PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 8TH JANUARY, 2018

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, 8TH JANUARY, 2018 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

1 January 2018

BUSINESS	
1.	**Apologies for Absence.**
2.	**Order of Business.**
3.	**Declarations of Interest.**
4.	**Minute.** (Pages 5 - 12) Minute of Meeting 4 December 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	**Applications.** Consider the following application for planning permission:-
	(a) **Land South East of Parkside Primary School and Parkside Primary School, Jedburgh - 17/01363/FUL** (Pages 13 - 36) Demolition of existing Parkside Primary School, erection of a replacement intergenerational community campus, incorporating nursery, primary and secondary educational provision, including the formation of a new vehicular access, associated car parking, drop off, playgrounds, soft landscaping, fencing, multi-use games area, 2G hockey pitch, 3G rugby pitch, running track, lighting, CCTV cameras, bin store, external changing pavilion, rural skills area, substation and associated footpaths. (Copy attached.)
	(b) **Blinkbonny Quarry, Kelso - 17/00457/MIN** (Pages 37 - 54) Variation of Condition No 4 of planning consent 13/01191/MIN to allow the final level of the quarry floor to be dropped to 150m. (Copy attached.)
	(c) **Site at Industrial Buildings and Yard Elders Drive, Newtown St Boswells - 17/01342/PPP** (Pages 55 - 70) Demolition of existing building and erection of four dwellinghouses. (Copy attached.)
	(d) **The Courthouse Restaurant, High Street, Peebles - 17/01438FUL & 17/01439/LBC** (Pages 71 - 80)

	Change of use from bar/restaurant and alterations to form residential unit and associated works. (Copy attached.)
	(e) **Land South West Of Greenlaw Mill Farm, Greenlaw - 17/01539/FUL** (Pages 81 - 90) Formation of slurry lagoon within fenced enclosure and upgrade existing access track (retrospective). (Copy attached.)
6.	**Planning (Scotland) Bill** Update by Depute Chief Planning Officer.
7.	**Tweedbank Supplementary Guidance and Simplified Planning Zone** Update by Depute Chief Planning Officer.
8.	**Appeals and Reviews.** (Pages 91 - 98) Consider report by Service Director Regulatory Services. (Copy attached.)
9.	**Any Other Items Previously Circulated.**
10.	**Any Other Items which the Chairman Decides are Urgent.**
11.	**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'.
12.	**Minute** (Pages 99 - 100) Private Minute of the Meeting held on 4 December 2017 to be approved and signed by the Chairman. (Copy attached.)

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

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

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

Membership of Committee:- Councillors 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 Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 4 December 2017 at 10.00 am

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

1. **MINUTE.**
There had been circulated copies of the Minute of the Meeting held on 6 November 2017. The Minute was approved subject to the following amendment in respect of Appendix I planning application 17/01149/FUL:-

'*Councillor Anderson moved that the application be refused on the basis that the C77 did not form a suitable access route for vehicles servicing the site and that there were issues of appropriate access towards and from the A68 and A7 for bulky waste vehicles using this route. In addition it was considered contrary to PMD1(g) as it would make the road more dangerous for those walking and cycling. However as there was no seconder the motion fell.* '

DECISION
APPROVED for signature by the Chairman.

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

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

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

DECISION
NOTED:-

(a) Appeals had been received in respect of:-

(i) Erection of poultry building on Land South West of Easter Happrew Farmhouse. Peebles – 16/01377/FUL; and

(ii) Erection of poultry building and associated works at Hutton Hall Barns, Hutton – 17/00623/FUL

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

- **Land North of Howpark Farmhouse, Grantshouse**
- **Poultry Farm, Marchmont Road, Greenlaw**
- **Units 9 and 10, 6 – 8 Douglas Bridge, Galashiels**
- **Land North East of 3 The Old Creamery, Dolphinton**

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

(i) Erection of dwellinghouse on Land Adjacent to Deanfoot Cottage, Deanfoot Road, West Linton – 17/00926/PPP;

(ii) Change of use of agricultural land to form storage yard and siting of 7 No. storage containers on Land North East of Greenbraehead Farmhouse, Hawick – 17/00973/FUL;

(iii) Erection of hay shed on Field No.0328 Kirkburn, Cardrona – 17/01112/FULL;

(iv) Erection of tractor shed on Field No. 0328 Kirkburn, Cardrona – 17/01113/FUL; and

(v) Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatary Clinic) and Class 1 (ancillary retail) at 40-41 The Square, Kelso – 17/01139/FUL

(d) the decision of the Appointed Officer had been upheld in respect of:-

(i) Erection of boundary fence (retrospective) at 33 Justice Park, Oxton – 17/00308/FUL;

(ii) Erection of Hay Shed, Field No.0328 Kirkburn, Cardrona – 17/01112/FUL; and

(iii) Erection of tractor shed in Field No. 0328 Kirkburn, Cardrona – 17/01113/FUL

(e) the decision of the Appointed Officer had been Overturned in respect of:-

(i) Erection of micro meat processing unit and byre on Land at Hardiesmill Place, Gordon – 17/00239/FUL; and

(ii) Alterations and extension to dwellinghouse at 1 Glenkinnon, Ashiestiel Bridge, Clovenfords – 17/00472/FUL.

(f) there remained one review outstanding in respect of Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston -

(g) there remained four S36 PLI's outstanding in respect of:-

- **(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir**
- **Fallago Rig 2, Longformacus**
- **Fallago Rig 1, Longformacus**
- **Birneyknowe Wind Farm, Land North, South, East & West of Birniekowe Cottage, Hawick**

4. **PRIVATE BUSINESS**

DECISION
AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

5. **REQUEST TO REDUCE DEVELOPMENT CONTRIBUTION REQUIREMENTS WITH RESPECT TO PLANNING PERMISSION FOR CHANGE OF USE FROM OFFICE/STORE AND ALTERATIONS TO FORM TWO DWELLING FLATS, FIRST FLOOR 82 CHANNEL STREET GALASHIELS**
The Committee considered a report by the Chief Planning Officer.

The meeting concluded at 11.25 a.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

Reference	Nature of Development	Location
17/01062/FUL	Erection of two dwellinghouses	Land North West of 1 Whitesomehill Farm Cottages, Duns

Decision: APPROVED Subject to the provision of satisfactory evidence confirming that neighbouring land is available to accommodate the proposed drainage arrangements (delegated to Officers to resolve), a legal agreement and the following conditions and informatives:

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, unless otherwise agreed by the Planning Authority.
   Reason: To ensure that the development is carried out in accordance with the approved details.

2. The development hereby approved shall only be carried out in strict accordance with details of the materials to be used on the external walls and roof of the proposed building(s), which shall first have been submitted to and approved in writing by the Planning Authority, unless otherwise agreed by the Planning Authority.
   Reason: To ensure a satisfactory form of development which contributes appropriately to its setting and to the setting of nearby listed buildings.

3. The roofing material shall be natural slate. A slate sample shall be made available on-site for the prior approval of the Planning Authority, and thereafter, the development shall be completed using the approved materials.
   Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, and to the setting of nearby listed buildings.

4. No development shall commence until details of the design and finish of windows and doors have been submitted to and approved in writing by the Planning Authority. The development to be completed wholly in accordance with the approved details thereafter.
   Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, and to the setting of nearby listed buildings.

5. No development shall commence until precise details of the design of the eaves on the buildings hereby approved have been submitted to and approved in writing by the Planning Authority. The development to be carried out wholly in accordance with the approved details thereafter.
   Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, and to the setting of nearby listed buildings.

6. Prior to the commencement of development, the finish and colour of all external joinery and rainwater goods shall be agreed in writing with the Planning Authority. The development to be completed wholly in accordance with the approved details thereafter.
   Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, and to the setting of nearby listed buildings.

7. Notwithstanding the details shown on the approved drawings, no development shall commence until the precise siting and design of the proposed oil tanks, including any

fence, wall or other means of enclosure, have been submitted to and agreed in writing by the Planning Authority. The scheme of details required by this condition shall indicate the proposed oil tanks set away from the public road, closer to the proposed houses and thereafter the development shall be completed wholly in accordance with the approved details.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, the setting of nearby listed buildings, and in the interests of road safety.

8. The frames of the Solar PV panels hereby approved shall be coloured non-reflective black.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting.

9. The details, including materials, of all boundary walls and/or fences shall be submitted to and approved by the Planning Authority before the development is commenced. The development shall be completed wholly in accordance with the approved details thereafter.
Reason: To ensure a satisfactory form of development which contributes appropriately to its setting, and to the setting of nearby listed buildings.

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

11. No water supply other than the public mains shall be used to supply the Development without the written agreement of the Planning Authority.
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.

12. No development shall commence until the existing junction warnings signs have been replaced with new warning signs of a specification outlined in informative 3 and which shall first be agreed in writing with the Planning Authority, unless otherwise agreed by the planning authority.
Reason: in the interests of road safety.

13. No development shall commence until a visibility splay of 2.4m by 160m to the north have been provided. Thereafter, the visibility splay shall be retained in perpetuity.
Reason: in the interests of road safety.

14. No development shall commence until a detailed engineering drawing showing the junction of the vehicular access with the existing public road, together with any other alterations to the public road arising from the development and off-street parking areas has been submitted to and approved in writing by the planning authority. Thereafter no development shall take place except in strict accordance with the approved details. The vehicular access and parking areas shall be constructed prior to the occupation of the first dwellinghouse and be retained in perpetuity thereafter.
Reason: In the interests of road safety and to ensure adequate access and parking is made available.

15. Vehicular access to the rear of Whitsomehill Cottages shall be retained in perpetuity.

Reason: to ensure the amenity of neighbouring residents is protected, and in the interests of road safety.

Informatives

1. Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. The applicant should satisfy themselves that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

2. The application area coincides with the location of former farm cottages which were demolished at some point in the latter half of the 20th century. These appear clearly on historic mapping through the middle of the 20th century, along with later 19th century out-buildings. The cottages were of the same date (early 19th century), and likely design, as the existing Listed group. There is likely to be below ground archaeology pertaining to the former cottages and associated activities. The remains would be of local significance and historic interest. The entrance into the site potentially cuts across the north gable end of the former cottages with the bulk of the remains within a gravel parking area. Much of the archaeological remains can be protected in situ within this arrangement. It is advised that the in situ survival of any below ground archaeology should be sought by limiting excavations in the area of the former cottages to top-soil depth (approx. 300-400mm). If excavation below this is required an archaeological watching brief may be needed.

3. The existing junction warning signs to be replaced with sign diagram 504.1 (900mm) of the Traffic Signs and General Directions 2016 in consultation with the Council's Road Safety section prior to occupation of the first dwellinghouse.

4. A visibility splay of 2.4m by 160m to the north to be provided prior to commencement of development and retained thereafter in perpetuity. This will involve the removal of at least one roadside tree.

5. The first 5m of the access to be surfaced to the Roads Authority's specification i.e. 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

6. Only contractors first approved by the Council may work within the public road boundary.

7. It is understood that broadband connection to Whitsomehill Farm Cottages is provided by line of sight radio link from a site at Ravelaw to the north-west of the application site. The applicant/developer should satisfy himself that these third party rights are not adversely affected by the proposed development and that, if necessary, satisfactory alternatives are put in place so that existing users of this service are not compromised.

VOTE
Councillor Small, seconded by Councillor Mountford moved that the application be approved as per the Officer recommendation.

Councillor Laing, seconded by Councillor Ramage, moved as an amendment that the application be refused on the grounds that it was contrary to Policies PMD2 and HD3 in that it failed to respect neighbouring uses and would detrimentally impact on residential amenity.

On a show of hands Members voted as follows:-
Motion - 6 votes
Amendment - 2 votes

The motion was accordingly carried.

NOTE
Mr Andrew Lothian spoke against the application.
Ms Laura Dixon, Agent - spoke in support of the application.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	**REFERENCE NUMBER**: 17/01363/FUL
OFFICER:	Mr Scott Shearer
WARD:	Jedburgh and District
PROPOSAL:	Demolition of existing Parkside Primary School, erection of a replacement intergenerational community campus, incorporating nursery, primary and secondary educational provision, including the formation of a new vehicular access, associated car parking, drop off, playgrounds, soft landscaping, fencing, multi-use games area, 2G hockey pitch, 3G rugby pitch, running track, lighting, CCTV cameras, bin store, external changing pavilion, rural skills area, substation and associated footpaths
SITE:	Land South East Of Parkside Primary School And Parkside Primary School, Jedburgh
APPLICANT:	Scottish Borders Council
AGENT:	Stallan Brand

SITE DESCRIPTION

The application site lies on the eastern side of the Jed Water valley and extends to over 9 hectares. Parkside Primary School is located in the western corner of the site with the remainder of the site being open green field land. Mature trees are a significant feature of the site with an historic tree lined avenue containing a core path running along its north western boundary which is known as 'The Drive, acknowledging its original purpose as the primary access to the long-demolished Hartrigge House'. The southern boundary is also tree lined and there are pockets of mature planting within the site's central area. The topography of the site rises significantly from the west to the east which allows for views over Jedburgh.

Residential developments are situated to the south, south west and north west of the site. To the east lies a site safeguarded within the Local Development Plan for business and industrial use (ref; zEL32) with the large Mainetti building located to the east and The L.S Starrett Company to the north east. The area of land to the north comprises of open land and mature trees.

Current vehicular access is taken from Oakieknowe Road with Parkside Primary School accessed from Prior's Road. A mini roundabout is located to the west of the site on Waterside Road which provides a vehicular link to the A68.

The site is located within a designated landscape listed as Hartrigge within the Borders and Designed Landscape Survey 2008. The site is outwith the Jedburgh Conservation Area which terminates to the west of the site at the edge of Waterside Road/Jed Water.

PROPOSED DEVELOPMENT

The application relates to the development of an intergenerational community campus to serve the Jedburgh area. The campus will provide the town's nursery, primary and secondary school provision as well as further education and community facilities. The campus building is located centrally within the site to its southern side with accommodation spread over three floors. Playgrounds are located around the building. Sports pitches and an outdoor changing facility are located to the east of the site with a multi-use games area (MUGA) pitch to the south east of the campus building.

The main building is of contemporary and layered design with projecting rooflights to punctuate and add interest. It is described more fully later in this report.

Parkside Primary school is to be demolished as part of the development. The main access to the site will be from the west, through the Parkside site and will pass along the north west of the site. Parking will be provided at the main entrance as well as alongside the campus building with drop off points also provided. Footpath links are located throughout the site.

The proposal also includes associated infrastructure in the form of lighting, CCTV cameras, bin stores, rural skills area and a substation.

PLANNING HISTORY

There is no record of there being any planning applications lodged at this site.

The site does have a history of inclusion and exclusion from development plans. The site was formally allocated for housing with the Roxburgh Local Plan 1995; however it was later removed from the Plan. The site was considered again as part of the Local Development Plan 2016 (LDP) under site code AJEDB013 as a potential housing development of 80 units. The site was excluded from the plan due to issues with ownership, access, topography and proximity to the Industrial Estate. In addition there were several more appropriate undeveloped housing sites within Jedburgh. Following this assessment, the site was subject to Examination where the Reporter concluded that the site was not appropriate for allocation within the LDP however it was noted that because the site fell within the development boundary the possibility of its future development was not precluded.

REPRESENTATION SUMMARY

Representations from five different third parties have been received. Only one of the representations is a formal objection, with two letters having been submitted in support of the proposal. Some specific concerns were noted within two of the other comments received. The main concerns raised in response to this application are summarised below;

- Inappropriate pre-consultation with the public
- Lack of need for development
- Poor Design
- Missed opportunity to include renewable energy technology within the design
- Inappropriate site for development
- Building layout and proposed facilities fail to provide a wide provision of learning and sporting opportunities

- Development will have future capacity issues
- Development fails to cater for new parents, pre-school babies and toddlers such as an Early Years Centre
- Consolidating Jedburgh's education facilities is experimental and failure will hugely impact on future generations
- Lack of security fencing is a safety risk
- Road access is unsuitable
- Development does not address traffic congestion issues where there are currently problems with vehicles waiting to turn off or on to the A68
- Waterside Road is narrow. Increased traffic volume and larger vehicles will cause road safety issues
- Steep gradients of new access pose road safety issue
- Acoustic fencing to mitigate traffic impact should be extended to include the southern boundary of No 1&2 Waterside
- Insufficient parking spaces
- Construction traffic should access the site from the industrial estate
- Poor parking design
- Noise pollution
- Increase in flooding
- Ecological impact
- Construction process will affect the amenity of neighbouring properties
- Installation of CCTV will affect privacy of neighbouring properties
- Light pollution
- Loss of trees

Views contained within the two comments of support identify that;

- The development will provide educational and economic benefits for people of all ages
- Site is within easy walking distance of town centre
- Access issues are not insurmountable
- The radius of the access road could be improved by removing tree No. 15m to allow for realignment

APPLICANTS' SUPPORTING INFORMATION

The applicants have submitted the following information in support of the application;

- Design Statement
- Air Quality Assessment
- Noise Assessment
- Cultural Heritage Assessment
- Landscape and Visual Assessment
- Arboricultural Impact Report
- Transport Assessment
- Ecological Reports
- Pre-Application Consultation Report

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Officer: The Cultural Heritage Assessment is accurate and agrees that there will be no significant impacts to the setting of designated archaeology in the surrounding area. The LiDAR assessment confirms the sites incorporation as part of

the Hartrigge House Designed Landscape and the retention of some of the plantation within the site is welcomed. The site name 'Oakie Knowe' retains a sense of a managed medieval landscape and Oak woodland was kept by the Jedburgh Abby throughout the Middle Ages. There is some potential for buried archaeology from this era and previously the location of the site may have been attractive to pre-historic settlers. Evidence of discovery is judged to be low but this is based on the evidence available, therefore the potential for discovery is recommended to be better expressed as 'unknown'. To get a better sense of presence or absence of buried archaeology a developer funded field excavation is recommended to be required as a condition of any consent.

Ecology Officer: Satisfied with the Ecological Impact Appraisal. A comprehensive set of surveys has been carried out in accordance with good practice measures, however a further survey to inspect the trees with bat roost features will be required before the application is determined. This survey can only be carried out between December – March. Otherwise suspensive planning conditions are recommended to ensure that the impact of the development on ecological interests is adequately mitigated. The conditions should include;

- The appointment of an Ecological Clerk of Works
- A Construction Environmental Management Plan
- A Species Protection Plan (to include measures to protect bats, badgers, red squirrel, breeding birds, reptiles and amphibia)
- A biosecurity plan for few-flowers leek
- A Landscape Management Plan
- A Lighting Plan

Environmental Health Officer: An updated response recommends that before works commence a Scheme for Mitigation of dust and other potential nuisances arising from the construction and demolition is required. The principal means of heating is from a heat pump, further information of the heat pump which is to be used is required to determine if a Noise Assessment is necessary.

Forward Planning: The site is a greenfield site located with the Jedburgh development boundary. Identify that a site for business and industrial use lies to the east of the site. A chronology of the sites previous inclusion and exclusion from previous development plans is provided along with the reasons listed by the Reporter during the Examination of the current LDP which concluded that the site was not suitable for a residential allocation of 80 units on the basis of; ownership issues, topographical constraints, access difficulties, the adjacent industrial use detracting from the visual attractiveness of the site and the availability of other less constrained housing land. The Reporter did acknowledge that the possibility of future residential development is not precluded and would require assessment against Policy PMD5.

Recommend that this application is to be tested against policy PMD5 which supports infill development provided the proposal satisfies the criteria listed in the policy. Forward Planning consider that the proposal satisfies each criterion of Policy PMD5 and the site is appropriate for this much needed facility within the town.

Landscape Architect: A detailed assessment has been provided; the following key points are noted;

- Given the undulating nature of the site there will be a significant amount of earth moving. The location of the school building and sports pitches exploit the topography to minimise the visual impact of the earth moving.
- The Landscape and Visual Appraisal identifies that there will be limited views of the development because of the enclosed nature of the site. The magnitude of change will be low.
- The existing mature woodland structure will largely remain intact and will continue to screen the development.
- When viewed alongside the industrial building and woodland, the development will not have a negative impact on the wider Jedburgh Area.
- The removal of 33no healthy trees represents the loss of 18% of healthy trees within the site and the access road will significantly impact on 10 other Cat A trees. The tree loss is not so significant to make the proposed development unacceptable and provides an opportunity to rejuvenate the mature structural planting.
- No details of the access road construction specification are provided. The section drawing shows little build-up within the Root Protection Area (RPA) of the retained trees. The Arboricultural Impact Assessment (AIA) notes that crown reduction can mitigate root loss or damage and a Tree Protection Plan should be prepared.
- The main vehicular entrance lacks any features and opportunities exist to provide some gateway detailing to complement the existing gateway off Prior's Road.
- The landscape plan is limited and does not reflect the Landscape Design Mitigation measures detailed in Section 6 of the LVIA.
- The limited boundary fencing is welcomed to maintain a permeable site and retained the open public nature of the site.

In conclusion the Landscape Architect recommended that there will not be an unacceptable landscape and visual impact from this development, but the following issues should be addressed within any approval;

1. A Tree Protection Plan and Arboricultural Method Statement produced prior to any work commencing on site and the presence of the Arboricultural Consultant while any work is being undertaken within or immediately adjacent to the Root Protection Area of any retained trees.
2. A requirement to replace any existing trees impacted by the development works that die within 5 years of completion.
3. A more detailed entrance gateway plan.
4. A fully specified and detailed planting scheme for the development, including timing of all planting, planting protection, and establishment and future maintenance.

