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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 1 JULY, 2019

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, 1 JULY, 2019 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

24 June 2019

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 10) Minute of Meeting of 3 June 2019 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following applications for planning permission:-
	(a) Land South West and South of Ayton Primary School, Beanburn, Ayton - 18/01804/FUL (Continuation) (Pages 11 - 36) Erection of 50 No dwellinghouses with associated infrastructure. (Copy attached.)
	(b) Land at The Croft, Dingleton Road, Melrose - 18/01385/FUL (Pages 37 - 70) Erection of 28 dwellinghouses with associated parking, roads and landscaping (copy attached).
6.	Appeals and Reviews. (Pages 71 - 76) Consider report by Service Director Regulatory Services (copy attached).
7.	Items Likely to be Taken in Private Before proceeding with the private business, the following motion should be approved:- 'That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph of Part 1 of

	Schedule 7A to the aforementioned Act'.
8.	Render Repairs at Ballantyne Place, Peebles (Pages 77 - 82) Consider report by Service Director Regulatory Services.
9.	Any Other Items Previously Circulated.
10.	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 Walling 01835 826504
fwalling@scotborders.gov.uk

**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 on
Monday, 3 June 2019 at 10.00 a.m.

Present:- Councillors T. Miers (Chairman), A. Anderson, S. Aitchison, J. A. Fullarton, S. Hamilton, H. Laing, E. Small.
Apologies:- Councillor S. Mountford, C. Ramage.
In Attendance:- Depute Chief Planning, Lead Planning Officer (B. Fotheringham), Principal Planning Officer (C. Miller), Senior Roads Planning Officer, Principal Solicitor (H. MacLeod), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 19 April 2019.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATIONS**

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

DECISION

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

DECLARATION OF INTEREST

Councillor Fullarton declared an interest in application 18/01804/FUL in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

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 the following:-

- (i) Erection of 2 blocks of residential flats comprising 40 No units of mixed accommodation with communal bike store, bin stances and associated parking and landscaping at 1-39 Tweedbridge Court, Peebles – 18/01086/FUL; and**

- (ii) Residential development comprising of 69 dwelling units with associated works at Coopersknowe, Phase 4 and 5, Coopersknowe Crescent, Galashiels – 18/01417/FUL.
- (b) An Enforcement Notice had been issued in respect of Residential caravan without Planning Permission on Land West Gallowberry Bank, Blyth Bridge – 15/00045/UNDEV.
- (c) The Reporter had dismissed an appeal against non determination in respect of Replacement windows at the Honey House, The Row, Longformacus – 18/01627/LBC.
- (d) The Report dismissed an Appeal against Enforcement in respect of Use of dwellinghouse as a Party House at Greenloaning, The Loan, West Linton – 18/00074/UNUSE
- (e) there remained one appeal outstanding in respect of Land West of Whitslaid (Barrel Law), Selkirk.
- (f) A review request had been received in respect of the Erection of two dwellinghouses at Paddock South of and Incorporating part Garden Ground of 1 Cowdenburn Cottgages, West Linton – 18/01469/PPP
- (e) there remained four reviews outstanding in respect of:-

• Land East of Rose Cottage, Maxwell Street, Innerleithen	• Deans Bar, 3 Orrock Place, Hawick
• Plot 3 Land North East of the Old Church, Lamberton	• Agricultural Barn Mid Softlaw Farm, Kelso

- (f) There remained 2 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 18th April 2019. This relates to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
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The meeting concluded at 12.40 p.m.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
18/01712/PPP	Erection of Two Dwellinghouses	Land East of Leader House, Oxton

Decision: Approved subject to a legal agreement addressing contribution towards the Borders Railway, education and affordable housing and the following conditions:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. A drawing showing existing and proposed ground levels, finished floor levels and sectional drawings of the site and proposed dwellings to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved drawings.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.
4. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
 - i. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
 - ii. Location of new trees, shrubs, hedges and grassed areas, including replacement of any trees removed;
 - iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - iv. 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.
5. Details of all proposed means of enclosure around the site and between plots to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved details.

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

6. Full details of the means of water supply and of foul and surface water drainage are to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development is to be completed in accordance with the approved details and the drainage and water supply to be functioning, as approved, before the dwellinghouses are occupied.

Reason: To ensure that adequate drainage and a sufficient supply of wholesome water is provided and to ensure that there are no unacceptable impacts upon the amenity of any neighbouring properties.

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

Reason: To ensure the development is served by satisfactory off-street parking so as to not have a detrimental impact on the adjacent public road network.

8. No development shall commence until a surface water drainage scheme has been with the first Approval of Matters Specified in Conditions application or detailed application for the site which demonstrates that surface water run-off from the site will be maintained at pre-development levels using sustainable drainage methods during construction of the development and occupancy of the dwellinghouse. The development shall be completed in accordance with the approved details.

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

9. A detailed drawing showing the access to each plot, to the specification of the Planning Authority, to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. The first 5m of any access and the parking and turning areas to be no greater than 1 in 15 with the intervening lengths to be no greater than 1 in 8. Visibility, a minimum of 2.4m x 43m, to be provided where an access meets the public road. The accesses to be completed in accordance with the approved drawing prior to occupation of the dwellinghouse it serves.

Reason: To ensure the development is served by an adequate access of acceptable gradients.

Informatives

1. In respect of Condition 4, and notwithstanding the indicative landscaping shown on the approved site plan, the scheme of soft landscaping shall include a robust planting strip along the west and north boundaries of the application site to ensure the development is properly assimilated into the building group.
2. In respect of condition 9, it should be borne in mind that only contractors first approved by the Council may work within the public road boundary.
3. In respect of Conditions 1 and 3 the applicant should pay particular attention to the plot layout, the siting, design (including position of windows), orientation and height of the proposed dwellings to ensure that the residential amenity of existing dwellings is not unduly compromised by loss of privacy or overlooking.

NOTE:

Mr Tim Ferguson spoke in support of the application on behalf of the Applicant.

Reference

18/01804/FUL

Nature of Development

Erection of 50 No dwellinghouses with
Associated infrastructure

Location

Land South West and
South of Ayton Primary
School, Beanburn, Ayton

Decision: Continued to the next available Planning & Building Standards Committee meeting to allow Officers an opportunity to investigate with the applicant an improved means of access to the site.

NOTE:

Brian Hawksfield, Resident and Isobel Kellie and Sarah Woodbury on behalf of Ayton Community Council spoke against the application.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

1 JULY 2019

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/01804/FUL
OFFICER:	Mr C Miller
WARD:	East Berwickshire
PROPOSAL:	Erection of 50 No dwellinghouses with associated infrastructure
SITE:	Land South West and South of Ayton Primary School, Beanburn, Ayton
APPLICANT:	Berwickshire Housing Association
AGENT:	Smith Scott Mullan Associates

PLANNING PROCESSING AGREEMENT

A Planning Processing Agreement had been agreed for Committee presentation by 3 June and issuance of the decision notice by 14 July, should the application be approved and a legal agreement then concluded.

CONTINUATION FROM JUNE COMMITTEE

The application was continued from the June Committee as Members required further investigation of potential improvement to the provision of vehicular and pedestrian access to the site and requested Officers to discuss this further with the applicant. A meeting has now taken place with the applicant and Roads Planning Officers to discuss the following:

- A permanent alternative access from the High Street via farmland to the north
- A temporary construction access from the High Street via farmland to the north or via an existing farm track further north
- Any additional information or improvements to the existing access proposals including construction traffic management
- Access to the school and the loop road suggestion from the Community Council

Following these discussions, the agent submitted a Report and Plan examining the above options which is included in full on Public Access for Members to view. In summary, the Report outlines the issues with alternative access suggestions and explains reasons why such solutions may render the project unviable, including cost of road, ownership agreement and power line clearance. These issues also pertain to a possible existing farm road route further north. The report states that if such solutions render the project unviable, then the Traffic Management Plan will incorporate measures to minimise construction impacts including avoidance of school drop-off/pick-up times, use of a banksman to supervise offloading operations, appropriate barriers and gates. Commitment is also maintained to widen Beanburn in the three

locations identified by the Council. The Report also maintains the preference for access to the school via the proposed footpath link, giving reasons why a loop road through the school may increase traffic and increase safety risks.

Members will also note a further response from Housing Strategy who considers that a new access road from the High Street would be likely to make the site unviable for affordable housing delivery without significant additional grant funding. This funding is heavily committed and highly unlikely to be available.

Members should also note additional responses from Ayton Community Council on the issues relation to use of the Beanburn, the arrangement for pick-up/drop-off at the school and the potential revised access from the High Street. The revised responses include an additional photograph of lorry blockage and an acceptance that a permanent alternative access via farmland is unrealistic but that a temporary construction access should be investigated. The Community Council also make further points about impacts being greater in the Beanburn at peak school times and the Council Policy regarding one-way loops within school grounds.

While there are certainly shortcomings with the Beanburn approach, it is considered that with the mitigation proposed, this approach is not unacceptable in planning terms. Indeed, the requirement of the local development plan allocation is that the site is approached by this route and it would therefore be unreasonable to object to the development on the grounds of principle or means of access which complies with the requirements of the allocation. Furthermore, the proposed affordable housing makes a significant contribution to the Strategic Housing Investment Plan programme and this is an important consideration in the determination of the application. It would not be reasonable, through any permission, to require an access across land over which the developer has no control, when there is no clear prospect that it could be delivered. Adding in the cost of such a road when the allocation requires access along Beanburn may also be considered unreasonable.

SITE DESCRIPTION

The site is located to the south-western edge of Ayton and consists of 2.3 hectares of grazing and open land, generally level but with a slight rise to the west and north. There is a sycamore tree on the south-western boundary of the site and an area of hawthorn and goat willow bushes along the boundary between the two allocated sites. This area also contains a fenced off drainage pond. Beech hedges also exist to the north-east and south-western boundaries and a high conifer hedge also borders the northern corner.

The site lies immediately south-west of an existing housing area in Lawfield Drive which contains single and predominantly two storey housing of modern design. Ayton Primary School also borders the site to its north-eastern edge. Along the south-eastern edge lies the Beanburn public road and more recent houses of contemporary design, with an access leading to the site, Summerhill Park. The remaining boundaries to the south-west and north-west border open agricultural land. A small area of allotment gardens exists to the south-eastern boundary of the site.

The site is not within Ayton Conservation Area but immediately adjoins properties within it on Beanburn. The site comprises of two separate allocations for housing development in the Local Development Plan 2016 (LDP) as AY1A and AAYTO003 with a combined indicative site capacity of 44 units. Four houses have already been individually constructed within the allocation AY1A fronting Beanburn and from the

main access off Beanburn, Summerhill Park. This leaves a residual combined indicative site capacity of 40 dwellinghouses.

PROPOSED DEVELOPMENT

The application is submitted in full for the development of dwellinghouses for affordable rent by Berwickshire Housing Association. It will consist of 50 dwellinghouses comprising a mixture of 40 two storey houses and 10 single storey cottages for the elderly. The two storey houses will offer 2-4 bedrooms and the cottages 1-3 bedrooms. The houses have been designed and laid out to maximise aspect to the south for solar gain purposes.

The layout has a main access from Beanburn and Summerhill Park to the south-east of the site. A secondary vehicular access is also proposed to Lawfield Drive to the north-eastern boundary of the site. Footpath links are also proposed to the aforementioned roadways and the adjoining Primary School. A rear access path is also proposed for Lawfield Drive residents. A potential future vehicular link is provided to the north-western field boundary.

There is a loop road system within the site with a mixture of curtilage and communal parking spaces. The road system contains various focal point squares at junctions. Centrally, the site will contain a landscaped open space area incorporating the existing sycamore tree and proposed SUDs attenuation basin. This area will be planted and have footpaths to its edges, bordered by the single storey cottages on a NE/SW alignment. Elsewhere, the two storey housing will be aligned to maximise solar gain, generally arranged in semi-detached form facing south but with some terracing to the north-eastern boundary.

The two storey houses will be designed with asymmetrical roof pitches, the longer roof slopes designed to accommodate solar panels. The single storey cottages will have symmetrical roof pitches. Roofs will be covered in grey concrete tiles and wall materials, initially incorporating red brick, will now be wholly a mixture of white and red render with light grey fibre-cement shiplap cladding feature panels. Windows will be dark grey uPVC.

Whilst some shrub planting will be removed within the centre of the site, other boundary hedges, trees and shrubs will be retained and augmented with new planting throughout the interior of the site. Boundary treatments between plots also vary with a mixture of metal trip rails and higher walls and fences.

The surface water drainage system is based upon permeable and SUDs principles with a central detention basin and overflow discharge to the public system. Foul drainage will also be to the public sewer in Beanburn.

The application is classed as a 'Major' development under the Hierarchy of Developments (Scotland) Regulations 2009. The applicants publicised and held a public event prior to the application being submitted, as well as consultation with Ayton Community Council. The outcome of the public consultation exercise has been reported in a Pre-Application Consultation Report submitted with the application. The requirements of the Development Management Procedure (Scotland) Regulations 2013 have been satisfied. The applicant has held further discussions with the Community Council during the application process.

In addition to the submitted plans and drawings, there are also statements and reports in support of the application, as follows:

- Pre-Application Consultation Report
- Design Statement
- Transport Statement
- Flood Risk Assessment
- Ecology Feasibility Report
- Ecological Impact Assessment
- Tree Survey
- Drainage and SUDs Strategy Report
- Geotechnical Interpretative Report
- Geo-Environmental Desk Study Report
- Cultural Heritage Desk Based Assessment
- Archaeological Data Structure Report
- Landscape Design Statement

PLANNING HISTORY

The current allocation for housing on the site has been through full public consultation during the Local Development Plan process, leading to designation as allocations AY1A and AAYTO003 with a combined indicative site capacity of 44 units. Four houses have been separately applied for, permitted and built within the southern area of the allocation, alongside Beanburn, dating from 2007-2011.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: No objections to the application subject to conditions. Notes the development is above the LDP indicative capacity but considers the site can accommodate the higher number of units through the “Designing Streets” compliant layout. Comments on the nature of Beanburn as the main access to the development, the narrow section at Summerhill Cottage, the existing and proposed traffic counts and the current use of the road by large vehicles and agricultural related traffic. Acknowledges the local concerns but feels that with conditions regarding localised widening, pre and post construction surveys of Beanburn/Lawfield and a traffic management plan for the construction period, there can be no objection to the use of Beanburn as the main access. Also seeks a condition to secure a pedestrian link to the school from the site to provide a safer pick-up/drop-off alternative.

Accepts additional connection to the Lawfield housing scheme and generally considers the internal layout to have good connectivity and pedestrian access. Some adjustments to surfacing may be needed at the Roads Construction Consent stage and the internal link road between Plots 34 and 47 should have passing opportunities.

Responds to further submissions by accepting the footpath link to the school, subject to agreement on timing and the passing zone on the internal link within Phase 2. However, the submitted drawing for the Beanburn widening remains too indicative and consider there are several locations within public road verge where the Beanburn could be widened. Content this can be addressed by suspensive condition seeking more precise details.

Education Officer: Within the catchment of Eyemouth High School and Ayton Primary School but no contributions are sought.

Landscape Architect: No objections, noting that there are surface water issues on the site; that the existing sycamore tree is being retained but that also more scrub and tree cover could have been retained. Welcomes the open space SUDs treatment within the centre as a focal point within the site. Requests revised plans to seek a variety of changes including hedging and fencing instead of trip rails, tree planting at gable ends, hedges to northern boundaries, tree planting to existing boundaries with 1.5m maximum height fencing, tree-friendly construction including preservation of Root Protection Areas, omission of red brick, careful selection of tree/hedge species and clarification on the long term maintenance of landscaped areas.

Housing Strategy: Supports application, noting the site is within the current SHIP and the RSL will be providing affordable housing in two phases, the first phase delivering 29 units in 2020/21. The Scottish Government is willing to grant aid the development and the units will contribute towards their 50,000 unit target by March 2021. After noting concerns from the community over scale of housing need, sought additional information from BHA who had commissioned a survey on housing needs in 2018 revealing a scarcity of lets in Ayton, each property resulting in an average of 25 bids. Assessment of this over last two years in Ayton reveals 112 bids for six properties, indicating local need. The Right to Buy loss to the housing stock is also a factor. Notes that BHA will only build Phase 1 (30 units) and will not move onto Phase 2 until future needs and funding justify it.

Flood Protection: Initially felt that the proposals were unsuitable, especially due to evident standing water in the area of Plots 47-50 and the need for the source of the water to be investigated. They also requested confirmation that the SUDs basin can accommodate a 1 in 200 year run-off, pre and post-development flow paths and the adequacy of the drainage pipe at the Lawfield Drive boundary.

Following submission of additional information, notes that the drainage pipe at Lawfield Drive will be increased in size from 150mm to 450mm, there will be intercepting drainage on the perimeter of the site, the existing drainage ditch filled in, the proposed SUDs basin will accommodate 1 in 200 year storm events and satisfactory pre and post development flow paths have been provided. Raises no objections on the basis of the additional information.

Archaeology Officer: No objections but there have been investigations carried out on two cropmarks in the south-eastern part of the site including site trenches and ten metre buffer zones. One of the cropmarks revealed features and work has been ongoing. Whilst no further ground investigation is required, there is still a need to impose a planning condition to seek a Written Scheme of Investigation for post excavation analysis and publication. An Informative should also be added to cover any other archaeology encountered during development.

Ecology Officer: Initially requested an Ecological Impact Assessment. Once received, no objections subject to conditions. There are no impacts on designated sites and any habitat loss is at a local level and can be compensated with suitable planting in a Landscape Habitat Management Plan, required by condition. In terms of fauna, the bat survey is accepted subject to a condition on appropriate lighting. Mammals do not raise any issues but there will still need to be Species Protection Plans for badger, breeding birds and amphibia. The Management Plan should also provide for bat boxes and nest boxes.

Access Officer: No issues with public access as there are no rights of way or core paths within the site.

