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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 10TH DECEMBER, 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, 10TH DECEMBER, 2018 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

3 December 2018

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 10) Minute of Meeting 5 th November 2018 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Land North East and North West of Farmhouse, Braidlie, Hawick - 18/01251/FUL (Pages 11 - 30) Variation of Condition 1 of planning consent 13/00789/FUL for an extension to time to initiate development. (Copy attached.)
	(b) Land North of 24 Sergeants Park, Newtown St Boswells - 18/00486/FUL (Pages 31 - 54) Erection of 64 dwellinghouses and associated works. (Copy attached.)
	(c) Land North of 48 Thirlestane Drive, Lauder - 18/00792/FUL (Pages 55 - 70) Erection of 38 dwellinghouses, formation of access, landscaping and associated infrastructure. (Copy attached.)
	(d) Land South East of Tweedbank, Fishwick Mains, Fishwick - 18/00814/FUL (Pages 71 - 78) Formation of riding arena and erection of 3no stables block (retrospective). (Copy attached.)
6.	Appeals and Reviews. (Pages 79 - 86)

	Consider report by Service Director Regulatory Services. (Copy attached.)
7.	<p>Items Likely to be Taken in Private</p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>‘That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph of Part 1 of Schedule 7A to the aforementioned Act’.</p>
8.	<p>Minute (Pages 87 - 88)</p> <p>Private Minute of the Meeting held on 5 November 2018 to be approved and signed by the Chairman. (Copy attached.)</p>
9.	<p>Roof Repairs at Chapel Street, Innerleithen (Pages 89 - 92)</p> <p>Consider report by Service Director Regulatory Services. (Copy attached.)</p>
10.	Any Other Items Previously Circulated.
11.	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 Council
Headquarters, Newtown St Boswells TD6
OSA on Monday, 5 November 2018 at
10.00 a.m.

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, Lead Roads Planning Officer,
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 1 October 2018.

DECISION

APPROVED for signature by the Chairman.

2. APPLICATIONS

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

DECISION

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

3. APPEALS AND REVIEWS

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

DECISION

NOTED that:-

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

- (i) Certificate of Lawfulness for an Existing Use: Class 9 Residential at Glenacre, Camptown, Jedburgh - 18/00849/CLEU; and**
- (ii) Erection of Chalet in Field Land East of Keleden, Ednam – 17/00131/UNDEV**

- (b) Scottish Ministers had upheld an appeal in respect of the Erection of 2 No wind turbines 11.8m high to tip on Land South West of 6 Lamberton Holding, Lamberton
- (c) there remained three appeals outstanding in respect of:-
- Land South West of Easter Happrew Farmhouse, Peebles
 - Hutton Hall Barns, Hutton
 - Land North West of Gilston Farm, Heriot
- (d) Review Requests had been received in respect of:-
- (i) Alterations and extension to dwellinghouse and erection of detached garage/workshop at Elsiele, 61 West High Street, lauder – 18/00580/FUL;
 - (ii) Change of use from Class 4 to include Class 11 (Leisure) and Class 3 (Café) at Factory Plexus facility, Tweedside Park, Tweedbank, Galashiels – 18/00764/FUL;
 - (iii) Erection of dwellinghouse (renewal of planning permission 15/00036/PPP) on land North West of Chapel Cottage, Melrose - 18/00644/PPP;
 - (iv) Change of Use of land (optional locations) top site 2 No Glamping units for holiday let on Land North West, East and South East of Flatt Farmhouse, Newcastleton – 218/00686/FUL;
 - (v) Change of use of Steading, alterations and extension to form dwellinghouse(revision to planning permission 17/00915/FUL) at Steading Buildings Billerwell Farm, Hawick – 18/00745/FUL;
 - (vi) Erection of dwellinghouses on Land North East of Stainie Brae, Lower Greenhill, Selkirk – 18/00832/PPP; and
 - (vii) Replacement windows (revision to planning permission 18/00211/FUL) at 41 North Hermitage Street, Newcastleton
- (e) the decision of the Appointed Officer had been Overturned in respect of:-
- (i) Erection of dwellinghouse with 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 to tattoo studio (retrospective) at 52 Bank Street, Galashiels – 18/00398/FUL
 - (iii) Change of Use of land (optional locations) top site 2 No Glamping units for holiday let on Land North West, East and South East of Flatt Farmhouse, Newcastleton – 218/00686/FUL;
 - (iv) Change of use of Steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL) at Steading Buildings Billerwell Farm, Hawick – 18/00745/FUL;

- (v) **Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration at 37 Bank Street, Galashiels**
- (f) **the decision of the Appointed Officer had been upheld in respect of replacement windows (revision to planning permission 18/00211/FUL)**
- (g) **there remained one Review outstanding in respect of Land North East of Ladywood, Lower Greenhill, Selkirk**
- (h) **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**

**4. PRIVATE BUSINESS
DECISION**

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

SUMMARY OF PRIVATE BUSINESS

- 5. REQUEST TO REDUCE DEVELOPMENT CONTRIBUTION REQUIREMENTS WITH RESPECT OF A MIXED USE DEVELOPMENT COMPRISING RESIDENTIAL DEVELOPMENT, RELOCATION OF ALLOTMENTS AND FORMATION OF WORKSHOPS AND EMPLOYMENT USES – MARCH STREET MILLS, PEEBLES**
- The Committee considered a report by the Chief Planning Officer. It was agreed that, in view of the fact that applications 17/00063/PPP and 17/00064/CON had been deferred to allow Members to visit the site, the report be deferred to a future meeting.

The meeting concluded at 12.40 p.m.

APPENDIX I
APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
18/01090/FUL	Erection of Dwellinghouse	J Rutherford Workshop Rhymers Mill Road Earlston

Decision: Approved subject to (the approval of the Scottish Ministers,) a legal agreement addressing contribution towards education and the Borders Railway and the following conditions:

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

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

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

and thereafter;

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences.

Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

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

2. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the building 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.

Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):

- a) indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- b) location of new trees, shrubs, hedges and grassed areas
- c) schedule of plants to comprise species, plant sizes and proposed numbers/density
- d) programme for completion and subsequent maintenance.

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

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

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

5. Details of all proposed means of enclosure to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

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

6. The proposed boundary wall to the front (north west boundary) and side (north east boundary) of the property must be not greater than 950mm in height (including any cope).

Reason: To ensure appropriate visibility is provided for the junction of Rhymers Avenue and the nose in parking spaces on Mill Road.

7. Two parking spaces shall be provided within the curtilage of the property prior to occupation of the dwellinghouse and retained thereafter in perpetuity.

Reason: To ensure the development is served by appropriate parking at all times.

8. The first two metres of the access shall be surfaced to the following specification prior to the occupation of the dwellinghouse: 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone

bottoming blinded with sub-base, type 1. Only contractors first approved by the Council may work within the public road boundary.

Reason: To protect the integrity of the public road boundary and to ensure an appropriate verge crossing is formed.

9. Any gates to be hung so as not to swing out over the public road boundary.
Reason: To prevent obstruction of the public road or footpath.
10. The dwellinghouse hereby approved shall have a finished floor level of 102.64mAOD. Details of ground levels surrounding the dwellinghouse (designed to convey overland flow away from the development) and drainage measures (to intercept overland flow) shall first be submitted to and approved in writing by the Planning Authority before the development commences. The development shall then be completed in accordance with the approved details.
Reason: To safeguard the dwellinghouse from flooding.
11. No development shall commence until a Noise Impact Assessment has been submitted to and approved in writing by the Planning Authority. This to provide information on the existing noise environment and the likely impact of the workshop use on the proposed development. If the outcome of the assessment concludes there will be an adverse impact the report should identify methods of noise control and mitigation to reduce the impact to an acceptable level. The mitigation measures to be implemented before the dwellinghouse is occupied or during occupation, as appropriate.
Reason: To safeguard residential amenities.
12. Details of the water supply and foul and surface water drainage to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be connected to the approved water and drainage systems before the dwellinghouse is occupied.
Reason: To ensure the development is adequately serviced.

Informative

Flood Risk

1. It is recommended that the applicant adopts water resilient materials and construction methods as appropriate in the development and that the applicant reviews the Online Planning Advice on Flood Risk. The applicant may also wish to consider Property Level Protection measures, details of which can be provided by SBC Emergency Planning Department.
To receive flood warnings from SEPA for Earlston the applicant should sign up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. It would also be advisable for the applicant to develop an evacuation plan for the building during times of flood warning.

Noise Impact Assessment

2. The Noise Impact Assessment should use the assessment method described in BS4142:2014: Method for Rating and Assessing Industrial and Commercial Sound. The report should have regard for recommended guidance and methodologies laid out in Planning AN 1/2011, TAN and BS4142:2014. Any departure from those methodologies should be clearly explained, with the reasons clearly stated.

The report should include assessments of night time and day time noise. Time periods should be taken as:

Day – 07:00 to 23:00 hours
Night – 23:00 to 07:00 hours

The noise report should contain the following:

- Details of the author and their qualifications;
- The noise equipment used and details of latest calibration;
- The proximity of any noise sources to the proposed dwelling, giving distances as necessary. This should be illustrated on a scaled plan;
- Details of the existing noise climate. The choice of location and duration for measurements should be explained in the report.

If the outcome of the assessment concludes there will be an adverse impact the report should identify methods of noise control and mitigation to reduce the impact to an acceptable level (including the calculations of the expected reduction in decibels). All appropriate methods of mitigation should be considered and an explanation of why each method has been chosen or dismissed should be provided, to demonstrate that all reasonable steps have been taken to manage noise.

Stoves and Use of Solid Fuel

3. The proposals include a chimney which suggests a flue serving a solid fuel appliance. Emissions from these types of appliances can impact on local air quality and have the potential to cause smoke and odour nuisance to neighbouring properties. Provide that it is less than 45kW no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

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 gasses.

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.

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

NOTE

Mrs Irene Falconer, 1 Rhymers Avenue, Earlston spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
17/00063/PPP	Erection of residential units, to form dwellinghouse from engine house form office/employment use from dwellinghouse, relocation of allotment space, erection of workshop units with associated access and infrastructure works	March Street Mills March Street Peebles
17/00064/CON	Demolition of mill buildings	

Decision: Continued to next available meeting to allow Members to visit the site.

NOTE

Councillor Heather Anderson, Les Turnbull, Convener of Peebles Community Council Planning Sub Group and Crick Carleton, Chairman of Peebles Civic Society spoke on behalf of the Local Community against the application. Mr Colin Smith and Andrew Menzies spoke on behalf of the Agent in support of the application.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

10 DECEMBER 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/01251/FUL
OFFICER:	Craig Miller
WARD:	Hawick and Hermitage
PROPOSAL:	Variation of Condition 1 of planning consent 13/00789/FUL for an extension to time to initiate development
SITE:	Land North East and North West of Farmhouse, Braidlie, Hawick
APPLICANT:	Duncan Taylor per Energiekontor
AGENT:	None

SITE DESCRIPTION

The site is situated on grazed upland grassland just north of Hermitage Castle in Liddesdale. It is situated adjacent to Braidlie Burn, a small watercourse which runs southwards from Starcleuch Edge and Greatmoor Hill to the Hermitage Water. The core of the development would be north-west of Hermitage Hill, which itself forms the northerly backdrop to Hermitage Castle, a well-known heritage site owned and managed by Historic Environment Scotland.

The village of Hermitage, including its castle is situated a little over 2km to the south-east of the nearest turbine. Newcastleton lies just less than 10km to the south, whereas the outskirts of Hawick are around 13km to the north of the nearest turbine.

The site lies west of (and would be accessed from) the B6399 road that connects Newcastleton to Hawick; to the south is situated the valley road of the Hermitage Water, which connects Hermitage village to the A7 south of Mossypaul and which passes Hermitage Castle. The access is proposed from near Whitrope, a little north of the Whitrope Heritage Centre.

Broadly to the north, north-east and east forestry plantations occupy a large area of the landscape. To the west and south are more open moorland/fells akin to the site itself.

The authority boundary with Dumfries and Galloway is situated around 5km west of the nearest turbines, whereas the national boundary with England and the counties of Northumberland and Cumbria are within 11km and 13km respectively, to the south-east.

The site is not subject to any formal landscape designations. The nearest designated landscape is the Langholm Hills Regional Scenic Area, within Dumfries and Galloway, approximately 5km west and south-west of the turbine group.

Within the Borders the nearest landscape designation is the Teviot Valleys Special Landscape Area, which is situated approximately 15km north-east of the nearest turbine.

PROPOSED DEVELOPMENT

The application is submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended to seek an extension of time in order to commence the development. The extension sought is another three year period as per the standard commencement time period.

The development in question relates to that granted planning consent upon appeal on 9 June 2016, under application reference 13/00789/FUL. This constituted a wind farm comprising of 9 turbines and associated infrastructure for an initial period of 25 years. The development would have a maximum generating capacity of 22.5MW. 6 of the turbines would have a maximum blade tip height of 125m and a hub height of 80m (blade length = 45m), whereas the remainder T1, T2 and T4 would have a maximum tip height of 110m and a hub height of 65m. In addition to the turbines and their foundations, the following would be implemented:

- hardstanding area for crane (crane pads) per turbine
- electrical transformer and related switchgear per turbine
- trenches for electricity cables to be undergrounded
- control building and compound
- substation and compound
- a lattice tower wind speed measuring mast
- a temporary construction compound
- 2 borrow pits for the excavation of hardcore material to be used in track/pad construction
- 2 laydown areas for depositing of components during construction
- an on-site batching plant for preparation of material excavated from borrow pits
- a total of 8 watercourse crossings
- upgraded access off the B6399 and an estimated 10.446km of site access track, the majority of which is new track

The locations of those above ground items were shown on the submitted Revised Site Layout plan ref. A2.1 within the 2014 Further Environmental Information to the Environmental Statement.

PLANNING HISTORY

Planning application 13/00789/FUL was refused by the Council on 29 June 2015 for the following reasons:

“1. The proposed development would be contrary to Policies G1 and D4 of the Scottish Borders 2011 Local Plan, in that the development would unacceptably harm the Borders landscape due to:

- overridingly adverse impacts on landscape character arising from placement of turbines and infrastructure on a sensitive and distinct landscape with grandeur, historical, remoteness and wilderness qualities, which can be observed and experienced from a range of public paths and recreational access areas;*
- the introduction of an array of large commercial turbines into a locality which is significantly remote from main settlements and road networks and where no logical reference can be made to any other similar man-made interventions (including noticeable electrical infrastructure) or*

- settlement, which is characterised by simplistic landforms with which the development does not harmonise; thereby the development would appear as an incongruous and anachronistic new item; and*
- (iii) *the introduction of a medium-sized commercial wind farm in an area which is presently free from wind farm development and which provides a spatial separation between areas occupied by wind farms in Borders.*

2. *The development conflicts with Policy D4 of the Consolidated Scottish Borders 2011 Local Plan, in that by virtue of its adverse impact on:*

- (i) *the ability of National Air Traffic Services to safely manage en route non-military air traffic due to impacts on the Great Dun Fell radar serving Prestwick Airport; it would be incompatible with national objectives relating to protection of public safety at a UK level and the obligations set out in international treaties.”*

The applicant appealed to the Scottish Government against this refusal and a Reporter granted planning permission by Decision Letter dated 9 June 2016, subject to 27 Conditions and three Informatives.

This planning application seeks to vary Condition 1 (time commencement period) of that consent by seeking another standard three year period. The reasons why an extension is sought are given in submissions from the applicant.

They explain as follows:

“The aviation solution for Windy Edge is linked to and contingent on the rollout of ‘Project Marshall’, which is a large contract run by the MOD to replace its existing fleet of radars across the UK. Essentially the MOD’s old Watchman radars are to be replaced by new Thales radars. The radars at Spadeadam are some of the first in the UK to benefit from the upgrade, but are not yet fully commissioned. Both of the Spadeadam air traffic control radars (Berry Hill and Deadwater Fell) have coverage above Windy Edge.

The MOD wishes the aviation solution for Windy Edge to utilise the new Thales radars so that it is future-proofed, therefore agreement of a mitigation solution for Windy Edge has been delayed until such time as the radars are in place and fully operational. This process has taken longer than envisaged at the time the planning application was determined.

Once commissioned, the new Thales radars will require further configuring to mitigate Windy Edge. Specifically, the mitigation solution for Windy Edge will involve blanking coverage of the turbines from the Deadwater Fell radar and infilling with the Berry Hill radar. We believe this is an eminently viable radar mitigation solution, and one which would involve the following:

- *The new radars being commissioned;*
- *A feasibility study undertaken to trial the blank and infill; and*
- *MOD accepting the findings and agreeing the technical solution.*

You will see this is a process which would be challenging to conclude within our implementation time limit, in particular as it is linked to the rollout of a large MOD radar replacement programme across the whole of the UK.”

REPRESENTATION SUMMARY

None

APPLICANTS' SUPPORTING INFORMATION

See above and Supporting Statement.

CONSULTATION RESPONSES:

None

DEVELOPMENT PLAN POLICIES:

SESplan Strategic Development Plan June 2013:

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

SESplan Proposed Strategic Development Plan 2017:

Figure 4.2: Onshore Wind Spatial Framework

Local Development Plan 2016:

PMD1: Sustainability
PMD2: Quality Standards
ED9: Renewable Energy Development
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP5: Special Landscape Areas
EP7: Listed Buildings
EP8: Archaeology
EP9: Conservation Areas
EP10: Gardens and Designed Landscapes
EP13: Trees, Woodlands and Hedgerows
EP15: Development Affecting the Water Environment
IS2: Developer Contributions
IS5: Protection of Access Routes
IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy 2018
- Wind Energy 2011
- Biodiversity 2005
- Local Landscape Designations 2012
- Developer Contributions 2011
- Visibility Mapping for Windfarm Development 2003

- Ironside Farrar Study on Wind Energy Consultancy Landscape Capacity and Cumulative Impact 2016
- Borders Landscape Assessment 1998 Ash Consulting Group

Scottish Government Policy and Guidance:

- The Climate Change (Scotland) Act 2009
- The Scottish Renewable Action Plan 2009
- 2020 Routemap for Renewable Energy in Scotland – Update 2015
- National Planning Framework for Scotland (3) June 2014
- Scottish Planning Policy (SPP) June 2014
- Scottish Planning Policy and Electricity Generation Policy Statement
- Onshore Wind Turbines – Planning Advice 2014
- Climate Change Plan 2018
- Onshore Wind Policy Statement 2017
- Scottish Energy Strategy 2017
- Climate Change (Emissions Reductions Targets) (Scotland) Bill 2018

Scottish Government On-line Advice:

- Circular 3/2011 Environmental Impact Assessment (Scotland) Regulations
- PAN 69 Flood Risk 2015
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

Historic Environment Scotland Publications:

- Historic Environment Scotland Policy Statement June 2016

SNH Publications:

- Siting and Designing Windfarms in the Landscape Version 3 February 2017
- Visual Representation of Wind Farms Version 2.2 February 2017
- Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012
- Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations 2015

Other Publications:

ETSU-R-97: The Assessment and Rating of Noise from Wind Farms

KEY PLANNING ISSUES:

- Justification for time extension
- Changes in Policy or other material considerations since consent was granted

ASSESSMENT OF APPLICATION:

Existing consent

Whilst the Council had refused planning permission for this development for the reasons previously mentioned, the decision was successfully appealed to the Scottish Government and planning consent was issued on 9 June 2016. This is a significant material consideration and should outweigh any ability of the Council to justify re-examination of the decision unless Policy or other material considerations have significantly changed. The consent was subject to a three year commencement period (Condition 1) and, subject to compliance with the other conditions, could still be commenced up to 9 June next year.

A Section 42 application for variation of condition does not alter the original consent which will remain in place. Should this variation of Condition 1 be granted (by re-imposing it with a new date), then it will be necessary to re-attach all conditions as per the existing planning consent and there would effectively then be two versions of the consent, one expiring next year and the other lasting for another three years in terms of commencement ability.

