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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 2ND OCTOBER, 2017

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the SCOTTISH BORDERS COUNCIL, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 2ND OCTOBER, 2017 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

25 September 2017

| BUSINESS | |
|-----------------|---|
| 1. | Apologies for Absence. |
| 2. | Order of Business. |
| 3. | Declarations of Interest. |
| 4. | Minute. (Pages 1 - 4) Minute of Meeting of 4 September 2017 to be approved and signed by the Chairman. (Copy attached.) |
| 5. | Applications. Consider the following applications for planning permission:- |
| | (a) Land North West of Gilston Farm, Heriot - 17/00226/FUL (Pages 5 - 44) Erection of a Wind Farm comprising 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary buildings and temporary borrow pits on Land North West of Gilston Farm, Heriot (Copy attached.) |
| | (b) Land South of Easter Haprew Farmhouse, Peebles - 16/01377/FUL (Pages 45 - 62) Erection of poultry building. (Copy attached.) |
| | (c) Hutton Hall Barns, Hutton - 17/00623/FUL (Pages 63 - 78) Erection of poultry building and associated work at Hutton Hall Barns, Hutton. (Copy attached.) |
| | (d) Land East of Knapdale, 54 Edinburgh Road, Peebles - 17/00015/PPP (Pages 79 - 90) Residential development with associated supporting infrastructure and public open space. (Copy attached.) |
| | (e) Land South and East of the Schoolhouse, Blainslie, Galashiels - 17/01055/PPP (Pages 91 - 102) |

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|-----|---|
| | Erection of dwellinghouse. (Copy attached.) |
| | (f) Cacrabank Farm, Selkirk - 17/00999/MOD75 (Pages 103 - 108) Discharge of planning obligation pursuant to planning permission 07/00524/FUL |
| 6. | Appeals and Reviews. (Pages 109 - 114) Consider report by Service Director Regulatory Services. (Copy attached.) |
| 7. | Any Other Items Previously Circulated. |
| 8. | Any Other Items which the Chairman Decides are Urgent. |
| 9. | Items Likely to be Taken in Private Before proceeding with the private business, the following motion should be approved:- 'That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph of Part 1 of Schedule 7A to the aforementioned Act'. |
| 10. | Request to reduce development contribution requirements with respect to Planning permission for the Erection of three dwellinghouses, Land North-East of Glenview, Ellwyn Terrace, Galashiels (Pages 115 - 122) Consider report by Chief Planning Officer. (Copy attached.) |

NOTE

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

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

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

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

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 4 September 2017 at 10.05 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, J. A. Fullarton, S. Hamilton, H. Laing, C. Ramage, E. Small.
Apologies:- Councillors A. Anderson, S. Mountford.
In Attendance:- Depute Chief Planning Officer, Lead Officer (Development Management and Enforcement) Senior Roads Planning Officer, Solicitor (Emma Moir), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1.0 MINUTE

1.1 There had been circulated copies of the Minute of the Meeting held on 7 August 2017.

DECISION

APPROVED for signature by the Chairman.

2.0 APPLICATIONS

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

DECISION

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

3.0 **APPEALS AND REVIEWS** 3.1 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 the Erection of 19 holiday lodges and proposed access and land treatment on Land North West of Whitmuir Hall, Selkirk – 14/00848/PPP.

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

- Land North of Howpark Farmhouse, Grantshouse
- Poultry Farm, Marchmont Road, Greenlaw

(c) Review requests had been received in respect of:-

- (i) Erection of dwellinghouse and retaining wall (part retrospective) on Land West of Craigerne Coachhouse, Edderston Road, Peebles – 17/00323/FUL;
- (ii) Alterations to existing bellmouth and formation of new access on Land North West of Kirkburn Parish Church, Cardrona – 17/00384/FUL;

- (iii) **Formation of hardstanding, steps, retaining wall and new foot path on Land North West of Kirkburn Parish Church, Cardrona – 17/00647/FUL;**
 - (iv) **Erection of agricultural building and formation of new access track on Land South of 3 Kirkburn Cottages, Cardrona, Peebles – 17/00806/FUL**
- (d) **the decision of the Appointed Officer had been upheld by the Local Review Body in respect of:-**
 - (i) **Erection of dwellinghouse on Land South of Balmerino, Ashkirk – 17/00005/PPP;**
 - (ii) **Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works at redundant Steading North West of Pots Close Cottage, Kelso – 17/00118/FUL;**
- (e) **the decision of the Appointed Officer had been overturned by the Local Review Body in respect of the Erection of vehicle body repair workshop and associated parking on Land North West of Dunrig, Spylaw Farm, Lamancha, West Linton -**
- (f) **the decision of the Appointed Officer had been varied (Terms of Refusal varied) by the Local Review Body in respect of Erection of dwellinghouse with attached garage and workshop on Land North West of Alderbank, Macbiehill, West Linton – 17/00530/FUL**
- (g) **there remained two reviews outstanding in respect of:-**
 - **Land North East of the Old Church, Lamberton**
 - **5 High Street, Innerleithen**
- (h) **there remained four 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**
 - **Birneyknowe Wind Farm, Land North, South, East and West of Birneyknowe Cottage, Hawick**

The meeting concluded at 11.50 a.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|------------------|------------------------------|--|
| 16/01377/FUL | Erection of poultry building | Land South West of Easter Happrew Farmhouse Peebles |

Decision:- Continued to next available meeting to allow a site visit to be held.

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|------------------|---|--|
| 17/00765/FUL | Change of Use from Class 1 (Retail) to Class 2 (Financial, Professional and Other Services) | Units 9 and 10, 6 -8 Douglas Bridge Galashiels |

Decision: Refused, contrary to the Officer's recommendations for the following reason:-

The change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policies ED3 and ED4 of the Scottish Borders Local Development Plan 2016 in that the use of the premises by a Job Centre would result in the loss of prime retail floor space in a prominent location within the Core Activity Area, which forms part of a principal shopping street and key approach to the town centre.

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|------------------|------------------------------|-------------------------|
| 17/00921/FUL | Extension to dwellinghouse | 12 Merse View Paxton |

Decision: Approved subject to the following conditions and informatives:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the extension hereby approved unless an application for planning permission in that behalf is first submitted to and approved in writing by the Planning Authority.
Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties.
2. The external materials to be used on the extension shall match in all respects those of the existing building, and no other materials shall be used unless the prior written consent of the Planning Authority is given for any variation thereto.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
3. 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.

Informative:

1. Flues can give rise to smoke and odour complaints which may be actionable under Environmental Health legislation regardless of whether or not a flue has planning permission or is the subject of a Building Warrant. Neither Planning Consent nor Building Warrant approval would indemnify the owner in respect of any potential Nuisance action.

2. The applicant/developer is reminded of their responsibility to avoid unnecessary nuisance on the residential amenity of neighbouring dwellings during the construction period. The applicant/developer is also advised not to store building materials and/or equipment associated with the development in the public car park or on the public road.

NOTE

Mrs E Sangster, neighbour to the proposed site spoke against the application on behalf of all the objectors.

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|-------------------------|---|---------------------------------|
| 17/00669/FUL | Part change of Use from Class 2 (Office) to Class 9 (Residential) | 3-5 Exchange Street Jedburgh |

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.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. No development shall commence until detailed mitigation measures designed to reduce the potential impact of flooding on the building shall first be submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with the scheme. The approved measures then to be implemented as part of the development and maintained thereafter following occupation of the dwellinghouse.
Reason: To lessen the impact of potential flooding at the site.
3. No development shall take place except in strict accordance with a detailed flood evacuation plan for the building which shall first be submitted to and approved in writing by the planning authority and thereafter no development shall take place except in strict accordance with the approved plan. The flood evacuation plan shall be maintained in perpetuity thereafter unless otherwise agreed in writing by the planning authority.
Reason: To lessen the impact of potential flooding at the site.

Informatives

1. As the application site is located within the Jedburgh Conservation Area and listed Category A, external alterations to the building are likely to require the benefit of planning permission, whereas internal and external alterations are likely to require the benefit of both listed building consent and planning permission.
2. The Council's Flood Protection Officer advises that, as access and egress to the development may also be affected by flood waters, the owner occupier should receive flood warnings from SEPA. The applicant should sign up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. It is also recommended that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

NOTE

Mr Abderrazak Lataoui, Applicant spoke in support of the application.

Erection of a SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

02 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

| | |
|-------------------|---|
| ITEM: | REFERENCE NUMBER: 17/00226/FUL |
| OFFICER: | Stuart Herkes |
| WARD: | Galashiels And District |
| PROPOSAL: | Erection of a windfarm comprising of 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary buildings and temporary borrow pits |
| SITE: | Land North West Of Gilston Farm, Heriot |
| APPLICANT: | Gilston Hill Windfarm Ltd |
| AGENT: | 2020 Renewables Limited |

SITE DESCRIPTION

The site lies on the northern edge of the Southern Upland land mass, above the Lothian Plains; more specifically, within the northeastern section of the Moorfoots, where these rise above Fala Moor. The expansive rolling farmland of Midlothian and East Lothian lie to the north again. The Lammermuirs lie to the east.

There are two parts to the site: the largest of which is the site of the proposed wind farm itself, including access tracks, temporary compound and a borrow pit; the smaller site lies to the south of the first, and would accommodate another borrow pit.

The site of the proposed wind farm lies around 0.5km to the west of Gilston Farm and the B6368; 2.25km to the south of the A68; and 3.5km to the east of the A7. It lies immediately inside of this Council's local authority area, at a point where this borders Midlothian, to the immediate north. East Lothian lies within only around 4km to the east.

Notwithstanding some shelter belts within the lower, eastern section, just above Gilston Farm, the wind farm site is otherwise an open, undulating upland rough grazing land. It extends to some 170 hectares. At its southern extremity, Brotherstone Hill rises to a height of 418m AOD; the highest point within the site. For the most part, the land within the site is the northern slopes of the aforementioned summit, and it faces towards the more open vistas of the Lothian Plains.

The site of the detached borrow pit lies downslope of the main site, 0.8km to the south. This is the larger part of an enclosed, steeply sloping but open field. It extends to an area of 4.6ha, and is bounded to the south by the B6368. It already includes an existing agricultural borrow pit.

Neither of the two areas of the site is directly subject to any statutory designations. However, the western boundary of the main wind farm site lies adjacent to the Fala Flow

Site of Special Scientific Interest (SSSI) and the Fala Flow AGLV (proposed as the Fala Moor Special Landscape Area in the Proposed Midlothian Local Development Plan). There is also likely to be runoff from slopes within both areas of the site, to the River Tweed Special Area of Conservation (SAC) and the River Tweed Site of Special Scientific Interest (SSSI).

A small area along the eastern boundary of the wind farm site also overlaps with part of the northwestern extremity of the Makimrich Ancient Woodland Inventory Site.

Scheduled Ancient Monuments at Soutra Aisle and Dere Street lie within the near vicinity of the wind farm site.

There is a Right of Way which runs through nearby Brothershiels, and then onto, and across, Fala Moor. This is used as a recreational walking/riding route.

The nearest dwellinghouses to the site within SBC's local authority area are located at Gilston and Upper Brotherstone (within less than 750m, in both cases) and Brothershiels (within around 1km). Soutra Farm, within Midlothian, lies around 2km distant. Although the site is not located within close proximity to any settlements or large building groups, there are numerous farms and smaller building groups within the wider area, within both the Scottish Borders and the Lothians.

PROPOSED DEVELOPMENT

The application seeks consent to install 7 turbines on the northern slopes of Brotherstone Hill, each of which would have a maximum height to blade tip of 126.5m and a generating capacity of approximately 3 Megawatts (MW). The overall generating capacity of the scheme is accordingly 21 Megawatts (MW).

In addition to foundations, and ancillary areas of hard standing for purposes of construction and operation, the proposal would also include 3.9km of new permanent access tracks; a substation compound incorporating a control building and telecommunications; a temporary construction compound; and up to two borrow pits, with associated temporary tracks. The detailed drawings of these proposed developments, and indeed of the turbines themselves, are all described as "indicative" or "typical".

The "indicative wind turbine" has a rotor diameter of 90m and a hub height of 82m. It incorporates a tapered tubular tower and three blades. Somewhat confusingly however, it is advised within the Environmental Statement that the Landscape and Visual Impact Assessment is based upon the visual impacts associated with the siting and operation of turbines with a maximum tip height of 126.5m, but with a rotor diameter of 93m and a hub height of 80m. The Applicant has confirmed that it is the latter, which is to be taken as the detailed dimensions of the proposed model of turbine.

Figure 3 ("proposed layout") and Figure 3.1 ("indicative site layout"), describe an array of turbines set out in three roughly linear rows running across the northern slopes of Brotherstone Hill. The upper row would consist of three turbines sited at around 340m to 350m AOD. The lower two rows of two, would occur downslope of these, at roughly 320 to 330m AOD; and then again, below this, at around 300 to 310m AOD.

Access to the site will be from the B6368 north of Makimrich wood by way of a purpose built junction. Construction traffic would be routed from the A68 to the B6368; with only traffic requiring to travel between the main wind farm site and the larger borrow-pit site, needing to take access along the intervening section of the B6368 to the east.

The grid connection for the proposal would be at the existing Dun Law substation, which would in turn be connected to the site via underground cable.

Planning permission is sought for an operational life of 25 years after which time the facility will be decommissioned and the site restored to the satisfaction of the Council.

During operation, the local economy would benefit from the contribution of £5,000 per megawatt (MW) by the windfarm to a community fund. It is advised that consultation is ongoing with the local community councils regarding shared ownership of the project, which would lead to further contributions to the local economy.

PLANNING HISTORY

A previous planning application for the site, 11/01680/FUL, proposed the erection of seven wind turbines comprised of six turbines with a height to tip of 115m, and one with a height to tip of 100m. This was to have been part of a wider scheme including nine more turbines of equivalent design which were to have been sited on adjacent land in Midlothian, and which were the subject of a related planning application (11/00847/DPP) to that authority. The latter application was refused by Midlothian and then also dismissed at a subsequent appeal to the Scottish Government.

Planning Application 11/01680/FUL was also refused by SBC's Planning Committee in 2012. The subsequent appeal to the Scottish Government in 2013 was also dismissed on the grounds that: "*the proposal would give rise to an unacceptable number of significant adverse landscape and visual amenity impacts, including cumulative impacts*" (Paragraph 98), impacts which the Reporter in his Appeal Decision Notice considers were not outweighed by any economic and sustainability benefits of siting and operating the proposed wind farm.

In his consideration of the landscape and visual impacts, the Appeal Reporter is clear that his assessment and conclusions relate both to the subject proposal in isolation, and to its contribution to cumulative impacts that would result were it to be realised in association with the other nine turbines that were then proposed to have been sited on the adjacent site in Midlothian, as well as with respect to cumulative impacts in association with existing and consented windfarms within the wider area.

While the majority of the appeal report is concerned with landscape and visual impacts, including cumulative impacts, the Reporter also considers residential amenity, natural heritage and cultural heritage concerns. Notwithstanding some overlap with the landscape and visual impact concerns, it is concluded that all other concerns in these respects could be addressed by planning conditions, or are not otherwise objectionable.

SCHEMES RELEVANT TO CONSIDERATION OF CURRENT PROPOSAL

Although the site lies within Scottish Borders, it also lies in immediate proximity to Midlothian, and in close proximity (4km distant) to East Lothian, and has potential to be

viewed in association or sequence with a number of wind farm developments within the surrounding area.

Scottish Borders

Dunlaw

96/01130/FUL - Wind farm comprising of 31 turbines (Tower height not to exceed 42m), control building, substation, 2 monitoring masts & access roads approved July 1997

05/00847/FUL - Extension to wind farm comprising 35 wind turbines (up to 75m to blade tip), turbine transformers, substation and control building, access roads and temporary borrow pits and construction compounds approved January 2006

14/00200/FUL – approval of Erection of wind turbine 75m high to tip.

Toddleburn

04/01744/FUL - Construction of wind farm comprising twelve turbines and sub-station connected by access tracks and accessed via an existing track from the A7 approved August 2005 (hub heights 65m and 80m, blade tip heights 110m and 125m). Initially refused by committee for following reason:

The proposed development would be contrary to Policy I20 of the Approved Structure Plan in that its proximity to the Dun Law Wind Farm will result in unacceptable cumulative impacts.

Appeal against this refusal sustained in January 2007

Rowantree

Section 36 application for 23 wind turbines and ancillary works (hub height 80m tip height 125m) considered by committee in July 2010. Committee objected to application. Public Hearing held in 2012 and Reporter's report expected to be with Scottish Ministers before the end of 2012.

Falahill

04/02420/FUL - Erection of three wind turbines with associated access tracks, a climate monitoring mast, switchgear building and temporary construction compound refused in May 2006 (60m to hub, 101m to blade tip). Reason for Refusal:

The proposed development would be contrary to Policy I20 of the Structure Plan, Policy 84 of the Ettrick and Lauderdale Local Plan and Policy D4 of the Finalised Local Plan in that it would have a detrimental effect on landscape character and countryside amenity and Policy I20 of the Structure Plan in that it would result in unacceptable cumulative impacts to the detriment of landscape character and countryside amenity.

Carcant

05/01884/FUL – Approval of erection of three wind turbines (107m to tip) and 1 No wind monitoring mast with control building, access track, temporary construction compound and other ancillary development.

Outwith Scottish Borders

Gilston (Midlothian)

An application (11/00847/DPP) for 9 turbines on the adjacent site was considered by Midlothian Planning Committee on 20 November 2012 and the decision was taken to refuse it on the basis of its landscape and visual impacts, cumulative impacts, and impacts upon the wildlife interests of the adjacent Special Protection Area, with particular regards to ornithological interests, and also to the peat land habitats of the development site itself. A subsequent appeal was dismissed by the Scottish Government.

Dere Street (Midlothian)

Application for two wind turbines 29.9m to tip (12/00206/DPP) currently under consideration. The proposed location is to the north west of the B6368 between the proposed entrance to Gilston wind farm and the block of woodland close to Soutra Aisle.

Pogbie (East Lothian)

Pogbie Wind Farm (PWF) is a 6 turbine wind farm with a capacity of 5MW located in East Lothian which was granted planning consent in 2009 by East Lothian Council (East Lothian Council ref 08/00823/FUL).

09/00029/Ful Land East of Huntershall, Soutra Hill - formation of access track- approved but consent not issued as legal agreement not completed.

11/01193/FUL - Land North East of Dun Law Wind Farm, Formation of access track and upgrading of existing wind farm access track to connect Pogbie wind farm to the public road network approved December 2011.

Keith Hill (East Lothian)

Initial application (09/00010/FUL) for 10 wind turbines (110m in height) and associated infrastructure was refused by East Lothian Council and the subsequent appeal was dismissed. The reason given for the dismissal was that the proposed development would have an adverse effect on the character and appearance of the Lammermuir Hills AGLV.

A revised application (10/00985/FUL) for the erection of 5 wind turbines, 76m to tip height, and associated works on the same site was approved on 1 April 2011.

Access to both Pogbie and Keith Hill will be via the eastern extension of Dun Law wind farm.

14/00787/FUL - formation of wind farm access track approved by Scottish Borders Council.

Other smaller turbine applications

There are also a number of approvals for smaller scale turbines in the proximity of the proposed windfarm at Fallahill, Upper Brotherstone and Cowbraehill.

REPRESENTATION SUMMARY

In total, 35 representations have been received; each of which is available in full on *Public Access*. These include 21 representations in support; 12 representations in objection; and 2 general comments advising of concerns with respect to the proposal.

The main grounds of support are as follows:

- Locally-produced renewable energy seen as a clean, sustainable, reliable and forward-looking energy source; delivering economic and energy security while helping to counteract climate and environmental change;
- Environmental impacts, including landscape and visual impacts are acceptable; appearance may even be an attraction or features of interest; views from surrounding road network (A68 and A7) and settlements (Fala and Heriot) would be minimal;
- Site considered to be secluded and/or in character with an established 'wind-scape', particularly in its relationship to the existing Dun Law Wind Farm, which already has a significant impact upon the landscape, allowing the visual impact of the current proposal to be minimised;
- Impacts upon amenity, including that of general rural landscape character, are acceptable; and would not harm general public's enjoyment of the area;
- Economic and employment benefits to the local area;
- Supports farm diversification and wider rural economy;
- Community benefit from a generous community benefit fund (estimated at £105,000 a year);
- Area proven to have good wind resource potential; benefit from proximity to established grid connections;
- Current proposal addresses the landscape and visual impacts that were the basis of the refusal of the previous application, primarily by reducing the overall number of turbines in the scheme and through more sensitive positioning; and
- Proposals are in line with Policy ED9 Renewable Energy Development of the Adopted Scottish Borders Local Development Plan.

The main grounds of objection are as follows:

- The proposal is contrary to Policy ED9 of the statutory development plan in that the proposal has a range of significant adverse effects having regard to environmental, community and cumulative impact considerations. These significant adverse impacts are relevant and cannot be satisfactorily mitigated. The very limited wider economic, environmental and other benefits of the proposal (to the extent that these are real and verifiable) do not outweigh the potential damage arising from it. The proposal therefore fails to find support from the first part of Policy ED9;
- In terms of minimising the operational impact of the wind turbine proposals, including ancillary developments such as tracks, the Applicant, has not

demonstrated the selection of options to minimise these effects, as is required under Policy ED9;

- The Council's Planning and Building Standards Committee refused an application for a similar proposal; which was refused at appeal; the current proposal is not materially or substantially different from this previous proposal, proposes higher turbines (126.5m as opposed to 115m), and has not addressed the landscape and visual impacts which were identified as objectionable by both the Planning Officer and Appeals Reporter; although the Applicant presents the proposal favourably in comparison to the previously proposed 16-turbine scheme, the 7-turbines within the latter that were to have been accommodated on the site were the subject of an application that was determined, appealed and dismissed in its own right; the provisions of Policy D4 within the previous statutory development plan against which the previous scheme was assessed, are substantially the same as those of Policy ED9 of the current statutory development plan (Adopted Scottish Borders Council Local Development Plan 2016);
- Contrary to the Applicant's assertions, the determining issues at the time of the previous application and subsequent appeal, were not related to design, but were related to significant adverse landscape and visual impacts, which were diminished or dismissed by the Applicants/Appellants;
- Unacceptably detrimental landscape and visual impacts upon current proposal more detrimental in terms of its landscape and visual impacts than previous and refused proposal; there is insufficient capacity within the local landscape for further wind farm development; the site is open and would be visible over many miles to the north from Midlothian; the scheme specific and cumulative Landscape and Visual Impact effects exceed the capacity of the landscape, and are overwhelmingly adverse;
- Site conflicts with SBC spatial strategy for wind farm development;
- The Landscape Character Type is not suitable for wind energy development;
- The cumulative impacts are such that they limit the capacity for further development in the area;
- Insufficient account has been taken of environment and amenity of the houses in closest proximity to the scheme, including those at Brothershiels; these properties would experience an unacceptable overbearing effect;
- Unacceptable impacts upon birds (including Black Grouse and Pink Footed Goose) and local wildlife; insufficiently detailed information has been provided with respect to the identification of birds, and the impacts upon them;
- Over provision of facility in area; there would be unacceptable cumulative landscape and visual impacts in association with neighbouring wind farms and turbines at Dun Law (and extension), Toddleburn and Carcant. In culmination with these other schemes would effectively extend the wind-scape over 2km;
- Impacts upon environment and amenity of the site and surrounding area would not be outweighed by the economic, energy, employment and community benefits of the scheme and/or contributions to national renewable energy targets, which the area already contributes towards through the existing and consented schemes;
- Visitor and tourist economy liable to be negatively impacted
- Unacceptable impacts upon the amenity of the surrounding area, including Rights of Way; including the Fala Moor Road Core Path,

- Unacceptable noise nuisance impacts liable to be experienced at nearest non-financially involved dwellings including those at Brothershiels; insufficient data (including untypical monitoring conditions) has been gathered to demonstrate that the noise impacts liable to be experienced at neighbouring dwellings would not be unacceptable; noise modelling is considered to be inadequate or unreliable;
- Poor design in terms of siting results in turbine grouping which is not sensitively accommodated within landscape and visual impacts;
- Development will negatively affect health of residents in close proximity to the proposals;
- National climate change and energy policy does not outweigh all other considerations; including the need to consider the impacts of the specific proposal;
- Need for the scheme is not justified by Scottish Government's national targets for renewable energy output; Scotland's energy sector is now effectively 'decarbonised'; the national targets can be met in other ways, by other schemes; existing and consented schemes are sufficient to meet Scottish Government targets; (it is advised not only that the target has been reduced in recent years, but that the target is being incorrectly calculated); the UK Government level position outweighs the position of Scottish Government, and is shifting towards the encouragement of off-shore wind energy development; the electricity target for the UK under the EU RE Directive of 2009 is in principle already met by installed and consented capacity, and there is no budget for an overshoot; Renewable energy targets have already been met and the development cannot verifiably prove any direct effect on greenhouse gas emissions;
- In recent consultative drafts on energy, the Scottish Government is not proposing immediate changes to the planning system that would affect this case, and do not indicate that developments which are currently not acceptable on account of their adverse impacts should somehow be approved in future;
- Costs incurred to the Council (and tax payer) of processing the application and any subsequent appeal, are liable to outweigh the application fee paid by the Applicant;
- In the Borders, grid and geographical constraints frequently require existing capacity to be shut down under conditions of moderately high winds;
- The clear outcome of the 2013 appeal means that this new application is simply putting parties to unreasonable and unnecessary expense as there is no reasonable prospect for a successful outcome;
- There are no associated energy storage proposals that would offset the constraints payments;
- There is no submitted demonstration of any net positive economic impact; no balanced overall net economic impact assessment has been presented;
- Adverse effects on the water environment;
- Adverse effects on carbon rich soils;
- Adverse effects on the operation of a local estate, principally through adverse impacts on experience of customers participating in shooting events;
- The site decommissioning and restoration cannot be guaranteed unless through a legally-binding obligation on current and future title holders;
- Not a sustainable land use given recognised significant adverse effects; and
- Designated Conservation Area (sic).

Two general comments have also been received in response to the planning application. The first was concerned to establish whether or not the proposal included, or would be anticipated to include, provision for anemometers. The second seeks the reinstatement within the current scheme, of a proposal included as part of the previous but refused planning application. This proposal was specifically that a specific area of woodland within a third party ownership (understood to be that of the party making the general comment) should be retained and maintained for the lifetime of the windfarm site (and not harvested or cut). This is identified as being for landscape and visual purposes.

APPLICANTS' SUPPORTING INFORMATION

Prior to the submission of the current planning application, the proposal was made the subject, firstly, of a Screening and Scoping Opinion Request (16/00922/SCO), which advised that an Environmental Impact Assessment was required in support of the planning application; and secondly, a Pre Application Notification (16/01074/PAN), which advised that the public consultation arrangements described within the revised PAN were acceptable. The Applicant's supporting information includes both an Environmental Statement and a Report of the Applicant's Community Engagement.

The supporting documents include:

Planning Statement
Design and Access Statement
Volume 1 – Non Technical Summary
Volume 2 – Main Report
Volume 3 – Figures
Volume 4 – Technical Appendices
Visualisations
Comparative Zones of Theoretical Visibility

The Environmental Statement and Non-Technical Summary advise as to how the current version of the proposal has been revised to address the landscape and visual objectives raised at the time of the determination of the previous planning application, or otherwise respond, to those same concerns. The key points of this response are as follows:

- The site would prevail within a large-scale landscape context, already inhabited by operational wind farms at Dun Law and Toddleburn;
- There would be minimal or reduced visual effects in views from the A7 and A68;
- Turbines have been removed from Midlothian's AGLV;
- Reduced number of turbines has resulted in a simpler, more contained layout;
- Compact turbine layout has minimised the horizontal spread of the proposed development along the skyline and within the landscape;
- Cumulative views of the proposed development have been improved as the turbines have been located in the part of the site closest to Dun Law Windfarm and Extension, creating a more coherent fit with the existing turbines;
- Significant visual effects have been identified as occurring out to a range of 4.2km;
- Scheme would now be barely visible from properties in South Fala Village, Fala Kirk, and improved in views from North Middleton and Edgehead; and

- Views from Soutra Aisle to the site are screened by a conifer plantation, but even allowing for the plantation's removal over the lifetime of the wind farm, there would be no unacceptably adverse impacts upon the landscape setting and context of the monument.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Access Officer: advises that there are no Rights of Way on this area of land. However, there are a number of paths out with the site from which the turbines would be visible. It is noted that the developers wish to enhance the existing path network in the area. In order to maintain and improve public access, and should the Planning Authority seek to approve this application, the Countryside Access Team makes the following recommendations: (i) consideration should be given to creating a circular access route around the site utilising existing tracks, new access roads and where necessary creating a new link path between Turbines T4 and T7 suitable for use by walkers, cyclists and horse riders; (ii) developers should work with Scottish Borders Council Access Team to create a new connection between Fala Moor Road and Dere Street through the site; and (iii) reasonable developer contributions should be agreed to the satisfaction of the Countryside Access Team for the promotion, maintenance and management of the wider path network in the local area; specifically, the operator should enter into an appropriate Legal Agreement to secure the provision of resources over the operational period of the Wind Farm for these works to be funded annually to the sum of £3,000, index-linked.

Archaeology Officer: does not object to the proposal, and considers it to be better conceived than the previous application in terms of its impacts on the historic environment. However, there would be direct impacts to known heritage assets, and potential for impacts to unknown, buried, assets. These impacts can be dealt with by condition. There will also be impacts to the setting of Soutra Aisle. While these are not objectionable it is recommended that a condition that would enhance the understanding and appreciation of Soutra Aisle thereby partly off-setting the impact be added to any grant of consent.

In terms of direct impacts, this can best be mitigated through a scheme of archaeological work that may include targeted excavation, a mapping exercise of existing rig and furrow cultivation and a watching brief.

Ecology Officer: seeks the imposition of conditions to require the submission and prior approval of a Species Protection Plan; a Habitat Management Plan; a Construction Environment Management Plan (CEMP); an ecological monitoring programme; and a Decommissioning Restoration and Aftercare Strategy. The detailed requirements of what each of these should address is set out within the Ecology Officer's consultation response. Additionally, the appointment and operation of an Ecological Clerk of Works (ECoW) for the site, is sought to oversee the preparation and monitoring of the aforementioned plans and programmes from the pre-construction to operational phases of the development. Lastly, and within a period of no later than 3 years prior to the decommissioning of the Development a detailed decommissioning, restoration and aftercare plan, should be submitted to the Planning Authority for prior approval in consultation with SNH and SEPA.

Environmental Health: has advised as follows:

Private Water Supply

An assessment of the impact of the Development on Private Water Supplies was undertaken as part of the original Application and is detailed in Chapter 10 of the Environmental Statement. The Private Water Supply serving properties at Gilston was identified as being at risk from the formation of a borrow pit. If this borrow pit is used as a scheme of mitigation as detailed at Chapter 10 paragraph 10.169 will be required as a Condition of any Planning Consent. A condition is proposed for this purpose.

Construction Noise

An assessment of the impacts arising from Construction of the Development was undertaken as part of the original Application and is detailed in Chapter 13 of the Environmental Statement. The assessment encompassed the effect of additional road traffic as well as noise arising from construction activities. Equipment noise predictions have been modelled and the Assessment concludes that there is a potential for unacceptable noise impact at two properties under a worst case scenario. This can be mitigated by a Condition requiring a Construction Method Statement in the event of approval. A condition is proposed for this purpose.

