



PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 5TH FEBRUARY, 2018

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 5TH FEBRUARY, 2018 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

29 January 2018

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 4) Minute of Meeting held on 8 January 2018 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following applicationS for planning permission:-
	(a) Land North West of Springfield Avenue, Duns - 17/00993/FUL and 17/00994/FUL (Pages 5 - 28) 17/00993/FUL – Erection of 41 dwellinghouses and associated works 17/00994/FUL – Erection of 34 Dwellinghouses and associated works (Copies attached.)
	(b) Land South of Abbotsbank, Gattonside - 16/01403/FUL (Pages 29 - 42) Erection of dwellinghouse. (Copy attached.)
	(c) Parklands, Oxnam Road, Jedburgh - 17/01502/MOD75 (Pages 43 - 50) Discharge of Planning Obligation pursuant to Planning permission R273/94. (Copy attached.)
6.	Planning Performance Framework Annual Report Consider verbal presentation by Chief Planning Officer.

7.	Appeals and Reviews. (Pages 51 - 58) Consider report by Service Director Regulatory Services. (Copy attached.)
8.	Any Other Items Previously Circulated.
9.	Any Other Items which the Chairman Decides are Urgent.

NOTE

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

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

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

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

Please direct any enquiries to Fiona Henderson 01835 826502
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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, 8 January 2018 at
10.00 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson (from paragraph 2), J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford and E. Small.
Apologies:- Councillor C. Ramage.
In Attendance:- Depute Chief Planning Officer, Lead Planning Officer (Development Management and Enforcement), Principal Planning Officer – Major Applications/Local Review Body, Senior Roads Planning Officer (Alan Scott), Solicitor (Emma Moir), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. MINUTE

There had been circulated copies of the Minute of the Meeting held on 4 December 2017. The Minute was approved

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.

DECLARATION OF INTEREST

Councillor Hamilton declared an interest in Application 17/01363/FUL in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

3. PLANNING (SCOTLAND) BILL

The Depute Chief Planning Officer provided Members with an update on progress with the implementation of the Planning (Scotland) Bill. Scottish Borders Planning and Building Standards Committee had submitted comments and the Bill was introduced to Parliament in December 2017. Royal Assent was expected to be received in Autumn 2018 and as Secondary Legislation was necessary for implementation, the Enactment was anticipated for 2020-21. In response to questions from members the Development Plan, Simplified Development Zones, Development Management and Fees and Infrastructure Levy were explained.

DECISION

NOTED.

4. TWEEDBANK SUPPLEMENTARY GUIDANCE AND SIMPLIFIED PLANNING ZONE

With reference to paragraph 2 of the Minute of 7 November 2016, the Depute Chief Planning Officer advised that the matter had now been approved by Council and the proposal had been submitted to Scottish Ministers.

**DECISION
NOTED.**

5. APPEALS AND REVIEWS

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

**DECISION
NOTED:-**

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

- (i) Residential development with associated supporting infrastructure and public open space on Land East of Knapdale, 54 Edinburgh Road, Peebles – 17/00015/PPP; and**
- (ii) Erection of a windfarm comprising of 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary buildings and temporary borrow pits on Land North West of Gilston Farm, Heriot – 17/00226/FUL.**

(b) Appeal Decision had been received in respect of Change of Use from Class 1 (Retail) to Class 2 (Financial, Professional and Other Services) at Units 9 and 10, 6 -8 Douglas Bridge, Galashiels

(c) there remained five appeals outstanding in respect of:-

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

(d) A review request had been received in respect of the Erection of temple, Land South West of Kirkburn Parish Church, Cardrona – 17/01039/FUL;

(e) the Local Review had upheld the Appointed Officers decision in respect of Erection of dwellinghouse on Land adjacent to Deanfoot Cottage, Deanfoot Road, West Linton – 17/00926/PPP;

(f) the Local Review Body had overturned the Appointed Officer decision to refuse in respect of:-

- (i) Change of Use of agricultural land to for storage yard and siting of 7 No storage containers on land North East of Greenbraehead Farmhouse, Hawick – 17/00973/FUL; and**
- (ii) Change of use from Class 1(retail) to allow mixed use Class 2 (podiatry clinic) and Class 1(ancillary retail) at 40-41 The Square, Kelso – 17/01139/FUL.**

(g) there remained one review outstanding in respect of Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlstoun –

(h) S36 PLI's determined in respect of Erection of wind farm comprising of 14 wind turbines and associated infrastructure at (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir

(h) there remained three S36 PLI's outstanding in respect of:-

- Fallago Rig 1, Longformacus
- Fallago Rig 2, Longformacus
- Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick

6. **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

7. **MINUTE**

The Committee considered the private section of the Minute of 4 December 2017.

The meeting concluded at 13.30 p.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/01363/FUL	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	Land South East of Parkside Primary School and Parkside Primary School

Decision: 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/densityiv. 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 trees shall be felled 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. The felling of Tree Numbers 27, 29, 40, 156, 167, 170 and 171 to be carried out in accordance with the IKM and Tweed Ecology Reports of 21 Dec 2017, including soft felling in the presence of a licensed bat worker.

Reason: The existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained and to ensure protected species are afforded suitable protection from the development.

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.
- d) Any temporary diversions of core paths, rights of way or other used paths or tracks proposed for the purposes of the development.

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 a School Travel Plan / Safer Routes to School assessment has been submitted to, and agreed with, the Planning Authority in consultation with Transport Scotland, and thereafter, implemented in accordance with the agreed plans. These should include appropriate provision of pedestrian crossing facilities across the A68 trunk road.

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. Prior to any part of the development hereby permitted being brought into use, a Path Planning Study shall be 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 permanent diversions of paths 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 amphibians)
 - 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 Environment 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.
3. The design and methods of operation of the campus to take into account and protect against, wherever practicable, disruption and disturbance from external noise sources to the site, incorporating any attenuation measures as considered necessary.

NOTE

Mr C. Blackie, Local Resident spoke in general support of the application but raised concerns with regard to access to the site and made suggestions as to how this could be improved..

Reference

17/00457/MIN

Nature of Development

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

Location

Blinkbonny Quarry
Kelso

Decision: 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 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

Blasting and Noise

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

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/01342/PPP	Demolition of existing building and Erection of four dwellinghouses	Site at Industrial Buildings at Yard Elders Drive, Newtown St Boswells

Decision: REFUSED, contrary to recommendation for the following reason:-

The proposals would be contrary to the aims and principles of Policy ED1 of the Scottish Borders Local Development Plan 2016 in that the development would result in the loss of industrial land and premises and there is sufficient housing land allocation existing elsewhere to enable housing development in the village without requiring the loss of commercial premises.

VOTE

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

Councillor Laing, seconded by Councillor Aitchison, moved as an amendment that the application be refused on the grounds that proposals would be contrary to the aims and principles of Policy ED1 of the Scottish Borders Local Development Plan 2016 in that the development would result in the loss of industrial land and premises and there is sufficient housing land allocation existing elsewhere to enable housing development in the village without requiring the loss of commercial premises.

On a show of hands Members voted as follows:-

Motion - 4 votes

Amendment - 4 votes

As there was an equality of votes the Chairman exercised his casting vote in favour of the amendment.

Amendment was accordingly carried.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/01438 FUL & 17/01429/LBC	Change of Use from bar/restaurant and alterations to form residential Unit and associated works	The Courthouse Restaurant High Street Peebles

APPLICATION 17/01438/FUL

Decision: 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 Peebles 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.

APPLICATION 17/01439/LBC

Decision: 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.

Reference

17/01539 FUL

Nature of Development

Formation of slurry lagoon within fenced
Enclosure and upgrade existing access
track (retrospective)

Location

Land South West
of Greenlaw Mill
Farm, Greenlaw

Decision: 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.

NOTE

Mr David Mair, Agri Design spoke in support of the application.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 FEBRUARY 2018

APPLICATIONS FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBERS: 17/00993/FUL and 17/00994/FUL
OFFICER:	Andrew Evans
WARD:	Mid Berwickshire
PROPOSAL:	17/00993/FUL - Erection of 41 dwellinghouses and associated works 17/00994/FUL - Erection of 34 dwellinghouses and associated works
SITE:	Land North West of Springfield Avenue
APPLICANT:	Springfield Properties Ltd.
AGENT:	Springfield Properties Ltd.

SITE DESCRIPTION

The application sites are on the eastern side of Duns. They are accessed via existing access points on Springfield Drive and Springfield Avenue. The sites are generally level, though there is a slight rise towards the South of the site, towards existing housing. To the north of the site is located "The Common Myres" an area of open grassland, with further housing beyond, to the North. The application sites both feature existing road and drainage infrastructure, and a retaining wall runs through the centre of the sites.

PROPOSED DEVELOPMENT

This combined report relates to two neighbouring planning applications for residential development on land North West of Springfield Avenue, Duns.

Application 17/00993/FUL proposes the erection of 41 No dwelling houses and associated works. This application includes three modest terraces. To the north of the site is the existing SUDS pond (approved under 06/01064/FUL) with the housing forming a series of streets centrally in the site, with a connecting footpath through a landscaped area,

Application 17/00994/FUL proposes the erection of 34 houses. These are semi-detached and 4 in a block 2 storey dwellings.

In total therefore, 75 dwellings are proposed. This would be comprised as follows:

- two storey, one and two bedroom cottage flats;
- 2-3 bedroom bungalows;
- terraces;
- Semi-detached houses.

PLANNING HISTORY

The site has been subject to previous applications as follows:

Reference	Proposal and Details	Decision
06/01064/FUL	Border Homes, Erection of sixty two dwelling houses	Approved subject to conditions and informative, 08/10/2007

REPRESENTATION SUMMARY

Members are reminded that all comments received in connection with both applications are available to view in full on the Public Access website. At the time of writing this report, a total of 15 separate pro-forma objections had been received, from residents at 1, 3, 4, 5, 8, 10, 12, 16, 18, 20, 22 Springfield Avenue; and 1, 3, 4, 6 Springfield Close.

A further combined objection with the names, addresses and signatures of 14 Households resident at numbers 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 15 and 17 Springfield Drive was also submitted.

The principal points of the objection can be summarised as follows:

- Access – Will a temporary construction access be formed?
- Will previously dumped topsoil be removed from the site of application 17/00993/FUL?
- The number of houses / properties on the site is 85 and at c. 1.5 cars per house, the likelihood of over 100 cars on top of the ones already on site. Considered this is too much traffic given the number of families at play
- If built to current plan the development will not be able to provide a second road.
- The road is not wide enough to park on both sides.
- Contended that if no pedestrian access to Bridgend provided, parents would have to walk 1 and ¼ miles to new school, and 1 and ¼ miles back, a total of 2 and ½ miles twice a day (5 miles in total).
- Contended that *“in today’s ageing population would it not be more beneficial to build more 2 bedroom bungalows so older people could move out of ¾ bedroom houses and downsize, freeing up larger houses. As all surrounding towns and villages are all building the same type as proposed in this planning application?”*
- If Springfield Road was blocked there would be no access for emergency vehicles.
- Contended that any housing above the height of a bungalow on the top (southern) road would block light to the housing to the top (northern road) particularly in winter.
- The traffic numbers for a cul-de-sac are considered by objectors to be too high.

APPLICANTS’ SUPPORTING INFORMATION

The applicant submitted a design and access statement in support of the application which sets out in depth the applicant’s consideration of the site. A copy of this supporting statement is available for members to view in full on Public Access.

Additionally, further information submitted in support of these planning applications includes:

- SUDS background information
- Landscape Design Statement
- Energy Statement
- Technical details for the proposed Air Source Heat Pumps

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: First response: This response relates to both applications. The roads infrastructure associated with this development has largely been constructed with the roads already up to base course level. Had this been an entirely 'greenfield' site Roads Planning would have requested a layout more in line with the principles of 'Designing Streets'. The current applications however are effectively for a change of house type and slight increase in numbers. The previously approved road layout is capable of accepting the increase in vehicular movements associated with this proposal and so Roads Planning will not object to this proposal provided the following points are suitably addressed:

- Parking provision should be at a rate of 200% for curtilage parking with a further 25% adoptable visitor parking provided. Communal parking should be provided at a rate of not less than 150% and must relate well to the housing it is associated with.
- Plots 9-14 only have one curtilage space each, this should be increased to 2 per dwelling or 100% communal parking be provided in addition to the single private spaces
- Plot 25 also only has one curtilage space.
- The number of communal spaces associated with the flatted properties 72-75, 42-45 and 54-61 is insufficient.
- Surface treatments must be agreed prior to work commencing on site.
- It is recommended that the junction area in front of plot 27 and 26 is given a different surface treatment in order to help calm traffic when entering and exiting the site.
- A condition or legal agreement re the provision of a footway link to either Bridgend or Curry Street as per the previous approval for the site is also required.

It should be noted that the existing Roads Construction Consent for the site has expired and an application will be required from the developer to have the consent extended.

Second Response: Following the submission of an updated layout / parking drawing, the RPS engineer confirmed that for Plot 9, a second parking bay should be provided here, though he did not have the same concerns with regards to its location next to a junction. This happens on almost every housing site in the borders and is no different to plots 26 and 27. Apart from this matter, the RPS engineer is now satisfied with the parking level proposed.

Education & Lifelong Learning: The proposed development is within the catchment area for Duns Primary School and Berwickshire High School. A contribution of £119,225 is sought for the Primary School and £91,192 is sought for the High School, making a total contribution of £210,417. Rolls over 90% place

strain on the schools teaching provision, infrastructure and facilities and reduce flexibility in timetabling, potentially negatively affecting quality standards within the school environment. Contributions are sought to raise capital to extend or improve schools or where deemed necessary to provide new schools in order to ensure that over capacity issues are managed and no reduction in standards is attributed to this within the Borders Area. This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Housing Section: The Housing Section understands that Springfield Homes have acquired this stalled allocated housing site with a view towards developing a 100% affordable housing development for Berwickshire HA on a phased basis.