Forward Planning: No objections. The site is allocated for housing in the Local Development Plan via two allocations with a combined indicative capacity of 44 units, albeit four units have already been constructed along the southern boundary. The site complies with Policy PMD3 on development of allocated sites for the zoned purpose. The development should be assessed against Policy HD1 on affordable housing, including need, current supply and characteristics of the site. The southern allocation is included within the current SHIP. Lists other Policies to be complied with and various site requirements in the LDP, including pedestrian links, structure planting, archaeological investigation and flood risk assessment.

Neighbourhood Services: Response awaited.

Waste Services: Three areas involve reversing so waste collection points should be on the main loop road.

Statutory Consultees

Transport Scotland: No objections.

Scottish Water: Response awaited

SEPA: Initially supported the comments of SBC Flood Risk Officer regarding the pre and post development overland flows and source of the water-filled ditch on the site. Also question the source of the sump and open channel. Upon receipt of additional information, objects on the grounds of flood risk. In particular, the lack of groundwater investigation, the size of the culvert the upsized Lawfield Drive pipe is being connected to, clarification of ownership agreement, SUDs details relating to attenuating the larger catchment and information on the sump protecting existing houses in storm conditions. Following receipt of further information, withdraws objection especially after being reassured over the potential flood risk impacts on existing property.

Ayton Community Council: Supports the principle of affordable housing in the village but objects to the scale of the development which is not based upon actual demand, quoting the housing needs survey in Ayton in 2018 revealing only 9 households looking to move to Ayton and BHA own figures of every rental house attracting only 18 applicants. Also objects to the impacts on local infrastructure, particularly the capacity of the Beanburn where a school drop-off loop road and alternative access to the north of the site have not been adequately investigated. Further objections to impacts of the increase in population on the school and health care.

REPRESENTATION SUMMARY

Objections and representations have been received to the application from 26 properties. These can be viewed in full on the Public Access website and the main grounds of objection include the following:

- Inadequacy of Beanburn to safely accommodate the development in that the road is currently overloaded, is used by large agricultural-related vehicles and school traffic, is too narrow, has an inadequate footpath on one side, is in poor condition, contains blind accesses and on-street parking, impacts of construction traffic etc.
- The Transport Statement is inaccurate and provides low traffic generation estimates.
- Use of Beanburn would be contrary to Local Development Plan Policies PMD2 and HD3.

- Road widening may involve private property.
- Safety concerns over traffic generation impacts on children and pedestrians.
- Lawfield Drive is also unsuitable for additional traffic with on-street parking problems.
- A better and alternative access should be investigated from the High Street to the north of the site.
- The large scale of the population increase, overdevelopment, lack of justified need and contrary to LDP Policies including PMD3, HD1 and the indicative capacity in the allocation,
- Strain on the local primary school and health care, contrary to LDP Policy PMD1
- Concerns over drainage problems and ponding on the site, risks of Beanburn overflow and flood risk, inadequacy of existing sewerage and surface water system and insufficient new drainage proposals.
- Detrimental impact on wildlife
- Inappropriate design, materials and colours not in keeping with the area.
- Poor transport links and facilities for new tenants.
- Overprovision of car parking.
- Impacts on existing surface water soakaway to south of site.

Some of the letters were prefaced by general support to additional population supporting local services and meeting affordable housing need in the area.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 Sustainability
 PMD2 Quality Standards
 PMD3 Land Use Allocations
 IS2 Developer Contributions
 IS4 Transport Development and Infrastructure
 IS6 Road Adoption Standards
 IS7 Parking Provision and Standards
 IS8 Flooding
 IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
 EP3 Local Biodiversity
 EP9 Conservation Areas
 EP13 Trees, Woodlands and Hedgerows
 EP15 Development Affecting the Water Environment
 HD1 Affordable and Special Needs Housing
 HD3 Protection of Residential Amenity

OTHER PLANNING CONSIDERATIONS

SESplan Strategic Development Plan 2013
 Scottish Planning Policy 2014
 PAN 44 Fitting New Housing into the Landscape 2005
 PAN 61 Planning and Sustainable Urban Drainage Systems 2001
 PAN 65 Planning and Open Space 2008
 PAN 67 Housing Quality 2003
 PAN 75 Planning for Transport 2005
 Designing Streets 2010

SPG Affordable Housing 2015

SPG Developer Contributions 2016
SPG Trees and Development 2008
SPG Landscape and Development 2008
SPG Green Space 2009
SPG Placemaking and Design 2010
SPG Guidance on Householder Development 2006
SPG Waste Management 2015
SPG Biodiversity 2005

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Local Development Plan Policies and Supplementary Planning Guidance on development on allocated sites, traffic impacts, density, design, landscaping, flood risk, drainage and development contributions

ASSESSMENT OF APPLICATION

Planning Policy

The site is allocated in the Local Development Plan 2016 for housing in two separate allocations – AY1A with an indicative site capacity of 24 units and AAYTO003 for 20 units. This reflects the SESPlan housing land requirements for periods to 2019 and a further five years beyond. The density of the site, and detailed LDP criteria are assessed further in this report. The allocation lists a number of site requirements including the need for Flood Risk Assessment, access from the existing access onto the Beanburn, utilisation of south-facing aspect, archaeological and biodiversity provision and pedestrian links to the school and Lawfield Drive. The allocation on the Proposals Maps also shows landscaping requirements to the north-east and north-west in the form of structure planting.

Although there is no site specific requirement relating to transport listed in the Local Development Plan, Appendix A clearly states that a Transport Assessment will always be sought for any development above 50 units and that the developer would be expected to pay for any off-site roadworks required as a result of their development. A Transport Statement has been provided and some off-site works are proposed as part of the application.

In terms of the principle of a housing development on this site, the Policy background is one of full support. The proposal is for housing development in compliance with the intended use in Policy PMD3. The site provides a contribution towards the housing land targets identified in SESPlan and in line with “Key Outcomes 1 and 2” in the Local Development Plan i.e. effective housing land supply and opportunities for affordable housing. The principle of the development should be assessed primarily against the provisions of the Development Plan in the first instance, as required by Section 25 of The Town and Country Planning (Scotland) Act 1997. It is only if there are material factors of sufficient significance that outweigh the provisions of the Development Plan, then determination could be against the provisions of the Plan. Much assessment from respondents and in this report will correctly focus on those material factors and, in particular, the impacts and consequences of the increased number of housing units above the indicative capacity. This report will contend that those material factors are not demonstrating sufficient adverse effects to the extent that refusal of development of 100% affordable housing on an allocated housing site would be justified.

The twin allocations in the Local Development Plan provide a total indicative capacity of 44 houses, of which four houses have already been constructed since 2007 along and within the southern edge of the allocation AY1A. The residual indicative capacity is, therefore, exceeded by 10 houses with this development. However, as discussed with other developments on allocated sites recently that have been presented to Committee, indicative capacity figures should not be seen as absolute maximum figures or caps. They are designed to ensure that the Council meet their five year housing land supply obligations set by the Government and are included within SESPlan and the Local Development Plan to ensure sufficient effective housing land for the period of the Plan and beyond. The figures are not derived from an exhaustive analysis of the potential layout of every site but on general size and density parameters. Although there may be consequential impacts, the fact that a proposed development exceeds the indicative capacity is not, in itself, justification *per se* for rejection of an application.

It is possible that, once detailed assessment has been carried out and layouts have been designed, development could prove to be acceptable in excess of the indicative capacity. This has happened on a number of sites throughout the Borders where developments in excess of the stated capacity have still been considered to be acceptable. It is very often the case that a higher density can lead to a better form and layout of development. The issue is whether the additional number of units causes significant and demonstrable harm that cannot be addressed or mitigated satisfactorily. In the case of a 100% affordable housing development, higher densities are likely as a result of economies of scale and the generally smaller house sizes. Whilst there are some criticisms of the size of the development and overdevelopment of the site, this report will accept that, through design and some amendments to the scheme, the impacts are not sufficiently adverse from the increased number of units that refusal of the application would be justified. Impacts can be satisfactorily accommodated and mitigated where necessary.

More significant concern has been expressed regarding the scale of the development in relation to the level of actual local housing need for Ayton, the concerns not relating to the fact that there is a need but to the provision of 50 houses across the site and the scale of addition this represents to the village. The Community Council has objected for this reason. Policy HD1, whilst more specifically relating to the need for a proportion of affordable housing, does require to be partly informed by local housing needs assessment work. This issue has been raised with the applicant and with the Council's Housing Strategy Officer and the responses have been to demonstrate the latent demand for affordable housing for rent in Ayton, informed by ongoing housing needs assessment. When existing properties do become available, the applicant has stated that they result in bids from an average of 25 persons or households. There has also been an impact on housing stock with losses in the village through the Right to Buy legislation. These figures are disputed by the Community Council and objectors who consider there to be significantly less latent need.

The Housing Strategy Officer, however, advises that there is the local demand to justify the proposed development, albeit there is a clear intention to complete the houses in two phases – 30 initially in Phase 1, supported by inclusion within the SHIP and by funding assistance from the Government. Whilst the applicant has stated that they intend to develop the roads and infrastructure across the whole site, they only intend to complete 30 houses in the first Phase before seeking further funding and assessing the need to complete houses in Phase 2. They envisage this would take at least four years.

Whilst a phasing condition could cover this matter, there is no specific Policy justification to divide the site up or withhold development of the full 50 houses in one stage. If this had been a private housing development, then there would be no justification to phase the development based upon local housing demand or funding position, given that the allocations are not defined as long term, dependent on other improvements releasing them for development. However, there is some logic in phasing based upon the natural progression of the development from one allocation into the other, given that the main site access must be taken from Beanburn. It would be more acceptable in townscape and access terms if the development, including the central SUDs/greenspace and road/footpath links, was to progress and be substantially completed within the indicated Phase 1 before the remaining housing was completed within Phase 2. This would be preferable in townscape terms to a long access road through an area undeveloped before reaching the 20 houses in Phase 2. An appropriate condition will be recommended.

Ultimately, the twin allocation in the Local Development Plan is not specifically for affordable housing and a private development (with affordable element) of 40 units could also have been applied for and would not be required to provide any justification of scale of need. Although this proposal is ten units above the indicative capacity, provided the additional units do not cause any layout or infrastructural issues, there is no specific requirement for the development to prove an exact match of supply and need.

Layout

Although the application proposes ten houses above the indicative capacity, it is considered that the layout and density are in compliance with LDP Policies PMD2, HD3 and the “Placemaking and Design” SPG. The applicant submitted a Design and Access Statement which stated that the layout was based upon the principles of solar gain with alignment generally facing south, habitable rooms being positioned on the southern elevations, narrow house depths and smaller, more private gardens to the north.

In terms of the density of the development, the applicant states that the density equates to 21.7 dwellings per hectare. They state that their development involves 40 two storey units offering 2-4 bedrooms and 10 cottages with 1-3 bedrooms. Seventeen of the units are terraced and the remainder semi-detached, except for a detached cottage at Plot 20. Had the application been submitted for the indicative capacity of 40 units on a purely detached house basis, there would have been likely to have been more repetition of narrow gaps between gable walls and an impression of congestion and overdevelopment possible as a result, given that house types would have been likely to be larger in individual footprint. The use of terraced and semi-detached units makes more effective use of ground and minimises the detrimental visual effects of increased unit numbers by providing greater space in between houses.

It is not considered that the layout and density are inappropriate for the area nor would cause any demonstrable harm to the surrounding residential areas or landscape. At 50 units across 2.3 HA, this equates to 21.7 units per hectare which has parallels in recent approvals for housing developments elsewhere in the Borders. At Lauder for example, a density of 34.5 was consented for a private developer. Fully affordable developments can result in even higher densities per hectare, as consented recently at Chirnside for example.

To comply with Policies PMD2, HD3 and the “Placemaking” SPG, any layout and density have to be appropriate to their surroundings and be compatible with, and

respect the character of the surrounding area and neighbouring built form. The SPG repeatedly uses reference to the built context. However, the Policies and Guidance do not intend to seek identical or replica layouts and densities throughout a settlement, the importance of interest and variety being stressed.

The density does not represent any form of overdevelopment in relation to adjoining built context in Ayton. Whilst the site does border lower density existing development at Beanburn together with a school and playing field, it also borders terraced and semi-detached single and two storey housing at Lawfield Drive which represent a similar higher density. Generally, the garden sizes and large central area of landscaped SUDs/open space prevent rigidity of layout and improve the ratio of built development to open land.

The visual impacts of the variations in density are also assisted by the intended planting around the boundaries of the site, together with further street planting, squares and areas of communal parking. These alleviate any impression of congestion or overdevelopment and all houses comply with the buffer privacy standards set down in the "Householder" SPG, following amendment – discussed in the appropriate section of this report. Whilst some of the rear gardens are small, these back onto landscaped boundaries which further assist in visual impacts.

In terms of the overall layout, this is partly dictated by the chosen solar gain approach and the requirements of both road/path connections and surface water drainage issues. It is not a site with particularly outstanding natural features within it although it does occupy an attractive open position in Ayton on the edge of farmland and contains some trees and scrub vegetation, including a sycamore tree to the southern boundary which is being retained. Generally, the layout has been informed by Guidance such as Designing Streets and the "Placemaking" SPG and attention has been paid to creating south facing principal elevations maximising solar gain and energy efficiency – a site requirement of both allocations in the Local Development Plan as well as a requirement of other Policies such as PMD1 on sustainability.

The alignment of the houses is different to the surrounding context although, from most vantage points, any difference will be neither significant nor detrimental to amenity. The site is outwith the village Conservation Area and there are already angled alignments of modern houses nearby, along Beanburn. The central spine of single storey cottages and houses to the northern tip of the site follow a NE/SW alignment which provides a visual correlation with the alignment of some terraced blocks in Lawfield Drive. The informal and twisting nature of the road layout, paths and street landscaping also help minimise any rigidity of layout and any context comparisons, assisted by the low-key garden boundary treatments and suggestions from the Landscape Architect – see relevant section in this report.

There were some parts of the site, however, where alignment and position of proposed houses were considered to be exhibiting issues of overdevelopment. In particular, the house on Plot 51 was leaving insufficient space around it for preservation of amenity and appeared congested in relation to existing and proposed houses. The houses on Plots 6/7 and 30-34 were also considered to be potentially dominant in alignment and proximity to houses in Lawfield Drive. There were also considered to be density and proximity issues between some of the proposed single storey and two storey units in the centre of the site.

The agent has provided acceptable solutions to these issues, including removal of the house on Plot 51 and realignment of the pair of houses on Plots 6 and 7 to ensure a better gable to gable relationship. There has also been an easing of proximity between

the single storey and two storey units in the centre of the site. The houses on Plots 30-34 are retained as proposed but, as explained in the following sections, a combination of new planting and habitable room positions will minimise the impacts on existing houses to an acceptable degree. The agent also contends that these proposed houses are fewer in number than the existing terrace and are of smaller size than other proposed houses, thus matching the existing scale and height.

For the aforementioned reasons, it is not considered that the density and layout of the development are inappropriate for the area nor incompatible with character. The Policies and Guidance do not intend to seek identical layouts and density throughout a town or village but they do aim to seek compatibility and respect. Because of the similarities and variations in density within the general area which are also reflected within the application site, together with the use of terraced/semi-detached units, varied layout/building lines, central open space and full landscape treatment, it is considered that the development is compliant with Local Development Plan Policies and Guidance. The development for 100% affordable housing also contributes to local and national targets for provision and appears justified on the basis of local housing needs assessments. The development will also be phased to enable more gradual addition of housing to the village, albeit justified more properly in relation to access and natural progression of development rather than housing need.

Design

The design of the development must comply with Local Development Plan Policy PMD2 and the "Placemaking and Design" SPG in particular. PMD2 requires developments to be of a scale, massing and height appropriate to their surroundings. As referred to in the Design, Access and Sustainability Statement, there is a clear context for two storey housing development, set by Lawfield Drive in particular. This scheme is predominantly two storey housing with some single storey units, a pattern matched within the new development. There are also two storey houses along Beanburn, some contemporary in style although the majority are older and more traditional, especially to the east within the Conservation Area. Given that the site is relatively level with little fall across it, it is considered that the predominant use of two storey housing, in terms of scale and massing, is appropriate to its surroundings as required by Policy PMD2.

The same Policy requires designs to be compatible with, and respect the character of, neighbouring built form. As mentioned under the Section in this report on density, this does not mean that the development must be identical nor would that be desirable in terms of developing interesting and varied placemaking. However, certain design principles have been used in this application which provide a connection with local architectural styles, including the use of gable end designs and dark grey tiled roofs, with no roof pitches shallower than 35 degrees. Similarly, attention has been paid to fenestration and render colours/finishes, including the initial intention to use both red facing brick and red terracotta render colouring to reflect the colours from both the field conditions and the High Street. Corner units have projecting gables to act as focal points. Fibre cement shiplap cladding on the front of the houses between the windows adds further interest to the designs.

Generally, the design approach is acceptable in terms of Policy PMD2 and the "Placemaking and Design" SPG. The site and location generally has a much closer relationship with modern housing at Lawfield and Summerhill Park than with the older and more traditional housing within Beanburn and the High Street. The contemporary approach within the design reflects the surrounding context, including eco houses at

Summerhill Park, and is justified on the basis of site location, context and the Policy support for solar gain on this site.

However, it was not considered that the use of red brick was appropriate on the site, given the lack of brick in the surrounding area. Whilst the Design Statement used the influence of the site conditions and history ("Claypots Field"), it was considered that less weight should be attached to that and that surrounding colours and materials were the greater influence. The agent has now withdrawn the use of brick but continues to propose a mix of only red and white rendered houses, whereas the surrounding context suggests that white and buff coloured render should be the predominant mix, with occasional or signature red houses at corner or nodal locations. It is not considered that there is context for 24 of the 50 houses in red but the final details of the colour mix and other materials can be reserved by suspensive planning condition.

Another concern was the use of asymmetrical roof pitches throughout all houses in the development, as it was not considered there was sufficient context or justification for this in the local area. Concerns were raised with the agent who responded with further justification based upon the longer term aim to maximise solar panel usage on the longer south-facing roofs of the development. They have quantified that there would be between 5 and 9 square metres of roof area lost equating to 0.8-1KW. This justification is now considered acceptable as they have quantified the reduced energy potential of shorter symmetrical roof pitches and, particularly, given the varied house designs in the surrounding area and the encouragement in LDP Policy PMD1 and green energy site requirements in the allocations. They have also altered the roof pitches of the central single storey cottages to symmetrical dual pitch to provide a contextual connection with the roofs in adjoining houses. As a result of the aforementioned responses, it is not considered that the asymmetrical roof pitches of the two storey houses represent sufficient reason to oppose the development on design grounds.

