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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 5TH AUGUST, 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, 5TH AUGUST, 2019 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

29 July 2019

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 6) Minute of Meeting of 1 July 2019 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Land South of the Granary, Blyth Bridge - 19/00758/PPP & 19/00759/PPP (Pages 7 - 18) Plot A – Erection of dwellinghouse and Plot B – Erection of dwellinghouse. (Copy attached.)
	(b) Land North West of Willowdean House, Foulden - 18/01479/FUL (Pages 19 - 46) Erection of mobile holiday lodges with office, reception/shop, installation of hydro generator, and formation of associated roads and parking. (Copy attached.)
	(c) Orchard Park and Land North and East of 16 and 17 Brewster Place, Gattonside - 18/01795/FUL (Pages 47 - 68) Demolition of dwellinghouse and erection of seven dwellinghouses. (Copy attached.)
6.	Appeals and Reviews. (Pages 69 - 74) Consider report by Service Director Regulatory Services. (Copy attached.)
7.	Any Other Items Previously Circulated.

8.	Any Other Items which the Chairman Decides are Urgent.
9.	<p>Items Likely to be Taken in Private</p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>‘That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph of Part 1 of Schedule 7A to the aforementioned Act’.</p>
10.	<p>Minute (Pages 75 - 76)</p> <p>Private Minute of the Meeting held on 1 July 2019 to be approved and signed by the Chairman. (Copy attached.)</p>

NOTE

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

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

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

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

Please direct any enquiries to Fiona Henderson 01835 826502
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**SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 1 July, 2019 at 10.00 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, J. A. Fullarton, S. Hamilton, S. Mountford, C. Ramage and E. Small

Apologies:- Councillors A. Anderson and H. Laing

In Attendance:- Lead Planning Officer (B. Fotheringham), Principal Planning Officer (C. Miller), Senior Roads Planning Officer (A. Scott), Solicitor (E. Moir), Democratic Services Officer (F. Walling).

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 3 June 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 & Housing Officer on Appeals to the Scottish Ministers and Local Reviews which had been received and determined during the last month.

DECISION

NOTED that:-

(a) **an appeal had been received in respect of Certificate of Lawfulness for an Existing Use: Class 9 Residential, at Glenacre, Camptown, Jedburgh – 19/00339/CLEU.**

(b) **the Reporter had dismissed an Appeal against Enforcement in respect of a residential caravan without planning permission on land west of Gallowberry Bank, Blyth Bridge – 15/00045/UNDEV**

- (c) there remained three appeals, previously reported, which remained outstanding in respect of:

• Land West of Whitslaid (Barrel Law), Selkirk	• 1 - 39 Tweedbridge Court, Peebles
• Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels	

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

- (i) erection of three holiday lodges, access and associated infrastructure on land west of 1 Hallrule Farm Cottage, Bonchester Bridge – 18/01680/FUL; and
- (ii) erection of four dwellinghouses on land west of Thornwood Lodge, Weensland Road, Hawick – 18/01671/FUL.

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

- (i) erection of dwellinghouse on land east of Rose Cottage, Maxwell Street, Innerleithen – 18/00728/PPP (subject to conditions and a Section 75 Legal Agreement);
- (ii) erection of dwellinghouse with detached garage on Plot 3 land north east of The Old Church, Lamberton – 18/00961/FUL (subject to conditions);
- (iii) part change of use from agricultural barn to vehicle body repair and paint shop with associated parking (retrospective) at Mid Softlaw Farm, Kelso – 18/01071/FUL (subject to conditions); and
- (iv) erection of two dwellinghouses in paddock south of and incorporating part garden ground of 1 Cowdenburn Cottages, West Linton – 18/01469/PPP (subject to conditions, informatives and a Section 75 Legal Agreement).

- (f) there remained one review, previously reported, which was still outstanding in respect of Deans Bar, 3 Orrock Place, Hawick;

- (g) there remained 2 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 20 June 2019. These related to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
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4. PRIVATE BUSINESS DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 8 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

5. **RENDER REPAIRS AT BALLANTYNE PLACE, PEEBLES**

A report by the Service Director Regulatory Services, seeking authority to carry out render repairs at Ballantyne Place, Peebles, was approved.

The meeting concluded at 12.55 pm

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 AUGUST 2019

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBERS:**19/00758/PPP & 19/00759/PPP

OFFICER: Ranald Dods
WARD: Tweeddale West
PROPOSAL: Plot A – Erection of dwellinghouse
Plot B – Erection of dwellinghouse
SITE: Land south of The Granary, Blyth Bridge
APPLICANT: Mrs Christina Jeffrey
AGENT: Derek Scott Planning

PLANNING PROCESSING AGREEMENT: No processing agreement in place.

BACKGROUND

This report considers two applications on sites which are adjacent to each other. 19/00758/PPP is the northern of the two sites and is referred to as plot A. 19/00759/PPP, plot B, lies to the south west. The issues are common to both sites and it is appropriate, in this instance, to consider both applications in one report.

Both applications have been referred to the Planning and Building Standards Committee for determination under Section 43A (6) of the Town and Country Planning (Scotland) Act 1997. Its referral is supported by five Members on the grounds that: "...we do not accept that the erection of two dwellinghouses would be detrimental to the existing group..." and "We do not accept that the erection of these two houses would significantly increase the flow of traffic...".

SITE DESCRIPTION

The sites are located some 800m south west of Blyth Bridge and are within countryside designated as the Tweedsmuir Uplands special landscape area (SLA). Access is gained via the U31 public road and is approximately 200m from the A72. The site is undeveloped rough grazing enclosed by a post and wire fence. Mature trees within the sites line the public road. The ground slopes down from the road and the low point, approximately 5m below the north western boundary of the site, appears to run through the south eastern quarter of plot A and rises towards the proposed access track south of plot B. A line of semi-mature trees partially defines the north eastern boundary of plot A. There is no clearly defined boundary to the south east of the sites. A post and wire fence has been erected within the last few years to define the south western edge of the field. Previously there was no defined boundary between the rough grazing and the woodland to the south west. An informal path runs to the south western side of the field boundary.

To the south east of both sites, the land rises to an area of mature deciduous woodland, some 35m from the south eastern boundaries of the site. That woodland and both sites, are within the locally designated Castle Craig designed landscape.

An overhead power line runs across the site from west to east. The pole mounted transformer is located in the south of Plot B.

PROPOSED DEVELOPMENT

The applications are made for planning permission in principle for the erection of a single dwellinghouse on each site. As the applications are made to establish the principle of development, no details have been provided of the house design. An indicative site plan was submitted for each plot, which demonstrates that a single house could be accommodated on each site. The indicative plans also show the ground to the south east divided into two areas roughly the same size as the application sites, with what would appear to be fencing and a gate giving access to each section. The plan has these areas marked as woodland planting. If permission is granted, the applicant has indicated that they would be willing to enter into a legal agreement to regulate the use of that land. Although there are four mature trees towards the southern field boundary, the suggested woodland plating does not appear to be significant and is not backed up by a suggested planting plan, as might be expected.

PLANNING HISTORY

Planning history is a material consideration. There have been several applications for the development of these sites. Those are summarised below.

01/00732/OUT: erection of dwellinghouse, refused, 8 Oct 01. Subsequently dismissed on appeal, 15 May 02 [01/00014/REF, PPA-140-145]

01/00733/OUT: erection of dwellinghouse, refused, 24 Sep 01. Subsequently dismissed on appeal, 15 May 02 [01/00015/REF, PPA-140-146]

08/00040/OUT: erection of dwellinghouse, refused, 28 Apr 08

19/00023/PPP: erection of dwellinghouse, refused, 8 Mar 19

19/00025/PPP: erection of dwellinghouse, refused, 8 Mar 19

A further application was made (18/01806/PPP) which covered the entire field to the south eastern boundary. That application was, however, withdrawn before validation.

REPRESENTATION SUMMARY

The applications were advertised and neighbours notified. In total, 30 material representations (19 support and 11 objecting) were received from 25 individual addresses in respect of plot A. For plot B, 28 representations (16 support and 12 objecting) were received from 23 individual addresses. It should be borne in mind that it is not the number of representations received which is important, rather it is the materiality of the grounds of representation. The material grounds contained in representations are summarised below. Copies of all representations can be viewed in full on *Public Access*.

Support comments

- Houses would benefit the area by increasing population
- The field has already been developed

- No adverse impact on road safety
- Field is not suitable for agriculture
- The houses would complement the existing properties
- There is a demand for rural housing
- There could be an increase in school rolls
- The proposal is not sporadic development
- The scheme is farm diversification
- No impact on wildlife
- Increased employment
- Woodland planting would prevent further housing development

Objection comments

- Planning history is material and there has been no change in material circumstances since the previous applications
- Road safety
- Pedestrian safety
- Sites are outwith the building group
- Contrary to policies PMD2 and HD2
- Undesirable precedent
- Sites would break into an undeveloped field
- Development on agricultural land
- Surface water flooding
- Urbanisation of the countryside
- Ribbon development
- No sequential testing for site selection
- No socio-economic benefit to outweigh the LDP policies
- Impact on trees
- Increased traffic

APPLICANTS' SUPPORTING INFORMATION

- Planning supporting statement
- Access appraisal

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016

PMD1 - Sustainability

PMD2 - Quality standards

HD2 - Housing in the countryside

HD3 - Residential amenity

EP5 - Special landscape areas

EP8 – Archaeology

EP10 – Gardens and designed landscapes

EP13 - Trees, woodlands and hedgerows

IS2 - Developer contributions

IS7 - Parking provision and standards

IS8 - Flooding

IS9 - Waste water treatment standards and sustainable urban drainage

IS13 - Contaminated land

The site is not strategic, therefore the policies contained within SESplan are not considered.

OTHER PLANNING CONSIDERATIONS:

The following are material considerations:

- SPG – Development contributions 2015;
- SPG – Landscape and development 2008;
- SPG – Local landscape designations 2012;
- SPG – New housing in the Borders countryside 2008;
- SPG – Placemaking and design 2010;
- SPG – Trees and development 2008
- SPG – Waste management 2015.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: The RPS objects to the application. The key issues are access and road safety. There has been no material change in circumstances relating to the site and the comments submitted in response to the previous applications are still applicable to the current applications. Namely, the public road that serves this site links the A72 with the A701 is discouraged as a through route due to visibility issues at the junctions at both ends of this road. Statutory road signage indicates to drivers that this route is for access only. As such, RPS would not be in favour of supporting any greenfield development which would generate additional daily traffic movements on this road. The proposal does not comply with policy PMD2 of the LDP in that it would be result in extra vehicular traffic on sub- standard accesses to the detriment of road safety.

Archaeology Officer: No objection, subject to conditions. The key issue is the sites are within an area of moderate to high archaeological potential. Despite that, there are no known assets in the site, although there is a scheduled monument 85m to the north east, a Roman road to the south east and a Roman temporary camp between 30 and 100m to the west. Given the proximity of the known resources, the possibility of unknown features cannot be ruled out. Archaeological mitigation is recommended if permission is to be granted.

Flood Risk Officer: Review of the application shows that the proposed development is located out with SEPA's 1 in 200 year flood hazard map, however the maps do indicate the risk of surface water flooding in proximity of the proposed site. Photos have been submitted to the online planning portal which show the proposed site and Kirkurd road subject to surface water flooding on 24th June 2019. Ordnance Survey mapping shows a small watercourse or burn flowing from Kirkurd towards the proposed site. The watercourse appears to be culverted approximately 140m upstream of the proposed site, emerging approximately 75m downstream of the site. The exact route of the culvert is unknown. Correspondence for the planning agent confirms that the flooding of 24th June has been investigated and confirms the presence of the culvert and also that the blockage of the culvert contributed to the surface water flooding of the road and the proposed development site. OS mapping indicates that the proposed plots may lie over the route of the culvert. The FRO recommends that this is investigated and the exact route of the culvert clarified (by CCTV survey or other means). The FRO does not recommend or support built development over an active culvert which goes through multiple plots and, hence, should there be any problems with the culvert (e.g. collapse) then responsibility would

lie with each individual owner to fix their section. Should the culvert be retained and developments positioned accordingly, the FRO advises that there should be a corridor maintained along the route of the culvert which would enable access and avoid land ownership issues arising. Regarding surface water runoff, the FRO recommends that boundary drainage is considered to intercept any overland flow. Ground levels surrounding the dwellings should also be designed to convey overland flow away from the development and any neighbouring properties.

Outdoor Access Officer: According to records there are no claimed rights of way on this area of land, although the council does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, the community council and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC. There are other tracks in the area that the public would have a 'right of responsible access' to under the Land Reform (Scotland) Act 2003. The path that runs south-east through a field and then east through a woodland to meet with a road up to Craigurd House falls within land that enjoys responsible access rights. At the current time a chain and padlock has been used to lock both the pedestrian and field gate by the road at the west end of this path. The path offers a good link to the countryside for people in the vicinity and would be considered an asset to occupants of any new dwelling houses affording connectivity to other existing tracks and paths. The path falls within land owned by the applicant. The locking of the pedestrian gate is in contravention of the LRSA 2003; the council as Access Authority has powers to serve notices to have obstructions removed. No objection to the applications, subject to a condition relating to access.

Environmental Health: No objection, subject to conditions and informatives on water supply and drainage.

Contaminated Land Officer: Both applications were considered previously through a review of historical map extracts, aerials images and relevant records. The sites appear from these records to have remained undeveloped / greenfield land, assumed to have been used as grazing or crop cultivation. Agricultural buildings are present to the north and west however these are within a distinctly different parcel of land and are separated by a roadway. As there is no information to suggest the application sites have at any point been developed for agricultural purposes, the CLO does not believe there is evidence to support the need for further assessment.

It should be noted that the CLO's reference to "*agricultural buildings*" relates to their former use.

Landscape Architect: Objection. The site is part of a field to the south of West Mains building group. The field slopes down to the east and along the west boundary with the minor road there are 8no mature lime trees which have a high amenity value in the immediate area. There are additional trees to the south east and east, at some distance from the site. The key issue is whether there is adequate space to build dwellinghouses on the sites without requiring any trees to be removed. Whilst no objection was made to the previous applications, they were subject to the production of a tree survey in accordance with BS5837:2012. The current applications are not supported by any tree survey and, therefore, the Landscape Architect cannot support the applications.

Education and Lifelong Learning: No objection. Contributions required.

Statutory Consultees

Community Council: Supports the applications. It believes that a precedent has been set with the grant of 06/01244/FUL [a site some 800m to the west south west of the application sites]. They note that there are ten houses on the western side of Kirkurd Road and that the original farm cart shed for West Mains has now been converted to a dwelling called the Granary. The community council does not believe the vehicles associated with the application sites would have a negative impact on road safety. They also consider that the parcel of land is incapable of significant livestock numbers to provide the farm with a viable income and as the proposed houses are of a size which would make them affordable to families in the area, the community council believes this is important to the viability of the community.

KEY PLANNING ISSUES:

Whether, in principle, a dwellinghouse could be accommodated on each of the proposed sites without conflicting unacceptably with planning policies relating to (a) new housing in the countryside; (b) placemaking; (c) residential amenity and; (d) road safety.

Whether there are material considerations that would justify a departure from the provisions of the development plan and other material considerations.

ASSESSMENT OF APPLICATION:

Principle

The sites are located within the countryside. The nearest settlement envelope as defined by the Scottish Borders Local Development Plan 2016 (LDP) is Blyth Bridge, approximately 640m to the north east. They are located within a greenfield site in a rural location, on land which is not allocated for any use. The principle of the development proposal conflicts with the terms of the LDP.

Planning policy – rural housing

The council aims to encourage a sustainable pattern of development focused on defined settlements. That aim does not preclude the development of housing in the countryside. Where rural housing is permitted by policy HD2, the aim is to locate development in appropriate locations. There are three general principles which are the starting point for the consideration of new houses in the countryside. Those are:

- 1) Locations within villages are preferred to open countryside, where permission will be granted in only special circumstances on appropriate sites;
- 2) Sites associated with existing building groups and which will not be detrimental to the character of the group or surrounding area and;
- 3) Sites in dispersed communities in the southern Borders Housing Market Area (HMA).

In this case, the site is not within a defined settlement, the nearest one being Blyth Bridge. It is accepted that there is a building group at West Mains, although that building group is located on the north and west of the U31 whilst the application sites are located on the south east of the road. The sites are separated from the building group by a natural feature (a line of mature lime trees) and the U31 public road.