Berwickshire HA have brought forward this site for consideration and prioritising for inclusion in the new Strategic Housing Investment Plan 2018/23, which is currently being developed for anticipated sign off by Council prior to submission to Scottish Government in October 2017. The Housing Section is supportive of this proposal in as much as if it goes ahead it will contribute towards completion of a stalled housing site and deliver new supply affordable housing to Duns.

Environmental Health: Confirm consideration given in terms of Noise, Nuisance, and Water Supply. Comment and request conditions as noted:

Construction Method Statement

At least 6 weeks prior to the development commencing operations the applicant must prepare and submit a construction method statement for approval 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.

Drainage

No drainage system other than the public mains sewer shall be used to service the property without the written consent of the Planning Authority.

Reason: To ensure that the development does not have a detrimental effect on public health.

Prior to occupation of the property written evidence shall be supplied to the planning Authority that the property has been connected to the public water drainage network.

Reason: To ensure that the development does not have a detrimental effect on public health.

Water Supply

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.

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.

Air Source Heat Pumps

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

Reason: To protect the residential amenity of nearby properties.

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

Reason: To protect the residential amenity of nearby properties.

NB - The EHO has been forwarded the additional ASHP details submitted to SEPA, to confirm if above conditions are still necessary, or if wording would require adjustment.

Scottish Water: No reply received.

Flood Protection Officer: Review of the application shows that a small portion of the proposed site is located within SEPA's 1 in 200 year (0.5% annual probability) flood extent and is at risk of surface water flooding.

With respect to drainage a Drainage Layout Plan and details of proposed SUDS have been provided. The calculations provided show that the pond has been designed to contain the 1:200 year storm event. Drawing 'Existing Site Contours - 2878061' shows the site to slope down to the SUDS pond so no properties should be at risk of flooding should the pond over top. Given the vulnerability of the site to surface water flooding we are also required to consider surface water runoff and the risk of overland flow reaching proposed properties. SEPA's response is noted and it is requested that drawings showing routed pathway of surface water through the site are submitted to show the risk to properties and also consider if surface water flow will collect in the depression adjacent to the proposed pond. It is recommended that the applicant consider mitigation measures to intercept overland flow and ensure the SUDS pond only receive water from the site.

Landscape Architect: Description of the Site - The site is an area of gently sloping, north facing land on the eastern outskirts of Duns. It is allocated for development in the Local Development Plan (Site BD20 B). Consent has previously been granted for development (06/01064/FUL) and a road layout exists based on that consent.

Nature of the Proposal - It is proposed to construct 41 new houses as indicated on various drawings including the Landscape Plan (DU09_LP_004 Revision B dated 17.07.17.)

Implications of the Proposal for the Landscape including any mitigation - The principal of development is already approved and commenced and the site layout is largely fixed by the existing road infrastructure. One observation is that the site has begun to be colonised by various trees and shrubs during the 10 year period of inactivity since development commenced. Some of this natural colonisation has the potential to become a greenspace asset and, where possible, should be retained. In terms of the above landscape plan, the area marked for 'amenity grass seeding' should be reduced e.g. in proximity to the SUDS pond and perhaps also in the area north east of plots 1-8. All new 'selected standard' tree planting as shown on the Planting Schedule should use root balled tree stock as per our Landscape Guidance Note 7. The applicant should respond to these points on a revised landscape plan.

Recommendation - Subject to the above qualifications, there are no landscape objections to the proposal.

Access Officer: The Land Reform (Scotland) Act 2003 (LRA) introduced a right of responsible public access to most areas of land and inland water in Scotland. Scottish Borders Council has a statutory duty to uphold these rights on paths, tracks and areas of open ground. There are, of course, certain exceptions where access rights are not exercisable. In addition, s.3 and 14 introduced a reciprocal obligation for land managers to manage land and water responsibly for access. A brief outline of land managers' responsibilities includes;

- 1) Respect access rights in managing your land or water;
- 2) Act reasonably when asking people to avoid land management operations;
- 3) Work with your local authority and other bodies to help integrate access and land management; and
- 4) Take account of access rights if you manage contiguous land or water.

Public rights of way and core paths - According to the records held by Scottish Borders Council (SBC) there are no claimed rights of way on this area of land - see map below. Please note that SBC does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, the community council and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC. Rights of Way are protected by law under the Countryside (Scotland) Act 1967 sec. 46 'It shall be the duty of a planning authority to assert, protect, and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area.'

Recommendation - The developers should ensure that there is access for pedestrians and cyclists leading on to Bridgend from the southern corner of the site, if practicable.

Statutory Consultees

Community Council: No reply received.

SEPA: Object on the grounds of lack of information. Substantial developments should ensure that their heat demand is met from district heating, subject to the outcome of a feasibility statement. This will be reviewed when relevant information has been submitted.

The sites appear to lie outwith the SEPA flood maps but are located adjacent to a location within the surface water flood envelope. SEPA do not object on flooding grounds but would expect Scottish Borders Council to undertake their responsibilities as the Flood Prevention Authority.

SEPA note that foul water drainage will be connected to the public sewer and refer the Planning Authority to their standing advice regarding surface water drainage.

Supplementary information in relation to district heating has been provided by applicant. SEPA subsequently confirmed that they welcome the submission by the applicant of an energy statement and district heating feasibility study and withdraw their previous objection with regards this issue as the information has now been submitted.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD3: Land Use Allocations

HD1: Affordable and Special Needs Housing

HD3: Protection of Residential Amenity

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS5: Protection of Access Routes

IS6: Road Adoption Standards

IS7: Parking Provision and Standards

IS9: Waste Water Treatment and Sustainable Urban Drainage

Other considerations:

Supplementary Planning Guidance

- Affordable Housing (2015)
- Development Contributions (2011) updated January 2018
- Placemaking and Design (2010)
- Trees and Development (2008)
- Designing out Crime in the Scottish Borders (2007)
- Householder Development (incorporating Privacy and Sunlight Guide) (2006)

KEY PLANNING ISSUES:

Whether the proposals would represent a suitable development on an allocated housing site within the Duns settlement boundary and whether the proposed development would be acceptable in terms of road safety, residential amenity and drainage and water supply. 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 applications require to be assessed principally in terms of policy PMD3 of the Local Development Plan 2016 (LDP) on land use allocations. The sites are both allocated for Housing in the Local Development Plan (BD20B).

Policy PMD3 sets out that for sites allocated for housing development, housing is an acceptable use. Supplementary Planning Guidance on Placemaking and Design and on Householder Development is also relevant to the consideration and determination of this application.

In the case of these applications, the proposals are considered compatible with the surrounding land use which is primarily residential in nature. The revised proposals are considered to be acceptable in terms of their fit with the character and amenity of surrounding area. The proposals are also of acceptable scale, form, design, materials and density. The proposed development would therefore meet the principle aims of Policy PMD3 which seeks to ensure that allocated sites are developed for their intended use.

The LDP sets out that the site requirements for these specific sites are as follows:

- *Development should respect the amenity of both neighbouring residential properties and properties already on the site.*
- *Development should allow for pedestrian and vehicular access from Springfield Drive through the site.*
- *Provide for intermittent planting on the norther eastern edge of the site to screen the development from views on the approach to Duns from the A6105 and provide a settlement edge; and on the north western edge again to provide a settlement edge and soften the boundary when viewed from the north-west.*
- *Take advantage of the southerly aspect of the site.*

The sites have previously benefited from a grant of planning permission for residential development. Permission was granted for the erection of 62 dwellings and this consent was implemented. Members should be aware that whilst the development was not completed, the previous permission remains extant, and could continue to be implemented on site.

Tenure

The proposed housing in both applications would comprise fully affordable housing development. Berwickshire Housing Association would ultimately own and operate the housing, and this has been confirmed by SBC's Housing Strategy team.

Placemaking and Design

Policy PMD1 of the LDP 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.

Layout

The proposed site layout is based upon the original layout approved on the site. Given that roads and drainage works were carried out on the site, this is considered to be a sensible and pragmatic approach. A layout consistent with Designing Streets would be desirable but it is acknowledged that the current layout has been previously accepted and the earlier permission implemented.

The agents supporting statement sets out a general assessment diagram showing the previous level of development approved for the site, in comparison to the current proposals. This demonstrates that whilst the total number of residential units has increased, the proposed level of development (in terms of building numbers) remains very similar to that of the approved and implemented scheme.

A minor criticism of the resultant proposal however is the range of housing along the northern most street is somewhat limited. Variation in the external finish and re-positioning, or micro-siting of some of the houses along this street is desirable in Placemaking terms. This will introduce an element of variation along this street frontage helping to break up what could be perceived as a monotonous street scene. This can be achieved through the submission of revised drawings controlled via planning condition.

Members will be aware from the current proposals that the proposed development has been revised, following submission of consultation comments from RPS and negotiation with the developer to include adjustments to on-site parking arrangements. RPS has confirmed their acceptance of the revised scheme.

House designs

The proposed house designs are considered to be acceptable in architectural terms. They are generally modest dwelling units commensurate with other affordable housing schemes throughout the borders. The dwellings are consistent in their architectural language and whilst they differ from the dwellings constructed in the earlier phases of development at Springfield, it is considered that they will sit comfortably on the site and would be compatible with the scale, massing and density of the surrounding residential area.

The proposed developments would respect the character of the surrounding area and neighbouring built form and can be satisfactorily accommodated within the site. The dwellings have a simple, yet traditional form, albeit with modern interventions and material choices. As noted above the proposed housing along the northern street would benefit from some variation in external finishes and precise locations within plots to provide interest and an element of relief from what would otherwise detract from the overall appearance of the scheme. A suitable condition to achieve these changes is set out following this report.

Materials

The drawings and Design and access statement for the applications sets out that the proposed external materials are as follows;

Walls:

- Wet dash smooth white colour K-render external render
- Grey colour facing brick

- Dark grey colour composite cladding boarding

Windows:

- UPVC double glazed, dark grey colour
- Precast window cill, grey colour finish
- Powder coated aluminium cill (cladding situations)

Roof:

- Concrete smooth charcoal colour roof tiles
- UPVC fascia and soffits, dark grey colour
- UPVC rainwater goods, black colour

The proposed pallet of materials is considered to be acceptable and appropriate for this location. It will not detract from the character or appearance of the area or the neighbouring dwellings.

It is contended that the layout creates a sense of place compatible with the character of the surrounding area and neighbouring built form and would not result in any significant conflict with the principal requirements of policy PMD2. In terms of criteria (j) which relates specifically to external materials, it would be appropriate to add a condition to any consent requiring the submission and agreement of the proposed external materials and surfaces of the proposed dwellings to ensure compatibility with the immediate surrounding area.

Subject to the undernoted planning conditions, it is considered that the proposed development would not result in any significant conflict with the requirements of policy PMD2 of the LDP. Furthermore, the proposed development is considered to represent an acceptable form and scale of development, in keeping with adopted policy and guidance in relation to placemaking and design.

Some minor adjustments to introduce further variation in a number of key houses on the main northern street will be achieved via planning condition. This will break up the grouping of semi-detached housing and introduce some variation to this street scene. Some minor adjustments in plot positioning along the north western street will also be achieved via planning condition.

Impact on Residential and Neighbouring Amenity

Policy

Policy HD3 of the Local Development Plan sets out that residential amenity of existing established residential areas and proposed new housing developments 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. The Scottish Government's Scottish Planning Policy (SPP) states the need for high quality layout in housing developments in order to protect residential amenity.

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. To protect the amenity and character of these areas, any developments will be assessed against: a) the principle of the development, including where relevant, any open

space that would be lost; and b) the details of the development itself particularly in terms of: (i) the scale, form and type of development in terms of its fit within a residential area, (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sun lighting provisions. These considerations apply especially in relation to garden ground or 'back land' development, (iii) the generation of traffic or noise, (iv) the level of visual impact. In the case of this application, the proposed relationships with the adjoining dwellings are considered acceptable.

The Council's supplementary guidance on householder developments sets out criteria in relation to privacy, sunlight and residential amenity to ensure that any overshadowing or overlooking is to an acceptable level. Existing neighbours as well as proposed dwellings are entitled to a degree of protection of amenity and privacy. Taking into consideration the extant permission and the location, orientation, height and density of the current proposals it is considered that the proposed layout is acceptable in terms of protecting existing established residential areas and the proposed residential development. The proposals are considered acceptable and in accordance with the qualifying criteria of Policy HD3 and supplementary planning guidance.

Impacts on neighbouring housing

The relationship of the proposed development to all existing housing has been considered. The nearest existing dwellings are sufficiently distant from the site that the proposed dwellings would not have an unacceptable adverse impact on the residential amenities of occupants of these properties. There are no other properties in the surrounding area that would be adversely affected to an unacceptable level by the proposal that would warrant a revision or amendment to the submitted layout.

Relationships within the sites

Consideration must also be given to the relationships between the dwellings proposed in the development and the potential for window to window overlooking. Suitable relationships are shown between the windows of the proposed dwellings and the existing dwellings on the neighbouring housing surrounding the sites to the point where the 18m window to window distance prescribed in the supplementary guidance is met. The nearest dwellings are sufficiently distant from the site and it is considered that the proposed dwellings would not affect the residential amenities of occupants of these existing dwellings.

