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## SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 3rd September, 2018 at 10.00 am

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Present:- Councillors T. Miers (Chairman), S. Aitchison, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage, E. Small.  
Apologies:- Councillor A. Anderson.  
In Attendance:- Depute Chief Planning Officer, Lead Planning Officer (Environment and Infrastructure), Principal Planning Officer, 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 Meetings held on 25 June 2018 and 16 July.

**DECISION**  
**APPROVED for signature by the Chairman.**

### **DECLARATION OF INTEREST**

Councillor Hamilton declared an interest in Application 17/01255/FUL in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

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

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

3. **LOCAL BIODIVERSITY ACTION PLAN**  
There had been circulated copies of a report by the Service Director Regulatory Services proposing approval of an updated Local Biodiversity Action Plan. The report explained that The Local Biodiversity Action Plan (LBAP) was originally approved by the Council in 2001, with further detail under the plan being provided by a series of Habitat Action Plans produced between 2003 and 2010. The LBAP formed one of the key elements of the Council's Biodiversity duty under the Nature Conservation (Scotland) Act 2004 which provided a framework of actions for the Council and its partners to further the conservation of biodiversity in Scottish Borders. The Scottish Biodiversity Strategy was originally published in 2004, and was updated in 2013 adopting an ecosystem approach. The Council's regional pilot land use framework, produced under the Land Use Strategy pilot (2013-2015) tested an ecosystem approach and was applied to the refresh of the LBAP. The LBAP was identified as proposed Supplementary Guidance in the Local Development Plan. The LBAP informed the Council's Supplementary Guidance for biodiversity and Policy EP3 Local Biodiversity. The purpose of the updated LBAP was to

protect and enhance biodiversity in Scottish Borders, taking into account changes in national policy and was set out in Appendix A to the report. It was proposed to submit the LBAP for a 12 week period of public consultation as supplementary guidance to enable stakeholders, communities and members of the public to give their views. The Members commended officers on their work and noted that the consultation would be highlighted at the forthcoming Area Partnership meetings. Members discussed the paper and highlighted the impact of plastic pollution.

#### **DECISION**

- (a) APPROVED the updated Supplementary Guidance set out in the Local Biodiversity Action Plan as a basis for public consultation.**
- (b) NOTED the Environment Report as set out in Appendix B to the report.**
- (c) AGREED that:-**
  - (i) the paper may subsequently be adopted as Supplementary Guidance provided no substantive objections were received during the consultation period; and**
  - (ii) in the event of substantive objections being received a further report be presented to the Planning & Building Standards Committee detailing the terms of those objections and setting out any amendments that were considered appropriate.**

#### **4. SELKIRK CONSERVATION AREA REGENERATION SCHEME (CARS)**

The Lead Officer for Built Heritage and Design was present at the meeting and gave a presentation, which noted the successful completion of the Selkirk CARS (Conservation Area Regeneration Scheme). The works undertaken in Selkirk had completed in March 2018 following a 5 year project and the final report and evaluation would be submitted to Historic Environment Scotland by the end of September 2018. There had been 7 priority buildings totalling £1m of which £441k was grant funded and 49 general repairs grants totalling £528k. There had been extensive work carried out in the Market Place, which had been largely pedestrianised. The presentation also summarised the associated completed Selkirk Conservation Area Character Appraisal and Conservation Management Plan.

#### **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 that:-**

- (a) Appeals had been received in respect of:-**
  - (i) Erection of 2 No wind turbines 11.8m high to tip on Land South West of 6 Lamberton Holding, Lamberton – 17/01348/FUL**
  - (ii) Work to trees on Land West of Glenkinnon Lodge, Peelburnfoot, Clovenfords – 18/00621/TPO (subsequently withdrawn);**
- (b) Scottish Ministers had upheld an appeal in respect of the construction of wind farm comprising 7 No turbines up to 14.9m high to tip, 5 No. turbines**

**up to 130m high to tip and associated infrastructure on land South West of Lurgiescleuch (Pines Burn), Hawick – 17/00010/FUL**