The application should only be assessed against two main matters:

- The justification for the time extension, and
- Changes of Policy or other material significance since consent was granted.

Justification for the time extension

In the Supporting Statement, the applicant states that the original site owner was Windy Edge Wind Farm Limited who obtained the planning consent upon appeal in June 2016. There is no detailed information on when the applicant acquired the site except that it was recent to the September 2018 date of the Supporting Statement. It would, therefore, be reasonable to assume that the new site owner had less than a year to commence development once all suspensive conditions had been addressed and discharged.

The Supporting Statement and additional justification explain that the greatest concerns relate to Conditions 14 and 15, relating to the need for radar mitigation schemes to be agreed. The applicant states that these can be complex and can involve “extensive contractual agreements”. Both Conditions are suspensive and involve mitigation schemes that would need to be verified as acceptable to the Council from both the MOD and NATS. Whilst Condition 15 would allow some site preparation work before such a scheme was submitted and approved, Condition 14 would not allow any site commencement until a scheme was approved.

The applicant explains in more detail the difficulties and time constraint issues with regard to compliance with this Condition as follows:

“The aviation solution for Windy Edge is linked to and contingent on the rollout of ‘Project Marshall’, which is a large contract run by the MOD to replace its existing fleet of radars across the UK. Essentially the MOD’s old Watchman radars are to be replaced by new Thales radars. The radars at Spadeadam are some of the first in the UK to benefit from the upgrade, but are not yet fully commissioned. Both of the Spadeadam air traffic control radars (Berry Hill and Deadwater Fell) have coverage above Windy Edge.

The MOD wishes the aviation solution for Windy Edge to utilise the new Thales radars so that it is future-proofed, therefore agreement of a mitigation solution for Windy Edge has been delayed until such time as the radars are in place and fully operational. This process has taken longer than envisaged at the time the planning application was determined.

Once commissioned, the new Thales radars will require further configuring to mitigate Windy Edge. Specifically, the mitigation solution for Windy Edge will involve blanking coverage of the turbines from the Deadwater Fell radar and infilling with the Berry Hill radar. We believe this is an eminently viable radar mitigation solution, and one which would involve the following:

- *The new radars being commissioned;*
- *A feasibility study undertaken to trial the blank and infill; and*
- *MOD accepting the findings and agreeing the technical solution.*

You will see this is a process which would be challenging to conclude within our implementation time limit, in particular as it is linked to the rollout of a large MOD radar replacement programme across the whole of the UK.”

For this reason alone, the applicant seeks to vary Condition 1 through this Section 42 application by obtaining a repeat Condition that effectively restarts the clock from the date of any consent. Given the circumstances involved with recent acquisition, the limited time left on the existing consent and the fact that commencement of development is very much dependant on the programme of a third party, the MOD, it is considered that the request is justified and reasonable, allowing the potential of further renewable energy to be delivered on a site that has received consent, albeit via appeal. It is also fact that of the 25 other Conditions to be addressed, 9 are suspensive requiring the submission of information for approval before development can be commenced. Some of these require additional ecological survey work. This adds weight to the justification for granting a new three year consent period for the development.

In summary, it is considered that the applicant has demonstrated sufficient justification to seek a renewed three year time period. As with all section 42 applications and should the Committee agree to the request, then all original conditions and Informatives would need to be re-imposed precisely as stated in the appeal Decision Letter. It would also be advisable to attach an additional Applicant Informative to clarify that the development relates precisely to all drawings and submissions granted consent under application reference 13/00789/FUL.

Material changes since Decision

If the justification for the time extension is to be accepted, it is also necessary to consider whether there have been any changes in Policy or any other material considerations that would be of significance in terms of the acceptability of the development, since the Reporter's consideration and determination in May/June 2016.

Policy

National

Scottish Government policy supports renewable energy, including wind farms, provided that there are no unacceptable and significantly adverse environmental

impacts. Since the Reporter decision in June 2016, further Policy updates and statements have been released by the Government which do not indicate any change in position that would require re-examination of the decision to consent the application.

The Scottish Planning Policy Spatial Framework still positions the site within Group 3 which suggests the remainder of all areas have potential for wind farm development *“...where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.”*

Government Policy documents have recently been supported by the statements in the Onshore Wind Policy Statement 2017, the Ministerial Foreword confirming clear support for wind energy, promoting the economic benefits it offers, helping to substantively decarbonise electricity supplies, heat and transport systems, boosting the economy, and meeting local and national demand. Similarly, the Scottish Energy Strategy is also a material consideration, setting out ambitious new energy targets of 50% of the energy for Scotland's heat, transport and electricity consumption to be from renewable sources by 2030 and an increase of 30% in the productivity of energy use across the Scottish economy.

Whilst there is often contention from opposing parties to the position with regard to continued need for wind energy and the progress towards targets, Government guidance and Reporters' appeal decisions continue to stress that targets are not caps and weight should continue to be attached to the contribution of every scheme towards targets. There is, therefore, no change to Government Policy that would justify any re-examination of the decision to consent the development or to extend its commencement period.

Local Development Plan

Although the Council considered the initial Windy Edge application under the Development Plan in force at the time, the Consolidated Local Plan 2011, the Reporter used the newly adopted Local Development Plan Policy ED9 in his reasoning and decision on the appeal. He also considered SESplan policies based upon the 2013 version. The Proposed Strategic Development Plan 2017 reaffirms the importance of the LDP-led approach to securing renewable energy opportunities in the Borders. There is, therefore, not considered to be any change to Local Development Plan Policy that would justify any re-examination of the decision to consent the development or to extend its commencement period.

Supplementary Guidance

The Council's Supplementary Planning Guidance on Wind Energy 2011 was updated and superseded by the "Renewable Energy" Supplementary Guidance which was recently approved by the Council and, subsequently, the Scottish Government. This contains a new Spatial Framework which demonstrates that the site lies within an "area with potential for wind farm development" and also within the area identified with the "Highest Capacity" for wind turbines. Encouragement for a wind farm in this location is, therefore, not changed by the SG within the Spatial Framework although, clearly, there is more detailed Guidance now available to support LDP Policy ED9 and the Guidance now forms part of the adopted LDP.

As part of the preparation of the Guidance, the Ironside Farrar "Landscape Capacity and Cumulative Impact Study was updated. The 2013 version was considered by the Reporter in the appeal decision where he noted that it did not preclude a commercial

scale wind farm in the general location of the site. The 2016 update clarifies that the general location has low capacity (5-10) for additional turbine development above 120m tip height in addition to the consented Windy Edge group, provided there is good separation. It is clear, therefore, that the Landscape Capacity Study does not change the nature of the guidance in the location of the site and, indeed, provides a clearer indication that further turbines could be acceptable in landscape capacity terms. There is, therefore, not considered to be any change to Supplementary Guidance that would justify any re-examination of the decision to consent the development or to extend its commencement period.

Cumulative Impacts

The Reporter considered the issue of cumulative impacts from developments proposed in the vicinity at the time of the decision but felt that schemes such as those proposed at Wauchope and Newcastleton Forest were still at an early stage of development and not at application stage. He saw no cumulative reason to oppose the initial consent at Windy Edge. Whilst additional schemes have come forward at scoping stage at Cliffhope and Fawside, they have not reached the stage of application and could not be used to justify refusal of time extension.

Of those schemes that have come forward to application stage since the appeal decision notice, a decision on Birneyknowe is awaited following appeal and Public Local Inquiry. Of greatest relevance, however, is the consent, following appeal, for 12 turbines at Pines Burn 9.2km to the north-east of Windy Edge. Seven of these turbines would be 149.9m to blade tip and five at 130m. In determining the application at Pines Burn, however, neither the Council nor the Reporter used cumulative impacts with other wind farms to justify the decision. Indeed, the Reporter was most concerned only with the relationship of Pines Burn with Birneyknowe and not with Windy Edge where, he felt, intervening landform would considerably reduce cumulative effects. It is considered, therefore, that there are no new cumulative reasons that would justify any re-examination of the decision to consent the development or to extend its commencement period.

Cultural Heritage Impacts

The Reporter accepted the impacts of the amended layout and design on the Scheduled Monuments of Hermitage Castle and Chapel. It was also noted that neither the Council nor Historic Environment Scotland objected on such grounds. Although since the appeal decision, the castle and environs were re-scheduled in March 2017 to include the 'White Dyke' (which rises to the north of the castle to just below the summit of Hermitage Hill), the Reporter still acknowledged the importance of the Dyke and considered it "as if protected" in the appeal decision. Furthermore, the Council Archaeologist believes that, had it been Scheduled initially, it would not have been significantly impacted by the consented wind farm.

Ecology

The original appeal decision considered ecological matters and, particularly, impacts on the Langholm-Newcastleton Special Protection Area for its population of hen harriers. It is noted that, whilst ornithology can clearly change over time, the Reporter felt that the assessment in 2014 took into account potential changes to future hen harrier populations. Given the nature of the conditions which still require further surveys and species protection plans, there is no reason to consider a time extension would cause significant ecological issues. This is the view of the Council Ecology Officer.

Ministry of Defence/Aviation

The original scheme was initially considered then subsequently accepted in relation to potential for adverse impacts on NATS radar and both the Eskdalemuir Seismological Recording Station and the Deadwater Fell ATC Radar at RAF Spadeadam. The issue of the ATC Radar has been addressed earlier in this report and is one of the main reasons that the applicant is seeking a time extension, in order to allow the mitigation condition to be addressed and complied with.

There is also the issue of compliance with the MOD noise budget for impacts on the Eskdalemuir Seismological Recording Station. It is possible that, should this consent be allowed to time lapse without time extension, then the project may lose its position within the budget and be replaced by other schemes.

CONCLUSION

There is a valid consent for a wind farm at Windy Edge, allowing commencement up to June 2019. Given the nature and requirements of some suspensive conditions, however, the applicant has demonstrated justification for a renewal of the three year commencement period for the development. Furthermore, there has been no significant policy or other material changes that would determine that the original appeal decision should be re-examined and reversed.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

CONDITIONS

Time limit

1. The development shall be begun no later than 3 years from the date of this permission.
Reason: To specify the time period within which development should start.

Siting, Design and Appearance

2. Prior to commencement of the development, the developer shall submit details of the proposed make and model of turbine that will be utilised. Clarification of proposed external colour, rotational direction, noise output and rotational speeds shall be included in the specification provided in response to this condition. No other model of turbine shall be utilised.
Reason: For the avoidance of doubt to enable detailed consideration of any variation from the turbines assessed as part of this application.
3. The overall height of the wind turbines shall not exceed 110 metres for Turbines 1, 2 and 4, and 125 metres for Turbines 3, 5,6,7,8 and 9, to the tip of the blade when the blade is in the vertical position, when measured from natural ground conditions immediately adjacent to the turbine base. The overall height of the hub/nacelle shall not exceed 65 metres for Turbines 1, 2, and 4; and 80 metres for Turbines 3, 5,6,7,8 and 9. The wind turbine blades on all the turbines hereby permitted shall rotate in the same direction.
Reason: To ensure that the development is carried out in accordance with the turbines portrayed within the application, in the interests of visual amenity.

4. Prior to the commencement of development, the confirmed 9 turbine wind farm layout including the locations of all turbines, buildings, borrow pits, hardstandings and temporary and permanent access tracks, plus the location of all on-site cabling trenches shall be submitted to the planning authority. The layout shall be provided on an adequately detailed drawing which includes contours, and shall take account of the 50m micro-siting allowance identified within the Environmental Statement where such allowance is known to be required prior to the commencement of development. Supporting commentary shall be provided with the drawing explaining the rationale behind the micro-siting and demonstrating that it has taken account of consultee advice relating to impact on the peat environment and groundwater resource. The development shall be carried out in strict accordance with the details included in the drawings submitted in response to this condition. Any further micro-siting required during construction within the agreed 50m allowance, adhering to the requirements of condition 24, will be submitted to the planning authority for their information on an amended layout drawing.

Reason: To enable the planning authority to understand precisely where each component of the site will be sited in relation to other elements of the site (including its boundaries), and to allow for minor changes to be made to overcome potential difficulties arising in respect of archaeology, ecology, hydrology.

5. Notwithstanding the details shown in the submitted Environmental Statement, details of external materials relating to construction of the access tracks, crane hardstandings, the control building and any other on site apparatus/equipment shall be submitted to, and approved in writing by the planning authority. The development shall be undertaken in strict accordance with the details approved in response to this condition.

Reason: In the interests of visual amenity.

6. All cables between the turbines and the substation shall be laid underground.

Reason: In the interests of visual amenity.

Safety:

7. All turbines and components shall be installed to meet the safety standards set by British Standard BS EN 61400-1: 2005 'Wind turbine generator systems: Safety requirements' or International Electro-technical Commission IEC 16400.

Reason: In the interests of health and safety of all users of the site and its environs.

Site Decommissioning, Restoration and Aftercare:

8. This consent expires 25 years from the date on which the last wind turbine generator forming part of the development is commissioned and exporting electricity to the national grid (Final Commissioning Date). Confirmation of the Final Commissioning Date must be given in writing to the Planning Authority within 28 working days of that event.

Reason: To define the duration of the consent.

9. No later than 12 months before the decommissioning of the site or expiry of the consent associated with this permission (whichever is the earlier) a decommissioning, restoration and aftercare scheme shall be submitted to the Planning Authority for its written approval which shall provide for the removal of

the wind turbines, and associated development above and on the ground (including tracks and hardstanding), and the foundations of the wind turbines to a depth of 1.2 metres below ground level. The scheme shall include proposals for the management and the timing of the works and for the restoration of the site. The scheme shall be implemented as approved within 3 years of the expiry of the consent.

Reason: To ensure that all wind turbines and associated development are removed from site at the expiry of the consent.

Financial Guarantee:

10. There shall be no commencement of development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in Condition 9 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations. The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in Condition 9. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: To ensure that there are sufficient funds to secure performance of the decommissioning; restoration and aftercare conditions attached to this planning permission in the event of default by the Company.

Turbine Failure/Removal:

11. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement then it will be deemed to have ceased to be required, and the wind turbine foundation to a depth of 1.2m below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 12 months of the removal of the turbine.

Reason: To safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

Air Traffic Safety:

12. The turbines shall be fitted with MOD-accredited 25 candela omni-directional aviation lighting OR infra – red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on the turbines. The turbines will be erected with this lighting installed and the lighting will remain operational throughout the duration of this consent.

Reason: In the interests of aviation safety.

13. Prior to the erection of the first wind turbine, the developer shall provide written confirmation to the Planning Authority and the Ministry of Defence of the anticipated date of commencement of and completion of construction; the maximum height above ground level of construction equipment and the

anemometry mast; the position of each wind turbine in latitude and longitude; and the hub height and rotor diameter of each turbine (in metres). The developer shall give the Planning Authority and the Ministry of Defence notice as soon as reasonably practicable if any changes are made to the information required by this condition.

Reason: In the interests of aviation safety.

MoD Air Traffic Control radar:

14. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbine upon air safety has been submitted to and approved in writing by the Planning Authority.

The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development upon the operation of the Air Traffic Control Radar at Spadeadam ("the Radar") and the air traffic control operations of the Ministry of Defence (MOD) which is reliant upon the Radar. The Air Traffic Control Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar and shall be in place for the operational life of the development provided the Radar remains in operation.

No turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme to be implemented prior to the operation of the turbines have been implemented and the Planning Authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

Reason: In the interests of aviation safety.

NATS Radar

15. No part of any Turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Scottish Borders Council in order to avoid the impact of the development on the Primary Radar of the Operator located at Great Dun Fell and associated air traffic management operations.

Reason: In the interests of aviation safety.

16. No blades shall be fitted to any Turbine unless and until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

Reason: In the interests of aviation safety.

For the purpose of conditions 15 and 16 above:

"Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

"Primary Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Great Dun Fell primary radar and air traffic management operations of the Operator."

Signage:

17. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on the turbines, other buildings or structures within the site without the written approval of the Planning Authority.

Reason: To ensure that the development does not unduly prejudice public amenity.

18. No signage, other than that required for health and safety and for traffic management, shall be erected within the application site without the written consent of the Planning Authority.

Reason: To ensure that the development does not unduly prejudice public amenity.

Road Safety & Traffic Management:

19. No construction traffic shall access the site until a Traffic Management and Road Safety Plan has been submitted to and approved in writing by the Planning Authority, which includes detailed information relating to the following matters:

- a) detailed design of any widening or other alteration to the road network and proposals for reinstatement once the loads have been delivered;
- b) management of abnormal vehicle movements and other associated construction traffic movements (including trial runs following agreed road widening works);
- c) date and time schedules for delivery of all components of the development involving abnormal loads;
- d) road condition survey, detailed proposals of finalised road widening/surfacing/improvements to accommodate abnormal loads and a method of ensuring that any damages to the road due to construction and/or abnormal loads associated with the development are repaired in an agreed manner and to an agreed timetable;
- e) all new signage identifying to road users the presence of the site, access and potential to encounter construction traffic; and
- f) wheel washing facilities at the site access.
- g) details of the delivery times for construction materials or equipment taking into account impact on residential amenities

The development shall be undertaken in strict accordance with the details approved in response to this Condition.

Reason: To ensure that the development is compatible with road user amenity, road safety and traffic management objectives, and also to provide adequate restoration to offset the environmental impact of the measures proposed.

Rights of Way:

20. There shall be no obstruction, diversion or closure (caused by implementation of the development) of any Right of Way/public access path within or adjacent to the application site and its proposed accesses before, during or after development unless such actions have been formally agreed in writing by the planning authority.

Reason: To protect the amenity and safety of users of the public path network.

Ecology and Ornithology:

21. Prior to the commencement of development a scheme for the protection of species and habitat enhancement shall be submitted and approved in writing by the Planning Authority. The submitted scheme shall include:

- a) Supplementary/checking surveys for protected species (including schedule 1 birds, otter, badger, bats, water vole, red squirrel and nests of all breeding birds) shall be carried out by a suitably qualified person or persons to inform construction activities and any required mitigation
- b) Species mitigation and management plan
- c) A Before-After-Control-Impact (BACI) monitoring programme for schedule 1 raptors and breeding birds survey (black grouse and wader) at 1, 3, 5, 10 and 15 year intervals
- d) A landscape Habitat Management and Enhancement Plan, including measures appropriate for hen harrier

Upon approval the scheme shall for the protection of species and habitat enhancement shall be implemented unless otherwise agreed in writing by the Planning Authority

Reason: To make sure protected and other species are not harmed during construction and the site is enhanced for the benefit of biodiversity.

Environmental Management:

22. At least 2 months prior to the commencement of development (other than agreed enabling works in terms of Condition 23) a full site specific environmental management plan (EMP) shall be submitted to and approved in writing by the Planning Authority (in consultation with SEPA and other agencies such as SNH as appropriate) and all work shall be carried out in accordance with the details in the plan approved in response to this condition. The plan shall include the following components (this list is not exhaustive):

- a) a study of the site and its environs to establish precisely how local water sources and supplies relate to and/or would be affected by the implementation of the development, plus mitigation in relation to this matter;
- b) a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources (based on SUDS principles – Sustainable Urban Drainage Systems);
- c) a plan for the management of flood risk, in particular in relation to parts of the site close to watercourses and proposed crossings of the watercourse;
- d) a focussed waste management strategy;
- e) a strategy for the management of peat, in the form of a Peat Management Plan;
- f) a strategy for management of dust arising during construction of the tracks, hardstandings and foundations;
- g) details of measures proposed to contain all materials and fuels to be utilised during construction; and
- h) details of borrow pit excavation and reinstatement (including the profile); including proposals for how any groundwater will be dealt with, if encountered.

Reason: To control pollution of air, land and water.