Objection comments in relation to the aspect and shadow on the site are acknowledged. However the site has historic approval for housing development, and is allocated for housing development in the Local Development Plan. The principle of housing on this site cannot reasonably be opposed. Furthermore, accounting for the infrastructure in place, previously agreed relationships within the site and outwith the site and the North West facing aspect the site, the levels of anticipated levels of overshadowing are not considered to be above tolerable standards. The extent of overlooking and overshadowing that residents enjoy will be dependent on a range of factors including the proximity, height and orientation of other properties, visibility from public spaces and the existence of intervening boundaries and screens. Therefore, the level of privacy and amenity that exists will vary according to location. Applying SPG standards rigidly could prevent developments from proceeding when all other matters are considered acceptable, therefore some relaxation may be necessary. It is considered that the proposed layout and house types are acceptable

and will not result in unacceptable levels over overlooking, loss or privacy or over shadowing.

Garden / Amenity Space

The approved SPG on householder development considers the level of private garden amenity space suitable for family accommodation. The amount of private outdoor space required should reflect the size of the dwelling. It is considered that the proposed layout would provide for suitable garden and amenity space adjoining the proposed individual dwellings and housing development more widely. The requirements of the householder SPG and Policy PMD2 are achieved.

Air Source Heat Pumps

Air source heat pumps (ASHP) are proposed to enable the houses to achieve the required levels of energy performance and generation to meet the requirements of the Building Standards Regulations. The Environmental Health Officer initially commented on the proposed ASHP equipment. A condition is set out following this report, which will ensure that suitable noise standards are met. Further details were lodged during the processing of the applications in terms of the proposed ASHP and these are considered acceptable.

Landscaping

The principal locations of hard and soft landscaping are indicated on the proposed site layout. Soft landscaping is covered in more detail and specified further within the Landscaping layout.

The Council's Landscape Architect was consulted on the application, and observed that the site has begun to be colonised by various trees and shrubs during the 10 year period of inactivity since the original development was commenced. Some of this natural colonisation has the potential to become a greenspace asset and, where possible, should be retained. In terms of the submitted landscape plan, the Council's landscape architect would therefore like to see the areas adjacent to the SUDS pond and to the North East of Plots 1-9 reduced in size.

The subsequently submitted landscaping drawing DU09_LP_004 rev E suitably accommodates the comments of the Council Landscape Architect. It shows the landscaping around the area adjacent to the SUDS pond is to comprise minimal intervention to allow natural regeneration to wildflower meadow standard.

The submitted landscape plans shows shrub, hedge and tree planting proposals for the wider site, and this is considered acceptable in principle. All new selected standard tree planting shown on the Planting Schedule attached to landscape drawing DU09_LP_004 rev E should use root balled tree stock as per SBC Landscape Guidance Note 7. This can be covered by condition.

Impact on traffic and road safety

Policy IS6 of the Local Development Plan sets out Road Adoption Standards. New roads, footpaths and cycle ways within developments must be provided and constructed in accordance with the Council's adopted standards to secure Road Construction Consent, with the exception of development which can be served by a private access.

Policy IS7 on Parking Provision and Standards sets out that the development proposals should provide for car and cycle parking in accordance with approved standards.

Policy PMD2 of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (o) requires that street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access. Criteria (r) requires that development provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycle ways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns. Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Road Access, Parking and Safety considerations

In the case of the current proposals, the site plan indicates that the dwellings would be served off the existing vehicular access onto Springfield Avenue. The amended site layout indicates that parking spaces would be provided to the satisfaction of RPS subject to a condition requiring an additional parking space to be provided within Plot 9. It is acknowledged that third party representations have been lodged concerned with an anticipated increase in traffic using the existing roadside network serving the sites, however, bearing in mind that the site benefits from an extant planning permission for residential development, the RPS advise that the existing road network has been designed to cope with the increase in traffic and accordingly there is no road safety objection to the proposed development.

Members will note from the comments submitted by the Roads Planning Service that the applications can be supported, subject to clarification and agreement of the road construction details. Roads infrastructure was constructed on the site, as per the previous planning permission and roads construction consent. There is a complete pedestrian loop round the site as well as another connection through a linear open space through the centre of the site linking the two access roads. The pedestrian routes throughout the development connect to the existing path network serving the site although the non-provision of a footpath link to Bridgend is discussed later in the report.

Members will also note from the consultation replies that the Roads Planning Service had concerns over the proposed level of parking for both residents and visitors. However, following the submission of revised plans, the RPS has confirmed their acceptance of the revised layout and level of parking and offers no objections.

In summary, the proposed access and parking arrangements are considered acceptable. Subject to conditions relating to the fine detail of the arrangements, the application is considered to comply with the requirements of policies IS7 (Parking Provision and Standards) and PMD2 (Quality Standards) of the Local Development Plan.

Footpath connection to town centre / Bridgend

In terms of designing streets and connectivity with existing streets, a footpath link was previously identified linking the development site to the town centre via

Bridgend. This was previously secured through a legal agreement as the desired footpath link was outwith the application site boundary, on land outwith the control of the applicant and could not reasonably be secured through planning condition. This footpath link has never been provided.

The applicant has confirmed that the land required to provide this link continues to be outwith their control and would involve land in third party ownership. However, it remains desirable to provide this link in order to improve connectivity and permeability between new and existing residential areas and for the proper planning of the town.

The original Section 75 Agreement required the previous developer to lodge with the Planning Authority a sum of money for a prescribed period to allow the Council to implement this footpath link which would connect with either Bridgend or Currie Street. The applicant anticipates that a similar arrangement would be the only satisfactory way in which a pedestrian link from the development site to the town centre could be achieved.

Members will be aware from the background papers that the Council's Access Officer and our RPS are both keen to see this footpath link provided. Members will also beware from the third party representations that Objectors have raised the provision of this footpath link as an issue and also raised concerns over travel distances to school. It is worth noting however that the connecting footpath link through to Bridgend is not identified as a site requirement in the LDP. The LDP requires that the development should allow for pedestrian and vehicular access from Springfield Drive through the site only and does not insist on a link to Bridgend.

Consideration should therefore be given by Members to the reasonableness of the desired footpath link; given that it is not identified as being essential in the site requirements. Connectivity with proposed developments and existing residential areas is a key tenant of placemaking and design principles as adopted by the Council.

Members should also be mindful of compulsory purchase powers which are available to the Council and could be an option for use in circumstances where land holdings require to be assembled to enable development. That is not a decision before Members under this report, but it should be noted that Planning Authorities have power to compulsorily acquire land:

- a) Suitable for and required in order to secure the carrying out of development, redevelopment or improvement;
- b) Required for a purpose which is necessary for the proper planning of an area in which the land is situated.

It is contended that the provision of this footpath link is desirable and should be provided. The development could be accepted in the absence of a connecting footpath through to Bridgend, however this would not be consistent with National Policy (Designing Streets) or our approved SPG on Placemaking and Design. A legal agreement, similar to that agreed under the extant permission is recommended.

Play Space

The need for play space provision is raised within the objections and submissions made to the Planning Authority. An area of land has been identified on the submitted layout drawings for an equipped play area. An indicative layout for the proposed

range of equipment is also shown on drawing DU09_LP_006. A planning condition would be appropriate to ensure provision of the play equipment and for future maintenance.

Access

Policy IS5 of the LDP seeks to protect Access Routes and sets out that development that would have an adverse impact upon an access route available to the public will not be permitted unless a suitable diversion or appropriate alternative route can be provided by the developer. According to the records held by the Council there are no claimed rights of way on this area of land.

The Council's Access Officer does however advise that it would be desirable if an access for pedestrians and cyclists was provided from the site to Bridgend from the Southern Corner of the site. This would be consistent with the views expressed by RPS.

Water Supply and Drainage

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

The application form specifies that the means of water supply will be via connection to public water supply.

The proposed means of dealing with drainage is set out in the Design and Access Statement. Foul drainage will be to the public sewers with surface water dealt with by sustainable urban drainage systems (SUDS) tied into the existing approved facilities.

Plans for the SUDS System, and technical details accompanied the applications. Subject to suitable water and drainage conditions, it is considered that these matters can be suitably dealt with and the site suitably serviced however precise details can be secured through planning condition.

Waste

The Council has draft supplementary planning guidance on Waste. The agent confirms all new houses will be provided with a hardstanding area suitable and sufficient for bin storage. Rear access for terraced properties has been provided. These arrangements are generally acceptable. A suitably worded planning condition will ensure that provision is made for waste storage and collection within the development.

Renewable Energy

Members will note from the consultation replies from SEPA (correspondence ref no PCS/154142 and PCS/154134) that an Energy Statement informed by a District Heating Feasibility Study would be required. The Energy Statement and District Heating Feasibility Study (Part 2) will corroborate how the development can contribute towards Scotland's Climate Change targets.

Members will note from the papers that the applications were subsequently supported by a separate energy statement.

The applicants desk top feasibility study concludes that a District Heating Network is not appropriate for the development. The proposals are for a low density residential development and coupled with the lack of proximity to major energy loads (heat), lead to the conclusion that the utilisation of a District Heating scheme is not the most appropriate solution at this particular location.

The design statement sets out that every dwelling will be constructed to full Silver Sustainability as set out in Section 7 of Scottish Building Regulations. The houses will be built with an enhanced fabric; be powered by low carbon air source heat pumps; achieve low air tightness to minimise heat loss through the fabric; enhanced natural daylight to lounge with enlarged windows; continuous running low cost ventilation fans to control air quality.

SEPA subsequently withdrew their objection to the application. Suitable conditions in terms of the operation of the air source heat pump equipment are set out following this report in the schedule of conditions.

Affordable Housing

Policy HD1 of the LDP aims to ensure that all new housing developments provide an appropriate range and choice of 'affordable' units as well as mainstream market housing. The current proposals seek consent for the erection of 75 dwellinghouses however these units will be developed on a phased basis in association with Berwickshire Housing Association with a view to providing 100% affordable housing.

The Housing Strategy Team advises that Berwickshire HA have brought forward this site for consideration and prioritising for inclusion in the new Strategic Housing Investment Plan 2018/23. Members will note from the consultation replies that our Housing Section is supportive of this proposal in that will contribute towards the completion of a stalled housing site and deliver new supply affordable housing to Duns.

As the site will provide 100% affordable housing there is no requirement for the provision of development contributions, typically education and lifelong learning. Suitably worded planning conditions are recommended in order to restrict the dwellings to the Council's definition of an affordable unit. This will ensure that the dwellings remain as affordable units in perpetuity.

Development Contributions

Policy IS2 of the LDP is relevant and is supported by SBC's approved SPG on development contributions. Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Members will note that development contributions have been identified towards Duns Primary School and Berwickshire High School. However, as the proposed dwellings would satisfy our definition of affordable housing, they are exempt from development contributions. In this case, contributions towards Education will not be required.

CONCLUSIONS

Taking all matters into account as set out on the papers above, it is considered that the proposed developments would represent an acceptable form of housing development consistent with local development plan policies and supporting planning guidance covering, but not limited to, placemaking and design, the protection of residential amenity and affordable housing. 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 that both applications are approved, subject to conclusion of the required legal agreement and subject to the undernoted conditions and informative.

17/0993/FUL

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 The residential units hereby approved shall meet the definition of "affordable housing" as set out in the Scottish Borders Local Development Plan 2016 and Scottish Borders Council approved supplementary planning guidance on Affordable Housing (January 2015) and shall not be used for any other purpose.
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would not comply with development plan policies and guidance with respect to contributions to infrastructure and services, including local schools and development outwith the Development Boundary.
- 3 No development shall commence until full details of all external materials for the approved dwellings, and full details of the surfacing of all shared surfaces and footways have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.
Reason: To maintain effective control over the development.
- 4 No development shall commence until full details of the road construction, makeup, material and road surfaces are submitted to and approved in writing by the planning authority. A scheme of further refinements to the detail of the parking bays shown on the approved site layout plan shall also be submitted to and approved in writing by the planning authority before commencement of development. Thereafter the development is to be completed in accordance with the approved details.
Reason: To maintain effective control over the development.
- 5 A second parking bay is to be provided for plot 9, in accordance with a scheme of details first submitted to and approved in writing with the planning

authority. In all other regards, the development is to be completed in accordance with the approved road and parking layout.

Reason: In the interests of Road Safety.

- 6 At least 6 weeks prior to the development commencing operations the applicant must prepare and submit a construction method statement for approval 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.

- 7 No drainage system other than the public mains sewer shall be used to service the property without the written consent of the Planning Authority.

Reason: To ensure adequate provision is made for the disposal of foul water drainage and that the development does not have a detrimental effect on public health.

- 8 Prior to occupation of the first dwellinghouse hereby approved written evidence shall be supplied to the planning Authority that the development has been connected to the public water drainage network.

Reason: To ensure that the development does not have a detrimental effect on public health.

- 9 No development shall commence until a detailed 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.

- 10 No water supply other than the public mains shall be used to supply the Development hereby approved 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.

- 11 The Air Source Heat Pump equipment shown on the drawings hereby approved shall be installed in accordance with the details approved with this application, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential amenity within and adjoining the site.

- 12 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR

30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2

Reason: To protect the residential amenity of nearby properties.

- 13 All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason: To protect the residential amenity of nearby properties.

- 14 An equipped play area shall be provided on site within 6 months of the occupation of the first dwellinghouse, the precise details of which shall first be submitted to and agreed in writing by the planning authority. Details shall include a scheme for ongoing future maintenance of the equipped play area.

Reason: To ensure provision of suitable recreation space within the development.

- 15 All landscaping shown on drawing DU09_LP-004 Rev E shall be completed within 12 months of the occupation of the first dwellinghouse hereby approved, unless a subsequent phasing scheme has been submitted to and agreed in writing with the planning authority.