Outdoor Access Officer: Access to the school and permeability through the site are key aspects of the application. Recommend that a Path Planning Study is undertaken to identify;

- Where existing routes including statutory access rights are located
- Where temporary or permanent diversions are required
- Areas of improvements to the path network

The use of shared access and active travel are encouraged by the Scottish Government. The Core Paths which pass through the site should be upgraded. The eastern boundary of the site is used as informal route and it usability should be maintained.

Roads Planning Service (RPS): A detailed assessment has been provided with comments in response to the Transport Assessment (TA), General Observations and Safer Routes to Schools. The key points raised are summarised below.

Transport Assessment (TA)

- Additional information is required to clarify if sufficient car, bus and cycle parking spaces are provided
- Detailed engineering drawings of the amendments to the mini roundabout are required
- Assessment fails to recognise pedestrian use of the A68 underpasses and use of the Boundaries to access the development which is the most direct route on approach from Howdenburn and Oxnam Road

General Comments

- Waterside Road is the main vehicular access to the site. The width of the road is restricted due to a wall and footway on one side. Swept path analysis is required to show that two buses can pass and if the footway can be widened
- Longitudinal sections and full engineering drawings from the access road leading to the site are required to demonstrate that adequate gradients can be achieved
- Pedestrian crossing points need to be made more of a feature
- Engineering drawings of all roadworks need to be agreed
- A Traffic Management Plan (TMP) for the construction phase of the development is required to ensure all construction traffic access and egress the site safely
- The Rural Skills Area should be relocated to avoid impeding the future extension of the access road

Safer Routes to Schools

- Following consultation with the safer routes to schools team a range of measures are noted to improve the safety of the routes used to access the site.
- Advise that the Safer Routes to Schools Team will work with the school on a School Travel Plan

In response to Supplementary Information on Transport, Roads Officers have provided the following comments;

- At the Priors Road roundabout the embankment at the west restricts ability to widen the road. The pedestrian crossing point has no visibility when crossing east to west – to provide this the retaining wall will have to be realigned and vegetation removed.
- The general widths of Waterside Road measured by RPS are between 5.3 – 5.9, not 6m indicated on submitted sketched. A large uptake of land will be required to provide the improvements than identified. Further information is required to confirm that the surrounding land has the capacity to cater for the additional impact.
- The northern end of Waterside Road will not cater for two vehicles without leading to road safety issues. The northern section of the road could be extended to the east which will require works to the embankment and swept path analysis to mitigate issue.
- Sufficient parking provision is provided.

Statutory Consultees

Community Council: No material planning considerations are raised. Would welcome a revised name for the facility and if an all age break out space could be provided.

Scottish Environmental Protection Society (SEPA): No objection. Parts of the application site lie within an area with a 0.5% annual flood risk from surface water. The site is steep so flood resistant and resilient measures should be incorporated in to the design and construction. The site is out with fluvial flood risk areas from the Jed Water or Howden Burn.

The means of site drainage should not result in pollution of the water environment and should be compliant with Sustainable Urban Drainage Systems (SUDS) methods. The proposal identifies that the car park and access road will receive two level of treatment however the location of this mitigation is not clear on the plans, nevertheless due to the scale of the site; it is a matter for SBC to determine if the drainage systems are appropriate.

Scottish Natural Heritage (SNH): The proposal is close to and could affect the River Tweed Special Area of Conservation however this proposal is unlikely to have a significant adverse effect on the qualifying interests of the SAC either directly or indirectly.

The Ecological Impact Survey identified a number of trees have Bat Roost Potential (BRP) therefore further BRP surveys should be provided. If bats are found, a Species Protection Plan will be required to detail impact of the development and mitigation. Information provided is sufficient to allow for a disturbance licence for badgers to be issued but not for a sett closure so a Species Protection Plan will be required.

Transport Scotland: Initially raised concerns about the junction of Waterside Road onto the A68 because the junction was not wide enough to allow two buses or potentially a bus and vehicle to pass one another. Following a site meeting and the submission of further information, an updated response has been provided which recommends that no objection was raised provided that planning conditions are imposed to require;

- A68/Waterside Road junction improvement to be carried out as specified on Drawing No P130603/700 (Rev A), and
- The agreement of pedestrian crossing facilities on the A68

Other Consultees

None.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016

PMD2: Quality Standards
PMD5: Infill Development
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP9: Conservation Areas

EP13: Trees, Woodland and Hedgerows
EP16: Air Quality
IS1: Public Infrastructure and Local Service provision
IS4: Transport Development and Infrastructure
IS5: Protection of Access Routes
IS6: Road Adoption Standards
IS7: Parking Provision and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Scottish Government Policy and Guidance

- Scottish Planning Policy (SPP) 2014

Approved Supplementary Planning Guidance Notes on;

- Landscape and Development 2008
- Local Biodiversity Action Plan 2001
- Privacy and Sunlight Guide 2006
- Trees and Development 2008

Borders Designed Landscapes Survey 2008

KEY PLANNING ISSUES:

The key planning issues are;

- Whether or not the proposal represents a suitable form of infill development.
- Whether the siting and design of the proposals respect the character and amenity of the surrounding area.
- Whether adequate access can be achieved
- Whether the development will cause the loss of or serious damage to woodland resources
- Whether Ecological impact of the development can be adequately mitigated
- Whether the development detracts from the amenity of neighbouring properties.

ASSESSMENT OF APPLICATION:

Planning Policy Principle

The application site is located within the Jedburgh Development Boundary designated within the Local Development Plan (LDP). Policy PMD5 of the LDP is generally supportive of infill development. The policy sets certain criteria which proposals should satisfy to secure the appropriate development of non-allocated sites within settlements.

The proposal represents a significant investment in improving both educational and community facilities within the town of Jedburgh and its surrounding catchment, which is both welcome and consistent with wider policy aspirations of the development plan.

As noted within the Planning History section of this report, the site has been allocated within previous development plans and it was also proposed for allocation within the

current development plan for residential development. Despite conclusions by the Council and then the Reporter assessing the LDP Examination that the site was not suitable for allocation for residential purposes, the Reporter acknowledged that the site fell within the settlement boundary, meaning that its future development was not precluded. The decision not to allocate this site for residential purposes does therefore mean that alternative proposed land uses cannot be considered and, as recognised by the Reporter, any proposed future development of the site must be tested against Policies covering Infill Development.

After the Council had identified the need for a new educational facility within Jedburgh, other available sites were considered. While these sites had the potential to accommodate the proposed building, only the application site was capable of accommodating the external sports facilities. The chosen site is therefore the best option to accommodate the proposed development within the settlement boundary.

A key policy requirement for proposed infill developments is to avoid conflict with the established land use of the area. Part of this site already accommodates an education facility in the form of Parkside Primary School. While the proposed development is much larger and includes land which is not currently used for education and sports activity uses, the presence of a school within part of the site has to a degree already established that the proposal can co-exist with surrounding land uses. The impact of locating the proposal next to a Hartrigge Park Business and Industrial Estate is important to consider. This development will not impinge on the functionally of this safeguarded Business and Industrial Land and, while the site abuts this neighbouring land use, the change in ground levels and proposed boundary planting helps to provide separation between the different uses.. With this in mind there are no land use planning reasons why this proposal development would conflict with the Business and Industrial Estate.

In principle the proposed development is judged to be a suitable form of infill development and the other precise policy criteria listed in Policy PMD5 will be considered within relevant sections of this report.

Layout

The siting and design of the development has been influenced by the site's topography. The location of the campus building within the lowest part of the site which has the space to accommodate the structure is welcomed. The building seeks to address the site's level change by cutting the building into the slope. However areas of up-fill are also needed to create developable platforms, particularly for the sports pitches. The impact of the ground works, which is aided by the building corresponding to the topography by having a strong east west axis, helps the development to be positioned in a manner which does not alter the overall landform.

The location of the larger sports pitches at the highest point of the site is suitable because by their nature they are not prominent structures. The positioning of other smaller ancillary infrastructure around the site will not have a detrimental visual impact as views will be drawn to the campus building.

The main vehicle access is through the existing Parkside Primary School site. This enables the retention of the listed gatehouse, associate walls and mature trees. The access joins the historic driveway and attempts to minimise visual intrusion of the new access road as it winds up the hill, with external views screened by the retained trees. The visual impact of the parking areas, especially the upper car park, is reduced by their positioning in the site. Retaining walls are to be provided around the

building and sports pitches and, presumably, similar walls may be needed at points on the access road and other infrastructure within the upper area of the site. The principle of the use of retaining walls is suitable in this context, although a more detailed scheme of levels and retaining walls will be required.

Form and Design

The scale of the campus building is large but other larger structures are located directly to the east at a higher level so, in this setting, and having regard to the extent of the site overall, its scale is appropriate to its context. The proposal does not represent overdevelopment of this large site.

The proposed campus building has been designed following review of exemplars schemes to ensure a 21st century learning environment consistent with SBC policy aspirations. The design of the building is contemporary and the applicant's agents liaised with this department before submission of the application. The building's modern and contemporary design approach integrates well with the landscape setting of the site. The layered building design is simple and helps the building to follow the gradient of the site. The avoidance of a long or heavy upper level reduces the mass of the structure. Angular rooflights punctuate the roof in a manner which adds interest to the building and their green copper colouring works well with the wider parkland setting. The simple pallete of external materials consisting of copper, masonry ribbons, large glazed windows and timber soffits are all suitable in this location and it is notable that each of the materials includes a linear detailing which corresponds with the form of the building. The entrance elevation could possibly have benefited from more architectural detailing but the exaggerated roof overhang, large central roof light and its siting will successfully draw people to this point and the simplicity is helpful in assisting the integration of the building into the site.

The internal arrangement provides an interesting and welcoming environment. The design should allow for a lot of natural light to penetrate the structure. Both the internal and external arrangement of the spaces is viewed to foster a suitable 21st century learning environment.

Overall, the design of the campus building successfully addresses its key site challenge by neatly fitting into the landform in a manner which allows the building to emerge from the hill rather than being set upon it. To ensure the campus building has an appropriate appearance within the surrounding area it is recommended that samples of the external material finishes are agreed by means of a planning condition.

The design of the site entrance allows the existing gateway to Hartrigge, which is defined by gate piers, to be the dominant entrance from the streetscape. The submitted drawings indicate that the new vehicular entrance from Priors Road will be enclosed by an entrance wall although there is little further information on this. Further details of this entrance can be sought by condition where it would be possible to explore if an enhanced arrival point could be created at this access, possibly by introducing gate piers which may better reflect the landscape setting of the development.

The precise finishes of the access roads and parking areas are important along with the specification of the other associated structures. It is not clear within the submission what the appearance of these features will look like; however, these details can be agreed by way of planning conditions.

Landscape Impact

The application site is not located within any Local Development Plan landscape designations. While the site is within the Hartrigge Designed Landscape, this is a local SBC designation and not a formal Garden and Designed Landscape which is protected under Policy EP10 of the LDP. The submitted Landscape and Visual Appraisal, which includes a series of viewpoints, helps to understand the visual impact of the development within the Landscape and the assessment of the visual impacts contained in the appraisal is considered to be an accurate reflection of the issues raised.

The assessment confirms that there are no views of the development from the historic core of the town. In close proximity around the development from Viewpoint 1 Hartrigge Park and Viewpoint 3 Howdenburn Drive the development is visible. Despite the scale of the building and the volume of associated infrastructure the proposal is not overly dominant with the development integrating within the woodland structure of the site. From these viewpoints the green colouring of the copper rooflights and the playing surfaces of the sports pitches along with the dark wall and roof surfaces of the campus building will help the development to recede into the landscape.

Only from elevated land outwith Jedburgh on the opposite side of the valley at Viewpoint 4 is a fuller perspective of the site possible. The scale of the development is more visible from this viewpoint. However, from this location the proposal is seen to work sensitively with the landform and integrate with the landscape structure of the site. The size of the building is big in comparison to the houses which are viewable to the south from this viewpoint but the large Mainetti factory positioned to the rear of the site on elevated ground remains the dominant presence in views from this location.

Landscaping is proposed within the site and in particular the tree/shrub planting to the rear (east) of the site helps assimilate the development within its setting. More precise information regarding the site's landscaping (including its management) is required and this can be controlled by a standard planning condition. The Landscape Architect is also seeking that the maintenance period is extended from 1 to 3 years. Given the sensitivity of the site this extra time period is reasonable to ensure that the landscaping is successful and again this can be controlled by condition.

The development does result in some tree loss and this will be considered in detail below. The proposal does impact on the Hartrigge Designed Landscape and the loss of mature trees from its setting is unfortunate. However, the proposal integrates well within its location and the inclusion of some mature trees within core areas of the site helps maintain the landscape structure of this part of Jedburgh. Overall, the proposed development is not considered to have an impact adverse within the wider landscape or the setting of Hartrigge Designed Landscape.

Tree Impact

An additional Arboricultural Impact Report has been provided. This confirms that the development will result in the loss of 33 healthy trees, primarily from the lower part of the site which represents a loss of 18% of the total number of trees from the site overall. The creation of the access road will result in the most significant tree loss. An attractive tree lined avenue currently encloses the existing core path at this section of the site and the Root Protection Area (RPA) details suggest that the creation of the

access road also will significantly impact on a further 10 Category A trees within this part of the site.

The trees which are being removed to accommodate the access are generally towards the inside of the site so those towards the outer edge will remain which retains the site's enclosure. The tree lined avenue remains towards Hartrigge Crescent which is where the avenue is strongest and a sufficient number of mature trees remain to the west to provide the sense of the avenue, especially at the historic entrance. The Landscape Architect is satisfied the volume of the tree removal is acceptable on balance and that considers that this managed approach will help to rejuvenate mature structural tree planting. The precise construction details of the access road have not been provided but a Tree Protection Plan can be prepared to establish the location of protective fencing which is to be erected around the identified root protection areas to safeguard the retained trees. This can be controlled by a planning condition. It is understood that remedial works are required to some of the trees to enable their retention. This seems reasonable as their retention is positive and the agreement of these works can be agreed as part of a detailed schedule.

The recommendation from the Landscape Architect that an Arboriculturalist attends the site during tree protection works is considered unnecessary provided that protective fencing is suitably erected before works commence and remains in place throughout the construction work. It is requested that should any of the development works result in the loss of additional trees within the first 5 years that these trees are replaced. Trees are a significant feature of the site so if additional trees are lost without replanting, this would diminish the site setting, therefore, the request for replacement planting after further any tree loss is appropriate and can be controlled by condition.

Access

The development of land surrounding this site has led this site to be land locked which provides limited opportunities for vehicular access. Alternative options for vehicular access are listed on page 22 of the Design Statement and in comparison to the other possibilities, the preferred option is the logical and most practical choice, providing a dedicated access to the campus and minimises disruption to neighbouring uses. No road safety concerns have been raised from the Roads Planning Service (RPS) about the formation of this vehicular access point or the secondary access on Priors Road which will be used to access the lower parking and drop off area. The site does seek to positively utilise pedestrian access to the surrounding area by linking into: the path network at Hartrigge Crescent, the core path to the north, the existing access which leads on to historic access across the north west known as 'The Drive' and also to open up the pedestrian route to the south of the site. These pedestrian access points provide good pedestrian connectivity from different sides of Jedburgh, helping to make the site accessible and hopefully reducing the number of vehicle trips to the site. Cycle routes are also well catered for with the development linking into existing local routes.

Within the site, the internal road/pedestrian networks seek to reduce the volume of cars travelling up to the campus building by establishing the drop-off point at the lower car park on the site of the existing school. The pedestrian crossing points on the access road could be made more of a feature in order to give priority to pedestrians and to help ensure that vehicle speeds on the access road are suitably restricted. Precise details regarding the construction of the access road and pedestrian routes are required to ensure that the routes are; of a suitable gradient,

constructed to an adoptable standard and include satisfactory lighting and drainage. The RPS has also requested a traffic management plan for construction traffic to access and egress the site safely. This is reasonable given that Parkside Primary School could continue to operate in tandem with the construction of the new school. It is recommended that these matters can be handled as conditions of the planning permission.

The Traffic Assessment has identified that vehicular traffic impact will be largely confined to the A68/Waterside Road junction and Waterside Road. The narrow width of this road infrastructure has led to both Transport Scotland and the Council's RPS raising concerns about the ability of this route to appropriately serve the additional traffic generated by this development in its current status. In particular the narrow widths of the road and junction are insufficient to allow two buses travelling in opposite directions to safely pass one another and allow for a footpath to be retained.

Through the course of the application a scheme of improvement works has been illustrated on drawing No P13603/ 700 REV A. The proposed works detail road widening around the junction and to re-route the footpath. The proposals demonstrate that the works will allow for two buses to successfully pass each other at the junction.

In addition to further traffic using the trunk road, the development will lead to more pedestrians crossing the A68. This poses a potential trunk road safety risk and while there are already underpasses to help pedestrians get to the site and avoid directly crossing the A68, because of the additional footfall, the provision of dedicated road crossing points is required. The need for this additional form of mitigation was also raised by the Councils Safer Routes to School Team. Agreement of the location and function of the crossing point should account for recommendations within the School Travel Plan / Safer Routes to School assessment. Provided that the A68/Waterside road junction is widened as per the revised plan and trunk road pedestrian crossing points are provided, Transport Scotland are satisfied that this form of mitigation will address their trunk road safety concerns. These aspects can be covered by planning condition.

Precise details to successfully demonstrate sufficient road improvement works to Waterside Road have yet to be provided. The narrow road is bound by rising land behind a retaining wall on the east side and the watercourse on the west side. The widening of the road is therefore challenging, although not impossible. To provide sufficient road and footpath space it is understood that up to 1.2m of widening is required along the length of this route. Because of the constraints around the road these works will likely require alteration of the existing retaining wall, removing vegetation, re-grading the rising ground and possibly altering the riverbank. The solution must not only provide safe access but also be mindful of the ecological interests of the water course and the adjacent Conservation Area as well as its overall visual impact.

Whilst it would have been desirable for this issue to have been fully resolved in advance of the grant of permission, time constraints have not made that possible; nevertheless, Officers are of the view that a technically feasible solution exists and provided this is handled sensitively, it will not detract from the wider character of the surrounding area. It is therefore recommended that the precise agreement of the road upgrades can be handled via a suspensive condition which seeks to agree a scheme of road improvements before works start on site and that the agreed improvements must be completed before the campus opens to ensure that safe road access is achieved to the site. It is not necessary for the upgrades have to be

completed to serve construction traffic as the agreement of a Traffic Management Plan which incorporates construction traffic management measures will ensure that vehicle movements associated with this process do not have a detrimental effect on road safety.

Criterion e) of Policy PMD5 requires proposed infill development to achieve adequate access and it is considered that, subject to a combination of conditions relating to road improvement works and traffic management, this proposal complies with this requirement of Policy PMD5.

Parking

Parking provision is proposed at two areas of the site with the Lower Car Park provided for visitors and the Upper Car Park for staff together with bus and cycle parking. The RPS sought confirmation of the analysis which was undertaken to conclude how may staff, bus and cycle spaces are provided. Supplementary information on parking has been provided and the RPS have confirmed that sufficient car, bus and cycle parking is provided to serve the volume of traffic associated with the development.

Protection of Access Routes

Policy IS5 seeks to safeguard developments which impact on existing access routes. Core Path 107 runs along the north western boundary of the site and 101 along the southern boundary. The development seeks to link into these routes; and their physical improvement will further encourage their use. To ensure that that a suitable form of works are undertaken to these routes and to agree any diversions of paths, a Path Planning Study can be agreed by way of a planning condition.

Neighbouring Amenity

Residential properties adjoin the site to the south where the campus building is located. At its closest point, the campus building is some 50m away from the rear elevation of the nearest residential property. At this distance, the scale and design of the building will not cause any detrimental levels of overlooking or impede these neighbours' access to light or sunlight.

The siting and design of the proposal and the inclusion of planting along the southern boundary of the site and the retention of planting along the north western boundary ensures that the development will not adversely affect the outlook of any of the surrounding neighbouring properties to any unacceptable extent..

CCTV information has been submitted, including two cameras on the building and one free-standing pole at the entrance. Such features tend to be installed by Councils under permitted development rights. However, as they are included here, it is only prudent to ensure they do not allow a field of view over neighbouring private property. From the positions shown, this seems unlikely to be a problem.

The proposal has the potential to generate additional noise which, in turn, has the potential to cause a nuisance for surrounding neighbouring properties. Noise is likely to be generated by sports activities within the grounds of the development and from vehicles during pick and drop offs which will be concentrated during specific times. Noise generated at the site will mostly be through the working day but it is also anticipated through use of the sports pitches during evenings and at weekends. The Council's Environmental Health Officers (EHO) have questioned that the means of

heating for a heat pump may generate noise which requires further assessment and this can be sought through a planning condition. Otherwise no noise issues have been raised by the EHO which would lead the development to have an adverse impact on the amenity of neighbouring properties. The installation of acoustic fencing is proposed which will assist with reducing noise from cars around the main vehicular entrance and agreement of a traffic management plan can further seek to reduce noise levels from vehicles by discouraging the use of private cars.

