

Public Document Pack



PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 7 AUGUST, 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, 7 AUGUST, 2017 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

31 July 2017

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	<p>Minute. (Pages 1 - 8)</p> <p>Minute of Meeting 26 June 2017 to be approved and signed by the Chairman. (Copy attached.)</p>
5.	<p>Applications.</p> <p>Consider the following application for planning permission:-</p>
	<p>(a) Land North East of 3 The Old Creamery, Dophinton - 17/00087/FUL (Pages 9 - 30)</p> <p>Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse. (Copy attached.)</p>
	<p>(b) Quarry Soutra Mains Farm, Blackshiels, Soutra, Oxtou - 17/00492/MIN (Pages 31 - 50)</p> <p>Extension of consented life of quarry by deepening area consented by previous minerals consent 09/00897/MIN. (Copy attached.)</p>
	<p>(c) Land SE of 11 Burnbank Holding, Foulden - 17/00612/PPP (Pages 51 - 62)</p> <p>Erection of dwellinghouse. (Copy attached.)</p>
	<p>(d) 61 Branxholme Road, Hawick - 17/00628/FUL (Pages 63 - 70)</p> <p>Formation of off-street parking area. (Copy attached.)</p>
	<p>(e) Hope Cottage, Wester Deans, Lamancha - 17/00681/MOD75 (Pages 71 - 76)</p> <p>Modification of planning application pursuant to planning permission 08/01414/FUL and 16/00514/MOD75. (Copy attached.)</p>

6.	Places, People and Planning - Position Statement (Pages 77 - 144) Consider report by Service Director Regulatory Services. (Copy attached.)
7.	Appeals and Reviews. (Pages 145 - 156) Consider report by Service Director Regulatory Services. (Copy attached.)
8.	Any Other Items Previously Circulated.
9.	Any Other Items which the Chairman Decides are Urgent.

NOTE

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

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

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

Membership of Committee:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Please direct any enquiries to Fiona Henderson 01835 826502
fhenderson@scotborders.gov.uk

**SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 26 June, 2017 at 10.00 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

In Attendance:- Chief Planning Officer, Development Planning Manager, Principal Roads Planning Officer, Chief Legal Officer, Democratic Services Officers (F. Henderson and F. Walling).

1. **DECLARATION OF INTEREST**

Councillor Small declared an interest in Application 17/00087/FUL in terms of Section 5 of the Councillors Code of Conduct. He left the Chamber during consideration of the application.

2. **APPOINTMENT OF VICE CHAIRMAN**

The Chairman proposed and it was unanimously agreed that Councillors Sandy Aitchison, Andy Anderson and Scott Hamilton be appointed to serve, in rotation, in the role of Vice Chairman of the Committee.

AGREED that Councillors S. Aitchison, A. Anderson and S. Hamilton be appointed to serve in rotation as Vice Chairman of the Planning and Building Standards Committee.

3. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 24 April 2017.

DECISION

APPROVED for signature by the Chairman.

4. **APPLICATIONS.**

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

DECISION

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

5. **APPEALS AND REVIEWS.**

There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED:-

- (a) the Appeal decision in respect of discharge of planning obligation pursuant to planning permission 00/00244/OUT at Broadmeadows Farm, Hutton – 16/01284/MOD75;
- (b) enforcements in respect of :-
- (i) Non compliance with condition no 2 of 13/01142/FUL AT 80 High Street, Innerleithen – 14/00028/COND;
- (ii) erection of fence at 12 Merse View, Paxton – 16/00126/UNDEV
- (c) there remained five appeals outstanding in respect of:-

• Land North West of Whitmuir Hall, Selkirk	• 1 Borthwick View, Robertson, Hawick (Murphy-McHugh)
• 1 Borthwick View, Robertson, Hawick (Ramsay – 16/00146)	• 1 Borthwick View, Robertson, Hawick (Ramsay – 16/00105)
• Hartree House, Kilbucho	

- (d) Review requests had been received in respect of:-
- (i) the Erection of dog day care building, perimeter fence and associated works (retrospective) on Land South West of Milkieston Toll House, Eddleston – 16/00872/FUL;
- (ii) the Erection of dwelling house and detached garage (approval of matters specified in all conditions pursuant to planning permission 15/00301/PPP) on land North East of Dundas Cottage, Ettrick, Selkirk – 16/01467/AMC;
- (iii) Erection of dwelling house on Land South of Balmerino, Ashkirk – 17/00005/PPP;
- (iv) Erection of two dwellinghouses on garden ground of Woodlands, Broomlee Mains, West Linton - 17/00044/PPP;
- (v) Erection of agricultural storage shed with welfare accommodation on Land West of Former William Cree Memorial Church, Kirkburn, Cardrona, Peebles – 17/00090/FUL;
- (vi) Erection of agricultural storage shed with welfare accommodation on Land West of Former William Cree Memorial Church, Kirkburn, Cardrona, Peebles – 17/00092/FUL;
- (vii) Erection of agricultural storage shed with welfare accommodation on Land West of Former William Cree Memorial Church, Kirkburn, Cardrona, Peebles – 17/00093/FUL;
- (viii) Erection of agricultural storage shed with welfare accommodation on Land West of Former William Cree Memorial Church, Kirkburn, Cardrona, Peebles – 17/00094/FUL
- (ix) Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works on Redundant Steading North West of Pots Close Cottage, Kelso – 17/00118/FUL

(e) the decision of the Appointed Officer had been upheld by the Local Review Body in respect of:-

(i) Erection of agricultural storage building with welfare accommodation in Field N00328 Kirkburn, Cardrona – 16/01464/FUL;

(ii) Erection of agricultural storage building with welfare accommodation in Field N00328 Kirkburn, Cardrona – 16/01506/FUL;

(iii) Erection 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;

(f) there remained four reviews outstanding in respect of:-

• Land North West of Dunrig Spylaw farm, Lamancha, West Linton	• Danderhall Cottage, St Boswells, Melrose
• Land West of Former William Cree Memorial Church, Kirkburn, Cardrona, Peebles (17/0002/FUL)	• Land West of Former William Cree Memorial Church Kirkburn, Cardrona, Peebles (17/00028/FUL)

(g) Section 36 Public Local Inquiries Received in respect of Erection of 15 turbines 132 high to tip, access track, compound, permanent anemometer mast and 2 no borrow pits at Birneyknowe Wind Farm, Land North, South, East and West of Birnieknowe Cottage, Hawick

(h) there remained three S36 Public Local Inquiries outstanding in respect of the following :-

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

6. PLANNING PERFORMANCE FRAMEWORK 2016-17

There had been circulated copies of a report by the Service Director Regulatory Services which proposed approval of the Planning Performance Framework 2016/17 for submission to Scottish Ministers by 31 July 2017 and to grant delegated authority to enable the preparation of the final publication version of the document. The report explained that the Planning Performance Framework (PPF) was an annual performance report submitted to Scottish Government by all planning authorities in Scotland. The PPF highlighted how the planning service had delivered continuous improvement in service delivery, how it had performed when tested against 15 national performance markers and how it had responded to last year's RAG (Red, Amber, Green) report from Scottish Government. Due to time constraints imposed by Scottish Government to submit the document and the difficulty in gathering all of the required information and statistics (including critically the approved performance figures from Scottish Government) it had not been possible to present the finalised publication version of the document to Members. The PPF document attached at Appendix 1 to the report was a word version outlining the key text and case studies but only had limited photography and no graphics content. The approval of the document would enable the production of a publication version of the PPF in time for the submission to Scottish Ministers on 31 July 2017. It was

anticipated that, on the basis of the work undertaken and the performance delivered, this year's RAG report would eliminate the two Red ratings and move the service to an improved overall performance rating.

DECISION

AGREED the Planning Performance Framework 2016/17 for submission to Scottish Ministers by 31 July 2017 and granted delegated powers to the Service Director Regulatory Services to prepare the final publication version of the document.

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 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

8. MINUTE

The Committee considered the private section of the Minute of 24 April 2017.

The meeting concluded at 12.30 pm

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/012212/FUL	Installation of biomass boiler and associated cabinet (retrospective)	Ravelaw Farm Whitsome Duns

Decision - 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, in unless agreed in writing by the Planning Authority.

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

2 All combustion plant and associated flues shall be maintained and serviced in accordance with the manufacturer's recommendations. The combustion plant should only use fuel of a type and grade as specified by the manufacturer and which has been used for the basis of the air quality assessment. If different fuel arrangements are made the boiler shall be re commissioned to ensure that the assessed emissions are not exceeded.

Reason: To protect the residential amenity of nearby properties.

3 Any noise emitted by plant and machinery used on the premises shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2

Reason: To protect the residential amenity of nearby properties.

4 All plant and machinery will be maintained and service in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason: To protect the residential amenity of nearby properties

NOTE

Mr Adam Gaston spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00087/FUL	Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated landscaping works	Land North East of 3 The Creamery Dolphinton

Decision:- Continued to allow a site visit to be undertaken.

NOTE

Mr David King spoke against the application.

Mr Albert Muckley – Agent spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00299/FUL	Erection of dwellinghouse	Land South of Sunnybank, Forebrae Park Galashiels

Decision: 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.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00463/MOD75	Modification planning application pursuant of planning permission 06/00929/FUL	Land North of Softlaw Farm Kelso

Decision: - Approved the discharge of the s.75 Agreement.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00087/FUL
OFFICER:	Stuart Herkes
WARD:	Tweeddale West
PROPOSAL:	Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated development and landscaping works
SITE:	Land North East Of 3 The Old Creamery, Dolphinton
APPLICANT:	Mr Alastair Brown
AGENT:	Ironside Farrar Ltd

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

This application was presented to the previous meeting of the Planning and Building Standards Committee on Monday 26 June. Members resolved at that meeting to continue the application in order to visit the application site, which took place on Monday 3 July.

In the period since the application was originally presented to Members on 26 June, the Applicant has provided a Supplementary Statement and a supporting 3D visualisation. These documents are intended by the Applicant to address concerns that the Applicant considers may have required clarification, based upon his observation of Members' deliberations at the 26 June meeting. The Supplementary Statement mostly presents or summarises information that has already been presented to the Planning Authority by the Applicant in previous supporting documents. The 3D visualisation has not previously been presented, and is illustrative only. Both documents and a covering email are available for Members, and for the public, to view on the Council's Public Access Portal where they are dated to 28 June. The information raises no new issues that would lead to a different recommendation and the following report is as previously presented to the Committee at the meeting in June.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

Planning Application 17/00087/FUL has been referred to the Planning and Building Standards Committee for determination under Section 43A(6) of the Town and Country Planning (Scotland) Act 1997. Its referral is supported by five Members on the grounds that: *"(t)his application is of concern to the public interest of the area as it covers a wide range of planning policies and other matters considered important by applicant and objector alike"*.

SITE DESCRIPTION

The site is an area of open agricultural land, less than 2ha in extent, which lies around 250m to the northwest of Dolphinton and to the immediate south of the A702. There is an agricultural access directly from the A702 at its northern extremity.

The site is readily visible from the A702. It is mostly level, but with small natural rise toward the northeast of the site.

There are some stands of trees to the east and west of the site, and a couple of trees along the road boundary with the A702. However, the site and surrounding area are otherwise generally open in character.

Along with a larger area of land to the south and west, the site lies within the provisional Local Biodiversity Site (pLBS) 'Ingraston Moss'. It is also within the near vicinity of the Pentland Hills Special Landscape Area (SLA), which lies on the opposite (northern) side of the A702; and is linked by a shared ditch to the Dolphinton – West Linton Fens and Grassland Site of Special Scientific Interest (SSSI), which lies to the south. The site is within a carbon-rich soils area.

PROPOSED DEVELOPMENT

Full planning permission is sought for a new purpose-built business premises for a mixed employment (Class 5 and Class 6) use to accommodate of the applicant's two existing businesses which currently operate from the Dolphinton area. A new dwellinghouse is also proposed in connection with the business.

The proposed new business premises would consist of: (i) a loading bay shed, to accommodate the cement silo and water container and provide cover to load cement-mixer lorries; (ii) a secure garage and vehicle store, to accommodate and maintain vehicles and equipment; including accommodation of a biomass woodchip boiler and fuel store; (iii) secure materials storage sheds; and (iv) an external area for the storage and manufacture of concrete blocks. These buildings would be attached to one another, forming a single range of buildings that would be located within the centre of the site. The highest structure, the materials store building, would be just under 12m in its overall height above the finished floor level of the sheds.

The new dwellinghouse, which would be located immediately to the south of the new business premises, is proposed to be ancillary to the operation of the business use of the site, and would include office accommodation for the businesses' administration.

During the consideration of the application, revisions have been made to introduce a more significant landscaping treatment for the site to that which was originally proposed. This would involve tree planting on land outwith the application site, which the applicant has advised he would be able to secure as part of his purchase of the application site from the current land owner. The landscape works include the formation of a bund wall to help screen views of the operational yard area from the nearby A702.

The proposal has been assessed as falling below the parameters that would have required the formal submission of an Environmental Impact Assessment (EIA). No statutory consultees have requested that the proposal should be supported by an EIA.

PLANNING HISTORY

The site has no previous planning history.

REPRESENTATION SUMMARY

Forty representations have been received in support of the application; those that set out reasons for support do so on the following grounds:

- **Residential Amenity and Road Safety Benefits to Dolphinton** - Relocation of Border Mix from its current premises would benefit the residential amenity of surrounding properties (principally through reduced noise and traffic) and would improve road safety on the local road, and at the nearby road junction with the A702 (especially in the event that Garvald Quarry were to be re-activated in the near future, which would have potential to generate greater numbers of larger vehicles on the local road and junction, taking access through Dolphinton);
- **Safeguard Future of an Established Local Business and Employer** - Operation from the application site would allow an established local business to continue operating within the local area, continue to serve an established customer-base, continue to employ people in the local area, and contribute to the local economy. Refusal would jeopardise the business's future;
- **Potential for Economic, Employment and Environmental Benefits to the area** - Operation from the application site would allow the business to expand; overcome existing operational constraints and leasing arrangements within their existing premises; employ more people; contribute more strongly to the local economy, make greater use of local businesses and services; become more operationally efficient and productive; and realise environmental benefits; and
- **Satisfactory Amenity and Environmental Impacts** - Proposed location is well-considered with respect to the protection of the amenity of the surrounding area, including the local landscape and the amenity of local residents. The site benefits from some screening; and has potential for good site access.

Fifteen representations have been received in objection to the application (an additional sixteenth representation was withdrawn by the objector and is not considered below). These object to the proposals on the following grounds:

- **Contrary to Local Development Plan** – specifically ED7, HD2, PMD4 and PMD2 in that the site is in the countryside, is not allocated for any industrial use; and there is no operational requirement for the proposal to be sited on this specific rural site. There is no operational need for a house to be located on the site in the service of the applicant's business operations. The proposed use would be more appropriately accommodated on an industrial estate where it would be in character with surrounding uses. The proposal is not sympathetic to the amenity and environment of this greenfield site or the rural character of the site and surrounding area;
- **Detrimental to Environment and Natural Heritage Resources** – including impacts upon designated and sensitive natural heritage resources at the site and within the near vicinity; impacts upon trees; potential for air, soil and water course

pollution; potential to affect a significantly wider area than the site. The application should have been supported by an EIA;

- **Detrimental to Landscape and Visual Amenity** – the scale, height and massing of the buildings would be inappropriate in landscape and visual terms; these would constitute an eyesore within local area being unsympathetic and out-of-character with this rural area and farm land. The applicant proposes an inadequate landscaping treatment for a relatively open site;
- **Detrimental to Residential Amenity** – noise nuisance; air quality and dust nuisance; light pollution; and loss of privacy;
- **Detrimental to Road Safety** – increased traffic, particularly HGVs; inadequate site access onto a busy and fast trunk road. It is questioned whether proper account and consideration has been given to police, court and accident reports relating to this stretch of the A702 road, which is seen as particularly dangerous;
- **Detrimental to Drainage, Water Environment and Soils** – particularly Ingraston Moss; soil type advised to be inadequate for the accommodation of this type of proposal. There is potential for increased flooding on a poorly drained site, in terms of interaction with soil-types; impacts on carbon-rich soils, have not been fully accounted for;
- **Detrimental to Water Supply;**
- **Inadequate or Contradictory Advice in Supporting Information** – inadequate or contradictory information has been given with respect to the selection of the site and with respect to the proposed operation; no account should be taken of Applicant's concerns with respect to competition. There has been inadequate exploration of potential to use other sites, such as brownfield land within surrounding area (PAN 60 encourages reuse of brownfield land ahead of the development of greenfield sites); it is advised that there are sites close by in South Lanarkshire, which are available, but which have not been considered by the Applicant.
- **No Operational Need for a House On-Site** - Other alternative security measures might be considered ahead of the Applicant living on site. The Applicant's existing house is only half a mile from the site. It is considered that the proposal could be a 'back door' method of securing a new house in the countryside, were none of the associated business proposals to be developed out;
- **Promotion Within the Area of Further Development Inappropriate to a Rural Area** - particularly industrial, exaggerating the impacts of the current proposal; and negatively impacting the approach to Dolphinton village;
- **Improper Notification of Application** – advised that 'adjoining' neighbours have not been directly informed;
- **Inadequate Consideration of Potential Future Uses of Site** – it is unclear how the site might be used if the business were to move on from the site; while the bespoke nature of what would be accommodated may not prove particularly flexible when it comes to reuse by any subsequent occupier;
- **Insufficient Economic Effect to Justify Support for Development** – the proposal would not create sufficient jobs and/or generate any meaningful investment in the local economy to justify the development of the site contrary to planning policy; impacts on landscape and area would also be detrimental to tourist economy.
- **Human Health Risks**
- **Flood Risks**

- **Outdoor Access** - Impacts upon the setting and views from several paths and rights of way within the surrounding area.

Three general comments have also been received (two from one of the objectors), which express concerns with respect to the following matters:

- Transport Scotland's response – specifically the agency's understanding of planning policy with respect to the use of the site;
- The future use of the applicant's existing business premises at Dolphinton – it is requested that the industrial use of the existing site should be removed if the application is approved; and
- The potential to have accommodated the operation at Garvald Quarry – contrary to the view expressed by the applicant, the Quarry is not understood to be re-opening imminently, and it is suggested that the applicant has ignored or downplayed potential to continue operating from the quarry site, or even to relocate the businesses to the quarry site as an alternative to the current proposal.

APPLICANTS' SUPPORTING INFORMATION

The application is supported by the following documents:

- Planning Supporting Statement;
- Supplementary Supporting Statement – House Requirement;
- Supplementary Statement – Air Quality, Dust Management, Noise and Lighting; and
- Preliminary Ecological Assessment;
- A letter of support from Glenrath Farms forwarded by the agent;
- Letters from local land owners advising of their correspondence with the Applicant with respect to his interest in securing land from them; and
- 3D visualisations of the site.
- Supplementary Statement on Carbon Rich Soils and Alternative Site Search

These documents are all available for viewing in full on the planning pages of the Council's website.

With respect to the supporting case set out within these documents, it is advised that the applicant currently operates two businesses within the Dolphinton area.

The first of these, and longest established, is Border Mix Ltd. This is a specialist concrete supplier that services local public, commercial, farm and private customers. It currently operates from a leased yard within the Development Boundary at Dolphinton. This is surrounded by residential properties, including the applicant's own family home. It is advised that Border Mix currently operates the site 7 days a week, and 24 hours a day. Given the presence of a number of larger rival concrete contractors based in the wider area to the west of Dolphinton, in Lanarkshire and West Lothian, the company generally considers that its location at Dolphinton is integral to its service of markets in closer proximity to it than its competitors, including within the wider area towards both Peebles and Edinburgh.

The second business operated by the applicant is The Big Block Company Ltd, which operates from leased ground at Garvald Quarry. This is a more recent business venture, which manufactures and supplies a range of large, interlocking concrete blocks for use in retaining walls, storage and containment facilities, landscaping, and flood defences. It is advised that the current lease of land at the quarry is due to expire shortly, at which point it is anticipated quarrying operations would be recommenced.

The two businesses are advised to be closely interconnected in their servicing and land use requirements, and between them employ six people: specifically the applicant, three full-time drivers, a casual labourer and one part-time administrative assistant.

The applicant advises that the expansion of his businesses is currently being constrained by the limited size of Border Mix's yard, and by ongoing concerns with respect to the continued use of the quarry land by The Big Block Company. He anticipates that a new facility to accommodate both businesses on one site would allow the businesses to expand to their potential, with a commensurate expansion in its workforce; which in the short-term, is anticipated to result in an increase of two new jobs and a requirement for the admin assistant to be employed on a full-time basis.

It is advised that the removal of Border Mix from its current site would also benefit the amenity of surrounding residential properties and would improve traffic movement, since vehicles at present require to make use of both the yard and road to manoeuvre. It is advised that there would be greater conflict in terms of traffic movement at the site in the event of the re-activation of the quarry, which would increase the number of larger vehicles operating on this local road, in addition to the applicant's own vehicles, were these to continue operating from the existing site.

With respect to the identification of the application site as the most appropriate location for the proposed new centre of operations for his businesses, the applicant advises that his search criteria were that the new site should:

- be in Dolphinton and on the A702, to service and conserve the businesses' established customer-base;
- be of a scale to meet the applicant's business requirements, including land sufficient to accommodate the operation and expansion of both businesses, along with a new dwellinghouse for on-site security (which the Applicant sees as essential to his operations);
- have direct access to the strategic road network, avoiding current manoeuvring constraints at and between the existing sites;
- be isolated from established residential areas so as not to have any unacceptable impacts upon the amenity of any neighbouring dwellings; and
- be available for the proposed uses, essentially by being available for transfer to the applicant at a cost reflective of the intended use, which can be absorbed by the business.

The applicant also advises that alternative sites were considered, including existing and allocated industrial sites within West Linton (Deanfoot Road), Peebles (South Park) and Biggar, which have all been discounted in favour of the current application site. The various sites identified have been discounted for a range of reasons, including lack of interest in selling on the part of one land owner; difficulties relating to road access in

another case; and potential to conflict with the base of operations of other rival concrete suppliers.

The applicant advises that there is no suitable site within the Development Boundary at Dolphinton or elsewhere within the local area, and that the businesses' location on a rural site is itself appropriate, because the businesses primarily support customers who are themselves rural businesses.

In response to the Planning Department's concern that the applicant had not evidenced a sufficiently thorough investigation into the possibility of accommodating the business proposal on an existing brownfield site within the local area, the applicant has provided further details of a search identifying 13 alternative named sites, mostly attributed to farms and mostly to the north and east of Dolphinton. An accompanying table advises why each of the alternative sites has been discarded by the applicant. Reasons for their elimination include: (i) insufficient size, in the case of two sites; (ii) the lack of direct access to the strategic road network in the case of one site; (iii) insufficient isolation from surrounding residential properties, in the case of five sites; and (iv) the lack of availability for the proposed use, in the case of ten sites. The application site is the only site so assessed, which meets all of the applicant's identified search criteria. Some correspondence relating to these enquiries is also included within the supporting details.

Among the sites which are identified as being unavailable for uptake, is the Applicant's existing leased premises at Garvald Quarry. The quarry operators advise in an attached email of 01 June 2017, that this land would be required by them: "*in future for quarry plant and stocks for the long term*". Beyond this, they do not commit to selling any land at the quarry until such time as it has been established how any subsequent re-activation of the quarry operation would be accommodated in future.

With respect to the specific need for a new dwellinghouse on the site, the applicant considers that this is justified and/or required for the following reasons:

- the applicant considers that the dwellinghouse is required operationally by a business that is itself appropriate to a countryside location, largely as a consequence of the business' service of rural businesses;
- the applicant requires to be accommodated on site on a full time basis because his presence "is essential to the efficient operation" of the businesses;
- the cement supply business operates on a 7-days-a-week and 24-hours-a-day basis, often requiring "ad hoc customer service at unsociable hours";
- the house would also be used to accommodate the businesses' office;
- the presence on-site of a worker is needed for security; the current business premises of Border Mix are overlooked by the applicant's existing home, and he is concerned to maintain a similar arrangement at the new site; and
- the applicant requires to sell his existing home because the significant capital investment required to relocate would be provided largely from the sale of the family home.

As far as the applicant is concerned, a dwellinghouse on site is an integral part of the proposed business operation, and vital to its successful transfer to the new site.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Economic Development Section: Economic Development fully supports the application on the grounds that this should promote the business' expansion and efficiency, and the protection and creation of jobs, advising that the alternative could possibly be the closure of the business, if the current ground leases are terminated. The service considers that the relocation of the two businesses to the same site would allow the applicant to increase efficiencies, reduce their carbon footprint, and enable longer working hours in the winter, which would potentially enable the businesses to expand, creating new jobs. It advises that there are few if any options in this part of the Borders Region, to re-locate the businesses' operations to any industrial site. It considers that the type of operation concerned, is likely to cause fewer problems if it is sited in a rural location, away from residential properties, both from a noise, dust and vehicle movement point of view. Also, due to the size of site needed, it is considered that the same or equivalent amount of land within an existing industrial estate would probably be extremely costly, as land values on a basic agricultural plot are much lower than a serviced zoned business site.

Roads Planning Section: is supportive of the relocation of this business to the site on the basis that the existing premises lies adjacent to residential dwellings and appears to be outgrowing its current site. Relocating the business would remove the existing conflict between residential traffic and business traffic which requires the use of the public road for manoeuvring.

Environmental Health Section: responded at the time of the original consultation to advise that it has no comments with respect to potential land contamination concerns, and to advise with respect to potential amenity and pollution concerns, that the Applicant should provide an assessment of impacts arising from the proposed development (noise, dust, fumes etc.) and that any necessary mitigation measures should be specified. The Applicant has since provided a statement on these particular matters which Environmental Health advises, requires a few tweaks with respect to the proposed mitigation measures in order to secure its support. These primarily relate to the need for agreed complaints procedures for the regulation of air quality, dust and noise; the need for the regulation of air quality and dust mitigation measures to be made the responsibility of a specific role within the operation; and the need for lighting installation to comply with recommendations of the Institution of Lighting Engineers. It is considered that all of these matters can be made the subject of planning conditions requiring agreement of the requisite details prior to the commencement of operations.

Landscape Section: advises that in landscape and visual terms, the site is extremely exposed and would be in full view of the A702 road from both directions, and from and within the setting of the Pentland Hills Special Landscape Area (SLA) which lies to the north. Since there are large buildings in the wider countryside, usually associated with farm steadings, the impact is not completely unexpected, but the additional yard storage area constitutes further visual intrusion. There is also anticipated to be visual impacts associated with 24/7 hours of working and the need for any yard lighting.

It is considered absolutely essential that maximum advantage is taken of opportunities for mitigation to reduce visual impacts, specifically:

- (i) the prior agreement of the finished colour(s) of the proposed buildings;
- (ii) the prior agreement of the details of the proposed bund;
- (iii) the regulation of any lighting to minimise unnecessary light spillage outwith the site;
- and
- (iv) the provision and strengthening of screen planting

A 'Marked Up Plan' has been provided by the Landscape Architect to illustrate specifically what would be sought. The amended site plan reflects the additional planting that was sought, and is considered to represent as much as could be done to balance the needs of screening and the ecological/habitat interest. It is anticipated that within five to ten years, this reinforced planting should screen the development from the road.

Archaeology Officer: there are no known archaeological assets within the development area, but based on discoveries in the wider area from a range of periods, as well as upon underlying sub-soil deposits (both peat and sand and gravel deposits), there is moderate potential for the site to contain previously unknown archaeological features, deposits or objects. To assess this, a 10% trial trench evaluation of the entire development site should take place in advance of development. Further investigation and dissemination may be required depending on the results. To this end, a planning condition requiring a developer funded field evaluation is recommended.

Ecology Officer: initially responded to require that prior to determination, a proportionate Ecological Impact Assessment (EclA) should be submitted for the Planning Authority's approval, including an assessment of potential impacts on Ingraston moss pLBS, European Protected Species (otter), badger, and breeding birds. Following the submission of this EclA, the Ecology Officer has more recently responded to advise that the proposal is acceptable from an ecological perspective, provided planning conditions are applied.

Education and Lifelong Learning: advises with respect to the proposed new dwellinghouse that financial contributions would be required towards education provision for the local Primary School and High School.

Statutory Consultees

Community Council: supports the application on the grounds that:

- (i) the Applicant operates a well-established business with a current base that it serves from Dolphinton, removal from which would present dangers to the business;
- (ii) the Applicant has made attempts to obtain premises elsewhere but these have been unsuccessful and the proposed location is the best solution for the business' long-term future;
- (iii) the Applicant experiences a high level of difficulty and constraint upon his operation at its current site, with little to no prospect of expansion of the cement delivery part of the business;
- (iv) coupled with the possibility of losing the manufacturing and storage area for the high-volume component of the business, a move is necessary to grow the business; and
- (v) the proposed buildings are agricultural in appearance, would be located within a natural dip, would be screened by a bund and trees. Taking account of the above, the Community Council finds that the Applicant has satisfied Local Development Plan Policies ED2, PMD2, and ED7. Within this assessment, it supports the Applicant's advised need for a dwellinghouse to be present on the site, to secure equipment and

other assets.

Transport Scotland: No objection, subject to the imposition of conditions in relation to access construction and visibility.

Scottish Natural Heritage: initially responded to object to the proposals on the basis that further information was required to assess whether or not the proposal would affect the integrity of the Dolphinton – West Linton Fens and Grassland Site of Special Scientific Interest (SSSI). However, following review of the Applicant's Ecological Impact Assessment (EclA), SNH has more recently advised that notwithstanding certain deficiencies in the information provided, it is content that the natural heritage interests of national importance adjacent to the site would not be affected by the proposal. Accordingly, is able to withdraw its initial objection. This is based on its understanding that the development would be operated in accordance with the Applicant's advice, and that certain highlighted matters would require to be regulated by SEPA under the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC) and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR).

SEPA: initially objected on the grounds of a lack of information on foul and surface water drainage. In particular, information was sought as to whether or not foul drainage would involve a private discharge. Following submission of a plan of the proposed site drainage, SEPA has more recently responded to advise that it is content to withdraw its objection on the basis that the proposed drainage arrangements are acceptable in principle.

Health and Safety Executive: does not intersect a pipeline or hazard zone.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Adopted Scottish Borders Local Development Plan 2016

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy PMD4: Development Outwith Development Boundaries

Policy ED2: Employment Uses Outwith Business and Industrial Land

Policy ED7: Business, Tourism and Leisure Development in the Countryside

Policy HD2: Housing in the Countryside

Policy HD3: Residential Amenity

Policy EP1: International Nature Conservation Sites and Protected Species

Policy EP2: National Nature Conservation Sites and Protected Species

Policy EP3: Local Biodiversity

Policy EP5: Special Landscape Areas

Policy EP8: Archaeology

Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

Policy EP13: Trees, Woodlands and Hedgerows

Policy EP15: Development Affecting the Water Environment

Policy EP16: Air Quality

Policy IS2: Developer Contributions

Policy IS4: Transport Development and Infrastructure

Policy IS6: Road Adoption Standards
Policy IS7: Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
Policy IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy

PAN 60 – Planning for Natural Heritage

KEY PLANNING ISSUES:

Whether or not the proposal to locate and operate industrial business premises at this rural site is appropriate, including in terms of landscape visual and environmental impact;

Whether or not a residential property at this rural site is appropriate in planning policy terms.

ASSESSMENT OF APPLICATION:

Planning Policy - Proposed Business Premises

Local Development Plan policies direct development to appropriate locations, primarily within development boundaries and, in the case of business development, to land allocated for that purpose. Any other proposal is required to justify the need for the location proposed.

Policy PMD4 states that where development boundaries are defined on Proposals Maps, these indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. As such, proposals for new development outwith the development boundary and not on allocated sites should normally be refused.

The policy does however allow that an approval might be granted exceptionally, where strong reasons can be given that it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2; or that it is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary. In either case, the development must also be able to meet the determining criteria of the policy in question.

While it is acknowledged that approval would result in the benefit of the removal of the existing business operation from a residential area within the development boundary at Dolphinton, this would not be the 'significant community benefit' that could justify the proposal being made the subject of an exceptional approval under Policy PMD4. The potential benefit to the surrounding area of removing the existing business premises from the village is material, but it does not address the primary purpose of the policy which is to ensure that development outside development boundaries is properly justified. The "community benefit" test for the purposes of this policy is whether the proposed use is one that delivers significant benefits to the community that it might not

be possible to accommodate within a settlement. Examples given in the plan for community uses are schools, community centres or a health centre.

A case needs to be made for the particular location of the development and, while a general case has been made to support the relocation of the business in this case, it has not been demonstrated that this is the only site to which the circumstances would apply.

Local Development Plan Policy ED7 requires that, in order to be supportive, the Council should be satisfied that there is an economic and/or operational need for the proposal to be located on this site, in the particular countryside location identified, and that the business could not be accommodated within the Development Boundary.

The site is an undeveloped field, some distance beyond the Development Boundary, which is not allocated for industrial use, or indeed for any other use. The business use described encompasses both Class 6 storage use and Class 5 industrial use, which have no requirement to be sited and operated in the countryside. Such premises would ordinarily be expected to be accommodated within the Development Boundary, more particularly within an industrial estate, more suited to such uses, avoiding the release of undeveloped sites in the countryside.

The applicant however maintains that there is an economic and operational need for the specific proposed business premises to be sited and operated from this particular countryside location. This is on the grounds that the premises would accommodate existing businesses which need to continue operating from the Dolphinton area, to service an established customer-base. This also requires good access to the A702; a larger purpose-built site capable of accommodating the businesses' expansion; and sufficient set-back from the nearest dwellings to conserve neighbours' residential amenity. Taking account of these considerations, and the applicant's inability to secure such a site within the Development Boundary at Dolphinton, the applicant contends that he had no option other than to identify a site outwith the Development Boundary, but in close proximity to Dolphinton.

With respect to the selection of the specific site, the applicant advises that in addition to the above, the lack of other opportunities to buy land within the surrounding area, coupled with this particular land owner's willingness to sell the application site to the applicant at a competitive price, have been significant factors for the applicant. While the applicant has considered other sites within the wider area, including allocated industrial land in West Linton and Peebles, he advises that he has encountered problems with respect to land owners being unwilling to sell land at an affordable price or with respect to difficulties relating to vehicular access and movements along the local road network. Ultimately however, his main concern has been that the businesses' established operations should not be removed too far from their existing base.

The Council's Economic Development service is supportive of the applicant's proposals and corroborates the efforts that the applicant has made to identify alternative premises elsewhere, in Peebles and West Linton, as well as the level of difficulty that the Applicant has had in attempting to secure any established industrial premises or allocated business land within the surrounding area.

Taking account of concerns with respect to the protection of residential amenity and appropriate arrangements for the accommodation of vehicular parking and movement, it

is clear that the applicant's ability to secure an appropriate alternative site within the Development Boundary at Dolphinton is extremely limited. It is therefore broadly accepted that the Applicant has a requirement for a new site outside of the Development Boundary at Dolphinton.

However, whilst the case for a new site is acknowledged, it is still necessary to assess the location of the chosen site and the likely impacts arising from that choice. The fact that the site is highly visible is likely to accentuate those impacts, bringing into question whether this is the most appropriate site for the development being proposed.

