill	17.1	17.6	18.1	18.3	18.5	18.3	18.5	18.5
4 Renton Barns Cottages	32.6	33.1	33.6	33.8	34.0	33.8	34.0	34.0
The Rookery	30.6	31.1	31.6	31.8	32.0	31.8	32.0	32.0
1 Renton Barns Farm Cottages	32.6	33.1	33.6	33.8	34.0	33.8	34.0	34.0
Harelawbrae	29.7	30.2	30.7	30.9	31.1	30.9	31.1	31.1
Harelawside Farm	30.2	30.7	31.2	31.4	31.6	31.4	31.6	31.6
Renton House Cottage	32.2	32.7	33.2	33.4	33.6	33.4	33.6	33.6
The Beeches	31.2	31.7	32.2	32.4	32.6	32.4	32.6	32.6

Rentons Barn Farm	33.4	33.9	34.4	34.6	34.8	34.6	34.8	34.8
Rigwell	22.4	22.9	23.4	23.6	23.8	23.6	23.8	23.8
Blackburn Rigg	22.7	23.2	23.7	23.9	24.1	23.9	24.1	24.1
Howpark Farm	36.9	37.4	37.9	38.1	38.3	38.1	38.3	38.3
The Coverage	37.2	37.7	38.2	38.5	38.7	38.5	38.7	38.7
Howpark Farm Cottage	37.7	38.2	38.7	39.0	39.2	39.0	39.2	39.2
8 Blackburn Cottages	18.8	19.3	19.8	20.0	20.2	20.0	20.2	20.2
Blackburn Bungalow	19.5	20.0	20.5	20.7	20.9	20.7	20.9	20.9
Blackburn View	18.5	19.0	19.5	19.7	19.9	19.7	19.9	19.9
South Penmanshiel Farm	27.2	27.7	28.2	28.5	28.7	28.5	28.7	28.7
Penmanshiel Farm	27.3	27.8	28.3	28.6	28.7	28.6	28.7	28.7
6 Penmanshiel Farm Cottages	26.2	26.7	27.2	27.5	27.7	27.5	27.7	27.7
Myrtle Cottage	29.9	30.4	30.9	31.1	31.3	31.1	31.3	31.3
Laverock Braes Farm	28.2	28.7	29.2	29.4	29.6	29.4	29.6	29.6
Springhill Farm	28.8	29.3	29.8	30.0	30.2	30.0	30.2	30.2
Bowshiel	21.7	22.2	22.7	22.9	23.1	22.9	23.1	23.1
2 Bowshiel Farm Cottages	21.4	21.9	22.4	22.6	22.8	22.6	22.8	22.8
Old Cambus	24.3	24.8	25.3	25.5	25.7	25.5	25.7	25.7
Headchesters	27.6	28.1	28.6	28.8	29.0	28.8	29.0	29.0
Neuk Farmhouse	16.6	17.1	17.6	17.8	18.0	17.8	18.0	18.0
Tower Farm	20	20.5	21.0	21.2	21.4	21.2	21.4	21.4
3 Tower Cottage	20.1	20.6	21.1	21.3	21.5	21.3	21.5	21.5
Moorside	24.7	25.2	25.7	25.9	26.1	25.9	26.1	26.1
Ebenezer Cottage	24.4	24.9	25.4	25.6	25.8	25.6	25.8	25.8
Townhead	23.1	23.6	24.1	24.4	24.6	24.4	24.6	24.6
Girnal	24.3	24.8	25.3	25.5	25.7	25.5	25.7	25.7
Stockbridge Cottage	16.5	17.0	17.5	17.7	17.9	17.7	17.9	17.9
Old Cambus East Mains	25.2	25.7	26.2	26.4	26.6	26.4	26.6	26.6
Pease Lye	20.1	20.6	21.1	21.3	21.5	21.3	21.5	21.5
Redheugh Farmhouse	26.2	26.7	27.2	27.5	27.6	27.5	27.6	27.6
Woodend	20.9	21.4	21.9	22.1	22.3	22.1	22.3	22.3
3 Old Cambus West Mains Cottages	22.6	23.1	23.6	23.9	24.1	23.9	24.1	24.1
Delgany	22.2	22.7	23.2	23.5	23.7	23.5	23.7	23.7
Old Cambus Quarry	22.6	23.1	23.6	23.9	24.1	23.9	24.1	24.1
Pease Bay Caravan Park	20.1	20.6	21.1	21.3	21.5	21.3	21.5	21.5
High View Caravan Park	35.8	36.3	36.8	37.0	37.2	37.0	37.2	37.2
The Cottage	36.5	37.0	37.5	37.7	37.9	37.7	37.9	37.9

Reason: To protect nearby residents from undue noise and disturbance and ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

#### **Archaeology:**

18. No development shall take place until fencing has been erected, in a manner to be agreed in writing by the Planning Authority, about the identified area of archaeological interest and no works shall take place within the area inside that fencing without the prior written consent of the Planning Authority.  
Reason: To safeguard a site of archaeological interest.
19. No development shall take place until the applicant has secured a programme of archaeological work in accordance with an approved Written Scheme of Investigation (WSI) outlining a Watching Brief. Development and archaeological investigation shall only proceed in accordance with the WSI. The requirements of this are:
- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
  - If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
  - Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
  - If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
  - Initial results shall be submitted to the Planning Authority for approval in the form of a Data Structure Report (DSR) within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
  - The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once approved.

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

**Ecology:**

20. No development shall commence until an Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan and to oversee compliance with the Construction Environment Management Plan (CEMP), Species Protection Plan, Ecological Monitoring Plan and Decommissioning, Restoration and Aftercare Plan ("the ECoW works"). The terms of the appointment shall be submitted for the approval in writing by the Planning Authority in consultation with SEPA and SNH. The terms shall include the requirement to a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction Environmental Management Plan and other plans; and b) Require the ECoW



to report to the Company's nominated construction project manager, the Planning Authority and SEPA any incidences of non-compliance with the ECoW works.

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

21. No development shall commence until a Construction Environment Management Plan shall be submitted for the approval in writing by the Planning Authority. The CEMP shall include
- a) Risk assessment of potentially damaging construction activities,
  - b) Identification of "biodiversity protection zones".
  - c) Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs.
  - d) A Drainage Management Plan which shall include details of turbine foundation dewatering.
  - e) A Site Waste Management Plan
  - f) An Accident Management Plan
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW)

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

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

22. No development shall commence until a Species Protection Plan (including measures for bats, otter, badger, red squirrel, breeding birds, reptiles and amphibia as appropriate) is to be submitted to for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that the species affected by the development are afforded suitable protection from the construction, operation and decommissioning of the development.

23. No development shall commence until a Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats including wet modified bog, farmland and woodland habitats to be submitted for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To mitigate the loss of habitats as a result of this development.

24. No development shall commence until an ecological monitoring programme, including monitoring in years 1, 3, 5, 10 and 15 following construction, breeding waders, passage and wintering geese. This should also include proportionate post-construction monitoring of protected mammals (bats, otter, badger and red squirrel as appropriate) and habitats is to be submitted for the

approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure suitable procedures are in place to monitor the impact of the development on ecological interests

25. No SUDS ponds or settlement lagoons shall be placed in areas of deemed Groundwater Dependent Terrestrial Ecosystem.

Reason: To avoid impacts on wetland ecology.

**Environmental Management:**

26. No development shall take place until the precise detail of the location, specification, implementation and maintenance of the site landscaping and off site landscaping improve mitigate the impact on the property known as Hazelfield (and the adjoining site) has been submitted to and agreed in writing by the Planning Authority (in consultation with the Landscape Architect and the Ecology Officer) and thereafter the development shall take place in strict accordance with the agreed details.

Reason: To improve the landscape structure and provide protection to the visual amenity of Hazelfield.

**Access:**

27. No development shall take place until a study of the existing path network within development site has been undertaken and shall include measures to improve access for all users (i.e. pedestrian, cycle, horse, all ability routes) and link in with neighbouring routes has been submitted to and agreed in writing with the Planning Authority and thereafter the improvements shall be undertaken in accordance with the agreed details.

Reason: To improve recreational resources which are in close proximity to the Core Path Network.

**Decommissioning and Financial Guarantee:**

28. The Development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

No Development shall commence Commencement unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

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

29. There shall be no Commencement of Development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 31 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 28. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

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

#### Informatives

1. The applicant is advised that the EIA remains incomplete and that they should seeks to resubmit a revised chapter with a complete cumulative ornithological assessment in order to properly record its findings. This information should be provided before development commences.

#### DRAWING NUMBERS

Figure 1.2	The Application Site
Figure 4.1	Site Layout
Figure 4.2	Typical Turbine Elevations
Figure 4.3	Typical Turbine Foundation
Figure 4.4	Typical Crane Standing
Figure 4.5	Typical Access Track Detail
Figure 4.6	Control Building and Compound Plan
Figure 4.7	Control building Elevation
Figure 4.8	Cable Trench
Figure 4.9	Typical Internal Access Track Watercourse Crossing
Figure 4.10	Indicative Site Access Arrangement
Figure 5.1	Indicative Construction Compound and Batching Plant

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

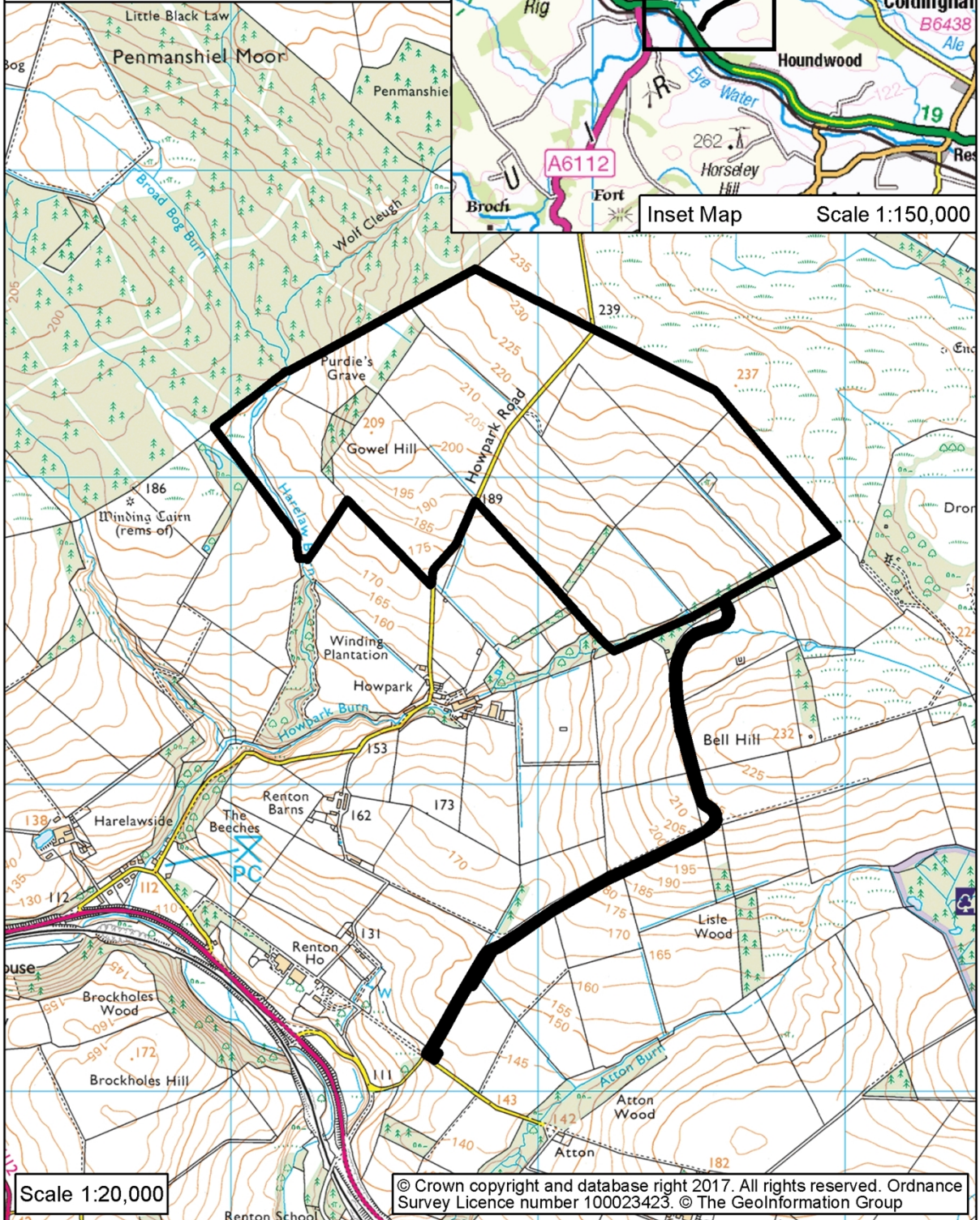
**Author(s)**

Name	Designation
Scott Shearer	Assistant / Planning Officer



16/00980/FUL

Land North Of Howpark Farmhouse Grantshouse



Scale 1:20,000

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**27 MARCH 2017**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 17/00236/MOD75  
**OFFICER:** Mr E Calvert  
**WARD:** Tweeddale West  
**PROPOSAL:** Discharge of planning obligation pursuant to planning permission T199-88  
**SITE:** Land South West And South East Of Bowbank Cottages, Bellfield Road, Eddleston  
**APPLICANT:**  
**AGENT:** Savills Per Angus Dodds

**CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE**

This application was considered by the Committee at its meeting on 27 March 2017, when it was resolved to continue the application to allow the legal aspects of the Section 50 Agreement to be fully investigated. An update will be provided verbally at the meeting.

**SITE DESCRIPTION:**

Eddleston is 5 miles north of Peebles. The village has developed along the Longcote Burn and Bellfield Wood on the eastern side of the A703. The village is some 330 in population and has a Conservation Area containing the historic village centre.

Bowbank Cottage is sited at the end of Calderbank Road. It is now a pair of semi-detached dwellinghouses sited in an elevated position on the fringe of the village. The Cottage occupies the north western corner of a rough grass field which is bounded to the south by woodland and, at the bottom of a slope, the primary school. An adopted footpath leads along the south western boundary of the field to access the school. Beyond the field, to the north east, is grazing and the boundary to the north is set by a farm track leading out to the farmland beyond.

The surrounding countryside is managed as agricultural grassland enclosures which are interspersed by woodland patches bounded predominantly by drystone dykes. The hills are predominantly white (improved) grass although open moorland (black hill) is also visible on the higher ground, being located on the edge of the Moorfoot Hills. The village is set on the side of these rolling hills and long views up the surrounding valleys are on offer from this site.

**PROPOSED DEVELOPMENT:**

Variation of a section 50 agreement is sought to remove the requirement that no further development takes place on the land owned by the applicant. The agent wishes to demonstrate that this undeveloped field may contribute to future housing land supply for the Local Development Plan.



## **PLANNING HISTORY:**

Planning permission was granted in 1989, T199-88, (erection of a dwellinghouse and granny flat) and a Section 50 agreement (Town and Country Planning (Scotland) Act 1972) prohibited any further dwellinghouse being constructed on the entire 2 acres of land to which the plot related.

95/00396/FUL

Alterations to divide house into two semi-detached residences & erection of extension. Approved.

16/01557/MOD75

A discharge of Obligation was sought by the Agent however, throughout the course of application, it became apparent that two interested parties had been missed from statutory notification and furthermore, these interested parties are current owners of 1 and 2 Bowbank Cottages, to which the application relates. Council legal services informed that, provided Interested Parties were consulted for a statutory 21 day period, the application was competent. However, the Agent withdrew and reapplied with the current application.

## **Local Plans**

### ***Tweeddale (Part) Local Plan***

The site was out with the Village Boundary.

### ***Tweeddale Adopted Local Plan 1996***

Bowbank Cottage and garden was included within the Settlement Boundary.

The whole field referred to in the S.50 agreement is shown to be within the settlement boundary in:

Local Plan Consultative Draft (Stage One) May 2004

Adopted Local Plan 2008

Consolidated Local Plan 2011 (included the Local Plan Amendment)

Adopted Local Development Plan 2016

## **CONSULTATION RESPONSES:**

**Legal Services:** Response awaited.

## **REPRESENTATION SUMMARY**

Three objections have been received;

Eddleston Community Council: Objection;

1. Inadequacy of the access track to this site for any additional traffic. Safety is already an issue here and any increase in traffic will make matters worse.
2. There is no current zoning for housing at this site and there are already 2 other areas in the village already zoned as part of the Councils Adopted Plan.
3. The path is a "safe route" to the Primary School which is well used and currently bisects the site.

Two Interested parties note objections citing;

1. Inadequate access.
2. Increased traffic.



3. Land affected.
4. Legal issues - the applicant cannot seek and obtain the discharge of a planning obligation which relates to a third parties land.
5. Road safety.
6. Inadequate existing infrastructure in village. Education, drainage and water capacity.
7. Pedestrian safety.
8. Privacy and daylight of existing properties.
9. Subdivision of previous house is no grounds for precedence.
10. Terms of agreement remain relevant.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016:**

PMD4 Development outwith development boundaries  
 PMD5 Infill Development  
 Circular 3/2012 Planning Obligations and Good Neighbour Agreements

## **OTHER PLANNING CONSIDERATIONS**

"New Housing in the Borders Countryside" SPG

## **KEY PLANNING ISSUES:**

Whether the s.50 agreement continues to be relevant, necessary and reasonable.

## **ASSESSMENT OF APPLICATION**

The planning policy context of the site has clearly changed between 1989, when the original permission was granted, and 2004, so that the land has been included within the Eddleston Settlement Boundary for over 13 years. In 1989 the settlement boundary did not include land of Bowbank Cottages, Eddleston. Housing development was restricted to within settlement boundaries or on allocated sites.

The decision (at Planning Committee on 17 October 1988) to grant approval to development, T199-88, was based on exceptional circumstances on land beyond the development boundary. This agreement physically prevented further proliferation of housing on this land. The agreement did not bind the house and land to be held as one unit; it did not necessitate any employment occupancy restriction on the dwelling approved; and it did not prohibit disposal of whole or part of the land.

Policy PMD4 (Local Development Plan 2016) identifies the extent to which development would be permitted within a Plan period and, as noted, the whole site now falls within the settlement boundary.

Policy PMD5 (Local Development Plan 2016) identifies criteria which determine whether a non-allocated, infill or windfall site may be appropriate for development. This land is non-allocated and Policy PMD5 would consider protection of neighbouring residential amenity; servicing and access; scale, form, design, materials and density in respect of the surroundings; social and economic infrastructure, character and amenity on the area; and the established land use in the event of any future planning application.

There is no overriding reason for the section 50 agreement to remain with this land. Policy PMD4 and PMD5 can be relied upon to direct appropriate development within a Settlement Boundary. An agreement based on commercial need is no longer relevant as there is no evidence of the former horticultural business operating from Bellvue Holdings.

Such agreements would not be used today, as the correct mechanism for testing the justification for new development would be through a planning application, when it would be assessed against the terms of the prevailing local development plan.

The objections submitted in relation to this proposal are noted, but generally relate to matters of detail which would be unaltered by the removal of the terms of the agreement. None are considered so overriding as to alter the principle in this case.

**CONCLUSION**

The proposal to vary this Section 50 Legal Agreement complies with policy PMD4 and PMD5 of the Local Development Plan 2016 in that the development boundary has been positioned so as to include this site and any future infill development proposal would be subject to separate consideration. The correct mechanism for testing the justification for new development would be through a planning application, when it would be assessed against the terms of the prevailing local development plan. No deficiencies in infrastructure and services will be created or exacerbated as a result of this variation.

**RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend variation to the Section 50 Agreement is approved.

DRAWING NUMBERS

Location Plan

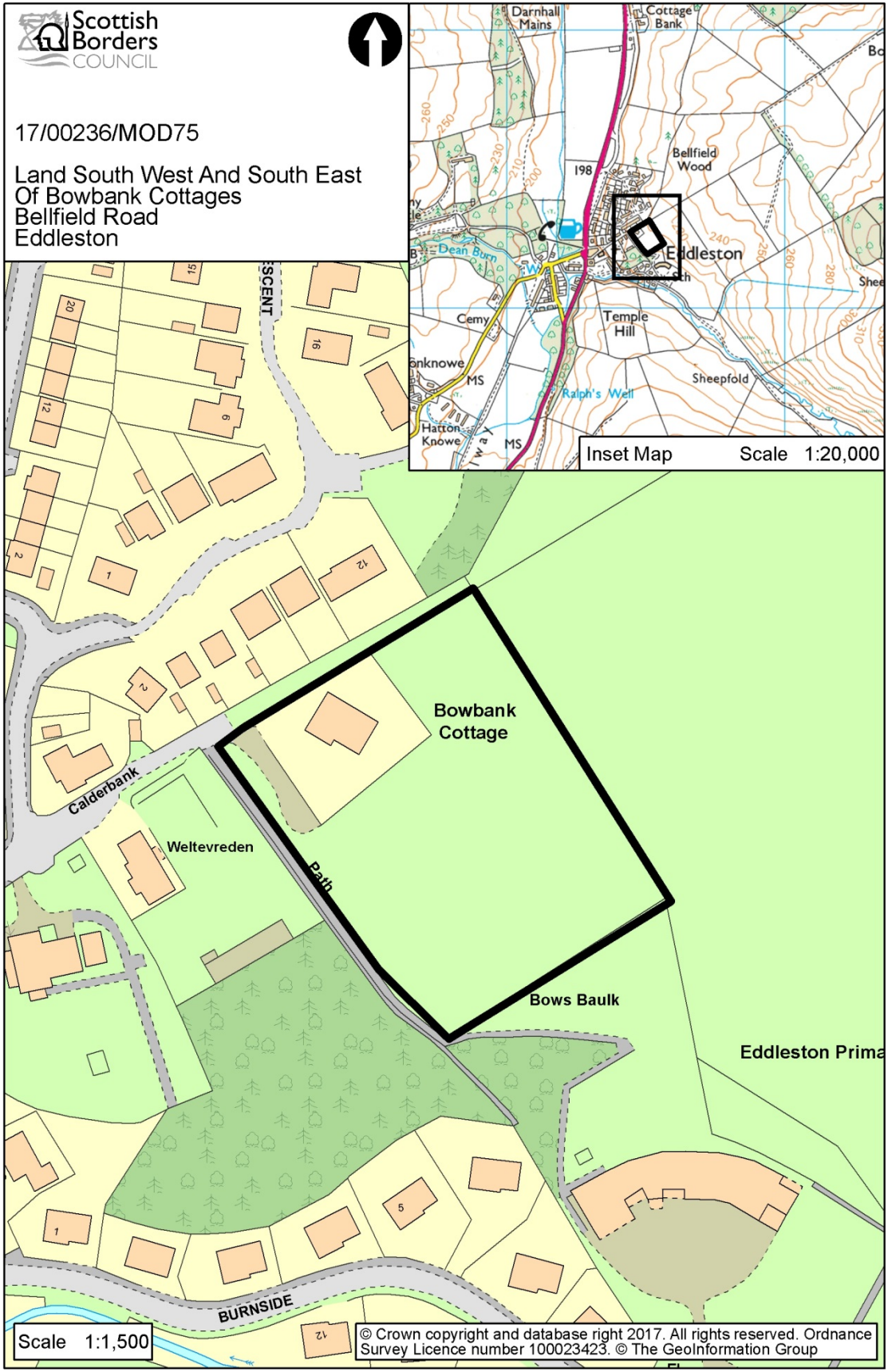
**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

**Author(s)**

Name	Designation
Euan Calvert	Assistant Planning Officer



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01417/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Galashiels and District
<b>PROPOSAL:</b>	Formation of waste transfer station and associated works
<b>SITE:</b>	Land South of Easter Langlee Recycling Centre
<b>APPLICANT:</b>	Scottish Borders Council
<b>AGENT:</b>	Scottish Borders Council

**SITE DESCRIPTION**

The site comprises a historic landfill site located north-east of Galashiels, east of the C77 public road leading from the B6374 Melrose Road to the south. Alongside and accessed from the same road are residential properties, including the Coopersknowe Crescent development and the ongoing Easter Langlee development (now referred to as Melrose Gait). The site takes access from the C77 via a road that serves an aggregate recycling facility to its west, live landfill site to its north, and existing recycling and related Council operations to the north and east. The site is raised above the Easter Langlee residential development beyond partially wooded banking.

