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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 3RD FEBRUARY, 2020

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, 3RD FEBRUARY, 2020 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

27 January 2020

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 12) Minute of Meeting of 13 January 2020 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) Land East of 10 Kittlegairy Avenue, Peebles - 17/00606/PPP (Pages 13 - 36) Residential development with associated roads, access, infrastructure, open space and landscaping including land for drainage/flood mitigation purposes. (Copy attached.)
	(b) Land North of Carcant Lodge, Wull Muir Wind Farm, Heriot - 19/00191/FUL (Pages 37 - 80) Erection of 8 No. wind turbines with a maximum tip height of 130m, formation of access tracks, borrow pit, temporary construction compound, erection of control building, onsite substation and associated infrastructure and energy storage compound for up to 4MW.
6.	Appeals and Reviews. (Pages 81 - 86) 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.

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), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage, E. Small, Vacancy.

Please direct any enquiries to Fiona Henderson 01835 826502
fhenderson@scotborders.gov.uk

**SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Headquarters, Newtown St Boswells on Monday, 13 January 2020 at 10.00 am

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

In Attendance:- Planning and Development Standards Manager, Lead Planning Officer (B. Fotheringham), Senior Roads Planning Officer, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. **MINUTE.**
There had been circulated copies of the Minute of the Meeting held on 9 December 2019.

DECISION
APPROVED for signature by the Chairman.

DECLARATION OF INTEREST
Councillor Ramage declared an interest in application 1900509/FUL in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

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

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

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

DECISION
NOTED that:-

- (a) **an Appeal in respect of Enforcement had been received in respect of the Erection of boundary fence forward of the front elevation greater than 1 m in height at Silver Grange, Old Greenlaw Farm, Greenlaw, Duns.**
- (b) **there remained 2 appeals outstanding in respect of :-**
 - (i) **Land West of Whitslaid (Barrel Law), Selkirk; and**
 - (ii) **Land North West of Gilston Farm, Heriot**
- (c) **Review requests had been received in respect of:-**

- (i) Erection of dwellinghouse on Land South West of Carlenrig Farm, Teviothead, Hawick – 19/00514/FUL; and
 - (ii) Erection of fence on Land South East of Bungalow, Denholm Mill, Denholm – 19/00857/FUL;
- (d) the decision of the Appointed Officer had been overturned in respect of the Demolition of existing dwellinghouse and erection of replacement dwellinghouse at Folly Cottage, Woodside Farm, Kelso – 19/00965/FUL
- (e) the decision of the Appointed Officer had been upheld in respect of:-
- (i) the erection of a porch and replacement boundary fence at 4 Lauder Road, Earlston – 19/01018/FUL; and
 - (ii) Erection of dwellinghouse on Land North East of Maxton House, St Boswells – 19/01178/PPP
- (f) there remained three reviews previously reported on which decisions were still awaited when the report was prepared on 28th November 2019.

<ul style="list-style-type: none"> • Land North East of Hoprigshiel Farmhouse, Cockburnspath 	<ul style="list-style-type: none"> • Land North West of Poultry Farm, Stow Road, Lauder
<ul style="list-style-type: none"> • Garden Ground of 7 Heriot House, Heriot 	

- (e) there remained 3 S36 PLI's previously reported on which decisions were still awaited when the report was prepared on 19th December 2019. These related to

<ul style="list-style-type: none"> • Fallago Rig 1, Longformacus 	<ul style="list-style-type: none"> • Fallago Rig 2, Longformacus
<ul style="list-style-type: none"> • Crystal Rigg Wind Farm, Cranshaws, Duns 	<ul style="list-style-type: none"> •

The meeting concluded at 11.00 a.m.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/00509/FUL	Erection of Class1 retail store and restaurant with drive thru and takeaway facilities	Land W of Store J and R Elliot Ltd, Commercial Road, Hawick

Decision: Approved subject to conditions, applicant informatives and clearance from Scottish Ministers

- 1 Notwithstanding the details submitted in support of the planning application, no development shall commence until, EITHER:
(a) revised versions of all of the approved site layout plans have first been submitted to, and approved in writing by, the Planning Authority, which all consistently describe the footprint and foundations of the retail unit building hereby approved, set back such as to be at least a minimum distance of 4m away from the existing property boundary with the garden ground of Haig House, No 23 Princes Street; OR
(b) an arboricultural report prepared by a qualified professional arboriculturalist, which identifies and describes the impacts of the proposal upon all trees along the western boundary of the site, has first been submitted to, and approved in writing by, the Planning Authority and includes appropriate mitigation of these impacts.
Thereafter, the development shall only be implemented and operated in accordance with the approved details including any and all measures specifically identified to conserve the trees in question.
Reason: To retain effective control over the development in the interests of conserving appropriately trees on neighbouring land and within a TPO, which make a valuable contribution to the visual amenities of the site and surrounding area and to the residential amenity of No 23 Princes Street and its neighbours.
- 2 No development shall commence until an Arboricultural Method Statement (AMS) fully compliant with BS5837:2012, has first been submitted to, and approved in writing by the Planning Authority, which details in full, the approach and measures that are to be taken during the construction period and within the construction works themselves, to minimise impacts upon all trees within the TPO area, including all such impacts upon and within the Root Protection Areas and canopy spreads of all trees that root into, and/or overhang, the site. This shall include all measures that are to be put in place or operated in order to minimise such impacts during construction works (including excavations) to accommodate any and all services (including water supply) and within the formation of any and all areas that are to be surfaced in hard standing. Further to the approval of this AMS, the development shall then be implemented in accordance with the approved details, including any and all mitigation measures required to protect the root systems within the area concerned.
Reason: To retain effective control over the development in the interests of conserving appropriately trees on neighbouring land and within a TPO, which make a valuable contribution to the visual amenities of the site and surrounding area.
- 3 No development shall commence until a written programme and timetable for the implementation of the development, which addresses in full the matters set out in Informative Note 1 attached to this planning permission, has first been submitted to, and approved in writing by, the Planning Authority after consultation with the Council's Roads Planning Section and the Hawick Flood Protection Scheme project team. Thereafter, the development shall only be delivered and implemented in

accordance with the details of the approved programme and timetable unless any subsequent change or changes to the approved details are first agreed in writing by the Planning Authority prior to the implementation of this change/these changes.

Reason: To retain effective control over the delivery and implementation of the development in the interests of road safety, by ensuring that sufficient measures are in place to manage vehicular and pedestrian movements at and around the site during the development period; and in the interests of mitigating appropriately the risk of any unacceptable flood risk impacts at the site and in the surrounding area during the same period by ensuring the delivery and effectiveness of the Hawick Flood Protection Scheme are not compromised by the development.

- 4 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority in advance of the commencement of construction on the retail unit building hereby approved, no development shall commence upon the superstructure of this aforementioned building until a scheme of details describing the proposed external materials and finishes of the external surfaces of this same building, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and the external walls of the aforementioned building shall be so finished, by a point in time that is no later than six months after the day of the first occupation of this same building.

Reason: To ensure a finished appearance for the same building that is sympathetic to the visual amenities of the site and surrounding area, including Commercial Road and the Conservation Area.

- 5 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority in advance of the commencement of construction on the restaurant building with drive thru and takeaway facilities hereby approved, no development shall commence upon the superstructure of this aforementioned building until a scheme of details describing the proposed external materials and finishes of the external surfaces of this building, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and the external walls of the aforementioned building shall be so finished, by a point in time that is no later than six months after the day of the first occupation of this same building.

Reason: To ensure a finished appearance for the same building that is sympathetic to the visual amenities of the site and surrounding area, including Commercial Road and the Conservation Area.

- 6 Notwithstanding the details submitted in support of the planning application, none of the following ancillary structures shall be erected or installed on site, other than in accordance with a scheme of details for each, which shall in each case, first have been submitted to, and approved in writing by, the Planning Authority, and which shall furthermore in each case, also include full details of the proposed size (including dimensions) and proposed finished appearance (including design, materials and finishes) of each, and each type of, ancillary structure:

- (a) storage container;
- (b) trolley bay shelter;
- (c) cycle store; and

(d) play area, including details of all proposed play equipment, the surfacing and any enclosure.

Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To ensure a finished appearance for the site that is sympathetic to the visual amenities of the site and surrounding area, including Commercial Road and the Conservation Area.

- 7 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-excitation assessment, reporting and dissemination of results are undertaken per the WSI. (Please see Informative Note 2 for related advice and guidance).

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.

- 8 Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence until a ground investigation report has first been submitted to and approved in writing by the Planning Authority. The report shall include identification and assessment of potential contamination on the site [in accordance with PAN 33 (2000) and BS10175:2011 or subsequent revisions/replacements] and shall include [as applicable] a remediation strategy, validation report and monitoring statements, including timescales for the implementation of all such measures. Development shall not commence until the report is approved by the Planning Authority. Thereafter, the development shall be carried out only in accordance with the approved report, including approved remediation, validation, monitoring measures and timescales for their implementation.

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

- 9 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority in advance of the commencement of development, no development shall commence until all of the following have first been submitted to, and approved in writing by, the Planning Authority after consultation with Transport Scotland:

(a) a scheme of details of street lighting (including the proposed locations, dimensions, materials and finishes of the columns; the proposed numbers, specifications, luminance and operation of the lamps; and the lighting design); and

(b) a scheme of details describing the treatment of the site boundary with the A7 Trunk Road, including measures to regulate public access between the site and the carriageway of the Trunk Road.

Thereafter, the development shall be implemented and operated in accordance with the approved details and the site shall not be occupied for the first time, or be made, accessible to the general public, until all of the approved street lights have all first been installed and are all fully operational; and the roadside boundary treatment has first been fully implemented, and the measures to regulate public access to and from the Trunk Road are first in situ. Furthermore, the aforementioned measures shall thereafter be maintained and operated in perpetuity in accordance with the approved

details (including any and all repairs and replacement as necessary, to maintain this boundary treatment in situ, and to the required specification).

Reason: To ensure that there is no distraction or dazzle to drivers on the Trunk Road and that the safety of the traffic on the Trunk Road is not diminished; and to minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

- 10 Notwithstanding the details submitted in support of the planning application, no development shall commence until revised versions of the approved site layout plans, which address in full the concerns of the Roads Planning Service (set out within Informative Note 3), have first been submitted to, and approved in writing by, the Planning Authority. Thereafter the development shall be implemented and operated in accordance with the approved details. Furthermore, and unless otherwise agreed in writing and in advance by the Planning Authority, no part of the development hereby approved shall be opened to, or otherwise made accessible to, the general public until the road access, footways and car parking provision described on the approved drawings have all first been fully constructed and completed, and made fully available to, and for use by, visiting members of the public.

Reason: To retain effective control over the construction and operation of the site in the interests of road and public safety.

- 11 Surface water drainage from the site shall not be connected into the existing surface water drainage system which serves the carriageway of the A7 Trunk Road. No development shall commence until a revised version of the Approved Site Drainage Plan, which addresses in full the concerns of Informative Note 4, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall be implemented and operated in accordance with the approved details. Furthermore, and unless otherwise agreed in writing and in advance by the Planning Authority, no part of the development hereby approved shall be opened to, or otherwise made accessible to, the general public until the approved surface water drainage system has first been completed and fully implemented.

Reason: To retain effective control over the construction and operation of the site in the interests of road and public safety.

- 12 Notwithstanding the details submitted in support of the planning application, this consent shall not purport to grant consent for any of the following structures or installations that are described or indicated on the Approved Drawings, including the Approved Site Plan:

- (a) "Pumping station";
- (b) "Totem"; and/or
- (c) "Banner".

Please see Informative Note 5 for related advice and guidance.

Reason: To retain effective control over the development. The permission is not specifically an approval of the pumping station (or any other infrastructure) which is to be installed or operated by the Hawick Flood Prevention Scheme under a different consent. Any advertisements require Advertisement Consent.

- 13 Notwithstanding the details shown on the approved drawings, the development hereby approved shall not take place except in strict accordance with a scheme of hard and soft landscaping works, which shall first have been submitted to, and approved in writing by, the Planning Authority before the commencement of development. Details of the scheme shall take full account of the advice and guidance of Informative Note 6, and shall include:

- (a) location and design, including materials, of any walls, fences and gates;

- (b) all soft and hard landscaping works;
- (d) a planting schedule and programme for subsequent maintenance.

Unless otherwise agreed in writing and in advance by the Planning Authority, all planting, seeding and turfing comprised in the approved details of new soft landscaping shall all be carried out during the first full planting and seeding seasons following the first occupation of the first of the two buildings hereby approved (regardless of whether this is the retail unit building or the restaurant building), and shall be maintained thereafter and replaced as necessary for a period of five years from the date of completion of the planting, seeding or turfing. Further to the completion of all approved new planting during the first full planting and seeding seasons following the first occupation of the first of the two buildings hereby approved, written notice shall be given to the Planning Authority for its information and inspection.

Reason: To ensure the satisfactory form, layout and assimilation of the development and to ensure that the proposed landscaping is carried out as approved.

- 14 No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior written consent of the Planning Authority. Further, and unless otherwise agreed in writing and in advance by the Planning Authority, there shall be no excavation or raising or lowering of levels within the Root Protection Area(s) of any retained tree(s).

Reason: To ensure that the trees to be retained will not be damaged during demolition or construction, because the existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained.

Informatives

INFORMATIVE NOTE 1:

The timetable and programme required under Planning Condition No 3 attached to this Consent, should identify the precise times, periods (in calendar dates) and arrangements for the operation and management of all vehicular and pedestrian movements at, to, from and around the site, during all of the following phases of the implementation and progress of the development hereby consented, and any interludes in between these:

- (a) the commencement, progress and completion of any use of the site for the accommodation of any and all operations relating to the progress of the Hawick Flood Protection Scheme works; and
- (b) the commencement, progress and completion of the re-development of the site hereby approved, including the timetables and programmes for the completion of both the retail unit building and of the completion of the restaurant building.

The details shall include the proposed access arrangements to and from the site during all of these periods, and identify any and all measures required within the operation of the surrounding streetscape and wider road network, required to manage safely and expeditiously all vehicular and pedestrian movements at and around the site during these phases.

INFORMATIVE NOTE 2:

The Written Scheme of Investigation required under Planning Condition 7 should include a proposed protocol for identifying whether or not there are any appropriate opportunities to conserve a record of the presence of the mill lade on the site, including any potential to conserve and display any actual physical remnant(s) in situ; and/or to provide any other

interpretative resource to advise visiting members of the public about the site's industrial heritage.

INFORMATIVE NOTE 3:

The details of the revised Site Plan Drawing required under Planning Condition 10, should be revised to address the following points highlighted by the Roads Planning Section:

- The radii on the left of the exit from the restaurant drive-thru should be larger and sweeter to ensure vehicles can manoeuvre out without having to use both lanes of the access road;
- The tie-in path with Aldi conflicts with a parking space in the Aldi layout and also has steps present. This should be an at grade route. A revised detail for this area is required;
- The crossing point located adjacent to the two disabled bays at the corner of the access road should either be relocated so as not to conflict with the adjacent parking bay or omitted. Pedestrians from that corner of the parking area and the link path should be encouraged to travel to the crossing in front of the main access;
- The trolley store and goods display zones still interfere with the free-flow of pedestrians/customers, particularly the one at the south east corner of the store;
- an upstand kerb should be utilised where the link path passes through the parking areas to the right of the restaurant. This will prevent vehicles driving across this area, protect the pedestrians and protect the footpath. (If flush kerbs are retained, the construction of the path is not to a standard suitable for vehicles and may deteriorate quicker than expected); and

A flush kerb should be provided between the two disabled bays to assist with access to the restaurant.

INFORMATIVE NOTE 4:

The details of the revised Site Drainage Plan Drawing required under Planning Condition 11, should be revised to address appropriately all of the following points highlighted by the Roads Planning Section:

- As described on the Proposal Drawings, surface water may flow on to the pedestrian area in front of the restaurant due to the road levels and the flush kerb for the pedestrian crossing, to the left of the disabled bays;
- The levels indicate a low point in the corner of the parking area adjacent to Commercial Road [100.300]. This area may be suspect to ponding as the construction does not appear to be porous;
- There does not appear to be any drainage for the access path around the store building; and
- The gullies indicated for the parking areas along the main access road would be better placed on the carriageway side of the flush kerb, rather than on the parking side.