A difficulty remains that there is little indication of any rigorous attempt on the part of the applicant to secure any other specific site beyond the application site. Ahead of the identification of a greenfield site, it would have been necessary to have first sought to identify suitable brownfield land within the vicinity, such as the quarry or a farm steading. Within the supporting case, site selection relative to certain other identified alternative sites within the surrounding area, is largely only explained by the fact that the application site lies within the ownership of a third party who is willing to sell the land at a price that is considered to be acceptable to the applicant. However, in a system concerned with land use impacts, no account can be had to the fact that the applicant may have to secure land at a more competitive price than otherwise might have been the case, as this could be argued against any site.

The applicant has, quite reasonably, identified a site within immediate proximity to the trunk road, but this proximity in itself does not justify the selection of this precise site over any and all other potential sites. It is an argument that could be applied to a number of sites.

Although some details have been provided of a site search involving thirteen alternative sites, these do not identify any specific sites so much as rural land owners (mostly farms) within the surrounding area that have been contacted by the applicant about the possibility of selling land. The majority of these have been discounted on the basis that the land owners are unwilling or unable to sell, which although a practical consideration, is not a compelling justification for the application site.

Amongst these sites identified as being unavailable is Garvald Quarry, where the applicant's block-manufacturing operation is currently accommodated on land leased from the quarry owners, Tarmac. The applicant is concerned that there is likely to be a short-term need for him to relocate away from the quarry ahead of the latter being reactivated. While Tarmac's emailed advice to the applicant confirms the owner's reluctance to sell to the applicant the existing block-manufacturing site (or any other land currently within its ownership), it only appears to identify a long-term concern to reactivate the quarry, and does not rule out the potential to extend in area or time, any lease of the same land to the applicant. The applicant's concern is that he wishes to own the land ahead of investing in any buildings, which appears to make the land unavailable in this particular case. While the opportunity to invest in, and grow the business through the acquisition of a site and accommodation of both businesses, is understandable, it is unclear to what extent the applicant is setting parameters that exclude what may be viable and more acceptable ways of operating in planning terms. It is not for example, altogether apparent that block manufacturing operations could not be continued, even scaled up, at the quarry at present or within the foreseeable future, and within temporary rather than permanent buildings. The applicant's concern to buy a

site and centralise his operations would appear to be a significant driver, and undue weight cannot be given to this where opportunities for more flexible operating arrangements have not been sufficiently explored within the supporting details.

The supporting case has not demonstrated that the applicant's needs could only be met at this particular site. In fact, insufficient information has been presented to demonstrate that the proposal might not have been accommodated just as readily on brownfield land within the surrounding area, or where the site might have benefited from existing accesses, established yards, buildings and/or established landscaping. The applicant does evidence communication with surrounding land owners with respect to his interest in acquiring land, but the information is general, and the exact terms of any expressions of interest are not fully detailed.

In summary, although the case for relocation is accepted, the supporting case for the choice of site appears to rest upon the availability of the application site for sale and the economic benefits to the applicant of securing a large area of land relatively inexpensively, perhaps precisely because the land is not allocated for business or any other land use. These factors do not in planning terms justify support for this application site over any other area of land within the wider area, or override established policies designed to protect the countryside against unjustified development. It is again, an argument that could be applied often and to many sites. To this end, it is considered that the applicant has not demonstrated that there is an economic and/or operational need for the particular countryside location of the site and therefore the proposal is contrary to the requirements of Policy ED7.

Planning Policy - Proposed Dwellinghouse

In planning policy terms, the application site is an isolated rural site, lying as it does outwith the Development Boundary at Dolphinton and in isolation from any existing building group, where small scale residential development might be considered acceptable. In order to comply with the requirements of Adopted Local Development Plan Policy HD2, therefore, any new dwellinghouse proposed for this site requires special justification and would normally only be supported if it were necessary as direct operational requirement to support an business requiring a functional need to accommodate a worker on-site, on a full-time basis at the site.

As noted in the preceding section, the case for the business is not considered to have been made and therefore, if Members accept that position, then it correspondingly follows that there would be no need for a house at the site. On this basis alone, the proposed dwellinghouse would fail to comply with the requirements of Policy HD2.

Even if the case for the business is accepted, it is legitimate to consider whether the need for a house at the site has been made.

The Applicant advises that he may need to operate the cement supply business at unsociable hours, and prepare cement for dispatching at relatively short-notice to meet quick-turn-around or emergency contracts.

It is acknowledged that the business's workers might require to access the site at unsociable hours to prepare and dispatch cement supplies at short-notice; and that having a worker living within a relatively short distance to the site would undoubtedly be

helpful to the operation; however, this does not necessarily translate into an overriding need for there to be a worker actually residing on site on a permanent basis.

It does not appear operationally necessary that the same individual would be permanently required on site to prepare cement for distribution other than in direct response to a customer's specific order. It is not disputed that the business may operate on a 24-hour, 7-days-a-week basis, but this in itself does not justify any operational need for a dwellinghouse on site so much as suggest that this concern would in fact be better met by shift-working. It is therefore not accepted that there is any operational requirement for any worker to reside on site to meet these short-term and emergency cement supply contracts.

The applicant also seeks the permanent presence on-site of a worker for security reasons. However, it would be reasonable to ask whether any security issue might be addressed in other ways, such as a perimeter of security fencing and/or use of surveillance cameras. It is not clear that the need for a house is any greater than for other business operators, for example, on an industrial estate where there would be equivalent needs and concerns to store valuable vehicles and equipment securely.

It might be argued, with respect to the business operations described, that accommodation for a duty worker or watchman could fulfil the need, rather than a family home for the Applicant himself. The proposed site is sufficiently close to the nearby building group that it would be possible to be available at short notice to deal with any issues.

A site office could readily be accommodated on site and would address the suggested requirement.

Taking account of all of the above, it is not considered that the applicant has demonstrated compliance with the requirements of Section (F) Economic Requirement of Policy HD2. There is no justifiable operational requirement for a residential property to be located outwith the Development Boundary for the purpose of supervising new purpose-built premises for a cement supply business and a concrete block manufacturing and supply business; especially premises that are not already established on-site, as in this case.

This would seem to reinforce the view that this is not the appropriate location to establish the business. Even if it were accepted that the applicant has a justifiable operational need to be accommodated near his business premises, it would be appropriate to have considered locations where there was already an existing house, ahead of establishing a new site which could then only be served by a new house. It is a requirement of Policy HD2 that new housing should only be permitted where no suitable existing house or other building capable of conversion to residential use is available.

If Members do accept the case for the house, it would be legitimate to require that the dwellinghouse should be constructed at the same time as, or after, the business premises buildings, in order to avoid the risk that an isolated new dwellinghouse in the countryside is built and the business is not. It would also be appropriate to require by condition that the house should be retained within the same planning unit as the business premises, and only be occupied by someone who works within, or has retired from, the associated business premises. This would also ensure that the operation of

the business premises would have no unacceptable impacts upon the amenity of the occupants of the residential property.

Planning Policy ED10: Protection of Carbon Rich Soils

Local Development Plan Policy ED10 serves to protect carbon rich soils, specifically by requiring that development on carbon rich soils should be refused unless: the land is allocated for development within the local plan; the development meets an established need that cannot be met by any other site; and/or the development is small scale and directly related to a rural business.

The applicant advises that notwithstanding that the site is located within an area of Carbon Rich Soils, the specific on-site conditions are not favourable to the conservation of deep peat deposits. This includes a history of cyclical ploughing, sowing and ongoing improvement of the land for farming through field drainage and fertilizer applications. Further, he advises that construction would be a one-off event, unlikely to release any more carbon than the continuation of farming at the site. As such, he maintains that the actual quality of carbon rich soils at the site is now liable to be sufficiently diminished that the proposal would not be liable to have any unacceptable impacts upon this resource.

The applicant's evidence on this matter is not comprehensive, and does not in itself reasonably allow Policy ED10 to be set aside. The latter policy in any case, identifies circumstances in which it would be appropriate to allow development to be accommodated, where it otherwise meets the policy's requirements. These largely mirror the considerations that are assessed under Policies PMD4, ED7 and HD2, as detailed above.

Accordingly, and in line with a recommendation that the development of this particular rural site for the proposal has not been substantiated, and there is no operational justification for a house on this land, it would follow that the proposal would also not comply with Policy ED10, in that the impact on a designated area of carbon rich soils is unnecessary and unacceptable.

Design and Layout

It is accepted that a robust landscaping scheme and the selection of dark or natural colours as would normally be used on modern farm buildings, could provide sufficient landscape and visual mitigation of their appearance, although this will take time to establish. Similarly, strong screening at lower levels from the proposed bunding and the proposed tree planting could also form an acceptable containment of any external yard areas. Such matters are capable of being regulated by appropriately worded planning conditions.

In other circumstances, the proposed design of house would have raised considerably more concerns than it does here – principally because the main roof ridge has a continuous height, giving it an unusual form, as well as an overly exaggerated horizontal emphasis. However, as an isolated residential property that would be located behind considerably larger business premises buildings relative to the trunk road, and subject to an appropriate landscaping treatment for the wider site, it would have relatively insignificant landscape and visual impacts in views from the A702 and the surrounding countryside. It would still be appropriate to require that its external materials and

finishes should be regulated, including the prior approval of the render colour, to ensure a satisfactory finished appearance.

Road Safety, Access and Parking

Notwithstanding objectors' concerns about road safety on this stretch of the A702, Transport Scotland (who have responsibility for the trunk road network) have raised no objection, subject to requirements with respect to the formation, construction and operation of the site access being met in full. Again, such matters are capable of being addressed by planning condition.

Landscape and Visual Impacts

The site is currently highly visible from the main road and any landscaping required to mitigate the visual effects of the large-scale development proposed will need to be significant and may take several years to fully establish.

The Landscape Section is fully supportive of the Applicant's revised proposals for landscaping treatment for the site, which appears extensive and robust with respect to proposed new tree planting, particularly in the area between the site and the trunk road.

A point of note is that much of the land that is shown to accommodate new tree planting, is not in fact within the application site. Indeed, it is also not within the applicant's own ownership, although is currently within the same ownership as the application site. The applicant has however supplied a letter confirming the current land owner's stated intention to sell this additional land to the applicant, as part of any purchase of the application site. The matter would certainly require to be regulated by planning condition. Such a condition would need to be "suspensive", meaning that it would require the planting to take place first, in turn meaning that the applicant will need to have first acquired this additional land ahead of the commencement of any development.

In the event of permission being granted, there would also be a need for further planning conditions referencing both the applicant's proposed landscaping treatment and requiring the submission and prior approval of the precise details of the proposed tree planting scheme.

It would also be necessary, if permission were granted, to require the prior agreement of the finished floor levels, and finished ground levels. Similarly, the details of the finished appearance of any bunded feature, including heights and profile would also require to be provided for prior approval, to ensure a satisfactory finished landscaped appearance for the site in views from the public road.

Residential Amenity

The proposed distance of set back of the site from the Development Boundary at Dolphinton, does largely ensure that the businesses' operations would not be liable to have any unacceptable impacts upon the amenity of the nearest residential properties. Nonetheless, Environmental Health retains some concerns with respect to the management of air quality, dust, noise, and lighting. Environmental Health Officers do however consider that these concerns can be addressed under appropriately worded planning conditions.

Advice with respect to lighting does however raise a difficulty in that the applicant's concern to operate 7 days a week, and potentially on a 24 hour basis does indeed suggest that the operation would have some requirement for the installation and use of lighting. However, no specific lighting proposals have been set out within the proposals.

There is potential for lighting to be installed as permitted development (e.g. as lights on buildings), but in the event of approval, it would still be appropriate to ask the applicant to refer to the Planning Department with respect to any future lighting proposals, primarily enable assessment of the lighting concerned.

Cultural Heritage and Archaeology

The Archaeology Officer's concern is capable of being met by an appropriately worded planning condition.

Natural Heritage

Following the provision of additional details, both the Council's Ecology Officer and SNH are now satisfied that the proposals would have no unacceptable impacts upon the natural heritage interests at the site and in the surrounding area subject to their stated concerns being met within appropriately worded planning conditions.

Infrastructure

SEPA's concerns are largely capable of being met by informatives, and a condition to regulate the implementation of proposals for the operation of an appropriate foul drainage system.

Developer Contributions

A legal agreement would be required in the event of approval, to secure the requisite development contributions towards local education provision.

Other Concerns

Notwithstanding the concerns of one of the objectors, notification was in accordance with statutory requirements. There are no residential properties within 20m of the site boundary that would have necessitated specific notification.

Objectors' concerns that the site might end up in alternative business and/or residential uses have some credibility. Once established, other businesses within the same use class could benefit from the permission. It is unlikely the proposed buildings would be used for farming and new uses, most likely new commercial uses, could operate from the buildings without the need for further consent from the Council. If permission were to be granted, it would therefore be advisable to restrict by condition the use to that proposed by the applicant, to ensure that there would be full and appropriate scrutiny of any potential successor business operations.

The site is not within a flood risk area or Conservation Area.

The future use and disposal of the Applicant's existing business premises at Dolphinton, are not a matter for consideration as part of this application.

CONCLUSION

The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with Adopted Local Development Plan Policies PMD4, ED7 or ED10 in that the Applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location.

The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and therefore does not comply in principle with Adopted Local Development Plan Policies PMD4, HD2 or ED10.

The proposal relates to a site that lies outwith the Development Boundary and no overriding reasons have been given to substantiate that it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2; or that it is a development that would offer significant community benefits that would outweigh the need to protect the Development Boundary. As such, the proposal does not comply in principle with, or with any of the justified exclusions allowed from, Adopted Local Development Plan Policy PMD4.

Notwithstanding the potential to realise benefits both to the Applicant's businesses and wider local economy; and indirectly to the amenity of residential properties around the Applicant's existing premises in Dolphinton, it is considered that there are no other material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend that the application is refused for the following reasons:

1. The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with adopted Local Development Plan Policies PMD4, HD2 or ED7 in that the applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location and therefore the proposed development would represent unjustified, sporadic and prominent development in the open countryside.
2. The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and therefore does not comply in principle with adopted Local Development Plan Policies PMD4 and HD2.

3. The proposed development would result in the unjustified and permanent loss of carbon-rich soils, contrary to Policy ED10 of the adopted Local Development Plan.

DRAWING NUMBERS

Plan Ref	Plan Type
BMIX01 PL001	Location Plan
BMIX01 PL002 B	Site Plan
BMIX01 PL003	Floor Plans
BMIX01 PL004	Elevations
BMIX01PL005	Elevations
0329 PL004	Existing Layout

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.

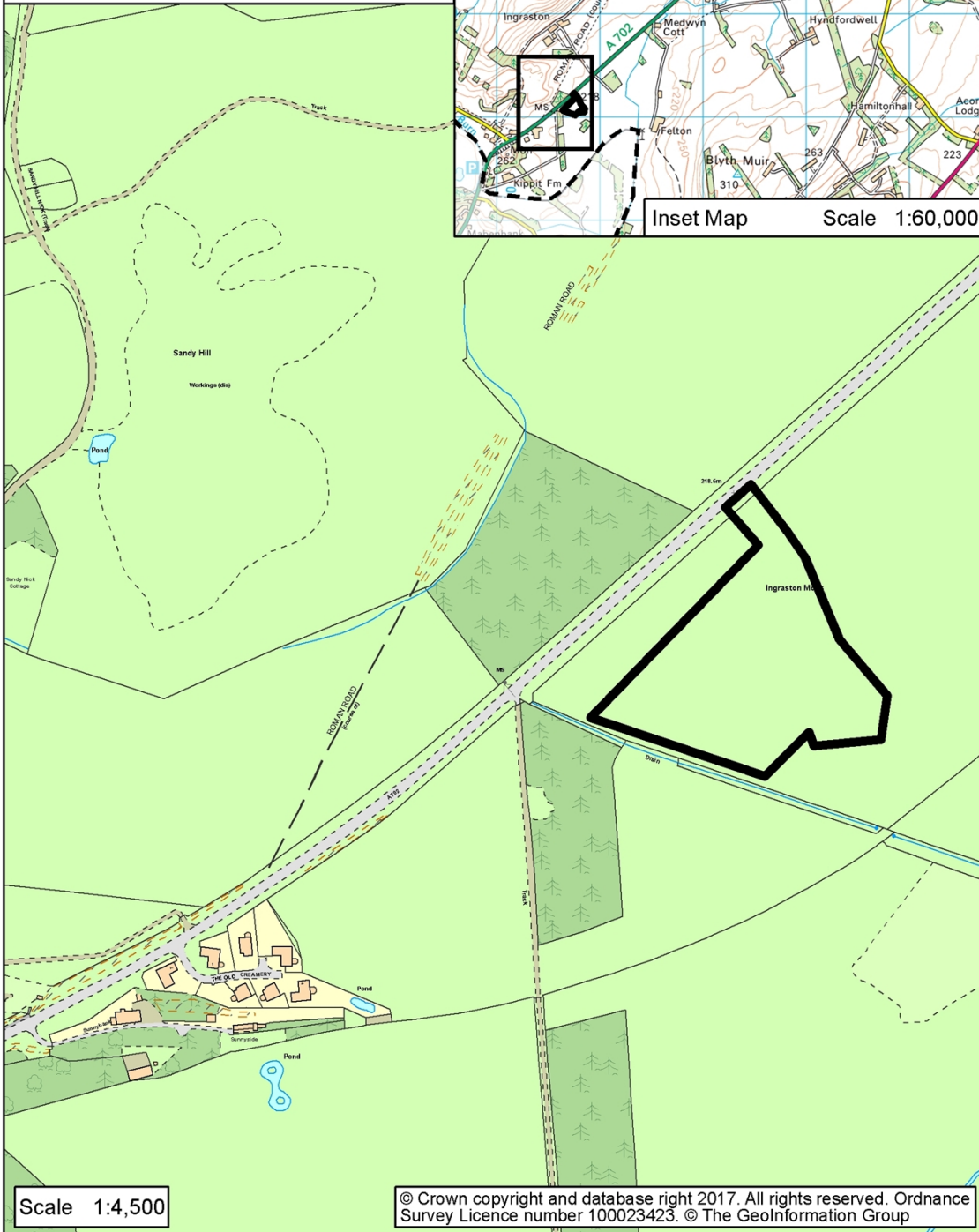
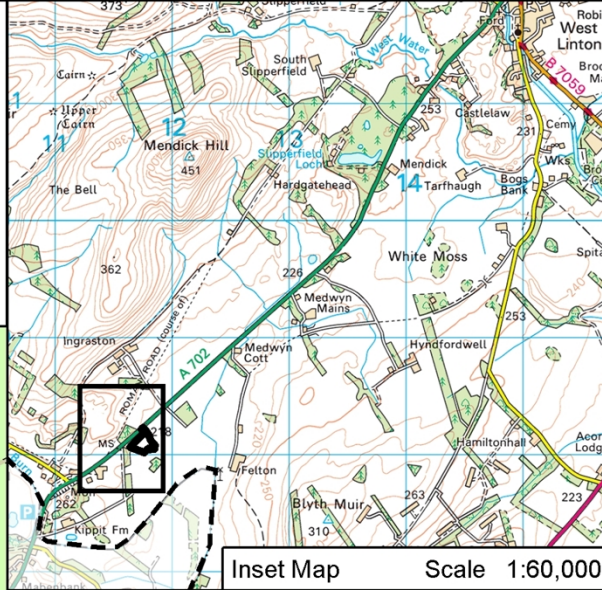
Author(s)

Name	Designation
Stuart Herkes	Planning Officer



17/00087/FUL

Land North East Of
3 The Old Creamery
Dolphinton



This page is intentionally left blank

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

07 AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00492/MIN
OFFICER:	Stuart Herkes
WARD:	Leaderdale And Melrose
PROPOSAL:	Extension of consented life of quarry by deepening area consented by previous minerals consent 09/00897/MIN
SITE:	Quarry Soutra Mains Farm, Blackshiels, Soutra, Oxton
APPLICANT:	Skene Group
AGENT:	Ironside Farrar Ltd

SITE DESCRIPTION

The site is land within an existing and operational hard rock quarry at Soutra Hill, which lies on the northern edge of the Soutra Plateau, immediately upslope and to the south of the regional boundary with Midlothian. It coincides with the site that is the subject of Minerals Planning Consent 09/00897/MIN, which permitted an extension of workings into former grazing land to the east and south of the quarry.

Soutra Hill Quarry extends to slightly under 40 hectares and lies to the southeast of the junction of the B6368 with the A68. This same junction accommodates the movement of traffic between the site and the Trunk Road (A68). The Dun Law wind farm lies to the southeast of the quarry; and the Soutra Aisle Scheduled Monument lies to the southwest. An area to the northwest was used as a police firing range. The nearest residential property is Soutra Mains Cottage on the opposite side of the B6368, near the quarry entrance.

PROPOSED DEVELOPMENT

The proposal is for the working life of the quarry to be extended by allowing for the deepening of extraction works within and below the footprint of the site that is already the subject of the quarry extension operations consented by Minerals Planning Consent 09/00897/MIN. It is proposed that the quarry should be deepened below the currently approved maximum floor working depth (318m AOD) by a further two downward tiers, each of a depth of 18m. These would take the quarry floor from 318m AOD down to 300m AOD, and then eventually to 282m AOD. This would equate to the working of an additional reserve of 1,677,600 cubic metres, which translates to 3,892,032 tonnes of material, and it is estimated at the current extraction rate of 450,000 tonnes per annum, an extension in the working life of the quarry from the current projection of 18 years to an anticipated 27 years.

There would be no change to the surface area of the quarry, only the deepening of quarrying itself within the same footprint. The only new impacts upon the environment and amenity of the site and surrounding area, relate to the deepening works which themselves directly affect the timescale of the proposed quarrying operations, ground water management, and the site restoration proposals. Otherwise it is anticipated that the same or equivalent impacts as would occur relative to the operations consented by Minerals Planning Consent 09/00897/MIN, would apply.

It is estimated that extraction is liable to occur 63m below groundwater level. It is advised that for safety reasons, the void would therefore require to be dewatered to accommodate the proposed extraction works.

A Screening and Scoping Opinion was sought and provided last year in relation to this proposal, and has informed the Applicant's presentation of the application. As requested at the time of the Screening and Scoping Opinion Request, the Applicant has provided an Addendum Report to the Environmental Statement provided at the time of Minerals Planning Application 09/00897/MIN. (This document is hereafter referred to, as: 'the ES Addendum'). The Applicant reports a pre-application public consultation exercise, which raises no concerns with respect to how it has been conducted and reported.

The Applicant has applied to deepen the quarry and extend the period of operations of quarrying on the site beyond the depth and time parameters that were established under Minerals Planning Consent 09/00897/MIN. However, the Applicant still has 18-years-worth of extraction to go under the current Minerals Planning Consent. Furthermore, the Applicant has explicitly advised that they would not anticipate progressing extraction to the proposed additional downward tiers until around 2034. Accordingly, the Applicant is extremely unlikely to be within any position within the next three years, to begin extraction of material from below the maximum floor depth allowed to it under Minerals Planning Consent 09/00897/MIN. Operationally speaking, this would be liable to make any minerals consent granted further to any approval of the current application effectively redundant, since this consent would have expired long before the Operator would be in any position to implement it.

Taking account of the above, it is considered that it is appropriate to consider the current proposal as fully incorporating the minerals development that was consented under Minerals Planning Consent 09/00897/MIN, as well as the further extractions and time extension that are proposed within the current application. To this end, what is under consideration here is a replacement of the current consent, incorporating both the current consented quarrying operations and the proposed extensions to the depth and timescale of those quarrying operations which are now proposed.

PLANNING HISTORY

Consent to work the quarry at Soutra Hill commercially, was originally granted in July 2006 by Minerals Planning Consent 05/01374/MIN. Subsequent to this, in April 2010 Minerals Planning Consent 09/00897/MIN granted consent for the quarry to be extended to the east and south, and operated for a period of 25 years from the date of issue.

Minerals Planning Consent 09/00897/MIN was approved subject to twenty-seven planning conditions which address concerns with respect to the regulation of the time, depth and areas to be worked; aspects of the operation of the site, including the

regulation of dust, noise and vibration; traffic management to and from the site, on the surrounding road network; landscaping; ecology; and archaeology.

Given that the site that is the subject of Minerals Planning Consent 09/00897/MIN, is the site area which is the subject of the current minerals planning application, there is a requirement to revisit this consent and all conditions imposed upon it in detail within the assessment set out below.

In addition to the consents for quarrying at the site, the Applicant has in the intervening years also secured a Permitted Minerals Development (10/01372/PAMIN) for a plant for the establishment and production of ready-mix concrete and more recently, full planning consent for an industrial shed incorporating office accommodation (13/00851/FUL). While the batching plant is on-site and operational, the industrial shed was not observed to be *in situ* at the time of the planning officer's most recent site visit in June.

REPRESENTATION SUMMARY

One member of the public has responded in support of the proposals on the grounds that it would safeguard jobs and provide the region with aggregates, ready mix and concrete blocks.

APPLICANTS' SUPPORTING INFORMATION

The application is supported by the following documents:

- Planning Supporting Statement;
- Addendum Environmental Statement and supporting Appendices document;
- Environmental Statement – Non Technical Summary;
- Pre Application Consultation Report; and
- Follow-up Document responding to Statutory Consultees.

These documents are all available for viewing in full on the planning pages of the Council's website.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Section: advises that there are no archaeological implications.

Ecology Section: notes SEPA's advice that there are no obvious barriers to an increase in abstraction volume, but that this would still require to be made the subject of an application to vary an existing CAR licence. With respect to the ES Addendum, it is agreed that there are unlikely to be any significant adverse impacts on the ecological interest, as a result of the development. However, it is noted that with the extension of the period of extraction, and with the ongoing phased quarrying works, areas of vegetated ground would continue to be cleared in phases. Taking account of this, an informative is recommended to advise the quarry operators on the statutory need for, and requirements of, the protection of breeding birds.

Environmental Health Section: has no comments to make with regard to potential land contamination; but with regard to amenity and pollution issues, it advises that it has considered the application with respect to air quality, noise nuisance and private water supply. It finds the environmental impacts acceptable, subject to all existing conditions relating to the protection of the environment and residential amenity that were imposed upon Minerals Planning Consent 09/00897/MIN, being re-imposed on any new consent issued.

Flood Prevention Section: the site is not at risk from a flood event with a return period of one in two hundred years but it is noted that there are a number of small watercourses near to the site which are not included on the flood map. It is therefore considered that the flood risk may not be fully representative. The indicated surface water drainage route from the site (via a French drain adjacent to the access road, under the A68 to the Linn Dean Burn) has never been utilised and no discharges from the site to the Linn Dean Burn have occurred.

Flood Prevention notes the advice of the ES Addendum report (12.6.2), firstly, that enlargement and deepening of the quarry void would increase the volume of water intercepted such that off-site discharge would be required; and secondly, that on-site provision should be made for the accommodation of approximately 25,400 cubic metres of attenuation storage. However, Flood Prevention considers that since the requirement for this amount of storage is some years away, and since there is currently a discharge system in place, it agrees with the recommendations that the discharge might be reviewed annually, and discharge/storage options might be reviewed as the discharge volume approaches the CAR Licence limit, and downstream flood risk is re-assessed.

Landscape Section: notes that mitigation measures were agreed in relation to the previous minerals consent and these were for the purpose of minimising the visual impact of the development. The Landscape Officer is satisfied that had these mitigation measures been carried out fully, then the proposed deeper quarrying would not have a detrimental visual impact on the area, or upon sensitive receptors such as local residents, users of the A68 and visitors to Soutra Aisle. However, it is advised that this is not the case, even although large areas were planted with trees. Notwithstanding that some tree planting has taken place, the Landscape Section highlights its significant concerns that the landscaping that has been carried out has been inadequate and inadequately maintained relative to what was approved and required under the aforementioned conditions.

While the ES Addendum report acknowledges some concerns with respect to the landscaping that has been carried out, the Landscape Section considers that this does not address the true scale of the failure to meet the requirements of the conditions, and is concerned that the Applicant should now identify clearly what landscaping works have and have not taken place, and what remediation is necessary to allow the originally approved works to be delivered in accordance with the requirements of the planning conditions imposed upon Minerals Planning Consent 09/00897/MIN. Advice and observations with respect to what has gone wrong, or might be improved upon, is given within the consultation response. In addition to these remediation works, the Landscape Section seeks an annual inspection of the remedial works to the mitigation planting scheme by the Council for a further 5 years, to ensure that it satisfies the previous consent, which it considers should be a condition of any consent to deepen the quarry.

An additional concern raised by the Landscape Section is that little attempt is being made to effect a smooth bunding along the southeast and southwest part of the site, with the result that in views from the A68 to the southeast, and in views from Soutra Aisle to the southwest, the irregular bund profile is often seen along the skyline, drawing attention to the presence of the quarry. Landscape wants to see a proposal or strategy for dealing with the visual impact of topsoil bunds in these sensitive areas, given that the quarry is likely to be in operation for a longer period of time into the future if the current minerals planning application is consented.

Outdoor Access Section: advises that there are no claimed Rights of Way or Core Paths on the site.

Roads Planning Section: advises that the ES Addendum has confirmed that there would be no increase in daily traffic movements associated with this proposal. Accordingly, it has no objections.

Statutory Consultees

Community Council: has been consulted but has not responded to the public consultation.

Forestry Commission: has been consulted but has not responded to the public consultation.

Health and Safety Executive: does not advise against.

Historic Environment Scotland: does not have any comments to make upon the proposals.

Midlothian Council: has provided advice on all of the following matters:

Noise and vibration, air quality and dust – it recommends that the conditions established in the original consent in respect of these matters, should be continued over the period of the extended operations;

Water quality and drainage – asks that it be explicitly confirmed by the Applicant that Soutra Mains Farm and Woodcote Park have been provided with mains supplies. If these properties are still served by private supplies, Midlothian Council would wish conditions to be imposed to require ongoing monitoring at these locations, and to allow for intervention, should an interruption to adequate and wholesome supplies occur;

Residential amenity and traffic noise and dust – wishes to ensure that the amenity of communities and individual properties along the A68 route would not be adversely affected by quarry traffic. It considers that it would be advisable to control the dispatch of vehicles from the site through conditions, avoiding evenings and nights, and reducing impacts at weekends. It further seeks the sheeting of vehicles to minimise dust migration from loads.

Monitoring of extraction – suggests a requirement by condition for annual reporting of the amount of hard rock extracted from the quarry and reserves remaining therein, would be useful in the interests of monitoring compliance with the aggregates landbank

requirements of SPP (Paragraph 238).

SEPA: has no objection but provides advice on groundwater, and specifically the concern that if additional abstraction volumes were to be required to lower groundwater below the proposed maximum excavation depth of 282mAOD, this would be liable to require a variation to the quarry's existing dewatering licence. While SEPA does not foresee any obvious barriers to this, it nonetheless advises that any application to it to vary the aforementioned licence, would need to be considered at that future time and on the basis of the relevant and required supporting information. As a means of monitoring groundwater levels and collecting the required information, SEPA welcomes the excavation of four new monitoring boreholes in place of those that would be lost. Advice is given on the prevention of pollution to groundwater once activity ceases on site.

SEPA advises the site is not in a flood risk area, but notes that there are a number of small watercourses with catchments less than 3 square kilometres, within the surrounding area, and which have not been accounted for within SEPA's flood maps. It notes the advice of the ES Addendum report that the present CAR limits on discharge would be exceeded by the discharge rate which may be required, and that the current limits should be reviewed as discharge volumes become known in the future. However, SEPA strongly recommends that greenfield runoff rates should not be exceeded, but is content that runoff rates might be agreed with Scottish Borders Council as the flood prevention authority in consultation with SEPA, if so required.

Scottish Natural Heritage: advises that there are natural heritage interests of national importance within the area, but these would not be affected by the proposal. Since the proposal is to deepen the floor of the quarry within the footprint of the current works, there would be no adverse effects on the landscape. However, it highlights the need for renewed and revised restoration proposals; in particular, drawing attention to the benefits that could be derived by ensuring the master planned co-ordination of existing and maturing environmental mitigation with any proposed restoration planting or habitat. It advises that restoration proposals should include clear reference to relevant good practice, while also demonstrating compliance to quarry regulations relating to slope angles and safety issues.

Scottish Water: has been consulted but has not responded to the public consultation.

Transport Scotland: advises that a condition should be attached to any planning consent issued to require that wheel washing facilities should be provided within the site, to ensure that material from the site should not be deposited on the trunk road to the detriment of road safety. Its justification for this is that there have been a significant number of complaints received in recent months with respect to the migration of mud and spoil onto the A68, which has in places obscured road markings and studs on this section of the trunk road.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Adopted Scottish Borders Local Development Plan 2016

Policy PMD1: Sustainability

Policy PMD2: Quality Standards
Policy ED7: Business, Tourism and Leisure Development in the Countryside
Policy ED11: Safeguarding of Mineral Deposits
Policy ED12: Mineral and Coal Extraction
Policy HD3: Residential Amenity
Policy EP1: International Nature Conservation Sites and Protected Species
Policy EP2: National Nature Conservation Sites and Protected Species
Policy EP3: Local Biodiversity
Policy EP8: Archaeology
Policy EP13: Trees, Woodlands and Hedgerows
Policy EP15: Development Affecting the Water Environment
Policy EP16: Air Quality
Policy IS4: Transport Development and Infrastructure
Policy IS5: Protection of Access Routes
Policy IS7: Parking Provision and Standards
Policy IS8: Flooding
Policy IS12: Development Within Exclusion Zones
Policy IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy

KEY PLANNING ISSUES:

Whether or not the proposals to deepen and extend the operational life of the quarry would secure minerals development in a sustainable manner and without otherwise having any unacceptable impacts, including cumulative impacts, upon the environment of the site and/or upon the amenity and environment of the surrounding area.

ASSESSMENT OF APPLICATION:

Planning Policy Context

The site is land within an existing and operational quarry for which the Applicant has previously, and recently (2010), secured an extension to a previous minerals planning consent to extract aggregates. The principle of the land being used for minerals extraction has therefore been established and there is no objection in principle to operations continuing. The site is, for the most part, relatively well-screened although, as discussed, below, some additional mitigation may be required. Positive regard can also be had to the potential of the proposals to sustain employment in the local area in the long-term. The Applicant's information with respect to the anticipated future demand for hard rock aggregates is also a significant material consideration.

No statutory consultees have identified any concerns with respect to the principle of the level of extraction proposed, although Midlothian Council has highlighted a concern that the level of extraction should itself be monitored on an annual basis to ensure that it is in line with the requirements of Paragraph 238 of the SPP (2014). Given that the SPP post-dates the issuing of Minerals Planning Consent 09/00897/MIN in 2010, this could be required by condition to help safeguard sustainable extraction.

Allowing for this monitoring, the assessment of the proposal is confined to a consideration of the acceptability or otherwise of the impacts upon the amenity and environment of the site and the surrounding area, were the quarrying operations to be extended as proposed; and how such impacts might be appropriately regulated or mitigated under any new consent issued.