Operational Noise

Environmental Health initially sought clarification with respect to the nature of properties around the site identified as having a financial interest, pointing out that the higher noise limits would only be applicable where the resident (and not the owner) of the property has the interest. Further to the production and submission of a revised noise assessment which is based on the operation of an alternative wind turbine (108m diameter rotor), Environmental Health is content to accept the assessment and conclusions of that noise report, specifically that the proposal would have no unacceptable noise impacts, but identifies the need for planning conditions to achieve the following:

- Firstly, with respect to the six properties at which the Applicant seeks the application of a higher noise limit, documentary evidence requires to be submitted to substantiate the Applicant's advice that the occupiers of the six properties concerned would have a financial interest in the scheme;
- Secondly, a condition is proposed to regulate the rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty. This makes explicit reference to the values for the relevant integer wind speed set out in, or derived from tables, which Environmental Health would require to be attached to this condition. The tables identify specific properties; and
- Thirdly, specific noise monitoring measures are specified, along with the protocol to be followed in the event of a noise nuisance complaint.

Given that the above assessment is based upon advice with respect to a turbine with a rotor diameter of 108m, it was necessary to confirm with Environmental Health whether

or not it would take any different view with respect to the operation of a turbine with a rotor diameter of 90m. Environmental Health has responded to advise that no new assessment would be sought based on the Applicant's explicit advice that the final choice of turbine would, however, have to meet the noise limits determined and contained within any condition imposed.

Flood Prevention: Due to minimal flood risk at the site, there would be no major objection to this proposal in terms of flood risk, although adherence to the following is sought: (i) the formation of any new hard surfaces, such as access roads, to be attenuated to at least existing Greenfield runoff rates so that there is no increased effect on downstream receptors. Likewise, any discharges from SUDS and other drainage should be kept to existing Greenfield runoff rates; (ii) if there are to be any culverts, watercourse crossings or alterations to crossings, these must not reduce the flow conveyance of the watercourse; and (iii) details of the silt traps and other functions that the Applicant proposes to minimise the amount of sediment entering the water course should be submitted. It is anticipated that SEPA would want there to be a buffer zone between the watercourse and any turbines.

Forward Planning: notes that an earlier application for seven turbines of a lower height to the turbines that are now proposed, and sited in slightly different locations to those that are now proposed, was refused and then dismissed at appeal. It is advised that consideration must be given to whether this amended application materially changes the Reporter's reasons for refusal.

It is noted that Scottish Planning Policy (SPP) supports all forms of sustainable development, which includes the promotion of renewable energy and the protection of the environment. Whilst supporting renewable energy this however should not be at any cost; it should be the right development in the right place. Secondly, in respect to the approved SESplan Strategic Development Plan, it is noted that concern has been expressed in relation to cumulative impacts of wind farms in the Scottish Borders.

Within the Council's adopted Local Development Plan 2016 there are a number of relevant planning policies but the most relevant is Policy ED9: Renewable Energy Development. This lists a number of material considerations including the report on Landscape Capacity and Cumulative Impact (July 2013) as an initial reference point, as well as other relevant landscape, visual and cumulative impact guidance, for example, that produced by Scottish Natural Heritage.

The Ironside Farrar Landscape Capacity and Cumulative Impact Study (July 2013) is a major consideration within the Development Management process. Considerable time has been put into the background study by consultants and SBC officers and it is considered that the conclusions and landscape capacities are credible. With respect to an assessment of the application site conducted in relation to this Study, it is noted that the site falls within the landscape character type "Plateau Grassland" Lauder Common, which is described as follows:

"The landscape could accommodate additional turbine development to that already consented, however if the majority of the turbine and windfarm applications were granted this landscape could potentially exceed capacity and risk developing into a wind turbine landscape. Consequently there are concerns the landscape is reaching saturation point and overall cumulative impact is a major consideration.

Wind turbine development within this LCA [Landscape Character Area] needs to be restricted to well separated clusters and not be located on the much more visually prominent outer slopes, development should take advantage of the topographical containment created by the wider sections of this elevated plateau. There are no landscape designations or long distance paths within this area."

The conclusions suggest that no turbines over 50m in height were appropriate within the application site. There is no identified opportunity for large (50 – 100m) and very large (over 100m) scale turbines.

The updated Ironside Farrar study is a strategic level study providing a context for consideration of capacity for, and the cumulative effects of, existing and potential future wind farm developments. While it is acknowledged that no site specific conclusions should be drawn from it in relation to currently proposed or potential future wind turbines and wind farms, nonetheless if turbines are proposed which exceed the turbine heights identified within the Ironside Farrar study, then the onus is on the applicant to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated.

The proposed 126.5m high turbines are quite clearly considerably at odds with the findings of the study and it is a major issue to be addressed.

It should be noted that an updated Ironside Farrar Landscape Capacity and Cumulative Impact study 2016 has been produced as part of the Council's new draft Renewable Energy Supplementary Guidance. This updated study does not alter the position regarding the proposals and re-enforces the conclusions of the 2013 Landscape study. However, it is acknowledged that the Supplementary Guidance is currently out for public consultation and therefore little weight can currently be given to it.

It is noted that the application states that there are seven properties within 2km of the site which are identified as being significantly affected. However, it is acknowledged that in relation to the previous application, the Reporter did not consider any perceived adverse impacts on the residents to justify reasons for refusal. Nevertheless, care should be taken to address these issues again, given the re-siting and height of the turbines proposed.

While Scottish Borders Council continues to support wind turbine proposals within what are considered to be appropriate locations, the proposal raises considerable policy issues to be addressed particularly in terms of its prominence within the landscape and in terms of cumulative impact.

Landscape Architect: has carried out an assessment of the landscape and visual impacts of the proposal in accordance with the requirements of Policy ED9 taking into account the report on Landscape Capacity and Cumulative Impact (July 2013) and other relevant landscape, visual and cumulative impact guidance, including Scottish Natural Heritage. Her observations and conclusions have been grouped below, under three headings, which relate firstly to the relationship between the proposal and the landscape context of the site and surrounding area; secondly, to the cumulative impacts that would result were the proposal to feature in the same views as surrounding wind turbines; and thirdly, to the extent to which the current proposal has addressed the specific landscape

and visual impact concerns that were raised at the time of Planning Application 11/01680/FUL, and the subsequent appeal.

Landscape and Visual Impacts:

The proposal does not comply with the guidance of the Landscape Capacity and Cumulative Impact Report 2013, which seeks that larger-scale wind energy development should be located away from sensitive locations; nor SNH's guidance in that it would overwhelm the underlying landform. More particularly, the site has a "medium scale upland fringe landscape" character, occupying the visually prominent outer slopes of the Southern Upland land mass, where the land drops down off the upland plateau to the farmed landscape to the north, presenting open views to, and from, the north. Accordingly, the Landscape Architect considers that the site has a particular visual sensitivity even within the already sensitive context of the Lauder Common LCA, which she advises has a low capacity for further wind farm development of very large turbines (that is, wind turbines over 120m) but not in the northern part of this LCA, where the land drops down to the north. Sited as proposed, in this sensitive landscape setting, it would affect a high magnitude of change to receptors in the local area, including road users on the A68; receptors on the footpath across Fala Moor; and would have a generally disproportionate visual impact on receptors in the wider area. It is considered that a windfarm of a recognisably large scale coming down off the upland plateau would be liable to diminish the scale of the Upland plateau to its detriment as a landscape feature; and diminish the remote qualities of Fala Moor.

Cumulative Impacts

The proposal does not comply with the guidance of the Landscape Capacity and Cumulative Impact Report 2013, which seeks that larger-scale wind energy development should be well-separated from other clusters. Further, the proposal does not adequately address the siting and design guidance of SNH's Siting and Designing Windfarms in the Landscape 2014, in that it uses a demonstrably different turbine typology from surrounding wind energy schemes.

From several locations, the development would in superimposition with the Dun Law scheme, be liable to present a confused image by distorting viewers' perception of scale, contrary to agreed principles for the relationship between turbine typology and landscape scale. This would be all the more so, due to the potential for the perception that wind farms were no longer only occupying the large scale upland landscape of the Soutra plateau, but also descending from there into the upland fringe and lowlands to the north. This particular impact would be all the more visually confusing given the proposal to introduce 126.5m high turbines into an area where there are already a large number of turbines of less than 80m in height. Also, by increasing the scale of turbine (vis a vis Dun Law) on a site with a smaller landscape scale, a sense of confusion would be introduced, which does not assist assimilation.

An additional disharmony could potentially result from the differing length of blades of the proposed turbines and those at Dun Law and Pogie as well as different rotation speeds adding to the complexity of the visual picture. With respect to landform, it is noted that the guidance recommends that turbines should be grouped together on the most level areas of the site. However, since this site is anything but level, there is a risk that its appearance would be confused, especially as it is often the blades that are

visible behind localised landform, and often in the context of smaller turbines on the plateau top.

With respect to perspective, it is considered that there is potential for confusion in views from the surrounding area, between the proposal and the extensive windfarm on the plateau immediately to the south.

With respect to land use and visual pattern, it is not considered that the proposal would relate particularly well to the Upland Fringe nature of the landscape in that in certain views, the turbines would be seen in the context of an enclosed farm landscape with a clear relationship to other elements such as woodland, pylons and the escarpment to the south.

Comparison with 2011 Proposal

The proposed scheme would be more compact than that which was proposed by Planning Application 11/01680/FUL, and would not see turbines sited as high in the landscape as was the case within the previous proposal. However, the potential visual benefits of these measures would be significantly reduced, if not entirely negated, by the use of taller turbines than the previous scheme, which would be liable to result in visual effects of equivalent significance to those that would have been generated by the previous proposal.

It was the principle concern of the Landscape Architect at the time of the determination of Planning Application 11/01680/FUL, that the introduction of that scheme into the lower lying rolling landscape to the north of the Southern Upland landmass would be detrimental to the perceived scale and character of the area and the panoramic views to and from the north and that the additional cumulative visual impacts of the proposal with the existing Dun Law Windfarm, and other consented windfarms in the area would be unacceptable when viewed from the north.

The current proposal sees the constituent turbines moved slightly downslope from the levels at which these were proposed to be sited at the time of the previous proposal. However, any benefit that this might otherwise have had, is either negated or greatly reduced by the proposed increase in the height of the turbines by up to 11.5m, thereby cancelling out or reducing any relative visual benefits that might otherwise have resulted.

It is recognised that the current proposal would not be accompanied by any similar proposal in Midlothian, unlike its predecessor, and that there would be a reduction in the overall number of turbines that were previously proposed. The Landscape Architect also considers that the proposed increase in height of the turbines would see the Vertical Angle ZTV increased, making the turbines more visible in close proximity to the proposed development and more prominent for greater distances than turbines of a smaller size as were originally proposed on the plateau to the south. Accordingly, and notwithstanding the reduction in overall number from the time of the original proposals, the Landscape Architect does not consider that a more compact scheme has overcome the concerns expressed at the time of the previous applications with respect to the scale of development in that it would when viewed from the surrounding area to the north, still appear as a prominent feature, often seen on the skyline. This, she considers, is borne out by the Applicant's photomontages which describe the wind farm as being prominent within views ranging from 4km to in excess of 20km distance from the site.

Conclusion

It is the Landscape Architect's conclusion that: *"the different and larger turbine typology that is proposed at this site is contrary to the accepted premise that larger turbines are more acceptable in a large scale landscape and turbine typology reduces as the scale of the landscape reduces. There is a potential for significant cumulative impact to arise by virtue of the contrasting scale of the proposed windfarm at Gilston Hill with existing and consented developments on the plateau proper when seen from the northwest, north and northeast"*.

Roads Planning Service: has no objections in principle provided conditions are imposed to require the prior approval of: (i) engineering drawings describing the construction and layout of the access off the B6368 to the wind farm site and the access of the same road to the borrow pit; (ii) detailed proposals of necessary public road improvements to the short length of the B6368 between the site entrance and the B6368's junction with the A68; (iii) a traffic management plan for the construction period, including timescales and addressing the management of both abnormal loads and as well as other HGV traffic; (iv) details of the measures to be implemented at the entrance of the site to prevent dust and mud entering the public road; and (v) a programme of monitoring damage to the public roads serving the site during the construction phase.

With respect to the latter, it is advised that a Section 96 Agreement would additionally be sought to require that any remedial work or payment of extraordinary maintenance costs incurred by Scottish Borders Council, should be agreed within three months of the completion of the construction of the wind farm.

While Roads would prefer to see the stone used in the construction sourced on-site, it advises that it would be content for stone to be sourced from nearby Soutra Quarry but also acknowledges that there are currently technical restraints and regulatory mechanisms in place under the quarry operators' current minerals planning consent, which prevent this.

Statutory Consultees

Butterfly Conservation Scotland: notes the presence of a UK Biodiversity Action Plan Priority Species in close proximity to the site, but approves of the revisions to the locations of two of the proposed turbines which it had previously raised concerns about at the time of the Scoping Opinion Request. However, it is still concerned that access and maintenance tracks should avoid the blanket bog. It further recommends that contractors should be supplied with maps showing areas to be avoided, and that an assessment should be made of potential impacts upon drainage in the blanket bog and wet heath areas.

East Lothian Council: objects to the proposal due to its landscape and visual impact. An assessment is made with respect to the plans and policies of East Lothian's statutory and emerging development plans, as well as SNH's Guidance Siting and Designing Wind Farms in the Landscape (May 2014). In particular, it advises that the main landscape and visual issues arising from East Lothian Council's perspective are:

- potential cumulative visual impacts of the Gilston turbines when considered in conjunction with other existing and committed wind turbines along the Lammermuir

- Hills, particularly at Dun Law;
- the overly large scale of the proposed turbines in relation to the other turbines the wind farm would be read with; and
- the apparent spreading of development off the plateau tops and over the front edge of the hills.

It is considered that these would have unacceptable impacts upon the landscape character of the North Lammermuir Platform Landscape Character Area, and in particular notes the greater scale (height and rotor diameter) of the proposed turbines relative to those at Dun Law and Pogbie (which are around 43m to 52m). This is contrary to SNH guidance which notes that where cumulative impacts are likely to occur, there should be a 'similarity of design and wind farm image within an area that limits visual confusion. The concern is that the proposed turbines would look incongruous in comparison to the wind farms at Dun Law and Pogbie, with the difference in scale being noticeable both in closer views and from further afield, with potential to confuse perceptions of the spatial relationship between the proposed and existing schemes.

Notwithstanding deficits in the information East Lothian hoped to review, it is advised that what has been provided is sufficient to demonstrate that there would be adverse landscape and visual effects arising from the scale and visual prominence of the proposal when seen from the wider landscape context of East Lothian as experienced from a wide variety of receptors including the settlement of Humbie, hill walkers, recreational users and road users. Specific comments are given with respect to Viewpoints 18, 17, 10, 13, 20 and 25.

Reference is made to Ironside Farrar's Wind Energy Consultancy – Landscape Capacity and Cumulative Impact Study, prepared on behalf of Scottish Borders Council, and in particular, its advice that wind turbine development should not be located on the much more visually prominent outer slopes of the Lauder Common Landscape Character Area, but instead take advantage of the topographical containment created by the wider sections of this elevated plateau. Taking account of the views of the Reporter at the time of the appeal on application 11/01680/FUL (specifically the Reporter's view that the site occupies a transitional landscape between the lower lying agricultural land and upland plateau with the hills of Brotherstone, Hangingshaw and Crookston Mains), it is considered that the site is located on the more prominent outer slopes where wind turbine development should not be located.

Potential for impacts upon pink footed geese (a qualifying interest of the Firth of Forth Special Protection Area) are noted. However, provided that regard is had to SNH's advice and there is no significant impact identified upon pink footed geese through the Habitat Regulations Appraisal process, East Lothian would not object to the proposal on the grounds of its effect on pink footed geese.

In response to additional information presented by the Applicant with respect to the landscape and visual impacts liable to be viewed from East Lothian, East Lothian Council has responded on a second occasion to advise that while it has considered the additional information presented to it, it is not persuaded to amend its original views. Accordingly, it states that it upholds its objection to the proposal due to the same points it identified within its first consultation response (which are bullet-pointed above).

Edinburgh Airport: objects to the proposal on the grounds that turbines of the proposed

height and in the proposed location would be visible to the radar at Edinburgh Airport, and would appear to Air Traffic Controllers as clutter on the radar screen, resulting in a detrimental effect on the operations of Air Traffic Control. There is also a significant risk of mis-identification with real aircraft radar returns. It is advised that in the event that the Planning Authority would propose to grant planning permission against this advice, Edinburgh Airport, the Civil Aviation Authority and Scottish Ministers would all require to be notified as specified in the Safeguarding of Aerodromes Direction 2003.

Heriot Community Council and Stow & Fountainhall Community Council: have issued a joint response to the public consultation and in objection to the proposals. This includes a report on the application, which is itself supplemented by supporting documents.

The Community Councils report that no one who attended their public meeting on 22 March, spoke in favour of the proposals, and the concerns that were raised by those who attended have informed their objection to the proposal.

The basis of the Community Councils' objection primarily relate to: (i) landscape and visual impacts; (ii) impacts upon residential amenity; and (iii) socio-economic effects, but it also notes objections and concerns with respect to ecological impacts and road safety. More recently, the Community Councils have provided an additional assessment of noise impacts.

Landscape and Visual Impacts

With respect to landscape and visual impacts, it is a tenet of the Community Councils' response that the Applicant has failed to provide any reasoning in the current application, which would substantiate any different view now being taken with respect to that which was taken at the time of the determination of the previous planning application, both by the Council and then at the subsequent appeal, by the Scottish Government Reporter. Particular concerns are the potential for cumulative landscape and visual impacts in association with three other schemes within the area; namely, Dun Law, Toddleburn and Carcant. Regard is also had to Pogbie and Keith Hill turbines in East Lothian, which are under construction. It also expresses a more general concern is the potential for the northern Lammermuirs to be consolidated into a 'Wind Turbine Landscape' through development such as the proposed, infilling spaces between existing schemes, and for such development to promote further development more widely, with a degradation of the wider landscape of the region.

The Community Councils provide a commentary on the Applicant's supporting case with respect to landscape and visual impacts, including its advice on how the current proposal would address the substance of the Appeal Reporter's refusal of the previous planning application. As a general point it is opined within this commentary that the Applicant's assessment is an exercise in semantic rebuttal, which strays into finding fault with the Reporter's assessment. The Community Councils consider the Reporter's assessment to be a thorough examination which carries complete conviction.

Residential Amenity

The Community Councils have provided a commentary on the investigation and assessment of noise and shadow flicker impacts liable to affect neighbouring dwellings.

Concerns are raised that proposals for six new houses at Gilston Farm currently the subject of planning applications before the Planning Authority for determination, have not been factored into these assessments.

In a follow up report of 06 July specifically on noise impacts, the Community Councils express their disappointment that the Applicant has not released the raw data upon which their noise assessment is based. The Community Councils' report raises concerns with respect to how the noise assessment has been conducted and calculated.

In response to a follow-up report, the Community Councils note that the new noise data relates to the operation of a 108m diameter rotor as opposed to a 90m diameter rotor, and considers that the Landscape and Visual Impact Assessment now requires to be updated to reflect this new design of turbine. Concerns are also expressed with respect to the disclaimers applied by the noise consultants and it is again reiterated that the raw data informing the noise assessment should be released.

Socio-Economic Impacts

It is advised that under current UK policies, there is simply no requirement for further consented capacity, including the Gilston Hill scheme.

Concerns are raised that wind farm operators in Scotland are currently liable to derive more income from constraint payments than from income received for the electricity that they actually generate. It is advised that neighbouring operational schemes are receiving excessively large constraint payments, and opined that this is because the electricity generated is regularly exceeding the capacity of the national grid connector from the Borders to the rest of the UK. It is considered that this situation raises concerns with respect to the justification for new wind farms at the planning application stage.

It is estimated that at least 50% of Scottish wind generation in 2016, had a zero or negative economic value, and that this proportion would be liable to increase significantly up to 2020.

It is advised that the Scottish Government target of delivering the equivalent of 100% of gross electricity consumption from renewables by 2020, will be exceeded by a large margin by 2020, given currently operational wind farms, and those further ones with consent to be constructed. It is advised that the target cannot in itself be considered a good reason to consent the current proposal.

The potential for economic benefits at the construction phase are noted, but are not considered to be significant, while the level of benefit would be negligible. It is concluded that there is nothing of significance from the socio-economic effects to weigh against the harmful impacts of the proposal.

Issue is taken with the amounts that the Applicant states would be received by local communities, and advised that the actual amount would be closer to £20,000 per year once the fund had been divided between four community council areas, which it is considered would be a welcome but not terribly significant contribution.

Although shared ownership of the scheme with local communities is identified by the Applicant as a possibility, the Community Councils advise that they have not been party

to any substantive discussions on this subject.

Other Concerns

The Community Councils consider that the proposals would impact unacceptably upon the SSSI and Special Protection Area at Fala Flow to the immediate north, and that insufficient mitigation has been incorporated into the scheme to allow it to be sited without having unacceptable impacts upon these designations.

It is considered that the turbines are too tightly clustered, and advised that a minimum distance between turbines of under 400m is too low. It is further advised that at least one turbine (T3) falls within 50m of the nearest watercourse. Taking account of these constraints, it is advised that the site is only suitable for three or four turbines of the design proposed.

It is considered that the operation of the proposed borrow-pit to the south of the main site, would not be acceptably accommodated on the local road network; at least without the B6368 being subject to a major upgrade to accommodate the passage and movements of larger vehicles.

Historic Environment Scotland: taking account of its role defined under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, advises that it does not wish to object to the above proposed development in that the proposals do not raise historic environment issues of national significance. In an annex to its response, it clarifies that its interest has been impacts upon the scheduled ancient monument at Soutra Aisle. It clarifies that it has in this assessment, taken account of the potential for the forestry at Soutra Wood to be removed during the lifetime of the development. Notwithstanding this, it does note that the development would impact upon the setting and experience of the monument, in contributing – in culmination with other developments within the surrounding area – to an erosion of the remoteness which can be experienced at the monument. However, it is content to accept that there would be no unacceptable impacts upon the site's relationship to key historic features within the surrounding landscape, such as Dere Street and views towards Edinburgh and the Lothians. Technical concerns with respect to the methodology and presentation of the Environmental Statement are noted.

Midlothian Council: does not wish to object formally, but, firstly, highlights the Scottish Government Reporter's findings in the case of PPA-290-2022, and secondly, notes that the proposals are of concern to it for the following reasons:

Landscape and Visual Impacts

Based on the information provided within the Environmental Statement and subsequent site visits, Midlothian Council has the following concerns with regard to the landscape and visual impacts of the proposals:

- The proposals are likely to give rise to adverse landscape impacts on the landscape character of the Midlothian Plateau Grassland Landscape Character Area, and in particular, the setting of the Fala Moor AGLV (and Fala Moor Candidate SLA). Further, concerns are also expressed with respect to the possibility of adverse

landscape effects for parts of the Tyne Water AGLV (and Tyne Valley Candidate Special Landscape Area) which face south, towards the application site;

- The proposals are likely to give rise to cumulative impacts as a consequence of the site's location in close proximity to, but not immediately adjacent to, existing wind farm developments at Dunlaw and Toddleburn, in relation to which - taking account of differences in scale and layout, as well as intervening plantation woodland - it would be liable to be seen as a distinct entity; in close proximity to, but not any extension of, these neighbouring schemes. These aforementioned variations in scale and layout pattern have potential for visual confusion; principally, visual complexity and confusion of scale. The Council notes that the proposal site lies closer proximity to the Tyne Water AGLV (and Tyne Valley Candidate Special Landscape Area) and would comprise of higher turbines than the existing developments such as Dun Law which are seen behind forestry plantations; and
- The proposals are liable to have detrimental visual impacts upon visitors' and local residents' experience and enjoyment of the Fala Moor AGLV, and upon that of users of the Fala Moor ROW and the Tyne Esk Trail at Camp Wood (high point on the Mayfield Tranent Ridge). With respect to the latter, it is noted that trail users experience expansive views south towards the proposal site which are predominantly unscreened by planting. Within these views, there would be potential visual confusion owing to the difference in scale between the existing and proposed turbines, with the latter being liable to appear much closer and more evident than the existing turbines. The proposal would also be liable to appear in views from the Trail which currently do not contain turbines.

Haul Route

The proposed haul route is noted, being along trunk roads in Midlothian and the B6368 in Scottish Borders. It would appear that no trees or hedgerows in Midlothian will be affected.

Ornithology and Ecology

The proposal has potential to have impacts upon migratory species passing through, and in close proximity to, the site between Midlothian and Scottish Borders, as well as having potential to impact the wider environment and other species.

Grid Connection

While connection to the grid would be subject to a separate application process, if Scottish Borders Council is minded to support this planning application, Midlothian Council would wish to be kept fully informed and consulted on the proposals for grid connections.

Ministry of Defence: has no objection to the proposal. In the interests of aviation safety, the development should be fitted with aviation warning lighting. The MOD requires to be notified about the precise details of any development that is ultimately progressed.

Moorfoot Community Council: objects to the proposal on the following grounds: (i) does not consider that the revised proposal, which uses higher turbines, would address the grounds of refusal identified by the Reporter at the time of the appeal; (ii) the proposal would dominate Fala Moor, having an adverse impact upon the amenity of the Midlothian countryside and its tourism value; (iii) proposal would have a significant

impact upon the setting of Soutra Aisle; (iv) the tree belt which currently screens the site in some views, may not always be there, to act as some sort of screen; (v) a new ornithological assessment is required in relation to these taller turbines; (vi) if approved, effective management of construction access is necessary to minimise the impacts upon Midlothian residents, its roads and road users.

NATS Safeguarding: objects to the proposal on the grounds that it conflicts with its safeguarding criteria, and reminds the Local Authority about its legal obligation to consult both the NATS and CAA (Civil Aviation Authority) before granting planning consent for a wind farm. This obligation arises because the proposal would affect a technical site operated by, or on behalf of, NATS, and the CAA requires to consider whether further scrutiny would be required ahead of the granting of any planning consent. The objection refers to a Technical and Operational Assessment note issued by the NATS with specific regard to this planning application. This concludes that a technical impact is anticipated, which has been deemed to be unacceptable from both an en-route and airport perspective. This occurs specifically with respect to the operation of the Kincardine Radar, and potential to generate false primary plots, as well as reduce the radar's probability of detection, for real aircraft. Users of the affected radar were consulted to establish if the anticipated impacts would be acceptable to their operations or not, and it is advised that one of the three consulted, Prestwick Centre ATC, has responded to advise that it considered that the impacts would be unacceptable to it.

RSPB Scotland: does not object, and offers comment and advice with respect to mitigating impacts upon Pink-footed Geese and Black Grouse. It observes that since such developments are expected to deliver a net biodiversity gain, then a Habitat Management Plan should be drawn up and submitted for approval.

Scottish Badgers: advises that there is at least one badger sett within 3m of one of the proposed borrow-pits, while another/others may also lie within the woodland plantation (B10) that was insufficiently investigated for badgers by the Applicant. Since there should be a 30m exclusion zone operating around any sett in the case of development (and a 100m exclusion zone in the case of any proposed blasting) appropriate set back from the(se) sett(s) cannot practically be achieved here. Accordingly, either the borrow-pit cannot be used, or the sett(s) itself(themselves) would require to be moved. A full survey of the woodland in question, it is advised, might provide reassurance with respect to the assessment of the impacts in that particular regard.

Scottish Wildlife Trust: approves of the Applicant's concern to remove two turbines from an area of blanket bog, which has been identified as habitat for a butterfly colony. However, it still recommends that should construction go ahead, every care should be taken to avoid any damage to blanket bog habitat at the northern edge of the site.

ScotWays: advises that there are no known Rights of Way within the site boundary, but objects to the application on the grounds of there being unacceptable impacts upon the amenity of the Rights of Way (LM29/BE4) promoted as the 'Fala Moor Road'.

SEPA: originally objected to the application on the grounds of a lack of information relating to impacts upon private water supplies, the water environment and peatlands. However, in light of updated advice from the Applicant, SEPA advises that it is now able to remove its objection in each case, based on its understanding of how these matters would be addressed by the Applicant.

With respect to private water supplies, it accepts that the private water supply in closest proximity to borrow-pit 2 is surface water fed (and not ground water fed) and takes positive account of confirmation that the owners of the same supply would be agreeable to an alternative supply being provided for them, if the existing one were impacted. However, it looks to the Planning Authority to reassure itself that appropriate contingency plans are in place to ensure security of supply to the affected owners.

With respect to impacts on peatlands, having reviewed the additional information, SEPA is satisfied that no peat would be disturbed as a result of the proposed development. It is further satisfied that no peat management plan/peat slide risk assessment is required in this instance; and has positive regard to the Applicant's advice that the borrow pits would not be restored using peat and that a site waste management plan would be prepared prior to construction of the borrow pits. It is advised that the Construction Environmental Management Plan (CEMP) and associated site waste management plan would need to outline the good practice to be implemented to minimise waste and include, but not be limited to, borrow pit restoration.

With respect to impacts on the water environment, SEPA had originally sought additional information be provided to ensure that discharges from the construction site would not result in pollution of the water environment and hence meet the requirements of the General Binding Rules (GBR) of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR). Further to its review of the additional information provided, SEPA is now satisfied that the proposal is capable of being compliant with the CAR Regulations. It does however require that the Applicant should be advised that the Construction Environmental Management Plan (CEMP) should be robust and comprehensive to identify practical measures that would be implemented to protect the water environment.

SEPA further acknowledges its satisfaction further to its review of the updated information, that the watercourse crossing is justified. Again the need for compliance with CAR regulations is noted.

SEPA maintains its previously expressed concern to establish whether or not (a) Turbine 6 and (b) the access track to be located between Turbine 2 and Turbine 6, would be located more than 50m away from a watercourse (a tributary of the Brothershiels Burn) which SEPA is concerned would require to be crossed by the proposed access track. It advises that it would be able to provide the Applicant with a map to show the location and course of this watercourse, and recommends that the Applicant should take account of this watercourse, principally by ensuring that there would be a 50m buffer applied between this proposed infrastructure and the watercourse.

SEPA further maintains its concern that a planning condition should be imposed in the event of approval, to require the provision and approval of a full site specific construction environmental management plan (CEMP). It would object if such a condition were not imposed, and any such approval that were not subject to such a condition would require referral to the Scottish Government. Specific mitigation for inclusion within the CEMP relates to measures identified within Section 6 of SEPA's original consultation response, which are required to protect groundwater dependent terrestrial ecosystems.

In its original response, SEPA advised that it concurred with the Council's Flood Risk

Officer's assessment, and also sought that Greenfield Runoff rates should remain at pre-development rates and no water crossings should reduce the flow conveyance of the watercourse concerned. Excepting its concern to establish the precise position with respect to the watercourse the Applicant has failed to account for (a point noted above), SEPA is otherwise content that the requisite minimum 50m buffer zone required from any watercourse would be adhered to. Subject to best practice and SEPA's recommendations being followed, SEPA considers that the development could be carried out such that there would be no increase in flood risk to surrounding properties.

Detailed advice for the Applicant is given by SEPA within its original response with respect to impacts upon the water environment and watercourse crossings; environmental management and pollution prevention; and flood risk advice.

Scottish Natural Heritage (SNH): has responded on two occasions to the public consultation, although in the second instance (10 July), only to advise that it has reviewed additional details presented by the Applicant, but does not wish to provide any further comment, only to maintain the advice it gave at the time of its first consultation response (21 April). The latter advised that the proposal was not considered liable to have a significant effect upon the qualifying interests of the River Tweed Special Area of Conservation (SAC) or the Fala Flow Special Protection Area (SPA)/SSSI and therefore an appropriate assessment was therefore not required in either respect.

While SNH considers that the current scheme had brought improvements over the previous one (which it explicitly identifies as including the 9 turbines proposed in Midlothian), it nonetheless considers that key landscape, visual and cumulative effects would remain, specifically with respect to: (a) the prominence of the proposal on key skylines, and (b) the cumulative effects of the proposal in relation to its conflicting design and locational setting, relative to other neighbouring wind farm developments. An Appendix is provided which details these particular concerns. This notes some additional effects over and above the previous version of the scheme, specifically localised landscape and visual effects and more widely the cumulative effects, as well as the visibility of the proposal on a key enclosing skyline in views from the northeast. Favourable regard is had to the overall effect on views from the A7 and A68 (chiefly through the removal of turbines from Midlothian), but there are advised to be remaining effects which tend to be at greater distances, or from more sparsely settled rural areas.