23. Prior to Commencement of Development, the wind farm operator shall prepare a Construction Method Statement (to include a Risk Assessment) for the approval

of the Planning Authority, in consultation with SNH and SEPA. The Construction Method Statement shall comprise the following details:

- a) all on-site construction, and construction of access tracks, including drainage; mitigation, post-construction restoration, and reinstatement work, as well as the timetables for such work;
- b) details relating to a 'tool box talk' on archaeology to on-site contractors preparing the site infrastructure;
- c) any temporary diversions of rights of way and associated signage;
- d) surface water drainage measures to comply with national guidance on pollution prevention, including surface water run-off from internal access roads;
- e) details of waste water management during construction;
- f) the arrangement for the on-site storage of fuel oil and other chemicals;
- g) the method, frequency and duration of ecological monitoring, particularly of watercourses, over the Construction Period of the wind farm development;
- h) details of the phasing/timing of construction of all components of the development including dates for delivery of components;
- i) details of water supply;
- j) details of measures to reduce soil erosion;
- k) details of assessment and mitigation in respect of construction noise, including measures adopted during evenings, night time, early mornings, weekends and public holidays
- l) details relating to minimisation of environmental impact of road construction;
- m) details of any watercourse engineering works and measures for the implementation of buffer zones around existing watercourses and features;
- n) details of timescale for the restoration of the site, including the site compound and crane hard-standing areas; and
- o) details of contingency planning in the event of accidental release of materials which could cause harm to the environment.

Subject to the following paragraph, no work shall begin on the development, apart from the enabling works, until the Construction Method Statement has been approved. Once approved, the works specified in the Construction Method Statement shall be carried out as approved.

The enabling works shall not be carried out until details of them (including any necessary measures for public road improvements outwith the site, traffic management, works to be implemented at the entrance to the site to prevent dust and mud entering the public highway, or any related programme of monitoring the condition of public roads) have been submitted to and approved in writing by the Planning Authority, in consultation with SNH and SEPA. All of the enabling works shall be carried out in accordance with the approved details.

Reason: It is essential to ensure that all construction works are carried out in a controlled manner which minimises environmental damage; the CMS will provide a useable document identifying guidelines and conditions for construction, but which also gives recourse to mitigating action in the event of construction deviating from the CMS. The document, with the Environmental Management Plan required by Condition 22 of this permission, shall provide the (Ecological) Clerk of Works (required by Condition 24 of this permission) with information with which to monitor construction and environmental management.

24. Prior to the Commencement of Development and for the period of the enabling works, the wind farm operator shall appoint an independent Ecological Clerk of Works (ECoW) under terms which have first been submitted to and agreed in writing by the planning authority, in consultation with SNH and SEPA, and shall

include that the appointment shall be for the period of wind farm construction, including micro-siting and the finalisation of the wind farm layout, as well as subsequent post-construction restoration.

The ECoW's terms of appointment are to impose a duty to monitor compliance with all the ecological and hydrological aspects of the Construction Method Statement, including post-construction restoration, which have been approved under the terms of Condition 23 above. The ECoW's terms of appointment are to require the ECoW to report promptly to the wind farm operator's nominated Construction Project Manager any non-compliance with the hydrological or ecological aspects of the Construction Method Statement. The wind farm operator shall confer on the ECoW (and comply with instructions given in the exercise of) the power to stop any construction or restoration activity on-site which in his or her view (acting reasonably) could lead to significant effects on the environment, and shall without delay, report the stoppage, with reasons, to the wind farm operator's nominated Construction Project Manager and to the Planning Authority, SNH and SEPA.

Reason: The presence of an ECoW at the site is essential to enable unforeseen or unplanned occurrences relating to the environment on and in relation to the site, in particular when it relates to impact on biodiversity and/or the water environment, to be mitigated.

Archaeology:

25. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) outlining a Watching Brief which must be implemented during relevant development works. The requirements of this are:
 - a) The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority;
 - b) Access shall be afforded to the nominated archaeologist to supervise relevant development works, investigate and record features of interest, and recover finds and samples;
 - c) If significant finds, features or deposits are discovered all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for consultation which may result in further developer funded archaeological mitigation;
 - d) If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented;
 - e) 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.
 - f) In the event that significant archaeological materials (deemed so by the Planning Authority in consultation with the developer's archaeological contractor) are recovered either during the course of archaeological investigation or development, the developer will ensure that these undergo post-excavation research by a contracted archaeologist in accordance with a separate Post-Excavation Research Design (PERD) approved in writing by the Planning Authority.
 - g) The results of post-excavation research will be submitted to the Planning Authority and disseminated appropriately through publication and community engagement within one year of the final on-site archaeological investigations and reporting; and

- h) The applicant's archaeological contractor shall ensure that the full archive of materials and records be submitted to Treasure Trove within one year of the completion of post-excavation research and archived appropriately according to national guidelines

The developer shall give a minimum of two weeks' notice of the commencement of the approved archaeological works in writing to the nominated archaeological contractor and to the Planning Authority. No works shall commence until the two week notice period has expired.

No development shall take place until fencing has been erected, in a manner to be agreed in writing by the Planning Authority, about the identified area of archaeological interest and no work shall take place inside the fencing without the prior written consent of the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains. This condition affords a reasonable opportunity to record the history of the site, secure appropriate analysis, allow sufficient time to commence archaeological works and safeguard any sites of archaeological interest.

Noise:

26. Noise levels from the combined effects of the wind turbines forming this development at any noise sensitive premises (in existence at the time of permission) where the occupier of the property has no financial interest in the development shall not exceed an external free field LA90, 10min level of 35dB (A), at any 10 metre height wind speed up to 12 m/s. For properties where the occupier has a financial interest in the development, the above levels should not exceed 45dB (A). Any tonal elements in the noise spectra shall be assessed using the joint Nordic Method and the tone level shall not exceed 2dB above the 'masking Threshold for Tones in Noise'.

Reason: To give protection to residents/occupiers of noise sensitive properties in proximity to the development, in the interests of private amenity.

27. In the event of a complaint, which in the view of the Planning Authority is justified, being received by the Planning Authority following implementation of the development and the wind farm becoming operational, within 21 days of being notified of the complaint by the Planning Authority the wind farm operator shall, at its expense, undertake a professional assessment of the nature of the alleged noise disturbance. The selected consultants used in the analysis shall first have been approved by the planning authority. Thereafter, in the case of each complaint where a noise nuisance is proved to be occurring, mitigation shall be carried out of a nature and within a timeframe to be agreed in writing by the planning authority.

Reason: To give protection to residents/occupiers of noise sensitive properties in proximity to the development, in the interests of private amenity.

Informatives

Relevant scheme: All conditions above relate to the details of the development and supporting information that was granted planning consent following appeal on 9 June 2016, under application reference 13/00789/FUL.

Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Display of notice: A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations

DRAWING NUMBERS

Location Plan

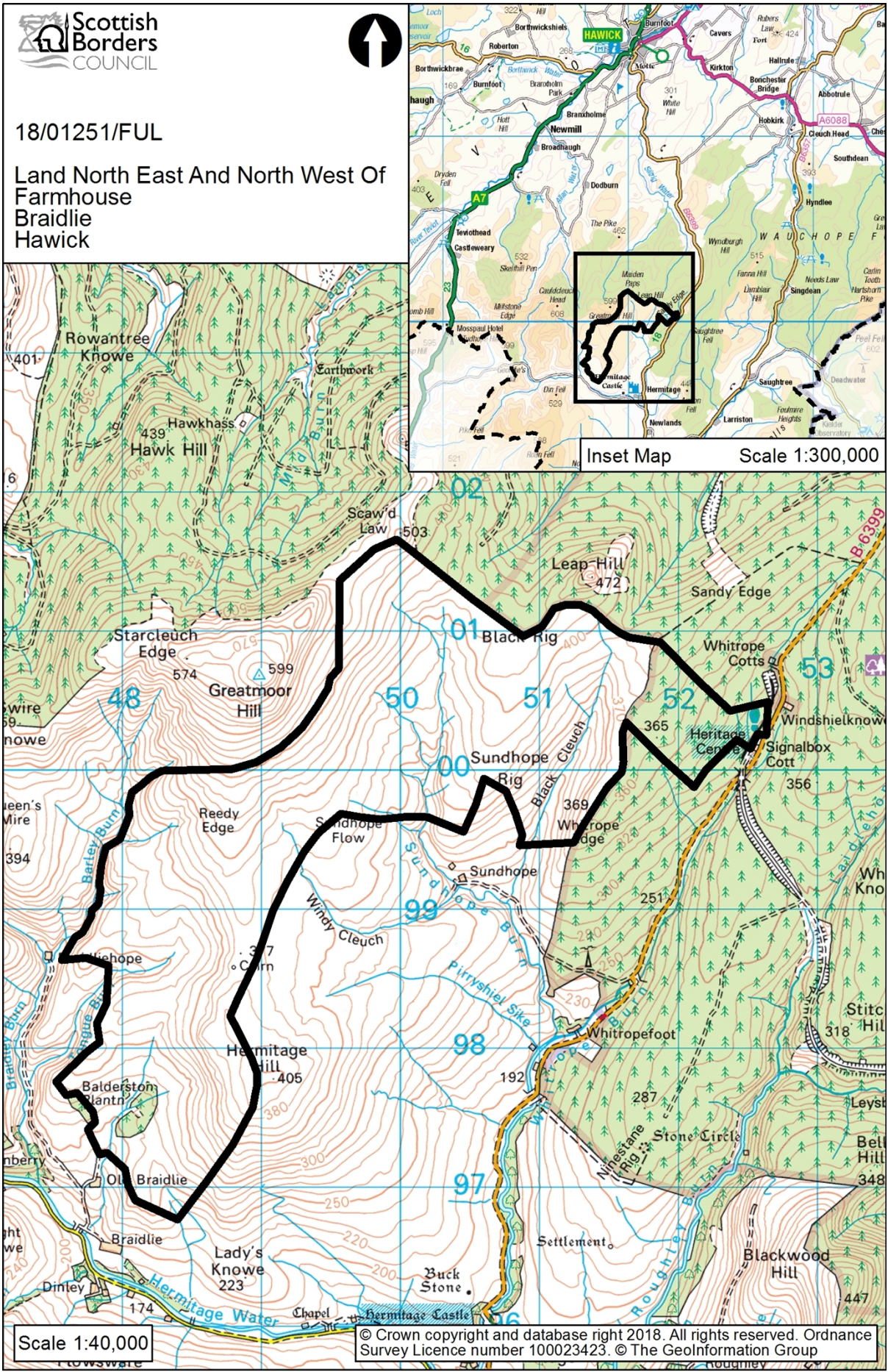
Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

Author(s)

Name	Designation
Craig Miller	Principal Planning Officer



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

10 DECEMBER 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/00486/FUL
OFFICER:	Mr Scott Shearer
WARD:	Selkirkshire
PROPOSAL:	Erection of 64 dwellinghouses and associated works
SITE:	Land North Of 24 Sergeants Park, Newtown St Boswells
APPLICANT:	Hart Builders
AGENT:	Aitken Turnbull Architects Ltd

SITE DESCRIPTION

The application site measures 2.5ha and is located towards the north western edge of Newtown St Boswells. The site straddles part of two larger agricultural fields. The land slopes gently in a west to east direction. An embankment runs along the eastern boundary of the site with the Sergeants Park Phase 1 development located at the foot of the embankment. The original Sergeants Park cul-de-sac development is situated to the south east. The boundary between the two fields is marked by a hedge and Core Path (BE180) which runs through the application site. A wooded area which contains the Glenburnine Burn encloses the north of the site with the remainder of the agricultural land lying to the west.

The site is located within the development boundary and the Eildon and Leaderfoot National Scenic Area.

PROPOSED DEVELOPMENT

The application seeks consent for a residential development of 63 units. The proposal has been amended through the course of the application and consists of eleven different house types and a cottage flat. The development takes a linear form with access provided from the original Sergeants Park development and also from Sergeants Park Phase 1. The buildings are two storeys and the site layout is arranged within a combination of semi-detached and terraced blocks. The palette of building materials includes dry dash rendered walls with some vertical timber features, grey concrete roof tiles and timber framed windows. A combination of coloured tarmac and block paving road, path and parking surfaces are to be used. A SUDS pond is to be provided towards the south eastern side of the site with the existing footpath diverted around the detention basin. The outer boundaries of the site are to be enclosed by a hedge. Planting is proposed to take place on the embankment within the site and on small pockets of land throughout the site.

PLANNING HISTORY

09/01005/OUT - Erection of 900 dwellinghouses including associated infrastructure, highway works, ancillary works and landscaping. Highway works to include formation of new roundabout on A68 trunk road and realignment of Whitelee Road. Approved subject to conditions, informative and legal agreement. Pending conclusion of legal agreement.

15/01155/FUL and 15/01156/FUL - Erection of 53 residential units on land immediately to the east of the current application site. This development (Sergeants Park Phase 1) is 100% affordable housing managed by Eildon Housing Association and is nearing completion.

REPRESENTATION SUMMARY

One representation has been received citing the following grounds of objection:

- Density of site
- Detrimental to residential amenity
- Flood plain risk
- Inadequate access
- Inadequate drainage
- Inadequate screening
- Increased traffic
- Legal issues
- Loss of light
- Noise nuisance
- Poor design
- Privacy of neighbouring properties affected
- Road safety
- Insufficient play space
- No capacity at local primary school to accommodate extra pupils
- SUDS ponds generate insect nuisance
- Village does not have infrastructure (shops, doctors surgery) to accommodate increased population
- Fails to address local demand for larger dwellinghouse

APPLICANTS' SUPPORTING INFORMATION

The application is supported by the following documents;

- Design and Access Statement
- Drainage Strategy
- Ecological Appraisal
- Tree Survey and Arboricultural Constraints Report
- PAC Report

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Ecology Officer: No objection. Satisfied with the Preliminary Ecological Appraisal which has been submitted. The site is viewed to have a local habitat value however there is potential connectivity to the River Tweed SAC via drainage to the adjacent Glenburnie and Sprouston burns. No protected species were recorded inside the site, however bat and badger activity was found outwith the site. Provided that mitigation is adopted in accordance with the recommendation of the Preliminary Ecological Appraisal, there will be no significant impact on ecological interest. To achieve this, conditions covering a Construction Environmental Management Plan, a Species Protection Plan and a Landscape and Habitat Management Plan are recommended.

Environmental Health (Amenity and Pollution): No objection. To limit noise during development works, recommend that construction works are limited to between 0700-1900 between Mondays and Fridays and 0900-1300 on Saturdays. No works should take place on Sundays or during public holidays unless agreed with the Council. Contractors are expected to uphold noise controls set by the British Standard. Recommend that a condition which requires the agreement of a Construction Method Statement is attached to any approval to mitigate the impact of noise and nuisances from the development include temporary lighting, dust suppression and precautions to minimise noisy works from affecting neighbouring properties.

Flood and Coastal Management: (*1st response 1st August*): The site is not indicated to be at risk of flooding on SEPA's mapping, however there has been a history of surface water runoff from this hillside causing serious flooding in recent years downstream at the playing fields, bowling club and around the primary school. A drain installed as part of the Phase 1 development is understood to have resulted in flooding. Further information was requested to ensure that suitable surface water mitigation can be provided.

(*2nd response 22nd November*): Updated drawings confirm surface water mitigation in the form of an enlarged boundary drain and small bunds are proposed. This mitigation is satisfactory. Further information confirms that surface water is being routed away from buildings towards the detention basin and this is adequately designed and includes overflow mechanisms so that it has capacity to cater for extreme events. An assumed error on levels Drawing 120981/2030 shows the ground levels higher than the FFL's. Confirmation of the correct levels is sought. Otherwise the proposal is not opposed on grounds of Flood Risk.

Housing Strategy: No objections. The site is identified as a priority affordable housing project which has been included in the Council's current Strategic Housing Investment Plan 2018/23. The proposal is a 100% affordable housing development which will contribute towards meeting the Scottish Governments affordable housing target of 50,000 new affordable homes. Advise that the Scottish Government have programmed grant provision to assist Eildon Housing Association with the delivery of the development.

Landscape Architect *1st response (8th June 2018)*: The site is located within the Eildon and Leaderfoot NSA and the Lower Tweed Landscape Character Area which is characterised as Lowland Valley with Farmland within the Borders Landscape Assessment. The original section drawings were insufficient and did not appear to illustrate a true representation of the existing site levels. If the levels are correct concerns are raised about the visibility of the development. It would appear that an embankment is being formed outwith the western boundary; this may be appropriate however it is not being guided by a masterplan to address the need for a landscape framework to guide Newtown St Boswells expansion. Should an embankment be formed, the proposed hedge will provide little containment.

The indicative landscape scheme on the Site Plan shows hedging stepping in an out where it would be more logical to follow the boundary. The treatment of space between plots 37-42 is not clear. It is recommended that a detailed landscape scheme is agreed to achieve the best landscape fit.

2nd response (8th November 2018): The amended proposals more accurately reflect the level change between Phase 1 and 2. No existing level survey has been

submitted and it does appear in the revised sections that the eastern part of the site is being raised which may exacerbate the prominence of houses in the landscape. An annotated plan has been provided by the Landscape Architect to illustrate the species and planted areas required to achieve a suitable structure and screen planting on the embankment and to also strengthen and planting along the top of the embankment to suitably define the parking area. It is recommended that walls should be used instead of high fences and planting in association with lower fences set back from the street to help soften the street scape. Conditions covering soft landscaping, boundary details, commencement and completion of landscaping are recommended.

Outdoor Access Ranger: No objection. Identify one claimed Right of Way/Core Path on the land (ref BE180/CP209). It is recommended that;

- The realigned route of Core Path 209/ Right of Way BE180 is completed to an adoptable standard and to minimise the use of steps it should contour around the SUDS basin.
- The access road from Sergeants Park should have a tarmac pavement on both sides of the road.
- 1.5m wide gaps should be left in the boundary fence or pedestrian gates should be installed at each of the 4 points of access to future phases and similarly where the realigned Core Path 209 crosses the western perimeter.
- Both during and after construction, Core Path 209 should remain open and unobstructed.
- A short link path should be created along the western boundary between the realigned path and its existing line along the hedge/ field boundary.

Roads Planning: *1st response (1st August 2018):* No objection in principle to the development however a range of amendments were required to provide suitable; road width, parking, footpaths and surface water drainage.

2nd Response: Following the submission of revised layout drawing AT2948 L(01)02 Rev. G, Roads Planning commented;

- In general the parking numbers are greater than normally required so there is room to remove approximately 10 spaces. Spaces opposite Plot 26 and 21/22 are identified for removal.
- The dispersion of parking fails to provide visitor parking at the south of the site (close to Plots 37 – 42)
- No dedicated disabled parking bays are provided these are required at a ratio of 1 to 20 across the development
- No details of the width of in-curtilage parking bays are provided
- A 500mm surface edge is required around parking bays
- Confirmation of the boundary treatment of the parking spaces along the embankment is required.
- The three roads which may provide access to future development of adjoining allocated land should be competed to the site boundary.
- A Traffic Management Plan similar to that required as part of Phase 1 and should include upgrading the existing surface water system.
- Roads Construction Consent is required and Scottish Water should adopt the drainage system

Statutory Consultees

Community Council: Object, citing the following grounds;

- The development will provide no developer contributions which will positively enhance local facilities other than play equipment.

- Fails to comply with the villages Development Frameworks which were intended to consist of 75% private housing and 25% affordable housing.
- No housing priorities are guaranteed for existing residents
- Mains sewage does not have capacity with current network overflowing during heavy rain.
- Existing road network is congested and cannot cater for extra 150-200 cars
- No certainty of the development providing an access on to Bowden Road
- Concerns are raised about the construction of Phase 1, in particular; closed pedestrian access routes and surface water issues.

Scottish Environment Protection Agency (SEPA): No objection, the submission of an Energy Statement to demonstrate that the heat demand of the development is being provided in a sustainable way has enabled SEPA to remove their original objection. The site lies out with the flood map and SEPA hold no further information to indicate it is at flood risk and have no objection to the proposed development.