**PROPOSED DEVELOPMENT**

This application seeks consent for a new waste transfer station (WTS) (just over 13m high to ridge with 2 stacks specified as a 'minimum of 3m above the ridge' to achieve a total height of 17m (so 3.75m above the ridge)); steel clad walls and roof, with masonry section to part of walls) with associated yard and parking area. Access would be from the existing access road to the north via two junctions. Ancillary works include a weighbridge, office (prefabricated, 3m high), kiosk (modular steel 2.4m high), sprinkler tank (8.7m high) and pump house (3m high). The WTS would replace the existing landfill facility, with waste from the central Borders area instead being directed to the new WTS for sorting before being distributed to and disposed of at landfill or recycling facilities elsewhere.

The development is supported by changes to ground levels that have been previously confirmed as being Permitted Development if carried out by the Council.

**PLANNING HISTORY**

Recent planning permissions for this area include:

- Outline Planning Permission was granted for a materials recovery and composting facility in 2002 (02/00178/OUT). This was renewed in 2007 (06/02477/SBC).
- A detailed consent was granted in 2011 (10/00165/AMC) for a mechanical and biological waste treatment (MBT) facility. Works on the consented scheme were lawfully started on site by provision of the access junction. That consent, therefore, cannot expire.

- Application 13/00445/FUL for the erection of an advanced thermal treatment plant and associated ancillary infrastructure and landscaping was approved in September 2013. This was to be built and operated concurrently with the consented MBT facility.

There is also ongoing residential development within the 'Melrose Gait' site to the south, and planning permission was granted in December 2016 for 58 houses and flats south of Coopersknowe Crescent.

## **REPRESENTATION SUMMARY**

Representations from four households have been submitted, as has an objection on behalf of the 'Resident Association of Coopersknowe Crescent', full copies of which are available on *Public Access*. In summary, key objections include:

- The implementation of the WTS is not an automatic condition of the landfill site closing. It is an unsuitable site on contaminated land.
- The extra volumes of articulated traffic on the C77 that will be created, including articls passing every three minutes. An accident is waiting to happen due to some very dangerous parts of the existing road. Current traffic is too much for the C77, never mind when the WTS is built. The roads infrastructure is unsuitable, including the C77's junction with the Melrose Road where a roundabout is supposed to be built. Residents have no way of walking safely along the C77
- Concerns with the submitted Transport Assessment, including the proposed road improvements which will make matters worse, and that the report is one-sided in favour of Planning Permission being granted. There are concerns generally with the content and accuracy of the report, apparent omissions, and that it shows traffic flows to be much lighter than previously reported. Cannot believe that the development will produce only three more vehicle loads and six extra vehicle movements per day
- Referrals to the previous MBT approval are out of date and irrelevant because of changes to traffic and consents granted since then
- Concerns regarding noise, including noise from reversing vehicles; that noise readings were not taken at the closest receptors; and that the calculations don't give a full picture of overall noise levels
- The conclusion that odour effects are not significant is not based on facts and there are omissions. Odour producing work on construction should only occur when conditions are favourable with adequate contingencies in place
- Concerns regarding drainage provision and polluted leachate
- The closest receptors are retirees and are sensitive to impacts 24/7

## **ENVIRONMENTAL IMPACT ASSESSMENT**

A Screening Opinion for the development was provided by this service in November 2016. This noted that the proposed development would fall within 11(b) of Column 1 of Schedule 2 of the EIA (Scotland) Regulations 2011. Its size would exceed the threshold in Column 2. It therefore required to be screened. Matters to consider in reaching a Screening Opinion principally involve the characteristics of the development, its location and the characteristics of the potential environmental impacts. These are to establish whether significant effects on

the environment are likely to occur such that these should first be examined by Environmental Impact Assessment.

In this case, the development would principally involve storage and transfer of waste within a single building, with external works generally comprising access, parking, staff and ancillary infrastructure. It would be sited within the area of the well-established waste management site, and would process waste diverted from the landfill site, using the same road infrastructure. It is not within an ecologically sensitive area or designated landscape. Though there are residential areas nearby, including the emerging development to the south, these are not directly adjacent. Ultimately, accounting for the existing land uses within the site and surrounding area; the existing landfill activity; the purpose and scale of the development; and the type of environmental impacts likely to arise, it was not considered that significant effects on the environment would occur such that these would need examined by way of EIA.

However, this service did advise that a number of assessments be included with the planning application, including landscape/visual impact assessment; ecology assessment; information on water and drainage; traffic statement and noise/air quality assessments. As noted below, the formal application includes a number of supporting documents.

## **PRE-APPLICATION CONSULTATION**

This application was preceded by statutory pre-application consultation. This is reported in a Pre-Application Consultation (PAC) report submitted with the application. This was required because the development is classified as a Major development under the Hierarchy of Developments Regulations 2009. The PAC report confirms that consultation and a public event were undertaken as specified in the Proposal of Application Notice that had been approved in August 2016. Additional consultation was also undertaken with Melrose Gait residents.

## **APPLICANT'S SUPPORTING INFORMATION**

The following have been submitted in support of the planning application, (in addition to the PAC report and plans/drawings), copies of which are available to view on *Public Access*:

- Submission Statement
- Odour Management Plan
- Odour Impact Assessment
- Transport Statement
- Drainage Strategy Plan and Flood Statement
- Environmental Noise Impact Assessment
- Outdoor Lighting Report
- ZTV and Visualisation Methodology
- Ecology Report

## **DEVELOPMENT PLAN POLICIES:**

### **Strategic Development Plan 2013**

Policy 14 Waste Management and Disposal

### **Local Development Plan 2016**

PMD1 Sustainability

PMD2 Quality Standards  
PMD4 Development Outwith Development Boundaries  
IS1 Public Infrastructure and Local Service Provision  
IS7 Parking Provision and Standards  
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
IS10 Waste Management Facilities  
IS13 Contaminated Land  
EP1 International Nature Conservation Sites and Protected Species  
EP2 National Nature Conservation Sites and Protected Species  
EP3 Local Biodiversity  
EP4 National Scenic Areas  
EP6 Countryside Around Towns  
EP8 Archaeology  
EP13 Trees, Woodlands and Hedgerows  
EP15 Development Affecting the Water Environment  
EP16 Air Quality  
HD3 Protection of Residential Amenity

#### **OTHER PLANNING CONSIDERATIONS:**

Scottish Government On-Line Planning and Waste Management Advice 2015  
Scottish Planning Policy 2014  
PAN1/2011 Planning and Noise 2011  
PAN 33 Development of Contaminated Land 2000  
PAN 51 Planning, Environmental Protection and Regulation 2006  
PAN 61 Planning and Sustainable Urban Drainage Systems 2001  
PAN 75 Planning for Transport 2005

SPGs

Biodiversity 2005  
Countryside Around Towns 2011  
Landscape and Development 2008  
Trees and Development 2008  
Waste Management 2015

#### **CONSULTATION RESPONSES:**

Scottish Borders Council Consultees

**Roads Planning Service:** There has been a lot of pressure for development in recent years served by the C77 (Langshaw Road) and so the impact of each development proposal has to be considered carefully in terms of impact on the operation of the road. There have been a number of road improvements undertaken on the C77 in recent years and more are proposed in respect of the Persimmon development currently being rolled out.

The Transport Statement (dated February 2017) supporting the application concludes that on opening of the waste transfer station (and closure of the landfill operations), traffic impact will be minimal. The statement anticipates the overall increase in vehicle loads will be 3 per day of which 2 will be artic loads thus giving rise to 6 additional trips per day of which 5 will be by artic. This minimal change in traffic generation is a consequence of the ceasing of the waste transfer trips from Hawick and Peebles to the landfill site at Easter Langlee balanced against the new trips for waste transfer from Easter Langlee to locations outwith the Scottish Borders.



The Transport Statement also confirms there is an extant but unimplemented planning permission for a materials recovery and composting facility at the landfill site which entails a maximum design capacity of more vehicle loads than this waste transfer proposal. At design capacity, the waste transfer station could generate 105 loads per day while the design capacity relating to the extant consent could be 127 loads per day. This compares with 41 loads per day for the current landfill operations and 44 loads per day on opening of the waste transfer station. These design capacity traffic figures are largely immaterial and are quoted only to confirm the absolute worst case scenario figures for traffic generation.

Despite the anticipated minimal increase in traffic generation associated with this proposal at time of opening, and bearing in mind the extant consent, road improvements to the C77 (Langshaw road) are offered as part of the proposal. Improvements include: localised widening and kerbing of the C77 at key locations to accommodate large vehicles; enhanced road signage on the C77 to encourage considerate driving and to highlight the curving nature of the road and pinch-point at the roadside cottage ('Aislinn'); and removal of trees and vegetation at locations where driver visibility is obstructed. The access geometry, where the site access meets the C77, is to be enlarged (including kerbing) to better accommodate the swept path of large vehicles and the gates are to be set further back from the C77.

The most obvious transport link between the proposed waste transfer station and the trunk road network is via Lowood Bridge and this highlights the importance of finding a longer term solution for the limitations of the existing bridge. The RPS understands that the bridge is soon to have a temporary 26 tonne weight limit imposed on it until such time as essential repair and strengthening work is undertaken this summer. Early next financial year (2018/19) further maintenance work is to be undertaken and diversion routes will have to be carefully planned for traffic associated with the waste transfer station depending on timing of construction and opening.

Internal access arrangements are all fine aside from questioning the proposal for a Type 1 surface finish for the staff and visitors car park for the waste transfer station. A more permanent finish is recommended

In conclusion the RPS supports the application so long as a scheme of engineering details for road improvement work to the C77, including improving the junction of the site access road with the C77, generally in line with the proposals in the February 2017 Transport Statement, are agreed and implemented prior to the waste transfer station becoming operational. Over and above the road improvement work identified for the C77 in the Transport Statement, edge reconstruction of the carriageway, including kerbing, is required on the east side from 'Aislinn' to the footway associated with the Persimmon development.

**Environmental Health Service:** Assessed the application in terms of air quality, noise, nuisance and private water supply. Notes assessments have been lodged in relation to odour and noise impacts. A similar assessment is required in respect of dust and particulate emissions.

The former landfill use is potentially contaminative. A condition is recommended requiring a site investigation and risk assessment.

**Archaeology Officer:** There are potential implications for this proposal. While preparing the area for gravel extraction in 1965, workmen uncovered the remains of an apsidal building which utilised typically Roman masonry. This was not recorded at the time and was destroyed. However, the stones of the building were salvaged. It is unknown whether this was a Roman building, or a later building (such as an early medieval church) that re-used Roman masonry. Either way, had the building survived it would have been of national significance.

During assessment for the previous proposal for the site an archaeological evaluation was conducted on areas where undisturbed deposits may have existed. Kirkdale Archaeology undertook a review of pre-1965 aerial photography and identified several possible cropmarks. The evaluation of these, particularly to the north of the present proposal, identified archaeological features cut into undisturbed sub-soils. While the nature of these, early modern agricultural drainage, was not significant, the evaluation report recommended that a watching brief be maintained during development in areas that may encounter archaeology.

If consented, the Archaeologist maintains that this recommendation be carried forward given the low to moderate potential that significant archaeological deposits or features associated with the Roman or post-Roman building may exist. It is clear from the submission that there is a likelihood of development encountering previously undisturbed sub-soils. Given this, a watching brief should be maintained in these areas only during development. The appointed archaeological contractor should be given all ground investigation data to determine where these areas may exist on site and produce a Written Scheme of Investigation clearly establishing where the watching brief will take place. A condition is recommended to this effect.

**Landscape Architect:** There are a number of constraints on the site, including potential future extension to the facilities to the east and an extensive overhead powerline safety zone which affects a 25m wide strip of the northern boundary of the site. These constraints greatly diminish the opportunity to create significant blocks of woodland screen planting around the site.

The Landscape General Arrangement Plan proposes native hedging along the south side of the road coming into the site, as far as the first ingress/egress, and around the north and east side of the hardstanding and waste transfer building. Native woodland planting is also proposed along the west and southern boundaries, as well as additional planting to the existing woodland further south. From rough calculations, approximately a third of the native woodland planting (3600 sq m) will be planted around the immediate site, with the remainder of the native woodland to be planted (5700 sq m) further south to supplement the existing woodland north of the housing site. Given the existing site constraints, it is understandable that limited planting can be achieved along the north boundary.

Notwithstanding this, it is suggested that there is scope for more native hedging along the north boundary. This would have benefits in forming a more attractive boundary along what is a public access to the Community Recycling Centre, while also creating a better habitat for birds and bats. A hedge in this location could be maintained at 1.5 to 2m high, without impacting on overhead lines. A small increase in hedge planting along the public access road could greatly improve the immediate setting as well as improving the biodiversity opportunities of the site.

**Ecology Officer:** Is largely satisfied with the Ecological Impact Assessment.

The Allan Water (part of the River Tweed SAC) is approximately 220m east of the proposed development. Avenel Hill and Gorge SSSI is approximately 300m north of the proposed development. It is unlikely that the protected areas will be affected by the proposed development.

Habitats recorded on site are of low ecological value. No suitable roosting habitat for bats occurs within the site. No evidence of badgers and their setts was recorded. A disused sett was recorded outside of the site. Badger activity is known in the local area, mitigation measures to protect badger using the site will be required. Habitats on site have potential to

support the nests of breeding birds. Mitigation measures for breeding birds will be required. A condition requiring a species protection plan is recommended.

The report recommends mitigation to control dust and sediment and pollution run off, good practice guidance (from SEPA) should be adopted. These measures should be included in a Construction Environmental Management Plan (CEMP). A condition is recommended to this effect

The landscape plan includes creation of areas of native woodland. Consideration should be given to the species mix to ensure that it fits site conditions and the local Forest Habitat Network.

### Statutory Consultees

**Scottish Environment Protection Agency:** Originally objected until further information was submitted. They raised concerns regarding flood risk, protection of the water environment (surface water and ground water), noise and odour. Following submission of responses to their queries by the applicants, they have responded to the following effect:

Further information, detail and clarification have subsequently been provided and they now - withdraw their objection subject to conditions. They draw attention to the need for further information when applications are made for consents from SEPA. In principle, they consider that this proposed development should be capable of gaining consents, but this cannot be guaranteed. It is possible that modifications will need to be made to the development and the applicants will need to discuss with the Council if these modifications constitute a variation to planning permission (if granted).

### Protection of the water environment

Revised drainage plans have been submitted and address their concerns about surface water. They remain concerned, however, about impacts to ground water. A condition is required to require evidence that Scottish Water will accept foul effluent from the site and that this connection will be made before the site is operational. Should a Scottish Water connection not be possible, the applicants must provide details of an acceptable private system which SEPA can consent.

The porosity results submitted indicate that this site is not suitable for a soakaway. A mound soakaway has been proposed: this will require secondary treatment, however, which may be difficult to achieve given the low flow of effluent from the site. In addition, the applicants would have to discuss with the Council if proposals for an acceptable discharge, including a soakaway and secondary treatment, required a modification to planning permission given on the basis of the current application.

### Noise

They accept that the noise assessment values are conservative and the applicant has demonstrated that it is possible to reduce noise at this site. The noise assessment states that the extract system will not be tonal. The proposed extract system would be located within the transfer building and as such, the sound would be mitigated by the structure/materials of the building. Notwithstanding this, the information provided in relation to the proposed fan does not indicate that the extract system would have significant tonal characteristics.

The additional information provided also clarifies that mitigation measures are available for any noise nuisance caused by reversing beepers. These measures may have to be utilised if

noise complaints are received once the site is operational. This issue will be considered by SEPA when agreeing the conditions for a Waste Management Licence. Ideally, they would prefer if these mitigation measures were proposed as part of the planning application but they will not seek a planning condition in order to avoid duplication with the controls available to SEPA.

### Odour

While they consider that it is possible to control odour from this site when it is operating, they consider this issue may have to be revisited when the applicants apply for the necessary consents from SEPA. Should the stack height have to be increased, the applicants will have to discuss with the Council if the increase in stack height constitutes a material variation in planning permission. Due to the subjective nature of odour, it is important to reduce odour emissions as much as possible either by using abatement technologies and/or using an optimum stack height, so that the risk is reduced as much as possible.

The Odour Impact Assessment suggests predicted concentrations are around 10% less than the odour threshold. Therefore if general modelling uncertainties are accounted for and if, in this case, the model is under-predicting, it may be the case that an odour nuisance could occur at some of the receptors. A condition is required for abatement techniques to be included as part of the design of this site. If they are not to be included, a justification for this decision should be provided. The justification should also contain details of the means for retro-fitting abatement measures, e.g. scrubbers, if odour is detected at the sensitive receptors once the site is operation, and a time-frame.

A stack height assessment has now been submitted and this has only been modelled between stack heights of 14 and 22 metres. Generally stack height would be modelled until the graph showed that increasing the stack height does not reduce the odour concentration. From this an optimum stack height can be assessed. It appears that a stack height of 17m has been selected. SEPA is concerned that this figure is too close to the threshold and if the model is underestimating, there may be an odour nuisance at the receptors. Also, over the course of an hour it may be possible that the odour could vary. They consider it is advisable that the height of the stack is increased so that the risk of odour at the sensitive receptors is reduced further. As further modelling may be required to reach the optimum height of the stack, they consider a condition is required for further modelling to determine the necessary increased stack height that would remove the potential for nuisance odour. They consider that only a limited increase in stack height might be necessary but they are aware that a more substantial increase in stack height could constitute a material change to planning permission.

### Flood Risk

They have considered the view of the Council's Flood Protection Team, who advise that they would be happy to accept the drainage proposals, so they do not consider it is necessary for the applicants to provide further information on flood risk

**Melrose and District Community Council:** The 30mph limit should be extended further north on the C77 beyond entrance to centre

### **Galashiels Community Council:**

- The site and associated works must be compliant with all SEPA requirements in order that any necessary capping etc. is carried out to stop leakages from the site.

Similarly, all other requirements mentioned in the Drainage Strategy Plan & Flood Statement produced by Gordon Associates.

- The Community Council expressed concerns about the speed of traffic on the Lauder Road and asks that a 30MPH speed limit be considered.
- Due to the extra traffic going up and down from the Lauder Road onto the B6374 (Melrose Road) the Community Council feels that the provision of a roundabout in this location should be revisited

### **KEY PLANNING ISSUES:**

Whether or not the development would comply with planning policies and guidance and, if not, whether there are material considerations that would justify a departure from policies and guidance, particularly with respect to traffic and amenity impacts

### **ASSESSMENT OF APPLICATION:**

#### *Principle*

SES Plan Policy 14 notes that the area is safeguarded for waste management facilities and appropriate facilities include waste transfer stations. Local Development Plan Policy PMD1 supports sustainable development, including community services and facilities subject to environmental safeguards (considered further in this report). The site is outside the settlement boundary of Galashiels, within the Countryside Around Towns area covered by Policy EP6. This restricts non-rural type new-build development to houses within building groups, unless there is a proven strategic need and no alternative is suitable. However, Policy A (Countryside Around Towns SPG) also allows for a different policy approach to community facilities (which this proposal would be) subject to criteria examining impacts and benefits. The provision of the Waste Transfer Station (WTS) will provide clear community benefit, particularly in allowing closure of the landfill site. Its impacts on local infrastructure and mitigation of impacts on biodiversity and landscape, as well as other impacts, are considered later. It will not have adverse impacts on recreational facilities or the historical context, being sited on a former landfill site. Subject to consideration of impacts, it will satisfy Policy EP6 (Policy A).

The site is outwith the settlement boundary, as noted, and PMD4 prevents development beyond it generally, unless meeting exemptions, one of which is that there would be significant community benefits overriding the need to protect the boundary. Given the wider community benefit (impacts on local residential amenity are considered later), and that it will be south of existing buildings, on the former landfill site and beyond the wooded banking forming the edge of the settlement, it is not considered that it would undermine the settlement at this location. Its landscape impact will not detract from the landscape structure of the settlement and it won't have a cumulative effect with other new development beyond the settlement boundary. The LDP refers to the area as a key waste management site (pg 317). This proposal will replace the mechanical and biological waste treatment (MBT) facility approved within this area previously, providing for a different approach to directing waste away from landfill. It is not considered that Policy PMD4 would factor against the proposed development.

Policy IS10 supports provision of waste facilities within a hierarchy of sites. Easter Langlee is identified as of high priority (waste treatment facility) and medium/high priority (waste transfer station and community recycling facility). Environmental impacts must be considered as required by Policy IS10 and these are accounted for in this report. IS10 notes that the reuse of derelict and brownfield land is one criterion, and this would be satisfied by

developing this site. As regards site restoration and after care, it is not considered necessary to require measures, given that this development will amount to hardstandings and buildings, as opposed to use of the land in itself (say, for landfill), and will include enhancement measures by way of structural landscaping (as noted later).

Scottish Planning Policy 2014 supports developments contributing to zero waste targets and reduction of landfill. This proposal will address this objective. How the existing landfill site is closed is not a matter for this application. The Scottish Government's on-line guidance notes that the number of small scale facilities, including transfer stations, will increase and be widely spread. It also identifies suitable sites as being degraded, contaminated or derelict land, and sites previously occupied as waste management sites. This proposal reflects this guidance in these regards.

### *Ecology and landscape*

There are no ecological or landscape designations affected. The landscape is not of high quality. The nearest ecological designation is the Allan Water to the north-east, part of the River Tweed Special Area of Conservation. A supporting ecological assessment states that there would be no connectivity to it. There would be no badger setts affected, no trees large enough to support bats and no buildings. The site is potentially suitable for breeding birds. The assessment recommends a pre-construction check for badgers and ground clearance outside the bird breeding season. It also recommends mitigation should be in place for monitoring and control, and precautionary measures for run-off during construction and operation. The Council's Ecology Officer supports the proposals as noted in his consultation response, subject to conditions requiring a species protection plan and environmental management plan. Conditions can cover these, though associated ground level changes are Permitted Development and would be capable of being carried out beforehand, thus reducing the significance of any further ecological mitigation. The woodland proposal includes some species recommended by the Ecology Officer.

### *Archaeology and built heritage*

There would be no effects on the setting of heritage assets, nor direct effects on designated sites. However, there is archaeological interest. The MBT plant was subject to an evaluation that recommended watching briefs in specific areas. Our Archaeology Officer recommends this be taken forward as part of this scheme. A condition can require a scheme covering the necessary watching brief extent, albeit ground level changes can be carried out by the Council in advance.

### *Traffic and access*

The site is accessed from the existing road serving the waste facilities, in turn accessed from the C77 public road. The C77 is constrained in a number of regards, including gradient, alignment and width. It is not a residential street, but does serve as pedestrian access for properties alongside it and from Coopersknowe Crescent which has not been completed yet such that its southerly access onto the C77 has been provided. The road itself will also see a considerable increase in traffic at its southern end as developments at Melrose Gait and the completion of Coopersknowe Crescent are realised. Concerns regarding impacts on the C77 are fully acknowledged, and the C77 certainly has limited scope to accept development that would lead to a significant increase in traffic using it.

A Transport Statement submitted on behalf of the applicants predicts that there would be 6 extra vehicle movements per day of which 5 would be articulated lorries, when compared with the existing traffic for the landfill. This amounts to 88 movements per day in total, of which 14 would be artics, as opposed to 82 and 9 for the landfill site respectively. The

predicted traffic would be less than that for the consented MBT. While that consent is an historic approval it is, nonetheless, a consent that is capable of still being implemented without further planning approval and the judgements leading to that permission are still valid considerations here. This increase in traffic is not considered to be significant. Concerns regarding the content of the statement are acknowledged but, ultimately, the RPS's view that the road is capable of accommodating the development safely is a significant material consideration.