Reason: To ensure the development is suitably landscaped and integrated with its surroundings.

- 16 Prior to commencement of development, a scheme for future maintenance of all landscaped areas shall be submitted to and approved in writing with the planning authority. Thereafter the landscaping will be maintained in accordance with the approved details.

Reason: To ensure suitable maintenance of all landscaped areas.

- 17 All new selected standard tree planting as shown on the Planting Schedule attached to approved drawing DU09_LP-004 Rev E should use root balled tree stock as per SBC Landscape Guidance Note 7.

Reason: To ensure the development is suitably landscaped and integrated with its surroundings.

- 18 No development shall commence until a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are submitted to and approved in writing by the planning authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

Informative

It should be noted that the existing Roads Construction Consent for the site has expired and an application will be required from the developer to have the consent extended.

17/00994/FUL

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 The residential units hereby approved shall meet the definition of "affordable housing" as set out in the Scottish Borders Local Development Plan 2016 and Scottish Borders Council approved supplementary planning guidance on Affordable Housing (January 2015) and shall not be used for any other purpose.
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would not comply with development plan policies and guidance with respect to contributions to infrastructure and services, including local schools and development outwith the Development Boundary.
- 3 No development shall commence until full details of all external materials for the approved dwellings, and full details of the surfacing of all shared surfaces and footways have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.
Reason: To maintain effective control over the development.
- 4 No development shall commence until full details of the road construction, makeup, material and road surfaces are submitted to and approved in writing by the planning authority. A scheme of further refinements to the detail of the parking bays shown on the approved site layout plan shall also be submitted to and approved in writing by the planning authority before commencement of development. Thereafter the development is to be completed in accordance with the approved details.
Reason: To maintain effective control over the development.
- 5 A second parking bay is to be provided for plot 9, in accordance with a scheme of details first submitted to and approved in writing with the planning authority. In all other regards, the development is to be completed in accordance with the approved road and parking layout.
Reason: In the interests of Road Safety.
- 6 At least 6 weeks prior to the development commencing operations the applicant must prepare and submit a construction method statement for approval 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.

- 7 No drainage system other than the public mains sewer shall be used to service the property without the written consent of the Planning Authority.
Reason: To ensure adequate provision is made for the disposal of foul water drainage and that the development does not have a detrimental effect on public health.
- 8 Prior to occupation of the first dwellinghouse hereby approved written evidence shall be supplied to the planning Authority that the development has been connected to the public water drainage network.
Reason: To ensure that the development does not have a detrimental effect on public health.
- 9 No development shall commence until a detailed 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.
- 10 No water supply other than the public mains shall be used to supply the Development hereby approved 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.
- 11 The Air Source Heat Pump equipment shown on the drawings hereby approved shall be installed in accordance with the details approved with this application, unless otherwise agreed in writing with the planning authority.
Reason: In the interests of residential amenity within and adjoining the site.
- 12 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason: To protect the residential amenity of nearby properties.
- 13 All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason: To protect the residential amenity of nearby properties.
- 14 An equipped play area shall be provided on site within 6 months of the occupation of the first dwellinghouse, the precise details of which shall first be submitted to and agreed in writing by the planning authority. Details shall include a scheme for ongoing future maintenance of the equipped play area.
Reason: To ensure provision of suitable recreation space within the development.

- 15 All landscaping shown on drawing DU09_LP-004 Rev E shall be completed within 12 months of the occupation of the first dwellinghouse hereby approved, unless a subsequent phasing scheme has been submitted to and agreed in writing with the planning authority.
Reason: To ensure the development is suitably landscaped and integrated with its surroundings.
- 16 Prior to commencement of development, a scheme for future maintenance of all landscaped areas shall be submitted to and approved in writing with the planning authority. Thereafter the landscaping will be maintained in accordance with the approved details.
Reason: To ensure suitable maintenance of all landscaped areas.
- 17 All new selected standard tree planting as shown on the Planting Schedule attached to approved drawing DU09_LP-004 Rev E should use root balled tree stock as per SBC Landscape Guidance Note 7.
Reason: To ensure the development is suitably landscaped and integrated with its surroundings.
- 18 No development shall commence until a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are submitted to and approved in writing by the planning authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing with the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.
- 19 Prior to the commencement of development, a scheme of amendments to house designs and exterior finishes, for plots 44, 45, 46, 47, 48, 49, 51, 52, 53, 64, 65, 66, 67, 68, 69, 70 and 71 is to be submitted to and approved in writing by the planning authority. Thereafter the development is to be completed in accordance with the approved revised arrangements unless otherwise agreed to in writing with the planning authority.
Reason: Further variation in the external appearance of these selected dwellings is required, to achieve a suitable placemaking and design standard.
- 20 Prior to the commencement of development, a scheme of amendments to house positions, for plots 44, 45, 46, 47, 48, 49, 51, 52, 53, 64, 65, 66, 67, 68, 69, 70 and 71 is to be submitted to and approved in writing by the planning authority. Thereafter the development is to be completed in accordance with the approved revised arrangements unless otherwise agreed to in writing with the planning authority.
Reason: Further variation in the positioning of these dwellings within the proposed plots of these selected dwellings is required, to achieve a suitable placemaking and design standard.

Informative

It should be noted that the existing Roads Construction Consent for the site has expired and an application will be required from the developer to have the consent extended.

DRAWING NUMBERS

Reference	Plan Type	Received
DU09_LP01	Site Location Plan	12.07.2017
DU09_LP02 Rev A	Existing Site Contours	12.07.2017
DU09_LP03 Rev E	Site Layout Showing Housing Mix	25.10.2017
DU09_LP04 Rev E	Landscape Plan	25.10.2017
DU09_LP06 Rev B	Site Layout Plan	25.10.2017
SAD-001	Cross Sections / Drainage Layout	12.07.2017
2016 AA_901	House Type A	12.07.2017
2016 BBB_901	House Type B	12.07.2017
2016 BBE_901	House Type B - End Terrace	12.07.2017
2016 DD_901	House Type D	12.07.2017
2016 DDDH_901	House Type D - End Terrace	12.07.2017
2016 GG_901	House Type G	12.07.2017
2016 HH_901	House Type H	12.07.2017
DU09_LP_12	Proposed Play Park Layout	08.09.2017
DU09_LP_10	ASHP Locations	08.09.2017

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.

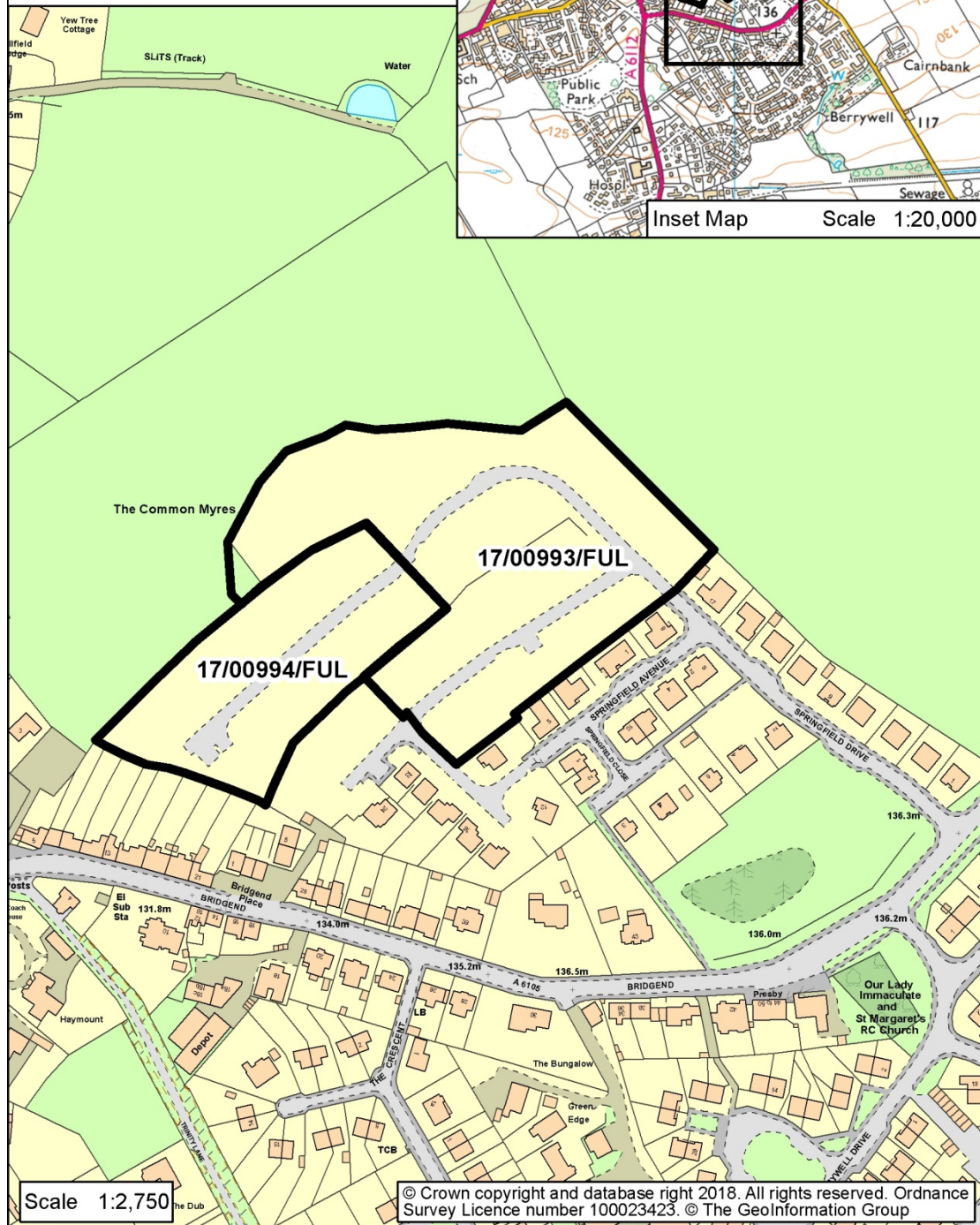
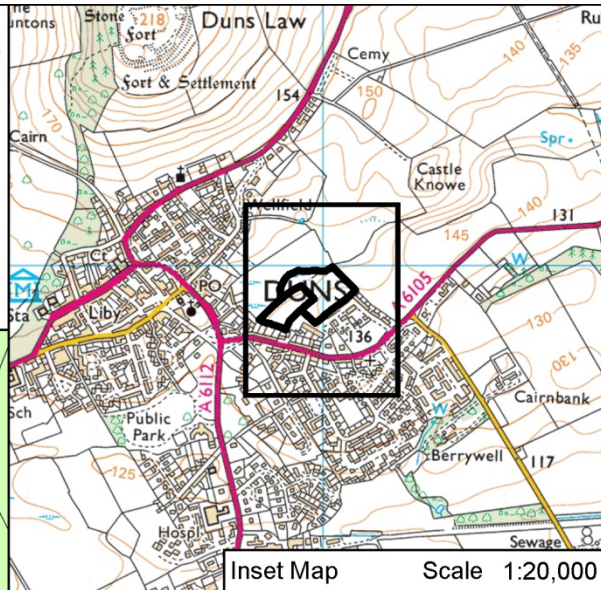
Author

Name	Designation
Andrew Evans	Planning Officer



17/00993/FUL & 17/00994/FUL

Springfield
Duns



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 FEBRUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/01403/FUL
OFFICER:	Carlos Clarke
WARD:	Leaderdale and Melrose
PROPOSAL:	Erection of dwellinghouse
SITE:	Land south of Abbotsbank, Gattonside
APPLICANT:	Rural Renaissance Ltd
AGENT:	Camerons Ltd

SITE DESCRIPTION

The site comprises a long, tapered area of rising ground located within the centre of the village and previously used, according to the application submission, as a market garden/nursery. It is located off the Loan, a narrow, winding rising public road that currently serves a number of existing properties. The site has an existing access onto the Loan at its southern end via an existing tarred junction shared with the adjacent property. At its far northern end it also has a gateway onto the higher section of the Loan. The site itself is grassed, and rises from south to north. In its centre is a dilapidated greenhouse building extending approximately the width of the site at that point. The site's boundaries are marked by fencing, hedging and walling, where it meets undeveloped land to its west, the gardens of houses to its east and, the Loan public road to its north-east and north. It is overlooked by a terrace of houses to the north on the other side of the Loan. The site is located within the village's Conservation Area.

PROPOSED DEVELOPMENT

This application has been subject to an initial submission and two amendments. The application seeks consent for a single detached house which, during the course of the application, has been subject to changes, including in its position (originally to be sited in the northern half of the site, with access from the north-east), and design and scale. The current proposal is for the house to be located within the centre of the site, approximately as per the position of the existing greenhouse. It is to be accessed from a new driveway rising from the existing junction at its southerly end. The house would be 1 ¾ storey, principally on a rectangular footprint, with a further rectangular section behind that would be split-level with the rising ground behind. It would be roofed in natural state, with off-white smooth rendered walls, and aluminium/timber composite windows and doors. The application includes retention of the existing gateway to the north of the site that currently accesses the Loan, and which the applicants confirm is required for maintenance of the remaining field only.