On the south eastern side of the road, there is no existing building group, rather there is only a single dwellinghouse, namely The Granary and that property does not form part of the West Mains grouping. Again, it is separated from the building group by the public road and a mature beech hedge on the road boundary. It has been accepted consistently that The Granary is considered anomalous to the West Mains grouping, a view which has been adopted by a Government Reporter in her determination of the appeal against the refusal of applications 01/00732/OUT and 01/00733/OUT when, at paragraph 21 of her decision, she stated it “...appears clearly detached from the group”.

Finally, the site is within the northern and not the southern HMA. The application therefore fails to meet any of the general principles used when assessing whether or not an application for rural housing is appropriate.

The policy sets out 6 further main criteria against which applications are assessed. Those are:

- A) Building groups;
- B) Dispersed building groups;
- C) Conversions of buildings to a house;
- D) Restoration of houses;
- E) Replacement dwellings
- F) Economic requirement.

In terms of the above, the only possible criterion against which the proposals could be assessed is A), building group, to which there are three further tests. Those are:

- a) The application site must relate well to an existing group of three houses;
- b) The cumulative impact of new development on the character of the building group and on the landscape and amenity of the surrounding area will be taken into account and;
- c) Any consents should not exceed two dwellings or a 30% increase to the group during the Plan period.

The sites fail the first of these as they are not well related to the existing West Mains building group. The public road creates a clear and defensible boundary to the West Mains group, as does the natural boundary to the field formed by the mature lime trees. The plots are broadly similar to that which was the subject of 01/00733/OUT. The Reporter, at paragraph 22 of her decision on the appeal, stated that “...*the plot is associated with the group to the extent that it is physically adjacent to it, albeit on the opposite side of the minor road*”. The applicant states that the erection of West Mains Lodge represents a “...*very significant change to the physical characteristics of the area*”. It is true that the West Mains group has been extended but not to the eastern side of the road and the fundamental point that The Granary is separated from the building group by a road is not altered by the construction of West Mains Lodge. To that end, it is not a significant change to the character of the area as asserted by the applicant.

Even if a building group which went beyond two defensible boundaries did exist, the houses would break into an undeveloped field. This is a point recognised by the Reporter at paragraph 23 of her decision. She stated that the proposal “...*would significantly extend development into an open field that is separated from a compact group...by a minor road*”. She also stated that the development of housing in the field would give a suburban character to the area and that the lime trees “...*reinforce the degree of containment provided by the road*” and that they “...*seriously constrain the scope for locating [development] that would link well to the group*”. Since the decision

of the Reporter, excepting the adoption of the LDP, in which the general tenor of the policies relating to rural development remains the same, there has been no change in material circumstances which would lead to a different conclusion.

The development of housing in this field would fundamentally change the setting of the area and, even if the first test set out above were passed, the application could be called into question by the second test. With the applications not relating well to an existing building group (criterion a) and there being no building group (criterion b) on the same side of the road as the application sites, the third test is not relevant.

The New Housing in the Borders Countryside supplementary planning guidance (SPG) reinforces the terms of policy HD2. No support for the proposal can be found within the SPG nor has the applicant advanced a case setting out why there is an overwhelming need for the development of the site. No justification has been provided by the applicant which indicates that it may be possible to set aside the terms of either policy HD2 or the SPG.

There are no material changes in circumstances since the determination of the most recent applications nor has the applicant advanced a sound justification that would suggest that policy provisions should be set aside in favour of the development. The principle is, therefore, not accepted.

Layout and design

The applications are made for planning permission in principle. All that can be considered here is the principle of development on the sites.

Although a layout plan which demonstrates that it may be possible to locate a house on each site has been submitted with the applications, those are marked clearly as "*indicative site plans*". The layouts are not, therefore, part of the suite of drawings which will accompany the decision notice and no weight should be attached to those layouts.

No indicative house design has been submitted.

Impact on residential amenity

The applications are made for planning permission in principle. The impact on residential amenity cannot be assessed fully at this stage and would be a matter for consideration in further detailed applications.

Impact on Special Landscape Area

The site lies within the Tweedsmuir Uplands SLA. The development, if granted, is unlikely to be detrimental to the integrity or overall objectives of the SLA.

Archaeology

The Archaeology Officer has not objected. He does note, however, that the sites are within an area of moderate to high archaeological potential. A condition is suggested in the event that planning permission in principle is granted.

Impact on local landscape designation

The sites are on the edge of the locally designated Castle Craig designed landscape. The proposals are unlikely to have a detrimental effect on the integrity of that local designation.

Impact on trees

The north western boundary of both sites is defined by a row of 8 mature lime trees and there are also some mature trees to the south east. Those trees are of high amenity value. The applicant has not submitted a tree survey to demonstrate that those trees will not be affected negatively by the proposed development of housing on the sites. The Landscape Architect is unable to support the proposals as they stand.

Developer contributions

The proposals, if granted, will require developer contributions towards education provision and affordable housing. Those would be secured by means of a legal agreement. The applicant has indicated a willingness to make those contributions.

Road safety, access and parking

The Roads Planning Service (RPS) objects to the application. The key issues considered RPS were access and road safety. The report on access submitted by the applicant in support of their application, which included an indication that they would be willing to introduce passing places on the public road, has been assessed by RPS. Whilst they note the contents of the supporting information, they disagree with the findings and as there has been no material change in circumstances relating to the site, they are still of the opinion that the sites are not suitable for development.

In any event, their assessment is that the fundamental problem lies with the visibility at the junctions of the A701 and A72. The public road that serving the sites links those roads and its use as a through route is discouraged specifically because of the visibility issues at the junctions.

As such, RPS would not be in favour of supporting any greenfield development which would generate additional daily traffic movements on this road. The proposal does not comply with policy PMD2 of the LDP in that it would result in additional vehicular traffic on sub-standard accesses to the detriment of road safety.

Setting that aside, there appears to be sufficient space on each plot to accommodate the required parking provision and turning space.

Flooding

The site has been subjected to episodes of surface water flooding which the Flood Risk Officer (FRO) considers likely to be associated with the culverted burn which runs through the field. OS mapping indicates that the proposed plots may lie over the route of the culvert. The FRO recommends that this is investigated and the exact route of the culvert clarified (by CCTV survey or other means). The FRO does not recommend or support built development over an active culvert which goes through multiple plots and should there be any problems with the culvert (e.g. collapse) then responsibility would lie with each individual owner to fix their section.

If permission is granted and the culvert is retained with developments positioned accordingly, the FRO advises that there should be a corridor maintained along the route of the culvert which would enable access and avoid land ownership issues arising. Regarding surface water runoff, the FRO recommends that boundary drainage is considered to intercept any overland flow. Ground levels surrounding the dwellings should also be designed to convey overland flow away from the development and any neighbouring properties.

Services

The application form indicates that the sites will be connected to the public water mains. Foul drainage will be by means of a private system and surface water will be attenuated and then discharged into the existing field drainage system. There appears to be sufficient space on the sites to accommodate waste and recycling containers.

Contaminated land

The Contaminated Land Officer (CLO) reviewed the applications. Despite the presence of former agricultural buildings in the area, the sites lie on undeveloped or greenfield land and is used currently for grazing. As such, the field has not been developed for agricultural purposes and the CLO does not believe there is evidence to support the need for further assessment.

Agricultural use

The applicant states that the land is of limited agricultural use and “effectively surplus to requirements”. This statement is not backed up by any economic data or business case. The use of the land for agriculture was also tested previously through the appeal process. In her decision, the Reporter accepted at paragraph 28 that the field may not be ideally placed for continued agricultural use. She continued that, despite that, it is easily accessible by road and could continue as grazing land without significant conflict with the existing houses.

Socio-economic factors

The applicant states that the proposals will have some socio-economic benefits. Those include a contribution to the local economy and support to the existing facilities and schools. No data has been supplied to back up that statement. In any event, it is unlikely that the socio-economic benefit arising from two house plots would outweigh the policy presumption against the proposed developments.

Precedent

The applicant states that the grant of permission for 06/01244/FUL should be taken as a precedent for such developments as proposed in the applications. It is a matter of trite law that there is no precedent in planning and that each case is treated on its own merits. It is, however, a material consideration that granting permission for development might set an undesirable precedent, making it difficult to refuse similar applications in the future.

The proposals which are the subject of these applications do not comply with key policies within the LDP. Granting permission for these sites would set an undesirable precedent for other similar unjustified developments on parcels of rural land which landowners deem surplus to requirements.

CONCLUSION

The proposed development of these greenfield sites for housing does not relate well to an existing building group. It does not comply in principle with LDP policies PMD2 or HD2 in that it would amount to sporadic residential development in a countryside location. No overriding case for a dwellinghouse has been substantiated and the applicant has not demonstrated that it is a development which would offer significant community benefits that would outweigh the need to protect the countryside.

The proposed dwellinghouses are contrary to policy PMD2 of the LDP in that they would raise issues of road safety at the U31's junctions with the A72 and A701.

There are no other material considerations that would justify a departure from the provisions of the LDP.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the applications are refused for the following reasons:

- 1 The development is 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. The development lies outwith the identifiable limits of the building group on a previously undeveloped field and would lead to an unjustified and sporadic expansion of development into the open countryside.
- 2 The development is contrary to policy PMD2 of the Local Development Plan 2016 in that it would result in additional vehicular traffic on a minor public road with sub-standard access. The erection of a house on this site would be to the detriment of road safety at the junctions of the minor road with the A72 and A701.

DRAWING NUMBERS

D006 Location Plan

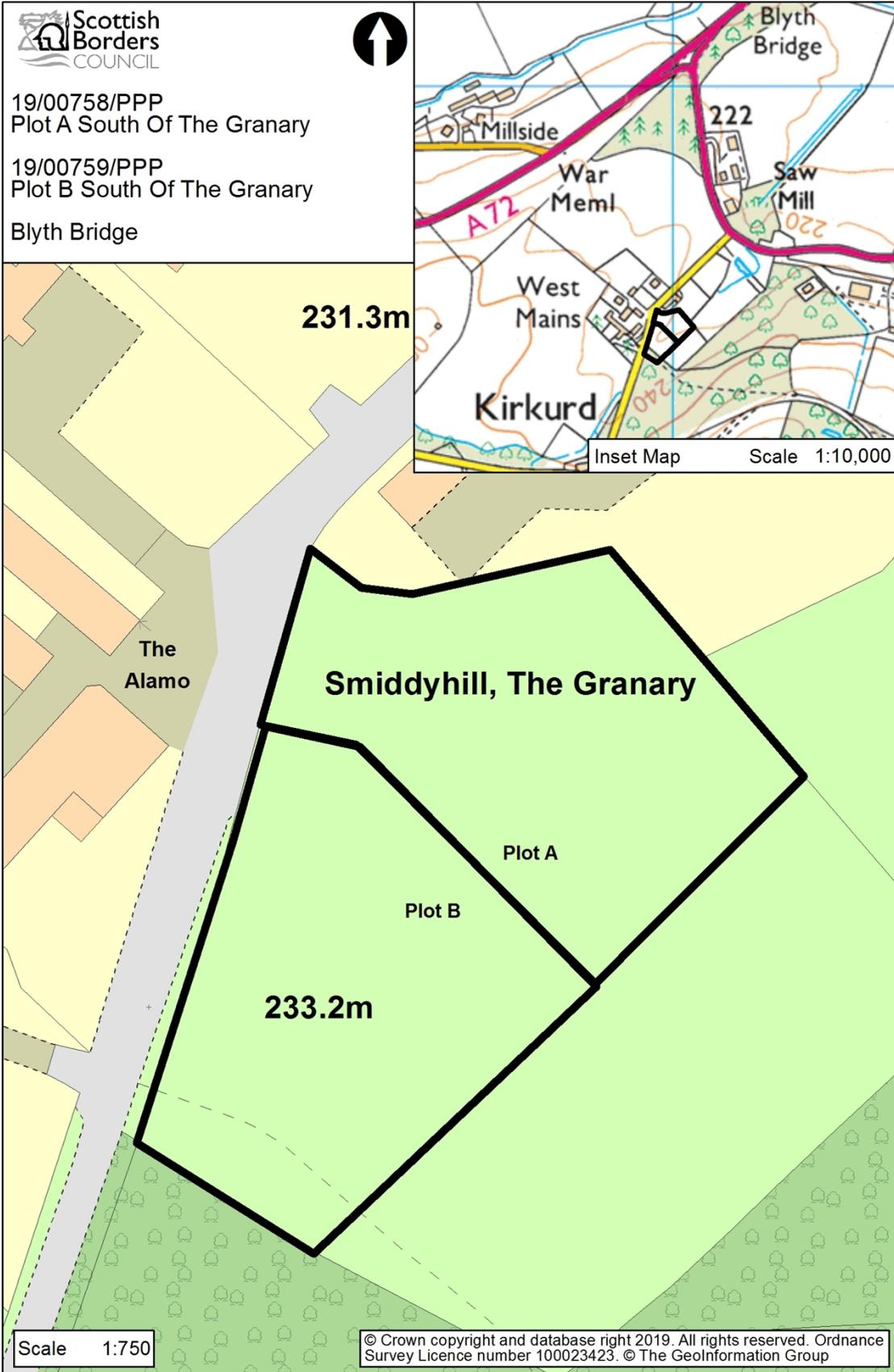
Approved by

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
Ranald Dods	Planning Officer



SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 AUGUST 2019

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 18/01479/FUL
OFFICER: Mr Scott Shearer
WARD: East Berwickshire
PROPOSAL: Erection of mobile holiday lodges with office, reception/shop, installation of hydro generator, and formation of associated roads and parking
SITE: Land North West Of Willowdean House, Foulden
APPLICANT: Mr and Mrs J Tait
AGENT: Richard Amos (Duns)

PLANNING PROCESSING AGREEMENT: This application has a PPA which seeks determination at the P&BS Committee on the 5th of August 2019. Provision has been made within the PPA in the event the application is continued for it to be re-presented at the next available committee meeting on the 2nd September 2019.

SITE DESCRIPTION

The application site is located to the north of Foulden in East Berwickshire. The site consists of an undulating area of grass land which falls in a south/south western direction. The Deans Burn runs through the western and southern side of the site and multiple ponds have been formed including two large lakes named the 'Trout Lake' and 'Wild Fowl Lake' at the south and south western corners. Mature areas of woodland planting enclose the outer boundaries of the water bodies. Willowdean House, its associated outbuildings and garden ground lies on a plateau on the sites eastern side. This property is within the control of the applicants. The site is separated from the minor public road to the east and holding to the north (Nunlands) by mature hedging. Modern residential properties lie to the south of the site with a scattering of traditional rural and more modern dwellings and farm buildings located to the north.

The site does not fall within any designated landscape areas or sites of nationally protected ecological status. Nunlands House including its ancillary structures, boundary walls and gate piers, is listed Category B Listed. Foulden Conservation Area lies approximately 215m to the south west of the site.

PROPOSED DEVELOPMENT

The application seeks consent for a holiday lodge development. The proposals consist of the following elements:

- the erection of 52 holiday lodges which include fixed decks
- associated access roads, parking areas and landscaping
- erection of office building
- erection of reception/shop building

Through the course of the application process the layout has been amended with the number of lodges reduced from 55 to 52. A plan of a typical holiday lodge has been provided which details a pitched roof building finished with wood composite clad walls a lightweight steel roof and uPVC framed windows and doors. The office and reception/shop building are also of a pitched roof design finished using timber clad walls and natural slate roofing.

The development will be accessed via the minor road to the east of the site via the existing access used by Willowdean. It is proposed to widen and resurface this opening and locate two passing places on the public road.

A hydropower generating scheme was included as part of the original proposals, subsequently this part of the proposed development has been withdrawn from this planning application.

PLANNING HISTORY

98/00136/FUL - Erection of dwellinghouse. Approved subject to conditions and Section 50 legal agreement which required that the formation of ponds for the fishery shall take place before works commence on the dwellinghouse. The legal agreement did not tie the house to the operation of the fishery enterprise.

REPRESENTATION SUMMARY

80 objection comments have been received in total. Of the 80 comments, some multiple objections were submitted from the same household and some additional and updated comments have been received from original objectors following the submission of additional and amended information. A summary of the objection comments are provided below;

- Detrimental to the environment.
- Foulden is a small and peaceful village, the scale of the proposal represents overdevelopment of this site which will adversely affect the character and sense of place of this rural village.
- Scale and design of the proposals would detract from the visual amenities of the area.
- Density of site.
- Poor Design.
- Detrimental to residential amenity, particular neighbouring properties to the north.
- Local Development Plan Settlement profile restricts development taking place to the north of the settlement where this proposal is located.
- Detract from the setting of the Conservation Area.
- Health issues.
- Inadequate access.
- Insufficient parking provision.
- Inadequate drainage.
- Adversely affect existing trees and hedgerows.
- Land affected privacy of neighbouring properties affected.
- Loss of Prime Quality Agricultural Land (PQAL).
- Accommodation will require concrete bases which would cause irreversible damage to the PQAL with lodged on the sloping land requiring excavation and underbuilding.
- Detract from setting of Category B Listed Nunlands House.
- Adversely affect the historic environment at Nunlands.