In summary and subject to conditions, the design of the units and the materials will allow connection and integration with the surrounding urban fabric whilst providing a sense of place and variety of townscape and design, in keeping with Local Development Plan Policies and Supplementary Planning Guidance.

Residential Amenity

Policies PMD2 and HD3 contain safeguards regarding residential amenity, both in terms of general use compatibility but also direct impacts such as privacy and light. In terms of PMD2, the development of the site for housing is compatible with and respects the uses that predominantly adjoin the site i.e. the housing areas at Lawfield and Beanburn. However, the amenity of the nearest existing houses to the development should be respected in accordance with the Council's "Privacy and Sunlight" SPG, as should the amenity between all proposed houses within the development.

As explained within the Design Statement, the two storey houses are designed with the principle of solar gain in mind, all habitable room windows generally facing south over their own garden spaces. Whilst most houses are at least the required 18m apart window to window, any houses that are closer do not result in habitable window overlooking due to the north-facing windows serving only bathrooms and hallways. All houses are also sufficiently spaced to ensure that daylighting angles are maintained in compliance with the Guidance.

Some areas of concern were, however, raised with the agent in relation to the impacts of Plots 30-34 on Lawfield Drive and overlooking of existing and proposed houses from

first floor bedroom windows on several gable windows within the development. The responses have been an additional daylighting section and omission of several gable end windows which have addressed the concerns satisfactorily, given that gable windows were only secondary windows to the proposed bedrooms in any case. The daylighting section shows that the nearest house relationships with Lawfield Drive still allow compliance with the 25 degree daylighting angle. There are also notes on the elevation drawings of any houses with gable end bedroom windows, omitting them on identified gables where problems were envisaged. Whilst this has addressed the issue, the matter will still need to be controlled by condition on these gables as the installation of gable windows would, otherwise, be permitted development not requiring planning permission.

There are also objections expressed over residential amenity in terms of traffic impacts and noise, this being mentioned in Policy HD3. In terms of the construction period and taking into account the comments of the Roads Planning service, there will be the requirement to submit a Traffic Management Plan. This will include HGV movements, hours of operation, use of a banksman on the High Street etc. In this way, construction impacts on residential amenity should be mitigated and minimised.

Overall, on the basis of the aforementioned comments and conditions, it is considered that the development provides acceptable residential amenity in terms of Policies PMD2, HD3 and the relevant Supplementary Planning Guidance.

Landscape

The application was initially supported, in landscape terms, by proposals set out in the Design Statement and on the site layout drawing. Following comments by the Landscape Architect, further more detailed landscaping drawings were submitted backed with a specific Landscape Design Statement. This identifies that the sycamore tree and existing field hedgerows will be retained and restored and that the scrub woodland in the north-west of the site will be retained in the short term until Phase 2 is developed. New planting is intended throughout the site including street trees, structure trees within gardens, landscaped SUDs area and shrubs around the parking areas and within gardens. Any higher fencing will also tend to be framed by hedge planting and some gable ends will be planted with climbing plants. The communal landscaping will then be maintained by the applicant with the SUDs area by Scottish Water once adopted.

In terms of compliance with Local Development Plan Policies PMD2 and the relevant SPG on "Landscape and Development", the Design Statement and Landscape Design Statement are noted and generally accepted, in terms of their analysis and treatment of the landscape impacts of the scheme. However, although there has been no objection from the Landscape Architect, a series of issues were initially raised which have now been explored further with the developer. These related mainly to hedging and fencing instead of trip rails, tree planting at gable ends, hedges to northern boundaries, tree planting to existing boundaries with 1.5m maximum height fencing, tree-friendly construction including preservation of Root Protection Areas, omission of red brick, careful selection of tree/hedge species and clarification on the long term maintenance of landscaped areas.

The Landscape Architect has responded to the revised submissions from the applicant with general acceptance but with further requests and queries. These relate mainly to the following:

- Screening planting on existing garden boundaries with Lawfield Drive and Beanburn
- Boundary frontage definition, avoiding timber fencing
- Adjustments to the planting mix and further maintenance information in the SUDs area
- Additional planting adjoining the gable on Plot 29
- Alternative hedge and tree species to the western boundary
- Additional hard surface details
- Omission of brick as facing material for any walling

As there is no objection from the Landscape Architect, it is considered that most of the remaining matters can be addressed by agreement through suspensive planning conditions. The proposals generally protect the few existing landscape features and provide an acceptable new scheme of hard and soft landscaping, based around the central SUDs feature. Subject to these conditions, it is considered that the application is in compliance with Local Development Plan Policies and Supplementary Planning Guidance.

Access

Policies PMD2 and IS6 require safe access to and within developments, which should also be capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets" and various other relevant Government publications and Guidance Notes. More than any other material factor with this application, objections over adequacy and safety of the access routes to the site have been lodged, relating especially to Beanburn. The various reasons for these objections have been summarised earlier in this report and Members will have had full access to all of the submissions on Public Access. In terms of compliance with relevant Policies and Guidance, it is necessary to consider the potential impacts of the development on the traffic network leading to the site, then at the actual road, footpath and parking layout of the development itself.

As previously mentioned, the site is an allocated site for housing development with an indicative remaining capacity of 40 houses. It is clear from the LDP allocation that there is in-principle acceptance of the potential traffic impacts of a development of 40 houses, subject to the submission of a Transport Statement and any mitigation measures considered necessary by the Council. One of the site requirements is that the allocations are accessed initially from the B6955 – which is interpreted as from the junction of the High Street, then along Beanburn into Summerhill Park. This should reflect tacit acceptance of the use, and capacity of both the Beanburn and Lawfield Drive, for a development of 40 houses. There is no concern over any increase in traffic on the A1, given the response from Transport Scotland.

In this case, the principal material factor is what impact the development, together with the additional 10 residential units, will have on the local road network and whether it can safely and adequately accommodate extra traffic, if any, taking into account all other relevant features of the road system, the findings of the Transport Statement and any mitigation proposed. The Transport Statement concluded that approximately 400 additional daily vehicular trips would be added, the largest increase being 29 extra trips in the peak hour in Beanburn. The Statement still considered that the two way flow of less than 100 vehicles per hour in Beanburn was quiet. Lawfield Drive, with the development, would be even quieter with only five additional vehicles in the peak hour. Local concerns over the use of the existing road system by larger farm-related vehicles was also considered. The Transport Statement concluded that the local road system

could safely cope with the traffic associated with the proposed development, subject to some new road markings at the junction with the High Street and the Primary School.

Within objections to the application, the Community Council and members of the community, however, expressed the following concerns and objections:

- Inadequacy of Beanburn to safely accommodate the development in that the road is currently overloaded, is used by large vehicles and school traffic, is too narrow, has an inadequate footpath on one side, is in poor condition, contains blind accesses and on-street parking, impacts of construction traffic etc.
- The Transport Statement is inaccurate and provides low traffic generation estimates.
- Use of Beanburn would be contrary to Local Development Plan Policies PMD2 and HD3.
- Widening may involve private property.
- Safety concerns over traffic generation impacts on children and pedestrians.
- Lawfield Drive is also unsuitable for additional traffic with on-street parking problems.
- A better and alternative access should be investigated from the Main Street to the north of the site.

The Roads Planning Service have carefully considered all submissions made both by the applicant and by objectors. In their initial response to the application, they acknowledged that the principle of development has already been established and that the remaining indicative capacity would allow for a further 40 houses. They then assess the capacity of the Beanburn, consider its nature, any constraints, the traffic generation envisaged and the objections of local residents. They conclude that accessing the site via Beanburn is acceptable and that the additional traffic generation, whilst high in percentage terms, remains low in actual numbers.

Whilst Roads Planning are sympathetic to the concerns raised, including the use of Beanburn by large agricultural vehicles, they consider that the relatively low traffic volumes, combined with some localised road widening and traffic management measures, allow the Beanburn to be used safely without unacceptable risks that could justify refusal of the development. They seek a widening at several locations to enable two vehicles to pass and consider the locations to be within public road verge, albeit this is challenged by an objector. They also acknowledge other concerns over the impacts of school and construction-related traffic and seek other measures such as a footpath link from the development into the school to enable an alternative for pick-up/drop-off and a Traffic Management Plan to minimise impacts on local residents. They have no concerns with the impacts of the secondary access link onto Lawfield Drive. The Community Council maintain that a one-way loop road for drop off at the school should still be investigated but this is not supported by Roads Planning.

Revised proposals have now been received with the footpath link to the school and localised road widening to Beanburn indicated. The Roads Planning Service has responded to these revisions by accepting the footpath link to the school, subject to agreement on timing. There is also acceptance of the passing places on the internal link within Phase 2. However, the submitted drawing for the Beanburn widening remains too indicative and Roads Planning consider there are several locations within public road verge where the Beanburn could be widened. They are content that this can be addressed by suspensive condition seeking more precise details.

Subject to these measures, imposed by conditions, Roads Planning are satisfied that the traffic impacts of the proposed development are acceptable and that the local road

network can accommodate the increased traffic safely. Although there is local reference to a possible alternative access route across farmland to the north of the site, including from the Community Council, this route is not proposed by the applicant and the application must be determined on the basis of the acceptability of the proposed route and not whether an alternative exists. A potential access link is shown through to this land but that is acceptable in terms of the proper and future planning of settlement growth and to ensure sites are not unnecessarily land-locked. Should the applicant either propose this route at a future date or, at least, for construction traffic, then such provision would be considered at the appropriate stage, albeit through any necessary planning application.

Following continuation of the application from the June Committee for an improved access arrangement to be discussed between Officers and the applicant, Members will note the responses received from the agent, Community Council and other interested parties. There are concerns expressed by the agent over project viability and the delivery of affordable housing, should alternative accesses be required, including the issues of cost of the road itself and third party land ownership. The agent, therefore, maintains the proposals on the basis of the use of a locally widened Beanburn, secondary access via Lawfield Drive, pedestrian access to the school and enhanced Traffic Management Plan measures to minimise the impacts of construction traffic. The proposals continue to be supported on this basis and subject to the listed conditions, given the continued lack of objection from Roads Planning.

In terms of the site layout, this does not generally cause any issues with the Roads Planning Service – the roads and paths requiring Roads Construction Consent. Good connectivity is achieved via two vehicular access points from Beanburn and Lawfield Drive and there remain full footpath links throughout. The in-curtilage and communal parking provision are also accepted. There are minor comments about surfacing definition of the internal footways and there is a section of single lane road within the site that needs a passing opportunity.

Subject to the aforementioned conditions, it is considered that the proposals are in compliance with the provisions of the Local Development Plan in relation to safe and acceptable access to, and within, the site. It is not considered that there are other material factors of such significance in relation to road safety and access that would outweigh the terms of the Local Development Plan in this instance.

Drainage and Flood Risk

Local Development Plan Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Policy IS8 relates to flood risk and IS9 to Waste Water Treatment Standards and Sustainable Urban Drainage. There are objections from local residents on these matters, especially in relation to surface water flood risk to property in the vicinity and exacerbation of current ponding on the site. There is clearly a surface water issue on the site and this is recognised in the drainage responses from the applicant and consultation replies from SEPA and the SBC Flood Risk Officer

Policy IS8 requires development not to be at risk of flooding but also not to materially increase the risk of flooding elsewhere. A requirement of the Local Development Plan allocations is the provision of a Flood Risk Assessment and this was duly provided with the initial submission of the application. The strategy was largely based upon a storm water SUDs area in the centre of the site and overflow/foul drainage connections to existing drains on the Beanburn and Lawfield Drive. The Flood Risk Officer felt the proposals were not initially suitable and raised issues of standing water at Plots 47-50,

pre and post development flow paths and the adequacy of both the SUDs area and existing drains to cope with the drainage from the development. SEPA backed these concerns and also questioned the source of the sump and open channel.

Further information was submitted by the agent including revisions to the Flood Risk Assessment, intercepting drainage along the boundaries to the site, filling in the existing ditch, increasing the size of the drainage pipe to Lawfield Drive and verification of acceptable SUDs capacity and pre/post development flow paths. After consideration, the Flood Risk Officer considers that the proposals address the flood risk issues at the site. However, SEPA then objected on the grounds of flood risk. In particular, the lack of groundwater investigation, the size of the culvert the upsized Lawfield Drive pipe is being connected to, clarification of ownership agreement, SUDs details relating to attenuating the larger catchment and information on the sump protecting existing houses in storm conditions. These questions have been raised with the applicant and additional information has now been received which has been passed back to SEPA. Any updated SEPA comments will be reported to Members at the Committee meeting.

There has been no response from Scottish Water but there are no indications that there are any significant capacity issues with either foul/surface water drainage or water supply. The agent has indicated that discussions with Scottish Water have indicated capacity. Separate consents will be needed from Scottish Water, in any case, for connections to their services and this can sometimes require contributions from applicants. It should also be accepted that the remaining indicative capacity of 40 houses on the allocated sites could have been developed with 75% being private market houses with potentially similar numbers of bedrooms and loading on the water and drainage infrastructure compared with the existing proposals.

Given the acceptance of the Council's Flood Risk Officer, it is considered that the revised proposals comply with Policies IS8 and IS9 of the Local Development Plan in relation to drainage of the site and avoidance of creating a material flood risk within the site or elsewhere. Conditions will be recommended to cover these matters and ensure Scottish Water agreement. The position of SEPA will be clarified at the Committee meeting but if they maintain objection and Members intend to approve the application, notification of the application to the Scottish Government would be necessary.

Ecology

The application requires assessment principally against Local Development Plan Policies EP1-EP3 covering international, national and local nature conservation and protected species. The application was supported by an Ecological Impact Assessment. The Council Ecology Officer accepts the findings of the Assessment and considers that there are no impacts on designated sites and that any habitat loss can be compensated within a Landscape Habitat Management Plan. In terms of protected species, the bat survey is accepted subject to a condition on appropriate lighting. Mammals will be protected through Species Protection Plans, covering badger, breeding birds and amphibia.

Subject to appropriate conditions covering these matters, it is considered that the proposals would comply with the Local Development Plan with respect to ecology.

Other issues

The Local Development Plan, under site requirements, makes reference to archaeological evaluation. There has already been some on-site investigation of cropmarks, features of interest being found associated with one of the cropmarks. The Council Archaeology Officer has confirmed that this matter can be fully addressed through an appropriate condition covering a scheme of further investigation.

Play Space is generally advised within the Council "Greenspace" SPG. The Council Policy, in recent years, has been to seek enhancement of existing play space facilities rather than individual small play areas where adoption and maintenance pose additional problems. In recent housing developments, commuted sums have been sought from developers towards enhancing existing play facilities locally. In the case of this development, adequate greenspace is being provided within the central part of the site. Any formal contribution to playspace off-site can be made through a Legal Agreement, the nearest play facility being at the school playing fields with two footpath links from the development through to that area.

Developer Contributions and local services

Local Development Plan Policy IS2 requires all housing developments to contribute to infrastructure and service provision where such contributions are considered necessary and justified, advised by the Development Contributions SPG. In the case of schemes that are 100% affordable housing, it is not the Policy of the Council to seek any developer contributions except those involving play space. The applicant has already confirmed that they will meet the £500 per unit contribution by Section 69 Agreement. To ensure the Policy on development contributions is complied with, the standard condition will be applied to ensure that all units on the site will be developed and occupied as "affordable" within the Council SPG definitions.

In terms of other financial contributions that would be demonstrated to be required by the development, impacts on schools and health facilities are mentioned by objectors. In terms of education and, whilst acknowledging the concerns that have been expressed over capacity and strain on facilities, the Council Policy is not to seek education contributions for affordable housing developments. To do so would be inconsistent with current Policy and all previous cases of affordable housing. That is the reason why no contributions are sought within the Education consultation response.

In terms of current health care provision and waiting times, such concerns frequently arise in communities across the Borders when faced with housing development and population growth. The concerns suggest that the application should either be refused for reasons of impact on health care services or that contributions be sought to support the services. The issue is regularly reviewed during the Development Planning process and the NHS are consulted when land is allocated and growth planned.

Whilst the Development Contributions SPG states that "*...Any services, infrastructure or facilities may require contributions...*" health care is not listed in the examples of the predominant types of facilities that could be supported with contributions. There has hitherto been no identified need to oppose developments or seek financial contributions on the basis of health care capacity, perhaps reflecting the variety of reasons why there currently may be capacity issues. These may not only relate to population and development growth but also to funding and resource matters which lie outwith the control of the Local Authority or developers. There is also the difficulty of not only assessing how much contribution should be sought, but also how to ensure it is diverted to local facilities that may require it when such services are centrally funded. Ultimately, it would be difficult to establish a clear causal link (and justification to seek

contributions) between a proposal to add 10 units above the residual indicative capacity in the Local Development Plan and the potential impact on health care in the area.

CONCLUSION

The proposals are considered to be an acceptable development of an allocated housing site within the Local Development Plan, providing additional affordable houses to meet local need. The density, design and layout of the development comply with Policies and Guidance and the impacts on road safety and infrastructure are considered acceptable, mitigated by conditions where required.

In conclusion and subject to compliance with the proposed schedule of conditions, Informatives and Section 69 Agreement securing play space contributions, the development is considered acceptable when assessed against the Local Development Plan and other material factors.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions, Informatives and Legal Agreement:

Conditions

1. All approved residential units shall meet the definition of “affordable housing” as set out in the adopted Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance “Affordable Housing” 2015 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 prior to development commencing.
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would not comply with development plan policies and guidance with respect to contributions to infrastructure and services, including local schools.
2. Notwithstanding drawing 1609/A(00)051 A and the housing elevation drawings, no development shall commence until a scheme of external materials (including specifications and samples of materials and colours) for all buildings within the development, has first been submitted to and approved in writing by the Planning Authority. The materials shall not include any facing brick. The development shall be carried out in accordance with the approved scheme.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.