It is advised that a Habitat Management Plan (HMP) is required to improve the condition of the blanket bog and wet heath habitats present within the site and benefit the species they support, particularly the large heath butterfly.

Peat is advised to be present on the site but there is little or no consideration given to this in the Environmental Statement. However, SNH considers that peat slide risk should be addressed within the Applicant's Construction Environment Management Plan (CEMP).

Transport Scotland: advises that conditions should be attached to any consent issued, specifically to require the submission to, and agreement of, the trunk roads authority of details describing: (i) the proposed route for the movement of abnormal loads along the road network, including any works, or other measures, required to accommodate the movement and management of such loads; and (ii) any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being

delivered. The latter should be designed by a recognised Quality Assured traffic management consultant. Additionally advisory notes are sought, advising as to additional and related considerations with respect to the design and implementation of works within, and impacting, the Trunk roads network.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

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

Adopted Scottish Borders Local Development Plan 2016

Policy PMD1: Sustainability
Policy PMD2: Quality Standards
Policy ED9: Renewable Energy Development
Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
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 EP4: National Scenic Areas
Policy EP5: Special Landscape Areas
Policy EP7: Listed Buildings
Policy EP8: Archaeology
Policy EP13: Trees, Woodlands and Hedgerows
Policy EP15: Development Affecting the Water Environment
Policy IS 2: Developer Contributions
Policy IS4: Transport Development and Infrastructure
Policy IS5: Protection of Access Routes
Policy IS7: Parking Provision and Standards
Policy IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy (2007)
- Wind Energy (2011)
- Visibility Mapping for Windfarm Development (2003)
- Biodiversity (2005)
- Local Landscape Designations (2012)
- Developer Contributions (2010)
- Ironside Farrar Study (2013) on Wind Energy Consultancy Landscape Capacity and Cumulative Impact
- Draft Supplementary Guidance Renewable Energy (Draft SG)

Scottish Government Policy and Guidance:

- Scottish Planning Policy (SPP) (June 2014)
- National Planning Framework for Scotland (3) (June 2014)
- Scottish Government On-line Renewables Advice

- Circular 3/2011 Environmental Impact Assessment (S) Regulations 2011
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- PAN 75 Planning for Transport
- PAN 3/2010 Community Engagement

Historic Scotland Publications:

- Scottish Historic Environment Policy Statement (2016)

SNH Publications:

- Spatial Planning for Onshore Wind Turbines – natural heritage considerations (2015)
- Siting and designing windfarms in the landscape (2014)
- Visual Representation of Wind Farms (2014)
- Assessing the cumulative impact of onshore wind energy developments (2012)

Other Publications:

Appeal Decision Notice PPA-140-2043
ETSU-R-97 - The Assessment and Rating of Noise from Wind Farms

KEY PLANNING ISSUES:

The main planning issues relevant to the determination of this application are whether or not the proposals comply with national and local planning policies governing the location of wind turbine developments, particularly in relation to landscape and visual impacts, cumulative impacts, renewable energy provision, economic and socio-economic impacts, noise, residential amenity, traffic, tourism, recreation natural and cultural heritage, and community benefits.

With respect to the landscape and visual impacts, it needs to be considered whether or not the proposal has substantially addressed the objections of the Reporter as set out within the Appeal Decision Notice relating to Planning Application 11/01680/FUL.

ASSESSMENT OF APPLICATION:

Planning Policy Principle and Context

National and strategic planning policy and guidance on renewable energy developments, including Scottish Planning Policy (2014) (SPP) and the SESPlan (2013), have directly informed the policies and proposals of the Council's adopted Local Development Plan (2016). Within the latter, the key policy with respect to the assessment of wind energy developments is Policy ED9: Renewable Energy Developments.

Policy ED9 is supportive in principle of renewable energy developments, including wind turbines, provided there are *"no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated"* unless these impacts or effects are considered to be outweighed by the wider economic, environmental and other benefits of the proposal. The application of these qualifications to the assessment of the principle of any wind energy development, requires the detail of the specific proposal to be fully considered to establish: (i) whether or not any significant adverse impacts would be liable to arise in the first place; (ii) whether or not any such impacts would be unacceptable in terms of their effects upon the environment and/or amenity of the surrounding area; and (iii) whether or not any such impacts would be capable of being satisfactorily mitigated in some way, or would otherwise be offset by the delivery of some greater economic, environmental or other benefit to the area.

The potential for any or all of these matters to affect the assessment of whether or not a specific wind energy development proposal might be considered to comply in principle with Policy ED9, establishes very directly, the need for the specific proposal to be assessed in relation to a robust set of criteria that would allow all relevant aspects of the proposal to be fully considered. To this end, Policy ED9 features a list of eleven considerations, which it requires to be taken into account within the assessment of wind energy proposals. It further requires prospective wind energy developers to demonstrate that they have considered options for minimising the operational impact of their wind energy proposals, including any ancillary development such as access tracks.

In addition to assessment under Policy ED9, and indeed assessment in relation to the wider planning policies and proposals of the Local Development Plan, consideration also needs to be given in this particular case, also to the reasons for refusal of the previous planning application for a wind farm on the site, which were upheld by the Reporter at the appeal to the Scottish Government in 2013.

Notwithstanding that the assessment of the previous application was based on the plans and policies of a previous version of the statutory development plan, it is material to the assessment of the current application that the current proposal and the previous proposal are nonetheless of a very similar character to one another in that they propose the siting of seven large-scale wind turbines on the same site. Furthermore, the appeal decision is itself still relatively recent, and is informed by an assessment that is based on policies and guidance that are not substantially different to those of the current statutory development plan. Accordingly, while there are certain differences between the two proposals within the design and siting of the turbines, it needs to be considered whether or not those matters that were found to be objectionable by the Scottish Government Reporter with respect to the previous proposal, have now been satisfactorily addressed within the current, and essentially revised, version of the proposal; or are otherwise met,

or offset, by any changes within the planning policy context since the time of the determination of Planning Application 11/01680/FUL.

Site Suitability including Onshore Spatial Framework

Policy ED9 promotes the need for assessments of wind energy proposals to be made against the principles set out in SPP, and in particular the Spatial Framework set out in Table 1. The latter differentiates between three situations which it identifies as: 'Group 1: Areas where wind farms will not be acceptable'; 'Group 2: Areas of significant protection'; and 'Group 3: Areas with potential for wind farm development'.

Since the proposed development is not located within a National Park or National Scenic Area, the development does not fall within Group 1 of Table 1.

Group 2 of Table 1 lists various natural and cultural heritage designations and interests where there would likely be a need for significant protection from wind farms. Although the site borders the Fala Flow SPA and SSSI to the north, neither of these designations overlaps with the site itself. There are no other international or national natural or cultural heritage designations present within the site boundary; and no settlement boundaries within 2km. Accordingly the proposed development does not fall within Group 2 of Table 1.

The site therefore falls within Group 3 in being a site that is not subject to any designations or circumstances that would otherwise have required it to be assigned to one or other of the other two groups. As such, it is a site on which wind farm development is liable to be acceptable, subject to the detailed consideration of the specific proposal against identified policy criteria. In the case of Scottish Borders Council's Local Development Plan, this is met within Policy ED9, and specifically the eleven considerations that this same policy requires should be taken into account within the assessment of wind energy proposals.

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

Landscape and Visual Impacts

Policy ED9 requires that consideration should be given within the assessment of wind energy developments to landscape and visual impacts, including effects on wild land. This should take into account the Ironside Farrar report on Landscape Capacity and Cumulative Impact as an initial reference point. It is further advised within the same policy that the landscape and visual impact assessment of the proposal should seek to demonstrate that the proposal can be satisfactorily accommodated in the landscape, and should properly address the issues raised in the report, along with other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage.

An assessment has been carried out by the Council's Landscape Architect, who takes cognisance of a comparison of the landscape and visual impacts associated with the current proposal and those associated with the proposal that was the subject of the earlier application. Her observations and conclusions are summarised above within the 'Consultation Responses' section. These highlight three main areas for consideration: firstly, the relationship between the proposal and the landscape context of the site and surrounding area; secondly, the cumulative impacts that would result were the proposal to feature in the same views as surrounding wind turbines; and thirdly, the extent to which the current proposal has addressed the specific landscape and visual impact concerns that were raised at the time of the consideration of the proposal that was the subject of application 11/01680/FUL, and the subsequent appeal.

Landscape Context

Given that the proposed turbines are of the larger turbine typology, and given that the site prevails within a "*medium scale upland fringe landscape*", the proposal is contrary to the accepted premise that larger turbines are more acceptable in a large scale landscape. In this specific case, it is material that the particular site occupies the visually prominent outer slopes of the Southern Upland land mass, which are highly visible from the north, including from the A68 and the public footpath over Fala Moor. Accordingly, the visual discordance between the height of the proposed turbines and their landscape setting would be readily observable from the public domain and would constitute an unacceptable landscape and visual impact.

The Landscape Architect notes a number of different characteristics of the proposed scheme, which she considers contribute negatively to its overall landscape and visual impact. These include the extent to which the proposal would impinge upon the sense of remoteness of the footpath over Fala Flow; the sense that the turbines would appear to be out-of-place with an enclosed farmland context; and that the accommodation of turbines at different levels within the site, would be liable to result in visual confusion where individual turbines, or their blades, might be glimpsed in isolation behind local landform in views from the surrounding area. Notwithstanding the validity of these specific concerns, they appear to be largely subsumed within the overall concern noted above that the scheme is simply out-of-scale with its landscape setting, and this would be readily apparent within views from the surrounding area. It is considered that the proposal should be refused on this basis.

Cumulative Landscape and Visual Impacts

The discordance between the large scale of the proposed turbines and the medium scale landscape setting of the site would also be exaggerated by some very unsympathetic cumulative landscape and visual impacts.

These primarily relate to the proposed use of a larger turbine typology than is already present within surrounding wind farm schemes but with which the turbines of the proposal would be viewed alongside (including in superimposition) and/or encountered sequentially. In particular, the turbines at Dun Law and Pogbie Hill occur within the large scale landscape of the Soutra Plateau, but are less than 80m in height, with notably smaller blades compared to those of the proposed turbines. An additional disharmony could potentially result from the different rotation speeds between the existing and proposed turbines, adding to the complexity of any cumulative visual picture.

A wider discordant appearance would be liable to result in wider views as a consequence of the introduction of larger turbines into a medium scale upland fringe landscape below smaller scale turbines occupying the higher, large scale upland plateau landscape. Where these two different situations were visible alongside or in superimposition with one another the proposal would be liable to appear out-of-perspective relative to the existing schemes. This would be visually confusing; distorting viewers' perception of scale contrary to established principles for the relationship between turbine typology and landscape scale. Views from the north would be particularly unsympathetic due to the potential perception that large scale wind farms were no longer confined to the large scale upland landscape of the Soutra plateau, but were descending into the upland fringe to the lowlands in the foreground. This is one of the specific points that East Lothian Council highlights in its objection to the scheme.

In these ways, it is considered that the proposed development would contribute to a very unsympathetic and unacceptable cumulative landscape and visual impact, and should therefore also be refused on this basis.

Comparison with Previous Wind Farm Proposal for the Site

As noted above, the appeal decision reached with respect to Planning Application 11/01680/FUL is a significant material consideration within the determination of this planning application. Given that the application was refused, and the subsequent appeal dismissed, both on the grounds of landscape and visual impacts, some concern is reasonably had to whether or not the current proposal has addressed the substance of the previous objections.

The Applicant considers that positive regard might be had within the determination of the current proposal to the 'reduction' in the size of the overall scheme that was the subject of the two previous planning applications, and the removal of turbines from the lower lying land and statutory designations in Midlothian. It is the case that the current scheme can be considered favourably relative to the previous larger, more extensive scheme that would have directly impacted statutory designations. However, the Appeal Reporter did explicitly assess the scheme proposed by the previous application in isolation, as well as in terms of its impacts in culmination with the other turbines being proposed in Midlothian.

As far as the Appeal Reporter was concerned, the landscape and visual impact of the scheme proposed by Planning Application 11/01680/FUL were unacceptable in their own right, as well as in culmination with the nine equivalently sized turbines proposed on adjacent land in Midlothian. Contrary to the Applicant's view, it is not considered that the 'deletion' of the Midlothian component of the previous proposal has in itself addressed the substance of the Appeal Reporter's objection.

The proposed scheme does compare favourably to the previous scheme for the site in so much as it would be more compact than that which was proposed by Planning Application 11/01680/FUL. Further, it would not see turbines sited as high up in the landscape as would have been the case within the previous proposal. However, the potential visual benefits of these measures would themselves be significantly reduced, if not entirely negated, by the proposed use of taller turbines than the previous scheme (by 11.5m). These would be liable to result in visual effects of equivalent significance to those that would have been generated by the previous proposal. Accordingly, a more

compact scheme has not overcome the concerns expressed at the time of the previous applications with respect to the scale of development, in that it would still appear as a prominent feature, often seen on the skyline. This, as the Landscape Architect notes, is borne out by the Applicant's photomontages which describe the wind farm as being prominent within views ranging from 4km to in excess of 20km distance from the site.

Taking account of the above, the current proposal has not reasonably addressed the reason for the dismissal of the appeal, which was that: "*the proposal would give rise to an unacceptable number of significant adverse landscape and visual amenity impacts, including cumulative impacts*". Notwithstanding a more compact array which would be sited lower in the landscape than the previous scheme, the landscape and visual impacts are liable to be equivalent, or not significantly better than, those pertaining to the previous scheme.

Conclusion

The different and larger turbine typology that is proposed at the site is contrary to the accepted premise that larger turbines are more acceptable in a large scale landscape, and turbine typology should be reduced as the scale of the landscape reduces. As noted above, the particularly open outlook of the site on the outer northern slopes of the Southern Uplands, and its high visibility from the surrounding area, particularly to the north, means that it is highly sensitive in this respect. The proposed introduction of large scale turbines to a site within this specific medium scale landscape would then, be liable to have unacceptable landscape and visual impacts in itself.

Beyond this there is potential for significant adverse cumulative landscape and visual impacts to arise as a consequence of the contrasting scales of the turbines of the proposed windfarm at Gilston Hill upland plateau to the south, particularly when these are viewed from the northwest, north and northeast. It is considered that the visual impacts of this mis-match in scales between the proposed and existing wind farms would be extremely harmful to the visual amenities of the area, and as such the proposal would contribute to a highly unsympathetic and unacceptable cumulative landscape and visual impact, were it to be realised as proposed.

While it is appreciable that the Applicant has sought to address some of the concerns raised at the time of the determination of the previous planning application and subsequent appeal it is ultimately not considered that these measures have had any significant impact. This is because these measures have either proven insubstantial in themselves, or have been counteracted by other aspects of the proposals. Ultimately, it is not considered that the Applicant has addressed the substance of the reasons given by the Reporter for his dismissal of the previous scheme and the reasons for refusal remain valid to the assessment of the current application.

Taking account of the above considerations, and for the above noted reasons, the proposal is considered to be contrary to Policy ED9 of the Local Development Plan on the grounds that it would have unacceptable landscape and visual impacts both in isolation, and in its contribution to cumulative landscape and visual impacts in association with surrounding wind farms.

Additional Design and Layout Considerations

The Applicant's drawing of the proposed turbine model describes a rotor diameter of 90m. A point of note is that this drawing is identified in its description as being 'indicative'; as indeed are all the other drawings describing the structures which are advised to be included within the development. Notwithstanding any references to 'indicative', 'typical' or 'candidate' details within the supporting information or annotated on the supporting drawings, this is not an appropriate basis for this or any other Planning Authority to assess the impacts of a planning application for full permission to site and operate large-scale wind turbines. In the event of approval, it would be necessary to require by condition that the development should accord with all specific details approved by the Planning Authority regardless of any qualifying descriptions of 'indicative' or 'typical' details or 'candidate' turbines.

A further complication in this respect is that the Applicant's LVIA is based upon a model of turbine with a 93m rotor diameter and a slightly lower hub height than the indicative turbine. Had the application otherwise been considered acceptable, it would have been appropriate to have asked the Applicant to provide consistent details, such that any design of turbine approved, would have been in alignment with the description of the LVIA.

More recently the Applicant has advised that the specific model of turbine with the 90m rotor diameter described within the supporting details, has now been withdrawn from the market by its manufacturer. This advice is given in the context of an explanation as to why a different model of turbine has been used as the basis for an updated noise assessment report. The latter refers to a different design of turbine, specifically a SWT-34-108, which the report explicitly advises would have a rotor diameter of 108m; albeit that the turbine would still have a tip height of 126.5m. Even allowing that a new design of turbine might be no higher than the original proposal, the difference in size of rotor diameter itself, would raise new concerns that have not been accounted for within the supporting details, and therefore which have not been appropriately considered by the public and statutory consultees. Given this discrepancy, the Applicant was asked to confirm whether or not they wished the current proposal to be withdrawn to allow for a new proposal based on the new design of turbine to be progressed. The Applicant has however confirmed that it does not now wish to progress a revised design of turbine, and is maintaining the original design. It has however confirmed that this is for the 126.5m high turbine, with an 80m hub height and 93m rotor diameter.

The finished appearance of the sub-station and ancillary structures could be appropriately regulated by planning conditions in the event of approval. Again, in the interests of regulation and ensuring an acceptable finished appearance, it would need to be required by condition that such structures should be realised in accordance with the approved details, rather than the finished appearances being left to the Applicant's discretion.

Economic and Socio-Economic Benefits

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

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

The Moorfoots and Lammermuirs are recognised as being a popular tourist area, with visitors attracted by the area's beauty, wilderness and recreational opportunities. Whether the implementation of wind farms is harming, or has harmed Borders' tourism economy is not quantified. Supporters and objectors to wind farm proposals often advise of their personal reactions and considerations with respect to wind farm development. From this, it might be concluded that while wind farms may elicit strong reactions from individuals, they also tend to divide opinion. Ultimately, at the present time, no published information describing potential tourism effects is material to the consideration of an application of this type.

It is apparent that Heriot and Fountainhall and Stow Community Councils, and a number of the objectors, would wish to see the planning decision address their general concerns with respect to the viability of larger scale wind energy proposals being brought forward.

It may be concluded that in terms of economic benefits, there may be some gain to the local economy from the siting and operation of this proposed development. There may not be any socio-economic benefits, as suggested by third party representations. The potential impacts of the development upon these considerations are noted; however neither is viewed to be significant enough to be a major determining factor against the policy provision against which this application requires to be assessed.

Road Safety, Access and Parking

Transport Scotland is supportive of the proposal, subject to further details with respect to proposed traffic management and signage along the trunk road, being referred to it for its consideration and prior approval. These matters could be regulated along the lines Transport Scotland anticipates, within appropriately worded planning conditions.

The Council's Roads Planning Section is also supportive of the application but subject to conditions being imposed on any consent issued to require the prior approval of: specific identified road improvements; a traffic management plan for the construction period; measures to prevent dust and mud migration onto the public road; and measures to ensure the monitoring of damage to public roads during the construction period. In the latter case, this is along with a legal agreement to secure any remedial work or payment of extraordinary maintenance costs incurred by Scottish Borders Council. While the monitoring and remediation of damage to the local roads is a difficult area to regulate, most of Roads' concerns are capable of being regulated by planning condition, and if Members consider it appropriate, also by legal agreement too.

Roads' suggestion that the development could be served by Soutra Quarry is logical but problematic. The operation of Soutra Quarry is regulated under other planning consents which specifically require by condition that quarry traffic should not be routed in the direction of Gilston. Accordingly Roads' advice that material could be sourced from the quarry would be liable to require a new planning application to remove or vary a condition applicable to the Mineral Consents under which the quarry is currently

operating. Again, had the current proposal been supported, the Applicant might have been encouraged to consider Roads' advice in this respect.

Residential Amenity

Notwithstanding that objectors, and Heriot and Stow Community Councils, maintain concerns with respect to the noise assessment that has been carried out, Environmental Health is ultimately able to support the application subject to its identified planning conditions. These are specifically to regulate the scheme's operation and monitoring, and to require confirmation with respect to the financially involved status of those properties at which higher noise limits are sought.

While regulation under planning conditions along the lines sought by Environmental Health is possible, a difficulty is that the data reviewed by Environmental Health relates to a different design of turbine to that which is the subject of the planning application.

Environmental Health has been advised of the discrepancy, and has confirmed that it would nonetheless maintain its support for the application subject to its identified conditions being applied, regardless of whether or not the turbine had the 90m rotor diameter or the one with 108m rotor diameter. Given the terms of its response, it is reasonably supposed that it would not have any issue with a 93m rotor diameter either.

Construction noise could be regulated along the lines indicated by the Environmental Health Section.

Shadow flicker effects are shown by Figure 5.1 not to impact any surrounding residential properties.

Cultural Heritage and Archaeology

While cultural heritage impacts are noted, these are ultimately considered to be capable of mitigation subject to the conditions identified by the Archaeology Officer being adhered to.

Access

The Council's Outdoor Access Section identifies a number of provisions that it would be keen to see implemented to mitigate or enhance outdoor access at and within the vicinity of the site. In the event of approval, it would have been reasonable to have investigated these possibilities with the Applicant.

Natural Heritage

As consultees advise, it would be possible in the event of approval to apply conditions to any consent issued to require the submission and prior approval of a Species Protection Plan; a Habitat Management Plan a Construction Environment Management Plan (CEMP); an ecological monitoring programme; and a Decommissioning Restoration and Aftercare Strategy; as well as to require the appointment, operation and retention of an Ecological Clerk of Works (ECoW) for the site. The particular requirements in each case would also be reasonably informed by the concerns of the Ecology Section, SNH and SEPA, amongst others, including Butterfly Conservation Scotland, RSPB Scotland, Scottish Badgers and the Scottish Wildlife Trust.

Insufficient reassurance has been provided though with respect to potential impacts upon one or more badger setts as a consequence of the operation of one of the borrow-pits. No objections have been expressed directly by any consultees with respect to this specific concern, but without further survey work to establish whether or not there are in fact liable to be any unacceptable impacts upon badgers, it is not in fact clear whether or not the application would have any unacceptable impacts. As it stands the potential for adverse impacts upon badgers is therefore necessarily included amongst the reasons for refusal.

Another point that would have been usefully clarified with the Applicant in the event of the application being supported, is the potential or otherwise for all development to be located out with a minimum 50m 'buffer area' around any watercourse in the interests of minimising adverse impacts upon the water environment. This point has been picked up by some of the statutory consultees. While it is possible that such revisions might have been capable of being addressed within the limitations that might reasonably have been allowed by micro-siting this has not been clarified with the Applicant who might usefully have provided evidence to demonstrate that the scheme could comply with this, or what would be required in order for compliance to be achieved.

Infrastructure

In line with the advice of the Flood Prevention Section and SEPA, it would be reasonably required that the formation of any new hard surfaces, such as access roads, should be attenuated to at least existing Greenfield runoff rates so that there is no increased effect on downstream receptors. Likewise, any discharges from SUDS and other drainage should be kept to existing Greenfield runoff rates. Further the design of any culverts, watercourse crossings or alterations to crossings, would reasonably be required for prior approval, specifically to ensure that these would not reduce the flow conveyance of any watercourse. Notwithstanding the need for this to be demonstrated these matters would be appropriately regulated by planning condition, had the application otherwise been supported.

Both SEPA and Environmental Health have identified concerns with respect to potential impacts of the operation of one of the proposed borrow-pits upon a private water supply. While both have indicated that they consider that the matter might be appropriately regulated by planning condition in the event of approval, it would have been necessary to have asked the Applicant to have established precisely what the impact would have been, and how it would be mitigated. It is noted that SEPA is content with the Applicant's advice that the third party owners of the private water supply would be agreeable to an alternative water supply being developed for them, in the event of their water supply being impacted by the operation of the borrow-pit. However, minimally, some confirmation in writing as to the agreement of the owners concerned to this approach, would have been reasonably and necessarily secured in the event of the application being recommended for approval. As it stands though, it is not in fact apparent that there would not be an unacceptable impact upon a private water supply, and this is only reasonably included amongst the reasons for refusal.

Aviation

Two consultees, Edinburgh Airport and the NATS Safeguarding, object to the proposals on the basis that they would present obstacles to air traffic and hazards to the monitoring and management of air traffic, with potential consequences for air safety. It is advised in both cases that any decision to approve the application would need to be referred to the Scottish Government for its review.

The Applicant is aware of both objections and has advised, without providing any evidence, that it has signed a mitigation agreement with NATS, whereby the latter is prepared to remove its objection subject to suspensive conditions being imposed to require mitigation measures, including a payment. However, the Applicant has not presented any proposals intended to address the concerns of the NATS to the Planning Authority, and the NATS for its part, has not contacted the Planning Authority with any updated advice with respect to its position vis-à-vis this proposal. Accordingly it is only reasonably supposed that the NATS maintains its objection. The Applicant advises that it has also been in contact with Edinburgh Airport, and while it considers that the Airport's objection could be addressed and removed, to date it has had no positive response from the Airport authority to its communication. Again, the Airport's concern to remove its objection is simply not reasonably anticipated in the absence of a direct communication from it to this effect.

Regardless of whether or not the Applicant is able within the fullness of time to address the concerns of both aviation authorities, as it stands, both are only reasonably understood as maintaining objections to the proposal. If the application were to be supported in these circumstances, it would require referral to the Scottish Government, but otherwise the potential for disruption to the movement, management and monitoring of air traffic is only reasonably included among the reasons for refusal of the planning application.

Developer Contributions

The Applicant has identified a willingness to contribute revenue to community councils however, this is not a requirement of planning approval, and is not reasonably required by planning condition or secured by legal agreement.

Phasing, Operation, Decommissioning and Restoration

In the event of approval, conditions to limit the time period of the operation of any consent issued would be appropriately applied. The Applicant's concern to have consent for 25 years is relatively standard, and could be accommodated within an appropriately worded condition.

There would also need to be conditions imposed to regulate the appearance of the operational site for the duration of any consent, primarily to ensure that all temporary works would be removed or otherwise resolved into a form that would be appropriate in terms of its landscape and visual impacts, for their retention over the operational life of the development.

Beyond this, appropriate account would also need to be taken of the regulation of all works required at the time of the decommissioning and restoration of the site. In the

event of approval, such matters are capable of being addressed by standard planning conditions of the type that this authority has previously imposed to regulate such matters.

The operation and treatment of the borrow pits would also require to be regulated to ensure that these were only used in the service of the wind farm proposal. Similarly the use of the substation as a new detached building, potentially capable of conversion to another use unrelated to the wind farm, would also require to be appropriately regulated.

Other Concerns

At the time of the consideration of the previous planning application for the site, there was a concern that a tree belt within a third party ownership, would be managed under a legal agreement, such as to retain this landscape feature as a screen for the lifetime of the wind farm. In the event of approval, it would have been reasonable to have investigated this possibility with the Applicant and the relevant land owner, who has independently advised of their willingness to enter into any legal agreement to achieve this aim.

A number of consultees explicitly identify their concern to be advised with respect to the progress of the planning application, including some who would wish to be consulted ahead of the issuing of any approval. The Civil Aviation Authority would also require to be notified in the event of approval.

CONCLUSION

The Council recognises that there is strong support in Scottish Planning Policy and in the statutory development plan for the development of renewable energy. However it is not considered this outweighs the relevant unacceptable significant adverse impacts and effects that would arise as a consequence of this specific proposal, particularly with respect to the landscape and visual impacts and its impacts upon the movement, management and monitoring of air traffic. It is further considered that the Applicant has not demonstrated that there would not also be unacceptable significant adverse impacts and effects upon badgers and upon a private water supply, notwithstanding that further details may have addressed these concerns.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

The proposal is contrary to Adopted Scottish Borders Council Local Development Plan Policy ED9 in that it would have relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated, and which are not outweighed by the wider economic, environmental and other benefits that would otherwise be derived from its siting and operation at the site. In particular:

- the scale, form and location of the development proposed would represent a significant, detrimental change to the existing landscape character and visual amenity of the immediate locality and the wider area, and would also result in

- unacceptable cumulative landscape and visual impacts through its contribution to views within which it would be visible alongside surrounding wind farm schemes;
- It would present a hazard to aviation safety both as an obstacle to aircraft and in its potential to disrupt radar operations at Kincardine and Edinburgh Airport;
 - It has not been demonstrated that the proposals would not have unacceptable impacts upon a Protected Species, specifically badgers, whose setts are liable to be impacted by the operation of one of the borrow-pits; and
 - It has not been demonstrated that the proposals would not have any unacceptable impacts upon a private water supply.

DRAWING NUMBERS

| Plan Ref | Plan Type |
|--------------------|------------------|
| 1.1 | Location Plan |
| 1.2 | Location Plan |
| 1.3 | Location Plan |
| 6.1B | Site Plan |
| 3.2 TURBINES | Foundations |
| 3.3 ACCESS TRACK | Other |
| 3.4 COMPOUND | Other |
| 3.5 TURBINES | Foundations |
| 3.7 TURBINE DESIGN | Elevations |
| 3.8 SUBSTATION | Elevations |

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.