The EHO has identified that the demolition work may lead to nuisances which could affect the amenity of neighbouring properties. Give the location of Parkside Primary directly in-between residential properties this comment is acknowledged. Nevertheless, these buildings could be removed without Planning Permission and Environmental Health Legislation is best placed to ensure that this process is carried out in a controlled manner. Provided these relevant legal obligations and appropriate best practice advice are accounted for during the demolition works to clear the site there is no role for planning to oppose these works on residential amenity grounds or seek further agreement of the strategies to mitigate nuisances which are protected already protected by Environmental Health legislation.

Having considered the impact of the development against the requirements of Policy HD3 of the LDP, the proposal is not considered to adversely affect the amenity of neighbouring residential properties to any unacceptable degree or any other land uses for that matter.

Archaeology

The proposed development does not impact on the setting of any designated archaeology within the surrounding area. The LiDAR assessment has confirmed the site's incorporation within the Hartrigge Designed Landscape and the retention of some of the historical plantation within the site is welcomed. The designated landscape is not of archaeological significance. The management of the site in the medieval era suggests that there may be potential for archaeological discoveries but features related to these works would likely have been visible.

The archaeologist has identified that the location of the site may have been attractive to prehistoric settlers and the sub-surface evidence of such settlement may exist. Policy EP8 requires that any proposals which affect the historic environment should be sought to be mitigated. The potential for discovery is low but the archaeologist suggests that the low potential is possibly as a result of the limited evidence available. Given the possibility that the site does contribute to the historic environment, further investigation will confirm the presence or otherwise of any significant archaeology within the site. In accordance with the requirements of Policy EP8, a developer funded field evaluation can be required as a condition of this permission in order to further assess and provide suitable mitigation for any archaeology discovered within the site.

Ecology

The application site is within 50m of the Jed Water which is an ecologically sensitive site forming part of the River Tweed Special Area of Conservation (SAC). SNH are satisfied that a further appropriate assessment is not required. The development site does not directly connect to the SAC although there is potential for impacts such as spillage of pollutants and sediment run-off arising during the construction process which could affect the waterbody. These impacts can, however, be mitigated by adopting a Construction Environmental Management Plan (CEMP). Through the

course of the application further information has been provided to address access improvements to Waterside Road which abuts the SAC. As discussed earlier in the report, these works require road widening, footpath re-configuration and earth movements adjoining the SAC but they do not presently lead to any intrusion within the SAC. Provided that the CEMP includes mitigation to protect the SAC during access improvement as well as site construction works, the proposed development will not affect the significant qualifying interest of the River Tweed SAC.

The Council's Ecologist has assessed the range of habitat and species surveys which have been submitted. The development would impact on certain species and habitats. A range of bat surveys have been carried out to determine the presence/absence of bat roosts in the school buildings, potential of bat roots within trees and bat activity across the site. No bat roosts were recorded at the Parkside Primary School and therefore no further bat surveys are required before the school is demolished. Bat activity was recorded across the site and the trees within the site were identified as having potential to serve as bat roosts. The development does require a number of trees to be removed; therefore these works have the potential to impact on bat roosts. To determine if the trees which are to be removed or affected by the development works serve as bat roosts, further surveys to inspect the trees are required. These inspection surveys can only be carried out at certain times of the year with the appropriate seasons falling between December – March.

Bats are a protected species and Policy EP1 safeguards protected species from potentially adverse effects from developments. The additional surveys are therefore required to ensure that the development complies with Policy EP1 whereby the identified tree removal does not impact on bats or the impact can be mitigated by suitably worded planning conditions. Due to the seasonal constraints determining when these surveys can be undertaken, at the time of writing the report the surveys have not been submitted however confirmation has been received from the agent that these surveys are being undertaken. It is proposed that a verbal update will be presented to Members at the committee when it is anticipated that the findings of the surveys will have been submitted and considered by the Ecology Officer. Alternatively, if the surveys have not been submitted prior to the committee meeting, it is sought that the determination of the application be delegated to the Chief Planning Officer once surveys have been submitted and are considered acceptable.
The submitted ecological appraisals have identified that the development would impact on certain other species and habitats. The Ecologist has not suggested that there will be any unacceptable impacts under Policy EP3. In addition to the requirement to agree a CEMP it is recommended all ecological impacts can be mitigated through conditions covering;

- The appointment of an independent Ecological Clerk of Works to monitor compliance with ecological commitments
- A Species Protection Plan
- A Biosecurity Plan
- A lighting Plan
- A Landscape and Habitat Management Plan

Flooding

The site is outwith areas of flood risk from the Jed Water and to the Howden Burn. The site is within an area of a 0.5% annual flood risk from surface water. SEPA have not objected on flood risk grounds and have encouraged the use of flood resilient

materials within the development. This advice can be covered via an informative note.

Site Services

Mains water supply and foul drainage are proposed (though foul drainage capacity is yet to be confirmed by Scottish Water). Given a school already exists within part of the site and the site is located within the development boundary it would seem reasonable to consider that mains water and foul drainage connections for the new school are not an insurmountable issue.

Surface water drainage is to be handled using Sustainable Urban Drainage Systems (SUDS) compliant measures. The proposal identifies that the car park and access road will receive two level of treatment, however, the location of this mitigation is not clear on the plans. It is important to ensure that the site drainage does not pollute the water environment. The precise means of the SUDS treatment proposals can be agreed via a planning condition.

CONCLUSION

The proposed development represents a significant investment in the improvement of community facilities to the benefit of Jedburgh and its surrounding catchment. The development occupies a large non-allocated site within the Jedburgh settlement boundary where Policy PMD5 is generally supportive of infill development. The enclosed nature of the site and its topography means that the development of the land is not simple. Nevertheless, the siting and design of the development is positioned in a manner which sympathetically responds to the landform. The design of the campus building may not be consistent with other buildings locally but it offers innovative architecture which attempts to integrate the building into its surroundings in a sensitive manner while also providing the facilities which are required. The development will result in the removal of trees from the site but sufficient areas of planting are being retained and complimented by additional site landscaping which enables the development to integrate within the landscape structure of the surrounding area and not appear visually dominant.

Access improvements will be required to provide safe access along Waterside Road. Having thoroughly considered the issues involved to resolve this, these issues are not insurmountable and the precise detail of these works can be agreed by appropriately worded suspensive planning conditions to ensure that adequate site access can be achieved. The proposal is not considered to conflict with neighbouring land uses and the ecological implications of the proposed development can all be mitigated by planning conditions.

Overall the proposed development is considered to represent a suitable form of infill development which complies with relevant provisions of the Local Development Plan 2016, principally the criteria listed within Policy PMD5 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is approved subject to and the following conditions and Informatives. In the event that the bat roost activity survey has not been able to be

completed prior to the presentation of this application to Members at the Planning and Building Standards Committee, it is proposed that the final determination of this matter is delegated to the Chief Planning Officer.

1. No development shall commence until a scheme of levels, identifying building, ground and hard surface levels throughout the application site all related to a fixed off-site datum, and including specifications of any exposed retaining walls, has been submitted to and approved by the Planning Authority, notwithstanding the level information specified on the approved plans and drawings. Development shall be carried out in accordance with the approved scheme.
   Reason: Further information on levels is required to ensure the development is visually sympathetic to the context and safeguards the amenity of neighbouring properties.

2. No development shall commence until the following details are submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details:
   a) Samples of all external building and hard surface finishes and colours
   b) Specifications for all free standing structures to include but not limited to outdoor changing facility, allotment store, service enclosure, external lighting, rural skills area, benches, cycle stands, litter bins, storage buildings, etc.
   c) Specifications for all above-ground play structures and equipment
   d) Specifications of the site entrance from Prior's Road

   Reason: To visually integrate the development sympathetically with its surroundings and safeguard neighbouring amenity

3. No development shall take place except in strict accordance with a scheme of soft landscaping works (based on the general arrangement illustrated on Drawing No L01 dated 13.11.2017), which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
   i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
   ii. location of new trees, shrubs, hedges and grassed areas
   iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
   iv. programme for completion and subsequent maintenance which includes a three year Defects Liability Period

   Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

4. No development shall commence until a Tree Protection Plan and Arboricultural Method Statement has been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:
   a) A plan identifying the location of protective fencing in accordance with BS5837:2012 which is to be erected around the trees identified for retention on Drawing No HP1/0517 and thereafter the fencing shall only be removed when the development has been completed.
   b) A programme of remedial tree works to allow the access road to be constructed.
   c) A programme of works to detail the removal of trees identified within the Drawing No HP1/0517 for removal.

Reason: Further information is required regarding tree removal and protection to ensure impacts on trees are minimised, in the interests of maintaining the landscape setting of the site and amenity of neighbouring properties

5. Other than those identified for removal within Drawing No HP1/0517, no trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority. In the event that any trees die or be damaged or removed within 5 years of the completion of the works proposals for replacement planting shall be submitted to and agreed with the Planning Authority and implemented in accordance with a timescale to be agreed.
   Reason: The existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained.

6. No development shall commence until a scheme of details which include full engineering drawings has been submitted to and agreed in writing with the Planning Authority which detail road and pedestrian improvements to Waterside Road. Thereafter the approved works shall be completed before any part of the development is brought into use.
   Reason: To ensure the development is adequately serviced in the interests of road and pedestrian safety and in a manner which is sympathetic to visual amenity.

7. No development shall commence until the following details are submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details:
   a) A traffic management plan for the construction phase of the development
   b) Construction details which include engineering drawings for the site's access road, associated pedestrian routes and parking.
   c) An amended drawing showing a revised design of pedestrian crossing points to reduce vehicle speeds on the site access road.

   Once approved, all parking, access roads and footpaths to be completed in accordance with the approved details before the development becomes operational.
   Reason: To ensure the development is adequately serviced in the interests of road and pedestrian safety and in a manner which is sympathetic to visual amenity.

8. No part of the proposed development shall become operational until appropriate provision of pedestrian crossing facilities across the A68 trunk road has been identified in the School Travel Plan / Safer Routes to School assessment, agreed with the Planning Authority, in consultation with Transport Scotland, and thereafter implemented in accordance with the agreed plans.
   Reason: To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road.

9. Prior to any part of the development hereby permitted being brought into use, the proposed alterations to the A68 /Waterside Road priority junction, generally as illustrated in Goodson Associates' Drawing No.P13603 / 700 (Rev. A), shall be implemented and brought into use..

Reason: To ensure that the standard of infrastructure modification proposed to the trunk road complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

10. No development shall commence until a Path Planning Study has been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:
    a) All existing core paths, rights of way, or other used paths/ tracks;
    b) Areas where statutory rights of access will apply and any areas proposed for exclusion from statutory access rights for reasons of privacy, disturbance or curtilage, in relation to proposed buildings, structures or fenced off areas;
    c) Any diversions of paths - temporary or permanent - proposed for the purposes of the development;
    d) A scheme of access improvement works which include improving the condition of Core Path 107 and 101 within the site and provision of additional path furniture required in terms of signage, seating etc.

    Reason: To protect and improve path access through the development site.

11. CCTV cameras approved under this permission shall not incorporate a field of view of private residential property. The field of view to be applied shall be agreed with the Planning Authority prior to installation of the cameras
    Reason: To minimise loss of privacy of neighbouring properties.

12. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work and reporting in accordance with a Written Scheme of Investigation (WSI) outlining an Archaeological Field Evaluation. 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.
    - Limited intervention of features, or expansion of trenches will only take place if approved by the Council's Archaeology Officer
    - 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 Record of the Historic Environment (NRHE) and Discovery and Excavation in Scotland (DES) within three months of on-site completion.
    - Further development work shall not take place until the Planning Authority has determined the potential for further archaeological impacts and, if required, a further requirement for mitigation.
    - Development should seek to mitigate the loss of significant archaeology through avoidance by design 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).

The results of additional excavations and an appropriately resourced post excavation research design shall be submitted to the Council for approval within 1 year of the final archaeological works, and published in an appropriate publication within 3 years.

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.

13. No development shall commence until the following Ecological Mitigation Measures have been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:
    a) Species Protection Plan (including measures for bats, badger, red squirrel, breeding birds, reptiles and amphibia
    b) Biosecurity Plan for few-flowered leek
    c) A Lighting Plan
    d) A Landscape and Habitat Management Plan

    Once approved, the proposed development shall be carried out in strict accordance with the approved details.

    Reason: To ensure that species and habitats affected by the development are afforded suitable protection for the construction and operation of the development.

14. No development shall commence until an Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan and to oversee compliance with the Construction Environment Management Plan (CEMP), Species Protection Plan, Biosecurity Plan and Landscape and Habitat Management Plan.

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

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

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on the environment, and that the mitigation measures are fully implemented.

16. No development shall commence until the means of surface water drainage to serve the site which complies with Sustainable Urban Drainage Systems (SUDS) regulations has been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in strict accordance with the agreed details.
Reason: To agree suitable means of surface water drainage from the site.

17. No development shall commence until the precise specification of the heat pump, including its acoustic specification has been submitted to and approved in writing with by the Planning Authority and thereafter the development shall be carried out in strict accordance with the agreed details.
Reason: Further information is required to ensure an appropriate form of development which does not detract from the residential amenity of the surrounding area.

Informatives

1. The applicant is advised that the site is at a medium to high risk of flooding from surface water and to mitigate against this flood risk the application is advised to utilise the use of water-resilient materials and construction methods.

2. The applicant is advised that should the proposed road improvement works required under Condition 6 extend into the Jed Water the separate licencing and/or approval from Scottish Natural Heritage may be required as a result of the works affecting the River Tweed Special Area of Conservation.

DRAWING NUMBERS

Drawing Number	Plan Type	Date Received
SB_00_00_DR_A_00001	Location Plan	04.10.2017
SB_00_00_DR_A_00002	Site Plan	04.10.2017
SB_00_00_DR_A_00002	Site Plan	04.10.2017
SB_00_00_DR_A_00010	Topographical Survey	04.10.2017
SB_00_00_DR_A_00002_C	Site Plan	04.10.2017
SB_00_00_DR_A_00150	SBD Site Plan	04.10.2017
HP1/0517	Tree Survey	04.10.2017
HP2/0517	Tree Survey	04.10.2017
SB_00_00_DR_A_00005	Site Plan	04.10.2017
1025.50_SB_00 GF_DR_00100	Ground Floor Plan	04.10.2017
1025.50_SB_00 GF_DR_00101	First Floor	04.10.2017
1025.50_SB_00 GF_DR_00102	Second Floor	04.10.2017
1025.50_SB_00 GF_DR_00102	Roof Plan	04.10.2017
1025.50_SB_XX_DR_A_00300	Long Section	04.10.2017
1025.50_SB_XX_DR_A_00300	Cross Sections	04.10.2017
1025.50_SB_XX_DR_A_00305	Site Section AA, BB, CC	04.10.2017
1025.50_SB_XX_DR_A_00305	Site Section CC, DD	04.10.2017
1025.50_SB_XX_DR_A_00310	3D Views	04.10.2017
1025.50_SB_XX_DR_A_00400	North Elevation	04.10.2017
1025.50_SB_XX_DR_A_00401	South Elevation	04.10.2017
1025.50_SB_XX_DR_A_00402	East and West Elevations	04.10.2017
P13603 / 700 Rev A	Proposed Alterations and Swept Path Analysis	08.12.2017
L01	Landscape Plan	13.11.2017

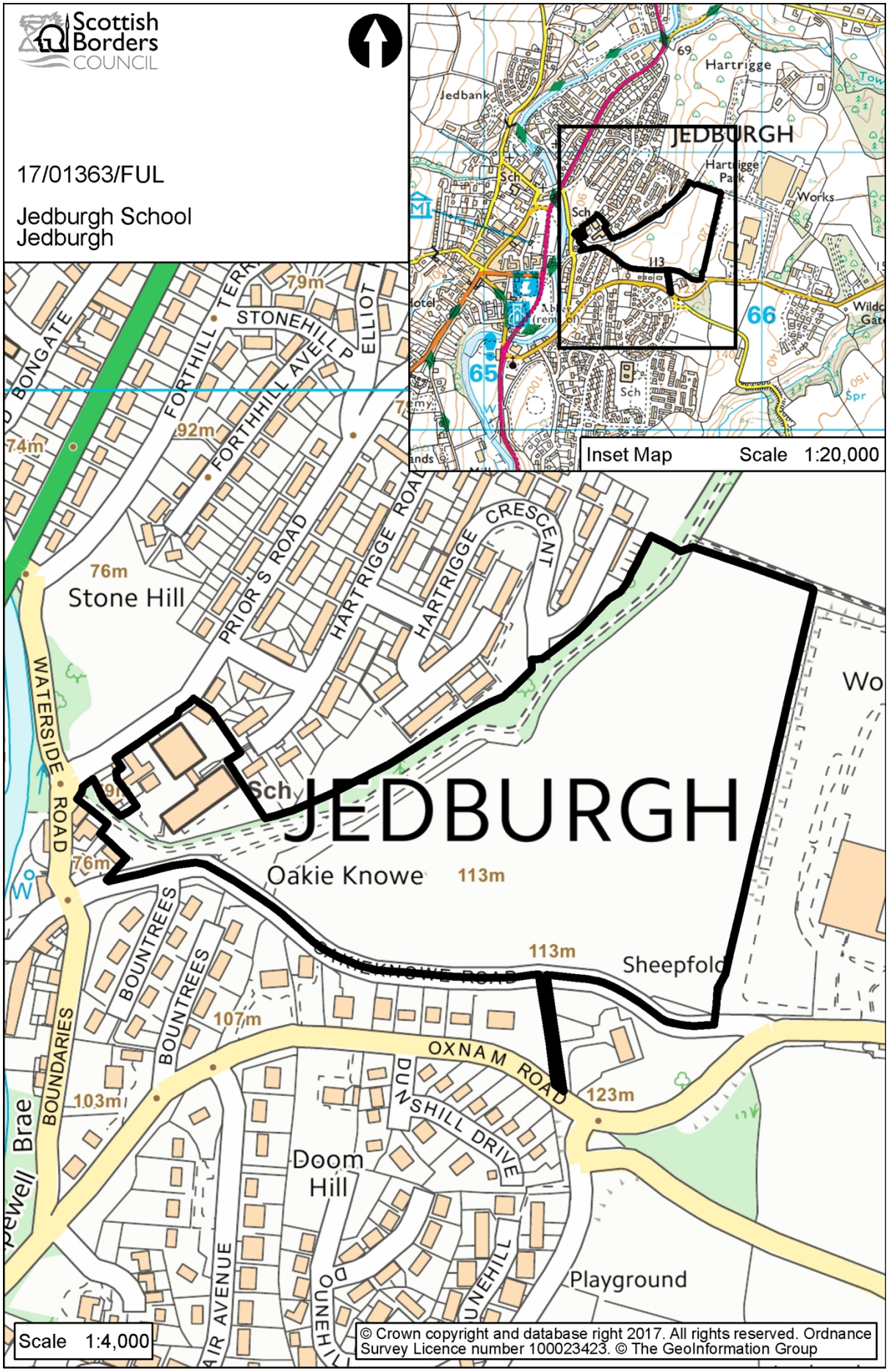
Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

Author(s)

Name	Designation
Scott Shearer	Peripatetic Planning Officer


Scottish Borders COUNCIL
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Jedburgh School
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HARTRIGGE CRESCENT
WATERSIDE
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Oakie Knowe
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Sheepfold
OXNAM ROAD
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BOUNTREES
BOUNDARIES
Brae
Doom Hill
DUNSHILL DRIVE
Playground
Scale 1:4,000
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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	17/00457/MIN
OFFICER:	Andrew Evans
WARD:	Kelso and District
PROPOSAL:	Variation of Condition No 4 of planning consent 13/01191/MIN to allow the final level of the quarry floor to be dropped to 150m
SITE:	Blinkbonny Quarry, Kelso
APPLICANT:	Mr J Shanks
AGENT:	AMS Associates Ltd

SITE DESCRIPTION

The planning application site is located at Blinkbonny Quarry, an existing hard rock quarry located 5.6km south of Gordon, and 6.5km north of Kelso. The site is located to the east of the A6089 Kelso to Gordon road. The whole site measures 17.04 Hectares, with the Quarry extension site measuring approximately 8 Hectares. The working/extractive part of the quarry is to the north of the site. Plant and processing take place at the southern end of the site, adjacent to the site access from the A6089 road

The site of the proposed quarry extension comprises parts of 3 agricultural fields and an area of mature plantation woodland to the north of the existing quarry. The site is not designated as a Special Landscape Area, the nearest such designation being the Tweed Lowlands SLA, the boundary of which is 3km to the South. The site is not subject to any environmental or heritage designations.

PROPOSED DEVELOPMENT

Planning permission was granted in 2014 to extend the quarry. Consent is now sought to vary condition 4 of that approval (ref: 13/01191/MIN) to permit the final worked level of the quarry floor to be dropped to 150m AOD.