The statement includes road safety improvements, including localised widening and kerbing of the road at key locations; improvements to signage; removal of trees and vegetation at locations where visibility is obstructed; improvements to the access junction; and, gates set back into the site. These improvements are endorsed by the RPS, as well as edge reconstruction of the carriageway on the east side of the road as noted in their comments. The widening will be minimal, designed to formalise areas of existing verge overrun. The signage will highlight the pinch point at Aislinn Cottage. Articulated lorries will be unable to pass each other at that point, but they cannot do so now when accessing the landfill. Traffic lights are not appropriate on this stretch of road, and neither is a pedestrian crossing. Coopersknowe Crescent will be provided with a link to the C77 further south once the development is completed (as noted above, planning consent was recently granted). The C77 is not a suitable road on which to encourage pedestrian access and signage will be used to highlight its nature. A speed limit review is to be undertaken later in the year and will include the C77. The roundabout onto the Melrose Road is required for the Melrose Gait development, but does not affect this assessment.

Ultimately, it is considered that the development will replace the existing landfill activity and achieve a waste management solution that will have less intensive traffic implications than the consented MBT facility. With the minor road improvements, which should be carried out before the facility is operational, the road safety implications have not raised concerns with the RPS. Achieving the improvements before works commence would be ideal, but not essential, and the applicant has advised this won't be possible. Nonetheless, a traffic management plan will be agreed in order to provide for some management of construction vehicles during the building of the facility. Closure of the landfill before operation of the WTS would also be recommended (for traffic and general amenity reasons). These aspects can be covered by condition.

Surfacing of part of the site with Type 1 is necessary because of the condition of the ground and potential for settlement. The RPS now accepts the proposal.

#### *Landscape and visual impacts*

The landscape value of the site is not significant and there would be no feature of note that would be lost. The development would not breach the skyline. The WTS would effectively be a large scale shed on land that is generally well contained in landscape terms, and sited alongside existing waste management facilities and buildings. The application is supported by a structural landscape scheme. The potential for further hedging recommended by the Council's Landscape Architect was considered by the applicant but discounted due to constraints, including leachate pipes. On the southern boundary, planting to mitigate the MBT development was carried out but is not being maintained. The applicants have incorporated this into their landscape scheme so that its maintenance (and overhaul) will be part of their scheme. The landscape plan needs adjusted a little to suit the detailed site layout, but otherwise will provide for visual containment of this development in the wider landscape.

The layout of the site, scale of development, and the form and design of the proposals are all considered appropriate for this particular setting, as is fencing proposed to the boundaries

(2m weldmesh). The WTS building is smaller than the MBT approval, albeit a little taller. The Advanced Thermal Treatment facility had included a 23m high stack, whereas this proposal is for two stacks at 17m high (3.75m above the ridge). The hard surfaces would be tarred or finished with Type-1 which is appropriate in this location. Other structures include simple office and kiosk structures and a weighbridge, as well as a sprinkler tank and pumphouse. Provided the colours and finishes are dark, (and the applicant has agreed that external finishes will be specified to suit this objective), the overall visual impact of the works will not be adverse.

Levels on site would be altered with cut-and-fill, with levels increased to over 4m to the north-east. These works are, in themselves, Permitted Development for the Council (works under £250,000). The gradients are a little sharp in places but, ultimately, they will not seriously change the landscape character of the site, and the development will largely cut into the existing site. The detailed levels will need to be amended to accord with the details of the site plan, and coincide with structural landscaping. Conditions can ensure the plans all tally.

Neighbouring properties would not be adversely affected by the development in terms of daylight, sunlight, privacy or outlook loss.

#### *Noise, odour and air quality*

Impacts as regards noise, odour and air quality are material considerations that govern whether this development should be approved in this location. However, the operation of the waste management facility is regulated by Waste Management Licensing operated by SEPA. Scottish Planning Policy cautions against duplicating controls, as does the Scottish Government's on-line advice and PAN 51. The issue for this application is whether the development is capable of being licensed in this location, not whether its detailed operation is acceptable or not. It is to be noted that concerns raised by an objector regarding noise and odour were forwarded to SEPA so they could be accounted for as part of their consultation.

#### Construction noise, air quality and odour

Construction will be a short term process, but an essential aspect if the provision of a waste transfer station to replace the landfill site is to be realised. It is accepted that local residents have particular concerns, however, any limitations placed on the development must be reasonable, if they are to be placed at all. As regards construction noise, this matter is regulated separately and, given the type of development and its location, it is not considered that additional controls need applied above normal standards for noise and dust etc during construction.

As regards odour, the submitted Odour Management Plan identifies that odour may be released during construction when the ground is excavated. It includes mitigation measures such as no working in evenings, weekends or Bank Holidays, and accounts for weather conditions for progress on work. Following liaison with the Environmental Health Service, it is considered that these measures are sufficient to mitigate for odour impacts during construction. It is not possible to factor in every possible eventuality as regards risk of odour release while still allowing for reasonable and timely progress on the development. Albeit this site can be disturbed in any case (with works to change levels) it is considered, on balance, reasonable and necessary to require compliance with the mitigation measures during the works given the risk that has been identified.



### Operational noise

The application includes an Environmental Noise Impact Assessment that assessed the principal noise implications of the development, including traffic noise on the C77. No significant effect is predicted and no mitigation necessary. Background levels were taken within Coopersknowe Crescent in order to provide a representation of background noise within the nearest properties both there and in Melrose Gait. The location of the background level has not been queried by SEPA or the Environmental Health Service. SEPA initially raised concern that there was no account for noise from reversing vehicle alarms but, the applicants have since accounted for it and, in response, SEPA appear to be content. "Smart", warbling, broadband or bell tone alarms are some of the mitigation measures that could be applied via licensing. Conditions are not sought by SEPA on the planning approval (if granted) to avoid duplication. For the same reason, they have verbally agreed that operating hours (currently proposed as Mon-Fri 7am-7pm) would be controlled under the licensing.

### Operational air quality and odour

SEPA raise no issue regarding dust, and in response to a request from the Environmental Health Service on the matter, the applicants advise that dust suppression measures will be applied. The regulation of these will be for SEPA, if required and the EHS raise no further issue.

As regards assessing odour impacts, this is not an exact science, albeit the applicants have submitted an Odour Impact Assessment that uses modelling to predict that this development would not lead to significant effects on neighbours. The related Odour Management Plan states that for the majority of the time the reception building would be enclosed, with all waste transfer, handling and storage operations being enclosed, during which time the air will be extracted via the two stacks. During the working day the shutter doors would be open to allow entrance/exit of waste collection vehicles. Release of odour is said to be overcome by following working plan procedures and automated fast acting roller shutter doors will close behind vehicles as they enter and leave. The fast acting doors combined with the extraction system will prevent odour emissions from the doors and mist curtains will be installed around doorways to mitigate further. The OMP includes measures to minimise odour release as well as notification and complaint procedures and emergency measures. This is a matter for the Waste Management License and its detailed contents are not best addressed via the planning application. As noted, SEPA are aware of concerns regarding odour raised by an objector.

SEPA were concerned that the modelling would understate effects, and sought a focus on abatement measures. They also sought a stack height assessment. In response, the applicant's agents challenge SEPA's conclusion and maintain that the modelling is sound and complies with SEPA's guidance. They also consider that they have demonstrated that the stack heights are sufficient. SEPA have advised further that odour is capable of being controlled by the License, but more abatement measures may be needed. They also want to achieve an 'optimum' stack height. Conditions to achieve these are sought via planning consent, if granted. However, this matter has been discussed with SEPA and it has been agreed that doing so would duplicate SEPA's controls under licensing and, in any case, if the abatement measures and stack height changes result in material amendments to the proposal, a fresh planning application will be required in any event. SEPA are not able to confirm at this stage whether any abatement measures would affect the exterior of the development (interior works will not affect the planning approval) and are not able to say if any changes to the stack height would be significant or not. Ultimately, though, they do not raise concerns with the location of the development and its proximity to neighbours. While they also give no guarantees, they also appear to indicate that this scale and type of

development is capable of being licensed in this location. Changes sought by SEPA may be immaterial as regards the planning approval but, if not, the applicants will need to make a fresh application. This is a risk that would be associated with applying for a management license in any case.

#### *Water supply*

A connection to the public water supply is proposed. It is understood that this is achievable. The applicant will investigate the use of grey water from roof run-off to supplement the supply to the sprinkler system tank. This will help reduce water usage. A condition can require evidence of a public mains connection

#### *Foul drainage*

Foul drainage from the offices is proposed to a septic tank, as was approved for the MBT. It will not be discharged via SUDs as originally proposed, in answer to SEPA's concerns. SEPA, however, want evidence of a mains connection before considering a private treatment scheme, and note doubts over the soakaway proposal. The applicant's agents advise that connection to the main is not feasible. A drain to it exists but is at capacity. Policy IS9 of the LDP does note a preference for a public sewer before private treatment is considered. It would appear that this matter requires further consideration in liaison with SEPA. It would be reasonable to impose a condition to require an agreed scheme. It is unlikely that this issue will constitute a material change to the planning approval, if granted.

#### *Surface water drainage*

SEPA are content with the surface water drainage proposals. These are SUDs-based including filter trench, swale and off site soakaway. High risk run-off will be drained to the leachate lagoon which, despite its drain to the sewer being at capacity, will be negligibly affected by the volume of run-off according to the drainage strategy endorsed by SEPA. The drainage layout needs slightly adjusted to suit the site plan.

As regards flooding, the site is not at risk and the Council's Flood Protection Team does not raise concerns. SEPA are content on that basis. A condition can require that the drainage be managed to an extent that maintains pre-development run-off levels. The strategy identifies this to be the case.

#### *Contaminated land*

The permission for the MBT was conditional on a contaminated land strategy, and this was agreed. A study now requires to be agreed to account for this specific development and current guidance on the matter. The Council's Contaminated Land Officer is currently in discussion with the applicant's agent on this point. A standard condition can be applied to allow for a strategy to be finalised and agreed and measures applied as required.

#### *Lighting*

Lights are proposed on the building and on 8 metre high columns within the site. On a site this size there is no significant visual impact, and it is set well back from public view. The light spread will not affect neighbouring residential properties.

## *Waste*

A site waste management plan is encouraged by the Supplementary Planning Guidance on waste and was a requirement of the previous consents for the site. This can be covered by condition

## *Long term adaptability*

The WTS building would be a modular building designed for future adaption/extension. Structural landscaping is proposed to the south and west but there is scope to extend to the east. The submitted drawings indicate a possible extension. This would be considered under a separate planning application in visual terms as well as any associated traffic or amenity implications but does demonstrate the potential for longer term expansion.

## **CONCLUSION**

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions

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

I recommend the application is approved subject to the following conditions

1. The development shall be carried out in accordance with site plan 101-D6 and all other plans and drawings approved under this consent unless where required to be amended to suit any other condition in this schedule and unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the development is completed as approved and to overcome any apparent inconsistencies between plans and drawings

2. No development shall commence until a Construction Environment Management Plan has been submitted to and approved in writing by the Planning Authority. The CEMP shall include:
  - i. Risk assessment of potentially damaging construction activities,
  - ii. Identification of any "biodiversity protection zones".
  - iii. Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works, include the use of protective fences, exclusion barriers and warning signs.
  - iv. A Drainage Management Plan
  - v. A Site Waste Management Plan
  - vi. An Accident Management Plan
  - vii. Responsible persons and lines of communication.
  - viii. The role and responsibilities on site of an ecological clerk of works (ECoW) or equivalent

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: To minimise potential adverse effects on ecological interests and in order to ensure all practicable measures are taken to reduce the production of waste during the construction phase

3. No development shall commence until a Species Protection Plan (SPP) for badger and breeding birds has been submitted to and approved in writing by the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved scheme. The SPP shall include provision of pre-development supplementary surveys and a mitigation plan to account for any works that may be carried out during the breeding bird season (March-August, though this is extended for some species including barn owl, barn swallow and pigeon)

Reason: To minimise potential adverse effects on ecological interests

4. No development shall commence until a ground investigation report has been submitted to and approved by the Planning Authority. The report shall include identification and assessment of potential contamination on the site (in accordance with PAN 33 (2000) and BS10175:2001) and shall include (as applicable) a remediation strategy, validation report and monitoring statements, including timescales for the implementation of all such measures. Development shall not commence until the report is approved by the Planning Authority and the development shall be carried out only in accordance with the approved report, including approved remediation, validation, monitoring measures and timescales for their implementation.

Reason: To ensure that the potential for health risk arising from any identified land contamination has been adequately addressed.

5. No development shall commence until the applicant has secured a programme of archaeological work in accordance with an approved Written Scheme of Investigation (WSI) outlining a Watching Brief. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- i. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- ii. If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
- iii. Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
- iv. If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
- v. Initial results shall be submitted to the Planning Authority for approval in the form of a Data Structure Report (DSR) within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
- vi. The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once approved.

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

6. No development shall commence until a detailed scheme, including plans, drawings and specifications, for those improvements referred to in the Transport Statement

(Goodson Associates February 2017), in addition to measures comprising edge reconstruction of a section of the C77 carriageway, including kerbing, have been submitted to and approved by the Planning Authority. The approved scheme of improvements, in addition to the approved access roads, yard and parking areas shall all be complete before the development is operational  
Reason: To maintain road and pedestrian safety

7. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the Planning Authority. The construction traffic within the control of the applicant shall be operated in accordance with the approved CTMP  
Reason: To maintain road and pedestrian safety
8. No development shall commence until a full schedule of external materials has been submitted to and approved by the Planning Authority. The schedule shall include finishes and colours, and samples where required by the Planning Authority, for the waste transfer station (including stacks), sprinkler tank, pump house, office and kiosk, notwithstanding the specifications given on any approved plan or drawing. The development shall be completed using the approved schedule  
Reason: To limit the visual impact of the development
9. No development shall commence until evidence has been submitted to the Planning Authority that a public water supply will be available to service the development, or details of a private water supply have been submitted to and approved by the Planning Authority  
Reason: To ensure the development can be adequately serviced
10. No development on the offices shall be commenced until a foul drainage scheme has been submitted to and approved by the Planning Authority  
Reason: To ensure the offices are capable of being adequately serviced
11. Notwithstanding the layout on plan 6944-LD-001C a revised landscape layout shall be submitted to and approved by the Planning Authority before development commences that concurs with approved site plan 101-D6, and specifies a timescale for implementation of landscaping. The landscaping shall be implemented and maintained in accordance with the approved site layout plan and approved planting and maintenance schedule (accounting for any adjustments to the schedule to accommodate the revised site layout)  
Reason: To mitigate the visual and landscape impacts of the development
12. Notwithstanding the layout on plan 590C a revised layout plan for site levels shall be submitted to and approved by the Planning Authority before development commences that concurs with the approved site plan 101-D6. The development shall be completed in accordance with the approved levels plan (accounting for any required adjustments to sectional drawings to concur with the revised layout)  
Reason: To visually integrate the approved development with proposed site level changes
13. The construction works shall be carried out in compliance with the Odour Management Plan (SLR-January 2017)  
Reason: To minimise, as far as practicable, potentially adverse effects arising from the construction on surrounding properties
14. The development shall not become operational until the surface water drainage scheme has been implemented in accordance with the approved plan 520 (adjusted

to suit the approved site layout) and Drainage Strategy Plan and Flood Statement March 2017 Rev A (Goodson Associates). The scheme shall maintain run-off from the site at pre-development levels in a 1:200 (plus climate change) event and shall be maintained throughout the operation of the development

Reason: To ensure surface water is treated in a sustainable manner without risk of run-off to neighbouring properties

15. The development shall not become operational until evidence is provided to the Planning Authority that the existing landfill facility at Easter Langlee has ceased operations with respect to disposal of incoming waste

Reason: To maintain road and pedestrian safety and the amenity of surrounding properties

#### Information for the applicant

1. Advanced works to alter ground levels carried out by the Council are Permitted Development where costing less than £250,000. Though conditions on this consent will not apply to works already capable of being carried out in advance of the development commencing, the applicant is strongly recommended to ensure compliance with the conditions imposed on this consent that would be potentially prejudiced by the advanced works, including ecological and archaeological mitigation and odour management
2. Should any part of the development require amendment to satisfy Waste Management Licensing requirements, these will require a fresh planning application where they are deemed by the Planning Authority to materially amend the approved development. Once the outcome of the WML is known, the applicant should discuss any such amendments with the Planning Authority to establish the required course of action as early as possible.
3. The extension referred to on the approved plans is not consented under this planning approval.

#### DRAWING NUMBERS

Location plan 'location'

Location plan 100 D4

Development area and proximity to course of Allan Water 103 D1

Proposed site layout 101 D6

Landscape general arrangement 6944-LD-001 C

Softworks construction details 6944-LD-002 B

Landscape planting and maintenance schedule March 2017 Rev C

Administration block and weighbridge office elevations 231 D1

Administration block sketch proposals no 2 230 D2

Sprinkler tank and pumphouse 220 D1

Proposed floor plan 202 D2

Elevation sheet 1 211 D4

Elevation sheet 2 212 D4

Cross sections 213 D2

3d images 214 D4

Weighbridge photos 4no

External works - surface water drainage 520

External works - cut and fill volumetric analysis 590 C

Cut and fill volumetric analysis site sections 591 C

External works site sections 593 A

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

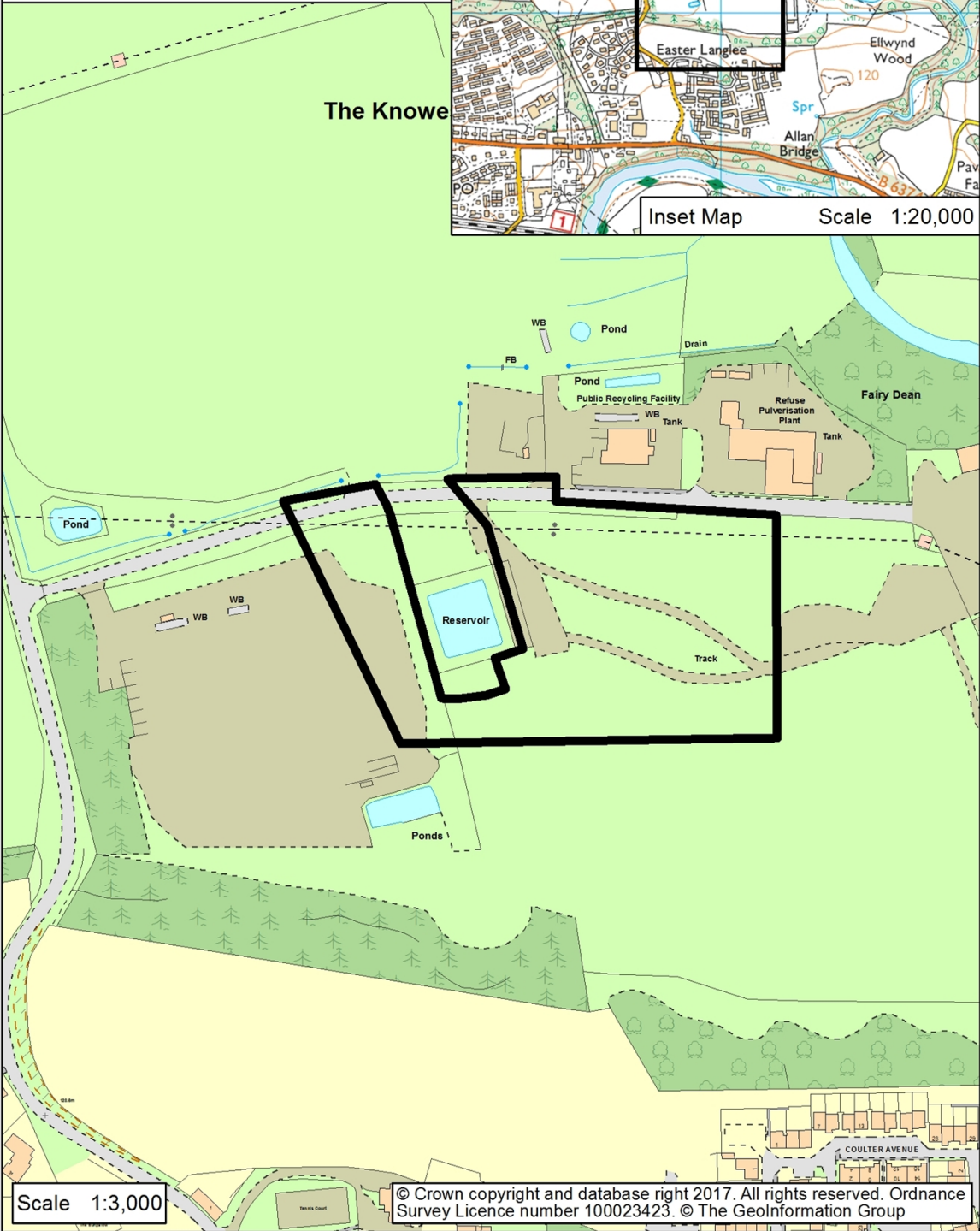
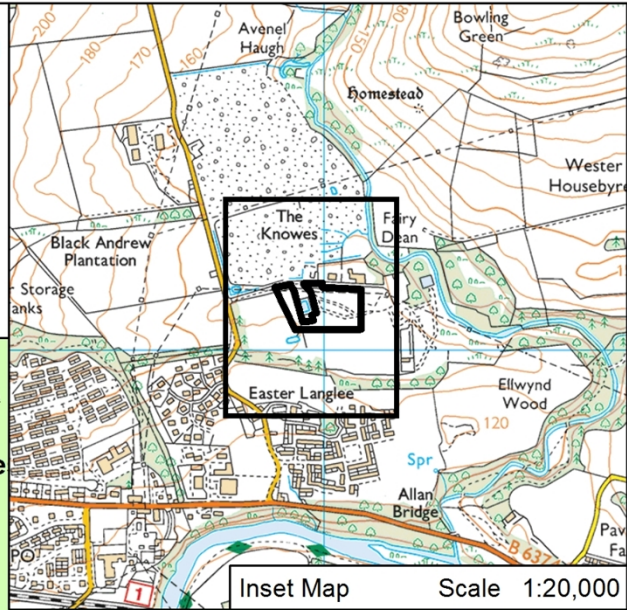
**Author(s)**

Name	Designation
Carlos Clarke	Lead Planning Officer



16/01417/FUL

Land South Of Easter Langlee  
Recycling Centre  
Galashiels





**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00187/FUL
<b>OFFICER:</b>	Mr C Miller
<b>WARD:</b>	Tweeddale East
<b>PROPOSAL:</b>	Revised design pertaining to planning permission 09/01542/FUL to replace public bar/restaurant/function suite with 3 No. dwellinghouses and 4 No. flats
<b>SITE:</b>	Land West of and including Golfer's Rest Former Station, Cardrona, Peebles
<b>APPLICANT:</b>	Waverley Tweed Ltd
<b>AGENT:</b>	Yeoman McAllister Architects

**SITE DESCRIPTION**

The site is located at Cardrona, immediately adjoining the River Tweed and to the south of the main public road leading into the village from the hotel roundabout, adjoining the road bridge. The site comprises of open scrub land occupied by a fenced off car parking area, the Tweed Valley multi-use path, the path leading under the road bridge and some land beyond the former railway line and platform to the south. The site is part of a former site approved in 2010 for a mixed use development comprising of a public bar/restaurant, café/shop extension, two houses and eight flats – the current site being where the public bar/restaurant was proposed.

To the west of the site lies the River Tweed, road bridge and former railway bridge carrying the Tweed Valley multi-use path. On the eastern side, a coffee house occupies the former station with some trees and dwellinghouses to the rear of the coffee house.

The site lies within the Tweed Valley Special Landscape Area and within allocation MCARD007 in the Scottish Borders Local Development Plan 2016, identified for “...a mix of uses including commercial and employment”.