INFORMATIVE NOTE 5:

Please note that the signage shown on the Approved Drawings is not approved under this Planning Consent. An Advertisement Consent Application is required for the proposed signage unless the signage is compliant with exemptions under the Advertisement Regulations.

INFORMATIVE NOTE 6:

Planting plans must provide sufficient information to be enforceable by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).
- ii.) Boundary of the application site is clearly marked.
- iii.) Site orientation is indicated by a North point or OS grid lines.
- iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
- v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
- vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
- vii.) All species of plants identified using their full botanical name (e.g. oak - *Quercus robur*)
- viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. *Betula pendula* 30%, *Quercus robur* 70%, 120 square metres @ 1 plant per 4 square metres = 9 *B. pendula* & 21 *Q. robur*)
- ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)
- x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.
- xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)

N.B. Planting conditions are only discharged following an inspection of the completed work

Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

INFORMATIVE NOTE 7:

The granting of planning consent does not carry with it the right to carry out works within the Trunk Road boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Where any works are required on the Trunk Road, contact details are provided on Transport Scotland's response to the Planning Authority which is available on the Council's Planning Portal.

Trunk road modification works shall in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by the HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

INFORMATIVE NOTE 8:

The Roads Planning Section has raised concerns with respect to the need to manage the use of customer parking provision at the site, including the restaurant's operation of its own dedicated customer parking provision, as well as the temporary requirement for customer parking areas within the site to be set aside at times, for the use and movement of delivery vehicles. Ultimately, the site's operators should be aware of the need for good and effective regulation of the parking and access arrangements on site work, to ensure that these work optimally and safely; avoiding any and all unnecessarily exclusive, restrictive or overly elaborate arrangements that would be liable to reduce parking options available to customers, particularly during peak times of the day. Ultimately it is with the operators, and is in the operators' best interests, to ensure that these matters are addressed appropriately.

NOTE

Councillor Stuart Marshall spoke in support of the application

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

3 FEBRUARY 2020

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00606/PPP
OFFICER:	Mr C Miller
WARD:	Tweeddale East
PROPOSAL:	Residential development with associated roads, access, infrastructure, open space and landscaping including land for drainage/flood mitigation purposes
SITE:	Land East of 10 Kittlegairy Avenue, Peebles
APPLICANT:	AWG Property Ltd and Taylor Wimpey
AGENT:	Barton Willmore

PLANNING PROCESSING AGREEMENT

A Planning Processing Agreement exists for extension to decision up until today's Committee.

SITE DESCRIPTION

The site is located on the eastern edge of Peebles to the south of the River Tweed and adjoining the Kittlegairy View housing development. It consists of four fields of relatively flat topography with a slight slope from south to north, measuring 20.6 HA. The Haystoun Burn borders the site to the south before cutting through the site towards the River Tweed. The B7062 forms the northern boundary to the site, to the north lying open haughland towards the Tweed, an existing builders' merchant store and the Cavalry Park Business Park to the north-west.

The site wraps around an existing dwellinghouse "Whitebridge" to the eastern part of the site. Woodland is contained largely to the northern and north-western boundaries with some additional trees of varying ages throughout the site and riparian woodland bordering the Haystoun Burn. Farm buildings lie beyond the site to the south-west.

The site lies immediately outwith the defined settlement boundary of Peebles in the Local Development Plan. However, the site is identified for longer term mixed use as SPEEB005, including fields for Greenspace towards the Tweed not currently within the application site. The Site Requirements state clearly that the site is dependent on a new Tweed bridge crossing for Peebles and, amongst other requirements, no built development on the functional flood plain informed by a Flood Risk Assessment and an area for employment/school use. The site lies outwith the towns Conservation Area but within the Tweed Valley Special Landscape Area.

PROPOSED DEVELOPMENT

The application is submitted for planning permission in principle only, seeking permission for approximately 200 dwellinghouses of a range of types, 2-4 bedroomed and including 25% on-site affordable provision. An Indicative Masterplan provides

schematic zoning of development and landscaping within the site. A 1HA area of the site has been excluded from the application towards the centre of the site and near to the B7062, intended to be reserved for employment/commercial/community use and to be submitted as a separate planning application at a future point.

Three vehicular connections are proposed, two from the B7062 along the north-eastern boundary and the third access from Kittlegairy View from the west. These access points will also provide pedestrian provision together with additional path connections to the northern and southern boundaries linking in with existing paths.

The proposals also intend landscaping and public open space areas surrounding the developable part of the site and various flood prevention works including land raising towards the south of the site, a flood relief channel along the southern and eastern boundaries and a compensatory storage area in the field east of the Haystoun Burn.

The application is classed as a 'Major' development under the Hierarchy of Developments (Scotland) Regulations 2009. The applicants publicised and held a public event prior to the application being submitted, as well as consultation with Peebles and District Community Council and Peebles Civic Society

The outcome of the public consultation exercise has been reported in a Pre-Application Consultation Report submitted with the application. The requirements of the Development Management Procedure (Scotland) Regulations 2013 have been satisfied.

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

- Planning Statement
- Design and Access Statement
- Landscape and Visual Appraisal
- Pre-Application Consultation Report
- Transport Assessment (including Traffic Survey) and update
- Additional Transport Statement
- Flood Risk Assessment plus Addendum and Flood Mitigation Strategy
- Ecological Assessment and update
- Further responses from applicant to consultee comments including Forward Planning, Roads Planning, Flood Risk, Ecology, SEPA etc
- Housing Land Supply Update
- Planning Position Statement (Aug 2019)

PLANNING HISTORY

The site was subject to a planning consent in 2006 for overall ground lowering by approximately 750mm in order to provide fill material for the adjoining Kittlegairy View housing development.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Opposes the application due to strong concerns over the capacity of the current bridge crossing, the lack of connectivity under Designing Streets and the traffic impacts on the High Street which takes most traffic whether heading north or

south. Taking into account traffic figures of 1083 per peak AM hour and applying the ratio of 0.683 cars per house, development would add a further 137 cars which results in 1220 vehicles using the bridge at peak AM time. Whilst this is just inside the 1250 capacity appropriate to the bridge, other committed development results in exceeding that figure. More recent traffic survey data suggest 1179 per peak AM hour which, when added to the 137 cars generated by the development, then exceeds the 1250 capacity even before considering committed development.

Upon submission of further information, maintains objection and verifies that there is a difference of opinion between the road type capacity taken at the bridge, between SBC position of 1250 and applicant position of 1500. Reality is somewhere between the two and the new figures of peak flow of 1381 are still beyond safe capacity and likely to be an issue. Designing Streets also applies to existing street and road networks and the reliance on one river crossing and use of the High Street is not in accordance with these principles and will add to congestion and road safety risk.

In response to an updated Transport Assessment, maintains objection to development until a second bridge crossing is completed. Notes November 2018 traffic count maximum peak to be 1155 which, compared to the capacity of 1250, only provides sufficient capacity for the allocated sites in the Local Development Plan and not the longer term ones. Also seems to be no allowance for Tweedbridge Court traffic which, despite being refused on appeal, remains an allocated redevelopment site. Repeats concerns over connectivity, Designing Streets and impacts on High Street congestion, including capacity of the mini roundabout.

Sustains objection following Transport Assessment from second transport consultant, maintaining that the capacity of the Tweed Bridge is 1250 vehicles per hour.

Education Officer: Response awaited.

Landscape Architect: Concerned at landscape impacts upon approach from the east, on the SLA and on the Kailzie Designed Landscape. The employment use should be further south within the site to protect the SLA and field 3 should not be developed to retain openness. Development boundary enhancement, open spaces, tree retention, careful material choice etc.

Housing Strategy: Identified in the SHIP as providing an opportunity for affordable housing, Eildon HA being identified as the likely RSL.

Flood Protection: Objects to application. Site is at risk of 1 in 200 year flooding from Haystoun Burn and area for flood storage is within functional flood plain with bunding that could fail. SPP only supports land raising in exceptional circumstances. Not demonstrated site is free from flooding from Haystoun Burn and concerned mitigation might increase flood risk at Whitebridge.

Upon submission of supplementary information, comments that the site flooded in 2015, that the flood plains of the Tweed and Haystoun Burn cannot be viewed in isolation and that the bund remains informal, not part of a Flood Protection Scheme and concerns over failure and overtopping remain. Also information shows flood increased risk at Whitebridge and on the B Road of 50mm. The mitigation does not meet the principles of the SPP.

Upon submission of a revised scheme removing the flood storage and bunding and following further information from an SBC study of the Tweed and Haystoun Burn, withdraws objection. It was noted that very little difference in flood levels in the Tweed

resulted. Land raising on the site and an overland flow route from the Haystoun Burn to the Tweed are still proposed and represent a technical solution to the flood risk issues, provided floor levels are set at least 150mm above surrounding ground levels and the development platform is protected. Whilst land raising is not normally supported, it is still in compliance with SPP in this circumstance.

Ecology Officer: Following the response from SEPA, cannot accept effectiveness of mitigation and considers insufficient information to demonstrate the development would not have significant effects on the Tweed SAC nor to prove no habitat deterioration. Once SNH have replied and Appropriate Assessment carried out, surveys and species protection plans needed by condition. Bats impacts need tree felling information.

Upon submission of further information, maintains that the Habitat Regulations Appraisal and Appropriate Assessment cannot be concluded until SNH/SEPA agree flood mitigation and SUDs drainage. Satisfied with tree and bat information, subject to further surveys. Conditions required for Species Protection Plans in relation to bats, otter, red squirrel, breeding birds and badger. No development in breeding bird season and Habitat Management and Enhancement and Construction Management Plans needed.

Following creation of a 10m buffer and withdrawal of the objection from SNH, proceeded to carry out the AA/HRA and concluded that the proposal would not adversely affect the integrity of the Tweed SAC.

Forward Planning: Objects as the site is outwith the LDP settlement boundary and contravenes PMD4, none of the four exceptions being met. Site cannot come forward until the flood risk and road bridge capacity issues are resolved and site should not be developed in isolation from the open space land to the north of the B7062. Site not within the Housing SG. Applicant submission incorrectly reflects LDP site requirements. Education and Economic Development should comment on the mixed use land provision.

Maintains objections after revised submissions. Comments that good placemaking determines that the whole site should be considered, including the site north of the road.

Responds to Housing Land Update from applicant which claims there is not a five year effective housing land supply, based upon rejection of SESPlan 2 and HNDA (Housing Needs and Demand Assessment) assumptions.

In light of rejection, housing land position statement now prepared on how SESPlan Local Authorities should respond to planning applications for housing on sites contrary to the Development Plan. The position statement outlines that Authorities may have regard to; policies 7-9 of SDP1, level of housing provision allocation and/or safeguarded in adopted LDP's, updated information from the latest Housing Land Audit (where based on HNDA2), HNDA2, SDP2 Examination Report and SDP2 Proposed Plan Housing Background Paper (October 2016). Appendix 2 of the LDP outlines the Council's methodology for monitoring the 5 year effective housing land supply. Notes that Appendix 2 was subject to Examination as part of the LDP and the Reporter agreed with the contents and did not make any modifications to the methodology. Disagrees with applicant on PMD4 interpretation and maintains there is an effective 5 year housing land supply. Furthermore, notes that Policy PMD4 was subject to Examination as part of the LDP and the Reporter agreed with the contents and did not

make any modifications to the policy. In summary, the principle of the development cannot be supported, as it remains contrary to Policy PMD4.

Archaeology Officer: There were no features or finds after evaluation in 2007 but still potential in the areas not evaluated i.e. the employment site and flood storage area. A condition can secure this.

Statutory Consultees

Scottish Natural Heritage: Initially commented that flooding, compensatory storage and surface water were still to be resolved. After submission of revised information, welcomes the Habitat Regulations Appraisal (HRA) and mitigation approach. However, an Appropriate Assessment (AA) cannot be considered until a flood mitigation scheme is agreed with SEPA and only then can adverse effects on the Tweed SAC be assessed.

Then objected in support of SEPA, commenting that the flood mitigation measures did not conform to sustainable flood management and that an HRA would be necessary, their main concern being the potential impact on the Tweed SAC. However, they stated that if the Haystoun Burn could be provided with a 10m buffer from the flood relief channel, then their objections would be met and they would assume the HRA would conclude no impacts on the integrity of the SAC.

Withdrew objection following submission of amended drawings demonstrating the requested 10m buffer, on the basis that an appropriate planning condition is imposed. Their advice should be used to inform the HRA.

Scottish Water: Response awaited.

SEPA: Objection for a number of reasons relating to flood risk. Requested further information and FRA to demonstrate development areas are free from flood risk but also objected on grounds of inadequate drainage information for surface water treatment. Development is on sparsely populated functional flood plain against SPP. Whilst larger site is not intended for development, remainder is still at risk from the Haystoun Burn. Cannot accept storage of water behind bunds as they could fail and queries over ownership of this land and already land at risk of flooding.

Maintains objection for the above reasons following supplementary information. Considers their objection misrepresented by applicant. Notes bund is 1.8m high and previous questions unanswered over maintenance and use of land. Lack of demonstration that development would not worsen flooding elsewhere. Opposed to the development in principle and seems to be no sustainable solution, therefore would not wish to comment further.

After additional submissions, still maintains objection in principle as development on a sparsely populated flood plain and no sustainable solution to development. Concerns over the modelling methods used and impacts of the omission of the flood storage area. Also concerned at bund removal and land raising increasing the flood risk to existing properties. Confused as to the purpose of the flood relief channel to the east of the land raising. Opposed to the development in principle and seems to be no sustainable solution, therefore would not wish to comment further.

Peebles and District Community Council: Objection on the following grounds:

- Outwith the LDP settlement boundary and not in compliance with PMD4 exceptions.

- No development until the second bridge is provided, the TA identifying that the bridge has insufficient capacity and queueing in High Street.
- Mini roundabout on High Street over capacity when accounting for committed development
- Flood risk (with SEPA objection) and visual impacts of land raising
- Impacts on landscape and National Scenic Area contrary to EP4
- Impacts on residential amenity through increases in noise and traffic contrary to HD3

Other Consultees

Peebles Civic Society: Objection on the following grounds:

- Outwith the settlement boundary and contrary to PMD4, no exceptions applying.
- Housing land not needed, there is 8 years supply especially with windfall sites.
- Insufficient capacity with the bridge and High Street, but also must take into account other developments at South Parks, Kingsmeadows etc.
- Concerned over flood risk, land raising and traffic impacts of bringing material to the site.
- Employment site must be protected.