Permission was previously approved for 4 distinct elements of the expansion:

1. ***Quarry Extension:*** It was proposed to extend the working area of the existing quarry by extracting rock from areas to the north and east of the existing quarry to a floor depth of 175m – 177m AOD. The expected working life is stated as 20 years. Based on the most recent set of updated plans the proposed extraction would release 3 million tonnes of rock, sand and gravel. This was originally to have been between 2014 and 2034. A revised approval via this application would run from 2018 to 2038. The extraction would be carried out by drilling and blasting, with mobile plant used to extract the stone and transport it to the existing on site crushing and screening plant. It is expected that a maximum of 100,000 tonnes of stone per annum will be extracted, a reduction on the initial proposals.

2. ***Landscaping and Bunding:*** An overburden dump would be formed to the northern boundary of the extended quarrying area. Beyond that profiled mound would be located a top soil bund, and beyond that would be a planting strip, to screen and soften the visual impact of the development. Further advance tree planting would be carried out to the east of the site.

3. ***Concrete Plant:*** A concrete batching plant operates at the site. The plant processing area where the ready mix / concrete batching plant are located, at the southern end of the site, and would be remaining on completion of the rock extraction. It is anticipated that vehicle movements from the plant would off-set the reduced level of movements arising from the quarry operation meaning that net traffic movements would be unchanged.

4. ***Restoration Plans:*** Proposals are set forth for the restoration of the site upon completion of the quarrying activity subject to this application.

PLANNING HISTORY

The site has the following relevant planning history:

- 13/01191/MIN – Extension to rock quarry incorporating ready mix concrete plant and associated landscape works. Approved.
- 12/01232/PAN - Proposed extension to quarry – Proposal of Application Notice in connection with this current application.
- 03/01343/MIN - Hard rock extraction - Approved 13.10.2004 – Consent was granted for a 7 year period from the implementation of the consent. The consent was subject to 32 planning conditions.
- 01/00516/MIN - Extension of quarry stockyard - Approved 11.05.2001
- 99/01070/FUL - Formation of stockyard, settlement lagoon and soak away and erection of portacabin and weighbridge – Approved 14.12.1999
- 99/00556/MIN - Hard rock mineral extraction – Approved 14.12.1999

REPRESENTATION SUMMARY

In this case, no direct neighbour notification was required, as none of the properties surrounding the site are within 20m. The application was however publicised by the posting of site notices, and advertised under the Environmental Impact Assessment Regulations, as “Neighbour Not Known”, and as “Bad Neighbour” development. The application was advertised in the Southern Reporter, the Berwickshire News and the Edinburgh Gazette. A notice also appeared on the National Public Notices website.

The previous consented approval for this development attracted two objections. This current application to vary conditions attracted no objections.

APPLICANTS’ SUPPORTING INFORMATION

Original application

The original application was subject to supporting information as follows:

EIA requirements

- The development fell within Schedule 2 of The Environmental Impact Assessment Regulations (Scotland) 2011. As such the application was subject to screening, during which the Council identified that Environmental Impact Assessment was required.

- The applicant requested a scoping opinion under Regulation 10 of the Environmental Assessment (Scotland) Regulations 1999. The council responded February 2013 with its Scoping Response.

- The applicant has submitted an Environmental Statement (Volume 3 of the submission, with appendices in Volume 4) which has been amended to take account of the proposed changes to details of the proposed expansion of the quarry, and a Non-Technical Summary (Volume 1).

Major Development Requirements

- As a major application there was a requirement for the applicant to undertake a Pre-Application Notification including community engagement. This was undertaken, and summarised in a Community Engagement Report submitted with the application.

Other Information and submissions

The application was accompanied by:

- Hydrogeology report by GeoloGIS
- Habitat survey report by BSG Ecology
- Ecology surveys by David Dodds Associates Ltd
- Noise monitoring report by Kevin Walton Associates Ltd
- Noise monitoring study by Vibrock.
- Revised (final) planning statement with updated plans accounting form comments made in first round of consultation responses.
- Revised phasing statement and plans
- Revised dust assessment
- Revised landscape and restoration plans.

Current Application

The application for variation of conditions was supported by additional technical details, including:

- A technical note on groundwater by Peter Brett Associated dated October 10th 2017.
- Supplementary Noise Assessment (Kevan Walton Associates Ltd)
- Report on “Noise Monitoring in Accordance with Planning Conditions” by (Vibrock)
- A supporting statement to Vary Condition 4 of Consent Ref 13/01191/MIN

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: This proposal will have no impact on the number or traffic movements generated by the quarry and as such have no objections to the proposal.

Archaeology Officer: Conforms there are no archaeological implications for this proposal.

Flood Protection Officer: As only a very small portion of the proposed site is within the SEPA 1 in 200 year surface water flood map has no objections to this proposal. It is also noted from the hydrogeological report that the site has measures in place to manage surface water in the form of a soakaway system which discharges water to an adjacent field.

Environmental Health (Contaminated Land): Reviewed - No comments.

Environmental Health (Amenity and Pollution): As requested the applicant has provided additional noise information in support of the application. The information provided indicates noise levels at the quarry entrance and the nearest noise sensitive properties will be reduced as a result of the quarry being depended. I therefore refer back to the original noise limits.

Conditions
During operational hours a free field limit of LAeq, 1hr 45dB shall be applicable to all quarry operations excluding soil and overburden handling and works in connection with drilling of blast shot holes at the nearest noise sensitive property. (For clarity the nearest noise sensitive property includes those owned by the applicant namely Blinkbonny Farm and Blinkbonny Cottages)

During operational hours a free field limit of LAeq, 1hr 55dB shall be applicable to soil and overburden handling and works in connection with drilling of blast shot holes at the nearest noise sensitive properties.

Agree with application in principle, subject to conditions

Ecology Officer: The original condition 4 (13/01191/MIN) was in part required to safeguard a perched aquifer and to protect the neighbouring Lurgie loch SSSI (qualifying features: Basin Fen and Beetle assemblage).

By lowering the final level of the quarry floor to 150m, the potential hydrological impacts have been reconsidered. (Hydrogeological assessment. Kevan Walton Associates Ltd, 6th July 2015), although ecology officer notes this report refers to a finished floor level of 160m AOD.

SEPA (12th April 2017) have no objection to the proposed variation of condition 4, and consider that the proposed further excavation would not present an unacceptable risk to the groundwater environment. Authorisation will be required under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR), SEPA are content at this stage that the proposal is potentially consentable under CAR. SEPA state that as part of the CAR application a risk assessment of the proposed operations on the supply of water to Lurgie loch is required.

In accordance with Local Development Plan Policy EP2 National Nature Conservation and Protected Species, Development proposals which are likely to have a significant adverse effect, either directly or indirectly, on a Site of Special Scientific Interest or habitat directly supporting a nationally important species will not be permitted unless:
a) The development will not adversely affect the integrity of the site, and
b) The development offers substantial benefits of national importance, including those of a social or economic nature, that clearly outweigh the national nature conservation value of the site.

The developer will be required to detail mitigation, either on or off site, of any damage that may be caused by development permissible under the exception criteria.

The precautionary principle will be used in identifying potential adverse effects of development proposals. SEPA consider that the proposal is consentable under CAR, although there remains some uncertainty as a risk assessment is required to inform any CAR application. For the avoidance of doubt the Planning Authority may wish to consult SNH to establish whether they are content for the matter to be ultimately controlled by CAR.

Restoration proposals
The revised Restoration Statement (AMS Associates Ltd, March 2017) states that the planting will include a high percentage of native tree and shrub species. The species mix includes Grey alder (*Alnus incana)* which is not a native species. This should be replaced with common alder (*Alnus glutinosa*). Beech (*Fagus sylvatica*) is also included, which is probably only a native of S.E. England and S.E. Wales . I would prefer that an alternative species replaces it such as penduculate oak (*Quercus robur*).

Statutory Consultees

SEPA: No objection. Based on the information provided, we are of the opinion at this stage that the proposed further excavation would not present an unacceptable risk to the groundwater environment. Some of the proposed works to allow such a process will require authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and further information will be required to be submitted to support any future CAR application. At this stage we are content that the proposal is potentially consentable under CAR.

Scottish Natural Heritage: In first response, objected to the application, citing concerns in relation to de-watering arising as a result of the deepening of mineral workings at this site. The second response from SNH withdrew objection 08.11.2017, following submission of additional information.

Floors, Makerstoun, Nenthorn and Smailholm Community Council: No response received.

DEVELOPMENT PLAN POLICIES:

SESplan2013
Policy 4 - Minerals

Scottish Borders Local Development Plan 2016
PMD1: Sustainability
PMD2: Quality Standards

Other considerations:

Supplementary Planning Guidance

- Biodiversity (2005)
- Landscape and Development (2008)
- Local Biodiversity Action Plan (2001)
- Local Landscape Designation (2012)

Scottish Government:

- SPP - Scottish Planning Policy

- PAN 1/2013 Environmental Impact Assessment
- PAN 2/2011 Planning and Archaeology
- PAN 1/2011 Planning and Noise
- PAN 75 Planning for Transport (2005)
- PAN 73 Rural Diversification (2005)
- PAN 64 Reclamation of Surface Mineral Workings (2002)
- PAN 60 Planning for Natural Heritage 2000
- PAN 56 Planning for Noise (1999)
- PAN 51 Planning and Environmental Protection (Revised 2006)
- PAN 50 Controlling the Environmental Effects of Surface Mineral Workings (1996)
- PAN 50 Annexe A – D (Control of Noise, Dust, Traffic and Blasting at Surface Mineral Workings) (1996)

- Air Quality and Land Use Planning Guidance (2004)

- Planning Circular 4/1998 – The Use of Conditions in Planning Permissions
- Planning Circular 3/2012 – Development Management Procedures

KEY PLANNING ISSUES:

The key planning issues related to this application are whether the revised proposals would have an adverse impact in terms of:

1. Landscape and visual impacts
2. Local ecology and on the adjacent SSSI
3. Drainage, Dewatering and Hydrogeology
4. Amenity of residential properties
5. Road safety

ASSESSMENT OF APPLICATION:

In this instance, consent is sought for amendment of conditions of permission for the extension of an established quarry. The proposals are therefore considered to comply with Policy ED12 of the Local Development Plan relating to mineral and coal extraction. The proposed quarrying would not be in conflict with the criteria set out in this policy.

Policy ED7 of the LDP is also relevant as this sets out the Council's policy position in relation to Business development in the Countryside. Developments which require a Countryside Location are supported where the council is satisfied there is an

economic and/or operational need for the countryside location. A quarry is considered to be appropriate for a rural location and would, in principle comply with the qualifying criteria of Policy ED7.

Members should be aware that the schedule of conditions attached to the extant permission must form the starting position for any approval of this current application. Consideration has to be had to the changes in the proposals, and what, if any impacts these will have over and above the original consent.

Landscape and Visual Impacts

The site is located in an area of rolling countryside, with the quarry being in an elevated location relative to surrounding topography. The site is part of the "Rolling Farmland with Hills" Landscape Character type within the Hume Crags Landscape Character Area.

The approved details of the quarry extension were accompanied by revised landscape and restoration reports and Zones of Theoretical Visibility mapping (ZTV) was produced for the approved application.

The proposed extension site is currently used for grazing and arable crops, with an area of timber plantation. The extension site is part of a ridge line on the hill side that includes Cock Law, and when viewed from the north is seen as a skyline ridge. No immediate landscape issues would arise from the quarry extension, the existing site being well screened from surrounding areas. The site was previously considered acceptable in landscape and visual terms, and the proposed deepening of the quarry will not result in any additional adverse impacts over and above the approval levels.

Impact on Ecology

The site consists of improved grassland, poor semi-improved grassland, conifer plantation, species-poor hedgerow gorse scrub, bare ground and an existing quarry. The proposed development will result in the loss of this vegetation and open water habitat but these impacts were all previously quantified, and accepted under the 2014 approval.

There are natural heritage interests of national importance close to, but outwith, the site, in particular the SSSI at Lurgie Loch. SNH confirm that these interests will not be affected by the current proposal.

The Council ecologist confirms that the current revised application can be supported. Subject to mitigation and any required checking surveys the proposed development will not have an adverse impact on the ecology and wildlife of the area, and can be considered compliant with local plan policies NE3 (Local Biodiversity), NE4 (Trees, Woodlands and Hedgerows). These matters can be controlled by condition specified later in this report.

Drainage, Dewatering and Hydrogeology

Members will note that SEPA raised concerns during the processing of the approved application on the site. These related to the likely significant impact on the upper perched aquifer. The report for the previous approval advised that:

The agent addressed these in the submitted documents titled 'Proposed Extension at Blinkbonny Quarry Revised Phasing Statement and Plans March 2014' and

'Proposed Extension at Blinkbonny Quarry Response to SEPA Objection March 2014'.

The revised phasing statement and plans indicate that the extraction floor final level has been raised to 175 metres Above Ordnance Datum (mAOD) which is above the initial proposed final level of 147m AOD. The hydrogeology report (Hydrogeology of Blinkbonny Quarry, Kelso, Scottish Borders. GeoloGIS Report 2013/09. 10th January 2014) identified the local spring line associated with the aquifer between 168-170mAOD. The revision to final floor levels removes the requirement for working below the water table and as a result SEPA advise that no significant impact upon the aquifer, existing springs or Lurgie Loch is anticipated.

The revisions proposed in the current application would see the proposals revert to 150M ADO, which is closer to the originally intended working level of 147m AOD.

The Technical Note by Peter Brett Associates sets out the Hydrogeological effects on Lurgie Loch SSSI from deepening the quarry floor. It concludes that the existing quarry abstractions already lower the groundwater level in the quarry to approximately 125m AOD during pumping, which is approximately 50m below the level of Lurgie Loch SSSI. Monitoring data indicated that lowering the groundwater level in the quarry well by as much as 30m had no observable effect on the groundwater levels.

It concludes that the water level in the Lurgie Lock SSSI is predominantly sustained by surface water from the surrounding catchment, and is protected from effects due to dewatering at the quarry through separation by relatively impermeable rock. The Peter Brett report concludes that it is considered that the proposals to deepen the quarry void will not result in significant adverse impacts on the water levels or quality in the Lurgie Loch SSSI.

Following re-consultation on the additional technical details in the Peter Brett associates report, SNH withdrew their objection.

Subject to the under noted conditions, the proposed development is considered compliant with Scottish Borders Local Development Plan Policy EP15 (Development Affecting the Water Environment).

Impact on built and historic environment

There are no immediate archaeological implications for this proposal and no archaeological mitigation measures are required.

There are a number of listed buildings close to the proposed development site. Historic Scotland and the Council's Heritage and Design Officer do not object to the proposals, as it is considered that the proposed quarrying would not have an adverse impact on the setting of these listed buildings.

The proposals are therefore considered acceptable in terms of impacts on the built and historic environment, and the development is considered, subject to conditions, compliant with policies EP7, EP8 and EP9 of the LDP.

Impact on Residential Amenity

No objections were received to the current application. Two objections had been received from local residents to the 2014 approval. These objections related to health effects of the development, noise, air pollution, dust, and drainage.

These were considered at the time, and the current application to revise the final depth of the quarry does not raise any fresh issues.

The proposed extension to the quarry workings would not be carried out in any more intensive a fashion than the existing operations. The Council's Environmental Health Officers have advised that the development can be supported subject to the imposition of planning conditions as noted in their consultation reply.

Planning conditions are present on the existing consent, regulating a wide range of matters, such as prevention of mud, dust and other material being carried outwith the site, in the interests of road safety, and noise and would be appropriate in this instance to replicate the relevant condition in an amended decision.

Subject to the under noted schedule of conditions, the proposed development is considered acceptable in terms of impact on residential amenity, and compliant with policies PMD2 and HD3 of the LDP.

Assessment in terms of Road Safety

The Roads Planning Service does not raise any objections to the proposed modification of condition. It is considered that the proposed increase in depth of the quarry, will not intensify its use and the resultant number of vehicular movements would remain as per the original permission. The impact on the surrounding public road network will be no greater than the earlier consent and as such, the proposed mineral extraction will not conflict with the qualify criteria of Policy ED12 of the LDP.

Aftercare and Restoration

Members will note from the papers that a restoration plan was submitted by the applicant. This shows, in basic terms, how the extended site will be restored following extraction. The plan identifies areas of proposed planting, proposed contours, wet features and tracks however a condition, as suggested below, would ensure that detailed plans for the restoration and the after care of the site are submitted for our approval. A condition requiring details of a Restoration Bond is also suggested. This would be consistent with the earlier consent.

CONCLUSION

The proposed development complies with the Local Development Plan policies for economic development and minerals development in the countryside.

It is considered that the proposal will not have a significant adverse impact on local biodiversity, the surrounding landscape or the setting of nearby listed buildings, subject to appropriate mitigation measures being put in place. The deepening of the proposed workings does not raise any insurmountable issues and the visual impact of the increased depth of extraction would have no greater landscape or visual impact than the current operations.

It is considered that the proposals comply with national and local policies in relation to mineral workings, and that subject to conditions to ensure appropriate regulation, monitoring and mitigation, that the development would not have any significant adverse impacts on the site or surrounding area, including surface water drainage, landscape, listed buildings and the amenity of neighbouring properties.

As this consent seeks to modify a condition attached to an earlier minerals permission it would be appropriate to replicate the original schedule of conditions (with minor modifications to drawings numbers and maximum floor depth of the quarry).

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until the completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form:

   *Development at **(Note 1)***

   *Notice is hereby given that planning permission has been granted, subject to conditions **(Note 2)** to **(Note 3)** on **(Note 4)** by Scottish Borders Council.*

   *The development comprises **(Note 5)***

   *Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council, Headquarters, Newtown St. Boswells, Melrose. Telephone (01835) 825060, or by visiting http://eplanning.scotborders.gov.uk/publicaccess, using the application reference **(Note 6)**.*

   Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

Timescale and Phasing

3. Planning permission is granted for a period of 22 years from the date of the commencement of the development. Unless an application is made and granted for its continuation or extension, the working of the quarry and all ancillary operations shall be discontinued within 22 years of the date of commencement of the development.
   Reason: To ensure satisfactory development of the site and to safeguard the amenity of the area.

4. The development shall be carried out in accordance with the approved scheme of working detailed in the amended phasing plans (7706A, 7707A, 7708A, 7709A, 7710B, 7711B, 7712B, 7713A, 7715A) except as far as the information is amended by any of the following conditions, or where subsequently agreed in writing with the Planning Authority. The maximum floor depth is to be as shown on the approved plans, and in any event, no lower than 150 metres Above Ordnance Datum unless first agreed in writing by the Planning Authority.
   Reason: To ensure the development of the site is carried out in the manner considered by the planning authority.

5. The hours of operations for all working, with the exception of measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0800 hours to 2000 hours Mondays to Fridays and 0800 hours to 1200 hours on Saturdays and not at all on Sundays, unless with the prior agreement of the Planning Authority. In addition, no operations shall be permitted on 25 and 26 December and 1 and 2 January.
   Reason: In the interests of amenity.

Ecology

6. A tree/shrub planting scheme together with a scheme to compensate for loss of woodland consistent with FCS policy on the control of woodland removal shall be submitted before the development commences for approval by the Planning Authority, the planting to be carried out concurrently with the development of during the next planting season thereto and to be maintained thereafter. The scheme is to make detailed provision for the formation of the northern landscape planting which is to be undertaken within 12 months of the approval of the details by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.
   Reason: To maintain and enhance the visual amenities of the area, and ensure suitable provision of compensatory planting.

7. A checking survey for otter, bats, badger, and birds shall be shall be carried out and submitted to and approved by the Planning Authority before development commences. The survey shall include a scheme of mitigation where necessary and, once approved, the measures shall be carried out in accordance with the approved scheme. Unless otherwise agreed in writing with the Planning Authority as part of the scheme of mitigation, no works shall be carried out during the bird breeding season (March-August)
   Reason: To minimise the potential impact of the development on breeding birds

8. A Landscape and Habitat Management Plan shall be submitted to and approved in writing by the Planning Authority before the development commences. Once approved, its requirements shall be carried out on site in full to a programme set out in the agreed plan.
   Reason: To compensate for potential habitat loss associated with the development

9. A Breeding Bird Protection Plan to be prepared and submitted to the Planning Authority prior to the commencement of development on the extension site. The plan is to set out procedures to be followed in order to prevent disturbance to breeding birds.
   Reason: To minimise the potential impact of the development on breeding birds.

10. An Ecological Clerk of Works shall be appointed to carry out pre-construction surveys, to inform a Species Mitigation and Management Plan and an Environmental Management Plan and to oversee compliance with the SMMP and EMP.
    Reason: To minimise the potential impact of the development and compensate for potential habitat loss associated with the development

11. Prior to the commencement of works a Species Mitigation and Management Plan (including otter, badger, bats, breeding birds, reptiles and amphibia) is to be submitted for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.
    Reason: To compensate for potential habitat loss associated with the development

12. All soils shall be retained on the site and none shall be sold off or removed from the site.
    Reason: To enable sound restoration; to minimise the movement of soils and to minimise traffic movement outwith the site.

13. Any oil fuel, lubricant, paint or solvent within the site shall be stored within a suitable bund or other means of enclosure, constructed to the satisfaction of the Planning Authority to prevent such material from contaminating top soil or sub-soil or water course.
    Reason: To protect land and water courses from damage by polluting agents.

14. Unless otherwise agreed in writing with the Planning Authority, no water from the site shall be discharged into any ditch, stream, watercourse or culvert outside the site except through approved settlement lagoons.
    Reason: To safeguard the natural drainage of the area.