Site drainage is to be split to the existing SUDS pond within the neighbouring site and to a new SUDS pond within this site. Both ponds discharge to the Scottish Water sewer network. SBC and Scottish Water should satisfy themselves that the drainage arrangements are appropriate for the site and agree discharge rates. The new SUDS proposals should accord with the SUDS Manual (C753) and the importance of preventing runoff from the site for the majority of small rainfall events (interception) is promoted.

Waste water is to be connected to public sewer is acceptable. The applicant should consult with Scottish Water (SW) to ensure a connection to the public sewer is available and whether restrictions at the local sewage treatment works will constrain the development.

Scottish Natural Heritage (SNH): Advice is provided on the impact of the development on the Eildon and Leaderfoot National Scenic Area (NSA) and the River Tweed Special Area of Conservation (NSA)

The site is located within the Eildon and Leaderfoot NSA which is of national interest as one of Scotland's finest landscapes. It is recommended the importance of creating an effective landscape framework for the housing to sit within and a co-ordinated and well-designed urban edge that integrates the proposal into its rural context. SNH support the proposed layout which connects to Phase 1 and the wider settlement. The development should maximise its connections to the development of future green networks along the Sprouston Burn which is likely to be important to supporting a larger population. The retention, protection and enhancement of the mature woodland to the north of the site are noted and new hedgerow planting will soften the development edges and reduce its impact on the NSA.

To ensure that the development is sympathetic, it is delegated to the Council to secure detailed design information on matters including building colour, night-time lighting, landscape planting (including its long term maintenance) and settlement edge design.

The site is connected to the SAC via the Glenburnie and Sprouston burns. Having appraised the proposed drainage strategy and the inclusion of a hedging to provide a buffer to the Sprouston it is recommended that the development will not directly or indirectly affect the qualifying interest of the SAC. A further appropriate assessment is not required.

Transport Scotland: No objection. It is noted that it was the intention of the LDP to undertake a masterplan exercise for this wider allocated site. While the development numbers proposed are unlikely to pose any adverse implications for the trunk road, Transport Scotland wish to avoid the future piecemeal development of the allocated site leading to cumulatively impinging on the capacity of the A68.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

Site References;

ENT15B: Sergeants Park II

ANEWT005: Newtown Expansion Area

Policies;

PMD1: Sustainability
PMD2: Quality Standards
PMD3: Land Use Allocations
HD1: Affordable and Special Needs Housing
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP4: National Scenic Areas
EP13: Trees, Woodlands and Hedgerows
EP15: Development Affecting the Water Environment
IS2: Developer Contributions
IS5: Protection of Access Routes
IS6: Road Adoption Standards
IS7: Parking Provision and Standards
IS8: Flooding
IS9: Waste Water Treatment and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

SBC Approved Planning Brief

- Newtown St Boswells Development Framework
- Sergeants Park II, Newtown St Boswells

Supplementary Guidance

- Housing (2017)
- Affordable Housing (2015)
- Biodiversity (2005)
- Development Contributions (2011) updated January 2018
- Landscape and Development (2008)
- Trees and Development (2008)
- Placemaking and Design (2010)
- Privacy and Sunlight Guide (2006)

KEY PLANNING ISSUES:

The principal planning issues with this application can be summarised as follows:

- Whether the proposals would represent a suitable development on an allocated housing site within the Newtown St Boswells settlement boundary
- Whether the proposal would have an adverse impact on the National Scenic Area, landscape or visual amenities of the area.
- Whether the proposal would harm the residential amenity of neighbouring dwellings or conflict with the established land use of the area.
- Whether the proposals are acceptable in terms of parking, access and impacts on road safety.
- Whether adequate drainage and servicing can be achieved.

ASSESSMENT OF APPLICATION:

Principle

The application requires to be assessed principally against Policy PMD3 Land Use Allocations of the Local Development Plan 2016 (LDP). The north eastern corner of the site falls within the remaining undeveloped section of LDP allocation, ENT15B: Sergeants Park II. The remainder of the site falls within the larger Newtown St Boswells Expansion Area, Site Reference ANEWT005. Both of these sites are allocated for housing. The principle of residential development represents a land use which is supported by Policy PMD3 for the development of these sites.

Allocation ENT15B has an indicative capacity of 30 units however this has already been exceeded by Sergeants Park Phase 1. Members will be aware that the indicative site capacities for allocated sites within the LDP should be seen as a guide, not a limit. The current application would involve the erection of 4 dwellings within allocation ENT15B with the remainder of the development falling within the larger Newtown Expansion Site ANWT005. The proposed level of development can be easily accommodated within the remainder of the allocation without conflicting with the site requirements and the Sergeants Park II Planning Brief.

Allocation ANEWT005 extends to some 58ha with an indicative capacity for 900 units. It was the aspiration of the LDP and the Newtown St Boswells Development Framework SPG that the development of site AWE005 should ideally follow a master planning exercise. This proposal only seeks the development of a small proportion of this allocation and it is appropriately sited as an extension to the existing settlement. The density of the proposal is commensurate with that of Sergeants Park Phase 1. The development will contribute to meeting the housing capacity for the wider allocation which is identified within the LDP. Members are advised that if this application is approved it will not prohibit undertaking any master planning exercise for the remainder of the Newtown St Boswells allocated expansion area.

An extensive list of Site Requirements is noted for the development of allocation ANEWT005, which should stem from the aforementioned masterplan exercise. As a result of this application only proposing a limited development of its allocation, some of the requirements are not proportionate for a development of this scale. These include;

- Access from the A68
- Provision of a new school and nursery
- Provision of sport facilities
- Regeneration of the village centre

The remaining Site Requirements are still relevant and will be covered within the detailed assessment under specific sections of this report below. Nevertheless, the principle of this proposal is considered to represent the development of allocated sites in a manner which complies with the requirements of Policy HD3.

Tenure

The proposed development would comprise 100% affordable housing and the Council's Housing Strategy Officer has confirmed that the site has been identified as a priority affordable housing project, confirmed by its inclusion in the Council's current Strategic Housing Investment Plan 2018/23. Once completed, it is understood that the development will be managed by Eildon Housing Association who will ultimately own and operate the housing stock.

If Members are minded to agree the recommendation, it is advised that a planning condition to control the occupancy of the development for affordable housing tenures only (which comply with the Council's definition of affordable housing listed in the SPG) is required. This control will ensure that the development is delivered in accordance with its proposed tenure avoiding the accommodation being available on the open market and being liable for developer contributions which affordable housing proposals are currently exempt from.

Placemaking and Design

Policy PMD2 sets out the Council's position in terms of quality standards for all new development and sets out specific criteria on Placemaking and Design.

Layout

The layout of the approved Sergeants Park Phase 1 delivered a positive design response which was consistent with principles promoted by Designing Streets and the Council's Placemaking and Design SPG. These local and national policy mandates to deliver good design are still material considerations which this latest proposal will be assessed against.

The layout of this proposal has followed the design principles which were established within the street design of Sergeants Park Phase 1. This has been created by having buildings which address the street and utilise road geometry to break up views as well as naturally slow traffic.

Through the course of the application, the applicants have sought to amend the proposals, to address issues arising from the level changes between the application site (which is located on elevated land) and the development to the east. In particular, the level changes caused neighbouring amenity issues for residents of Sergeants Park Phase 1. This has led to the removal of housing from the top of the slope from the central area of the site. The amended layout does weaken the street design from this part of the site as it is no longer framed by houses on both sides. Instead, to accommodate the parking requirements for this site, these areas have been given over to nose-in parking. The volume of parking along the top of the

embankment could lead to parked cars dominating this part of the development. To mitigate this, the gables of Plots 26, 52 and 53 which face onto this section of development have been redesigned to provide an active frontage on to the street, the geometry of the road has been altered and landscaping will be provided between and behind the parking spaces. The boundary treatments within this part of the site become very important as the plot boundaries which enclose rear gardens face directly onto the street. In these locations, boundary walls instead of fences would contribute more positively to the streetscene.

Normally, the lack of building frontage on to a street and the potential for the dominance of parked cars would not be advocated. The visual impact of this particular part of the layout will be limited as it is contained within a central area of the site which will eventually form part of a much wider expansion of Newtown St Boswells. Amenity issues aside, the original layout which positioned houses along the top of the embankment may have accentuated the level change between the two phases which would have posed its own visual problems. The applicants have sought to make the amended layout at this part of the site as interesting as possible. Further improvements can be made by substituting boundary fences for walls for units which face on to the road within this central part of the site (i.e. Plots 26, 52, 53, 55 and 49/50). Additionally, the RPS has confirmed some of the non-allocated parking spaces could be removed from this part of the site as there is an over provision of spaces. This would enable an improved landscape scheme to be provided to further soften this edge of the development. The scope to provide these further enhancements to the layout will ensure that parked cars do not detrimentally dominate this part of the development and this section of the proposal will integrate with the character of the wider development.

Elsewhere within the layout, the changes have enabled the introduction of more terraced properties. These terraced rows enhance the wider layout as Terrace 3 (see Drawing No L(01)02) provides clearer visual termination on approach from the north and Terrace 4 creates a better frontage for a street which will provide an access for future development to the west. The development continues a long straight road into the site from Sergeants Park however the location of the square will help act as an arrival point.

Overall, the proposed layout is judged to positively respond to the constraints of the application site in a manner which integrates with the existing street network and sense of place created by the development of Sergeants Park Phase 1. Provided that the correct specification of landscaping and boundary treatments can be agreed the development is considered to comply with placemaking and design requirements of the LDP. Ultimately, these details can be agreed via planning conditions.

House design

Newtown St Boswells has a mixture of house designs with more traditional dwellings found within the village's historic core and on Sprouston Road. Elsewhere a more modern design approach has been followed and this was reflected in the house types approved as part of Sergeants Park Phase 1. The house types proposed in this latest application match house types which were approved in Sergeants Park Phase 1. From a broad policy perspective, the Councils Placemaking and Design SPG remains in place and the design of the proposed units would continue to satisfy the principal design guidance against which the earlier designs were assessed.

In total eleven different house designs are proposed however these are slight variations of three set house types (Type A, B and C previously approved) in addition

to a cottage flat (Type G). While the changes within the particular house type are very minor and often only relate to the handing of the front elevation, these small changes provide variation to the streetscape. Arguably there is an overreliance of two storey houses in this proposal. In reality, this blanket two storey scale is mitigated as the buildings follow the sloping nature of the site so that naturally gives them different heights. In addition the incorporation of wall head dormers and front gable projections interrupt the roof design.

Following changes to the site layout, the gable design of Plots 26, 52 and 53 has been improved to include timber sections with small window openings to enable the building design to add greater visual interest to the street. Additionally the layout changes also enable two different house types to form terraced rows which add further richness to the scheme.

The consistency of house types within Phase 1 and Phase 2 will enable these developments to eventually read as a single development however there is sufficient subtle variation within the house design to avoid a monotonous building appearance in combination with Phase 1. The house designs are considered to be acceptable in architectural terms and scale and design of the proposals does not conflict with the character and appearance of the surrounding area.

Materials

The drawings and Design and Access Statement for the application sets out that the proposed external materials are as follows;

Walls:

- Dry dash smooth external render colour to be agreed
- Artificial Stone base course, buff colour
- Vertical timber lining boards

Windows:

- Timber

Roof:

- Concrete roof tiles colour grey
- Treated redwood fascia and bargeboards, black or dark brown colour
- UPVC rainwater goods, black colour

Porch

- Vertical timber lining boards (colour black or dark brown)

The proposed material finishes match those which have been used on Phase 1. Due to the consistency used within the building design, this approach is sensible to provide unity. The render and colour of the timber wall finishes remain to be agreed, the plans show the render as a buff tone and timber as brown. In principle these colourings are not objectionable, however similar to Phase 1 the use of two render colours would be beneficial to provide some variation within the streetscape. Ultimately the precise details of these finishes can be agreed via a suitably worded planning condition.

The road surfaces and parking areas are a combination of black top and block pavers. Visually, the use of this combination of materials is acceptable, provided the colours of the block pavers are suitable. The precise details of these material finishes can be agreed as a condition of this consent.

In response to Policy PMD2, it is considered that the proposals represent an acceptable form and scale of development. The design of this residential scheme does not conflict with the character and appearance of the surrounding townscape and is in keeping with adopted policy and guidance in relation to placemaking and design.

Landscape

The site occupies a sensitive location within the landscape on rising ground which is located within the Eildon and Leaderfoot NSA. Policy EP4 seeks to ensure that development within NSA's maintains or enhances the qualities of the NSA. Policy PMD2, criteria (f) seeks to ensure that developments incorporates appropriate landscaping works which integrate with its surroundings and in particular the Site Requirements seek to ensure that appropriate landscape buffers are provided to create a strong settlement boundary.

Through the LDP process, the allocation of this site has established the principle of the residential expansion of the settlement into the NSA. The layout of the proposal follows the design rational which was established within the NSA under the approvals for Phase 1. Owing to the site occupying rising land, this development will have a more significant visual impact within the wider landscape than Phase 1. Through the course of the application it has been established that to enable the appropriate integration of the development, that the northern and southern parts of the development have to be cut into the site. Following meetings with the applicants we understand that the cost of transporting the excess earth from the site is prohibitive for this affordable housing development, additionally the transportation of the earth off this site would pose amenity issues for neighbouring residents. The excess earth is therefore to be spread within the central part of the site, this is shown on Drawing No; 120981/1200 Rev C (ref; Earthworks Cut and Fill). These works result in a rise in the ground levels from north and southern ends towards the middle of the site.

Up-filling a site which already occupies rising ground is not an approach which would often be encouraged. In this case, the section drawings confirm that the rise towards the middle of the site is gradual and importantly the development still ties in with the wider topography by descending in a west to east direction. The areas of cut enable a seamless tie in with the adjoining streetscapes. The relocation of the proposed housing which will occupy the up-filled area is far enough away from Phase 1 so that these buildings will not adversely dominate views from the east. When viewing from Bowden Road, there will be a steady rise in ridge heights. Importantly, the existing planting to the north and rising ground towards the Eildon Hills will remain to contain the development so these proposals will not appear overly stark on the skyline. Finally, it is important to note that once the remainder of the allocated site is developed the appearance of this development will be diluted further within the wider landscape.

By way of site landscaping, the inclusion of further planting to the north of the site will enhance the landscaped edge of the development – this is a specific requirement of the Newtown St Boswells Development Framework. A planning condition will ensure that the existing planting is protected during development works as noted on the site plan.

The hedge planting around the western and southern boundary of the site is judged to provide suitable enclosure for the development of this initial part of the allocated site. The embankment which has been formed along the eastern boundary of the site will be required to be planted with suitable species so that this ground offers some

structure planting and screening between the two phases. Also the planting in between the parking spaces along the top of the embankment can enrich this part of the site. There is now capacity to remove some parking spaces from this central area which will positively provide the potential to secure additional landscaping within this part of the site.

As noted previously, the inclusion of boundary walls in locations where the rear areas bound the street would improve the streetscape. A barrier is required along the top of the embankment; use of a simple timber post barrier as opposed to a short boarded fence would be more visually appealing and allow for hedge planting behind to soften this edge of the development. Otherwise the use of low fences to public areas and taller fences around rear gardens are suitable.

The development will be required to have street lighting. No details of these proposals are provided but given the site location within the NSA, it would be incumbent on this development to ensure that lighting proposals are sensitive to ensure that they do not have an adverse landscape impact. It is recommended that a scheme of lighting details can be agreed by way of a planning condition.

The amended layout is judged to integrate with the overriding sloping nature of the wider landform. The layout avoids the need for any dominating retaining walls and the siting of the proposals is not judged to detract from the landscape value or qualities of the Eildon and Leaderfoot NSA. A soft planting plan has been presented however given that there is now the potential to provide additional planting along the top of the embankment it is recommended that the landscape treatment of the site is revised and agreed by way of a planning condition. This should include the need for suitable maintenance of these public landscape areas and some revised boundary details. Subject to the agreement of precise landscape details it is recommended that the development will enhance the landscape contribution of the wider Sergeants Park development and integrate with its wider landscape surroundings. The proposals are judged to comply with criterion (f) of Policy PMD2 and EP4.

Access and Parking

The site successfully utilises the two access points from the adjoining land to provide the development with its means of access. The layout provides four future access points to the adjoining allocated land which will assist with its future development. Some of these roads should however extend to the end of the site to avoid any ambiguity with the provision of access into any future development.

As mentioned previously, because this site does extend into the larger allocation ANEWT005, it was the intension that the Newtown St Boswells expansion would necessitate improvement to the A68. Transport Scotland has however confirmed that the trunk road will have the capacity to safely access the additional vehicle movements associated with this development.

It is observed that Sprouston Road is often used for on street parking which makes negotiating this route more difficult. The Councils Roads Planning Service (RPS) has not raised any concerns that the existing road network in Newtown St Boswells will fail to cater for this development. As a result of the volume of parked cars on this road it can restrict movements, particularly for larger vehicles which will be an issue during the construction phase and was part of the reason why the developer has sought to minimise the volume of soil which would need to be transported from the site. Provided that construction vehicle movements are managed sensibly, it is not

considered that there movements should adversely impact on road safety. This mitigation can be controlled within a Construction Method Statement.

The development poses a range of parking provision through a combination of in-curtilage, on street parking, parking courts and layby spaces. The amended site layout illustrated on Drawing No L (01) 02 Rev G required the repositioning of parking within the central part of the site. From a roads planning perspective there are no objections to this. The Councils RPS has advised that there is now a surplus of non-allocated parking of approximately 10 spaces however Plots 37 – 42 currently lack any visitor spaces. There would be merit in reducing parking provision within development, primarily from the central area which is well served by parking spaces to enable an improved landscaping scheme along this edge of the site and some of these spaces can be redistributed to provide layby visitor spaces to the south of the SUDS basin to serve Plots 37 – 42. Additionally dedicated disabled bays are recommended to be provided from the outset. The width of in-curtilage spaces and need for a small hardstanding around bays are also required. Ultimately, these changes are of a minor nature and the site has the capacity to satisfy these requirements. If Members are minded to approve this application it is recommended that a suspensive planning condition can be used to agree a revised parking scheme.

The site access has not been found to raise any road safety objection from the Councils Road Planning Officers and the parking provision complies with Council standards for a residential development in this location. The proposal is judged to comply with access criteria listed in Policy PMD2 and parking requirements provided under Policy IS7, provided suspensive conditions are attached to address parking provision, the extension of access roads to the edge of the development site and mitigation of construction vehicle movements.

Protection of Access Routes

Policy IS5 seeks to protect existing access routes, however a Core Path/Right of Way which runs along the field boundary is proposed to be removed.

The site layout does not enable this route to remain within the development site in its existing form; however the proposal does seek to divert this route through the site to enable its continued use. On leaving the site, users would be diverted through an agricultural field before re-joining the original route. A short link (off-site) back to the existing route would facilitate this short diversion. Alternatively there would be scope to alter the rear of Plot 33 to provide this link so the route re-emerges alongside the field boundary hedge.

The Councils Access Ranger has sought if the diversion could be contoured around the SUDS basin to minimise the use of steps. Due to the change in gradient at this part of the site contouring the path around the SUDS basin would be very onerous and likely require an engineering solution which would erode the soft landscaping at this part of the site. Whilst it is accepted that there is a long length of steps required, in the wider context of the development this is the most practical solution to divert the identified path. During the phasing of the development provision will need to be made to ensure that the existing route is not permanently closed.

In accordance with the criteria of Policy IS5, it is recommended that a planning condition can be used to ensure that Core Path 209/ Right of Way BE180 remain suitably open and usable both during and after construction works and that a short link is provided behind Plots 33 and 34 to ensure a suitable diversion is formed.

Impacts on Residential and Neighbouring Amenity

Impacts on neighbouring housing

The original layout illustrated on Drawing No; L(01)02 positioned Plots 49 - 56 at the top the steep embankment which runs along the eastern side of the site. This resulted in these units causing a loss of light and overlooking of Plots 8 – 15 of Sergeants Park Phase 1. These impacts resulted in the proposal failing to satisfy the Councils standards on residential amenity which are contained within the SPG on Privacy and Sunlight.