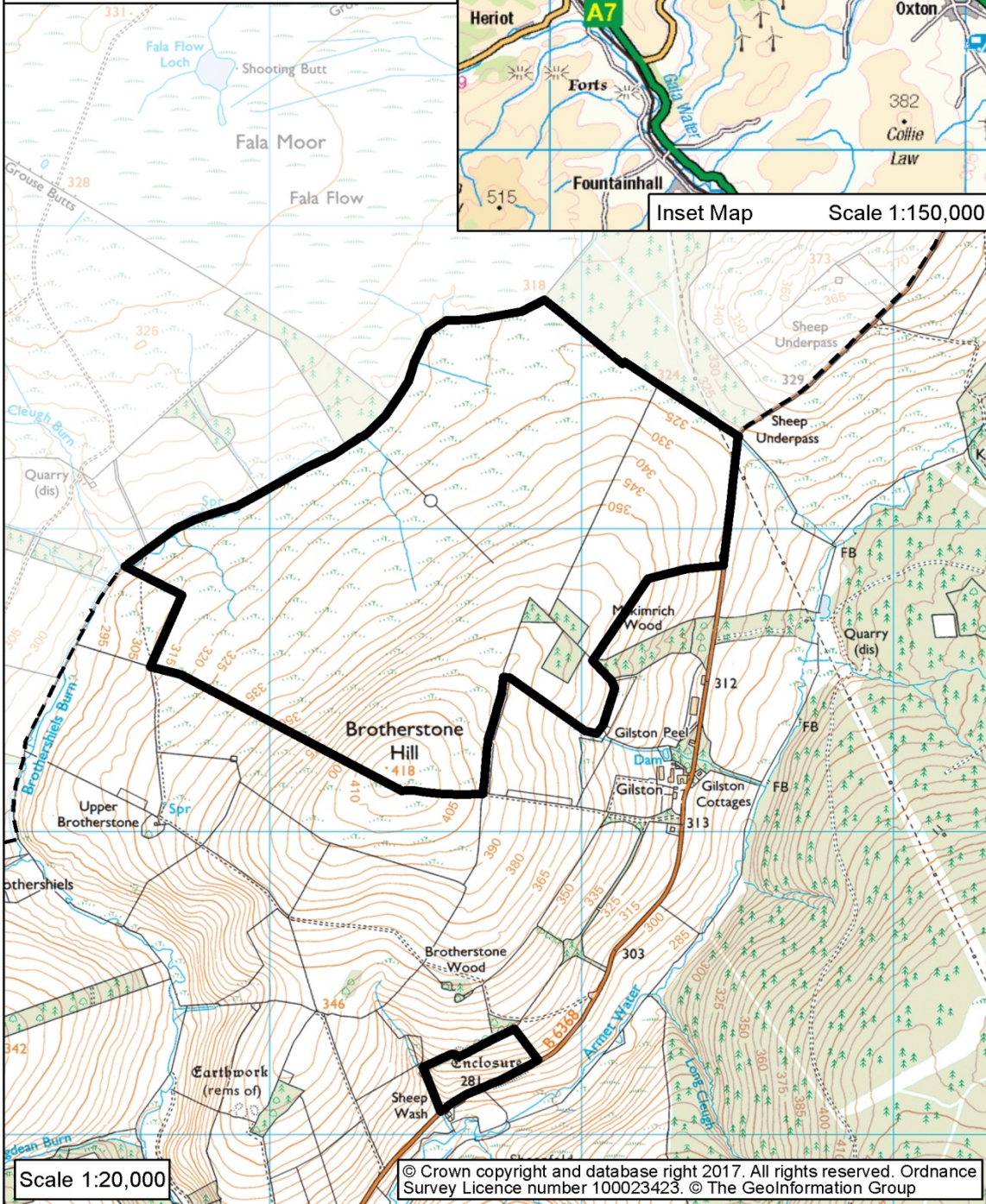
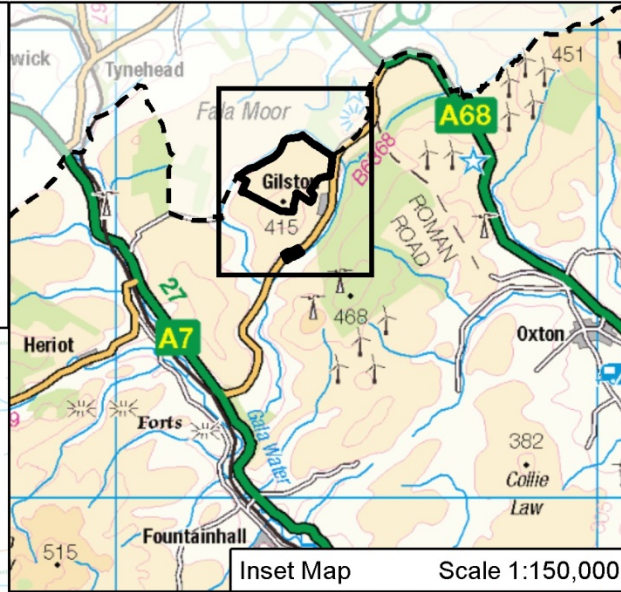
Author(s)

| Name | Designation |
|---------------|------------------|
| Stuart Herkes | Planning Officer |



17/00226/FUL

Land North West Of Gilston Farm Heriot



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

| | |
|-------------------|---|
| ITEM: | REFERENCE NUMBER: 16/01377/FUL |
| OFFICER: | Stuart Herkes |
| WARD: | Tweeddale West |
| PROPOSAL: | Erection of poultry building |
| SITE: | Land South West Of Easter Haprew Farmhouse, Peebles |
| APPLICANT: | Glenrath Farms Ltd |
| AGENT: | John Thorburn & Sons (Construction) Ltd |

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

This application was previously presented to the Planning and Building Standards Committee on 04 September. At that meeting, Members resolved that it should be continued to allow Members the opportunity to visit the site themselves. Members have now visited the site, and the application is therefore presented again for their determination.

SITE DESCRIPTION

The site is located in a field less than 0.5km to the southwest of the farmyard at Easter Haprew Farm, near Stobo. It lies to the immediate west of a farm track, to the immediate north of the Cloyhouse Burn, and around 75m upslope and to the west of an existing large poultry shed. The latter was approved by the Scottish Government at appeal in August 2009. The B712 road and River Tweed lie to the east again, downslope, and around approximately and respectively 0.5km and 0.6km from the site. The John Buchan Way lies around 2km to the south and on the other side of the Tweed valley. At a higher elevation, it affords views of, and towards, the site.

Excepting new tree planting along the field's boundary with the access track, and a telecommunications line, the land within the site is otherwise open. It slopes gently but discernibly upwards to the west, amid some local undulation. Beyond the site, the land to the west continues to rise, becoming notably steeper and more undulating as it ascends to Torbank Hill and other surrounding summits.

The site lies within the Upper Tweeddale National Scenic Area (NSA) and is in the near vicinity of the Tweedsmuir Uplands Special Landscape Area (SLA), which excludes the site but includes Torbank Hill. The Cloyhouse Burn flows directly into the River Tweed, which is both a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI).

PROPOSED DEVELOPMENT

The proposed poultry building would be 140m by 20m and would have a ridge height of 6m. Its foundations would be established both by cutting into the existing hillside along the western side, and by building up the levels to the south and east. These works would accommodate on a level site, both the building and an associated yard area.

The building itself would accommodate two separate flocks of 16,000 free-range laying hens whose houses would be separated by a central egg packing room. It would be finished externally using composite panel sheets, which it is advised, would be coloured Juniper Green (BS12B29).

Two feed silos would be erected on the east elevation along with an emergency generator set. An apron of hard standing would be accommodated to the front and sides of the new building, and a new vehicular access would link it to the existing farm access.

Blocks of woodland planting are proposed to the northwest of the building, and a new wetland area to the southeast.

Since the footprint of the proposed building is over 500 square metres, the proposal required to be assessed under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. (These regulations were current at the time of the application's receipt in October 2016 but have more recently been superseded by the 2017 version of the EIA Regulations, which have not changed the qualifying criteria with respect to the assessment of intensive agricultural buildings under the EIA Regulations). In their consideration of the proposal, statutory consultees have been content to refer to the environmental statement that was presented in support of the application for the earlier building (Planning Application 08/00256/FUL), albeit tailored to the information presented. However, at no consultee identified any requirement for a full new and updated Environmental Impact Assessment to be carried out and reported in relation to this proposal. Accordingly, this Authority's assessment is that no full EIA is required.

PLANNING HISTORY

The now established and operational poultry shed to the east of the site, was the subject of Planning Application 08/00256/FUL. This was refused by the Tweeddale Area Committee in April 2009 contrary to the Planning Service's recommendation. However, it was subsequently approved at appeal in August of the same year. Permission was granted by the Scottish Government's Reporter subject to nine planning conditions and two informatives.

This existing building has a footprint of 160m by 15m and a ridge height of over 6m. It lies on the opposite side of the farm access from, and at a lower elevation to, the proposed new poultry shed building. Mitigation planting is in place, including tree planting along the side of the farm track. This includes a section of the application site, which coincides with what would be the site access for the proposed new building.

REPRESENTATION SUMMARY

26 letters of objection have been received from 18 households and the Royal Botanic Garden Edinburgh at Dawyck, along with 1 representation in support.

The principal grounds of objection, and related points raised, can be summarised as follows:

- adverse effect on the landscape quality of the Upper Tweeddale NSA and Area of Great Landscape Value (AGLV), undermining the purpose of these designations
- adverse effect on the setting of, and views from, the John Buchan Way;
- adverse impact on the landscape quality of the Stobo Valley; including field patterns;
- building is of an industrial scale and appearance, and would be out-of-character with the rural surroundings;
- building would have unacceptable cumulative landscape and visual impacts in association with the existing poultry shed building, including in terms of the density of development within the area;
- adverse impacts upon the water environment, including the River Tweed SAC and SSSI;
- proposals are unsustainable and not environmentally-friendly;
- adverse impact on Protected Species, wildlife and the wider biodiversity of the Stobo Valley;
- adverse impact on tourism and wider local economy;
- potential for air pollution;
- human health issues, including potential for incubation and spread of avian flu;
- increase in flies and vermin;
- increase in traffic;
- road safety concerns from spillage of slurry and waste on road surfaces;
- loss of amenity for residents and visitors;
- increase in amount of manure; and concerns with respect to the storage, movement and disposal of waste and manure at and from the site at present and/or other facilities run by the Applicant, and concern at how such operations would be effectively regulated;
- proposed tree screening is inadequate and existing trees that were required in relation to the existing poultry house are ineffective; it is considered that SNH's concern for reinforced planting would not address the landscape and visual impacts;
- trees/landscape affected;
- concern that affected neighbours should have been informed directly of the application;
- potential for external cladding of building to be highly reflective;
- proposals conflict with proposed release into area of pine martens to control grey squirrel population;
- water supply;
- Conservation Area;
- contrary to Local Plan;
- promotion of further similar applications/piecemeal development at the site and within wider area;
- over-supply of facility within area;

- issue is taken with Landscape Architect's assessment that lowering site levels would provide mitigation;
- considered that SNH has contradicted its advice at time of previous application that it did not consider any additional sheds to be appropriate at the site;
- concerns expressed with respect to Reporter's assessment and conditions imposed upon the previous planning permission for the existing shed, which are considered to be ineffectual;
- noted that the Planning Authority's refusal of Planning Application 08/00256/FUL was later defended at the appeal on the grounds that: "*the proposed development, if it were to proceed, would result in significant harm to the landscape character and value of the National Scenic Area*";
- concerns are expressed with respect to perceived breaches of planning conditions and planning regulations by the Applicant at sites it operates elsewhere; and
- Planning Committee is encouraged to consider this application within the context of an assessment of the wider siting and management of poultry rearing within the Upper Tweed Catchment area; and particularly in relation to the disposal of manure within a 25 year manure management plan; and to seek input from the Plant and Animal Health Agency (PAHA) with respect to the potential to control avian flu.

The representation in support, considers that: (i) the building meets modern standards and regulations within egg production; (ii) would be well-screened in views from the main road, behind the existing building; (iii) would be appropriately accessible from the public road; (iv) would not increase traffic significantly; (v) would with appropriate finished materials, not have any intrusive landscape and visual impacts; and (vi) would bring employment and contribute positively to the local economy.

Copies of all third party representations are available for Members to view on the planning pages of the Council's website.

APPLICANTS' SUPPORTING INFORMATION

Although an environmental statement was provided at the time of the previous planning application for the poultry shed to the east, no equivalent information was supplied in support of the current application. However, in response to SEPA's concerns that insufficient information had been provided to it for its review to establish whether or not the proposal would require to be made the subject of a Pollution Prevention and Control (PPC) permit application, a supporting statement prepared by the Scottish Agricultural College, has more recently been provided.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Officer: considers that further to the 2009 discovery of prehistoric archaeology made at the time of the archaeological investigation relating to the now established poultry building, there is a moderate to high possibility that further prehistoric features, finds or deposits exist on the current application site. It is therefore recommended that the site should be stripped of top-soil under archaeological supervision in advance of development and in accordance with a Written Scheme of

Investigation (WSI) for a 'Strip, Map and Record' investigation and at least two weeks in advance of further ground works relating to the development. Any finds, features or deposits of archaeological significance encountered would have to undergo post-excavation research and publication if warranted and in agreement with the Council. A planning condition to achieve this is recommended. Within a subsequent response, the Archaeology Officer notes the advice of the Applicant's Supporting Statement that: *'should any other features become apparent during the construction phase, J P Campbell and Sons Ltd will undertake to inform the relevant authorities'*. However, it is considered that this is an inadequate form of mitigation, which is inconsistent with current policy and which would not address the concern that appropriate mitigation should be provided. Accordingly the need for an appropriate archaeological investigation to be required by planning condition is maintained.

Ecology Section: seeks a proportionate Ecological Impact Assessment for otter, badger and breeding birds and other protected species and habitats, ahead of the commencement of development at the site, along with the submission and approval of a Landscape Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats. It is noted that SNH has objected on the grounds that an Appropriate Assessment would be required with regard to a likely significant effect on the River Tweed SAC/SSSI from surface water and foul water run-off to the Cloyhouse Burn unless appropriate and robust conditions are attached to any consent granted, to ensure the installation and operation of a surface and foul water treatment system to the satisfaction of SEPA. It is further noted that SNH has objected unless additional planting is undertaken and an ongoing woodland management regime established through a landscape management plan to mitigate anticipated significant adverse landscape and visual effects to the Upper Tweeddale NSA. It is considered that the Ecological Impact Assessment and Landscape Habitat Management and Enhancement Plan, should be informed by the advice of SNH, SEPA and the Landscape Section.

Environmental Health Section: advises that installations can impact on local air quality and on the amenity of nearby properties, and that to this end, the Applicants should quantify impacts from the development upon both noise and local air quality, while management plans are sought in respect of odour, noise and pests. Although it advised that this information was required in advance of the application being determined, Environmental Health has more recently advised that these matters could be addressed by planning conditions with an explicit requirement that these matters should be addressed prior to the commencement of the development's operation. There are no comments with respect to potential land contamination concerns.

Landscape Section: considers that the visibility of the existing building is low and that the overall impact of the proposed development on the few receptors within the surrounding landscape would not justify opposing the application. Accordingly, recommends that the application could be approved subject to an expanded mitigation planting scheme being submitted for prior approval. This should identify a strengthened landscaping treatment for the site to complement the existing planting and trees within the surrounding area. This should introduce sufficient woodland planting to strengthen the visual backdrop to the building and connect across the landscape to the existing bands of woodland, to constitute a shelter belt setting for the building. This would appropriately encompass a broadening/extension of the woodland to the south, along the Cloyhouse Burn; a more substantial band of planting to the west of the proposed

building, wrapping around the building to the north; then linking visually with the wider surrounding landscape. With such planting in place, it is anticipated that in time, the longer term visual effects of the proposal would be effectively mitigated. The development would be visible in the short term, but in the longer term, once the planting has become established, it would become integrated into the wider landscape. An illustrative plan as to where it is considered additional tree planting is required to address the landscape and visual impacts of the proposal has been supplied by the Landscape Section. It further considers that since the proposal would rely on the conditions imposed on the previous development 08/00256/FUL for successful mitigation, the same conditions should also be applied to any approval of the current proposal. More recently, in a follow-up consultation response, the Landscape Section advises that the mitigation planting details should be submitted before the application is determined.

Roads Planning Section: advises that the site is adequately serviced, and has no objections. Given the implementation of the improvements to the local road network that were required and delivered under the planning consent for the existing poultry shed, there are no concerns over the access arrangements to the proposed poultry unit. Any increase in traffic movements as a result of the second unit would be negligible. It is anticipated that egg collection, deliveries etc. to and from both units, existing and proposed, would most likely occur at the same time, therefore minimising/mitigating any impacts upon the public road.

Statutory Consultees

Manor, Stobo & Lyne Community Council: raises the following concerns:

- Proposal is contrary to Planning Policy EP1 and Structure Plan Policy N10 with respect to the impacts upon the NSA;
- Insufficient social, economic or employment benefits would be derived from the proposal to justify any departure from planning policies that seek to conserve the landscape character of the NSA;
- It is considered that insufficient attention has been paid to the impact in views beyond those from the valley floor and public road (B712) and that the Reporter at the time of the determination of the last application at appeal, neglected to take full account of landscape and visual impacts from surrounding hills including from the John Buchan Way;
- Existing sheds are reflective in sunlight;
- Community Council questions whether the existing landscaping complies with the landscaping plan approved at the time of the appeal decision;
- There would be an unacceptable cumulative landscape and visual impact in association with the existing poultry shed building;
- Advised that new and additional tree planting would not remove its objection or mitigate its concern due to the length of time new tree planting would take to become established (around 20-25 years) relative to the expected operational time of a poultry shed which it is advised is no more than 20 years;
- Expresses concerns at amount and level of effluent that there would be at the site in the event of approval, and queries what arrangements would be in place for management and regulation of this effluent on-site. It is advised that some form of on-site treatment would be required, and that the planning implications of this treatment have not been fully considered in planning terms; and
- The Community Council notes the need for an Environmental Management Plan

to be submitted to address SEPA's PPC regulations and considers that it should be consulted on the environmental management plan for the site.

SEPA: has no objection. It notes that the site is not currently regulated by SEPA as the capacity of the existing shed falls below the threshold requiring a permit under the Pollution Prevention and Control Regulations (PPC). However, the new shed would increase the total number of birds on the site to 64,000; and as such, the threshold of 40,000 birds would be exceeded and a PPC permit would be required. It is advised that the Applicant would be required to apply to SEPA for a PPC permit. It is advised what the application for a permit should consider in line with the Standard Farm Installation Rules for Intensive Agriculture PPC permitted sites. This includes slurry and manure storage; odour management; noise management; drainage; and decommissioning. It is advised that it is the Applicant's responsibility to ensure that there is consistency between the proposal that is the subject of the planning application and the operation that would be described by the details required within the PPC permit application. It is additionally advised that the site might be at risk of flooding due to the proximity of a nearby watercourse and due to the steepness of surrounding terrain, also surface water flooding, and that the Applicant should consider incorporating flood resistant and resilient measures within the design and construction.

Scottish Natural Heritage: maintains conditional objections, firstly, in relation to potential impacts upon the River Tweed Special Area of Conservation (SAC) unless the proposal is subject to planning conditions which ensure that there is satisfactory treatment of surface and foul water to the satisfaction of SEPA; and secondly, in relation to potential impacts upon the Upper Tweeddale National Scenic Area (NSA), unless the proposal is subject to planning conditions which secure the mitigation measures proposed in the application, plus additional landscape planting.

With respect to the management of surface and foul water drainage, SNH notes that the existing poultry shed at Easter Haprew operates on a similar treatment system to that proposed, and that the details of the existing system were subject to approval through conditions on the previous planning permission. SNH advises that it would object to the proposal unless any permission granted is now made subject to conditions that ensure the implementation of the required water treatment to the satisfaction of SEPA.

With respect to the mitigation of the landscape and visual impacts, SNH seeks additional new planting to supplement that which is already proposed by the Applicant, as an essential requirement for mitigation of the impacts of the building in the medium to long term. It further requires that the new tree planting should be made subject to an on-going management regime that ensures a regular programme of silvicultural management to ensure the woodland fulfils its intended role, to be achieved through a landscape management plan. The first consultation response includes an appendix setting out what it considers the new planting should achieve and provides guidance on how it is considered this would be most effectively addressed.

It is acknowledged by SNH that the landscape and visual impacts would be liable to be significant and adverse in the short-term during and in the period immediately following construction, but that the establishment of the new planting sought would in time reduce these residual effects to not being significant.

It notes the need for checking surveys for protected species to be carried out before

development starts, with species protection plans prepared and submitted to the Local Authority if these are required.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Adopted Scottish Borders Local Development Plan 2016

PMD1 - Sustainability

PMD2 - Quality Standards

ED7 - Business, Tourism and Leisure Developments in the Countryside

HD3 - Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP4: National Scenic Areas

EP5: Special Landscape Areas

EP8: Archaeology

EP13: Trees, Woodlands and Hedgerows

EP15: Development Affecting the Water Environment

EP16: Air Quality

IS5: Protection of Access Routes

IS7: Parking Provision and Standards

IS8: Flooding

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy

KEY PLANNING ISSUES:

- Whether or not the proposed poultry building, and/or its operation, would in isolation, or culmination with the existing poultry building to the east, have any unacceptable adverse effects on the environment and/or amenity of the site and surrounding area, including upon the landscape character and quality of the National Scenic Area; upon the River Tweed SAC and SSSI; and/or upon the amenity of any surrounding residential properties.

ASSESSMENT OF APPLICATION:

Planning Policy

Although the building is of a large scale compared to most farm buildings, poultry rearing, including intensive poultry rearing is in its nature, only appropriately accommodated in the countryside. Positive regard can also be had to the contribution that such an enterprise can make to the rural economy, including employment opportunities within the local area. Accordingly, this proposal raises no concerns in principle. The assessment of the proposal is from this point, reasonably confined to a

consideration of the specific impacts upon the environment and amenity of the site and surrounding area which would be liable to occur as a consequence of siting and operating this specific proposal in this specific countryside location.

Design and Layout

The design and layout of the site are functional, and align with the proposed use and operation as a poultry shed. These aspects of the development are not objectionable subject to planning conditions being imposed, to address certain matters that do require additional detail to be provided.

Firstly, there is a need to ensure that the appearance of the building and its ancillary structures would match as closely as possible the appearance of the existing building to the east and its ancillary structures. However, concerns have been raised by objectors that the external finishes should not be highly reflective or shiny. Given that the proposed building would be located higher in the landscape than the existing building, there is a concern to ensure that highly reflective surfaces should be minimised, if not omitted altogether. To this end, details of the finished appearance of the external surfaces of the building and ancillary structures would be appropriately submitted for further consideration.

Secondly, no details have been provided with respect to the siting and appearance of the proposed emergency generator set or any housing or bunding required to contain the equipment. Although this is liable to be a relatively small component at the site, these details would in the event of approval need to be established ahead of the commencement of development. This requirement might be combined with that for the wetlands which are also not sufficiently well-described in the supporting details.

Thirdly, there is a need to require that the finished levels within the site should be provided for prior approval, since the levels information is somewhat basic and in any event, requires to be related to data that can be checked and verified on site. To this end, and in the event of approval, a condition should be attached to require that sufficient details should be provided in advance of development being commenced. This is in the interests of ensuring that levels are not raised to any unacceptable height(s), which might exaggerate its prominence within the landscape beyond that which is strictly necessary.

Fourthly, there is a need to ensure the implementation and maintenance of new tree planting to address the concerns of the Landscape Section and SNH. These matters are considered below, within the next section.

Landscape and Visual Impacts

The proposal consists of the erection of a large poultry shed with associated feed silos and hard standings and gravelled access track. The proposed sheds and road infrastructure would also require cut and fill earthworks which are a further impact upon the landscape form, and its visual amenities, beyond that of the building itself.

Objectors consider that the introduction of such a large, even industrial type, of building and all associated works would have the potential to create significantly adverse landscape and visual impacts. Some consider that these impacts would not be negated

even if extensive tree-planting were required and carried out in the vicinity of the site to soften, if not in time interrupt, views from the surrounding landscape.

The site is located within the Upper Tweeddale National Scenic Area and is therefore visually sensitive. Paragraph 212 of Scottish Planning Policy requires that development that affects a National Scenic Area should only be permitted where the objectives of the designation and the overall integrity of the area would not be compromised.

The proposed shed would be visible from principal receptors, particularly the B712 public road (where the effects should be limited mostly to short sections close to the entrance of Easter Haprew Farm) and in the panoramic views from across the valley from the more elevated John Buchan Way, particularly from the sections above Easter Dawyck Farm. The distance from other sensitive receptors such as residential properties, is much greater, and therefore the impacts upon these are considered by the Landscape Section to be minimal. However, in closer proximity, and certainly from land of equivalent elevation or higher, the proposal is liable to be mostly or entirely visible behind the existing poultry shed building. This is at least until the existing tree planting along the farm track attains significantly greater height. However, there are concerns with respect to the proposed appearance of the site from sensitive receptors, particularly from more elevated vantage points. The building would appear as a large, elongated structure, prominently located within the local landscape, rising above an existing building of equivalent size, which may contribute to a greater cumulative impact.

Both the Landscape Section and Scottish Natural Heritage acknowledge that in the short to middle-term, the lack of established trees in close proximity to the site would mean that the siting of such a large and visible building would inevitably have a significantly adverse landscape and visual impact. However, subject to the successful implementation and maintenance of additional landscaping, it is considered that the landscape and visual impacts of the proposal, cumulative or otherwise, would not be unacceptable.

Extensive new tree planting is required in the form of a framework of woodland shelter belts around the site in order to remain in character with local landscape form. Advice from the Council's Landscape Architect and SNH suggests the need for new areas of tree planting to be established to the south, to link the existing newly planted areas to the east and the more established trees to the southwest. In time this should form an effective screen to soften and eventually interrupt views from the south, including from the John Buchan Way. The planting would constitute a backdrop of wooded shelter-belts in views of the building from the south, east and north, including from more elevated vantages; into which a recessively coloured building at least, would be capable of receding visually.

In summary, with the addition of new tree planting forming a continuous framework of woodland shelter-belts it is material that existing landscape features will combine to limit views of the building from the surrounding landscape. Once effective the proposed planting would minimise visual intrusion and should address and arrest any perception that the quality of the landscape had been degraded.

The Landscape Section has expressed concern that since the proposal would rely on the newly established planting delivered under the consent for the existing poultry building the same conditions should be applied to any approval of the current proposal.

However, given that this planting is regulated under the conditions of the existing consent, there is no reasonable or necessary requirement to do this so directly. One point of note in this respect though, is the impact upon this tree belt of the proposed new access. This would require the removal of a section of these new trees to allow the physical accommodation of the junction. Given that only a section of the tree belt would be impacted, the principle of this access being accommodated as proposed raises no concerns. However, the Applicant would reasonably be required to provide the detail of how the new access would be accommodated relative to the trees, to prevent any exaggeration of any tree removals. It should be sufficient only to allow the safe and efficient management of vehicular traffic.

Within the site, there would reasonably be some concern with respect to the finish of all altered ground levels, which should be actively re-seeded to avoid any unsightly areas of bare earth which might otherwise be left-over. These areas should be actively managed and actively seeded to ensure an appropriate finished appearance. This would be particularly important in the years when any new tree planting were still becoming established and views of the interior of the site were readily visible from sensitive receptors.

It would also reasonably be required that existing trees that are to be retained should be protected accordingly and for the duration of construction works. Again, this matter is capable of being addressed by the imposition of an appropriately worded planning condition.

Road Safety, Access and Parking

Since the road has already been upgraded to accommodate the operation of the existing poultry unit, the Roads Planning Section is content that no further works are necessary. Accordingly, there are no concerns with respect to road safety or traffic movement.

Residential Amenity

With respect to the regulation of potential nuisance impacts, SEPA has confirmed that the proposed shed would result in an overall capacity of stored birds (cumulatively with the existing shed) which would require to be licensed under PPC. Accordingly, it is reasonable to anticipate that the operation of the site would be regulated by SEPA directly.

However, if the site (either separately or cumulatively) is not regulated by SEPA on account of the total number of birds, it would be appropriate to ensure that the site's operation is controlled by appropriately worded planning conditions as requested by Environmental Health in order to cover areas of concern including, but not limited to noise and air quality impacts and pest management. In this way, there would be no unacceptable impacts upon the amenity of any surrounding residential properties, and sufficient flexibility would be allowed to accommodate any phasing that the Applicant ultimately proposes.

Concerns have been expressed with respect to the way that the site or other premises run by the Applicant, are currently being operated, but the determination of a planning application can only reasonably assume that the proposal would be operated in full accordance with the relevant regulations, including planning conditions. Any breaches

of these regulations would only be appropriately followed up with the relevant authorities, including the Planning Authority; this includes any alleged breaches of any conditions attached to the permission for the existing poultry shed to the east of the site.

It is worth noting that the consent issued for the existing poultry building includes planning conditions that limit noise levels from plant and machinery and control vehicle movements to prescribed hours of operation. Notwithstanding the potential for overlap with PPC requirements it would be appropriate to replicate these conditions in the current development should Members be minded to approve this application.

Foul and Surface Drainage

Site drainage is to be to a SUDS system to treat storm run-off from the proposed shed access and areas in hard standing, within a similar arrangement to that currently operated in relation to the existing poultry shed to the east.

SNH has advised that they would maintain an objection to the proposal unless any permission granted is made subject to conditions that ensure the implementation of the required water treatment to the satisfaction of SEPA. More particularly, it seeks the imposition by planning condition, of an equivalent requirement to that which was imposed upon the planning consent issued at appeal for the now established poultry unit building to the east.

Whilst there may be some overlap with PPC regulations it would be perfectly reasonable in this case to seek additional information in relation to foul and surface water drainage under an appropriately worded planning condition.

Cultural Heritage and Archaeology

The Archaeology Officer has identified a need for mitigation in the form of a condition to require a 'Strip, Map and Record' investigation. Such a requirement would be reasonably imposed by planning condition upon any consent issued, and would not be appropriately met at the Applicant's discretion during the course of ground works, as the Supporting Statement proposes.

Natural Heritage

The site lies within close proximity to the River Tweed SAC, and both SNH and the Ecology Section consider that there is potential for unacceptable impacts upon Protected Species and their habitat at the site. Accordingly, these consultees require the implementation and reporting of a proportionate Ecological Impact Assessment and the submission and approval of mitigation plans for species protection, and a Landscape Habitat Management and Enhancement Plan, including measures to compensate for habitat loss and enhance existing habitats.

No details with respect to the proposed wetland areas have in fact been provided, and would be appropriately required in this context, given the Applicant's intention that these should attract water fowl.

These measures are capable of being required and secured under appropriately worded planning conditions. There should however be a concern to ensure that such information is consistent with the details that would reasonably be required to address the landscaping concerns, including both tree planting and finished levels. Similarly, the landscaping details themselves need to be consistent with the proposals within the Landscape Management and Enhancement Plan.

Other Concerns

Since the proposal has been assessed under Schedule 2 of the Environmental Impact Assessment Regulations, it would reasonably be required under condition that the numbers of stored birds on site, could not be increased to any levels that would otherwise have required the proposal to be re-categorised as a Schedule 1 development; that is, one with an inherent requirement for the application to have been supported by an EIA. This is because no EIA has been submitted in support of this proposal, and none has ultimately been required on the understanding that the proposal is a Schedule 2 development.

Contrary to the understanding of the Community Council, the Structure Plan is no longer within the statutory development plan, and reference to its policies is therefore no longer a direct requirement of the assessment of the proposal.

CONCLUSION

Subject to the imposition of planning conditions to address the above noted concerns, the proposal is considered not to be liable to have any unacceptably adverse impacts upon the amenity or environment of the site or surrounding area, and as such, is considered to be permissible in these terms.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. No development shall take place until the applicant has secured a programme of archaeological work in accordance with an approved **Written Scheme of Investigation (WSI)** outlining a **Strip Map & Record investigation. Development and archaeological investigation shall only proceed in accordance with the WSI.**

The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
- Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.

- If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
- Initial results shall be submitted to the Planning Authority for approval in the form of a **Data Structure Report (DSR)** within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
- The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once approved.

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

2. No development shall commence until a proportionate Ecological Impact Assessment, informed by supplementary surveys, including a mitigation plan for the protection of otter, badger and breeding birds and other protected species and habitats as appropriate, has been submitted to and approved in writing by the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved mitigation plan.

Reason: To minimise disturbance to protected species, and their habitat; to encourage the continued use of the site by these protected species throughout and beyond the development period; and to ensure that the information required, is appropriately up-to-date at the time that works are commenced.

3. No development shall commence until a Landscape Habitat Management and Enhancement Plan, including measures to compensate for habitat loss and enhance existing habitats has been submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To minimise disturbance to existing habitats and to ensure appropriate levels of protected species habitat enhancement.

4. Notwithstanding the details supplied in support of the planning application, no development shall commence until a Landscape Management Plan (including a planting plan) which includes provision for:

(a) the re-seeding of grass on all areas of ground at and around the site which is altered or otherwise impacted to accommodate the poultry building hereby approved, its yard and/or site access; and

(b) the planting of new trees and new shelter belts of trees;

has first been submitted to, and approved in writing by, the Planning Authority. The approved landscape plan shall be implemented before the end of the first planting season following commencement of operation of the poultry unit hereby approved.

Reason: In the interests of enabling the development to be accommodated as sympathetically as possible into its wider surroundings.

5. Notwithstanding the details supplied in support of the planning application, the development hereby consented shall not be commenced until a scheme of details

has first been submitted to, and approved in writing by, the Planning Authority, which describes:

- (i) the proposed finished floor levels of the poultry building hereby approved and of all its ancillary structures (including the silos); the proposed surface levels of the new access road; and of the new yard/forecourt areas;
- (ii) the existing and proposed finished ground levels throughout the site; and
- (iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor and surface levels and the existing and proposed ground levels relative to the level of the surface of the existing area of hard standing associated with the existing poultry building to the east of the site.

Thereafter the development shall only be implemented in full accordance with the approved details.

Reason: To ensure that the consented development does not have any unacceptable impacts upon the appearance of the surrounding landscape as a consequence of the ground levels within the site being raised or lowered to any inappropriate heights.