Fencing

15. Prior to the commencement of the development, details shall be submitted to and approved by the Planning Authority of all perimeter fencing. This fencing to be maintained in good condition during the period of operations.
    Reason: In the interests of public safety.

Permitted Development Rights

16. Notwithstanding the provisions of Part 16 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, no buildings, plant or machinery, including that of a temporary nature, shall be erected, placed or installed without the prior consent of the Planning Authority.
    Reason: In order that the Planning Authority retains effective control of the development in the interests of amenity.

17. No extraction or encroachment of machinery or deposit of equipment, spoil or other material to be permitted outwith the site boundaries.
    Reason: In the interests of amenity.

After Care and Restoration

18. No development shall commence until the Company provide to the Planning Authority details of the bond or other financial provision which it proposes to put

in place to cover all decommissioning and site restoration costs on the expiry of this consent. Thereafter:

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

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

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

Reason: To ensure suitable provisions are made for restoration of the site, and to minimise the longer term visual impacts of the development

19. A detailed scheme for the restoration and the after care of the site to be submitted and approved by the Planning Authority within 12 months of the date of commencement of the development. This will provide full details of final restoration contours, levels and gradients, provide for satisfactory reinstatement of surface drainage and include details of any hedges, walls, fences and soil replacement. The scheme of restoration to be completed in a timescale to be agreed with the Planning Authority.
Reason: To ensure the satisfactory restoration of the site.

20. Unless otherwise agreed with the Planning Authority no landfill or waste shall be deposited on the site other than quarry waste arising from the site or soil forming material.
Reason: To safeguard the amenity of the surrounding area.

21. A Restoration Habitat Management and Enhancement Plan, including measures for native woodland, grassland, wetland habitat and open water is to be submitted for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.
Reason: To compensate for potential habitat loss associated with the development

<u>Blasting and Noise</u>

22. Prior to any blasting taking place the occupants of residential properties in identified noise sensitive locations and the Planning Authority shall be given 24 hrs notice of any blasting to be carried out on the site. The location of the noise sensitive properties shall be agreed with the planning authority before each blast.
Reason: In the interests of neighbouring amenity, and proper management of blasting operations.

23. During operational hours a free field limit of $L_{Aeq,\ 1hr}$ 45dB shall be applicable to all quarry operations excluding soil and overburden handling and works in connection with drilling of blast shot holes at the nearest noise sensitive property. (For clarity the nearest noise sensitive property includes those owned by the applicant namely Blinkbonny Farm and Blinkbonny Cottages).

Reason: In the interests of neighbouring amenity at the nearest noise sensitive properties.

24. During operational hours a free field limit of $L_{Aeq, 1hr}$ 55dB shall be applicable to soil and overburden handling and works in connection with drilling of blast shot holes at the nearest noise sensitive properties. (For clarity the nearest noise sensitive property includes those owned by the applicant namely Blinkbonny Farm and Blinkbonny Cottages).
    Reason: In the interests of neighbouring amenity at the nearest noise sensitive properties.

25. Prior to the commencement of works the applicant must submit for approval a noise management plan for the site to the Planning Authority. Once approved this will become the noise management plan for the site and must be adhered to. (See informative for information on what should be included in the plan).
    Reason: In the interests of neighbouring amenity at the nearest noise sensitive properties.

26. Prior to the commencement of any works full details of the noise screening bund, including a timetable for implementation on site, must be submitted to and approved in writing by the Planning Authority.
    Reason: In the interests of neighbouring amenity at the nearest noise sensitive properties.

Dust

27. All plant and machinery on the site will be installed and maintained in such a manner as to minimise the release of dust and whenever possible incorporate dust suppression and collection equipment. Dust levels arising from the site operations shall be monitored by the operator in conjunction with the Planning Authority for a period of 6 months following the commencement of works at this site. Any further dust suppression measures identified by the Planning Authority shall be implemented by the operator within 2 months of the date of identification, unless an additional period of time is agreed in writing with the Planning Authority.
    Reason: In the interests of neighbouring amenity at the nearest noise sensitive properties.

28. Mud, dust and other material spilt or otherwise deposited by vehicles leaving the quarry shall be swept and collected from the quarry's main haul road.
    Reason: In the interests of amenity.

29. All exposed stockpiles of processed mineral and all active quarry waste tips shall be sprayed with water by the use of efficient water sprays to minimise the release of dust into the air.
    Reason: In the interests of amenity.

30. Vehicle wheel cleaning facilities shall be retained throughout the operation of the quarry, the siting and design of which shall be subject to the prior approval of the Planning Authority.
    Reason: To ensure material from the site is not deposited on the A road to the detriment of road safety

Informatives

1. The Notes above should be completed for Condition 2 as follows:

   Note 1: Insert address or describe the location of the development
   Note 2: Delete "subject to conditions" if the planning permission is not subject to any conditions
   Note 3: Insert the name and address of the developer
   Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)
   Note 5: Insert the description of the development.
   Note 6: Insert the application reference number.

2. The Noise Management Plan should be based on the guidance available in PAN 50 Annex A Control of Noise at Surface Mineral Workings and BS5228:2009. It should include:
   - Details of how complaints will be logged and investigated at the site.
   - The maintenance of equipment to prevent unnecessary noise.
   - The methodology for noise monitoring in the event that a justified noise complaint is received by the applicant or local authority.
   - The methodology that will be used to notify the local authority and noise sensitive properties that blasting will occur.
   - Details on how the site will be operated in accordance with current guidance (i.e. BS5228:2009) particularly in relation to blasting and noisy works such as soil and overburden handling and works in connection with drilling of blast shot holes.

3. Attention is drawn to the consultation responses received with this application.

4. This planning permission does not purport to grant consent under any other legislation or Regulations operated by bodies other than the Planning Authority, including Scottish Natural Heritage, the Scottish Environmental Protection Agency, the Water Authority, and any other Department of Scottish Borders Council (This list is not exhaustive).

5. The proposed works are largely screened by surrounding vegetation and landform and screen planting is proposed for the relatively minor visual impacts that will occur out with the site. The Restoration Strategy accompanying the application provides a workable vision of the finished site condition. However, it is considered that any further extension of Blinkbonny Quarry beyond this application proposal could be problematic in landscape and visual terms.

DRAWING NUMBERS

Drawing Number	Title
7700 B	Location Plan (1:50,000)
7701 B	Location Plan (1:10,000)
7709 B	Existing Extraction
7710 B	Phase 4
7711 B	Phase 5
7712 B	Phase 6
7713 B	Extraction Sections
7715 B	Reinstatement sections
7716 B	Restoration plan

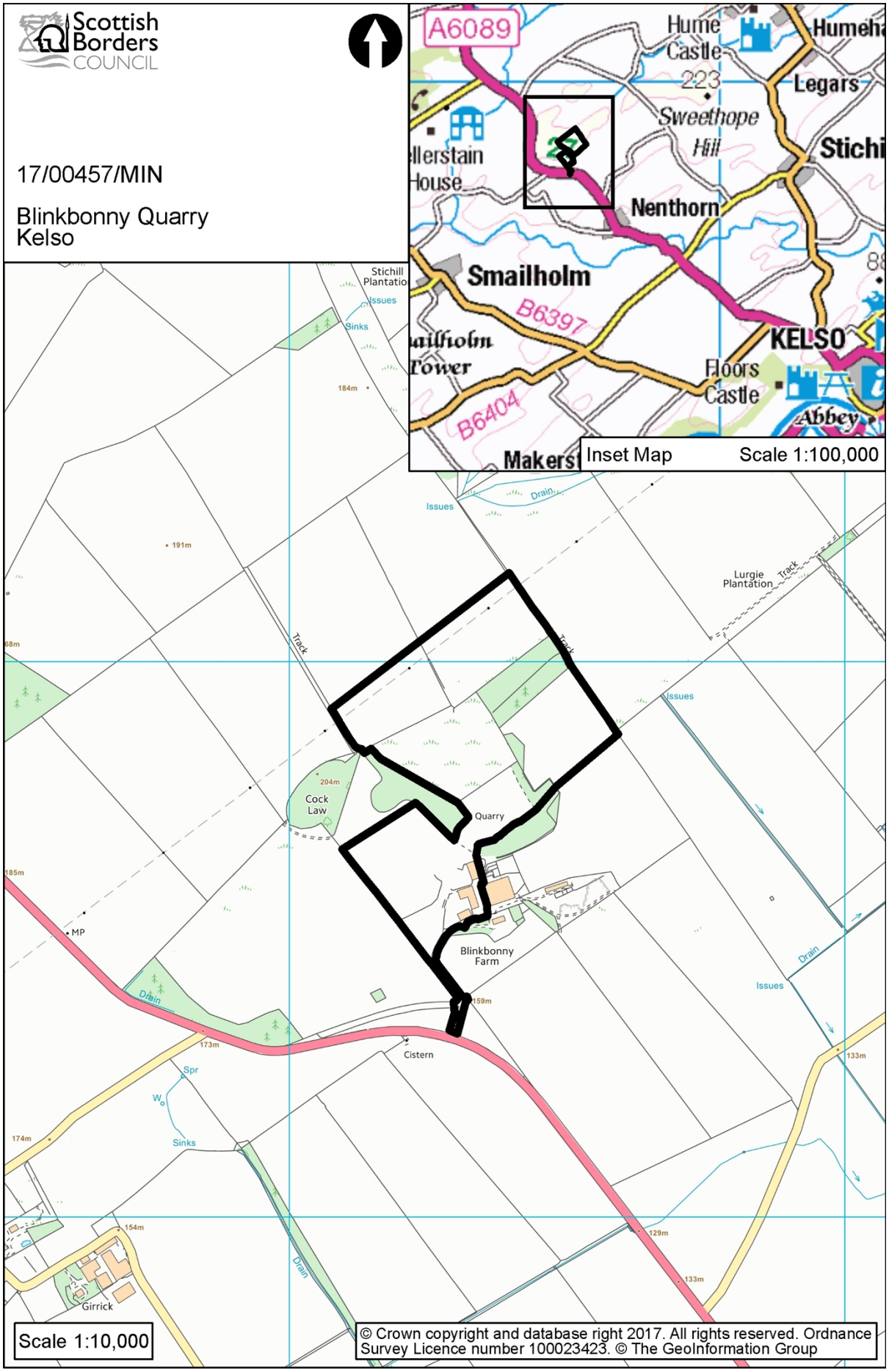
Approved by

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

Name	Designation
Andrew Evans	Planning Officer


Scottish Borders COUNCIL
17/00457/MIN
Blinkbonny Quarry
Kelso
A6089
Hume Castle
223
Sweethope Hill
Legars
Nenthorn
Smailholm
B6397
KELSO
Floors Castle
B6404
Inset Map
Scale 1:100,000
Stichill Plantation
Issues
Sinks
184m
191m
Drain
Lurgie Plantation
Track
68m
204m
Cock Law
Quarry
185m
MP
Blinkbonny Farm
159m
173m
Cistern
Spr
Sinks
174m
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Girrick
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133m
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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	**REFERENCE NUMBER**: 17/01342/PPP
OFFICER:	Julie Hayward
WARD:	Selkirkshire
PROPOSAL:	Demolition of existing building and erection of four dwellinghouses
SITE:	Site at Industrial Buildings and Yard Elders Drive, Newtown St Boswells
APPLICANT:	Craigmount Properties
AGENT:	Sidney Palmer

SITE DESCRIPTION

The application site is situated at the southern edge of Newtown St Boswells. It comprises of two industrial buildings and a large yard area, which is now overgrown. Access is from the B6398 along a private access road that also serves Milestone Garden Centre, Borders Agricultural College, Travis Perkins and two dwellinghouses (Viewfield and St Ronans) to the north of the site.

The Travis Perkins depot adjoins the site to the south east and there is agricultural land separated by a tree belt to the south west. Serviceline garage is on significantly lower ground to the north west, Viewfield and St Ronan's are to the north and there is a dwellinghouse, Balgownie, and paddock to the east.

PROPOSED DEVELOPMENT

This application for Planning Permission in Principle seeks consent to demolish the industrial buildings and to erect four detached dwellinghouses with garages. Access would be via the existing access road into the site. The proposal includes a vehicular link through the site to the allocated housing site to the south west. One visitor parking space would be provided at the entrance to the development and an area is allocated for refuse storage.

Foul water drainage would be via the existing private foul drain connected to the mains sewer and surface water drainage would be to a ground soakaway system for each dwelling. The water supply would be from the public mains.

PLANNING HISTORY

97/00042/FUL: Residential development. Withdrawn 15th February 2000.

REPRESENTATION SUMMARY

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

- The width of the access road is not sufficient to deal with the extra traffic, there will be conflict with heavy vehicles associated with Travis Perkins and there are no passing places. The proposal, would result in a higher risk of accidents, affect access for emergency vehicles and block the access to Viewfield House. Visibility is poor and tidying up of the roadside verges will not improve the situation.

- Planning permission was refused o the site in the 1990's due to the inadequate access.

- The premises have been occupied by Oliver Engineering (Borders) Ltd since 2008, which is a local, family business that may have to close or leave the area. The proposal would result in the loss of the historic industrial buildings. Local Development Plan policies seek to protect industrial land and the proposal would result in the loss of an industrial site in favour of housing.

- The site is used for steel fabrication since 2000 and not for storage as referred to in the application description. There are no other suitable sites in Newtown St Boswells for this business. Retaining this business would have economic benefits for the local community that detached houses and the business is developing due to increased demand from local construction firms for metal frame fabrication.

- There is already affordable housing being built at Sergeant's Park and additional houses are not required and would not bring any benefits to the local community.

- The waste water drainage system is not adequate to cater for the development, which will impact on existing properties.

- There are protected species (bats, barn owls and badger) and no surveys have been undertaken. This green area would be lost and the ecosystems it supports.

- Work to provide a new drainage system would cause disruption and a loss of business to Serviceline and any costs to the business should be met by the developer.

APPLICANTS' SUPPORTING INFORMATION

None

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: I have no objections to this level of development subject to the following matters being addressed to the Council's satisfaction:

1. Parking and turning for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of each plot prior to the occupation of the dwelling; thereafter they must be retained in perpetuity.

2. Visitor parking for a minimum of one vehicle must be provided within the development prior to the occupation of the first dwelling and be retained thereafter in perpetuity.
3. Details to be provided for the construction of the turning area (shown B on plan C.P./EY/SD 01 (of 02)).

I note that reference has been made within the objections to previous proposals for this site and our response to those. At that time, the level of development proposed required a public road and this could not be provided within the land available. For current standards the level of development does not require to be served directly by a public road. The lane in question currently caters for the vehicles associated with the adjoining businesses and the business which currently occupies the site. Once any construction is completed, thereafter, the vehicles using the top section of the lane would only be those associated with private residences while the lower section would still cater for the vehicles it currently does. In terms of numbers, I do not envisage this being an unacceptable increase especially considering the number of larger vehicles would be likely to decrease. The lane has areas where two such vehicles could pass and the start and finish are inter-visible. Overall, I am of the opinion the access will be able to cater for the associated traffic.

The site is immediately adjacent to allocated site ANEWT005 in the Local Development Plan. As such any eventual building and access layout associated with this planning application should not prejudice the possibility of a pedestrian/cycle link between Site ANEWT005 and the main street through the village. It should be noted that, physically, there is the potential for a vehicular access link between Site ANEWT005 and the main street through the village via this site, though third party land would be required.

Access Officer: There are Core paths and permissive paths in the area of road and woodland to the north of this site. There is evidence of use by walkers along a narrow path along the edge of the woodland and through the site (Plot 4) and linking with the access driveway and B3698 beyond the site.

This is not currently recorded as a right of way or permissive path on the records of Scottish Borders Council. Some management by the developer of this current and future pedestrian use would be appropriate before, during and after development. There are opportunities to manage this creatively in the final design.

It is also noted that this area lies immediately adjacent to the Newtown St Boswells Planning Framework Area which includes plans for possible future roadways and pathways which would, if developed in the future, provide access to the north and west of the site to the village and wider path network.

The schematic design layout shows an area A as a link road and the width should allow for pedestrian use in addition to vehicular use.

Housing Section: On-site provision of affordable housing is not required but developer contributions will be.

Director of Education and Lifelong Learning: The proposed development is within the catchment area for Newtown Primary School and Earlston High School. A contribution of £7,765 x 4 is sought for the Primary School and £3,428 x 4 is sought for the High School, making a total contribution of £44,772.

Environmental Health: This type of development can cause unacceptable impacts on the amenity of other occupiers unless the site activities are properly supervised and regulated. A condition is required.

The application appears to be proposing the redevelopment of land which previously operated as an engineering works. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

Ecology Officer: With regard to designated sites, the Borders Woods Special Area of Conservation and the River Tweed Special Area of Conservation are located 94m and 875m (respectively) south of the site. Given the small footprint of the site and the nature of the works, there are unlikely to be impacts on these sites. Care should be taken to follow SEPA's pollution prevention guidance in relation to proposed drainage arrangement.

Regarding protected species, there are observations of barn owl and birds such as swallow and bullfinch within 60m of the site. There is a record for whiskered bat, although an older record (1989). The site may also afford opportunities for badger given its situation close to woodland with open grassland to the south west.

The structures themselves being in constant use and otherwise well-sealed are unlikely to afford opportunities for barn owl. Similarly, the structures offer negligible potential for hibernating bats, given they are subject to use and disturbance, have minimal cracks and crevices and given the type of roof material and the fact that the roof cavity is open with windows within the roof. However, the potential for bats to be present in small numbers during the active bat season (May-September) cannot be completely ruled out. The surrounding habitat is of high quality for bats, with plenty of shrubs, trees, open grassland and the Newton Burn, leading onto the River Tweed.

There is potential nesting habitat for breeding birds and foraging habitat for badger on site. Conditions are required to secure surveys for bats, breeding birds and badger.

Statutory Consultees

Transport Scotland: The Director does not advise against the granting of planning permission.

Newtown St Boswells and Eildon Community Council: Object:

- The site is not used as storage but by an engineering business. Oppose the application as there is a shortage of industrial land in the village. The Local Development Plan seeks to protect industrial land and the Council recognises the lack of industrial land in the village. The proposal would result in the loss of an industrial site and thriving local business.

- There is no requirement for housing development on this site as sufficient land has been allocated for housing in the Local Development Plan.

- Inadequate foul and surface water drainage.

- Inadequate access for increased traffic.

- The land is contaminated by fuel storage tanks and a comprehensive survey and remediation would be required.

Other Consultees

None.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Local Development Plan 2016

PMD2: Quality Standards
PMD5: Infill development
HD3: Protection of Residential Amenity
EP3: Local Biodiversity
EP13: Trees, Woodlands and Hedgerows
IS2: Developer Contributions
IS3: Developer Contributions Related to the Borders Railway
IS7: Parking Provision and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Placemaking and Design January 2010
Developer Contributions April 2015
Guidance on Householder Developments July 2006
Newtown St Boswells Development Framework February 2012

KEY PLANNING ISSUES:

- Loss of industrial land/buildings;
- Whether this is an appropriate infill site for residential development;
- The impact of the development on the visual amenities of the area;
- The impact on residential amenities;
- Road safety, traffic generation and access;
- Drainage;
- Impact on protected species and habitat;
- Potential contamination of the land.

ASSESSMENT OF APPLICATION:

Planning Policy

The site is within the Development Boundary for Newtown St Boswells. The site is not allocated for any specific use within the Local Development Plan and so the proposal has to be assessed against policy PMD5 – Infill Development. Within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met. These criteria will be assessed within this report.

One criterion is that the proposal should not conflict with the established land use of the area. In this case, the surrounding area is characterised by a variety of uses, including the garden centre (retail), education (Borders College), residential and storage and distribution. It is considered that the proposed development of the site to provide dwellinghouses would be in keeping with the mixed use nature of this area within the village.

Land for housing has been allocated within the Development boundary for 900 houses, including the land to the south west of this site (ANEWT005: Newtown Expansion Area). In addition, land at Sergeant's Park is currently being developed for housing (53 units) and planning permission has been granted for 41 houses on land adjacent to Milestone Garden Centre. However the Planning Authority still has a duty to assess this current proposal against policy PMD5.

The site is currently in industrial use and the proposal would result in the existing engineering business having to relocate. There is an area of safeguarded business and industrial land in Newtown St Boswells (zEL36: Waverley Place) and business and industrial land has been allocated at Tweed Horizons and Charlesfield in the longer term, though it is accepted that these sites may not meet the needs of the business operating from within the site. It is unfortunate that the proposal would result in the business having to locate but this is not a sufficient reason to recommend refusal of the application.

The Council's Development Framework for Newtown St Boswells 2012 sets out the Council's approach to successful development and regeneration of the village. The site is not allocated for any specific use but a vehicle/cycle/pedestrian access is shown through the site linking into the Expansion Area to the south west.

Siting, Layout and Design

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The indicative drawing submitted with the application shows four large detached dwellinghouses each with a garage arranged around a centrally located access road. The site is large enough to adequately accommodate four houses, on-site parking and garden ground without it constituting overdevelopment. This would be a low density development appropriate for the edge of a settlement.

As this is a Planning Permission in Principle application no details of the design or materials of the development have been submitted; these aspects would be controlled by the detailed or Approval of Matters Specified in Conditions application should Members be minded to approve this application.