These impacts triggered the amendments to the layout of the central portion of the proposed development (Drawing No; L(01)10). The proposed units have been pulled back from the embankment. The revised siting of the units within the central area of the site has resolved the detrimental residential amenity impacts. Elsewhere within the site the positioning of the remaining housing, most notably Plots 1, 42, 43 and 63 which are the nearest to neighbouring housing are arranged so that they do not cause any overlooking from principle rooms. In terms of impact on light and sunlight Plot 42 will be positioned behind No 2 and 4 Stewart Place however the rear of these dwellings are already enclosed by boundary hedging which will shade these dwellings. The inclusion of Plot 63 within the north eastern corner of the site following the revised layout has the potential to cast some shadow across the rear of Plots 19 – 21 (Phase 1) in the evening. These impacts are not judged to be significant to the detriment of residential amenity and are commensurate with other relationships in Phase 1.

Construction works associated with the development of a large residential development such as this will likely cause some local disruption. Because the site bounds existing properties it is important to ensure that construction activities are appropriately controlled to ensure the operations do not detract from the residential amenity of the neighbouring properties. A Construction Method Statement (CMS) can ensure that the site is being developed in a controlled and suitable manner.

In summary, the revised siting of the proposed development now complies with the Councils guidance on privacy and sunlight. Provided that a CMS is secured via a planning condition of any consent it is recommended that the proposed development satisfies the requirements of Policy HD3 of the LDP and does not adversely impact on the amenity of neighbouring housing.

Relationships within the site

Within the site itself, the positioning of the dwellings have been well thought out to avoid causing residential amenity conflicts. The proposed layout is considered to comply with the guidance set out in our SPG on Privacy and Sunlight.

Phasing

A phasing plan has been provided, see Drawing No L(01)11. The proposed construction of the two access roads within the first two phases and completion of the development from the north towards the south is sensible. The detention basin is shown as being provided during Phase 1. While the site plan has not been updated the changes to the layout would not affect the proposed phasing of the development.

Ecology

Policies EP1 to EP3 seek to protect sites and species afforded international and national protection from adverse forms of development and also aim to safeguard and enhance local biodiversity.

The application site is not located within the international or nationally protected ecological sites. The Glenburnie and Sprouston Burns are located immediately to the north of the site and these watercourses are tributaries of the River Tweed which is protected as a Special Area of Conservation (SAC). One of the surface water outfall points is proposed to connect to the Glenburnie Burn. The development will therefore impact to a degree on the River Tweed SAC which is protected by LDP Policy EP1 from any harmful form of development which would have an adverse effect on the natural resource.

Pollution arising from construction activities is most likely to be the stage where adverse impacts on the SAC and other habitats occur. It is proposed that the construction works will follow best practice guidance for pollution prevention for works near water courses. The agreement of a precise pollution prevention strategy can be agreed via a Construction Environmental Management Plan which shall measures to protect watercourses and boundary habitats.

SNH have appraised the drainage strategy and confirm that they are satisfied that the surface water discharge will not compromise the qualifying status of the SAC.

No protected species have been recorded within the site; however activity of international and national protected species were recorded outside of the site. There is also potential for the site to support breeding birds which could disrupt ground works or works close to existing vegetation. To ensure suitable measures are in place to safeguard protected species as well as other species which the site may support which are identified within the Preliminary Ecological Appraisal, a species protected plan should be agreed which also avoids works commencing during the breeding bird season.

Specifically, Policy EP3 aims to enhance the biodiversity value of development sites. The development includes proposals for planting and a SUDS feature. The agreement of a Landscape and Habitat Management Plan can ensure that proposal has a positive impact on local biodiversity through the use of suitable of native tree and hedge species and the suitable design of the SUDS feature to maximise its wildlife potential.

While it has been identified that the development will impact to varying degrees on the River Tweed SAC, a range of protected species and habitats it is recommended that through the use of appropriately worded planning conditions, suitable mitigation measures can be imposed to ensure that the development is not adversely affect the ecological status of the site.

Heat Demand

Policy PMD2 criteria (a) suggests that developments should maximise efficient energy use and include the use of resources such as District Heating Schemes. SEPA originally objected to the proposal on grounds that insufficient information had been submitted to demonstrate how the heat demand for the development will be met. Subsequently an Energy Statement has been submitted. The potential for the development to use a District Heating Statement has been investigated through the

use of the government's heat mapping online tool. This assessment confirmed that the density of the development is not high enough and its location is too remote from significant energy sources to make the use of a District Heating system to be feasible for this development. The development is however seeking to utilise the use of other technologies to maximise the use of energy and resources via:

- High standard of insulation
- Siting of solar PV panels on each dwelling
- High efficient gas boilers
- Low energy lighting

Against the requirements of criteria (a) of Policy PMD2, it is considered that the proposed development is taking a proportionate level of measures to maximise the use of energy to an extent which satisfies this policy requirement. The elevation drawings of the dwellings do not show solar PV panels however the agent has confirmed it is their intention to use solar panels and agreement of their siting on each unit can be agreed by way of a planning condition.

Flooding

The application site is not located within a flood plain nor is at risk of flooding from fluvial flooding. There is however a history of surface water runoff from the hillside, causing serious flooding issues downstream. It is understood that silt contained in runoff from this source resulted in a storm drain installed as part of Sergeants Park Phase 1 being blocked and leading to local flooding issues. Policy IS8, seeks to ensure that proposed developments address flood risk from any source, including surface water. Therefore it is incumbent on this latest development to ensure that it can manage surface water from the hillside and its surface water system will not result in or cause flooding elsewhere.

Additional surface water information has now been provided and the Council's Flood and Coastal Management Officer is satisfied that a suitably sized drain is located along the western boundary of the site and two 300mm bunds will provide sufficient defences against water flowing towards the site from the hillside. It has been qualified that the detention basin has sufficient capacity including an overflow mechanism which will mitigate additional flood risk in extreme events. The levels on the Surface Water Flow Path (Drawing 120981/2022) suitably illustrates that the water is being routed away from buildings, however the drawing does show some of the units occupying a lower FFL than the level of the road. This would appear that this is only a discrepancy and can be corrected as part of an updated levels plan.

In response to Policy IS8 the additional information has demonstrated that the proposed development includes suitable defences to mitigate the site from being flooded and its surface water proposals should not lead to any flooding occurring elsewhere. Planning conditions to ensure that the agreed surface water mitigation measures are installed before occupation of the first dwellinghouse and confirmation of the FFL's are recommended.

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. Confirmation that the development is being served by an appropriate supply of water before the dwelling houses are occupied can be agreed by a planning condition.

Foul water is to be disposed of Scottish Waters existing public sewer network and ultimately Scottish Water would adopt the drainage system. Scottish Water have not responded to the consultation request for this application, however the allocation of the site in the LDP for residential development confirms that the principle of the development is acceptable and at the stage of allocation there were no insurmountable site service issues. The Community Council have expressed that there is local concerns about sewage capacity and to ensure that the development is suitably serviced, it is recommended that confirmation from Scottish Water is required to ensure that their drainage system has the capacity to accept foul drainage from the development. This can be achieved via a suitably worded planning condition.

Turning to surface water, this is to be disposed of by way of sustainable urban drainage to an outfall on the Sprouston Burn (to the north of the site), with the remainder of the site handled by an outfall to Scottish Waters existing surface water sewer on Sergeants Park (after treatment and detention in a new SUDS basin). The Councils Flood and Coastal Management Engineers are satisfied that the proposed surface water treatments comply with SUDS principles and importantly do not cause any flood risk. However, because the means of disposal is reliant on connection into Scottish Waters system, it is imperative that they are satisfied that their infrastructure has the capacity to suitable service this latest development. Given the absence of any confirmation from Scottish Water at this stage, it is considered appropriate to attach a planning condition which confirms that the drainage system is properly connected to the public drainage network

Waste

Policy PMD2 requires that developments provide space for waste storage and that waste collection vehicles can adequately access the site. No response from the waste team has been provided but the Roads Planning Service is satisfied that the site access and layout does not raise any refuse collection issues.

There does however appear to be minor anomalies with Plots 39, 38, 37, 36 which do not show the provision of bin stands within the rear gardens – they are shown within the street. Each of these properties is served by an accessible rear garden so it would appear possible for these bin stores to be re-located. Plot 41 has no bin stance with two stances being provided at Plot 40. It is recommended that these matters can be readily addressed by a simple planning condition so seek the appropriate repositioning of these bin stands.

Development Contributions

Policy IS2 of the LDP is relevant and is supported by SBC's approved SPG on development contributions. A residential development in this location would normally trigger financial development contributions towards both Newtown St Boswells Primary School and Earlston High School. However, as the proposed dwellings represent an affordable housing scheme and it is the intention to control this occupation via a suitably worded planning condition, this development is exempt from developer contributions towards Education.

The number of dwelling units proposed requires a contribution towards Play Space. A financial contribution towards off site place facilities is preferred at a rate of £500 per dwelling unit. The developer has agreed to meet this requirement which can be secured through a legal agreement should Members resolve to support this application. Subject to the conclusion of a legal agreement for space contributions, the proposed development will comply with the requirements of Policy IS2.

CONCLUSION

It is considered that the proposals represent the suitable development of land which is allocated for residential purposes in a manner which addresses relevant site requirements for the allocations listed in the LDP and does not prevent the remaining allocated land from being developed. The siting, scale and design of the proposed residential development integrates appropriately with the character of the surrounding area and does not adversely affect the landscape value of the Eildon and Leaderfoot National Scenic Area. The proposals are therefore judged to be consistent with local development plan policies and supporting planning guidance covering, but not limited to, placemaking and design, accessibility, 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 the application is approved, subject to conclusion of the required legal agreement covering the implementation and maintenance of structural planting to the north of the site and developer contributions towards play space and subject to the undernoted conditions.

1. The proposed residential units shall meet the definition of "affordable housing" as set out in the adopted Scottish Borders Consolidated Local Plan 2016 and accompanying supplementary planning guidance and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first have been submitted to and approved in writing by the Planning Authority.
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would attract contributions to infrastructure and services, including local schools.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications including Drainage Strategies hereby approved by the Planning Authority, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. No development shall commence until precise details (including samples where requested by the Planning Authority) of all external wall and roof finishes 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 ensure the material finishes respect the character and appearance of the surrounding area.

4. No development shall commence until a protective barrier in accordance with BS5837:2012 has been erected in the location identified on Drawing No L (01)02 Rev G. Once erected all development works shall comply with BS5837:2012. The protective barrier shall only be removed when the development has been completed and thereafter the trees shall be retained unless otherwise agreed in writing with the Planning Authority.

Reason: To protect and retain trees which enhance the visual amenity of the surrounding area.

5. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include
 - i. Precise details of all soft landscaping works which includes the location of new trees, shrubs, hedges and grassed areas and the schedule of plants to comprise species, plant sizes and proposed numbers/density
 - ii. Precise details of all proposed means of enclosure, which include the introduction of boundary walls where the boundaries of Plots 26, 52, 53, 55 and 49/50 face on to the road
 - iii. Specification of the barrier to be installed behind the parking area along the top of the embankment
 - iv. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

6. Notwithstanding the details illustrated on Drawing No L(01)02 Rev G, no development shall commence until the following access and parking 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) Revised parking proposals which include a reduction in non-allocated parking spaces, inclusion of visitor spaces opposite Plots 39-42 and provision of dedicated disable parking spaces.
 - b) A plan which shows that the access points which will provide links into the adjoining sites will be constructed to the boundary of the application site.

Reason: Further details are required to ensure that adequate information is provided to ensure that suitable parking provision and access is provided within the development site.

7. Prior to occupation of the first dwellinghouse a scheme of street lighting details shall be submitted to and agreed in writing by the Planning Authority and thereafter the lighting shall be installed as per the approved details.

Reason: In the interests of road and pedestrian safety and to safeguard residential amenities and limit light pollution.

8. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. As a minimum this should outline how the site will comply with the British Standard 5228:2009 Code of Practice for noise and vibration control on construction and open sites and should include the hours of construction, vehicle movements, protection and monitoring of private water supplies, noise mitigation, equipment

maintenance, dust mitigation and management and a complaints procedure/communication of noisy works to receptors. The development then to be carried out in accordance with the approved Construction Method Statement.
Reason: To safeguard residential amenities.

9. No development shall commence until a scheme of details for the temporary diversion of Core Path 209 during development works (to include provision of a short link path from the re-aligned route illustrated on Drawing No Drawing No L (01)02 Rev G to the existing path adjacent to the hedge to the west of the site) has first been submitted to and approved in writing by the planning authority. The development shall be completed wholly in accordance with the approved details.

Reason: Further details are required to ensure the right of way remains open and free from obstruction.

10. No development shall commence until precise details of the siting of solar PV panels has been submitted to and agreeing in writing with the Planning Authority and thereafter the development shall be completed in accordance with the approved details.

Reason: To ensure a sustainable form of development which maximises the use of renewable energy resources.

11. Notwithstanding the details shown on Drawing No 120981/2022, no development shall take place until a revised site plan showing all existing and proposed ground levels, as well as finished floor levels of the dwellings hereby approved, has been submitted to and approved in writing by the planning authority. Thereafter the development shall be completed in accordance with the approved plan. The revised plan should ensure that the finished floor levels of all residential properties are satisfactorily above the adjoining finished ground levels.

Reason: To mitigate surface water flood risk.

12. No development shall commence until a detailed report confirming that the public mains water supply is available and can be provided for the development has first been submitted to and approved in writing by the Planning Authority. Prior to the occupation of the first dwellinghouse(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.

13. No development shall commence until written confirmation has been provided from Scottish Water that the public drainage system can accept the loading of foul and surface water drainage from the development or that works will be undertaken to ensure that the existing drainage infrastructure will have the capacity to serve this development before the first dwellinghouse is occupied. Thereafter prior to the occupation of the first dwellinghouse(s), written confirmation shall be proved for the approval of the Planning Authority that the development has been connected to the public drainage network.

Reason: To ensure that site drainage is adequately handled without impinging on existing users.

14. No development shall commence until a Construction Environmental Management Plan, including measures to protect watercourses and boundary habitats in accordance with the Preliminary Ecological Appraisal (Tweed Ecology, November 2017), shall be submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.
Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.
15. No development shall commence until a Species Protection Plan (SPP) including measures for bats, badger, red squirrel and breeding birds in accordance with the Preliminary Ecological Appraisal (Tweed Ecology, November 2017) shall be submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme. No development shall commence during the breeding bird season (March to August), unless in accordance with the SPP. The SPP shall include provision for mitigation including supplementary surveys for badger and birds and no development areas if breeding birds are found.
Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.
16. No development shall commence until a Landscape and Habitat Management Plan, including measures to enhance boundary hedgerow habitats, create new native broad-leaved scrub and wildflower habitat and an enhanced SUDs pond in accordance with the Preliminary Ecological Appraisal (Tweed Ecology, November 2017), shall be submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.
Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.
17. Notwithstanding the details illustrated on Drawing No L(01)02 Rev G, no development shall commence until a revised site plan which relocates the refuse/recycling bin stances serving Plots 36 - 39 are relocated within the rear curtilage of these plots and provision is made for a refuse/recycling bin stance for Plot 41 is provided. Thereafter no development shall take place except in strict accordance with the approved drawing.
Reason: To satisfy waste collection requirements and ensure that bin stances are sited in appropriate locations which maintain the character and appearance of the development.

DRAWING NUMBERS

Reference	Plan Type	Date Received
L(1)01	Location Plan	19.04.2018
L(01)11	Proposed Phasing and Access During Construction	19.04.2018
L(01)02 Rev G	Site Plan	29.10.2018
L(2)A-01 Rev B	House Type A	29.10.2018
L(2)B-01 Rev B	House Type B	29.10.2018
L(2)C-01 Rev B	House Type C	29.10.2018
L(-3)001 Rev C	Site Section 1	16.11.2018
L(-3)002 Rev 2	Site Section 2	16.11.2018
120981/1200 Rev C	Earth Works Cut and Fill	16.11.2018
120981/2000 Rev C	Drainage Layout 1	20.11.2018
120981/2001 Rev C	Drainage Layout 2	20.11.2018
120981/2030	Proposed Field Drain Plan	20.11.2018
120981/2022	Surface Water Flow Path	20.11.2018

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

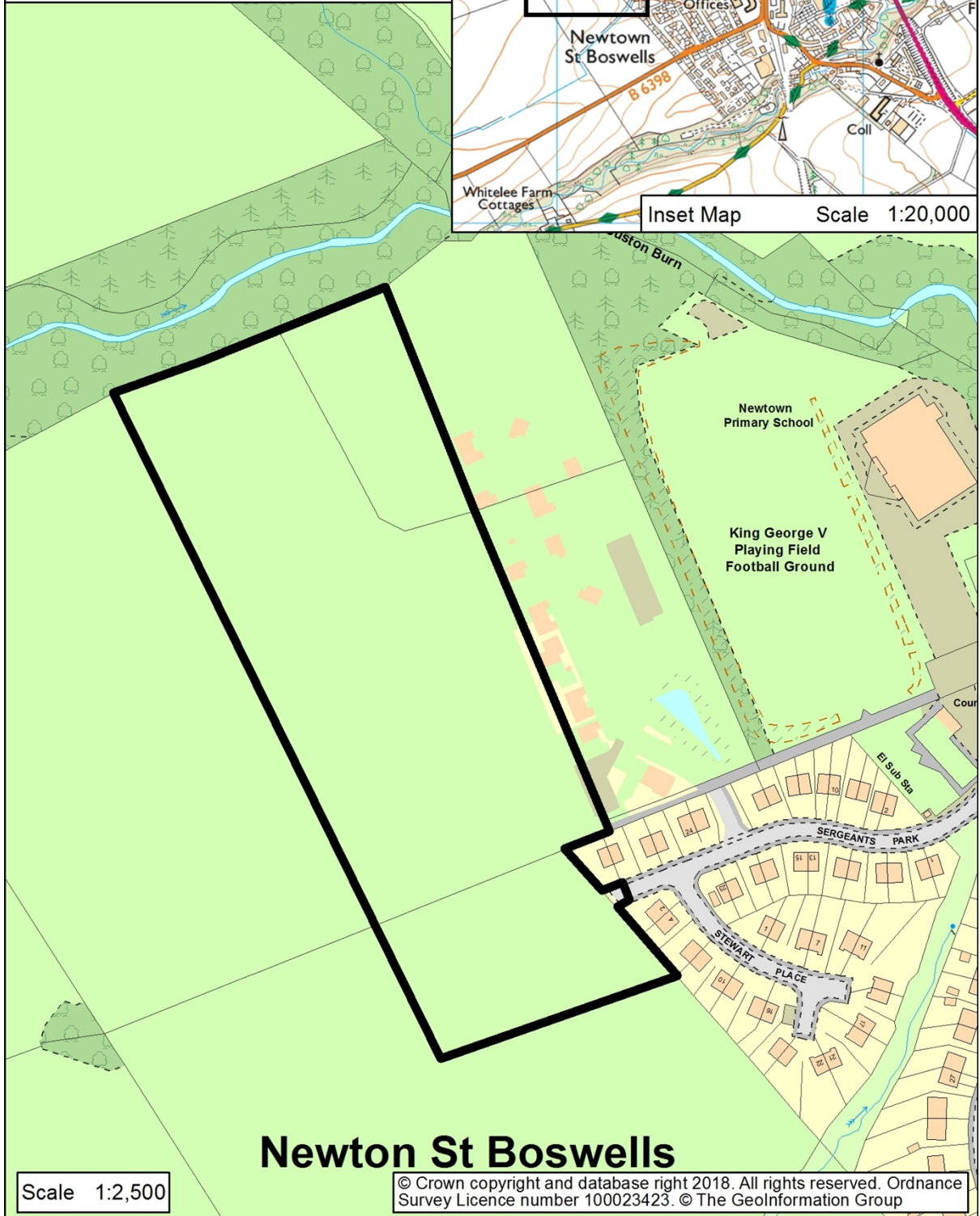
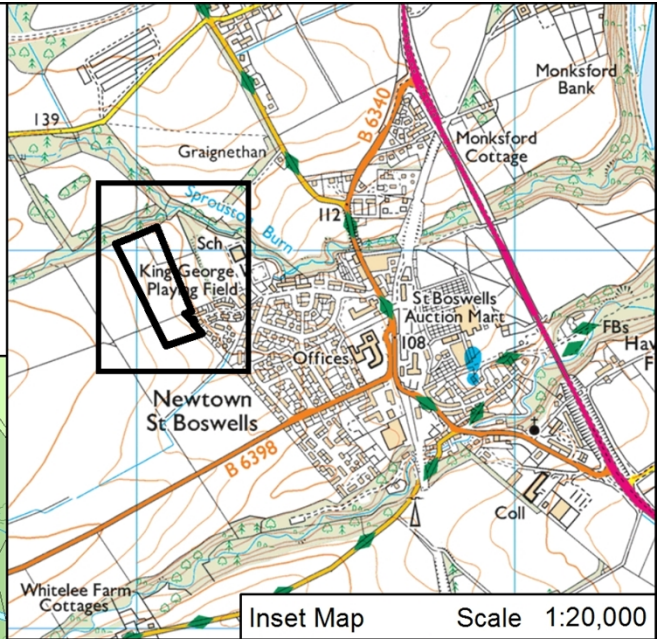
Author(s)

Name	Designation
Scott Shearer	Peripatetic Planning Officer



18/00486/FUL

Land North Of 24
 Sergeants Park
 Newtown St Boswells



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

10 DECEMBER 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/00792/FUL
OFFICER:	Julie Hayward
WARD:	Leaderdale And Melrose
PROPOSAL:	Erection of 38 dwellinghouses, formation of access, landscaping and associated infrastructure
SITE:	Land North of 48 Thirlestane Drive Lauder
APPLICANT:	Persimmon Homes East Scotland

SITE DESCRIPTION

The site is an overgrown paddock/field located between two areas of housing within the development boundary of Lauder. The site slopes gently down to the road to the south. There is an area of open space through which the Lauder Burn flows, to the south west. Factors Park is to the north, Wyndhead Way is to the south east, Millburn Park is to the west and Thirlestane Drive is to the south. A footpath runs along the western boundary between Thirlestane Drive and Factors Park that also links into Millburn Park.