3. Notwithstanding the terms of Schedule 1 of The Town and Country Planning (General Permitted Development) (Scotland) Order 2011 and any subsequent amendments, there shall be no windows installed at first floor level on the side gable elevations of the houses on Plots 1, 2, 3, 5, 6, 7, 11, 12, 15, 16, 17, 19, 21, 31, 32, 34, 35, 39, 43, 47 and 48 unless application is made and subsequently granted for such windows.
Reason: To safeguard residential amenity and privacy.
4. No development shall commence, (notwithstanding the details provided in the approved landscaping drawings), until a detailed scheme of landscaping and boundary planting (incorporating protection of existing trees and hedges, layout, location, species, schedule, implementation date(s) and future maintenance of all new planting and communal open space within the site) has first been submitted to and approved in writing by the Planning Authority. The development shall only be carried out in accordance with the approved details in implementation and maintenance of the approved scheme.
Reason: Further information is required to achieve an acceptable landscape scheme for the site.
5. The development shall remain outwith the Root Protection Area of the tree identified on Drawing 1609-A (45)051 A, the tree to be protected in accordance with BS5837:2012 during construction work. Details of any paving within the Root Protection Area to be agreed and approved in writing by the Planning Authority.
Reason: To safeguard an existing tree within the site.
6. No development shall commence, (notwithstanding the details provided in the approved drawings), until a detailed scheme of boundary treatments (walls and fencing) has first been submitted to and approved in writing by the Planning Authority. The scheme shall include the layout/route of all existing and proposed walls and fencing, and their detailed design, height and materials. No facing brick shall be proposed. All boundary treatments within the application site shall accord with the approved scheme.
Reason: Further information is required to achieve an acceptable boundary treatment scheme for the site.
7. Prior to commencement of development, a Species Protection Plan for badger, breeding birds and amphibia shall be submitted to and approved in writing by the Planning Authority. The Species Protection Plan shall incorporate provision for a pre-development supplementary surveys and a mitigation plan. No development shall be undertaken except in strict accordance with the approved Species Protection Plan.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
8. Prior to commencement of development, a Landscape and Habitat Management Plan (LHMP) shall be submitted to and approved in writing by the Planning Authority. The LHMP shall incorporate provision for creation of an extended native thorn species rich hedgerow and wildflower grassland areas and include provision of a bat box and nest box scheme. No development shall be undertaken except in accordance with the approved scheme.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

9. Prior to commencement of development, a lighting scheme for bats, in accordance with good practice, shall be submitted to and approved in writing by the Planning Authority. No development shall be undertaken except in accordance with the approved scheme.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1
10. No dwellinghouses to be erected within Phase 2 until the development within Phase 1 is completed or substantially completed. This shall include completion of all roads, footpaths, drainage, the SUDs/open space feature and all, or a substantial proportion, of the dwellinghouses within Phase 1, to be agreed in writing with the Planning Authority. The precise timing of the completion of the footpath link to the school and the road/footpath link to Lawfield Drive also to be agreed.
11. Reason: To ensure the development is carried out in a manner which ensures that occupied residential units are provided with necessary infrastructure and services and to represent appropriate addition to the village.
12. No development shall commence until further details of proposed levels within the site have first been submitted to, and approved in writing by, the Planning Authority. These details shall include existing and proposed ground, road and other hardstanding levels; proposed house and finished floor levels and surface water flow paths as demonstrated on Drawing No. 302134-C-SK117. The levels shall relate to a fixed, off-site datum point. The development shall be carried out in accordance with the approved details
Reason: To ensure levels within the site achieve a sympathetic visual appearance and make satisfactory provision for surface water drainage.
13. Details of the surfacing materials for the proposed roads, footpaths and parking areas to be submitted to, and approved in writing by, the Planning Authority before the development commences. The development shall be completed in 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 which enhances the character and visual appearance of the development.
14. The proposed roads, footpaths and parking spaces/areas indicated on the approved drawings shall be constructed to ensure that each dwellinghouse, before it is occupied, shall be 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.
15. No development to be commenced until a scheme of details for carriageway widening on Beanburn is submitted to, and approved in writing by, the Planning Authority and thereafter, implemented in accordance with the approved details unless otherwise agreed in writing. The widening to be completed before any development on the site commences.
Reason: To ensure the impact of the proposed development on the local road network is adequately mitigated.

16. No development shall commence until a Traffic Management Plan (TMP) is submitted to, and approved in writing by, the Planning Authority. The TMP to address matters relating to the impact of construction vehicles on the public road within the vicinity of the site during the construction period. The development then to proceed fully in accordance with the approved TMP during the construction phase of the development.
Reason: To ensure the impact of construction vehicles on the public road network is mitigated so far as reasonably practical.
17. No development shall commence until a pre-construction condition survey of Beanburn and Lawfield is undertaken and submitted to the Planning Authority for record purposes. Thereafter, monthly inspections to be undertaken and recorded. Upon completion of the construction period for the development a post-construction condition survey to be undertaken of the aforementioned roads and submitted to the Planning Authority. Any remedial works identified as a result of the condition surveys must be rectified to the satisfaction of the Planning Authority within three months from the date identified, unless otherwise agreed.
Reason: To ensure there is no detrimental impact on the public road network during and after the construction period.
18. Any emergency remedial works identified on the public road as a result of the construction period for the development, must be rectified to the satisfaction of the Planning Authority within one week of being identified, unless otherwise agreed.
Reason: To ensure there is no detrimental impact on public road network during the construction period.
19. No development shall commence until written evidence is provided on behalf of Scottish Water that the development will be serviced by mains foul drainage and water supply. The development then to be implemented fully in accordance with the drainage schemes shown in Drawing Nos. 302134-C-101 C as amended by 302134-C-SK118.
Reason: To ensure the development can be adequately serviced and minimise risk of off-site surface water run-off
20. 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 in writing 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.

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

- Development at (Note 1)
- Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.
- The development comprises (Note 5)
- Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone 0300 100 1800, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).

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

Informatives

1. All prospectively adoptable roads, pavements and associated infrastructure will require Road Construction Consent. The applicant should discuss this separately with the Council's Roads Planning Service to establish the scope and requirements of Council adoption. All works within the public road boundary must be undertaken by a contractor first approved by the Council.
2. Development should be carried out in a manner consistent with British Standard guidance on construction works, to maintain neighbouring amenity, in particular BS5228
3. The Notes required of Condition 20 should be completed as follows:
 - Note 1: Insert address or describe the location of the development
 - Note 2: Delete "subject to conditions" if the planning permission is not subject to any conditions
 - Note 3: Insert the name and address of the developer
 - Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)
 - Note 5: Insert the description of the development.
 - Note 6: Insert the application reference number.
4. There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post-holes) or artefacts (e.g. pottery, ironwork, bronze objects, beads) of potential antiquity are discovered, please contact the planner or Council's Archaeology Officer for further discussions.

Further investigation secured by the development may be required if significant archaeology is discovered per PAN2 (2011) paragraph 31. In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human Remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.

DRAWING NUMBERS

Location Plan	1609-A (00)001 A
Site Plan	1609/A (00)050 F
Existing Site Sections	1609-A (00)004
Existing Site Survey	1609-A (00)002
Site Analysis Plan	1609-A (00)003 A
Landscaping Plan Phase 1	1609-A (45)051 A
Landscaping Plan Phase 2	1609-A (45)052 A
Boundary Details Sheet 1	1609/A (45)800 A
Boundary Details Sheet 2	1609/A (45)801 A
External Finishes	1609/A (00)051 A
Boundary Types	1609/A (45)050 B
Daylighting Sections	1609-SK-051
Phase 1 Drainage	302134-C-SK118 A
Drainage Layout	302134-C-101 C
Post-development Flow Paths	302134-C-SK117
Carriageway Section	301458-6-C-SK001
Refuse Vehicle Tracking	302134-C-SK109 B
Fire Truck Vehicle Tracking	302134-C-SK110 B
Street Elevations	1609-A (00)400 A
Elevations A1	1609-A (00)100 B
Elevations A2	1609-A (00)106 B
Elevations A3	1609-A (00)110 B
Elevations B1	1609-A (00)101 F
Elevations B2	1609-A (00)107 B
Elevations C1	1609-A (00)102 B
Elevations C2	1609-A (00)108 B
Elevations D	1609-A (00)103 B
Elevations E	1609-A (00)104 B
Elevations E2	1609-A (00)109 B
Elevations F	1609-A (00)105 B
3D Visuals	

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

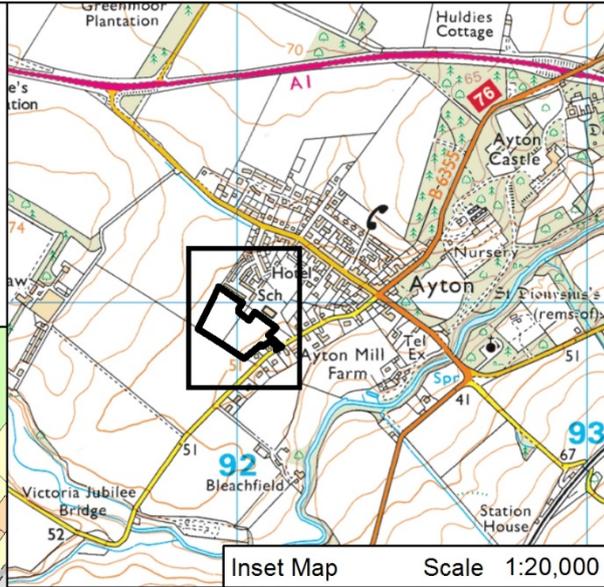
Author(s)

Name	Designation
Craig Miller	Principal Planning Officer



18/01804/FUL

Land South West And South Of
Ayton Primary School
Beanburn
Ayton



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

1 JULY 2019

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 18/01385/FUL

OFFICER: Mr C Miller

WARD: Leaderdale and Melrose

PROPOSAL: Erection of 28 dwellinghouses with associated parking, roads and landscaping

SITE: Land at The Croft, Dingleton Road, Melrose

APPLICANT: Rural Renaissance Ltd

AGENT: Hypostyle Architects

PLANNING PROCESSING AGREEMENT

A Planning Processing Agreement had been agreed for Committee presentation by 4 March and issuance of the decision notice by 6 May, should the application be approved and a legal agreement then concluded. Due to the submission of revised proposals and the need for re-consultation/re-notification, these dates were not able to be met

SITE DESCRIPTION

The site is located to the south-eastern edge of Melrose adjoining the lower slopes of the Eildon Hills and consists of 2.5 hectares of grazing land, containing an existing building and grounds known as The Croft at its centre, accommodating the Cherrytrees Children's Nursery. The site includes part of Dingleton Road which borders the north-western edge of the site, partly delineated with stone walling. An existing access road and bridge crosses the Malthouse Burn and currently connects the Nursery with Dingleton Road. Existing housing lies along Dingleton Road and to the southern boundary of the site along Dingleton Loan. The Malthouse Burn with associated riparian vegetation lies between Dingleton Road and the main part of the site, being part of the River Tweed Special Area of Conservation. The site is bordered to the north-east and south-west by rights of way, tree belts and agricultural land and lies within the Eildon and Leaderfoot National Scenic Area. The site does not lie within either the Melrose Conservation Area or The Tweed, Ettrick and Yarrow Confluences Special Landscape Area, those boundaries lying to the north and west respectively.

The site contains a general fall in levels from the south-east to the north-west with steeper sections to the rear of the Nursery building and in the south-eastern and north-eastern corners. There is also known archaeological interest as a result of the former medieval settlement of Dingleton.

The site is allocated for housing development in the Local Development Plan as EM4B with an indicative site capacity of 25 units. There is also an approved Development Brief for the site based upon an earlier estimate of site capacity of 45 units but this was superseded by the Reporter's decision on the LDP to reduce the figure to a capacity of 25. The site requirements listed in the LDP refer to the approved Development Brief and also potential for culvert removal and channel restoration.

PROPOSED DEVELOPMENT

The application is submitted in full for the development of 28 dwellinghouses of which 7 are intended to meet the requirement for affordable housing. This final housing number and mix has undergone various iterations as described in the PAC Report and Design and Access Statement, the numbers reducing from an initial 46 down to the 26 units which were submitted with the current planning application. This was raised to 28 during the processing of the application to accommodate smaller affordable units and was subject to full re-notification and re-consultation. The housing mix will now consist of 17 two and 2.75 storey houses, including some with ground floor garages below at road level, and 11 bungalows of which 7 are for affordable purposes. The mix will offer a range of sizes and bedroom numbers from single bedrooms in the affordable units to five bedrooms in The Towerhouse. All houses will be detached with the exception of the affordable units which will be a mixture of terraced and semi-detached.

The layout is based upon a new access road and bridge taken from Dingleton Road centrally along the site frontage and closure of the existing road access with removal of the bridge. Works would also be undertaken to Dingleton Road along the site frontage involving not just junction, walling and visibility improvements but also road realignment and on-street parking provision. The layout is then based upon a single loop road around The Croft, based upon the requirements of the Development Brief, with a spur cul-de-sac to the north-east of the site. The roadway is punctuated by four corners/junctions in changed surface material and contains footways around the main loop road. These connect with the proposed footpath along the edge of Dingleton Road and to other proposed footpath links at the northern and southern edges of the site, connecting with the adjoining rights of way. Space for a potential future vehicular link is also provided to the southern boundary.

Parking is mostly provided within the curtilage of all plots although there are on-street visitor spaces spread throughout the development. Access to the retained nursery building will be provided from the main loop road with parking and drop-off areas within its boundaries

A full landscaping scheme is submitted with the application based upon both the need to retain, where not affected by road proposals, the Malthouse Burn trees and vegetation together with the woodland cover that surrounds and lies outwith the site to the other boundaries. This involves augmentation with new planting to reinforce the structure of the boundaries including replacements for previous tree felling. Areas of street trees and shrubs are also intended around the street frontages of the layout, especially to the boundaries of The Croft, flanking the footpath links and at nodal/corner locations.

The houses will be designed with mainly rendered walls but with a number of feature panels and gables in pre-cast stone, combined with matching window surrounds, uPVC windows and timber doors. All houses are gable-ended and dual pitched with a minimum angle roof pitch of 35 degrees. The intended roof tile is intended to be a dark grey fibre cement slate replica with dressed edges for all houses. The Design and Access statement states that all houses will be built to sustainability principles reaching silver level under the building regulations.

The surface water drainage system is based upon permeable and SUDs principles with attenuation before discharge to the Malthouse Burn. In line with the Local Development Plan site requirement, watercourses through the site will be culverted to avoid house footprints and a cut-off drainage trench will intercept catchment surface

water before discharging to the Malthouse Burn. Foul drainage will also be to the foul/combined public sewer in Dingleton Road.

The application is classed as a 'Major' development under the Hierarchy of Developments (Scotland) Regulations 2009. The applicants publicised and held a public event prior to the application being submitted, as well as consultation with Melrose and District Community Council. The outcome of the public consultation exercise has been reported in a Pre-Application Consultation Report submitted with the application. The requirements of the Development Management Procedure (Scotland) Regulations 2013 have been satisfied.

In addition to the submitted plans and drawings, there are also statements and reports in support of the application, as follows:

- Pre-Application Consultation Report
- Design and Access Statement
- Supporting Statement
- Transportation Statement
- Flood Risk Assessment
- Badger Survey
- Preliminary Ecological Appraisal
- Otter and Water Vole Survey
- Bat Survey
- Great Crested Newt Habitat Assessment
- Tree Survey
- Objection Rebuttal
- Economic Benefit Statement

PLANNING HISTORY

The current allocation for housing on the site has been through full public consultation during the Local Development Plan process, leading to designation as allocation EM4B with an indicative site capacity of 25 units. There is a longer history to proposed development on this site including a withdrawn planning application in Outline for 80 units in 2006 followed by proposed inclusion in the Finalised Local Plan in 2006 with a capacity at that time envisaged of 50 units. A Development Brief was then prepared for the site with a suggested capacity of 45 units until the Scottish Government Reporter, in considering the site for inclusion in the current adopted Local Development Plan, reduced the indicative capacity to 25.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: No objections as the site is allocated in the Local Development Plan and housing numbers have continually reduced since the site was first proposed for development. Dingleton Road has capacity to cater for this development provided improvements to Dingleton Road along the site frontage are supported by full engineering drawings and receive formal technical approval. This involves widening, realignment, junction visibility and parking bays for existing residents. Pedestrian access from the site down Dingleton Road needs addressing.

Any identified negative aspects of the Transport Assessment such as an 8% increase in traffic in the peak hour on Dingleton Road is outweighed by the benefits of providing

parking for existing residents, objectors having raised the road safety implications of on-street parking and increased traffic. Traffic counts and speeds are consistent with the Council's figures for the road. However there are some issues with the Transport Assessment including a lack of stated engineering drawings, the existence of a local bus service and the need to account for traffic associated with the nursery.

Further responses sought in respect of the above together with identified site issues including widths of roadways and dimensions/gradients of parking, drainage details, visitor and nursery parking, junction splays, swept path analysis, Construction Management Plan etc.

In response to amended plans and information, accepts the amended Transport Assessment which includes additional vehicles associated with the Harleyburn development. Revisits the need for road improvements on Dingleton Road further north but considers the stretch of road can cater for the development without further changes, those changes being limited in any case and potentially causing other problems. Further identified site layout issues including additional visitor parking for the affordable housing, build-out of Dingleton Road pedestrian crossing, parking space gradients and sizes, footpath adjustments, loss of focal nodes, more featureless roadway and drop-off parking issues at The Croft.

Education Officer: Response awaited.

Landscape Architect: Considering the location within the NSA and the terms of the LDP allocation and 2006 Development Brief, has concerns regarding the development which require resolution and further details. These include concerns over prominent plots 9-16 and a less formal arrangement sought, plots not respecting the 10m tree buffer zone along the south-eastern boundary, need for a fully detailed landscaping and tree planting plan, revision to the main site access to reduce impacts on trees, retention of the existing access for pedestrians/cyclists, a tree survey, SUDs details and various recommendations regarding hedges, trees and fencing.