- (c) **there remained three appeals outstanding in respect of:-**
- **Land South West of Easter Happlew Farmhouse, Peebles**
  - **Hutton Hall Barns, Hutton**
  - **Land North West of Gilston Farm, Heriot**
- (d) **Review Requests had been received in respect of:-**
- (i) **Erection of dwellinghouse and associated access road, parking area and combined entrance/layby on land West of Langton Birches, Duns – 18/00270/PPP;**
- (ii) **Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration at 37 Bank Street, Galashiels – 18/00764/FUL;**
- (e) **the decision of the Appointed Officer had been Overturned in respect of:-**
- (i) **Change of use of agricultural buildings and alteration to form 12 No dwellinghouses at Agricultural Buildings, South East of Merlewood, Hutton Castle barns, Hutton – 16/01371/FUL, subject to conditions, informatives and Section 75 Legal Agreement;**
- (ii) **Part change of use of paddock to form new access and drive to dwellinghouse, erection of gates and summerhouse and formation of new parking area and tennis courts at Southbank and Paddock, South East of Southbank, Bowden, Melrose – 17/01362/FUL, subject to conditions and informatives.**
- (f) **the decision of the Appointed Officer had been upheld in respect of:-**
- (i) **Erection of dwellinghouse on Land South West of 1 Hill Terrace, Stow – 17/01734/PPP;**
- (ii) **Erection of dwellinghouse on land North West of Doonbyre, Smith's Road, Darnick – 18/00287/FUL**
- (g) **there remained three Section 36 Public Local Inquiries Outstanding in respect of :-**
- **Fallago Rig 1, Longformacus**
  - **Fallago Rig 2, Longformacus**
  - **Birneyknowe Wind Farm, Land North, South, East and West of Birnieknowe Cottage, Hawick**

***The meeting concluded at 1.30 pm***

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**APPENDIX I**

**APPLICATIONS FOR PLANNING PERMISSION**

<b><u>Reference</u></b>	<b><u>Nature of Development</u></b>	<b><u>Location</u></b>
	7 No turbines up to 132m high to tip, access tracks, control building and associated infrastructure	Land West of Whitslade (Barrel Law) Selkirk

Decision: Refused contrary to Officer’s recommendation for the following reason:-

The development conflicts with Policy ED9 of the Scottish Borders Local Development Plan 2016 and the Scottish Borders Council “Renewable Energy” Supplementary Guidance 2018 in that it would have unacceptable, significant and adverse impacts and effects, by virtue of

- Its vertical scale in relation to the scale of the receiving landscape
- Its prominent and dominant appearance in local, adjacent and wider landscapes
- Its poorly designed appearance from a range of vantage points due to overlapping and variation in heights viewed in relation to the underlying topography
- The intensification of adverse landscape and visual impacts due to cumulative visibility with Langhope Rig windfarm, including from the area around the former site of the William Ogilvie Cairn on the road to Robertson.
- The vertical scale of the turbines, combined with their elevated position in the landscape.
- The proximity and dominance of the turbines to residences and their environs, including Easter Alemoor.

**NOTE**

Mr Stephen Lucking on behalf of the Local Community spoke against the application. Mr Clark Crosbie , Head of Development, ABO Wind UK Ltd spoke in support of the application.

**VOTE**

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

*Councillor Miers, seconded by Councillor Mountford, moved as an amendment that the application be refused on the grounds that the development conflicts with Policy ED9 of the Scottish Borders Local Development Plan 2016 and the Scottish Borders Council “Renewable Energy” Supplementary Guidance 2018 in that it would have unacceptable, significant and adverse impacts and effects.*

On a show of hands Members voted as follows:-

Motion - 2 votes

Amendment - 5 votes

The amendment was accordingly carried.

<b><u>Reference</u></b>	<b><u>Nature of Development</u></b>	<b><u>Location</u></b>
18/00309/LBC	Demolition of Church and Church Hall	St Aidans Church and Church Hall, Gala Park Galashiels

Decision: APPROVED subject to the following conditions and informatives:-

1. The development hereby permitted shall be begun before the expiry 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.
2. The approved demolition is limited to the church and church hall buildings identified in red on both the approved site plan and elevation drawings, and does not include the demolition of boundary walls not identified in red on both plan and drawings, unless already consented for removal under 14/00751/LBC  
Reason: To safeguard features of special architectural and historic interest
3. No demolition shall commence until a scheme for the disposal of the materials from the demolition, including stone, slate and glazing (including painted glass) and internal fabric and fittings (including but not limited to pews) has been submitted for the approval of the Planning Authority. The scheme shall include specifications for a quantity of stone to be retained for incorporation into the street frontage of the redevelopment of the site. The demolition shall only proceed in accordance with the approved scheme  
Reason: To safeguard features of special architectural and historic interest
4. No demolition shall commence until a scheme for the disposal of internal monuments/plaques/war memorials (including means of removal and off-site display) has been submitted for the approval of the Planning Authority. The demolition shall only proceed in accordance with the approved scheme  
Reason: To safeguard features of special architectural and historic interest
5. No demolition shall commence until the applicant has secured and implemented an approved Written Scheme of Investigation (method statement) outlining a Historic Building Photographic Survey. The requirements of this are:
  - i) The Written Scheme of Investigation shall be submitted to the Planning Authority for approval prior to commencement of the survey.
  - ii) Initial survey results shall be submitted to the Planning Authority for approval.
  - iii) The final results shall be submitted in the form of a Historic Building Photographic Survey Report within one month following completion of all on-site survey works
  - iv) The report, including any documentation, plans, elevations, sketches and photographs shall be submitted in a .pdf format. The digital photographic archive shall be included on a CD.
  - v) Once approved the archive and report shall also be reported to the National Record of the Historic Environment (NRHE) hosted by Historic Environment Scotland (HES) and the Planning Authority's Historic Environment Record (HER) within three months of on-site survey completion.  
Reason: To preserve by record a building of architectural and historical interest.
6. No demolition shall be undertaken during the breeding bird season (March to September), unless in strict compliance with a Species Protection Plan for breeding birds, that shall be submitted to the Planning Authority for approval, prior to commencement of demolition.  
Reason: To limit the potential for adverse impacts on breeding birds