- Detract from the outlook of neighbouring properties to the north.
- Noise pollution.
- Subsidence.
- Flood risk.
- Adversely affect habitats of local wildlife including protected species such as badgers, bats, swans geese and great crested newts.
- Cause light pollution.
- Lack of demand for development with an overprovision of holiday accommodation elsewhere in Berwickshire.
- No economic justification for development.
- Use of accommodation for 11 months represents second homes. Residents should be liable for Council Tax.
- 11 month occupancy restriction would be difficult for SBC Officers to enforce.
- Local services do not have the capacity to accommodate residents of the development and this will affect existing resident's access to services.
- The majority of users would access the site by car, this is not sustainable.
- Development would put a significant strain on local services where there do not have the capacity to support users of this development.
- Holiday development would conflict with neighbouring agricultural activities.
- Insufficient local water supply available to serve the development.
- Deans Burn does not have the capacity to accept drainage from this development.
- Drainage would pollute the water course harming its biodiversity and other properties it flows through.
- Willowdean Houses was consented subject to a legally binding condition where the house was to support the breeding of rare fowl, this was never complied with.
- Cause litter problems.
- Insufficient bin store provisions.
- Smell.
- No local amenities such pub, restaurant, shop etc. to support the proposal which would be better located near a larger settlement with more amenities.
- Rural road network cannot safely accommodate the additional traffic caused by this development.
- The lodges are not constructed of materials which are sustainable with the accommodation failing to be energy efficient.
- Health and safety issues by building next to water courses.
- PAC Report which has been submitted has failed to accurately represent the local opposition raised during the public engagement process.

APPLICANTS' SUPPORTING INFORMATION

- Business Plan
- Landscape Schedule
- Lighting Management Strategy
- PAC Report
- Preliminary ecological Appraisal
- Transport Statement
- Planning Statement (received 24.10.2018)
- Planning Statement (received 17.12.2018)
- Supporting Statement

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2 Quality Standards for New Development
ED8 Caravan and Camping Sites
ED9 Renewable Energy Development
ED10 Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3 Protection of Residential Amenity
EP1 International Conservation Sites and Protected Species
EP2 National Nature Conservation Sites and Protected Species
EP3 Local Biodiversity
EP7 Listed Buildings
EP8 Archaeology
EP13 Trees, Woodlands and Hedgerows
EP14 Coastline
EP15 Development Affecting the Water Environment
IS7 Parking Provision and Standards
IS8 Flooding
IS9 Waste Water Treatments Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance

- Waste Management 2015
- Placemaking and Design 2010
- Use of Timber in Sustainable Construction 2009
- Trees and Development 2008
- Landscape and Development 2008
- Renewable Energy 2007
- Privacy and Sunlight Guide 2006
- Biodiversity 2005
- Local Biodiversity Action Plan: Biodiversity in the Scottish Borders 2001

- Caravan Sites Act 1968

- Scottish Planning Policy (SPP) 2014

Scottish Borders Tourism Strategy (SBTS) 2013-2020

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Access Ranger: No objection. There are no rights of way or core paths within the site. Consideration should be given to link the development to a core path to the northwest of the development by following the Deans Burn.

Archaeology Officer: No objection. The site is located to the south of Nunlands which is thought to date from the medieval period and there is historical reference to it being the site of a nunnery. This suggest that there is archaeological potential within this site. It is recommended that this should be evaluated before development with trial

trenches. Alternatively a geophysical survey of the whole site could be undertaken with more precise evaluations thereafter.

Ecology Officer: (1st Response 28th Jan 2019). The key ecological issue is the potential impacts on the biodiversity interests within the site which include open water, marsh habitats, a spring, mature trees and a range of protected species and/or habitats which may be suitable for protected species. No evidence of great crested newts were recorded. Recommend that further information on lighting is required to enable consideration of how lighting would affect bats and information on the proposed hydro generator is required. A suite of planning conditions are recommended to mitigate ecological impacts.

2nd Response 3rd 2019. Initially sought for precise details of the lighting proposals to be agreed. Following further consideration of the Lighting Plan and commitments made in the Supporting Statement (04.06.2019), it has been recommended that owing to the type of development and the number of lights proposed that the final details of the lighting at the development can be agreed by a planning condition. Recommends that the lighting should ensure that dark zones are maintained along habitat corridors used by bats (i.e. boundary trees, trees and hedgerows and along waterbodies).

Economic Development: No objection. The development fits with Scottish Borders Tourism Strategy 2013-2020 by increasing volume of overnight visitors and spend and ensuring that the regions accommodation offerings meet demand and act as an attraction themselves.

Environmental Health: No response received at the time of writing.

Flood Risk and Coastal Management: No objection. Part of the site is at risk of flooding from an unnamed burn and waterbodies which lie around the western and southern side of the site. Topographical information confirms that the lodges are sited outwith the 1:200 year floodplain of this water course.

Landscape Architect: Do not object. Identify that the key landscape issue is the potential visual impact of the development to surrounding receptors at Nunlands and Foulden. The reduction in the number of lodges, extended structure planting to the north and planting to the south of Trout Lake are welcomed. The planting has been designed to screen the development from the A6015, Willowdean House and Nunlands. A sketch has been provided by the Landscape Architect (available on Public Access) which illustrates how on site planting can be improved to filter views into the site, particularly where the chalets are most visible, improving the sense of enclosure and further break up the development into different zones. For this to be effective Beech and Birch trees should be included in the structure planting across the site along with individual or clusters of specimen tree spread through the site to provide a better landscape fit by connecting the development to the wider landscape setting. The tree planting at the Trout Lake should take a riparian form to be sympathetic to the waterbody.

No objection is raised to the inclusion of a wetland water treatment system however it is being proposed in part of the site where existing trees provide valuable screening from the south. These works could impact on the boundary hedge. Additional information about the prospect of tree removal as a result of these works are requested.

Detailed drawings of the proposed entrance area, including signage are requested. An understated rural approach is advocated. Trees along the roadside should be retained

and this should be informed by a tree protected plan. The colour of the chalets should recede in to the background with samples provided.

Provided suitable site planting is agreed with existing tree and hedging retained and the buildings are finished using muted colours, in due course the proposed development should fit well into the wider landscape and the extent of visibility will be minimised.

Roads Planning: (1st Response 29.03.19) No objection. The traffic generated by a tourism development tends to be outwith normal peak hour traffic flows and would not normally clash with commuters and school runs etc. It is also unlikely that the development would operate at 100% capacity and the majority of visitors are expected at weekends. The nearest bus stop is within walking distance on the A6105. Satisfied that pedestrians can comfortably walk on the section of the minor road from the A6105 to the bridge and step onto verges when traffic approaches. This route can be improved by the erection of pedestrian warning signs and the imposition of a 40mph speed limit on this section. The section between the bridge and the site access is more constrained with less visibility for oncoming traffic to see pedestrians. It is recommended that pedestrian access is provided at the southernmost corner of the site as close to the bridge as possible. The minor public road leading to the site can be improved by way of additional passing places, ideally between the bridge and site entrance. Recommend conditions to agree engineering improvements to the public road and an amended site plan with pedestrian access to the south. The passing places, signage and works within the public road boundary should be upgraded to the relevant Council road standards and regulations.

2nd Response 17.06.19. The proposed footpath to the south of the site would be preferred to be moved even closer to the bridge to provide the most direct link for pedestrians. The two conditions recommended in the original response are still valid.

Statutory Consultees

Foulden, Mordington and Lamberton Community Council: (1st response 21.01.19) Object, citing the following grounds:

- The submitted PAC Report does not reflect the concern raised by the local community during public engagement
- Development is inappropriate to the visual character and amenity of Foulden and the surrounding area, failing to respect the special character of the village which is identified in the LDP settlement profile.
- Siting and grouping does not reflect the layout and massing of small groups of dwellings in the local area.
- The natural slope of the site will mean that most of the development will be visible, particularly from the village and the A6105. The proposed materials and form of the lodges does not reflect local vernacular architecture.
- Result in the loss of Prime Agricultural Land.
- Policy PMD4 resists the development of sites outwith development boundaries where this development would cause a significant adverse effect on the landscape setting of the settlement and natural heritage of the surrounding area.
- There is no market demand for this development.
- This development would adversely affect other existing holiday enterprises.
- Proposed occupancy allowance of 11 months every year would increase the number of second homes in the area by 55% and would increasing the pressures on local services.

- Detract from the residential amenity of neighbouring dwellings in the Nunlands area.
- Adversely detract from the setting of the cat B listed Nunlands House

- Access to the site if provided from a busy unclassified road used by farm vehicles, HGVs, buses and commuters. Road is narrow and does not have the capacity to safely accommodate level of traffic generated by this development. Proposed road widening and inclusion of a passing place will not provide sufficient mitigation.
- Increase traffic will generate noise nuisance
- Sections are missing from the Transport Statement
- Local drainage and sewage services do not have the capacity to serve this development. A recent water diversion of the Deans Burn at Willowdean House caused an unusual lowering of the burn water level which interfered with the efficiency of waste water disposal systems of properties in the Foulden Deans area – this situation is likely to be worsened by this development.
- Further overhead power lines will detract from the visual amenity of the area/
- Broadband signal is poor in the area further users will slow connectivity down affecting residential and businesses
- Increase litter nuisance

2nd response 14.06.19. The proposed revisions are minor and have not addressed the objection of the CC. Original comments remain valid. Qualify that a petition which was organised during the PAC exercise was organised by concerned local residents and not the CC.

Scottish Environmental Protection Agency (SEPA): 1st Response (25.01.19).
Object on the following grounds:

- Further information is required to determine if the hydropower proposals are consentable by SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR).
- Foul drainage is directed to the Deans Burn which is a small scale water course therefore allowances from the development are very strict, further information is required to demonstrate that this means of foul drainage not have an unacceptable impact on the water environment and would be consentable under CAR
- The SUDS proposals are located within an area which is already very wet and the scheme needs to demonstrate that it will not adversely impact on groundwater dependant terrestrial ecosystems

Do not object on flood risk grounds as all of the proposed lodges are located at least 1m above the edge of the floodplain of the Deans Burn. Advise that ground re-profiling within the lowest part of the site should be avoided and that planning consult with SBC Flood Risk Management about including buffer strips from the development to the watercourse.

2nd Response (17/6/19). Maintain objection. Insufficient information has been provided to address the ecological impact of the proposed means of drainage. Note that the updated plans have change the contour scale however the development remains outwith the flood risk area.

3rd Response (23/07/19). Discussions have been on going with the applicants. Confirm that the means of treatment of foul water as detailed in section 7.1 of the Supporting Statement dated May 2019 is satisfactory and addressed previous concerns. Implementation of this system can be controlled by condition and should there be any variation to the current CAR authorisation with this should be agreed with SEPA.

The method of the disposal of surface water to the existing ponds remains unacceptable. SEPA have recommended that this is a minor matter and provided an

alternative method to dispose surface water is agreed by a suspensive planning condition with consultation with SEPA their original objection is withdrawn. Should SBC not attach such a condition to any consent then their objection would still stand.

Scottish Natural Heritage (SNH): The application does not affect any designated site. Note that the development may potentially impact on bats and otters. The layout does not suggest that there will be a significant impact on these species and any issues can be appropriately handled by the Council.

Scottish Water: No response received at the time of writing.

Visit Scotland: No response received at the time of writing.

KEY PLANNING ISSUES:

The main determining issues are whether the proposal:

- represents an appropriate new tourism development which is of the highest quality and in keeping with the local environment
- provides safe vehicular and pedestrian access
- is free from flood risk
- does not have a detrimental impact on local infrastructure
- does not detract from the residential amenity of surrounding area
- does not detract from the setting of any listed buildings or the Foulden Conservation Area
- results in the loss of Prime Quality Agricultural land

ASSESSMENT OF APPLICATION:

Planning Principle

The accommodation which is proposed meets the definition for a caravan against section 13 of the Caravan Sites Act 1968 whereby the structures are:

- composed of no more than two sections and assembled on site using bolts, clamps or other devices
- physically capable of being transported by being towed or on a vehicle or trailer
- no longer than 60 feet (18.3m)
- no wider than 20 feet (6.1m)
- no higher than 10 feet (3m)

Clarifying that the proposed accommodation are deemed to be caravans under the Caravan Sites Act 1968 is important from a planning policy perspective as this confirms that the proposed development should be determined principally against Policy ED8: Caravans and Camping of the Local Development Plan 2016 (LDP). This is a new caravan development so it must be considered against Section (A) of Policy ED8. This policy supports new caravan and camping developments that are in locations that are environmentally acceptable and fit with wider tourism, economic and regeneration objectives.

Although not explicitly required by this particular policy, this application has been supported by a Business Plan and a Business Proposal which has been supplied by qualified Chartered Accountants and has found that:

- The site is located a suitable distance from catchment areas of large populations from Edinburgh and Newcastle who would be attracted to this development in a rural location.
- The development would provide employment opportunities from construction activities through to the management and maintenance of the site including the reception and shop facilities.
- Foulden doesn't currently benefit from any retail or consumer facilities. This development proposes a small shop which will also provide a facility which local residents can use.
- Based on the financial projections, the business is estimated to break even in its third year of operation and thereafter would generate a profit which confirms that this can be a viable enterprise.

The business proposals have been considered by the Economic Development Section of the Council. They consider that the applications comply with the strategic target of the Scottish Borders Tourism Strategy 2013-2020 (SBTS) by:

- Increasing volume of overnight visitors and visitor spend in the area.
- Providing accommodation which there is a consumer demand for and meets evolving market expectations.
- The accommodation increases the range of accommodation available in the area.
- The proposals are viewed to be of a high standard which could itself attract new tourists to the area and also raise continue to raise average quality quotient across all forms of accommodation.

The business merits of the proposal and its compliance with the SBTS provide broad justification under planning policy that this is a viable form of development which would attract visitors to the area. Policy ED8 does require that new caravan and camping developments must occupy locations which can support the local economy with locations within or immediately out with the development boundary of settlements that can help support local shops and services favoured over countryside locations.

The Foulden LDP Settlement profile does observe that development to the north of the settlement should be resisted, this is however directed to residential development and other proposed land uses need to be tested against relevant policy requirements, such as Policy ED8.

The application site is outwith the Foulden development boundary, however the policy does not insist on new caravan sites being located within settlements. Certainly part of the attraction of this site is its rural setting. At its closest point the site measures approximately 200m from the development boundary where it is separated by an open field which contains two residential properties and a woodland area. The site is directly linked to the settlement by a short section of the minor road which joins the A6105. The residential properties at Nunlands bound this site with further properties located to the north of the site. These properties closely relate to Foulden and their presence has established that development has previously taken place outside of the settlement boundary.

Extant planning permission still exists for this land to operate as a fishery. While this is a different business than the current proposals before Members, some comparisons can be drawn between the two uses. Both are rural businesses which would attract visitors to the area. The positive planning decision which determined that this site can support a rural enterprise is judged to carry some weight in this case. Nevertheless, the proximity and accessibility of the site to Foulden means that it occupies a location

which is suitably close to the settlement which will enable this development to support the local economy. Indeed while there may be no existing shops or services presently within Foulden, the development may enhance the viability for further inward investment which could result in the development of further facilities locally. In doing so, stimulating regeneration which is encouraged by Policy ED8.

It should be acknowledged that this proposal does include the development of a small shop. From an economic perspective, the provision of this facility will enable some expenditure to be retained within the village and it is understood that this facility will also be available for the wider public to use which will provide some benefit to local residents. Otherwise the inclusion of the small Shop/Reception building, Office, Recycling/refuse building are typical to those which you would expect to find to compliment a holiday park development of this scale. Owing to the location of the development outside of the settlement boundary, if Members were minded to approve this development it would be prudent to attached a condition to limit the floor area of the retail premises to the shop are shown on drawing No 17/B551/PL06. This would ensure that the shop remains an ancillary component to the development which does not detract from the amenity of the rural area.