Responds to revisions noting the improvements to the house impacts above The Croft but still expresses caution over retaining and garden works in this area, requiring additional information in the form of a Tree Protection Plan and Arboricultural Statement. Also seeks more information on works to slopes within the Malthouse Burn and additional planting throughout the site. All matters can be addressed within conditions.

Housing Strategy: Notes the development would require to deliver a proportion of affordable houses. Not in the current SHIP but Eildon HA appear willing to partner the developer in providing the units.

Flood Protection: Although significant height difference with the Malthouse Burn, exact floor levels for the houses are needed to enable full flood risk assessment. The access bridge to the site will need to convey 1 in 200 year flows and there will need to be surface water and run-off management from the Malthouse Burn with SUDs. Following submission of Flood Risk Assessment, accepts the modelling and findings relating to the 1 in 200 year risk plus climate change. However, final floor levels still need to demonstrate being positioned above the defined flood area plus 600mm freeboard. No objections subject to this demonstration. The culverted ditch should not be built over.

Raises no objections to the updated Flood Risk Assessment, noting no land raising in the functional flood plain, no buildings over the culvert and all finished floor levels being above flood risk level plus freeboard.

Archaeology Officer: Based upon the archaeological assessment and evaluation, no evidence of earlier settlement occupation or the medieval hamlet of Danielstown. However, low potential exists for unknown buried features especially to south of the site associated with settlement such as a well, building and tracks. No further excavation is needed unless finds are discovered during development but a condition requiring a written scheme of investigation is still required and an informative regarding contacting the Council should finds be discovered.

Ecology Officer: Initially sought a Preliminary Ecological Appraisal. Then accepted the submitted Appraisal and impacts on designated sites such as the SAC and SSSI. However, still sought further information on bat impacts in terms of trees being retained or works within 30m and also a further field survey for Great Crested Newts before determination. A Construction Environment Management Plan would be required by condition which would require Species Protection Plans relating to bats, otters, voles, red squirrels, badgers, birds and reptiles. There would also need to be conditions covering breeding birds and a Habitat and Environmental Management Plan.

Reacts to further information on potential otter activity in the Malthouse Burn but content it is a commuting route and that otter would be protected by further survey and conditions as previously recommended.

Following further information on bats and great crested newts, satisfied with the surveys of tree potential for bats and considers the recommended Species Protection Plan will address bat protection. On great crested newts, considers additional information that suggests the nearest breeding site to be at least 1km away and there are several barriers that would reduce their presence to only low numbers in exceptional circumstances. Satisfied the matter will be handled by an Ecological Clerk of Works and in the required Species Protection Plan. Finally, there may be an additional outlier badger sett established in the site since the original surveys but this could also be addressed by the conditions seeking further survey and an appropriate licence from SNH if any setts are disturbed.

Access Officer: There are no claimed rights of way within the site but the layout provides for two footpath links to the existing path running along the south-eastern edge of the site. A condition should be attached to establish maintenance of the links.

Forward Planning: Response awaited.

Environmental Health: The site appeared to previously accommodate agricultural buildings and is potentially contaminated. A condition should be attached seeking site investigation, risk assessment and remediation.

Waste Services: No objections provided the cul-de-sac had a collection point at the junction with the loop road.

Statutory Consultees

Scottish Water: Response awaited.

SEPA: Initially objected due to lack of information on flood risk and that the site was at risk of a 1 in 200 year flood event with smaller watercourses also posing a risk. Sought

a Flood Risk Assessment, information on the two watercourses through the site, no development over any culverting and no landraising within the functional flood plain of the Malthouse Burn. Upon submission of the Flood Risk Assessment maintained objection, seeking location of the culverted watercourse related to development, explanation for why a larger catchment area is used, flood extents to be provided on a site plan and confirmation of no land raising within the functional floodplain.

After a further revision of the Flood Risk Assessment, continued to maintain objection and sought further technical details including confirmation of the development site, extent of any land raising, impacts of flood risk to other occupiers resulting from the new bridge and overland flow paths related to manholes and the realigned culvert.

After further information and submission of a revised scheme, continued to maintain objection for previous reasons but also sought explanation for high velocity figures, cross sections and relocation of four houses away from the realigned culvert

As a result of further information, objection then withdrawn. Updated Flood Risk Assessment includes acceptable cross sections and flow paths, also answering the other concerns expressed. Provides regulatory advice.

SNH: Although the site is within the Eildon and Leaderfoot National Scenic Area, note the site is allocated for housing in the Local Development Plan with a Planning Brief in place. Provided the Brief principles are followed, consider the development is well contained by topography and the landscape and that housing numbers are lower than the Brief, thus there will be no adverse impact on the NSA.

Melrose and District Community Council: Initially raised no objections, considering the number of houses acceptable for the size of the site and that subject to monitoring by the Council of conditions on Dingleton Road, improvements will occur at the new junction with visibility and parking. Following a further meeting, reports local objections that the development would adversely impact on road safety and traffic conditions on Dingleton Road despite the proposed improvements. Also reports significant concerns over visual and landscape impact on the Eildon Hills and suggests a variety of colours and a Landscape Design Brief to mitigate. Finally, concerns over burn culverting and blockage potential, impacts on the nursery and on local schools and health services. Ultimately and whilst the Community Council feel the number of the houses on the site have been reduced to acceptable levels, many objectors now question the principle of the development especially given other sites being brought forward such as Lowood at Tweedbank.

After discussion of the revised proposals, maintains previous comments including the considerable local concern over impacts on Dingleton Road and also caused by construction traffic. Restates the need for subdued colouring of render and a detailed landscaping scheme.

REPRESENTATION SUMMARY

Objections and representations have been received to the application from 131 respondents and properties. These can be viewed in full on the Public Access website and the main grounds of objection include the following:

Access

- Inadequacy of Dingleton Road to safely accommodate increased traffic, including:
 - Contrary to the Development Brief

- Inadequate access and bridge engineering details
- Congestion
- Existing parking from residents and nursery reducing road to single lane
- Bus problems
- Blind hill
- Risks to children pedestrians
- Improvements will increase speed
- No improvements to more congested section between Dundas Terrace and Newlyn Road, identified in the Development Brief
- Steep gradients
- Inadequate sightlines
- Existing subsidence of parts of Dingleton Road
- Construction traffic
- Inadequacy of Transport Assessment, underestimating impacts or Travel Plan and incorrect traffic count positions
- Traffic volumes are ever increasing
- Traffic problems in Melrose High Street
- No development until road improvements are carried out
- Footpath links should be protected
- Potential construction impacts on Dingleton Loan

Environment

- Detrimental impacts on the scenic qualities and landscape of the Eildon Hills NSA, the site being part of the slopes and foothills
- Area could potentially be a National Park
- Out of character with the area
- Detrimental impacts on nearby Conservation Area
- There has been pre-emptive felling of protected woodland along the south-eastern boundary against the Development Brief
- Inadequate hedging to site boundaries
- Historic and archaeological impacts
- Lack of EIA submission
- SNH do not comment on allocated sites

Ecology

- No Ecological Impact Assessment
- Detrimental impacts on ecological interest of site and Malthouse Burn SAC
- Impacts on breeding birds
- Otters have been seen in the Malthouse Burn
- Presence of bats
- Impacts on great crested newt
- Impacts on badger setts
- Impacts on red squirrel
- Impacts of Dingleton Road retaining wall

Design/Layout

- Overdevelopment
- Designs are randomly mixed, monotonous, indistinct and architect is capable of better
- Out of character with surrounding houses

- Designs should not be white
- Fenestration is basic
- No phasing information and should be built in one phase
- Ridgelines are too high above the nursery building with a step up between Plots 13 and 14
- Houses are shaded from sun against the Development Brief
- Inadequate play area provision against Development Brief
- Fencing impacts on footpath
- Lack of renewable energy information
- Alternative layout possible with 14 houses, open space, play space etc. in line with Brief

Local Development Plan

- Contrary to LDP Policy and Development Brief
- Exceeds indicative site capacity
- There are other sites elsewhere that can meet housing demand
- Circumstances have changed and the site should be de-allocated
- Site considered doubtful in earlier LDP reports
- Sets precedent for further sprawl
- No clarity on affordable housing provision

Other

- Consultation and notification periods too short.
- Design and Access Statement inaccurate
- Detrimental impacts on nursery children
- Impacts on existing residential amenity including loss of rural nature of view, noise impacts and property values
- Construction disruption to existing residents
- Light and air pollution
- Strains on Melrose school which is at capacity and contributions inadequate
- Strain on health services in Melrose
- Detrimental impacts on Melrose, tourism and the local economy
- Surface water flood risk
- Inadequate drainage provision from burn and well
- Inadequate sewage provision
- Regular excavation activity on site

The above objections remain and were added to upon submission of revised plans with further objections raising additional points, including the following:

- Revised plans do not address the objections raised
- House numbers have increased exacerbating all previous objections
- Houses behind The Croft will be dominant in the landscape and in the setting of the Eildon Hills and against Policy, 15m to ridge higher than Dingleton Road, 6m higher than The Croft and 8m higher than houses on Dingleton Road
- More single storey designs are required
- House designs are little changed and remain incongruous
- Council's purchase of Lowood reduces need for development of this site
- Lack of flora and fauna surveys
- Transport Assessment fails to account for the nursery traffic or continued housing completions at the Dingleton Hospital site

- Inadequate existing parking spaces provided along Dingleton Road
- Tree buffer zones are breached
- Construction Management Plan is needed pre-decision as Transport Assessment makes no reference
- Flood Risk Assessment criticisms especially relating to treatment of burns and groundwater and to water conveyance capacity of new bridge
- Tree survey inaccurate
- Submitted view from Eildons photo taken in full leaf tree cover
- Criticisms of agent's rebuttal and submission responses
- Criticisms of agent's Housing Completions submission, claiming incorrect comparisons and that the new Main Issues Report shows the minor contribution of the site towards housing completions
- Economic Benefits do not take into account cost to community
- Numerous ecology matters have not been addressed
- Inadequate details regarding power supplies to the development
- Lack of visitor parking on site

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 Sustainability
 PMD2 Quality Standards
 PMD3 Land Use Allocations
 IS2 Developer Contributions
 IS4 Transport Development and Infrastructure
 IS6 Road Adoption Standards
 IS7 Parking Provision and Standards
 IS8 Flooding
 IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
 IS13 Contaminated Land
 EP1 International Nature Conservation Sites and Protected Species
 EP2 National Nature Conservation Sites and Protected Species
 EP3 Local Biodiversity
 EP4 National Scenic Areas
 EP5 Special Landscape Areas
 EP8 Archaeology
 EP9 Conservation Areas
 EP13 Trees, Woodlands and Hedgerows
 EP15 Development Affecting the Water Environment
 HD1 Affordable and Special Needs Housing
 HD3 Protection of Residential Amenity

OTHER PLANNING CONSIDERATIONS

SESplan Strategic Development Plan 2013
 Scottish Planning Policy 2014
 PAN 44 Fitting New Housing into the Landscape 2005
 PAN 61 Planning and Sustainable Urban Drainage Systems 2001
 PAN 65 Planning and Open Space 2008
 PAN 67 Housing Quality 2003
 PAN 75 Planning for Transport 2005
 Designing Streets 2010

“The Croft” Planning Brief 2006
SPG Affordable Housing 2015
SPG Developer Contributions 2016
SPG Trees and Development 2008
SPG Landscape and Development 2008
SPG Green Space 2009
SPG Placemaking and Design 2010
SPG Guidance on Householder Development 2006
SPG Waste Management 2015
SPG Biodiversity 2005

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Local Development Plan Policies and Supplementary Planning Guidance on development on allocated sites, traffic impacts, layout, design, visual and landscape impact, landscaping, flood risk, drainage, biodiversity and development contributions.

ASSESSMENT OF APPLICATION

Planning Policy

The site is allocated in the Local Development Plan 2016 for housing (EM4B) with an indicative site capacity of 25 units. This reflects the SESPlan housing land requirements for periods to 2019 and a further five years beyond. The density of the site, and detailed LDP criteria are assessed further in this report. The allocation lists two site requirements – the need to be developed in accordance with the approved Planning Brief for the site and to consider the potential for culvert removal and channel restoration.

The Planning Brief for the site was produced in 2006 to support the allocation in the Finalised Local Plan at that time. It recognised that the site had a high visual amenity value and was within the Eildon and Leaderfoot National Scenic Area and, at that time, within an Area of Great Landscape Value. It also recognised the Malthouse Burn SAC running between the site and Dingleton Road. The Brief aimed for a high quality development with the retained Croft nursery building at its centre. It also looked for road improvements on Dingleton Road and retention/augmentation of the landscaped edges to the site. The planning application has been fully assessed against the provisions of the Planning Brief and the following sections will include analysis against relevant parts of the Brief.

In terms of the principle of a housing development on this site, the Policy background is one of full support. The proposal is for housing development in compliance with the intended use in Policy PMD3. The site provides a contribution towards the housing land targets identified in SESPlan and in line with “Key Outcomes 1 and 2” in the Local Development Plan i.e. effective housing land supply and opportunities for affordable housing. The principle of the development should be assessed primarily against the provisions of the Development Plan in the first instance, as required by Section 25 of The Town and Country Planning (Scotland) Act 1997. It is only if there are material factors of sufficient significance that outweigh the provisions of the Development Plan, then determination could be against the provisions of the Plan. Much assessment from respondents and in this report will correctly focus on those material factors including the impacts and consequences of the increased number of housing units above the indicative capacity, the impacts of the development on road safety and landscape and the design and visual impact of the development within the Eildon and Leaderfoot

National Scenic Area. This report will contend that those material factors are not demonstrating sufficient adverse effects to the extent that refusal of development of housing on an allocated housing site would be justified.

Many objectors re-examine the principle of housing on the site, claiming that circumstances have changed and including the Council acquisition of Lowood for additional housing development in the Central Borders. However, the Council are expected, under Section 25 of The Act, to support the provisions of the current adopted Local Development Plan which clearly allocates the site for housing, after a long and thorough examination within successive Development Plans and by Government Reporters. The acquisition of Lowood and the bringing forward of other sites within the "Housing" Supplementary Guidance was in addition to the housing supply already provided for in LDP allocations and was required by the Scottish Government. To ensure that SESPlan housing targets continue to be met, the Council must support development that is brought forward on allocated sites such as this one.

In agreeing to the allocation of the site in the Local Development Plan, the Reporter stated the following:

"I conclude that the development of this site would be acceptable in terms of being a sustainable location that would not have a significant effect on the setting of Melrose or the Eildon Hills".

This was a decision within a background of further proposals, at that time, to expand the allocated site by 7.5HA to the north-east of the site and also parts of the fields forming the slopes of the Eildon Hills. This further expansion was rejected by the Reporter. Whilst a number of objectors have referred to this and the potential for precedent being set for further development, the current application is contained wholly within the allocation and settlement boundary and there would be no justification for precedent to be used to influence the decision on the application.

The allocation in the Local Development Plan provides a total indicative capacity of 25 houses and the application, following amendment, exceeds this figure by three. However, as discussed with other developments on allocated sites recently that have been presented to Committee, indicative capacity figures should not be seen as absolute maximum figures or caps. They are designed to ensure that the Council meet their five year housing land supply obligations set by the Government and are included within SESPlan and the Local Development Plan to ensure sufficient effective housing land for the period of the Plan and beyond. The figures are not derived from an exhaustive analysis of the potential layout of every site but on general size and density parameters. Although there may be consequential impacts, the fact that a proposed development exceeds the indicative capacity is not, in itself, justification *per se* for rejection of an application.

It is possible that, once detailed assessment has been carried out and layouts have been designed, development could prove to be acceptable in excess of the indicative capacity. This has happened on a number of sites throughout the Borders where developments in excess of the stated capacity have still been considered to be acceptable. It is very often the case that a higher density can lead to a better form and layout of development. The issue is whether the additional number of units causes significant and demonstrable harm that cannot be addressed or mitigated satisfactorily. Whilst there are some criticisms of the density of the development in relation to the constraints on the site, this report will accept that, through design and amendments to the scheme, the impacts are not sufficiently adverse from the increased number of

units that refusal of the application would be justified. Impacts can be satisfactorily accommodated and mitigated where necessary.

It is also relevant to note the background to the density suggested on the site. The Finalised Local Plan first allocated the site for 50 units and this was reduced to 45 units in the Planning Brief. The Brief went into some detail on how it arrived at a density suggestion of 45 units, taking into account the surrounding typical densities and also the site constraints and net developable area. The Reporter, in reaffirming the allocation within the Local Development Plan, felt that this was too high and stated:

“The capacity of the site is likely to be below 50 units, and may well be nearer to 25 which would correspond to about 10 units/ha. This would be a reasonable density, in keeping with the character of the area. However the ultimate number of houses that can be accommodated can only be determined when a feasible and acceptable layout and design has been agreed by the Council”.

Consequently, the indicative capacity within the adopted Local Development Plan was revised to 25 despite being much lower than the Planning Brief. Given this background and following assessment of the layout and impacts of the proposed development, as amended, it is concluded that the proposed 28 units is a reasonable density for the site, comfortably in compliance with previous estimates and does not cause undue problems of impacts on visual or residential amenity. It is also noted that one of the reasons that the total number of houses is above the indicative capacity figure is as a result of 25% affordable housing provision being required to be provided on site.

Layout

Although the application proposes three houses above the indicative capacity, it is considered that the layout and density are in compliance with LDP Policies PMD2, HD3 and the “Placemaking and Design” SPG. The applicant submitted a Design and Access Statement, required by the Planning Brief, which identified the approach towards design and layout. This was derived from a number of Government and Council publications, including “Designing Streets” and the Planning Brief for the site. The Design and Access Statement shows the evolution from earlier layouts with smaller units and up to 46 houses, through reductions in numbers and larger house types, to the current proposal for 28 units – this is two units above the numbers initially submitted and has arisen following reassessment and inclusion of the on-site affordable units which are one-bedroom bungalows. The Design and Access Statement comments that the number of reductions from the initial layouts followed public concern during the pre-application consultation process.

In terms of the density of the development, this equates to 11.2 houses per hectare which is relatively low density and in line with the Reporter’s thoughts as explained above. It is certainly well within the density in the Planning Brief and within the typical densities of the housing surrounding the site which the Brief defines as between 16 and 27 houses per hectare. The density reduction from earlier schemes has been suggested by the applicant as a positive response to public concerns but it is also a reflection of the site constraints and difficulties, posed by steep levels, landscape issues and the need to achieve a loop road around the centrally retained Croft nursery building.