REPRESENTATION SUMMARY

Objections have been received to the application from 29 properties and households. These can be viewed in full on the Public Access website and the main grounds of objection include the following:

Policy

- Site is outwith the LDP settlement boundary and there is ample land within Peebles
- Disproportionate amount of housing land in Peebles in the SG, should be nearer the railway.
- Site is both for longer term and mixed use, not only housing

Traffic/Transport

- A second bridge is needed for this development, the existing bridge is at capacity
- Increase in traffic volumes on the High Street, mini roundabout and existing estate with associated parking problems
- Capacity issues on B7062, too narrow, poor condition and no pavement on both sides
- Issues on other roads such as the A72 and A703
- Poor location and day for traffic count

Density/Layout/Amenity/Design

- Poor materials on adjoining scheme does not bode well as same applicant
- Unlikely to be sympathetic design

Landscape/visual impact

- Erosion of countryside and using up rural land
- Inadequate landscape screening, hedges and trees need to be retained
- Bund will have major visual impact
- Given the existing estate, new development will have high visual impact

Infrastructure

- Site at risk of flooding against SPP, putting Whitebridge at risk and relying too much on the relief channel
- Inadequate sewerage capacity

Local services/developer contributions

- Increased burden on local schools and health care which are already at capacity
- New high school is required

Other matters

- Light pollution
- Wildlife impacts including otter, bats and squirrels
- Limited economic benefit, most will commute
- Too remote for affordable housing

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

- PMD1 Sustainability
- PMD2 Quality Standards
- PMD3 Land Use Allocations
- PMD4 Development Outwith Development Boundaries
- ED2 Employment Uses Outwith Business and Industrial Land
- IS2 Developer Contributions
- IS4 Transport Development and Infrastructure
- IS6 Road Adoption Standards
- IS7 Parking Provision and Standards
- IS8 Flooding
- IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
- EP1 International Nature Conservation Sites and Protected Species
- EP2 National Nature Conservation Sites and Protected Species
- EP3 Local Biodiversity
- EP5 Special Landscape Areas
- EP8 Archaeology
- EP10 Gardens and Designed Landscapes
- EP12 Green Networks
- EP13 Trees, Woodlands and Hedgerows
- EP15 Development Affecting the Water Environment
- EP16 Air Quality
- HD1 Affordable and Special Needs Housing
- HD2 Housing in the Countryside
- HD3 Protection of Residential Amenity

HD4 Meeting the Housing Land Requirement/Further Housing Land Safeguarding

SPEEB005 – Potential Longer Term Mixed Use Allocation

OTHER PLANNING CONSIDERATIONS

SESplan Strategic Development Plan 2013
SESPlan Housing Land Position Statement
Scottish Planning Policy 2014
National Planning Framework 3 2014
PAN 44 Fitting New Housing into the Landscape 2005
PAN 61 Planning and Sustainable Urban Drainage Systems 2001
PAN 65 Planning and Open Space 2008
PAN 67 Housing Quality 2003
Designing Streets 2010
PAN 2/2010 Affordable Housing and Housing Land Audits

SPG Affordable Housing 2015
SPG Developer Contributions 2016
SPG Trees and Development 2008
SPG Landscape and Development 2008
SPG Green Space 2009
SPG Placemaking and Design 2010
SPG Local Landscape Designations 2012
SPG Biodiversity 2005
SPG Guidance on Householder Development 2006
SPG New Housing in the Borders Countryside 2008
SPG Waste Management 2015
SG Housing 2018

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Local Development Plan Policies and Supplementary Planning Guidance on development outwith settlement boundaries, meeting the housing land requirement, traffic, flood risk, ecology and landscape impacts.

ASSESSMENT OF APPLICATION

Planning Policy

The site is identified in the Local Development Plan 2016 for mixed use development under reference SPEEB005. Although the applicant, in their Planning Position Statement, contend that the site is “allocated”, the wording in the LDP states “Potential Longer Term Mixed Use (Subject to Review)”. The Settlement Profile states that *“Once the allocated sites are fully developed, the preferred area for future expansion beyond the period of this Local Development Plan will be to the south east of Peebles. The sites identified for longer term development will be subject to further assessment and review as part of the next Local Development Plan Review, and will require a Masterplan to ensure a coherent and holistic approach”*.

The application site consists of the whole area of SPEEB005 south of the B7062 but does not include the areas north of the road within the identified area – these areas are accepted as being within floodplain and only being suitable for open space and

landscaping. Although being identified for longer term development, the applicant has advanced arguments that the site should be brought forward now in advance of the next LDP, principally on the basis of LDP Policies PMD4 and HD4. Certainly, the site lies outwith the defined settlement boundary of Peebles and the most relevant Policy to assess the principle of the proposal against is PMD4 “Development Outwith Development Boundaries”.

This states that any development outwith but related to a settlement boundary in the Local Development Plan will normally be refused. Exceptions may be granted if one of four qualifying criteria are met, followed by four secondary criteria and three final overall considerations. The applicant does not feel this Policy should apply as the site is “allocated” in the LDP but has, nevertheless, contended that the application meets three of the four qualifying exceptions:

- It allows for a job-generating element of development in the countryside.
- There is a housing land supply shortfall with regard to an effective five year housing land supply.
- The development would offer significant community benefits that would outweigh the need to preserve the settlement boundary.

Of these exceptions, the applicant addresses the housing land supply issue as being the main reason that PMD4 should be relaxed in this instance. Furthermore, they consider that under Policy HD4, development on this longer term site should not be viewed as premature as they have identified a shortfall in effective housing land supply. Their reasoning is understood and assessed below in relation to housing land supply but is not accepted in relation to the other two qualifying exceptions claimed to be met. Although the development is leaving a one hectare site for future potential employment use, it is not a job-generating development that is justified to be required in the countryside. Nor would the provision of 200 houses, albeit with 25% affordable and a mixed use area, represent the significance of community benefits that would outweigh the need to preserve the settlement boundary, given the scale of built development on an open undeveloped field, the modest ratio of mixed use to housing land and impacts on town infrastructure.

The applicant submitted a ‘Housing Land Supply Update – June 2019’, which argues that the Council does not have a five year effective housing land supply. It states that the evidence base should be SDP1 (June 2013), Housing Land SG (May 2014), adopted LDP (2016) and Housing SG (November 2017), given the rejection of SDP2. They also dispute the Council’s methodology for calculating the five year effective housing land supply. Furthermore, the update argues that as SDP2 was rejected, it does not form part of the Development Plan. Therefore, the evidence base and HNSA assumptions should not be taken into account for the determination of current planning applications.

The applicant contends that the overall housing supply target/housing land requirement of a LDP should be met during the life of the LDP and under delivery should be taken into account, in effect rolled over and added into the calculation year upon year. They quote the Stirling LDP2 Examination in Public where the Reporter concluded that the housing completion shortfall should be added to the overall housing supply target for the remaining Plan period. The applicant suggests that if that is done, there is then a significant shortfall in housing land supply in the Scottish Borders of 4,902 housing units, representing an effective land supply of only 2.18 years. For this reason, combined with their view that there are constraints affecting the deliverability of other allocated housing sites (such as March Street Mills), they argue that the

development complies with the relevant qualifying criteria of Policy PMD4 and is not premature and, thus, in compliance with Policy HD4.

Forward Planning have assessed the applicant's "Housing Land Supply Update" and disagree with the applicants methodology. They maintain that there is a five year effective housing land supply within the Scottish Borders, as set out within the 2018 Housing Land Audit (HLA). Appendix 2 (Monitoring the Effective Supply), contained within Volume 1 of the adopted LDP 2016, outlines the Council's methodology for monitoring the five year effective housing land supply. The rate of completions over the past five years is used as a measure of demand, as to the presence of a 5 year effective housing land supply. It should be noted that Appendix 2 was subject to Examination as part of the LDP and the Reporter agreed with the contents and did not make any modifications to the methodology. Therefore, the methodology used within the HLA is consistent with Appendix 2.

Forward Planning provided a response in respect of the comments regarding the recent SDP2 rejection. In light of the recent decision, SESPlan has prepared a housing position statement, on how SESPlan Member Authorities will respond to planning applications for residential development, which are contrary to the Development Plan. The following should be taken into consideration, when assessing development proposals for sites not allocated for development in the development plan;

- Policies 7-9 of SDP1 (housing land supply, transport and infrastructure)
- Housing allocated and/or safeguarded in adopted LDP;
- Policies of SDP2 Proposed Plan (with exception of those relating to transport infrastructure)
- SDP2 Examination Report
- Latest Housing Land Audit
- Housing Need & Demand Assessment (2015) (HNDA2)
- SDP2 Proposed Plan Housing Background Paper (October 2016)

HNDA2 was considered to be 'robust and credible' by the Scottish Government in March 2015 and will be used to inform the production of the LDP2. It has significantly lower housing demand estimates compared to HNDA1, which was used to inform SDP1.

Ultimately, it is not accepted that the Council have failed to provide an effective five year housing land supply and it is not agreed that the methodology should roll forward any undelivered targets. The applicant also casts doubt over the deliverability of certain allocated sites such as March Street Mills and Rosetta, which is not justified in that discussions on such sites between the Council and the applicants continue with regard to their ultimate approval and development. It is not considered that the applicant has justified a housing shortfall in the effective five year supply and, therefore, fails to comply with the relevant qualifying exception in Policy PMD4. Furthermore, the application for the same reasons, fails to comply with Policy HD4.

Had the application complied with one of the qualifying exceptions of Policy PMD4, then it is likely that it would have been able to comply with the four secondary criteria which relate to the relationship of the site and development with its surroundings, being a logical extension and not having significant adverse impacts on the landscape or environment. The Council have identified the land as potentially suitable for development in the longer term and, thus, such criteria have already been take into account and considered to be generally acceptable subject to precise development and landscaping details.

Of the other considerations under Policy PMD4, however, the lack of bridge and road junction capacity (outlined below in this report) certainly would determine that there were significant problems in granting an exception when considering “the infrastructure and service capacity of the settlement”. It is considered that this is a further reason why an exception cannot be granted and the application is contrary to Policy PMD4.

Had the application been considered acceptable under Policies PMD4 and HD4 at this stage, then all Site Requirements applied to SPEEB005 would also need to be met. The applicant rehearses these at paragraph 3.7 of their Planning Position Statement. Many of the Requirements have either been met by the current application or there are indications that they could be met at the next planning stage. This is apart from the requirement for a second bridge crossing of the River Tweed which is discussed in the next section of this Report.

Access

Policies PMD2, IS4 and IS6 require safe access to and within developments, capable of being developed to the Council’s adoptable standards and in accordance with the guidance in “Designing Streets”. The Local Development Plan identifies the site for longer term mixed use but does not state an indicative capacity for the site. However, the Site Requirements state the following:

- Provision of a new bridge linking north and south of the River Tweed
- A vehicular link and pedestrian links will be required to the adjacent allocated site TP7B.
- The upgrading of B7062 Kingsmeadows Road will be required.

The LDP also contains requirements for any housing development beyond 50 units to be accompanied by a Transport Assessment. The application was supported by an Assessment, including a traffic survey and several subsequent updates. The proposals contain the required vehicular and pedestrian access links to the adjoining site and would appear to provide satisfactory connectivity within and surrounding the site. Although no specific improvements are identified as necessary on the B7062, a footpath along the site frontage will be extended to connect with the adjoining site to the west.

The main issues relate to the capacity of the current road system serving the site to accommodate the additional traffic from this development, most notably Tweed Bridge, the High Street and the mini roundabout at the western end of the High Street. The applicant’s main position is to dispute the need for their development to await the provision of a second bridge across the Tweed. They consider the classification of the bridge (in the Design Manual for Roads and Bridges) combined with the width (at over 8m) should provide for a maximum capacity of 1900 two way vehicle movements per hour. Even if the lower classification is taken, the capacity based upon a 6.1m carriageway width should be 1500 vehicles.

The applicant takes this lower figure and uses results from independent traffic surveys in recent years. Applying the highest survey figures, the development would increase traffic to a two-way peak of 1255 vehicles. When added to traffic forecast from the housing developments at South Parks, March Street Mills and Rosetta Caravan Site, the highest peak would rise to 1327 vehicles. The applicant considers that this is still well within an appropriate and conservative capacity of 1500 for the bridge – even though this is based upon a carriageway width narrower than the bridge. The applicant also argues that the doubts cast over the March Street Mills site, following the

Reporter's refusal of the appeal, result in greater spare capacity. The applicant also notes that the Council Roads Planning Service (RPS) would accept that the capacity lies between 1250 – 1500 vehicle movements per hour.

The applicant, in the Transport Assessment and updates, also addresses the issues over capacity of the road system in Peebles High Street and at the mini roundabout before the Tweed Bridge. The surveys do suggest there can be fluctuating queues in the High Street and at the mini roundabout, exacerbated by parked vehicles and the controlled pedestrian crossing. 2016 surveys demonstrated operation within practical capacity but by 2022, with the proposed and other developments, the practical capacity will just be exceeded (85%). However, taking into account other factors including journey time delays and the impacts of the pedestrian crossing, the applicant argues that the mini roundabout junction will operate within capacity "...in real terms" and that High Street congestion will not be significantly increased.

The response from Roads Planning has to be viewed within the background of identified concerns over the capacity of Tweed Bridge. The Local Development Plan states the following:

"The possible requirement for a second vehicular bridge over the River Tweed was subject to investigation by external transport consultants in the period leading up to the publication of the Finalised Local Plan 2005. The results of the study inform that the housing developments to the south side of the River Tweed proposed in the Finalised Local Plan can be accommodated by the existing Tweed Bridge within the expected lifespan of the Plan, but that this would be at the cost of increased congestion on the North Side of the River at peak commuter times, and that these developments would take the existing bridge close to capacity. Therefore it is now considered that the time has been reached when development sites in Peebles need to contribute towards the tackling of congestion and the potential provision of a second crossing."

This has been interpreted in the reservation of development opportunities SPEEB03, 04 and 05 to the longer term, outwith the settlement boundary and all subject to provision of a second Tweed bridge. In effect, a prohibition of further development, apart from infill and allocated sites, to the south of the river. Whilst studies have been carried out regarding the second bridge crossing and the Council have allocated money for continued feasibility and design studies, this will not be within the current period of the Local Development Plan. The Local Development Plan position is, therefore, that the current bridge cannot safely accommodate the traffic generated by the proposed development.

RPS have explained the position in more detail in their consultation responses which Members will have noted on Public Access. In particular, much of the disagreement between the Council and the applicant over the capacity of the bridge relates to what category is assumed from the "Design Manual for Roads and Bridges". This is explored in more detail in the Roads Planning response of 18 October 2017, which states:

"There has been much debate on the capacity of Tweed Bridge in terms of traffic flow. The transport consultants acting for the Council in 2005/2006, Colin Buchanan & Partners (CBP), determined the capacity to be 1250 vehicles per hour while ECS, acting on behalf of the applicant, have determined the figure to be 1500 vehicles per hour although they have suggested the figure could be higher. Both consultants rightly refer to TA 79/99 in Volume 5 in the Design Manual for Roads and Bridges. The two figures simply arise from different interpretations by the consultants of the parameters in the TA. CBP have assumed the road to be type UAP4 which relates to a "busy high street carrying predominately local traffic with frontage activity including loading and

unloading” while ECS suggest the road type is UAP3 relating to a “variable standard road carrying mixed traffic with frontage access, side roads, bus stops and at-grade pedestrian crossings”. In reality the road type is probably somewhere between the two. The “High Street” feel continues up to the bridge with shops, restaurants etc. in existence and Kingsmeadows Car Park on the south side of the river serves as a car park for the town centre via Tweed Bridge. From that it can be seen why CBP interpreted the road as Type UAP4. To ascertain a 1250 capacity figure, CBP have taken the carriageway width to be 6.1m while a 6.75m width would have related to a capacity of 1500 and 7.3m would relate to a 1900 capacity. Although the carriageway width appears to be around 7.3m, CBP have used the 6.1m width to account for the curved nature of the road approaching the bridge from both sides combined with the pedestrian island on the bridge and reduced effective width of carriageway as marked out on the approaches to the island.

ECS have determined that by taking the up-to-date traffic figures for the bridge of 1179 peak hour two-way flow, then allowing for traffic growth, then adding committed development traffic and finally adding the traffic associated with the application, the two-way peak hour flow on the bridge could be 1381. Clearly this figure exceeds the 1250 capacity figure suggested by CBP and is 119 short of the 1500 capacity figure suggested by ECS. It should be noted that the capacity figures are maximum figures and so the 1381 figure is likely to be an issue irrespective of which capacity figure is considered most relevant.”

It is clear that the advice of the RPS is that the bridge would be over capacity, whether they take the 1250 figure or half way between the 1250 and 1500 capacity figure. Following further traffic survey information and consideration of committed developments in the town, the highest peak figure drops from 1381 mentioned above to 1327, although it does not factor in any traffic from the allocated Tweedbridge Court site. When the Council considered the recent South Parks and Tweedbridge Court sites, the peak figure was 1231 vehicles, to which the development traffic (137 vehicles) would then need to be added. Although the Tweedbridge Court application was refused on appeal, a revised application was subsequently approved with a reduced number of units and slightly lower traffic generation.