PLANNING HISTORY

There is recent planning history for the site itself, though two recent consents for single houses accessed by the Loan are of some relevance:

- 16/01341/FUL - Land North West Of Wellbank - approved December 2016

- 16/00162/PPP - Garden Ground of Lindisfarne – originally refused due to inadequacy of the Loan to accommodate associated traffic. Consent was granted by the Local Review Body in September 2016

REPRESENTATION SUMMARY

As noted above, the application has been subject to three iterations. The original submission and two subsequent amendments have all been subject to consultation with neighbours and relevant consultees, and all three have attracted a number of objections. The revised proposal, for which consent is now sought, has generated objections on behalf of 20 properties. It is evident that the amended proposals have not addressed objectors' concerns and the principal objections (which account for all stages of processing of the application) are noted in summary below. Copies of all representations can be viewed in full on *Public Access*.

- There has never been a market nursery business on this site. Evidence should be provided of its existence.
- The Loan is unable to cope with the extra traffic associated with the construction and use of the dwellinghouse. The access is onto a blind corner with poor sightlines, and the road gets more dangerous each time another access is added. The road is very narrow, with steep gradients and no footpaths. Cars, houses and walkers use it. Its surface is solid ice in cold weather and it is frequently used for car parking. Houses are being built elsewhere on the Loan now, and damage has occurred as a result of recent construction works. This will result in an increase in traffic making the road more dangerous at its busiest section. Access to the south remains difficult and potentially dangerous.
- The excavator route would be unsafe, and the largest anticipated vehicle doesn't guarantee it will be the largest and, if smaller, this will result in more trips. It is queried how construction materials will be delivered, whether adjoining accesses will be affected during construction, and what level of soil removal is required. Considerable problems will result from reversing the excavator, and the presence of a banksman cannot be enforced. The access cannot adequately cope with small vehicles now and the proposal doesn't address its constraints. Its use risks a serious accident. How disruption from water and sewerage etc. provision will be managed is also queried.
- Ultimately, the Council should uphold its prevention of no further building and not be swayed by the economic concerns of the landowner/developer. This is the third attempt to establish a safe access and is the least convincing. The original views of the Roads Planning Service as regards development off the Loan should be followed.
- Only pedestrian access should be permitted to the north.
- The proposed house is unsympathetic and too dominant in such a prominent position, is not in alignment with existing and is not in keeping. Opinions on its size vary from it being considered more in keeping, to it being considered inappropriately large, crammed into the plot, resulting in loss of open space and with an overlarge garden to the rear. It continues a trend towards overdevelopment of the area. Little or no thought has been given to the character of the oldest part of the village. The opportunity should have been taken to develop an innovative design. It is also contended that the existing greenhouse is an eyesore.
- The proposal is too close to the Beech hedge and the closest tree (tree 1) is positioned incorrectly.
- Overlooking and loss of privacy will result, especially for Abbotsknowe.
- Potential effects on drainage as the village has springs and the Loan runs water at times, which freezes in winter. Drainage issues have worsened and will continue to

get worse with more properties added. There are concerns with effects on the very old existing mains drainage.

- The boundary wall should be repaired/reconstructed. The hedge to the north does not seem necessary, will affect neighbours' daylight, sunlight and outlook and walkers' views of the Eildons and Melrose. Concerns are also raised that this means removal of the wall.
- The application fulfils no criteria with respect to promoting affordable housing. There are also plenty of houses elsewhere of similar size and the Local Development Plan provides sufficient potential growth.
- Loss of bird habitat
- If approved, no further houses should be built. The uncharacteristically large garden to the rear can only be seen as being earmarked for further development.
- The site is clearly unsuitable.

APPLICANT'S SUPPORTING INFORMATION

The following have been submitted in support of the planning application:

- Supporting statement
- Design Statement (for the original application submission, though not the most recent amendment)
- Access appraisal
- Swept path analysis for a construction vehicle
- Overlooking and privacy analysis for Abbotsknowe
- Daylight analysis
- Shadow diagrams
- Root protection area calculations for adjacent trees

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016

PMD2 Quality Standards
PMD5 Infill Development
IS2 Developer Contributions
IS3 Developer Contributions Related to the Borders Railway
IS7 Parking Provision and Standards
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
EP1 International Nature Conservation Sites and Protected Species
EP4 National Scenic Areas
EP8 Archaeology
EP9 Conservation Areas
EP13 Trees, Woodlands and Hedgerows
EP16 Air Quality
HD3 Protection of Residential Amenity

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Landscape and Development 2008
Trees and Development 2008
Waste Management 2015
Guidance on Householder Development 2006

CONSULTATION RESPONSES:

A number of consultees were consulted on the current amendment and their comments are summarised accordingly

Scottish Borders Council Consultees

Roads Planning Service: As regards the original submission (and the principle of development), the RPS advised that there is a long and complicated history relating to applications for dwellings on land served by The Loan. The RPS has consistently resisted any new development served via this road where there has been no history for the site. In response to recent applications, they intimated that they would be unable to support any new development due to the constrained nature of The Loan. These included 16/00162/PPP and 16/01341/FUL. They were only able to offer support for 16/01341/FUL due to the historical, live, application for two dwellings that could have been taken up by the applicant. Had that site not had a live approval, they would not have offered any support to the proposal.

In considering the current application for Abbotsknowe, they again expressed concerns regarding the nature of The Loan and its ability to support additional traffic. They intimated that they may be able to look more positively on the application if there were improvement works which could be carried out which in the eyes of the residents of The Loan/Valley View outweighed the concerns regarding the constrained nature. The proposals for additional parking, road widening and the provision of a turning area (proposals submitted with the original application but withdrawn in the amended proposals) whilst providing some benefit to the residents of Valley View, were not met favourably by the residents of the area. That said, the last use of the site was as a market garden which would have attracted its own traffic and this has to be taken into consideration by this section when appraising the current application. When this use was in operation, access was taken via the southerly section of The Loan and into the site south of Abbotsknowe. The site could commence such a use again without requiring any further approvals and this would generate additional traffic on the initial section of The Loan. Whilst this access is not ideal, the previous use has to be taken into consideration and with some improvements, the access could cater for a single dwelling. Given the historical use of the site they did not object, provided the house was served by the existing access to the south of the site and subject to submission of a traffic management plan.

With respect to the most recent submission in which access to the site is now proposed from the south, and with which a swept path analysis for a construction vehicle has been submitted, the RPS advises that the revised site plan and swept path drawing show that the applicant can provide the necessary access and parking and that a construction vehicle can enter and leave the site, both of which are acceptable to the RPS. The layout plan indicates that a gradient of 1 in 10 is proposed however there are no levels on the drawing to show this. A drawing giving more detailed level information to support the proposal of such a gradient is required. The swept path indicated is for a small excavator and whilst this is acceptable in general, there will be larger vehicles associated with material deliveries involved during the construction phase of the property. Additional information confirming how the applicant proposes to accommodate these vehicles and get the appropriate materials to the site in a safe and legal manner is requested. It should also be noted that the RPS would not be prepared to support an access from the northern part of the site on to Valley View as they would not wish to encourage additional vehicles using the top section of The Loan or Valley View.

Environmental Health Service: A solid fuel appliance is to be used, which can impact on public health if not properly installed, operated and maintained. As long as it is less than 45 kW no further information is required. If greater, then a screening assessment is required. An informative note is recommended. Also, the site was previously used as a nursery (Abbotsknowe Nursery) and the land use is potentially contaminative. A condition is recommended requiring a site investigation and risk assessment. A condition is also recommended requiring details of the public water supply.

Archaeology Officer: There are potential implications but these do not require mitigation. The application site is within the backland area of Gattonside's historic core. The village developed along Main Street and two primary roads extending north toward the Earlston road. This is largely post-medieval development, though it may have been preceded by a monastic grange followed on by several towers and a cluster of buildings in the later medieval period. There is no indication that the application has seen development apart from the late 20th century nursery. However, as former backlands or crofts there is a low potential for the site to contain buried archaeological features associated with the early development of the village. The low potential for the site to contain archaeological features does not warrant mitigation. However, an informative note on the consent (if granted) is recommended.

Landscape Architect: With respect to the most recent submission, the landscape architect has considered the information on tree Root Protection Areas and is satisfied that the information accurately reflects the trees. If excavation works are restricted to the hatched area as shown, there will be no impacts on the trees or adjacent hedge. A simple fence should be erected outside the RPAs prior to works commencing, to ensure the areas are adequately protected. No damage to the existing Beech hedge is anticipated. A full landscape scheme, including treatment of all boundaries (particularly the western boundary) should be a condition of consent. The repair, as necessary, of existing stone walls along the property boundary, should be a condition of consent.

Education and Lifelong Learning: Contributions are required towards Melrose Primary School and Earlston High School of £2,438 and £3,428 respectively (2017 indexed levels)

Access Officer: No comments

Statutory Consultees

Melrose and District Community Council: Are concerned with the additional vehicle movements around these narrow roadways

Other Consultees

Gattonside Village Sub Planning Committee: Further development which involves additional vehicle movements by way of The Loan should not be permitted. There is no doubt that the applicant's opinion that the road is easy to negotiate is made by someone who does not have to use the road on a daily basis. Quite frequently, a significant amount of the traffic using the road, especially at peak times of the day – that is travelling to and from workplaces – emanates from the housing development at Monkswood whence there is access to The Loan. Were that access to be blocked off, the situation with regard to traffic movement would be ameliorated and, if the Council is minded to grant consent, this should be conditional on access to and egress from the Monkswood area by way of The Loan being prohibited and a physical barrier provided to stop such traffic movements.

The application suggests that there would be no additional traffic caused by the erection of one house because the "Market Garden" currently generates traffic daily. Their view is that

this is a ruse to back up the applicant's contention about volume of traffic. The reality is that, although the area was once used as a market garden, in the more recent past this has not been the case. It is opined that the applicants erected a sign indicating that the area was used as such only earlier this year and the fact is that, although occasional visits to the site seem to be made by vehicles, no gardening work (other than the planting of a few young trees & shrubs) has taken place for many years. Visits by vehicles have been observed but no physical work takes place; rather the workmen sit in their vehicle for a period, occasionally have a meal break or read their newspaper and then depart.

It is contended that part of the access roadway to the site is un-adopted – that is, it is owned by the 'frontagers' of the properties adjacent to the road. It is doubtful if these 'frontagers' would be happy for access to be taken from this section of The Loan without considerable improvements being made to width, formation and drainage of the road at no expense to the 'frontagers'.

On the basis of the above it is recommended that the application be refused.

KEY PLANNING ISSUES:

Whether or not the development would comply with planning policies and guidance with respect to infill housing development and, in particular, whether the access road (the Loan) is capable of adequately servicing the development; whether the development would protect or enhance the character and appearance of the Conservation Area; and, whether or not the development would significantly adversely affect the amenity of neighbouring properties

ASSESSMENT OF APPLICATION:

Principle

The site is within the village's settlement boundary. It is not allocated for a particular use, nor safeguarded from development and, therefore, the provisions of Policy PMD5 principally guide infill development on it. The site does not comprise open space of recreational value and, though it currently contributes to the townscape to some extent as open space, it does not add significant value to the character or appearance of the Conservation Area. Where its landscape contribution has most value is its northerly half where it flanks the Loan, and this proposal retains that part free from development.

There would be no land use conflicts with a single residential house on the site. Amenity impacts on existing residential properties are considered later in this assessment

Demolition of the existing greenhouse would not require Conservation Area Consent by way of exemption due to its age and use.

There is no requirement to demonstrate need for the proposed house, nor to provide affordable housing for a single house development. Though the site to the north may be attractive as a potential development opportunity, this application seeks consent for one house and must be considered on its own merits.

Services and contributions

Contributions apply to the Borders Railway reinstatement and local schools in accordance with Policies IS2 and IS3. A legal agreement would be necessary to secure these contributions before consent (if it is to be granted) is issued.

Mains water and foul drainage are proposed, and this is agreeable in principle. A condition will be necessary to ensure that mains services will be achieved. Impacts on existing drainage will be matters for the applicants and service providers, as well as potentially through the Building Warrant process. Surface water drainage will be an issue requiring particular care for this site, given its slope towards the south, and existing known run-off issues on the Loan. A condition can secure a surface water drainage scheme, for both the construction and operational phase, that confirms that greenfield run-off levels will be maintained.

Contamination

There is a potential risk of contamination from the previous use of the site. A condition can be imposed to ensure any such risk is investigated and addressed, as recommended by our Environmental Health Service.

Archaeology

As noted by our Archaeology Officer, there is some interest in the site as regards archaeology, but it is insufficient to require mitigation to be applied. An informative note is recommended on the consent in accordance with our archaeologist's advice.

Air quality

The supporting design statement advises that the development will make use of a modern fuel efficient heating system. The application drawings indicate two chimneys, with one hearth within the living room. The details of the heating system are not known but, provided it is less than the limitation recommended by the Environmental Health Service, there appears not to be any particular concern as regards air quality impacts. This can be covered in an informative note, as any issue arising from a larger system would be for separate environmental protection procedures.

Ecology

There are no ecological designations, and no mature trees or hedging would be removed. The existing greenhouse is not of a building type likely to be habited by bats. The risk to breeding birds is a matter that can be subject to an informative note for the applicant.

Access and parking

The original application proposed access from the north-eastern boundary of the site, and was supported by proposals to alter the Loan along that and the northern boundary by means of layby parking and a turning head. However, those proposals would have encouraged traffic along a section of the Loan where traffic ought not to be encouraged, because of constraints of gradient, width and sightlines. The revised proposal for which consent is now sought proposes access only from an existing southerly access point. This access serves the adjacent property, so would not comprise a new junction directly onto the Loan. In addition, though concerns regarding the extent to which the site has previously been used as a market garden are acknowledged, the fact is it could be used as a commercial nursery at any time without planning permission. There is a reasonable likelihood of that occurring if this consent were not granted, albeit the existing building would need repaired or replaced.