Impact on the Visual Amenities of the Area

The existing industrial buildings are of no great architectural or historic merit and there are no objections to their demolition (which could take place without the need for planning permission).

There is a tree belt on the south west boundary of the site that would act as a backdrop to the development and a screen when viewed from the wider countryside. When viewed from the village centre, the site sits above the Serviceline garage on much higher ground and there is partial tree screening. Further south, Viewfield and St Ronans, sitting above the B6398, and trees and hedges screen the site from view.

It is considered that with appropriate siting, scale, design and materials at the detailed application stage, the proposal would not harm the visual amenities of the area.

Impact on Residential Amenities

Policy PMD5 states that the development should not result in any significant loss of daylight, sunshine or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 also states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The side elevation of Balgownie is approximately 40m from the site boundary. St Ronans is 20m and Viewfield is 11m from the site boundary, though the indicative drawing shows the dwellinghouse on plot 4 would be 9m from the site boundary, making it 20m in total from Viewfield.

Careful siting and design of the dwellinghouse and the placing of windows at the detailed application stage and retaining the existing boundary treatment would ensure that no loss of light or privacy occurs to occupants of the existing properties.

Environmental Health has requested a condition to secure a construction and demolition method statement in order to control noise, dust and lighting during the construction phase.

Access and Parking

Policy PMD5 requires that adequate access and servicing can be achieved. Policy IS7 – Parking Provision and Standards requires that car parking should be provided in accordance with the Council's adopted standards.

The site would utilise the existing access road from the public road to access the site. No upgrading works are proposed. Within the site there would be a turning area and

one visitor parking space. There would be adequate space within the each plot to accommodate two on-site parking spaces, a turning area and the proposed garages.

Concern has been expressed regarding the suitability of the access road to serve this level of development and the conflict that would occur with other, commercial users.

The Roads Planning Service has no objections to the proposal, provided their requirements for on-site parking and turning are achieved. These issues can be controlled by conditions.

The Roads Planning Service advises that the level of development does not require to be served directly by a public road. The lane in question currently caters for the vehicles associated with the adjoining businesses and the business which currently occupies the site. Once any construction is completed, the vehicles using the top section of the lane would only be those associated with private residences while the lower section would still cater for the vehicles it currently does. In terms of numbers, this would not be an unacceptable increase, especially considering the number of larger vehicles would be likely to decrease. The lane has areas where two such vehicles could pass and the start and finish are inter-visible.

The site is adjacent to allocated site ANEWT005 in the Local Development Plan and this requires the expansion sites to be fully integrated with the existing street network in the village. The Roads Planning Service advises that there is the potential for a vehicular access link between Site ANEWT005 and the main street through the village via this site, though third party land would be required. Any development on this site should not prejudice the possibility of a pedestrian/cycle link between Site ANEWT005 and the main street through the village. This is shown in the Development Framework.

The indicative layout drawing submitted with the application shows a vehicular link through the site into the Expansion Area. The Council's Access Officer requires this to include a pedestrian access. This link can be secured by a condition.

The Council's Access Officer advises that there is evidence of use by walkers along a narrow path along the edge of the woodland to the west of the site, through the site (Plot 4) and linking with the access driveway and B3698 beyond the site. This is not currently recorded as a right of way or permissive path on the records held by the Council. The Access Officer has requested that the route is incorporated into the detailed design for the site to allow continued access. This can be secured by a planning condition.

Trees

Policy EP13 seeks to protect trees from development. There are a number of trees on the boundary of the site, though it is not clear whether these are within the site or on adjacent land, and it is desirable to retain and protect these trees. The application form states that no trees would be felled and given the size of the site, it should be possible to site the proposed houses without affecting these trees.

Biodiversity

Policy EP3 states that development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it is demonstrated that the public benefits of the development outweigh the value of the habitat for biodiversity conservation.

Concern has been expressed by third parties that there are protected species (bats, barn owls and badger) within the site.

The Council's Ecology Officer has been consulted on the application and advises that there are unlikely to be any adverse impacts on the Borders Woods Special Area of Conservation and the River Tweed Special Area of Conservation provided that SEPA's pollution prevention guidance is followed in relation to the proposed drainage arrangement.

Regarding protected species, there are records of barn owl, birds and bats. The site may also afford opportunities for badger, given its situation close to woodland with open grassland to the south west. The structures themselves being in constant use and otherwise well-sealed are unlikely to afford opportunities for barn owl or bats. However, the potential for bats to be present in small numbers during the active bat season (May-September) cannot be completely ruled out. The surrounding habitat is of high quality for bats, with plenty of shrubs, trees, open grassland and the Newton Burn, leading onto the River Tweed.

Taking this into account, the Ecology Officer has requested conditions to secure surveys for bats, breeding birds and badger as part of the detailed or Approval of Matters Specified in Conditions application.

Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new development would be a direct connection to the public sewerage system.

Foul water drainage would be via the existing private foul drain connected to the mains sewer and surface water drainage would be to a ground soakaway system for each dwelling. The water supply would be from the mains.

Concerns have been expressed about the ability of the existing drainage system to cope with the new development and the impact this may have on existing properties and business.

The exact details of the surface and foul water drainage would be approved as part of the Building Warrant but it is reasonable, given these concerns, that specific details of the drainage are submitted with the first detailed application for this development.

Contaminated Land

Policy IS13 advises that where development is proposed on land that is contaminated or suspected of contamination, appropriate site investigation and mitigation will be required.

The Councils Contaminated Land Officer advises that the site is being used as an engineering works. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. A condition is required that development is not permitted to start until a site investigation and risk assessment has been carried out, submitted to and agreed upon by the Planning Authority together with a remediation strategy and verification plan.

Developer Contributions

Financial contributions, in compliance with policies IS2 and IS3, are required in respect of education (Newtown St Boswells Primary School and Earlston High School), affordable housing and the Borders railway. These would be secured by a Section 75 legal agreement.

CONCLUSION

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

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to a legal agreement addressing contribution towards (education, affordable housing and the Borders railway) and the following conditions:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.
   Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
   Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

   The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

   a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.

c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.

e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

4. A Design Brief to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site setting out the design rationale for the development and demonstrating an appropriate form, scale and design of development and external materials taking reference from the character of the site and its context. Once approved any subsequent application then to comply with the approved Design Brief.
Reason: To ensure a high standard of design, given the character of the site and its context and to ensure that the development achieves a consistent and co-ordinated level and form of design should the site be developed incrementally by separate developers.

5. Parking and turning for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of each plot prior to the occupation of the dwellinghouse and thereafter the parking must be retained in perpetuity.
Reason: To ensure that adequate parking is provided within each plot, in the interests of road safety.

6. Visitor parking for a minimum of one vehicle must be provided within the development prior to the occupation of the first dwellinghouse and be retained thereafter in perpetuity.
Reason: To ensure that adequate parking is provided for visitors to the development, in the interests of road safety.

7. A detailed drawing to be submitted with the first detailed or Approval of Matters Specified in Conditions application showing the specification (position, width, surfacing material, drainage) of the access into the site, the turning area (shown

B on Drawing Number C.P./EY/SD 01), the visitor parking space and driveways to serve each plot. The access and turning area then to be completed in accordance with the approved specification before any dwellinghouse is occupied and the driveways to be competed in accordance with the approved specification before the dwellinghouse that it serves is occupied.
Reason: To ensure the site and dwellinghouses can be accessed safely.

8. The route to the adjacent land to the south west (and marked as A on Drawing Number C.P./EY/SD 01) to be safeguarded from development and not to be incorporated into the curtilage of any of the dwellinghouses hereby approved.
Reason: To allow connectivity with the adjacent land allocated in the Local Development Plan 2016 for housing development (ANEWT005).

1. Full details of the means of water supply and the surface water and foul water drainage to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority, the development then to be implemented in accordance with the approved details and the water supply and drainage installed as approved before the first dwellinghouse is occupied.
Reason: To ensure that the site is adequately serviced.

2. No trees or hedges within the application site or on the site boundary shall be felled, removed, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.
Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

1. A detailed drawing to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site showing the position, species and root protection area of the trees and hedges within the site and overhanging the site, those to be retained, those to be felled and replanting proposals. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved details.
Reason: As the trees and hedges are worthy of retention and contribute to the visual amenities of the area.

2. A detailed drawing to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site showing the position and construction details of a public path through the site from the western corner (plot 4 on Drawing Number C.P./EY/SD 01) through to the vehicular access to the site. Once approved in writing by the Planning Authority, the footpath to be completed in accordance with the approved specification before the first dwellinghouse is occupied.
Reason: To maintain and enhance connectivity and public access through the site.

3. Details of all proposed means of enclosure around the site and between the plots to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved details.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.

4. No development shall take place except in strict accordance with a scheme of soft landscaping works which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
   i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
   ii. location of new trees, shrubs, hedges and grassed areas;
   iii. schedule of plants to comprise species, plant sizes and proposed numbers/density;
   iv. programme for completion and subsequent maintenance of all existing and proposed planting.

   Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

5. Bat surveys by a suitably qualified person for all buildings to be demolished and undertaken in accordance with good practice guidelines to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site for approval in writing by the Planning Authority. The survey requirement should be informed by an initial Preliminary Roost Assessment undertaken by a suitably qualified person. If evidence of bats or their roosts is found in the surveys, the applicant will be required to submit as part of their submission to the Planning Authority a Species Protection Plan for bats.

   Reason: To protect protected species within the site.

6. A survey of breeding birds for all buildings to be demolished and a Species Protection Plan for birds to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site for approval in writing by the Planning Authority. No demolition or development shall be undertaken during the breeding bird season, except in accordance with the approved Species Protection Plan, which shall contain provision for mitigation and supplementary surveys. Mitigation may involve provision of alternative nest sites, protection of breeding habitats where appropriate and the design of the site should protect and enhance foraging habitat for breeding birds as appropriate.

   Reason: To protect breeding birds within the site.

7. A survey for badger to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site for approval in writing by the Planning Authority. Where it is established that badgers are using the site, the applicant will be required to submit as part of their submission to the Planning Authority a Species Protection Plan for badger. Once approved in writing by the Planning Authority the development shall, thereafter, be carried out in accordance with the approved plan.

   Reason: To protect protected species within the site.

8. No demolition or development to commence until a Construction and Demolition Method Statement has been submitted to and approved in writing by the Planning Authority. Once approved this document will form the operational parameters under which the development will be operated and managed. The plan must address the following:
   - Hours of operation;
   - Vehicle movement;
   - Protection and monitoring of private water supplies;
   - Noise mitigation/ equipment maintenance;

- Dust – mitigation and management;
- Lighting – prevention of nuisance;
- Complaints procedure/ communication of noisy works to receptors.

Reason: To protect the amenity of nearby residential properties.

DRAWING NUMBERS

C.P./EY/D+SD 01 Schematic Design Layout
C.P./EY/D+SD 02 Schematic Design Layout (Access Road)
C.P./EY/D+SD 03 Location Plan

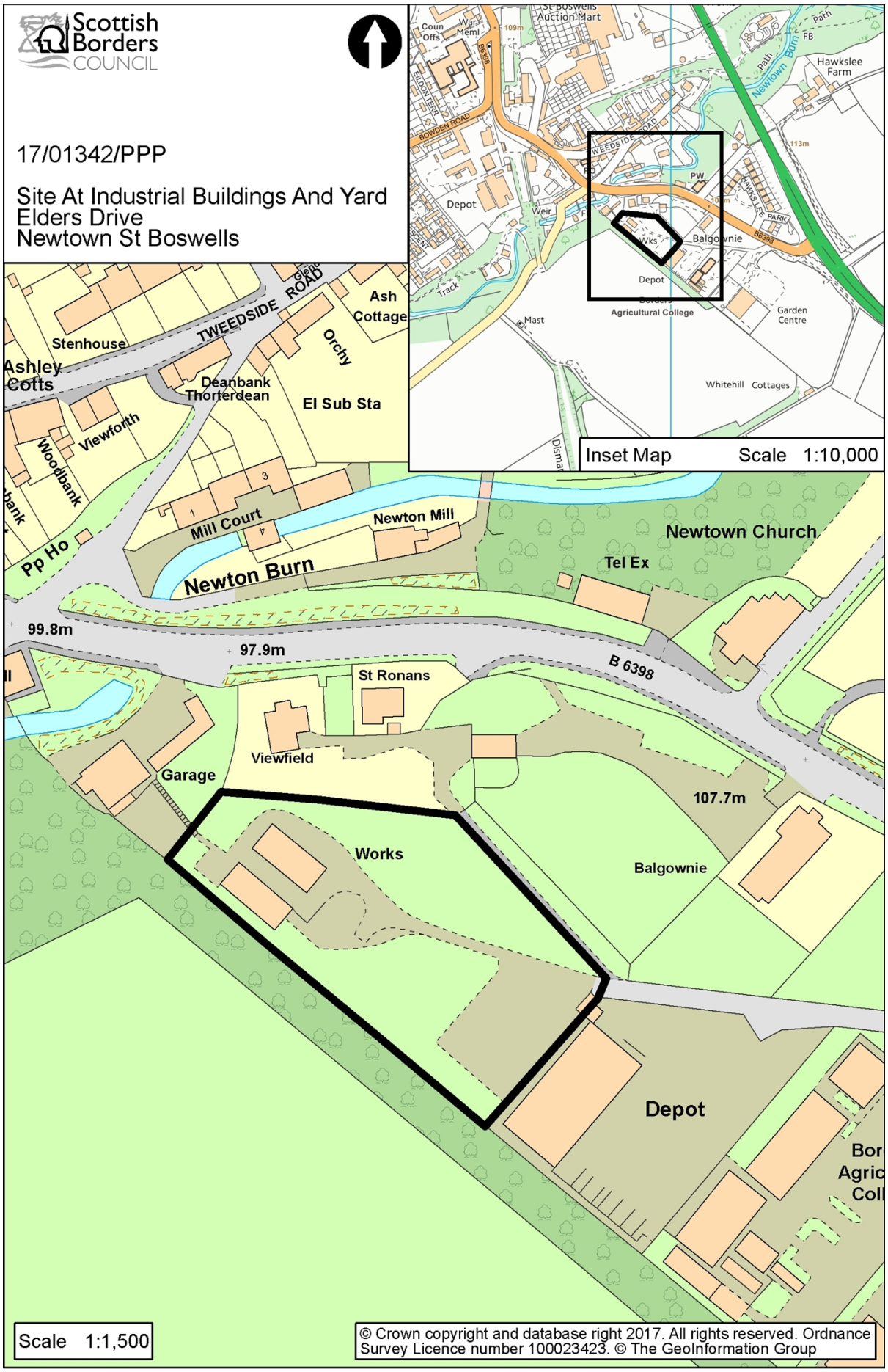
Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

Author(s)

Name	Designation
Julie Hayward	Lead Planning Officer


Scottish Borders COUNCIL
17/01342/PPP
Site At Industrial Buildings And Yard
Elders Drive
Newtown St Boswells
Inset Map Scale 1:10,000
Scale 1:1,500
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El Sub Sta
Viewforth
Woodbank
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Newton Burn
Pp Ho
Newtown Church
Tel Ex
99.8m
97.9m
B 6398
St Ronans
Viewfield
Garage
Works
107.7m
Balgownie
Depot
Agricultural College
Garden Centre
Whitehill Cottages
Hawkslee Farm
Newtown Burn
Auction Mart
Weir
Mast
Track
BOWDEN ROAD
ELDON TERR
WEEDSIDE ROAD
HAWKS LEE PARK

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	**REFERENCE NUMBER**: 17/01438FUL & 17/01439/LBC
OFFICER:	Mr Scott Shearer
WARD:	Tweeddale West
PROPOSAL:	Change of use from bar/restaurant and alterations to form residential unit and associated works
SITE:	The Courthouse Restaurant, High Street, Peebles
APPLICANT:	Mr Marc Haslam
AGENT:	Border Architects Ltd

This application is brought to the Planning and Building Standard Committee under the terms of the Councils approved Scheme of Delegation as a result of Councillor Haslam's interest with the proposed development.

SITE DESCRIPTION

The application site is the former Peebles Sheriff Court which occupies a prominent location at the western end of Peebles High Street. The building dates from the mid-19th century and has been built in a Jacobethan style with smooth ashlar under a slated roof. The rear portion of the building is contained in a whinstone and render clad structure. A terrace is attached to the rear of the building with a large retaining wall enclosing curtilage ground which lies to the west. Further curtilage ground which falls towards the Cuddy Water lies to the north with a timber steps and a raised walkway providing access around this part of the site. Peebles Old Parish Church and its associated hall are located to the south and west.

Internally the building provides accommodation across four floors. Since the closure of the court, the building has been sub-divided to provide a range of uses. Currently accommodation is split across the following uses;

- Lower ground floor – residential flat
- Upper ground floor – commercial units
- First Floor – bar and restaurant
- Second Floor – offices

The building is listed Category B and it also lies within the towns Conservation Area. Peebles High Street is designated a Core Activity Area however this site falls out with this designation.

PROPOSED DEVELOPMENT

This joint report considers related Planning (17/01438/FUL) and Listed Building Consent (17/01439/LBC) applications. Separate conclusions and recommendations are noted for each separate application.

The proposals are to retain a self-contained flat within the lower ground floor with commercial units in the upper ground floor. The upper floors of the buildings are to be converted to provide a single residential unit.

The proposed physical works are summarised as follows;

Internal
- Introduction of suspended ceilings to ground floor
- Close off the main staircase at upper ground floor
- Removal of partition walls to form a hallway at first floor

External
- Form a new opening on the south elevation from an existing window opening which includes creating an opening in the boundary wall to provide a stepped access
- Extend the paved area at the north entrance
- Paint external doors burgundy red
- Replace display cabinets

PLANNING HISTORY

In 2007, approvals 07/00083/FUL and 07/00082/FUL granted permission for the alterations and change of use of the court house to form beauty salon and office, restaurant and public bar and office accommodation.

In 2008 Planning and Listed Building consent were approved for the formation of an all ability timber ramp. This permission was amended in 2010 under consent 10/00356/FUL.

Consents for other minor works have also been approved at these sites which include; the installation of CCTV cameras, signage, display case and plaques.

REPRESENTATION SUMMARY

None.

APPLICANTS' SUPPORTING INFORMATION

None.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Education & Lifelong Learning: The proposed development is located within the catchment areas for Halyrude Primary School, Kingsland Primary School and Peebles High School. Developer contributions of £7,463 is sought for the Kingsland Primary School and £1,051 is sought for the High School

Heritage and Design Officer (H&DO): The building is listed category B and is judged to make a positive contribution to the streetscape of Peebles High Street forming a stop end when viewed along the street towards the church. The building has lain empty and the H&DO has met with a number of previous prospective developers with neither of the previous schemes being brought forward.

Internal Alterations

The residential proposal creates Building Standards challenges within the historic structure with a need to allow the staircase to be used as a private stair and achieve fire and acoustic separation between different uses in the building. Balance is required to allow the positive new use to be achieved without affecting the historic fabric. The suspended ceilings achieve fire/acoustic separation and while this means that cornicing will no longer be visible these features are being retained with this intervention easily reversible. The works to close off the lower flight of the main stair at first floor level and flooring over it as first floor and remove case metal baluster and a section of handrail is more intrusive. The stone stair will remain. No objection is raised to this alteration provided a condition is used to require a photographic record of the main stair and the careful dismantling of the balusters and handrail so they can be reused. Otherwise no issues are raised with the reminder of the proposals. The heavy metal clad doors on the former cells should be retained.

External Alterations

The minor alteration to the south wall is a pragmatic solution to create a new entrance on almost fully concealed elevation. No issues are raised with its design response.

Overall the positive re-use of the building is welcomed and the H&DO is satisfied that the impact of the internal alterations are either reversible or can be mitigated by a condition for recording and future re-use of the stair fittings.

Roads Planning Service: No objection. The formation of an additional residential unit within the footprint of the existing building is not judged to have a negative impact on traffic movements and parking when considered against the buildings current use.

Recommend that the proposal will trigger a financial developer contribution of £1000 towards improving traffic management in and around the town centre and/or towards the funding of transport appraisal work in respect of options for a second vehicular crossing in the town over the River Tweed.

Statutory Consultees

Historic Environment Scotland (HES): No comments are raised. Recommend that the applications are determined in accordance with national and local policy on listed building consent, together with related policy guidance.

Other Consultees

Architectural Heritage Society of Scotland: Object. Despite supporting the principle of the development the details of the conversion are not supported. The primary concern is that the blocking off of the central staircase at entrance level. The removal of the staircase destroys the buildings entrance sequence and relegates the first floor entrance to a fire-escape style staircase at the rear. This alteration is unsympathetic to the special character of the building and contravenes Policy EP7. Secondly, the installation of lowered ceilings will hide historic features such as cornicing. The arrangement of the lower ground floor flat is not objectable however the lack of bathroom facilities suggests that this space is being overdeveloped. Advocate that the revised scheme could address these concerns and deliver the

sensitive reconfiguration of the accommodation while maintaining the dwellings historic interest.

Peebles Civic Society: No objection.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD2: Quality Standards
ED3: Town Centres and Shopping Development
HD3: Protection of Residential Amenity
EP7: Listed Buildings
EP9: Conservation Areas
IS2: Developer Contributions
IS4: Transport Development and Infrastructure
IS7: Parking Provision and Standards

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy 2014

Supplementary Planning Guidance on Developer Contributions – updated 2016

Historic Scotland – Managing Change in the Historic Environment 2010

- Interiors
- Doorways

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development represents a suitable use within the town centre location and whether the physical alterations respect the special character and appearance of the Listed Building and Conservation Area.