PROPOSED DEVELOPMENT

The proposal is to erect 38 dwellinghouses within the site. Access would be from Thirlestane Drive.

The application as submitted was for a cul-de-sac with a mix of detached, terraced and semi-detached houses all two storey and with 9 different house types. The layout and design of the houses raised a number of concerns and following negotiations, amended drawings have now been received.

The number of houses remains 38 but the layout has been redesigned to provide a degree of connectivity with a looped access road. Ten amended house types are proposed, all two storeys, terraced, semi-detached and detached. Of the units, 29 would be for private sale and 9 would be affordable units. The houses would have slate grey tiled roofs, rendered walls and UPVC windows.

Access would be from Thirlestane Drive to the south and parking would be a mix of in-curtilage, communal courtyard and off-street visitor parking. An area of open space is proposed for the southern section of the site adjacent to the road and in the centre of the site. Landscape buffers are proposed for the north east and south east boundaries and a detailed landscape plan has been submitted. There would be a footpath link from the site to the existing footpath on the western boundary through to Factor's Park.

PLANNING HISTORY

None

REPRESENTATION SUMMARY

Four representations from separate households were received in response to the application as submitted, which can be viewed in full on Public Access. The key concerns raised are:

- The footpath accesses Factors Park on a bend between two private driveways, one serving 4 properties and also the parking area and drives opposite. There is also no footpath and the road is narrow and poorly lit at night. Exiting from the driveway serving 4 properties is already difficult because of restricted visibility without having to take into account pedestrian access from the left hand side. There is no need for an extra footpath from the proposed site as there is already an existing pedestrian link less than 20 metres further along Factors Park, away from the corner and drives/parking areas;
- Density;
- Inadequate access;
- Increased traffic impacting on road safety;
- Insufficient parking;
- Noise nuisance;
- Overprovision as the proposal would increase the number of houses, inhabitants and vehicles impacting on health and safety due to overcrowding, increased congestion, parking and noise pollution;
- The housing development and landscaping buffer could cause overshadowing/loss of daylight entering living room and bedrooms;
- Screening between existing properties and the boundary fence of the proposed development should be the maximum possible to lessen the visual and noise impact. The Greenbelt Company would be employed to maintain this screening but no details of land ownership have been provided should issues arise in future;
- Drainage from the site into Wyndhead Way is a problem due to the height differential between the field and houses and the retaining wall, despite Persimmon installing drains. The drainage issues must be fully investigated to resolve this issue.

Amended drawings were received on 5th October 2018 and neighbours were re-notified. Seven representations were received raising the following issues:

- The proposal would increase the footfall of pedestrians by adding another path to the existing one and will greatly endanger lives using this route via Factors Park. The footpath to Factors Park leads straight on to a service lay-by in which six vehicles reverse on and traverse the lay-by on a daily basis. The path then exits straight on to the road which is narrow with no pavement for pedestrians and no street light on the road (within 45m one way and 37m the other way) making the road very dark at night with poor visibility. If the only footpath from the new development exited between plots 11 and 12, onto the existing footpath, this may encourage pedestrians to use Millburn Park, which has pavements and is not a through road;
- The shelter buffering which was assured by the Persimmon designer has been removed from the rear of An-talla and Tíree. This has been sacrificed for the new proposed path which is unacceptable;
- Density is too high resulting in problems associated with overcrowding and little scope to create an attractive site with more imaginative designs. The design is not sympathetic to the Conservation Area, which the site borders at the Factors Park end. The north eastern part of the site is elevated and

the impact of the development could be reduced with single storey or one-and-a-half storey houses;

- Screening needs to be more substantial;
- Will future residents have to pay the annual fee to the Greenbelt Group for maintenance of planting and the play area and will the development carry similar burdens, such as not being allowed to carry out businesses from the houses and who will ensure these are adhered to?
- The land was to be held for community use after Allanbank was selected as the school site. Community groups and charity organisations attempted to make use of the site for community projects but each application or idea was turned down. This was a deliberate act by the Council to ensure that this hideous housing scheme goes ahead. This is intentional manipulation and the community has been denied a number of useful, beneficial projects that could enhance life in the community for financial gain and political motives;
- Services in the area cannot cope with the additional burden of 38 properties. Issues surrounding the development of Lauderdale Drive were overlooked and not properly disclosed as part of the community engagement relating to the potential impact on Lauder Burn as well as the impact on sanitation services;
- Problems on Thirlestane Drive with excessive speeds. The estate should be a 20 mph zone and a no HGV zone. Logging trucks, lorries and huge tractors come through the estate as well as commercial vehicles that are too large to properly see let alone safely stop. It is destructive to the road surfaces, the nominal "speed curbing" speed bumps do nothing to slow down traffic; it is an accident waiting to happen. Adding 38 more houses in an area not remotely large enough to cope with them will do nothing but make the situation worse with increase traffic of residents and guests;
- The Lauder surgery of Stow and Lauder Health Clinic is already at capacity and this development would be an additional burden on the service;
- The school is at capacity and this development will add to existing problems of class sizes, access to facilities and pupil-teacher ratios;
- There is sufficient social housing in Lauder, with associated problems.

APPLICANTS' SUPPORTING INFORMATION

- Design Statement
- Extended Phase 1 Habitat Survey May 2018
- SUDS and Drainage Statement
- Transport Statement

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objection in principle to housing on this site as the site is centrally located with good vehicular and access. Raises concerns with the proposed layout submitted. The layout is simply one long cul-de-sac with no internal connectivity. Furthermore, no effort has been made to create any form of street on the section of road running generally north to south, with the majority of properties turned away from this section of road. The current layout therefore does not accord with the principle of Designing Streets and the Council's Placemaking and Design guidance. Fully I am fully supportive of the suggestions and sketch layout for a loop road as suggested by the Council's Landscape Architect.

In its current form, RPS objects to the proposed development.

Re-consultation: The submitted layout is a significant improvement on that previously submitted. RPS is disappointed to see the loss of the direct pedestrian link through to Factors Park, however the link provided does offer pedestrians the option of going via Millburn Park or Factors Park.

No objections to this proposal provided the conditions set out in their re-consultation response are included in any consent issued.

Director of Education and Lifelong Learning: The proposed development is within the catchment area for Lauder Primary School and Earlston High School. A contribution of £294,652 is sought for the Primary School and £135,356 is sought for the High School, making a total contribution of £430,008.

Housing Section: Eildon Housing Association advises that they have met Persimmon Homes to explore working together to deliver 25% on-site affordable units. Whilst this site is not in current SHIP 2018/23, it is anticipated that it is likely to be identified as a prioritised affordable housing site in the new SHIP 2019/24 which is being developed with a view towards submission to Scottish Ministers in autumn 2018.

Archaeology Officer: The site has archaeological potential. While there is nothing known from the site itself, the surrounding area is rich in archaeological remains and discovery. There have been a large number of artefacts, mostly prehistoric and medieval in date, found in the vicinity of Lauder over the last two centuries. Very few of the discoveries have accurate find spot locations, although several curiously came from the 'Crookburn' near the 'Crook Well', though no names like these exist on maps. It could be that this was an 18th/19th century local name for the Lauder Burn which can be called 'crooked' and the OS 1st Edition shows an un-named well to the north of the burn and west of the development area. Regardless, there is a moderate potential on the edge of a medieval village for discovering objects, features or deposits pertaining to this phase of settlement. One possible feature that may exist in the northern part of the site is the remains of Lauder's town wall. The wall was said to have followed the course of Castle Wynd in the north-east and Factor's Park/Crofts Road in the south and west of the High Street. It is unknown if the wall was to the inside or outside of these roads, or indeed if the roads follow the former course. There is also a high possibility for encountering remnants of medieval rig and furrow cultivation.

The Local Development Plan is in accordance with the analysis above in suggesting the need for archaeological investigation. It is recommended that an archaeological evaluation is required in advance of development as a first phase in what may be a multi-phase approach to mitigation depending on the results. It is noted from aerial photography that there are likely to be services in the site, and so evaluation should focus on 10% of the total red line boundary area outside the proscribed service corridors. A condition is recommended.

Forward Planning: The site is allocated within the Scottish Borders Local Development Plan (LDP) 2016 for housing with an indicative capacity of 30 units. The Forward Planning Team has no comments to make in respect of the proposals but would highlight the site requirements stated within the LDP which are as follows:

- Main vehicular access to be achieved via Thirlestane Drive with a potential vehicular and pedestrian minor access link onto Factors Park. The extension of the footway would need to be carried out with pedestrian linkages through to Millburn Park;
- Provision of amenity access within the development for pedestrians and cyclists will be required. Links to the Core Paths to be created and amenity maintained and enhanced;
- Landscape enhancement particularly along the western, north-eastern and south-eastern boundaries will be required and their long term maintenance to be addressed;
- Mitigation measures are required to prevent any impact on the River Tweed Special Areas of Conservation (Lauder Burn);
- Further assessment on nature conservation interest along with archaeology will also be required and mitigation put in place.

Ecology Officer: The Extended Phase 1 Habitat Survey (Acorna Ecology, May 2018) is noted. The site is located immediately adjacent to several other housing estates, on improved grassland and bordered by several roads. There are no trees on site; habitat other than improved grassland includes ephemeral weed species, tall ruderal species such as thistles, amenity grassland, and some shrubs and young Sitka spruce trees, as well as public footpaths.

The Leader Water flows approximately 330m to the north of the site and the Lauder Burn 130m to the south. Both are tributaries of the River Tweed, designated as a Special Area of Conservation (SAC).

In relation to the SAC, care must be taken to follow SEPA's standing advice and good practice guidance for drainage (e.g. SUDS) in order to avoid pollution incidents.

Given that the site is surrounded by other housing, as well as public roads (which separate the site from the SAC sites), and that it is not in an area prone to surface water flooding, combined with SEPA's contentment with the proposal as not requiring their further attention, The Ecology Officer is content that no further assessment is required in relation to potential impacts on the SAC.

An assessment of the site for protected species was undertaken. No evidence that any protected species were present on site was observed. There were no other habitats on site with significance for biodiversity and no connectivity to adjacent habitats with biodiversity significance.

Landscape Architect: The site is a paddock/field located between two areas of housing. It was previously zoned as a site for a new primary school but when an alternative site was developed it was zoned for housing. The site slopes gently down to the south (and the road).

The site does appear as a logical addition to the pattern of development in the area however it is considered the current layout does not work that well in terms of both placemaking and designing streets principles; the terraced housing (both Housing Association and Private Developer) has a less than satisfactory relationship with the other detached/ semi-detached units and the open space at the entrance to the development is a wasted opportunity. A layout that develops a looped road layout should be achievable with only a small reduction in the number of units. The looped road layout has the benefit of all the housing facing inwards to a more attractive and

useable open space, not dissimilar to the open space in the original Wyndhead development to the south east.

There are quite a number of small areas within the common areas that have been proposed entirely as grass. Low ground cover planting (or partially ground cover, with ground cover along the base of fences, walls or buildings) would be more effective and require less maintenance than small areas of grass. Groundcover shrubs with grass to the edge of roadways and paths would work better and would help to avoid awkward grass cutting at bases of hedges/walls/buildings, as well as screening and softening plot boundary fences and walls.

The Officer has some concern about the hardness of some of shrubs proposed and would be less concerned if a long term maintenance and plant replacement strategy is a condition of any approval. The commitment to maintain the common areas and open space shall initially be the responsibility of the developer and a factoring agreement with a residents association should be a condition of consent to ensure that the future maintenance does not rest with the Planning Authority, who does not have the resources to take on the maintenance of additional open space and areas of planting.

Landscape Architect Re-consultation: No response.

Access Officer: There are no claimed Rights of Way/Core Paths on this area of land; however a customary/permissive path runs along the western edge of the site.

The following conditions should be applied in order to maintain and improve public access:

- The connection path to Factors Park should be made up and surfaced to an adoptable standard 2m wide along its entire length through the site;
- Both during and after construction, the customary/permissive path along the western boundary should remain open and unobstructed.

Statutory Consultees

Transport Scotland: No comments or objections.

Lauderdale Community Council: Object:

Number, density and layout of housing units: The Developer's proposal has too many houses. The Local Development Plan put the site capacity at 30; a 27% increase on this is clearly unacceptable. The scheme as proposed looks too dense and cluttered. The alternative layout suggested by SBC's Landscape Architect has slightly fewer houses and a less cluttered appearance. If the development were to be consented it should have a layout based on this but with fewer units.

Parking: While the Developer claims that guidelines on parking provision have been met, we believe that an unreasonably small number of spaces are available for visitors. In a rural area it is likely that most visitors will arrive in cars. Lack of spaces will result in visitors parking on approach roads with implications for safety and possible contention with other residents. This problem would be somewhat alleviated by a reduction in the number of houses. We have noticed that in some recent developments garages are too small to accommodate typical vehicles. As a result the garage is used for storage and vehicles parked elsewhere. The garages should be adequately sized so as not to reduce effective parking capacity.

Pedestrian safety: The proposed pedestrian access to the north would join Factor's Park where there is no footpath. This would not be safe. Pedestrian access should be to the west where there is an existing footpath.

Drainage: We understand that there are continuing drainage issues from a previous development and are concerned that SEPA have made no assessment but merely provided a link to their general guidance.

Plantings, hedges and paths: Firm and continuing arrangements should be put in place to ensure proper maintenance of these so that the responsibility does not end up with SBC, the Community Council or volunteers.

Lauderdale Community Council Re-consultation: Lauderdale Community Council had two main points of objection to the original proposal, namely lack of safe pedestrian access and number of houses:

The revised scheme provides better, although not ideal, pedestrian access and so we no longer object on that issue.

Although the developer has modified the layout along the lines suggested by SBC's Landscape Architect, they have not reduced the number of houses even to the 36 units proposed by that consultee, let alone to the 30 suggested, admittedly as an indicative number, in the Local Development Plan; 30 houses on the 1.2ha site, a density of 25/ha, would be in the middle of the 20-30 medium density range set out in SBC's Supplementary Guidance on Housing; 38, 32/ha would bring the site into the high density range.

Recent developments nearby and elsewhere around the town would be in the low or medium density categories. A high density development would be inappropriate in this semi-rural setting on the outskirts of the town and out of keeping with existing housing.

Lauderdale Community Council therefore still objects to the proposal with this number of houses, although we have no objection in principle to housing on the site.

Scottish Water: No response.

SEPA: No comments.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Policy 5: Housing Land

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD3: Land Use Allocations

HD1: Affordable Housing and Special Needs Housing

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP8: Archaeology
IS2: Developer Contributions
IS3: Developer Contributions Related to the Borders Railway
IS5: Protection of Access Routes
IS6: Road Adoption Standards
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Placemaking and Design 2010
Householder Development (Privacy and Sunlight) 2006
Biodiversity 2005
Affordable Housing 2015
Development Contributions 2011 (updated January 2018)

KEY PLANNING ISSUES:

- Whether the layout of the site, the design of the houses and landscaping are acceptable;
- Whether the proposed development impacts on residential amenity;
- Whether adequate access and parking can be achieved.

ASSESSMENT OF APPLICATION:

Planning Policy

The application site is allocated in the Local Development Plan for housing (ELA12B: Wyndhead II) with an indicative capacity of 30 units. Policy PMD3 states that development will be approved in principle for the land uses allocated on the Land use Proposals tables and maps. The proposed residential development on this site would therefore comply with basic principles of this policy.

Layout and Design

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

The site is situated within an area characterised by both modern and older houses and the density varies depending on the age of the development. The indicative site capacity contained within the local development plan is 30 units and so the development of 38 houses (as proposed) is slightly higher than this figure. However, this would not be a significant issue provided an acceptable scheme in terms of layout and design can be achieved.

The layout as originally submitted was for a cul-de-sac which lacked internal connectivity and did not take on board the guidance contained within national policy

Designing Streets or the Council's Supplementary Planning Guidance on Placemaking and Design, which seek internal connectivity and the formation of attractive streets. In addition, the car parking was a dominant element of the proposal and the proposed houses did not front onto the road, contributing to a layout lacking in any street frontage.

The amended layout is a significant improvement. The road now forms a loop within the site and the proposed houses now front onto the road creating more of a street. The area of open space at the front of the site remains, as this is required for the drainage basin, but an additional area of open space has been included in the centre of the site. There is a good mix of terraced, semi-detached and detached houses with varying building lines to lessen the uniformity. A house now faces the open space at the front of the site to improve views of the development from Thirlestane Drive. There are however, still large areas of communal car parking.

It is accepted that this is a difficult site to develop due to its shape and location within existing housing developments and the revised scheme is considered to be acceptable.

The original proposal was for two storey houses all of a similar design and materials. More variety in the house designs and materials and a range of one-and-a-half and two storey houses were requested.

It is disappointing that the revised house types are all two storey with rendered walls and tiled roofs. The windows now have a vertical emphasis and a condition would control the external materials. On balance, it is considered that the house designs are now considered acceptable.

The site requirements within the Local Development Plan require landscape enhancement along the western, north eastern and south eastern boundaries of the site and long term maintenance for the planting. There would be low single rail fencing between rear gardens and 1.8m high vertical timber fences to the rear boundaries of the gardens. Re-constituted stone walls (1.8m high) would be erected on prominent boundaries. A detailed planting scheme has been submitted together with a maintenance programme. This shows tree planting at the entrance and between car parking areas, which would help to reduce the dominant impact of the parking. The landscaping buffers along the north east and south east boundaries would include tree and shrub planting and hedgerows are proposed within the site.