It is not considered that the density is inappropriate for the area nor would cause any demonstrable harm to the surrounding residential areas or landscape. At 28 units across 2.5 hectares, this is much lower than recent approvals for housing developments elsewhere in the Borders. At Lauder for example, a density of 34.5 was

consented for a private developer. Fully affordable developments can result in even higher densities per hectare, as consented recently at Chirnside for example.

To comply with Policies PMD2, HD3 and the “Placemaking” SPG, any layout and density have to be appropriate to their surroundings and be compatible with, and respect the character of the surrounding area and neighbouring built form. It is considered that the low density approach to this development achieves these aims and it cannot be accepted that, as claimed by some objectors, the development represents overdevelopment.

The Planning Brief sets certain basic requirements for the development which dictates the layout, as mentioned in the Design and Access Statement. A new single bridged access from Dingleton Road is required, connecting with a T-junction on the site, a main loop road, cul-de-sacs and the retention of the Croft at the centre of the site. All of these requirements dictate the layout which complies with these requirements. The access bridges across the Malthouse Burn and the old road access is closed up. A curved loop road then wraps around The Croft serving 20 of the houses, the remaining eight being accessed within a cul-de-sac at the north-eastern part of the site. All houses are detached with the exception of the affordable houses which are grouped in one terrace and two pairs of semi-detached houses. The road layout contains some on-street visitor parking but the house plots themselves all contain curtilage off-street parking. Junctions and corners are treated as focal points in changed surface materials.

The site requirements in the Planning Brief dictate the layout and it is considered that the development complies with these requirements, albeit there are certain parts of the layout that required further consideration and amendment. This was particularly as a result of the significant level changes within the site and the need to loop a road around a centrally retained building, whilst still ensuring that visual and landscape impacts are minimised as much as possible. In this respect and in response to objectors’ concerns over prominence and landscape impact, the development will be visible from Dingleton Road and there will be a certain level of visual and landscape impact. Nevertheless, previous assessment by the Council, Reporter and SNH which led to the site allocation being confirmed, concluded that the impacts from the Eildon Hills and within the National Scenic Area would not be significant. SNH, on the current application, reaffirms this position considering the site to be well contained by landscaping and topography. Objectors have pointed out that SNH do not comment on current allocated sites but, nevertheless, had there been concerns from them over the precise layout and design detail of the development, it would have been expected that they would have expressed those concerns.

There were some parts of the site, however, where site levels and constraints were leading to unacceptable visual, landscape and residential amenity impacts. These were explored further and amendments or further information received, as follows:

Plots 13-18 behind The Croft – the most challenging part of the development site is undoubtedly the section behind The Croft building which is proposed for a loop road and Plots 13-18. There has been considerable concern and objection to the prominence and visual impacts of this section of the development and this is fully understood. There were strong concerns expressed to the applicant about the height and bulk of the, effectively, three storey houses behind The Croft and the impacts from Dingleton Road. More than any other part of the development, this element has been of greatest concern to the Department.

Whilst objectors have commented that ridge heights could be up to 15m above the level of Dingleton Road as a result of the revised proposals, there are a series of mitigating factors that result in the acceptance of the amended proposals. These are:

- The Planning Brief requests a loop road around the back of The Croft and in terms of efficiency of land development and site viability, it must be accepted that houses need to be accessed from this loop road and would be on the uphill side of that road.
- The existing site contour plan shows the considerable slope in this part of the site and the current height difference in the land levels even before development i.e. approximately 8 metres difference with Dingleton Road which dictates that any house on this part of the site could be a minimum of 14-15m above the Dingleton Road level.
- Given the level difficulties, the demonstration by the applicant in cross sections that, in order to pull the houses down the slope as much as possible, usable rear garden ground cannot be achieved by removing the understorey which contains the garaging. This would result in large retaining walls and no window aspect on the ground floor to the rear or alternatively, dramatically sloping gardens that would not be usable or marketable. This is demonstrated on Drawing 3580 AL 0104 G.
- Significant improvements in prominence and visual impact as a result of removal of one plot in this row and greater gaps between gable walls.
- Reduction in ridge heights of all six houses from 0.3m to as much as 1.7m on Plot 13, demonstrated by comparison with the initial submission on Drawing 3580 AL 0107. This has been assisted by partial coombing of upper floors into the roof space.
- The revised tree survey, buffer protection and tree canopy information which show the backdrop of tree screening outwith the site behind the north-east and south-eastern boundaries, including new planting intended to replace planting removed prior to the application submission

Affordable Housing – the initial submission did not clarify where affordable housing on site provision was occurring, the requirement being 25% for any developments of 17 or more units. All houses were detached offering 3-5 bedrooms. Revised plans were then submitted detailing seven single-bedroom cottages (“Leader”) to the front of The Croft, in one terrace and two semi-detached blocks. This not only makes appropriate provision for affordable units but also reduces visual impact within the setting of The Croft and the existing adjoining houses to the south-west boundary.

Privacy and sunlight compliance at plots 5-8 – the nearest existing houses to the development lie immediately to the south-west of the site, especially “Orchard Lea”. There was concern that daylight and privacy may be compromised by the proposed houses in proximity, when assessed against the Council “Householder” SPG. Whilst, due to the affordable housing, one additional house has been introduced in this part of the site, two storey houses have been reduced to single storey on Plots 8 and 9 which has greatly improved potential impact on residential amenity. Daylighting and privacy sections have also been produced to show that 25 degree angles and privacy buffer distances are being complied with by the amended layout.

Plot 12 height – there was concern over the townscape relationship of the house on this plot with the remainder of the houses in this part of the site, as the ridge height seemed to be excessively high in comparison. The two storey house design on this plot has now been replaced with a bungalow which has addressed this concern.

Plot 22 height (Towerhouse) – there was a general request that floor levels and ridge heights be kept as low as levels would allow in this part of the site which rises to its eastern corner. The agent has responded with limitations based on drainage runs but has confirmed that, by means of a lower floor level, the highest house in the corner (Plot 22) has now had a ridge height reduction of 0.88m. This is considered acceptable together with the general tighter grouping of houses in the cul-de-sac, pulling them down from the more elevated slopes to the east.

Croft setting – initial proposals for the site did not respect the central focal point of the nursery building which is a fundamental requirement of the Planning Brief. Subsequent drawings and amendments have removed housing from the frontage of the building to restore its setting to the west and upon entrance to the housing development. The gable of the first house on Plot 1 does not impinge on the south-western gable of The Croft building itself. With further landscape treatment as discussed later in this report, the impacts are now considered acceptable.

Aside from these specific concerns, it was considered that the layout of the scheme met with the general requirements of the Planning Brief and Policies in the Local Development Plan. The lower density has increased the open space ratio and garden sizes to meet the terms of the Brief and the need to avoid shading and increase possibilities of solar gain are improved compared to denser earlier versions of the scheme.

Residential amenity is of significant concern to many objectors, albeit for many, this is interpreted as loss of view or changed view of an open field on the slopes of the Eildon Hills. Apart from the existing houses referred to above, the changed aspect is most noticeable to the houses flanking and behind Dingleton Road to its north-western side. However, Policy HD3 and the associated Supplementary Planning Guidance are aimed at protecting privacy, sunlight and daylight and set certain minimum standards. There is less intention to preserve view or aspect, unless such impacts are so dominant and oppressive that acceptance could not be justified. Objectors will contend that this is the case here but it is not accepted that the level of impact on an allocated site with a relatively low density justifies refusal in this instance. As the Reporter stated in reaffirming the allocation:

“I agree with objectors that this part of the south-eastern side of Dingleton Road would be changed from an open semi-rural area to a suburban residential area. Whilst this may be an unwelcome change for existing residents, for the reasons given above I do not think that it would have a significant undesirable effect on the overall landscape setting of Melrose”.

Within the development itself, privacy between properties is generally in accordance with the SPG. There will be some overlooking from the rear of only three plots (10, 11 and to a lesser extent, 27) which is unavoidable given the large drop in levels but, overall, 18m distances are generally preserved, albeit additional buffer space is not always available to compensate for the differing floor levels. Generally, however, such issues are restricted to a very localised and small number of properties.

There is no information from the applicant relating to phasing of the development and this has resulted in some objectors commenting. The seven affordable units will need to be provided at some point during the development and this will be controlled by the legal agreement. Aside from that, there is no obvious phasing justification based upon amenity or other impacts albeit the expectation would be that the plots would be developed nearest to the bridge and lower parts of the access road first. Nevertheless, the final phasing can be reserved for further agreement via an appropriate condition.

As a result of the amended plans and reflecting the main areas of layout concern and change, it is not considered that the density and layout of the development are inappropriate for the area nor incompatible with residential amenity. Taking into account the requirements of the Planning Brief and Policies PMD2 and HD3 of the Local Development Plan, it is considered that the development is compliant with Local Development Plan Policies and Guidance.

Design

The design of the development must comply with Local Development Plan Policy PMD2 and the “Placemaking and Design” SPG in particular. PMD2 requires developments to be of a scale, massing and height appropriate to their surroundings. The location on the edge of open countryside and within the National Scenic Area are also important considerations in terms of the design of the development and individual houses, Policy EP4 seeking development not to compromise the scenic qualities of the NSA and any significant adverse effects to be outweighed by economic or social benefits of national importance.

The Planning Brief does not specify the types of houses nor materials to be used, only stating that *“A high quality of design and materials is required...”* The applicant repeats this in their Design and Access Statement, stating the development would be *“...appropriate for its context”* and creating a sustainable environment. There is no guidance in the Planning Brief about height or general form of houses and there is some comment in the objections about alternative ways of approaching this development, including changing the mix of housing and positions of single and two storey houses. Overall, however, we consider that there is an appropriate mix of single and two storey housing, the higher houses along the back edge of the site with understorey garaging being justified in terms of the steep levels and need for usable garden spaces. This mix of heights is reflected generally in the local area and is, therefore, in compliance with Policy PMD2.

Policy PMD2 also requires the actual architectural treatment of the designs themselves to be compatible with, and respect the character of, neighbouring built form. This does not mean that the development must be identical nor would that be desirable in terms of developing interesting and varied placemaking. However, certain design principles have been used in this application which provide a connection with local architectural styles, including the use of gable end designs and dark grey “slate effect” tiled roofs, with no roof pitches shallower than 35 degrees. Similarly, attention has been paid to fenestration pattern and render colours/finishes, including the use of precast stone banding. These designs have resulted in objection from many respondents who feel that the designs are plain, unimaginative and could be visible for some distance if light coloured renderings are used.

Generally, it is considered that the design approach used for the housing is acceptable in terms of Policy PMD2 and the “Placemaking and Design” SPG. There were some concerns, however, raised with the applicant in order to improve and achieve the higher quality of design that the site justifies. The main areas of concern and the amendments received, included the following:

- Featureless bulky gables facing public approaches and focal points were of concern around the junction between the loop road and the cul-de-sac. The gables of these houses have now been improved with new windows and large areas of pre-cast stone features (Plots 19, 26 and 27).

- A number of the house types required a more uniform treatment of window surrounds and more vertical emphasis to the windows, especially to the street elevations, together with more interest in the form of frontage panelling and perhaps some punctuation of the roof designs with coombing. The house designs have now been revised so that the front elevations utilise the aforementioned features and are consistent with window banding and a vertical emphasis. Some of the higher house types have also had coombing which introduces small dormer punctuations to reduce roof bulk and create interest.
- A more precise roof tile was sought as there are more realistic slate-type roof tiles now available. It was not considered that the location could justify natural slate, being outwith the Conservation Area. However, an improved product was sought and the applicant has now proposed a specific fibre-cement tile which is much closer to slate appearance than many flat tiles. A condition can be imposed to cover the specific type of tile, seeking this type or similar.

These design amendments have generally not been accepted by those objectors who raised objections initially. However, it is considered that they have improved and unified the house designs, improving gables and general frontage treatments. With a suitable palette of render colours, cast stone and thin flat roof tile, the actual amended house designs are considered to be acceptable in relation to Policy PMD2, EP4 and the Planning Brief. The comment from objectors about white and lighter colours being more intrusive on the slopes of the Eildons is agreed with and will influence the decision on render colours at Condition stage.

As highlighted in this report, there is continued concern from objectors over the houses behind The Croft who have not accepted the changes made. For reasons mentioned in the "Layout" section of this report, it is accepted that the principle of development and the difficult levels have justified the design approach in this part of the site. However, it is considered that further design adjustment to the front elevations of the houses on Plots 14-18 by varying the design and reducing the repetition of projection roof apexes, could usefully reduce visual impact and perceived height further. This can be controlled by condition. The applicant is agreeable to such amendment.

In summary and subject to conditions, the design of the units and the materials will allow connection and integration with the surrounding urban fabric whilst providing a sense of place and variety of townscape and design, in keeping with Local Development Plan Policies and Supplementary Planning Guidance.

Landscape

The protection and augmentation of the landscape framework surrounding the site and alongside the Malthouse Burn were identified in the Planning Brief as being of fundamental importance to the design and success of a development on the site, respecting the rural edge of Melrose and the setting and qualities of the Eildon and Leaderfoot National Scenic Area. The requirements of the Brief are also backed by Local Development Plan Policies PMD2, EP4 and EP13 together with Supplementary Planning Guidance on Trees, Landscape and Development. There should also be consideration of the proximity of the site to the Tweed, Ettrick and Yarrow Confluences Special Landscape Area and Melrose Conservation Area.

In particular, the Planning Brief sought the following:

- Protection of the trees surrounding the site with specified buffer zones based upon British Standard distances, informed by particular tree requirements and surveys.
- Hedging surrounding the eastern, western and northern edges of the site.
- A tree survey to allow assessment of the impact on trees at the Malthouse Burn and access point with appropriate compensatory planting.
- Buffer protection and augmentation of the riparian planting along the Malthouse Burn.
- A management scheme to be agreed with the developer for woodland

The application was initially supported, in landscape terms, by proposals set out in the Design and Access Statement and on the site layout drawing. The Statement provided for appropriate boundary treatments and planting, tree and shrub species to include indigenous types. Combined with appropriate finishing materials for houses and roads, walls, fences and hedges, the Design and Access Statement aimed to establish an overall theme for the landscape treatment in order to enhance the quality of the environment.

Taking into account the initial submission and the requirements of the Brief and Local Development Plan, the Landscape Architect raised a number of points for further information and clarification, including the following:

- The impact and rigidity of the layout of the plots behind The Croft
- Non-compliance with the 10m tree buffer along the south-eastern boundary
- Requirement for a fully detailed landscaping plan
- Alternative access point should be investigated to reduce impact on trees
- Retain existing access as a pedestrian link
- Hedging, tree and fence suggestions
- Need for a tree survey
- Pedestrian routes as green corridors
- SUDs details

Following comments by the Landscape Architect, further more detailed landscaping drawings were submitted backed with a tree survey of the Malthouse Burn area, a tree management plan and tree buffer zones. The agent highlighted the following responses:

- Reduction in numbers and height of houses along the ground behind The Croft
- Full information on tree buffer zones which can be more flexible given the comments in the Planning Brief and position of the Brief versus application site boundary.
- Existing access cannot be retained as many steps would be needed to overcome levels.
- The proposed access provides the maximum visibility on Dingleton Road and is in the optimum position as agreed when the site was first considered.
- Full details of new hedging and tree planting are included, limiting high fences to the rear and concealing any side fences with hedging.
- Additional tree planting to compensate for trees lost to a felling licence and at the rear of the Malthouse Burn

In response to these revisions, the Landscape Architect notes the improvements to the house impacts above The Croft but still expresses caution over retaining and garden works in this area, requiring additional information in the form of a Tree Protection Plan

and Arboricultural Statement. Also seeks more information on works to slopes within the Malthouse Burn and additional planting throughout the site. All her additional comments have been incorporated into appropriate conditions.

There had also been concerns expressed over the treatment of walling at the new entrance into the development from Dingleton Road, the Planning Brief requiring reinstatement of the stone wall at an approximate height of one metre. The engineering sections and drawings show the extent and realignment of the wall along the Dingleton Road boundary, which will not exceed 1.05m for visibility reasons. A natural stone replacement wall will be sought here by condition.

There was significant concern expressed by objectors over the felling of trees along the south-eastern boundary of the site before the application was submitted. However, the trees were not protected in any way, either by designation or planning condition, and as the agent has explained, will be replaced with new planting to comply with the terms of the felling licence. The Council must assess the application on the basis of the land and site characteristics as now exist and it is considered, in line with the comments of SNH, that the site retains strong landscape and topographical containment despite recent felling. This will be replaced and there is sufficient strong woodland cover behind the site to continue to screen the development from the rear and provide backdrop from Dingleton Road. Continuation of this screen can be controlled within a Woodland Management Scheme which is a requirement of the Planning Brief. As the applicant owns this woodland, securing a Scheme can be achieved through planning condition. Trees within the site that are not required to be removed for the access works will be retained and protected by planning condition.

In terms of compliance with the Planning Brief, Local Development Plan Policies PMD2, EP4 and EP13 and the relevant SPGs on Trees, Landscape and Development, the revised proposals now generally comply. As there is no objection from the Landscape Architect, it is considered that most of the remaining matters can be addressed by agreement through suspensive planning conditions. The proposals generally protect the existing trees (apart from felling required for access) and provide an acceptable new scheme of hard and soft landscaping, based around protection and augmentation of the Malthouse Burn. Subject to conditions, it is considered that the application is in compliance with the Planning Brief, Local Development Plan Policies and Supplementary Planning Guidance.

Access

Policies PMD2 and IS6 require safe access to and within developments, which should also be capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets" and various other relevant Government publications and Guidance Notes. More than any other material factor with this application, objections over adequacy and safety of Dingleton Road as an access to the site have been lodged. The various reasons for these objections have been summarised earlier in this report and Members will have had full access to all of the submissions on Public Access. In terms of compliance with relevant Policies and Guidance, it is necessary to consider the potential impacts of the development on the traffic network leading to the site, then at the actual road, footpath and parking layout of the development itself.