Other consents for houses along the Loan are also acknowledged. The erection of a house at Lindisfarne (16/00162/PPP) was resisted by this service (albeit it was approved by the Local Review Body). However, that site was at the very far end of the Loan, requiring traffic

to negotiate its entire length. In addition, a house approved under 16/01341/FUL to the north-east of this site, behind Wellbank, was approved because it was the same site as an extant consent for two houses that, due to previous works, could not expire. Therefore, that would comprise one house in place of two. This application seeks consent for a house towards the southern end of the Loan, requiring the least of all the distances from which to travel from the main road. The RPS has not raised any concern with the cumulative impact of a third additional house being accessed off the Loan at this southerly point, and no external mitigation, such as alterations to this or other roads are required.

Construction works will inevitably cause disruption and it is for the applicants to secure any permits for works directly affecting the public road (such as service provision). Management of construction traffic is not ordinarily a matter that requires consideration as part of a planning application for a development of this size. Damage associated with such works is also for the individual companies involved. However, it is recognised that the southerly junction exhibits particularly physical constraints and it is important that it can be demonstrated that the site can accommodate the type of traffic needed to service the development's construction, in order to limit potential disruption on the public road, and in the general interests of road and pedestrian safety.

The applicants have, therefore, submitted a swept path analysis for an excavator, demonstrating that it is capable of being reversed into the site and leave in a forward gear. This arrangement is endorsed by the Roads Planning Service. It is noted by the applicant that the reversing of the excavator will be supervised by a banksman. This arrangement can be specified in a traffic management plan required by planning condition. This can specify more detail of the arrangements for ensuring that the manoeuvres will be supervised. This same arrangement was not possible on the nearby site (16/01341/FUL) partly because no condition could be imposed because of the site history for that plot. However, it is considered reasonable and necessary to ensure a management scheme is in place in this case. Though a management plan cannot police how public roads are used, it can regulate how the development of the site is managed. The applicants have further advised that there shall be no larger vehicles entering the site to deliver materials than the 6m long excavator. If a larger vehicle is required, the load will be transferred on the main road. Detailed arrangements should be specified in a traffic management plan, as can confirmation of a parking area and plant and materials storage area within the site. It will be for the applicants to safeguard private accesses already using this route.

The site layout incorporates two parking spaces and a turning area and is, therefore, compliant with the Local Development Plan 2016 as regards parking requirements. The applicants have confirmed they have a right to take access via the existing junction. The most recent submission includes level information, partly in order to answer the RPS's queries regarding the levels of the driveway and parking area. This specifies that the overall driveway will achieve a suitable gradient.

Access to the north is to be retained. However, its purpose is for maintenance of the remaining part of the site, and will not directly relate to the proposed house and garden curtilage. Provided the northern boundary of the curtilage is adequately formed (post/rail fencing, with hedging and trees would be most appropriate), then there should be no material change to the frequency of use of this existing access.

Waste

Dedicated bin stances are not shown on the plan, though there is ample room to achieve this away from the public road, ideally within the rear patio, though stepped access may discourage this. This matter can be addressed by a condition in this case.

Placemaking and Design

The application has been subject to revisions to the positioning and design of the development, in order to ensure particular consideration has been paid to its potential impact on the character and appearance of the Conservation Area.

The site is rising, and set above and below the Loan. The house will sit within its centre, in a similar position to the existing greenhouse. It will sit alongside other houses to the east set at different levels, below houses to the north, and well away from the Loan to north and south. It will be an improvement on the existing greenhouse. Level information suggests it will be largely cut into the site, with some retaining walls required, though the positioning of the house means these will not have an unacceptable exposure to public view. The driveway will require some upfill, and a low retaining wall is expected along part of its western boundary (not shown on the drawing), however, this will also have limited exposure. Provided this is sympathetically specified (such as dry-stone), that the driveway is also framed as far as possible with hedging, that a planting scheme is specified to aid integration of the development with the site, and that boundaries are formed sympathetically, then the overall landscape impact of the development will not be unsympathetic.

The site is extensive and, in order to maintain the open area to the north free from development of rear garden outbuildings for example, the garden curtilage is specified part way up the site. This would ideally be formed with hedging and planting, with a simple post and wire fence. It is not necessary to provide hedging along the existing northern boundary (as specified on the site plan). As regards existing walls, it is not considered reasonable to require their overhaul by way or repair or replacement, since this development has no direct effect on them.

There are no existing trees or hedging within the site of particular note. The applicant has responded to concerns regarding potential impacts on neighbouring Beech hedging and trees to the east by identifying root protection areas (and correcting the position of Tree 1 to respond to the neighbour's representation). With protective fencing in place for the trees and hedging (notwithstanding existing boundaries), and excavation for the house limited to the extent shown, the risk to the trees and hedging can be minimised.

The existing townscape is varied and this proposal will fit with that variety. It fronts the south, so facing the road and, though it contains frontage parking, it is well set back from the road itself within a large frontage. The positioning of the house accounts for the existing greenhouse and avoids the narrower part of the site further south, where any development may likely have more impact on the adjacent neighbouring property. Its position will fit with the existing townscape. The proposal is relatively large, but the plot is substantial, and the house's proximity to side boundaries will not be discernible from public view. The split level arrangement and overall footprint (with extra leg offset behind the main frontage) has maintained an appropriate layout while achieving a sizeable floorspace. Though a well-considered contemporary design could have been explored, this proposal is more traditional, which allows a more comfortable fit with existing neighbouring buildings. The final form and design has adequately addressed concerns about the suburban character of the original proposal. Its 1 ¾ storey size will not be at odds with neighbouring buildings and it should fit well amongst the existing variety of buildings within the surrounding area.

As regards external materials and specifications, the roof is now specified in natural slate, with quartz zinc for the front dormers' haffits (and rear dormer roofs). The latter is agreeable, subject to a finish specifying a brushed, non-reflective finish. An off-white smooth render is proposed for the walls, with cills and surrounds coloured in reconstituted stone, which is all acceptable in this context. Retaining walls and planters will be finished similarly, with a

reconstituted cope. Windows and doors will be in an aluminium/timber composite, which is agreeable in this position away from the road. The window types are not specified, though those to the front appear to comprise sash to the first floor and single-pane to the ground floor (all white) with simple, dark coloured glazing to the rear. Ideally all windows on the front would be the same, albeit the positioning of the house relative to the road (with the ground floor behind planters) suggests, on balance, the arrangement currently proposed is agreeable. The modern approach to the rear is also appropriate in this position. There appears to be no fascias to the eaves and verges on the main roofs, which is welcome. Overall, subject to final finishes and colours being agreed by condition (as well as finishes for hard surfaces), the proposed palette of materials will be sympathetic to the context.

Ultimately, with care over landscaping, boundaries and final finishes, this proposal will contribute positively to the character and appearance of the Conservation Area, adding sympathetically to the existing mix of house types within this part of the village.

Neighbouring Amenity

Impacts on neighbouring amenity have been considered as regards potential daylight, outlook, privacy and sunlight loss for all nearby properties. However, the potential for adverse impacts are most likely with respect to the properties to the east, including Abbotsknowe, Cherrybank and Horseshoe Cottage (referred to as Orwell in the application plans). The applicants have responded to concerns regarding potential impacts on neighbouring amenity as part of the redesign and repositioning of the proposed house, including a recent amendment to reposition it further west. Information has also been submitted as regards potential overshadowing, daylight loss and privacy impacts. The information has assisted an assessment of these considerations, albeit there are elements within them which require interpretation (such as the presentation of sections for daylight impacts, or shading effects of existing features, and the positioning of Abbotsknowe). Accounting for our supplementary guidance on privacy and daylight, and having regard to potential impacts on sunlight and outlook as assisted (but not conclusively guided by) the applicant's supporting information it is not considered that this proposal will lead to any significant effects on neighbouring amenity.

The hedge proposed to the north is not required to mitigate this development, and nor does it need consent in its own right. Its potential implications on neighbouring amenity are not for consideration here.

CONCLUSION

Following submission of revised proposals which have sought to account more directly for the existing townscape and settlement pattern, and submission of more information regarding impacts on neighbouring amenity and the means of construction access, the proposal is considered compliant with policies and guidance designed to protect the character and appearance of the Conservation Area, road safety and neighbouring amenity. 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 and the following conditions and informatives:

1. No vehicle larger than that specified on the approved Swept Path Analysis plan (9275.1.10A) shall be permitted to access the site during construction. No

development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the Planning Authority. This shall specify the detailed arrangements for ensuring supervision of large vehicle (circa 6 metres length) access and egress to and from the site; management of other site traffic (parking and turning); management of deliveries to the site from vehicles larger than specified on 9275.1.10A; and management and storage of all plant, equipment and materials on the site during construction. The development shall only be implemented in accordance with the approved plan. Access to the site during construction shall only be permitted from the southern access and there shall be no access to the site of any kind (vehicle or pedestrian) permitted from the northern access.

Reason: To limit potential impacts on road and pedestrian safety

2. No development shall commence until a scheme to identify and assess potential contamination on site, in addition to measures for its treatment/removal, validation and monitoring, and a timescale for implementation of the same, has been submitted to and approved by the Planning Authority. Once approved, the development shall only proceed in accordance with the approved scheme

Reason: To ensure that potential contamination within the site has been assessed and treated and that the treatment has been validated and monitored in a manner which ensures the site is appropriate for the approved development.

3. No development shall commence until a surface water drainage scheme has been submitted to and approved by the Planning Authority which demonstrates that surface water run-off from the site will be maintained at pre-development levels using sustainable drainage methods during construction of the development and occupancy of the dwellinghouse

Reason: To ensure the development can be adequately serviced and to safeguard the public road and neighbouring properties from potential run-off

4. No development shall commence until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include

- a) location and design, including materials (and detailed specifications), of all boundary treatments and driveway retaining walls
- b) soft and hard landscaping works, including tree, shrub and hedge planting and any additional areas of hard surfacing not specified on the approved site plan
- c) bin storage measures
- d) A programme for completion and subsequent maintenance.

Reason: To safeguard the character and appearance of the Conservation Area

5. No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development. Mains services shall be operational prior to occupancy of the dwellinghouse.

Reason: To ensure the development can be adequately serviced.

6. No development shall commence until a protective fence (compliant with BS5837:12) has been erected along the root protection areas for adjacent trees and hedging, as specified on the approved site plan 9275.1.03D. No works shall be permitted within the fenced area unless agreed with the Planning Authority as being compliant with BS5837:12 and there shall be no excavation for the house beyond the area specified on the approved plan 9275.1.02C

Reason: To limit potential risk to adjacent trees and hedging which contribute to the character and appearance of the Conservation Area

7. The dwellinghouse shall not be occupied until the treatment of the northern boundary (specified as the 'extent of house plot' on the approved site plan 9275.1.03D) has been approved by the Planning Authority under Condition 4 and until the approved treatment has been implemented in accordance with a timescale agreed with the Planning Authority. This boundary shall provide no means of access of any kind (vehicle or pedestrian) from the north.

Reason: To safeguard road and pedestrian safety and the character and appearance of the Conservation Area

8. External materials and colours shall accord with the approved drawings, unless otherwise agreed with the Planning Authority. No development shall commence until a schedule (including samples where required by the Planning Authority) providing a detailed specification of all external materials, finishes and colours of the house, retaining walls/planters and hard surfacing has been submitted to and approved by the Planning Authority. The development shall be completed using the approved schedule of materials, finishes and colours. There shall be no bargeboards or fascias applied to the main roofs of the dwellinghouse (excepting only where specified on the approved drawings for the dormers), and window glazing pattern shall accord with the approved drawings (incorporating sash windows on the front elevation upper floor).

Reason: To safeguard the character and appearance of the Conservation Area

9. The area allocated for parking and turning on the approved site plan 9275.1.03D shall be completed in accordance with the approved plan before the dwellinghouse is occupied, and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

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

10. The development shall be implemented wholly in accordance with the plans and drawings approved under this consent, including the site, house and driveway/parking levels, and the southern patio area shall be finished to the same level as the parking area, all unless otherwise agreed in writing with the Planning Authority

Reason: To safeguard the character and appearance of the Conservation Area, neighbouring amenity and road safety

Informatives

1. Site clearance works within the bird breeding season should be avoided unless the site is first checked for nesting birds. The applicant has the responsibility to ensure no breach of habitat regulations.
2. If a solid fuel stove is intended, this should be specified as being under 45kw. If specified to be larger, a screening assessment will be required in liaison with the Council's Environmental Health Service to ensure there is no risk of a statutory nuisance from emissions.
3. Solid fuel heating installations can cause smoke and odour complaints and Planning Permission for this development does not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee

that remedial work will be granted Planning Permission. It is recommended, therefore, that:

- the flue should be terminated with a cap that encourages a high gas efflux velocity.
 - the flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
 - the appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
 - if you live in a Smoke Control Area you must only use an Exempt Appliance (www.smokecontrol.defra.gov.uk) and the fuel that is approved for use in it
 - in wood burning stoves you should only burn dry, seasoned timber. Guidance is available on www.forestry.gov.uk
 - treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.
4. There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post-holes) or artefacts (e.g. pottery, ironwork, bronze objects, beads) of potential antiquity are discovered, please contact the planner or Council's Archaeology Officer for further discussions. Further investigation secured by the development may be required if significant archaeology is discovered per PAN2(2011) paragraph 31. In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human Remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland

DRAWING NUMBERS

9275.1.01	Location Plan
9275.1.02C	Existing site plan
9275.1.03D	Proposed site plan
9275.1.04A	Proposed roof plan and proposed floor plans
9275.1.05B	Existing elevations (with down takings/excavation)
9275.1.06B	Proposed elevations
9275.1.07B	Proposed elevations
9275.1.12A	Spot level for driveway
9275.1.10A	Swept Path Analysis

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.