ASSESSMENT OF APPLICATION:

Planning policy

The application site is located within the Peebles Town Centre as designated by Policy ED3 of the Local Development Plan (LDP). Policy ED3 generally supports uses that contribute positively to the vitality, vibrancy, character and mixed use nature of the town. Policy ED3 recognises that residential uses enhance the role of a town centre. In the case of this particular site, the proposal would add to a previously established residential use within the buildings lower ground floor level. Furthermore it would also reuse part of a prominent local Listed Building which has lain empty for considerable time. The proposed change of use would, therefore, comply with Policy ED3.

The application site is located adjacent to but outwith the Core Activity Area as defined by the LDP. Therefore Policy ED4 of the plan is not relevant.

Impact on the Listed Building and Conservation Area

The application site is a Listed Building (Category B) of local significance which positively contributes to the character and townscape of the Peebles Conservation Area. Historic Buildings are most vulnerable when they are unoccupied. This proposal seeks to re-use part of this building, much of which has lain vacant for some time. The principle of this is welcomed because the new use will help to secure the buildings future and despite the AHSS lodging an objection to the internal proposals they do acknowledge that the principle of the change of use is supported. A careful balance needs to be achieved which allows a positive new use to be introduced without adversely affecting the historic and architectural interest of the Listed Building or the character and appearance of the Conservation Area as required by Policies EP7 and EP9 respectively. To assess the merits of the physical works the proposed changes are broken down to Internal Alterations and External Alterations below.

Internal Alterations

The requirements for the internal alterations are mostly specific requirements for the new residential unit to satisfy current Building Standards regulations. This can pose challenges particularly when considering alterations to the fabric of historic buildings. The proposal to provide a suspended ceiling on the upper ground floor is to achieve fire and acoustic separation between the commercial units and the new residential accommodation above. Regrettably these works will cover existing cornicing. Having visited the property, the cornice detailing is of architectural interest however it is not overly significant within the building's interior. Constructing the new ceiling under the cornicing will importantly allow these features to remain in-situ and enable these works to be easily reversible. These works can be controlled by a planning condition.

Closing off the internal staircase is the most significant alteration proposed and the concerns raised by AHSS are acknowledged. The staircase is constructed of stone with cast metal balusters and handrail. The staircase is a central feature within the building but is not considered to be a principle space within the former courthouse. Instead, the court rooms, sheriff court and barrel vaulted holding cells are seen as being the rooms holding the most historic interest. No alterations are proposed to any of these spaces and their retention within the new use helps to retain the special character of the Listed Building. Because this application essentially seeks to subdivide this building it is difficult to do this without undertaking some distinct separation within its internal structure. Fundamentally however the stone stair will remain in situ albeit will be closed off at upper ground floor level and provided the handrail and banisters are carefully removed, could be reinstated at a later date. HES have not objected to these works and the Council's H&DO confirms that these alterations are being carried out in a sensitive manner. It is possible to set the handrail and banisters aside for future re-use or even reinstatement and a photographic record can be taken of the stair before the bannister is removed and enclosed blocked off to suitably record the internal organisation of the building. These matters can be addressed via appropriately worded planning conditions.

The alterations proposed to the upper floors are not considered to be significant and mostly relate to the removal of non-original features such as the bar area and stud partition walls. In addition, the H&DO has sought that the heavy metal clad doors on the holding cells are retained; this can be controlled via a planning condition.

The proposed internal alterations will facilitate the re-use of the empty floors of this building. Subject to conditions covering historic building recording and ensuring that the works are reversible, it is considered that the proposals will satisfy the

requirements of Policy EP7 in that they will not adversely affect the special architectural or historic quality of the Listed Building.

External Alterations

The buildings principal elevation is its east elevation which faces towards the High Street and the northern elevation which attracts views on approach from the north over the bridge. The main physical alteration is the formation of a new opening which will serve the new residential unit. This opening is sited on the buildings southern elevation which is a secondary elevation and it is generally concealed from public view within the Conservation Area. Only a very small portion of the stone wall which encloses the site is breached. The existing window opening is not of significant architectural or historic merit. The design of the new doorway which includes a glazed fan light and its burgundy colour finishes respects the design of other door opening across this listed building. The stone finished stepped access and metal hand rail is considered acceptable for this secondary elevation.

The works to the identified principle elevations include re-painting the external doors burgundy red. This colour is suitable for this location within the Conservation Area. The installation of replacement display cases are minor works to the external fabric but as these units affect the buildings principal elevation the precise details of these units should be agreed by condition. The enhanced paved area on the north elevation is not readily visible on approach because it is located below the road level. Finishing this hardstanding with riven stone paving flags is acceptable and re-use of the external rail is welcomed.

The proposed external alterations are considered to have a neutral impact on the historic and architectural interest of the Listed Building and its positive contribution to the character and appearance of the Peebles Conservation Area. A standard conformity condition can ensure that the external alterations are satisfactorily carried out in accordance with the submitted plans.

Neighbouring Amenity

The creation of a new residential unit has the potential to affect the amenity of other neighbouring uses, primarily other dwelling units. The proposed development is adequately separated from the existing dwelling unit in the lower ground floor and the retained commercial space within the upper ground floor by blocking off the stair well. It is contended that the proposed change of use will not result in residential amenity conflicts within the existing building.

Furthermore the development will not detract from the residential amenity of other neighbouring dwellings as a result of overlooking or loss of privacy, or directly affect the amenity of non-residential uses locally including Peebles Old Parish Church and commercial premises opposite.

Services

The property is currently served by mains water and drainage and the applicant has indicated that no new connections are proposed. It is considered that adequate provision has been made for water supply and drainage and that existing users will not be compromised. Precise details of the drainage arrangements will be controlled through the building warrant process.

Access and parking

Given the town centre location and the previous use of the site as a bar and restaurant, the existing parking and access arrangements are acceptable for the proposed use. This view is also held by the Council's Roads Planning Service. The proposal is not considered to have a negative impact on traffic movement and parking requirements locally, and will comply with Policy PMD2 and Policy IS7 of the LDP.

Developer Contributions

In line with Policy IS2, all development that is otherwise acceptable but cannot proceed due to deficiencies in infrastructure and services will be required to make contribution through a legal agreement towards addressing such deficiencies. This application triggers a requirement for financial contributions towards both Kingsland Primary School and Peebles High School. For the avoidance of doubt, contributions will be sought on the basis of a residential flat as opposed to a dwellinghouse. The proposed unit will not occupy the upper ground floor and therefore cannot be considered a dwellinghouse. In this case, the development contributions will be adjusted accordingly.

The location of the development within the Peebles settlement boundary also triggers a financial development contribution towards improving traffic management in and around the town centre and/or towards the funding of transport appraisal work in respect of options for a second vehicular crossing in the town over the River Tweed.

The applicant has agreed to settle these contributions via a Section 69 Legal Agreement should Members be minded to approve the application.

CONCLUSION FOR APPLICATION 17/01438/FUL

The formation of a residential unit within the former Peebles Sheriff Court will secure the re-use of a prominent building within the Conservation Area with a use which will help protect and enhance the vitality and viability of the Peebles town centre. The proposed new use will not detract from the amenity of any neighbouring residential properties or uses and the proposed physical alterations to the building will have a neutral effect on the character and appearance of the Conservation Area. The proposed development does however trigger development contribution requirements towards local schools and town centre traffic management. The developer has agreed to enter into a Legal Agreement to settle the contribution requirements.

The proposal is therefore considered to comply with relevant provisions of the Local Development Plan 2016, principally Policies ED3, EP9, HD3 and IS2 and there are no material considerations that would justify a departure from these provisions.

CONCLUSION FOR APPLICATION 17/01439/LBC

The proposals will have an effect on the Listed Building however these works will assist in providing a new use within an otherwise empty part of the building which will ultimately secure its future use. The proposed physical alterations are not judged to have a detrimental effect on the special architectural or historic interest of the building and suitably worded conditions can ensure that the more significant internal alterations are recorded and reversible. The proposals are therefore not considered to have a detrimental impact on the historic building and are justified against Local Development Plan Policies and guidance covering Listed Buildings.

RECOMMENDATION BY CHIEF PLANNING OFFICER FOR APPLICATION 17/01438/FUL:

I recommend the application is approved subject to a legal agreement covering development contributions towards Education and Lifelong Learning and the Peebles Bridge Study and Traffic Management in and around Pebbles Town Centre, and the following conditions:

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

2. Prior to their installation, the precise specification of the display cases which are to be fitted to the east elevation of the building shall be submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details.
   Reason: Further information is required to ensure a satisfactory form of development which respects the character and appearance of the Conservation Area.

RECOMMENDATION BY CHIEF PLANNING OFFICER FOR APPLICATION 17/01439/LBC:

I recommend the application is approved subject the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   Reason: To comply with the provisions of Section 16 of the Town and Country Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until a photographic record of the central staircase with an accompanying floor plan identifying where the images have been taken from have been lodged to and approved in writing by the Planning Authority. Thereafter the handrail and balustrade shall be labelled and carefully dismantled and set aside within the building for possible re-use.
   Reason: To ensure satisfactory preservation of the Listed Building.

3. The development shall be carried out in accordance with the following details unless otherwise agreed in writing with the Planning Authority;
   - The new fire and sound resistant suspended ceiling shall be installed below the cornice detailing on the upper ground floor.
   - The metal clad doors which serve the former holding cells on the upper ground floor shall be retained.

   Reason: To ensure satisfactory preservation of the Listed Building.

4. The external alterations 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.

5. Prior to their installation, the precise specification of the display cases which are to be fitted to the east elevation of the building shall be submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details.
   Reason: Further information is required to ensure a satisfactory form of development which respects the character and appearance of the Listed Building.

DRAWING NUMBERS

Drawing Number	**Plan Type**	**Date**
PA01	Location Plan	18 Oct 2017
PA02	Existing Floor Plan	18 Oct 2017
PA03	Existing Elevations	18 Oct 2017
PA04	Existing Elevations	18 Oct 2017
PA05	Photos	18 Oct 2017
PA06	Proposed Floor Plan	18 Oct 2017
PA07	Proposed Floor Plan	18 Oct 2017
PA08	Proposed Elevations	18 Oct 2017
PA09	Proposed Elevations	18 Oct 2017

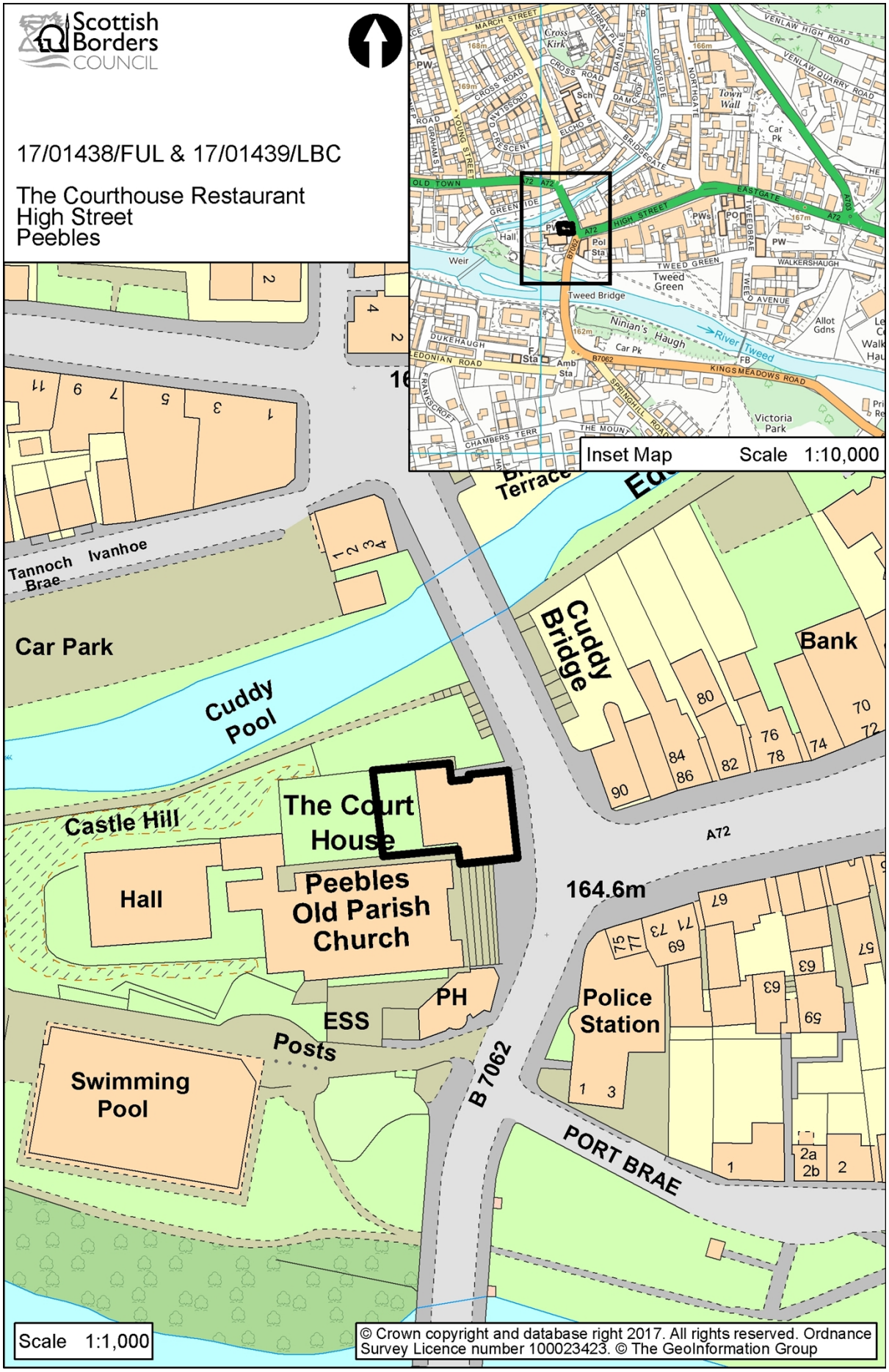
Approved by

Name	Designation	Signature
Brian Frater	Service Director (Regulatory Services)	

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

Author(s)

Name	Designation
Scott Shearer	Peripatetic Planning Officer


Scottish Borders COUNCIL
17/01438/FUL & 17/01439/LBC
The Courthouse Restaurant
High Street
Peebles
Inset Map
Scale 1:10,000
Tannoch Brae
Ivanhoe
Car Park
Cuddy Pool
Cuddy Bridge
Bank
Castle Hill
The Court House
Hall
Peebles Old Parish Church
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Posts
Swimming Pool
Police Station
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164.6m
PORT BRAE
Scale 1:1,000
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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	17/01539/FUL
OFFICER:	Andrew Evans
WARD:	Mid Berwickshire
PROPOSAL:	Formation of slurry lagoon within fenced enclosure and upgrade existing access track (retrospective)
SITE:	Land South West Of Greenlaw Mill Farm, Greenlaw
APPLICANT:	J B Renwick & Sons
AGENT:	Agri Design

SITE DESCRIPTION

The application site is situated on agricultural land to the South of the Berwickshire village of Greenlaw. To the west of the site is located an agricultural field, with the B6384 Greenlaw and Hume road beyond. The site is generally level, though there is a slight rise towards the North and East.

The application site is located approximately 900m south west of the nearest residential dwelling on the edge of Greenlaw.

PROPOSED DEVELOPMENT

The application retrospectively seeks full planning permission for the formation of a slurry lagoon. The lagoon is contained by shaped earth embankments. Along the western side of the lagoon and its embankments is an existing row of mature trees, forming a modest shelter belt. At the western side of these trees is a stone wall, part of a field boundary. The lagoon itself is enclosed by a green coloured solid wire fence.

PLANNING HISTORY

None.

REPRESENTATION SUMMARY

Members are reminded that all comments received to the application are available to view in full on the Public Access website. At the time of writing this report, a total of 12 separate objections had been received. The main points of the objections can be summarised as follows:

- Amenity
- Smell, also in terms of previous experience of odour, and that the lagoon is sited upwind of Greenlaw on the prevailing south-westerly winds.
- There is no system in place to control the foul smell emitted from the storage of slurry
- Nuisance and loss of amenity to the residents of Greenlaw.

- Retrospective nature of the application
- Impact on property values (*not a material consideration*)
- Economic impacts on the village, including significant impact on, present and planned local business, employment, and the recovering local amenities.
- Impacts on health and welfare
- The site is on a former curling pond, on top of a water course, and at risk of flooding.

APPLICANTS' SUPPORTING INFORMATION

The agent submitted a statement in support of the application which sets out in depth their consideration of the site. A copy of this supporting statement is available for members to view in full on Public Access.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: In terms of minimising the number of vehicular trips on the public road network it would have been beneficial had this proposal been located nearer to the cattle sheds that serve it. This concern is however not sufficient to warrant an objection to this proposal and as such the RPS engineer shall not object to the application provided the existing field entrance onto the public road is upgraded.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary

Environmental Health: In terms of Air Quality, Noise and Nuisance, the Council's EHO agrees with application in principle, subject to condition requiring a plan for the management and control of potential nuisances, including noise, odour, air quality, flies, waste and other pests.

Statutory Consultees

SEPA: SEPA confirms no objection to this planning application. The proposed slurry lagoon structure has been assessed as per the requirements of The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 (as amended) (SSAFO) and the structure does not set a framework for activities which cannot be consented. In addition, SEPA have reviewed the farm waste management plan for how the slurry will be handled to minimise water pollution, and consider this to be acceptable. SEPA will guide the applicant through the formal sign off process under SSAFO regulations.

Greenlaw and Hume Community Council: Though not a formal consultee on this application, the Community Council forwarded their objections to the application, as follows:

- Whilst we appreciate the local farming businesses and fully understand the need to diversify to meet the challenges they face, as a Community Council we feel obliged to make comment and bring to your attention the concerns of residents within the village of Greenlaw as there is no information within the application which addresses or alleviates the concerns, listed below.
- **The development is not appropriately sited.** The development is disparate from the farm which is at least three miles south, therefore is not near

production. It is sited on prime quality agricultural land and within proximity to the village of Greenlaw which has a conservation area and several listed buildings and a scheduled monument.

- **Increased air pollution and offensive odour from the lagoon.** The application does not inform us of how the smell and harmful gases will be managed. During the periods of slurry spreading throughout the year the pungent odour is extremely bad in Greenlaw. The pungent smell just seems to linger over the village which has an adverse impact on the quality of life for the residents, i.e.; cannot open their house windows and doors, cannot hang out clothes to dry, cannot spend time enjoying their gardens or a walk along the street. There is a great deal of concern that there will be a continuous odour throughout the year from the development and the slurry spreading and the village will not have any respite from the offensive odours. There is a poultry farm which houses approximately 48,000 birds, located south east of the lagoon. If the wind direction is unfavourable, together with the odour from the lagoon, this could cause a cumulative amount of smell and air pollution for Greenlaw.
- I**ncreased traffic on B6364 and increased damage to the roadsides.** The slurry tankers currently travel frequently on the B6364 between Legars and near to the junction at A6105. This stretch of road is in a bad state at the edges of the road, with quite a distance of deep roadside ruts. It is evident the road is not designed for wide wheeled tankers, or other wide wheeled vehicles. To fill the lagoon the tankers will be making additional journeys from Legars farm as well as the frequent journeys to spread the slurry in the fields near Greenlaw.
- **Potential Pollution to Water Course.** According to older OS maps the development has been built on top of a watercourse. The development is on the site of Greenlaw's Old Curling Pond. This pond was fed from a spring called The Stoney Burn which is shown on old OS maps.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
ED7: Business, Tourism and Leisure Development in the Countryside
HD3: Protection of Residential Amenity
EP13: Trees, Woodlands and Hedgerows
IS5: Protection of Access Routes
IS7: Parking Provision and Standards
IS9: Waste Water Treatment and Sustainable Urban Drainage

Other considerations:

Supplementary Planning Guidance

Trees and Development (2008)

PAN39: Farm and Forestry Buildings

KEY PLANNING ISSUES:

Whether the proposals would represent a suitable rural development within the Borders Countryside and whether the proposed development would be acceptable in terms of road safety and residential amenity. Whether the matters raised in

opposition to the application are of sufficient weight to outweigh the requirement for the application to be determined in line with prevailing policy.

ASSESSMENT OF APPLICATION:

Principle

The application requires to be assessed principally in terms of policy ED7 of the Local Development Plan on Business, Tourism and Leisure Development in the Countryside.

This sets out that such proposals in the countryside will be approved where the development is for agricultural operations or for uses appropriate to the rural character of the area. Developments considered under policy ED7 should respect the amenity and character of the area, have no adverse impacts on nearby uses, including housing, and meet the other noted criteria of this policy. Impacts on residential and neighbouring amenity are discussed in detail later in this report.

The slurry lagoon will be used for the storage of slurry produced on the applicant's farm and will therefore be used directly for agricultural operations appropriate for a countryside location. This would be consistent with the principle aim of Policy ED7. In addition, a number of criteria including, but not limited to, the amenity and character of the area, impacts on nearby uses, the scale of the development and accessibility require to be met and these will be discussed in more detail below.