Policy ED8 does not restrict the positive economic impacts to the location where a development is proposed and instead the aspiration is to enhance the local economy. This site occupies a location where other neighbouring town and villages in particular coastal attractions in Eyemouth and Coldingham are accessible from this development. The accessibility of the development to these nearby Border settlements allows this development to have a positive impact on the wider local economy in Berwickshire which depends on the tourism as one of its key industries for economic growth.

Drawing the above observations together it is considered that development occupies a location which can support the local economy and fits with the Councils tourism objectives as required by Policy ED8.

Criteria a) – c) of this Policy requires that new caravan and camping development must be of a high quality and be in keeping with their local environment and not result in adverse environmental impacts, have a suitable impact on infrastructure and be free from flood risk. These impacts are considered in detail in the relevant sections below in this report.

Prime Quality Agricultural Land (PQAL)

The application site is designated in the LDP as being PQAL. PQAL is a valuable and finite resource and Policy ED10 of the LDP seeks to resist development which case its permanent loss.

The construction of the buildings including decked areas and access tracks may have a physical impact on the PQAL. These impacts should be limited as ground works will not take place across all of the site and the lodge section details show that the foundations are curtailed to a limited depth. This suggests that the site would retain some PQAL potential.

It is important to consider that the soil reserve within this site does not appear to have been used for agricultural activities for some time which likely ceased when consent 98/00136/FUL was implemented and the site was used as a fishery. Members are reminded that if this latest application were to be refused the site could still be used for non-agricultural activities. With this in mind and the fact that a significant area of PQAL

identified in Figure ED10a of the LDP will be unaffected by this proposal, this development is not opposed on grounds that it would have a significantly detrimental impact on PQAL reserves within the Scottish Borders.

Design and Layout

The evolution of the proposed development is explained within para 2.4 of the Planning Statement. Originally the applicants explored a development which consisted of 77 lodges within this site. Following concerns which were expressed by officers principally about the visual impact about the scale and density of the development the number of lodges proposed has been reduced from 55 to 52. The lodges are arranged in a series of rows with buildings positioned at difference angles across the site.

The Supporting Statement advises that the current development has a density of 2.6 lodges per acre. This figure is disproportionately low as there is land within the application site where lodges can't go, i.e. within the grounds of Willowdean House and the water bodies which is includes within this figure. Nevertheless it is the merits of the layout which should determine if the design of the proposals are suitable within this site.

The amended plan (Drawing No 17/0G551/PL02) has illustrated that the lodges are spread fairly evenly through the site with a slightly lower density to the northwest corner which is more visually exposed. The lodges do not appear to be positioned too close together. The amended plan confirms there is space for each unit to have its own access and parking area with increased planting provided throughout the site. The siting of the proposals do not jeopardise the retention of the existing boundary hedging and established woodland planting which add amenity value to the development with the revised proposals increasing the volume of proposed planting within the site. It was questioned whether there was merit in providing some additional open amenity i.e. play space could be accommodated within the layout however this is not something which fits with the applicants target market. The lakes which have been established are being retained with space provided for a fruit and veg garden.

On comparing the layout of this development with other caravan sites in Berwickshire, this proposal avoids the ridged rows of accommodation laid out to maximise the volume of caravans/lodges a site can contain. Instead this development is spread more organically through the site with improved planting areas provided to break up the development and once this planting has established it will enhance the sense of place within the site. The revised proposals have established that the site has the capacity to accommodate the facilities required by the applicants to operate a successful holiday park without resulting in overdevelopment of the site.

An example of the proposed holiday lodge accommodation is shown on Drawing No 17/B55/PL05. This proposal shows a holiday lodge building which is of a standard design for a building of this type. The inclusion of a pitched roof over the entrance door and floor to ceiling glazing add interest to the structure. It is understood that different styles of chalet will be available for the purchaser however precise details of these options are not available at this juncture. The inclusion of lodges which have a different appearance is welcomed as it would provide some variation through the development site. However to comply with any planning approval the buildings must meet the definition of a caravan as prescribed by section 13 of the Caravan Sites Act 1968 which automatically limit the height, length and width of the unit. This will likely result in any alternative lodge designs following the standard form of the example lodge which is illustrated on the proposed plan.

There is the prospect for different materials and colours to be used to finish the lodges. It is likely that these details will provide the noticeable variation throughout the proposal. The materials listed on the example lodge design drawing are appropriate for a development of this type however the precise colour finishes would be required to be agreed. Given the strict requirements for the accommodation to meet comply with the definition of the Caravan Sites Act which can be controlled by condition, there appears little merit to seek for the prior approval of all lodge designs. Instead agreement of a palette of materials and colour finishes for all lodges is recommended to suitably control the appearance of the accommodation.

The ancillary buildings in the form of the office and shop/reception buildings are of a modest scale. They are of a simple design and the use of natural slate roofing and timber walling are sympathetic to this rural location. No plans have been provided of the recycling/refuse store or the electrical building. The agreement of the design and material finish of these other ancillary these structures can however be agreed by planning condition.

Landscape and Visual Impact

The development is required to be assessed against relevant landscape and visual amenity requirements of LDP Policies ED8 and PMD2, ensuring successful integration into their local environment. The site is bound by a substantial hedge to the east and north with woodland edges to the water courses to the west and south of the site; therefore Policy EP13 seeks to ensure that woodland resources are not lost where they contribute positively to the amenity of the area.

The site is not located within any designated landscape area under the LDP. The Settlement Profile in the LDP recognises that Foulden does benefit from a stunning setting in the landscape lying in an area of sloping arable lowland where the Tweed Valley meets the Northumberland plain. Despite the site occupying a parcel of this rising land to the north of Foulden, its exiting boundary planting results in the site being quite well contained and relatively inconspicuous in the wider landscape. Potential views of the proposal are of a localised nature. The development has been designed so that the existing tree and hedge cover can be retained and enhanced through the landscaping scheme proposed by this development. This landscape framework along with the topography results in there being minimal views of the development from any public areas to the east and north. It was queried if the location of the wetland area in the southern corner of the site would cause in tree or hedge removed however the applicants have confirmed this system will not cause the removal of any mature planting from this area which provides some crucial screening on approach to the site from the minor road.

The key receptors will be from the A6105 to the south and west of the proposal within Foulden itself. The existing planting to the south and west of the site will offer various degrees of screening as you travel along the A6105. From these points the north western third of the site would be the most visible. To help mitigate the visual impact of the development from these locations the developers have reduced the number of lodges in this development and moved some lodges away from the higher edges of site. This has enabled additional planting to be provided, in particular along the northern edge of the site which will contain views of the development.

The sloping topography of the site means that the lodges will require some groundworks to provide flat platforms for development. The updated section plan (Drawing No 17-B551-PL04 Rev A) illustrates that these grounds works can be carried out without altering the overall sloping nature of the site. The agreement of the precise

finished levels across the whole site can be agreed as a planning condition attached to any consent.

Foulden has developed overtime with suburban residential expansion taking place to the east of the settlement. It has however remained a rural village with new development the eastern expansion of the village generally set within a landscaped frameworks to separate the developed parts of the village from the surround open agricultural fields. Undoubtedly a proposal of this scale would impact on the character of the settlement. The changes which have been made to the proposals within the original submission are small however they have helped to reduce the visual impact of this development. Retention of the site's existing hedging and mature tree planting is important as they enhance the visual amenities of the area and help to screen large parts of the development from some locations. The additional site landscaping which has been proposed does improve the visual impact of the proposal however some further landscaping which needs to include specimen trees is still necessary. Importantly the sketch provided by our Landscape Architect (available on Public Access dated 25.06.2019) illustrates that there is space to accommodate this planting.

The agreement of a slightly more robust landscape framework will not completely screen the development from the affected areas to the south west instead it will filter views of the development and soften views from the A6015. This landscaping will take time to become established but once it does it will provide a landscape framework which connects the development with existing tree belts. When the development is visible it will be viewed within a larger landscape which continues to rise which will provide further containment but with a planting framework where this development places buildings within a landscape framework similar to that which has taken place within the eastern part of Foulden. It will be important to ensure that the buildings are finishes using colours which are sympathetic to the rural area the lodges will recede into the rural landscape. Provided further improvements to the sites soft landscape framework are agreed, all existing woodland features are protected during development works in accordance with BS 5837:2012 and thereafter retained and the buildings are finished using suitable material colours, it is considered that this holiday lodge development will not adversely affect the character and sense of place of this rural area

Works are required to improve the site entrance. The visual impact of these works should not be significant however given that this is a publicly visible part of the development the details of these works and any signage should be agreed by planning condition.

The Planning Statement Design identifies that it is the intention for the site to be developed in a phased manner. For a development of this scale this would be a sensible approach. The precise proposals for the phased construction of the site can be agreed by way of a suspensive planning condition to ensure that the site is being developed in a logical manner which limits the impact of the development works on the landscape setting of the site. It will however be important that landscape works take place early to allow the planting frameworks to become established which will enable the lodges to recede into the planting framework.

The development will require lighting so users can navigate the development in hours of darkness. There will presently already be some lighting provided at night from Willowdean House and other properties to the north so this aspect of the development is not necessarily proposing anything new. A Lighting Plan (Drawing No 17/B551/PL03 has been provided which details the lighting used will be down lighting which in principle is appropriate as this should limit the visibility of the lighting from the

development in the night sky of this rural area. The precise details of the lighting specification can be agreed via a suspensive condition which seeks to agree a lighting management strategy is agreed via a suspensive planning condition.

In principle the impact of the development on the character and appearance of the rural landscape and the existing woodland cover is acceptable subject to further improvements to the landscape framework. Planning conditions are recommended to ensure that existing planting is retained, agree a detailed landscape plan, finished site levels, building colours, lighting management and entrance works to ensure that the development respects the character and amenity of the rural area. The relevant parts of Local Development Plan Policies PMD2, ED8 and EP13 are judged to be satisfied by the proposals.

Access and parking

Policy PMD2 requires safe access to proposed developments and indeed the suitability of the access will be a consideration to conclude if the application site is appropriate to support this form for caravan development against Policy ED8. These policies are supported by policy IS7 which covers parking. The main issue with the development is principally related to the increased traffic movements generated by the proposals and the prospect to access the development by sustainable means of transport.

The application has been supported by a Transport Statement (TS) which confirms that the most common form method of accessing the development will be by private vehicle. It is anticipated that the majority of vehicle movements will access the site from the A6105 due to the good access links this road has to the A1 and central and western parts of the Scottish Borders. Direct access to the site itself will be provided by the minor public road to the east of the site using the existing site access. A number of objections have raised concerns that the existing road network does not have the capacity to safely accommodate the traffic generated by these proposals, particularly the minor public road.

The reduction in the number of lodges originally proposed will marginally reduce the number of vehicle movements. Certainly, if this site were to operate at capacity at any one particular time then vehicle movements associated with 52 lodges would have a noticeable impact on the local road network. The TS suggests that the maximum occupancy level would not exceed 68% of the total development at any one particular time and it is considered that it would be highly unlikely for this development to be full at any one time. The RPS suggest that most traffic movements will take place out with peak hours of traffic flow i.e. commuter traffic and school runs. This timing of these movements reduces the prospect for the development causing congestion on the local road network.

The width of the minor public road is narrow in places when travelling from the north and the existing undulations and topography also limit visibility in places. It is however fair to suggest that motorists would expect to find a road of this nature within this rural context and would be expected to drive appropriately to the conditions of the road. The widening of the access will improve junction visibility at the site entrance with the resurfacing works preventing gravel being displaced onto the public road. Along this part of the road there are currently no passing places however that applicant proposes to form two passing places which will allow vehicles to pass safely. Currently one passing place is proposed to the north of the site entrance but because the road is more constrained between the access and the bridge (to the south of the access)

where the majority of traffic movements are likely to take place, both passing places along this stretch of road would be more sensible.

Although the development will rely heavily on private car journeys, there is the prospect of visitors accessing the development via sustainable means of transport. There is an existing bus service on the A6105 with the nearest bus stop adjacent to Kerrigan Way (approximately 360m from the site). It is considered that these are located within a usable distance to the development. There is no footway along the public road which connects to the footway along the A6015 through Foulden. The section of the public road from the A6015 junction with the minor road to the bridge is generally wider than the section of minor road to the north of the bridge. The RPS are satisfied that this section of public road from is of a satisfactory standard for pedestrian use and there is space to step on to the verge to avoid traffic, if necessary. The reduced width and limited visibility of the section of road to the north of the bridge poses an issue for the safe passage of pedestrians.

Roads Planning Service advocates a pedestrian access be formed to the southernmost part of the site to avoid pedestrians using the constrained part of the public road to access this site. The amended plan did include a pedestrian access however this opening should be moved further south and as close to the bridge as possible. There is space within this site to relocate the footpath, this may lead to the layout of the wetland area being reviewed but given that the link currently proposed already dissects this area this is not considered to pose any significant issues. Provided a revised footpath link can be agreed this will enable safe pedestrian connectivity to the bus stops and Foulden its self which is important for this development. The RPS have advocated that further mitigation in the form of pedestrian warning signs and a reduction in the speed limit of this section of road from 60mph to 40mph would be promoted by the Council to further improve pedestrian safety.

The concerns raised by third parties on road and pedestrian safety have been considered. The site will be accessed off part of a minor public road which is constrained, however if Members are minded to approve this application it is recommended that a suite of appropriately worded planning conditions are attached to any consent to mitigate traffic and pedestrian impacts. These conditions will seek to ensure that the precise details of the required improvement works are agreed with an informative note confirming relevant standards. Construction traffic which includes the delivery of lodges to the site would impact on the affected section of minor road therefore the planning condition will seeks for the improvement works to the minor road to be completed before site construction works commence. Additionally the agreement of a revised location for the footpath can be agreed by way of a suspensive planning condition.

The amended plan has illustrated that there is space for one parking space for each lodge. Some parking provision has also been provided at the Shop/Reception building. The RPS has not raised any concerns regarding parking provision. Should there be an insufficient volume of parking within the site this will only affect the layout of the development site itself and will not impact on the public road network.

Subject to conditions and informative as recommended, the development can be considered in compliance with Policies PMD2 and IS7 of the LDP. Additionally there not found to be any access issues which have found this site to be an inappropriate location for a caravan site development against Policy ED8.

Local Development Plan Policy IS5 relates to the protection of access routes. Whilst there are no claimed rights of way within the sites, the Access Officer has made a

suggestion to link the development to the core path to the northwest by following the Deans Burn. The land required to provide this link is out with the applicants control, however the prospect of making this connection can be suggested by way of an informative note.

Residential Amenity

The applicants reside at Willowdean House and it is their intention to retain this property to help with the operation of the holiday park. This dwelling is therefore classed as an 'interested property' in terms of the developments potential impact. The dwelling occupies an elevated position at the eastern side of the site and is partly enclosed by a mature planting belt which is to be retained. It is not judged that the proposed layout would have an adverse impact on the residential amenity of this dwelling house.

Two residential properties are located approximately 50m away from the nearest lodges to the north of the site at Nunlands. The buildings at Nunlands occupy higher ground level than the application site. The existing robust hedges which stands between 8 – 12ft which encloses the north of the site and mature planting in the foreground of Nunlands already provides a significant barrier to help screen southward views of the development from Nunlands. These existing boundary enclosures will be increased by the structure planting which is proposed along the northern boundary of the site. The lodges and their decks are angled away from these properties to the north. The dwellings located to the south will remain separated from the development by the mature woodland to the south of the Wild Fowl Lake.

The proposals have been considered against the recommendations contained within the Council's SPG on Privacy and Sunlight. It is found that the distance between the lodges and neighbouring residential properties coupled with the retention of the existing planting ensure that these proposals will not give rise to any detrimental levels of overlooking and does not affect access to light or sunlight for existing neighbours.

At the time of writing the report no concerns have been raised by the EHO with regard to noise. The use of the proposed site as a holiday park is not considered to generate a noise nuisance which would be required to be controlled by a planning condition. Instead this would fall to be a management issue by the applicants to ensure that users of their development are not causing any unsuitable disruption which may adversely affected surrounding neighbours. If there were to be complaints with regards to noise and any other nuisances such as litter etc. these matters could be pursued by relevant provisions within environmental health legislation.

Flooding

Policy ED8 explicitly requires that new caravan sites are developed in locations which are free from flood risk. Discouragement of the development of locations which may be subject to flood risk is re-affirmed in the LDP Policy which covers Flooding (Policy IS8).

The Council's Flooding Engineers and SEPA have both identified that part of the site adjacent to the existing water features and the Deans Burn would be at risk of flooding. Both consultees are satisfied that the all of the lodges occupy a ground level which is outwith the flood plain and are free from flood risk in accordance with criteria c) of Policy ED8.