As previously mentioned, the site is an allocated site for housing development with an indicative capacity of 25 houses. It is clear from the LDP allocation that there is in-principle acceptance of the potential traffic impacts of a development of 25 houses,

subject to compliance with the access provisions of the Planning Brief. The Brief requires the following:

- Blocking up the existing access to Dingleton Road except to pedestrians
- Formation of a new bridged single access from Dingleton Road
- Submission of a Transport Assessment
- Financial contribution towards road improvements on Dingleton Road
- Internal road to be a loop road with T-junction at the new bridge and cul-de-sacs
- Roads and parking provision to Council standards

The initial application was supported by drawings and a Transport Statement. The drawings showed a realignment of Dingleton Road, centred on the new access point, bridging the Malthouse Burn to the south-west of the existing access. As part of the road realignment, areas of off-carriageway parking would be provided for existing residents on the opposite side of Dingleton Road and a footpath connection would be run from the existing access into the site along the edge of the realigned section. The existing access would be blocked up and that bridge demolished. Engineer's drawings were referred to but, as a number of respondents noted, had not been provided with the initial submission. There were also no proposals to make, or contribute to any, improvements to Dingleton Road outwith the site frontage.

Within the site, the roadway would follow the Planning Brief requirement of a T-junction and main loop road around the site, with one cul-de-sac at the north-eastern end. The initial layout showed a road of varying width with some full width sections and some narrower shared sections. All plots would be provided with curtilage parking and additional visitor parking spaces were provided around the site. Two footpath links were shown connecting the site with the path running along and immediately outwith the site to its south-eastern boundary.

The Transport Statement, based on the initial submission of 26 units, estimated a maximum of 31 two-way vehicular movements being generated solely by the development in the morning peak and 28 in the evening peak, lowering to 17 and 15 once all modes of transport had been considered. Taking into account speed, accident and current traffic flow figures (211 and 199 two way), the Transport Statement concluded that the proposed development would not have any impact on the safe operation of Dingleton Road.

However, there has been considerable local objection to the traffic and transport aspects of the application, notably:

- Inadequacy of Dingleton Road to safely accommodate increased traffic, including:
 - Contrary to the Development Brief
 - Inadequate access and bridge engineering details
 - Congestion
 - Existing parking from residents and nursery reducing road to single lane
 - Bus problems
 - Blind hill
 - Risks to children pedestrians
 - Improvements will increase speed
 - No improvements to more congested section between Dundas Terrace and Newlyn Road, identified in the Development Brief
 - Steep gradients
 - Inadequate sightlines
 - Existing subsidence of parts of Dingleton Road

- Construction traffic
- Inadequacy of Transport Assessment, underestimating impacts or Travel Plan and incorrect traffic count positions

These concerns were also assessed by the Roads Planning Service and Members will note their initial response. They clearly accepted that the site is allocated for housing with a very similar capacity of number of housing units as proposed. They consider that, although there are some constraints in Dingleton Road, provided the previously agreed road and junction improvements are carried out along the site frontage (including road widening and parking provision), then Dingleton Road has the capacity to cater for the traffic generated by the development. Roads Planning Service considered that a worst case scenario percentage increase of 8% was more than outweighed by the benefits of resident parking provision and slower vehicle speeds as a result of road realignment and access location. They pointed out that engineering details were still missing from the original submission and that these would need to be provided for approval.

Roads Planning Service raised some concerns that were ultimately raised with the agent. Firstly, there were some issues with the Transport Statement, most notably not taking into account the traffic associated with the existing Cherrytrees Nursery and the fact that a bus service still operates on Dingleton Road. They also had a number of issues with the internal layout, albeit these were largely matters of design and detail rather than fundamental principles. These included lack of levels, curtilage and on-street parking provision, geometry of loop road, pedestrian links, parking for the existing nursery, visibility splays and the need for a Construction Management Plan.

The agent responded with a series of revised drawings and an update to the Transport Statement. The drawings included a full set of engineering levels, a swept path analysis of the internal roadways, sections of the road and bridge, detailed junction visibility, roadway and parking improvements and site parking options. A Technical Note was also provided as an addendum to the Transport Statement, principally adding the two-way peak traffic expected from the Cherrytrees Nursery operation – 27 and 18 in the morning and evening peaks.

Members will note further responses from objectors to this revised information, including noting that the Transport Assessment had failed initially to account for the nursery traffic and still didn't take into account continued development at the Dingleton Hospital site. Also that inadequate parking spaces had been provided along Dingleton Road and that a Construction Management Plan was needed pre-decision.

Roads Planning responded to these revised submissions and accepted that, although the Transport Statement should have taken into account the traffic generated by the remaining undeveloped parts of the Dingleton Hospital development, the projected 40 two-way morning peak of additional cars will not have an adverse impact on the road network, when added to the traffic generated by the proposed development and that currently generated by Cherrytrees Nursery. Roads Planning Service also looked again at the justification for seeking additional road improvements in the section of Dingleton Road referred to by objectors, between Dundas Terrace and Newlyn Drive. They concluded that there was no justification to seek further improvement and that, in any case, such improvement could result in loss of parking and/or the footway.

The Roads Planning Service raised no major concerns over the details of the main bridge/access point or road improvements in the vicinity of the junction, albeit some change to the pedestrian crossing point was needed. However, there still remained a series of unresolved issues with the internal layout as well as new issues including

visitor parking for the affordable units, the layout of parking for the nursery and the uniform width and lack of nodal squares within the loop road.

These points were all raised with the agent and further revised plans were received addressing these points. A formal response from Roads Planning was not available at the time of writing but a verbal update will be reported at the Committee meeting.

In summary and subject to acceptance from Roads Planning, the development is only three units above the indicative capacity in the Local Development Plan allocation and, indeed, 7 of the 28 units are single bedroom cottages which lower the traffic generation. The proposals do comply with the Planning Brief in most respects, being supported by a Transport Statement, closing the existing access, creating a new single access point and creating a loop road with T-junction, cul-de-sac and footpath links to the wider footpath network, which remains unaffected. It does not retain a pedestrian link over the old bridge but this is justified by reason of a major change in levels and is accepted.

Much objection from the public has centred on the lack of any other improvements to Dingleton Road, those objections claiming that this is required by the Planning Brief. However, the position of Roads Planning is accepted in this regard that, despite there being omissions from the original Transport Statement, Dingleton Road can accommodate the additional traffic from this development, even after taking into account the nursery and the former Dingleton Hospital site traffic. The Brief actually only states a requirement for a financial contribution “...towards road improvements on Dingleton Road. The precise nature of the works to be determined by an agreed Transport Assessment”. The position is that those road improvements are being provided by the developer along the site frontage, consisting of road widening, realignment, provision of parking for residents, pedestrian crossing provision and a much improved nursery junction with better visibility.

The Brief does not state that those road improvements needed to be elsewhere in Dingleton Road. Even when listed within the section on “Developer Contributions”, it is considered that this has been met by the actual provision of the road improvements by the developer as listed above, all of which will need to be completed before the development can commence on the site – controlled by suspensive condition. It should also be remembered that the Planning Brief was referring to a 45 house development and not one for 28 houses, of which seven are one-bedroomed. It is therefore considered that the road improvements proposed in Dingleton Road are acceptable in proportion to the reduced scale of the development and in line with the Planning Brief.

There are a number of objections raised over the impacts of construction on the amenity and safety of residents and children at the nursery. However, Roads Planning are content that agreement of a Construction Management Plan can be required by condition, post consent but pre-commencement, that will detail all mitigation necessary to address construction impacts. Whilst there may be some similarities, this is a separate requirement and remit to the Construction Environmental Management Plan required by Ecology and referred to later in this report.

Subject to the conditions listed at the end of this report, it is also considered that the proposals are in compliance with the provisions of the Local Development Plan in relation to safe and acceptable access to, and within, the site. It is not considered that there are other material factors of such significance in relation to road safety and access that would outweigh the terms of the Local Development Plan in this instance.

Drainage and Flood Risk

Local Development Plan Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Policy IS8 relates to flood risk and IS9 to Waste Water Treatment Standards and Sustainable Urban Drainage. There are objections from local residents on these matters, especially in relation to surface water flood risk and impacts on the Malthouse Burn. The allocation in the Local Development Plan requires consideration of possible culvert removal and channel restoration. The Planning Brief identifies that impacts on the Malthouse Burn and streams that pass through the site might require a Flood Risk Assessment and Drainage Impact Assessment. It also seeks a SUDs based surface water drainage system in agreement with the Council, SEPA and Scottish Water.

Following initial consultation responses from SEPA and the Council Flood Risk Officer, a Flood Risk Assessment was submitted which concluded that the site and properties were not at risk of flooding provided road levels tied in to Dingleton Road for access, property owners signed up to flood alerts, the culverted stream through the site be designed to storm standards and floor levels should be raised 600mm to mitigate against surface water flood risk. After considering updated versions of the Flood Risk Assessment, the Council Flood Risk Officer accepts the flood alleviation proposed given the intended house floor levels, no land raising within the functional flood plain and no development over the culvert proposed though the southern end of the site. Similarly, SEPA objections have now been withdrawn. They had several queries over the Flood Risk Assessment but, following the latest version of the Assessment, they accept the findings of the Assessment and the recommendations within it. A condition can tie the development to the recommendations of the Assessment.

Policy IS8 requires development not to be at risk of flooding but also not to materially increase the risk of flooding elsewhere. This issue has been explored in the Flood Risk Assessment where it has been accepted that, as the development is not within the functional flood plain, the development will not increase flood risk to others. The scheme also includes SUDs treatment of surface water drainage including infiltration trenches and attenuation before release to the Malthouse Burn.

There has been no response from Scottish Water but there are no indications that there are any significant capacity issues with either foul/surface water drainage or water supply. Foul drainage will be taken from the site to the combined sewer in Dingleton Road. It should also be accepted that the water and drainage requirements of the site have been accepted and accommodated during the Local Development Plan process of allocation and that, although the indicative capacity is exceeded, it is only by three units and there are seven units with only single bedrooms.

Consequently, it is considered that the revised proposals comply with Policies IS8 and IS9 of the Local Development Plan and the Planning Brief in relation to drainage of the site and avoidance of creating a material flood risk within the site or elsewhere. Conditions will be recommended to cover these matters and ensure Scottish Water agreement. The Brief mentions the possibility of developer contributions but this would be a matter for Scottish Water and the developer to agree upon, should Scottish Water consider it necessary upon connection application.

Ecology

The application requires assessment principally against Local Development Plan Policies EP1-EP3 covering international, national and local nature conservation and protected species. The application was supported by an Ecological Impact

Assessment. The Council Ecology Officer noted that the Assessment included surveys and consideration of otter, water vole, badger, bats, breeding birds, red squirrel, reptiles, designated sites and surrounding habitats. There was acceptance of the proposals with regard to impacts on the Malthouse Burn which is part of the River Tweed SAC, provided a condition is imposed relating to a Construction Environmental Management Plan. There is also a recommendation for a Habitat Enhancement and Management Plan.

In terms of impacts on protected species, the findings of the Impact Assessment were generally accepted subject to relevant conditions and Species Protection Plans. Regarding bats and great crested newt, further information was requested. No evidence of otter activity was recorded in the Impact Assessment although the Ecology Officer did still feel there was a possibility of otter using a tributary such as the Malthouse Burn. Evidence of this was then submitted by an objector which was brought to the attention of the applicant and Ecology Officer.

The applicant then submitted further information relating to bats, great crested newt and otter. This included a development buffer for bats and further survey work for great crested newt. Species Protection Plans were proposed and the Ecology Officer now accepts the findings subject to conditions. On otter, the Ecology Officer accepts that there was evidence of commuting usage of the Malthouse Burn but that the Burn does not offer the density of prey that would attract otter resting places. He considers that the provisions of the Species Protection Plan and Construction Environmental Management Plan will adequately deal with the issue. However, in addition to these matters, it was also noted that an outlier badger sett had been established within the site which had been since the initial badger survey. The Species Protection Plan for badger would now need to include supplementary badger surveys and any disturbance would need a licence from SNH.

A number of objectors still consider that many ecological matters have not been adequately addressed. However, the Ecology Officer is now content with the proposals following further information and consideration. Some of that information has necessarily needed to be restricted because of its sensitive nature. Subject to appropriate suspensive conditions covering these matters, it is considered that the proposals would comply with the Local Development Plan and Planning Brief with respect to ecology.

Other issues

The Planning Brief identified archaeological interest at the Lockit Well outwith the south-eastern boundary of the site in the vicinity of Plots 18/19 and recommended a buffer for the well and full archaeological evaluation for the whole site. Local Development Plan Policy EP8 also requires developments not to adversely affect local archaeological assets. The Council Archaeology Officer accepted the findings of the submitted Archaeological Assessment and the low likelihood of encountering any evidence of the former settlement of Danielstown (Dingleton). He recommends a condition covering an archaeological watching brief (which will cover impacts on the well) and an Informative relating to a procedure for any found archaeology during excavation.

Play Space is generally advised within the Council "Greenspace" SPG and was also referred to in the Planning Brief which preceded the SPG. The Brief, which reflected Council Policy at the time, sought a centrally located play facility with maintenance regime agreed. However, Council Policy in recent years has been to seek enhancement of existing play space facilities rather than individual small play areas

where adoption and maintenance pose additional problems. In recent housing developments, commuted sums have been sought from developers towards enhancing existing play facilities locally. In the case of this development, adequate greenspace is being provided through the private gardens and grounds of The Croft nursery facility, which is being retained. Any formal contribution to playspace off-site can be made through a Legal Agreement and would be levied on all 28 houses at a rate of £500 per house.

There is no particular requirement in the Local Development Plan for an applicant to justify an application for development on an allocated site if that development is for the use allocated. Clearly, however, the applicant has considered it necessary to support the application with information on rates of housing completion and the benefits of the development with regard to housing provision and to the local economy. There have also been counter submissions to this information as well as a number of other objections based upon detrimental impact to the local economy, including that of tourism.

It is difficult to draw any firm conclusions over the claims, one way or another, nor to give any particular weight to the conclusions in terms of materially influencing the decision on the application. The development will make a housing contribution, both in affordable and private markets, and this will meet both the need for affordable housing within the area and the Government requirements for effective land supply for private housing. It is also possible there will be some net detrimental impacts as outlined by objectors. Ultimately, the application should be determined in accordance with the provisions of the Development Plan and any other material factors. Limited weight should be attached to the issue of economic impact in the overall planning balance, given that the site is allocated for housing.

Objectors have also referred to the need for an Environmental Impact Assessment as the site lies within a defined Sensitive Area – Eildon and Leaderfoot National Scenic Area. The site has been screened for EIA and the environmental impacts are not considered to be sufficiently significant to trigger the need for EIA as the site is allocated in the LDP, is considered to be adequately screened from the Eildon Hills and an Ecological Impact Assessment has been provided.

Developer Contributions and local services

Local Development Plan Policy IS2 requires all housing developments to contribute to infrastructure and service provision where such contributions are considered necessary and justified, advised by the Development Contributions SPG. In the case of any developments totalling 17 houses or more, 25% provision of affordable units must be provided on site – this is an update on the Planning Brief requirement for 15%, albeit that recognised that the provision should be on site. The initial submission of the application for 26 houses did not clarify where such provision was being made but the revised submission for 28 houses did so. Seven one-bedroomed bungalows will be provided in the western corner of the layout and the precise tenure and phasing will be controlled by a legal agreement to ensure compliance with affordability criteria.

In terms of other financial contributions that would be demonstrated to be required by the development, impacts on schools and health facilities are mentioned by objectors. In terms of education, the Council Policy is to seek contributions for schools either exhibiting capacity issues or where a new school has either been provided or is required. Contributions will be required for both Earlston and Melrose schools, levied only on the 21 private houses and not the affordable housing element. Again this will be secured by legal agreement.

In terms of current health care provision and waiting times, such concerns frequently arise in communities across the Borders when faced with housing development and population growth. The concerns suggest that the application should either be refused for reasons of impact on health care services or that contributions be sought to support the services. The issue is regularly reviewed during the Development Planning process and the NHS are consulted when land is allocated and growth planned.

Whilst the Development Contributions SPG states that “...Any services, infrastructure or facilities may require contributions...” health care is not listed in the examples of the predominant types of facilities that could be supported with contributions. There has hitherto been no identified need to oppose developments or seek financial contributions on the basis of health care capacity, perhaps reflecting the variety of reasons why there currently may be capacity issues. These may not only relate to population and development growth but also to funding and resource matters which lie outwith the control of the Local Authority or developers. There is also the difficulty of not only assessing how much contribution should be sought, but also how to ensure it is diverted to local facilities that may require it when such services are centrally funded. Ultimately, it would be difficult to establish a clear causal link (and justification to seek contributions) between a proposal to add three units above the indicative capacity in the Local Development Plan and the potential impact on health care in the area.

As mentioned above, all units will need to make a contribution towards play space provision off site but in the local area. Waverley contributions for the Borders railway will also be required for the 21 private houses but not the affordable units.

CONCLUSION

The proposals are considered to be an acceptable development of an allocated housing site within the Local Development Plan, providing private and affordable houses to meet local need. The density, design and layout of the development comply with Policies and Guidance and the impacts on landscape, ecology, road safety and infrastructure are considered acceptable, mitigated by conditions where required.

In conclusion and subject to compliance with the proposed schedule of conditions, Informatives and Section 75 Agreement securing development contributions, the development is considered acceptable when assessed against the Local Development Plan and other material factors.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions, Informatives and relevant legal agreement:

Conditions

1. No development shall commence until a scheme of external materials (including specifications and samples of materials and colours) for all buildings within the development, has first been submitted to and approved in writing by the Planning Authority. The materials shall include a flat grey roof tile such as “Eternit Birkdale” or similar. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.