**PROPOSED DEVELOPMENT**

The application has been submitted in full for the erection of a residential development comprising of four flats and three houses in two separate development blocks. It is proposed that the whole development will be for affordable housing, the proposals being supported by Government funding. The Housing Strategy Officer confirms the site “...is included within the Council's new Strategic Housing Investment Plan 2017-22 , which was submitted to Scottish Ministers in Nov 2016. It is envisaged that it will be a developer led project in anticipation that it will be delivered in collaboration with Eildon Housing Association to produce additional homes for social rent. Scottish Government are aware of this emerging project and have indicated in principle willingness to grant assist in due course.”

The development will utilise the access road proposed under previous consents, situated between that and the footpath passing under the road bridge. Two blocks are proposed with four flats to the north of the site and three houses in a terraced row to the south-west. These will splay away from the access road and no immediate curtilage parking will be provided, this being provided in a communal parking area south of the former railway line totalling 30 spaces. This parking area is also to serve the residential development approved under 15/00206/FUL (six houses and four flats) as well as general users of the area. Whilst it will not be adopted, it will be expected to remain communal and unallocated.

The houses and flats are designed to match with the development approved under 15/00206/FUL, the flatted block having hipped roofs with a flat section, the houses having a gabled-ended design, The main entrances will be from the new access road with canopy porches. One flatted unit will enter from the northern gable facing the main road. Upper floor windows within the houses will be contained within pitched roof dormers, some twin dormers proposed to the rear. All windows will have a vertical emphasis with mid-rails and a two over two pattern. Projecting eaves are also proposed with timber gable end features. No materials are specified.

No specific garden boundaries are delineated, the surroundings appearing to be open plan. Schematic planting is proposed down the access road and around the communal parking area. No site development levels are provided but the elevations display raised floor levels from the proposed access road,

## **PLANNING HISTORY**

There were earlier consents as part of the overall Cardrona Golf Village development and to the coffee shop, but the most pertinent and recent applications were as follows:

04/02397/FUL – withdrawn application for 20 flats, five houses and an extension to the shop with offices.

05/01076/FUL – planning permission from August 2005 for an extension to form a shop and offices.

08/01862/FUL – withdrawn application for same proposal as 09/01542/FUL

09/01542/FUL – planning permission from 4 May 2010 for the whole area comprising a public bar/restaurant/function suite with café extension, two houses and eight flats. Suspensive conditions were discharged and a site commencement was confirmed in May 2013, determining that this consent remains valid.

15/00206/FUL – planning permission from 19 June 2015 for a revised design and arrangement of the approved residential units split between six houses and four flats in two separate blocks.

## CONSULTATION RESPONSES:

### Scottish Borders Council Consultees

**Roads Planning:** A number of issues need resolved before support can be given, especially as the road serving the site will now need to be constructed to an adoptable standard and Road Construction Consent will be required.

Although the car park won't be adopted, details must still be submitted for approval and thereafter implemented prior to occupation of any unit. The parking spaces must remain communal and unallocated to ensure the use of the parking area is maximised. The multi-use path either side of the development, must be allowed to pass through the site, the proposed alignment being unacceptable. The route must be kept open at all times and any temporary diversions required for construction purposes must be agreed in writing prior to implementation. Additional parking at the far end of the site to the east of the existing shop on the private lane must be removed.

Conditions could control the above issues, together with other matters relating to disabled parking bays, roadside crash barrier and bin/cycle stores. In addition, an informative should be included on any approval highlighting the need for Road Construction Consent for the access road into the site.

**Forward Planning:** The site is a Mixed Use site allocated within the Scottish Borders Local Development Plan (LDP)2016, the allocation stating: "*The site should provide for a mix of uses including commercial and employment*".

In pre-application discussions regarding this proposal, Forward Planning noted that the existing shop could be extended thereby providing an opportunity for further mixed use on the site. It was also noted that there was the intention to market the business part of the site MCARD006 (north of the river) allowing an opportunity for that site to provide commercial and employment opportunities. Given the size of the area intended for the pub/restaurant and the demonstrable lack of buyer interest, it is considered that affordable housing within that area would be acceptable.

**Education Officer:** The development is within the catchment areas of Peebles High School and both Priorsford and Kingsland Primary Schools, requiring total contributions of £4025 and £43375 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.

**Landscape Architect:** An updated plan showing all trees on site is required. The orientation of the terraced houses does not properly address the streetscape with an awkward path layout. The terraced houses could be reorientated, taking the development further away from the river and allowing private rear gardens, subject to sensitive boundary treatment. Sketch layout suggested. A condition of any consent should be a Planting scheme for the development.

**Archaeology Officer:** The previous consent was subject to three archaeology conditions that remain outstanding, albeit a WSI has been approved to allow for a watching brief. Conditions should be carried forward, with an amendment to the condition seeking a watching brief for compliance to the existing WSI.

An interpretive plan for the Cardrona Standing Stone is awaited. A landscape plan to preserve the site's setting still needs agreed with the planning authority and Historic

Environment Scotland together with a schedule of measures for the positive management of the stone. Heras fencing is also needed around it.

**Access Officer:** There is one core path through the site forming part of the Tweed Valley Railway Path. Would like clarification on how the route will be clearly demarcated both in terms of signage and surfacing. On the drawing it appears as if the route will be unclear, competing with vehicles in the car parking area and even interrupted by kerbing.

Core paths are protected by law under the Land Reform (Scotland) Act 2003(sec.19). There are other tracks in the area that the public would have a 'right of responsible access' to under the Land Reform (Scotland) Act 2003.

**Ecology Officer:** No objections, noting the acceptance of SNH but also noting no response from SEPA, seeking re-attachment of relevant conditions from earlier consents in relation to impacts on the River Tweed SAC. Also as time has passed since previous surveys and reports, seeks a Species Protection Plan for breeding birds and otter, incorporating a pre-development checking survey and measures to be undertaken for protection.

**Housing Strategy:** Aware of the site being identified as a potential affordable housing opportunity and is included within the Council's new Strategic Housing Investment Plan 2017-22. Envisaged it will be a developer led project delivered in collaboration with Eildon Housing Association to produce additional homes for social rent. Scottish Government have indicated willingness to grant assist.

**Flood Protection Officer:** The site is at risk from a flood event with a return period of 1 in 200 years. The 1 in 200 year flood level at the site was estimated to be 152.14mAOD and discussions with SEPA addressed issues regarding finished floor levels and road levels for safe access and egress on 09/01542/FUL. Requests that a finished floor level of 152.90 mAOD is adopted due to the significant flood risk at the site.

### **Statutory Consultees**

**Historic Environment Scotland:** No comments. Archaeology and Listed Building matters can be advised upon by the Council's own services in those respects.

**Scottish Natural Heritage:** The revised design affects the layout of the western area of the development, which is the closest part of the development to the River Tweed. However, the proposed development is as far from the River Tweed as the approved development and as such the revisions will not impact on the River Tweed SAC/SSSI. No concerns relating to the current proposal, provided that the relevant conditions covering the rest of the development still apply.

**SEPA:** Objection based upon flood risk and a potential increase in footprint without an attendant increase in compensatory storage. Also no indication that the finished floor levels will be above that previously requested and in the absence of suitable signage, users of the car park would also be at risk of flooding. After further information was submitted, withdraws objection as footprint will be less than previously consented and previously approved compensatory storage will be sufficient. Accepts the FFL and signage can be advisory.

**Innerleithen and District Community Council:** Support the objections expressed by Cardrona individuals. Parking issue is already demonstrable and over restriction is

likely to be harmful to Nashy's very welcome and thriving business. Residential development so close to the River Tweed looks out of kilter with the riverside and a bar/restaurant/function suite may have made the overall mix more palatable. Number of dwellinghouses and flats proposed in the revised design is an over-development. The flood risk needs careful assessment.

## **REPRESENTATION SUMMARY**

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

- The public house was part of the original vision for Cardrona, the village not being well served with facilities and the hotel not catering for local demand.
- Contravenes the Local Plan allocation of mixed use.
- The rents for the affordable houses will be higher than other locations.
- The location is not suitable for affordable housing with most facilities three miles away
- The area is prone to flood risk.
- Road and pedestrian safety risk with current roadside parking as a result of the closure of the car park and a bus stop adding to congestion. Too few off-road spaces being proposed.
- Unlikely to be demand for more houses and flats.
- Tweed Valley Railway Path not well provided for during construction and thereafter, including unsuitable sharing of uses and diversion.
- Overdevelopment and detrimental impact on local amenity.
- Education, village hall and play space contributions are required.
- Better uses should be considered such as recreational/tourist related businesses.

## **APPLICANT'S SUPPORTING INFORMATION**

A letter is submitted in support of the application from Savills who marketed the proposed pub/restaurant site for over a year in 2010/11. They targeted developers, pub and restaurant chains as well as a more general market and advertised in *The Scotsman*. The site did not sell and feedback suggested the location, limited catchment population and existence of a similar facility at the McDonald Hotel all contributed to the lack of interest. It was also felt that people would not travel from Peebles or Innerleithen as similar facilities existed in those towns and public transport was limited. Savills conclude that "...the proposed use at that location was not viable".

The applicant's agent has also submitted several emails in response to the objections and consultation replies received. These are all available on the Public Access file and, in particular, Members should note their response dated 6 March 2017 which addresses a number of the third party objections.

## **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 EP2 National Nature Conservation Sites and Protected Species  
Policy EP3 Local Biodiversity  
Policy EP5 Special Landscape Areas  
Policy EP8 Archaeology  
Policy EP13 Trees, Woodlands and Hedgerows  
Policy EP15 Development Affecting the Water Environment  
Policy IS1 Public Infrastructure and Local Service Provision  
Policy IS2 Developer Contributions  
Policy IS5 Protection of Access Routes  
Policy IS6 Road Adoption Standards  
Policy IS7 Parking Provisions and Standards  
Policy IS8 Flooding  
Policy IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
Policy IS13 Contaminated Land

### **OTHER PLANNING CONSIDERATIONS**

“Trees and Development” SPG  
“Placemaking and Design” SPG  
“Affordable Housing” SPG  
“Developer Contributions” SPG  
“Biodiversity” SPG  
“Local Landscape Designations” SPG

### **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Local Development Plan Policies and an allocation for a mixed use development within Cardrona settlement. In particular, the reclassification of commercial to residential use, design, impacts on parking and road safety, public access and flood risk.

### **ASSESSMENT OF APPLICATION**

#### Planning Policy - Allocation

The site is within the settlement boundary of Cardrona and is allocated for a mixed use development, the Local Development Plan stating that “*The site should provide for a mix of uses including commercial and employment*”. The current application site forms the western part of this allocation and was previously approved for a public house/restaurant/function suite within the extant 2009 planning permission. That permission also provided for residential development on the eastern part of the allocation and extensions to the northern façade of the current coffee shop.

That development was commenced through formation of the sub-base, drainage and kerbing to the access road bellmouth. Subject to discharging of certain remaining suspensive conditions, any part of this development could still be carried out, including the public house and coffee shop extensions. Similarly, the amendments to the residential element consented in 2015 could be carried out separately and the remainder of the 2009 permission still also implemented.

There has been some regret in the local community at the potential loss of the public house facility, some commenting that Cardrona needs such a facility and that the nearby hotel caters for a different requirement. This is understandable. However, it is also the case that there was some opposition to the proposal for a public house in

2009 when it was first proposed. Evidenced by the submission from Savills, it is clear that there has been no interest in the site for the proposed use despite being marketed, reasons being given including the current hotel facility, lack of catchment population and duplication of facilities in Peebles and Innerleithen. It is also the case that the demand for rural and semi-rural public houses has declined over time, witnessed by proposals for changes of use across the Borders. There is no justification for continuing to hold out for a facility where there has been no commercial interest in the past seven years. A decision to refuse permission for the current scheme would not make that alternative any more viable.

Whilst some have noted that a move away from the proposed facility would be against the mixed use zoning in the Local Development Plan, the response from Forward Planning makes it clear that there would still be mixed use elements within both of the allocations at Cardrona. The coffee shop lies within the zoning and has an extant approval for enlargement. The site at Horsbrugh North also retains an area for commercial and employment opportunities. Forward Planning advise that the replacement of the proposed public house with affordable housing would not remove the mixed use element requested by the zoning. Although it may, of course, weigh the overall development heavily in favour of affordable housing, there is nothing in the allocation that stipulates what ratio or balance there should be between the uses. It is also noted from the Housing Strategy response that there is a need for affordable housing and that such a development at the location would be supported by Government funding.

Although there is a Local Development Plan Policy that also seeks to protect service improvements identified on Proposals Maps, taking all of the aforementioned factors into account, it is not considered that the “loss” of the proposed public house facility would be against Local Development Plan Policy. There is no latent demand for such a facility and there is a demand for affordable housing. It also still allows for mixed use development at Cardrona, both on the site and within a nearby allocation.

A decision on planning policy grounds must be made on the suitability of the scheme being proposed on its own merits, rather than whether other suitable or “better” alternatives exist.

#### Planning Policy – Infill

Apart from the question of the allocation, the other main Local Development Plan Policy to be applied to the proposal 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, no 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 existing and proposed uses to the east are predominantly housing, this criterion is met.
- *The site must not detract from the character or amenity of the area* – the houses are of appropriate and sympathetic 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 houses and parking without the density of the area being contravened. The development will appear in context with the approved development adjoining the coffee shop and the terraced housing at the western edge of the village.
- *Respects scale, form, design and materials* – the proposals are sympathetic to the site and surroundings as explained below and materials can be conditioned to respect the area.
- *Adequate access and servicing* – this can be met as explained below.
- *No significant loss of daylight or privacy* – the proposals are acceptable as they are well separated from the nearest houses.

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 in that respect.

### Design and Landscape Impact

Policies PMD2, PMD5 and EP5 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 the Tweed Valley Special Landscape Area. 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 original permission for the site was for a public house with a relatively large square footprint on the site. Although this was set back further from the road than the current housing proposal, there is no evidence to suggest the new development represents overdevelopment of the site as has been claimed by some objectors. The footprints are almost exactly the same. The Streetscape also shows that the ridgeline of the new proposal is 1.73m below that of the approved public house and a much less bulky facade is presented to public view to the north.

In recognition of the prominence of the northern gable end of the development and the fact that it can be accepted the development could be of less visual interest than the previous pub design (which resembled a farmhouse and steading), the development was switched at pre-application stage to present the larger flatted block to the north with a projecting element, windows and a door entrance – rather than a blank gable end. Together with two further windows along this elevation, the result complements the gable end design across the access road approved under 15/00206/FUL. It is accepted that both gables are nearer the main road than the original 2009 development but these gables have been improved in design, punctuation and architectural detailing to the extent that it is considered they would be sympathetic to the general architectural styles at the eastern end of Cardrona.

In terms of design, discussions held during the processing of application 15/00206/FUL resulted in a more appropriate design for this semi-rural area. An extract from the report on that application explains the evolution of the resolution of concerns over the design which is now carried through into the current application. What was of concern was:



- *“the dominance of hipped roofs and especially the pyramidal roof shape in the corner unit, which presents a series of blank gables to the main public view of the development.*
- *the lost “cottage” feel as a result of the removal of projecting eaves, gable spandrels, lower roof slope, plain fenestration and double/triple arrangements without mullions.*
- *the use of double windows within the dormers.*
- *removal of traditional pitched roof door canopies and replacement with one lean-to canopy, thus weakening the strength of the principal elevations facing north.*
- *lack of empathy with the approved pub design*
- *query the external materials are as previous approval on this site was for CUPA natural slate roofing.*

*After several revisions, the latest set of revised plans address all these elements more satisfactorily. Most of the criticisms above have now been addressed and the whole architectural arrangement is more traditional and in keeping with the current designs at the entrance to Cardrona. More gabled designs have now been proposed and the “rear” elevation feel of the prominent northern elevation has been improved with solid timber doors, single dormers, porch canopies and projecting eaves and spandrel panels.*

*The northern gable end nearest the road edge has been improved by engulfing the bin and cycle store internally and presenting a gable with windows and more interest than previously. The unit does present a two storey gable slightly nearer the road edge than the initial submission but really no closer than the single storey bin/cycle store - both of which are closer to the road edge than the approved design. However, this is offset by the remainder of the development being narrower and allowing greater space for gardens and landscaping.*

*A permitted development restriction would be considered essential to prevent any cluttering of this area with screening and garden outbuildings. The pyramidal corner building has also been redesigned for the better and the ridge heights reduced considerably in this corner. Elsewhere, the improved roof pitch has resulted in the other building ridge height being increased by just under half a metre, although this will be no higher than approved previously. Slate is not proposed for the roofing but there are much more realistic alternatives now available and it is considered that a suitable material can be selected.”*

The new design follows on from these improvements and still presents a cottage/farmhouse steading feel that matches in with the architecture at the entrance to Cardrona from the west. No materials are specified and these will need to be reserved for agreement by planning condition. There is some criticism over the plain elevations facing public view but there has also been a mistake on the drawings whereby the east and west elevations have been wrongly labelled. The main east elevation presents the main entrance views with porch canopies, door entrances and greater articulation than the rear elevations. Whilst the rear elevations are of less interest and face onto the access path under the road bridge, the windows with glazing bars and a vertical emphasis present a relatively attractive rear façade, together with pitched roof dormers, projecting eaves and French Doors. The overall shape and form of the development is also vernacular. For these reasons, it is considered that the development to comply with Local Development Plan Policies PMD2 and PMD5 on Quality Standards and Infill Development, comparing favourably with the previous pub/ housing designs.

The Landscape Architect has suggested that the southernmost terraced housing block be turned so that it is parallel with the access road rather than being splayed away from the road with what is considered to be an awkward path layout. She also believes this would provide the opportunity to create some private garden space to the rear riverside boundary. The agent has responded to this suggestion by stating that there is a legal wayleave restriction preventing them from developing as suggested, or indeed developing the original pub as intended. They do point out that the proposed development is more separated from the river than the public house would have been.

Whilst the comments from the Landscape Architect are recognised, and even if it had been legally possible, turning the terraced block towards the street may also increase congestion and create a less attractive open space feel to the street as proposed. It would also increase the possibility of rear garden clutter rather than keeping an open space feel around the development as proposed. As with the consent 15/00206/FUL, a permitted development restriction will be imposed to control garden development.

In terms of other landscape related comments, it would be advisable to have an updated landscaping plan on that consented with the 2009 development as there has been a number of legitimate tree removals within the overall site, referred to in the agent's response to the Landscape Architect. This can take into account current trees as well as new planting proposals. This would not only be for the significant tree planting proposed around the car parking but also to make a feature of the open space within the street leading to the car parking and along the rear of the houses. Subject to a condition on that, it is considered that the development would comply with Local Development Plan Policies PMD2, PMD5, EP5 and EP13.

#### 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. Policy IS5 also seeks the protection of public access routes. The two main issues with this application relate to parking provision in the local context and adequate provision for the continuation of the Tweed Valley Multi-Use Path through the site to Cardrona.

When the 2009 permission was given for ten residential units and the public house, four parking spaces were proposed in a lay-by along the road outside the coffee shop and two double rows of parking were proposed to the south of the site, one double row to the south of the proposed pub and the other to the south of the housing and flats. When the 2015 residential amendment application was approved, there were local concerns expressed over the parking sufficiency for existing and proposed uses, concerns again expressed on the current application.

In considering these concerns on the 2015 application, the following extract is taken from that handling report:

*"In terms of the parking for the shop, the approved development only provides four lay-by spaces to the front with the remainder of the housing, pub and general spaces to the rear. As the application is only for the houses, the initial submission only provided the four spaces to the front as per the approval and a proportion of spaces to the rear equalling 14. Given there was no guarantee when the pub and the remainder of the parking spaces would be provided, this parking provision was not*

*considered to be adequate compensation for the parking area lost in relation to the shop.*

*The developer has now revised the parking plans by providing an extra lay-by space to the front and an extra six spaces of those previously approved. A footpath section has also now been proposed on the corner of the roadway to lead people from this parking around the roadway to the shop - although it is also possible that people could walk inbetween the development to the shop. The objectors and people who made general comments may feel this is still inadequate but the developer makes the point that much of the current parking is not shop-related and that the additional spaces do not need to be right beside the shop.*

*On balance, there are seven additional spaces from the scheme first submitted and improved pedestrian provision - all in line with comments also raised by Roads Planning. Subject to an extra condition on treatment of the crash barrier, I am content that the development has addressed the concerns over the impacts on parking."*

In relation to that development, the current application makes no changes to the agreement to provide five parking spaces outside the shop nor to the link footpaths that could take people from the rear parking area to the coffee shop or bus stop. The application does impinge on the rear parking area however and replaces the previous pair of double rows of parking with one block of landscaped parking to provide 30 spaces. Whilst this is a reduction on the total amount of parking previously intended to the rear, Roads Planning are content at the sufficiency of the parking proposed subject to two disabled spaces being provided.

Whilst this has led to local concerns over the road and pedestrian safety consequences of what is perceived to be insufficient parking provision, Roads Planning have accepted the proposal for reasons including the following:

- The 30 rear spaces are above the 150% communal provision sought for both affordable housing developments.
- The reduction in overall spaces is as a consequence of the public house not being proposed which could have generated parking shortfall issues in itself.
- The parking area, whilst not adopted, should not be allocated to particular properties or users and should be available to all.
- The pattern of usage during the day will tend to differ between residential use and other users, there being likely to be more spaces available by shop, bus or footpath users during the day when they are needed.
- Parking spaces are provided outside the coffee shop and there will also be opportunities to park on-street on the housing access road which is double carriageway width.

The agent has also stated that the off-street parking has been tolerated for many years by the landowner and that any congestion issue is not the responsibility of the landowner, provided adequate provision is being made in the current proposals.

Taking into account the above, it is considered that there is sufficient parking provision for existing and proposed uses at the site. A planning condition will need to be imposed in relation to the parking staying unallocated and for general use and Roads Planning have also sought other amendments to the layout and additional details including parking constructional details, removal of parking spaces blocking the continuation of the multi-use path, alignment of the roadside crash barrier, relocation of disabled spaces and location of the bin and cycle stores. It is

understood that a revised plan dealing with these issues will be submitted but a condition is also included to cover these points. The roadways will also need to be constructed to adoptable standards.

The other main access issue raised is in relation to the continuation through the site of the Tweed Valley Multi-Use Path, between Peebles and Cardrona. On previous consents at the site, a condition was imposed seeking a scheme for a clearly marked cycleway to be implemented prior to the occupation of any buildings on the site. This condition should still be imposed on this permission but there have been some concerns expressed over what has been shown on the submitted layout plans. Roads Planning state that *“...There is a multi-use path either side of the development, approximately 3 metre wide, and the proposed layout of this site must allow for this path to pass through the site. The current alignment of the proposed route for the multi-use path through the development is unacceptable. As this route forms part of the core path network, the route must be kept open at all times and any temporary diversions required for construction purposes must be agreed in writing prior to implementation.”* Furthermore, the Access Officer states *“...I would like clarification on how the route will be clearly demarcated both in terms of signage and surfacing. On the drawing it appears as if the route will be unclear, will have to compete with vehicles in the car parking area and may even be interrupted by kerbing, all of which would not be acceptable especially where there exists the opportunity through development to avoid these issue.”*

In answer to these concerns, the agent clarifies that the Core Path will continue through the site at a minimum width of 3m, there would be no kerb restrictions and the path will pass over an adopted road surface for part of its way. The path could be delineated within the road surface. Agreement had already been reached with the Council on previous applications with regard to the temporary diversion of the path during the construction period, including signage details.

It is clear that further details will still be required to satisfy the Council on an acceptable continuation of the path through the site and a condition will be imposed to secure a satisfactory scheme. This will cover alignment, construction, delineation and kerbing among other matters to ensure a satisfactory public right of passage through the site.