The applicant also submitted a second transport consultant’s assessment and classification of Tweed Bridge which backed up their initial Transport Assessment, classifying the Tweed Bridge as UAP3 with a capacity of 2166 vehicles per hour, the latest flow being only 55% of that capacity at its busiest. It claims that the Council assumed capacity of 1250 vehicles per hour is an underestimate. RPS have responded to this second assessment by reaffirming that the Council have consistently accepted the 1250 capacity recommended by transport consultant’s acting on their behalf.

The applicant’s Transport Assessment also does not seem to take into account certain other committed developments around Peebles, including consents at Kingsmeadows House, Kingsmeadows Stables and several plots in Bonnington Road. Along with other individual plots around the town, these may not add up to much more than 20 units but, nevertheless, add to the problems and issues of a bridge over capacity. The RPS position, as advised by original transport consultants, was to assume the capacity of the bridge was 1250 vehicles at peak hour. This capacity figure has previously been agreed and accepted by the Council. When the traffic associated with the development is added to committed development and current traffic figures, it is considered that the bridge is over capacity and cannot safely accommodate the development. As the applicant is not proposing any contribution to enable the second bridge to be

constructed, it is considered that the application contravenes the Local Development Plan, especially Policies PMD2, PMD4 and IS4.

RPS also advise against the development in relation to traffic flow and amenity impacts on the High Street, lack of connectivity under “Designing Streets” and the performance and capacity of the mini roundabout at the western end of the High Street. Their advice is that for a medium sized town split relatively equally on both sides of the river, the town cannot continue to grow and rely on a single river crossing. They feel that for development on the south side of the river in particular, this is unacceptable given that the main roads out of the town are all on the north side. Single street connectivity is not conducive to the aims of “Designing Streets”. They also note that, with committed development, the development would result in a significant increase in traffic at the mini roundabout of 97% of practical capacity (from 88%). This is not considered acceptable by RPS and would lead to increased congestion and detriment to High Street amenity.

The applicant disagrees with these points in their Planning Position Statement and updated Transport Assessment. They feel that the mini roundabout will still operate without issue, that journey times will not be significantly affected and that there will be no unreasonable environmental impacts caused by the additional traffic. On “Designing Streets”, the applicant believes that this applies to new developments and street patterns and should not be applied to historic or existing street patterns.

There is no doubt that the principal issue is bridge capacity but that impacts on connectivity, the High Street and the roundabout will also occur with the addition of 137 vehicles in the peak morning hour. The impacts will raise the strain on the mini roundabout to within only 3% of its absolute operational and safe capacity by 2022, from 88%. This has to be of some concern, especially with regard to the future growth of the town and, indeed, additional natural growth in vehicle ownership. Whilst the other impacts on the High Street and conflict with “Designing Streets” could continue to be contested, the strain on the mini- roundabout capacity has to be of significant concern, when added to concerns over the bridge capacity. For these reasons, the advice of RPS is accepted that the development would exceed the safe and practical capacity of the existing bridge and roundabout junction leading to the site, contrary to Local Development Plan Policies PMD2, PMD4 and IS4.

Density and layout

The density and layout of the development should be assessed against Local Development Plan Policy PMD2, the “Placemaking and Design” SPG and “Designing Streets” in particular. The identification of longer term developments in the LDP are not normally accompanied by indicative site capacity figures, nor is it justifiable to assess this development on density when it remains an application for planning permission in principle and specific numbers of houses were not sought in the application – nor reflected in the application description.

The supporting documents do suggest a development of around 200 houses on a developable area of 7.4HA (the overall site being 20.6HA), equating to a density of around 27 houses per hectare. Whilst much will obviously depend on the form and scale of those houses, including numbers of semi-detached or terraced blocks, the density suggested would be appropriate to the development context and in keeping with adjoining character, thus in compliance with Policy PMD2 and placemaking guidance. The adjoining housing development has around 215 houses across a slightly larger, but similar, area. The density ratio also compares favourably to other density ratios recently consented for private housing developments in Peebles and

elsewhere in the Borders. The final housing numbers would be a matter for the next planning stage, should PPP be granted.

The layout is shown schematically on the Indicative Masterplan and further explanation is provided in the Design and Access Statement. It is clearly influenced by the three access points, the position of the mixed-use element, the flood relief channel and the analysis in the Landscape and Visual Appraisal. Connectivity with the existing housing development is provided as well as loop road systems within the development, connecting at two points with the B7062. The suggestion is blocks of development with open space surrounding the developable area and an area of open space directly adjoining the link road through to the existing estate. There is nothing in the response from Roads Planning that would indicate any issues with the density and layout approach, apart from their in principle objections to the capacity of the existing roads and bridge.

The Landscape Architect makes her comments after assessing the Landscape and Visual Appraisal and is mostly concerned with the erosion of the Special Landscape Area and setting of the Kailzie Designed Garden at this location. It is suggested that housing heights be limited to 1/1.5 storeys. Whilst this is noted, it is difficult to justify throughout the development rather than perhaps on the very eastern edge of the development area. However, comments about the development being restricted to the two fields west of the existing remnant hedgerow are, in fact, achieved by this application. The incursion into the open triangular field is actually only made by the reserved one hectare site for employment/community use and that, in effect, is not part of this application. That triangular site is, indeed, very much part of the identified longer term development site SPEEB005 and there is no mention in the site requirements of it needing to be reserved for open space – as opposed to the fields north of the B7062 in the functional flood plain which are denoted for open space retention. The additional 10m buffer space alongside the Haystoun Burn, recommended by SNH, also reduces the built-up area and visual impacts further.

Overall, the site has been identified for longer term housing and mixed use development and it has been accepted in the LDP that Peebles can expand in this direction, subject to a second bridge link in particular. The application is only submitted as a planning permission in principle but, subject to acceptable details at the next planning stage, it is not considered that the development density and layout would present any insurmountable issues.

Design and materials

The design of the development must comply with Local Development Plan Policy PMD2 and the “Placemaking and Design” SPG in particular. PMD2 requires developments to be of a scale, massing and height appropriate to its surroundings. Whilst this is a site within and on the edge of open countryside, its relationship with the existing Kittlegairy View housing development is undeniable and strong. With an application for planning permission in principle, designs and materials are not yet known and what is provided is general principles in the Design and Access Statement. It states that *“The proposed development will reflect the character, scale and density of properties within the local townscape”*. It also states that houses will be limited to 9 metres high and a maximum of two storeys.

As a result of the element of land-raising and the relatively open nature of this site on the flat outskirts of Peebles, a restriction to two storey height would be considered justifiable in this instance, matching with the general heights within the adjoining Kittlegairy View. Had the development been considered acceptable, then there would also be justification to ensure that colours of materials were natural and subdued,

respecting the semi-rural edge of the site. Whilst there have also been objections from third parties over the potential visual impact of the development on raised land, the landscape is expansive and flat in this part of Peebles and is able to accommodate a 750mm addition to overall height of development without appearing dominant or excessive. The 10m buffer setback from the Haystoun Burn, recommended by SNH, would also reduce visual impacts. It should also be noted that the existing housing development immediately to the west of the site involved land raising with imported material.

Mixed Use

The identification of the site in the Local Development Plan under SPEEB005 is for "Longer Term Mixed Use". In the site requirements, it is stated that *"There is currently a shortfall of good quality business and industrial land in Peebles.....employment land could come forward early to meet this shortfall"*. The requirements also state that the site would be for *"...housing, employment, potential new school site and recreation ground. The site should also allow for the potential for tourism facilities"*.

Members should note that this application does not propose any use other than housing but, instead, leaves a one hectare area of land towards the eastern edge and near to the B7062 for appropriate mixed use other than housing. In effect, the applicant contends that they are safeguarding land for such employment uses and that, through the Landscape Evaluation and Masterplan/Design Statement, have ensured that such uses on this excluded area of the site would be sympathetic to surrounding uses and the rural/urban fringe setting. The applicant not only excludes the site from the current application but also refers to it as the last phase in their development.

The advice from Forward Planning was to ensure that Economic Development and Education and Lifelong Learning were content that reserving a one hectare area of land would meet their perceived requirements to meet employment and new school land supply within the overall mixed use site. No responses have been received to these requests for comment. The recent fire at the High School also has to be taken into account, in terms of future options.

Had the application been recommended for approval, further investigations would have been carried out with regard to the sufficiency of land to accommodate the site requirements. At this stage, however, there is no evidence to suggest that the provision of a one hectare parcel of land outwith the housing site would be insufficient to meet the mixed use requirements of the Local Development Plan in the longer term. There is neither a proportion/ratio nor timing detailed in the site requirements for the land identified for mixed use in the longer term in the Local Development Plan. It is, therefore, concluded that there is insufficient justification to refuse the application for this reason. The application has still provided for the possibility of an overall mixed use development.

Landscape

Impacts on the landscape need to be considered against Local Development Plan Policies PMD2, EP5 and EP13 primarily, with further regard to Supplementary Planning Guidance on landscape designations, trees and development. The site lies within the Tweed Valley Special Landscape Area and contains a number of mature trees. This has been considered in detail by the applicant in their Landscape and Visual Appraisal. This concludes that the site is not visually prominent in the wider landscape, mitigated by intervening trees and vegetation. Where longer views are possible from the east, this is against the backdrop of the existing housing development to the west

of the site. New planting proposals around the site are intended to link with the existing woodland framework, integrating the site into the development, assisted by avenue planting along the B7062.

Landscape impacts can only be assessed against the likely impacts of the development, given that the application is only for planning permission in principle and precise layout, numbers and design of houses are yet to be determined. The Local Development Plan has identified this site for development in the longer term so there is tacit agreement that landscape impacts would not be insurmountable. There are relevant specific site requirements, as follows;

- Enhancement of existing woodland and provision of additional landscaping. The long term maintenance of landscaped and open space areas must be addressed.
- Consideration should be given to the design of the overall site to take account of the Special Landscape Area.

The Landscape Architect raises no objection to the application but is concerned at the potential impacts and encroachment on both the Special Landscape Area and the Kailzie Designed Landscape. The Landscape Architect lists a series of requirements in relation to the landscaping scheme accompanying any Reserved Matters submission, including tree retention, boundary augmentation and integration of open space elements. Also considers that building heights be limited to 1/1.5 storeys and that no development occurs in the triangular field proposed for employment/community future use. These restrictions cannot be imposed for reasons explained above.

All other comments and recommendations could be accommodated within conditions attached to any consent, for proper assessment at the next planning stage. There are, therefore, no justifiable reasons to oppose the application on the basis of landscape impacts.

Residential Amenity

Policies PMD2 and HD3 contain safeguards regarding residential amenity, both in terms of general use compatibility but also direct impacts such as privacy and light. In terms of PMD2, the development of the site for housing is compatible with and respects the uses that predominantly adjoin the site i.e. the housing areas at Kittlegairy to the west. This compatibility of adjoining uses was considered appropriate in the identification of the area for longer term housing in the Local Development Plan. Although Cavalry Park contains business and industry uses to the north, this is already an existing relationship with the previous Kittlegairy housing phases and there would be no justification to oppose in this case, especially given that the development is more detached from Cavalry Park to the east. It is also clear from the Indicative Masterplan that sufficient buffer open space and planting will be provided to separate the housing from Cavalry Park.

The Masterplan also gives thought to the surroundings of the one hectare of land that is left outwith the site boundary for mixed employment, business or community use. Although the application is for planning permission in principle, this area is outwith the main body of the housing development to the east and intended to be separated further by the Haystoun Burn overflow channel, open space and planting. It will also be accessed directly off the main access road into the development, enabling associated traffic not to impact directly on residential amenity within the development.

In terms of direct impacts on residential amenity, the houses at Kittlegairy View would lose their current outlook to the east but this is not a valid reason for opposing the scheme, especially as the site is identified for housing in the longer term in the Local Development Plan. The Planning and Design Statements have addressed this by stating that there would be 20m rear gardens to the nearest new houses. Had the development been considered acceptable, then the precise distances and screening would have been controlled at the next planning stage. Overall, however, there would be no reason to consider that the development would contravene LDP or SPG residential amenity requirements in terms of privacy and light.

Drainage and Flood Risk

Local Development Plan Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Policy IS8 relates to flood risk and IS9 to Waste Water Treatment Standards and Sustainable Urban Drainage.

Policy IS8 requires development to not be at risk of flooding but also not to materially increase the risk of flooding elsewhere. It also suggests development in “*undeveloped and sparsely developed areas*” will generally not be allowed. The Local Development Plan identifies that the overall site is at high risk of flooding, that a Flood Risk Assessment is required and that no development should take place on the functional flood plain, identified to be north of the B7062 (outwith the current site). The application was supported by a full Flood Risk Assessment which has been subject to several updates during the processing of the application. Both SEPA and the Council’s Flood Risk Officer have been consulted on the application at all stages on the Assessment and updates.

The application had initially been supported by flood compensatory storage and a bunded field to the east of the development site (not within the area identified for mixed use development in the Local Development Plan). However, this has now been omitted and the remaining flood mitigation proposals consist of 750mm land raising and an overland flow channel to the south and east of the development area. The hydraulic modelling carried out has revealed protection to the proposed development and little change to the flood risk potential on surrounding properties or downstream. The applicant argues this complies with the test of “*neutral or better effect*” in Policy IS8.

The position of the SBC Flood Risk Officer (FRO) has changed during the processing of the application and as a result of updates to the Flood Risk Assessment. FRO initially objected to the application on the basis that the site is at risk of 1 in 200 year flooding from the Haystoun Burn and that the area initially intended for flood storage was within the functional flood plain with bunding that could fail. The FRO also felt it had not been demonstrated that the site was free from flooding from the Haystoun Burn and was concerned mitigation might increase flood risk at Whitebridge.

Upon submission of a revised scheme removing the flood storage and bunding and following further information from an SBC study of the Tweed and Haystoun Burn, the Flood Risk Officer noted that very little difference in flood levels in the Tweed resulted nor were there any identified or unmanageable flood risks to surrounding properties. The FRO accepted that land raising and an overland flow route from the Haystoun Burn to the Tweed are still proposed and represented a technical solution to the flood risk issues, provided floor levels are set at least 150mm above surrounding ground levels, flow paths direct surface water away from properties and the development platform is protected.

SEPA have objected to all stages of the application process, for a number of reasons relating to flood risk. They did not accept the original flood storage and bund proposals as bunds could fail and the land was already at risk of flooding. Following omission of the flood storage/bund proposals, they still maintained objection in principle as the development was on a sparsely populated flood plain (against SPP) and there was no sustainable solution to development. They also had remaining concerns over the modelling methods used and impacts of the omission of the flood storage area and land raising on the flood risk to existing properties. They have indicated they would not wish to comment further on this application and that, should the Council intend to approve the application, Scottish Ministers should be notified.

Whilst SEPA remain in a position of objecting, the Council Flood Risk Officer has now accepted the revised mitigation as providing an acceptable technical solution, accepting that land raising at this location is in compliance with Scottish Planning Policy. The applicant points out that land raising was carried out on the adjoining housing site and that they have successfully demonstrated the mitigation will not result in adverse effect on surrounding land or properties.

Scottish Planning Policy contains a Risk Framework which identifies that in areas of medium to high flood risk *“in undeveloped and sparsely populated areas”*, development should not normally be allowed unless there are exceptional operational reasons. This is the main reason for SEPA opposition whereas the Flood Risk Officer has referred to land raising, which is subject to a number of provisos. A common requirement of the prohibitions and mitigation is that they are based upon having a “neutral or better effect” on flooding elsewhere. The applicant argues that they have demonstrated this and this demonstration is accepted by the Flood Risk Officer.