The Council's Landscape Architect has been consulted on the revised drawings, though no response has been received at the time of writing the report. A condition would secure the implementation of the scheme, once approved.

The visual impact of the development locally is restricted to a short section of Thirlestane Drive, with wider views from outwith the settlement restricted by existing housing and trees. The proposed landscaping, once established, will help soften the impact of the development. It is considered that the proposal would not have a significant adverse impact on the visual amenities of the area.

Impact on Residential Amenity

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of existing and proposed dwellings.

The site is situated within a residential area and is bounded on three sides by existing properties. Landscape buffers, as required by the Local Development Plan, are proposed along the north east and south east boundaries. These will provide a degree of screening, as does the existing fences and hedges to the rear of the existing houses. The layout complies with the guidance within the Supplementary Planning Guidance in terms of light and privacy.

Ecology

Policies EP1, EP2 and EP3 seek to protect international and national nature conservation sites, protected species and habitat from development proposals that will have unacceptable adverse impacts on designated sites and/or protected species. The Local Development Plan also requires mitigation measures to prevent any impact on the River Tweed Special Area of Conservation. Further assessment on nature interest is also required to ensure compliance with Policy.

The Leader Water flows approximately 330m to the north of the site and the Lauder Burn 130m to the south. Both are tributaries of the River Tweed, designated as a Special Area of Conservation (SAC). An Extended Phase 1 Habitat Survey was submitted with the application.

In relation to the SAC, care must be taken to follow SEPA's standing advice and good practice guidance for drainage (e.g. SUDS) in order to avoid pollution incidents.

The Council's Ecology Officer advises that given that the site is surrounded by other housing, as well as public roads (which separate the site from the SAC sites), and that it is not in an area prone to surface water flooding, no further assessment is required in relation to potential impacts on the SAC.

An assessment for protected species was undertaken however no evidence was found that any protected species were present on the site. The habitat survey did not identify any trees on site with bat roosting potential and noted that potential for nesting habitat for breeding birds is limited to adjacent residential gardens outside the application site boundary. There were no other habitats on-site with significance for biodiversity and no connectivity to adjacent habitats with biodiversity significance. It is considered therefore that the proposed development will not have an unacceptable adverse impact on designated sites or protected species and would meet the terms of Policies EP1, EP2 and EP3 of the local development plan.

Archaeology

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Council's Archaeology Officer advises that the site has archaeological potential and has set out the reasoning behind this view in his response. An archaeological evaluation is required in advance of development as a first phase in what may be a

multi-phase approach to mitigation depending on the results. An appropriately worded planning condition would secure an appropriate evaluation and would ensure compliance with LDP policy.

Access and Parking

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

The Roads Planning Service advises that the revised layout is a significant improvement on that previously submitted. Although disappointed that the direct pedestrian link through to Factors Park has been omitted, the link as proposed does offer pedestrians the option of going via Millburn Park or Factors Park. Planning conditions are required in respect of road and footway surfacing and development phasing.

Water and Drainage

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

A SUDS and Drainage Statement and a detailed drainage plan have been submitted with the application. Foul and surface water drainage would be to the public system with the surface water drainage being treated and attenuation to greenfield levels prior to connection into the surface water sewers. The report states that Scottish Water has confirmed that capacity exists within the foul sewer network to accept the proposed development but have not responded to their planning consultation. Connection to the public system would be in accordance with Policy IS9 of the LDP. Precise details of the proposed drainage arrangements will be agreed at Building Warrant stage.

The planning application form indicates that the proposed development would connect to the public water supply network. As stated above, Scottish Water has not responded to the consultation and has not confirmed that a connection to the public supply is available. However, given that the site is allocated in the plan, it is assumed there is sufficient capacity to absorb this development. For the avoidance of doubt an appropriately worded condition (to require confirmation from Scottish Water that a connection to the public water supply is available to serve this site) is recommended.

Development Contributions

Development contributions, in compliance with policies IS2 and IS3, are required in respect of education (Lauder Primary School and Earlston High School), play provision and the Border railway. In addition, on-site affordable housing provision is required. Should Members be minded to support this application, these matters will be secured by a legal agreement.

CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development is considered acceptable, having principally had regard to the relevant provisions of the Local Development Plan 2016 but also having had regard to overriding material considerations in this case which are as set out in this report.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to a legal agreement addressing contributions towards education, the Borders Railway and play areas and the provision of on-site affordable housing 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. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.
Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.
3. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Planning Authority. The phasing programme to include the timing for the provision of the pedestrian link.
Reason: To ensure that the development proceeds in an orderly manner.
4. Notwithstanding the description of the materials in the application, no development shall commence until a sample of all materials to be used on all exterior surfaces of the development hereby approved have been submitted to and approved in writing by the Planning Authority and thereafter no development shall take place except in strict accordance with the approved details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
5. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Planning Authority. As a minimum this should outline how the site will comply with the British Standard 5228:2009 Code of Practice for noise and vibration control on construction and open sites and should include the hours of construction, how noise complaints will be managed and methods for dust suppression on the site. The development then to be carried out in accordance with the approved Construction Method Statement.
Reason: To safeguard residential amenities.
6. No development shall commence until precise details of the surfacing materials for the proposed roads, footpaths and parking spaces has been submitted to and

approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved details.

Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic and in a manner that enhances the character and visual appearance of the development.

7. The proposed roads, footpaths and parking spaces/areas indicated on the drawings hereby approved shall be constructed to ensure that each dwellinghouse, before it is occupied, is served by a properly consolidated and surfaced carriageway, parking area and footpath/shared surface.

Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic and pedestrians.

8. The planting, seeding and turfing shown on landscape drawings 143.117.01d, 143.117.02d and 143.117.03d hereby approved, shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as necessary for a period of two years from the date of completion of the planting, seeding and turfing.

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

9. 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.

10. No drainage system other than the public mains sewer shall be used to service the development without the written consent of the Planning Authority. Prior to occupation of the first dwellinghouse written evidence is to be submitted to and approved in writing by 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.

Informatives

1. In respect of condition 6, Roads Construction Consent is required for the roads and footways within the site and must be obtained prior to work commencing on site. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary. The connection path to Factors Park should be made up and surfaced to an adoptable standard 2m wide along its entire length through the site.
2. Both during and after construction, the customary/permissive path along the western boundary should remain open and unobstructed.
3. In relation to the Special Area of Conservation, care should be taken to avoid contamination of the water environment by following SEPA good practice guidelines, e.g. GPP 5. SEPA standing advice relating to construction should be followed.

DRAWING NUMBERS

TD-01-01	Location Plan
F18 REV C	Fence Elevation
W21	Wall Elevations
F4	Boundary Fence Elevation
E11432/1001 REV H	Engineering Layout
E11432/2001 REV F	Drainage Layout
TD-04-01 REV A	Site Sections
TD-04-02 REV A	Site Sections
TD-02-01 REV N	Site Layout
Braemar	Floor Plans and Elevations
Fortrose	Floor Plans and Elevations
Leith	Floor Plans and Elevations
Newmore	Floor Plans and Elevations
Newton	Floor Plans and Elevations
Portree	Floor Plans and Elevations
Thornwood	Floor Plans and Elevations
Threave	Floor Plans and Elevations
Thurso	Floor Plans and Elevations
Torridon	Floor Plans and Elevations
143.117.01d	Landscaping
143.117.02d	Landscaping
143.117.03d	Landscaping

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

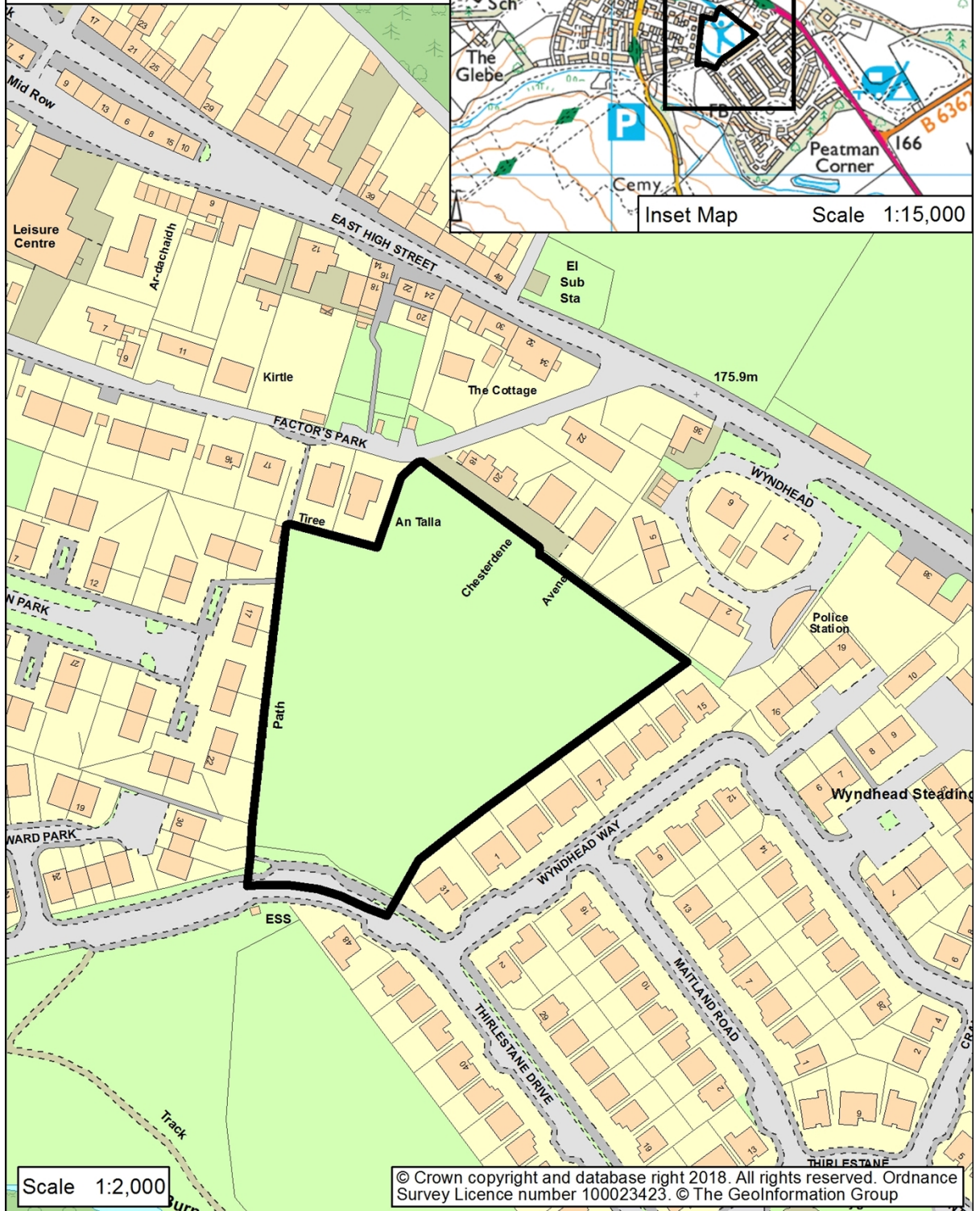
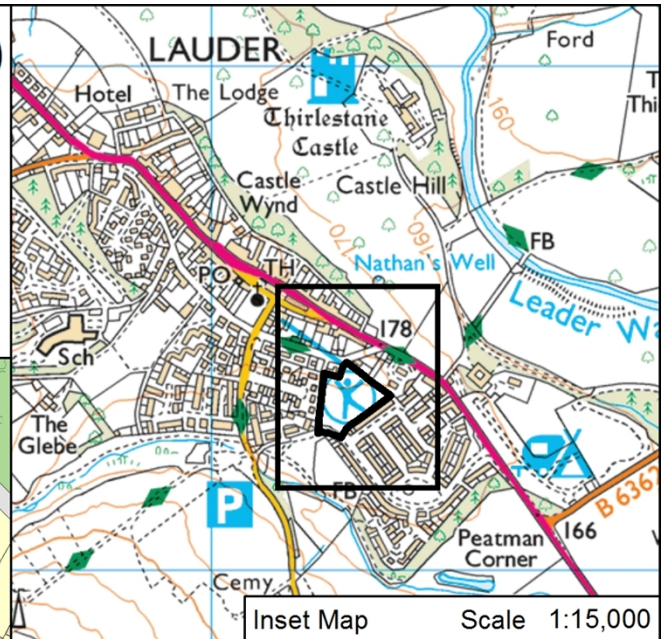
Author(s)

Name	Designation
Julie Hayward	Team Leader Development Management



18/00792/FUL

Land North Of 48 Thirlestane Drive
Lauder



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

10 DECEMBER 2018

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/00814/FUL
OFFICER:	Paul Duncan
WARD:	East Berwickshire
PROPOSAL:	Formation of riding arena and erection of 3no stables block (retrospective)
SITE:	Land South East Of Tweedbank, Fishwick Mains, Fishwick
APPLICANT:	Mrs Tamara Inness

SITE DESCRIPTION

The proposed site is located within a paddock above the banks of the River Tweed, around two hundred metres south of Fishwick Mains farm and building group in East Berwickshire. The site is accessed via a private farm track which joins a minor unclassified mainly single-track public road at Fishwick Mains, before connecting to the B6461 Paxton to Swinton road at Fishwick. The site is accessed via a junction with the private farm track located around 150m to the west of the proposed site. A further private track within the applicant's site serves an area of hardstanding adjoining the riding arena.

The perimeter of the paddock is enclosed by post and rail fencing. The paddock and the field to the east of the site are bound to the north by intermittent mature hedging and by the private farm track beyond. Right of Way HUPA/BB180/1 follows the route of the private farm track. The site and surrounding paddock are generally rather flat, sloping down very gently to the east, but land further to the south drops steeply by around 30m down to the banks of the Tweed which flows around 180m to south of the site. The River Tweed is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The aforementioned Right of Way connects to paths and rights of way along the Tweed.

Two category 'C' listed buildings (Fishwick Mains farmhouse and Fishwick Mains steading), are located at Fishwick Mains to the north of the site at a distance of over 250m.

PROPOSED DEVELOPMENT

This application seeks full retrospective planning permission for the erection of a stables block and the formation of a riding arena. The riding arena measures approximately 60m by 20m and is enclosed by a timber post and rail fence. The flat surface of the arena has been formed by cutting into the paddock, by up to around 1m at the far west end of the arena. The east side of the arena follows existing levels. The stables block is of timber construction and features a simple mono-pitch roof. It comprises three stables in total.

Originally the application sought permission to use the facilities for uses which would have included those of a commercial or non-private character and materiality. This part of the proposal has since been dropped and the facilities would now be for private use by the applicant and her family only.

SITE/ PLANNING HISTORY

Historic mapping indicates that a substantial mansion was located in this field in 1855 with what appears to have been a stables building to the north. By the 1920s little remained of the mansion house. In 2002, outline planning permission was granted for the rebuilding of a mansion house (planning reference 02/00775/OUT). In 2006 full planning permission was granted for the erection of a mansion house (05/01875/FUL). This would see a substantial L-shaped detached dwellinghouse with neo-classical design references erected to the south-east of the riding arena. This permission is considered to have been implemented and it therefore remains valid. The permission is subject to conditions requiring the formation of two passing places and a suitable vehicular access. Various changes to the approved design have since been agreed by non-material variation. None are in conflict with the development now being considered by this application.

REPRESENTATION SUMMARY

11 objections have been submitted in response to this application from 11 separate households. Copies of this correspondence can be viewed in full on the *Public Access Portal*. The concerns raised were received when the proposal was for the original, more intensive commercial use.

The objector concerns can be summarised as follows:

- Increased traffic
- Large vehicles accessing site
- Impact on surface of the road and deterioration thereof
- Inadequate provision of passing places on the road
- Danger to pedestrians/ cyclists and other road users from increased traffic
- Young children use the road as part of their journey to school
- Noise impact of increased traffic
- Pollution resulting from increased traffic
- Commercial use of this site is not within the Local Plan
- Measures to slow the speed of traffic should be considered

6 comments in support of the application were received from 6 separate households. These comments appeared to be received from users of the facility and the comments were made when the proposal was for the original, more intensive commercial use. Copies of this correspondence can be viewed in full at the *Public Access Portal*.

The comments of those in support of the proposals can be summarised as follows:

- The arena is a valuable local resource
- The proximity of the facility saves significant levels of travel time to nearest alternative facility
- The farm road is used by much larger, heavier machinery than trailers
- Lessons are timed to minimise the likelihood of horse boxes meeting each other in the road

APPLICANT'S SUPPORTING INFORMATION

The applicant submitted photos of the development along with a site plan and floorplan of the stable block. A supporting statement was also submitted which outlines in broad terms the original range of uses proposed. It is of limited relevance to the revised proposals for private use of the facility.

This information is available on the Council's website via the *Public Access Portal*.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED7: Business, Tourism and Leisure Development in the Countryside

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

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation and Protected Species

EP3: Local Biodiversity

EP7: Listed Buildings

IS5: Protection of Access Routes

IS7: Parking Provision and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Other Considerations:

Biodiversity Supplementary Planning Guidance

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service (first response): No objection, subject to conditions. The minor public road leading to the site from the B6461 is primarily single track though some passing places have been installed. The passing places are not signed which means they are difficult to identify, especially for drivers unfamiliar with the road. The road in its current form is not suitable for the traffic that is likely to be associated with this proposal. To mitigate the impact of the proposal and to gain my support additional passing places are required and all of the passing places (existing and new) need to be properly signed to ensure they are used to their best potential. Similarly the private access road leading to the site needs adequate passing provision installed. Furthermore, the stone track part of the private access road (beyond the concrete section) needs to be upgraded to provide a smooth free-draining surface capable of taking a 14 tonne axle loading.

Roads Planning Service (second response): No objection. Provided the development is conditioned for private/ ancillary use the Roads Planning Service would not be looking for any of the road improvements highlighted in our consultation response.

Environmental Health Service: No objection. Informatives are proposed to address the management of stable waste and the need for a license should they be used for a commercial purpose now or in the future.

KEY PLANNING ISSUES:

The key determining factor is whether the proposed development would comply with development plan policies and guidance, with particular regard to policies relating to road safety; residential amenity; landscape and visual impacts; and whether, if not, any material considerations outweigh any potential conflict with development plan policies and guidance.

ASSESSMENT OF APPLICATION:

Principle

The principle of the proposed development can be assessed against Local Development Plan policy ED7 (Business, Tourism and Leisure Development in the Countryside). This policy aims to protect the environment and ensuring business, tourism and leisure related developments are appropriate for their location. Policy ED7 applies to private leisure developments as well as leisure developments of a commercial nature. The provisions of policy ED7 would therefore be applicable for either the original proposed commercial/non-private use or the revised private use. Policy ED7 would also be relevant were the approved dwellinghouse built and occupied.

Policy ED7 requires that rural leisure development is appropriate for a countryside location and, where relevant, accords with the Scottish Borders Tourism Strategy and Action Plan. Given the proposed private use, alignment with the tourism strategy is not necessary in this particular instance. The proposed development is inherently appropriate for a rural location, and a horse riding arena would be consistent with the character of this particular rural site which, whilst well outwith the confines of the Fishwick Mains building group, would utilise the existing access tracks to and from the building group and nearby farm buildings, rather than requiring new roads and access tracks. The development would also have a strong relationship with the as yet unbuilt consented dwellinghouse on the site. It is concluded that the scale or form of the development would therefore be compatible with the character of this part of Fishwick, which is already host to a mix of development types and uses.

Taking the above into account, the principle of the proposed development is considered to be acceptable. Policy ED7 sets out further criteria which, where relevant, are considered below.