Subject to the relevant conditions at the end of this report, it is considered that the development will comply with Local Development Plan Policies PMD5, IS5 and IS7

#### Flood Risk

Policy IS8 of the Local Development Plan requires development to be free from unmanageable flood risk and not to create insurmountable problems elsewhere. At the time of consideration of the 2009 application, a Flood Risk Assessment (FRA) was carried out and the development was accepted by SEPA and the SBC Flood Protection Officer on the basis of a finished floor level of 152.90m AOD being adopted for the developments (0.76m above the estimated 1 in 200 year flood level). This also took into account safe access and egress.

In response to the current application, the SBC Flood Protection Officer accepts that the site is at risk from a 1 in 200 year flood event as also indicated in some of the third party objections. However, there is acceptance of the development on the basis that the same finished floor level is used as was agreed in 2009 following the FRA. The principle of the development cannot be challenged although, initially, SEPA had lodged an objection due to a perception that footprints have increased without

adequate additional compensatory storage being provided above that agreed in 2009. They also believed the agreed minimum finished floor level should be specified and that signage should alert users of the car parking to the flood risk.

The agent has responded to SEPA and they have now withdrawn their objection. It is accepted that the footprint of the pub and replacement houses are almost identical, the houses being very slightly less. When taken into account with the reduced footprint on the site consented under 15/00206/FUL, the reduction in footprint is more substantial and that, consequently, there is no need for additional compensatory storage to be found or provided. In any case, the 2009 permission was simply subject to a condition on finished floor levels and there was no additional requirement in the conditions to create areas of compensatory storage nor was it required by SEPA as a condition at that time. Nevertheless, given SEPA have withdrawn their objection based upon the agreement they had with the applicant over compensatory storage in 2009, the agent for the current application is content to accept an additional planning condition regarding implementation of the compensatory storage that was previously agreed with SEPA. This was an area to the southernmost part of the application site. The agent also agrees to any additional signage required and has confirmed the development will be no lower than the agreed minimum finished floor level. This was, indeed, shown on the submitted Streetscape drawing.

As SEPA and the Council's Flood Protection Officer accept the development subject to the previously agreed finished floor levels, it is considered that Policy IS8 can be met by the application.

#### Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. Archaeological and Ecological issues at the site can be met by conditions carried through from previous consents. A Written Scheme of Investigation to cover a watching brief for archaeological purposes has already been agreed but all other conditions are to be carried through, including protection and interpretation of the Standing Stone to the south of the site. In terms of ecology, conditions need to be repeated which also include new surveys for otter and breeding birds. Scarcement from, and protection of, the River Tweed SAC will be controlled by conditions and the new development, in any case, is further away from the SAC than the consented public house – SNH are content based upon this and appropriate conditions.

Issues of potential land contamination resulted in a condition being attached on the 2009 consent but this was then adequately addressed in an engineer's report submitted in order to discharge those conditions to enable a site commencement.

#### Developer Contributions

Local Development Plan Policy IS2 requires new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. There are already Section 75 Agreements in place on the site reflecting previous applications for affordable and private market housing, including clauses timing the provision of offset affordable housing in relation to other sites at Horsburgh North and Stanin Stane, Cardrona. It is expected that the replacement of the part of the site intended for a public house/restaurant with affordable housing will have little effect on the purpose of the existing Section 75 Agreement but, nevertheless, there is likely to be the need for some adjustment to the Agreement, including the provision of additional financial contributions for play space within the village and less education

contribution to reflect the omission of private market housing on the application site. Given the proposal is for affordable housing, no other contributions are normally sought, including access path and village hall contributions, the latter being raised by consultees.

## **CONCLUSION**

Subject to the conditions listed below and a revised or new Legal Agreement, the development is considered to comply with the Local Development Plan allocation and Policies on infill development, design, access, flood risk and landscape within a settlement.

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

I recommend the application is approved subject to the following conditions and a Legal Agreement covering the adjustment to the development proposal and additional play area contributions:

1. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.  
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
2. The finished floor levels of all the buildings hereby approved shall have a minimum finished floor level of 152.9m AOD.  
Reason: To ensure that there is no impact on the existing floodplain and that the occupants of the buildings are protected from flooding.
3. Prior to the commencement of development a scheme for the integrated provision of suitable motorcycle and bicycle parking and storage and bin storage facilities shall be submitted to and approved by the Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the occupation of the development and thereafter permanently retained.  
Reason: To ensure that an integrated range of storage and on-site vehicle parking facilities are made available to users of the development.
4. In accordance with the agreed Written Scheme of Investigation outlining the Watching Brief, access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority.

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

5. Further details shall be submitted in writing and approved by the local planning authority, following consultation with Historic Scotland for the following:
  - an interpretive plan for the Cardrona Standing Stone
  - a design for screening, planting and landscaping to preserve the setting of the monument
  - measures for the positive management and enhancement of the field containing the scheduled monumentThe approved details shall be implemented prior to the occupation of the buildings.

Reason: To safeguard a site of archaeological interest and to enhance its setting.

6. Prior to, and during the construction phase, temporary fencing shall be placed around the Standing Stone, details of which shall to be agreed in advance with the local planning authority in consultation with Historic Scotland.

Reason: To safeguard a site of archaeological interest.

7. No development shall take place except in strict accordance with a revised 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, trees 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.

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

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

9. None of the trees identified for retention on the agreed Landscaping Plan (as per Condition 7) shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Planning Authority.

Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are retained and maintained.

10. Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by a chestnut paling fence 1.5 metres high, placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:
  - (a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;
  - (b) No fires shall be lit within the spread of the branches of the trees;
  - (c) No materials or equipment shall be stored within the spread of the branches of the trees;
  - (d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
  - (e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

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

11. No work shall be carried out during the bird breeding season (March-August) without the written consent of the local planning authority.

Reason: to protect any breeding birds on the site.

12. A Species Protection Plan for otter, incorporating a pre-development checking survey and measures to be undertaken for the protection of otter, (including those outlined in the Ecological Assessment of December 2015), shall be submitted to and approved in writing by the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved Plan.

Reason: In order to protect any protected species found within the site.

13. Prior to commencement of work, the updated Landscape and Habitat Management Plan shall be submitted to and approved in writing by the Planning Authority. This plan will also include a 10m riparian buffer strip of native woodland (willow, alder) using stock of local provenance or alternatively a planting scheme complimentary to the existing Cardrona designed landscape. Any works shall, thereafter, be carried out in accordance with the approved scheme.

Reason: In order to protect any protected species found within the site.

14. Directional lighting will be required to ensure that the river and river bank are not significantly illuminated by lighting associated with the development.

Reason: In order to protect any protected species found within the site.

15. Any development should be kept back from the watercourse edge to a minimum of 20m, to minimise any impact on the site features from the construction and prevent any need for bank protection work, preserve natural



bank vegetation etc. The banks of the river Tweed shall be fenced off to a minimum of 10m prior to the commencement of any development operations, separating the river and its banks from the building operations etc and providing an undeveloped buffer strip which retains the existing natural vegetation. For the avoidance of doubt this buffer strip shall also include the area of land between the cart track and the river, with access provided to the 18th tee.

Reason: In order to protect any protected species found within the site.

16. No intervention works shall be carried out on the water course itself.

Reason: In order to protect the River Tweed SAC

17. A scheme for a clearly marked cycle way shall be submitted to and agreed in writing by the local authority before the development is commenced (including temporary diversion proposals) and the said scheme shall be implemented prior to the occupation of any of the new buildings on the site. The route must start where the old railway bridge meets the proposed development area then going eastwards on a line to be agreed to meet Cardrona Way

Reason: To ensure the safe passage of cyclists through the site.

18. The area noted for parking on the submitted plan to the south of the development shall be properly consolidated, surfaced and drained before the buildings are occupied to the engineering details submitted and agreed as per the approval 09/01542/FUL. Parking bays to have minimum dimensions of 2.5 by 5 metres with a 1 metre hard-strip around the outer extremities of the parking area. Parking area to include 2 disabled bays which conform to current Building Regulations. All parking spaces within this area must remain unallocated to any particular property and should be available at all times for use by all users

Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.

19. The proposed roads, lay-by parking, footpaths and turning spaces indicated on the approved drawing, to an extent agreed with the Planning Authority, shall be constructed to adoptable standards and shall be subject to Roads Construction Consent.

Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic.

20. Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

21. None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

22. No development to be commenced until details are submitted to, and approved by, the Planning Authority, relating to the roadside crash barrier at

the junction of the access road and the public road and how it will be altered to allow for the visibility splays to be formed.

Reason: In the interests of road safety.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order), there shall be no further building, structure or enclosure placed on the site unless an application for planning permission in that behalf has first been submitted to and approved in writing by the Planning Authority.

Reason: The Planning Authority considers that any further development would prejudice a satisfactory layout and would have a harmful effect upon the amenity of the area.

24. No development to be commenced until full details are submitted to, and approved by, the Planning Authority relating to compensatory floodplain storage within the site. Once approved, the works to be completed before the development is commenced.

Reason: To safeguard existing and proposed properties from any increase in flood risk as a result of the development.

25. The proposed residential units shall meet the definition of "affordable housing" as set out in the adopted Scottish Borders Local Development Plan 2016 and any accompanying supplementary planning guidance and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first have been submitted to and approved in writing by the Planning Authority.

Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would not comply with development plan policies and guidance with respect to contributions to infrastructure and services, including local schools

### Informatives

It should be noted that:

- 1 Roads Planning advise the following:

It should be borne in mind that all work within the public road boundary, and prospective public road boundary, must be undertaken by a contractor first approved by the Council.

- 2 The Council's Flood Protection Officer recommends that, to receive flood warnings from SEPA, residents sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188. SEPA also advise that the residents' car parking area and road access to it are at a significant risk of flooding from the River Tweed. They would recommend that some signage or information boards are used to display this risk to residents and visitors to the car park area. They would also recommend that residents are encouraged to sign up to receive flood warnings for the River Tweed in this area so that vehicles can be safely moved from the car park area before the onset of flooding.

DRAWING NUMBERS

Site Location Plan – (PL) 024  
Proposed Streetscape – (PL) 023  
Proposed Floor Plans – (PL) 021  
Proposed Roof Plan – (PL) 025  
Proposed Site Layout – (PL) 020 B  
Proposed Elevations – (PL) 022  
Kerbs and Surfaces – 5383-101 B  
Drainage Layout – 5383-102A  
Drainage Details  
Road Construction Details – 5383-103 A  
Road General Arrangement – 5383-100 A

**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.

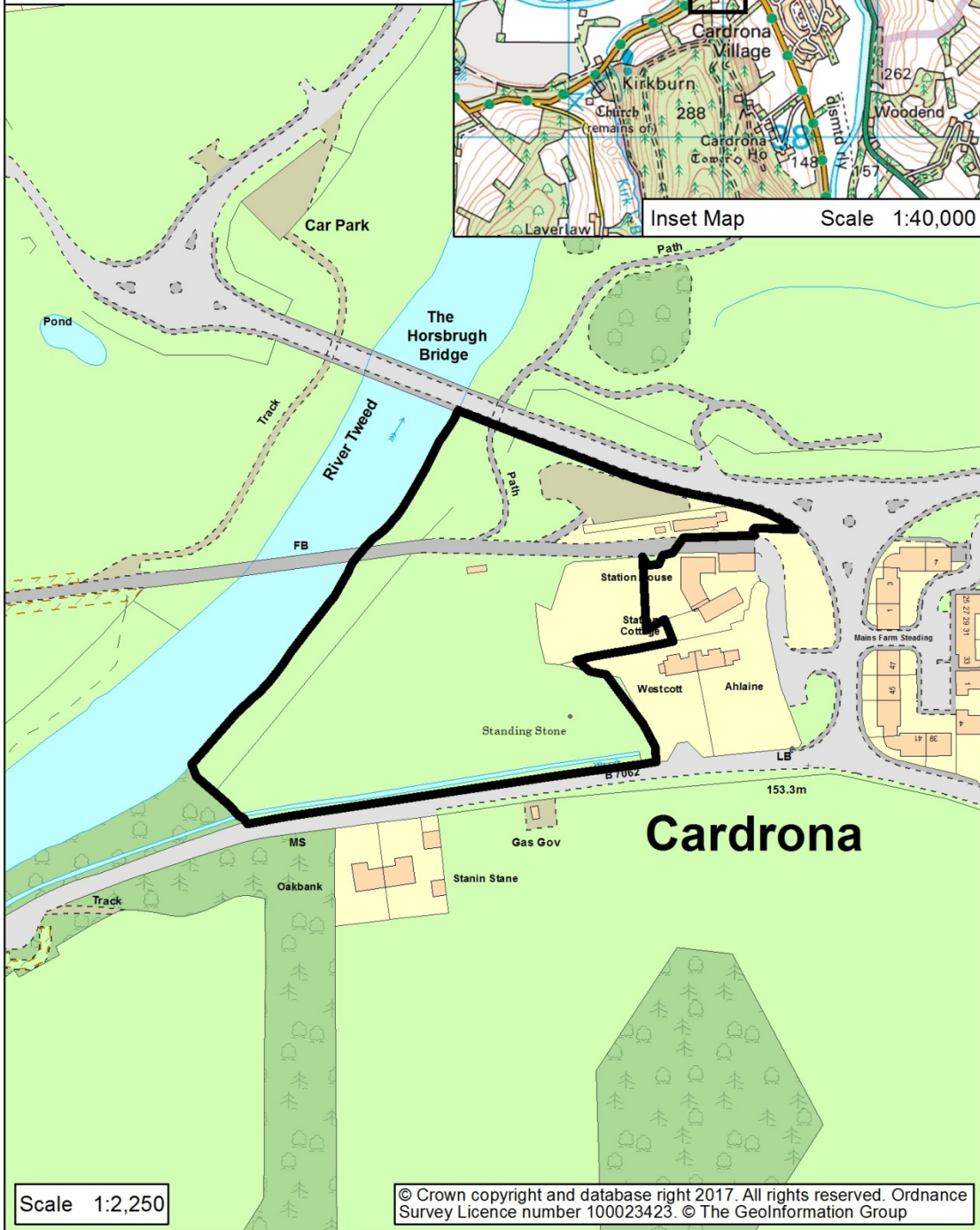
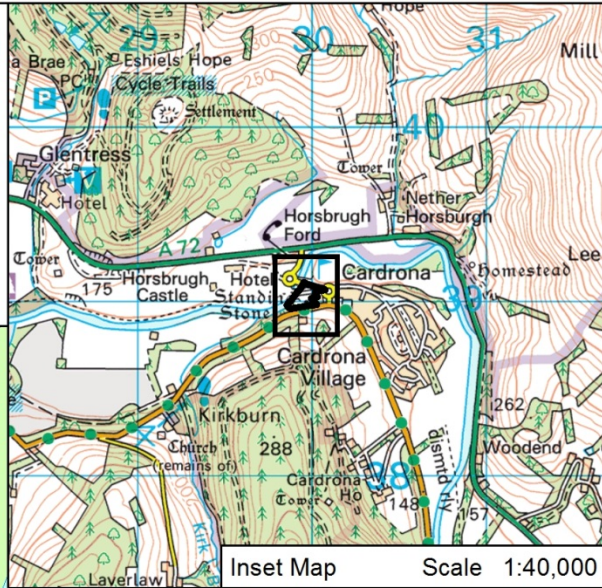
**Author(s)**

Name	Designation
Craig Miller	Lead Planning Officer



17/00187/FUL

Land West Of And Including  
 Golfer's Rest Former Station  
 Cardrona  
 Peebles



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01583/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Leaderdale and Melrose
<b>PROPOSAL:</b>	Change of use from offices and alterations and extension to form gym/spa
<b>SITE:</b>	Office, West Grove, Waverley Road Melrose
<b>APPLICANT:</b>	Mr Douglas Crawford
<b>AGENT:</b>	Camerons Ltd

**SITE DESCRIPTION**

The site comprises part of a small complex of office buildings located on the corner of Waverley Road and High Cross Avenue, and alongside Tweedmount Road. It incorporates a single-storey, flat-roofed building on an L-plan that includes a chiropractor business to its eastern leg (not part of the application). The property is served by a parking area sited between it and a former church building to the south, now used as offices (previously water board and NHS offices). Another access to further parking spaces is located immediately to the north of the building and access is also available over the applicant's land to the south-east of the converted church onto Waverley Road. Tweedmount Road comprises a number of dwellinghouses to the north of this site.

**PROPOSED DEVELOPMENT**

This application seeks full planning permission to convert the building from office use to a leisure use comprising an exercise/works station, weight room, dance studio and spa, as well as associated ancillary facilities. External alterations include a canopy to the front, extending across the frontage of the adjacent chiropractor's. An extension is proposed to the western end to form a store, and other works include timber cladding, rendering and doorway alteration. Twenty parking spaces are proposed within the existing parking areas. Advertisements are proposed on the exterior though these do not fall for consideration here and will not require formal Advertisement Consent of the size proposed provided they are not illuminated.

**PLANNING HISTORY**

- Alterations to the building, including canopy, were approved under 15/00896/FUL in September 2015
- Conversion of the eastern leg of the building (outside this application site boundary) from Class 4 offices to Class 2 offices (for use by a chiropractor) was granted permission under 15/01203/FUL in December 2015
- A previous application (16/00518/FUL) for the same development as is currently proposed was withdrawn before determination in November 2016.

## **REPRESENTATION SUMMARY**

Representations from seven households have been submitted, full copies of which are available on *Public Access*. In summary, the key objections that have been raised are:

- Parking is inadequate to serve the proposal and other businesses on the site, resulting in overspill parking onto Tweedmount Road
- The exit from the site onto Tweedmount Road is unsafe as is the exit onto Waverley Road. Improvements suggested by the Roads Planning Service do not go far enough.
- Impact of noise from the proposed use on residential amenity of the cul-de-sac, as well as related comings and goings of people and additional traffic in early morning and late at night
- There is overprovision of gym services in the area
- The change of use may potentially allow for other leisure and entertainment uses
- Harmful emissions from traffic volumes and revving of cars up exit slope
- Inconsistency in plans
- If approved, restrictions should be applied as regards noise; opening hours; parking on street; speed limits; as well as provision of road safety improvements, including changes to the exit. Neighbours should be informed of customer numbers and how parking will accommodate them

## **APPLICANT'S SUPPORTING INFORMATION**

During the processing of the application, a Noise Impact Assessment was submitted on behalf of the applicant

### **DEVELOPMENT PLAN POLICIES:**

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

PMD2 Quality Standards  
PMD5 Infill Development  
ED3 Town Centres and Shopping Development  
IS7 Parking Provision and Standards  
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
EP1 International Nature Conservation Sites and Protected Species  
EP4 National Scenic Areas  
EP8 Archaeology  
EP16 Air Quality  
HD3 Protection of Residential Amenity

### **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy 2014  
PAN1/2011 Planning and Noise 2011

## CONSULTATION RESPONSES:

### Scottish Borders Council Consultees

**Roads Planning Service:** Have no objections in principle but raised issues in response to the original plans that they required to be addressed:

1. The existing informal one-way system works well and should be retained. How this is enforced and/or conditioned is a concern given that the site could potentially be split in two, as indicated by the different boundaries shown on the location plan.
2. The exit onto Tweedmount Road is excessive in gradient and has restricted visibility. Whilst the gradient can be accepted, the existing boundary treatments should be lowered over the first 1m on either side of the access so as to provide adequate visibility.
3. The parking level of 14 indicated in the application form differs from what is shown on the plan. The plan also includes a disabled bay and 5 spaces behind the building. Taking all these spaces into consideration the RPS is satisfied that there is satisfactory parking for the facility. The parking level is further supported by the fact that the demand on the parking from the two premises served by it will be at different times of the day.
4. There are two bays shown directly in front of the access to the building which are outwith the boundary for the site. If these are utilised, the access and egress associated with the gym will be adversely affected.
5. All parking bays should be a minimum of 5m x 2.5m. This may require the bays to be relined particularly along the front of the building where the supports for the canopy encroach into the existing parking bays.
6. There should be a minimum of two cycle racks provided, preferably covered.

Having read concerns previously raised for a similar proposal, whilst the RPS consider that the parking levels proposed within the site are adequate, as there are no parking restrictions on the neighbouring streets of Tweedmount Road, Waverley Road and High Cross Avenue, there is available parking within the vicinity of the building which should accommodate the traffic associated with the proposal. The existing traffic regulation orders in place should restrict vehicles parking in the immediate vicinity of any junctions. Given that the existing traffic speeds on Tweedmount Road are low, the RPS is satisfied that the visibility improvements mentioned above, and what is available on-site already, will result in an acceptable access arrangement. The visibility available at the junction with Waverley Road meets current guidance included in policy document Designing Streets. As such, there is no justification or reasoning for any reduction in the current speed limit.

A number of these issues were addressed during the application, and the RPS's response to the amendments is referred to in the assessment section of the report.

**Environmental Health Service:** No information has been provided on the ventilation to be used throughout the development or on equipment to be used for music playback and/or the PA system. The applicant should provide this information.

Lighting, particularly external lighting has the potential to affect residential amenity. The installation should be designed in accordance with the guidance produced by The Institution of Lighting Professionals. If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.

The Noise Impact Assessment was submitted subsequent to the above comments and, in response, the EHS advise that they have no objections regarding noise subject to a

condition requiring that the development be operated in accordance with the noise assessment.

**Archaeology Officer:** There are no known archaeological implications

Statutory Consultees

**Melrose and District Community Council:** No comments

**KEY PLANNING ISSUES:**

Whether the proposed development would comply with planning policies with respect to the suitability of the proposed use in this location, particularly as regards its potential impacts on the residential amenity of the neighbouring area, and whether the proposed development would adversely impact on road or pedestrian safety as a result of traffic generation and parking implications

**ASSESSMENT OF APPLICATION:**

*Principle*

Local Development Plan Policy ED3 protects town centres, and applies to leisure developments as well as retail, aiming to encourage them within town centres. This proposal is not within the town centre boundary. However, it is relatively small, within reasonable walking distance of the town and easily accessible from it. Its location here would not likely risk the vitality or viability of the town centre.

The number of available gyms within the local area is not a planning policy consideration. This proposal will have no cumulative land use planning impacts with other such facilities that would be material to this application. The availability of alternative locations is also not a planning consideration when assessing this application.

The site is within the settlement boundary, and is not covered by any designation. Its development is potentially acceptable, subject to compliance principally with Policy PMD5. In this regard, a key consideration is the potential for conflict with other uses which, in this case, are predominantly residential. However, the building is already in non-residential use now, as it is in office use. It also shares a curtilage with other non-residential uses. It is located next to residential property on Tweedmount Road. However, it is located off the entrance to the cul-de-sac, from which traffic need not pass residential property on entering or leaving. Comings and goings of non-residential traffic occurs now, can continue to occur without any controls, and it does so in a manner which does not directly affect adjacent dwellinghouses. While a gym use may generate traffic earlier in the day and later in the evening than a standard office use, there is no stipulation that current offices cannot operate in a similar way. The applicant's operating hours are proposed as 6am-10pm with exercise classes run between 8am and 8pm. A condition can be applied to enforce these operating hours. It is not considered that traffic associated with this use would have an adverse impact on the amenity of neighbouring residents when operated in accordance with these hours. Road safety impacts are considered separately (see below).

The use itself, however, may generate noise from within the building, whether from activities such as dancing (including related music for this and gym activities) or from plant designed to ventilate the building. As such, the applicants were asked to submit a noise assessment that accounts for the risk to neighbours as a result of the proposed use and associated plant. In response, a Noise Impact Assessment has been submitted. In summary, this specifies a number of mitigation measures including:



- Overhauling existing windows by sealing existing gaps and refitting trickle vents
- Fitting secondary glazing in four windows where the dance studio is proposed
- Closing windows when classes with music/loud voices are undertaken
- Setting a noise level setting exercise for the music sound system and maintaining it at levels specified in the report, in order to achieve inaudibility in the nearest residential properties
- Specify ventilation equipment to comply with limits specified in the report, designed to comply with limitations recommended by the Environmental Health Service. Ventilation units comprise nine in total, one for the dance studio on the western elevation; one existing on the northern wall for a changing/shower room; and seven on the roof related to changing/shower room, spa, toilets, kitchen and treatment room. Ventilation would be operational only during the operating hours of the business (as above).
- The fan to the dance studio would be fitted with an acoustic attenuator

The assessment has now been endorsed by the Environmental Health Service. The measures recommended within it can be required by condition should consent be granted.