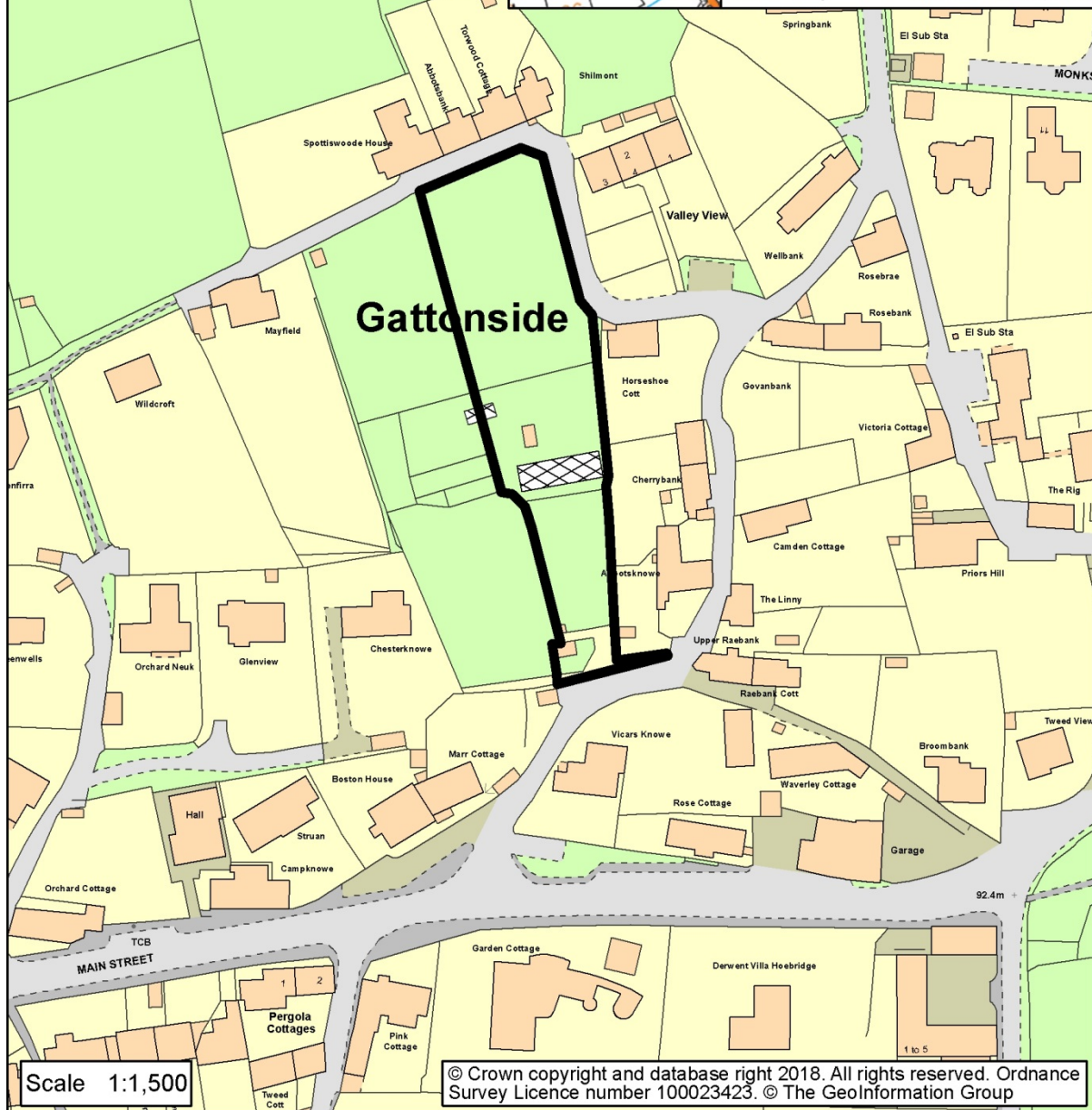
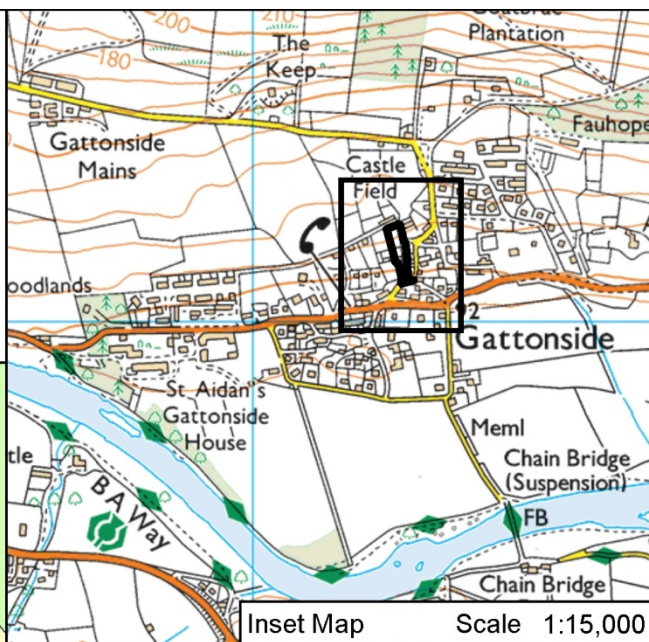
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Name	Designation
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16/01403/FUL

Land South Of
Abbotsbank
Gattonside



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 FEBRUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/01502/MOD75
OFFICER:	Mr E Calvert
WARD:	Jedburgh and District
PROPOSAL:	Discharge of planning obligation pursuant to planning permission R273/94
SITE:	Parklands, Oxnam Road, Jedburgh
APPLICANT:	D & J Palmer
AGENT:	

SITE DESCRIPTION:

The dwelling known as Parklands is erected on former agricultural land east of Jedburgh on the north side of Oxnam Road. It is a modern detached bungalow, rectilinear in plan, under a gabled pitched roof. It has a small secondary wing to the rear elevation. The building sits within large private curtilage fronting Oxnam Road, with a garage sited in this front garden. This is a countryside setting with woodland bounding to the east and a 4-bay steel portal framed shed and horse stables to the west. North of this shed is a horse riding arena laid in sand. Sited east of this is a house and cattery (Mansfield Park), both of which are relatively new, having been erected after planning permission was granted in 2013.

A sealed surface road leads north from these dwellings for 400m to arrive at four large poultry units and associated manager's house. The unit is set within a sunken site and enclosed by tree planting therefore is largely indiscernible from any public views.

PROPOSED DEVELOPMENT:

This report relates to an application to formally discharge the Section 50 agreement covering Parklands and the surrounding land which extends to some 27Ha. This discharge is sought by the current owners of the property (D & J Palmer) who purchased the house and land in 2012.

The application states that D & J Palmer wish to sell the dwelling to their son. They have no relationship to the ownership or running of the nearby chicken sheds and confirm that the land is actively farmed for the purpose of grazing sheep.

PLANNING HISTORY:

Planning permission was granted under application R023/89 to erect a dwelling in 1989 based on exceptional circumstances. A dwelling and agricultural building was granted permission and a S50 agreement (between Messrs Birnie and SBC) was lodged against the property title which;

1. Required precise details (siting, design and layout) of the dwelling approved. (A further application was required)

2. Restricted occupancy of this dwelling to a person employed or last employed in agriculture as defined by s.275 of the Town and Country Planning (Scotland) Act 1972 or any dependent of such a person residing with him or her and including a widow or widower of such a person.
3. Bound the owner that "No further development will take place" on the subjects.

However, the site shown on the approved plan (R023/89) was that of the dwelling now known as Mansfield Park and not that of Parklands.

Parklands (bungalow) was subsequently erected following the approval of planning consent under 94/00995/FUL (Alternative Ref: R273/94) (Erection of dwellinghouse, double garage and stable block) in October 1994 by AF Shiels and a modification of the original S50 Agreement was agreed in March 1998. This modification named Mrs Shiels as the heritable proprietor and included the word "residential" to the clause "No further development on the land". The second condition of this planning permission restricts occupation to be limited to a person employed or last employed in agriculture as defined in s.275

This development coincided with permission granted in Jan 1998 of the 4 poultry units by Mr and Mrs Shiels, 97/00156/FUL.

There are two further planning matters which also require to be documented now:

1. In August 1999 a manager's house was erected adjacent to the Poultry Unit, 99/00316/FUL.
2. The Land Certificate identifies Gary Armstrong and another, becoming owners of Parklands in Jan 2000.

It is concluded that Parklands was the dwelling referred to in the earlier S50 Agreement between Messrs Birnie and SBC, permitted in principle in January 1989 under application reference R023/89. The bungalow was however built on a different site, by a different applicant and under full planning permission.

CONSULTATION RESPONSES:

Legal Services: No concerns. The terms of Scottish Planning Policy (para 81) and guidance from the Scottish Government in Circular 3/2012 confirm use and occupancy restrictions should be avoided. Any proposals for further development on the land can be properly assessed through the planning application system. There are no conditions or obligations in respect of developer contributions.

REPRESENTATION SUMMARY

No representation received.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

Policy HD2 – New Housing in the Countryside

OTHER PLANNING CONSIDERATIONS

SBC SPG – New Housing in the Borders Countryside (2008)

Scottish Planning Policy 2014.

Scottish Government Chief Planner's letter to Planning Authorities, November 2011, "Use of conditions or obligations to restrict the occupancy of new rural housing".

Circular 3/2012 Planning Obligations and Good Neighbour Agreements

KEY PLANNING ISSUES:

Whether the S50 agreement continues to satisfy five tests of Circular 3/2012: Necessity; planning purpose; relationship to the development; scale and kind; and reasonableness and whether the legal agreement can be discharged in full.

ASSESSMENT OF APPLICATION

Policy Context

Planning policy and legislation has changed significantly since the grant of permission. The original Section 50 agreement legally tied the proposed house to the business by restricting occupancy to those employed, or last employed in agriculture.

Local Development Plan 2016, Policy HD2, Housing in the Countryside, no longer prescribes this requirement although members will be aware that this should be read in conjunction with Scottish Borders Council Supplementary Planning Guidance; "New Housing in the Borders Countryside", 2008. This Guidance states that a S75 agreement will normally be required for economically justified development proposals. A S75 agreement will usually restrict occupancy of the dwelling for the sole use of the business, restrict further residential development on the land and require that the land unit and the dwelling house are held as a single indivisible unit. The SPG is explicit in that isolated new housing is considered unacceptable without economic justification.

This is particularly relevant in the case of the property known as Mansfield Park (the adjacent dwelling) where an application was made to modify the S50 (13/00968/MOD75) in 2013. Mansfield Park was granted planning consent under application reference 13/00154/FUL, which itself is governed by a S75 restricting the occupancy of the dwelling to a person or persons involved in the cattery business. The S75 also ties the house to the business so that they remain as a single indivisible unit.

Members will be aware that Policy HD2 of the LDP aims to direct appropriate development of housing in rural areas, focusing on defined settlements to support services, facilities and sustainable travel patterns. A S75 agreement allows for exceptions to this Policy and is essential to guard against spurious applications. Without such legal burdens, new housing could simply be disposed of on the open market as a result of unscrupulous planning applications.

Necessity

The original S50 was necessary in 1989 as a planning condition restricting further residential development on the land would not have been competent legally. However the continued need for the agricultural occupancy restriction on the property is brought into question. The material circumstances have changed following the erection of four chicken sheds and associated Managers house. These properties are now in separate ownership and do not form part of the Parklands landholding

Mr Palmer confirms that the agricultural land extending to 27ha is used for grazing but it is highly improbable that this size of land holding is commensurate to support a viable agricultural business. Given the change in circumstances, the erection of a Managers house and the subdivision of the land, it is contended that the S50 Agreement is no longer necessary and the burden can be lifted.

Planning Purpose

Scottish Planning Policy (SPP) of 2014 provides a framework on the appropriate use of occupancy controls and states explicitly that occupancy restrictions should be avoided. Furthermore recent Scottish Government Planning appeals in the Scottish Borders and East Lothian have generally concluded that legal agreements restricting occupancy or further development conflict with latest planning advice by the Scottish Government's Chief Planning Officer.

It is clear that a message is being sent by Scottish Government that legal agreements should be avoided and prevailing LDP policies should be relied upon to deliver new housing in the countryside policy.

Discharge of this legal agreement will not set a precedent in this locality. Any application for new residential development would be assessed principally against the terms of Policy HD2 of the LDP which promotes appropriate rural housing development in village locations in preference to the open countryside; associated with existing building groups; and in dispersed communities in the Southern Borders housing market area. The New Housing in the Borders Countryside SPG, 2008 holds limited weight in this regard as it pre-dates Scottish Government Policy. Whilst there remains development pressure in the Scottish Borders for economically justified housing these can be assessed on a case by case basis against prevailing LDP policy.

Given the shift in policy and advice from Scottish Government there is no longer a planning purpose for restricting land use or occupancy of dwellings through a S75 agreement. It is argued that the principle of new dwellings in rural locations can be adequately managed through the planning application process when assessed against established LDP policy.

Members should be aware that the advice from the Scottish Government does not rule out the use of occupancy restrictions but does allow for a degree of latitude in considering whether or not they should be used. Due to the change in circumstances in this case it is unlikely that an occupancy restriction would be deemed appropriate if that application was to be considered today.

Relationship to development

Members will note from the planning history detailed earlier in this report that Parklands was once the home of Messrs Shiels who were the owners and operators

of the nearby chicken hatchery. This agricultural relationship no longer exists following the construction of a Manager's House on land immediately adjacent to the hatchery (approved in 1999).