#### Informatives

1. It is the responsibility of the developers and their contractors to ensure that appropriate traffic management measures are in place for the public road during demolition. Liaison with the Council's road network officer is recommended.

2. In order to limit the effects of the demolition works on the amenity of neighbouring properties, the developers and their contractors should ensure that all works are carried out in accordance with BS5228.
3. In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652) for further guidance. Works can only recommence by following any guidance given by SNH. The developer and all contractors to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk). Further information and articles available at:  
[http://www.bats.org.uk/pages/bats\\_and\\_buildings.html](http://www.bats.org.uk/pages/bats_and_buildings.html)  
[http://www.bats.org.uk/pages/existing\\_buildings.html](http://www.bats.org.uk/pages/existing_buildings.html)  
[http://www.bats.org.uk/publications\\_download.php/1404/Bats\\_Trees.pdf](http://www.bats.org.uk/publications_download.php/1404/Bats_Trees.pdf)
4. There is a separate requirement through section 7 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended) to allow Historic Environment Scotland the opportunity to carry out recording of the building. To avoid any unnecessary delay in the case of consent being granted, applicants are strongly encouraged to complete and return the Consent Application Referral Form found at [www.historicenvironment.scot/about-us/what-we-do/survey-and-recording/threatened-buildings-survey-programme](http://www.historicenvironment.scot/about-us/what-we-do/survey-and-recording/threatened-buildings-survey-programme).

Note: Gavin Yuill, Agent spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
18/00642/AMC	Erection of dwellinghouse (approval of matters specified in conditions 15/00743/PPP)	Land West of Lamberton Lodge Lamberton

Decision: APPROVED subject to the following conditions and informative notes:

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 the commencement of development, sample panels of the external materials hereby approved for use in the development (as shown on the approved plans) shall be prepared on site for the prior approval by the Planning Authority. The development shall be carried out wholly in accordance with the approved materials thereafter.  
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
3. Prior to the commencement of development, details of the material and finish of the doors and windows on the dwellinghouse hereby approved shall be submitted for the approval of the Planning Authority. Thereafter, the development shall be carried out wholly in accordance with the approved details.  
Reason: to provide satisfactory control over the appearance of the windows and doors on the dwellinghouse hereby approved, in the interests of visual amenity.

4. The mezzanine window on the front (north) elevation shown on the drawing number kw-158-GMC 103 hereby approved shall be glazed with obscure glass in accordance with a scheme of details (including precise details of the opaqueness of the proposed glazing) that shall first be submitted to, and agreed in writing by the Planning Authority in advance of the installation of the window. Upon installation the window shall be permanently fixed shut. Thereafter the window shall be so retained unless otherwise agreed in writing by the Planning Authority.  
Reason: To safeguard the privacy of the occupiers of the adjoining property.
5. 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.
6. 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.
7. No development shall commence until details of boundary treatment have been submitted for the approval of the Planning Authority. Thereafter the development shall be carried out wholly in accordance with the approved details.  
Reason: to ensure the appropriate integration of the development hereby approved into the surrounding landscape, in the interests of visual amenity.
8. No development shall commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition  
Reason: To ensure that the development does not have a detrimental effect on amenity and public health.

#### Informatives

1. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.
2. The applicant is advised that conditions 2, 3, 4, 5 and 6 of planning consent 15/00743/PPP remain valid and should be satisfied in accordance with their respective requirements.
3. With regard to the obscure glazing required by condition 5, please note that the Planning Authority wishes the details required to demonstrate the adequacy of the opaqueness of the proposed glazing. Accordingly it is not details of the specific design or pattern that is required, but a measure of the proposed glazing's actual opaqueness. In order to be supported, this should be the maximum opaqueness within the supplier's range.
4. Private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the



system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

5. Stoves and Use of Solid Fuel – These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do 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 building/planning permission. Accordingly this advice can assist you to avoid future problems. The location of the flue should take into account other properties that may be downwind. The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gases. 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 <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available at: [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

NOTE: Mrs Norma Willet and Mr James Pritchard spoke against the application.  
Mr Paul Craig, Applicant spoke in support of the application.

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