Road safety and parking

The primary concern of objectors was the impact associated with vehicular access to and from the site. At the time the application was submitted the development was used by members of Berwickshire Pony Club. The applicant also expressed an interest in providing horse-riding lessons at the site. The vehicle trips associated with this more intensive use were a significant concern for local residents, who stated that increased traffic levels to and from the site had been observed, often involving large vehicles such as horse boxes and trailers. Concerns were raised with respect to the safety of pedestrians, including children who use the minor public road as part of their journey to school, and cyclists and other road users. The Roads Planning team originally assessed the proposals on the basis of this wider public/ commercial use. An extensive suite of road improvement measures was required to mitigate the impact of the additional vehicles trips and types of vehicles associated with such a use. This would have included new passing places, new passing place signage and an upgrade of the private track.

Ultimately, the applicant has chosen not to pursue the original proposed part-commercial/ public use, and the Roads Planning team have re-assessed the proposals on the basis that the development would be for private use only. Provided the use of the development is suitably controlled to that effect, the Roads Planning team are satisfied that mitigation will not be required, given the much more limited additional vehicle trips associated with private use. Whilst vehicle trips to and from the site will be necessary, these will be low in volume. A condition to that effect is therefore recommended. The applicant has agreed in writing to the use of the proposed condition and its wording.

Objectors also raised concerns that the additional vehicle trips associated with the development would affect the quality of the public road and result in noise and air pollution. The latter considerations are assessed further below, under the 'residential amenity' section. It is not clear whether concerns regarding damage to the public road would remain a concern for objectors given the revised proposal for private use. Ultimately any damage to the public road would be addressed via the Council's roads maintenance programme and would not be a reasonable reason to refuse this application. The Roads Planning team have not identified any need resulting from this development for measures to slow the speed of traffic.

Local Development Plan policy IS7 (Parking Provision and Standards) is used to assess the suitability of parking arrangements associated with new development proposals. There is ample provision for parking within the site and the Roads Planning Service has raised no concerns in this regard.

Residential amenity

Local Development Plan policy HD3 (Protection of Residential Amenity) seeks to ensure the amenity of existing and proposed new housing developments are protected from new development.

The proposed development is located at a distance of over 300m from the nearest existing dwellinghouse. At such a distance no direct residential amenity impacts should arise from these proposals. Objectors raised concerns regarding the potential impact on residential amenity arising from additional vehicle trips associated with the development, although these concerns appeared to relate mainly to the original commercial use of the development. Noise and air pollution were both raised as concerns. It is not anticipated that any such impacts shall arise to any significant degree from the modest proposals under consideration, either in local or wider amenity terms.

As noted above, Policy HD3 also applies to new housing developments. In this instance an implementable planning permission exists for a dwellinghouse to the immediate south of the proposed site (05/01875/FUL). This site is owned by the applicant who intends to erect a house under that permission. As outlined above, the use and ownership of the development under consideration will be tied to this dwellinghouse to ensure the use of the stable and horse arena is adequately controlled. This is for road safety reasons, but in any event, no significant residential amenity impacts would be anticipated from the proposals under consideration.

Siting, design and visual impact

Local Development Plan PMD2 (Quality Standards) requires all new development to integrate with its landscape surroundings. There are no landscape designations applicable within this part of Berwickshire, so other landscape policies do not apply. The main public visual receptors would be users of right of way/ farm track which provides access to the Tweed. The site may also be visible at a distance from areas to the east of the site or from the south side of the River Tweed, but the development would not be prominent.

To provide a flat surface, the riding arena has been partially cut into the site by roughly 1m, and is therefore set below the level of the road. This has aided the visual integration of the development into the surrounding landscape and reduced visibility from the key public visual receptor location. The surface of the arena has been lined with dark recycled car interior fabric, but this is not overly prominent from outwith the site. Various moveable items of show jumping equipment are normally found within riding arenas of this kind and were noted when the site was visited. Whilst these items do not constitute development, they can be bright in

colour and at more sensitive and prominent sites can contribute to effects on character and landscape quality. Any visibility in this instance will be partially mitigated by intermittent boundary hedging and the cut into the site, but regardless, visibility will not result in significant harm to landscape character or quality in this instance. A simple timber post and rail fence encloses the arena. The stables block is clad in timber and of a modest scale and massing which ensures it sits comfortably in the landscape.

In summary, the surrounding landscape is well capable of absorbing development of this scale and character – be that individually or cumulatively with the dwellinghouse approved and implemented – and no adverse impact landscape or visual impact will arise from this development.

Ecology

The River Tweed is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and flows to the south of the site at a distance of less than 200m. Local Development Plan policy EP1 (International Nature Conservation Sites and Protected Species) aims to give protection to internationally important designated sites including SACs. Local Development Plan policy EP2 (National Nature Conservation and Protected Species) aims to protect nationally important designated conservation sites such as SSSIs. The proposed development is located at a significant distance from these designated sites and no direct or indirect adverse effects are anticipated.

Prime Agricultural Land

Local Development Plan policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) recognises that prime quality agricultural land is a valuable and finite resource which should be retained for farming and food production. The proposed site is classified by the James Hutton Institute as prime agricultural land. The site is no longer used for agricultural purposes and the approval for the erection of a dwellinghouse on the wider plot has accepted, in principle, that this prime agricultural land can receive development without an unacceptable impact on the wider prime agricultural land resource. On that basis, these proposals are considered to be in line with the aims of policy ED10.

Other matters

The Council's Environmental Health Section has proposed an informative be added to advise the applicant on how to manage stable waste. Whilst the nearest dwellinghouse is located at a significant distance from the development it is appropriate to provide Environmental Health's advice. A further proposed informative regarding the need for a license should the applicant wish to use the stables for a commercial purpose is not now necessary and could cause confusion. It is not recommended that this be attached.

Local Development Plan policy IS9 (Waste Water Treatment Standards and SUDS) seeks to avoid direct discharge of surface water into watercourses, which can cause pollution and flooding. Sitting the arena below the existing level of the nearby farm track will prevent any impact on it. The riding arena is surfaced with recycled fabric, laid over drainage stone and pipe drains. The aims of policy IS9 are considered to be satisfied.

The Council wishes to encourage walking and cycling as modes of travel and Local Development Plan policy IS5 (Protection of Access Routes) aims to protect and keep open any route with access rights. Right of Way HUPA/BB180/1 passes the site along the private farm track to the north of the site. The Right of Way will not be directly affected by these proposals.

CONCLUSION

The proposed development of this site for the formation of a riding arena and the erection of a block of 3no stables will accord with the Local Development Plan 2016 as regards the principle of development, and other matters such as neighbouring amenity impacts; landscape and visual impacts; and access and parking, subject to one condition.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following condition and informative.

Conditions

1. The riding arena and stable block hereby approved shall be used for private use only and shall not be used for any commercial purposes without a further application (for a change of use of land) first being submitted to and approved by the planning authority.
Reason: to restrict the use of the development hereby approved to ensure the approved development does not cause an unacceptable increase in traffic levels to and from the site.

Informative

1. Stable Waste: During the use of the stable block, it is likely that refuse/waste materials (i.e. manure/soiled hay) will be produced on the site as a consequence. Therefore, it must be ensured that all such waste materials are not stored on site or disposed of in any manner (for example, burning) which would give rise to Statutory Nuisance conditions developing at neighbouring properties to the site.

DRAWING NUMBERS

Type	Reference	Received date
Site Plan	4427BSP 1473	1 November 2018
Photo		5 July 2018
Photo		5 July 2018
Photo		5 July 2018

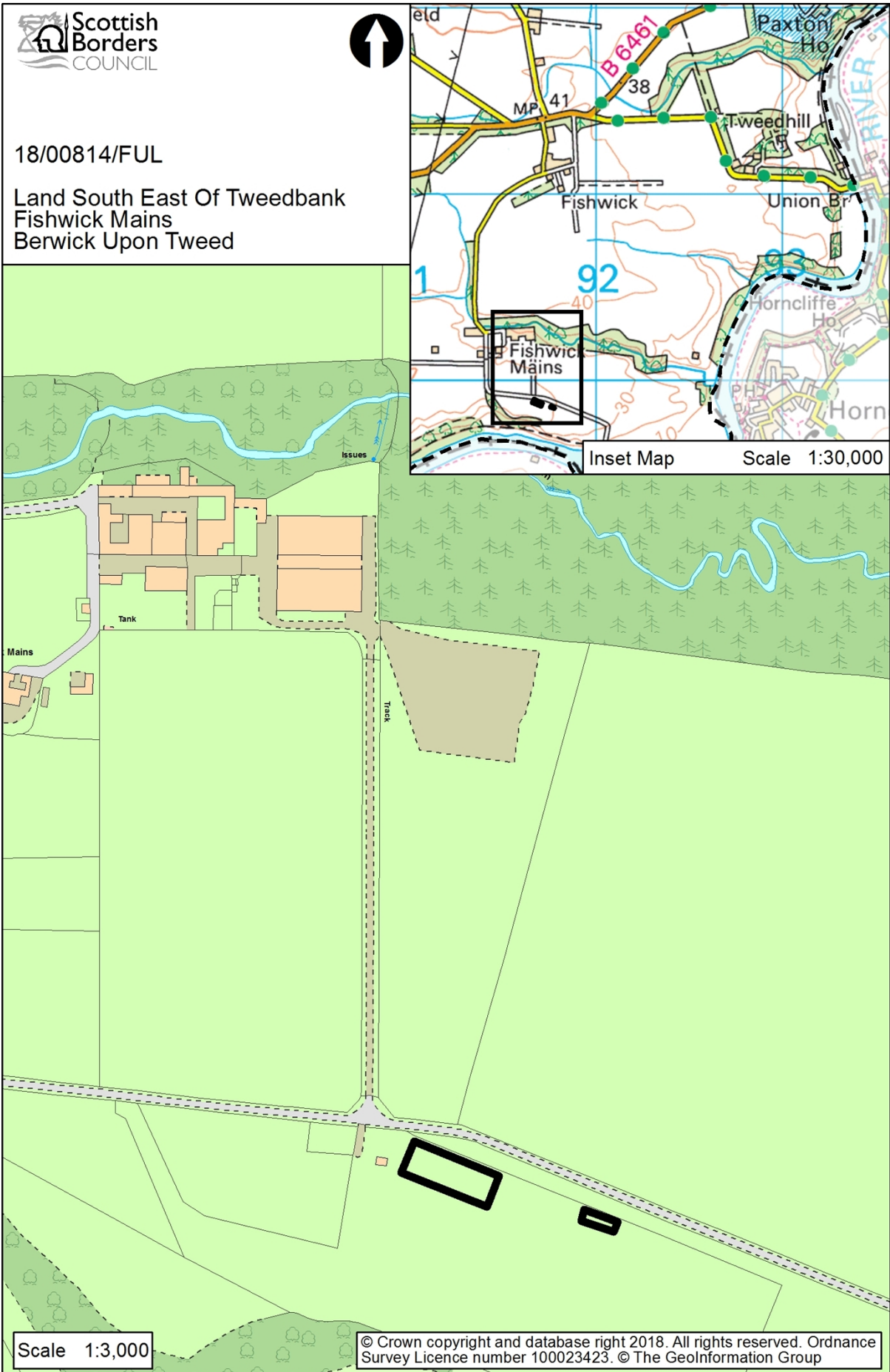
Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

Author(s)

Name	Designation
Paul Duncan	Assistant Planning Officer



PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

10th December 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: 17/01255/FUL
Proposal: Erection of wind farm comprising 7 No wind turbines up to 132m high to tip, access tracks, hard standings, electrical control building and compound, borrow pits, ancillary infrastructure and associated groundworks
Site: Land West of Whitslaid (Barrel Law), Selkirk
Appellant: Barrel Law Windfarm Ltd

Reason for Refusal: 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.

Grounds of Appeal: The application for the proposed development went to the Committee with a recommendation for approval and with the

planning officer concluding that “the scheme complies with national and local policies and guidance on renewable energy development. In reaching that conclusion the planning officer had the consultation response from the Council’s landscape architect. This was a careful and well constructed report which concluded that “the overall impacts in landscape and visual terms are not sufficient to maintain an objection to this application.” The Committee rejected the recommendation and refused consent. The Committee did not provide any critical analysis of the advice and assessments with which it had been provided.

2.2 Enforcements

Nil

2.3 Works to Trees

2.3.1 Reference: 18/01057/TPO
Proposal: Works to trees
Site: 22 Craigmyle Park, Peel
Appellant: Alex McNicol

Reason for Refusal: The Beech is currently in good health, the main stem, limb framework and foliage are not displaying any signs of ill health, pathogens or significant defects. I would therefore not grant permission for its removal but would have no objections to remedial work to try and alleviate your concerns for the weight of the single limb closest to the property. Crown thinning and selective limb removal to both maintain the crown form and reduce weight is what I discussed with Alex as a way forward.

Grounds of Appeal: The Tree is too close to the house, it is only 8.1 metres from the south east corner at the rear of the house. Eventually limbs will begin to fall to the ground without any warning. We want to pre-empt the possibility the tree causing damage to the house, or causing death or injury to anyone in the property or to anyone on the roads bounding the garden. Permission has been denied to remove the tree, but approval has been given for some remedial works. That is merely a short term fix and with absolutely no guarantee that the Appellants concerns will no longer be valid. The tree will still be massive, it will still carry the threats above that potentially will not be removed by the suggested remedial work. If it remains healthy, within five or six years it will be just as big a threat as it is today.

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 16/01377/FUL
Proposal: Erection of poultry building
Site: Land South West of Easter Haprew Farmhouse, Peebles
Appellant: Glenrath Farms Ltd

Reason for Refusal: The proposed development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the

Countryside and Policy EP4 - National Scenic Areas of the Scottish Borders Local Development Plan 2016 in that the poultry building would have an unacceptable adverse impact on and does not respect the amenity and character of the surrounding area and would have an unacceptable adverse effect on the scenic qualities of the National Scenic Area. The scale, siting and design of the development would set an undesirable precedent and would result in an unacceptable form of development in this nationally important landscape.

Grounds of Appeal: This proposed shed is costing over £1M will provide an extra 2 fulltime and 2 part time jobs. The applicant is happy to plant more trees to screen the new shed from the minimal traffic on the John Buchan Way as they did for the present shed. Manure will be spread weekly, as at present, so no storage is required. Vehicle traffic will only be increased by 1 hired workers car and 1 lorry load of feed per week. There is plenty of space for the eggs leaving the farm to be transported in the exiting lorry. SEPA have confirmed they have no objections to this planning application. The applicant will continue to work with SEPA to secure a Pollution and Control Permit in order to regulate all environmental issues relating to the egg production on an ongoing basis. Scottish Borders Council officials recommended approval for this application.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Amanda Chisholm, allows the appeal subject to 13 conditions and four advisory notes. The reporter concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. The report considered all other matters raised, but there were none which would lead her to alter her conclusions.

3.1.2 Reference: 17/00623/FUL
Proposal: Erection of poultry building and associated works
Site: Hutton Hall Barns, Hutton
Appellant: Mrs Angela Maclean

Reasons for Refusal: 1. The development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the Countryside of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would not respect the amenity and character of the surrounding area. In addition impact of the expansion and intensification of uses as well as the scale of the development would be inappropriate to the rural character of the site. 2. The development would be contrary to Policy ED10 - Protection of Prime Quality Agricultural Land and Carbon Rich Soils of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit will result in the permanent loss of prime quality agricultural land. 3. The development would be contrary to Policy HD3 - Protection of Residential Amenity of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would have an unacceptable adverse visual impact on the existing residential properties and the surrounding area generally. 4. The development would be contrary to Policy EP1 - International Nature Conservation Sites and Protected Species of the adopted Scottish Borders Local Development Plan in that no evidence has been provided to demonstrate the proposed development will not give rise to unacceptable pollution of the adjoining

watercourse. Furthermore the proposed development would be contrary to Policy EP15 - Development Affecting the water Environment and Policy EP3 - Local Biodiversity of the Scottish Borders Local Development Plan 2016 in that further evidence is required to ensure that there would be no adverse impacts on the water environment and local biodiversity.

Grounds of Appeal: Each of the statutory bodies are supportive of the planning application. The new poultry building will help sustain the applicants farming diversification business, employ more local people and produce Scottish free range eggs. The applicant believes that the proposals are fully compliant with the Local Plan requirements, and their assertion is supported by the statutory consultee responses and the planning officer recommendation for approval.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Amanda Chisholm, allows the appeal subject to 14 conditions, four informatives and four advisory notes. The reporter concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. The reporter considered all the other matters raised, but there were none that would lead her to alter her conclusions.

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 29th November 2018. This relates to sites at:

• Land North West of Gilston Farm, Heriot	• Glenacre, Camptown, Jedburgh
• Land East of Keleden, Ednam	•

5 REVIEW REQUESTS RECEIVED

5.1 **Reference:** 18/01010/FUL
Proposal: Replacement of shop front windows and door screens
Site: Scotts View Take-Away, Main Street, St Boswells
Appellant: Mr Abbay Lazim

Reasons for Refusal: The UPVC door and side panels, by reason of their design and material, are contrary to policies PMD2 and EP9 of the Scottish

Borders Local Development Plan 2016 and Supplementary Planning Guidance: Replacement Windows and Doors 2015 in that they are harmful to the character and appearance of the Conservation Area and would set an undesirable precedent for similar doors which would further erode the character and appearance of the Conservation Area.

6 REVIEWS DETERMINED

- 6.1 Reference: 18/00635/FUL
 Proposal: Change of Use from Class 4 to include Class 11 (Leisure) and Class 3 (Cafe)
 Site: Factory Plexus Facility, Tweedside Park, Tweedbank, Galashiels
 Appellant: J S Crawford Properties (Borders) Ltd

Reasons for Refusal: 1. The proposed development will conflict with Policies PMD3 and ED1 of the Scottish Borders Council Local Development Plan 2016 and Supplementary Guidance - Central Borders Business Park Tweedbank 2017, in that it would comprise uses which do not fall within the permitted uses for this Strategic Business and Industrial Site and which would not contribute positively to the efficient functioning of the allocated site or its future as a business park 2. The proposed development conflicts with Policy EP13 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance Trees and Development 2008 in that it comprises car park alterations which potentially risk adversely affecting adjacent trees which are important to the amenity value of the business park and the application does not demonstrate that the trees will be adequately protected during construction of the car park alterations.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.2 Reference: 18/00644/PPP
 Proposal: Erection of dwellinghouse (renewal of planning permission 15/00036/PPP)
 Site: Land North West of Chapel Cottage, Melrose
 Appellant: Mr, Mrs and Mr Archie, Helen & Hugh Shaw Stewart

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) in that it lies out with the Development Boundary, and: (i) the site is not well-related to any existing rural building group (let alone to any building group capable of augmentation in accordance with the requirements of Policy HD2, Section A, 'Building Groups'); and (ii) the Applicant has not demonstrated that there is any operational need for a new dwellinghouse to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside.

Method of Review: Review of Papers

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

6.3 Reference: 18/00832/PPP
 Proposal: Erection of two dwellinghouses
 Site: Land North East of Stainie Brae, Lower Greenhill, Selkirk
 Appellant: Mr Mike Orr

Reason for Refusal: The proposed development is contrary to Adopted Local Development Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that: (i) the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group; and (ii) the Applicant has not demonstrated that there is any operational need for new dwellinghouses to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside.

Method of Review: Review of Papers and Site Visit

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

6.4 Reference: 18/00929/PPP
 Proposal: Erection of dwellinghouse
 Site: Land North East of Ladywood Lower Greenhill, Selkirk
 Appellant: Mr and Mrs Eric Forster

Reason for Refusal: The proposed development is contrary to Adopted Local Development Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that: (i) the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group; and (ii) the Applicant has not demonstrated that there is any operational need for new dwellinghouses to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside.

Method of Review: Review of Papers and Site Visit

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

7 REVIEWS OUTSTANDING

7.1 There remained one review previously reported on which a decision was still awaited when this report was prepared on 29th November 2018. This relates to a site at:

- | | |
|---|--|
| <ul style="list-style-type: none"> Elsielea, 61 West High Street, Lauder | <ul style="list-style-type: none"> |
|---|--|

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 29th November 2018. This relates to sites at:

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

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
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