The applicant (Mr Palmer) confirms that the land in question is wholly within his ownership and that the adjoining agricultural land is used for grazing sheep. However, as mentioned above, it is improbable that 27ha is sufficient to allow an agricultural business to be self-sustaining.

It is therefore argued that the legal restriction on occupation no longer adequately demonstrates relationship to the development as approved in 1989. Mr Palmer is the 4th owner of Parklands since the agreement was signed and there have been significant changes in circumstances as well as physical changes to the surrounding land. Significantly the hatchery business and associated Managers house have been erected and they no longer form part of the applicants land holding.

Scale and kind

The existing agreement raises no issues.

Reasonableness

The S50 agreement sought to ensure that the proposed agricultural business and house were held together as a single indivisible unit and could not be sold off independently from each other.

Members will note from the planning history that there has been a significant change in circumstances since the original S50 agreement was signed and consent granted for the dwellinghouse. Since the construction of Parklands in 1994, it is clear that the applicant's (Shiels) focus had been the chicken hatchery business and not the surrounding agricultural grazing land. Furthermore the extent of land holding and ownership has changed significantly since the agreement of 1989. As this hatchery and associated Manager's accommodation are now held by a third party, it is reasonable to conclude that the current owners (D & J Palmer) are unreasonably restricted from passing this property to their son.

Again, the clause (which aimed to guard against the proliferation of new dwellinghouses in this countryside location) is now better tested through the planning application process, which could then be assessed against prevailing LDP policy. Discharge of this legal agreement does not materially affect current circumstances as the agricultural tie appears to have long since become extinct in purpose.

The S50 agreement is therefore considered to be inconsistent with recent national guidance and there are no material planning considerations that would warrant its retention.

CONCLUSION

The proposal to discharge this S50 agreement is accepted as it no longer satisfies Circular 3/2012: planning purpose; relationship and reasonableness tests. The house is now separate from the Hatchery business and although it remains a home for the limited agricultural (grazing) business, its requirement as a direct operational requirement of any business has long been lost. Any proposal for future development of housing in this location would be assessed against prevailing Local Development Plan policies and any forthcoming Supplementary Planning Guidance

on New Housing in the Countryside. No deficiencies in infrastructure and services will be created or exacerbated as a result of this discharge.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend discharge of the S50 Agreement is approved subject to the following applicant informative:

The applicant should be aware that a planning condition restricting occupancy of the dwelling would also require removal from Parklands planning permission – Reference: 94/00995/FUL (Alternative Reference: R273/94).

DRAWING NUMBERS

Location Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

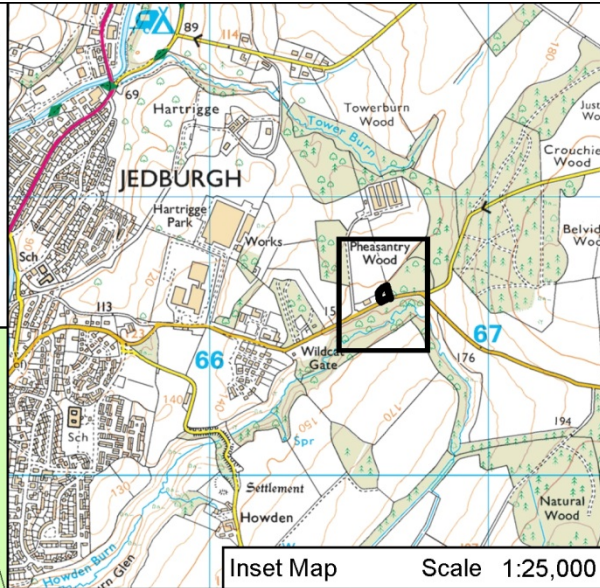
Author(s)

Name	Designation
Euan Calvert	Assistant Planning Officer



17/01502/MOD75

Parklands
 Oxnam Road
 Jedburgh



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE**5th February 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: 17/00010/FUL
Proposal: Construction of wind farm comprising 7 No turbines up to 149.9m high to tip, 5 No turbines up to 130m high to tip and associated infrastructure
Site: Land South West of Lurgiescleuch (Pines Burn), Hawick
Appellant: Energiekontor UK Ltd

Reasons for Refusal: 1. The proposal is contrary to Policy ED9 of the adopted Scottish Borders Local Development Plan in that it would have unacceptable significant adverse impacts that cannot be mitigated and that are not outweighed by the wider economic, environmental and other benefits that would be derived from its operation. In particular: The scale, form and location of the development would represent a significant and harmful change to the existing landscape character and visual amenity of the immediate locality and the wider area; and The development would give rise to an unacceptable and dominating impact upon the residential properties at Langburnshiels. 2. The proposal is contrary to Policies ED9 and EP8 of the adopted Scottish Borders Local Development Plan in that the development would give rise to significant and unacceptable impacts upon the setting and appreciation of known archaeological assets, including the Scheduled Monuments of Penchrise Pen fort and earthwork, as well as to other designated and undesignated sites of archaeological importance in the area. The wind farm would also introduce large-scale industrial structures on the fringes of an historic landscape.

Grounds of Appeal: Due to the topographic landscape from surrounding hills visibility of the scheme from surrounding areas is limited. There would be no significant cumulative effects from the proposal with operational and consented baseline schemes. The proposed development is consistent in principle with the vision and aims of the LDP. The evidence

available confirms that the proposal accords with the development plan, and policies ED8 and 9 which are the principal relevant policies in this case. In terms of policy ED9, there are some significant adverse effects arising but these are not considered to be unacceptable in terms of relevant landscape and visual and cultural heritage effects arising, the wider economic and environmental and other benefits of the proposal, such as its contribution to the UK renewable energy targets, net economic benefits both locally and nationally and local recreational and heritage enhancements outweigh the "potential damage" that would arise from the proposal.

2.2 Enforcements

- 2.2.1 Reference: 17/00006/UNDEV
Proposal: Painting of exterior of building within conservation area and listed building
Site: 13 St Ella's Place, Eyemouth
Appellant: Mrs Evy Young

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last four years. The land affected at 13 St Ella's Place, Eyemouth sits within the Eyemouth Conservation Area and is also a C Listed Building. Planning permission and listed building consent are required for the change in colour and any external works to the appearance of the building. The external render surfaces of the building have been painted an alternative and unauthorised colour and the window bandings have also been painted out. A retrospective planning and listed building application was submitted but was refused. No subsequent appeal has been lodged and no attempts have been made to regularise the unauthorised works.

Grounds of Appeal: The appellant was away when the walls were painted and didn't realise how bright it was until after the painter had finished. It was too expensive to have it re-done immediately and she was told it would tone down to a gentler colour and it is going in that direction now. The appellant is planning to cut windows into the front and back wall in January, the walls will then need to be repainted. Due to the winter weather and spray from the big waves hitting the house it is not possible to paint the walls during winter. The appellant is looking for an extension of 6 months to be able to do the repainting in the summer.

Method of Appeal: Written Representations

- 2.2.2 Reference: 17/00089/UNUSE
Proposal: Erection of scaffolding structure and metal panel fence structure
Site: Land North West of Kirkburn Church, Peebles
Appellant: Mr Andrew Cleghorn

Reason for Notice: It appears to the Planning Authority that the amenity of part of the district is adversely affected by the detrimental visual effect of Land North West of Kirkburn Church, Peebles and on the street scene of that part of Kirkburn, Peebles in the approximate position shown in red on the attached plan. A scaffolding structure and metal panel fence structure have been erected on the land without the benefit of either deemed or express planning permission, and it is considered that these structures adversely affect the amenity of the area.

Grounds of Appeal: Mr Cleghorn has consent for a tourism related development on the ground in question and it is a condition of that consent that an archaeological investigation takes place prior to implementation of the works. In order to establish the tourism development Mr Cleghorn would like to commence with screen planting in the area in question and it is proposed to do the investigation prior to planting. The scaffold in question is a temporary structure which will be moved along the boundary in question during the course of the archaeologist's dig, thereby giving them shelter and cover during the proceedings. Mr Cleghorn did not realise the scaffold required planning consent and since a visit from SBC, has applied for consent for the scaffold. The boundary fence was moved by his neighbour who tried to claim a portion of Mr Cleghorn's ground. Until the matter is resolved Mr Cleghorn has been forced to erect the temporary fence to keep cattle within his small holding and also to ensure that health and safety measures are in place to prevent the public from accessing his small holding and in particular the aforementioned scaffold. Both structures have a meaningful shelf life – the scaffold for 18 months and the fence for as long as it takes to resolve the boundary dispute.

Method of Appeal: Written Representations

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

- 3.1.1 Reference: 17/00087/FUL
Proposal: Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated development and landscaping works
Site: Land North East of 3 The Old Creamery, Dolphinton
Appellant: Mr Alastair Brown

Reasons for Refusal: 1. The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with adopted Local Development Plan Policies PMD4, HD2 or ED7 in that the applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location and therefore the proposed development would represent unjustified, sporadic and prominent development in the open countryside. 2. The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and therefore does not comply in principle with adopted Local Development Plan Policies PMD4 and HD2. 3. The proposed development would result in the unjustified and permanent loss of carbon-rich soils, contrary to Policy ED10 of the adopted Local Development Plan.

Grounds of Appeal: There is clear policy support through policies PMD4, HD2 and ED7 for the proposed development given the unique set of circumstances. The design of the proposed development and associated soft landscape works, including the creation of screening landform, will ensure it integrates into the countryside at the proposed location. There is not a range and choice of employment sites available which are highly

accessible to communities throughout the area in proximity to the site of the appeal. This is confirmed by the Economic Development response to the application.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Chhaya Patel, does not believe that enough alternative sites were considered and that the appellant should also be considering leasing land instead of just land available to buy. The reporter has assessed that there is no need for a dwellinghouse on the site as workers could work in shifts, security cameras and fencing could be installed and an areas could be allocated within the industrial or storage buildings for an office space and temporary sleeping accommodation. The reporter has considered all matters but concluded that the appeal conflicts overall with the local development plan, in particular policies ED7 and HD2 and could not be justified as an exceptional approval under policy PMD4. The reporter concluded that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. Therefore, the reporter dismissed the appeal and refused planning permission.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 6 appeals previously reported on which decisions were still awaited when this report was prepared on 26th January 2018. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
• Land South West of Easter Haprew Farmhouse, Peebles	• Hutton Hall Barns, Hutton
• Land East of Knapdale 54 Edinburgh Road, Peebles	• Land North West of Gilston Farm, Heriot

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/01007/FUL
Proposal: Variation of planning condition 9 of planning consent 10/00172/FUL relating to occupancy of building
Site: The Pavilion, Coldingham, Eyemouth
Appellant: Mr David Lee

Reason for Refusal: The proposed variation of Condition 9 of planning permission 10/00172/FUL would be contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it would enable the use of the building for purposes which would not constitute direct tourism purposes, which would result in the loss of a tourism development that has

the potential to generate year-round economic benefit to the surrounding area. Other material considerations do not justify a departure from the Development Plan in this case.

- 5.2 Reference: 17/01008/FUL
Proposal: Erection of replacement dwelling house
Site: Derelict Dwelling Land West of Glenkinnon Lodge,
Peelburnfoot, Clovenfords
Appellant: Mr Adam Elder

Reasons for Refusal: 1. The proposed development is contrary to policy EP13 (Trees, Woodland and Hedgerows) of the Scottish Borders Local Development Plan (2016), and contrary to adopted supplementary guidance on Trees and Development in that the development will result in significant removal of trees subject to Tree Preservation Order which provide a positive landscape contribution. Furthermore, the proposed development would lead to increased pressure to remove further trees in the future. 2. The proposed development is contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), in that the proposed development would not sympathetically relate to the existing building group in terms of siting, scale, form or design. The existence of a building on site is inadequate justification for the proposed development.

- 5.3 Reference: 17/01230/FUL
Proposal: Erection of boundary fence and formation of parking area (retrospective)
Site: 1 Eildon Terrace, Newtown St Boswells
Appellant: Mr Greg Blacklock

Reason for Refusal: The proposed fence along the boundary with Bowden Road is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it represents an overbearing structure in relation to the adjacent footpath and is a prominent and incongruous form of development in the wider streetscene that is harmful to the visual amenities of the area.

- 5.4 Reference: 17/01406/FUL
Proposal: Erection of dwellinghouse with attached garage
Site: Land North West of Alderbank, Macbiehill, West Linton
Appellant: Mr And Mrs D Gold

Reason for Refusal: The proposed development does not relate well to the existing building group due to its location in undeveloped ground, in an elevated position and being remote from the existing building group. This would have an adverse effect on the character and setting of the building group. The proposal is contrary to policy HD2, council guidance on "New housing in the Borders countryside" and "Placemaking and design".

6 REVIEWS DETERMINED

- 6.1 Reference: 17/01007/FUL
Proposal: Variation of planning condition 9 of planning consent 10/00172/FUL relating to occupancy of building
Site: The Pavilion, Coldingham, Eyemouth
Appellant: Mr David Lee

Reason for Refusal: The proposed variation of Condition 9 of planning permission 10/00172/FUL would be contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it would enable the use of the building for purposes which would not constitute direct tourism purposes, which would result in the loss of a tourism development that has the potential to generate year-round economic benefit to the surrounding area. Other material considerations do not justify a departure from the Development Plan in this case.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 26th January 2018. This relates to sites at:

<ul style="list-style-type: none">Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston	<ul style="list-style-type: none">Land South West of Kirkburn Parish Church, Cardrona
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8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 26th January 2018. This relates to sites at:

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

Approved by

**Ian Aikman
Chief Planning Officer**

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

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