There are some specific issues raised by the proposed deepening and by the proposed revised operational period sought, which would only be addressed within new planning conditions (or new requirements within revised conditions) to ensure that these would be appropriately regulated and mitigated. For the most part, these relate to the implications for the management and monitoring of ground water levels; the duration of the quarrying operations; and the greater extent of the restoration works that would ultimately be required to reinstate the site after the cessation of quarrying operations.

Allowing for these exceptions however, consultees are otherwise mostly content that the proposals raise no fundamental concerns to those considered at the time of the determination of Minerals Planning Application 09/00897/MIN. Given the intention to effectively refresh this earlier permission, it would be prudent to revisit each existing condition of that permission, to establish whether or not it would need to be re-imposed; and if so, in what form precisely.

Before going on to look at specific concerns, the assessment of the existing conditions and their requirements needs to take account of some practical considerations:

Firstly, since the Applicant is capable of operating in accordance with Minerals Planning Consent 09/00897/MIN, it would be inappropriate to impose any more onerous requirements upon the existing operation than currently apply. Rather, the key concern is that as far as it is reasonably possible to do so, the minerals development augmented as proposed, should continue to be subject to the same or an equivalent level of regulation as is currently required under Minerals Planning Consent 09/00897/MIN. It is only where any new or significantly increased adverse impacts would result as a direct consequence of the implementation of the new proposals that any new requirements would be appropriately imposed upon the development within any new consent.

Secondly, given that the Applicant is working in accordance with a current minerals planning consent, it might be possible that all new or revised information should be provided within a more proportionate and relevant time-scale, rather than before any further operations continue. In this case, it would be appropriate to allow for these matters to be addressed ahead of the commencement of any extraction below 318m AOD.

Regulation of Minerals Development, including Period of Consent and Operations

As noted above, it would be problematic to retain any requirement by condition that any new minerals consent issued would expire if it is not implemented within three years of the date of issue. Accordingly, Planning Condition No 1 attached to Minerals Planning Consent 09/00897/MIN should be omitted from the schedule of conditions imposed upon any new minerals planning consent issued ulterior to this application.

There remains a requirement under Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, that

appropriate site notification be displayed at the site. This condition (Condition No 2 on the current minerals consent) therefore requires to be imposed upon any new consent.

The proposal that the quarry should operate for an additional nine years beyond the period of the consent of Minerals Planning Consent 09/00897/MIN, raises no concerns in principle. It might therefore be reasonably rounded up to a twenty-eight year period from the date of issue of any new consent. This would essentially allow for a ten-year period for the extension of quarrying operations at the site beyond that currently allowed by the existing consent. A new version of Planning Condition No 4 attached to the existing minerals consent might therefore be imposed upon any new consent issued, identifying a maximum time period of 28 years (instead of 25 years) for the operation of the consent.

In addition to the requirement that the maximum time period of quarrying should be restricted, it would again be appropriate to restrict excavations to the maximum depth identified within the supporting details, which is 282m AOD. Similarly then, a new version of Planning Condition No 3 attached to the existing minerals consent so amended, would be appropriately imposed upon any new minerals consent issued.

There is a requirement defined in Scottish Planning Policy for appropriate annual monitoring of the rate of minerals extraction from the site to be carried out. A new condition therefore requires to be imposed to address this issue. However, given that no equivalent monitoring by the Applicant is required in relation to excavations down to 318m AOD, it would only appropriately be required that such monitoring should only take place when extraction occurs below that depth, which would effectively denote the stage at which any new minerals consent issued would supersede the current minerals consent. Having been commenced below that depth though, monitoring of extraction should take account of the entire hard rock reserve within the quarry (rather than being confined only to reserves below 318m AOD).

Visual Impacts including Storage, Floodlighting and Fencing

In the interests of conserving the visual amenities of the site and surrounding area, a condition (No 5) was imposed upon the current minerals planning consent to require that no buildings, plant, machinery or stock piles should be stored out with the approved extraction area unless these were being utilised in connection with initial soil and overburden stripping, bund formation or planting works. This condition should be retained in relation to any new minerals consent issued.

Conditions Nos 6 and 7 on the current minerals planning consent required the prior agreement of floodlighting and fencing, and have been met. Any replacement condition(s) might more simply require that no new floodlighting or any new perimeter fencing should be installed on site, without the prior written agreement of the Planning Authority unless it is compliant with the details that have already been approved under Conditions Nos. 6 and 7 of Minerals Planning Consent 09/00897/MIN.

Landscaping, including Tree Planting and Bunding

Planning Conditions Nos. 11 and 12 attached to the current minerals planning consent, were imposed to require the submission and agreement of appropriate landscaping

details during the operational life of the quarry. They specifically required and regulated the formation of bunding (No 11) and tree planting (No 12).

The proposed area of extraction is the same as that consented under Minerals Planning Consent 09/00897/MIN. Accordingly, it is anticipated that the assessments of landscape and visual impacts made ahead of the determination of the previous minerals application remain valid to the assessment of the current proposal. Furthermore, it is also anticipated that all identified mitigation measures required to offset any unacceptable adverse impacts relating to the previous consent, should be retained in the event of approval. It is therefore a reasonable expectation that compliance with all details that were approved under the original conditions might reasonably be secured within updated versions of those conditions.

This is broadly the case and it would be appropriate to impose updated requirements by condition, to ensure that the approved landscaping and bunding would be maintained were any new consent to supersede the current minerals consent. However the Landscape Section has identified significant concerns with respect to the implementation and maintenance of the landscaping works that were approved and required by conditions attached to Minerals Planning Consent 09/00897/MIN; and identified a number of failures that it would wish to see addressed, going forward. Accordingly, it would be appropriate to attach an informative advising that the current landscaping does not meet the requirements of the conditions imposed upon both the current minerals planning consent, and that this requires to be addressed.

It is noted that the Landscape Section suggests new conditions imposed upon any new minerals consent issued, primarily to address its concerns with respect to remediation that is required to address the above noted oversights and failures within the landscaping and bunding. However, since these are matters regulated under conditions on the current consent in accordance with which the site is presently capable of being operating, it would not be appropriate to seek to impose any new or more onerous requirements by conditions to address issues that do not directly arise from the development being applied for. Rather, it is reasonable to require that the bunding and landscaping should be maintained in the forms in which these have been approved under the current minerals planning consent while pointing out in the informative, the need for remediation.

Water Environment

Planning Condition No 26 attached to the current minerals planning consent required the submission and approval of a Site Management Plan to identify measures to protect the water environment from potential contamination. This plan was approved, and the same condition requires the site operations of the current minerals development to be operated in accordance with it. However, as noted above, impacts upon the water environment are amongst those aspects that are liable to be significantly impacted by the proposals of the current application; chiefly in the proposal that the existing quarry be deepened by an additional 36m below the maximum depth allowed under the current consent. Since the approved Site Management Plan does not account for this, there is a requirement for new information that does to be provided for prior approval in the event of the deepening of the quarry being progressed.

While both note the potential for run-off from the site of the quarry to be increased over time as a consequence of the deepening extraction, neither SEPA nor the Flood Prevention Section have any concerns in principle, subject to the Applicant being aware of all requirements to be met under a CAR licence. However, the need for improved monitoring and management of surface water is identified by both, including the potential need in the later stages of extraction, for ground water to be attenuated on site.

It would be appropriate to require that no on-site attenuation should be established without the prior written agreement of the Planning Authority first having been given. In short, the matter might be appropriately revisited nearer the time that any actual need for attenuation is established. Regulation as proposed would also ensure that the precise form of any development would be capable of being reviewed ahead of its implementation on site.

Midlothian Council has asked that conditions should be imposed to require ongoing monitoring at any neighbouring property that is served by a private water supply, and to allow for intervention, should an interruption to adequate and wholesome supplies occur. The Applicant has confirmed its awareness that properties at Woodcote Park are still served by a private water supply, but advises that its agent (Hafren Water) considers that the risks of contamination from quarry activities migrating in surface or ground water to this well supply are “*minor to negligible*”. Midlothian has been re-consulted in light of this advice, but has not responded. It is therefore assumed that it maintains its concern that any private water supplies potentially at risk, should be made the subject of ongoing monitoring, with provision for intervention, should any interruption to adequate and wholesome water supplies be experienced. Such impacts are not specifically regulated under the current minerals planning consent, but given that the proposed deepening works would be more likely to affect the water table than the currently approved minerals development, this matter would be reasonably regulated by a planning condition imposed upon any new minerals consent issued.

Road Safety and Traffic Management, including Mud and Dust Migration

The Roads Authorities and Midlothian Council are content to support the current application, subject to the retention of the conditions currently regulating road safety and traffic management.

Planning Condition No 27 attached to the current minerals planning consent requires that the site operate in accordance with an approved Transport Management Plan. This requirement would be reasonably retained within an updated version of the condition, principally in its discouragement of site traffic departing to the west.

With respect to the operation having no unacceptable impacts in terms of the migration of dust and mud onto the Trunk road and local road network, it would be reasonable to maintain the requirement under Planning Condition No 24 attached to the current minerals planning consent that wheel wash facilities be maintained and operated. The Applicant has recently upgraded its wheel washing arrangements with better facilities which have already been inspected on site and approved under Minerals Planning Consent 09/00897/MIN. Given that these facilities are in place, it is reasonable simply to require that wheel washing facilities should be retained and operated throughout the period of consent.

Additional dust control measures are required under Condition No 23 attached to the current minerals planning consent. Again, and in line with the concerns of the consultees with respect to road safety and residential amenity, such requirements would sensibly be retained relative to the operation of any new minerals planning consent issued; along with the sheeting of loads - a measure that Midlothian Council is particularly concerned should be required by condition.

Residential Amenity including Noise and Vibration Nuisance

Environmental Health and Midlothian Council have considered the environmental health impacts and are content subject to the conditions that were imposed upon Minerals Planning Consent 09/00897/MIN to regulate noise and vibration, being imposed; that is, Planning Condition Nos 18, 19, 20 and 21 attached to the current minerals planning consent. These matters are appropriately capable of being addressed within updated planning conditions.

Planning Condition No 22 attached to the current minerals planning consent, restricts days and hours of operation for the minerals development, in the interests of conserving the amenity of nearby residential properties. The condition is capable of being imposed upon any new minerals consent issued, and appears to address Midlothian Council's concern that deliveries should occur within normal business hours. As the Applicant notes, this is the level of restriction that currently applies to their operation. Its extension to cover the proposed longer period of operation would be logical and reasonable.

Natural Heritage

Three conditions (Nos. 13, 14 and 15) were imposed upon the current minerals planning consent to regulate matters relating to natural heritage; but the requirements of all have been met and these conditions have been discharged. There is no reason or necessity to attach these same conditions, or even updated versions, on any new consent issued.

As far as the Ecology Officer is concerned, his advice with respect to the need for ground not to be cleared during the breeding bird season, unless a checking survey has first been completed, would be appropriately conveyed by an informative.

Cultural Heritage and Archaeology

Planning Conditions Nos. 16 and 17 attached to the current minerals planning consent were imposed to require that the site be subject to an Archaeological Evaluation. This work has now been carried out, these conditions have been formally discharged and the Archaeology Officer has in the context of the current public consultation, advised that there are no further archaeological or cultural heritage concerns. Accordingly there is no requirement for these previously imposed conditions to be retained on any new consent.

Land Restoration

Planning Conditions Nos. 8, 9 and 10 attached to the current minerals planning consent were imposed to require that measures be put in place for the restoration of the site. Given that a greater volume of material would now be removed from the quarry, it follows that the restoration, including the bond required under Planning Condition No 10

attached to the current minerals planning consent, would not address adequately all provisions that would now need to be incorporated to account for this significant change.

As it stands, a restoration bond has yet to be finalised under the requirements of Condition No 10 of Minerals Planning Consent 09/00897/MIN, but even if it had have been resolved in full accordance with the aforementioned planning condition, it would still not have accounted for the significantly greater costs that are liable to be involved in the infilling and finishing of the greater void that would be left at the completion of the proposals.

Rather than impose a condition to address this matter as before though, the requirement is more satisfactorily addressed through a legal agreement, requiring that such a bond should be concluded and thereafter monitored on a regular basis to ensure that the financial provision would remain proportionate to what any costs would actually be liable to be at the time of the restoration works themselves. Accordingly, and notwithstanding the current arrangement, a new version of Condition No 10 would not be imposed upon any new consent. Instead, the conclusion of a legal agreement to regulate the deposition and monitoring of the bond should be made a direct prerequisite requirement of the release of any new minerals planning consent to the Applicant.

Given that new restoration proposals would be required to remediate the greater void left by the proposed deepening works, a new scheme of restoration details would necessarily be required. This could though, be required and regulated along the lines allowed under Planning Condition No 8 attached to the current Minerals Planning Consent.

Something of a loose-end is the treatment of the smaller void within the northwest part of the site that has been used as a police firing range. The Environmental Statement at the time of the determination of Minerals Planning Consent 09/00897/MIN, had advised that there was a possibility that the firing range use would cease in 2017, at which point it was anticipated thereafter, that this land would be included within the mitigation measures during operation. Certainly, the firing range site was to be restored within the wider restoration proposals for the site, if its existing use were not to be continued beyond 2017 (the date of the review of the lease). A planning condition to regulate this specific matter is attached to the current minerals planning approval (No 9). Notwithstanding the fact that the Applicant has not yet clarified whether or not the area occupied by the firing range would be included within the restoration proposals, there is still potential to allow for this possibility, which might be addressed within the new restoration proposals themselves, which require to be submitted for prior approval.

CONCLUSION

The quarry is established and has supplied a mineral resource which has benefited the economy and provided job opportunities within the rural area. The proposed extraction operation is intensive but the application has demonstrated that there is anticipated to be a market demand for the rock extracted. The visual impact of the increased extraction would have no greater landscape or visual impact than the current operations.

It is considered that the proposals comply with national and local policies in relation to mineral workings, and that subject, firstly, to a legal agreement to ensure that the final restoration is undertaken (through a restoration bond), and secondly, subject to

conditions to ensure appropriate regulation, monitoring and mitigation, that the development would not have any significant adverse impacts on the site or surrounding area, including surface water drainage and the amenity of neighbouring properties.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject, firstly, to a legal agreement to secure the provision of a bond to finance the restoration of the site, and secondly, subject to the following planning conditions:

- 1 A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until the completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form as per **Informative Note 1**, below:
Development at (Note 1)
Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.
The development comprises (Note 5)
Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone (01835) 825060, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).
Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 The development shall be carried out in accordance with the approved scheme of working detailed in the phasing plans accompanying the application. In any event, the maximum floor depth of the quarry shall not be below 282 metres AOD. Furthermore, the extent of quarry workings along the southern edge of the extraction area shall accord with the description of Drawing 7098/303 22.10.09 approved under Minerals Planning Consent 17/00492/MIN notwithstanding the extent shown on any other approved drawing.
Reason: To ensure the development of the site is carried out in the manner considered by the Minerals Planning Authority.
- 3 This quarry shall be permitted to operate for a maximum period of 28 years beginning from the date of this consent. Within 28 years and six months of the date of issue of this consent, or within 6 months of the cessation of quarry workings within the site, whichever occurs soonest, all buildings, structures and plant shall be removed from the site.
Reason: To minimise the environmental effects of the proposed development in a manner consistent with its operational capacity.
- 4 All works, including temporary buildings, plant, machinery and stockpiles, shall be contained within the approved extraction area of the quarry unless these are being specifically used during soil or overburden stripping, or during bunding formation or planting works.

Reason: To minimise the visual impact of the development.

- 5 Unless otherwise agreed in writing by the Planning Authority in advance, no floodlighting or perimeter fencing shall be installed, erected or used on site other than the floodlighting and the perimeter fencing that has been approved under Planning Conditions Nos 6 and 7 of Minerals Planning Consent 09/00897/MIN. Reason: In the interests of safeguarding the visual amenity of the area and to minimise the potential disturbance to bats and badgers.
- 6 Notwithstanding the details submitted in support of the minerals planning application, no extractions shall take place below 318m AOD at the site, until a detailed proposed restoration scheme for the entire site (including after-care and management and a timetable for the implementation and completion of the works) has first been submitted for the written approval of the Minerals Planning Authority. This same scheme shall include the proposed final restoration contours, levels and gradients, the proposed means of landscaping and planting, proposed wildlife habitat creation and a proposed implementation programme and maintenance schedule. Where the scheme proposes the infilling of any part of the void with a water body, both (a) a flood risk assessment and (b) a scheme to secure the oxygenation of the water, shall also be submitted for the approval of the Minerals Planning Authority at the same time as the submission of the site restoration proposals. Furthermore, and unless the requirements of Condition 9 attached to Minerals Planning Consent 09/00897/MIN have first been addressed to the Minerals Planning Authority's satisfaction (as evidenced by the Authority's written approval), the proposed restoration scheme shall also include proposals for the full restoration of the Police Firing Range site. Following the Minerals Planning Authority's approval, the restoration scheme and any approved scheme to secure the oxygenation of the water within the water body, shall all thereafter be implemented in accordance with the approved details. Reason: To ensure the restoration of the site in the interests of landscape and visual amenity and to minimise the long-term effect of the development on the landscape and visual amenity of the site and surrounding area.
- 7 Notwithstanding the details submitted in support of the minerals planning application:
(a) the mitigation planting described by the scheme of details (identifying species, number, location of all planting, and ground cover, and maintenance) approved by the Minerals Planning Authority under Planning Condition No 12 attached to Minerals Planning Consent 09/00897/MIN; and
(b) the bunding scheme described by the scheme of details approved by the Minerals Planning Authority under Planning Condition No 11 attached to Minerals Planning Consent 09/00897/MIN, shall all be provided and maintained in accordance with these same details throughout the period of operation of the minerals development hereby approved. Any subsequent change or changes to the approved landscaping and/or bunding details shall first have been agreed in writing by the Planning Authority prior to the implementation of this change/these changes on the ground. (Please see **Informative Note 3** for related information).

Reason: To minimise the visual impact of the development.

- 8 Noise levels at the nearest noise sensitive properties shall not exceed 55dB LAeq 1 Hr. Further, a programme of noise monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Noise Monitoring Scheme approved under Planning Condition No 19 attached to Minerals Planning Consent 09/00897/MIN.
Reason: To safeguard the amenity of nearby property occupiers.
- 9 Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of [6 mm -1] [10 mm -1] in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of [12 mm -1] as measured at vibration sensitive buildings, including Scheduled Monuments. Levels shall not exceed those recommended in the Environmental Statement (supplied in support of Minerals Planning Application 09/00897/MIN) for gas and electricity utilities. Furthermore, a programme of vibration monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Vibration Monitoring Scheme approved under Planning Condition No 21 attached to Minerals Planning Consent 09/00897/MIN.
Reason: To protect sensitive buildings and utilities from the effects of blasting.
- 10 The hours of operation for all working, with the exception of measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 07:00 hours to 19:00 hours on Mondays to Fridays and 07:00 hours to 15:30 hours on Saturdays, unless with the prior agreement of the Planning Authority.
Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area
- 11 The dust control measures identified in Table 18.8 (pages 186 to 187) of the Environmental Statement (supplied in support of Minerals Planning Application 09/00897/MIN), shall be operated throughout the operation of the minerals development hereby consented. Furthermore, all loads of aggregates being dispatched from the quarry shall be sheeted prior to the vehicles' departure from the site.
Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area.
- 12 Vehicle wheel cleaning facilities shall be maintained on site and operated throughout the period of operation of the quarry.
Reason: To ensure material from the site is not deposited on the Trunk Road Network and local road network to the detriment of road safety.
- 13 Notwithstanding the details submitted in support of the minerals planning application, no excavations below 318m AOD shall take place within the site at all, until an updated Site Management Plan has first been submitted to and approved in writing by the Planning Authority, in consultation with SEPA, which:
(a) identifies measures to protect the water environment from potential contamination; and
(b) describes a scheme for monitoring changes within the water table.

Thereafter, the site operations and ground water monitoring shall all be carried out in accordance with the approved updated Site Management Plan for the duration of the operation of the minerals development hereby consented.

Reason: To ensure that there would be no unacceptable impacts upon the water environment, including with respect to the regulation of run-off and prevention of contamination.

- 14 Notwithstanding the details submitted in support of the minerals planning application, and notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no structure or other works for the storage, movement or management of ground water from the extraction area, shall be sited or established on site without the written prior approval of the Minerals Planning Authority. (Please see **Informative Note 4** for further information).

Reason: To retain effective control of the minerals development hereby approved and to ensure that there would be no unacceptable impacts upon the appearance of the site or upon the water environment, including with respect to the regulation of run-off and contamination.

- 15 The Transport Management Plan (3rd March 2010 2010/7098) approved under Minerals Planning Consent 09/00897/MIN shall be operated at all times during the period of operation of the minerals development hereby consented.

Reason: To ensure vehicles entering and leaving the site are discouraged from entering from or leaving in a westerly direction in the interests of road safety and the amenity of other properties alongside the public road.

- 16 No extractions shall take place below 318m AOD at the site, until:
a scheme of details which describes measures for the monitoring of all potential impacts of the operation of the minerals development hereby consented upon the quantity and quality of the private water supply at Woodcote Park (including impacts upon ground water and impacts from surface water run-off),

has first been submitted to, and approved in writing by the Planning Authority. This scheme shall include provision for remediation works to be carried out by the Operator in the event that the aforementioned private water supply is impacted. Following approval, the development and scheme shall all be implemented and operated in accordance with the approved details.

Reason: To ensure that the minerals development hereby consented has no unacceptable impacts upon the private water supply of any neighbouring dwellings.

- 17 No extractions shall take place below 318m AOD at the site, until:
a scheme of details which describes the monitoring of all hard rock extraction from the quarry (regardless of the depth from which it is extracted) and all reserves remaining therein (and including provision for annual reporting of the same to the Minerals Planning Authority),

has first been submitted to, and approved in writing by, the Minerals Planning Authority. Thereafter all hard rock extraction (regardless of the depth from which it is extracted) shall be monitored in accordance with the approved scheme for the duration of the operation of the minerals development hereby consented.

Reason: To retain effective control over the minerals development hereby consented and in the interests of monitoring compliance with the aggregates landbank requirements of SPP (Paragraph 238).

Informatives:

It should be noted that:

INFORMATIVE NOTE 1:

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

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

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

Note 3: Insert the name and address of the developer

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

Note 5: Insert the description of the development.

Note 6: Insert the application reference number.

INFORMATIVE NOTE 2:

The Operator is reminded that, under the Wildlife and Countryside Act 1981, (as amended), it is an offence to prevent access to, remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Grassland, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Grassland, trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

INFORMATIVE NOTE 3:

Planning Condition No 7 attached to this minerals planning consent requires that the landscaping and bunding approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, should be provided and maintained in accordance with the details that were approved under the aforementioned conditions. However, please note that the Council's Landscape Section has significant concerns that the landscaping that has been carried out to date has been inadequate, and is being inadequately maintained, relative to what was approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12.

For the avoidance of doubt, it is the Applicant's responsibility to ensure that the approved bunding and landscaping works are now implemented in full accordance with the requirements of Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, so that it can now meet the full requirements of Planning Condition No 7 attached to this minerals planning consent.

In the interests of achieving full compliance, the Applicant is asked in consultation with the Council's Landscape Section, to identify clearly what landscaping works have and have not taken place, and what remediation is now necessary to allow the originally approved works to be delivered in accordance with the requirements of the planning conditions imposed upon Minerals Planning Consent 09/00897/MIN. With respect to the observed oversights and failures, please see the Landscape Section's consultation response which sets out a general description of what has been observed to have failed or been inadequately implemented and maintained.

INFORMATIVE NOTE 4:

Although the details submitted in support of the minerals planning application noted the potential future need for the storage on site, of ground water derived from the dewatering of the extraction area, no details were provided of this, while the absolute need for such a facility has not been established. The Minerals Planning Authority accepts the principle that this need may require to be met in time, however there is a lack of information about what is proposed, and any and all impacts upon the minerals development, including aspects regulated by other planning conditions. Accordingly, and in the interests of ensuring that the storage of extracted ground water on site would not compromise the operation of any of the other planning conditions, Planning Condition No 14 has been imposed upon this minerals planning consent to require that any such proposal should be referred to the Minerals Planning Authority in advance, for its prior approval. However, and until precise details are presented for its review, the Minerals Planning Authority reserves the right to seek a new planning application should the proposals be liable to conflict with the operation that is approved under this consent and/or any of its planning conditions.

DRAWING NUMBERS

Plan Ref	Plan Type
8516/PA/01	Location Plan
8516/PA/03	Site Plan
8516/PA/04	Sections

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.

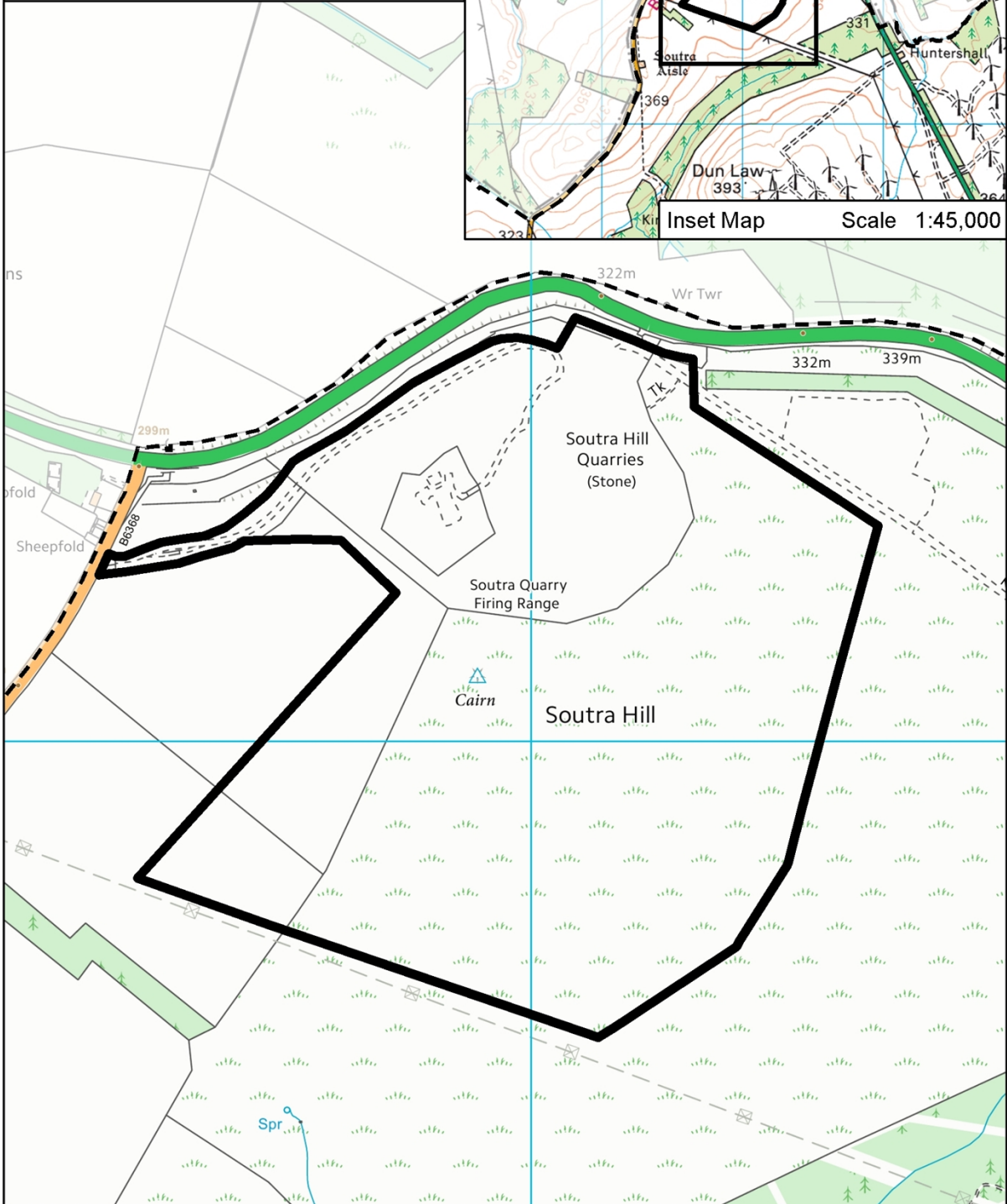
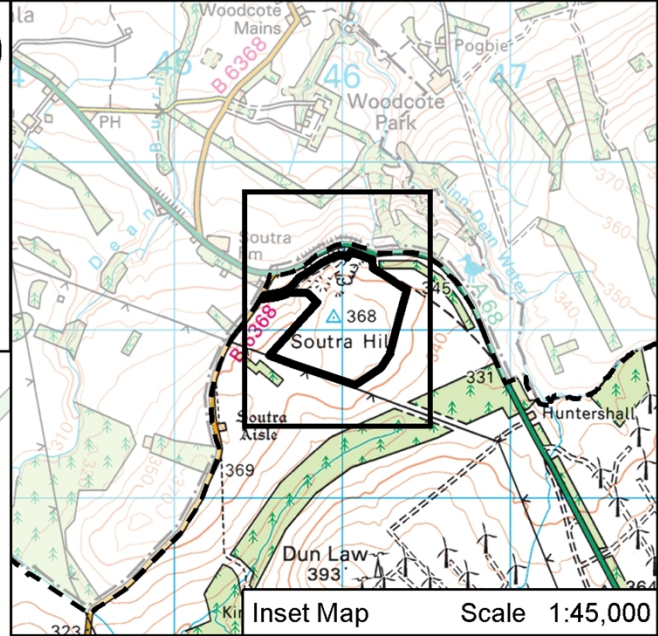
Author(s)

Name	Designation
Stuart Herkes	Planning Officer



17/00492/MIN

Hope Cottage Wester Deans
Lamancha
West Linton



Scale 1:7,000

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/00612/PPP
OFFICER: Paul Duncan
WARD: East Berwickshire
PROPOSAL: Erection of dwellinghouse
SITE: Land South East Of 11 Burnbank Holding, Foulden, Scottish Borders
APPLICANT: Mr William Struthers
AGENT: Edwin Thompson & Co (Berwick)

SITE DESCRIPTION

The site is located at Burnbank, Foulden, an established building group off the A1605 Berwick to Earlston road in East Berwickshire. The indicative house plot is set back from the minor road, sitting to the rear of two C listed cottages which are positioned to the north west of the site. Land to the rear (east) of the site is in agricultural use and a detached dwellinghouse sits adjacent to the site to the south. The site slopes gently from north to south.

PROPOSED DEVELOPMENT

The application seeks planning permission in principle for the erection of a single dwellinghouse.

PLANNING HISTORY

There is no planning history on the site itself.

Within the building group, there have been a number of approvals for new dwellings, as summarised per site below.

- To the west of the proposed site, across the minor road, at Land West Of 11 And 12 Burnbank Holding, planning approval 14/00967/FUL for the erection of a single dwelling house has now been implemented but is not built. This consent followed previous approvals on the same plot.
- South west of the proposed site, also across the minor road, planning approval 04/02009/OUT gave outline permission for the demolition of steading buildings and the erection of two dwellinghouses. Two separate reserved matters approvals followed (Plot 1 - 05/01499/REM, Plot 2 - 05/01899/REM) and these units have been built.
- Situated between those two units, a separate additional unit (Plot 3) was approved under a stand-alone planning consent (05/01900/FUL) and has also been built.

- South of the proposed site and an intervening dwelling house (14 Burnbank Holding), a former mill building has been converted to form two dwellinghouses following change of use approvals 04/00014/COU and 04/01300/COU.

REPRESENTATION SUMMARY

Members are reminded that all comments are available for Members to view in full on the Public Access website.

Six objections have been received by members of the public, from 5 separate households, raising the issues listed below. The Community Council has also objected. Their comments are listed under the statutory consultees section further below.

- Proposal is contrary to LDP
- Contributes to sprawl
- Inappropriate for area
- Sets precedent
- Road safety/ traffic:
 - The road accessing the site is narrow and unsuitable.
 - There is a lack of passing places.
 - Visibility is limited, particularly where the entrance to the proposed property would be.
 - The crossroads on A6105 at Burnbank were identified almost twenty years ago as being in the category of the second most dangerous road in the SBC area. Nothing has been done since then to make it safer. The proposed development would increase traffic levels at the crossroads.
 - The road is a rat run to Ayton and other villages.
 - Vehicles drive very fast on this road.
 - There is a lack of pavements.
 - School-children make their way to the crossroad at Burnbank for the school bus. Any increase of traffic is to be avoided.
- Foul drainage/ odour:
 - At present the properties at Burnbank do not have a satisfactory drainage and sewage system and at times the smell in this area is appalling. Adding another property could only worsen this unless a proper sewage disposal system were to be put in place for this and all other properties in the vicinity.
 - There are already two sewage treatment plants shared between 5 of the existing houses and there are existing odour problems. A third would mean that the majority of the houses would in effect be surrounded - with the new house situated above them all.
 - There is no description of what sewage treatment plant is proposed. Further details are required given the existing odour problem. The cause of this smell was not dealt at the time of previous development.
 - The proposed sewage treatment plant outflow is to the drain along the field edge. The field drains in this area are suspect and there do not seem to be any plans extant for the location of the original drains. It is assumed that SEPA still examines planning applications but if not the above points are even more relevant to the planning application.

-
- The Council previously advised that no additional septic tank outflows would be permitted to the burn as it was at its limit of use for this purpose. Five properties have since been built at Burnbank and added to the burn for septic tank outflow purposes.
 - During dry spells the flow of the burn is restricted and unpleasant odours are readily detected. Any additional outflows will increase this problem.
- Water pressure is already low at times at the top of the hill
 - The houses are too large and there is a shortage of small houses in this area.
 - Infrastructure and service provision is lacking and inadequate.
 - There would be an impact on existing infrastructure (e.g. electricity supply).
 - There is poor broadband coverage.
 - Large houses would reduce the area available for water run-off.
 - Loss of prime agricultural land.
 - This application should be considered alongside 17/00613/PPP and 17/00614/PPP which were submitted simultaneously by the same applicant, also in the Foulden area. Taken together these developments would have a significant impact on the delicate infrastructure of the area, would threaten over-development and loss of prime agricultural land.

The application was advertised in the Berwickshire News.

APPLICANTS' SUPPORTING INFORMATION

A letter responding to these objections was submitted which made the following points:

- Treatment plant details will be supplied as required and all drainage details will be clarified and approved by SEPA. It is noted that Environmental Health do not identify problems with the proposal but require further information before commencement of works, which would always be provided as part of natural design progression.
- Existing odour issues have nothing to do with the proposal, but concerns are appreciated and would hope that if they do have current issues, that they resolve this themselves as this would suggest that this may be a problem with their existing infrastructure and not necessarily an issue with discharging to the burn.
- It has always been intended that the building be a single storey property so as to have as minimal an impact as possible impact on views in the area.
- Issues with broadband speed should be taken up with the service provider and should not affect the determination of this proposal.
- The current condition of the roads in this area is a larger issue which cannot be attributed to a 'planning in principle' application for an individual plot.
- The plot would have a maximum of two vehicles serving it as per the response of Roads Planning which identifies that 2 parking bays should be designated for this property.
- Issues of having to step from the road onto the verge while traffic is passing is commonplace on country roads across the UK and not limited to this area.
- The additional traffic that this dwelling would create would be minimal and in a worst case scenario should be based on going to and from work daily so in this case 2 vehicles, twice per day. 4 Journeys.