Whilst SPP does contain apparent prohibitions to development on functional flood plain at medium to high risk and does advise against land raising in some circumstances, the following should be considered:

- Policy prohibitions should be explored as to how the development has addressed them, not rejected on the principle of the Policy alone
- It is arguable that this site is in an *“undeveloped or sparsely populated area”* given it is on the edge of a town and next to an area of over 200 houses recently developed. It is certainly an undeveloped site but not in an undeveloped or sparsely populated area.
- The Local Development Plan does identify the site as being suitable for longer term housing. Even though this was subject to a Flood Risk Assessment, the LDP does not set out to earmark future land that has no potential in principle to be developed.
- One of the main purposes of the SPP prohibition relates to avoiding increasing flood risks elsewhere, as also protected by Policy IS8 which seeks to avoid “unmanageable” risks. The Council Flood Risk Officer accepts that the flood mitigation measures do that.
- SPP allows land raising in some circumstances subject to criteria – all of which are either not proven to be needed or fully met by the proposals

Taking these factors into account and whilst recognising that SEPA maintain their objection in principle, it is not considered there that there is justification to refuse the application for flood risk reasons. The applicant has provided sufficient information to demonstrate that development can be protected from flood risk whilst not creating increased risk elsewhere. Should Members wish to approve the application, the

outstanding SEPA objection determines that notification to the Scottish Ministers would be necessary.

On water and drainage, there has been no response from Scottish Water. SEPA had commented on insufficient information on drainage, especially in relation to surface water. The lack of details on a PPP application is not unusual although it is known that the land raising is an intrinsic part of achieving sufficient gravity fall for surface water from the site. Such detail would need to be provided at the next planning stage. Given the identification of the site in the Local Development Plan for longer term consideration, there is an expectation that the development could be connected to the public water and sewerage systems in the future. The developer would still need to make direct application to Scottish Water and they may need developer contributions to upgrade facilities. The provision of adequate water and drainage could have been addressed by fully suspensive conditions.

Ecology

The application requires assessment principally against Local Development Plan Policies EP1-EP3 covering international, national and local nature conservation and protected species. The site requirements in the LDP also list mitigation and protection of the Tweed SAC and further assessment of nature conservation interests. The application was supported by an Ecological Assessment with subsequent updates. The Council Ecology Officer was concerned that, in the absence of an agreed flood mitigation and drainage strategy with SEPA, the proposed mitigation could affect the SAC, relating to both the Tweed and Haystoun Burn. Whilst the applicant then responded with a Habitat Regulations Appraisal (HRA) including a Construction Method Statement, the Ecology Officer still considered that the impacts on the integrity of the SAC could not be concluded through an Appropriate Assessment (AA) (including HRA) until flood mitigation had been agreed with SEPA. This was also raised by SNH.

The applicant responded further by a technical note which, in their opinion, provided sufficient information to enable the AA/HRA to be concluded and that there was no procedural reason to have to wait for SEPA agreement to a drainage or flood mitigation strategy. Their information suggested, though mitigation, there would be minimal impact on the Tweed SAC.

SNH then objected with regards to the potential impact on the SAC and the Haystoun Burn tributary, commenting that the HRA would still need to be carried out by the Council before determination of the application. However, SNH did state that a standard 10m buffer, which they normally apply to the River Tweed, could be applied alongside the 200m of Haystoun Burn and that this mitigation could resolve their objection.

The applicant considered this amendment and accepted the SNH recommendation, submitting a revised Masterplan creating a 10m buffer from the Haystoun Burn to the flood relief channel, ensuring no development within this buffer zone. Subject to an appropriate condition being imposed on any consent, SNH withdrew their objection and the SBC Flood Risk Officer also raised no objections to this additional buffer space.

SNH also commented that, in their opinion, the development would then not adversely affect the Tweed SAC and that the Council could take this advice into account when completing the HRA. This has now been completed by the Ecology Officer who has concluded that the proposal would not adversely affect the integrity of the Tweed SAC.

In terms of protected species, further bat surveys have satisfied any concerns, subject to additional surveys should two identified trees be intended for removal. This matter could be covered by a condition as could Species Protection Plans for breeding birds, bats, otter, red squirrel and badger. Further conditions should control works within the breeding bird season and seek both a Habitat Management and Enhancement Plan and Construction Management Plan.

There are, therefore, no ecological reasons to oppose the application.

Other issues

Other material issues can be dealt with by planning condition, should the proposal have been supported. This includes archaeology in that, even though there were no features or finds after evaluation in 2007, there is still potential in the areas not evaluated i.e. the employment site and flood storage area. A condition could have required this.

Play Space is generally advised within the Council "Greenspace" SPG. The Council Policy, in recent years, has been to seek enhancement of existing play space facilities rather than individual small play areas where adoption and maintenance pose additional problems. In recent housing developments in Peebles, commuted sums have been sought from developers towards enhancing existing play facilities elsewhere, including the facilities at Hay Lodge Park to the north of the river. This included a development at Jubilee Park that did not, ultimately, receive consent for other reasons.

Pedestrian access to Hay Lodge Park or, indeed, the nearer Victoria Park, is still over a considerable walking distance. It is not considered that off-site enhancement of public facilities would be appropriate in this instance, also reflecting the size of the site and potential 200 housing units. The playspace requirements of the SPG could be met either by on-site provision or by facility enhancement with existing facilities in Kittlegairy View adjoining and developed by the same applicant. There is an appropriate area of open space intended between Kittlegairy View and the development, adjoining the link road that would be a suitable location for a play area.

Given the scale of the development, a phasing condition would have also been necessary to ensure delivery of all supporting works e.g. paths, roads, open space, landscaping, water and drainage. An indication is given in the Design and Access Statement of four phases at 50 units per phase.

Developer Contributions

Local Development Plan Policy IS2 requires all housing developments to contribute to infrastructure and service provision where such contributions are considered necessary and justified, advised by the Development Contributions SPG. This includes a requirement for all private housing developments of 17 units and upwards to provide on-site affordable housing units at a ratio of 25%. The developer will meet this particular requirement through the provision of the required number of affordable houses, confirmed at para 6.27 of the submitted Planning Statement. The Council Policy will, therefore, be met by the provision of the units, subject to agreement of tenure, via a Section 75 Agreement. Members will note that a local Housing Association have already indicated an interest in the 2019-24 SHIP. This interest tends to answer those objectors who felt the site would be too remote for affordable housing.

In terms of other financial contributions that would be demonstrated to be required by the development, impacts on schools and health facilities are mentioned by objectors. In terms of education and, whilst acknowledging the concerns that have been expressed over capacity and strain on facilities, the Council Policy is to seek a standard contribution per market unit where school capacity and rolls are of concern to Education and Lifelong Learning. Although they have not responded to the consultation, it is known that contributions towards Peebles High and Priorsford Primary Schools are required. The developer will be required to meet these contributions – levied upon the private houses and not the affordable units. This element of development contribution Policy would also be met through the Section 75 Agreement.

Similarly, the standard £1000 per market unit for traffic management/Peebles Bridge Study and £500 per market and affordable units for off-site play provision enhancement (as previously referred to) would also need to be met by the developer within the Section 75 Agreement, should the development have been supported. Given the potential number of housing units and distance from the town parks such as Victoria and Hay Lodge, on-site provision would also have needed to be explored before any acceptance of commuted sums for off-site enhancement.

Many objectors refer to the current health care provision and waiting times in Peebles. Such concerns frequently arise in Peebles and many other towns across the Borders when faced with housing development and population growth. The concerns suggest that the application should either be refused for reasons of impact on health care services or that contributions be sought to support the services. The issue is regularly reviewed during the Development Planning process and, as identified by some objectors, the NHS are consulted when land is allocated and growth planned.

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

CONCLUSION

In conclusion and although the site is identified for longer term development in the Local Development Plan, the proposal is premature and contrary to Policies on development outwith settlement boundaries and access. The application does not meet any of the qualifying tests for an exception to developing outwith the settlement boundary and the current Tweed Bridge and mini roundabout junction leading to the Bridge do not have the capacity to cater safely for the traffic generated by the development.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is refused for the following reasons:

1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the site is safeguarded as a potential long term mixed use site and there is insufficient justification to bring the site forward when there is currently a five year effective housing land supply in the Scottish Borders. The application fails to comply with the relevant qualifying exceptions in Policy PMD4 and is therefore considered to be premature.
2. The application is contrary to Policies PMD4 and HD4 of the Scottish Borders Local Development Plan 2016 in that the development lies outwith the defined settlement boundary for Peebles and there is insufficient justification to substantiate either an exception to PMD4 or subsequent compliance with HD4. This would lead to inappropriate and unjustified residential development on the edge of the settlement.
3. The application is contrary to Policies PMD2, PMD4 and IS4 of the Scottish Borders Local Development Plan 2016 in that Tweed Bridge and the mini roundabout leading to the Bridge from the High Street do not have the capacity to safely accommodate the anticipated traffic generated by the development, in addition to traffic envisaged from committed development. This would lead to unacceptable levels of vehicular traffic resulting in increased congestion and road safety risks.

DRAWING NUMBERS

Location Plan	PL01
Existing Site Plan	PL02
Indicative Masterplan	PL03 Rev B

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

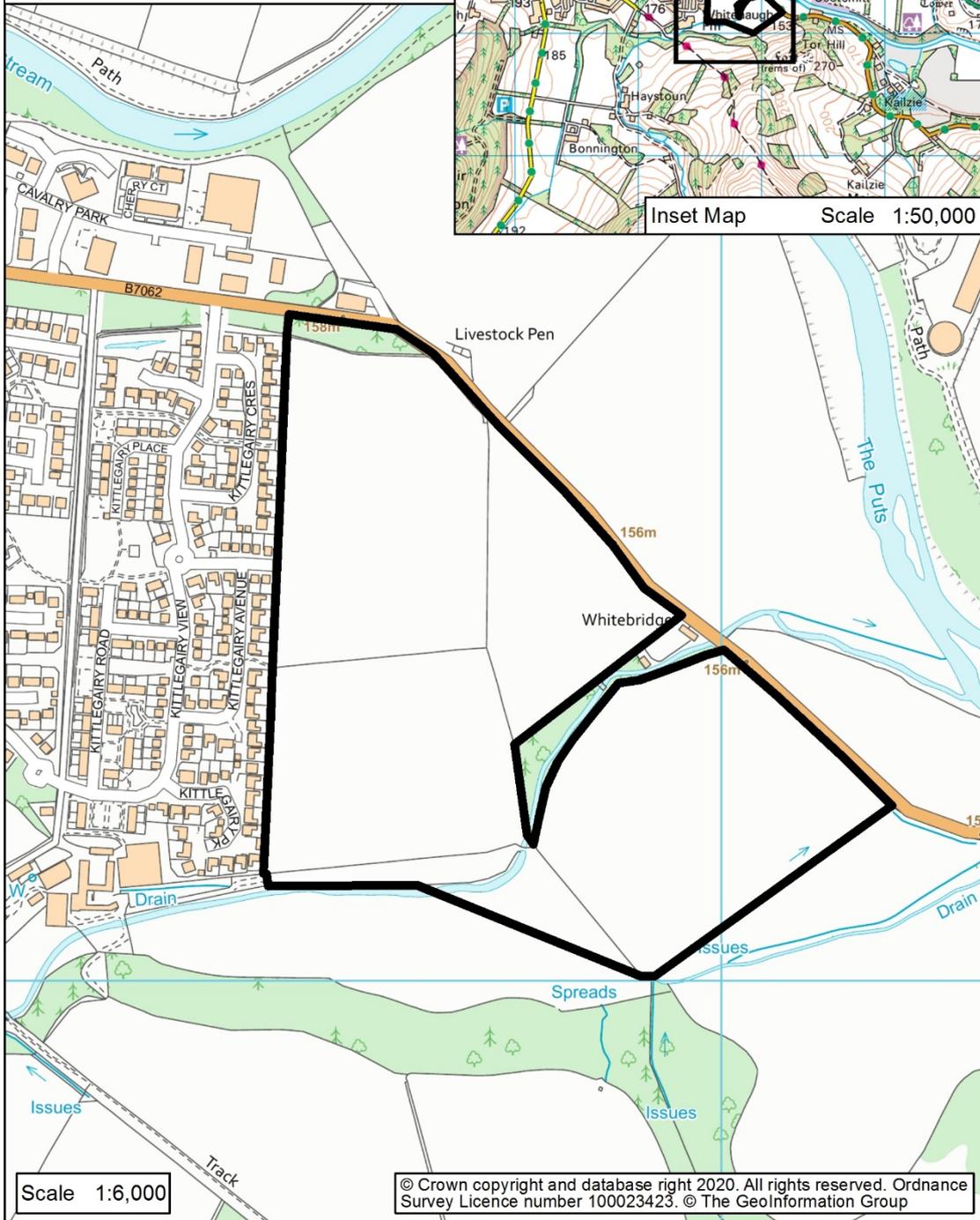
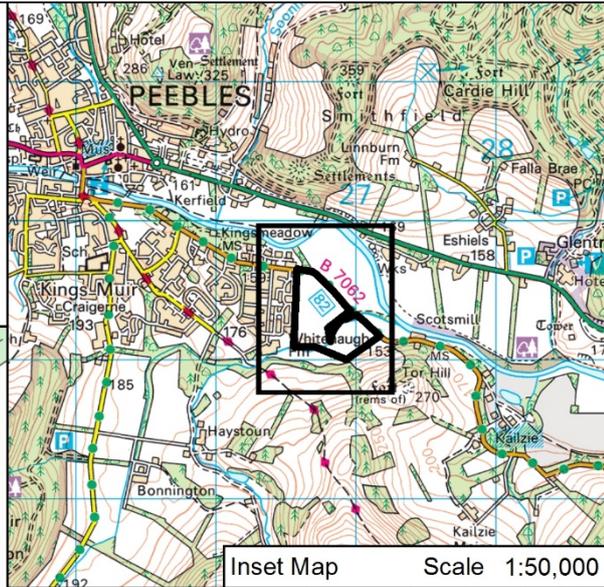
Author(s)

Name	Designation
Craig Miller	Principal Planning Officer



17/00606/PPP

Land East Of 10
Kittlegairy Avenue
Peebles



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

3 FEBRUARY 2020

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 19/00191/FUL
OFFICER:	Craig Miller
WARD:	Galashiels and District
PROPOSAL:	Erection of 8 No. wind turbines with a maximum tip height of 130m, formation of access tracks, borrow pit, temporary construction compound, erection of control building, onsite substation and associated infrastructure and energy storage compound for up to 4MW
SITE:	Land north of Carcant Lodge, Wull Muir Wind Farm, Heriot
APPLICANT:	Energiekontor UK Ltd
AGENT:	None

PLANNING PROCESSING AGREEMENT (PPA)

A PPA is in place up to 3 February 2020.

SITE DESCRIPTION

The site comprises of plateau moorland and grassland, 3km north-west of Heriot and 3.5km south of Middleton. The northern boundary of the site forms the administrative divide between the Scottish Borders and Midlothian Council. The site is approximately 350HA in size located towards the northern escarpment edge of the Moorfoot Hills, including Hunt Law (410m), and immediately to the north of Peat Hill which contains the three existing Carcant wind turbines. Other hills in the vicinity include Wull Muir (433m), Carcant Hill (425m) and Winchel Hill (405m). The southern part of the site drops down to pastoral upland valley along the Heriot Water.

Several small watercourses pass through the site including the Whitelaw Cleugh, Heriot Cleugh and Heckle Burns and there is connectivity with the Heriot Water to the south which is part of the River Tweed SAC.

The immediate area is sparsely populated with small settlements such as Heriot and Middleton within 5km and occasional groupings and farms closer still, including Carcant, Whitelaw, Shoestanes, Falahill, Outerston Hill and Heriot Cleugh. Nettlingflat, Heriot Mill, Hangingshaw and Borthwick Hall also lie within 5km. A total of five properties or property groups lie within 2km.

The nearest public roads to the site are the A7 2-3km to the east at its nearest point, the B7007 (carrying National Cycle Network Route 1) to the immediate north and west of the site and the B709 1.5km to the south-east, linking the aforementioned roads. The A68 is more distant to the east as are the B6372 and B6458 to the north within Midlothian. The Borders Railway line passes to the east of the site, following the Gala Water valley and A7.

Core Path 33 adjoins the site to the immediate east, passing from Heriot Mill in the south to the B7007 to the north. There is also a Right of Way BE5 passing within the application site and other Core Paths identified to the south and east of the site linking Heriot Mill, Heriot, Borthwick Hall and Fala.