#### *Traffic generation, access and parking*

The site is accessible by foot and within walking distance of the town centre. It will share parking with other commercial uses. It has access available to it onto Tweedmount Road and via the applicant's property onto Waverley Road.

The current main car parking area operates on a one-way system, with egress onto Waverley Road. The RPS supports the system, and does not consider there will be safety implications of maintaining egress via Tweedmount Road (or onto Waverley Road from there), provided the visibility is improved at the site junction as recommended. This can be required by condition. Conditions of consent for this use, if granted, can maintain the one-way system (given the overall parking area is within the applicant's ownership) and prevent the site being sub-divided along the site boundary line (i.e. where it traverses the parking area). Upgrading directional signage can be required to support the system.

In terms of parking, the proposal would have twenty spaces dedicated to it. It is noted that the use would be formed alongside existing office based uses and there will be overlap between them. However, the RPS is content to endorse the parking provision proposed, as noted in their consultation comments. The existing building is capable of office use now that could generate significant parking requirements. The applicant has also confirmed that there will be a maximum of 40 occupants at any time within the proposed facility, which would be comparable with the lawful office use. A management plan for the operation of the facility can be required in order to limit occupancy as far as is reasonable and practical, and a condition can require relining to provide the required spaces of the size recommended by the RPS. Parking bays in front of the building are now shown as not affecting the entrance. The parking arrangement affects the position of two spaces required for the chiropractor's but these would still be capable of being provided. Concerns regarding overspill onto Tweedmount Road are acknowledged, but the RPS is content with the road safety implications. Existing traffic orders will prevent unsafe parking close to junctions. Two cycle racks have now also been included in the proposals

#### *Neighbouring amenity impacts*

If approved, the building could potentially later be operated for other entertainment purposes falling within the same class of the Use Classes (Scotland) Order 1997 i.e. Class 11. This

would include a cinema, concert hall or bingo hall. Though the building's capacity will be a limiting factor it would, in any case, be appropriate to restrict the use to that which is proposed here, otherwise it should revert to its lawful Class 4 office use. This is due to the potential amenity and parking implications of other uses within Class 11. A condition can require this.

Lighting has the potential to affect the amenity of other properties, as noted by the Environmental Health Service. However, no free-standing lighting is proposed here, and lighting attached to the building would be capable of being provided now for the offices. An informative note can cover this aspect.

The external alterations to the building would not have implications for neighbouring amenity in terms of daylight, sunlight, privacy or outlook loss. The building has windows to the rear facing a neighbouring property, however, no alterations to them are proposed and the building already generates office activity, so there will be no material privacy implications from the proposed change of use.

#### *Air quality*

The use will not generate air quality impacts of concern. Ventilation will be provided. It is accepted that traffic will generate emissions, however, the level of traffic associated with the use, in comparison with the traffic potential of the lawful use, does not suggest this matter will have particular implications that would undermine the acceptability of the proposal. The EHS has not raised any concerns in this regard.

#### *Visual Impacts*

The building would be rendered and timber clad. This will enhance the building, and is acceptable in this setting. A canopy is proposed which would be virtually identical to that previously granted permission (15/00896/FUL). It would be white painted steel with a clear roof, onto the frontage of the proposed gym and adjacent office building. The end of the building already has a canopy. The proposed canopy would be visually acceptable in this setting, as would an associated altered door entrance. A store extension is proposed that would also be complementary to the building. Ventilation units are proposed including seven on the roof. However, the applicant's agent has confirmed these will all be below the parapet. A further unit is proposed on the west side, which is visually acceptable at the size proposed.

#### *Ecology*

There are no ecological designations, no mature tree removals and the building is not ideally suitable for bat or bird habitat.

#### *Archaeology*

There are no known implications

#### *Services*

The existing building has existing water and drainage. There would be no surface water implications that require to be addressed, as the existing parking area is tarred, below the road, and any storm water implications from the extension will be for the Building Warrant. Existing bin storage is not affected.

## CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions

## RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. The development shall operate only the uses and layout specified on the approved floor plan. There shall be no other uses permitted to operate as part of the approved development, and nor shall any other use within Class 11 of the Use Classes (Scotland) Order 1997 be permitted to operate without a further planning application having first been submitted to and approved by the Planning Authority. In the event that the approved use ceases to operate (whether by the applicant or a different owner/occupier), the lawful use of the property shall revert to a use falling within Class 4 of the Order. This limitation applies notwithstanding the meaning of 'development' within the Town and Country Planning (Scotland) Act 1997 (as amended), or any permitted change of use granted by Development Order.  
Reason: To maintain neighbouring amenity (including limiting noise impacts) and road and pedestrian safety
2. No development shall commence until a management scheme for its operation has been submitted to and approved by the Planning Authority. The development shall only operate in accordance with the approved management scheme  
Reason: In order to manage occupancy of the building to a level commensurate with the parking provision available to it, in the interests of maintaining road and pedestrian safety
3. The development shall not commence operation until the following measures have been implemented, and shall only operate with the approved measures fully maintained in place:
  - a) The junction onto Tweedmount Road has been lowered over the first 1 metre on either side of the access in accordance with a specification first agreed in writing with the Planning Authority
  - b) Directional signage has been provided within the site to maintain the one-way system in accordance with a specification first agreed in writing with the Planning Authority. The use shall only operate in accordance with the one-way system
  - c) All parking spaces within the site and within the land identified within the applicant's ownership on the approved location plan have been lined all in accordance with the approved plans. The parking area to the south of the building (including the application site and land within the ownership of the applicant) shall not be subdivided, notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended) or any revised or replacement Order
  - d) Cycle stands have been provided in accordance with the approved site plan  
Reason: To maintain road and pedestrian safety and ensure adequate parking provision within the site
4. The development shall only operate in accordance with the Noise Impact Assessment RMP Technical Report No R-7707-EP-RGM 8<sup>th</sup> March 2017. All identified mitigation measures shall be fully implemented prior to operation of the use and shall be maintained throughout its operation. The development shall only operate

between the hours of 6am and 10pm, with exercise/dance classes run only between 8am and 8pm and ventilation units shall only operate during the approved operating hours

Reason: To limit potential noise impacts on neighbouring property

5. The external surfaces of the development hereby permitted shall be completed in the materials shown on the approved drawings, and no other materials shall be used without the prior written consent of the Planning Authority. The roofing material shall be dark grey or black in colour and matt surfaced, unless otherwise agreed with the Planning Authority

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

6. Roof ventilation units shall not be higher than the existing roof parapet level unless otherwise agreed in writing with the Planning Authority

Reason: To minimise the visual impact of the roof ventilation units

#### Informatives

1. Advertisements specified on the approved drawings do not require Advertisement Consent provided they are non-illuminated. Any changes to the signage will require Advertisement Consent unless exempt under the Control of Advertisements (Scotland) Regulations 1984 (as amended).
2. External lighting is not approved under this consent. Lighting will require Planning Permission where it constitutes development and is not exempt under the General Permitted Development (Scotland) Order 1992 (as amended)
3. The purpose of Condition 2 is to manage activity in a manner which limits the potential for the number of persons within the property at any one time to exceed 40.

#### DRAWING NUMBERS

9208.10.01A            Location plan  
9208.10.02            Existing plans, elevations and photos  
9208.10.03B           Proposed plans, elevations and 3d images

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

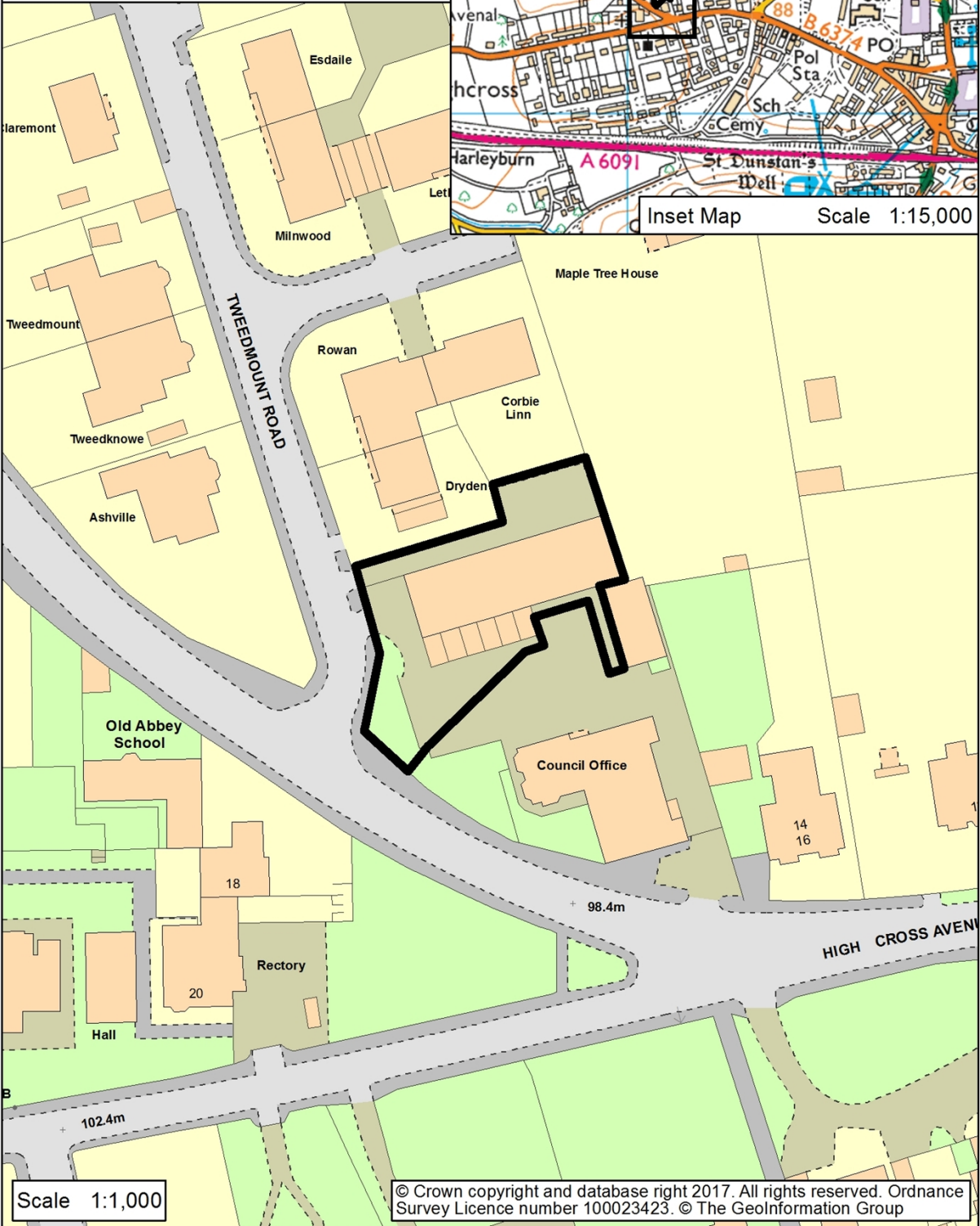
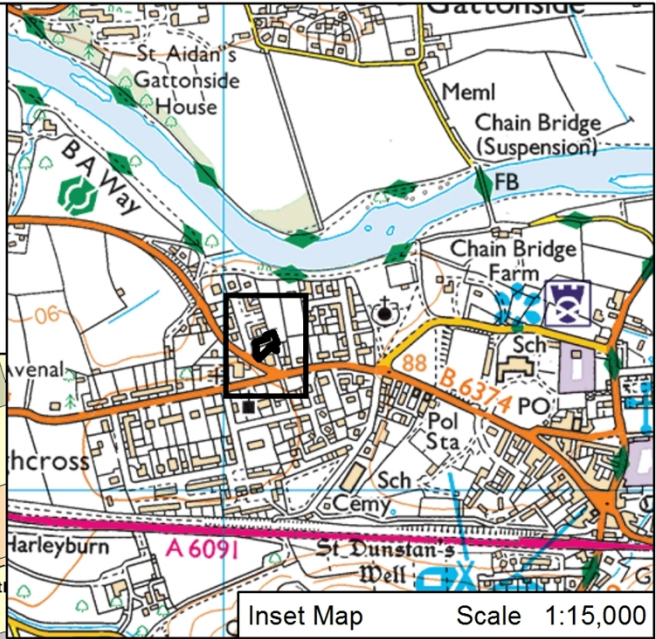
#### **Author(s)**

Name	Designation
Carlos Clarke	Lead Planning Officer



16/01583/FUL

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Melrose



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**SCOTTISH BORDERS COUNCIL****PLANNING AND BUILDING STANDARDS COMMITTEE****24 APRIL 2017****APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00299/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Galashiels and District
<b>PROPOSAL:</b>	Erection of dwellinghouse
<b>SITE:</b>	Land South of Sunnybank, Forebrae Park, Galashiels
<b>APPLICANT:</b>	Mark Entwistle
<b>AGENT:</b>	None

**SITE DESCRIPTION**

The site is located off Forebrae Park, a private road which, over its initial section from the High Road, is considerably steep. It serves a number of existing dwellinghouses and stops short of the end of Ellwyn Terrace to the south-east by a few metres. This section is included in the application site. The site itself is currently overgrown, roughly triangular in shape, with levels that vary but, overall, drop steeply down from Forebrae Park. Detached houses overlook the site to the north and north-east, and the site backs onto the large gardens of residential properties to the south and south-west (Upper and Lower Eastmount and West and East Lynnwood). To the south-east is Ellwyn Terrace, a relatively modern development of detached houses, including split-level houses on its southerly side.

**PROPOSED DEVELOPMENT**

The application principally seeks full planning permission for a detached house, on 2¾ storeys, split-levelled from front to back, with an access and pedestrian link from Forebrae Park. The application also seeks consent to form a link between Forebrae Park and Ellwyn terrace by means of regrading and retaining the ground and forming a 6m long section of 3.3m wide road.

**PLANNING HISTORY**

The site has been subject to several applications in recent years:

- 08/01555/FUL Erection of dwellinghouse - withdrawn
- 09/01206/FUL Erection of dwellinghouse - withdrawn
- 13/01010/FUL Erection of dwellinghouse – refused for the following reasons:
  1. The development would not comply with Policy G7 of the Consolidated Local Plan 2011 because it would be served by an access road which is incapable of accommodating further traffic in a manner which is appropriate to road and pedestrian safety. The application does not include an alternative means of road access that would reduce the need to use the existing sub-standard road.
  2. The development would not comply with Policies G7 or INF4 of the Consolidated Local Plan 2011 because the layout of the parking area within the site is not capable of accommodating parking and turning for two cars, leading to potential road and pedestrian safety risk
- 14/00987/FUL Erection of dwellinghouse - withdrawn

## REPRESENTATION SUMMARY

Representations on behalf of six households have been submitted which can be viewed in full on *Public Access*. A summary of the objections is as follows:

- Access would be via a single lane poorly constructed road. It is queried whether this will be made good after the works
- The construction period will result in unacceptable disruption, safety impacts (HGVs reversing along Forebrae Park), noise, dust and traffic affecting neighbouring amenity and health
- The Roads Planning Service have indicated concern regarding unacceptable impact on Torvannoch's driveway
- The road link to Ellwyn Terrace will lead to a significantly adverse impact on Ellwyn Terrace which is single track with no passing places and has a lack of parking. Joining the roads will affect existing parking at the turning area. Extra traffic movements will affect safety including children who use the link as a route to school and play in the street. It will lead to higher speeds. The need for the link is queried. It will increase traffic noise. Ellwyn Terrace will no longer be a quiet and beautiful cul-de-sac but a normal street subject to traffic of people and vehicles
- Disruption of view and effect on property value
- Overlooking and loss of privacy
- Loss of trees will permanently change the landscape
- Effect on the boundary wall on the south side (bounding Upper and Lower Eastmount and West and East Lynnwood) which is being used inappropriately as a retaining wall and showing signs of considerable stress. There are concerns regarding further earth pressure, water pressure and vehicle impacts. These will increase during the building works for the house and road link. It is queried whether reinforcement will be provided and contended that works close to it should be removed. Steps should be taken to deal with surface water drainage against it. The wall is not meant to be a retaining wall.
- Effects on stability of the soil – no geological report has been provided

## APPLICANT'S SUPPORTING INFORMATION

3d imagery has been included within the submitted plans and drawings

## DEVELOPMENT PLAN POLICIES:

### Local Development Plan 2016

PMD2 Quality Standards

PMD5 Infill Development

IS2 Developer Contributions

IS3 Developer Contributions Related to the Borders Railway

IS7 Parking Provision and Standards

IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

EP 1 International Nature Conservation Sites and Protected Species

EP13 Trees, Woodlands and Hedgerows

EP16 Air Quality

HD3 Protection of Residential Amenity



## **OTHER PLANNING CONSIDERATIONS:**

SPG Developer Contributions 2016  
SPG Trees and Development 2008  
SPG Landscape and Development 2008  
SPG Placemaking and Design 2010  
SPG Guidance on Householder Development 2006

## **CONSULTATION RESPONSES:**

### Scottish Borders Council Consultees

**Roads Planning Service:** The principle of a dwelling on this site has previously been accepted, most recently in applications 08/01555/FUL, 09/01206/FUL, 13/01010/FUL and 14/00987/FUL, however there have been requirements for a link road to be formed between Forebrae Park and Ellwyn Terrace. This current submission includes details relating to this link. It should be a condition of this application, if approved, that the link is provided prior to works commencing on the proposed dwelling. Given the complexity of the link in terms of geometry, staff from this section must be made aware when the link is being formed to enable them to be present on-site to ensure acceptable alterations are carried out.

The RPS has no objections provided the following conditions are adhered to.

1. The link between Forebrae Park and Ellwyn Terrace must be completed prior to works commencing on the dwelling unless otherwise agreed in writing with this department.
2. Notification of proposed start dates for the works associated with the formation of the link must be given to the Roads Planning Service in advance of any works commencing on-site.
3. All works in relation to the completion of the link must be carried out by a contractor first approved by the Council.
4. Parking and turning, excluding any garages, must be provided within the curtilage of the property prior to occupation and be retained in perpetuity thereafter.
5. The initial 6m of the private access must have a gradient not steeper than 1 in 12.
6. Thereafter the access between the initial 6m and the parking/turning area must have a gradient not greater than 1 in 8.
7. The parking turning area must have a gradient not greater than 1 in 12.
8. The initial 6m of the private access must be constructed to their specification.
9. Any gates approved at the access must be hung so as to open into the site.
10. Details of how the applicant proposes to manage the delivery of construction materials and staff to the site must be provided prior to commencement on-site.
11. Prior to commencement on site, the approval of the Council must be obtained in regards to the engineering details for the retaining features included within the proposal.

**Education and Lifelong Learning:** No reply

**Environmental Health Service:** Assessed the application for air quality, noise and nuisance. The plans indicate that solid fuel will be used for heating. The site is within a Smoke Control Area which prohibits the use of certain fuels. A condition is recommended to regulate the type of fuel used

## Statutory Consultees

**Galashiels Community Council:** No reply

### **KEY PLANNING ISSUES:**

Whether the development would comply with planning policies with respect to infill housing development within a settlement, including as regards siting, design and layout, and impacts on neighbouring amenity but also, in particular, whether the road access is suitable, including the visual, amenity and traffic impacts of the proposed road link

### **ASSESSMENT OF APPLICATION:**

#### *Principle*

The site is within the town's settlement boundary, has no allocations or designations and is not open space of either recreational or townscape value. It comprises an overgrown area that would be best put to a viable use. Policy PMD 5 of the Local Development Plan 2016 principally supports infill development subject to consideration of impacts (as below). The site is accessible from a private road leading from the public road network and is within reasonable distance of amenities. The erection of a dwellinghouse here would not lead to land use conflict.

#### *Access and parking*

The development is to be served by an access from Forebrae Park with parking and turning within the site. The road is private but it is understood the site owner has the right to take access from it. Potential damage to the road is a matter between owners. The Roads Planning Service has advised of specifications for the access and parking arrangement and has verbally confirmed that the proposals meet their gradient requirements. A condition can require compliance with the plan and with the junction construction specification required by the RPS. The house is accessible from the level parking area. Disabled access within the building is for the Building Standards

To support a house here, the RPS recommends that a link be formed between Forebrae Park and Ellwyn Terrace. This has consistently been their advice throughout all previous applications, all of which have stalled principally because of the lack of a suitable road link being proposed. Advice given by the RPS on previous applications (specifically 08/01555/FUL and restated in response to 13/01010/FUL) includes the following commentary:

- In 1987 an outline application was made for four dwellinghouses on land to the east of Forebrae House with the applicant's intention that the houses be served by the road known as Forebrae Park. This extensive site encompasses the smaller site associated with this current planning application. Borders Regional Council as Roads Authority (Roads & Transportation Department) advised against the proposal on the basis that the road was private, narrow in part (including at the junction with High Road), excessively steep in part, suffered from poor junction visibility (where it joined High Road) and was poorly constructed in part. The R & T Department recommended that the number of dwellinghouses be restricted to three (now built and known as Belvedere, Sunnybank and Torvannoch) and advised that it would not be appropriate in the longer term for the houses to be served solely by Forebrae Park. On this basis a legal agreement was entered into in 1991 between the Council and the owners of Forebrae House, Belvedere and Torvannoch which gave the

Council, as Roads Authority, a right in perpetuity to form a vehicular link between Forebrae Park and Ellwyn Terrace.

- Ellwyn Terrace was designed and has been built so as not to prejudice a vehicular link to Forebrae Park.
- The Roads Planning Service were then able to recommend in favour of a further house only on the basis that the developer be held responsible for forming the road link as was always envisaged. They advised that the benefit of having the link will outweigh the disbenefit of adding additional traffic to the road. It is in the best interests of road safety that the residents of the dwellinghouses at the top of Forebrae Park are given the opportunity of an alternative shorter route to the public road network via the link.
- Emergency services will benefit, in particular in winter conditions, from having an alternative means of access to the houses at Forebrae Park. It may be a concern among Forebrae Park residents that there could be an increase in traffic using Forebrae Park as a result of the link, but it would appear that the vast majority of traffic associated with Ellwyn Terrace will access the public road network via Melrose Road/Station Brae and will have no desire to use Forebrae Park. The link will certainly result in some traffic from Ellwyn Terrace using Forebrae Park but this will be minimal and will only involve traffic which will be travelling along High Road in a north westerly direction (south easterly for the return journey). This increase in traffic is likely to be compensated for by existing Forebrae Park traffic, associated with the houses towards the end of the road, which will access the road network via Ellwyn Terrace/Crescent thus avoiding the poorly constructed length of Forebrae Park as well as the steep part. Larger service vehicles which presently visit Forebrae Park will, in the event of the link, be likely to travel along Forebrae Park in one direction only. The RPS advised that they considered that none of the roads are suited to serving new development and that they were only able to recommend in favour of an application for a new dwellinghouse on the basis that a vehicular link will open up Ellwyn Crescent/Terrace to the residents of the houses in Forebrae Park and of the two access routes Ellwyn Crescent/Terrace is the better one.

Following on from this recommendation by the RPS, the current application now includes the road link proposal, which will link Forebrae Park and Ellwyn Terrace over a 6 metre section. The RPS supports the scheme, subject to conditions. Due to the particular circumstances of this site, a traffic management plan is recommended for the construction period to manage traffic, and specific notification to the RPS.

Ultimately, this proposal will link two streets that are currently dead-ends within metres of each other. To link them will reflect planning policy guidance which is designed to maximise connectivity between residential developments. Given the RPS's clear support, and their careful and long-held encouragement of the link, the narrow width of the link, and relatively low number of properties affected, it is not considered that traffic along Ellwyn Terrace will constitute a road safety risk or affect the character of the street such that the opportunity to provide this link should be lost. If the road link is not provided, then a house here would not be provided with a satisfactory access.