- This proposal is located in a gap site between two existing dwellings and currently has farm buildings located on it. This is not prime agricultural land and is currently not being used for any activity.
- There are no proposals to fell any trees.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: No objection. Two parking spaces (not including any garaging) and turning should be provided within the curtilage of the site and retained in perpetuity. The access to the site to be by way of a service layby to diagram DC-3. It should be borne in mind that only contractors first approved by Council may work within the public road boundary.

Education: The site is located within the catchment area for Ayton Primary School and Eyemouth High School. A contribution of £3,428 is sought for the High School.

Environmental Health (Amenity and Pollution): No objection, however foul drainage issues can arise in the future if no clear legal duty exists setting out responsibility for maintaining an agreed system. This is of particular importance when the system serves multiple properties in different ownership or when a new property connects to an existing system. It is proposed that this is dealt with by condition and informative. A condition relating to mains water supply is also proposed, as is an informative regarding use of wood burning stoves.

Environmental Health (Contaminated Land): The applicant has returned an Agricultural Buildings Questionnaire and provided additional information by email/telephone. There is no indication of any land contamination issues on this site and accordingly no objection on grounds of contaminated land. The applicant's response did however indicate asbestos may be present within an internal partition wall and information on how to deal with this safely can be provided to the applicant.

Archaeology: There are no known archaeological implications.

Heritage and Design: No objection. A well-designed house of an appropriate scale (which may mean single storey) set back in the proposed site may not have an adverse impact on the setting of the listed cottages. Detailed proposals would need to be assessed afresh in terms of potential adverse impact on the setting of the listed cottages.

Statutory Consultees

Foulden, Mordington and Lamberton Community Council: The Community Council objects on the grounds that the development would be contrary to the Scottish Borders Local Development Plan policies HD2 (Housing in the Countryside), EP11 (Protection of Greenspace), EP13 (Trees, Woodlands and Hedgerows), IS5 (Protection of Access Routes), IS6 (Advertisements) and IS9 (Waste Water Treatment Standards and Sustainable Urban Drainage).

Other Consultees

Architectural Heritage Society of Scotland: It is not possible to determine how development would affect the character, setting, and historic value of the older surrounding buildings without a clear proposal for the site.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 - Sustainability
PMD2 - Quality Standards
ED10 - Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD2 - Housing in the Countryside
HD3 - Protection of Residential Amenity
EP7 - Listed Buildings
EP8 – Archaeology
EP11 - Greenspace
EP13 - Trees, Woodlands and Hedgerows
IS2 - Developer Contributions
IS5 – Protection of Access Routes
IS7 - Parking Provision and Standards
IS9 - Waste Water Treatment Standards and Sustainable Urban Drainage
IS13 - Contaminated Land

Other considerations:

Scottish Planning Policy (SPP)
New Housing in the Borders Countryside SPG
Placemaking and Design SPG
Privacy and Sunlight SPG
Trees and Development SPG

KEY PLANNING ISSUES:

Whether the erection of a dwellinghouse on this site would comply with planning policies with respect to (a) new housing in the countryside; (b) the setting of the neighbouring listed buildings; and (c) the protection of neighbouring residential amenity.

ASSESSMENT OF APPLICATION:

Background

This application seeks planning permission in principle for the erection of a single dwellinghouse at Burnbank, Foulden, an established building group on a minor road off the A1605 Berwick to Earlston road.

Principle

The principle of the proposal is primarily assessed against Policy HD2 Housing in the Countryside and the Council's New Housing in the Borders Countryside SPG. Policy HD2 aims to support new rural housing where it is associated with existing building groups of three units or more. As there is an established building group of nine

dwelling houses at Burnbank (including two unoccupied listed cottages), this part of the policy test is met comfortably. The policy sets a maximum total of 2 additional dwellings at a building group within the Local Development Plan period, or a 30% increase, whichever is higher. A maximum of 3 additional units may therefore be built at this particular building group within the current plan period.

An existing approval (under planning reference 14/00967/FUL) has been implemented, but has only been built to foundations and is not apparently under continuing construction. That unit must therefore count as one of the maximum of 3 additional dwellings that may be built within the plan period. The proposed dwellinghouse under consideration would be the second additional dwelling. This would therefore meet the numerical requirements of the policy, leaving one final dwellinghouse which could be considered at the building group within the plan period.

The remaining tests of HD2 control the relationship of the site to its respective building group, and the effect of the development on the character of the building group. As a logical infill opportunity, it is considered that the site would be well related to the building group. The site would not result in sprawl. The pattern of development within the building group is irregular in nature and this plot, set back from the road, is considered to conform with that pattern. The site is partially brownfield, with existing means of enclosure, and would not break into a previously undeveloped field.

Impact on Listed Buildings

Two C listed single storey cottages sit adjacent to the site. These cottages, dated 1859 and listed for their unusual detailing and decoration, are understood to have been vacant for many years. The Heritage and Design Officer has been consulted and does not object to the proposal, but considers that the resulting dwellinghouse would need to be of an appropriate scale and set back from the road. Overall it is considered that a dwellinghouse could be accommodated on the site without adversely affecting the setting of the listed buildings, subject to careful consideration of scale, design, massing and materials at the AMC stage. A condition is attached to limit the height of the proposed dwelling to a maximum of one-and-a-half storeys to ensure the development is appropriate to the site. It should be noted in relation to objector comments regarding the size of the house that the footprint of the development will be considered at the later AMC stage. The footprint shown on the submitted site plans is indicative only.

Impact on Residential and Neighbouring Amenity

The site benefits from a strong boundary to the south, which features a number of well-established trees which will help protect the amenity of the property to the south. A condition is recommended to ensure these trees are protected during works. The listed cottages are long term vacant but any development on the site must not prejudice the amenity of these dwellinghouses which will hopefully return to use in the future. Whilst the relationship with the most southern of the cottages in particular poses potential difficulties, a suitably designed dwelling on the site could ensure that no unacceptable adverse overlooking results. Overall it is considered that a dwelling house can be developed on the site in compliance with the Council's Privacy and Sunlight SPG.

Impact on traffic and road safety

A number of objections have been received which cite concerns regarding local roads. These matters have been assessed by the Roads Planning service and the proposal is considered acceptable subject to the agreement of details related to access, parking and turning. These details will be dealt with at the detailed stage. Objector comments regarding the nearby junction with the A6105 are noted. The Road Safety team have confirmed that this junction appeared in their 2010 accident cluster analysis, however it has not featured in any of the annual analysis undertaken since.

Services

Foul drainage is to be dealt with by sewage treatment plant with run off to the nearby burn. A number of objections have indicated that there are existing problems with local foul drainage resulting in odour issues. Whilst these objections are noted, precise foul drainage arrangements for this proposal can be considered at a later stage and will be controlled by condition. It should be noted that SEPA are no longer providing advice on small scale proposals such as this. However, any system would need to meet current standards and would be assessed through the building warrant process. The requested condition to control the future maintenance of any approved system would be more appropriately controlled under environmental health legislation. Water supply is proposed to come from the public water supply network. Confirmation that mains supply is available will be required but can be dealt with by condition.

Other matters

The applicant has returned an Agricultural Buildings Questionnaire to help identify any potential contamination resulting from the previous use of the site. There is no indication of any land contamination issues on the site and therefore no objection on grounds of contaminated land. Possible asbestos has been identified in the existing metal shed on the site but this would not prevent development. Instead the applicant will be provided with advice on how this should be dealt with as an informative. An informative will also be added to ensure the applicant is aware of their responsibilities regarding protected species should the shed be demolished. As there is no indication a wood burning stove will be used the proposed informative related to the potential use of such a system is not required.

Objector comments regarding a lack of service provision and poor broadband coverage within the area are noted. It is acknowledged that the building group does not benefit from provision of local services. Planning policy within the Scottish Borders directs most development to towns and settlements, but the purpose of Policy HD2 is to allow a degree of rural housing development, where it can be accommodated appropriately. The existing poor provision of broadband would not be a legitimate reason for refusal.

It has been suggested that this application should be considered alongside 17/00613/PPP and 17/00614/PPP. These applications are not related to this building group and are too physically detached from the site to be considered together and were assessed separately. Both applications were refused.

Whilst the site is recorded as prime agricultural land in practice the site is partially brownfield land and no unacceptable loss of prime agricultural land would result.

Policy EP11 (Greenspace) does not apply to this site which sits outwith any recognised settlement boundary. There would be no impact on protected access routes.

A development contribution of £3,428 is sought for Eyemouth High School and the applicant has indicated a preference to address this by way of a Section 75 legal agreement.

CONCLUSION

It is considered that this site represents a logical infill opportunity within an established building group in compliance with policy HD2. Development of the site could be achieved without adversely affecting the character of the building group, the setting of adjacent listed buildings or neighbouring amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

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

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

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

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

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

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

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

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

4 Parking and turning for a minimum of two vehicles, excluding any garages, must be provided and retained in perpetuity within the curtilage of each property. These spaces must be provided prior to the occupation of each respective dwellinghouse.

Reason: To ensure adequate on-site parking is provided within each plot.

5 The first application for Approval of Matters Specified as Conditions shall include a scheme of details for site access. The details shall include the design of the new site access on to the public road which should be by way of a service layby to diagram DC-3. Thereafter the development shall be carried out in strict accordance with the agreed details and the site access shall be completed before occupation of the dwellinghouse.

Reason: To facilitate safe access to the site and ensure that the public road network can safely cater for the development.

6 The dwellinghouse is to be no more than one-and-a-half storeys in height and detailed drawings submitted as part of any Approval of Matters Specified as Conditions shall be supported by a design statement, reflecting the circumstances of the site and wider building group, including in relation to the adjacent listed buildings.

Reason: To ensure a satisfactory form of development in keeping with the adjacent built form, and in particular the listed buildings.

7 No development shall commence until precise details of the means of water supply and of both surface water and foul water drainage have been submitted to and approved in writing by the Planning Authority. Thereafter, no development shall take place except in strict accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

8 Before any part of the development hereby approved is commenced, the trees adjacent to the site shall be protected by a protective barrier to a standard and format compliant with BS 5837 2012, placed at a minimum radius of one metre beyond the crown spread of each tree adjacent to the site, 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; and

(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 adjacent to the development site, the loss of which would have an adverse effect on privacy of the neighbouring property.

Informative

1 The applicant should satisfy themselves prior to any removal of the existing metal shed that they are compliant with European legislation regarding the protection of bats and birds and that any demolition is in accordance with these requirements.

2 It is recommended that the internal partition wall where asbestos is identified as potentially present is appropriately surveyed, and if found to be asbestos containing, removed and handled following current good practice and by suitability qualified individuals to prevent the potential release of asbestos. It is recommended HSE are consulted in regard to the specific requirements for such surveying, removal, and handling. It is recommended that SEPA are consulted in regard to the storage etc. of

suspected asbestos containing materials after removal. Should the applicant wish to discuss this further their enquiry should be directed to Environmental Health.

DRAWING NUMBERS

<u>Reference</u>	<u>Plan Type</u>	<u>Recieved</u>
BS4708-001	Location/Site Plan	27.04.2017
BS4708-001	Site Plan	27.04.2017

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.

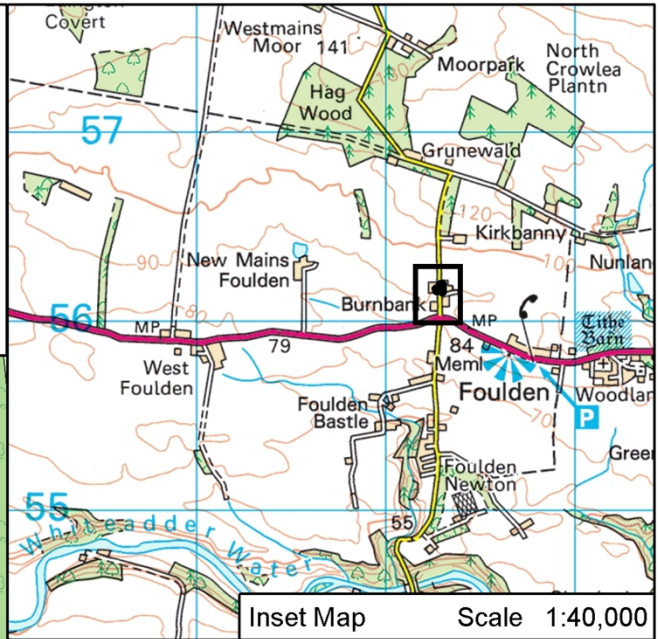
Author(s)

Name	Designation
Paul Duncan	Assistant Planning Officer



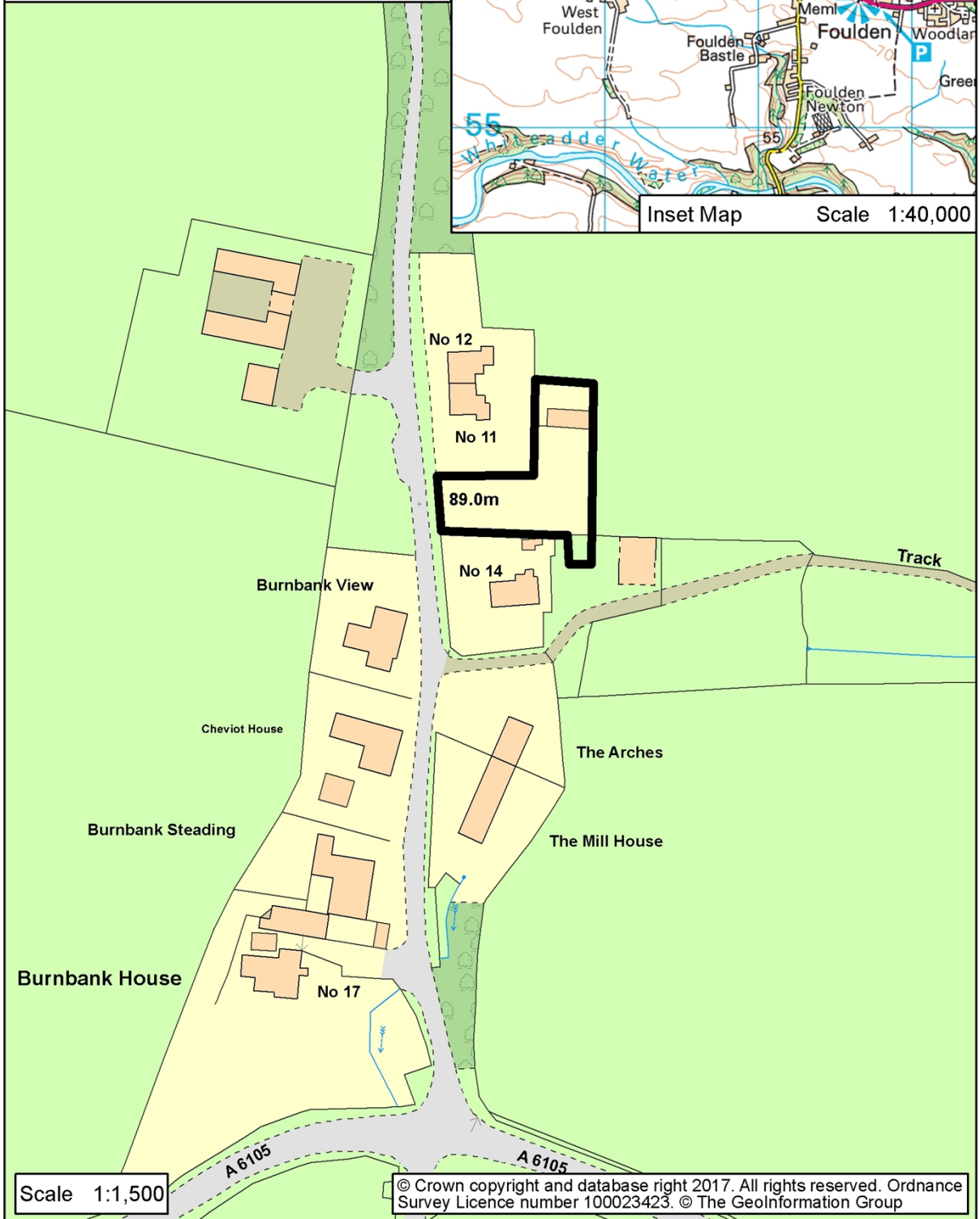
17/00612/PPP

Land South East Of 11
Burnbank Holding
Foulden



Inset Map

Scale 1:40,000



Scale 1:1,500

© Crown copyright and database right 2017. All rights reserved. Ordnance Survey Licence number 100023423. © The GeoInformation Group

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7TH AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00628/FUL
OFFICER:	Julie Hayward
WARD:	Hawick and Denholm
PROPOSAL:	Formation of off-street parking area
SITE:	61 Branxholme Road Hawick
APPLICANT:	Mr and Mrs G Cannon
AGENT:	Aitken Turnbull Architects Ltd

SITE DESCRIPTION

The property is a semi-detached, two storey dwellinghouse situated at the junction of Branxholme Road and Churchill Road within Hawick. The dwellinghouse is situated on higher ground than the public road and the front garden ground slopes down to a dwarf wall and a fence adjacent to the pavement. The garden ground also slopes up to the north east and there is a low timber fence and hedge on the boundary with no.63. No.53 is to the south west separated by a footpath and steps up to Silverbuthall Road to the north.

PROPOSED DEVELOPMENT

The proposal is to excavate out part of the front garden to provide one on-site parking space. In order to achieve this, retaining walls would be erected around the parking bay. These would be constructed of blockwork with a wet dash render finish and concrete coping stones. The parking bay would be surfaced with block pavements. A set of steps would be provided leading up from the bay to the front door of the property.

Planning permission is not required for the formation of the vehicular access onto the public road as Branxholme Road is not a classified Road. The application seeks consent for the excavation works and retaining walls due to the position between the front of the house and the public road.

PLANNING HISTORY

None.

REPRESENTATION SUMMARY

Five representations have been received objecting to the application and one general comment. These can be viewed in full on the Public Access portal on the Council's website. The principal issues raised are:

- The parking area is at a dangerous and very busy road junction, close to the path that connects Branxholme Road and Silverbuthall Road and close to the primary school. This raises safety issues.
- The proposal would remove existing on-street parking, in an area where there is a high demand for on-street parking, making it more difficult for residents to find parking spaces.
- The proposal would set a precedent for similar proposals in the area, further reducing the limited on-street parking available.
- The lack of visibility for vehicles exiting the bay due to parked cars and the retaining walls and the concealed nature of the bay would be a safety hazard for people walking down the pavement and children on their way to school.
- Given the site of this parking bay, immediately adjacent to a road junction and a junction of pedestrian routes, and given the limited visibility of the pavements either side due to the new retaining walls, it will be important that the vehicle is parked so that it can be driven out forwards each time. Reverse parking should be an explicit condition of the planning permission for the safety of all road users and pedestrians in the area.

APPLICANTS' SUPPORTING INFORMATION

None.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: A normal parking space is 2.5m by 5.0m but when situated within an area which has a physical barrier around the parking bay, such as a wall or fence, then this is increased to 3.0m by 6.0m. This allows a vehicle to be parked clear of the public footway whilst maintaining a safe distance from the physical barrier.

The minimum depth shown on the submitted drawing is 4.74m, which is considerably below the 6m required. This distance also falls below the minimum length of a standard parking bay without any physical barrier.

The maximum gradient for the parking area should be 1 in 18; however the proposal submitted exceeds this maximum gradient. In frosty weather this could lead to a vehicle sliding onto the public road.

In addition to the above, I have a concern over the excessive width of the parking area which is proposed for a single vehicle. The overall width is 5m, which includes the shortened area in front of the steps. This could potentially encourage a second vehicle to park in front of the steps which would mean the vehicle overhanging the public footway.

In summary, the detailed proposal which has been submitted does not meet the required standard and I am unable to support this application and must recommend refusal as it stands due to road safety concerns.

Re-consultation: The amended plan (L(-2)101 D) addresses my earlier concerns over the depth of the parking area and the gradient. The amended design has been altered to provide a minimum depth of 5.5m, which although is less than the 6m previously specified, is acceptable. The gradient has also been flattened to provide a 1 in 18 grade.

Given the above, I am now able to withdraw my objection to this application. The parking area must be fully formed as per the agreed detail prior to it becoming operational.

Statutory Consultees

None.

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

HD3: Protection of Residential Amenity

IS7: Parking Provision and Standards

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance: Householder Developments July 2006

KEY PLANNING ISSUES:

- The impact of the development on the visual amenities of the area;
- The impact on residential amenities;
- Road safety.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do

not adversely affect the residential amenities of occupants of neighbouring properties.

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

Siting, Design and Visual Impact

The proposal would require the excavation of part of the front garden ground of the property to provide a level surface and the erection of steps and retaining walls. The retaining wall to the rear of the parking bay would be 2.2m in height and one on the side boundary would be 2.2m stepping down to 1.2m in height adjacent to the public footpath. A 1.2m close boarded fence would be erected adjacent to the retaining wall to the rear of the bay and adjacent to the steps.

These are small scale works that would not be out of keeping with the character of this residential area and would not harm the visual amenities of the area, particularly given that the street is already characterised by a range of structures, including walls and fences, of varying heights.

A condition would require a sample of the render for the retaining walls to be submitted and agreed before the development commences.

Impact on Residential Amenities

The houses along the north western side of Branxholme Road are on a higher ground level than the road. The proposal would involve excavating the front garden and the erection of step and retaining walls and these would be lower than the existing houses. The proposed works would not affect the light or privacy of occupants of neighbouring properties.

Access, Parking and Road Safety

A number of representations have been received regarding the proximity of the proposed access to the junction of Branxholme Road and Churchill Road, the loss of on-street parking and the impact of the development on the safety of other road users and pedestrians due to the lack of visibility when exiting the site.

The Roads Planning Service initially objected to the proposal as the parking bay did not meet their standard for parking spaces in terms of dimensions and gradient. They were also concerned over the excessive width of the parking area, which is proposed for a single vehicle as this could encourage a second vehicle to park in front of the steps, which would mean the vehicle overhanging the public footway.

Amended drawings have been submitted that demonstrates a minimum depth of 5.5m for the parking bay, which although is less than the 6m previously specified, is considered to be acceptable to the Roads Planning Service. The gradient has also been flattened to provide a 1 in 18 grade and, by extending the steps forward, the width of the parking area has been reduced, so as to discourage a second car to park in the remaining area. The Roads Planning Service has now withdrawn their objection.

The Roads Planning Service has not expressed any concerns regarding the proximity of the proposed parking space to the junction or visibility available for vehicles exiting the bay or pedestrians on the pavement. The proposal would result

in the loss of one on-street parking space but would also provide off-street parking for one car that currently parks on the street. The proposal would not set a precedent for similar developments in the surrounding area as each proposal would be assessed on its own individual merits.

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 harm the visual amenities of the area or residential amenities of occupants of neighbouring properties. In addition, the proposal would provide an off-street parking space and would not have a detrimental impact on the safety of other road users or pedestrians.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend 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. Samples of the render for the retaining walls, the coping stone and of the block paviours to be submitted to and approved in writing by the Planning Authority before the development commences. The wall and surface of the parking bay then to be completed in accordance with the approved sample.
Reason: To safeguard the visual amenities of the area.
3. The parking area must be completed as shown on Drawing Number L(2)101 Revision D prior to it becoming operational.
Reason: To ensure that a car can park within the parking bay and not overhang or obstruct the public footpath, in the interests of road safety.

Informatives

All works associated with the footway crossing must be carried out by a contractor first approved by the Council.

DRAWING NUMBERS

L(-1)001	Location Plan
L(-2)001	Site Plan as Existing
L(-2)101 Rev D	Site Plan as Proposed
L(2)102 Rev A	Section and Elevation as Proposed

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

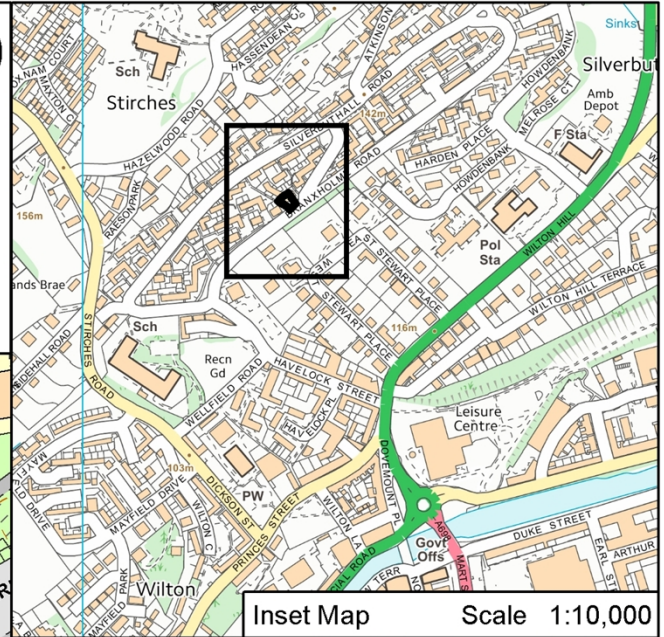
Author(s)

Name	Designation
Julie Hayward	Team Leader (Development Management)



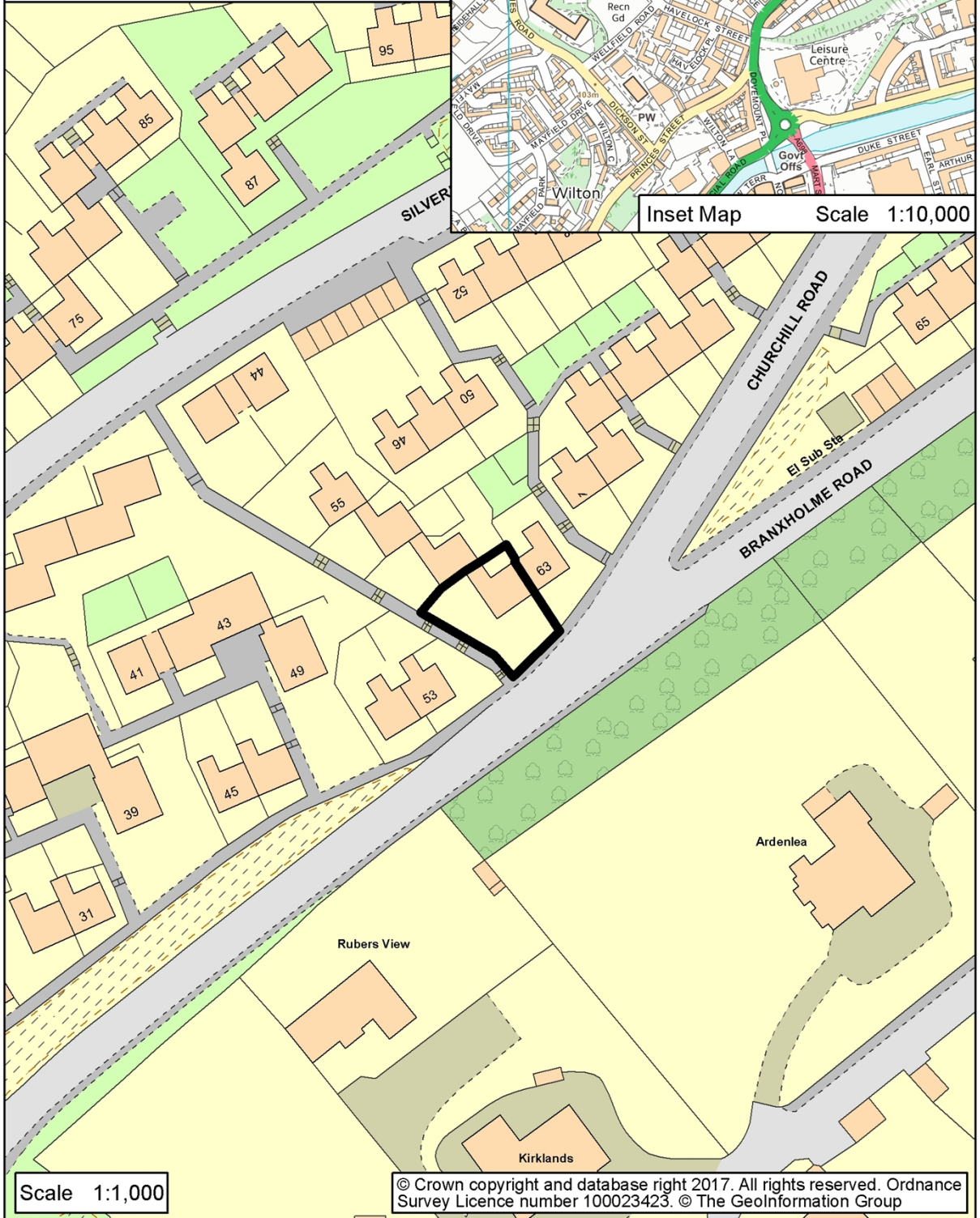
17/00628/FUL

61 Branxholme Road
Hawick



Inset Map

Scale 1:10,000



Scale 1:1,000

© Crown copyright and database right 2017. All rights reserved. Ordnance Survey Licence number 100023423. © The GeoInformation Group

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

7 AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 17/00681/MOD75
OFFICER: Mr R Dods
WARD: Tweeddale West
PROPOSAL: Modification of planning application pursuant to planning permission 08/01414/FUL and 16/00514/MOD75
SITE: Hope Cottage, Wester Deans, Lamancha
APPLICANT: J R & S E Purves
AGENT: Edwin Thompson & Co (Galashiels)

SITE DESCRIPTION:

Hope Cottage is located approximately 1.2km south east of the A701 and 3.2km north west of the A703. It sits within the boundaries of Wester Deans Farm, which sits near the top of the hill when approaching from the A703. The farm is accessed from the unclassified U17 public road. The property is accessed from the farm road and there are numerous mature and semi-mature deciduous trees in the immediate surroundings. The farm is described as a marginal quality upland livestock unit. Hope Cottage was granted planning permission in 2008 in order to allow the owners to move out of the farmhouse and appoint a farm manager to take over the management of the farm.

PROPOSED DEVELOPMENT:

The application is made to discharge a section 75 agreement relating to Hope Cottage, granted permission on 11 June 2009, reference 08/01414/FUL.

The reasons for this discharge request are:

1. To allow the sale or letting of Wester Deans Farm to a third party;
2. To allow the applicant and his wife, how are both past retirement age, to continue living in Hope Cottage.

PLANNING HISTORY:

08/01414/FUL

The application was made to erect a dwellinghouse and garage for the farm owner, Mr & Mrs Purves, allowing them to move out of the farmhouse and reduce their management input into the farm.

Approval was granted subject to conclusion of a section 75 agreement. That agreement was registered on 5 Jun 2009, signed by John Ronald Purves. The terms of the agreement restricted:

1. The whole farm and house to be held as a single property with no part ever to be sold or otherwise disposed of separately and;
2. no further dwellings to be erected or otherwise without consent of the planning authority in terms of the agreement in addition to the necessary planning permissions.

16/00514/MOD75

The application was made to modify the section 75 placed on the above permission in order to allow the single dwelling to be released from the terms of the agreement and, thereby, be subdivided from the wider farm. The modification was granted to remove the first restriction but the second restriction remained in place.

CONSULTATION RESPONSES:

Legal Services: No response.

REPRESENTATION SUMMARY

No representation received.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

HD2 New Housing in the Countryside

OTHER PLANNING CONSIDERATIONS

"New Housing in the Borders Countryside" SPG, 2008
SPP 2014.

Circular 3/2012 Planning Obligations and Good Neighbour Agreements
Planning appeal POA-140-2005, Broadmeadows Farm, Hutton, 10 May 2017

KEY PLANNING ISSUES:

Whether discharging the section 75 agreement would satisfy the 5 tests of Circular 3/2012: Necessity; planning purpose; relationship to the development; scale and kind; and reasonableness.

ASSESSMENT OF APPLICATION

Policy context

Planning policy has changed since the grant of the planning permission for the house in 2009. That application was assessed against the policies contained within the Scottish Borders Structure Plan 2001-2011 and the Scottish Borders Local Plan 2008. Since the proposal was not part of an established building group, it was assessed against the Council's housing in the countryside policies for isolated housing which were justified under economic requirement.

A similar policy, HD2 Housing in the countryside, is found within the Scottish Borders Local Development Plan 2016 (LDP). That policy, at section (F) allows for isolated housing in the countryside where there is an economic justification and subject to

certain criteria being met. The policy should be read in conjunction with the supplementary planning guidance (SPG) New Housing in the Borders Countryside, dating from 2008, which gives guidance on isolated housing, at section 2c.

This SPG states that a Section 75 agreement will normally be required for economically justified development proposals. It identifies the need to restrict further residential development and requires that the land unit and the dwelling house are not sold separately. It is explicit that isolated new housing is unacceptable without economic justification. The ultimate aim of Council policy is to direct appropriate development of housing in rural areas, focusing on defined settlements to support services, facilities and sustainable travel patterns.

Necessity

A legal agreement was considered necessary at the time of decision as a planning conditions restricting further development and restrictions on how the applicant could dispose of their property would not have been legally competent. The overriding material consideration was economic requirement for the house, as the proposal would not otherwise have been supported by policies for housing in the countryside. The house has been constructed on what was considered a site which was not associated with a building group. The report into the 2008 application made it clear that the applicant had advanced sufficient economic justification and that the dwelling should by legal agreement, be tied to the farm and that no further houses should be constructed. The legal agreement with those terms was signed and the house duly constructed.

The application is made to discharge the restriction on construction of additional housing since. Any application for further housing would be dealt with through the normal planning process and, therefore, the restriction is unnecessary, as the appropriateness of the proposal would be tested against the prevailing policy of the time.

Planning Purpose

The purpose of the second restriction was to ensure that no further housing could be constructed without the consent of the planning authority. That requirement was in addition to the need to obtain planning permission. Recent appeal decisions, including those in Scottish Borders, have generally concluded that legal agreements restricting further development are not supported by the Scottish Government.

A clear message is being sent by Scottish Government that legal agreements should not be relied upon to deliver housing in the countryside policy. Scottish Government wish planning policy and evidenced based Supplementary Guidance to be relied upon to deliver efficient land use planning and not legal agreements. This Scottish Government stance raises significant issues in regard to how development is managed and restricted in the countryside.

It is unlikely that the discharge of this agreement will set a precedent in this locality. Any future application for new residential development would be assessed against the terms of the prevailing development plan and material considerations. In light of the above, the proposed discharge is appropriate.

Relationship to development; Scale and kind

The existing agreement raises no issues in these regards.

Reasonableness

The purpose of the unmodified section 75 agreement was to ensure that:

1. The whole of the land at Wester Deans Farm should be held as a single property with no part being sold or otherwise disposed;
2. no further dwellings to be erected or otherwise without consent of the planning authority.

As set out above, the first restriction was removed by modification in 2016. The applicant now wishes to discharge the section 75 agreement over Hope Cottage, thereby allowing the sale or letting of the farm to a third party, providing an opportunity for amalgamation with another unit or to another farmer who wishes to expand their farming enterprise. It would also permit the applicants to remain at Hope Cottage during their retirement.