There are no statutory designated landscapes within 5km of the site. Of the two National Scenic Areas, the nearest to the south-west is the Upper Tweeddale NSA at 17km. The Eildon/Leaderfoot NSA is 23km to the south. Of the Special Landscape Areas and Regional Scenic Areas in the vicinity, the Gladhouse Reservoir and Moorfoot Scarp adjoins the site to the north-western edge. Six other SLAs within the 15km study area with visibility, lie within Midlothian ranging from the Tyne Water Valley SLA at 2.5km to the Pentland Hills SLA at 12.3km. SLAs within East Lothian and Edinburgh lie outwith the study area,

There are 48 heritage assets of national importance within 10km of the development comprising 35 scheduled monuments, 11 Category A Listed Buildings and two Garden and Designed Landscapes – three monuments and one A listed property lie within 5km. Of regionally important assets, eight B listed properties and two Conservation Areas lie within 5km of the nearest turbine. There are no nature conservation designations within the site although the Moorfoot Hills SAC/SSSI and River Tweed SAC/SSSI lie within 2km. The Fala Flow SPA lies within 10km, principally designated for golden plover and pink footed geese.

Although the eight proposed turbines were relocated south and east during the processing of the application, through Supplementary Environmental Information (SEI) procedure, the application site boundary and proposed access point remain unchanged.

PROPOSED DEVELOPMENT

The proposal is for a commercial wind farm comprising of eight turbines up to 130m to blade tip. The originally proposed development also included:

- Associated transformers, foundations and hardstandings (55x35m) for cranes
- On site tracks connecting each turbine with new watercourse crossings, nominally 5m width in coarse stone and with floating construction over any deep peat areas
- On-site substation (10x15m), compound and underground cables
- Energy storage compound – batteries within shipping containers
- Up to two borrow pits;
- Temporary construction compound
- Felling of 9.1HA plantation on site

As a result of the SEI procedures, the development was revised to move all turbines south and east to achieve improved setback from the Moorfoot Hills escarpment to the north. The details of the development remain the same as above with the exception that the plantation felling is no longer needed and the position of tracks, hardstandings etc are relocated to match the new turbine positions.

The construction phase would last for 12 months and the development would have a 25 year operational phase with site restoration and decommissioning at the end of the period .The wind farm is claimed to provide 33.6MW of installed capacity, representing a site capacity of 38.3% comparing to the UK average of 26.6%. This is forecast to

power 24,000 homes, saving up to 41,159 tonnes of CO2 each year. The application includes a 100m micro-siting allowance for turbines and infrastructure following detailed ground investigations and geotechnical surveys, with constraint buffers safeguarded as applicable.

Access to the site would be via the A7 south from Edinburgh and with an entry into the site from the B7007 utilising the existing Carcant site access.

It is claimed there will be around 42 staff employed during the main construction phase with an associated £5.7 million local spend. Thereafter, it is predicted the operation of the turbines would create 7 local jobs with a GVA of £378,053 per annum. There would also be a community benefit fund, either in the form of annual payments (estimated at £168,000 per annum) or also including shared ownership.

PLANNING HISTORY

The western part of the site lies within the original application site boundary (2005) for the current Carcant development.

NEIGHBOURING SITES/SCHEMES RELEVANT TO CONSIDERATION OF THE CURRENT PROPOSAL:

Operational:

Carcant – 1.4km distant, 3 turbines, blade tip 107m
Toddleburn – 9.2km distant, 12 turbines, blade tip up to 125m
Bowbeat – 10.3km distant, 24 turbines, blade tip 80m
Dun Law – 11.2km distant, 26 turbines, blade tip 63.5m
Dun Law Extension – 11.4km distant, 35 turbines, blade tip 75m
Pogbie – 12.2km distant, 6 turbines, blade tip 76m
Longpark – 16.8km distant, 19 turbines, blade tip 110m
Fallago Rig – 22.6km distant, 48 turbines, blade tip up to 125m
Keith Hill – 12.9km distant, 5 turbines, blade tip 76m

Under construction

Pogbie Extension – 12.2km distant, 6 turbines, blade tip 74m
Huntershall – 11.8km distant, 1 turbine, blade tip 75m

Consented

Cloich Forest – 17.5km distant, 18 turbines, blade tip 115m

In the Planning System

Fallago Rig Extension – 23km distant, 12 turbines, blade tip 126.5m
Gilston Hill – 7.5km distant, 7 turbines, blade tip 126.5m

Other Schemes

Scoping Stage schemes were not considered as part of cumulative impact assessment, but include a re-powering scheme for Cloich. Earlier stage schemes also mentioned by Heriot and Stow Community Councils in vicinity of Heriot.

REPRESENTATION SUMMARY

21 properties or households have submitted representations in respect of the application, 9 in objection and 12 in support. These can be viewed in full on the Public Access portal on the Council's website. The revision within the SEI did not result in any withdrawal of objections. The principal issues raised include the following:

Objections:

- Scheme is contrary to NPF3 and SPP as it is not sustainable development
- The UK set energy policy and the position is of supply over stripping demand
- Grid restrictions and constraint payments are constraining energy production and impacting negatively on economy
- Scottish Government targets not adequately accounting for other forms of renewable energy
- Scottish Government Policy only gives qualified support for wind energy requiring balance in protecting the environment
- Scheme could set precedent for requests for higher subsidy-free turbines
- Scheme is not supported by a net economic impact assessment
- Detrimental impacts on tourism in the area and inadequate research into impacts as required by SPP
- Contrary to many aspects of LDP Policy ED9
- Contrary to LDP Policy EP3 especially regarding impacts on golden plover and curlew
- Contrary to Policy EP5 with adverse impacts on the Special Landscape Area adjoining
- Contrary to SBC Renewable Energy SG and the Landscape Capacity Study, latter identifying no capacity above 80m height
- SBC Landscape Capacity Study superseded by new consents
- Update required to the SG to reflect growth in very large turbines
- Scheme would be a fragmented outlier from the Dun Law cluster as are Carcant and Gilston
- Current Scottish Government energy targets will comfortably be met with consented schemes showing there is no need for the development and targets are achievable without new proposals
- Significant adverse visual impacts from many of the viewpoints and underestimation of the significance of effects
- Cumulation with other existing and proposed wind farms in the area to create a wind farm landscape around the Moorfoots, Lammermuirs and Heriot
- Turbines too close to the Moorfoot escarpment and highly visible in an elevated position across the Lothians with detrimental impacts on the SLA and scenic qualities of area
- Residential properties at Nettlingflat, Falahill and Brothershiels will experience significant visual effects with full view or all turbines and shadow flicker due to elevated position of development
- Carcant had previously been reduced from six to three turbines to reduce impacts on the Moorfoot escarpment, this scheme exacerbating those impacts
- Adverse impacts on operation of, and recreation on, a local estate
- Two turbines will overhang the site boundary
- Poor community consultation pre-application submission
- Support comments are from people not locally affected or from landowners with vested interests
- Concerns over grid connection proposals and impacts

- Detrimental impacts of aviation lighting
- With exception of Viewpoint 2, the revised scheme still causes significant adverse visual effects from other viewpoints and does not resolve these effects adequately
- Noise impacts could be increased through turbine relocation

Support:

- Wind energy meets renewable targets and reduces greenhouse gas emissions
- Grant money becomes available for local communities
- Supports a local farming business
- Creates local jobs
- Not visible for much of the community
- Community is split over wind farms
- Already turbines in area
- Better in small clusters than larger turbine groupings
- No impact on landscape
- Heriot Cleugh now bought out

APPLICANTS' SUPPORTING INFORMATION

This full planning application is an EIA Development and is supported by a full Environmental Statement (ES) resulting from an Environmental Impact Assessment, which comprises the following documents, dated February 2019:

- Pre-application Consultation Report
- Design and Access Statement
- Planning Statement

Environmental Statement:

- Volume 1: Written Text
- Volume 2: Figures
- Volume 3: Technical Appendices
- Volume 4: Non-Technical Summary

During the course of the application process, the location of the eight turbines was changed leading to the submission of Supplementary Environmental Information (SEI) dated September 2019, comprising the following documents:

Volume 1: Written Text
 Volume 2: Figures
 Volume 3: Technical Appendices

CONSULTATION RESPONSES:

The following consultation responses have been received in respect of the application. The responses are available to view in full on the Council's Public Access System.

Scottish Borders Council Consultees

Landscape Architect: Objects to the proposal as there will be unacceptable significant landscape and visual impacts on sensitive receptors to the north. The wind farm's location at the very edge of the plateau encroaches onto the Moorfoot

escarpment, contrary to the guidance in SBC's Wind Energy Landscape Capacity Study which specifically identifies the escarpment as particularly sensitive. As the proposal is a relatively small windfarm in an upland type landscape, also concerned that the proposal introduces a windfarm into a section of the Moorfoot Hills that is currently relatively free of windfarms, the hills enclosing Edinburgh to the south effectively becoming a windfarm landscape. The proposed wind farm would be the closest windfarm along the northern edge of the Lammermuir/ Moorfoot plateau to the most populated areas of Midlothian and so will be the most prominent in views south.

Assessment based upon Policy ED9 of the Local Development Plan, the SBC "Renewable Energy" Supplementary Guidance, the 2016 Landscape Capacity Study and the relevant guidance within SNH documents, including "Siting and Designing Windfarms in the Landscape – Version 3". Considers landscape character at the transition between lowland and upland character types, the scheme impacting adversely on the fringe transition types and creating a dominant new element, diminishing the scale of the escarpment due to the prominent siting and open visibility. Cumulation with other wind farms, including Dun Law and Gilston, would result in more frequent visibility and impacts along the Lammermuir and Moorfoot escarpment.

Further to the revision to the scheme, acknowledges effort has been made to site the wind farm away from the very edge of the plateau, but still maintains objection as the landscape and visual impacts will still be significant and unacceptable. Remains prominent on the Moorfoot escarpment and still contrary to the guidance in SBC's Wind Energy Landscape Capacity Study which specifically identifies the Moorfoot escarpment as particularly sensitive. Maintains concerns that the proposal introduces a windfarm into a section of the Moorfoot Hills relatively free of windfarms and will further contribute to the Lammermuir/Moorfoot escarpment becoming a windfarm landscape. The proposed wind farm would be the closest windfarm along the northern edge of the Lammermuir/ Moorfoot plateau to the most populated areas of Midlothian and will be the most prominent in views to the south.

Identifies improvements in impact from some of the viewpoints such as 2 and 7 but at the expense of increased impacts to viewpoints such as 6 and the Crichton Castle cultural heritage viewpoint.

Flood Protection Officer: No objections. Part of the site lies within the 1 in 200 year flood risk zone but the turbines are outwith any watercourses. Controls to ensure attenuation to match existing greenfield run-off rates, sediment mitigation and minimum 25m buffer between watercourses and turbines.

Following revision to the scheme, views unchanged.

Roads Planning Service: No objections. Notes the majority of the access routes are outwith the Council area and that Midlothian Council have been consulted. If consent granted, conditions imposed regarding further details of the access junction with the B7007, swept path analysis with remedial works and details of connection with the national grid.

Following revision to the scheme, views unchanged. The comments from Midlothian Council should also be taken into account regarding transport.

Environmental Health: Noise assessment carried out by independent consultant on behalf of the Council. Accepts noise assessment in the EIA, identifying that the lower daytime limit will not be met at Heriot Cleugh, taking into account cumulative noise and on the basis of two wind speeds. Requests that lower limit be met by condition,

together with controls over construction hours and monitoring/protection of private water supplies.

Access Officer: Core Path 33 lies adjoining the site and the development will be visible from other rights of way and core paths. Development should follow SNH Guidance on managing public access and conditions imposed on any consent to keep Core Path 33 open and all access tracks made available to the public. Recommends an Improvement Plan relating to wider path network including a developer contribution of £3000 through legal agreement.

Following revision to the scheme, views unchanged. Turbine nearest Heriot Cleugh should have separation four times height of turbine from Core Path 33, to safeguard horse riders.

Ecology Officer: Initially objected to the application until further information submitted for vantage point surveys, impacts on pink-footed geese (qualifying interests of the Fala Flow SPA) and compensatory planting. Accepts conclusions on SAC sites. Notes 2018/9 vantage point data is available on birds but not submitted. Notes other ornithological findings and that two black grouse leks were recorded in the site, requiring mitigation in a Habitat Management Plan. Serious concerns over potential impacts on curlew. Habitat loss could have been more clearly presented and should be redressed in the Habitat Management Plan.

Turbines should be kept 73.5m from habitat features used by bats but accepts the findings of the EIA on other wildlife. 9.1HA of coniferous felling is not replaced by any compensatory planting and this is contrary to Government Policy. Should consent be granted, conditions imposed relating to Species Protection Plans, Construction and Habitat Management Plans, Ecological Clerk of Works etc. A hen harrier roost previously on the site no longer appears to be in regular use but a condition for monitoring would still be required with mitigation.

Following submission of additional information and revised scheme, raises no objections subject to the aforementioned conditions and conditions covering an ecological monitoring programme and a decommission strategy. Satisfied with the additional ornithology surveys and now content with impacts on pink-footed geese, curlew, black grouse etc subject to monitoring and mitigation. The revised turbine locations do not cause issues for protected species or mammals. Habitat displacement and mitigation would have been preferably agreed pre-determination but can be controlled in the Habitat Management Plan. Noted that no woodland is now being felled. Carried out an Appropriate Assessment for impacts on the River Tweed SAC and concludes that, subject to mitigation in the aforementioned conditions, there is unlikely to be a significant effect.

Archaeology Officer: No objections to the application and supports the EIA findings and suggested impacts on cultural heritage assets. Agrees that impacts on the scheduled prehistoric monuments to the south are not sufficiently adverse to justify objection. There may be some features within the site that indicate further interest, justifying a Watching Brief WSI.

Following revision to the scheme, views unchanged.

Statutory Consultees

SEPA: Initially objected to the application on grounds of lack of information on flood risk, operations regulated by SEPA and ecology. Concerned that Turbine 6 was within

50m of the Whitelaw Cleugh Burn, that watercourse crossing information was inconsistent, drainage information lacking from the haulage route, insufficient information on borrow pits, forestry removal, pollution control, air and waste protection provision. There are also groundwater dependant terrestrial ecosystem (GWDTE) impacts and peat crossings to clarify.

Following revision to the scheme, withdraws objection on basis that revision supersedes the previous layout and subject to conditions, noting that Turbine 6 is now more than 50m from the Whitelaw Cleugh Burn. Conditions should detail the relationship between drainage, tracks and GWDTE, a Construction and Habitat Management Plan, reinstatement of the borrow pit and peat management proposals.

Historic Environment Scotland: No objections. Concerned that EIA assessment of impacts on Crichton Castle Scheduled Monument have been underestimated. The impacts will be significantly adverse but not to the extent of affecting national interest, given the distance and impacts generally more on the access to the castle than the castle itself. Agrees with the EIA assessment of impacts on Category A Listed Arniston House and that whilst impacts would be adverse, they would not be nationally significant. Considers impacts on the scheduled forts to the south to have been underestimated, but again, impacts are not significantly adverse. Comments on, and generally accepts, the methodology for assessment, albeit photomontages could have been useful.

Following revision to the scheme, views unchanged and welcomes updated visualisations. Notes that any changes in proximity to Crichton Castle still don't create impacts of national concern and fewer turbines will also be visible from Arniston House. Although the movement south of the turbines results in closer proximity to the scheduled forts and whilst impacts are continued to be considered as underestimated, still do not consider impacts to be sufficiently adverse to affect national interest.

Scottish Natural Heritage: The development would create significant adverse landscape and visual impacts on a regionally important landscape, prominent and elevated on the edge of the Moorfoot Hills and visible to a wide area to the north across much of the Lothians, as shown in the ZTV. Previous schemes have carefully been set back to reduce impacts and this development would undo current good practice. Any turbine lighting should be restricted to infra-red. In terms of impacts on the River Tweed SAC, object unless conditions imposed relating to an appropriate Environmental Management Plan and Construction Method Statement. Impacts on black grouse and ground nesting waders require mitigation by conditions including a Habitat Management Plan. Peat Management Plan and Ecological Clerk of Works conditions also required.