2. No development shall commence, (notwithstanding the details provided in the approved landscaping drawings), until a detailed scheme of landscaping and boundary planting (incorporating a Tree Protection Plan and Arboricultural Method Statement demonstrating the protection of existing trees and hedges to BS5837, layout, location, species, schedule, implementation date(s) and long term maintenance of all new planting within the site) has first been submitted to and approved in writing by the Planning Authority. The development shall only be carried out in accordance with the approved details in implementation and maintenance of the approved scheme.
Reason: Further information is required to achieve an acceptable landscape scheme for the site.
3. The development shall remain outwith the tree buffer zones shown on Drawing 3580 AL_9_102, the trees to be protected in accordance with the approved Tree Protection Plan, Arboricultural Method Statement and BS5837 during construction work. Details of any incursion within the buffer zones and root protection areas to be agreed and approved in writing by the Planning Authority.
Reason: To safeguard existing trees surrounding the site.
4. Existing trees within the site and alongside the Malthouse Burn to be protected in accordance with the approved Tree Protection Plan, Arboricultural Method Statement and BS5837 during construction work and retained thereafter in accordance with the Tree Management Plan Drawing 3580 AL_9_101. With the exception of the access bridge and accommodation works related to the bridge, no changes in profile or ground levels to the banks of the Malthouse Burn to occur without the prior approval of the Planning Authority.
Reason: To safeguard existing trees within the site.
5. No development shall commence, (notwithstanding the details provided in the approved drawings), until a further detailed scheme of boundary treatment (walls and fencing) has first been submitted to and approved in writing by the Planning Authority. The scheme shall include their detailed design, height and materials. No facing brick shall be proposed. All boundary treatments within the application site shall accord with the approved scheme.
Reason: Further information is required to achieve an acceptable boundary treatment scheme for the site.
6. No development shall commence until a scheme of phasing of the development is submitted to, and approved in writing by the Planning Authority. Once approved, the development to proceed in accordance with the scheme.
Reason: To ensure the development is carried out in appropriate stages to reflect infrastructure and environmental constraints.
7. No development shall commence until further details of proposed levels within the site have first been submitted to, and approved in writing by the Planning Authority. These details shall include existing and proposed ground, road and other hardstanding levels; proposed house and finished floor levels. The levels shall relate to a fixed, off-site datum point. The development shall be carried out in accordance with the approved details
Reason: To ensure levels within the site achieve a sympathetic visual appearance and make satisfactory provision for surface water drainage.
8. No development shall commence until precise details of the surfacing materials for the proposed roads, footpaths and parking spaces have been submitted to,

and approved in writing by the Planning Authority. The development shall be completed in 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 which enhances the character and visual appearance of the development.

9. Notwithstanding the terms of Schedule 1 of The Town and Country Planning (General Permitted Development) (Scotland) Order 2011, no development to occur within the hatched zone of Plots 2, 3, 10, 11, 12 and 13 (on Drawing D3345-4000 Rev H) without application having been made to, and subsequently approved by, the Planning Authority.

Reason: To safeguard an underground culvert.

10. The development shall be carried out in accordance with Version 5 of the Flood Risk Assessment (prepared by Rab Consultants Ltd and dated 29 March 2019 – Ref RAB: 1930S) submitted with the application and the recommendations contained within Section 6 of the Assessment.

Reason: To safeguard and manage flood risk to existing and proposed properties.

11. The footpath links shown on Site Layout Drawing 3580 AL_0_101 Rev L shall be completed and connected to the existing footpaths surrounding the site, the timing for completion to be agreed in relation to the phasing agreed under Condition 6. No development shall be commenced until further details of the footpaths, including a maintenance schedule, are first submitted to and approved in writing by the Planning Authority. The footpaths then to be completed and maintained in accordance with the approved details.

Reason: To ensure public access from the development to the wider path network.

12. The proposed roads, footpaths and parking spaces/areas indicated on the approved drawings 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.

13. Unless agreed in writing with the Council, no development shall be commenced until the access road, bridge, visibility and all public road amendments/improvements on Dingleton Road are completed in full accordance with the details shown on the approved plans, including agreement on the precise design and sample of natural stone to be used on the replacement wall adjoining Dingleton Road.

Reason: To ensure safe access to the development and ensure the impact of the proposed development on the local road network is adequately mitigated.

14. The existing access to Dingleton Road shall be stopped up and the resultant site boundary landscaped, in accordance with the approved landscaping drawings, after the new access has been completed but before the development commences.

Reason: In the interests of road safety.

15. The revised access and parking provision for the Nursery building (The Croft) shall be completed in accordance with the approved plans before the first dwellinghouse is occupied.

Reason: To address potential conflict between uses and to safeguard road and pedestrian safety.

16. No development shall commence until a Construction Management Plan (CMP) is submitted to, and approved in writing by, the Planning Authority. The CMP to address matters relating to the provision of the new access, bridge, retaining wall and road widening on Dingleton Road. This should also include proposed construction methods, traffic management on Dingleton Road (including pedestrian provision) and timescales. The development then to proceed fully in accordance with the approved CMP during the construction phase of the development.
Reason: To ensure the impact of construction vehicles on the public road network is mitigated so far as reasonably practical.
17. No development shall commence during the breeding bird season (March – August inclusive) unless in strict compliance with a Species Protection Plan (SPP) for breeding birds, that shall first be submitted to and approved in writing by the Planning Authority. The SPP shall include provision for pre-development supplementary survey and ongoing monitoring during development.
Reason: To safeguard breeding bird interests at the site.
18. Prior to commencement of development, a comprehensive Habitat Enhancement and Management Plan (HEMP) shall be submitted to and approved in writing by the Planning Authority, after which no development shall commence except in strict compliance with the approved HEMP.
Reason: To safeguard and compensate for ecological impacts at the site.
19. No development to be commenced until a Construction Environmental Management Plan (CEMP) is submitted to, and approved in writing by, the Planning Authority, thereafter no development shall take place except in strict compliance with the approved CEMP. The CEMP shall include Species Protection Plans for protected species that may be impacted by the proposed development, as outlined in the SBC Ecology response (28/11/18) incorporating measures outlined in reports submitted by ITP Energised (October 2018 and January 2019), and in Scottish Natural Heritage species planning adviceⁱ, including provision for an Ecological Clerk of Works and pre-development supplementary survey, as well as mitigation. The CEMP shall also include an outline of measures to protect habitats including the water environment through good practice approaches.
Reason: To safeguard and compensate for ecological impacts at the site.

20. 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.

21. 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.
22. No development shall commence until further details are submitted to, and approved in writing by the Planning Authority, relating to the provision of a water supply and both foul and surface water drainage. This should include written evidence on behalf of Scottish Water that the development will be serviced by mains drainage and water supply. The development then to be implemented fully in accordance with the approved details.
Reason: To ensure the development can be adequately serviced and minimise risk of off-site surface water run-off
23. No development shall commence on the construction of houses on Plots 14-18 until revised front elevations have been submitted to, and approved in writing by, the Planning Authority. The revisions shall address and vary the roofs of the front projections. Once approved, the development then to proceed in accordance with the approved revisions.
Reason: To safeguard the visual amenity of the area.
24. No development shall be commenced until a Scheme of Woodland Management is submitted to, and approved in writing by, the Planning Authority. The Scheme shall identify an area of woodland outwith the site to its south-eastern edge and proposals for the retention, maintenance, regeneration and management of the woodland. Once approved, the Scheme then to be operated in perpetuity in accordance with the agreed details.
Reason: To safeguard the visual amenity of the area.

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

1. Development at (Note 1)
2. Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.
3. The development comprises (Note 5)
4. Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone 0300 100 1800, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).

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

Informatives

1. All prospectively adoptable roads, pavements and associated infrastructure will require Road Construction Consent. The applicant should discuss this separately with the Council's Roads Planning Service to establish the scope and requirements of Council adoption. All works within the public road boundary must be undertaken by a contractor first approved by the Council.
2. Development should be carried out in a manner consistent with British Standard guidance on construction works, to maintain neighbouring amenity, in particular BS5228.
3. There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post-holes) or artefacts (e.g. pottery, ironwork, bronze objects, beads) of potential antiquity are discovered, please contact the planner or Council's Archaeology Officer for further discussions. Further investigation secured by the development may be required if significant archaeology is discovered per PAN2 (2011) paragraph 31. In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human Remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.
4. The Notes required of Condition 25 should be completed as follows:
 - Note 1: Insert address or describe the location of the development
 - Note 2: Delete "subject to conditions" if the planning permission is not subject to any conditions
 - Note 3: Insert the name and address of the developer
 - Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)
 - Note 5: Insert the description of the development.
 - Note 6: Insert the application reference number.

DRAWING NUMBERS

Location Plan	3580 AL_0_100 B
Site Layout	3580 AL_0_101 L
Landscaping Layout	3580 AL_9_103
Tree Buffer Zones	3580 AL_9_102
Tree Management	3580 AL_9_101
Working Sections 1	3580 AL_0_104 G
Working Sections 2	3580 AL_0_105 A
Privacy and Daylight	3580 AL_0_106
Site Sections	3580 AL_0_102 B
Existing contours	
Street Elevations	3580 AL_0_107
Waverley Elevations	3580 AL_0_117 D
Waverley 2 Elevations	3580 AL_0_116 E
Towerhouse Elevations	3580 AL_0_110 E
Priory Elevations	3580 AL_0_114 F
Priory 2 Elevations	3580 AL_0_121 C
Priory 2 Elevations	3580 AL_0_115 F
Leader Elevations	3580 AL_0_124 C
Lockitwell Elevations	3580 AL_0_120 D
Chiefswood Elevations	3580 AL_0_111 F
Abbotsford Elevations	3580 AL_0_113 E
Abbotsford 2 Elevations	3580 AL_0_119 E
Abbotsford 3 Elevations	3580 AL_0_125
Single and attached garages	3580 AL_0_122
Access Sightlines	
Roads, Drainage and Levels	D3345-4000 H
Swept Path Analysis	3580 AL_9_104
Sections at Access Road 1	D3345-403
Sections at Access Road 2	D3345-4-4 A

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

Author(s)

Name	Designation
Craig Miller	Principal Planning Officer

SNH Species Planning Advice: <https://www.nature.scot/search?query=species+planning+advice>

PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

1st July 2019

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: 19/00339/CLEU
Proposal: Certificate of Lawfulness for an Existing Use : Class 9 Residential
Site: Glenacre, Camptown, Jedburgh
Appellant: Mr and Mrs Tom Watters

Reason for Refusal: The existing use has not been established for a period of at least 4 years therefore no lawful use has been established under the terms of Section 124 (2) of the Town and Country Planning (Scotland) Act 1997.

Grounds of Appeal: The second application for CLEU, provided substantial and sufficient evidence to demonstrate that "on the balance of probabilities" the property had been used for a period of at least 4 years as a family dwellinghouse, with no Bed and Breakfast/Guest House use whatsoever during that period. The appellants believe that the Planning Authority unreasonably and incorrectly interpreted tax return information and put unreasonable weight on matters of signage and website.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

- 3.2.1 Reference: 15/00045/UNDEV
Proposal: Residential caravan without Planning Permission
Site: Land West of Gallowberry Bank, Blyth Bridge
Appellant: Andrew Brown

Reason for Notice: It appears to the Planning Authority that the amenity of part of the district is adversely affected by the detrimental visual effect of the site. A van has been placed on the site along with two hand built sheds, tyres, corrugated sheets, tarpaulin, doors, pallets, fencing wire, wood/logs, branches, caravan chassis, wheelie bins, wheel barrows, telegraphic poles, ladders, scaffolding poles, BBQ, as well as other plastic containers and metal pieces are on the land without the benefit of either deemed or express planning permission, and it is considered that these items adversely affect the amenity of the area.

Grounds of Appeal: Not all items listed need to be removed i.e. Fence post & wire, wheel barrows, corrugated sheets, pallets and van (which is used for storage of tools & shelter while working on site), branches and ladder. The Van is actually a caravanette. Due to health conditions he would require more time to tidy site. It was agreed by Enforcement Officers that the tyres could be stored out of sight for future use.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Christopher Warren, dismissed the appeal and varied the terms of the notice by changing the specified period for compliance from 28 days to 8 weeks. The reporter found, during his unaccompanied site visit, the combined effect of the various items stored and/or deposited on the site to result in an unkempt and rather unsatisfactory appearance. The appearance does have a detrimental impact upon visual amenity and is in stark contrast to the surrounding land. The majority of items on the site would be straightforward to remove from the land however, some larger items may require arrangements to be made between the appellant and professional services to have them removed and therefore the reporter has agreed to extend the compliance period to 8 weeks.

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 20th June 2019. This relates to sites at:

<ul style="list-style-type: none"> Land West of Whitslaid (Barrel Law), Selkirk 	<ul style="list-style-type: none"> 1 - 39 Tweedbridge Court, Peebles
<ul style="list-style-type: none"> Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels 	<ul style="list-style-type: none">

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 18/01671/FUL
 Proposal: Erection of four dwellinghouses
 Site: Land West of Thornwood Lodge, Weensland Road, Hawick
 Appellant: Borders Low Carbon Developments Ltd

Reasons for Refusal: 1. The proposal is contrary to Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the amenity and character of the site and surrounding area, including neighbouring built form, in that the proposed dwellinghouses would not be of a design or layout that would be sympathetic to the site or the surrounding area. 2. The proposal is contrary to Adopted Local Development Plan Policies PMD2, PMD5 and HD3 in that it would have unacceptable impacts upon the amenity of the residential property at No 8 Weensland Terrace, principally as a consequence of an unacceptable loss of daylight and outlook due to the significant exaggeration of these impacts as a consequence of the proposed dwellinghouses being set further back into the site from the public road, than is necessary or otherwise justified by any circumstances on site or within the surrounding streetscape.

- 5.2 Reference: 18/01680/FUL
 Proposal: Erection of three holiday lodges, access and associated infrastructure
 Site: Land West of 1 Hallrule Farm Cottage, Bonchester Bridge
 Appellant: Mrs Claire MacTaggart

Reasons for Refusal: 1. The development would be contrary to Policy ED7 of the Adopted Local Development Plan 2016 in that the Applicant has failed to provide adequate business justification to demonstrate that the proposal is capable of being developed and operated viably as a holiday accommodation business in this location, potentially resulting in unsustainable development in an undeveloped rural landscape. 2. The development would be contrary to Policies ED7, PMD2 and EP5 of the Adopted Local Development Plan 2016 in that its siting and design will not respect and be compatible with the amenity and character of the surrounding area, and will result in a significantly adverse impact upon existing landscape character and rural visual amenity, including that of the Teviot Valleys Special Landscape Area and that of the setting of the building group at Hallrule.

6 REVIEWS DETERMINED

6.1 Reference: 18/00728/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Rose Cottage, Maxwell Street,
Innerleithen
Appellant: Mr Raymond Keddie

Reason for Refusal: The proposed development at this site would be contrary to policies PMD5, EP9 and EP11 of the Scottish Borders Local Development Plan (2016) in that development of this area of green space will have a detrimental impact on the townscape structure of the settlement and the special character and appearance of the Conservation Area.

Method of Review: Review of Papers and Further Written Submissions

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

6.2 Reference: 18/00961/FUL
Proposal: Erection of dwellinghouse with detached garage
Site: Plot 3 Land North East of The Old Church,
Lamberton
Appellant: Mrs Suzanne Currie

Reasons for Refusal: 1. The development will conflict with Policies PMD2 and HD2 of the Local Development Plan 2016 because the proposed dwellinghouse is not of a design quality that complies with the Council's Supplementary Planning Guidance "Placemaking and Design" 2010. The form, scale and mass of the proposed building produce an inappropriate appearance which amount to an unacceptable overall design. The siting and orientation of the proposed building would not produce a satisfactory frontage or achieve an adequate relationship with the existing building group. The development will contribute negatively to the visual amenity of the surrounding area as a result. 2. The development will conflict with Policy EP8 (Archaeology) of the Local Development Plan 2016 in that the development will adversely affect the setting of the Scheduled Monument, there is no strong social or economic benefit arising from this development, and there is an alternative means of meeting development need.

Method of Review: Review of Papers and Site Visit

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

6.3 Reference: 18/01071/FUL
Proposal: Part change of use from agricultural barn to vehicle body repair and paint shop with associated parking (retrospective)
Site: Agricultural Barn Mid Softlaw Farm, Kelso
Appellant: Mr Keith Redpath

Reasons for Refusal: 1. The use of the agricultural building as a motor vehicle workshop does not comply with policy ED7 of the Local Development Plan 2016 as the use does not require this particular rural location and is not appropriate to the rural character of the area. Such a use would be more reasonably accommodated within the Development Boundary of a settlement rather than in this particular rural location.

Increased frequency and intensification of the use of this building for Class 5: Industry would be harmful to the amenity and character of the surrounding area and to residential amenities. Further, the applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location. 2. The proposal does not comply with policies PMD1 and IS7 of the Local Development Plan 2016 in that it would be more reasonably accommodated within the Development Boundary of a settlement to encourage uptake of sustainable transport methods. The proposal would lead to the over-dependence of the private car. Car parking requirements or means of sustainable transport for this proposal have not been demonstrated. 3. The proposal does not comply with policies PMD1 and PMD2 of the Local Development Plan 2016 in that the long term adaptability of the building has not been demonstrated. No proposals have been made for provision of toilet facilities, staff welfare rooms or office space, waste water treatment or water sources to comply with sustainability and quality standards.

Method of Review: Review of Papers

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

6.4 Reference: 18/01469/PPP
Proposal: Erection of two dwellinghouses
Site: Paddock South of and Incorporating Part Garden
Ground of 1 Cowdenburn Cottages, West Linton
Appellant: Mr A Anderson

Reasons for Refusal: 1. The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of the existing building group or surrounding landscape. 2. The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that it would cause the loss or serious damage to high amenity value trees which would not be outweighed by an overriding public benefit.

Method of Review: Review of Papers

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 20th June 2019. This relates to a site at:

- | | |
|-------------------------------------|---|
| • Deans Bar, 3 Orrock Place, Hawick | • |
|-------------------------------------|---|

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 2 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 20th June 2019. This relates to sites at:

- | | |
|-------------------------------|-------------------------------|
| • Fallago Rig 1, Longformacus | • Fallago Rig 2, Longformacus |
|-------------------------------|-------------------------------|

Approved by

Ian Aikman
Chief Planning & Housing Officer

Signature

Author(s)

Name	Designation and Contact Number
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Background Papers: None.

Previous Minute Reference: None.

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

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