6. Notwithstanding the details supplied in support of the planning application, no development shall commence on the development until full details of the following have all first been submitted to, and approved in writing by, the Planning Authority:

- i. the siting and finished appearance of the generator and any associated housing or bunding;
- ii. the precise form, including sectional profiles of the wetland areas;
- iii. the materials and finishes of the external surfaces of the poultry shed and all its ancillary structures (including the feed silos, roof vents, and generator).
- iv. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To ensure a satisfactory finished appearance for the poultry shed building, its associated structures, and its site, and in the interests of ensuring that the development does not have any unacceptable landscape and visual impacts.

7. Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence prior to the submission to, and written approval by, the Planning Authority in consultation with SEPA, of a detailed scheme for the water supply and for all foul and surface water drainage, including that from roof areas, hard-standings and the access roads. This shall include the results of percolation tests, the written reports of which shall be submitted to the Planning Authority at least two months before development commences

Reason: To control carefully and limit all environmental impacts which cannot be left any more open-ended and to address SNH's concern that the Planning Authority in consultation with SEPA should have control over this matter.

8. Notwithstanding the details submitted in support of the planning application, the development hereby approved shall not be commenced until schemes of details sufficient to address the following concerns, have all first been submitted to, and approved in writing by, the Planning Authority:

- (i) the quantification of the impact of the operation of the poultry farm on local air quality, with reference to the 'Scottish Air Quality Limits and Objectives';
- (ii) the quantification of the noise impacts liable to be generated by the operation of the poultry farm; and
- (iii) management plans to address how air quality and odour impacts; noise impacts; and pest control would all be managed at the site.

Thereafter, and following approval of all of the above, the poultry shed shall not become operational, or be operated, other than in full accordance with the approved management plans.

Reason: To protect the amenity and environment of the surrounding area, including neighbouring residential properties, by ensuring that the operation of the poultry shed hereby approved, has no unacceptable impacts upon air quality and/or noise impacts for the duration of the operation of these premises.

9. The poultry building hereby approved shall not accommodate any greater number than 85,000 birds in the case of broilers, or 60,000 in the case of hens.

Reason: To retain effective control of the development which has been assessed under Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Accordingly, the number of places for birds stored within the poultry building should not be increased to any level above that which would otherwise have required the scheme to have been assessed under Schedule 1 (and not Schedule 2) of the aforementioned EIA Regulations at the time of the determination of the planning application.

10. Notwithstanding the details supplied in support of the planning application, no development shall commence until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes the accommodation of the new site access in relation to the trees of the newly planted shelter belt within the east of the site. This shall identify the trees for removal, and all measures (such as fencing and any verge treatment) that would be established to protect all retained trees from overrunning by vehicles and/or their trailers using the junction.

Reason: To maintain appropriate control over an aspect of the development that has been insufficiently described within the supporting details and to ensure that appropriate measures are in place to protect retained trees from damage by any and all vehicles that use the junction to access or exit the site.

11. Excepting any trees whose removals are agreed in writing by the Planning Authority, no other trees at the site or along its boundaries shall be removed, lopped, lifted or damaged in any way before or during construction without the prior written agreement of the Planning Authority. Furthermore, and for the duration of development, all existing trees shall be fully protected in accordance with the requirements of BS 5837:2012 and all measures required on-site to protect these trees for the duration of construction works, shall be maintained in full accordance with the requirements of BS 5837:2012. Further, there shall be no storage of plant or machinery within the Root Protection Areas (RPAs) of these same trees, and there shall be no services installed within their RPAs unless such works are compliant with NJUG Guidelines.

Reason: In the interests of preserving the health and vitality of the existing trees, the loss of which would have an adverse effect on the visual amenity of the area. The existing trees represent an important visual feature which the Planning

Authority considers should be substantially maintained in the interests of conserving the visual amenities of the site and surrounding area.

12. At no time shall noise from fixed plant and equipment exceed NR30 within any noise sensitive dwelling.
Reason: In the interests of residential amenity in the neighbourhood and to ensure consistency with Appeal Consent PPA-140-429 specifically with respect to the operation of an equivalent requirement under a planning condition attached to that planning permission.
13. During development and operating all vehicle movements to and from the development shall be within the hours 0700-2200 unless in cases of emergency.
Reason: In the interests of residential amenity in the neighbourhood and to ensure consistency with Appeal Consent PPA-140-429 specifically with respect to the operation of an equivalent requirement under a planning condition attached to that planning permission.

INFORMATIVES

1. The poultry shed building hereby approved should be finished in as matt, non-reflective materials as possible, in the interests of not drawing attention to the building through any excessive glare. This concern extends as much to the main building as the ventilation housings on the roof and also the silos, which would be particularly prominent features within views of the site from the surrounding landscape.
2. There is an overhead powerline within or near the eastern boundary of the site. The Applicant should liaise with the relevant utility operator to ascertain whether or not the proposed layout would raise any concerns for the operator in case the latter would have any concerns about works within this proximity to the powerline.

DRAWING NUMBERS

| Plan Ref | Plan Type |
|-----------------|------------------|
| 141016/03 | Location Plan |
| 141016/04 | Site Plan |
| 141016/02 | Elevations |
| 141016/01 | Floor Plans |
| 7755/05 | Sections |

Approved by

| Name | Designation | Signature |
|------------|------------------------|-----------|
| Ian Aikman | Chief Planning Officer | |

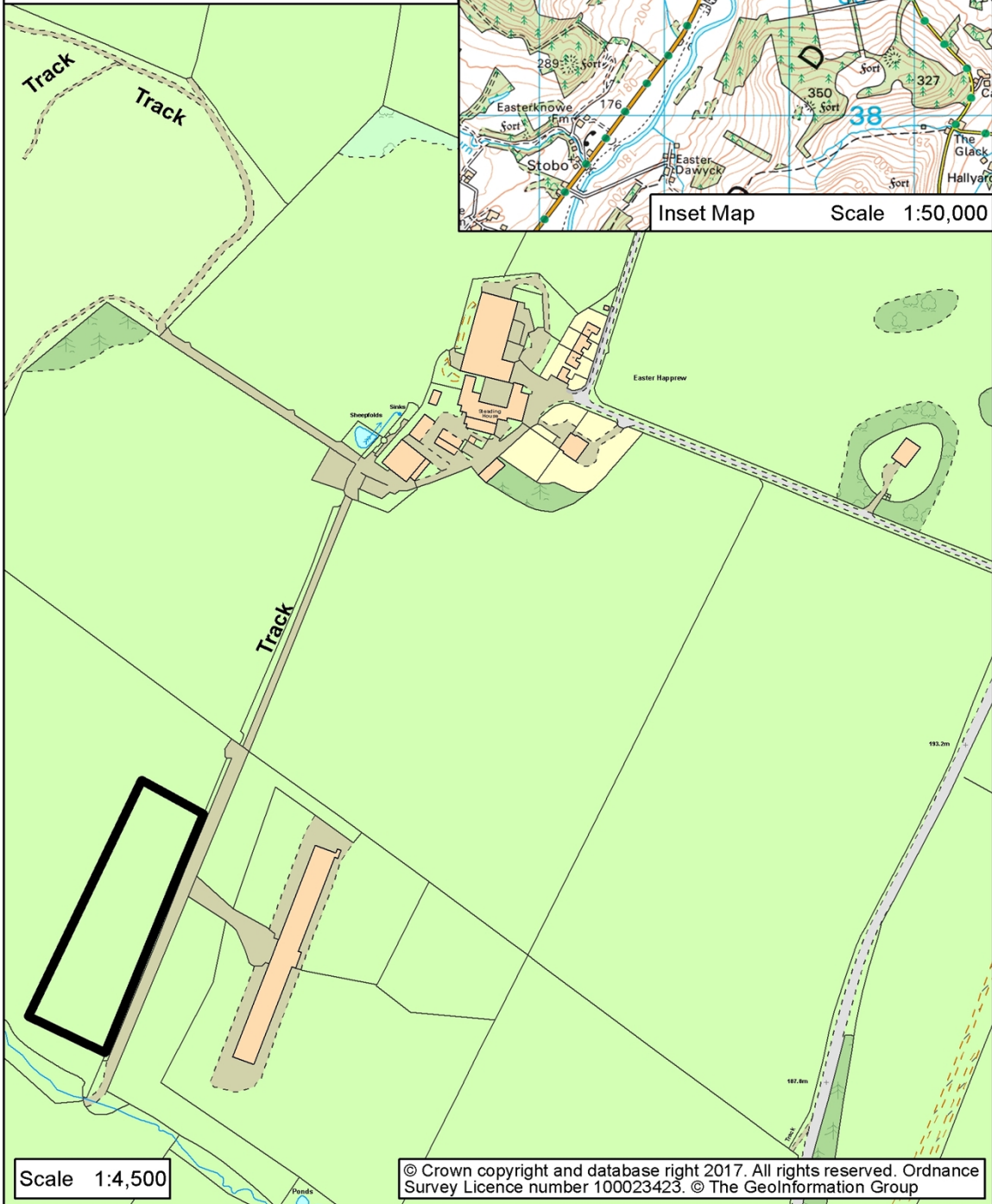
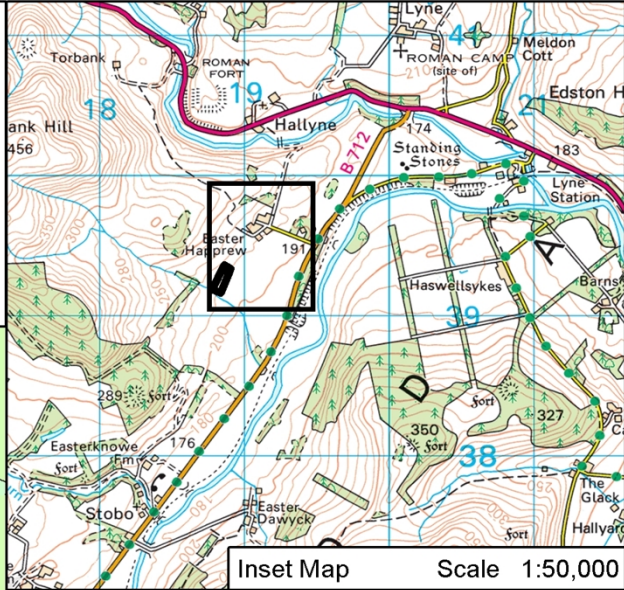
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

| Name | Designation |
|---------------|------------------|
| Stuart Herkes | Planning Officer |



16/01377/FUL
Easter Haprew
Peebles



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/00623/FUL
OFFICER: Paul Duncan
WARD: East Berwickshire
PROPOSAL: Erection of poultry building and associated works
SITE: Hutton Hall Barns, Hutton, Scottish Borders
APPLICANT: Mrs Angela Maclean
AGENT: Kevin White Architecture

SITE DESCRIPTION

The application site is located around 400m south-west of the edge of Hutton Hall Barns hamlet, around 1.8km west of Hutton village, and 2.2km east of Allanton village. The site can be accessed from an existing field access located off the minor road which connects Hutton Hall Barns with the B6460 road around 1km to the south of the site. The site sits in the south-west of a large undulating agricultural field which partially borders the Cabby Burn to the south, and extends over a low ridge to a boundary on the north which is defined wholly by the same burn. To the east, the field boundary is established by the minor road, and overhead lines cross the far south west corner of the site.

PROPOSED DEVELOPMENT

It is proposed to erect a single poultry building to house 32,000 free-range birds for the purpose of egg production around 100m east of the minor road which connects Hutton Hall Barns with the B6460. The building would be of steel portal frame construction and would be partially dug into the side of existing slopes. A large level site would be created to accommodate the building which would have a footprint of approximately 122m by 29m with a ridge height of 7m and eaves height of 3m. The proposed building's dimensions were amended during the application process from an original footprint of roughly 120m by 25m with the same ridge height of 7m, but with an eaves height of 3.6m. Whilst this change resulted in a larger proposed building overall, the number of birds that would be housed remained the same. The building would be finished in juniper green coloured box profile steel sheeting with a 450mm dwarf wall. The building would require extract ventilation and this would be provided by 4 gable wall fans, and 38 exhaust air fans/ fresh air inlet chimneys, all computer controlled. As well as the main area for hens, the building would also house a staff toilet, a small office and a small egg store. Feed bins would be formed on concrete plinths outside the poultry building and there is an intention to cover the roof with photovoltaic (solar) panels.

There is an existing access into the site from the minor road which would be upgraded to the Roads Authority's required specifications. A new access track would connect the proposed building with the minor road and a large area of hardstanding would be formed to the north-west and west of the building. Surface water drainage would be dealt with by a Sustainable Urban Drainage System (SUDS) with outflow to the Cabby Burn.

A substantial planting scheme featuring around 1850 trees has been proposed to help screen the building and smooth flowing mounds would also be formed from excavated material to the north, west and south of the building to screen the building.

PLANNING HISTORY

There is no planning history at this site but there have been a number of poultry developments previously approved in the vicinity:

- 06/00326/FUL - Siting of Mobile Poultry Unit, Land East Of Hutton Hall Barns, Hutton. Approved 24 March 2006. Later modified in Respect of Extension of Period of Consent 07/01741/FUL.
- 07/01752/FUL - Erection of Mobile Poultry Unit, Extension of Access Road and Erection of Shed for Roadside Sales. Land North East of Hutton Hall Barns, Hutton. Approved 8 October 2007.
- 08/02047/FUL - Erection of Mobile Poultry Unit and Extension of Access Road. Land North East of Hutton Hall Barns, Hutton. Approved 25 March 2009.
- 10/00036/FUL - Erection of poultry unit for free-range hens and associated infrastructure Land North East Of Hutton Hall Barns. Approved 10 May 2010.
- 14/01347/FUL - Siting of mobile Poultry Unit land North East of Hutton Hall Barns, Hutton. Approved 10 February 2015.
- 15/01173/FUL - Erection of poultry building and associated works Hutton Hall Barns Scottish Borders. Approved 1 February 2016.
- 16/01430/FUL - Erection of poultry building and associated works. Hutton Hall Barns Hutton Scottish Borders. Approved 6 March 2017.

REPRESENTATION SUMMARY

Letters of objection have been received from 10 separate households. The principal grounds of objection can be summarised as follows:

- Adverse impact on the landscape
- Industrial appearance
- Concentration of poultry buildings/ encirclement of dwellings
- Elevated site
- No consideration to residents north of the site (visual impact)
- Planting scheme unimaginative
- No minimum height has been defined for the screening mounds. Additional cross section plans should be provided and the existing Y-Y section should be with updated min/ max heights.
- 400m ruling to proximity of neighbours
- Noise from ventilation system
- Road safety
- Unnecessary formation of new junction
- Increase in traffic, including articulated lorries at unsocial hours
- Environmental Assessment required

- Prime agricultural land
- Adverse impact on local amenity/ tourism businesses
- Close to SSSI
- The development would act as a deterrent to any future renovations and maintenance of nearby listed buildings
- The development would erode the setting and character of nearby listed buildings
- Increase in vermin
- Manure management/ uncovered trailers
- Inadequate muck shed capacity
- Odour nuisance/ prevailing wind will carry odour to residents
- Dust
- Litter
- Employment benefits have not been demonstrated
- Uncertainty regarding whether the field meets stocking density regulations
- Planning conditions attached to a previously approved neighbouring poultry building have not been adhered to.

In addition to the objections received from members of the public, objections were also received from Hutton and Paxton Community Council and comments were received from Edrom, Allanton and Whitsome Community Council. The site is located within the boundary of the latter, therefore the comments received from Edrom, Allanton and Whitsome CC are listed under the later Statutory Consultees section. Hutton and Paxton CC grounds for objection are summarised here and are as follows:

- This could amount to a total of seven very large poultry buildings with around 140,000 birds encircling a small hamlet of residents who were living there before this enterprise arrived. The mix of local housing and intensive poultry farming is not appropriate and a tipping point has now passed.
- This is an industrial development being placed around an existing community.
- The CC supports objections from residents covering issues such as odour, vermin, manure spillage, visibility and traffic. These objections are valid.
- Manure storage, disposal and management are inadequate.
- The development would be contrary to the Prime Agricultural Land policy.

APPLICANT'S SUPPORTING INFORMATION

The applicant has provided a substantial supporting statement which sets out the detail of the proposed development, future operations, and the reasons for it. The full document can be found on the Council's Public Access system but the key points are as follows:

- The free-range egg market in the United Kingdom remains popular with pressure continuing to be exerted on food businesses by not only welfare groups, but by customers wishing to buy and consume free-range eggs.
- Free range egg production means hens are given access to outdoors during the daytime in line with legislation. European Union egg marketing legislation stipulates that for eggs to be termed 'free range', hens must have continuous daytime access to runs which are mainly covered with vegetation and a maximum stocking density of 2,500 birds per hectare.
- During 2016 several large supermarket chains committed to source eggs from cage-free hens by 2025. The date of 2025 is to allow producers such as Maclean Eggs to obtain planning consent and to make the significant investment in creating additional free range poultry houses to meet these changing market demands.

- It is intended that the proposed new poultry unit would come on stream during 2018. A contract is available for these eggs.
- Based on poultry industry standards the proposed development could provide up to two full time and two part time posts within the poultry house and the office.
- The applicant wishes to develop and grow a good agri-business in line with government policy while still protecting the natural environment.
- The proposal meets with the requirements of the Scottish Borders Corporate Plan for the five-year period 2012/13 to 2017/18 and Scottish Borders Economic Strategy 2023 by encouraging sustainable economic growth.

Separately, the applicant has also responded to objections and provided Freedom of Information request results to enquiries made by the applicant to Scottish Borders Council and SEPA for information on any complaints made regarding the working practices of MacLean Eggs or any related businesses at Hutton Hall Barns between 1 April 2016 and 31 May 2017. The applicant sought this information as evidence that the objections made to this application do not reflect actual complaints that have arisen in connection with their businesses. This correspondence is all available on the planning pages of the Council's website.

CONSULTATION RESPONSES

Scottish Borders Council Consultees

Roads Planning Service: No objection, subject to conditions requiring the construction of a passing place between the site and the B6460 and the access to be suitably surfaced.

Environmental Health Service (Amenity and Pollution): No objection, subject to conditions to require a plan for the management and control of potential nuisances, and confirmation of water supply arrangements. A condition and informative has also been requested in relation to drainage arrangements. There are no comments with respect to potential land contamination concerns.

Ecology Officer: No objection, subject to condition requiring mitigation with respect to a potential impact on badgers. There are no concerns with respect to breeding birds. The Ecology Officer notes that SEPA have no objections to the development with regard to possible pollution prevention and control, which SEPA would in future regulate once the number of birds on the overall poultry site (i.e. including the two most recently approved poultry buildings) exceeds 40,000. The site is 900m to the south west of the Whiteadder Water, designated as an SAC/ SSSI as a tributary to the River Tweed. Connectivity exists to the designated site via the Cabby Burn.

Archaeology Officer: No objection and no mitigation required. Records indicate the former presence of cultivation terracing on the site. These terraces were identified in the 1920s, but have since had their visible elements removed. Evidence of prehistoric activity has been recorded in the area surrounding Hutton Hall Barns and this suggests a low level of archaeological potential in areas where sub-soils can contain cut features and deposits of human origin. The recorded presence of cultivation terraces historically indicates that buried features (such as furrows or the remains of platforming) may have existed below top-soil depth. Evidence has subsequently been presented that the field has undergone substantial sub-soiling and stone removal which suggests buried archaeology will not now be present within the field.

Landscape Architect: No objection subject to conditions and minor changes which have since been adopted. The main visual receptors would be the properties at Hutton Hall Barns

and a short section of the public road to the west of the site. At distances of 400m and more the visual impact of the new building is expected to be fairly limited but, as originally submitted, may have been visible on the skyline as viewed from Hutton Castle Barns. Requested adjustments have involved moving the building a little further south and a little lower down the slope and making more use of excavated material to create smooth flowing earth mounds that would provide partial screening. In view of the limited number of affected receptors and the separation distance from the nearest house and the improvements to the design through the above earthworks and planting mitigation measures, the Landscape Architect is satisfied that the building can be successfully accommodated into the landscape without undue landscape or visual impacts. Once the planting has developed, the building should be virtually invisible from sensitive receptors.

Flood Officer: No objection. SEPA flood mapping indicates that the site is not at risk from a flood event with a return period of 1 in 200 years. The applicant has provided topographical information in the form of 2 cross sections which confirm that the development site is at an acceptable height in relation to the Cabby Burn and outwith the functional floodplain. The proposed screening mound to the southern boundary of the site is also outwith the functional floodplain and will not affect local flooding issues. The applicant should be aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

Statutory Consultees

Edrom, Allanton and Whitsome Community Council: The Community Council have not objected to the proposals but do make the following comments and observations:

- HGV collections and deliveries should be made via designated routes avoiding times of school transport.
- At least two passing areas should be constructed on the minor road from the B6460.
- Where possible, all vehicles should maintain a voluntary speed restriction on access routes.
- Clear signage is required at the junctions from B6460 and B6437 in both directions.
- Transport, storage and removal of manure should adhere to relevant legislation and guidelines.
- Due diligence should be shown regarding any spillage of manure during transport and prompt clearance of such spillage.
- It would be preferable for screening to be implemented as soon as practical and maintained for the lifetime of the buildings.

Other comments have also been provided regarding gritting and maintenance of public roads but are not relevant to the consideration of this application.

SEPA: No objection. The site is not currently regulated by SEPA however the overall poultry site (i.e. including the two most recently approved poultry buildings) will fall within the remit of the Pollution Prevention and Control Regulations (PPC) once the threshold of 40,000 birds is exceeded. Once permitted under PPC, SEPA will be the lead agency. If permitted, the PPC licence will need to be varied to reflect the increase for the third poultry building or they could apply for this capacity from the outset – this decision is for the applicant. SEPA have no concerns regarding the proposal at this stage and have confirmed from an initial assessment that the proposal is potentially consentable under the PPC Regulations.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 Sustainability
PMD2 Quality Standards
ED7 Business, Tourism and Leisure Development in the Countryside
ED10 Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3 Protection of Residential Amenity
EP2 National Nature Conservation Sites and Protected Species
EP3 Local Biodiversity
EP7 Listed Buildings
EP8 Archaeology
EP13 Trees, Woodlands and hedgerows
EP15 Development Affecting the Water Environment
EP16 Air Quality
IS7 Parking Provision and Standards
IS8 Flooding
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy
Biodiversity SPG

KEY PLANNING ISSUES:

The key issues with this proposal are:

- The landscape impacts of the proposed poultry building.
- The potential impact on biodiversity.
- The potential impact on amenity within the area, including residential amenity.
- The impact of associated traffic movements on the surrounding road network.

ASSESSMENT OF APPLICATION

Policy Principle

Local Development Plan policy ED7 (Business, Tourism and Leisure Development in the Countryside) aims to allow appropriate employment generating development in the countryside whilst protecting the environment and ensuring that development is appropriate to its location. In principle, proposals for business development in the countryside will be approved where the development is to be used directly for agricultural operations or for uses which by their nature are appropriate to the rural character of an area. This proposal therefore has policy support in principle.

The policy caveats that support with a list of additional, detailed considerations. To meet the requirements of the policy the development must respect the amenity and character of the surrounding area and have no significant adverse impact on nearby uses, particularly housing. The use and scale of the development should be appropriate to the rural character of the area and any impact on roads and transportation should be taken account of. These matters are all considered below, and are assessed alongside other linked planning policies.

Impact on the landscape

A potential adverse visual impact on the rural landscape was one of the primary concerns cited in objections and is a key consideration in assessing the proposal. Local Development Plan Policy PMD1 (Sustainability) sets out the Planning Authority's sustainability principles in determining all planning applications within the Scottish Borders. These principles include the protection of natural resources and landscapes. This proposed site is not located within an area of designated landscape protection.

In considering the impact on the landscape, a primary consideration is the appearance of the structure itself and its suitability within a rural setting. Objectors have referred to the proposed building having an industrial appearance, but it is not considered that the building would have a wholly dissimilar appearance to other agricultural buildings found within the Borders, particularly in materials and design, although it would undoubtedly be amongst the larger of such buildings. The impact of the structure must also be considered in the context of where it would be sited, beneath a low ridge on south facing land, separating the primary visual receptors which are to the north of the site. Early discussions with the applicant resulted in the building being moved slightly further south to increase the natural screening from the landform. Excavated material from the site preparation would be used to create smooth flowing earth mounds to the west, south and north of the proposed building which would further aid its concealment.

The site would otherwise be most prominent from a short section of the public road to the west of the site. The screen mounds and planting would eventually almost entirely screen the building from the road. The access into the site would however be prominent and the retention of the stone dyke would be desirable where possible. Other key visual receptors would include the neighbouring properties including the property at Hutton Castle Barns, around 400m to the north. At such distances, the visual impact resulting from the erection of the building should be limited but the building may be visible on the landscape until the substantial proposed planting scheme of around 1850 trees becomes established, when it should be entirely screened from view. In the interim period, the natural landform and screening mounds with soften the impact of the building.

The proposed planting scheme has been subject to various revisions during the application process to increase planting and to replace the planting of ash resulting from the spread of the Ash Dieback disease. An appropriate mix of native species is proposed, to be planted at irregular intervals. A 5m strip would be kept clear to avoid overhead lines but should not diminish the overall effect of the scheme.

There is an intention to cover the roof with photovoltaic panels. These are not shown on the submitted plans but raise no concerns and would be unlikely to require approval through a planning application. No drawings have been provided for the proposed feed bins or their location but this can be covered by condition.

A concern that residents at Hutton Hall Barns are being encircled by poultry buildings has been put forward and this concern is acknowledged. However, in landscape terms, because all of the buildings are largely screened from the building group itself, it is considered that there would be no unacceptable adverse impact resulting from the development either in isolation or cumulatively, taking account of previously approved developments within the area.

Ecology

Pollution arising from poultry buildings is controlled by local authorities until overall farm sites (i.e. cumulative bird capacity across multiple poultry buildings) exceed capacity for 40,000

hens, at which point regulatory control would pass to SEPA. The applicant has confirmed that they are in the process of applying to SEPA for a Pollution Prevention and Control (PPC) permit for their previously approved poultry buildings nearby. If members were minded to approve this application the applicant would apply to SEPA to modify that PPC permit accordingly. SEPA have been consulted on the application and no objection has arisen from their initial assessment of the proposal. SEPA have also confirmed that the proposal is potentially consentable under PPC regulations.

In terms of protected species, badgers are known to be active within the area and the Council Ecology Officer requires mitigation as a precaution. A condition is therefore attached requiring the implementation of a Badger Protection Plan similar to that agreed at the previous approved 16/01430/FUL poultry building nearby. The applicant has written to agree to this. There are no concerns with regards to breeding birds as the site is not considered to provide a suitable habitat. In conclusion, any potential effects on protected species can be mitigated satisfactorily.

The site is located around 1km south west Whiteadder Water, designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) as a tributary to the River Tweed. Connectivity exists via the Cabby Burn, but SEPA have raised no concerns with respect to any potential impact on the Burn and the proposal would not impact the designated sites.

Neighbouring amenity

Members will note from the letters of objection that considerable concern has been raised about the effect the proposed poultry would have on residential amenity. There is concern that the poultry unit would lead to increased levels of odour nuisance, vermin, noise, dust and litter which would result in an unacceptable adverse effect on the amenity of nearby residential properties.

Such matters would be assessed under Local Development Plan policy HD3 (Protection of Residential Amenity) which is used to ensure that development does not have an adverse effect on neighbouring residential amenity. The application site in this instance is located approximately 400m south west of the closest residential property. There has been reference by at least one objector to a 400m rule governing the distance from such developments to residential properties. Whilst such a clause applies to agricultural permitted development rights, this simply requires the submission of a planning application for consideration for poultry developments within 400m of the curtilage of a dwelling house, so that impacts can be assessed and does not preclude developments within this distance. The Scottish Government's Prevention of Environmental Pollution from Agricultural Activity guidance note encourages agricultural developments to be sited 400m from residential developments, but this is a good practice recommendation rather than a requirement. For clarity, it is noted that while the *curtilage* of the nearest dwelling is within 400m of the proposed building, the nearest house would be located over 400m from it.

Whilst the proposed building would be located some distance from the nearest residential property, impacts on residential amenity must still be assessed. Members will be aware however that the free-range poultry business is heavily regulated and modern poultry buildings such as that proposed are set up to minimise impacts on neighbouring dwellings. The proposed building would incorporate many of the latest technologies, including computer controlled climate system connecting to 4 gable fans and 38 exhaust air fans and fresh air inlet chimneys which would help reduce the amount of noise, smells and dust emanating from the building. Environmental Health have considered the proposal and have no objection subject to conditions including the agreement of a nuisance management plan. The applicant has submitted such a plan which details the applicant's proposals for

mitigating and reducing nuisances. The nuisance management plan has had an initial inspection by Environmental Health and is to their general satisfaction. A condition is proposed to require the management plan to be formally agreed and would provide the option to amend the plan for practical operational reasons in the future. It should be noted that many of the potential amenity impacts would ultimately be controlled via the previously mentioned PPC permit that the applicant would apply to SEPA for. A planning condition is also proposed to control noise nuisance emanating from plant or machinery.

A number of objections have raised concerns with existing and proposed manure practices. A manure management plan has been provided which sets out proposed arrangements for dealing with foul waste arising from the development. This states that hen manure produced on the site (by MacLean Eggs) would be sold to MacLean and Company (the family farm business) to be stored in the family farm manure store. It is important to note that were any manure to be stored on the site this would be regulated by SEPA by means of the PPC. The manure collected by MacLean and Company would be stored in the family farm manure store, which is understood to be covered, until capacity was reached, when it would then either be spread on the family farm, exported for spreading by other farmers or collected by contractors.

It is understood that the family farm does not need additional manure supplies, so the additional excess which would result from the proposed development would result in an increase in the volume of manure being sold to other farmers. This is complicated by the location of the farm and proposed site within the Lothian and Borders Nitrate Vulnerable Zone (NVZ), where water is at risk of pollution from agricultural nitrate. NVZs cover a large area of rural Scotland and limit the period within which manure can be spread during 'closed periods'. However, there are no such controls over manure-spreading on farms outwith NVZs and excess manure would be sold to such farms during the exempt period where necessary. Environmental Health have inspected the manure management plan and have no objections to the proposals. The applicant has also provided correspondence which indicates that there is good demand for hen manure for spreading on land both within the NVZ and outwith the NVZ.

A concern has also been raised regarding potential littering on the site but there is no reason to believe the proposed development would give rise to such a problem.

Road safety, access and parking

The applicant has given consideration to potential roads and access issues, and details of vehicle trips, as well as proposed access alterations have been put forward as part of their application. The site would be accessed via an existing field access which would require a major upgrade to the Roads section's specifications. An increase in traffic has been a particular focus of objection and it has therefore been appropriate down the anticipated post-construction vehicle trips that would result from the development. The applicant has stated that one load of feed would be delivered to the site, by articulated lorry, per week. Eggs would be collected by the three egg collection trips per week which already service the existing poultry buildings. No additional egg collection trips are therefore anticipated. Manure would be collected by two tractor and trailer loads per week. At the end of the flock cycle every 13 months, birds would be removed from the building to allow it to be cleaned and made ready for restocking. This would require an envisaged four loads over two days. Pullets (young female birds before the point of lay) would then be delivered to the site by another four loads over two days. It must be assumed that there would be additional trips associated with staff/ management movements and occasional visits to the building by the various specialist services referred to in the operational plan. Overall however, the increase in traffic would be relatively modest and the road network is considered capable of accommodating the trips associated with the development, in isolation and cumulatively,

subject to the construction of an additional passing place at a location to be agreed between the access to the site and the B6460. The Roads Planning Service have raised no objection to the proposal, subject to conditions requiring the construction of a passing place between the site and the B6460 and the access to be suitably surfaced. Similarly to previous applications, a condition would be attached to control the hours of deliveries and collections.