Following revision to the scheme, views unchanged. Revisions to layout do not mitigate landscape and visual impacts identified above.

Transport Scotland: No objections provided conditions and informatives are imposed on any consent securing Transport Scotland approval for the abnormal load route and associated traffic control measures.

Following revision to the scheme, views unchanged.

Midlothian Council: Concerned at considerable adverse visual impacts from the areas of population and recreation in Midlothian, visible on the skyline and indicated in viewpoints such as Gorebridge, Middleton and Gladhouse Reservoir. This development is closer to Midlothian than other development in the Moorfoot Hills and

should be kept free of large turbines. If approved, wish to be involved in the construction transport route and mitigation. SNH comments on ecology should be noted. Controls imposed on construction to minimise noise and vibration on transport routes. Several private water supplies in vicinity and wish to be involved in mitigation and conditions regarding impacts, including monitoring controls.

Following revision to the scheme and whilst recognising the movement further south, views unchanged. No longer seek involvement in private water supplies.

RSPB: No objections although comments that breeding bird surveys should have commenced earlier in the mornings. Notes that two black grouse leks are of regional significance and developer should contribute to any habitat enhancement required by the Council. Construction recommendations to minimise impacts on black grouse. Concerns over collision impacts on curlew and welcomes proposed on-site management of impacts. Requests a condition relating to offset provision for curlew and other waders elsewhere.

NATS/NERL: No objections on original and revised scheme.

Edinburgh Airport: No objections. Complies with safeguarding criteria.

Joint Radio Company Limited: No objections, no interferences foreseen.

Scotways: No objections. Right of Way BE5 runs along part of the site boundary and should be kept open and obstruction-free. Recommends adherence to Welsh Assembly advice on set-back from roads, equivalent to blade tip.

Following revision to the scheme, notes that the turbines are now in closer proximity to BE5 and seek assurances that the 143m clearance mentioned in the SEI applies to the new layout. Recommends consultation with the Council over the CEMP and impacts on Core Path 33 and BE5, the latter remaining free from obstruction during construction and operation.

Forestry Commission Scotland: Objects as insufficient evidence that woodland removal and compensatory planting complied with Government Policy. Suggests further liaison to agree mitigation and provides model conditions for compensatory planting.

Ministry of Defence: Initially raised no objections to the application, requesting aviation red or infra-red lighting and to be informed of the details of the scheme implementation if approved.

Following revision to the scheme, now objects to the development as three of the turbines will be 62.8km from the Deadwater Fell ATC Radar, being detectable from and causing potential interference, including “unwanted” aircraft returns, leading to increased workloads and significant operational impacts. Real aircraft returns can also be masked by a turbine’s radar return. Several problems and operational impacts identified. There is likely to be a significant and detrimental effect on the operation of the ATC Radar as a result. Solutions are being researched and the developer is invited to investigate these. Should a solution be found, lighting will still be required.

Scottish Water: No objections. No public water or drainage supplies in the vicinity and no public drinking water catchments or abstraction sources. No surface water connections allowed into combined sewer system.

Following revision to the scheme, now notes that public infrastructure lies within and adjoining the site, requiring contact with the developer if the scheme proceeds. Other views unchanged.

Visit Scotland: Response awaited.

Association for the Protection of Rural Scotland: Response awaited.

Scottish Wildlife Trust: Response awaited.

Scottish Badgers: A number of setts and foraging signs found within the site. Any tree felling should adhere to license requirements and inactive setts monitored over a set time frame with territories mapped out.

Following revision to the scheme, views unchanged. Would have preferred more surveys but note no setts within 30m of any turbines. Require checks within 30m of the access route and mitigation including safe crossing routes.

Tweed Forum: Response awaited.

Heriot /Stow & Fountainhall Community Council: Application should be refused as there are adverse landscape and visual impacts (especially on residents), conflict with Planning Policy and SBC Landscape Capacity guidance, inadequate assessment of residential amenity (including noise) and lack of economic benefit.

Taking into account other wind farm schemes, this would represent a major extension and a piecemeal method of expansion against the “cluster and space” SBC approach. Notes SBC Landscape Capacity Study states no capacity for further turbines above 80m tip height. Considers pre-application engagement to be poor from the developers. Significant visual impacts from the north and from Nettleingflat, most significant effects shown in Viewpoints 4, 5, 6 and 9. Cumulative effects unacceptable, combining with Dun Law and Gilston to form a wind farm landscape. Some turbines are so close to the site boundary that there will be encroachment on the Gladhouse Reservoir/Moorfoot Scarp SLA. Turbine height increase request is likely to follow from any consent. No Residential Amenity Survey with impacts likely especially to Heriot Cleugh. Noise should be assessed using the raw data. Hydrology Section of EIA fails to address impacts on private water supplies. Concerns over bird collisions. No UK justification for continued onshore wind farms, major grid capacity limitations and zero to negative net economic value of additional wind generation.

Following revision to the scheme, views unchanged. Visual impacts increased towards Heriot and impacts increased across various relevant viewpoints including 4 and 6. In attempting to improve the impact from some viewpoints, the impacts on the local community of Heriot and surrounds have significantly worsened. Agrees with SBC Landscape Architect objection. Welcomes the Residential Amenity Assessment but feels that many more properties should have been included, including a number closer than those already assessed and many with clear views across to the turbines. Considers the noise assessment to be incomplete and fails to consider potential impacts of the revised layout on additional properties or the cumulative impacts from Gilston. The development is also too close to Core Path 33.

Moorfoot Community Council: Response awaited.

Tynewater Community Council: Response awaited.

DEVELOPMENT PLAN POLICIES:

SESplan Strategic Development Plan June 2013:

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

Local Development Plan 2016:

PMD1: Sustainability
PMD2: Quality Standards
ED9: Renewable Energy Development
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP5: Special Landscape Areas
EP7: Listed Buildings
EP8: Archaeology
EP9: Conservation Areas
EP10: Gardens and Designed Landscapes
EP13: Trees, Woodlands and Hedgerows
EP15: Development Affecting the Water Environment
IS2: Developer Contributions
IS5: Protection of Access Routes
IS8: Flooding
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

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

- Renewable Energy 2018
- Biodiversity 2005
- Local Landscape Designations 2012
- Developer Contributions 2011
- Visibility Mapping for Windfarm Development 2003
- Ironside Farrar Study on Wind Energy Consultancy Landscape Capacity and Cumulative Impact 2016
- Borders Landscape Assessment 1998 Ash Consulting Group- updated SNH 2019

Scottish Government Policy and Guidance:

- The Climate Change (Scotland) Act 2009
- The Scottish Renewable Action Plan 2009
- 2020 Routemap for Renewable Energy in Scotland – Update 2015
- National Planning Framework for Scotland (3) June 2014
- Scottish Planning Policy (SPP) June 2014
- Scottish Planning Policy and Electricity Generation Policy Statement 2013
- Onshore Wind Turbines – Planning Advice 2014
- Climate Change Plan 2018
- Onshore Wind Policy Statement 2017
- Scottish Energy Strategy 2017
- Climate Change (Emissions Reductions Targets) (Scotland) Bill 2019

Scottish Government On-line Advice:

- Circular 3/2011 Environmental Impact Assessment (Scotland) Regulations
- PAN 69 Flood Risk 2015
- PAN 60 Planning for Natural Heritage 2008
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 75 Planning for Transport
- PAN 81 Community Engagement Planning with People
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development 2016

Historic Environment Scotland Publications:

- Historic Environment Scotland Policy Statement June 2016

SNH Publications:

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

Other Publications:

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

KEY PLANNING ISSUES:

- Land use planning policy;
- Landscape and visual impacts, including landscape character and visual impacts, arising from turbines and infrastructure;
- Cumulative landscape and visual impacts with other wind energy developments;
- Physical and setting impacts on cultural heritage assets;
- Residential amenity including noise impacts and shadow flicker
- Ecological, ornithological and habitat effects;
- Impact on road safety and the road network;
- Impacts on the public path network and public access on accessible land;
- Impacts on defence and aviation
- Economic benefits attributable to the scheme;
- Benefits arising from renewable energy provision.

ASSESSMENT OF APPLICATION:

Design Iteration

The Design and Access statement shows the different versions of the wind farm intended at Wull Muir before the version that was eventually submitted as a planning application. Commencing with 13 turbines to 150m blade tip height, the second iteration dropped the numbers to eight turbines but kept the height. Finally, the third iteration was that submitted within the planning application. The Design and Access Statement comments that the revisions were aimed at reducing impacts on the Moorfoot escarpment, staying at least 1km away from houses, creating an even spread of turbines etc.

Revision to proposed development

The planning application was revised during processing to relocate all eight turbines to the south and east, still within the original application site boundary. The applicant wishes the decision to be based upon this revision, the relevant procedures for Supplementary Environmental Information (SEI) having been followed in terms of submission, advertisement and reconsultation. All relevant plans have been superseded and this report assesses the scheme on the basis of the amended scheme, whilst still recognising where necessary, the impacts of the changes from the original scheme. The original Environmental Statement submissions have still been considered where not superseded or updated by the SEI. Comments from consultees and third parties are summarised in this report and all should be considered, references being made to where original comments have been revised following the amended scheme.

Planning Policy

Scottish Government policy, regional strategic policy and local planning policy and guidance all support renewable energy, including wind farms, provided that there are no unacceptable and significantly adverse environmental impacts.

SPP sets out a Spatial Framework for determining appropriate sites for wind farms. The SPP states three classifications. Area 1 where wind farms are not acceptable in principle i.e. within National Scenic Areas and National Parks. Area 2 which reflects areas of significant protection including SSSIs, GDLs, Wild Land, settlements within 2km etc. The site is close to the boundary of an area of significant protection (2km settlement buffer of Heriot, an identified settlement in the LDP) but falls within Group 3 which suggests such areas have potential for wind farm development “*..where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.*”

SESplan policy 10 requires Local Development Plans to set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national electricity and heat targets and taking into account economic, environmental and transport considerations.

These Policy documents have been supported by other Policy documents and statements on renewable and wind energy by the Scottish Government, as identified in the “Planning Statement” submitted with the application. In the Onshore Wind Policy Statement 2017, for example, the Ministerial Foreword confirmed clear support for wind energy, promoting the economic benefits it offers, helping to substantively decarbonise electricity supplies, heat and transport systems, boosting the economy,

and meeting local and national demand. It identifies that all need to work together to ensure that projects continue to strike the right balance between environmental impacts, local support, benefit, and – where possible – economic benefits deriving from community ownership.

Similarly, the Scottish Energy Strategy is also a material consideration, setting out ambitious new energy targets of 50% of the energy for Scotland's heat, transport and electricity consumption to be from renewable sources by 2030 and an increase of 30% in the productivity of energy use across the Scottish economy. The Climate Change Bill has also recently been approved by the Scottish Government aiming to cut emissions by 75% by 2030.

Nevertheless, all Policies and Guidance still require development to be assessed on a case by case basis and only development in the right places will be supported. This report will need to consider, firstly, whether this development is in the right place, by considering the locational and landscape capacity guidelines that are in place, both at national and local level, before going on to consider the particular environmental effects of the proposed development.

All planning applications must principally be determined in accordance with the Development Plan unless there are other material considerations that indicate otherwise. The proposal has to, therefore, be assessed against a number of Local Development Plan policies. Policy ED9 is the principal Policy dealing with renewable energy development and supports commercial wind farms where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. Proposals will be approved provided that there are no significant effects that cannot be satisfactorily mitigated. Where mitigation is not possible, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits outweigh the potential damage arising from it. The policy contains a number of criteria by which to assess the proposal.

Policy ED9 also embodies the Council's "Renewable Energy" Supplementary Guidance 2018 which has been approved by the Scottish Government. This contains the Spatial Framework which demonstrates that the site lies within an "area with potential for wind farm development". However, informed by the more specific locational Landscape Capacity and Cumulative Impact Study produced by Ironside Farrar in 2016 and included within the Supplementary Guidance, the site does not lie within an area of underlying landscape capacity that could accommodate turbines with a tip height of over 120m, when taking into account the constraints identified in the Study. The precise impacts of the proposal must, of course, be assessed in detail against the relevant Local Development Plan policies to establish whether the proposal is acceptable.

Landscape and Visual Impacts

Policy ED9 requires consideration of the landscape and visual impacts, including the effects on wild land and the cumulative impact, taking into account the "Renewable Energy" Supplementary Guidance and the Ironside Farrar Landscape Capacity and Cumulative Impact Study. The latter was updated in 2016 to:

- take cognisance of turbine approvals since 2013 to build a clearer picture of landscape capacity

- adopt new turbine typologies with the upper scale of turbines heights extended from 100m+ to 120m+ to reflect industry changes where there is a greater demand for larger turbines

Assessment of the landscape and visual impacts should also take into account the relevant guidance from Scottish Natural Heritage.

Landscape Character

In terms of the Borders Landscape Assessment 1998, as updated by SNH in February 2019, the site lies within Landscape Character Type (LCT) 1MP : Dissected Plateau Moorland: Moorfoot Plateau. This is an “Upland Type” landscape close to lower-lying upland fringe and lowland LCTs that predominate to the north, coinciding with the reduction in elevation at the watershed between the Forth and Tweed River catchments. The key characteristics for the “Dissected Plateau Moorland” are listed as:

- Plateau landform consisting of a series of level-topped hills and ridges
- Individual hill masses separated by steep-sided valley features of differing scales
- Semi-natural peatland, heather moorland and grassland communities dominant
- Very low settlement density
- Sense of wildness created by wide horizons and distant, unobstructed views

The specific characteristics for the “Moorfoot Plateau” are listed as:

- Very deeply dissected, individual hill masses tend to be quite distinctly defined
- Presence of additional “step” in terrain with high plateau summits rising above surrounding plateau moorland to over 650m above sea level
- Extensive coniferous plantations in the south and west at Glentress and Leithen Water forests.

Whilst the landscape character of the site is identified as upland type and normally more suitable for wind farm development due to grandeur of scale, SNH guidance refers to the sensitivity of fringe areas of transition between Landscape Character Areas (LCAs). In this particular case, the Moorfoot Plateau and Lauder Common LCAs experience a sudden transition from upland to upland fringe and lowland LCAs to the north within Midlothian. The affected LCAs include Gladhouse and Auchencorth Moorland, the western part of the North Lammermuir Platform, Rosewell/Carrington Spur and Mayfield/Tranent Ridge. Whilst the overall character of the landscape is large scale, there can also be variations in scale as demonstrated by the viewpoints selected. Clearly, any wind farm development would have to be assessed against not only the actual and prevalent landscape character types but also the variations of landscape scale within the same character types.

The site is not one of the nationally designated areas of Wild Land, being at least 30km distant from the designated Talla/Hart Fell WLA. The Borders Landscape Assessment does identify a key characteristic of the Moorfoot Plateau LCA as “*wide horizons with distant uninterrupted views*” which create a sense of wildness. However, this has been impacted in recent years by the development of Carcant and also partly by other wind farms to the east and south-west.

Although the site is distant from Special Landscape Areas (SLAs) within the Borders (the nearest being the Lammermuir Hills and Tweed Valley), it does lie within 5km of several in Midlothian, all with widespread views of the proposed wind turbines on the

Moorfoot escarpment skyline to the south. These include Gladhouse Reservoir and Moorfoot Scarp, South Esk and Carrington, Tyne Valley and Fala Moor. Between 5 and 7km and when in view, the turbines dominate an area of skyline not previously affected by development. Viewpoint 14 also demonstrates surprising visibility and prominence from the Pentland Hills SLA, despite being more than 17km distant.

Landscape Capacity

The Ironside Farrar Landscape Capacity and Cumulative Impact Study is referred to within policy ED9 and the 2016 version is a material consideration in respect of this application, forming part of the adopted “Renewable Energy” Supplementary Guidance. The applicant refers to the Study throughout the ES and also within the “Planning Statement” and “Design and Access Statement”. The Study uses the Borders Landscape Assessment, recently updated by SNH, to assess the suitability of each landscape type for differing turbine typologies. It is also incorporated within the Adopted “Renewable Energy” Supplementary Guidance, which also advises other guidance to be considered. These include publications by SNH “Siting and Designing Windfarms in the Landscape Version 3” 2017 and “Assessing the Cumulative Impact of Onshore Wind Energy Developments” 2012. Local Development Plan Policy, Supplementary Guidance and relevant guidance notes must all be used to assess the landscape impact and visual effects of the development. The Council Landscape Officer’s consultation replies are included in full on the Public Access website and use the Policy and guidance in assessing the landscape impact of the proposal.