The proposals do not suggest that any land raising is proposed within the flood plain as these works could affect the functionality of the floodplain. The office building is located on an existing island within the Wild Fowl Lake which is in the floodplain. This is a very modestly scaled building which does not provide accommodation which would necessarily require protection from flooding. Neither of the specialist flood prevention consultees have raised any concerns about the location of this structure.

It is recommended that the imposition of a standard conformity condition can ensure that the development is free from flood risk in compliance with the requirements of Policy ED8 and IS8 and that no land rising take place which could affect the flood plain.

Cultural Heritage and Archaeology

Impact on Listed Buildings

Nunlands House its ancillary structures and gate piers to the north of the site are listed Category B. Policy EP7 seeks to preserve protect and enhance the setting of Listed Buildings.

The Listed Building record from Nunlands House suggested that it is listed for its archaeological interest. Its setting is characterised as the structure represents a good example of a traditional rural farm house with ancillary buildings. The principle elevation of the building faces south towards the application site. The topography of the application site descends away from Nunlands. Intervisibility between the site and Nunlands is already limited by the roust boundary hedge and mature planting within Nunlands. No lodges are positioned directly in front of Nunlands House with their scale and siting ensuring the Nunlands House remains the principal building on elevated ground. The additional planting proposed along the northern boundary of the site will enhance the sites enclosure. The siting and scale of the proposed development is not judged to have a detriment impact the rural setting of Nunlands House and its associated structures.

Other listed structures are located to the south within Foulden itself include the Foulden Church and the row of listed terraced dwellings on entry in to the village from the west. Woodland belts enclose the listed Church buildings this along with considerable distance means that this proposal does not affect the setting of these buildings.

Impact on Foulden Conservation Area

The Foulden Conservation Area extends from the entrance to the village from the west to the woodland grounds opposite the Church. Policy EP9 requires that developments within or adjacent to a Conservation Area are designed to preserve their special architectural or historic character.

The site is not located within the Conservation Area. The special character of the Foulden Conservation Area is the siting of the row of linear buildings which have been orientated to take advantage of southward views across the lowland landscape. This development does not affect this vista. Otherwise it remains located some 210m from the closest point of the Conservation Area adjacent to the Tithe Barn. The development is sufficiently separated from the conservation area by a field which itself has been partly developed with two residential units. Retention of the existing mature woodland planting on the western and southern boundaries of the site will enclose the development from the designated area. There will be some distant visibility of the development from parts of the Conservation Area, but provided that the buildings are

finished using suitably coloured material finishes the development is not judged to have an adverse impact on the character or appearance of the Conservation Area.

Impact on Archaeology

The Council's Archaeologist has identified that Nunlands to the north is a site of historic interest. The proximity of the development to this site means that it could have archaeological potential. LDP Policy EP8 ensures that where there is evidence to suggest the existence of archaeological remains but their extent are unknown that the Council can require an Archaeological Investigation. The archaeologist has recommended this approach is followed either through trial trenches or a geophysical survey of the whole site with more precise evaluations thereafter. Initial investigation will be required to be undertaken before development works commence.

If Members are minded to approve this application it is recommended that need for further mitigation can be addressed via a suitably worded suspensive condition.

Ecology

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

The application site is not located within international or nationally protected ecological sites. The Deans Burn does connect to the River Tweed SAC/SSSI. Mitigation will be required to ensure that sediment and pollution run-off is controlled during the construction phase, this can be achieved through the agreement of a Construction Environmental Management Plan (CEMP) to mitigate impact on waterbodies.

During the operational phase foul drainage and surface water drainage are to be directed to the water bodies. Both these means of discharge have the potential to adversely affect the ecological status of these waterbodies if the method of discharge is not properly managed.

Foul drainage from the lodges is to be taken to a treatment plant in the southern corner of the site with an outfall to the Deans Burn. SEPA are satisfied with this treatment system.

Surface water drainage was proposed to be handled by attenuation trenches which will feed a network of perforated piping running through the site with an eventual outfall to the lakes. SEPA raised concerns about whether there was sufficient means of SUDS treatment within this system to avoid drainage entering the lakes directly. There were uncertainties about the discharge point and whether the lakes had sufficient capacity to accommodate the proposed drainage and the connection of the lakes to the Deans Burn. The applicants did provide further information however the details have not provided SEPA with confirmation that the proposed system will protect the ecological status of the water bodies. SEPA have recommended that this is ultimately a minor matter and if Members are minded to support this planning application a suspensive condition should be attached which seeks to agree an alternative scheme to satisfactorily dispose of surface water from this development. If Members are not minded to attach such a condition then SEPA's position remains one of objection which would lead to a requirement to referral to Scottish Ministers for determination.

The site does provide habitats for a range of protected species which include bats, otter, badgers and breeding birds. The construction works could impact on the habitats

for these species however these impacts can be mitigated via the agreement of species protection plans as advised by our Ecologist. The incorporation of wild flower areas within the sites landscaping would enhance the biodiversity of the site.

The Ecologist did identify the lighting requirements for this development would potentially impact on bats. Some additional details on the lighting proposals have been provided where the applicants have committed to use lighting which is sensitive to bats. As a result our Ecologist is satisfied that the final details of lighting can be agreed via a condition seeking the agreement of a lighting management strategy to ensure that dark zones are maintained along habitat corridors used by bats (boundary trees, trees and hedgerows and along waterbodies).

The site benefits from a rich natural environment which adds to its richness and attractiveness. There is always the potential for development works to impact on ecological assets however in the case of this development both SEPA and the Councils Ecologist are satisfied that these impacts can be adequately mitigated through a series of suspensive planning conditions to control; surface water drainage, CEMP, species protection plans and a conformity condition to ensure that the foul drainage system is implemented. Subject to the agreement of these conditional matter the proposed development is consider to comply with Policies EP1 to EP3 of the LDP.

Occupancy

The development is to be used to provide holiday accommodation and it is normal practice to control occupancy by planning condition.

Para 2.1 of the Planning Statement confirms that the target market for this development is people who are looking for an alternative to a second home. The lodges are to be sold to a purchaser with an annual ground lease paid thereafter.

The applicants originally sought for the holiday park to be operational across 11 months of the year which in theory would have permitted an owner to use their accommodation as frequently as they wish over this period. Operating a holiday development in this manner may have been accepted on other holiday parks in the past, however this volume of use provides a very strong degree of permanence which does not represent genuine holiday use in line with the proposed development. Planning conditions are now regularly attached to holiday accommodation developments and would allow the park to be open all year but limit how often an individual can use the accommodation. Normally this would limit an individual or family unit to no more the 4 weeks in any 13 week period.

Holiday patterns have evolved over recent years with the length and frequency of breaks varying significantly from person to person. Finding an occupancy restriction which suits all potential users is difficult. The crucial requirement is however to ensure that a condition can control the use of the development so that it is being used for genuine holiday purposes only. Ultimately any planning condition must meet the tests which are prescribed within Circular 4/98 Use of Planning Conditions.

Officers have engaged with the applicants in order to agree a suitable holiday restriction. The business model for this development suggests that each lodge will be mostly used by its owners. This suggests that there would be a high possibility for multiple re-occurring visits or visits for longer periods of time. With these requirements in mind it is accepted that the suggested restriction could jeopardise the viability of this development. Instead a restriction which provides the user more flexibility to use the accommodation as they desire across a 12 month period would be more suitable.

It was suggested to the applicants that the maximum time a person can reside at the accommodation should not exceed 3 months across a consecutive 12 month period. This time period enables a holiday maker to choose to use the accommodation more frequently or stay for longer individual periods than would be permitted by the standard condition. Subsequently the applicants have suggested that they would accept a condition which provided individual users with a 4 month limit.

The applicant's 4 month limit does represent a significant reduction from 11 month use which was originally sought. However, a 3 month limit set by the Reporter on an appeal decision at Whitmuir Hall near of Selkirk (application ref; 14/00848/FUL) remains more commensurate with the suggested holiday use. This limit also ties in with the applicants findings of the average time a holiday maker spends at their holiday park in Northumberland. The recommendation to members limits occupancy to a maximum of 3 months within any 12 month period although Members may wish to give consideration to the applicant's suggestion to extend this period to 4 months.

Rather than specifying the number of months, because the number of days in a month varies it is recommended that in order to remain precise and enforceable the planning condition should specify a maximum number of days within a consecutive annual (365 day period) period. To give the developers the benefit the number of days should be calculated from the longest and not the shortest months to set the limit at 93 days. A register of holiday makers should also be kept for the inspection of the Planning Authority.

It should be noted that the condition limits the period of time an individual can use the accommodation however it does permit the accommodation to be used all year round, but by different holidaymakers. Some objection comments are against this because it increases the frequency that the accommodation can be used. The economic benefit of accommodation being used by different users is encouraged by the SBTS which seeks to promote the Scottish Borders as a year round destination subsequently the frequency of the use of the accommodation different holiday makers is not limited by this condition. Because the lodges are to be sold to individuals as opposed to being rented for short breaks this may limit this potential and the operators of the holiday park can still chose to close the holiday park for a period of time each year.

PAC Report

Third party objection comments have raised issue that concerns raised at public events and within written representation have not been accurately recorded within the PAC Report. The validity of the accuracy of the PAC Report are refuted by the agent within Section 8 of the Supporting Statement.

The purpose of the PAC report is to confirm that pre-application public engagement has taken place. Against the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 the engagement which has taken place does meet the minimum requirement prescribed by these regulations therefore the Planning Authority were duty bound to register this major planning application.

While there is no agreement between the applicants and third parties over the content of the PAC Report, Circular 3/2013 Development Management Procedures para 2.41 advises that;

If parties are concerned that their views have not been taken on board as a result of the PAC, it is important that they make their concerns about the proposal known by

making representations to the planning authority at the planning application stage, so that due consideration can be given to them before a decision is reached.

From the volume of third party representation lodged in response to this planning application it is clear that they have engaged in the planning process. Members should be aware that the comments submitted on material planning matters must be given consideration as part of the determination of this application and not the content of the PAC Report.

CONCLUSION

The application site is an attractive location which has the potential to accommodate a suitable form of tourism development. The development is likely to create an economic benefit for the area which could prompt further regeneration and inward investment into the local economy which is encouraged by LDP Policy for New Caravan and Camping developments. It is acknowledged that the scale of the development is significant on this rural edge of Foulden and its resulting impacts have been carefully considered. However, it is considered that provided an improved landscape framework is agreed and the buildings are finished using a sensitive pallet of external materials and colours that the proposals will be sympathetic to the character and amenity of the rural location. Subject to compliance with the schedule of conditions and informatives, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

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

1. The occupation of the holiday lodges hereby approved shall be restricted to genuine holidaymakers for individual periods not exceeding 93 days in total within any consecutive period of 365 days commencing on the 1st of January of each calendar year. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area and to retain effective control over the development.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority and all 52 holiday lodges approved under this consent shall meet the definition of a caravan under section 13 of the Caravan Sites Act 1968 (as amended).
Reason: To ensure that the development is carried out in accordance with the approved details
3. No development shall be commenced until samples (including colour finishes) of all external materials to be used on all buildings, structures and decking throughout the site are submitted to, and approved by in writing by the Planning Authority. Thereafter the development shall take place in accordance with the approved samples.
Reason: To safeguard the visual amenity of the area and the character of the landscape.

4. No development shall commence until the following details have been submitted to and agreed in writing with the Planning Authority:
 - a) Elevation drawings of the recycling/refuse and electrical buildings/enclosures
 - b) Elevation and location proposals for any signage.Once approved, the development shall take place in accordance with the approved details.

Reason: Further information is required to ensure an appropriate form of development which respects the character and appearance of the surrounding area.
5. The floor area of the shop building hereby approved shall be limited to the space shown on Drawing No 17/B551/PL06 unless any variation is agreed in writing with the Planning Authority.

Reason: To ensure that this retail facility remains subservient to the operation of the development as a holiday park.
6. Notwithstanding the proposed means of landscaping no development shall commence until a detailed landscape plan has been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with the approved details. The plan(s) shall include the following information:
 - a) The location of protective fencing in accordance with BS5837:2012 to be erected around the trees and hedgerows to be retained. Once approved the fencing shall be erected before development works commence and shall only be removed when the development has been completed.
 - b) Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - c) Location of new trees, shrubs, hedges and grassed areas
 - d) Schedule of plants to comprise species, plant sizes and proposed numbers/density
 - e) Programme for completion and subsequent maintenance

Reason: To satisfactorily retain existing woodland cover within the site and to provide an effective landscape framework within the development to enable its effective assimilation of the wider surroundings
7. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which includes phasing of all soft landscape works which has first been submitted to and approved in writing by the Planning Authority.

Reason: To ensure that the development of the proceeds in an appropriate manner which respects the landscape setting of the holiday park.
8. The finished floor levels of all building and holiday lodges hereby permitted shall be consistent with those indicated on a scheme of details which shall first have been submitted to and approved in writing by the Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site. Thereafter the development shall take place in accordance with the agreed details and no further land or ground re-profiling should take place without the written agreement of the Planning Authority.

Reason: To ensure an appropriate form of development and guard against future ground works causing flood risk.
9. Prior to occupation of the development a detailed Lighting Management Strategy for all exterior lighting on attached to buildings and throughout the site shall be

submitted to and approved in writing by the Planning Authority and thereafter the development should place in accordance with the agreed details.

Reason: To safeguard the visual amenity of the area and mitigate the impact of lighting on local biodiversity.

10. No development shall commence until detailed engineering drawing(s) showing improvement works to the minor public road has been submitted to and approved in writing by the Planning Authority. The information provided shall include:
 - a) Construction details for the proposed site entrance
 - b) Two passing places generally as per diagram DC-1 (including signage) at agreed locations
 - c) Two pedestrian warning signs to diagram 544.1 of the Traffic Signs and General Directions 2016 also at agreed locations.

Thereafter no development shall take place except in strict accordance with the approved scheme unless otherwise agreed in writing with the Planning Authority. All improvement works to the minor road shall be completed before site development works commence.

Reason: To ensure the public road network is capable of accommodating the increase in vehicular and pedestrian traffic associated with this development

11. No development shall commence until an amended site plan showing a pedestrian link to the public road at the southernmost corner of the site has been submitted to and agreed in writing with the Planning Authority. Thereafter the development shall take place in accordance with the agreed details.

Reason: To allow the most direct and safe link for pedestrians accessing the public road and public transport network.

12. 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.

13. No development shall commence until the following Ecological Mitigation Measures have been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:

- a) A Construction Environmental Management Plan (CEMP) to mitigate impact on waterbodies.
 - b) A Species Protection Plan for bats, otter, badger and breeding birds
- Once approved, the proposed development shall be carried out in strict accordance with the approved details.

Reason: To ensure that species and habitats affected by the development are afforded suitable protection in accordance with previously approved details.

14. Notwithstanding the method of surface water treatment described in the application, no development shall commence until an alternative scheme for the disposal of surface water which complies with SUDS principles has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. Thereafter the development shall take place in accordance with the agreed details.

Reason: A revised method of surface water treatment is required to ensure that the disposal of surface water does not adversely affect the ecological status of the water bodies.

15. The means of foul water disposal from the development shall be undertaken as per section 7.1 of the Supporting Statement by Richard Amos Ltd (report 17/B551 dated May 2019).

Reason: To ensure that foul water is disposed of in a suitable manner which does not adversely affect the ecological status of the water body.

Informatives

1. With reference to Condition 6 the enhanced landscape framework and plant schedule should follow the recommendation of the Councils Landscape Architect dated 25.06.2019.
2. With reference to Condition 10 all work in the public road boundary must be undertaken by a contractor first approved by the Council
3. The applicants are advised that a Core Path 99 is located to the North West corner of the development. To enhance the sites access connectivity the applicants may wish to consider linking this development tot his route.

DRAWING NUMBERS

Drawing Number	Plan Description	Date
17/B551/PL01	Location Plan	24.10.2018
17/B551/PL01	Elevations/Floor Plan (Office)	24.10.2018
17/B551/PL06	Elevations/Floor Plan (Shop Reception)	24.10.2018
Typical 20' Twin Unit (16deg)	Section	17.12.2018
17/B55PL05	Elevations	17.12.2018
17/B551/PL02	Site Plan	04.06.2019
17/B551/PL03	Landscape/Contour/Lighting Plan	04.06.2019
17-B551-PL04	Sections	04.06.2019

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.