#### *Placemaking and design*

Trees will be lost to the development and affected by the road link. However, none are of public amenity value of note. The site is essentially overgrown. Trees beyond the site to the south are unlikely to be adversely affected.

The site is elevated and visible from across the town, but houses behind are on a higher level. The proposed house would also be below the level of the house to the east by 2.6m. The site's location relates it to the variety of houses in Forebrae Park, yet also the more regular arrangement of houses in Ellwyn Terrace. It needs to sympathetically relate to both in layout, scale, form and design, acting as a transition of sorts between them.

Accounting for its transitional position, the proposed building line responds sufficiently to Ellwyn Terrace. It will front the road as existing houses do, with parking set behind to the rear. Its layout means there will be some potential for its 'rear' garden to be exposed, but the existing streetscape in Ellwyn Terrace is already relatively busy with retaining walls and outbuildings, so this is not a concern. Level information demonstrates that the house will be set below the road and houses on Ellwyn Terrace, with retaining walls framing it, and the driveway and parking set above the southern boundary. Its level of cut-in is reduced by the split-level arrangement, so retaining walls are not excessive. Ellwyn Terrace already has retaining walls with frontages set below the road. The house's lower level than Ellwyn Terrace will jar a little with the regular roofscape, but it will also relate to the variation in Forebrae Park. It is noted that sectional drawings do not appear to be wholly reliable regarding the precise height of the house relative to the road. However, levels information does demonstrate that the house will be set well below it.

The house would be relatively large in scale but it is proportionate to the plot size and its scale is comparable to neighbouring houses, with its bulk broken by a recessed end. Its scale and split-level form would be comparable with neighbouring houses, including 2/3 storey split houses on Ellwyn Terrace and a 2 ½ storey building opposite.

The building's form will be gabled and heavier-set than Ellwyn Terrace, which has less top-heavy roofs. However, it will also relate to the greater variety of building forms in Forebrae Park. It has heavy details for the roof (eave and verges) but so do neighbouring houses. Materials are specified as tiles, render and brick basecourse to match adjacent properties. These require further consideration, to ensure the selection responds sympathetically to the context. Hard surfaces can also be covered by condition.

Post and rail fencing is proposed to the front, which is agreeable, though more detail is required of boundary treatments as part of a landscape scheme designed to integrate the development with the site.

The road link works would comprise levelling of a six metre section of ground, with a section of fence removed, ground levelled, gabion baskets placed on the south side, and retaining walls on the north side. The sections are very useful, albeit not entirely accurate, but there can be some degree of flexibility on the precise details in order to ensure a smooth link. Retaining wall heights are not provided. However, they are likely to be low, and Ellwyn Terrace already has a number of retaining walls. The height of walls can be sought by condition.

The house will be south-facing, though detailed energy efficiency requirements are for the Building Standards. There is also ample room for bin storage.

### *Neighbouring amenity*

This proposal is for a small scale development comprising one house and a short section of road. Construction impacts in terms of dust and noise are capable of being regulated outside the planning process.

Traffic generated by a single house or by additional traffic accessing Ellwyn Terrace via the road link will not have significant amenity consequences.

Effects on view and property values are not material considerations in this case. Impact on outlook from properties will not be particularly adverse, particularly as the house is set well below houses to the north, and offset from the house to the east. There would also be no serious effect on neighbouring amenity as regards daylight or sunlight loss.

As regards privacy, the impact of the development is acceptable. It is below houses to the north, with no windows to the east. Permitted Development rights can be removed to prevent windows being added on the eastern elevation. It will overlook garden ground to the south, however, the grounds of Upper and Lower Eastmount are heavily overlooked now and the net difference between the existing situation and that proposed is not significant, albeit the house will more directly overlook a corner of the garden. There would also be overlooking of the garden of East Lynnwood but there is existing tree coverage, and the overall effect is not likely to be significant.

The effect of the road link in terms of light or outlook impacts would not be adverse.

The Environmental Health Service recommends a condition regulating the type of heating fuel. This is controlled separately and a planning condition is not required. An informative note is recommended.

#### *Ecology*

There are no ecological designations and no mature trees or buildings will be removed. It is an overgrown site so has the potential to support nesting birds. This matter can be accounted for in an Informative, given the potential to remove the planting now as part of maintenance of the land.

#### *Services*

No details of surface water drainage have been provided aside from reference to proposed soakaways. A condition can secure a Sustainable Urban Drainage System scheme that maintains existing run-off, though its detailed specification is for the Building Standards. Maintenance of the structural stability of the southern boundary wall as a result of run-off is for the applicant/owner of the site and not for the planning approval, if granted. Mains water and foul drainage services will be required and a condition will require evidence of provision.

#### *Effects on wall and ground stability*

Structural implications on adjacent structures resulting from the location of the building or grading of the ground would be considered by Building Standards as part of the Building Warrant application and are not planning issues. They would need addressed by the applicant's structural engineer. How the contractors physically undertake the work is for them and their insurance. If the proposals need adjusted to suit any requirements imposed by Building Standards, it will be for the applicant to address these. Amendments which materially change the proposals will require a fresh planning application.

#### *Contributions*

A legal agreement will be necessary to secure developer contributions as required by Policies IS2 and IS3 and current supplementary guidance.

## CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions

## RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. No development shall commence on the erection of the dwellinghouse until the road link between Forebrae Park and Ellwyn Terrace has been formed in accordance with a surfacing, drainage and retaining wall specification first approved by the Planning Authority and in accordance with the detailed plans and sections approved under this consent. No works shall commence on the road link until notification has been provided in writing to the Planning Authority of the applicant's intention to commence work at least 14 days in advance of works commencing. All works on the road link must be carried out by a contractor approved by the Council before works commence  
Reason: In the interests of road and pedestrian safety and, with respect to retaining walls also in the interests of ensuring the works are visually appropriate
2. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the Planning Authority. The construction traffic within the control of the applicant shall be operated in accordance with the approved CTMP  
Reason: To maintain road and pedestrian safety
3. No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development, and until a surface water drainage scheme has been submitted to and approved by the Planning Authority. Mains services and approved surface water drainage measures shall be operational prior to occupancy of the dwellinghouse  
Reason: To ensure the development can be adequately serviced
4. No development shall commence except in strict accordance with a scheme of soft landscaping and boundary treatment works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
  - i. location and detailed schedule of new trees, shrubs, hedges and grassed areas
  - ii. design details of new boundary treatments and of the retaining walls specified on the approved plans (notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011) or any subsequent amendment or Order)
  - iii. a programme for completion and subsequent maintenance.Reason: To visually integrate the development as sympathetically as possible with its context
5. No development shall commence until a schedule and samples of all external materials, finishes and colours of the house and hard standings (notwithstanding references on the approved plans and drawings) have been submitted to and approved by the Planning Authority. The development shall be completed using the approved schedule of materials, finishes and colours.

Reason: To visually integrate the development as sympathetically as possible with its context

6. The house shall not be occupied until the access, parking/turning and footpath on the approved site plan have been provided in accordance with the approved plan, including specified gradients. The first six metres of the entrance shall comply with the Council's approved specification (see Informative Note). The access and parking/turning area shall be maintained free for the parking of at least two vehicles. Notwithstanding the right to erect gates within the scope of the General Permitted Development (Scotland) Order 1992 (as amended 2011), no gates shall be erected that open out over Forebrae Park.

Reason: To ensure the development is adequately serviced with off-street parking and pedestrian access

7. Notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011, or any subsequent amendment or Order) no window or door opening shall be formed within the elevation described as the east elevation on the approved drawings without a planning application having first been submitted to and approved by the Planning Authority

Reason: To minimise risk to neighbouring amenity

#### Information for the applicant

1. The site has the potential to be occupied by nesting birds. Clearance of vegetation should be carried out outside the breeding season (generally March to August) unless the site is first checked beforehand. Disturbance of nesting birds is an offence under habitat legislation.
2. The first 6 metres of the entrance to the site should be constructed to the following specification: 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.
3. Potential effects of the development on the stability of the boundary wall to the southerly boundary should be established separately by the applicant's engineer, as well as potential effects on any other neighbouring structures. This consent does not account for physical risk of damage to the integrity of structures, as this is a matter regulated separately through the Building Warrant process. Any measures required to address this that would materially amend the development approved under this Planning Permission would require a fresh planning application.
4. Galashiels is within a Smoke Control Area. Any solid fuel heating appliance installed in the premises should only burn smokeless fuel. Alternatively, non-smokeless fuel may be used if the appliance is approved for use in a Smoke Control Area. The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

Within a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s>. In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on - [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf) Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

## DRAWING NUMBERS

Location plan

Site Plan FCE/FORBRAE/01/A

Ground, 1<sup>st</sup> and 2<sup>nd</sup> Floor plans FCE/FORBRAE/02/A

North/south/east/west elevations FCE/FORBRAE/03/A

Section AA/North and South Views FCE/FORBRAE/04/A

Section BB, CC & DD east and south FCE/FORBRAE/05/A

Plan of link section SK01

Long section SK/2 A

Road channel profiles longitudinal sections SK/3 A

Cross Sections A-E SK/4 C

Additional cross sections SK/5 C

Topographical survey

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

### **Author(s)**

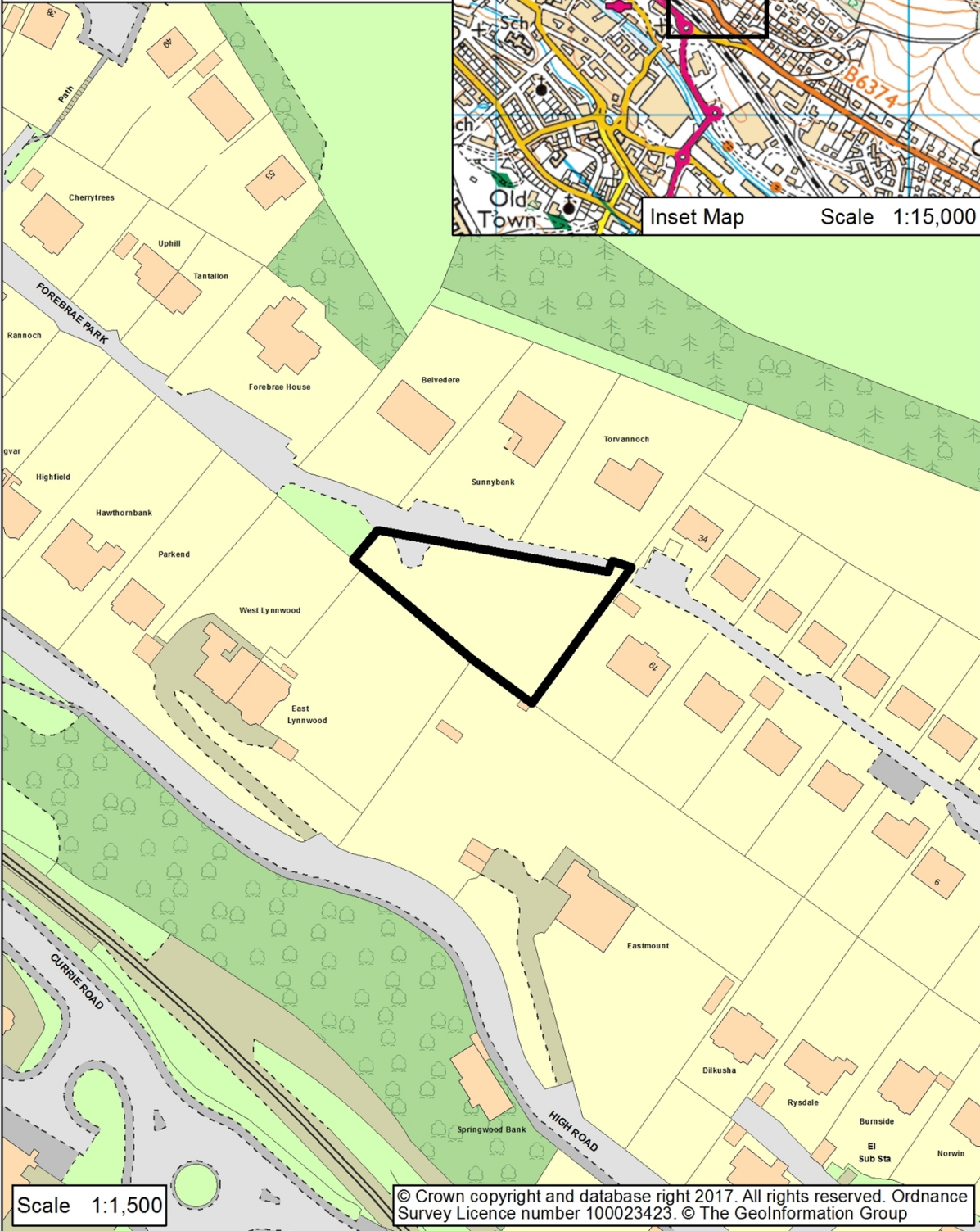
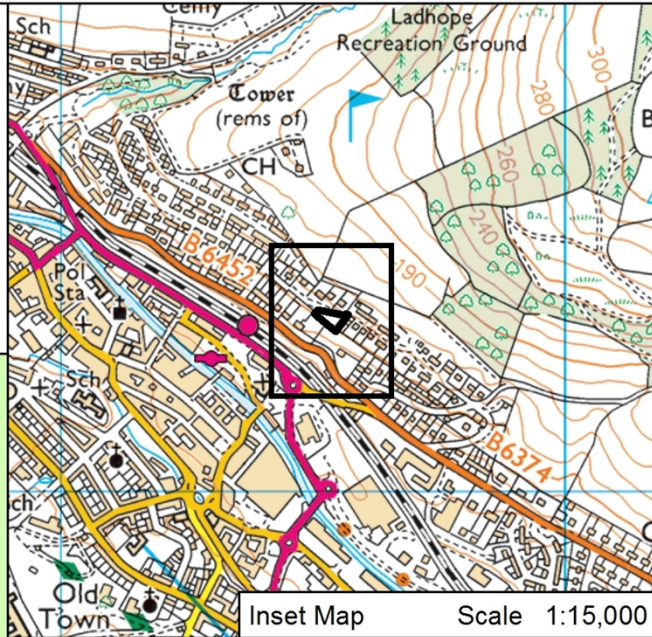
Name	Designation
Carlos Clarke	Lead Planning Officer





17/00299/FUL

Land South of Sunnybank  
Forebrae Park  
Galashiels



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 17/00163/FUL  
**OFFICER:** Mr E Calvert  
**WARD:** Jedburgh and District  
**PROPOSAL:** Formation of access  
**SITE:** Land West Of Glendouglas Lodge, Jedburgh  
**APPLICANT:** Mr Jack Trinity  
**AGENT:** Smith And Garratt Rural Asset Management

**SITE DESCRIPTION:**

Glendouglas is 3.5km south of Jedburgh on the A68 Trunk Road. A country house is sited down by the Jed Water with the Gate Lodge and drive approach from the A68, higher in the hill. The proposed access would be located opposite (but slightly staggered) to this existing access, in a natural valley adjacent to "Deep Cleuch". Although there are natural undulations in the road, there is clear visibility both north and south on the A68. The access will require removal of a section of crash barrier.

**PROPOSED DEVELOPMENT:**

New vehicular accesses to the Trunk Road Network, managed by Transport Scotland, are subject of planning permission. This new vehicular access is required for timber extraction from School Wood. The existing access, some distance to the south and still identifiable by a 5 bar steel gate in the roadside, adjacent to the access to Glendouglas Hall, is said not to be sufficient for safe access or egress to the Trunk Road, owing to the position close to a bend in the A68 marked by double white lines.

This proposal is for 15m radius bell mouth with 25m clear visibility, giving 215m visibility up and down the Trunk Road. Clear visibility would be created south by vegetation clearance. The A68 turns subtly east as it crosses Deep Cleuch, therefore this point of access is intended to capitalise on this natural field of view, with minimum need to remove roadside vegetation to the northern splay.

**PLANNING HISTORY:**

This application was preceded by a Prior Notification, however the agent was alerted to the fact that new accesses to the Trunk Road Network may only be considered by Full Planning Permission.

**CONSULTATION RESPONSES:**

**Community Council:** Two responses were received, the latter which formalises objection. Issues cited: The existing access is good and safe; No need for the proposed access; ownership of burn; no drawings of ditch to avoid flooding; mud and debris on road; new crash barriers must be erected to the southern side of the bell mouth to prevent accidental vehicular access down into the Deep Cleuch.

**Roads Planning:** No comment. The access on to the Trunk Road would be the responsibility of Transport Scotland.

**Transport Scotland:** No objections provided conditions are placed to secure visibility splays, gradients and turning circle in-curtilage.

## **REPRESENTATION SUMMARY**

Four objections have been lodged.

Objections cite the following:

- Detrimental to Residential Amenity
- Inadequate access - opposite an existing access
- Inadequate Boundary/Fencing
- Inadequate drainage
- Land affected - erosion
- Road safety
- Debris and mud will contaminate the A68 - wheel washing.
- Closing off the existing access.
- Environmental constraints on site - pond
- The visibility splay cannot be implemented on private land.
- Notification procedure not followed.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016:**

Local Development Plan 2016  
PMD2 Quality Standards  
HD3 Protection of residential amenity  
EP5 Special Landscape Areas  
EP10 Gardens and designed landscapes  
EP12 Trees woodlands and hedgerows  
IS7 Parking provision and standards

## **KEY PLANNING ISSUES:**

The material consideration is road safety and design standards, IS7. These proposals must also have regard to landscape considerations. This site is within a designed landscape of Langlee House, EP10, which is also a Special Landscape Area, Teviot Valleys, EP5. The scene is characterised by wooded valley and is noted as a tourist gateway to the Borders.

A further consideration is Policy HD3, Protection of Residential Amenity, which requires that no significant adverse impact is had in terms of overlooking of loss of privacy, noise, overshadowing or loss of light.

## **ASSESSMENT OF APPLICATION**

It is considered that the proposal will not adversely affect the Special Landscape Area or designed landscape. The road improvements are small in scale and will have negligible impact on the character and appearance of the wider area. The forestry operations, which do not themselves require planning permission, provide justification for the need for a safe access of the public trunk road into the site. It is

accepted that the location of the existing access into the wood from the trunk road is inadequate, particularly

PMD2 would be satisfied in that the proposals would be properly considered and would be compatible with the character of the surrounding area, particularly given the forestry justification. The first 5m of access is proposed to be surfaced in a bound material which will ensure road standards. A drain would ensure adequate surface water drainage. A gate, set 10m back from the roadside, would ensure that vehicular access to the woodland is managed without compromising road safety.

A permeable surface is proposed for the proceeding 20m in to the site and Transport Scotland have confirmed that a further plan must be submitted which demonstrates a turning area in-curtilage. Vehicles, particularly haulage vehicles, must be able to leave the site in a forward gear. The requirement for a planning condition is necessary and reasonable, in order to ensure road safety, IS7.

Transport Scotland also require planning conditions to ensure that the visibility splays are implemented and maintained and to ensure that the gradient of the access track does not exceed 1:40, once constructed. This condition will also ensure that drainage does not discharge onto the carriageway.

The application is advised that works to the Trunk Road, specifically changes to the crash barriers, will need Road Construction Consent from Transport Scotland and an informative would note this requirement.

No adverse amenity to neighbours is predicted as a consequence of this permission, HD3. There are no overlooking or loss of privacy, noise, overshadowing or loss of light issues.

#### *Other matters*

Comments were received regarding notification procedure of this application; however, statutory procedures were followed and advertisements were placed in The Southern Reporter and online providing the required publicity for the proposals.

Transport Scotland are satisfied that the access will comply with design standards and there is no material planning reason to condition these matters. They can be adequately controlled by traffic safety regulations. This is a rural site and occasional access is requested for timber extraction. It would not be proportionate or appropriate to duplicate road safety regulations by planning condition.

The erection of safety barriers are the responsibility of the Roads Authority, Transport Scotland, who may do so without recourse to the planning system. If further barriers are considered necessary, that would accordingly be a matter for Transport Scotland.

The environmental impacts arising from this development would be negligible, if implemented in accordance with Best Practice guidance on tracks and drainage. The site and associated land has no statutory designation or sensitivity which would prohibit approval being issued. Any future timber extraction would be licenced by Forestry Commission Scotland, who would also be required to give further environmental consideration to any proposals.

Visibility spays, implemented in accordance with Transport Scotland, will give adequate visibility, both north and southbound. Visibility north is sufficient owing to a change in direction of the A68 at Deep Cleuch.

The proposals are in accordance with development plan policies, specifically those which are there to ensure traffic safety and standards and Transport Scotland have confirmed that development can be accommodated provided three conditions are satisfied. These recommendations are incorporated below.

## **CONCLUSION**

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

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

I recommend that the application is approved subject to the following conditions;

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

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

2. Visibility splays shown on the plans hereby approved shall be provided on each side of the new access prior to any vehicular use of the junction. These splays are the triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

Thereafter, visibility splays shall be maintained on each side of the new access to this specification in perpetuity, and at the expressed request of Transport Scotland, the Roads Authority.

Reason: To ensure that drivers of vehicles leaving the site are enabled to see and be seen by vehicles on the trunk road carriageway and join the traffic stream safely.

3. The gradient of the access road shall not exceed 1 in 40 metres for a distance of 10 metres from the nearside edge of the trunk road carriageway, and the first 5 metres shall be surfaced in a bituminous surface and measures shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished

4. No development may commence until plans (which detail design of a suitable turning area provided within the curtilage of the site) have been submitted and approved in writing by the Planning Authority, after consulting Transport Scotland. Thereafter, no development shall take place except in strict accordance with the drawings so approved and the turning area shall be provided before any forestry extraction takes place from the site.

Reason: To ensure that vehicles may enter and leave the site in a forward gear.