The second restriction imposed on the original section 75 agreement has limited purpose. The means for testing this issue is more properly through a planning application, which would be assessed against the terms of the prevailing development plan and material considerations. The section 75 agreement, as modified, is therefore of limited purpose and, given the inconsistency with recent national guidance, it is difficult to argue for its retention.

CONCLUSION

The proposal to discharge this section 75 agreement is accepted as it no longer satisfies the terms of Circular 3/2012 relating to planning purpose and reasonableness tests. Any future housing development would be subject to the normal requirements of planning and would be assessed against the prevailing development plan and material considerations. No deficiencies in infrastructure and services will be created or exacerbated as a result of this discharge.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend discharge of the section 75 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.

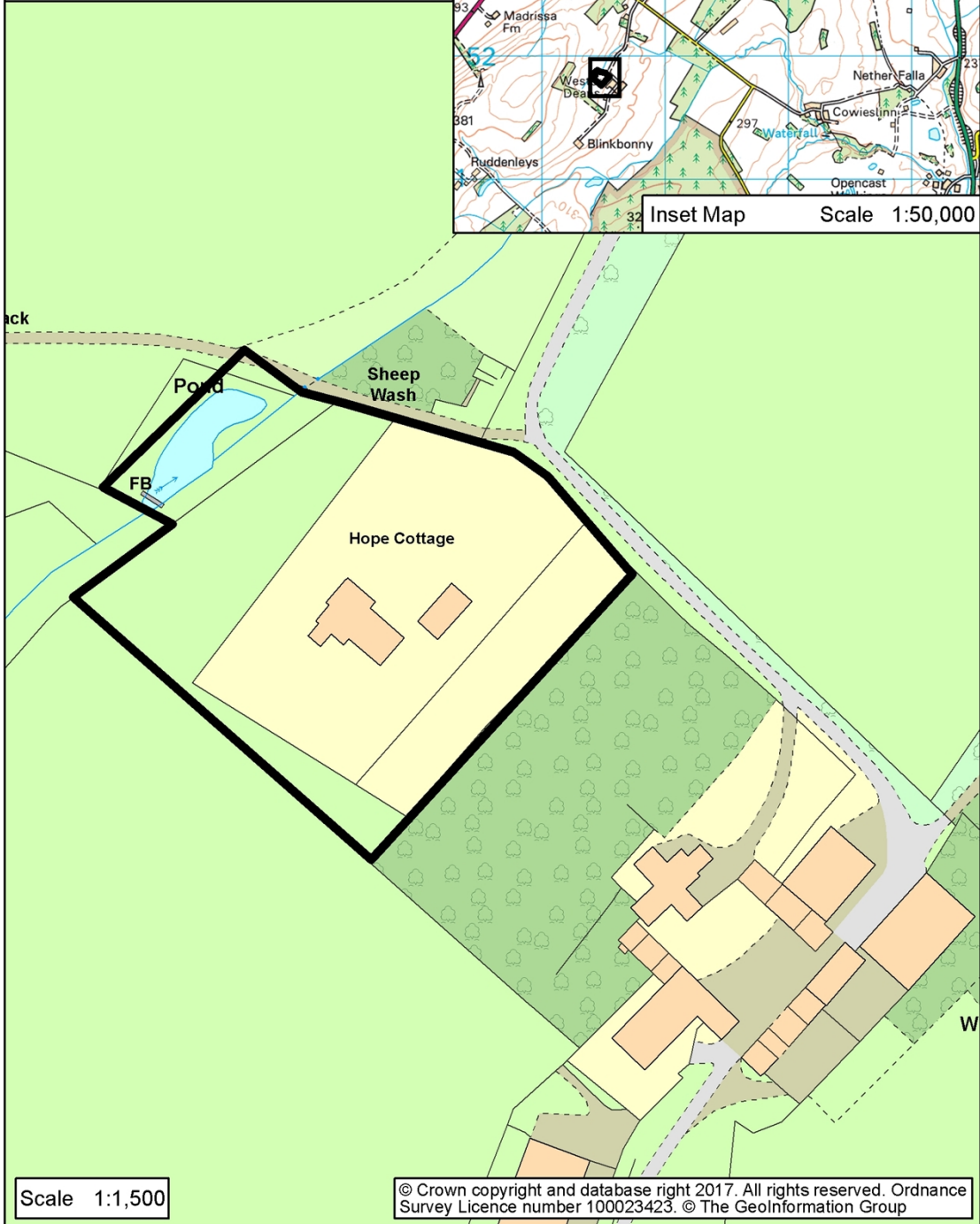
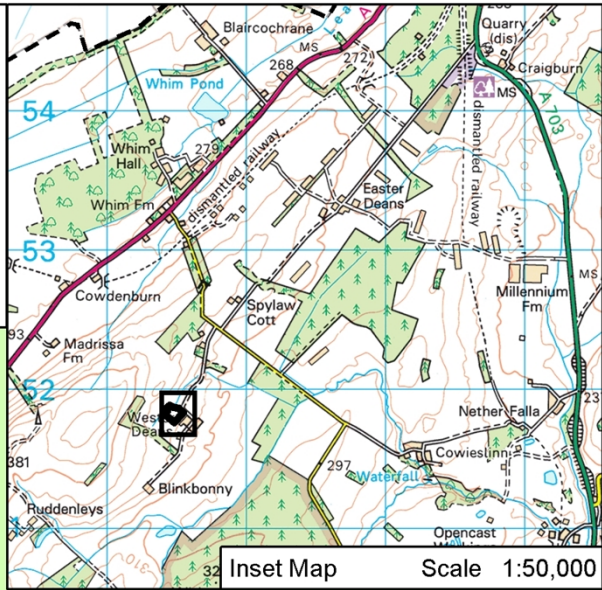
Author(s)

Name	Designation
Ranald Dods	Planning Officer



17/00681/MOD75

Hope Cottage Wester Deans
Lamancha
West Linton



Scale 1:1,500

© Crown copyright and database right 2017. All rights reserved. Ordnance Survey Licence number 100023423. © The GeoInformation Group

This page is intentionally left blank



"PLACES, PEOPLE AND PLANNING - POSITION STATEMENT"

Report by Service Director Regulatory Services

PLANNING & BUILDING STANDARDS COMMITTEE

7 AUGUST 2017

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval of the response prepared by the Chief Planning Officer on behalf of Scottish Borders Council in respect of the key changes proposed to the planning system in Scotland set out in the Scottish Government's Position Statement.**
- 1.2 On 29 June 2017 Scottish Government published a Position Statement setting out the measures Scottish Ministers are likely to take forward through the forthcoming Planning Bill, secondary legislation and other, non-statutory approaches. The statement was produced after taking account of the submissions made to the consultation document "Places People and Planning - A consultation on the future of the Scottish planning system" published in January 2017.
- 1.3 The proposals seek to refocus the planning system on delivering outcomes, facilitating economic development and Placemaking, whilst enhancing community engagement and reducing and simplifying processes and procedures. The changes set out in the statement focus on technical matters and future legislative amendments, but this also forms part of a wider programme of reform and behavioural change in planning.
- 1.4 The report seeks approval for the reply to the current consultation but it is also an opportunity for new members to be briefed on the impending changes to the planning system in Scotland. Responses to the consultation require to be submitted by 11 August 2017.

2 RECOMMENDATIONS

- 2.1 I recommend that the Planning & Building Standards Committee approves the consultation response set out in Appendix A as the Scottish Borders Council's formal response to the Scottish Government consultation "Places, People and Planning Position statement".**

3 BACKGROUND

- 3.1 The Scottish Government announced its intention to review the planning system in its programme for government 2015/16. The review was undertaken by an independent review panel, chaired by Crawford Beveridge (Chair of Council of Economic Advisors), and also including Petra Biberbach (Planning Aid Scotland) and John Hamilton (Scottish Property Federation).
- 3.2 The Panel's report "Empowering Planning to Deliver Great Places" was published in May 2016 and Scottish Ministers published their response to its content on 11 July. Ministers considered that the review provided an excellent opportunity to improve Scottish planning's confidence, reputation and ability to deliver real and positive change on the ground. They strongly supported the six outcomes proposed by the review:
1. Strong and flexible development plans.
 2. The delivery of more high quality homes.
 3. An infrastructure first approach to planning and development.
 4. Efficient and transparent development management.
 5. Stronger leadership, smarter resourcing and sharing of skills.
 6. Collaboration rather than conflict – inclusion and empowerment.
- 3.3 In response to the report's findings, Scottish Ministers set out a number of immediate actions they would undertake to implement the recommendations, and identified a programme of work, including establishing working groups and commissioning research, that lead to the publication of a consultation paper in January 2017 "Places, People and Planning" which set out the options for change. The Council's response to that consultation is set out in Appendix C to this report.
- 3.4 After reflecting on the outputs from the research and workshops and analysing the consultation responses Scottish Ministers published in June 2017 the Position Statement on how it is intended to take the proposals forward into legislation and guidance.

4 KEY PROPOSALS

- 4.1 The consultation document, which is attached as Appendix B, sets out options to change the planning system in four key areas and in respect of 20 key proposals set out in the Scottish Government's consultation document of January 2017:

Making Plans for the Future

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

Scottish Government proposes:

- 1 Aligning community planning and spatial planning
A statutory link between development planning and community planning. They agree with views that spatial planning should also be better recognised by community planning, and believe this would be supported where local authority Chief Executives 'sign off' local development plans.
- 2 Regional partnership working
To remove current requirements for strategic development plans to be prepared and replace them with more flexible, but clearly defined duties and powers for authorities to work together and develop regional partnerships, which would contribute to an enhanced National Planning Framework.
- 3 Improving national spatial planning and policy
Improve national spatial planning through enhancement of the status of the National Planning Framework and Scottish Planning Policy, introducing shared responsibility for their production and better integration with other key government strategies and plans.
- 4 Stronger local development plans
That the plan period for Local Development Plans be extended to 10 years, but including provision for plans to be amended or updated more simply between full review cycles. Introducing a more project managed approach to deliver plans including a Gatecheck process to check the evidence base of plans and enable key issues to be addressed early in the process.
- 5 Making plans that deliver
Enhanced engagement where a site that has not been allocated in a development plan is brought forward as an application and a resultant greater flexibility in pre-application consultation requirements for allocated sites. To require clarity on delivery of allocated sites whilst minimising additional investment in assessment.

People Make the System Work

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

Scottish Government proposes:

- 6 Giving people an opportunity to plan their own place
To introduce a new right for communities to plan their own place, and that those plans have the potential to form part of the statutory development plan.
- 7 Getting more people involved in planning
To bring forward targeted changes to existing requirements for engagement to ensure that children and young people are specifically encouraged to get involved in planning. Set out the steps needed to achieve a shift away from consultation towards

more meaningful community empowerment within the planning system.

8 Improving public trust

That Pre-application consultation is improved, including a requirement to provide feedback to communities following engagement and a time limit for submission of applications. To remove the opportunity for revised or repeat application to be submitted at no cost and introduce measures to strengthen enforcement. To introduce training in community engagement, involving not only planning authorities but also the development sector. To use Development plan schemes to secure stronger and more locally tailored approaches to engagement.

9 Keeping decisions local – rights of appeal

Look at how minor developments such as advertisement consents are handled through to appeal. Provide clear guidance and sharing of good practice to encourage greater consistency as well as subsidiarity of decision making. To review the effectiveness of local review bodies and identify scope for future improvement and explore the scope for mandatory training for elected members who are serving on a planning committee or Local Review Body, potentially supported with testing.

It is not intended to pursue the proposal for Ministers to take decisions more frequently, rather than Reporters nor do they propose to introduce fees for lodging either reviews or appeals. The introduction of third party rights of appeal have been negated by stronger early engagement through the extensive measures set out in the proposals

Building More Homes and Delivering Infrastructure

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

Scottish Government proposes:

10 Being clear about how much housing land is required

That planning for housing be addressed as a priority in policy and guidance, rather than through structural change to the system. Bearing in mind the proposals for enhancing the role of the National Planning Framework and Scottish Planning Policy, they will continue to work with housing professionals, planning authorities and developers to identify a solution which minimises the level of debate on how much land is required for housing.

11 Closing the gap between planning consent and delivery of homes

To continue to work with others to ensure that planning does all it can to enable the building of more high quality homes of a broader range of types, and in a way which strengthens places and quality of life. That fuller information on the viability of sites and development delivery should be part of a planning process. Other

delivery options such as CPO, CSO and a development land tax will be considered out with the scope of the Planning Bill.

- 12 Releasing more 'development ready' land for housing
To promote a zoned approach to support housing delivery. They are progressing four pilot Simplified Planning Zones and aim to bring forward proposals for legislative change that will refresh and rebrand Simplified Planning Zones and allow them to be progressed in a wider range of circumstances.
- 13 Embedding an infrastructure first approach
To work with Scottish Futures Trust to support significant stalled sites in a government led tasked based approach for short term delivery. They will consider options for a national delivery group to support improved co-ordination of development and infrastructure issues. Continue to engage in the forthcoming review of the Infrastructure Investment Plan to ensure that the National Planning Framework informs decision making about future investment priorities. To develop the regional scale of infrastructure planning in more detail, and explore approaches to regional infrastructure audits.
- 14 A more transparent approach to funding infrastructure
Undertake, with the assistance from the Scottish Futures Trust, further research into options for an infrastructure levy or charge. They are also considering whether changes to Section 75 may be required in connection with future decisions on the role of a levy.
- 15 Innovative infrastructure planning
To progress work involving extensive collaboration across Scottish Government policy areas.

Stronger Leadership and Smarter Resourcing

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

Scottish Government proposes:

- 16 Developing skills to deliver outcomes
To continue to work with RTPi Scotland, Heads of Planning Scotland, COSLA and the Improvement Service on skills development. Explore the scope for shared services, and if there could be particular benefit in developing more effective sharing of expertise in some specialisms.
- 17 Investing in a better service
The maximum planning fee has now been increased. They will not consult on further fee changes until after the Planning Bill has been considered by Parliament, to ensure there is a clear idea of the resource implications arising from the finalised changes to the planning system. However, it is expected that the Planning Bill will include additional enabling powers that provide scope to widen discretionary charging and to extend the range of services for which fees can be charged.

- 18 A new approach to improving performance
To continue to work with the High Level Group and others in pursuit of improved performance.
- 19 Making better use of resources – efficient decision making
To broaden the scope for permitted development arguing that this could play a significant role in making best use of resources in the planning system. Heads of Planning Scotland has progressed work in this area and they will give more detailed consideration to the proposals, along with the priority areas identified in the consultation paper. They are also minded to take forward a range of improvements to development management procedures.
- 20 Innovation, designing for the future and the digital transformation of the planning service
To harness the huge potential that exists through the use of digital technologies and data more effectively and will be setting out their ambitions for a future digital planning service in Scotland. To establish a Digital Task Force to lead and shape these broad and transformational aspirations, as well as inform on more specific ideas and innovation in this key area.

5 RESPONSE TO CONSULTATION

- 5.1 The response to the consultation questions is set out in Appendix A. In general, the proposed changes are welcomed. It is considered that, subject to further detailed consideration of a number of issues highlighted in our response and the matters addressed in our more detailed response to the earlier consultation, these changes should provide a leaner, more flexible and proactive planning system in Scotland that engages better with its communities and is more able to deliver good quality places.
- 5.2 It is pleasing to note that many of the options suggested in our earlier responses have been incorporated into the proposals. There are tensions between the proposals to encourage localism and public engagement and the proposals that have a potentially centralising effect and it will not be until these are developed further that their implications for the Scottish Borders will be fully understood.

6 NEXT STEPS

- 6.1 Scottish Government aims to take forward a positive and ambitious programme of planning reform. Some of the proposals for change will be achieved through a Planning Bill and related secondary legislation, but there also is much that will be achieved ahead of these changes. It is anticipated that a Planning Bill will be present for consideration by the Scottish Parliament by the end of 2017.

- 6.2 The Government will continue to keep stakeholders updated on progress and will undertake targeted engagement on certain proposals. They will also be undertaking engagement with specific organisations and others to help inform the Business and Regulatory Impact Assessment, Child Rights and Wellbeing Impact Assessment and the Equality Impact Assessment which will be submitted to the Scottish Parliament alongside the Planning Bill.

7 IMPLICATIONS

7.1 Financial

There are no cost implications arising for the Council in responding to the consultation. However, the proposed changes to the planning system proposed in this consultation may result in increased planning fees being charged, along with the ability to charge for pre-application advice. This could go some way to addressing the budget pressures currently being experienced by the planning service. The potential for higher fees will have to be balanced against the potential loss of fees due to the increase in permitted development rights.

It is encouraging that Scottish Government looks to be moving to a position where, in time, full recovery of the costs for delivering planning services may be possible.

Following a separate consultation the Government have increased the maximum fee cap for major applications, which will generate substantial fees for windfarm applications in the Scottish Borders.

7.2 Risk and Mitigations

The key risks are considered to be:

Risk of not responding to this consultation:

- (i) Failure to respond to the consultation would limit the Council's ability to influence the new planning system in Scotland and reflect and highlight the issues relevant to a rural planning authority.
- (ii) Failure to respond to the consultation would limit the Council's ability to secure an adequate increase in fees to address full recovery of costs for providing the planning services in the Scottish Borders.

Risk of responding to this consultation

There are no perceived risks related to the Council responding to this consultation.

7.3 Equalities

An Equalities Impact Assessment and a Children's Rights and Wellbeing Assessment have been carried out on the consultation proposals by Scottish Government and it is anticipated that there are no adverse equality implications. There are key provisions within the consultation

that will have a positive impact on equalities as they will improve and enhance community engagement, assist people planning their own place, get more people involved in planning (including difficult to reach groups and young people) and improving public trust in planning.

7.4 Acting Sustainably

There are no significant adverse effects on the economy, community or Environment and there will be real potential for the more effective delivery of sustainable economic development.

Scottish Government has published a Strategic Environmental Assessment (SEA) Environmental Report which forms part of this consultation exercise. Views on it have been invited and our response is set out in Appendix A, in line with the requirements of the Environmental Assessment (Scotland) Act 2005.

7.5 Carbon Management

There are no significant adverse effects on carbon emissions arising from the proposals contained in the SEA report. The proposals seek to ensure greater procedural efficiency and a move towards digital delivery of services, reducing reliance of paper/post etc.

7.6 Rural Proofing

This report does not relate to new or amended policy or strategy and as a result rural proofing is not an applicable consideration.

7.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes to be made to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

8 CONSULTATION

8.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

Approved by

Brian Frater

Service Director Regulatory Services

Signature

Author(s)

Name	Designation and Contact Number
Ian Aikman	Chief Planning Officer

Background Papers:

APPENDIX A – SBC CONSULTATION RESPONSE

APPENDIX B – “PLACES, PEOPLE AND PLANNING POSITION STATEMENT”, JUNE 2017

APPENDIX C - SBC CONSULTATION RESPONSE on “PLACES, PEOPLE AND PLANNING - A CONSULTATION ON THE FUTURE OF THE SCOTTISH PLANNING SYSTEM”, JANUARY 2017

Previous Minute Reference:

- PLANNING & BUILDING STANDARDS COMMITTEE 6TH MARCH 2017
- SCOTTISH BORDERS COUNCIL 30TH MARCH 2017

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

Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk

This page is intentionally left blank

Appendix A

"PLACES, PEOPLE AND PLANNING" – POSITION STATEMENT JUNE 2017 CONSULTATION RESPONSE BY SCOTTISH BORDERS COUNCIL

Consultation Questions

1. Do you have any views on the proposals contained within the position statement? There is no need to restate views already expressed in relation to Places, People and Planning as these have been, and will continue to be, taken into account as we move towards finalising the actions to be taken.

SBC response:

In general, the proposed changes are welcomed. It is considered that, subject to further detailed consideration of a number of issues highlighted in our main consultation response, these changes should provide a leaner, more flexible and proactive planning system in Scotland that engages better with its communities and is more able to deliver good quality places.

Scottish Government is to be commended on the extensive consultation and engagement it has undertaken through the planning review and the open and inclusive way that the Planning and Architecture Division has handled the process.

SBC has already provided a full and detailed response to the consultation document published in January 2017 and would expect that those views will continue to be considered and taken into account as the review moves forward to the production of the Planning Bill, secondary legislation and guidance. It is pleasing to note that many of the options suggested in our earlier responses have been incorporated into the proposals. There are tensions between the proposals to encourage localism and public engagement and the proposals that have a potentially centralising effect and it will not be until these are developed further that their implications will be fully understood.

It is perhaps not unexpected that there are a number of matters which are not yet resolved within the Position Statement and which will require further deliberation, research and input from stakeholders as we move towards the legislative phase. There are also a number of other matters in terms of working relationships, culture change, skills, and most importantly some elements of infrastructure delivery that fall out with the legislative framework of planning but which are equally important to the delivery of positive change. The momentum already created for shared and partnership working with all sectors/stakeholders through the review must be harnessed and developed by Scottish Government.

Whilst not wishing to re-visit issues in detail, there is still concern about some issues, namely, (a) how the potential tensions between the regional/strategic planning are resolved with the new enhanced National Planning Framework, particularly in terms of housing land. There also needs to be clarity on roles, duties, responsibilities and obligations established between government and regional partnerships; (b) how Place Plans interact with the Local Development Plan. We agree that they can help influence the Development Plan and enable

greater community engagement in the making places but there must be clear guidance on what they “are and are not”. The potential capacity and resource issue they raise needs to be resolved. The Statutory Development Plan must continue to take precedence and; (c) we still have doubts about the use of SPZ’s for housing without significant re-branding and availability of budgets for delivery.

It is felt that the statement gives a clear route of travel which includes many of the measures we advocated in our submissions. The “devil” as always will be “in the detail” and we would look for government to continue the inclusive process so that we can continue to contribute to the realisation of a modern planning system in Scotland.

With the caveats mentioned above, we are supportive of the options set out in the Position Statement.

2. What are your views on the accuracy and scope of the information used to describe the SEA environmental baseline set out in the Environmental Report? (Please give details of additional relevant sources)

SBC response:

We are content with the scope and accuracy of the SEA.

3. What are your views on the predicted environmental effects as set out in the Environmental Report?

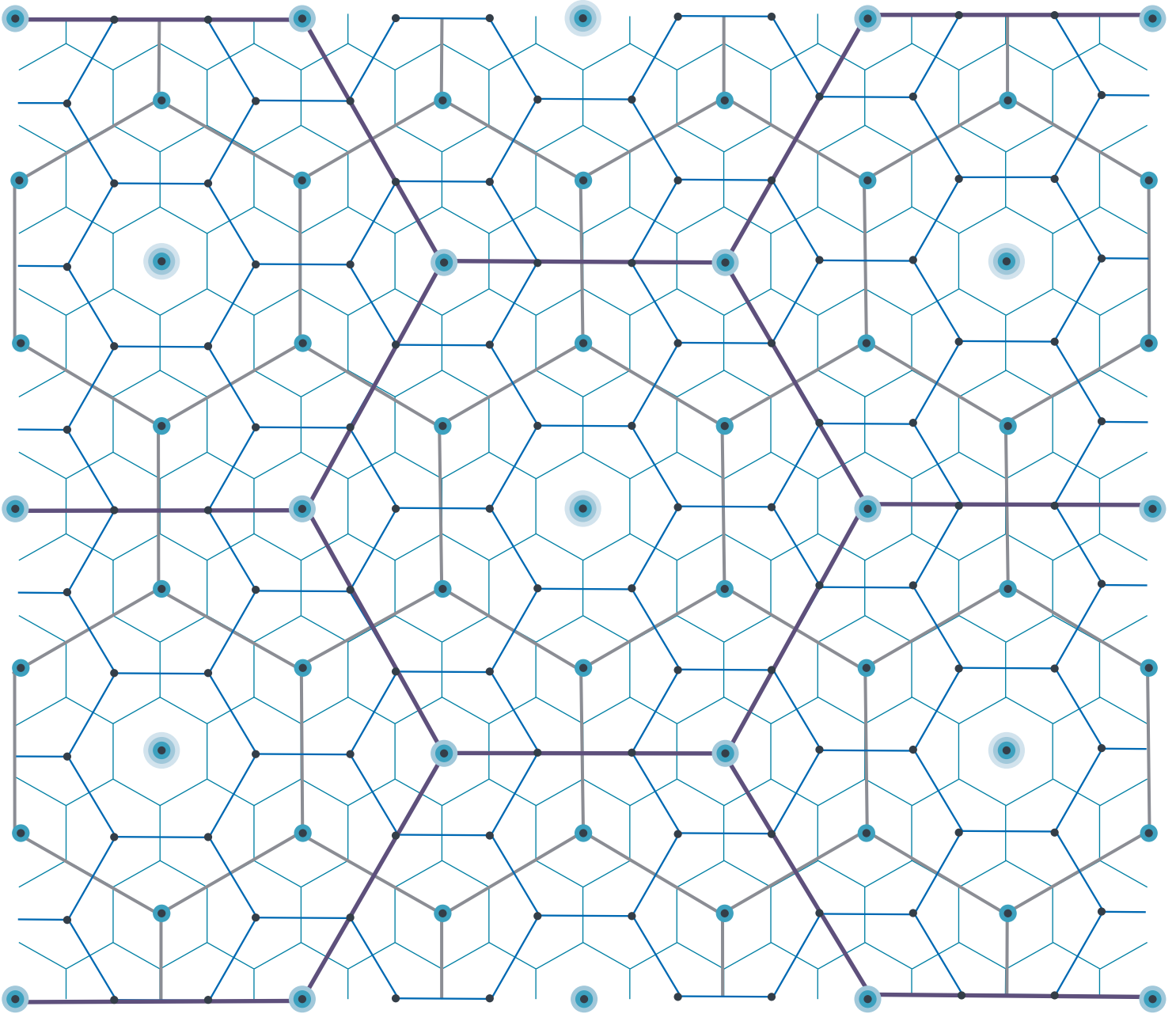
SBC response:

We agree with the predicted effects.

4. What are your views on the findings of the SEA and the proposals for mitigation and monitoring of the environmental effects set out in the Environmental Report?

SBC response:

We are content with the terms of the SEA carried out by Scottish Government.



Places, people and planning

Position Statement

June 2017

Introduction

The independent review of the planning system reported in May 2016. In January 2017 we published *Places, People and Planning*, setting out an integrated package of proposed improvements to planning. Consultation on these proposals closed on 4 April 2017. An independent analysis of views on the proposals has since been undertaken and a report has now been published.

The Scottish Government has committed to bring forward a Planning Bill early in this Parliamentary session. The Bill is an important element in a wider programme of work aiming to strengthen planning's contribution to inclusive growth and empowering our communities. Taking into account the wide range of views on the proposals, this statement describes the key changes that Scottish Ministers are now considering taking forward through the forthcoming Planning Bill, secondary legislation under existing powers, and other, non-statutory approaches. No final decisions have been made on the content of legislation at this stage.

Planning in a changing world

Scotland's planning system operates within a complex and changing context. Our current system has many strengths and there are examples of good practice across the country. Nevertheless, we need to ensure that the system works more effectively to support delivery of development, inclusive growth and quality of place. People are at the heart of the system and it must work effectively in all our interests.

Shared priorities of inclusive growth and community empowerment will continue to underpin this programme of reform. The Enterprise and Skills Review and the emerging update of the National Transport Strategy and Strategic Transport Projects Review have helped to shape our proposals. Providing more good quality homes is a high priority for this Government, and we must enable different approaches to delivering the housing we need now and in the future. Alignment and closer integration of planning with community planning can and should help to improve outcomes for communities. It is important that people have a say in the changes that affect their places and, equally, we must also be able to deliver the inclusive growth that our economy requires and the housing that current and future generations need.

We need a more responsive and flexible approach to planning in Scotland. To fully realise a more enabling role for planning, our current system needs to change. We are aiming to streamline processes whilst encouraging appropriate engagement and collaboration.

Legislative change will take some time to take effect, and needs to be accompanied by early actions supporting inclusive growth priorities. We need to have the leadership, skills, resources, and partnerships to proactively and consistently support development, investment and quality of place across the country.

We must keep in view the core purpose of planning. The quality of the places where we live and work can support health and wellbeing, help to overcome inequality, create jobs and stimulate investment whilst ensuring that we minimise and adapt to the long term impacts of climate change. A stronger focus on planning and place can add value to all areas of policy making. A joined up approach to place-making by all public bodies, communities and businesses can generate efficiencies and ensure good outcomes from policies and decisions. By bringing people together and looking at places 'in the round', planning is uniquely well placed to make these connections so that we respect, enhance and sustainably use Scotland's many assets. Central to this can be the alignment of community and spatial planning and the contribution which planning can make to reducing inequality by supporting inclusive growth.

Working together to improve the system

We are committed to change which reflects the varied needs of all people. We will support changes that improve performance, that strengthen inclusive growth, that focus on outcomes and improve the engagement of people in the system. There is wide support for a plan-led system. The certainty that a strong and inclusive spatial plan can bring is important for communities and investors alike.

People make the system work. Whilst we can change the system, it is clear that success will also depend on fresh thinking, different mindsets, and a willingness to work with, and listen to the views of others. The consultation responses and recent research have shown the importance of this, with many of those involved in planning expressing contradictory views and highlighting a continuing lack of trust in the current system. Whilst differences in opinion on planning are inevitable, in time we must all move beyond our differences to support the implementation of a new planning system together. We will continue to work closely with a wide range of different interests as we take forward our proposals for change over the coming months.

Our current position on proposed technical changes

Places, People and Planning set out 20 proposals for change. Having initially considered the responses to the consultation, as well as ongoing research and analysis, our current position on these proposals is set out below. Given the breadth and depth of views we have received, our consideration of consultation responses is ongoing. The changes set out below focus on technical matters and future legislative amendments, but this forms part of a much wider programme of reform and behavioural change in planning.

MAKING PLANS FOR THE FUTURE

1. Aligning community planning and spatial planning.

We suggested that this can be achieved by introducing a requirement for development plans to take account of wider community planning and can be supported through future guidance.

- Most consultees are broadly supportive of this proposal.
- Some have suggested that a two-way dialogue or genuine partnership between community planning and spatial planning would be needed.
- Others feel that the local development plan should have primacy.
- There are also concerns about any such requirement slowing down the local development plan preparation process.

We continue to recognise this as a priority for securing stronger collaboration and alignment with a focus on positive outcomes for places. We are minded to propose a statutory link between development planning and community planning in the Planning Bill. We agree with views that spatial planning should also be better recognised by community planning, and believe this would be supported where local authority Chief Executives 'sign off' local development plans. Whilst other partners have a role in community planning, this would underline the importance of recognising the links between spatial policy and community planning outcomes.

2. Regional partnership working.

We suggested that strategic development plans should be removed from the system so that planning can better support more proactive regional partnership working. We want to enable wider and more flexible collaborative planning which responds to the different models and partnerships that are emerging in different places. By using the National Planning Framework as a vehicle to support strategic planning, our view was that procedure, overlap and complexity in the system of development plans could be significantly reduced.

- Views on this proposal vary between stakeholders and in different parts of the country.
- There is some concern that such a change would amount to centralisation.
- Potential loss of expertise in strategic planning has also been raised.
- Many feel that a move to more discretionary powers could weaken, rather than strengthen strategic planning and there have been calls for clear statutory duties needed to replace the current duty to prepare a strategic development plan.
- Others agree that regional partnerships could provide a more flexible and delivery-driven vehicle for co-ordinating development and infrastructure investment.
- There is also a wide recognition that one size does not fit all, suggesting that changes which better reflect distinctive local circumstances would be welcome.

Having reflected on the consultation responses, we expect to bring forward changes to remove current requirements for strategic development plans to be prepared and replace them with more flexible, but clearly defined duties and powers at this scale.

We will develop an approach which allows all areas to undertake strategic planning where it will add value and in a way which is sufficiently flexible to allow partnerships to respond to, and build on, local circumstances and relationships. To achieve this, a number of duties could be introduced, including:

- A duty to work together to address nationally and regionally significant spatial planning and development issues.
- A duty to undertake joint evidence gathering including on delivery of cross-boundary infrastructure requirements.
- A duty to contribute to the preparation and implementation of a National Planning Framework delivery programme.

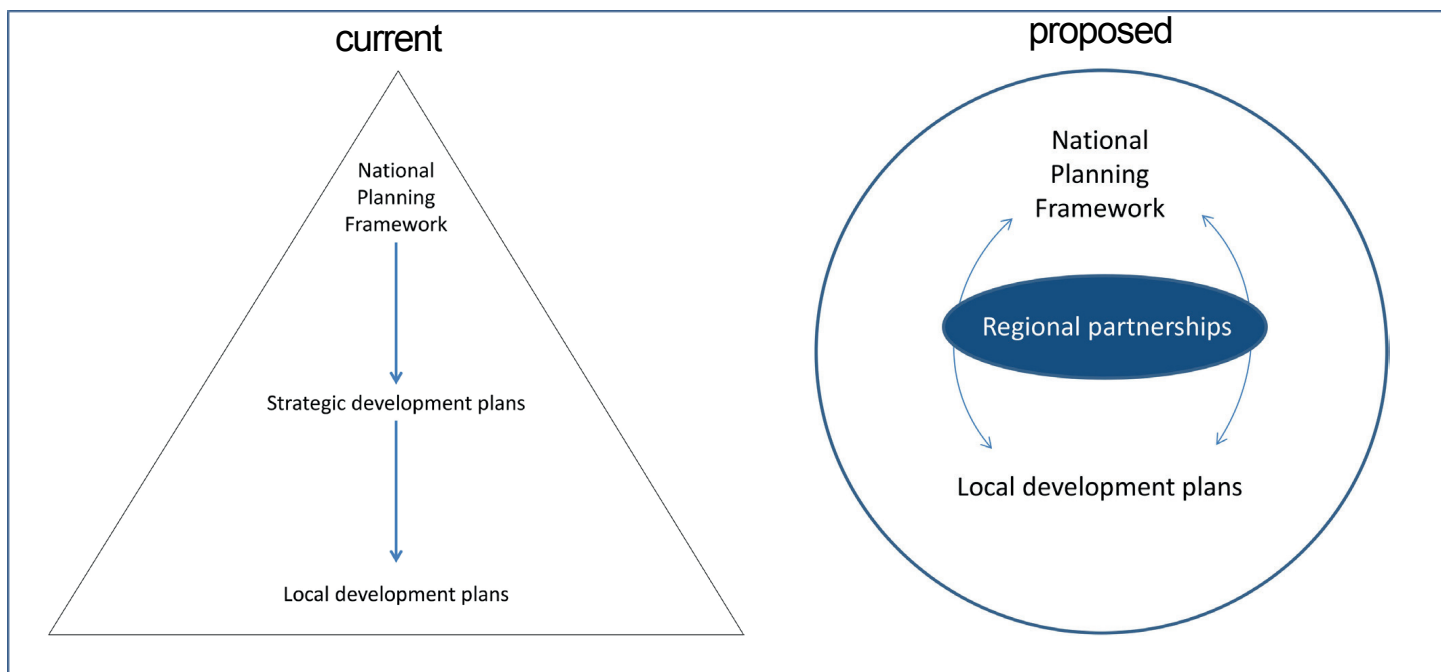
We will also consider additional powers for local authorities to work individually or in partnership with others on a more discretionary basis, focusing on issues with a cross-boundary dimension including infrastructure delivery and housing. Authorities would still be free to work together to prepare spatial strategies for their areas to support wider regional partnership working. Although they would not form a statutory development plan, they could contribute to the evidence base for the National Planning Framework.