Services

Surface water drainage would be dealt with by a SUDS scheme – likely to be a multiple cell system based on infiltration basins with a final restricted piped outflow to the Cabby Burn - which would be designed by consultants from the Scottish Agricultural College for review and sign off by SEPA. Discharge from the single staff toilet would be dealt with by way of a septic tank with discharge to a soakaway to land. Mains water is available at the applicant's farm steading to the north and would be extended to this poultry house. This would be controlled by planning condition to ensure an appropriate supply is available.

Mains power supply is proposed and is available close to the proposed building. As referred to above, there is also an aspiration to mount photovoltaic panels on the roof of the building to power operations and potentially provide a surplus back to the grid.

Other matters

It has been suggested that the proposal could adversely affect the setting and character of listed buildings in the area, or act as a deterrent to investment in the maintenance of such buildings. The nearest listed buildings are the category C listed cottages and steading buildings at Hutton Hall Barns over 500m from the proposed site. Local Development Plan policy EP7 seeks to conserve and protect the character, integrity and setting of listed buildings. The development would not be visible from these buildings, and it is not considered that the development would affect their setting, integrity or character. There is no reason to believe the development would act as a deterrent to investment in the area. The Archaeologist was minded to seek archaeological mitigation but the applicant has provided evidence which suggests buried archaeology will not be present within the field.

Whilst the site is recorded as Prime Agricultural Land it forms a small part of the field and there would be no adverse impact in terms of the availability of land given the scale of the development and the contribution that the proposal would make to agriculture. The cumulative effects of the proposals have been considered under separate headings above. There are no further cumulative impact concerns. There was no requirement for an EIA.

There is no flood risk associated with the proposal but an informative would be added to provide the applicant with the Flood Officer's advice with respect to flood risk from other sources.

There has been an objection which refers to previous non-compliance with conditions attached to previous planning approvals. It should however be noted that there have been no recent allegations reported to the Planning or Enforcement services in connection previous poultry buildings and there is no reason to believe the applicant would not comply with conditions in the future. The objector will be advised of the process for formally referring such complaints to the Planning Authority enforcement service should they wish to do so.

Finally, it should be noted that objections related to animal welfare or stocking density regulations do not raise material planning concerns and would be controlled under the appropriate regulatory regimes.

CONCLUSION

There is clear policy support for the principle of the proposed development which meets the requirements of the Council's policies on economic development within the countryside, and could provide up to two full time and two part time jobs. The focus of the assessment has therefore been on the potential adverse impacts which could result from the development.

The building itself is appropriate in terms of design, massing and materials and a major planting scheme, together with screening mounds, will ensure the building sits comfortably within the landscape. Any adverse impact on the landscape will be limited, particularly once the planting scheme becomes established.

In terms of amenity considerations, the building would be located a significant distance from residential properties and, subject to compliance with conditions and other regulatory controls, the development would not have an unacceptable adverse impact on amenity. The site would eventually be regulated by SEPA and a PPC permit would be required. Nevertheless, a nuisance management plan would be required by condition to provide further control of potential nuisances which objectors have also raised. Overall, SEPA and Environmental Health are both broadly satisfied by the proposals in principle, subject to the further controls afforded by the PPC permit process and the proposed planning conditions.

Traffic and road safety concerns have been raised but only a modest increase in traffic is anticipated. The Roads Authority considers that this could be reasonably accommodated by the existing network subject to the formation of a new passing place. The existing access would be suitably upgraded to meet the new resulting access needs.

Any potential ecological concerns would be satisfactorily mitigated. There are no concerns with respect to archaeology and there would be no adverse impacts upon the character, integrity or setting of listed buildings.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

It is recommended that the application is approved subject to the following conditions and informatives:

Conditions

1. The development hereby permitted shall not be carried out other than in complete accordance with the plans and specifications approved by the Planning Authority, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. The Badger Protection Plan approved in connection with the development approved under planning application 16/01430/FUL shall be adapted for the proposed site and submitted and approved in writing by the Planning Authority prior to the commencement of development. Thereafter, development shall be carried out wholly in accordance with the approved Protection Plan.
Reason: In the interests of preserving biodiversity.
3. Prior to the occupation of the development, a plan for the management and control of potential nuisances (including noise, odour, air quality, flies and other pests) that would be liable to arise at the site as a consequence of the development shall be submitted and approved in writing by the Planning Authority. The approved development shall operate in compliance with the

approved nuisance control management plan thereafter unless otherwise agreed by the Planning Authority.

Reason: To ensure that the operation of the poultry building hereby approved has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties, by ensuring that all potential sources of nuisance are appropriately managed and controlled.

4. No development shall commence until the full details of the finalised SUDS drainage scheme have been submitted for the written approval of the planning authority, in consultation with SEPA. The agreed scheme to be implemented in full thereafter, and completed prior to the occupation of the development.

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

5. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that demonstrates that the public mains water supply is available and can be provided for the development. Prior to the occupation of the building, written confirmation shall be provided for the approval of the Planning Authority that the development has been connected to the public mains water supply.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

6. No development shall commence until a new passing place to the specification details in Roads Drawing DC-1 has been provided at a location to be agreed with the Planning Authority between the existing access to the site and the B6460.

Reason: in the interests of road safety.

7. Prior to the commencement of development, detailed drawings showing required improvements to the access to the site which reflect the requirements outlined in Informative number 3 of this consent shall be submitted and approved in writing by the Planning Authority. Thereafter, the existing access shall be upgraded in accordance with the detailed drawings prior to the occupation of the approved building.

Reason: In the interest of road safety.

8. All planting, seeding or turfing comprised in the approved details of Drawing KW-142-ME 001-H shall be carried out in the first planting and seeding seasons following the occupation or completion of the development, whichever is the sooner, and the planning authority shall be advised once works are completed. Thereafter all planting, seeding and turfing shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

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

9. Prior to the commencement of development, further details of proposed screening mounds (including precise details of mound coverage and heights) shall be submitted and approved in writing by the Planning Authority. Thereafter, the development shall be undertaken wholly in accordance with the approved details and screening mounds fully formed prior to the occupation of the building, unless otherwise agreed by the Planning Authority.

Reason: To ensure the development is accommodated sympathetically into its wider surroundings.

10. No lorry deliveries or upliftings shall take place between the hours of 11.00pm and 6.30am on any day.
Reason: To safeguard the amenities the surrounding residential properties.
11. 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. The Unit shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason: To protect the residential amenity of nearby properties
12. No development shall commence until details of materials to be used on all exterior surfaces of the development hereby permitted have been submitted to and approved in writing by the Planning Authority. The development to be undertaken wholly in accordance with the agreed details thereafter.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
13. No external food storage bins/ silos shall be erected until details have been submitted to and approved in writing by the Planning Authority. The external food storage bins/silos to be erected wholly in accordance with the agreed details thereafter.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting.

Information for the applicant (informatives)

1. The applicant should be aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.
2. There is an overhead powerline within or near the eastern boundary of the site. The applicant should liaise with the relevant utility operator to ascertain whether or not the proposed layout would raise any concerns for the operator in case the latter would have any concerns about works within this proximity to the powerline.
3. With respect to condition 7 the Roads Authority's required dimensions and specifications are listed below:
 - The new access to be located where the existing field access is located.
 - The new access to have 5.5m throat width with minimum 8m radii.
 - Visibility splays of 2.4m by 90m to be provided in either direction
 - The first 5m of the new access to be surfaced to the specification below:

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.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary. There should be no unauthorised advertising signing, and the lay-by must be kept tidy and litter free.

4. Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of the SEPA website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at: Burnbrae, Mossilee Road, Galashiels, TD11 1NF, tel 01896 754797

DRAWING NUMBERS

Location Plan KW-142-ME 002 Revision F
 Site Plan KW-142-ME 001 Revision H
 Elevations 107MC-DR-0001 Revision P02
 Section Plan KW-142-ME 003 Revision B

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.

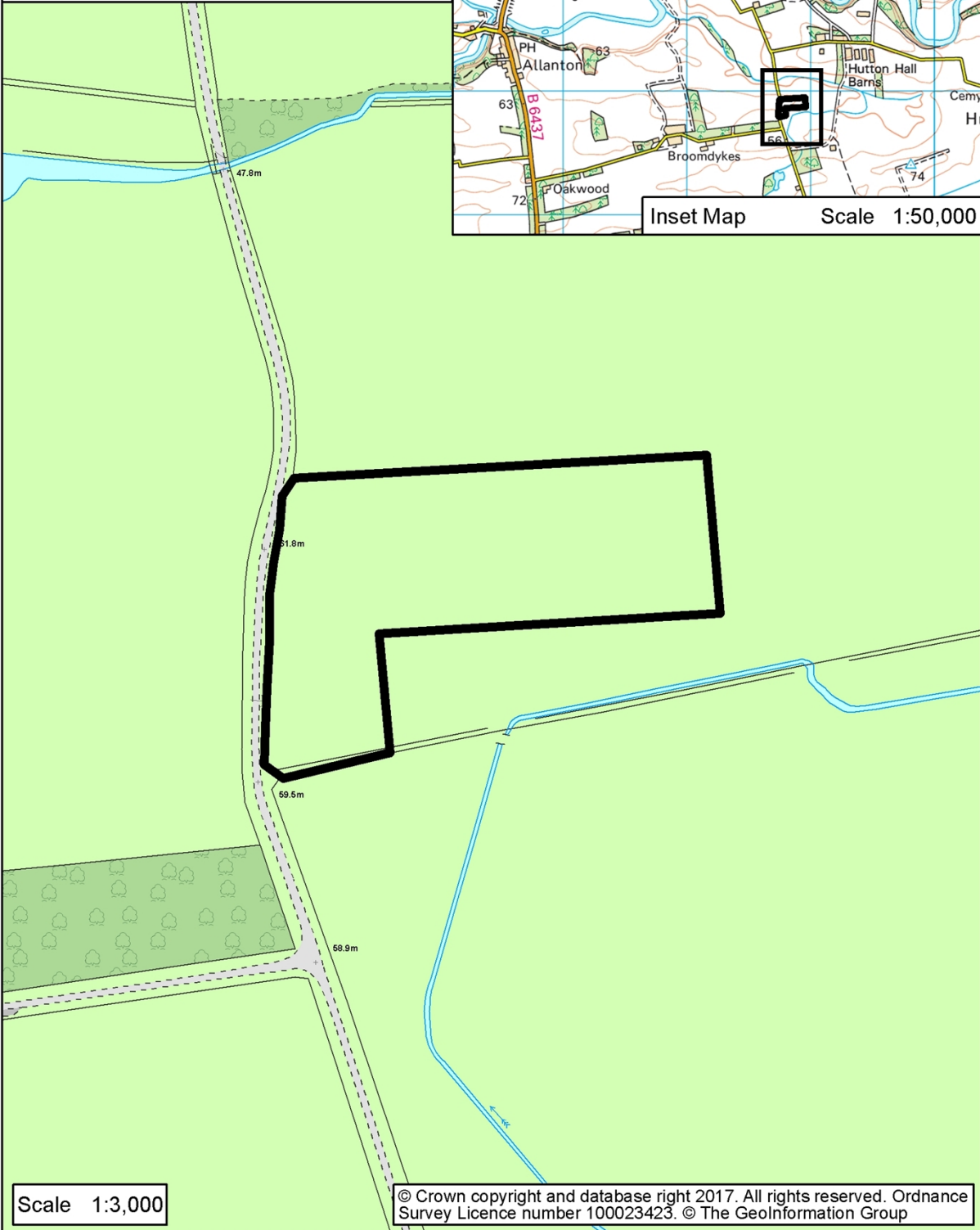
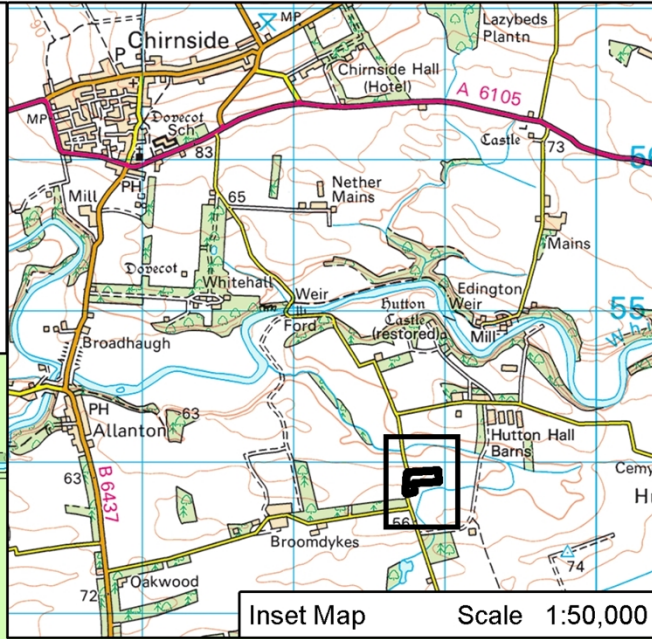
Author(s)

| Name | Designation |
|-------------|----------------------------|
| Paul Duncan | Assistant Planning Officer |



17/00623/FUL

Hutton Hall Barns
Hutton



Scale 1:3,000

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 17/00015/PPP
OFFICER: Mr C Miller
WARD: Tweeddale West
PROPOSAL: Residential development with associated supporting infrastructure and public open space
SITE: Land east of Knapdale, 54 Edinburgh Road, Peebles
APPLICANT: S Carmichael Properties Ltd
AGENT: Andrew Bennie Planning Ltd

SITE DESCRIPTION

The site is located at the north-eastern edge of Peebles, lying to the east and above the housing lining Edinburgh Road. It consists of 7.1 hectares of rough open grassland, formerly used as grazing, rising steeply from the back of the Edinburgh Road houses to the boundaries of the Venlaw Castle Hotel access road and the boundaries of houses within the Venlaw Castle building group as well as sporadic houses and a farm to the north and north-east of the site. The rising ground continues up to form Venlaw Hill. The drop from east to west through the centre of the site is approximately 36m at its greatest.

The site boundary is demarcated largely by post and wire fencing with woodland belts outwith all but the Edinburgh Road garden boundaries. There are also some mature trees towards the centre of the site which increase towards the south and south-east boundary. A burn runs within and along the northern boundary of the site adjoining the Venlaw Castle access road.

The site does not lie within the Peebles Conservation Area but is within both the Tweed Valley Special Landscape Area and the Venlaw Castle Designed Landscape. There are unscheduled archaeological features to the southern and western parts of the site in the form of cultivation terraces. Two statutorily listed buildings adjoin the site to the south-east (Venlaw Castle –B Listed) and to the north-west (Venlaw North Lodge – C Listed). The site lies wholly outwith the settlement boundary of Peebles as defined in the Scottish Borders Local Development Plan 2016 (LDP).

PROPOSED DEVELOPMENT

The application has been submitted for Planning Permission in Principle and, thus, there are no detailed layouts or numbers of housing units available or, indeed, required. Initially, the application was submitted as a red line around the 7.1 hectares of land with an access shown connecting with Edinburgh Road south of the burn and Venlaw Castle access road. This was then adjusted to include land to the north with the burn and section of access road now within the site. The relevant notifications were carried out of both additional neighbours and land owner.

A drawing was also submitted showing how an access might be achieved from a widened access road at the current junction with priority across the burn into the housing site, the Venlaw Castle road then diverting from the new access at a Give-Way. Walling to the south of the current junction would be removed with new radii and ghost islands and a central refuge would be intended on the A703.

The initial drawing indicated only the northern half of the site would be intended for housing (26 in total), the southern half being left as open space and enhanced with augmented planting. During the processing of the application, an indicative plan was produced demonstrating this in more detail with a no-development zone also being shown along the western boundary to the rear of the Edinburgh Road houses. New planting zones are shown along this boundary, along the site access road and between the main rows of houses. The development area is limited generally to the 8-15% slopes and away from the steeper slopes to the west and south.

These indicative plans are available to view in full on the Council's Planning Portal website. There are also statements, drawings and reports in support of the application, as follows:

Pre-Application Consultation Report – This outlines the statutory community consultation held during the PAN period and summarises feedback from those who attended the exhibition. Results taken from both verbal feedback on the day and completed forms. Main conclusions were that concerns over impact on local services could be mitigated by development contributions, access could be addressed at the next stage, landscape impact could be mitigated by new planting and design and the need for new housing has been demonstrated following the LDP Examination.

Planning Statement – considers that SBC have not demonstrated that the site should not be considered to meet the housing shortfall, that there are no adverse landscape impacts, no adverse archaeological impacts and that safe access can be provided. The application should be considered without prejudice from previous planning history. It can be considered effective as there is a willing owner and strong demand for housing in the area.

Landscape Capacity Assessment Report – this assessed the existing landscape character and baseline conditions, analysed the site in relation to visual receptors then prescribed mitigation to reduce or remove adverse effects. Whilst not a full Landscape and Visual Impact Assessment, similar methodology was used. The site characteristics, topography, designations and existing landscape structure were assessed and sensitive receptors identified from roads, houses and public locations across 16 viewpoints. Photographs from the viewpoints are shown. The effects were then categorised with most effects being graded as moderate or moderate/minor in significance. Mitigation is proposed to offset the effects involving new boundary and internal planting, avoidance of white renders, retention and augmentation of existing landscaping. Remaining effects were not felt to be significant, especially as new planting matures.

Landscape Response to SBC Landscape Consultation – dated 26 June 2017, believes SBC response is flawed as effects largely taken just from the A703 and the Rosetta development on sloping land elicited no objection. Feels Peebles is not a valley based settlement. Does not consider that the SLA and Designed Landscape designations prohibit development and that the access impacts and visual impacts on the slope can be mitigated successfully. Does not accept the SBC Landscape Capacity Study conclusions about prominence and sensitivity.

Cross Section Drawings and Engineer Letter – dated 9 March 2017 in response to the SEPA objection re flood impacts from the burn.

Indicative layout and landscaping plan with supporting email – dated 26 June 2017 showing 26 houses in the north-eastern part of the site with areas of open space, existing and proposed planting, road layout, access and drainage.

PLANNING HISTORY

A previous application for residential development on the site was submitted in 2008 (08/00436/OUT) and ultimately withdrawn after the site was not included in the Scottish Borders Local Plan approved amendments. It was then subsequently considered and discounted during the Local Development Plan process, including rejection by the LDP Examination Reporter. It was then promoted by the land owner again as part of the Supplementary Guidance (SG) on Housing but discounted at the first stage by the Department, thus not being included in the Draft SG as a preferred or alternative site.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Cannot support application and refers back to reasons expressed during previous withdrawn application and the Local Development Plan process. Considers there to be a proliferation of junctions in close proximity serving commercial and housing uses, including a garage, hotel and filling station. Visibility splays overlap leading to confusion of movements, indication, stacking distance inadequacy etc. Traffic created by the development will exacerbate the current situation and complete rationalisation of junctions is needed involving different owners before a reassessment of the objection can be made. The revised access layout with ghost island does not resolve the issues. There are also topographic constraints to achieving an internally connected layout as per “Designing Streets”.

Forward Planning: Cannot support as application against LDP Policy PMD4 and does not comply with the criteria set down for granting exceptions for development outwith settlement boundaries. In terms of any shortfall identified in the Housing Land Audit, the Supplementary Guidance on Housing has considered but not included the site in its aim to provide an additional 916 units, being discounted at the first stage. It was also discounted as part of the LDP process and rejected by both the Council and Reporter who determined the Proposed Local Development Plan Examination, the latter considering that the insufficiency of the housing land supply did not justify acceptance of the site and adverse impacts on character and visual amenity at this sensitive settlement edge. Includes an extract from the Reporter’s decision on the site which reasoned mainly on landscape fit, being within a Special Landscape Area and representing urban sprawl on rising land where the settlement is already well contained.

Education Officer: The development is within the catchment areas of Peebles High School and Kingsland Primary School, requiring contributions of £1051 and £7463 respectively, based upon management of capacity issues. Would allow the phasing of contributions but also states that contributions can change per year based upon the BCIS index.

Landscape Architect: Cannot support due to significant landscape and visual effects on a steeply sloping and prominent site. Identifies the site is part of the

Venlaw Castle Designed Landscape and within the Tweed Valley Special Landscape Area, also being 1.4km from the nearest part of the Upper Tweeddale National Scenic Area. Also refers to the 2006 SBC/SNH "Development and Landscape Capacity Study" which had a remit including landscape impacts of settlement expansion. This report identified how sensitive the west facing slopes of Peebles were in the north-eastern part of the town and concluded there was no capacity for new housing and settlement boundary expansion.

Comments on the applicant commissioned "Landscape Capacity and Visual Assessment Report" which selected 16 viewpoints within 2km of the site, but not the Manor Sware NSA viewpoint. Half of the viewpoints could expect significant visual effects. Whilst mitigation in the form of additional planting is noted, this is not demonstrated in development visualisations. Historically, development on higher land to the north-east has been limited and sporadic, conflicting with the character and nature of Peebles as a valley-based settlement. Mitigation is unlikely to be effective given the slopes and infrastructure requirements. The access alone will create a major gap in existing tree cover.

Responds to additional comments from applicant's Landscape Consultant but does not change opinion on the original valley-based character of the town or the inappropriateness of development on the application site which occupies sloping parkland. She particularly reiterates the impact across the town from the Manor Sware area and although she does recognise that some encroachment up slopes may happen as flat land runs out of supply, the application and Rosetta sites cannot be equally compared for reasons she sets out.

Housing Strategy: Not aware of it as a potential affordable housing opportunity but could provide 25% provision, of potential interest to an RSL prioritised through Strategic Housing Investment Plan procedure.

Estates Officer: Response awaited.

Archaeology Officer: No objections provided a condition is imposed seeking a field evaluation with trial trenching over 10% of the development area. To the south of the site are two cultivation terraces of prehistoric or medieval origin. Whilst unscheduled, they are protected by LDP Policy EP8 and although it is noted they are not intended to be developed with housing, landscaping intervention should be kept away. Interpretation of the terraces should also be secured by condition.

Flood Protection: Response awaited.

Neighbourhood Services: Response awaited.

Statutory Consultees

Scottish Water: Response awaited.

SEPA: Initially objected due to potential flood risk from small watercourse and its interaction with the Eddleston Water, seeking a Flood Risk Assessment or topographical and access information to show site is free from risk, would not affect other property and would be free from surface water flooding. Also expect SUDs principles to be used for surface water and foul to the public sewer network. Provides advice on sustainable waste management.

Following the receipt of access and cross section information, SEPA withdrew their objection provided conditions are attached to any consent. Accepts enough height difference between the burn and development exists but still requiring a condition to demonstrate flood-free access/egress and water crossings to convey peak water flows. Also recommends flood resilient measures and mitigation to protect the development from surface water flow but also not to increase flood risk elsewhere.

Peebles and District Community Council: Objects to application as site is outwith Peebles settlement boundary in LDP and application contrary to Policy PMD4. Considers public consultation exercise inadequate at PAN stage with little information and PAC conclusion flawed in respect of stating majority residents were supportive. Agree with objections of Civic Society. Land has agricultural past use and development against SBC biodiversity Policy. Sustains objection following more detailed plan dropping number of houses to 26, there being no “exception” justified.

Peebles Civic Society: Objects to application as the site will compromise the landscape character and setting of Peebles upon approach from the north, against the findings of the SBC Landscape Capacity Report. Opposes Applicant’s Landscape Capacity Study findings, believing new tree screening would be ineffective because of the slope and that visualisations of the actual development are lacking. Overall, disagree that the visual impact would be minor. Agrees with SBC that the site should be discounted from the Housing SG and that there is no pressing need, given other windfall sites such as Rosetta. The site is outwith the LDP boundary and access could cause road safety issues at the junction.

Sustains objection following more detailed plan dropping number of houses to 26, there being no evidence that the landscape setting would be mitigated. Still in agreement with SBC rejection of the site in the Housing SG.

REPRESENTATION SUMMARY

Letters of objection have been received to the application from the occupants of 84 properties. These can be viewed in full on the Public Access website and the main grounds of objection include the following:

- The site has been rejected on previous occasions in application and Local Development Plan form.
- Site still excluded from the latest Local Development Plan and lies outwith the settlement boundary, being neither an exception nor included in the Housing SG.
- There is no shortfall in the Housing Land Audit, the Council concentrating on development in the Galashiels/Kelso areas and any development in Peebles being mainly south of the river.
- Adverse landscape impact for reasons of -
 - on a rising town boundary which is parkland and agricultural
 - the impacts being underestimated by the applicant
 - against the SBC Development and Landscape Capacity Study
 - up valley sides and not contained in linear lower-lying character as existing
 - against the Reporter’s landscape ruling on the Examination into the LDP
 - against previous SNH advice
 - contrary to the Special Landscape Area designation
 - impact on views from viewpoints across the town and rural surrounds

- loss of trees and vegetation at the access and within the site
- Detrimental impact on recreational usage of the site by the community and loss of agricultural land.
- Adverse road safety impacts for reasons of –
 - The Edinburgh Road being increasingly busy, congested and with limited parking opportunities.
 - A concentration of housing, business and agricultural accesses in close proximity including Crossburn Caravan Site, Crossburn Farm Road, Harrison’s Filling Station and garage and Venlaw Hotel and houses.
 - The access point being inadequate, steep and dangerous in winter.
 - No safe access proposal has been advanced.
 - Additional strain on Tweed Bridge due to location of the High School.
- Increased drainage and flood risk impacts from the site, especially on the houses below and the Venlaw Burn and overall drainage capacity.
- Inadequate water supply.
- Detrimental impacts on the town economy, local tourist businesses and limited benefit from commuter housing.
- Town services cannot cope with increased demand, including schools and health care.
- Detrimental impacts on residential amenity, outlook and privacy due to proximity, height and noise nuisance.
- Adverse impacts on the archaeological interests to the south of the site.
- Remaining parts of the site would be under pressure for more development.
- Community Council and Civic Society object.
- PAC Report misleading in indicating general support for the development and local event was poorly publicised.
- Detrimental impact on local wildlife.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

- Policy PMD1 Sustainability
- Policy PMD2 Quality Standards
- Policy PMD4 Development Outwith Development Boundaries
- Policy HD2 Housing in the Countryside
- Policy HD3 Protection of Residential Amenity
- Policy EP3 Local Biodiversity
- Policy EP4 National Scenic Areas
- Policy EP5 Special Landscape Areas
- Policy EP7 Listed Buildings
- Policy EP8 Archaeology
- Policy EP10 Gardens and Designed Landscapes
- Policy EP13 Trees, Woodlands and Hedgerows
- Policy EP15 Development Affecting the Water Environment
- Policy IS2 Developer Contributions
- Policy IS6 Road Adoption Standards
- Policy IS7 Parking Provisions and Standards
- Policy IS8 Flooding
- Policy IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS

SESplan Strategic Development Plan 2013
SSG: Housing Land
Scottish Planning Policy
National Planning Framework

“Affordable Housing” SPG
“Biodiversity” SPG
“Trees and Development” SPG
“Privacy and Sunlight” SPG
“Placemaking and Design” SPG
“Development Contributions” SPG
“Landscape and Development” SPG
“Local Landscape Designations” SPG
“New Housing in the Borders Countryside” SPG

SBC/SNH “Development and Landscape Capacity Study”

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Local Development Plan Policies and Supplementary Planning Guidance on development outwith settlement boundaries, impacts on landscape, residential amenity, road safety, archaeology and the water environment.

ASSESSMENT OF APPLICATION

Planning Policy

The application site lies wholly outwith the settlement boundary for Peebles as defined within the LDP. Policy PMD4 “Development Outwith development Boundaries” is, therefore, the most relevant Policy to be applied to the site which states that any development should be contained within that defined boundary and that any development outwith will normally be refused.

Before assessing the application against PMD4, it is important to consider the planning history and material factors that have contributed to repeated rejection of the site as either a suitable site for housing allocation or as a natural addition to the settlement boundary in this location. The agent considers that “...*the fact that this or indeed any other site, may not have been supported for development in the past, this does not in and of itself present a for all time impediment to the potential future development of such sites*”. They consider that the Council have failed to provide any detailed explanation for the exclusion of the site from the Finalised Housing SG and that they feel the only way for a full and thorough examination of the proposal is through consideration of a planning application.

Whilst it is understood that the assessment of the planning application is not an assessment of previous Council or Reporter decisions in rejecting the inclusion of the site within the Peebles settlement boundary, they are, nevertheless, significant material planning decisions to be taken into account and, in particular, the reasons for the non-inclusion of the site. It would obviously be correct to analyse those reasons for non-inclusion against this current planning application and in the light of any revised or new information submitted and against the context of consultation responses and representations received.

The Forward Planning consultation response sets out the history of the submission and consideration of the site through recent years of the Local Plan and LDP process. It was initially withdrawn as a planning application in 2008 and then rejected by the Reporter who held an Examination into the Local Plan Amendment, stating *"...irrespective of the strategic housing target,the site is not suitable for housing and the local plan amendment should not allocate the land for that purpose"*. Following further attempts to seek inclusion of the site within the "Call for Sites" procedures leading up to the LDP, the response from Forward Planning details why the site was not included within the settlement boundary at any of these stages – principally for landscape, access, archaeology and topographical reasons. They also state that the SBC/SNH Report "Development and Landscape Capacity Study" identified the site as constrained.

The Reporter who held the Examination into the LDP, considered that solutions to archaeological and access constraints may be possible but that there was no ability to overcome the issue of landscape fit within a newly designated Special Landscape Area. He concluded that *"...I agree with the council that the existing settlement is well contained at this point by rising topography to the east. I found that to be a very attractive feature of this important vehicular entrance to the town. Development of the site is likely to lead to the appearance of urban sprawl ascending the higher land to the east. I conclude overall that the potential benefits of increasing the land supply by allocation of this site are outweighed by the likely significant adverse impact on the character and visual amenity of this sensitive settlement edge location"*.

Following rejection of the site within the adopted LDP, it was submitted again as part of the "Housing" SG process whereby the Council were required to find sites for over 900 additional houses throughout the Scottish Borders. The agent is especially concerned at the site being rejected at Stage 1 of this process, believing that this was only a high level exercise by planning officials without any assessment by internal or external consultees as witnessed in Stage 2. The agent feels that the conclusions leading to the site's continued exclusion cannot, therefore, be justified. The site was confirmed as being excluded from the SG when the Council approved it at its meeting in August this year.

It is not for this report to assess the adequacy or veracity of the "Housing" SG methodology in terms of Stage 1 assessment processes. For further information, however, Forward Planning have provided additional information which demonstrates that an initial stage 1 RAG (red, amber & green) assessment was undertaken for all sites submitted as part of the "Call for Sites" Process and that the applicant's submission was taken fully into consideration. All sites were assessed against 14 criteria, the criteria being in line with the policies contained within the LDP and Policy 7: Maintaining a Five Year Housing Land Supply in SESplan. 111 sites were identified as Red (including the application site) and the assessment conclusions were recorded in the site assessment database.

The facts are that the site continues to be rejected at all stages in the LDP process and Members should be aware of this. What is important in assessing this planning application is to both be fully aware of the LDP position and history with regard to the site but also ensure that all material issues are assessed as they now stand, including the submission of any additional or enhanced information and whether there have been any Policy or other changes that would have a bearing on the determination of the application.

Policy PMD4 will normally reject applications outside the defined development boundary unless one or more qualifying criteria can be met. Only then, would

secondary criteria then also need to be met. The main qualifying criteria are discussed as follows:

A job generating development with economic justification

No information has been submitted in support of the application to demonstrate any compliance with this criterion nor is it particularly advanced by the applicant or agent. They state that there is a willing landowner to deliver housing on the site at an early opportunity without any external or public funding being sought to deliver it. Whilst a new housing development will deliver construction employment opportunities and, thereafter, will feed into the local economy through additional population, it is not, in itself, a job-generating development meant in the context of this criterion.

An affordable housing development

The agent has not stated that this will be an affordable housing development. Whilst, if approved, there would need to be a 25% unit provision on site, this criterion refers to a wholly affordable housing proposal which is not the case with this application.