## **INFORMATION FOR THE APPLICANT**

Transport Scotland Advise:

Granting of planning consent does not carry with it the right to carry out works within the trunk round boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation. Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges. Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

**DRAWING NUMBERS**

Location Plan OI1082940 24.01.2017  
 Planning Layout TRI001-001 07.02.2017  
 Block Plans JUNCTION 07.02.2017

**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)**

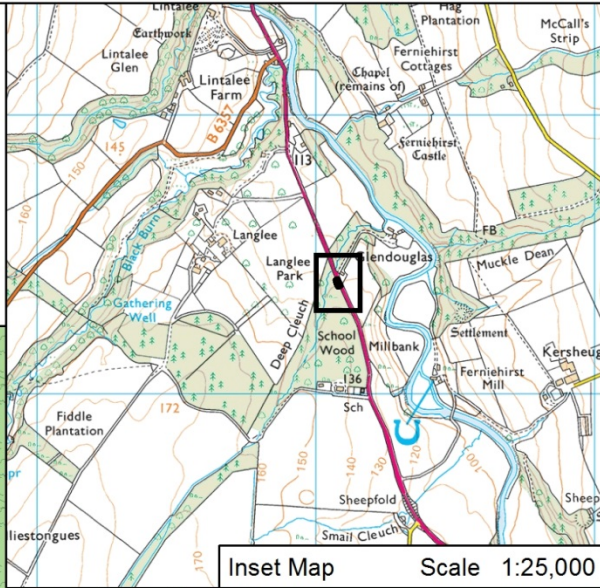
Name	Designation
Euan Calvert	Assistant Planning Officer





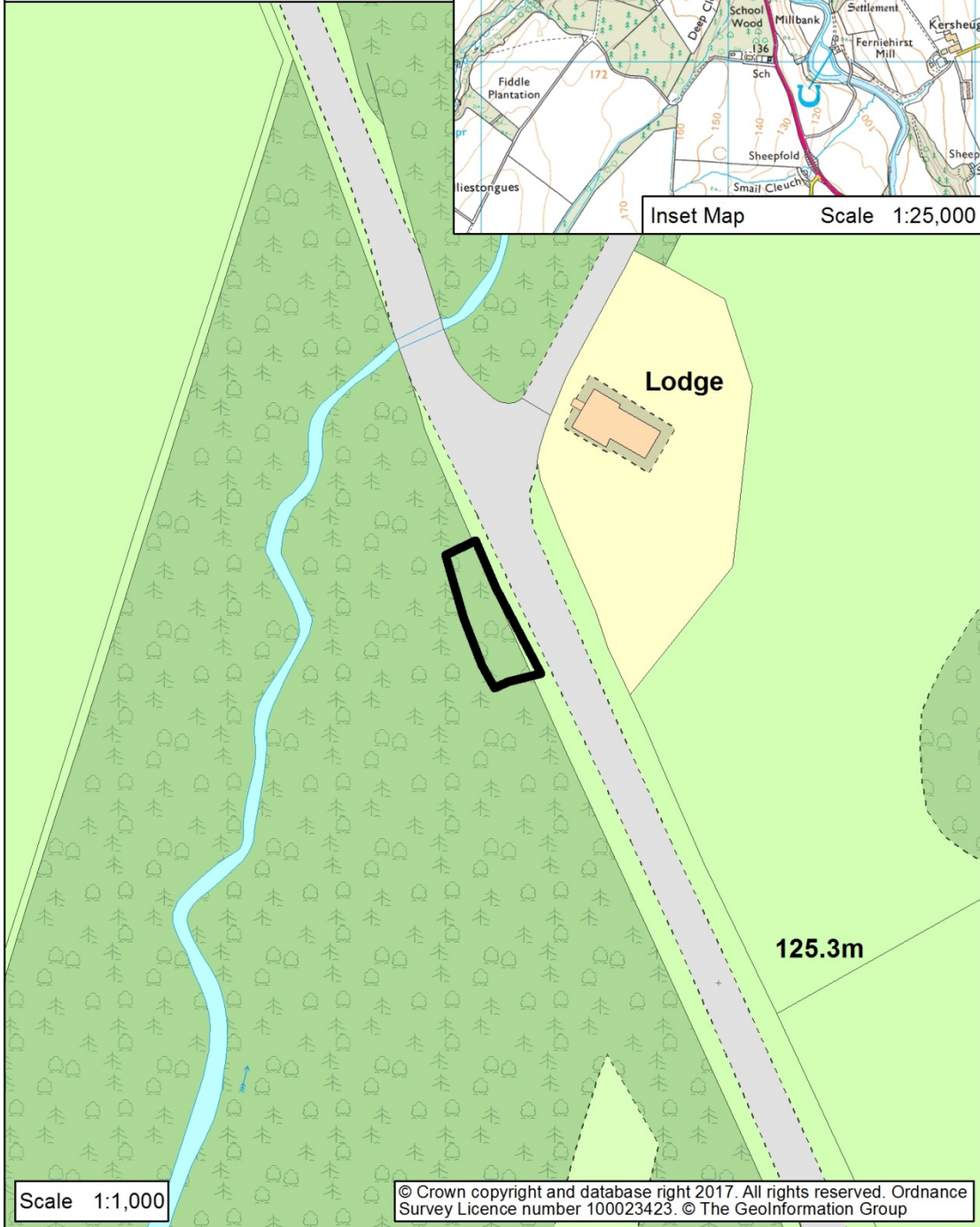
17/00163/FUL

Land West of  
Glendouglas Lodge  
Jedburgh



Inset Map

Scale 1:25,000



Scale 1:1,000

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 17/00277/FUL  
**OFFICER:** Julie Hayward  
**WARD:** Hawick and Hermitage  
**PROPOSAL:** Erection of telecommunications tower and associated equipment within fenced compound  
**SITE:** Land West of Ovenshank Farm Cottage Newcastleton  
**APPLICANT:** EE  
**AGENT:** WHP Wilkinson Helsby

**SITE DESCRIPTION**

The site is situated to the north east of Newcastleton and to the north of the B6357. The site is within an agricultural field used for grazing. The former railway line is to the south in a cutting and the site is surrounded by fields. There is a dwellinghouse to the east, Ovenshank Farm Cottage; Powisholm Farmhouse is to the south and Liddlevale and Byreholm are to the south east.

**PROPOSED DEVELOPMENT**

The proposal is for the installation of new telecommunication equipment within a compound surrounded by a 1.8m mesh linked fence:

- One 15m high lattice mast on a 3.6 square metre concrete base with three antenna and two 600mm dishes (at 11.5m high);
- Four cabinets (1 green 1110mm by 415mm by 1290mm, 1 grey 770mm by 770mm by 1800mm, 1 grey 730mm by 750mm by 1672mm and 1 grey 600mm by 520mm by 1405mm) to house electronic radio equipment;
- Generator housing;
- A 1143mm satellite dish on a 2.7m high pole;
- A pair of 3m wide gates;
- Associated structures.

Access would be from the B6357 via the farm and field track and across the railway bridge. The ground would be levelled to accommodate the compound. The site is required to give coverage to the surrounding area and to link other sites into the network. This is as part of a project to give mobile, data and emergency services coverage via mobile phones to more remote areas.

**PLANNING HISTORY**

None

## REPRESENTATION SUMMARY

Six representations have been received objecting to the application. These can be viewed in full on the Public Access portal on the Council's website. The principle issues raised are:

- The location address does not exist and the applicant's name is incorrect;
- No neighbour notification was carried out;
- Impact on the re-opening of the railway;
- The proximity of the mast, using the Tetra system and frequency, to dwellinghouses and the impacts on health. The mast should be located away from residential properties;
- If the railway is reopened a new access would be required on adjacent land not owned/under the control of the applicant;
- There are inaccuracies in the submission;
- The track is unsuitable for commercial traffic and is close to residential properties.

## APPLICANTS' SUPPORTING INFORMATION

- Site Detail Sheet
- Site Coverage
- Declaration of Conformity with ICNIRP Public Exposure Guidelines

## CONSULTATION RESPONSES:

### Scottish Borders Council Consultees

**Roads Planning Service:** I have no objections to this proposal as once completed, this development will generate minimal traffic movements. The construction period will see an intensified use of the access and the contractor should minimise the impact of this where possible.

**Landscape Architect:** I visited the locality of the site and viewed the site from the B6357 road. I note that the mast is 15m high and over 200m from the nearest property and I cannot find any landscape related reason to object.

**Archaeology Officer:** There are no known implications for this proposal.

### Statutory Consultees

**Newcastleton and District Community Council:** NDCC has lobbied hard to seek investment to widen the level of basic mobile coverage beyond the village boundary and initially welcome this. However, NDCC does not have the technical expertise to understand if this mast (along with the upgrade to the existing mast at the golf course) will also be 'future proofed' so that it also enables a commercial platform to operate alongside the emergency services network.

Any upgrade or new masts must be able to sustain a commercial platform so a commercial provider can be persuaded to offer a wider service. This site, along with the other on the outskirts of Hawick, will enable coverage of a large area of 'not spot' but only if it has a commercial platform as part of its build.

### **Other Consultees**

None

### **DEVELOPMENT PLAN POLICIES:**

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Scottish Borders Local Development Plan 2016

PMD2: Quality Standards

ED6: Digital Connectivity

HD3: Protection of Residential Amenity

IS4: Transport Development and Infrastructure

IS15: Radio Telecommunications

### **OTHER PLANNING CONSIDERATIONS:**

None

### **KEY PLANNING ISSUES:**

- Landscape and visual impacts of the proposed development;
- Impact on residential amenities;
- Access;
- Impact on the safeguarding of the Borders Railway.

### **ASSESSMENT OF APPLICATION:**

#### Planning Policy

Policy ED6 supports proposals that lead to the expansion and improvement of the electronic communications network in the Borders provided that it can be achieved without any unacceptable detrimental impact on the natural and built environment. This includes telecommunication infrastructure.

Policy IS15 deals with radio telecommunications, including masts, antennas and associated structures and such proposals will be assessed against siting and design considerations.

Developers must demonstrate that they have considered options for minimising the impact of the development, including the scale and type of the equipment; mast or site sharing; measures for concealment through appropriate siting, design, landscaping, materials and colours; timing and method of construction; access that takes account of the impact on adjoining users and wildlife habitats and the potential for siting on existing buildings or structures. Where mast sharing is shown to be impractical the developer must demonstrate that there is no alternative location and

siting on existing buildings or structures would cause greater harm to the appearance of the area than that which is proposed. The cumulative impact must also be considered.

The agent has submitted details of other sites that have been considered and discounted due to poor coverage as a result of surrounding topography and woodland, poor access and issues with power connections; the site has to be at this height to communicate with other sites in the area to give sufficient coverage and this site represents the optimum environmental and technical location.

The Site Coverage Plan shows that there is an existing mast adjacent to the B6357 to the south of Newcastleton which provides coverage for Newcastleton itself and an area to the west of the B6399 to the north of Newcastleton. The proposed mast would increase this coverage to the east and the west. The agent has advised that this location has been chosen due to the coverage it would provide.

The lack of existing masts in the surrounding area would appear to discount mast sharing as an option. In terms of cumulative impact, there is a mast adjacent to the B6357 to the south of Newcastleton and one at the golf club. The proposed mast would not result in an unacceptable cumulative impact with other similar installations.

#### Siting, Design and Visual Impact

Policy IS15 requires that telecommunications equipment should be positioned and designed to avoid unacceptable effects on the natural and built environment.

The site is an agricultural field. There are no landscape designations in this area. The associated equipment is minor in scale and contained within the compound and so the main issue with this application is the visual impact of the mast. This would be a lattice mast, 15m in height and grey in colour. The site would be visible from the B6357 though set back 280m from the public road on elevated ground. There is a degree of screening from the topography of the area and trees and so the visual impact would be localised. The distant hills also provide a backdrop when viewed from the north east. It is considered that the proposal would not be unduly prominent in the landscape. Taking into account the scale of the development, the proposal would not have a significant detrimental impact on the visual amenities of the area.

The Council's Landscape Architect has no objection to the proposal on landscape grounds.

#### Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The neighbouring properties are over 200m from the site. It is considered that the proposal would not affect the light, privacy or outlook of the occupiers of these properties.

Concern has been expressed regarding the proximity of the mast to dwellinghouses and the impacts on health. This is not a matter for the planning process, but a certificate has been submitted demonstrating that the proposal complies with Government guidelines in respect of health and safety and the agent has advised that this would not be a Tetra mast.

The supporting statement advises that there will be minimal noise generated from the proposed base station.

The Council has a legal duty to neighbour notify any properties that are within 20m of an application site (the red line boundary on the site plan). The site plan indicates that there are no properties within this 20m zone that require to be notified. The application form indicates that all land within this 20m zone is owned by Mr Tennant of Shaws Farm and he was served notice of the application on 1<sup>st</sup> February 2017. Therefore the application does not require to be advertised in the local newspaper for "land without premises". The Community Council was been consulted on the application.

### Access

Policy IS4 states that development that could prejudice the delivery of the Borders Railway from Hawick to the English Border will not be permitted.

The proposed equipment compound is within the agricultural field adjacent to the former railway line. The development would not encroach onto the railway line and the proposal would not prejudice the aim of delivering a reinstated railway in the future.

The access to the site would be via the track from the B6357 through the steading and field and over the railway bridge. No upgrading works are proposed.

The Roads Planning Service has no objections to this proposal as once completed, the development would generate minimal traffic movements. It is accepted that the construction period would see a briefly intensified use of the access and additional traffic.

No rights of way would be affected by the development.

### **CONCLUSION**

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016. It is considered that the proposal would not be unduly prominent in the landscape or harm the visual amenities of the area or residential amenities of occupants of neighbouring properties. In addition, the proposal would not prejudice the aim of delivering the extension to the Borders railway.

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

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

1. Within no more than 6 months of the date at which the development hereby consented ceases to be required for the purpose of telecommunications infrastructure provision:
  - (a) the telecommunications mast hereby consented, and all ancillary equipment and installations (including fencing, the cabinets and platform in hard standing) shall all be removed from the site; and
  - (b) the land at the site shall be restored to its former condition, unless, an application is first made and consent granted for the development's retention on site to serve an alternative purpose.

Reason: Retention of the mast, and all ancillary installations on site, beyond the point in time at which it has become redundant, would not be sympathetic to the character of the site or the visual amenities of the surrounding area.

**DRAWING NUMBERS**

- 01 Site Location
- 02 Site Layout
- 03 Equipment Layout
- 04 North West Elevation
- 05 Equipment Details
- 06 North West ICNIRP Elevation
- 07 ICNIRP Plan
- 08 Antenna Schematic

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

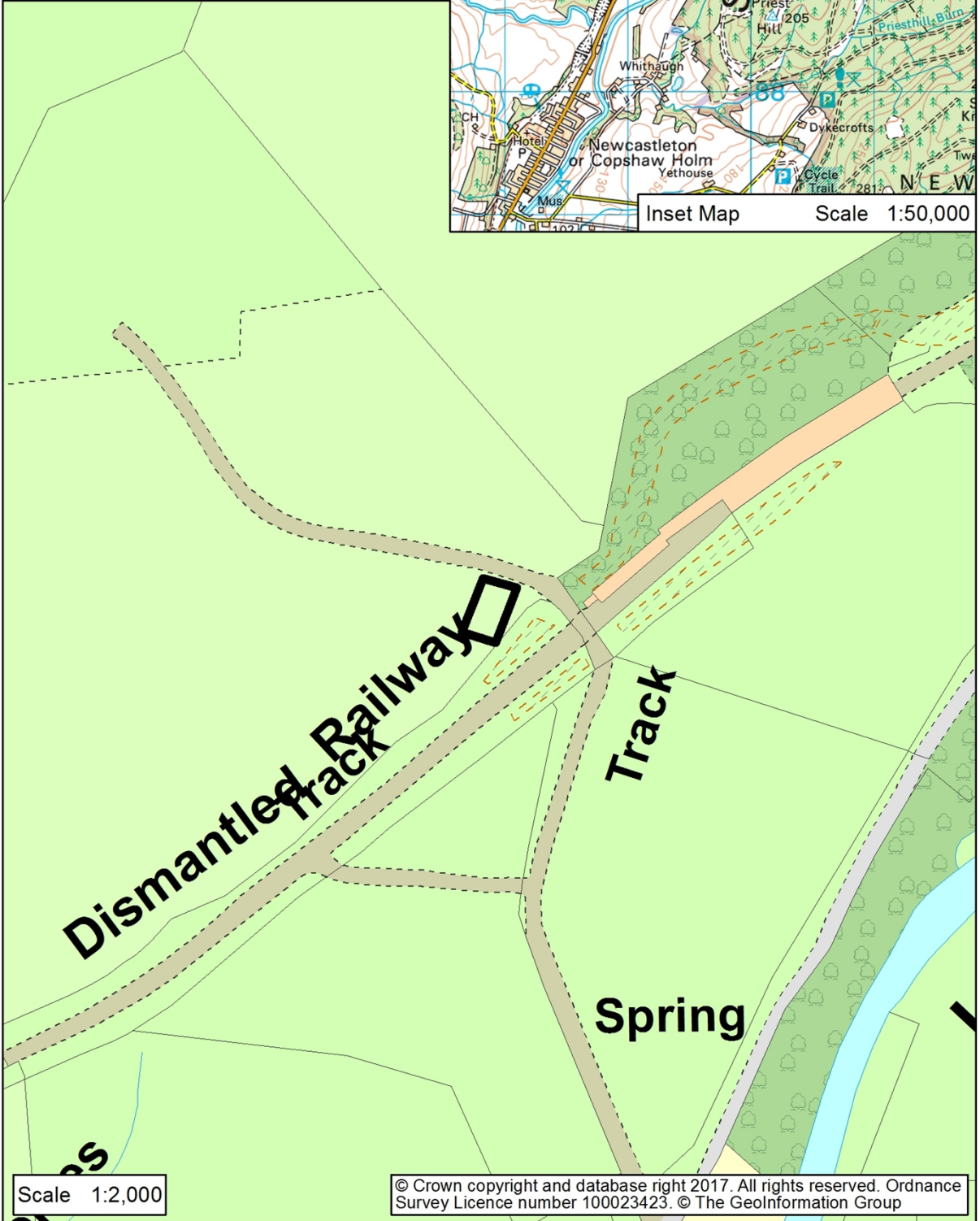
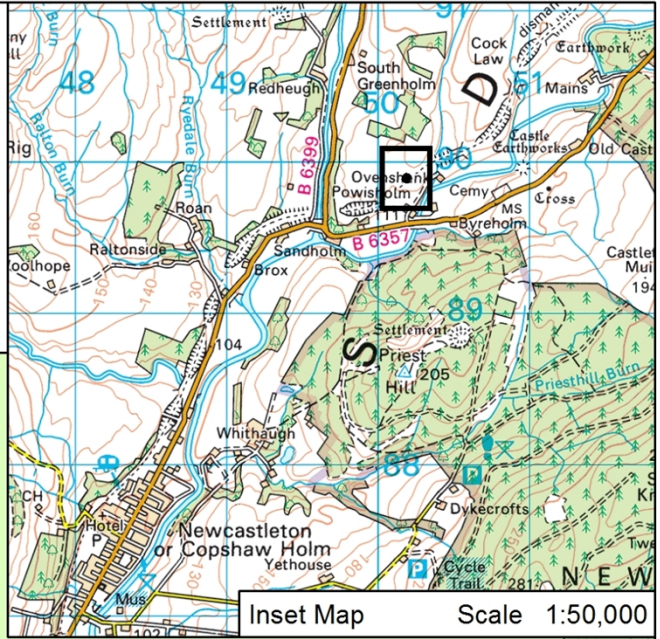
**Author(s)**

Name	Designation
Julie Hayward	Lead Planning Officer



17/00277/FUL

Land West Of Overshank Farm  
Cottage  
Newcastleton







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## **PLANNING APPEALS & REVIEWS**

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

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## **PLANNING AND BUILDING STANDARDS COMMITTEE**

**24<sup>th</sup> April 2017**

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### **1 PURPOSE**

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

### **2 APPEALS RECEIVED**

#### 2.1 Planning Applications

- 2.1.1 Reference: 16/00865/FUL  
Proposal: Part change of use of dwellinghouse and garden ground to wedding venue and erection of marquees  
Site: Hartree House, Kilbucho  
Appellant: Mr & Mrs Michael Goddard

Reasons for Refusal: Appeal against imposition of conditions 1, 6 and 7 which state:

Condition 1. The part change of use to a wedding venue hereby approved shall be for a limited period of two years from the date on the consent. Reason: To enable the Local Planning Authority to review the matter at the end of a limited period. Condition 6. Maximum of 15 events per calendar year. Reason: To protect the residential amenity of local residents. Condition 7. No more than two events within one calendar month without the prior approval of the planning authority. Reason: To protect the residential amenity of local residents.

Grounds of Appeal: The proposed use of the appeal site as a wedding venue is consistent with Policy ED7 of the adopted local development plan. No basis can be found within the local development plan to support a time-limited consent which would outweigh Scottish Government policy. There is no evidence to suggest that the policy guidance of Circular 4/1998 or SPP (2014) were taken into account in the Council decision. The Council's decision to modify the proposal as applied for is contrary to three overarching principles of the Circular viz: (i) It is rarely necessary to issue a temporary permission for development. (ii) Effect on amenity never justifies a temporary consent. (iii) A condition which modifies a proposal in a material way cannot be imposed. The appellant submits that Conditions 1, 7 and 8 are unnecessary and unreasonable, having regard to: government policy; the logistics of wedding planning; council decisions

on similar proposals; and alternative business models. Similarly, the wording of Condition 7 is imprecise, and potentially unenforceable due to its lack of precision. The proposal has been ongoing for almost 3 years, during which time business activities have been suspended awaiting a final decision. During this time the appellants have not challenged conflicting Council advice, which has impacted considerably on business commitments. Other similar proposals have been dealt with differently and much more sympathetically by the Council. The appellants can only conclude that events up to and including consideration at the Planning and Building Standards Committee were not decided on planning merits, but rather were unduly influenced by local opposition which was not based on rational planning reasons. In Summary, Conditions 1, 6 and 7 place an unjustifiable and disproportionate burden on the appellant such to take away the substance of the permission and fail to satisfy the tests of necessity, reasonableness and precision set out in Circular 4 of 1998.

Method of Appeal: Written Representations

## 2.2 Enforcements

2.2.1 Reference: 16/00105/UNDEV  
Proposal: Boundary fence and summerhouse erected in front garden  
Site: 1 Borthwick View, Roberton, Hawick  
Appellant: Mr and Mrs Ramsay

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: 1. The line of the fence is incorrectly sighted. 2. The lack of privacy due to No. 2 occupants, due to height of fence. 3. The fence is of variable height, sometimes as low as 1.5m. 4. No. 2 neighbour has constructed onto the fence she complains of. 5. No. 2 is responsible for sighting of fence within one metre of walled boundary to road, (so as to clock exit/entrance sight line to our house). 6. The summerhouse is a moveable item, like a vehicle, and is not situated in any one spot permanently.

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 6 appeals previously reported on which decisions were still awaited when this report was prepared on 13<sup>th</sup> April 2017. This relates to sites at:

• Land North West of Whitmuir Hall, Selkirk	• Broadmeadows Farm, Hutton
• Office, 80 High Street, Innerleithen	• 1 Borthwick View, Robertson, Hawick (Murphy-McHugh)
• 12 Merse View, Paxton	• 1 Borthwick View, Robertson, Hawick (Ramsay – 16/00146)

## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 16/01174/PPP  
 Proposal: Erection of vehicle body repair workshop and associated parking  
 Site: Land North West of Dunrig Spylaw Farm, Lamancha, West Linton  
 Appellant: GS Chapman Vehicle Body Repairs

Reasons for Refusal: 1. The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location. 2. Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

- 5.2 Reference: 17/00011/FUL  
 Proposal: Erection of detached garage with first floor studio, alterations and extension to dwellinghouse  
 Site: Danderhall Cottage, St Boswells, Melrose  
 Appellant: Ms Evelyn Brown and Mr John Kirk

Review against non-determination of Application.

- 5.3 Reference: 17/00027/FUL  
 Proposal: Erection of agricultural storage building with welfare accommodation  
 Site: Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles  
 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 Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse and cumulative visual impacts on the local

environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location. 2. 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.

- 5.4 Reference: 17/00028/FUL  
Proposal: Erection of agricultural storage building with welfare accommodation  
Site: Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles  
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 Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse and cumulative visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location. 2. 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

- 6.1 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 16/01425/PPP  
Proposal: Erection of dwellinghouse  
Site: Land East of Keleden, Ednam  
Appellant: Mr & Mrs Brian Soar

Reason for Refusal: The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.3 Reference: 16/01536/PPP  
Proposal: Erection of dwellinghouse  
Site: Land East of Highland Brae, Lilliesleaf  
Appellant: Miss Kerrie Johnston

Reason for Refusal: The proposed development would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Guidance Note (2008), in that the proposed development would not relate sympathetically to an existing building group and the supporting letter accompanying the application is not considered sufficient justification for what would be a development in open countryside.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned  
(Subject to condition and a S75 agreement)

## 7 REVIEWS OUTSTANDING

7.1 There remained 4 reviews previously reported on which decisions were still awaited when this report was prepared on 13<sup>th</sup> April 2017. This relates to sites at:

• Field No 0328 Kirkburn, Cardrona (16/01464/FUL)	• Field No 0328 Kirkburn, Cardrona (16/01506/FUL)
• Field No 0328 Kirkburn, Cardrona (16/01507/FUL)	• Field No 0328 Kirkburn, Cardrona (16/01513/FUL)

## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 13<sup>th</sup> April 2017. This relates to sites at:

• (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir	• Fallago Rig 1, Longformacus
• Fallago Rig 2, Longformacus	•

### Approved by

**Ian Aikman**  
Chief Planning Officer

**Signature** .....

### Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 01835 824000 Ext 5409

**Background Papers:** None.

**Previous Minute Reference:** None.

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

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