3. Improving national spatial planning and policy.

We suggested that the National Planning Framework and the Scottish Planning Policy could play a different role in the system, with enhanced status helping to streamline the system as a whole and enabling local development plans to focus on places and development delivery.

- This has been welcomed by some. There is a good level of agreement with proposed changes to the way national policy is prepared.
- Many recognise that this provides an opportunity to streamline local development plans.
- There are some concerns that a loss of detail could weaken confidence in the plans. Respondents from communities have emphasised that this should not be a top-down ‘imposed’ policy, but should allow for local circumstances to be taken into account.

It is important that plans are purposeful and accessible to all those with an interest in them. Re-stating national policy in local development plans adds time and complexity. An enhanced National Planning Framework (NPF) and Scottish Planning Policy, which together provide an effective strategic perspective to all of Scotland, can help simplify our system. We also have the potential to establish a stronger model of shared responsibility and co-production in delivering the National Planning Framework, whilst promoting development of national importance.



Given the need to deliver the Planning Bill, Scottish Ministers do not expect to adopt the next version, NPF4, within 5 years of NPF3 being produced (by June 2019). We will issue a fuller, collaborative programme for preparing NPF4 in due course, but currently expect its preparation to commence in 2018 with a view to adoption in 2020, and for the Scottish Planning Policy to be reviewed in parallel. We will also ensure that the review of the National Planning Framework is aligned and where possible integrated with the review of the National Transport Strategy, Strategic Transport Projects Review and Infrastructure Investment Plan.

4. Stronger local development plans.

We suggested that the plan period should be extended to 10 years, that the development plan main issues report and supplementary guidance should be removed, and a new gatecheck could be introduced to better frontload scrutiny within plan examinations.

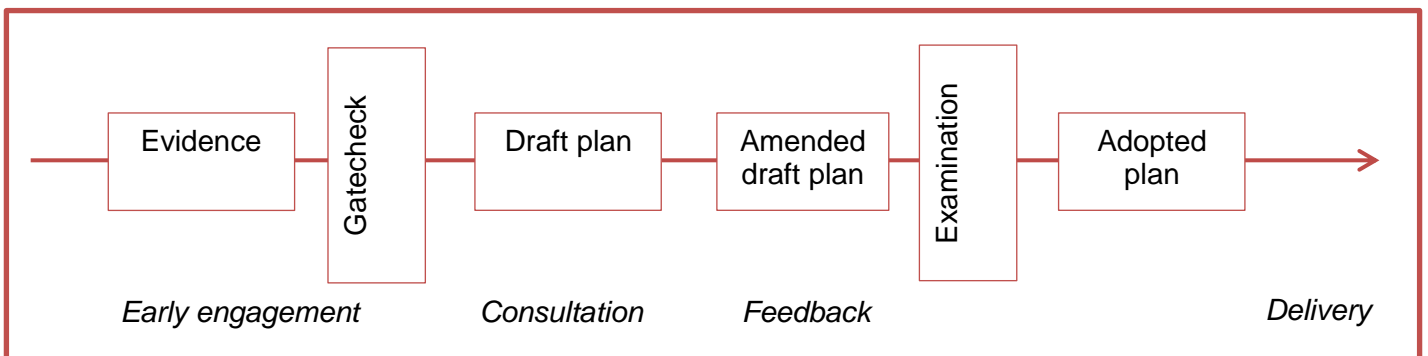
- There is considerable support for these proposals, with many agreeing that local development plans should be strengthened and made more visionary, providing a clearer picture of how an area should develop in the future and improving the link to delivery of development.
- Many stakeholders agree with the proposal to replace the main issues report with a draft plan, and for the proposed frontloading of plan examinations by introducing a gatecheck.

- There are some concerns, particularly from businesses and the development industry, that a 10 year timescale will lead to plans becoming outdated.
- Consequently there is strong support for allowing plans to be updated between review cycles.

A key element in our proposals has been the need to shift towards a focus on delivery and implementation of plans rather than continuous review and plan-writing. We therefore expect to bring forward changes to procedures for local development plans as part of the Planning Bill.

We remain of the view that main issues reports should be replaced with a draft plan, and that supplementary guidance should be removed. We will provide greater clarity on how a 10 year timescale could operate, including through provisions for plans to be amended or updated between full review cycles. We are looking closely at how this can be achieved in a way which is proportionate and avoids delay, whilst ensuring significant change is subjected to robust scrutiny. We will define the specific circumstances where updates may be triggered within the ten year period. We will also develop guidance to support any such change which provides clarity on the relationship between the plan review cycle, plan preparation period, updates and delivery programme. The key objective is that allocations within plans attract greater confidence in delivery and that planning authorities focus more proactively on implementation.

Proposed process of development plan preparation (2-3 years)



Examination and Gatecheck

We recognise that fuller information on the issues which could be covered by a gatecheck within the examination process would also be helpful. The purpose of this change is to achieve a more project-managed approach to development planning, where key issues are addressed early on in an open and inclusive way, and there is clarity and shared ownership of the outcomes being sought. We expect to include a series of more detailed requirements in the Planning Bill and / or related secondary legislation. Matters which could be tested within the gatecheck could focus on:

- whether there is an adequate evidence base (e.g. infrastructure capacity, environmental assets and constraints, housing land assessments and audits);
- outcomes to be sought from the plan (housing requirements, targets for other development types, reuse of vacant and derelict land);
- proposed departures from national policy on the basis of local circumstances;
- methods for the plan preparation including the approach to engaging delivery bodies and the public, alignment with community planning and the scope of the accompanying environmental assessment.

The purpose of the gatecheck would be to provide reassurance on the evidence base and approach early enough in the process to take remedial action, rather than at the end of the process through the current examination process. Whilst we will look to clarify Ministers' powers for intervention in the local development plan process, our aspiration is that future arrangements will see more straightforward examinations as a result of the early gatecheck.

We continue to recognise that mediation has potential to support development planning, as well as wider aspects of the system, and will explore this further in future guidance rather than in the legislation.

5. Making plans that deliver.

We suggested measures for ensuring that allocating development land in a plan attracts more confidence in development delivery. This included setting a minimum level of information to be provided alongside development proposals in the local development plan, greater leadership from planning authorities in zoning land for development, and a stronger commitment from the key agencies to the development plan, to reduce the likelihood of objections arising at the consenting stage.

We also proposed that requirements for public involvement should be increased for sites which have not been allocated within the plan, and that conversely there may be scope for reduced consultation in the case of sites which are already confirmed as part of the plan.

- There is broad support for moving from relatively theoretical action planning towards a stronger delivery programme.
- Some respondents have emphasised that planning cannot deliver development on its own, and that buy-in from delivery partners is crucial.
- Concerns have been expressed, largely by the development industry, about introducing requirements for more information on viability at the site allocation stage and the proposal for enhanced engagement in the case of non-allocated sites. However, many other respondents, including communities, support this change.

We expect to bring forward measures to strengthen local development plan delivery programmes in the Planning Bill and through changes to secondary legislation.

There is strong support for a plan-led system. We therefore maintain our view that there should be enhanced engagement where a site that has not been allocated in a development plan is brought forward as an application.

Equally, we recognise the view that there could be greater flexibility in engagement requirements and scope where the principle of development of a site has already been fully debated and established at the development plan stage. We will therefore develop more specific proposals for adjusting pre-application consultation requirements which are more proportionate for allocated sites. These proposals are expected to involve future legislative change, as well as being supported by guidance.

The commitment to a plan led system needs to be accompanied by some confidence that allocated sites will be brought forward. Where site allocations are not being delivered over time, infrastructure providers face uncertainty and pressure can increase for sites to be de-allocated in favour of more effective land allocations. We will work with stakeholders to explore a proportionate framework to provide clarity on delivery whilst minimising additional investment in assessment. We expect to support this proposal through secondary legislation and guidance.

PEOPLE MAKE THE SYSTEM WORK

6. Giving people an opportunity to plan their own place.

We agree with the independent panel that a new right should be introduced for communities to plan their own place, and that those plans have the potential to form part of the statutory development plan. Proposals for the form this might take were set out in the consultation paper.

- There is strong support for this proposal, particularly from communities and the civic sector.
- There are also concerns about added time and complexity, the potential to reinforce rather than resolve conflict, and resource requirements. Many have called for additional resources, support and training.
- Many believe that the local development plan should set the framework for local place plans.
- There is agreement that community councils could play a role in co-ordinating local engagement, whilst recognising that their capacity and representative-ness is currently variable and that other bodies have a valuable role to play.
- There are also concerns that a higher level of involvement in local place plans could undermine our broader emphasis on stronger, upfront engagement in local development plans.

We remain committed to this proposal as an essential part of re-imagining the role of communities within the system. We agree that there is a need to ensure that local place plans are used to promote appropriate development rather than as a vehicle to prevent it. We also agree that the relationship with the wider development plan is crucial.

We are currently looking at how local place plans could best be designed to address concerns and achieve wider buy-in from all interests in planning. The following key issues will be addressed:

- We expect the Planning Bill to include proposals for local place plans that are consistent with the local development plan.
- We are minded to leave processes and procedures for their preparation as flexible as possible so that communities themselves can define the best way of doing this for their area.
- We will set out how local place plans should be incorporated into the local development plan through an update that still allows for wider public consultation and independent scrutiny.
- We also expect that future guidance, learning and practice will need to be clear that a right to plan brings with it responsibilities, including to deliver on agreed needs and essential infrastructure.

We recognise the widespread support for community councils being involved in preparation of the development plan scheme and are therefore minded to take this forward. We would want to ensure, however, that wider organisations, such as community development trusts, also have an important and positive role in helping to deliver change. Recognising the importance of stronger links with community planning, we will also look at the role of locality plans as part of this.

As well as legislative change, local place plans in particular will require guidance and support for effective implementation. As a starting point, this year's programme of design-led engagement ('charrettes') will explore the challenges and opportunities arising from local place plans in more detail.

7. Getting more people involved in planning.

We recognise that a wider range of people should get involved in planning and have suggested that in particular, the involvement of children and young people could be supported by future change. We recently published research on the barriers to engagement in planning, helping to deepen our understanding of the issues at play. In addition, a survey of children and young people, conducted by YoungScot, has shown a significant amount of existing engagement, upon which further proposals can be built.

- Many respondents welcome our proposals but are seeking further detail on what needs to be done to broaden engagement.
- Views on this vary between sectors, with strong support from community respondents, alongside concern from the development sector and some planning authorities about the value, time implications and resources required to achieve fuller engagement.

We intend to bring forward targeted changes to the existing requirements for engagement to ensure that children and young people are specifically encouraged to get more involved in planning. We are also considering how we can take forward the recommendations arising from the research, including steps needed to achieve a real shift away from consultation towards more meaningful community empowerment within the planning system.

Development plan schemes, and in particular participation statements, could play an important role in this and we will therefore look to strengthen the provisions for them in the legislation. We will also continue to explore the scope for community empowerment and capacity building which extends beyond the planning system.

8. Improving public trust.

We suggested a number of changes to improve trust in planning, including amended requirements for pre-application consultation (PAC) for major and national developments; such as a requirement to provide feedback to communities following engagement, and asking whether there ought to be a time limit for submission of applications. We suggested removing the opportunity for applicants to submit a revised or repeat application at no cost if an application is refused, withdrawn or if an appeal is dismissed, and measures to strengthen enforcement. The need for training in community engagement, involving not only planning authorities but also the development sector was highlighted. As noted above, we also believe that development plan schemes could be used to secure stronger and more locally tailored approaches to engagement.

- There is strong support for these proposals from civil society respondents.
- Some feel that it is important that further requirements do not create greater conflict and uncertainty or slow down the system, arguing that current arrangements are sufficient.
- There are suggestions from across sectors that more could be done to clarify requirements and promote good practice in pre-application consultation.
- Views vary on the role of repeat applications, with developers expressing concern about loss of flexibility and increased costs, whilst communities continue to report that this can be a source of frustration and mistrust.
- Whilst there is a great deal of support for stronger enforcement, those who disagree argue that existing powers are under used, and that statutory change is not necessary.

We currently expect to progress these changes as proposed, given the role they could play in building trust in the planning system. We consider that most of these proposals can be taken forward through secondary legislation, although some changes may be needed in the Bill to ensure that Ministers' powers are sufficiently flexible.

9. Keeping decisions local – rights of appeal.

We suggested looking at the way that reviews and appeals are handled in the planning system, with the objective of keeping more decisions local.

- Views on these proposals are mixed and there appear to be significant concerns with some of the potential changes.
- Assigning further decisions directly to Ministers, rather than Reporters has limited support for different reasons, including potential for delays.
- There is strong consensus that the training of local elected members should be made mandatory.
- Concerns about the way in which local review bodies operate appear to be influencing the level of support for more local decisions.
- Views on charging fees for appeals are mixed with support from communities and planning authorities, but significant concerns from businesses and the development sector.

At this stage, we believe there is scope for some change, for example by looking at how minor developments such as advertisement consents are handled through to appeal. Opportunities for other types of consents to be reviewed locally may be more limited. We believe that more can be done through consistency in local schemes of delegation in order to encourage greater consistency as well as subsidiarity of decision making. Clear guidance and sharing of good practice could help to support this. There would also be merit in reviewing the effectiveness of local review bodies to explore lessons learned, share issues and solutions, and identify scope for future improvement. In the meantime no further legislative change is proposed. We do not intend to pursue the proposal for Ministers to take decisions more frequently, rather than Reporters. At this stage we do not propose to introduce fees for lodging either reviews or appeals.

We are exploring the scope for mandatory training for elected members who are serving on a planning committee or Local Review Body, potentially supported with testing. We have already offered financial support to planning authorities who are taking forward training following the May 2017 local elections.

Some respondents are disappointed that we are not considering introducing equal or third party rights of appeal. Others strongly support our position on this. Our view remains unchanged - we are convinced that stronger early engagement through the extensive measures set out above would be much more constructive. We will build on the existing strong provisions to involve people early in the planning process rather than at the end, and ensure that our system works for all, including those who want to invest in the quality of our places and our economy.

We have noted the positive comments received from authorities with islands on the proposals for greater subsidiarity to ensure planning better reflects their unique circumstances. We will continue to work with local authorities across Scotland to ensure local distinctiveness guides the level of flexibility required in the system. We will also continue to explore the role that a well-functioning planning system can play in contributing to the development of economic activity in rural Scotland and we will island proof the Planning Bill.

BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE

10. Being clear about how much housing land is required.

The consultation paper was clear that more needs to be done to support housing delivery and we maintain that view. Work on planning for housing is ongoing alongside developing proposals for legislative change. We proposed that more could be done nationally, through the National Planning Framework, to guide the level of housing land required in local development plans.

- Different stakeholders have concerns about this proposal.
- Some do not support what they perceive to be centralisation, removing decisions on housing away from the local context, reducing transparency and a loss of flexibility.
- There are mixed views from the development industry, including some concerns that too flexible an approach at a national or regional level will do little to improve clarity, as well as calls for greater involvement and challenge in the Housing Needs and Demands Assessment (HNDA) process.
- Planning authorities and others argue that a clear national steer on housing land requirements would be welcomed if it helps to streamline local

We have taken into account responses to the consultation, including the wide range of views on whether or not housing figures should be set at a national or local level.

Whilst it will be important to ensure that future changes to the planning system are equipped to deal effectively with planning for housing, we expect this to be addressed as a priority in policy and guidance, rather than through structural change to the system. Bearing in mind our proposals for enhancing the role of the National Planning Framework and Scottish Planning Policy, we will continue to work with housing professionals, planning authorities and developers to identify a solution which minimises the level of debate on how much land is required for housing. The objective is to allow everyone to focus more on delivering sufficient good quality housing which improves places and is supported by the right infrastructure.

11. Closing the gap between planning consent and delivery of homes.

We suggested that planning authorities could take more steps to actively help deliver development. Much of this would be supported by the wider proposed changes to the planning system as a whole, and the consultation paper noted that in addition, planning authorities could do more to enable development through greater use of existing powers (such as Compulsory Purchase Orders) as well as new and emerging delivery models and approaches. We also called for major applications for housing to be accompanied by appropriate information on development viability.

- Views on how this can be achieved range from those who argue that they will have little impact on delivery to others who are concerned that a drive to improve delivery could come at an environmental or social cost.
- Planning authorities have emphasised that their influence on the type of homes provided is limited.
- There are wider views that the lack of competition in the housing market (e.g. from smaller builders) is impacting on the diversity of homes delivered.
- There is agreement that planning can and should do more to support the delivery of different types of homes in different locations.

- Communities have emphasised the importance of creating high quality places rather than too great a focus on housing numbers. Within this, there is support for brownfield land in preference to greenfield sites, protection of prime agricultural land, and better co-ordination of housing with local facilities and infrastructure.
- The proposal for fuller information on development viability to support major applications has been welcomed by communities and most planning and policy respondents, but is not supported by the majority of development industry respondents. Some respondents have pointed out that assessments can change over time and that different circumstances will determine whether or not it can be made available.

Housing delivery is a continuing priority for this review. We will continue to work with others, including through the More Homes Scotland approach, to ensure that planning does all it can to enable the building of more high quality homes of a broader range of types, and in a way which strengthens places and quality of life. We remain clear that planning for housing should recognise the importance of working with our environmental assets to create great places.

We maintain that fuller information on the viability of sites and development delivery should be part of a planning process and will continue to develop this further with a view to future guidance.

Whilst changes to Compulsory Purchase Orders, Compulsory Sale Orders and a development land tax could all influence the context for planning for housing, we are exploring options around these separately and they will not be taken forward as part of the Planning Bill. We will, however, pursue revised guidance for operation of existing CPO powers in the short term.

12. Releasing more 'development ready' land for housing.

We suggested that greater use of a zoned approach to development has potential to support housing delivery. We are now progressing four pilot Simplified Planning Zones in Aberdeenshire, Argyll and Bute, North Ayrshire and Dumfries and Galloway to explore the potential for this further. We have also undertaken research, including a fact-finding visit to Ireland to look at their use of

- There is support for this in principle, but also questions about the extent to which this might result in a loss of development quality or engagement, or could undermine wider commitments to robust environmental assessment and design.
- Communities want to ensure that zoned areas are well serviced by infrastructure, fully consulted on and assessed for their impacts, including on the environment.
- Business and development industry respondents broadly welcome the proposal but are seeking further information.
- Questions have been raised about funding, both for establishing a zone and for providing the infrastructure, with some noting that fees would be lost whilst upfront resources would be needed.
- Others question the appropriateness of allocating a large area of land for a single use and there are calls for design, masterplanning and / or coding to be used to ensure quality of place.

We remain of the view that zoning has potential to unlock significant areas for housing development, including by supporting alternative delivery models such as custom and self-build. This could also support wider objectives including business development and town centre renewal.

We expect to bring forward proposals for legislative change that will refresh and rebrand Simplified Planning Zones and allow them to be progressed in a wider range of circumstances. These changes will be designed in a way which addresses issues raised in the consultation including the need for environmental assessment, design and quality to be built into schemes, and community engagement to be incorporated. We are also minded to make provision for discretionary charging. We will look at broadening the way in which the idea of establishing a zone can be progressed, including by allowing for Ministers to direct a zone to be established where it is in the national interest. Both local authorities and site promoters could also be given scope to bring proposals for zoning forward.

As with our wider aim of delivering more homes, opportunities for design, innovation and placemaking should be integral to these proposals.

13. Embedding an infrastructure first approach.

Effective infrastructure planning can ensure that places function properly and development improves, rather than detracts from quality of life. The consultation considered infrastructure governance, duties and responsibilities. We invited views on our proposal for a national working group to co-ordinate infrastructure and planning and also on whether our proposals for regional scale strategic planning would improve planning for infrastructure.

- A range of views have emerged from the consultation - most agree that some sort of action is required to address the issue and progress change.
- Some believe there is a need for a new national body, in many cases businesses or the development industry, and argue that a less formal arrangement would lack impetus.
- Others support a working group approach on the basis of concerns about creating another agency and 'increasing bureaucracy'.
- Co-ordination and communication is widely recognised as a priority, and many agree that there is scope to build on existing experience.
- There are also concerns about the extent to which an agency or delivery group would treat different areas of Scotland equitably.
- Scottish Ministers remain of the view that a new agency is not needed to improve the links between planning and infrastructure. We have also taken into account views that a working group may or may not lack influence or impetus. As there are different views on appropriate arrangements, but consensus on a need for action in the short term, we have asked the Scottish Futures Trust to work with us to take forward support for significant stalled sites in combination with the ongoing brokerage role of the Chief Planner. This will also link with the More Homes Scotland programme. Rather than having statutory powers, this would be led by the Scottish Government and involve infrastructure providers as and when required. We believe a task based approach is likely to have the greatest impact in the shortest time.

Furthermore, we are continuing to consider options for a national delivery group to support improved co-ordination of development and infrastructure issues. To inform this we will continue a dialogue with the current key agencies and private sector delivery partners including transport (rail), electricity, gas, heat, telecommunications and digital infrastructure providers. Over the coming months, this would provide a useful forum to discuss any potential changes to duties and powers to be considered for inclusion in the legislation.

We will continue to engage in the forthcoming review of the Infrastructure Investment Plan to ensure that the National Planning Framework informs decision making about future investment priorities. As proposals take shape, continuing alignment with ongoing work on the Enterprise and Skills Review and the National Transport Strategy's review of transport governance at the national, regional and local levels will be critical over the coming months.

Our proposal to move strategic development planning towards regional partnership working can also help to improve infrastructure governance and co-ordination. Infrastructure planning, from transport and utilities to catchment scale water and flooding management and green networks, requires a strong evidence base and often a cross boundary perspective. To develop the regional scale of infrastructure planning in more detail, we will explore approaches to regional infrastructure audits further over the coming months. We will also continue to work with infrastructure providers to define how best to facilitate their involvement in the planning system.

14. Creating a fairer and more transparent approach to funding infrastructure.

We suggested that a new means of capturing land value uplift, in the form of an infrastructure levy, could be used to strengthen the scope for planning to support the delivery of development. We commissioned research and published a report of Stage 1 and 2 of this work alongside the consultation paper in January 2017. We also proposed removing scope for Section 75 planning obligations to be modified or discharged (Section 75A).

- There appears to be general support for the principle of introducing a levy, but views vary on the form it should take.
- Many consultees are seeking further information before reaching a view on whether or not it would be a positive change.
- The development industry are questioning what a levy would fund, with concerns that it would be used to replace central funding for infrastructure.
- Businesses are seeking more information on the impacts on project viability and are concerned that it could apply to development which has no impact on infrastructure.
- Public sector respondents consider that the amount of money a levy might raise may be limited, and that it may not help if it does not make funds available to support upfront costs.
- There is support for a mechanism which could supplement the contributions gathered through Section 75 planning obligations and a recognition of a need for different solutions.
- Strong views opposing the removal of Section 75A on the part of the development sector contrast with strong support for this change by communities.

We remain of the view that options for a levy or charge merit further consideration. We will finalise and publish a Stage 3 research report which identifies options that could be tested further. We will continue to explore this with assistance from the Scottish Futures Trust before coming to a view on the level of detail that can or should be included in the Planning Bill.

Having considered responses to the consultation as well as evidence on appeal cases for Section 75A in more detail, we are not currently minded to remove the provisions at Section 75A for modifying planning obligations. However, we remain open to considering whether changes to Section 75 may be required in connection with future decisions on the role of a levy.

15. Innovative infrastructure planning.

We highlighted a number of other planning priorities in Places, People and Planning including education, transport, green infrastructure, energy and digital infrastructure. This work continues to progress, involving extensive collaboration across Scottish Government policy areas. We have taken forward enhanced permitted development rights for telecommunications infrastructure and will continue our work on education infrastructure planning in the coming months.

We also sought views on whether Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009 should be removed. There appears to be general support for this, based on our view that it has limited added value. However, there are some concerns that removing this appears to be inconsistent with the aspirations of the emerging Climate Change Plan. Given our commitment to climate change and the need for every policy area to contribute to reducing emissions, it is not our intention to progress this through the Planning Bill.

STRONGER LEADERSHIP AND SMARTER RESOURCING

16. Developing skills to deliver outcomes.

We noted the importance of skills, including leadership, to support an improved planning system. We have now received recommendations from Heads of Planning Scotland (HoPS) and the Royal Town Planning Institute (RTPI) Scotland on skills development and shared services.

- There is widespread support for multidisciplinary working and opportunities to develop skills, such as internships and secondments.
- Priorities for training emerging from the responses include: leadership, mediation, development economics and finance, project management, design, placemaking, archaeology, environmental assessment and energy planning.
- There are some concerns about time and resources required, and that planning education needs to focus on practical skills.

We will continue to work with RTPI Scotland, Heads of Planning Scotland, COSLA and the Improvement Service on skills development. We will also explore the scope for shared services, and expect there could be particular benefit in developing more effective sharing of expertise in some specialisms such as archaeology or environmental assessment.

17. Investing in a better service.

We set out a range of proposals for which additional fees could be charged in order to ensure that the planning service can be better resourced. This included possible charges for appeals and reviews of decisions, agency services, pre-application discussions, Simplified Planning Zones, repeat applications, advertising costs (as part of a fee), central government functions, enhanced services or fast tracked applications.

- Responses to the consultation show agreement that planning is under-resourced.
- Many consultees feel that any increased income should be proportionate and ring-fenced to ensure it is invested back into the planning service.
- There are some concerns about more specific proposals for fees, including mixed views on fees for services provided by agencies and fees for appeals.
- Several interests (including energy developers, those operating in rural and island communities) have particular concerns about fees and the impact this would have on development viability.
- Many believe that an increase in fees should be matched with improved performance.
- There have been calls for any change in fees to be gradual and / or flexible to reflect different sectors and circumstances.

We believe that there is a need to ensure that the system is properly supported if it is to deliver on a more ambitious, enabling agenda. Following a separate consultation, we have increased the maximum planning fee. We will not consult on further changes until after the Planning Bill has been considered by Parliament, to ensure we have a clear idea of the resource implications arising from the finalised changes to the planning system. However, given the limited existing powers in current legislation around resourcing, we expect the Planning Bill to include additional enabling powers that provide scope to widen discretionary charging and to extend the range of services for which fees can be charged.

We recognise that the development and business sectors have some concerns about the impact of further charging on development viability and wider investment. Whilst it is too early to set it out in detail, as proposals emerge we will continue to evaluate their impact including through the requirement for a Business and Regulatory Impact of any relevant legislative change and the Financial Memorandum that will accompany the Planning Bill.

18. A new approach to improving performance.

Our proposals on improved performance reflected the importance of ensuring a good quality service for all users of the planning service. We asked how planning authorities could be supported to improve their performance and whether there is support for monitoring outcomes from planning more than procedures.

- Many consultees welcome the proposal to monitor outcomes, including on health and wellbeing as well as climate change and carbon emissions.
- Some suggest that the Place Standard could provide an ideal measure of how a place has changed.
- There is support for a proposal to introduce 360 degree feedback as part of performance monitoring.
- Some respondents have concerns about retaining the penalty clause, with views that it is a negative approach and that performance would be better improved with support rather than sanction.

The proposed changes to fees will not reduce Ministers' focus on a high performing system. We will continue to work with the High Level Group and others in pursuit of improved performance.

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

The consultation paper set out opportunities to streamline the system including by increasing permitted development rights and simplifying development management procedures.

- There is support for expanding permitted development rights from many consultees, including those areas set out in the consultation paper (digital telecommunications, low carbon developments, development supporting the farming sector, allotments and community growing schemes, town centre uses and aquaculture).
- Other areas proposed include energy infrastructure, broader agricultural uses, and some household extensions and alterations.
- Some consultees have concerns about the impact this could have, for example on conservation areas or rural areas.
- There are also mixed views on options for changes to development management, including some questions around the value of pre-determination hearings and full council decisions, and the legislation relating to the duration of approved planning permissions.

We remain of the view that broadening the scope for permitted development could play a significant role in making best use of resources in the planning system. Heads of Planning Scotland has since progressed work in this area and we will give more detailed consideration to the proposals, along with the priority areas identified in the consultation paper.

We are currently minded to take forward a range of improvements to development management procedures, and will give further consideration to consultation responses to inform our approach.

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

The consultation paper highlighted the importance of digital technologies and innovation to support the future planning service.

- There is considerable support for this proposal and a welcoming of the service already provided under the eDevelopment programme.
- Many feel that better use of digital technology, whether in the form of 3D visualisations or improved use of digital communication tools, could provide a step change in the way the planning system operates.

- Some concerns relate to resources and there have been calls for a central resource to support local authorities in moving to maximise opportunities through digital transformation.
- Some also expressed concerns about potential for digital exclusion.

We recognise the huge potential that exists through harnessing use of digital technologies and data more effectively and will be setting out our ambitions for a future digital planning service in Scotland shortly. We are moving forward with establishing a Digital Task Force to lead and shape these broad and transformational aspirations, as well as inform on more specific ideas and innovation in this key area.

Questions

1. Do you have any views on the proposals contained within the position statement? There is no need to restate views already expressed in relation to Places, People and Planning as these have been, and will continue to be, taken into account as we move towards finalising the actions to be taken.
2. What are your views on the accuracy and scope of the information used to describe the SEA environmental baseline set out in the Environmental Report? (Please give details of additional relevant sources).
3. What are your views on the predicted environmental effects as set out in the Environmental Report?
4. What are your views on the findings of the SEA and the proposals for mitigation and monitoring of the environmental effects set out in the Environmental Report?

Next Steps

We have taken an open and collaborative approach to the review of the planning system to date, and intend to maintain this transparency as the work progresses.

Further views on the additional details provided in this statement and in response to the Strategic Environmental Assessment (SEA) Environmental Report are invited by 11 August 2017.

Responses should be sent to planningreview@gov.scot. We are conscious that many people have already spent considerable time contributing to the review, and so there is no need to restate views already expressed in relation to Places, People and Planning. These views have been, and will continue to be, taken into account as we move forward.

We will continue to keep stakeholders updated on progress and will undertake targeted engagement on certain proposals. We will also be undertaking engagement with specific organisations and others to help inform the Business and Regulatory Impact Assessment, Child Rights and Wellbeing Impact Assessment and the Equality Impact Assessment which will be submitted to the Scottish Parliament alongside the Planning Bill.