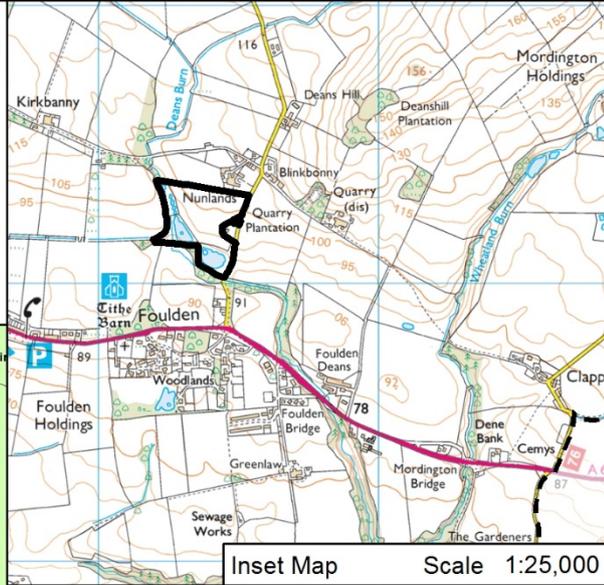
Author(s)

Name	Designation
Scott Shearer	Peripatetic Planning Officer

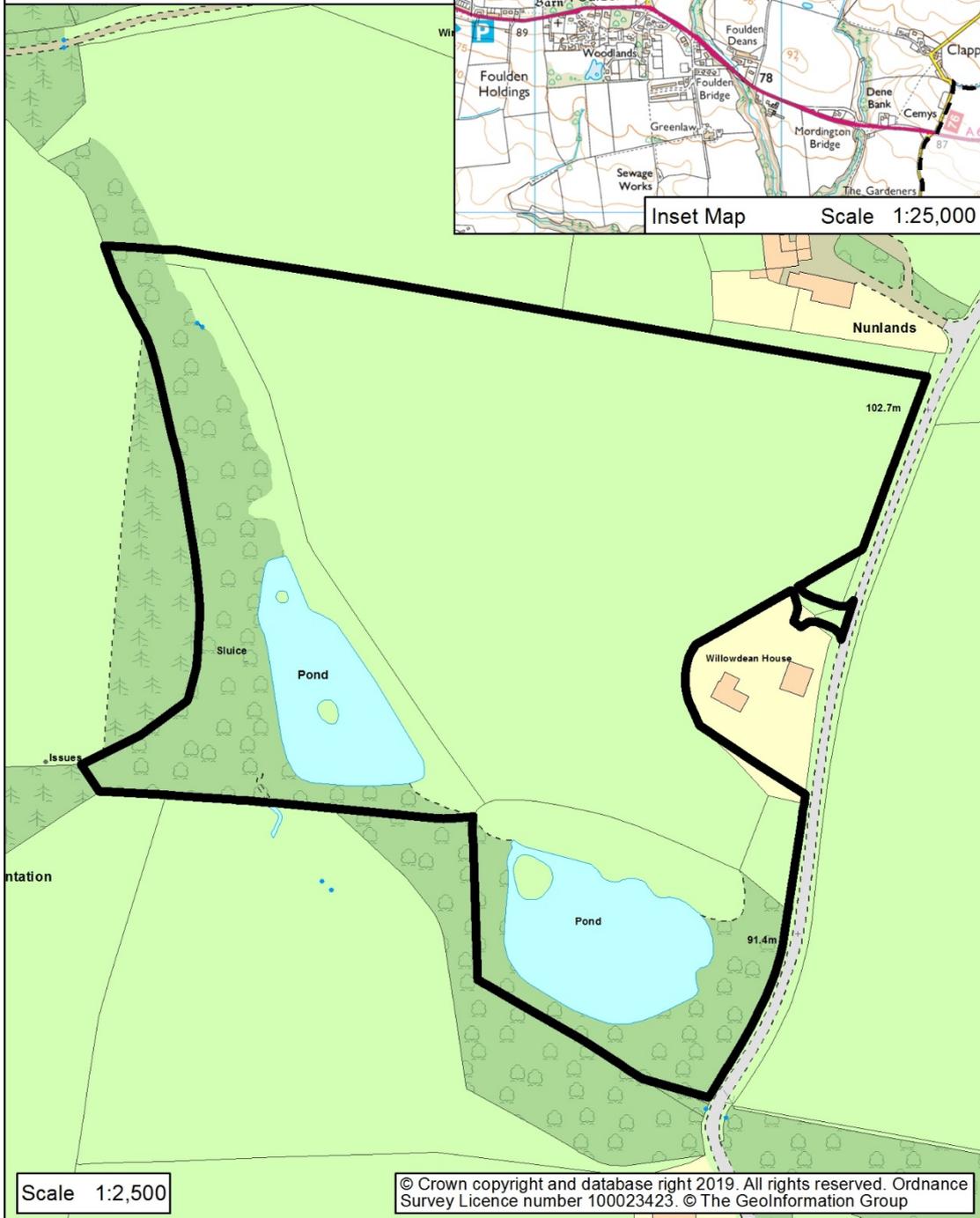


18/01479/FUL

Land North-
West Of Willowdean House,
Foulden



Inset Map Scale 1:25,000



Scale 1:2,500

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 AUGUST 2019

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 18/01795/FUL
OFFICER: Julie Hayward
WARD: Leaderdale And Melrose
PROPOSAL: Demolition of dwellinghouse and erection of seven dwellinghouses
SITE: Orchard Park and Land North and East of 16 And 17 Brewster Place Gattonside
APPLICANT: Rural Renaissance
AGENT: Rapleys LLP

PLANNING PROCESSING AGREEMENT: 5th August 2019

SITE DESCRIPTION

The site is a paddock situated to the north of Main Street (B6360) within the Gattonside Conservation Area. The site slopes up to the north and is defined by post and wire fencing beyond which are semi-mature trees on the north boundary and mature trees on the east boundaries. There are two pairs of semi-detached houses fronting onto the main road to the south, Montgomerie Terrace and Brewster Place are to the west, with agricultural land to the north. To the east and beyond existing trees are several large, detached houses. The site is within the National Scenic Area.

PROPOSED DEVELOPMENT

There is a detached, single storey bungalow and a garage/workshop on the southern part of the site which front onto Main Street. These buildings would be demolished to facilitate the proposed development. A pair of detached single storey houses (plots 6 and 7, house type B) would be erected in their place fronting onto the road. These would have three bedrooms and an integral garage accessed from the main road.

A new access would be formed from Montgomerie Terrace and five detached dwellings are proposed along a central access road. Plots 2 and 3 to the north of the access road are detached two storey dwellings where they front the road, but single storey to the rear (north), taking into account the sloping nature of the site (house type C). These would have four bedrooms, an integral double garage and two external terraces over ground floor wings. Two plots (plots 1 and 4) are proposed to the south of the access road. These are single storey where they front the road and two storey to the rear with four bedrooms and an integral double garage (house type D). Plot 5 is accessed from the end of the internal road and is a larger, detached single storey dwellinghouse (house type A) with four bedrooms and an integral double garage.

The proposed houses would have rendered walls with stone detailing, grey timber doors and grey UPVC windows with fibre cement slate effect tiles to the roof (though plots 6 and 7 would be natural slate as they front onto the main road).

The dwellinghouses would have two in-curtilage parking spaces per plot and the layout includes two visitor parking spaces as well as provision to vehicle turning. A drainage plan and planting plan have also been submitted.

PLANNING HISTORY

90/00693/FUL: Change of use from agricultural land to garden ground (no building permitted). Refused 12th March 1990.

REPRESENTATION SUMMARY

Five representations were received objecting to the application as originally submitted. These can be viewed in full on Public Access and raise the following issues:

- The boundary is inaccurately shown on the site plan;
- Loss of residential amenity in terms of noise disturbance, privacy/overlooking, overshadowing/loss of light, loss of outlook, solar dazzling and glare and dominance due to the proximity to the boundary with Orchard House and difference in ground levels;
- The design and materials are not sympathetic to the character of the Conservation Area and National Scenic Area and out of keeping with surrounding properties and are not consistent with the Settlement Profile in the Local Development Plan, which requires new development to contribute to the retention of Gattonside's character;
- The proposed access is unsuitable, the main access being onto Montgomerie Terrace. Access is too close to the blind corner of the Terrace and very close to the junction of Brewster Place thus making the site access onto the Terrace inadequate and dangerous;
- Demolition of the existing house.

Neighbour re-notification took place following the receipt of revised drawings on 29th March 2019 and six representations were received objecting to the application and raising the following issues:

- Access to the site on the hill is already causing problems and existing on-street parking makes access difficult and dangerous, putting people at risk;
- The floor plan and elevations for house type A are incorrect and the site plan and section drawings are inaccurate;
- The position and size of windows, the proposed terracing, the proximity to the boundary and the difference in ground levels results in direct overlooking into the neighbouring properties and an overbearing dominance;
- The trees on the boundary only provide only partial screening, which is minimal in the winter;
- Loss of light and evening sunlight, overshadowing and dazzling glare from the windows;

- Lack of outlook and light from the proposed east facing terraces and potential noise nuisance;
- In respect of plot 5, there appears to be a surround of about 1m wide that the proposed doors can access and a 3m drop to the garden and so a balustrade would be required, also causing overlooking. The whole property appears unnecessarily elevated above the original ground line;
- Encroachment onto land owned by 25 Montgomerie Terrace;
- The designs, especially the large amounts of glazing and the terracing, are out of keeping with the Conservation Area and village and not in compliance with the Settlement Profile for Gattonside;
- The existing properties, 14-17 Brewster Place, will be overlooked by the large amount of glass and windows to the front of the design type A house proposed for plot 1.

Further Neighbour re-notification took place following the receipt of revised drawings on 17th June 2019 and four representations were received objecting to the application and raising the following issues:

- Impact on residential amenity in terms of loss of privacy, overlooking with no screening from existing trees or those proposed, loss of light, overbearing impact and noise nuisance;
- Inaccurate drawings and the proposed fencing is outwith the applicant's site;
- Alterations in the form of new windows or decking would increase the level of overlooking in the future;
- The proposed entrance to the site will affect the garden wall, railings and pathway of 25 Montgomerie Terrace;
- The design is out of character with the surrounding properties, Conservation Area and National Scenic Area.

APPLICANTS' SUPPORTING INFORMATION

- Arboricultural Impact Assessment and Tree Constraints Plan
- Arboricultural Method Statement and Tree Protection Plan
- Design Statement
- Ecological Baseline Report
- Bat Activity Survey Report
- Supporting Statement
- Transport Statement
- Historic Building Appraisal and Archaeological Evaluation Written Scheme of Investigation

DEVELOPMENT PLAN POLICIES:

SES Plan 2013

Policy 1B: The Spatial Strategy: Development Principles

Scottish Borders Council Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD3: Land Use Allocations
HD1: Affordable and Special Needs Housing
HD3: Protection of Residential Amenity
EP3: Local Biodiversity
EP4: National Scenic Areas
EP8: Archaeology
EP9: Conservation Areas
EP13: Trees, Woodland and Hedgerows
IS2: Developer Contributions
IS3: Developer Contributions Related to the Borders Railway
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

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

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: The Roads Planning Service (RPS) has no objections to the proposed development of housing on this site. There are however several matters which will have to be addressed to the Council's satisfaction prior to support being offered.

RPS are pleased to see that the access to the site has been relocated from previous proposals. The revised location will assist with driver visibility and will prevent vehicles from having to sit on a hill waiting to enter the site. The access should have a 5.5m throat width with 8m radii.

The following matters will also have to be addressed and will require additional drawings to be submitted:

- The fence immediately behind kerb on left as entering site shall have to be relocated to be outwith the road verge.
- The fence around parking area shall have to be relocated.
- The parking area in wrong place to allow vehicles to exit site. These should be relocated, or at least re-orientated, to allow drive-in and reverse out access.
- There do not appear to be any details on the levels for the road.
- There are no drainage details included.

- Lighting will be required as part of the development. Details of this should be submitted as part of the Road Construction Consent process.
- The existing footway on Montgomerie Terrace shall have to be extended into the site to a satisfactory location.
- A verge will be required adjacent to the carriageway on the left hand side on entry to the site, along the front of Plot 1.
- Details shall be required for the retaining wall at the end of the road outside Plot 5.

With regards the two dwellings accessed off the Main Street:

- The access to these should be in the form of a vehicular footway crossing.
- Each dwelling shall require a minimum of two parking spaces to be provided within the curtilage. Parking does not include any garages proposed.
- Any existing footway crossing associated with these properties, which is not incorporated into the new access, will have to be reinstated as footway with a full upstand kerb.
- The existing street light shall have to be relocated to the satisfaction of the Council's Street Lighting Manager.

Re-consultation (9th May 2019): No objections to the two dwellings served off Main Street. The revised access arrangements shall require the relocation of an existing street lighting column and relocation of vehicular access. A suitable worded condition will be required to cover this work. The length of parking indicated is such that it may encourage vehicles to park nose-to-tail and overhang the footway. This should either be reduced to 7m maximum or increased to 11m.

Whilst the access layout for the 5 dwelling element is not ideal in that it will result in opposite priority at the junction, other alternatives have been ruled out for various reasons. Based on WMA drawing number D3444-101, RPS made the following comments:

- The main junction into the site from Montgomerie Terrace should be straight through as previously discussed. The layout shown has a small kink which is not ideal. I believe the access has been moved southwards to avoid issues with the ownership of the existing retaining wall. However, the revised location still requires work to the retaining wall and the wall is outwith the site boundary. As such, the permission of the wall owner will still be required prior to any works being carried out on the wall.
- The applicant's submission indicates that they are the sole owner of the site and as this contradicts what information has been submitted by an adjoining resident, clarification on this should be sought.
- Road Construction Consent will be required for the new road and footways. This will cover issues such as construction details, lighting, drainage and geometry of road.
- The surface water drainage is shown to end at a soakaway within Plot 5. Confirmation should be provided as to why this cannot connect into the existing drainage for Montgomerie Terrace. If the proposed layout is approved, a legal right of access may be required should it be proposed that the Council are to be responsible for the maintenance of this element of the drainage system. We shall also require ground investigation details confirming the ground is capable of catering for the level of surface water the soakaway is proposed to deal with. The filter trenches for Plots 2 and 3 are shown within the prospective public road verge and will need to be relocated.

- Confirmation should be provided as to what elements of the drainage system, if any, Scottish Water propose to adopt upon completion.
- The footway on the southern side of the development should continue southwards adjacent to the existing public road to tie in with the existing footway.

A meeting to discuss RPS concerns was recommended.

Re-consultation: No response.

Director of Education and Lifelong Learning: The proposed development is within the catchment area for Melrose Grammar and Earlston High School. A contribution of £2,533 per dwelling is sought for the Primary School, making a total contribution for Primary Schools of £17,731. A contribution of £3,562 per dwelling is sought for the High School, making a total contribution for High Schools of £24,934. A total contribution of £42,665 is required by this development.

Housing Section: The proposed number of dwellings is such that this will not require on-site delivery of affordable housing in order to satisfy the Council's Affordable Housing Policy requirements, which can otherwise be met via developer contributions.

Principal Officer (Heritage and Design): No response.

Landscape Architect: The application site is zoned for housing in the Local Development Plan with an identified capacity for 5 houses. The proposal is in keeping with the identified capacity.

The development appears to be outwith the Root Protection Areas (RPAs) of the trees and hedges along the boundaries and as long as protective fencing is erected and no development encroaches on the identified RPAs, there should be no impact on the existing trees.

The site requirements identify the retention of hedgerows and trees and a design and layout sympathetic to the setting of National Scenic Area (NSA) and to integrate into the Conservation Area.

The Landscape Architect makes the following comments:

- The southern elevations of the new bungalows along the Gattonside road do not relate well to existing houses along the street, neither in fenestration nor in roof mass.
- The south elevation of the houses towards the back of the site are dominated by glazing, with no precedent in surrounding built form for such extensive glazed elevations, and with potential to result in overheating and glare.
- The proposed cut and fill to the site may have some advantage, in setting the houses to the rear of the site lower into the slope, but have resulted in some substantial retaining structures, for example, a 2.7m retaining wall to Plot 5, which have the potential to create an uncomfortable relationship with Plots 6 and 7. Existing and proposed levels across the site would better inform our assessment.
- The boundary treatments to site, both external and internal (between plots but not along road frontages) need further consideration, with a greater use of stone walls and/or hedges instead of timber fences. This will be more in keeping with the

timber fences to the rear gardens of plots may be considered to provide the required privacy if they can be shown not to dominate the slope when seen from the south.

- The streetscape should be punctuated with trees to help ameliorate the buildings into the immediate and wider area.