Placemaking and Design

Policy PMD1 of the Local Development Plan sets out relevant sustainability criteria applicable to all development proposals. In determining planning applications and preparing development briefs, the Council will have regard to the sustainability principles in policy PMD1 which underpin all the Plan's policies. In addition, Policy PMD2 sets out the Council's position in terms of quality standards for all new development and sets out specific criteria on Placemaking & Design.

In the case of the current proposals, the proposed development is a functional agricultural structure set within a rural location. As discussed above, the slurry tank will be used directly for agricultural purposes and it is absolutely appropriate that this type of structure would be located in a rural location.

The structure is located on land above the public road but the shaped embankments help the lagoon sit comfortably on the land without having an adverse impact on the character of the surrounding area. Furthermore the existing tree belt to the west of the application site provides a useful screen when viewed from the public road and these trees should be retained. This will be discussed later in the report.

The lagoon, whilst measuring 56m x 36m is of a scale appropriate for this location and can be satisfactorily accommodated within the site. The fencing is somewhat industrial in scale and finish but as the site is sufficiently distant from the public road, coloured green and set behind existing trees, this will not result in an adverse effect on the wider landscape

It is contended that, subject to the undernoted planning conditions, the proposed development would not result in any significant conflict with the requirements of policy PMD2 of the Local Development Plan. Furthermore, the Slurry Lagoon is

considered to represent an acceptable form and scale of rural development, in keeping with adopted policy and guidance in relation to placemaking and design.

Impact on Residential and Neighbouring Amenity

Policy HD3 of the 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.

The impact of development on neighbouring amenity is a material planning consideration. Policy HD3 sets out that development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted.

Members should be aware that Policy HD3 is primarily aimed at residential development within development boundaries but the principles remain relevant to the consideration of this application. Impacts on the residential amenity of nearby dwellings have been raised by a number of objectors, including the Community Council and these are acknowledged, however these relate specifically to air pollution and odour from the slurry lagoon and this is discussed in more detail below.

The slurry tank will be located a considerable distance from the nearest residential property located on the south side of the village and is unlikely to have a significant adverse impact on the residential amenity of this property. The land surrounding Greenlaw is considered prime quality agricultural land and is mostly in arable use although there a number of fields which are used as pasture. Slurry spraying is common in this area and the smells associated with this farming practice are not unusual at certain times of the year. It is considered that the location of this lagoon, almost 1km from the southern boundary of the village will not exacerbate existing levels to the detriment of residential amenity.

Health, Odour and Nuisance

As mentioned above the application of slurry takes place on the agricultural land surrounding the application site. This inevitably leads increased levels of ‘agricultural’ odours travelling over surrounding land. Members will note that third party objections received to the application highlight odour issues experienced by residents in nearby Greenlaw.

Importantly the agent for the application has made a relevant point in supporting information that odour levels, which are commonplace in rural areas such as this, are based upon existing slurrying activity. Odour issues previously experienced in Greenlaw are not as a result of the retrospective nature of this application and have been as a result of previous slurrying activity, predating the construction of this lagoon. At the time of the planning officer site visit it was apparent that the lagoon was nearly empty, and had only been filled at the foot of the lagoon with water. As of mid-December 2017 it was apparent that the lagoon had not previously been filled with slurry.

The intention is that investment in this lagoon by the applicant, together with alternative and updated equipment, will reduce odour impacts experienced locally. It is understood that injection, rather than traditional spreading from a tank, will significantly reduce overall odour levels. Further details are set out in the applicants supporting statement which can be viewed online.

The Council Environmental Health service advises it can support the application subject to the imposition of a planning condition as noted below. This will require submission of a nuisance control management plan, which will address management and control of potential nuisances (including noise, odour, air quality, flies, waste and other pests).

Taking the above maters into consideration it is felt that the development can comply with policy HD3 of the Local Development Plan. Subject to the noted planning condition relating to odour and nuisance

Prime Quality Agricultural Land

Policy ED10 of the Local Development Plan sets out the Council's position in terms of Development on Prime Quality Agricultural Land. In the case of this application, whilst the site was flagged as potentially being on prime quality agricultural land, closer inspection of the Council GIS system reveals that whilst the surrounding fields are designated as Prime Quality Agricultural Land, the site of the lagoon is effectively on an "island" of non-prime land.

As such, the proposals are considered to comply with the requirements of policy ED10 of the Local Development Plan.

Impact on traffic and road safety

Members will note from the consultee responses and third party representations that objections were received on the grounds road safety. Road safety, access, parking and accessibility are all material planning considerations in the deliberation of this application.

Policy IS7 on Parking Provision and Standards sets out that the development proposals should provide for parking in accordance with approved standards. Given the agricultural nature of the use consideration is not required in terms of standardised parking and cycle storage requirements. Rather, the suitability of the site to accommodate the agricultural traffic which would service the lagoon is relevant in this case.

Policy PMD2 of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access, Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

In the case of the current proposals, Members will note from the comments submitted by the Roads Planning Service that the slurry tank would perhaps be better located closer to the farm's cattle sheds but the application can be supported, subject to clarification and agreement of the revised junction details. An updated junction arrangement of the access track with the public road, to standard field access specification, is required . This can be covered by condition.

In summary, the proposed access and parking arrangements are generally acceptable. The existing access has been upgraded but the junction arrangements require further work. Subject to conditions relating to the fine detail of the junction arrangements, the application is considered to comply with the access requirements of policy PMD2 (Quality Standards) of the Local Development Plan.

Conservation Area

Members will note from the papers that an objector is concerned by the potential impact of the development on the Greenlaw Conservation Area.

Policy EP9 of the LDP seeks to preserve or enhance the character or appearance of Conservation Areas. This would include development within or adjacent to conservation area boundaries as shown on the proposals maps for relevant settlements, including Greenlaw. Inappropriate development will not be supported.

However, the application site is located a considerable distance from the village and the Conservation Area boundary and will have no bearing on the character or appearance of this designated area. The conservation status of the village will not be compromised by this development and as such the terms of Policy EP9 will be met

Flooding

Policy IS8 is intended to discourage development from taking place in areas which are or may be at risk of flooding. Members will note that objections have been raised from third parties that the site is at risk of flooding, citing its historic use as a curling pond. Given the scale and extent of embankment round the edge of the lagoon it is not considered likely that flooding could pose a significant risk to this site.

The application site is not identified as at risk of flooding in the flood risk mapping within the Council GIS system. Furthermore, the site is not identified as at risk of flooding in the SEPA national flood risk mapping. Indeed, the site is free from both river and surface water flooding shown on the publicly available flood map on the SEPA website (http://map.sepa.org.uk/floodmap/map.htm). The proposed development therefore meets the qualifying criteria of Policy IS8 in that the site is not at risk of flooding.

Trees, Woodland and Hedgerows

Policy EP13 of the LDP on sets out that existing trees and hedgerows should be protected. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, both of which are relevant to these proposals. The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction.

In the case of these proposals, the development is retrospective. The existing trees adjoining the site seem in reasonable condition. Pre-development protection of these trees would ordinarily have been controlled by condition. However given the retrospective nature of the application, there is no need to condition tree protection during construction. However it is considered that the existing trees provide a very useful screen behind which the development sits, reducing the impact of the lagoon on the wider landscape. The trees, which fall within the control of the applicant, should be retained, and this can be controlled by condition.

CONCLUSION

Taking all matters as set out on the papers above, it is considered that the proposed development would represent an acceptable form of rural development consistent with local development plan policies and supporting planning guidance covering, but

not limited to, development in the countryside, placemaking and design and the protection of residential amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved, subject to the undernoted conditions.

1. Within 2 calendar months of the date of this consent a plan for the management and control of potential nuisances (including noise, odour, air quality, flies, waste and other pests) that would be liable to arise at the site as a consequence of and/or in relation to the operation, individually and/or cumulatively, should be submitted to and approved in writing by the Planning Authority. Thereafter the approved nuisance control management plan shall be implemented as part of the development.

   Reason: To ensure that the operation of the buildings has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties.

2. Within 2 calendar months of the date of this consent, the existing field entrance onto the public road must be upgraded to the standard field access specification shown on the Roads Planning Service consultation response dated 7 December 2017, unless otherwise agreed in writing by the Planning Authority.
   Reason: In the interest of road safety.

3. The existing trees to the south west of the application site (shown on drawing No. 1717-03 hereby approved) shall be retained and shall not felled, lopped, lifted or disturbed in any way without the prior written consent of the Planning Authority.
   Reason: The existing tree(s) represent an important visual feature which the Planning Authority considers should be substantially maintained.

DRAWING NUMBERS

Reference	**Plan Type**	**Received**
1717-01	Location and ownership plan as existing	09.11.2017
1717-02	Location and ownership plan as proposed	09.11.2017
1717-03	Site plan as proposed with contours	09.11.2017
1717-04	Site plan as proposed with contours	09.11.2017
1717-05	Plan as proposed	09.11.2017
1717-06	Section as propose, Fence Detail, Photos	09.11.2017
1717-07	Details and notes as proposed	09.11.2017

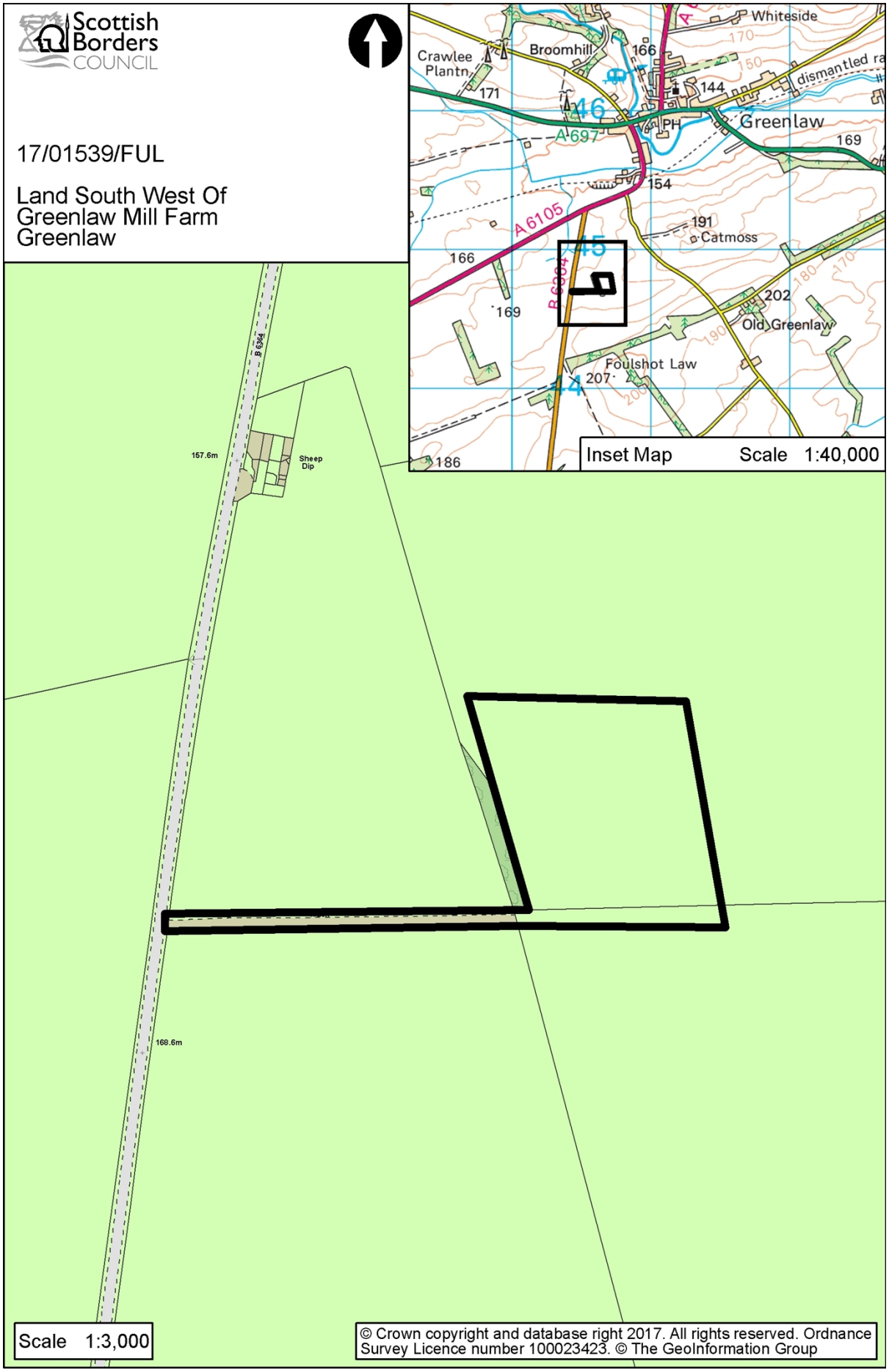
Approved by

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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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

8th January 2018

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: 17/00015/PPP
Proposal: Residential development with associated supporting infrastructure and public open space
Site: Land East of Knapdale 54 Edinburgh Road, Peebles
Appellant: S Carmichael Properties Ltd

Reasons for Refusal: 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.

Grounds of Appeal: 1. The proposed development can be reasonably assessed against the terms and provisions of Policy PMD4 of the Scottish Borders Local Development Plan (LDP) as it is of such a scale that it would have no demonstrable or adverse impact upon the longer term development and expansion of the settlement of Peebles. 2. The appellant's landscape architect has prepared a report which demonstrates that the proposed development site will give rise to no significant landscape impacts. The Council have failed to provide sufficient justification which could reasonably support the second reason for refusal. 3. There has been no known record of any significant accidents associated with the use of the current site access road configuration. Whilst the

proposed junction improvements may not being the site access junction fully up to the Council's relevant standard, they will bring a measured improvement to both the standard and functioning of the junction and therefore the proposed development can be reasonably justified against Policies PMD2 and IS6 of the LDP.

2.1.2 Reference: 17/00226/FUL
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
Appellant: Gilston Hill Windfarm Ltd

Reasons for Refusal: 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; and
- 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.

Informatives – 1. 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. 2. It has not been demonstrated that the proposals would not have unacceptable impacts upon Priority Species, specifically butterflies, whose habitat may be impacted by the development. 3. It has not been demonstrated that the proposals would not have any unacceptable impacts upon a private water supply.

Grounds of Appeal: Landscape - The proposed development would be accommodated in an area where a cluster of wind farm development is established, which will be advantageous given that the landscape will not incur new visual effects in areas that are otherwise remote (by 10km) from existing development. Aviation - Appropriate mitigation measures have been agreed with NATS and a suspensive condition has been agreed between the Appellant and NATS as an appropriate means to mitigate the impacts on the operation of NATS' infrastructure. Edinburgh Airport however maintain their objection but have not provided any evidence to support its objection. It is not accepted that there is likely to be any such impact on the Airport's PSR. Planning Policy and Energy – The proposed development is consistent with relevant policies in particular ED9. In terms of the landscape and visual effects arising, the wider economic and environmental and other benefits of the proposed development, such as its contribution to the UK renewable energy targets, net economic benefits both locally and nationally and local recreational and heritage enhancements outweigh any harm that would arise from the proposal.

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 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 & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Lorna McCallum, allows the appeal subject to one condition. The reporter concluded that overall the development accords with the relevant provisions of the development plan and that there were no material considerations which would justify refusal of planning permission. The reporter noted that the appellants would be willing to accept a conditional permission restricting the use to only that which is proposed. This would prevent the premises from being reused without the need for permission by another Class 2 use which may contribute lower levels of footfall. To ensure continued compliance with Policies ED3 and ED4 the reporter considered it appropriate to grant permission subject to the condition suggested by the Council.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 5 appeals previously reported on which decisions were still awaited when this report was prepared on 22nd December 2017. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
• Land North East of 3 The Old Creamery, Dolphinton	• Land South West of Easter Happrew Farmhouse, Peebles
• Hutton Hall Barns, Hutton	•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/01039/FUL
Proposal: Erection of temple
Site: Land South West of Kirkburn Parish Church, Cardrona
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies ED7 of Scottish Borders Local Development Plan 2016 in that it has not been demonstrated that the proposal meets any of the acceptable land uses listed in Policy ED7 and no overriding justification for the proposed building has been provided that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location. 2. The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the scale and design of the proposal would be prominent in the landscape and would result in an unacceptable adverse visual impact on the designated area. The proposed development would detract from the character and quality of the Tweed Valley Special Landscape Area and it has not been adequately demonstrated that the adverse landscape impact would be outweighed by social or economic benefits of national or local importance. 3. The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposed temple would result in an unacceptable adverse impact on road safety. The proposed building would increase traffic levels on the existing minor public road and it has not been adequately demonstrated that any traffic generated by the proposal can access the site in manner which does not detrimentally impact on road safety. 4. The application is contrary to Policy EP8 of the Scottish Borders Local Development Plan 2016 in that the siting, scale and design of the proposed development would have an unacceptable adverse impact on the setting of the Our Lady's Church. It has not been adequately demonstrated that the proposal can be accommodated on the site in a manner which does not adversely affect the heritage value of a nationally important archaeological site. 5. The application is contrary to Policy EP7 of the Scottish Borders Local Development Plan 2016 in that the siting, scale and design of the proposed development would have an unacceptable adverse impact on the setting of the William Cree Memorial Church. It has not been adequately demonstrated that the proposal can be accommodated on the site in a manner which protects the setting of the category C listed building.

6 REVIEWS DETERMINED

6.1 Reference: 17/00926/PPP
Proposal: Erection of dwellinghouse
Site: Land Adjacent Deanfoot Cottage, Deanfoot Road, West Linton
Appellant: Mr & Mrs Peter Gardiner

Reason for Refusal: The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 17/00973/FUL
Proposal: Change of use of agricultural land to form storage yard and siting of 7 No storage containers
Site: Land North East of Greenbraehead Farmhouse, Hawick
Appellant: Bayhill Farming Ltd

Reason for Refusal: The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

Method of Review: Review of Papers

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

6.3 Reference: 17/01139/FUL
Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatary clinic) and Class 1 (ancillary retail)
Site: 40-41 The Square, Kelso
Appellant: Mr Robert McCririck

Reason for Refusal: The proposed change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policy ED4 of the Local Development Plan 2016 in that the use of the premises as a podiatary clinic would result in the loss of prime retail floorspace in a prominent location and introduce a non-retail/food and drink use within the Core Activity Area in Kelso, which forms part of the principal shopping area in the town centre. It has not been adequately demonstrated that the proposed change of use to Class 2 would maintain the vitality and viability of Kelso town centre. Material considerations, including the vacancy of the unit, have been accounted for but do not outweigh the conflict with Policy ED4.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained 1 review previously reported on which a decision was still awaited when this report was prepared on 22nd December 2017. This relates to a site at:

• Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston	•

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

9.1 Reference: 15/00020/S36
Proposal: Erection of wind farm comprising of 14 wind turbines and associated infrastructure
Site: (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir
Appellant: Whitelaw Brae Wind Farm Ltd

Reasons for Objection: Reason for Objection 1 - Impact on Landscape Character - The proposed development would be contrary to Policies G1, EP2 and D4 of the Scottish Borders Local Plan 2011 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan 2013 in that, taking into consideration the following factors, it would unacceptably harm the Borders landscape- - Significant impacts on the perception, setting and qualities of identified wild land (Area 2 Talla Hart Fell, to the south and east of the site in an area with high fragility to change. - Significant impacts on the designated Tweedsmuir Uplands Special Landscape Area and contrary to the management recommendations seeking to maintain wildness and limit impacts of tall developments, both in relation to the higher summits/wild land to the south and to the more localised intimate landscapes centred around the reservoirs to the east and north-east. Reason for Objection 2 - Adverse Visual and Amenity Impacts - The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders Local Plan 2011, Policy EP8 of the Local Development Plan 2013 and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan 2013 in that, taking into consideration the following factors, the development would give rise to unacceptable visual and amenity effects- - Low containment within the 5km range and consequent significant visual impacts from sensitive receptors including public roads (such as the main tourist route of the A701 and the Fruid minor road, a right of way, hill summits and dwellinghouses. In respect of the identified residential receptors, the developer has failed to demonstrate that the impacts would not be overbearing and significantly adverse. - Significant cumulative and scale impacts on sensitive receptors and on a unique landscape character type and capacity to the

east of the A701 corridor, inappropriately extending the existing Clyde/Clyde Extension/Glenkerie cluster into previously undeveloped land, bridging a strong visual boundary between landscape character types and setting precedent for further inappropriate incursion. - Significant detrimental impacts to two archaeological sites of national significance, Asset HA5 and the Scheduled Hawkshaw Castle.

Reporter's Decision: Sustained

Summary of Decision: The Reporters, David Buylla and Claire Milne, concluded that the proposal's adverse effects are outweighed by its positive contribution to very clear Scottish Government aspirations for increased renewable energy generation and reductions in greenhouse gas emissions. A limited degree of further justification for the proposal is provided by its likely net economic benefits, its contribution to native woodland creation, and its status as development that would contribute to sustainable development. Ministers granted planning permission subject to the applicant completing and registering a proposed unilateral undertaking and conditions.

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 22nd December 2017. This relates to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
• 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.

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