RESPONDING TO THIS CONSULTATION

We are inviting responses to this consultation by 11 August 2017

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/planning-architecture/a-consultation-on-the-future-of-planning>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 11 August 2017

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

Planningreview@gov.scot or

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

Handling your response

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

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

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

Next steps in the process

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

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

Comments and complaints

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

Planningreview@gov.scot or

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

Scottish Government consultation process

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

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

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

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

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

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



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2017

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78851-079-0 (web only)

Published by The Scottish Government, June 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS266359 (06/17)

Appendix C

**“PLACES, PEOPLE AND PLANNING” - A CONSULTATION ON THE FUTURE OF THE SCOTTISH PLANNING SYSTEM
CONSULTATION REPOSE BY SCOTTISH BORDERS COUNCIL**

MAKING PLANS FOR THE FUTURE – CONSULTATION QUESTIONS

Key Question	Scottish Borders Council Response
<p>A: Do agree that our proposed package of reforms will improve development planning? Please explain your answer.</p>	<p>Yes.</p> <p>There is merit in the periodic re-examination of how the system operates; looking at what we do, to identify current weaknesses in the system and suggest possible amendments / improvements. It is pleasing to note that the consultation contains a number of the options identified by Scottish Borders Council in our response to Independent Review Panel. Consequently, the review is welcome and the range of options it sets out have the potential to make a real difference.</p> <p>Scottish Borders Council therefore looks favourably on the proposed changes to Development Planning and wish to engage constructively in the further development of these ideas. There are a number of issues identified which need to be addressed further, along with clarification on some points. These issues are identified in more detail in the responses below.</p>
Optional Technical Questions	
<p>1. Do you agree that local development plans should be required to take account of community planning?</p>	<p>Yes.</p> <p>However, there needs to be a reciprocal obligation on Community Planning to take account of Spatial Planning. To be effective there must be a high degree of consistency of approach and commitment from practitioners in both fields to work in a joined up and holistic manner.</p> <p>If implemented on this basis, there is real potential to improve Development Planning making Plans more responsive to community priorities and aspirations. There is the opportunity to take account of the views of a wide range of Community Planning stakeholders using their existing networks to facilitate dialogue and avoid repetition of effort. Saving us all from consultation fatigue.</p>

	<p>However it is important that Community Planning Partners recognise the purpose, focus, legal and procedural framework, of the Development Planning process to maximise the value of their contributions.</p>
<p>2. Do you agree that strategic development plans should be replaced by improved regional partnership working?</p>	<p>Yes</p> <p>The current Development Planning system has too many tiers in relation to a relatively small country such as Scotland and results in a large degree of overlap or duplication in some areas. Strategic Development Plans (SDP) have had a difficult gestulation in terms of process and output and have not been as effective as they could have been in addressing strategic issues in all parts of Scotland. In Scottish Borders Council experience, they merely pass on high level requirement for LDPs to follow and often merely replicate Scottish Planning Policy. SDP's have not been seen as providing significant added value to the Development Planning process. It is acknowledged however that other authorities may consider that they deliver greater value in other parts of the country.</p> <p>We contend that there needs to be a regional dimension to strategic planning, to bridge the gap between the National Planning Framework and Local Development Plans. This could be achieved by bringing closer together national and regional levels of planning to provide a clearer focus on the delivery of infrastructure, and to set high level supply targets on matters such as housing land. This could be delivered as suggested by regional partnership working feeding into an enhanced National Planning Framework (NPF). Regional planning partnerships could be delivered through joint working between stakeholders under the auspices of an enhanced National Planning Framework (NPF) that sets out regional targets, not aspirations.</p> <p>In principle, regional partnership working groups are a good idea. However, there is legitimate concern about how such partnerships would operate and how targets would be tailored to take account of regional differences. The wide range of interested parties likely to be involved in the partnerships, along with often conflicting wants and needs, mean that agreement on regional priorities may prove challenging and time consuming to deliver. This agreement may prove even more challenging if the requirement to work together at the regional level is not made a duty. The provision of the statutory powers alone will not deliver regional partnership working or regional planning in any meaningful way.</p>

	<p>There are also questions about the governance and financing of such arrangements, how any potential democratic deficit would be addressed and the equity of influence afforded to rural authorities such as Scottish Borders Council. There is a need for clear unambiguous guidance on procedures and the roles and responsibility of component groups and this must be set out at the outset. Further information in respect of the role of the Planners currently working at regional scale who would become involved in partnership working would be helpful.</p>
<p>2(a) How can planning add greatest value at a regional scale?</p>	<p>There is clear role for planning & planners to lead regional working partnerships. They can help facilitate and manage the partnerships to ensure that spatial planning is at the forefront of regional and national policy – linking regional strategy to NPF, Strategic Transport Projects, Economic Strategy, Transport Strategy, Infrastructure Investment Plan, etc. There is the opportunity to have better alignment between the regional strategy and development/investment priorities.</p> <p>There is already a core staff within Strategic Development Plan Teams with key knowledge of strategic planning issues that can assist in development of regional strategies. There are already contacts within existing SDP teams with a range of stakeholders, including local planning authorities and private sector, and knowledge of projects within their regional context. They would be able to play a key role in the regional partnerships along with colleagues in Scottish Government,</p>
<p>2(b) Which activities should be carried out at the national and regional levels?</p>	<p>Agree with the terms set out in paragraph 1.13 of consultation.</p> <p>The activities carried out at National level should be defined clearly in guidance and could include:</p> <ul style="list-style-type: none"> • Defining housing targets at national and regional level • Developing and producing regional strategies in NPF • Producing and monitoring the NPF delivery Programme • Setting out priorities for the Infrastructure Investment Programme <p>The activities carried out at regional level should be defined clearly in guidance and could include:</p> <ul style="list-style-type: none"> • Defining partnership boundaries and identifying potential stakeholders • Proving the evidence base for development of the regional strategy set out in the NPF and its delivery programme • Assisting SG in defining housing targets and regional housing allocations • Co-ordinating housing target delivery between authorities and monitor progress

	<ul style="list-style-type: none"> • Co-ordinating Infrastructure levy spend and project delivery • Promote linkage with Regional Transport partnerships. <p>Paragraph 1.15 refers to regional transport partnerships. It is logical that there should be close working with regional transport partnership and that they should be an integral part of the regional partnership. A joint obligation to work together would assist in securing this arrangement. At this moment in time we do not feel that there is sufficient information to allow a decision to be made on whether Scottish Borders Council should be part of a SEStran “Model 3” Regional Transport Authority and whether such arrangements are necessary to address transport issues.</p>
2(c) Should regional activities take the form of duties or discretionary powers?	<p>They should be duties not discretionary powers.</p> <p>As set out in the response to question 2 above, we are of the opinion that regional activities should be duties. If there is no obligation to carry out these activities in reality they will not be done, or they will be delayed, as other local priorities take precedence.</p> <p>Given the likely differing opinions of interested groups there needs to be guidance on what weight should be given to all regional activities and also on the terms of engagement/reference of the various partners. It is worth noting that if the powers were discretionary, there is the potential for issues to become overcomplicated, too difficult, to be side lined, and for lengthy disputes to arise. This would not contribute to a more efficient planning system focussed on delivery and investment.</p>
2(d) What is your view on the scale and geography of regional partnerships?	<p>There are benefits in providing flexibility to define the scale and geography of regional partnerships. It is important to understand the complexity and variance of geographies across Scotland, as well as the diverse economic and transport patterns. It is clear that a “one size fits all” approach will not work. The links to emerging arrangements for the Edinburgh City Deal and the Enterprise and Skills Review as it relates to Southern Scotland merit further consideration and could form the basis of the Southern Scotland regional partnership. It is important that the membership of regional partnership contains bodies and agencies that can help deliver the regional strategy and extends beyond planning.</p> <p>As mentioned in the answer to 2(c) above, it is important that the terms of engagement/reference of the various partners are set out to ensure that all play an effective and meaningful role in the partnership.</p>
2(e) What role and responsibilities should Scottish Government, agencies, partners and	<p>As stated in 2 and 2(d) above, it is essential to have the involvement of a range of partners in regional partnerships to ensure the regional strategy aligns with investment priorities and can be delivered.</p>

<p>stakeholders have within regional partnership working?</p>	<p>However, their roles and responsibilities are clearly defined.</p> <ul style="list-style-type: none"> • Scottish Government clearly has an important role to play as the regional strategy will be translated into the National Planning Framework. SG can assist and support the regional working groups to provide a clear national perspective on priorities throughout Scotland and about where partnership working is required to deliver national objectives. • Regional planning staff, as well as providing the technical and administrative core of the partnership, must have a clear executive role in the management, operation and direction of the partnership and the development of the regional strategy. • Statutory agencies (of all sorts) must have a binding obligation to participate in the group and for them to take account of the regional strategy in their investment programmes. • Other partners (private/commercial sector) should also be involved in the partnership to provide commercial sense check of options and proposals and information on their investment priorities.
<p>3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?</p>	<p>There is some merit in the National Planning Framework and SPP being part of the development plan, along with Local Development Plans, as a suite of multi-level policy documents to guide development and investment in Scotland. It is important that they are prepared in alignment and that there is sufficient consultation and scrutiny of their content. Otherwise, this process this could be seen as centralising and top heavy approach to policy/strategy development.</p> <p>It is critical that there is a specified role and involvement of the Local Authorities in the preparation of the NPF and SPP in respect of the identification of regional planning priorities and that this is clearly set out and given sufficient weight through the regional partnerships.</p> <p>It is accepted that Local Development Plans should be streamlined and not be seen as an all-encompassing rule book. However, LDP's must still be allowed to set out the policy position based on local context and circumstances. The revised NPF should concentrate on national/strategic matters and allow local development plans the scope for greater innovation and flexibility to deliver those objectives.</p>

	<p>If it is decided not to proceed to make the NPF and SPP part of the development plan then it is accepted that they should be given greater weight in the decision making process. However, as stated already Local Planning Authorities must be involved and consulted on the content of these documents.</p>
3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?	<p>Yes. We agree with the provisions set out in paragraph 1.24.</p> <p>The proposals seem logical and it is essential that government policies and strategies are aligned. It is important that national and local government plus the regional partnerships and commercial interests see the NPF as a national corporate document and the key spatial driver for growth and development.</p>
4. Do you agree with our proposals to simplify the preparation of development plans?	<p>Yes. The proposals set out in 1.29 are welcome (further specific comment is made on these proposals in the answers to questions 4 (a) – (d) below).</p> <p>There is a keen need to reduce the bureaucracy associated with the production of Local Development Plans, along with a shortening in the time taken to produce them. We agree that there is merit in reducing the stages and processes required in producing a Local Development Plan.</p> <p>It is accepted that with the removal of the need to produce a MIR or consultative draft plan (as per the pre 2006 planning system) there will understandably be a need and expectation to focus on more community engagement at the early stage of the process. Can we say this when we are actually removing a lot of the beaurocratic elements of the process which will actually release resources?</p> <p>Whilst not part of the proposals, it is suggested that to be effective and to provide opportunity for input by those potentially affected by Plan proposals neighbour notification should be focused on the early stage of plan development.</p>
4(a) Should the plan review cycle be lengthened to 10 years?	<p>Yes.</p> <p>The proposal to have a 10 year vision for a locality in the LDP makes sense, providing certainty for communities and for those wishing to develop and invest. The change in emphasis from production of the document to delivery of outcomes is welcome. However, if these reduced production timescales are to be met then the process must be simple and straightforward. Whilst some of this change in</p>

	<p>emphasis can be achieved by legislation there is a “mind set” or culture change that is required from all parties involved in the preparation of LDP’s to pursue production collaboration and avoid the protracted delays and arguments we have seen over issues such as housing land requirement. In the circumstances, training and clear guidance is essential to ensure that the new system delivers.</p> <p>It is suggested that there needs to be an annual monitoring regime for LDP’s, so that there is an understanding of how it is delivering in terms of the operation of policies and development on the ground. This will feed into an assessment of whether a plan should be updated or it is meeting identified triggers. Whilst there may be some nationally defined triggers, such as housing land requirements, it is suggested that most ‘triggers’ for an update of the plan would to be agreed at a local level.</p> <p>Detailed guidance will be required on how to carry-out an update of the LDP within the 10 year cycle of the plan. Again, these need to be simple and proportionate to avoid unnecessary delays and a complicated procedural merry-go round.</p>
4(b) Should there be scope to review the plan between review cycles?	<p>Yes.</p> <p>The ability to review the plan between cycles will ensure that the plan remains up to date, flexible and responsive to change.</p> <p>As stated already in 4(a) above, detailed procedures setting out how this is done need to be set out clearly in guidance. Guidance is important to set the ground rules for making these changes. Clarification on what the potential ‘trigger’ points would be needs to be set out at national level and agreed at a local level. There would certainly need to be a trigger for housing land supply and a mechanism in place for the release/identification of any future land.</p> <p>Guidance would be required on how to deal with changes that have a more fundamental impact on the key thrust or strategy of the plan. This may need a more comprehensive approach with a range of bodies at the strategic level to set the revised of the LDP, than the proposed simple and speedy process for most trigger updates.</p>
4(c) Should we remove supplementary guidance?	<p>Yes.</p> <p>We agree that supplementary guidance should no longer form part of the Development Plan.</p>

Whilst statutory supplementary guidance seemed like a good idea, its production has proven problematic and they have not been as effective as hoped. We still believe that there is a role for Local Authorities to produce non-statutory planning guidance. It is clear that non-statutory planning guidance is useful and has some weight in the decision making process. To incorporate all relevant advice and guidance into the LDP would make it significantly lengthier, which is against the thrust of producing simpler and streamlined plans.

The key problem with producing SG's which form part of the LDP is that they are by their nature short lived and require updating with the next LDP period, where applicable. Sometimes this update may not actually be needed so soon and this can lead to time consuming additional work and a duplication of effort. There are examples where Supplementary Guidance has been produced as part of the LDP, but not adopted until Year 2-3 of the plan. These SG's have a very short life span, as part of the LDP. This was the case in the Scottish Borders for the production of our Housing SG, which was required to identify sites for a housing shortfall within the LDP.

SG's are not subject to the same level of scrutiny as the content of the LDP. In some cases, SG's are being produced with detailed content and the allocation of housing sites, which are not subject to the same Examination process as the plan itself. It is not considered that this is the most effective way of dealing with a housing land shortfall for example. Furthermore, this does not solve an immediate housing shortfall issue, it is being solved in year 2-3 of the LDP. These issues would be better addressed and resolved earlier on in the planning process, to ensure that LDP's are delivering an effective 5 year housing land supply from adoption. The gatecheck process would aid this and hopefully resolve the issues surrounding housing land supply targets/requirement and flag issues at an early stage. This would allow the content to form part of the LDP itself, rather than being dealt with through Supplementary Guidance, which is not in our view the best option.

We believe that there is merit in continuing to produce SPG's albeit not as part of the LDP, which can be regularly updated (if LDP's are to be a 10 year cycle) to provide guidance and further context to the policies contained within the LDP.

In terms of the proposed development of a "manual or set of advice", we accept that this may address some broader subject areas and we would not discount the worth of their production out of hand, but much of the useful localised contextual information, advice and guidance may be better placed in non-

	<p>statutory guidance produced by Local Authorities.</p>
<p>5. Do you agree that local development plan examinations should be retained?</p>	<p>Yes.</p> <p>On balance, and on a qualified basis, we agree that Examinations should be retained.</p> <p>We would strongly recommend that they are limited in scope and do not relate to all unresolved matters, or to matters that have already been addressed in the early stage “gatecheck” process. This question is the key to reducing the timescales for the Local Development Plan being adopted. The examination should only deal with national or strategic matters of concern, leaving the Local Planning Authority to deal with local matters.</p> <p>The introduction of an open-ended Examination process will not assist producing timely LDP’s and will undo the benefits of the increased engagement and consultation promoted at the early stage before the gatecheck. If the Examination were open-ended then what is the point of the gatecheck? We would be introducing an even more complicated process bookended by Examinations that may take even longer than the current process.</p> <p>If operated on the more limited basis we recommend then there is a real hope that timescales can be improved. The proposed measures, for gatechecks and national housing targets, could ensure a speedier Examination process, which is not consumed by analysing housing numbers. Aspects such as housing supply targets could be front loaded in the planning system, with the gatecheck flagging up any issues and providing time for resolutions before the proposed plan stage.</p>
<p>5(a) Should an early gatecheck be added to the process?</p>	<p>Yes.</p> <p>This would enable any issues to be identified at an earlier stage in the planning process, rather than waiting to be scrutinised as part of the Examination process. As stated in answering 5 above, this is on the basis that Examinations themselves are limited in scope and we are not in actuality introducing a second Examination.</p> <p>The gatecheck process would provide Local Authorities with an opportunity to address and resolve issues before the proposed plan stage, rather than ending up with recommendation(s) as part of the Examination process.</p>

	<p>There is a need for guidance on the operation of the gatecheck and which topics it would deal with, along with who would be involved and their terms of reference - roles and responsibilities.</p>
5(b) Who should be involved?	<p>We agree that they should be chaired by Reporters from the DPEA, as this will re-inforce the independent scrutiny of the process and ensure that it is professionally managed.</p> <p>There is reference to the proposed role of Citizen’s Panels in the Gatecheck process (paragraph 1.35). Any such panels should be accountable to the people they represent. There is potential for these panels to conflict with the role of elected Council members.</p> <p>It may be better to leave the Reporter to determine which parties can be involved in the gatecheck process on the basis of the matters to be considered and the evidence that they need to satisfy themselves that the plan is sound and credible.</p>
5(c) What matters should the gatecheck look at?	<p>The key issues the gatecheck should consider relate to the sufficient evidence to convince that the LDP will comply with NPF and SPP and the validity of submission in terms of deliverability and practicality, housing supply targets/requirements. There is greater scope to cover a wider range of topic raised through engagement process. These may vary for each LDP area.</p>
5(d) What matters should be the final examination look at?	<p>These are set out in the answer to question 5. The Examination should only relate to national or strategic matters of concern, leaving the local planning authority to deal with local matters.</p>
5(e) Could professional mediation support the process of allocating land?	<p>There can often be very fixed positions taken by communities when they are faced with accommodating further housing development. No amount of discussion or dialogue is going to change their views or remove their opposition to a development or for them to appreciate the benefits that might accrue to the area. It is a legitimate position for them to take if they feel that the impacts of the development are likely to be harmful.</p> <p>There would be no harm in considering mediation and it could prove useful in enabling these groups and other parties to positively engage with the process and Local Authorities by providing a “neutral venue”, for those discussions to take place.</p> <p>Clearly such mediators must have a neutral stance and understand the key issues to be identified and addressed.</p>
6. Do you agree that an allocated site in a local development plan should not be afforded	<p>No.</p>

<p>planning permission in principle?</p>	<p>This is qualified in that there are identified issues that would need to be addressed before it could be implemented.</p> <p>In our response to the Independent Review Panel we suggested that the automatic grant of planning permission in principle should be introduced for allocated sites for the period of the Local Development Plan avoiding the need for unnecessary applications and that this should be aligned with a “use it or lose it” clause that rescinds permission if development has not commenced within the LDP period or the site is removed from the LDP. We have given the matter further thought and wonder now whether it should be formally classed as Planning Permission in Principle or perhaps, more suitably, as a form of “deemed consent”.</p> <p>It is clear that in order to afford a site in the LDP the benefit of permission, of whatever description, there is the need to undertake a more in-depth site assessment prior to any site being allocated. There is a need to set out a set of national criteria for that assessment, so that this is carried out consistently across Scotland.</p> <p>There is, of course, the consequence of the reduction in planning application fees received by the Council for all allocations, which would result in a reduction in planning income for the planning service. However, loss of fees could be offset by the increase in planning fees suggested in the review.</p> <p>It would be necessary to define which housing allocations would be afforded the ‘planning permission in principle’ or “deemed consent”. This could be done on the basis of all sites allocated or sites above a certain threshold. There could be discretionary powers for Local Authorities to choose which sites. For rural Local Authorities, this could potentially be a large number of smaller sites.</p> <p>Local Authorities will need to monitor how long an allocated housing site should be afforded planning permission in principle status. If plans are to be 10 year cycles, sites should be effective i.e. deliverable within a 5 year period. Therefore, there would need to be a mechanism to monitor the allocations and remove the PPP should sites not come forward with a MSC application within a certain time frame – otherwise developers are effectively land banking their sites with PPP indefinitely. This is an area that might be linked to a potential trigger point for a plan update and annual LDP monitoring reports.</p> <p>There is positive benefit in adopting this approach in promoting the allocated housing allocations and</p>
--	--

	<p>hopefully this would lead to development of the site within the plan period.</p> <p>There would need to be provision for developer contributions to identified within the LDP and be dealt with at the detailed submission stage for such allocated sites.</p> <p>Given the number of infill opportunities within rural settlements and urban areas, there may be PPP applications for infill opportunities. Applications for redeveloping potential brownfield sites would be required to pay a planning fee and be subject to the planning application process but a greenfield site would not. This could lead to an inconsistency between processes for infill/brownfield opportunities and greenfield sites in the planning system. Understandably, we want to promote allocated sites, to ensure delivery within the plan period, we should equally be promoting the redevelopment of infill sites/brownfield sites as well. There is a need to ensure the promotion of sites within the LDP through potential PPP status that is not to the detriment of potential infill/brownfield opportunities.</p> <p>There is a question about how major developments would be handled. If there is no requirement for a PAC, would the Local Authority be required to do additional community engagement? This may well be addressed by the enhanced community engagement proposed through the requirements for pre-application consultation.</p>
7. Do you agree that plans could be strengthened by the following measures:	In general, we agree they would.
7(a) Setting out the information required to accompany proposed allocations	<p>Yes.</p> <p>It is important that guidance sets out a clear set of minimum standards for required information. Whilst it is accepted that the information required must be proportionate, it must also have sufficient detail to allow the Council to make an informed decision about the deliverability of the site.</p> <p>The requirement for the proposer to submit a site assessment will be helpful but the objectivity of such assessments must be open to challenge. It would be surprising if all developers state that their sites are not effective within the plan period. However, we will still have the right to scrutinise these proposals so a clear list of required information would be helpful.</p>

7(b) Requiring information on the feasibility of the site to be provided	<p>This information would be helpful but it is not without its practical difficulties. The assessment of the economic and market appraisal information (i.e. viability) would require a level of professional scrutiny that is outwith the normal skillset of local authority planners. This could lead to disputes over the assessment of this data that would slow down the application process. Many Local Authorities would be required to utilise the services of the District Valuer, which would incur additional costs and there may be capacity issues for the DV in dealing with an increased numbers of requests for guidance.</p> <p>If the assessment were to be carried out by Local Authority planners then there would need to be a significant level of training provided, with investment from Local Authorities and Scottish Government (Improvement Service). It should be noted that regardless of the level of supporting information submitted and the site then being allocated it does not guarantee development. There are other external factors which can impact delivery and that are out with the Council's control - in particular, lack of local market demand.</p>
7(c) Increasing requirements for consultation for applications relating to non-allocated sites	<p>This is useful to state but perhaps merely reflects a lot of current practice. This may be helpful in reinforcing the predominance of the Development Plan that has been developed with community engagement and that any variance from that Plan must meet a very high bar to be acceptable. Such proposals on non-allocated sites must also still meet the general aspirations of the Plan and the key components of its spatial strategy.</p>
7(d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application	<p>This is helpful to state but merely reflects current practice. Sites are only allocated if no insurmountable issues are raised by consultees during LDP preparation.</p> <p>We do not see a position where less consultation would be needed for an application for an allocated site, as it is often at the detailed application stage where communities are most likely to be involved. Whilst you may accept the principle of a development, the precise proposals is where greater scrutiny will be required.</p>
8. Do you agree that stronger delivery programmes could be used to drive delivery of development?	<p>The change of wording from 'action programme' to 'delivery programme' is noted and will assist in changing the culture associated with plan development and implementation. However, the delivery of development is not normally within the gift of local authorities but is developer led, and subject to demand and funding. It is also dependant on a range of stakeholders signing up to the development strategy and infrastructure investment being made to release development sites identified in the plan.</p> <p>The ability of local authorities to be proactive in front funding the release of development sites and using CPO powers will be dependent on staff capacity and pressured Council budgets. This will also be</p>

	reliant of corporate and political drive to take a more proactive and interventionist role.
8(a) What should they include?	<p>Delivery programmes could include:</p> <ul style="list-style-type: none"> • Infrastructure investment plans • Housing delivery programming • Annual monitoring reviews • Timeline for delivery of key plan stages • Key projects information • Identification of key partners and their role, in delivery of the plan

PEOPLE MAKE THE SYSTEM WORK – CONSULTATION QUESTIONS

Key Question	Scottish Borders Council Response
<p>B: Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.</p>	<p>Yes.</p> <p>We agree that the proposals will increase community involvement in the planning process, which is healthy and to be encouraged. However, there are a number of issues raised by the proposals and our commentary on these is set out in more detail below.</p>
Optional Technical Questions	
<p>9. Should communities be given an opportunity to prepare their own local place plans?</p>	<p>Yes.</p> <p>We are supportive of local communities being involved in the planning of their localities and producing plans for their place.</p> <p>The proposals for the linking community planning and spatial planning set out in the consultation already provide the basis for local place planning to be undertaken and to inform the Local Development Plan (see answer to question 1 above). We should not be introducing another layer of plan making that may be unnecessary and duplicating work already being undertaken.</p> <p>Historically achieving a collective “whole” community view on development or planning proposals has been difficult. Inevitably, the same community bodies, groups or individuals attend our public meetings. Whilst we are keen to encourage their continued participation, their views may not always represent the wishes of the wider community.</p> <p>The nature and content of these plans, if introduced, needs to be very clearly defined and their production should be clearly linked to the Community Planning process and inform rather than be part of the development plan. They should be aspirational but based in realism and practicality in terms of what is actually deliverable and be consistent with the development plan.</p> <p>Our experience of local place plans, thus far, have been documents that are overly protectionist and on occasions their proposals are not practical or deliverable (e.g. new school, new sports pitches, new swimming pool, no housing, major changes to retail policy at odds with national requirements, differing opinions on conservation area policy, etc). Consequently, parameters for such plans must be</p>

	clear at the outset.
9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?	<p>We are of the view that this is a two way process. The place plan must take account of an existing development plan but could inform an emerging plan or an update of an existing development plan.</p> <p>The statutory development plan must take precedence over a place plan. There would be concerns about place plans having an elevated status as they may not be deliverable and would not have been tested or scrutinised to the same extent as the development plan.</p> <p>Timing of plan production is also important, and therefore place plans would have to work within a pre-arranged timetable in order to meet the targets set down for statutory development plans. Smaller communities may not be sufficiently resourced or equipped to achieve this; others may choose not to produce a plan at all, and therefore and regulation or guidance will need to allow flexibility to acknowledge this.</p>
9(b) Does Figure 1 cover all of the relevant considerations?	<p>Yes, in broad terms but there are a number of outstanding questions and concerns.</p> <ol style="list-style-type: none"> 1. There is reference made to an application being made to the local authority for a community to undertake a place plan. On what basis would this application be judged and is there a means of refusal and appeal of any decision? 2. There is reference made to the need for local authorities to monitor Community Bodies. How would this be done? 3. There is potential conflict of interest arising from local authority oversight of what should be an independent body/ process. 4. There are real concerns about the resource capacity of local authorities to provide such oversight and support for communities. 5. Are we introducing another means of appeal where the decision on the incorporation the people plan into the development plan would be decided centrally and not locally.
10. Should local authorities be given a new duty to consult community councils on preparing the	Yes.

statutory development plan?	<p>We agree with this provision.</p> <p>We do this as a matter of course anyway. The linking of this with the community planning process (see answer to Q1 and Q9 above) and better engagement at the early stage in plan preparation is to be encouraged.</p> <p>The role of the Community Council, in relation to this process, is to act as the voice of the community; to this end there should be some provision for consultation within their communities in order to ensure that this role is fully realised.</p>
10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?	<p>Yes.</p> <p>We do not have an objection to this proposal, as such, although development plan schemes are done to realistically set out how local authorities can deliver them. It is perhaps difficult to see, in practice, how local authorities could change timescales which are generally very tight. The preparation of the Development Plan Scheme may become more onerous than it needs to be.</p>
11. How can we ensure more people are involved?	<p>We are looking to use the Place Standard tool for our engagement with communities through the community planning process and it will be interesting to see if that tool allows greater involvement and better quality outputs from the consultation.</p> <p>It will be interesting to see if its use encourages more people to become involved in community engagement, and will it actually assist in eliminating consultation fatigue for communities.</p> <p>As noted above, Community Councils have a part to play in ensuring that they consult within their own communities as part of their own consultation role.</p>
11(a) Should planning authorities be required to use methods to support children and young people in planning?	<p>Yes.</p> <p>We would, of course, be keen to learn from other authorities and agencies as to how that has been undertaken successfully.</p> <p>Scottish Borders Council is part of the pilot project “Making Places - Bridging the gap” being run by Planning Aid Scotland” at Galashiels Academy along with representatives from Education Scotland, Scottish Government and Creative Scotland. The project aims to build ties between generations and organisations, equipping communities with the skills to survey, reflect and plan for their future and</p>

	<p>involves year 3 and 6 students. This is a pilot scheme that could be adopted throughout Scotland and get placemaking on the national curriculum.</p> <p>A key way to engage young people is through technology. An app is being developed for the Place Standard and others could follow: – 3D visualisations, placemaking gaming, which would tap into this age group more effectively than plans, reports etc. This is clearly a business opportunity for someone.</p> <p>The proposals are silent on how young people would be involved in a vote on a People Plan?</p>
<p>12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s).</p>	<p>Yes.</p> <p>At present the current arrangements add little, or no, value to the process and it is widely thought by communities that developers play lip service to the requirements and certainly very few meet the spirit of the requirements.</p> <p>On the current basis, this is merely a 3 month prior notice of an application being submitted. It provides for no worthwhile community feedback nor, in reality, do they influence the scope or form of a development when the application eventually comes in.</p> <p>The consultation refers to two public meetings. Is this different to the “public event” required by the current regulations?</p>
<p>12(a) What would be the most effective means of improving this part of the process?</p>	<p>There is merit in the suggestion about having two public meetings before the application is lodged. The first to present the proposals and have workshop sessions about the elements of the scheme and the second, to set out how the proposers have responded to the public feedback in a meaningful way. The second public meeting would necessarily have to be positioned toward the end of the process, with its timing and purpose set down in regulation.</p> <p>It may be possible to fit this into the 12 week period, so long as the holding of the public meeting is the trigger for the process to start, leaving sufficient time for any changes to be incorporated and represented to the community prior to the application being lodged. In reality, this may need 4 months.</p> <p>This should be done for all detailed or full major application whether they have been allocated or not,</p>

	<p>as it is the detail of the scheme that will in most cases be of most concern to the community. It is a shortcoming of the current arrangements that, given the minimum information required for a PPP application to be valid, communities and residents are effectively being denied the opportunity to comment on the detail of a proposal through this process. All they may see is a red line around a site. If it is to be truly meaningful, pre-application consultation should be required at the detailed stage of a proposal.</p> <p>We agree that training on community engagement should be provided to developers and training provided to communities to ensure that they are engaging constructively.</p>
12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?	Clarification is required on how long a PAC remains effective. There is nothing at present which states, how long applicants and developers should wait from undertaking PAC consultation to the submission of a planning application. There can often be considerable time and potential changes made that the community have not been consulted on prior to an application eventually being lodged. A deadline of 6 months would provide an incentive to getting an application lodged and as a result development happening on the ground.
12(c) Are the circumstances in which PAC is required still appropriate?	<p>Yes.</p> <p>If housing sites within the LDP are afforded PPP status then it is sensible that the PAC process would only be applicable for such sites at the detailed planning application stage.</p>
12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?	<p>Yes.</p> <p>As stated in Q12(b) above, a 6 month time limit may be appropriate. If there is no time limit this could undermine the purpose of the PAC consultation and engagement with the community.</p>
13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?	<p>Yes.</p> <p>The planning authority has to process all applications and the time and costs associated with a revised application are no less than the original application. These are stand-alone applications considered on their own merits and should incur the necessary administrative fee. Our view is that a fee should also be applicable for revised applications following the grant of planning permission.</p> <p>Developers and applicants are given time throughout the planning application process to amend proposals. In some instances, the incentive of a 'free' appeal and subsequent 'free' planning</p>

	<p>application does not encourage developers and applicants to find the best resolution through the original planning application. If a fee was charged for both the appeal and any subsequent planning application, this may encourage applicants and developers to reach a solution at an earlier stage. This would ultimately save resources and time and hopefully enable quicker resolution of planning applications.</p> <p>We also agree that the fee for retrospective applications should be substantially increased for most local developments and major applications. However, in many cases retrospective householder development occurs due to ignorance of the regulations and we would not want to unduly penalise householders. However, for other forms of development where applicants and agents engage frequently with the planning system and should know better, a heavier penalty should be introduced. This would need to be supported by a strong enforcement position, in order to acknowledge that the increase in fee may itself be a disincentive to making an application, as noted below.</p>
<p>14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?</p>	<p>Yes.</p> <p>The inclusion of new powers to make the recovery of monies associated with enforcement direct action by means of charging orders is welcomed.</p> <p>The possibility of substantially increasing the financial penalties for breaches of planning control is a positive step; however the penalties should be on a sliding scale with domestic breaches at the lower end. At the upper end however they would need to be at a level that actually is a deterrent i.e. the costs of the penalty outweighs the benefit of breaching planning control. Whilst a single penalty is suitable for a householder breach, a developer should be faced with a recurring penalty to dissuade them from continuing with the works on a site.</p> <p>In addition to creditable and realistic penalties, the existing mechanism of fixed penalty notices would need to be overhauled given that the process is cumbersome and ultimately there is no power to compel payment of the fixed penalty notice.</p> <p>In England Planning Authorities are able to make use of the Proceeds of Crime legislation to recover sums of money from parties who have been convicted of a breach of planning control. The ability to deploy this in Scotland would help Councils who are faced with a major breach, say a land fill scenario where there are limited funds for direct action to deal with the situation on the ground. A successful</p>

	<p>action under the POCA legislation could allow the monies recovered to be directed to the purification of the breach of planning control.</p> <p>In terms of being able to bring forward a prosecution, the crime report which must be completed requires a date of birth for the accused party. The Planning Act does not contain provision to require this information. If this provision could be added to Section 125 and 272 of the Act this would assist greatly in relation to prosecutions.</p> <p>It would help if the clock could be stopped once a Local Planning Authority registers a breach of planning control rather than when a Notice is served. The benefit would be that there would be no risk of informal negotiations, or retrospective applications, rendering the breach time barred.</p> <p>There are occasions in which formal action is not in the public interest, however the breach still exists. If a notice could be served which was recorded against the titles to property, the onus would be on the property owner to regularise the matter at some time in the future rather than there being no resolution to the breach.</p> <p>Under the current system an applicant who wishes to make material changes to an application would require to secure a new Planning Permission for a development, thus creating two separate and distinct permissions. Under the Building (Scotland) Act if a developer wishes to make changes to the original Building Warrant a process exist within the act to allow for an amendment to warrant to be made. The amendment is not in itself a new Building Warrant but merely a change to the original warrant. The advantage of this system is that you do not end up with multiple consents for the same site and the confusion of what is actually being developed. In addition, all the conditions on the original Planning Permission would still remain valid.</p> <p>The powers contained within the 1997 Act in terms of entry warrant should be strengthened to allow for direct action whereby entry to a site / land or a building may be required on more than one day to allow the works to be undertaken. The provisions contained within the Building (Scotland) Act 2003 provide a suitable model for direct access.</p>
15. Should current appeal and review arrangements be revised:	<p>Yes.</p> <p>We agree that there should be some refinement and changes to the way in which LRB's operate.</p>

<p>15(a) for more decisions to be made by local review bodies?</p>	<p>The proposals set out in paragraph 2.42 appear to be sensible and will enable a greater number of decisions to be made at the local level. There will be different experience of Local Review Bodies throughout Scotland and perhaps differing response to this question. However, they have generally operated well and have not been subject to the degree of legal challenge original envisaged.</p> <p>The ability of other local consents such as listed building consents and adverts consents to be heard by the LRB, particularly when they are linked to associated planning applications, makes sense. We have had such cases where the respective decision makers have come to different conclusions on the same case. There is a need to provide certainty for both developer and community.</p> <p>The question of new evidence is one that has often taxed members and some clarity on this point would be helpful.</p> <p>It does appear in the current format that the LRB tends to give more weight to appellants case and more referrals may lead to even more decisions being overturned.</p>
<p>15(b) to introduce fees for appeals and reviews?</p>	<p>Yes, we agree that a fee should be introduced to cover the administrative costs for the appeal and local reviews. This should not be disproportionate and for Local Reviews this could relate to the cost of the planning application as the application is being considered “de novo”. For appeals, which will relate to larger scale developments an upper threshold or cost cap could be agreed.</p> <p>This may have a positive consequence in that it could encourage developers and applicants to find a resolution through the planning application process, rather than rely on an appeal decision. People may not want to lodge an appeal if they need to pay a fee, so this may encourage more people to engage and resolve issues throughout the planning application process.</p> <p>The cost of public inquiries is becoming harder to justify, in terms of time, resourcing and cost. We are of the view that there are rarely issues that cannot be fully explored through written representations or, where that is not possible, through the long-established hearing process. Hearings are less adversarial and arguably more productive as a result. However, many developers, particularly for large-scale schemes, insist on pursuing the inquiry route of appeal. Acknowledging the increasing constraints on local authorities, we propose that, where that route is pursued, and a developer is unsuccessful, they should be made liable for meeting the Council’s costs. This would limit the number of inquiries and hopefully result in more appeals being addressed through the hearing system where</p>

	that is required.
15(c) for training of elected members involved in a planning committee or local review body to be mandatory?	<p>As an authority we do not allow members to sit on either Planning Committee or the Local Review Body until they have gone through training and induction.</p> <p>There would be advantages in having a more formalised form of training and a test of competency would highlight the quasi-judicial process that members need to be aware of. There are additional administrative issues in operating a test and any associated appeal process. Would this be a national test or be locally defined?</p>
15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?	<p>There have been occasions where we do not agree with Reporters decisions, but that is not to say we would always agree with Ministers decisions or feel that they would be any more reflective of local circumstances. Increasing the number of decisions made locally through the modification to the Hierarchy of Development may be a better route.</p> <p>There may be the opportunity to resolve a major LDP issues about DPEA decisions following Examinations. At present Local Authorities have limited powers to challenge recommendations (in the Borders recent examples about housing numbers and energy policy). There should be some opportunity for this to be addressed and this could be done via to request a referral to Ministers on DPEA decisions with which we disagree.</p>
16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?	N/A

BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE – CONSULTATION QUESTIONS

Key Question	Scottish Borders Council Response
<p>C: Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.</p>	<p>The proposals have the potential to deliver the housing and infrastructure we need. However, there must be a degree of boldness in their implementation along with willingness of all parties to work together to delivery positive outcomes. This includes Scottish Government, local authorities, infrastructure providers, the development industry and communities.</p> <p>Of the options set out in this consultation, this will be the most difficult to deliver, as housing and infrastructure cannot merely be delivered through regulatory change or issuing guidance. They can only be delivered through the co-operation of a wide range of stakeholders that all have different economic, environmental and regulatory drivers, as well as demands and pressures at a local, national or international level. The impact of the wider economic position and the attitude of financial institutions will also have a significant influence on delivering housing and infrastructure.</p> <p>There needs to be an alignment of infrastructure investment, with Strategic Housing Investment programmes and housing land provision the National Transport Strategy (NTS) and Strategic Transport Project Review (STPR) along with the Economic Strategy.</p> <p>The options require further clarification and guidance and our commentary on these issues is set out in more detail below:</p>
Optional Technical Questions	
<p>17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?</p>	<p>Housing is a national issue - we need to deliver the right number of houses, of the right quality, in the right locations throughout Scotland. Planning has a facilitative role in seeking to ensure that there is a supply of land that can be developed and this process needs to be streamlined.</p> <p>There is merit in a national housing target being established through the NPF. If this is merely a national aspiration as proposed, whilst this is helpful to a degree, it does not go far enough and is not a bold enough measure to drive housing delivery.</p> <p>At present a significant amount of time, effort and money is expended by all parties arguing about housing land requirements. This is wasteful and unnecessary. The HNDA/HST numbers game currently applied to housing is meaningless, but is expensive and disruptive in that it diverts resources</p>