If the above concerns can be addressed and a planting scheme is developed that helps to protect the quality of the Conservation Area and the wider National Scenic Area, as discussed above, the landscape architect is willing to support this development.

Re-consultation: No response.

Access Officer: No response.

Archaeology Officer: There are no recorded heritage assets within the development boundary. However, the existing garage to the east of the dwellinghouse is of some interest. The building appears to be of early 20th century construction and follows principles of military design from the era. There is no indication or historic evidence that I could easily access to say this was originally a military building, but there were a large number of surplus buildings of this type being sold between the world wars and after the Second World War. The building appears on historic aerial photos and historic maps in the late 1940s and early 1950s, but not on maps prior to 1914. Additionally, aerial photos from the late 1940s show a building on the site of the house to be demolished. The OS 1:1250 map from 1964 suggests a rectilinear building platform at the rear of the current garden ground. There are no accessible maps that show buildings in this location. There is a moderate to high potential for encountering the remains of early 20th century buildings within the garden ground of the house and immediately to the north.

In addition there is a low archaeological potential within the remainder of the site. The site may have originally formed part of the orchards for Melrose Abbey, although the field has kept its current shape (with the exception of the 19th and 20th century in-fill development at the road side) since at least the early 19th century. It is possible that evidence of medieval cultivation or horticulture will be encountered during development.

There is an indication that the earlier 20th century garage on the site is linked to other buildings that formerly occupied the site of the house. I have been unable to determine the function of the earlier buildings and would be happy to have any information on these that might be available in the community. That said, earlier maps also suggest that there may be remnants of these in situ. The archaeological remains of these, as well as the garage which may have been a surplus military building, are of local historic interest and their loss should be mitigated. The standing building should undergo a Historic Building Appraisal.

There is a low archaeological potential within the remainder of the site and the loss of archaeological features that may exist will require mitigation. To evaluate the site's archaeological potential outside the footprint of the existing buildings and prior to ground disturbance, a trial trench evaluation covering 10% of the total development area is recommended.

Re-consultation: A Written Scheme of Investigation has been submitted and approved.

The applicants have subsequently implemented a programme of archaeological works in compliance with this recommendation and to the archaeologist's satisfaction. In April, 2019 AOC Archaeology conducted a trial trench evaluation of the green-field site and appraised the historic building. They recommended that as nothing of significance was identified no further work was required. This conclusion is accepted. As such the archaeological condition is no longer required and it is recommended the application is determined without further reference to mitigation of archaeology impacts.

Environmental Health: If a development is to be serviced by the public mains water supply, Scottish Water will provide written confirmation that there is mains water available and that it can be provided. However, the applicant does not provide an assurance that mains water will actually be used for the development. Therefore, a condition should require confirmation that connection has been made prior to occupation being permitted.

It is noted that stoves are to be installed as part of the development and so long as they are less than 45kW no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

Ecology Officer: An Ecological Impact Assessment has been submitted in support of a proposed development for seven dwellinghouses. The proposal requires demolition of existing built structures including a bungalow and garage.

The Ecologist is satisfied with the submitted Ecological Baseline Report (ITP Energised, February 2019).

Habitats within the site include on the boundary mixed semi-natural woodland, continuous scrub and intact species-poor hedgerow. The site had contained semi-improved neutral grassland, however, much of this appears to have been cleared (soil-stripped).

Protected Species

Bats

The existing bungalow and two other buildings proposed for demolition within the site (no further description given) are identified as having low suitability for bats and their roosts. Adjacent woodland and hedgerow provides suitable foraging and commuting habitat. Guidelines requires further surveys. Further survey may be required if bat roosts are found.

Two trees were identified as having moderate suitability for bat roosts. The Arboricultural Impact Assessment and Tree Constraints Plan suggests that these trees will be unaffected by the proposal, provided the necessary root protection areas are fenced off from works. Consideration should be given to a sensitive residential lighting scheme in accordance with recently updated guidance.

Badger

Evidence of badger foraging and commuting was found within the survey area. No setts were recorded. Mitigation measures are proposed to protect badger during construction, this should also include covering trenches and providing a mammal ramp for escape, covering open pipe systems overnight, safe storage of chemicals and sensitive location of lighting during construction.

Breeding Birds

Habitats suitable for supporting nesting birds is found within and on the boundary of the site including woodland, hedgerow, scrub, grassland and buildings within the site. Mitigation is proposed including timing of works out with the breeding season and supplementary checks prior to works carried out within the breeding season.

Red Squirrel

No evidence of red squirrel was recorded. Updated surveys are proposed if more than 18 months has elapsed from time of survey to commencement of works. Mitigation measures for badger, red squirrel and breeding birds can be included in a Species Protection Plan as a condition of any subsequent Planning consent.

Enhancement measures are proposed. Proportionate measures should be included, I would recommend that they focus on reinforcing the boundary trees, woodland and hedgerow with native species, providing a buffer from garden ground to existing habitats.

Further information required:

In accordance with Scottish Government guidance, the Planning Authority is required to establish whether bats (European Protected Species) are present on site and to fully consider potential impacts on bats prior to determination. Further survey and assessment will be required prior to determination.

Re-consultation: Satisfied with the submitted Bat Activity Survey report. The survey was constrained as the dawn temperature was only 4°C. No evidence of bats emerging or returning to roosts in these buildings was recorded. Bat activity was recorded across and next to the site.

On a precautionary basis, an informative could be attached in the event that bats are discovered during development or demolition of dwellinghouse.

Conditions are required for:

- A Species Protection Plan for badger, red squirrel and breeding birds and including a sensitive lighting scheme to safeguard adjacent bat habitat.
- A proportionate Landscape Habitat Management Plan.

Statutory Consultees

Scottish Natural Heritage: No concerns about the principle of development in this area. The proposed dwellings will form part of an existing settlement, with a building style that is in keeping with existing houses. The impact of this on the NSA is likely to be minimal.

There are potential protected species issues that the developer needs to address, concerning bats and badgers. Bats could use the existing dwelling as a roost site, and badgers could use the wider proposal site for foraging. Surveys for bat and badgers are required and a Species Protection Plan.

Re-consultation (14th March 2019): The survey identifies the potential for bats to roost in trees and buildings within the proposal site or nearby. The survey also

identified the presence of badgers on site. No setts were found on site. The report recommends follow up surveys, particularly for bats. On subsequent surveys, if bats or roosts are found in any building to be demolished, or any tree to be worked, a licence must be sought from SNH.

To protect badgers the following measures must be adopted:

- All chemical and fuel stores to be kept secure.
- Work on open trenches should be completed within one day with the hole filled in. This removes the risk of badgers or other animals becoming trapped in the trench.
- Excavations that need to be left open overnight must provide at least one ramp at 45 degrees or less to allow badgers and other wildlife to exit the trench.

If these measures are followed the proposed works should not affect protected species.

Second Re-consultation (4th April 2019): SNH does not consider that there will be any impacts on the landscape qualities of the site. The comments of the Ecology Officer and noted and his observations on protected species are supported.

Community Council: Support the application.

Re-consultations: Support the application.

Scottish Water: No response.

Other Consultees

None.

KEY PLANNING ISSUES:

- Compliance with housing land allocation policies
- Layout, design and materials;
- Impact on the character and appearance of the Conservation Area;
- Impact on residential amenities;
- Whether the access and parking arrangements are adequate;
- Impact on ecology, trees and archaeology.

ASSESSMENT OF APPLICATION:

Planning Policy

The site is allocated in the Local Development Plan 2016 for housing (EGT10B). The site has an indicative capacity of 5 and requires the perimeter hedgerows and trees to be retained, access to be taken from Montgomerie Terrace, the residential amenity of adjoining properties to be safeguarded and the layout and design to be sympathetic to the setting of the National Scenic Area and integrate well within the Conservation Area in terms of proportions and materials.

The proposal is for seven houses but this includes the area at the southern edge of the site where the existing buildings would be demolished. The principle of residential development on this site complies with policy PMD3: Land Use Allocations and the density is considered to be acceptable.

Layout, Design and Materials

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings.

Lengthy negotiations have taken place with the agent to secure an acceptable layout and design that could be supported by this Department.

The original proposal was for the five houses to be sited along an access road that ran north-south in the centre of the site. It was considered that this was a very uniform and regimented layout that required extensive retaining walls and long driveways. A large bungalow was proposed on the plot closest to the entrance with Montgomerie Terrace that was not in keeping with the proposed houses on the other plots within the site.

The revised drawing now has the internal road running east-west which has allowed houses to front onto the road and so provide a street. The large bungalow has been repositioned to the end of the street and so would be less prominent. This is now felt to be a more acceptable layout.

The design of the houses was also a major concern. House type B which would front the main road were bungalows that were lacking in architectural interest and did not respect the building line of the existing cottages to the west. The design has been significantly improved by repositioning the projecting element to the rear (allowing the building line to match those of the adjacent cottages), adding a front porch, giving the windows more of a vertical emphasis and by dropping the ridge of the garage roof to break up the mass of the building.

House types C and D were originally two storey with terraces over the single storey elements and a large expanse of glazing and materials that gave them a horizontal appearance. Extensive retaining walls were also required. The revised designs propose houses that take account of the sloping site by introducing split levels. House types C and D will be two storey to the south elevation and single storey to the north. A small porch has been added to the north elevations of both house types and the amount of glazing has been reduced and given a more vertical emphasis.

House type A was previously proposed as a large bungalow with extensive glazing on the front elevation and an unsatisfactory, plain elevation to the rear with a range of windows styles. The street elevation has been improved by removing the large areas of glazing and replacing them with a traditional porch and windows with a more vertical emphasis, which is now more in keeping with the other houses within the site.

The materials originally proposed included white render, vertical profile metal standing seam cladding, grey windows and doors and concrete roof tiles. The materials and glazing gave a horizontal emphasis to the houses. The revised materials include render, Forticrete Anstone walling stone and cement slate effect tiles. A condition would agree the exact colour of the render to ensure some variety through the site rather than all white. The two houses that front onto the main road are the most prominent and require natural slate roofs and this would be secured by condition but artificial slate or an appropriate tile would be acceptable for the other houses; a sample would be agreed before the development commences.

The proposals have been revised significantly and it is now considered that the layout, design and materials are acceptable and in accordance with determining LDP policies.

Impact on the Conservation Area and Visual Amenities

Policy EP9 states that the Council will support development proposals within or adjacent to Conservation Areas which are located and designed to preserve and enhance the special architectural or historic character and appearance of the Conservation Area, respecting the scale, proportions, alignment, density, materials and boundary treatments of nearby buildings and open spaces.

The existing house and workshop at the front of the site are of no significant architectural merit and so there are no objections to their demolition. The site is situated within the Conservation Area and its sloping nature means that any development on this allocated site has the potential to be prominent.

The context of the site is important. The cottages to the west are traditional white rendered and slate, single storey cottages. Beyond these are former Council houses with no architectural merit. Montgomerie Terrace to the west is a modern housing development, outwith the Conservation Area, with rendered and brick walls and tiled roofs.

The revised section drawing indicates that from the main road the houses at the front of the site would be the most prominent and lengthy negotiations have taken place to ensure an acceptable, traditional design for these two houses. Modern housing designs have been approved elsewhere in the Gattonside Conservation Area and only the first floor levels of the houses to the rear of the site would be visible from the road, if at all. The revised layout has removed the need for large areas of retaining walls.

A planting scheme has been submitted showing hedge planting along the boundaries of the front two plots and along the side boundaries and trees are shown (Silver Birch and Rowan) within gardens to help ameliorate the buildings into the immediate and into the wider area.

A concern throughout the processing of this application is the amount of high timber fencing that is proposed along boundaries. This has been reduced somewhat by the introduction of native hedges and a condition will ensure that all boundary treatments are agreed before the development commences.

It is now felt that the impact on the character of the Conservation Area would not be significantly detrimental to require refusal of the application. The impact on the special qualities of the National Scenic Area would be minimal and Scottish Natural Heritage has no objections to the proposal.

Impact on Residential Amenities

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

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The main issue with the development is the potential impact of the dwellinghouses proposed on plots 5 and 7 on the light, privacy and outlook of Orchard House to the east due to the position of the proposed houses and differing ground levels. The agent has submitted a drawing to show the relationship between the three houses and section drawings showing ground levels.

In terms of the impact of the proposed house on plot 7, the proposed house would have two bedroom windows in the east elevation at ground floor level and would be on slightly lower ground. Applying the guidelines in the approved Supplementary Planning Guidance, there would be no significant loss of light or privacy to Orchard House from this property.

In terms of the impact of the house on plot 5 on Orchard house, the garage would be positioned on the eastern side of the proposed house and the decking is shown on the western side beyond the rear wing. There would be a window and door to the garage and a window to a WC in the rear elevation, which are not considered to be habitable rooms. There would be a large glazed area in the rear wing serving the living room. The house is on significantly higher ground than Orchard House. Again, when applying the approved guidance there would be no direct overlooking and no loss of privacy to the habitable rooms of Orchard House. Taking into account the position and ground levels, there would also be no loss of light or significant overshadowing of habitable rooms in Orchard House. The effect on outlook would be minimal and it has to be remembered that this is an allocated housing site.

Any alterations to the proposed houses in the future in terms of new windows would require Planning Permission as the site is situated in the Conservation Area but a condition would control any new decking for plot 5.

There would be no detrimental impact in terms of light or privacy on the existing houses in Montgomerie Terrace or Brewster Place due to the distances involved. The houses proposed on plots 1 and 4 would be over 30m from the existing cottages to the south (Nos 14 -17) and so there would be no significant loss of privacy or light to the existing occupants, taking into account the change in ground levels.

Trees

Policy EP13 seeks to protect trees and hedgerows from development. The site boundaries are defined by mature hedgerows and perimeter woodland. An Arboricultural Impact Assessment has been submitted showing the position and root protection areas (RPA) of the trees. An Arboricultural Method Statement has also been submitted, which shows the position of protective fencing and outlines the measures required to protect the trees during construction.

The revised site plan indicates that the houses would be outwith the root protection area of these trees and hedgerows. The Council's Landscape Architect advises that provided the protective fencing is erected and no development encroaches into the identified RPAs, there should be no harmful impact on the existing trees. Should Members agree to approve the application, tree protection measures and retention of the existing trees would be controlled by condition.

Ecology

Policy EP3 states that development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused

unless it can be demonstrated that the public benefits of the development outweigh the value of the habitat for biodiversity conservation.

An Ecological Baseline Report was submitted and the Council's Ecology Officer requested that a further bat survey be carried out. This has now been submitted and the Ecological Officer has no objections subject to an informative in case bats are discovered during development or the demolition of dwellinghouse.

Mitigation measures for badger, red squirrel and breeding birds, included in a Species Protection Plan, and a proportionate Landscape Habitat Management Plan would be secured by conditions.

Scottish Natural Heritage has no objections to the proposal subject to mitigation measures for badgers during construction.

Archaeology

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

The Council's Archaeology Officer has outlined the history of the site and the agent has submitted an Archaeological Evaluation and Historic Building Appraisal Report, which includes the implementation of a programme of archaeological works. The report concludes that nothing of significance was identified no further work was required.

The Archaeology Officer no longer requires an archaeological condition required and recommends that the application is determined without further reference to mitigation of archaeology impacts.

Access and Parking

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

The two houses at the front of the site would be accessed directly from the main road and a new access would be formed from Montgomerie Terrace to access plots 1 to 5. Each house would have two on-site parking spaces and two visitor parking spaces and a turning area are proposed.

Roads Planning Service has no objections to the two dwellings served off the Main Street. The revised access arrangement shall require the relocation of an existing street lighting column; this will be secured by condition. The length of parking spaces have been reduced to 7m.

The Roads Planning Service had concerns regarding the layout as previously proposed:

The revised access location appears to require work to the existing retaining wall, which is outwith the site boundary and owned by no.25 Montgomerie Terrace (the owner has also raised this issue). The levels plan shows that steps are required for the right of way that passes adjacent to no.25 (but outwith No.25's boundary) and the removal of a section of the retaining wall and the erection of a new retaining wall. A

condition would secure details of these works but the works would require the consent of the owner of no.25 before they could take place.

Road Construction Consent will be required for the new road and footways. This would cover issues such as construction details, lighting, drainage and geometry of the road.

The consultation response from the Roads Planning Service in respect of the most up-to-date drawings has not been received at the time of writing this report but will be reported verbally at the meeting.

Water and Drainage

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

The development would connect to the public water supply and foul drainage system. Environmental Health has requested conditions that ensure that drainage is to the public network.