A housing shortfall identified by the Council in the Housing Land Audit in provision of an effective five year land supply

This is the main criterion that the applicant and agent consider is met by their proposal, considering that their site could provide a useful contribution to the 916 unit shortfall that was identified following the LDP Examination. They do not consider that the inclusion of the site was sufficiently or adequately considered in the subsequent Housing SG process and that they have demonstrated that the four main areas of concern are addressed by their current application – landscape, archaeology, access and the site’s planning history. This report will analyse whether this is the case and will conclude, with the exception of archaeology, that the development still contravenes landscape and access policy and that the previous rejections of the site are material factors in the determination of the current application.

The Housing SG process has now reached the stage whereby the Council has approved it for notification to the Scottish Government. Sites have been identified across the Scottish Borders to meet the identified shortfall and the Venlaw site is neither included nor demonstrated as necessary. As previously mentioned, it is not for this report to examine the criticisms of the Housing SG assessment process or methodology. The fact is that the site has been excluded and reasons were given for that exclusion. With the exception of archaeology, those reasons are verified within the assessment of this planning application as still being applicable and not overcome by the proposals and supporting information.

This criterion of Policy PMD4 is, therefore, not met by the proposal.

Significant community benefits outweighing the need to protect the development boundary

There has been nothing advanced within the application to suggest that this criterion would be met. Whilst it is stated there is a willing landowner and that no public funding will be needed, the landscape and access impacts together with the need to contribute to meeting the impacts on local infrastructure and services, determine that there are no significant community benefits arising from the development which would outweigh the need to protect the development boundary.

Only one of the four qualifying criteria would need to be met under this Policy to then consider it as an exceptional approval outwith the settlement boundary, against

which secondary criteria would then need to be applied and met. As none of the qualifying criteria are met, the secondary criteria cannot be applied or considered regarding the proposal. Nevertheless, of those criteria which relate to logical settlement extensions, character of the built-up edge and adverse effects on the landscape setting of the settlement, it would be unlikely that the proposed site would meet one or more of these secondary criteria. Similarly, of the three matters that would be taken account of in deciding whether to grant an exceptional approval, the settlement profile for Peebles identifies the strong landscape framework of the town and singles out how it nestles into Venlaw Hill and on the flatter land towards the Eddleston Water. There is, therefore, further reason within one of the additional matters to be taken account of under Policy PMD4, not to grant an exceptional approval for development in this instance.

Landscape

The site is covered by two local landscape designations, namely Venlaw Castle Designed Landscape and the Tweed Valley Special Landscape Area, covered by respective LDP Policies EP10 and EP5. The Council Landscape Architect describes the landscape features and extent of the two designations and then refers to the SBC/SNH "Development and Landscape Capacity Study" which looked at 11 settlements, including Peebles, especially for landscape character around settlements and what housing development/expansion may be appropriate in landscape fit. The Study identified that the west facing slopes of the Eddleston Water (including the site) have a high sensitivity to new housing development and settlement boundary expansion. This was due to the steep slopes providing a robust settlement edge and a well-defined sense of containment for the town, these slopes being visible from a number of different locations. The Study concluded that there was no opportunity for settlement expansion in this part of Peebles, including the application site.

This background has also been repeated in the Forward Planning response and is probably the main factor in why the site has not been included in the Local Plan Amendment, Local Development Plan or Housing SG. The applicant and agent have addressed this landscape resistance by having a separate Landscape and Visual Capacity Assessment prepared and this is available to view in full on the Public Access web site. This undertakes the following:

- assesses the local landscape of the site and its setting in landscape terms;
- evaluates the available views to and from the site and the way in which the site is perceived in its landscape context; and
- assesses the effects of development in landscape terms, on the character and composition of the landscape.

The Assessment uses 16 separate viewpoints of the site, all within 2km of the site, the majority being within 1km of the site and contained within the western lower lying housing areas, west of the Eddleston Water. Some more elevated viewpoints to the west are also utilised including Peebles Golf Course, Rosetta Holiday Park and rights of way in the vicinity. Taking into account the sensitivity of receptors, it concludes that moderately adverse and significant effects would occur over half of the viewpoints, especially the viewpoints from outwith the built up boundary to the west, north and looking down on the site from the east.

However, the Capacity Assessment then considers that with judicious structural landscaping and design principles, the landscape and visual effects can be reduced to acceptable levels. It recommends:

- internal and enhanced boundary planting structure, where required, to filter views into the site from sensitive visual receptors
- avoid use of white renders on housing
- appropriate landscape structure to help integrate and strengthen the new urban character into the existing landscape
- retention and protection of any significant landscape features or elements which provide a positive contribution to the site and its setting
- enhance the existing retained vegetation around the Site while increasing the biodiversity and ecology of the landscape.

The Assessment concludes by stating:

“....development will have a minor visual effect on the wider landscape when seen in the context of the existing settlement. On views from the immediate local landscape within the short term (5-10y) there would be a residual Moderate effect on views from residential and recreational receptors directly adjacent to the site. As the landscape matures (10-15y) the mitigation measures proposed would successfully absorb development into the landscape and reduce these residual effects to a moderate to minor and, in many cases, minor residual effects.”

Members will note that the Council’s Landscape Architect has a different interpretation of the findings of the submitted Assessment, her response being available in full on the Public Access system. It is noted that the viewpoints do not include an important public viewpoint at Manor Sware to the south-west of the town just over the 2km range and on the edge of the Upper Tweeddale National Scenic Area. It is also noted that the submitted report does not include any visualisations of how a housing development on the upper slopes of the site would appear, nor how structural planting would achieve the level of screening and integration suggested in the submitted Assessment.

The Landscape Officer reiterates the background of the SNH/SBC Landscape Capacity Study that Peebles has developed on the valley floor and is contained by slopes rising to prominent summits, especially to the north-east where Policy parkland contributes greatly to the setting and amenity of the town. It is felt that the submissions do not address concerns over the town developing up steeper slopes, changing the character of what is basically a valley-based settlement.

It is felt that there are other locations around the town that could be developed and that development on such a prominent slope should be avoided. The submitted Assessment mitigation proposals are unlikely to reduce the impacts of the development and infrastructure, given the slope and presentation of view to the western parts of the town and its surrounds. The Landscape Officer believes that the access point will have a detrimental impact on the local landscape due to engineering works, widening and tree removals. She concludes, in line with the SNH/SBC Landscape Capacity Study, that the application should be opposed due to the steeply sloping and prominent nature of the site and the potentially significant landscape and visual effects.

There is no reason not to accept the SBC Landscape Architect’s findings following assessment of the application and the agent’s submitted Landscape Report. This is

entirely in line with previous findings following the SNH/SBC Landscape Capacity Study and, indeed, the Examination Reporter who saw sufficient concern in encouraging urban sprawl up the slope that this was the main reason why the site was excluded from allocation. All that has changed in the interim is that there has been a requirement for the Council to identify more housing land and that the applicant has submitted their own Landscape Report. There is no demonstrated justification to outweigh the landscape and settlement boundary concerns in this location in order to fulfil a housing demand which is being adequately met elsewhere.

As mentioned in the SNH/SBC Report and by the Examination Reporter, Peebles has a very strong and robust edge to the north-east, the Edinburgh Road linear pattern of the houses, their low-lying level and the steeply rising parkland to the rear all contributing to this strong definition. The submitted Landscape Assessment by the agent underestimates the significance of change to this strong edge, especially to houses within the Dalatho/Rosetta Road/Kingsland Square areas where visual significance is portrayed as less than it perhaps should be. Indeed, there are no viewpoints from the Dalatho Crescent area.

Living and moving around in that part of the town, the parkland slope up to the Venlaw Castle wooded driveway is a significant, dominant landscape feature to residents and road users in that part of Peebles and at much closer quarters than many of the other Viewpoints from further west where significant effects to recreational users were identified. It is not fully understood why the impacts from such viewpoints are considered as Minor yet Viewpoint 16 on the approach from the north is rightfully identified as Moderate. Furthermore, the necessary buffer space on the lower parts of the slope to protect the amenity of the Edinburgh Road houses will simply emphasise the undue elevation of the houses and their detachment as a natural settlement edge addition, when viewed from across the town.

The agent's Landscape Consultant has responded to the Council Landscape Architect response and this is also available to read in full on the Public Access portal. The main issues are the Consultant's belief that too much emphasis is placed on assessment only from the A703, disagreement with the town being valley-based and the fact that he considers development is now ascending the slopes, especially with regard to the recent decisions to approve housing development within the Rosetta Caravan Site. His response was also backed up by an indicative layout with landscaping showing 26 houses contained to the north-eastern part of the site.

These comments and layout proposals have not changed the opinion of the Landscape Architect on the original valley-based character of the town or the inappropriateness of development on the application site which occupies sloping parkland. The response is also available to view in full on the Public Access portal. She particularly reiterates the impact across the town from the Manor Sware area and although she does recognise that some encroachment up slopes may happen as flat land runs out of supply, the application and Rosetta sites cannot be equally compared. It is not just a matter of simple elevation above ground but also visibility, grade of slope, pattern of nearby town development and settlement edges etc. The housing elements were also wholly contained within the defined LDP settlement boundary. Insufficient justification has therefore been submitted to demonstrate how the Rosetta development could be compared to the Venlaw site and it is considered that such a comparison should not hold any significant weight in the final decision on the application's landscape and visual impacts.

The landscape impact has been expressed through the previous planning history iterations of proposed development on this site, backed up by the findings of the

SNH/SBC Landscape Capacity Study and by previous reporter decisions. These are also concerns expressed by many of the objectors and also strongly by the Community Council and Civic Society. Whilst the agent Landscape Capacity report and follow-up comments are noted and have been considered fully, there is no reason not to accept the advice of the Council Landscape Architect and reflect previous expressed concerns that the development of this site should be opposed on grounds of significant landscape and adverse visual impacts, within designated landscape on a sensitive edge of the town settlement boundary and against LDP Policies PMD2, PMD4, EP5 and EP10.

Residential Amenity

A number of residents, especially those along the eastern edge of the Edinburgh Road, have expressed objections over the impact to the enjoyment of their amenity, concerned about outlook and privacy in particular. Obviously, whilst their main outlooks will be onto the Edinburgh Road, the busy nature of that road will lead to a heightened expectation of privacy and amenity from their rear windows and gardens. Residential amenity is assessed within LDP Policy HD3 together with the associated "Privacy and Sunlight" SPG.

During the processing of the application, the location and extent of the potential development area has been reduced to react to concerns over archaeological and landscape impact, but also to residential amenity. Whilst the land constantly rises steeply from the rear of the Edinburgh Road houses to the Venlaw Castle access drive and beyond to Venlaw Hill, there is a slightly shallower area of contours to the north-east of the site where it is indicated that 26 houses could be developed within internal landscaping belts and external structure planting.

Although the height differences between the new and existing houses, windows and gardens would be significant, it is likely that Policy and buffer distances within the SPG would be contravened had any development been proposed immediately to the rear of the existing houses in the north-west part of the site. If that had been the case, acceptable daylight, sunlight and privacy distances may have been difficult to achieve in line with Council guidance. However, given the additional information submitted during the processing of the application which indicates that the applicant would accept a "no development" buffer to the rear of the Edinburgh Road houses, the residual effects are of change in outlook, some dominance of visual impact (for the first part of the development where the access road enters the field), loss of informal recreational use of the land and an increase in noise and light pollution, during construction and then in use of the houses. None of these residual effects suggest that a suitably low-density, low-rise, distanced and landscaped development would lead to such adverse impacts that refusal would be justified on residential amenity grounds, even allowing for the elevation of the ground. Had the development been supported for other reasons, then these matters could have been controlled by appropriate planning conditions.

Access

If the development site had been considered to be acceptable under LDP Policy PMD4 as a justified exception to that Policy, then Policies PMD2 and IS6 require safe access to and within developments, capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets". PMD4 also requires consideration of the service and infrastructure capacity of the settlement, in assessing whether to grant exceptional approvals or not. PMD2, in particular, has an "Accessibility" section of five criteria to be met, including integration

into existing street layouts and no adverse impacts on road safety, both at the site entrance and on approaches to it.

Although there has been local objection from residents relating to the overall roads capacity of Peebles and, in particular, the additional burden of new housing and trip generation on the Tweed Bridge to access schools and employment sites, there has been no objection from Roads Planning in that respect. Had the application been acceptable, then development contributions towards the bridge fund and traffic management in the town would have been sought at a rate of £1000 per residential unit to offset the perceived impacts to some extent.

The major issues with access are in relation to road safety at the intended access point and, to a lesser extent, the challenges of securing a “Designing Streets” layout on such a sloping site. During the processing of the application, the access point changed slightly from a potentially separate access immediately south of the Venlaw Castle access to an improved access point using the actual Venlaw Castle access road. This would be improved to a double width carriageway with widening on the southern side, wall repositioning and new radii. The access would run in at 90 degrees before curving into the site, retaining priority with the remainder of the existing properties served by the track joining at a give-way junction. On the A703, ghost island markings and a right hand turning reservation are suggested. Whilst the application remains a PPP, the details are provided to show how the access issues may be overcome.

Roads Planning do not accept the application for reasons of road safety due to the increased traffic generation on an area of “A” class road where various junctions proliferate, serving houses, a commercial garage and filling station, caravan site and working farm. They also point out the amount of on-street parking in the vicinity and the overlapping of visibility splays. There is conflict with stacking traffic and confusion over indications to turn into junctions, exacerbated with the application traffic generation. Many objections have been received from third parties on this matter, including operators of the garage, caravan site and farm.

Roads Planning have considered the aforementioned junction details which were subsequently submitted but do not believe that the ghost islands and right hand turning area solve the problems adequately and potentially would create further issues. The only way they would drop objections would be if there was co-operation between junction and business/housing owners to completely rationalise junction arrangements in this location. There is nothing submitted from the applicant or agent to suggest this is a realistic prospect and, indeed, there have been objections from some of the major users of the junctions. Whilst the agent rightfully comments that the Examination Reporter felt “...a technical solution could be arrived at which would facilitate some development on the site”, he also recognised that there were difficult conditions for drivers and pedestrians arising from the number of access points and that addition of significant development could give rise to further complications. The most he offered was that a technical solution may be possible to facilitate “some” development.

There is no evidence before us to believe that such a technical solution would be achievable, despite further meetings between the agent and Roads Planning. On the basis of the current position and information available, including land ownership restrictions, it is considered that the development could not be accessed without significant road safety issues, contrary to the relevant parts of LDP Policies PMD2 and IS6. Whilst there are also doubts over the gradient of the site making a layout possible that would be compliant with “Designing Streets”, this would need to be

demonstrated at the next planning stage and could not be used as justification to oppose a PPP application. An indicative layout was submitted with the landscaping response to the SBC landscaping comments and whilst this may have shown limitations in relation to connectivity and “Designing Streets”, there would be no reason why it could not be developed and improved upon had the development been acceptable in other respects. It is concluded that the application should be opposed for road safety reasons.

Cultural Heritage

Local Development Plan Policy EP8 refers to development that could adversely affect archaeological assets. It states that any development creating an adverse effect on assets or their setting will be weighed up against the benefits of the proposal and consideration of any mitigation strategies. In the case of this development, whilst the application site boundary contains two cultivation terraces to the southern half of the site, other drawings suggest that the “developable” area would be limited to the northern half of the site, away from the terraces. Para 4.21 of the agent’s Planning Statement confirms that the avoidance of any physical development within the areas of interest would allow their protection. The agent also believes that any unknown archaeology within the part of the site to be developed could be handled by appropriate conditions.

The Council Archaeologist identifies the terraces as being of prehistoric or medieval origin and believes that preservation or investigation is necessary as per LDP Policy EP8. He notes that the terraces are being kept away from the housing development but also that there may be landscaping carried out within the retained area. He considers that the retention of the terraces can be controlled by a condition, ensuring no landscaping or other intervention works are allowed that would disturb them. The same condition could cover interpretation of the terraces and exploration of any unknown archaeology in the northern developable area.

Although there are also objections expressed by residents on archaeological impacts, the Council Archaeologist considers the impacts can be addressed by a suitable condition, thus this would not be a material factor in the determination of the application.

Local Development Plan Policy EP7 requires new development to safeguard and respect the setting of statutorily listed buildings, two bordering the site to the south-east and north-west. Given the scale, orientation and roadside position of the C-listed Venlaw North Lodge to the north-west of the site, it is not considered that the suggested development would impact significantly on any setting, albeit there would be an increase in junction standard and road width and a slight urbanisation at the junction. The greater impact could have been on the setting of Castle Venlaw which is B-listed to the south-east of the site. However, the preservation of the cultivation terraces and a developable area being restricted to the north-east of the site allows appreciation and sufficient preservation of buffer space and setting of the building to remain. Impacts on the associated Designed Landscape are considered elsewhere in this report.

Drainage

LDP Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Whilst there have been third party concerns expressed over drainage capacity within Peebles, there has been no response from Scottish Water to suggest this would be an insurmountable issue.

There had been an issue a few years ago but Scottish Water was studying this matter and there has been no recent information to suggest capacity would be a determining factor on this application.

Of more relevance to the proposals is the potential impact of the sloping site on properties at the lower level along Edinburgh Road and the Venlaw Burn to the northern boundary of the site, in terms of surface water run-off and potential flood risk. Many local residents have raised these potential issues and, initially, SEPA had objected, being concerned not only about flood risk to existing and proposed properties, but also to the Venlaw Burn and its interaction with the Eddleston Water. They felt that a Flood Risk Assessment or other appropriate information should be submitted to address their objections.

A series of cross sections showing the Venlaw Burn were subsequently submitted together with a typical site access arrangement. SEPA considered that this information demonstrated there was sufficient level difference between the site and the burn to remove their objections over the site being at flood risk from the burn. However, they still felt the access had not been demonstrated to be safe and flood free and that they would still object unless a suitable condition was imposed to demonstrate and secure this. Similarly, they would want a condition to ensure any water crossings could convey sufficient storm water. Furthermore, they advise that careful attention to drainage within the development was needed to cater for the slope, run-off and impacts on existing and proposed properties. The Council's Flood Protection Team has also been consulted and any additional requirements or comments will be reported to Members at the Committee.

Whilst the drainage of the site would not be without issues, connected with the steep slopes, surrounding houses and Venlaw Burn, there is no evidence to suggest that they would be issues that could not be overcome with careful and appropriate design, controlled by conditions. It is not, therefore, considered that drainage and flood risk are material issues in the determination of the application and that LDP Policies IS8 and 9 could be addressed satisfactorily if the application was to be approved.

Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. These include perceived impacts on the local economy, water supply and wildlife. The criticisms of the PAC report reflection on local expression of views is a matter of interpretation and should carry little weight, compared to the weight attached to the representations received on the planning application.

Developer Contributions

Local Development Plan Policy IS2 requires new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. This development, if approved, would require on-site affordable housing provision at a rate of 25% of the total number of units, given that the total housing numbers would be above the 17 house on-site threshold. There would also be financial contributions required towards Peebles High School, Kingsland Primary School and Peebles Bridge/Traffic Management in the town. Although local concerns are raised about other infrastructure capacity issues such as health provision, there is no identified requirement for other contributions. If Members are minded to approve the planning application, consent can only be issued upon conclusion and

registration of an appropriate Legal Agreement to secure the aforementioned contributions.

CONCLUSION

In conclusion, the application site lies outwith the defined settlement boundary of Peebles and insufficient reasons have been given as to why an exceptional approval would be justified. Development would also create significant adverse landscape and visual impacts on a designated, prominent and sensitive rural edge of the town settlement boundary. It has also not been demonstrated that the development could be accessed safely on the A703 and at the junction with the proposed access road.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is refused for the following reasons:

1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the site lies outwith the defined settlement boundary of Peebles and insufficient reasons have been given as to why an exceptional approval would be justified in this case.
2. The application is contrary to Policies PMD2, PMD4, EP5 and EP10 of the Scottish Borders Local Development Plan 2016 in that the development would create significant adverse landscape and visual impacts, within a Designed Landscape and Special Landscape Area on a prominent and sensitive edge of the town settlement boundary
3. The application is contrary to Policies PMD2 and IS6 of the Scottish Borders Local Development Plan 2016 in that it has not been demonstrated that the development could be accessed without significant detriment to road safety on the A703 and at the junction with the proposed access road.

DRAWING NUMBERS

Amended Location Plan
Access Drawing 000000-PEV-XX-XX-DR-C-0006
Indicative Layout and Landscaping 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.

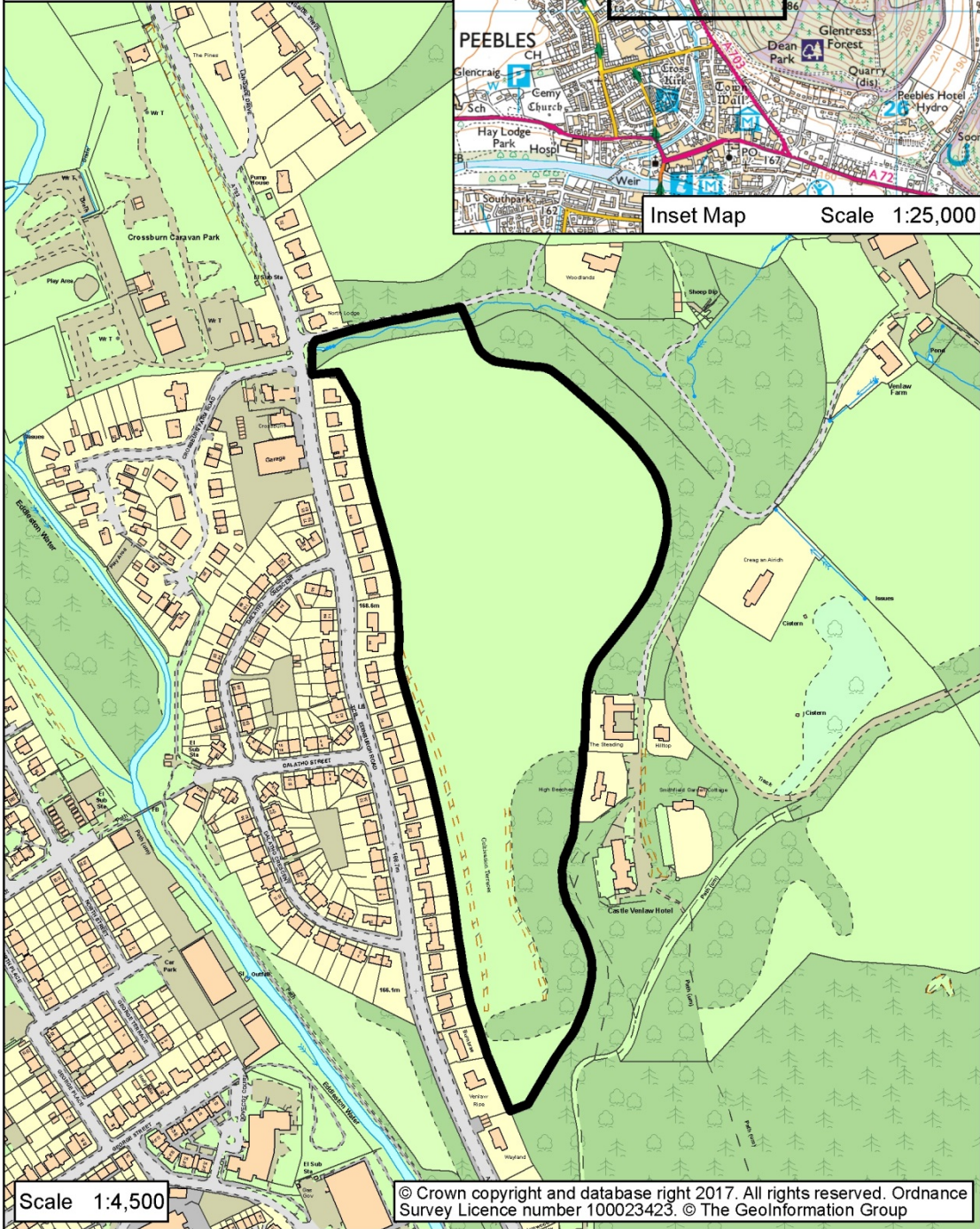
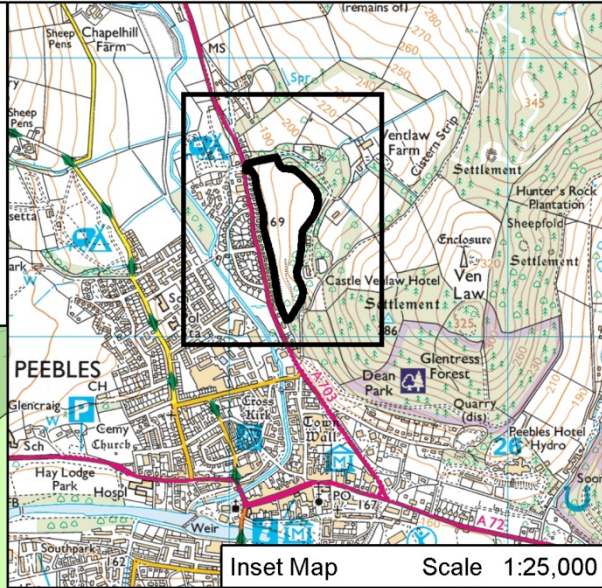
Author(s)

| Name | Designation |
|--------------|----------------------------|
| Craig Miller | Principal Planning Officer |



17/00015/PPP

Land East Of Edinburgh Road
Peebles



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/01055/PPP
OFFICER: Andrew Evans
WARD: Leaderdale and Melrose
PROPOSAL: Erection of dwellinghouse
SITE: Land South And East Of The Schoolhouse, Blainslie, Galashiels, Scottish Borders
APPLICANT: Mr Nicholaus Green
AGENT: None

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application is presented for consideration by the Planning and Building Standards committee due to the submission of a "Member Referral" Form, countersigned by 5 elected members. The material planning reasons for this referral are stated as being:

"The determination of this application is likely to revolve around Housing in the Countryside policies and the nature and extent of an existing building group. It is considered that the decision will benefit from an open debate of the issues by the Planning Committee."

SITE DESCRIPTION

The site is located to the south of Nether Blainslie and measures just under a hectare in area. The site is outwith the development boundary of Blainslie set out in the Scottish Borders Local Development Plan (2016). The land to the rear (south and east) of the site is notionally agricultural land; however it is understood not to be in agricultural use at present. The "Old School" and "Old School House" detached dwelling houses sit adjacent and to the north east corner of the site, adjoining the minor road to the west, with an agricultural track running east to west along the northern side of these existing dwellings.

The application site is generally level, with a modest slope away from the minor Blainslie road that runs north to south along the western boundary of the site. Small watercourses follow both the northern and southern perimeter of the site. South west of the site is located the "mid-dubs" bridge over the minor Blainslie road.

PROPOSED DEVELOPMENT

The application seeks planning permission in principle for the erection of a single dwellinghouse, garage and associated outbuildings. No exact details of the house design are given; however an indicative plan accompanies the application, showing a house positioned in line with, and down slope from, the buildings at "The School" and "The School House".

PLANNING HISTORY

Application 05/00880/OUT, for erection of a dwelling on this site was refused by the then Eildon Area Committee for the following reason:

"The proposal is contrary to policies H5 and H6 of the approved Structure Plan, policies 7 and 8 of the Ettrick & Lauderdale Local Plan and the Housing in the Countryside Policies and Guidance Note in that the site lies outwith any settlement or building group and the need for the house has not been adequately substantiated."

REPRESENTATION SUMMARY

Members are reminded that all comments received to the application are available to view in full on the Public Access website. No objections were received to the application. A substantial body of written and emailed support was lodged to this application. At this time of the finalisation of this report, a total of 15 separate supportive emails had been lodged.

This included a submission from the immediate neighbours who wrote to advise they considered the proposed development acceptable.

Several of the submissions simply selected the option "*Customer made comments in support of the Planning Application*" and then made no further comment. Of the contributors who did comment in further detail, a summary of the submitted comments would be as follows:

- Actively support appropriate residential development in our proximity.
- This application does meet with local planning policy
- This is an appropriate residential development for Blainslie
- The house will contribute to the long term sustainability of the community.
- The proposal makes good use of the plot
- In time the proposal will minimize the pressure on home buyers in the area due to a family home shortage.
- The proposals outlined within the application are modest but sensitive to the site and considerate to its neighbours.
- There is a strong emphasis on environmental sustainability.
- The proposals appear sympathetic to planning policy.
- This is exactly the sort of development that should be strongly encouraged by the local authority.

APPLICANTS' SUPPORTING INFORMATION

Correspondence was received from the applicant, clarifying the following points:

- Supporting Statement: This sets out in depth the applicant's consideration of the site, in terms of issues and planning policies applicable.
- Trees: An overview tree survey and Arboricultural Assessment was undertaken by Donald Roger Associates Ltd. The applicant also confirmed mature trees principally fall on the boundary edges of the plot rather than within it, therefore it is not envisaged that any trees will need to be removed in order to develop out the site for the proposed use.
- Development contributions: The applicant confirmed that the identified contributions would be met via legal agreement.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: The Roads Planning Service has previously recommended refusal of new dwellings served directly off the minor public road. However Roads Planning is able to offer support to this proposal given its close proximity to the minor D class road which links onto the A68. The following must be included in any subsequent detailed application:

- The access to the site to be by way of a service layby DC-3.
- Two parking spaces, not including any garaging, and turning to be provided within the curtilage of the site.
- Visibility splays of 2.4m by 120m be provided in either direction at the junction onto the public road.

Education: The site is located within the catchment area for Lauder Primary School and Earlston High School. A contribution of £7,463 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £10,891.

Archaeology: There are potential implications for this proposal, however the Archaeology Officer does not feel these merit mitigation. There is a low potential that sections of a nearby Roman Road will exist within the property, along with evidence of quarrying. It is recommended that an applicant informative is added to any grant of consent in the event that potential archaeological deposits or features are encountered.

Access Officer: According to our records there are no known Core Paths / Promoted Paths / Rights of Way that are directly affected by this proposal. The Access Team have no objections to make regarding the application.

Ecology Officer: The site appears from aerial imagery and the photographs provided to consist of poor semi-natural or improved grassland with mature broad-leaved trees and hedgerow around the boundary. Habitats within the site have potential to support protected species such as bats, badger and breeding birds.

It is recommended that a proportionate Ecological Impact Assessment and Species Protection Plans are required to be submitted to and approved in writing by the Planning Authority before development.

Flood Protection Officer: Review of the application shows that the proposed site is out with SEPA's 1 in 200 year flood extent. However, there are small watercourses following both the northern and southern perimeter of the site which are a potential source of flood risk. Review of the information provided with the application shows that the area proposed for development is some distance away from small watercourse(s) so the FPO has no objection on the grounds of flood risk. It is recommended that ground levels surrounding the dwelling be designed to convey overland flow away from the development and drainage measures should be considered to intercept overland flow.

The applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

Landscape Architect: On landscape and visual grounds there are no serious concerns about a dwellinghouse in this location, if the existing boundary trees can be maintained and enhanced and a scheme of planting is developed to ensure that the character of the immediate local area is not lost, including the character of the minor road. If these issues are addressed satisfactorily, the Landscape Architect would not object to a house being developed at this location.

Statutory Consultees

Lauderdale Community Council: No response.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 – Sustainability
PMD2 – Quality Standards
PMD4 – Development Outwith Development Boundaries
HD2 – Housing in the Countryside
HD3 – Protection of Residential Amenity
EP8 – Archaeology
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

Other considerations:

Supplementary Planning Guidance
New Housing in the Borders Countryside
Placemaking and Design
Privacy and Sunlight
Trees and Development

KEY PLANNING ISSUES:

Whether the erection of a dwellinghouse on this site would represent a logical extension of the Nether Blainslie settlement boundary and whether the proposed development would be well related to an established building group in the countryside.