	<p>from positive planning. A simplified HNDA tool with nationally agreed figures would address this but would need to be signed off by members of regional working partnerships to ensure that any such targets are reasonable and deliverable within the plan period, taking into consideration local geographies, economies and social aspects.</p> <p>An estimated range of houses required over 10 years would be sensible and tie into the revised LDP timescale.</p> <p>The NPF could translate the national target to a regional level in line with regional strategies (and associated infrastructure investment) through the regional working partnerships with allocations for each local planning authority. This would allow time and effort to be diverted to placemaking in association with setting out the detailed supply provisions, rather than arguing about numbers.</p> <p>Local Development Plans would be required to meet the national/regional targets, and be monitored to ensure that prospective demand continues to be met through the plan period. We agree that there is a need to improve monitoring of housing land availability and deliverability and that an on-line register would be useful. It would also be helpful to update the guidance on housing land audits and effective land supplies. An agreed methodology for the audit and sign off by the regional partnership would limit the potential for protracted debate.</p> <p>It would be sensible to ensure that housing figures are confirmed as part of the gatecheck process for Local Development Plans, so that this removes a major impediment to plans being delivered timeously.</p> <p>It is clear that greater detail is required on how the new system will operate.</p>
<p>18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?</p>	<p>We agree that in the allocation process through the LDP it would be necessary for the developer to provide more detailed information about whether a site is viable and deliverable. This information would also be needed to justify the continued allocation of a housing site in a subsequent review of the plan, to show that there was a reasonable prospect of the development proceeding with the Local Plan timescale.</p> <p>How this information relates to a planning application is perhaps more problematic. In most cases, vitality information is submitted with a planning application to off-set the development contributions</p>

	<p>requirement of the proposals rather than it being a positive tool to ensure delivery. It is accepted that it may highlight where particular infrastructure issues or delivery blockages are and may give a greater understanding of the development finance and market dynamic of an area, but how that can be weighted and taken account of in a planning judgement is problematic at best. Planning authorities would also need to be equipped with the ability to assess viability reports.</p> <p>It may be better to require this information for major housing applications where they do not accord with the Development Plan and there is a shortfall in effective housing land supply. This would ensure that if a justification is made to allow the site to proceed it can be proven that it will actually meet the shortfall it is purporting to address.</p> <p>There are practical issues in terms of the validation rules and screening of this information and it would be necessary to set out very clear guidelines about when such information is required and what it should consist of. We already have lots of reports submitted to accompany planning applications, we do not want another one that adds little value to the process and opens up another area for dispute and challenge.</p>
19. Do you agree that planning can help to diversify the ways we deliver homes?	<p>We agree that planning has an important role to play but would stress that numerous other stakeholders have a greater influence in the delivery of housing. One of the main hurdles in delivering housing is market demand, which planning authorities cannot directly influence, along with the lending practices of financial institutions and the land management approaches taken by developers and landowners.</p> <p>A significant amount of joint working goes on in the Scottish Borders between planning and housing colleagues in the Council and local Registered Social Landlords. This co-ordinated approach has enabled the delivery of delivery of the SHIP programme whereby we are delivering a healthy affordable housing programme, which will accelerate in coming years. It has also provided new housing through the Bridge Homes initiative. This joint working model is one that other authorities could also adopt.</p> <p>The Council is not a large land owner but is looking to market its surplus properties and land, under our current asset and schools review, for development or joint ventures with the private sector. We agree that there is a need for planning authorities to be more active in a delivery role to stimulate growth particularly in areas of market failure.</p>

	<p>In terms of stimulating growth and activity we are proposing to front fund (through the City Deal) significant projects including housing and employment uses within the Borders Railway corridor at Tweedbank. There is clearly a role for planning to assist in the delivery of this project.</p> <p>We agree that there might also be route whereby local planning authorities could be involved with joint venture projects with developers and communities to promote housing delivery. We would welcome a sharing of best practice on this process.</p>
19(a) What practical tools can be used to achieve this?	<ul style="list-style-type: none"> • Identification of opportunities for release of Council land and buildings through asset review. • The most obvious tool the planning authority can bring to the table is Compulsory Purchase powers to help assemble sites and buy property. • The Scottish Land Fund and communities’ right to buy provisions. • The use of Compulsory Sale Orders would be a useful tool. • We would be interested to hear more about the land tax provisions to address issues of land - banking. • Greater incentives (e.g. tax relief) for developing previously developed land.
20. What are your views on greater use of zoning to support housing delivery?	<p>We are not convinced that promoting the use of Simplified Planning Zones would dramatically increase or speed up housing delivery. They have not been used to any great extent since their inception and we are not aware that they have been used specifically for housing delivery. There must be fundamental reasons for this lack of interest by local authorities and the development industry. Perhaps, as they have no direct investment budget associated with them they are not a particularly attractive option.</p> <p>Beyond an element of “marketing value” we are unsure what, if any, value they would actually add. It will be interesting to see the outcome of the pilot schemes, as to their effectiveness and the implications for all parties’ - developers and local authorities. Will they speed up delivery or would these sites have already developed under the current or revised planning system? Will they actually improve the quality of the developments on the ground? It is very hard to envisage a SPZ that produces the type of place that Placemaking and Designing Streets wants to achieve, which is much more about breaking rules, and using differences and variations to achieve distinctiveness. Translating this into guidance in a SPZ would be challenging. It is contended that SPZs work better where achieving a sense of place is not one of the primary objectives.</p>

	<p>It is worth noting that the majority of formally allocated housing sites in the LDP have gone through a screening process and will not generally have insurmountable issues to prevent their development. Their deliverability will also be tested through the provisions required on viability and deliverability proposed in this consultation. Housing sites will have also been subject to scrutiny through the housing land audit process. The introduction of a PPP for allocated sites would also deliver a deemed permission for the developer/landowner. This along with an up-to-date suite of policy guidance on placemaking and design, and planning briefs for allocated sites, would ensure a high standard of development on the ground. Again, we would question what the SPZ would be adding to that process?</p> <p>There are a number of practical issues regarding their production and designation, along with the capacity and resources available in planning authorities to promote SPZ's. There would need to be guidance on the scale of development that would be eligible for this approach, as it would not be sensible or desirable for all types or levels of development.</p> <p>For a rural area, such as the Borders, reliant on small and medium scale developers to deliver a significant proportion of our housing completions, an SPZ would not have any real impact on increasing their capacity to deliver housing. We have few larger allocations and doubt that the re-branding of them as SPZ's would have an impact on the intrinsic reasons why they are not proceeding at this moment in time.</p> <p>The production of SPZ's would require a significant amount of preparatory work by the planning authority. The option of the developer funding a proportion of this work would be of assistance but may cause issues. Would communities trust SPZ's supported by the developer? There is likely to be a loss in the planning fees from SPZ's, particularly if these are focussed on the larger scale housing allocations where increased fees would be payable. Notwithstanding any developer assistance in their production, the local authority would still need to produce the SPZ and consider the detailed proposals to ascertain whether they comply with the SPZ.</p> <p>There are real concerns about how developer contributions would be captured and controlled in SPZ's? Consent is normally deferred until agreement is reached on the payment or payment made. How would this be handled in a SPZ?</p>
20(a) How can the procedures for Simplified	SPZ's were introduced in the 1980 and have had limited uptake. There is limited practical experience

<p>Planning Zones be improved to allow for their wider use in Scotland?</p>	<p>on their operation and there is no up to date guidance. The practicalities of the implementation and operation will most likely be fed back through the pilot programme that is proposed but it is difficult, at this stage, with the limited evidence available, to suggest how they could be improved.</p> <p>If they are to be pursued, integrating them into the LDP process would be sensible. The options set out in Figure 2 would appear to form the basis of a way forward.</p>
<p>20(b) What needs to be done to help resource them?</p>	<p>As stated in our answer to Q20 above, there may be a role for developers funding such schemes but that is not without its issues in terms of impartiality and conflicts of interest. If the move to full recovery of costs for planning services outlined in this consultation is realised and we get realistic planning fees, this may allow local authorities to invest and increase their capacity to undertake SPZ's.</p>
<p>21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?</p>	<p>Yes.</p> <p>Planning authorities currently have little control over major infrastructure provision. Trunk roads are Scottish Government, water and waste water are dealt with by a body responsible to the Government, with only education infrastructure still dealt with by the local education authority. As stated already, each of the main infrastructure providers has their own economic, environmental and financial drivers influencing their investment decisions.</p> <p>In most cases major infrastructure can be dealt with at the national/strategic level where the majority budget resource lies. The enhanced NPF could be backed by the infrastructure Investment Fund and an action programme directed by government. There is no real need for another national infrastructure agency to do this.</p> <p>The key issue relates to providing key infrastructure at a regional level and how best this could be organised and co-ordinated and parties obliged to take account of the regional development strategy in their investment decisions. To embed an "infrastructure first" approach there is a requirement for infrastructure providers to be required to take account of the Development Plan in their delivery plans and for them to engage in the planning process at national, regional and local level.</p> <p>In the short term, the establishment of the national infrastructure and development delivery group would help to improve co-ordination and provide a focus for action and agree that the actions set out in 3.33 are a good way forward.</p>
<p>22. Would the proposed arrangements for</p>	<p>Yes.</p>

regional partnership working support better infrastructure planning and delivery?	There is potential for the new regional working partnerships, with a wider membership than just from planning and a link to NPF, to forge a role in the development of not just the regional spatial strategy but in the co-ordination of key infrastructure investment. The ability to use reliable and enhanced information through a regional audit of infrastructure capacity is sensible and would assist this process. We agree that it is important that there is a link with the Strategic Transport Project Review and other strategies, already referred to in our response to Q2, 2(a) – (e) above.
22(a) What actions or duties at this scale would help?	<ul style="list-style-type: none"> • Infrastructure capacity audit • Details of all infrastructure programmes being required • City deals • Assessment of where investment will deliver most benefits
23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?	<p>Yes.</p> <p>The ability to modify or discharge S75's provides a high degree of uncertainty about current and future infrastructure investment for both public bodies and other stakeholders. There is clearly a concern that without the certainty of the section 75 agreement funding streams being available at the required stage of a development then such investment will not be made or the development will not proceed or, at the very least, it will be delayed.</p> <p>We agree with the proposal set out in 3.40 so that obligations made toward infrastructure are respected and must be met.</p> <p>In addition, we would be willing to participate in the improvement project targeting improving the timescale for concluding S75 agreements.</p>
24. Do you agree that future legislation should include new powers for an infrastructure levy? If so,	Yes.
24(a) at what scale should it be applied?	<p>As stated already, national projects will continue to be promoted and funded by Scottish Government. The levy need not apply to them.</p> <p>We agree that there is a need to have a mechanism whereby regional scale infrastructure can be funded to allow the release of key development proposals set out in the NPF and the regional spatial strategies. This is beyond what can be delivered locally through section 75 agreements relating to</p>

	<p>individual developments. In the circumstances, the levy should be collected from development proposals that have an impact or effect on regional infrastructure and be additional to the development contributions secured through S75 to address local capacity problems.</p> <p>Defining the scale of development the levy should apply to is not without difficulty. It may be simpler to restrict the payment to applications of a major or national scale, or from developments on allocated sites that would cumulatively be of major/national scale (to avoid manipulation of applications to avoid payment). Alternatively, it may be possible to determine through infrastructure audit what infrastructure is required in each area and that all development within a specified growth area pays the levy toward providing this infrastructure. This would have the advantage of not placing a burden on other areas out with these identified areas.</p>
24(b) to what type of development should it apply?	It is clear that it can be applied to the majority of application types and the majority will have implications for different types of infrastructure.
24(c) who should be responsible for administering it?	A means to collect monies for this regional infrastructure needs to be simple and straightforward. There is the potential for local authorities to provide this service on a similar basis to that operated in by Councils in London administering the Community Infrastructure Levy. It would be costly and take time to set up an independent body to collect the monies.
24(d) what type of infrastructure should it be used for?	<ul style="list-style-type: none"> • Education provision (note the work already undertaken in this regard) • Access and transport improvements and new requirements • Transport • Water and drainage networks & capacity • Broadband • Flooding
24(e) If not, please explain why.	Whilst we agree to the introduction of a levy, there are some concerns that this may be seen as a further impediment to development. In many areas development contributions are already high and are argued by developers that they prejudice the feasibility of proposals.
25. Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?	Yes. Remove the requirement. This can be covered through the Building Warrant process. We should be looking to avoid unnecessary duplication and make sure that regulation is handled in the most appropriate place.

STRONGER LEADERSHIP AND SMARTER RESOURCING – CONSULTATION QUESTIONS

Key Question	Scottish Borders Council Response
<p>D: Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.</p>	<p>Yes, detailed comments are set out below.</p>
<p>Optional Technical Questions</p>	
<p>26. What measures can we take to improve leadership of the Scottish planning profession?</p>	<p>Whilst the resourcing of individual local authority planning is central to the delivery of service improvement, there are common issues across all Councils, which could perhaps be addressed nationally, by, for example, providing opportunities for skills sharing and professional development. Continuing professional development is required by the professional body, but employers will need to create the capacity to allow that to happen and to assist by sharing skills and experience. The Improvement Service has been helpful in co-ordinating and facilitating workshops and this is a useful foundation on which to build future training across the profession.</p>
<p>27. What are the priorities for developing skills in the planning profession?</p>	<p>If planners are going to help facilitate the delivery of developments then necessary training is required. In light of many of the proposals set out in this consultation, a comprehensive understanding of development viability is likely to be a priority in the short to medium term.</p> <p>Beyond this, design and placemaking are key areas which, while not lacking, would benefit from strengthening to provide planners with the confidence to fully address these issues across the entire planning process.</p> <p>The drawing back of national agencies from providing specialist advice on areas such as natural and built environment has meant that these matters have had to be covered by local authority staff and it may be that training on specific technical matters would also be of benefit.</p>
<p>28. Are there ways in which we can support stronger multidisciplinary working between built environment professions?</p>	<p>As noted above, there are already opportunities for skills sharing, including through the Improvement Service. This could be achieved through informal means, for example, training by specialists from those Councils who have them, to more formal arrangements for sharing resources between neighbouring authorities.</p>
<p>29. How can we better support planning authorities to improve their performance as well</p>	<p>It is right that authorities take ownership of their own performance and the advances made nationally in speed of decision-making are a recognition of the seriousness with which the issue is taken. We</p>

<p>as the performance of others involved in the process?</p>	<p>agree with the assertion that the government’s position should be one of positive support rather than sanction. This requires an understanding of the reasons for poor performance rather than an analysis based solely on statistics. That may require a more “hands-on” assessment by the government than presently exists and a return to visits by government officers in order to fully understand these reasons. Adequate resourcing is at the heart of satisfactory performance and therefore cost-recovery through appropriate fees levels will be central to this. However, there are some other matters that would assist in this regard:</p> <p>Much of the emphasis within the consultation is on how <i>local authorities</i> can improve performance. There also needs to be some monitoring of the development industry role in the application process; slow responses during the application process or, commonly, the legal agreement process, can be used to extend the lifetime of a permission, but it is the local authority that is penalised for poor performance. It is therefore pleasing to note the suggestion in 4.24 about the potential for strengthening grounds for refusing an application where insufficient information has been provided. This should be extended to allow authorities to address so-called “legacy cases”, so that the power to withdraw applications is formally extended to Councils, where there has been a significant period of inactivity by the developer; at present, a Council refusing such an application is penalised for the delay when reporting its figures, notwithstanding the recent ability to “stop the clock”. This would also provide greater certainty to communities about the status of a development.</p> <p>The suggestion that fees should be lowered or sanctions put in place merely widens the gap between those authorities that are already performing well and those that are not, so that the result is counter-productive, when the real need is often service investment.</p>
<p>30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?</p>	<p>In principle, yes. It is still the case that Council performance is assessed on speed rather than quality of outcome.</p>
<p>30(a) Do you have any ideas on how this could be achieved?</p>	<p>The Planning Performance Framework has already assisted in the self-assessment of outcomes by Councils, although it is difficult to fully know how this is measured and compared nationally. The Quality in Planning Awards is helpful in this respect, although there are limitations, given the focus on nationally important schemes, when outcomes which have a considerable local impact may not justify national recognition. We already operate a biannual Design Awards scheme, which recognises quality in design, placemaking and conservation and is well-received by the development industry locally. Bringing together similar schemes on a national basis may assist in raising the profile of good design,</p>

31. Do you have any comments on our early proposals for restructuring of planning fees?	We have provided a view in relation to the current fee consultation. We support the proposals to increase fees in certain categories of development, but are of the view that only a fee structure that fully recovers the cost of delivering the service is appropriate or justified. The recent “Costing the Planning System” exercise demonstrated that the current arrangements still fall some way short of full cost recovery. An initial increase should not be dependent on performance in the first instance, until a level playing field of cost recovery is established.
32. What types of development would be suitable for extended permitted development rights?	<p>The General Permitted Development Order requires both consolidation and a complete overhaul to make it fit for purpose. This is also true of the advertisement regulations which are now more than thirty years old. A previous consultation on permitted development referred to the study undertaken by Heriot Watt University in 2007 in respect of the General Permitted Development Order which contained a series of recommendations that were never taken forward. We consider that many of the matters raised in that study are worthy of further investigation.</p> <p>There are too many classes requiring revision to cover here, but the key issues are listed below:</p> <p>Prior Notification</p> <p>The Heriot Watt Review concluded that the prior notification process across various different classes should be abolished. We give this recommendation our qualified support.</p> <p>The prior notification process appears to offer little added value and is confusing to customers, particularly given that proposals in the affected categories fall into a limbo which is neither permitted development nor an application process. The influence that the Council can have on a development and the amount of time available to reach a view on a proposal is too limited to enable any meaningful contribution to the process. The fact that a proposal cannot be refused also brings in to question the value of the system.</p> <p>However, if the prior notification process is abolished, it will first be necessary to reconsider the thresholds which will determine where permission is required.</p> <p>Similarly, it would also be appropriate to use the opportunity to revisit the requirement to notify Councils of proposed demolition which seems unnecessarily complex and adds little value.</p>

Development by Local Authorities

Even acknowledging the relatively modest increase in the figure from £100,000 to £250,000 now in place (having regard to inflation since the original level was set), it remains our view that the determination of whether works should be permitted development on the basis of their cost is not an appropriate means of doing so; it would be clearer to specify the nature and extent of works, which would then be consistent with almost all other parts of the Order and with the wider principle of the planning system being concerned with land use rather than financial implications.

General Comments

The Heriot Watt study identified a need to make the GPDO “easier to understand, interpret and use”. It also suggested an easy-read or web-based “Plain English” version to accompany it (and the recent householder circular has been a welcome case in point). These are all ambitions which we would wish to endorse, not only to make it easier to use but also as a means of reducing the scope for dispute.

Additionally, an issue which extends across a range of Classes in the Order is the cross-referencing to other areas of legislation. The classes relating to caravans are a case in point, referring as they do to a piece of legislation that is itself nearly 60 years old. It is considered that this should be avoided in order to improve the ease of use of the Order (without having to refer to other documents) but also to avoid the situation where the legislation referred to is itself out-of-date or updated and therefore is inconsistent with the aims of the Order. As such, it would be preferable to set out unambiguously those definitions or circumstances that are to be relied upon within the Order itself.

Permitted development rights to convert farm buildings to houses, as suggested, is not welcome – ecological, traffic, visual impacts etc are all issues that need properly addressed, as would the relationship of a house to an operating farm, which is already the source of repeated complaint to this Council.

It would be really very helpful if the government committed to consolidating the numerous pieces of legislation governing PD rights (non-domestic PD rights have been subject to so many amendments over the years), and notification/referral requirements, which would also have the benefit of making them user-friendly for the public.

33. What targeted improvements should be made to further simplify and clarify development management procedures?	A clear and up-to-date legislative, regulatory and guidance framework is essential to the operation of an effective system.
33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?	We take the view that sufficient flexibility already exists in the current arrangements. The rationale of reducing the time period from five years to three, brought in by the last review, was to stimulate development, and that principle is still sound. Three years should be sufficient to produce a detailed proposal and implement a scheme and, from a delivery perspective, will encourage that without providing scope to sit on permission for longer than is necessary.
33(b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?	The provision, as noted, already exists, but there has been some difficulty in the legal position when different conditions have been agreed, given that the effect is that two permissions then exist. Clarity on this situation would be welcome, which may include the scope for revocation of the original permission to avoid any uncertainty.
33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle?	As noted above, it is a shortcoming of the current arrangements that, given the minimum information required for a PPP application to be valid, communities and residents are effectively being denied the opportunity to comment on the detail of a proposal through this process: All they may see is a red line around a site. If it is to be truly meaningful, pre-application consultation should be required at the detailed stage of a proposal. The challenge is that the PPP <i>is</i> the permission, so consultation would need to occur twice in order that communities and residents do not miss the opportunity to comment upon the principle of development.
33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?	It is difficult to identify any real value in this requirement, which can add a considerable administrative burden. Given that the Councillor expertise rests with the appropriate planning committee, who will have received the necessary training on planning matters, there seems little to be gained in requiring further analysis by all Members of the Council.
34. What scope is there for digitally enabling the transformation of the planning service around the user need?	The planning process has been largely transformed in recent years, with the advent of e-planning and online accessibility of all aspects of the service. Those changes have been almost universally welcomed and we have been complimented on the transparent approach we take to planning service provision. There is tremendous scope to continue this momentum across all areas of the service, but support may need to be given to service users in order to facilitate full digital transformation. For example, many of the Community Councils in the Borders have very limited resources and are ill-equipped to fully respond to electronic communication and may therefore require financial assistance to engage fully with the move toward full electronic delivery.

NEXT STEPS – CONSULTATION QUESTIONS

Optional Technical Questions	Scottish Borders Council Responses
35. Do you think any of the proposals set out in this consultation will have an impact, positive or negative, on equalities as set out above? If so, what impact do you think that will be?	An Equalities Impact Assessment and a Children's Rights and Wellbeing Assessment have been carried out on the consultation proposals by Scottish Government and it is anticipated that there are no adverse equality implications. There are key provisions within the consultation that will have a positive impact on equalities as they will improve and enhance community engagement, assist people planning their own place, get more people involved in planning (including difficult to reach groups and young people) and improving public trust in planning.
36. What implications (including potential costs) will there be for business and public sector delivery organisations from these proposals?	There are potentially additional costs through the introduction of higher planning fees and the infrastructure levy. However, these must be balanced against a more proactive, responsive planning service and the removal of unnecessary bureaucracy and the increase in permitted development rights.
37. Do you think any of these proposals will have an impact, positive or negative, on children’s rights? If so, what impact do you think that will be?	See answer to Q33 above.
38. Do you have any early views on whether these proposals will generate significant environmental effects? Please explain your answer.	<p>In mid-2017, SG will publish a Strategic Environmental Assessment (SEA) Environmental Report. Views will be invited at this stage, in line with the requirements of the Environmental Assessment (Scotland) Act 2005.</p> <p>We do not anticipate significant impacts on carbon emissions arising from the proposals contained in this report. See 6.4 regarding SEA carried out. The proposals seek to ensure greater procedural efficiency and a move towards digital delivery of services, reducing reliance of paper/post etc.</p> <p>We are concerned that there is no reference in the consultation to the importance and implications for the natural world of the proposals within the planning review. This is a significant omission. We are already experiencing a decline in bio-diversity and an increasing fragility of our</p>

	<p>environmental assets, so it is critically important that environmental issues are given sufficient weight in the decision making process and are not overridden in the drive for development.</p>
--	--

PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

7th August 2017

1 PURPOSE

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

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 16/00980/FUL
Proposal: Wind farm development comprising of 8 no turbines 100m height to tip and associated works, infrastructure, compounds, buildings and meteorological mast
Site: Land North of Howpark Farmhouse, Grantshouse
Appellant: LE20 Ltd

Reason for Refusal: The proposed development is contrary to policy ED9 of the Scottish Borders Local Development Plan 2016, the provisions of the Supplementary Planning Guidance on Windfarms 2011 and the study on Landscape Capacity and Cumulative Impact 2013 (Ironside Farrar) in that the development would have significant adverse cumulative visual impacts on residential and other receptors and that the landscape is incapable of accommodating the scale of turbines proposed. In addition, the identified economic benefits are not sufficient to outweigh the significant visual and landscape objections to the development.

Grounds of Appeal: It is considered that the proposed wind farm will not have unacceptable significant adverse impacts either individually or cumulatively on residential and other receptors and that, the landscape has the capacity to satisfactorily accommodate the scale of turbines proposed. Given that the proposed wind farm is in accordance with the development plan, there is a legal presumption in terms of Section 25 of the Planning Act in favour of permission being granted unless material considerations indicate otherwise. On the whole, the material considerations in this Appeal weigh heavily in favour of approving the proposed wind farm. Whilst the proposed wind farm has generated a moderate degree of objection from third parties and Community Councils, these objections are insufficient to justify refusal.

2.1.2 Reference: 16/01360/PPP
Proposal: Residential development comprising 38 dwelling units with associated access, landscaping and open space
Site: Poultry Farm, Marchmont Road, Greenlaw
Appellant: Amber Real Estates Investments Ltd

Reason for Refusal: 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.

Grounds of Appeal: 1. The Council is not maintaining a five year effective housing land supply. The LDP Examination Report confirms that the LDP fails to adequately address the housing land requirement set out in SESplan. To address this, the Reporter recommended that the Council, within 12 months of adoption of the LDP, prepare and submit to Scottish Minister's Supplementary Guidance in order to identify additional sites to provide for a further 916 units. The LDP was adopted on 12 May 2016 and to date the Council has yet to adopt the supplementary guidance required. The consequence of this is that the development plan policies about the supply of housing land are out of date. This means that the following adopted LDP policies have significantly reduced weight in the determination of this Appeal: – Policy PMD4 (Development Outwith Development Boundaries) – Policy HD4 (Meeting the Housing Land Requirement / Further Housing Land Safeguarding). Accordingly, the provisions of the approved SDP should prevail in this determination especially the policy requirements set out in Policy 7 (Maintaining a Five Year Housing Land Supply). 2. There is a significant shortfall in the five year effective housing land supply of 5,091 homes in accord with the 2016 Housing Land Audit 2016. 3. Accordingly in terms of SPP, development plan policies about the supply of housing land are out of date. The presumption in favour of sustainable development is a significant material consideration that supports the approval of this Appeal. In determining this Appeal, significant weight can be given to approving effective previously developed housing sites which represent sustainable development. 4. There are no technical reasons why this Site can not come forward for development. The Appellant and the Council reached agreement on all technical matters relevant to the determination of the Application and now, this Appeal. 5. The site is effective in accord with Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits (August 2010). Approval of the Appeal can enable the proposal to contribute to maintaining the 5 year effective housing land supply, with construction of homes potentially commencing in 2018. 6. There are no adverse impacts arising from the Proposal which would lead to the conclusion that the Appeal should be dismissed. The shortfall in the five year effective housing land supply is significant and urgent action is needed, particularly in Greenlaw where existing, long-standing allocations

have notably failed to deliver any housing completions in recent years. This is in accord with the requirements of the approved Strategic Development Plan and Scottish Planning Policy.

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 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 & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Stephen Hall, allows the appeal and varies the terms of the planning permission by deleting Condition 1. The reporter concluded that all three of the appealed conditions are relevant to planning and relevant to the development, two of the tests set by the terms of Circular 4/1998. Condition 1 – the committee report indicates that the underlying reason behind imposing Condition 1 was to review the effect of the development on residential amenity. Circular 4/1998 is clear that amenity concerns should be addressed by conditions directly relating to those matters and not through a temporary consent. Conditions 6 & 7 – considers that these two conditions meet the six tests set out for conditions in Circular 4/1998. They are necessary and relevant to planning as they serve to make the land use implications of the proposed development acceptable to neighbours.

3.2 Enforcements

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

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

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

Method of Appeal: Written Representations & Site Visits

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Trudi Craggs, upholds the enforcement notice subject to the variation of the terms of the notice, in that the fence can only be reduced in height, deleting the option to apply for retrospective planning permission as the outcome of any retrospective planning application is unknown and cannot be pre-judged, she does not feel that this step would necessarily remedy the breach of planning control. The reporter concluded that as the unauthorised fence is not shared it is the owners responsibility to reduce its height not the appellant who is just an interested party.

3.2.2 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 & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Trudi Craggs, upholds the enforcement notice subject to the variation of the terms of the notice, by deleting the option to apply for retrospective planning permission. The reporter noted that the appellants consider that the fence does not cause any difficulties nor block any view, but these arguments that little or no harm has been caused and that no steps require to be taken are not, in this case, valid ones. The reporter therefore concluded that the step of reducing the fence to a maximum of one metre is reasonable and proportionate and is needed to remedy the breach of planning control.

3.2.3 Reference: 16/00146/UNDEV
Proposal: Boundary fence and summerhouse erected in front garden
Site: 1 Borthwick View, Roberton, Hawick
Appellant: Mr and Mrs Ramsay

Reason for Notice: Unauthorised Development

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 & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Trudi Craggs, upholds the enforcement notice subject to the variation of the terms of the notice, by deleting the option to apply for retrospective planning permission. The reporter concluded that the summerhouse is a substantial wooden

structure and in her view is intended to be permanent and therefore required to be removed from its current location forward of the front elevation of the property. In relation to the fence the reporter feels that to reducing the fence to a maximum of one metre is reasonable and proportionate and is needed to remedy the breach of planning control.

4 APPEALS OUTSTANDING

4.1 There remained one appeal previously reported on which a decision was still awaited when this report was prepared on 27th July 2017. This relates to a site at:

- | | |
|---|--|
| <ul style="list-style-type: none">Land North West of Whitmuir Hall, Selkirk | <ul style="list-style-type: none"> |
|---|--|

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 16/00947/FUL
Proposal: Erection of dwellinghouse with attached garage
Site: Land North East of The Old Church, Lamberton
Appellant: Mr Malcolm Pearson

Reasons for Refusal: 1. The proposal for a dwellinghouse at this location is contrary to Scottish Borders Local Development Plan Policy D2 - Housing in the Countryside and Supplementary Planning Guidance New Housing in the Borders Countryside as the site is not located within an existing building group of three or more houses and there are no overriding economic needs or benefits to the local community that would justify a departure in this case. The site would not have a satisfactory relationship to any existing building group or contained sense of place at this location resulting in an adverse impact on the wider landscape setting. 2. The proposal would be contrary to Scottish Borders Local Development Plan Policy EP8 - Archaeology, in that the development would have an unacceptable adverse impact on the setting of the Scheduled Ancient Monument - Lamberton Church.

5.2 Reference: 17/00257/FUL
Proposal: Replacement windows and installation of chimney flue
Site: 5 High Street, Innerleithen
Appellant: Mr & Mrs David & Jane Gordon

Reasons for Refusal: Condition - The application is contrary to Policy EP16 of the Scottish Borders Local Development Plan in that the proposed flue is of insufficient height to allow fumes to disperse properly without adversely affecting the air quality and residential amenity of surrounding property occupiers. – Informative - Please note that the replacement windows may still be proceeded with under planning permission reference 15/01079/FUL.

5.3 Reference: 17/00530/FUL
Proposal: Erection of dwellinghouse with attached garage and workshop
Site: Land North West of Alderbank, Macbiehill, West Linton
Appellant: Mr and Mrs D Gold

Reason for Refusal: The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and "Alderbank", breaking into an undeveloped field at a higher level. The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

6 REVIEWS DETERMINED

- 6.1 Reference: 16/00872/FUL
Proposal: Erection of dog day care building, perimeter fence and associated works (retrospective)
Site: Land South West of Milkieston Toll House, Eddleston
Appellant: Mr Paul Lawrie

Reasons for Refusal: 1. The development is contrary to PMD2 in that the fence and building do not satisfy quality standards in that development is having an adverse impact on the amenity and character of the surrounding landscape. 2. The development is contrary to ED7 in that no business case has been provided to justify the economic and operational need for the particular countryside location and this development is unsuitable for the locality. 3. The development is contrary to IS7 in that intensified traffic usage at the sub-standard vehicular access creates a detrimental impact on road safety on the A703 and is contrary to policy on minimising accesses on to A-class roads.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.2 Reference: 16/01467/AMC
Proposal: Erection of dwelling house and detached garage (approval of matters specified in all conditions pursuant to planning permission 15/00301/PPP)
Site: Land North East of Dundas Cottage, Ettrick, Selkirk
Appellant: Mr J McGrath

Condition Imposed: Condition 3: Notwithstanding the submitted details in this application, the roof of the dwelling shall be slate of a type first submitted to and approved in writing with the planning authority. The development is thereafter to be completed using the agreed slate, prior to occupation of the dwelling. The external parts of the flue of the wood burning stove are to be matt black or matt grey in colour. The remaining external surfaces of the development hereby approved shall be of materials indicated on the submitted application form and approved plans, and no other materials shall be used without the prior written consent of the Planning Authority. Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Varied (Revised Conditions and Informatives)

- 6.3 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

- 6.4 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.6 Reference: 17/00044/PPP
Proposal: Erection of two dwellinghouses
Site: Garden Ground of Woodlands, Broomlee Mains,
West Linton
Appellant: Mrs Sandra Newton

Reason for Refusal: The proposal for a dwellinghouse at this location is contrary to Scottish Borders Local Development Plan policy HD2 Housing in the Countryside and Supplementary Planning Guidance New Housing in the Borders Countryside as the site is not located within a building group of three or more houses and there are no overriding economic needs or benefits to the local community that would justify approval. The site would not have a satisfactory relationship to any existing building group or contained sense of place at this location.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions and a Section 75 Legal Agreement)

6.7 Reference: 17/00090/FUL
Proposal: Erection of agricultural storage shed 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 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 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. 3. The application is contrary to Policies EP7 and EP8 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the development will not adversely affect the setting of the adjoining statutorily listed building and sites of archaeological interest.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.8 Reference: 17/00092/FUL
Proposal: Erection of agricultural storage shed 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 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 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.9 Reference: 17/00093/FUL
Proposal: Erection of agricultural storage shed 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 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 visual impacts on the Tweed Valley Special Landscape Area and 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. 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

- 6.10 Reference: 17/00094/FUL
Proposal: Erection of agricultural storage shed 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

- 7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 27th July 2017. This relates to sites at:

• Land North West of Dunrig Spylaw Farm, Lamancha, West Linton	• Land South of Balmerino, Ashkirk
• Redundant Steading North West of Pots Close Cottage, Kelso	•

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 4 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 27th July 2017. This relates to sites at:

<ul style="list-style-type: none">(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir	<ul style="list-style-type: none">Fallago Rig 1, Longformacus
<ul style="list-style-type: none">Fallago Rig 2, Longformacus	<ul style="list-style-type: none">Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

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