Surface water would be via SUDS draining to a filter trenches and soakaways within each curtilage at the end of the road. The exact details will be agreed by the Building Warrant.

Developer Contributions

Development contributions, in accordance with policies IS2 and IS3 are required towards the Borders Railway, education and affordable housing. These would be secured through a legal agreement should Members be minded to approve this application

CONCLUSION

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

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

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

1. A sample of all materials to be used on all exterior surfaces of the development hereby approved shall be submitted to and approved in writing by the Planning Authority before the development commences. The roofs for plots 6 and 7 to be natural slate. The development then to be completed in accordance with the approved samples.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting and safeguards the character of the Conservation Area.
2. All planting, seeding or turfing comprised in the approved details of landscaping (Drawing Number: 9344(L-2)007 G) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the

development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

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

3. No trees within or overhanging the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

4. The development shall take place in accordance with the Arboricultural Method Statement by Caledonian Tree Consultants Ltd dated May 2019. The tree protection measures to be erected before the development commences and to be retained in place until the development has been completed.

Reason: To protect trees within the site from damage.

5. Details of the position, height, appearance and colour finish of all fencing and gates shall be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

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

6. Prior to commencement of demolition and development, a Species Protection Plan for bats, badger, red squirrel and breeding birds shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey, a mitigation plan and sensitive lighting scheme. No demolition or development shall be undertaken except in accordance with the approved SPP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

7. No development shall commence until a proportionate Landscape Habitat Management Plan, including boundary treatments for trees and hedgerows, has first been submitted to and approved in writing by the Planning Authority. No development shall take place except in accordance with the approved in writing LHMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

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

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

9. No water supply other than the public mains water supply shall be used to supply the development without the prior written agreement of the Planning Authority.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

10. No drainage system other than the public mains sewer shall be used to service the development without the prior written consent of the Planning Authority. Prior to occupation of the dwellinghouses written evidence shall be submitted to the Planning Authority that the dwellinghouses have been connected to the public water drainage network.
Reason: To ensure that the development does not have a detrimental effect on public health.
11. No dwellinghouse forming part of the development hereby approved shall be occupied until the access road, parking spaces and footpaths have been completed in accordance with the approved Drawing Number 9344(L-2)002 P, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that adequate access for pedestrians and on-site parking is provided.
12. No development shall commence until a detailed drawing showing the steps required for the existing right of way, the removal of a section of the retaining wall adjacent to no.25 Montgomerie Terrace and the erection of a new retaining wall have first been submitted to and approved in writing by the Planning Authority. The development then to be completed in accordance with the approved drawing.
Reason: To safeguard pedestrians and to protect the character of the Conservation Area.
13. No development shall commence until details of the relocation of the existing street lighting column to be submitted to and approved in writing by the Planning Authority. The details shall to include the new location of the street lighting column and timing of the works. The street lighting column then to be relocated in accordance with the approved details.
Reason: To ensure that the repositioning of the street lighting column is completed in accordance with the Planning Authority' specifications.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order), there shall be no further external decking placed anywhere on Plot 5 unless an application for planning permission in that behalf has first been submitted to and approved in writing by the Planning Authority.
Reason: The Planning Authority considers that any further development would prejudice a satisfactory layout and would have a harmful effect upon the amenity of the area.

Informatives

1. Protected Species

In respect of condition 6, if bats or roosts are found in any building to be demolished, or any tree to be worked, a licence must be sought from SNH. SNH has a dedicated licensing team, which can be contacted at licensing@nature.scot.

The applicant is reminded that, under the Conservation Regulations (Natural Habitats & c.) 1994 (as amended) it is an offence to deliberately or recklessly damage or destroy a breeding site or resting place of bats (whether or not deliberately or recklessly), capture, injure or kill a bat, harass a bat or group of bats, disturb a bat in a roost (any structure or place it uses for shelter or protection),

disturb a bat while it is rearing or otherwise caring for its young, obstruct access to a bat roost or otherwise deny an animal use of a roost, disturb a bat in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species, disturb a bat in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young.

In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652 or 01463 725 364) for further guidance. Works can only recommence by following any guidance given by SNH. The developer and all contractors to be made aware of accepted standard procedures of working with bats at www.bats.org.uk. Further information and articles available at:

http://www.bats.org.uk/pages/bats_and_buildings.html

http://www.bats.org.uk/pages/existing_buildings.html

<https://cdn.bats.org.uk/pdf/Bats-Trees.pdf?mtime=20181101151317>

To protect badgers the following measures must be adopted:

- All chemical and fuel stores to be kept secure.
- Work on open trenches should be completed within one day with the hole filled in. This removes the risk of badgers or other animals becoming trapped in the trench.
- Excavations that need to be left open overnight must provide at least one ramp at 45 degrees or less to allow badgers and other wildlife to exit the trench.

These measures should be included in the Species Protection Plan for badgers.

2. Steps and Retaining Wall

In respect of condition 12, this approval does not grant consent for any works on land or to structures outwith the ownership of the applicant.

3. Surface Water Drainage

The RCC will include surface water drainage. The Roads Planning Service advises that, as surface water drainage is shown to end at a soakaway within Plot 5, confirmation should be provided as to why this cannot connect into the existing drainage for Montgomerie Terrace. If the proposed layout is approved, a legal right of access may be required should it be proposed that the Council are to be responsible for the maintenance of this element of the drainage system. The Roads Planning Service also require ground investigation details confirming the ground is capable of catering for the level of surface water the soakaway is proposed to deal with. Confirmation should be provided as to what elements of the drainage system, if any, Scottish Water propose to adopt upon completion.

4. Stoves

Environmental Health advises that provided that any stoves installed as part of the development are less than 45kW, no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

The flue should be terminated with a cap that encourages a high gas efflux velocity.

The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

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

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

Construction Noise

The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used. The following are the recommended hours for noisy work:

Monday – Friday 0700 – 1900

Saturday 0900 – 1300

Sunday (Public Holidays) – no permitted noisy work (except by prior notification to Scottish Borders Council).

Contractors will be expected to adhere to the noise control measures contained in British Standard 5228:2009 Code of practice for noise and vibration control on construction and open sites.

For more information or to make a request to carry out works outside the above hours please contact an Environmental Health Officer.

DRAWING NUMBERS

9344 L(2-)001	Location Plan
9344 L(2-)003	Existing Sections A-A and B-B
9344 L(2-)004	Existing Sections C-C and D-D
9344 L(2-)002 P	Proposed Site Plan
9344 L(2-)005 F	Proposed Sections E-E, F-F, G-G and H-H
9344 L(2-)006 G	Proposed Sections J-J, K-K and L-L
9344 L(2-)007 G	Proposed Planting Plan
9344 L(2-)010 F	House Type A Floor and Roof Plans
9344 L(2-)011 H	House Type A Elevations
9344 L(2-)015 G	House Type B Floor and Roof Plans
9344 L(2-)016 G	House Type B Elevations
9344 L(2-)020 G	House Type C Floor and Roof Plans
9344 L(2-)021 F	House Type C Elevations
9344 L(2-)025 F	House Type D Floor and Roof Plans
9344 L(2-)026 F	House Type D Elevations
1 of 1	Topographical Survey
D3444-101 C	Site Levels and Drainage Layout

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)

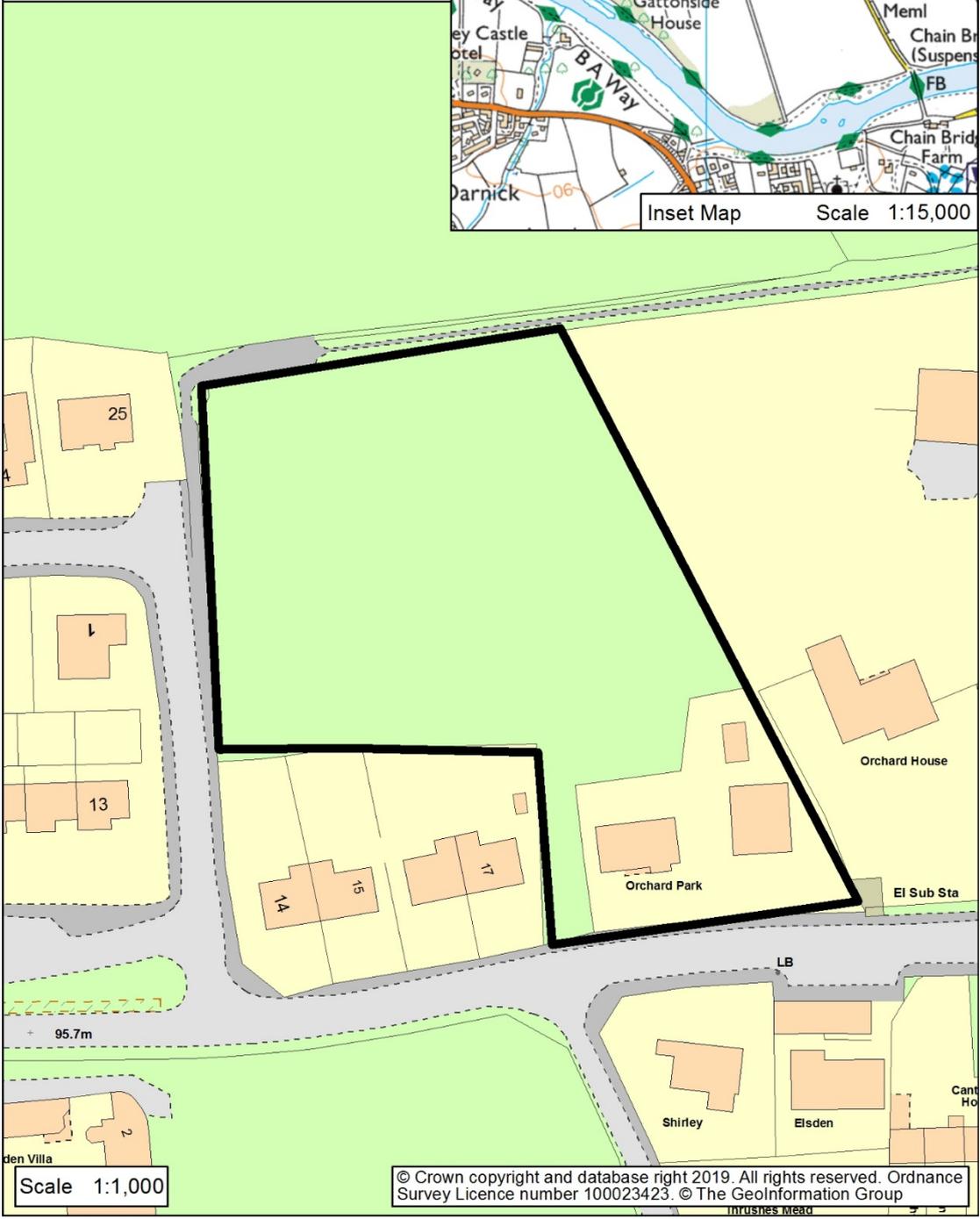
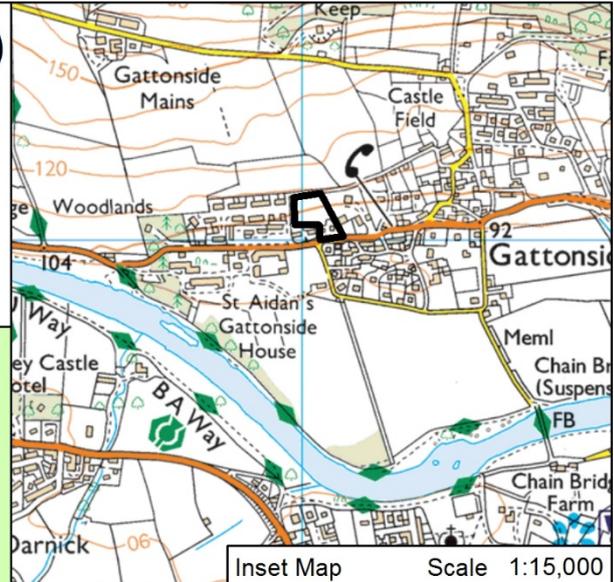
Name	Designation
Julie Hayward	Team Leader Development Management



18/01795/FUL

Orchard Park And Land North
And East Of 16 And 17
Brewster Place

Gattonside



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

5th August 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

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 18/01086/FUL
Proposal: 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
Site: 1 - 39 Tweedbridge Court, Peebles
Appellant: Eildon Housing Association Ltd

Reason for Refusal: The proposals would be contrary to Local Development Plan Policy PMD2 paragraphs (h), (i) and (k) in that the development would not be designed in sympathy with local Scottish Borders architectural styles, would be of a scale, mass, height and density inappropriate to its surroundings and would not be compatible with or respect the character of the surrounding area and neighbouring built form.

The proposals would also be contrary to Local Development Plan Policy EP9 in that the development would not preserve or enhance the special architectural or historic character and appearance of the nearby Peebles Conservation Area.

Grounds of Appeal: The appeal proposal represents a significant development within Peebles in a sensitive, prominent location on the edge of the Conservation Area. The physical land use principle of housing on the site is established through the site's previous residential use and its specific allocation in the adopted Local Development Plan for an indicative 50 housing units. Following an amended approach from the original submission, the revised design as currently proposed, presents a more traditional form of development which has reduced the mass and visual scale of the proposals and, as a consequence, secured the support of the Planning Officer and the Council's Heritage & Design Team. The very subjective nature of design and the interpretation of the relevant policies and guidance that assess the merits of proposals is recognised. It is however considered that, consistent with LDP Policies PMD2, HD3 and EP9, on balance, the appeal proposal provides for an acceptable form of development at this location which will not cause significant harm to the character, appearance and amenity of both the immediate and wider surrounding townscape, including the Peebles Conservation Area. The proposal, if implemented, will provide for much needed affordable housing in Peebles where there is a recognised acute shortfall of such accommodation.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Christopher Warren, stated that the proposed development would make an important contribution to the affordable housing provision in Peebles. It is on a brownfield site which is allocated for residential development in the adopted local development plan, and so the proposal is consistent with policy PMD3. The site is also highly accessible, and overall the reporter found it very well suited for providing affordable homes, despite the sensitive nature of the site. In his view, the favourable aspects of this proposal are considerable. However, this must be balanced against the undesirable aspects of the development. In light of the reporter's findings regarding the incompatibility of the design and scale of the building for its context, the reporter considers the development would have a detracting influence upon the distinctive character and appearance of the riverside area of the town, and it would appear incongruous in this location. The development's appearance would fail to preserve or enhance the Peebles conservation area, to which the site is adjacent. The reporter also found the development would have an unacceptable impact upon residential amenity at 30 Dukehaugh. He found the proposal to be contrary to policies PMD2, EP9 and HD3 for these reasons. The reporter therefore concludes that despite the principle of development being established and the benefits it would offer, the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. The reporter considered all the other matters raised, but there were none which would lead him to alter his conclusions.

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 25th July 2019. This relates to sites at:

• Land West of Whitslaid (Barrel Law), Selkirk	• Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels
• Glenacre, Camptown, Jedburgh	•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 18/01161/FUL
Proposal: Change of use of agricultural land to dog care walking facility and erection of boundary fence
Site: Land South West of Milkieston Toll House, Peebles
Appellant: Mr Paul Lawrie

Reason for Refusal: The development is contrary to Policy PMD2 of the Local Development Plan 2016 in that intensified traffic usage of the sub-standard vehicular access creates a detrimental impact on road safety on the A703. The continued use of the existing sub-standard access would result in an unacceptable adverse impact on road safety, including but not limited to the site access.

5.2 Reference: 19/00358/PPP
Proposal: Erection of dwellinghouse
Site: Garden Ground of Beechwood Pyatshaw, Lauder
Appellant: Mr R Martin

Reason for Refusal: The proposed development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would exceed the threshold of 2 additional dwelling units or a 30% increase in the building group permitted within the current Local Development Plan 2016 period and there are no exceptional circumstances that would justify a departure from this Policy. In addition, the proposal does not respect the character of the building group, in terms of plot size and spacing, and would constitute an over development of the site, potentially impacting on trees within the site, which would be detrimental to the visual amenities of the area.

6 REVIEWS DETERMINED

Nil

7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 25th July 2019. This relates to sites at:

• Deans Bar, 3 Orrock Place, Hawick	• Land West of Thornwood Lodge, Weensland Road, Hawick
• Land West of 1 Hallrule Farm Cottage, Bonchester Bridge	•

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 25th July 2019. This relates to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
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Approved by

Ian Aikman
Chief Planning & Housing Officer

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
Email: PLACEtransrequest@scotborders.gov.uk

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