ASSESSMENT OF APPLICATION:

Principle

It is noted that the site is positioned outwith the development boundary for Nether Blainslie as set out in the Scottish Borders Local Development Plan (LDP) (2016). The development boundary, supported by Policy PMD4 of the LDP indicates the extent to which the settlement should be allowed to expand during the LDP period. Development should be contained within this boundary unless strong reasons have been provided that an exceptional approval beyond this boundary can be supported. Members should be aware that no such justification has been provided in this case. The LDP sets out that housing allocations or areas for longer terms development for

Nether Blainslie are not provided, and that any new development will be limited to infill development opportunities.

The current planning application therefore requires to be considered principally in terms of Policy HD2 (Housing in the Countryside) of the LDP and in terms of the current Supplementary Planning Guidance (SPG) on New Housing in the Borders Countryside. Also relevant is the approved SPG on Householder Development, and Development Contributions.

Policy HD2 aims to support new rural housing where it is associated with existing building groups of three or more houses or buildings currently in residential use. The policy sets a maximum of 2 additional dwellings at any given building group within the LDP period, or a 30% increase, whichever is greater. In this case however, as there are only 2 existing dwellings (The School and The School House) located within an identifiable sense of place it is considered that a building group does not exist at this location.

Applicants supporting assessment of building group

In support of the application, the applicant lodged an additional planning statement, including mapping of his interpretation of the building group. It is noted that the applicant has also undertaken significant research into the history of "The School" and "The School House".

The applicant has also included an assessment of the nearby "New Blainslie Farm" building group, for purposes of comparison in terms of the dimensions of the overall building group here, and the proposed site adjoining The Schoolhouse. The New Blainslie Farm building group has an overall dimension of 358m across its dwellings and the applicant has compared this distance, to the current site, to include the dwelling known as Woodlea the dwellings at South Blainslie and Wineburgh.

The applicant's suggested building group is best demonstrated in the submitted site drawing Appendix 4 (Building Group) which can be viewed on the *PublicAccess* website.

Section 5.5 of the supporting statement sets the applicants interpretation of the extent of the building group and includes surrounding housing north and south of the site "some with associated grass paddocks". This is considered to be a generous interpretation of the LDP policy and SPG. It is considered that the paddock adjoining the nearest house to the south and the Blainslie road add to the degree of separation of buildings, to the extent that no building group exists at this location.

Planning service assessment of building group

In terms of assessment against the adopted policies and guidance, it is considered that the proposed plot is considered to be too far divorced from neighbouring dwellings that would constitute a building group under Policy HD3 of the LDP. As there are only 2 existing dwellings at this location it is contended that no building group is present at this location.

The applicant's interpretation of the building group is reliant on the wording in the 2008 SPG on New Housing in the Borders Countryside that "*Natural boundaries should take precedence over man-made boundaries when defining the extent of a building group*". However that is not to the absolute exclusion of man-made boundaries.

The position of the application site in terms of "The School" and "The School House" is noted. However, regardless of whether these are considered one, or two houses, the position remains that together they do not amount to a building group; they are a discrete grouping of 2 houses, separate from housing to the south. The planning authority also notes the position of the "Kitty Burn", the nearest dwelling to the south and the public road. There are small watercourses following both the northern and southern perimeter of the application site, and an intervening road. The distance between buildings, separated by means of small burns, hedging, land, and the public road lead to a conclusion that the two houses at the old school are not part of a building group with the existing housing to the south.

The relationship between the buildings at New Blainslie Farm and the application site differs significantly as the buildings at New Blainslie straddle both sides of a minor track serving the farm. This contrasts with the situation at the application site where the applicant has claimed the building group straddles the Blainslie road.

It should be noted that the dwellings at The School and The Old School House were considered to be a single dwelling when assessed under the 2005 application (05/00880/OUT). The applicants supporting statement explains in great depth the history to the dwellings at the school and the occupation of both houses. Following the closure of the School, the building was retained in a state capable of being two dwellings, but it is understood to have been occupied as a single house in the past.

However it is contended that the application site is only well related to these two existing neighbouring dwellings at the Old School / School House. The nearest other housing is, as mentioned above, to the south of the site clustered around Woodlea and is separated from the application site by intervening field boundaries, a burn, the existing road, mature trees, a paddock and a change in level. Woodlea is the closest of the houses to the south to the application site, and with South Blainslie and Wineburgh beyond. These dwellings are considered too remote from The School, The School House, and the application site to be considered part of an established building group within an identifiable sense of place.

Impact on Residential and Neighbouring Amenity

Policy HD3 of the Scottish Borders Local Development Plan sets out that residential amenity will be afforded protection. The Council has adopted supplementary planning guidance on Householder Development which sets out standards for privacy and amenity. In the case of these current proposals, it is considered that a suitably designed dwelling could be accommodated on the site without unacceptable adverse impacts on the residential amenity of neighbouring dwellings ensuring compliance with Policy HD3 and the Council's SPG.

Impact on traffic and road safety

Members will be aware that the Roads Planning Service previously recommended refusal to new dwellings served directly off the C76 given the deficiencies of the road, however they are able to offer support to this proposal given its close proximity to the D4/4 which links onto the A68. This allows for a relatively short length of minor road before vehicles can enter the main road network.

Should Members be minded to approve this application, conditions ensuring the provision of an access service layby; provision of two parking spaces, not including any garaging, and turning within the curtilage of the site; and provision of visibility

splays of 2.4m by 120m be provided in either direction at the junction onto the public road are required.

Trees, Woodland and Hedgerows

Policy EP13 of the LDP on Trees, Woodland and Hedgerows sets out that existing trees and hedgerows will be protected. A dwelling in the site proposed may require removal of further hedging to permit visibility.

A tree survey was forwarded by the applicant and concludes that:

“Based on the initial site observations, it would be feasible to construct a house without any adverse impact on the extant tree cover. This could be retained intact and indeed this is the desire of the applicant. There exists adequate space to accommodate a dwelling outwith the root protection areas and canopy spread of the trees along the north boundary. No trees need be removed or impacted on to achieve this. Should permission be granted in principle, a detailed tree survey and Arboricultural Implication Assessment would be prepared in line with BS 5837:2012 to support the detailed application. This would address in detail the issue of tree protection.”

It is also noted that the RPS engineer has made suggestions in terms of the need for a condition to require provision of a suitable visibility splay at the access. This potentially would impact on hedge cover. The submitted Arboricultural assessment considered this matter, concluding:

“Minimal cutting back of overgrown blackthorn bushes will be required to achieve the required visibility splay and form a lay-by. This will not be significant and well-established growth to the rear will be retained and continue to provide screening.”

It is clear that a dwelling could be accommodated within the application site, in a manner not adversely impacting upon adjoining trees. A house could be located towards the centre of the site, whilst still in compliance with the relevant policies and guidance on tree protection. However this has not been established in sufficient detail in this application, the application being in principle. Whilst the comments of the Council Landscape Architect were outstanding at the time of the finalisation of this report, were the application otherwise agreeable, it would have been possible to condition this issue, and ensured that any detailed design demonstrate impacts on and compatibility with surrounding trees.

Archaeology

Policy EP8 of the Local Development Plan sets out the Council position in terms of Archaeology. In the case of this application, the Archaeology Officer advises that are potential implications for this proposal, however he does not feel these merit mitigation. Members are reminded that the potential for archaeology could be handled via an applicant informative note in the event of an approval. This will ensure compliance with Policy EP8 of the LDP.

Access

Policy IS5 of the LDP seeks to protect Access Routes. However, according to the records of the access service, there are no known Core Paths or Promoted Paths / Rights of Way that are directly affected by this proposal. The Access Team

therefore have no objections to make regarding the application. The application is considered not to conflict with Policy IS5 of the LDP.

Ecology

The Ecology Officer advises that habitats within the site have potential to support protected species such as bats, badger and breeding birds. The boundary trees may also have potential to support bats and their roosts. If mature trees are to be felled they must be surveyed for bats and mitigation must be incorporated into a Species Protection Plan.

Should Members resolve to approve this application it is recommended that a condition is added requiring an Ecological Impact Assessment and Species Protection Plans are submitted to and approved in writing by the Planning Authority prior to the commencement of development.

Flooding

The Council Flood Protection Officer advised that the proposed site is outwith SEPA's 1 in 200 year (0.5% annual probability) flood extent. However, there are small watercourses following both the northern and southern perimeter of the site which are a potential source of flood risk.

In the event of an approval, and in order to ensure compliance with Policy IS8 of the LDP it is recommended that ground levels surrounding the dwelling be designed to convey overland flow away from the development and drainage measures should be considered to intercept overland flow. It is also recommended that the applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts. These matters can be covered by suitably worded applicant informatives.

Water Supply and Drainage

Policy IS9 of the LDP covers waste water treatment standards and sustainable urban drainage. Water and drainage services would require confirmation in due course, and this could be ensured via standard planning condition, if the application is approved.

It would appear from the supporting information that the site can be adequately serviced however as the application seeks planning permission in principle only at this stage it would be appropriate to add a suitably worded suspensive planning condition should Members be minded to approve the application.

Development Contributions

Policy IS2 of the LDP is relevant and is supported by our approved SPG on development contributions. In the case of this current application, contributions have been identified in terms of Lauder Primary School and Earlston High School. Currently, a contribution of £7,463 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £10,891 (these are index linked and subject to annual variation). The site is also located within the Borders Railway contribution area, and a contribution in terms of the reinstatement of the railway would also apply to this application.

The applicant has confirmed willingness to enter into the required section 75 legal agreement to cover settlement of development contributions.

CONCLUSION

It is considered that the proposed development would be contrary to policy PMD4 of the LDP, in that the proposed development would be located outwith the Nether Blainslie Development Boundary, and no justifiable reason for an exceptional approval has been advanced.

Furthermore, the proposed development of a single dwelling at this site would be contrary to policy HD2 of the LDP and approved New Housing in the Borders Countryside SPG in that the proposed development would not form part of an established building group of three or more dwellings.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is refused for the following reasons:

1. The proposed development would be contrary to policy PMD4 of the of the Scottish Borders Local Development Plan (2016), in that the proposed development would be located outwith the Nether Blainslie Development Boundary, and no suitable reason or justification for an exceptional approval has been advanced. The development of this site would set an undesirable precedent for new housing outwith development boundaries
2. The proposed development would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and supplementary planning guidance on New Housing in the Borders Countryside (2008), in that the proposed development would not be well related to an existing building group of three houses or buildings currently in residential use. The proposed development would set an undesirable precedent for new housing in the countryside outwith established building groups.

DRAWING NUMBERS

| Reference | Plan Type | Received |
|------------------|-------------------------------------|-----------------|
| APPENDIX 1 | LOCATION PLAN | 27 Jul 2017 |
| APPENDIX 2 | LOCATION PLAN (A) | 27 Jul 2017 |
| APPENDIX 3 | SITE ACCESS | 27 Jul 2017 |
| APPENDIX 4 | BUILDING GROUP | 27 Jul 2017 |
| APPENDIX 5 | SITE BLOCK PLAN AS EXISTING | 27 Jul 2017 |
| APPENDIX 6 | SITE BLOCK PLAN INDICATIVE PROPOSAL | 27 Jul 2017 |
| APPENDIX 7 | NEW BLAINSLIE FARM BUILDING GROUP | 27 Jul 2017 |
| APPENDIX 12 | BUILDING GROUP DIMENSIONS | 27 Jul 2017 |

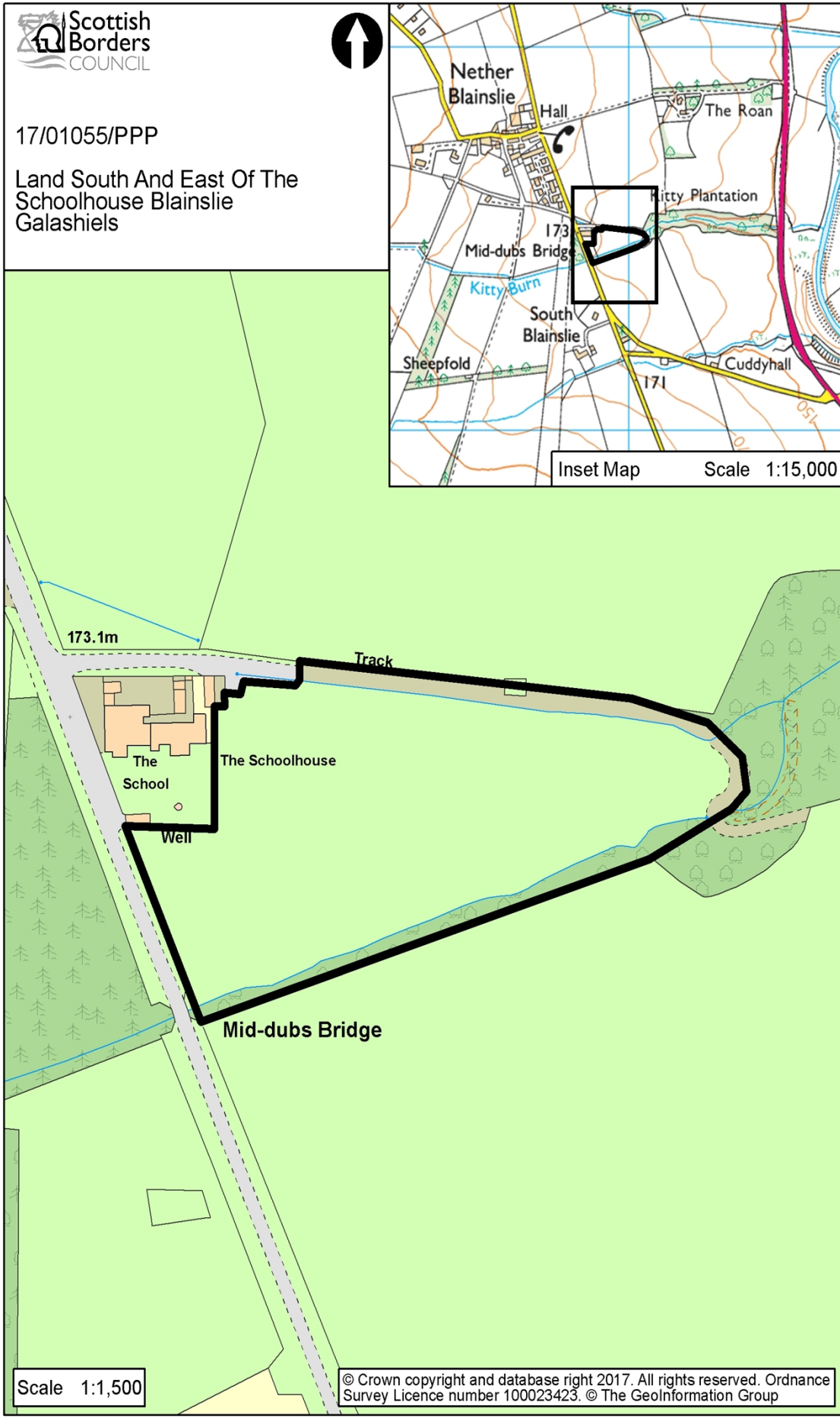
Approved by

| 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

| Name | Designation |
|--------------|------------------|
| Andrew Evans | Planning Officer |



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 OCTOBER 2017

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 17/00999/MOD75
OFFICER: Mr R Dods
WARD: Tweeddale West
PROPOSAL: Discharge of planning obligation pursuant to planning permission 07/00524/FUL
SITE: Cacrabank Farm, Selkirk
APPLICANT: Mr & Mrs Martin Scott
AGENT: Erich Planning & Property Consultants

SITE DESCRIPTION:

Cacrabank Farm is located close to the junction of the B711 and the B709, approximately 19km south west of Selkirk and 19km south of Innerleithen. The farm sits to the south of the Ettrick Water and Cakra Hill forms most of the land holding. There are parcels of low lying land, totalling 21ha, in close proximity the steading buildings and bisected by the B711 road. The remainder of the farm comprises 244ha of rough grazing and 16ha of woodland or other non-farmed land. The majority of the farm is class 5 or 6 agricultural land as classified by the Macaulay Institute. The area is not covered by a landscape designation.

The dwellinghouse known as Cakrahope was granted permission in 2007, reference 07/00524/FUL. That was justified as being a residence for a retiring farmer associated with Cacrabank Farm and was granted subject to a section 75 agreement restricting occupancy of the property known as Cakra Cottage and restricting the sale of the land and buildings of Cacrabank Farm except as a single unit. Excluded from the terms of the agreement were Cakrahope and a small area of land to the west of Cakra Cottage.

PROPOSED DEVELOPMENT:

The application is made to discharge a section 75 agreement covering Cacrabank Farm and relative to planning permission granted on 6 November 2007, reference 07/00524/FUL.

The reasons for this discharge request are:

1. To allow the sale of approximately 233ha of land for forestry and;
2. To allow the sale or lease of 49ha, including Cakra Cottage.

PLANNING HISTORY:

07/00524/FUL

The application was made to erect a dwellinghouse and garage for the tenant farmer and his wife allowing them to retire from farming but remain in the area.

Planning permission was granted subject to conclusion of a section 75 agreement. That agreement was recorded on 22 October 2007. Clause 2 of the agreement states:

- a) The Development shall be constructed upon the Land within the area hereinafter referred to as 'the Development Site'. The Development Site is the area shown crosshatched in black on the plan annexed and signed as relative hereto ("the Plan"). The area shown outlined in green on the Plan is hereinafter referred to as the "Excluded Site". The Land, under exception of the Development Site and Excluded Site shall hereinafter be referred to as "the Remainder Land";
- b) the Remainder Land including all the buildings and erections thereon shall be held for all time as a single indivisible unit and no part of it shall ever be sold;
- c) occupation of the property known as Cacara Cottage, being the building identified as such and highlighted red on the Plan shall be limited to a person employed or last employed in agriculture as defined in section 277 of the Town and Country Planning (Scotland) Act 1997 or any dependent of such person residing with him or her (including the widow or widower of such person).

CONSULTATION RESPONSES:

Legal Services: No response.

REPRESENTATION SUMMARY

No representations received.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

ED7 – Business, tourism and leisure development in the countryside

HD2 – Housing in the countryside

OTHER PLANNING CONSIDERATIONS

SBC supplementary planning guidance "New Housing in the Borders Countryside"

Scottish Planning Policy 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 all five tests of Circular 3/2012. Those are: Necessity; planning purpose; relationship to the development; scale and kind and; reasonableness, and whether the proposed discharge complies with the Council's established policies on housing in the countryside.

ASSESSMENT OF APPLICATION

Policy context

Planning policy has changed since the grant of the planning permission for the house in 2007. 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 and, in this instance, the ability to allow a retiring farmer to continue staying within the area they formerly farmed.

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.

In the case under consideration, the house was accepted on the basis of an economic justification for a retiring farmer who was associated with Cacrabank Farm. Planning permission was granted subject to a section 75 agreement restricting occupancy of Cacara Cottage and preventing the sale of the farmland except as a single unit, although the new house and some land adjacent to Cacara Cottage was specifically excluded from the agreement. The effect of this is that the house granted planning permission under application 07/00524/FUL is not bound by the legal agreement.

The applicant wishes to have the section 75 agreement discharged in order to sell the majority of the land to a forestry company. Policy ED7 supports rural diversification initiatives provided they will be used for, amongst other things, forestry operations. In considering proposals, several criteria are considered. Those include: that the development must respect the character and amenity of the surrounding area; it should not have a significant adverse impact on nearby uses and; where an intensification of use is proposed, those are appropriate to the rural character of the area.

There is currently a small area of land (16ha) on the farm which is woodland. The proposal to release the land from the section 75 agreement would allow the applicant to sell 233ha of land to a forestry company, of which up to 200ha could be planted. The planting of forestry on this area of land would represent an intensification of use. There are several parcels of commercial forestry in the area, with significant plantations to the south and southwest. It would not, therefore, be out of keeping with the area and is unlikely to have a significant adverse impact on nearby uses.

Circular 3/2012

It is necessary for all five tests set out in Circular 3/2012 to be met for a planning obligation to be competent. Those are: Necessity; planning purpose; relationship to the development; scale and kind and; reasonableness. The existing agreement raises no issues in respect of the first four tests.

The fundamental issue here is, whether or not it is reasonable to continue to bind the land from being sold other than as a single unit.

The material circumstances have changed in the 10 years since planning permission was granted. The tenancies of two additional farms were relinquished in late 2007 thereby reducing the farm area from 1009ha to 281ha. The reduced size of the farmed land has called into question the economic viability of the farm. This position is backed by a report submitted by the applicants on the financial viability of the unit. The report concludes that: The farm is not viable as a stand-alone unit; improving the sheep flock would not support one full time worker; the size of holding and land classification (5 or 6) is not sufficient to sustain a sheep or beef enterprise and; a viable option would be to plant approximately 150-200ha of timber on the lower slopes of Cacara Hill.

The sale of approximately 233ha of land to a forestry company would leave 49ha of farmland. That would not be a viable unit on its own and the applicants wish to have the option to sell that land as a separate lot or lease it to a neighbouring farm.

Clearly the reduction in tenanted land has reduced the land available for the farming business and, in turn, the viability of that business. This is backed up by evidence submitted by the applicants, the conclusion of which is summarised above. Selling all the land holding of Cacrabank Farm is currently the only option permitted by the terms of the section 75 agreement. It seems unlikely that a forestry operator would wish to purchase the entire farm, including low lying land and the farm buildings. On balance, it appears that it is reasonable to lift the restriction on the sale of the land governed by clause 2(b) given the farm business appears to be unviable.

The applicants' son continues to live in Cacara Cottage but wishes to move away from the farm and leave the agriculture industry. The occupancy of the cottage is restricted by clause 2(c) to someone employed or last employed in agriculture. The Scottish Government's Chief Planner issued advice in November 2011 that occupancy restrictions are rarely appropriate and should generally be avoided. The letter sets out that Scottish Planning Policy promotes a positive approach to rural housing. It states that development plans should support more opportunities for small scale housing development in all rural areas, including housing which is linked to rural businesses. It does not promote the use of occupancy restrictions. The letter is categorical in setting out that the Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided. It goes on to advise that where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.

This advice was reinforced in Circular 3/2012. The advice from the Scottish Government does not rule out the use of occupancy restrictions but allows for a degree of latitude in considering whether or not they should be used. Due to the change in circumstances between the granting of 07/00524/FUL and now, it is unlikely that an occupancy restriction would be deemed appropriate if that application was to be considered today.

It would now appear that clause 2 (b) and (c), set out above, do not meet the test of reasonableness. It is therefore appropriate to discharge the section 75 agreement.

It should also be noted that the use of occupancy restrictions in planning obligations has been tested at several appeal throughout the country. Reporters have followed the advice from the Chief Planner and have upheld the appeals. It is unlikely that the council would be able to defend successfully an appeal against the refusal of the current application to discharge the planning obligation on Cacrabank Farm.

It is unlikely that the discharge of this agreement will set a precedent in this locality and any future proposals for residential development at Cacrabank will be assessed against prevailing development plan policies covering new housing in the countryside. In light of the above, the proposed discharge is appropriate.

CONCLUSION

The proposal to discharge this section 75 agreement is accepted as it no longer satisfies the terms of Circular 3/2012 relating the test of reasonableness. The sale of the land associated with Cacrabank Farm in either one or more lots is acceptable and any future proposed housing development would be subject to the normal requirements of planning. Such proposals 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.

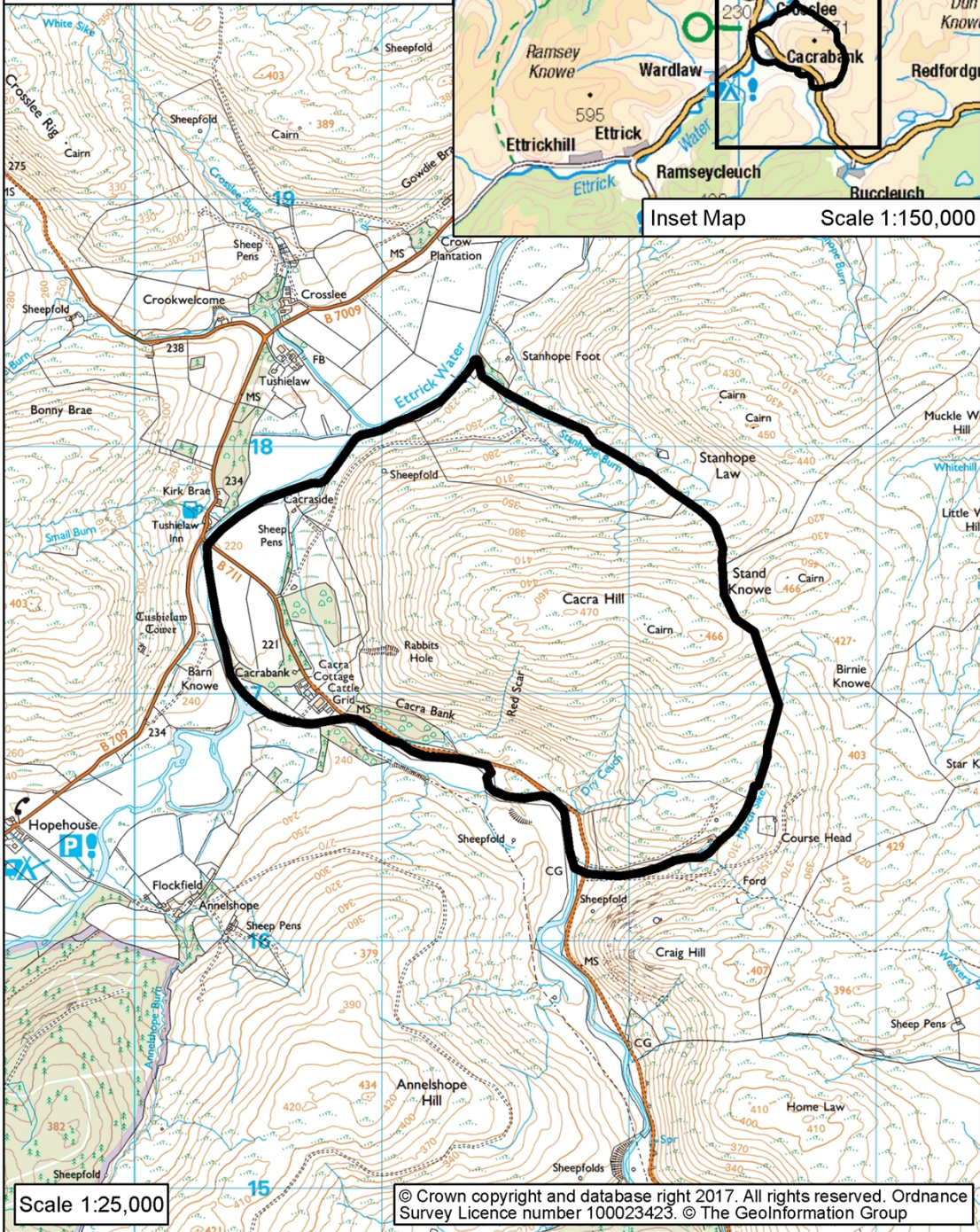
Author(s)

| Name | Designation |
|-------------|------------------|
| Ranald Dods | Planning Officer |



17/00999/MOD75

Cacrabank Farm
Selkirk



PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

2nd October 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: 17/00765/FUL
Proposal: Change of Use from Class 1 (Retail) to Class 2 (Financial, Professional and Other Services)
Site: Units 9 and 10, 6 - 8 Douglas Bridge, Galashiels
Appellant: Westminster Job Centre

Reason for Refusal: The change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policies ED3 and ED4 of the Scottish Borders Local Development Plan 2016 in that the use of the premises by a Job Centre would result in the loss of prime retail floor space in a prominent location within the Core Activity Area, which forms part of a principal shopping street and key approach to the town centre.

Grounds of Appeal: The reason for refusal cites that the proposed development is contrary to Policies ED3 and ED4 of the adopted Local Development Plan; however, these policies do not directly deal with the reasoning set out within the reason for refusal. Both the Applicant and the Planning Officer find the proposed development to be in accordance with these policies. The reason for refusal fails to recognise the matters set out on Page 42 of the Local Development Plan, that when read with Policy ED4, would result in Class 2 uses being found in accordance with the Policy should those policy matters be satisfied by the proposed development. The Applicant has provided policy justification to SBC to address the six policy matters on page 42.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 22nd September 2017. This relates to sites at:

| | |
|--|--|
| • Land North of Howpark Farmhouse, Grantshouse | • Poultry Farm, Marchmont Road, Greenlaw |
|--|--|

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/00239/FUL
Proposal: Erection of micro meat processing unit and byre
Site: Land at Hardiesmill Place, Gordon
Appellant: Mr Robin Tuke

Reason for Refusal: The proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the design of the micro meat processing building is unsympathetic to the rural character of the site and surrounding area, and would be readily visible from the public realm (including from the adjacent local road) as a consequence of the isolated, greenfield nature of the site and the lack of any existing effective screen within the surrounding landscape (beyond the immature and patchy tree belt on the site, which would require to be cleared in part, in order to accommodate the proposal). This unacceptably detrimental landscape and visual impact is not outweighed by the potential economic and environmental benefits of the proposal to the Applicant's farming and butchery businesses and wider rural economy.

5.2 Reference: 17/00380/FUL
Proposal: Variation of Condition No 3 of planning consent 10/00156/FUL to allow short term letting
Site: Jordonlaw Granary, Jordonlaw Road, Westruther
Appellant: Susan And Chris Edge

Reason for Refusal: The proposal does not comply with Adopted Local Development Plan Policies PMD2 and ED7 in that it has potential to generate increased road safety concerns principally because the proposed variation to Planning Condition No 3 attached to Planning Consent 10/00156/FUL would allow the existing residential annexe ('The Granary') to be operated as a short-term or holiday let accommodation unit, which would be a new separate residential use over and above (that is, in addition to) the operation of the existing residential use of 'Jordonlaw Farmhouse'. This would promote an increase in the volume of traffic

requiring to use the sub-standard junction between the public road (B6456) and access road at Jordonlaw Farm, with potential to increase road safety concerns for road users at and around the same road junction.

- 5.3 Reference: 17/00472/FUL
Proposal: Alterations and extension to dwellinghouse
Site: 1 Glenkinnon, Ashiestiel Bridge, Clovenfords
Appellant: Mr & Mrs Rutherford

Reason for Refusal: The proposed extension to the dwelling would be contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it would not be of a scale that would be visually appropriate to the existing building or its surroundings.

- 5.4 Reference: 17/00479/FUL
Proposal: Erection of dwellinghouse
Site: Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston
Appellant: Austin Travel

Reasons for Refusal: 1. The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere. 2. The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form. 3. The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety. 4. The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

6 REVIEWS DETERMINED

- 6.1 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.

Method of Review: Review of Papers

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

- 6.2 Reference: 17/00323/FUL
Proposal: Erection of dwellinghouse and retaining wall (part retrospective)
Site: Land West of Craigerne Coachhouse, Edderston Road, Peebles
Appellant: Mrs Patricia Crippin

Reason for Refusal: The application is contrary to Policies PMD2, PMD5 and EP13 of the Scottish Borders Local Development Plan 2016 in that the proposed development will represent overdevelopment, and significant reduction, of an area of ground which is required for landscaped and wooded setting for the Craigerne Coach House development, resulting in an inappropriate congested appearance between the development and Edderston Road and providing insufficient space from existing preserved trees which would undermine their protection.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

- 7.1 There remained 4 reviews previously reported on which decisions were still awaited when this report was prepared on 22nd September 2017. This relates to sites at:

| | |
|--|---|
| • 5 High Street, Innerleithen | • Land North West of Kirkburn Parish Church, Cardrona (17/00384/FUL) |
| • Land North West of Kirkburn Parish Church, Cardrona (17/00647/FUL) | • Land South of 3 Kirkburn Cottages, Cardrona, Peebles (17/00806/FUL) |

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 4 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 22nd September 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

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