The purpose of the 2016 Ironside Farrar Study is “...to determine the landscape capacity of (the) Scottish Borders to accommodate wind energy development and to determine the levels of cumulative development that would be acceptable across the local authority area.”

The application site is covered in the 2016 Ironside Farrar Study at Table 6.1(ii) covering the Lammermuir and Moorfoot Hills. The Landscape Character Type 1MP (Dissected Plateau Moorland – Moorfoot plateau) is classified as having a ‘low capacity’ for turbines, defined as being over 120m high to blade tip. It identifies potential for up to ten further turbines across the Moorfoot Plateau LCA but also states there should be 10km separation between groups of turbines. The Study comments further as follows:

“Landscape Analysis : The Moorfoots are a range of large scale rolling and undulating moorland hills dissected by steep sided valleys. Largely unforested except to the south. They form a prominent escarpment and skyline above the Esk Valley seen from Edinburgh and the Midlothian towns to the north....”

“Development Capacity: The LCA could accommodate further larger scale wind energy development. Turbines of 120+ could be accommodated in smaller numbers where topography aids screening....Turbine developments should not adversely encroach onto the visually prominent escarpment and skyline facing Edinburgh.”

This analysis is further interpreted in Figure 6.1e of the Study which identifies a shaded area to represent the underlying landscape capacity for this LCA. The shaded area is meant to “...show an indicative level of capacity and the extent within and across different landscape character areas. These areas should not be interpreted as a hard boundary and reference should be made to the detailed capacity assessment and locational guidance given in Table 6.1”.

The shaded area, nevertheless, is based upon the advice within Table 6.1 which is seeking to keep turbines away from the northern edge of the escarpment but also north of the Tweed Valley. There is no doubt that the area is well to the south of the application site boundary and also of a scale and position to enable much of the 10km buffer distance from the Carcant group of turbines to be accommodated. As the Landscape Architect has stated in her responses, she does not feel the Capacity Study advice has been followed in locating this windfarm, as the original application layout "...could hardly be located closer to the escarpment than it is". She expresses serious concerns over the lack of compliance with the Study, which is an embedded part of the adopted LDP Policy ED9 and Supplementary Guidance.

Although the location of the turbines was revised to move them further south and east of the initial positions by between 800m and 1.6km, the Landscape Architect remains of the opinion that the impacts on the landscape character of the escarpment, plateau and the fringe and lowland landscapes to the north remain significant, adverse and unacceptable. The Capacity Study advises, when taking into account the relevant table, constraint descriptions and figures, that there is no capacity for development on the application site. This is a factor of material significance in assessing the landscape acceptability of a wind farm on the application site.

Theoretical Visibility

In assessing effects on landscape character, the Council's Landscape Architect advises that it is helpful to focus on those areas which are affected directly by the development i.e. focus on those areas which have a clear view of the development.

The Zone of Theoretical Visibility (ZTV) Maps) illustrate the potential visibility of the turbines to hub height and blade tip height within 15, 25 and 35km zones and the extent of landform containment. There are also a series of ZTVs showing potential cumulative impacts (Figures 6.10 – 6.15) and a comparative ZTV showing the changes in visibility resulting from the revised location of the turbines under the SEI. The main visual impacts can be expected at the closer range and so assessment should particularly focus on the 15km range.

The Council's Landscape Architect assesses the overall visibility of the proposed wind farm using the ZTV maps and concludes that, in terms of landform, there is little landform containment, the site being at the northern edge of the Moorfoot Hills and viewed uninterrupted across large parts of Midlothian, East Lothian and Edinburgh Council areas. Comparing the expected visibility from across this large area to the visibility within the Borders itself, it is clear that there are significant visual impacts expected across this wide area, affecting larger areas of population, transport routes and recreational locations. This visibility is depicted in a variety of Viewpoints including 2, 7-10 and 13-16. Within the Borders, the ZTVs demonstrate more limited areas of visibility to the east and the A7 (Viewpoints 5 and 6), further east to the A68 (Viewpoint 11), Lauder Common (Viewpoint 12), southern Moorfoot Hills area (Viewpoints 3 and 4) and some visibility north of Peebles and West Linton.

The revision to the layout in the SEI and the level of change to the ZTV is depicted in Figure 2.2b. In terms of actual predicted visibility, it is considered that the changes and any reductions are minimal and that the revised scheme still has little containment to the north. Reductions are experienced in the area immediately below the escarpment (adjoining Viewpoint 1) and in a swathe north from Newtongrange to Musselburgh. There are also a number of other small locations north of the application site that experience reductions but, overall, the visibility is still widespread. There are also some

small areas that could experience more visibility, mostly within the Borders to the south of the site, around the A7 at Fountainhall and around the edges of areas already experiencing some visibility such as Heriot.

It is concluded that, overall, the site is not well contained in the wider landscape and that this contributes to the identified landscape and visual impacts which are considered unacceptable, significant and adverse.

Landscape Impact

As mentioned, the site does not have any special landscape designations nor does it include or lie within close proximity to any designated Wild Land Areas. The receiving landscape is defined as a large scale upland character type but is close to upland fringe and lowland character types. The Landscape Architect considers that there are significant adverse impacts both on the scale and panoramic open nature of both the Moorfoot Plateau and Lauder Common LCAs, but also on the character and perceptual influences of the fringe and lowland LCAs to the north i.e. Gladhouse and Auchencorth Moorland, the western part of the North Lammermuir Platform, Rosewell/Carrington Spur and Mayfield/Tranent Ridge. Her concerns also relate to the impacts of visibility and prominence from the designated SLAs in Midlothian including Gladhouse Reservoir and Moorfoot Scarp, South Esk and Carrington, Tyne Valley and Fala Moor, all being within 5km.

Although it is accepted that the SEI has moved turbines further away from the fringe and lowland LCAs and SLAs, the Landscape Architect remains of the opinion that the scale of the Moorfoot escarpment will be undermined and that there will still be significant adverse landscape impacts on the fringe and lowland areas. This is demonstrated within a number of Viewpoints as follows:

Viewpoint 1 – Broadlaw

The turbines appear dominant in the foreground with other wind farms in the background and Carcant lower to the side. The turbines appeared on the highest part of the plateau and although the SEI removed four turbines from the highest part of the site and made some general height reductions, there are still adverse and significant impacts.

Viewpoint 2 – Gladhouse Reservoir

The turbines were more dominant in this view than Bowbeat, albeit they were rising up the saddle of land and not on the highest part. The SEI has improved the visibility by reducing the number of hubs and blade tips now visible, from six hubs down to one and reduced the linear spread. Nevertheless, the Landscape Architect still considers the impacts to be significant and a moving distraction in views across the reservoir, as identified in the SEI.

Viewpoint 7 – Middleton

The impacts of the turbines from this location were more significant than from most other viewpoints, being in close proximity to the B7007. There was unbroken views of the turbines with little intervening screening. Although the SEI has improved the impacts due to a reduction in turbine heights and hubs visible, the linear spread has increased by 40% and impacts will still be significant and adverse.

Viewpoint 8 – Gorebridge

This Viewpoint indicated the issues with the prominence and visibility of the turbines on the skyline of the Moorfoot escarpment. There was significant unbroken impact and the scale of the turbines was diminishing the scale and impact of the escarpment. Carcant is not visible in this view. The SEI does make slight improvements in this viewpoint but the spread of the turbines increases and all eight hubs remain visible. The impacts remain significant and adverse.

Viewpoint 9 - Tynehead

Whilst there was some impact from Carcant, the proposed original turbine locations would result in prominence on the skyline above the trees and in the direct line of travel. The SEI makes some improvements in terms of the spread of the development and removal of the cluster of three from the top of the escarpment. Nevertheless, there would remain a significant detrimental impact within the line of travel westwards along the B6458.

Viewpoint 14 – Pentland Hills

The Landscape Architect was surprised at the impact and prominence of the turbines on the Pentland Hills SLA given the 17.4km distance. Their prominent and isolated foreground location compared to other existing and proposed wind farms was obvious from this viewpoint, vertical scale being particularly incongruous. Despite the revisions in the SEI and the reductions in height below the horizon, the Landscape Architect continues to be concerned over the impacts from this sensitive SLA and considers that the SEI understates the significance of the landscape impacts.

The aforementioned effects are examples of locations where there remain significant and adverse landscape effects. Clearly, given the widespread nature of visibility demonstrated on the ZTVs to the north, there are likely to be sustained and uninterrupted adverse impacts on the escarpment and surrounding SLAs/LCAs from a variety of locations other than demonstrated by the viewpoints. The Landscape Architect remains of the opinion that the revised location of the eight turbines has failed to reduce these landscape impacts to any acceptable level. It is considered that the impacts will be significant and adverse on the landscape character of the area, as a rolling, level-topped ridge enclosing a more lowland type landscape of trees and woodlands, well managed farmland, moss and occasional moorland. The scale of the Moorfoot escarpment will be undermined as a result and the turbines will disturb the simple pattern of land use and visual separation between the escarpment and the lower ground to the north.

Similarly, SNH stated the following:

“The site’s location makes a particularly strong and valuable contribution to the skyline and scarp slope that defines the northerly edge of the Moorfoot Hills when seen in views from the north. Therefore, the proposed 8 turbines located upon it would adversely affect its scale and prominence and would, due to its elevated nature, be highly visible from across much of the Lothians...”

SNH identified that other wind farm developments, such as Carcant, had successfully avoided such impacts by being sited back from the edge of the escarpment and that approval of this scheme would “...undo the good design principles” that have been followed with the siting and design considerations of other wind farm schemes in the vicinity. SNH did not alter their position following the SEI and relocated turbines.

Midlothian Council similarly note that the development will have major landscape effects from various viewpoints within their area, including Gorebridge, Middleton, Gladhouse Reservoir and transport routes. They are concerned the development will be on the skyline and will have a greater impact than the Carcant turbines. Their concerns are such that they wish the area to remain free of large turbines.

Impacts from other viewpoints are generally discussed in the remaining sections of this report, as they affect different receptors such as roads, public paths, cultural heritage assets and residential properties.

In summary, the revised scheme remains highly prominent and visible on the Moorfoot escarpment, especially from the north, and will have unacceptable and significant adverse impacts on landscape character contrary to LDP Policy ED9, the “Renewable Energy” SG and the Landscape Capacity Study.

Visual Impacts – Roads and Paths

The submitted ZTV plans confirm the extent of theoretical visibility of the wind farm and viewpoints have been selected based on this to illustrate the visual impact of the development from various high sensitivity receptors, including public roads, paths and the Borders Railway. The ES has considered a number of such receptors, with significant effects identified in locations close to the site. The viewpoints mentioned in the previous section are considered to be significant in the consideration of impacts on landscape character and quality. These viewpoints remain important and have identified significant impacts from public roads such as the A7, B6458 and B7007.

The ES includes a specific section on impacts on roads and paths, revised in the SEI at Section 2.74 – 2.88. This concludes that whilst there will be some significant impacts, such as from the B7007 and Core Path 33, overall impacts are not considered to be sufficiently significant to justify refusal of the scheme. However, given the uninterrupted and widespread visibility of the turbines from the north, it is considered that the visual impacts on roads and paths in this area are significantly adverse to a large number of users and receptors in this wide area, as evidenced by Viewpoints 7, 8, 9, 13 and 15.

Viewpoints 7-9 were discussed above but there are also impacts from Viewpoints 13 and 15;

Viewpoint 13 – Bonnyrigg, Andy Kelly View

All turbines prominent and significant on the skyline, much more significant in impact than either Dun Law or Bowbeat. The SEI revision reduces the vertical height slightly but increases the linear spread. The SEI believes the impact will be consistent with other windfarms on this horizon but it is considered that the impacts will be more prominent and significant than the SEI states. Photomontage not reproduced for the SEI.

Viewpoint 15 – Tranent, A199

All turbines prominent and significant on the skyline, more significant in impact than either Dun Law or Bowbeat, but similar to Gilston. The SEI revision reduces the vertical height slightly but increases the linear spread significantly. The SEI believes the impact will be consistent with other windfarms on this horizon but it is considered that the

impacts will be more prominent and significant than the SEI states, exacerbated by the increased linear spread. Photomontage not reproduced for the SEI.

The A7 is a major tourist route through the Borders and is the nearest A Class road to experience potential effects. The ZTV demonstrates that the wind farm would potentially be visible from long sections of the A7 to the north and east, especially within Midlothian and parts within the Gala Water valley. The ES accepted that there was almost continuous visibility displayed on the ZTV between Edinburgh and Middleton Moor with intermittent visibility then from Heriot to Burnhouse. It argues that the visibility and visual effects will be less significant due to intervening planting and buildings screening views. The only significant impacts are stated to be for a 2km stretch over Middleton Moor.

It is considered that the sequential visibility from the A7 as users travel the route will result in more sustained and adverse effects than described in the ES and SEI, given the linear extent of predicted visibility and the evidence in relevant photomontages. The only direct Viewpoint on the A7 is Viewpoint 5 Gilston Road/Stagebank although Viewpoint 6 at Nettlingflat is also described in the ES as representing views from the nearby stretch of A7, albeit at a higher elevation:

Viewpoint 5 - Gilston Road/Stagebank

The turbines would overtip woodland within a slight saddle in the hillform, the six hubs and eight blade tips screened by the intervening woodland. However, the SEI moves turbines nearer this Viewpoint (by 700m) and based upon the wireframe, increases the likelihood of blade overtipping of forestry and creating more significant impacts. In the absence of a photomontage, the SEI conclusion that the effects are minor is unproven.

Viewpoint 6 - Nettlingflat

The impacts from this viewpoint, which is taken from half way up the valley side from the A7, is of unbroken and unscreened impact at approximately 3.8km initially. The ES identified major significant effects. Following the SEI revision, the nearest turbine is now 700m closer and the previously significant visual impact is now even greater as a result of the revised layout.

Impacts from the B7007 are also significant for stretches from the junction with the A7, with unbroken theoretical visibility to the boundary with the Scottish Borders, visibility then becoming increasingly intermittent to the south. Viewpoint 7 is the only direct viewpoint on this road, the major and significant impacts having been described above and exacerbated by proximity of the road to the turbines.

In terms of impacts on other roads with predicted visibility in the Scottish Borders, no significance is attached to impacts from roads such as the A68 (Viewpoint 11), the B709 or Gilston Road, albeit the latter will have sections of visibility as the road travels south. Nevertheless, the significance of these impacts is generally agreed as being lower, the SEI and revised layout not altering the impacts to any noticeable degree.

The ES and SEI recognise that impacts could be experienced from the Borders Railway. Whilst it is stated that the majority of users are likely to be commuters, this both underestimates the number of tourist users and also understates the sensitivity of those users. Indeed, user surveys of the railway in its first few years revealed the fact that proportions of commuter and tourist users were evenly split. In addition, the railway is currently promoted by Scotrail as one of Scotland's six scenic railways. The ES also does not reflect that travellers on such public transport may be looking at and

appreciating the views more than motorists who are concentrating on road conditions. The ES considers there to be a 1km stretch of significant impacts north of Borthwick and no significant impacts for other stretches with predicted visibility. Although the ES/SEI may have understated the sensitivity of users, the significance of the impacts is for a short stretch and it is accepted that embankments, cuttings and vegetation will probably restrict impacts to the level identified.

Finally, there is visibility experienced from numerous core paths, public rights of way, cycle routes etc within the area, together with hill summits. The recreational use of the area is recognised both by SNH and Midlothian Council in their responses and the closest Core Paths and Rights of Way to the wind farm have been noted by the Council's Access Officer and Scotways. The ES and SEI list a number of the most affected routes including the National Cycle route 1 (using the B7007) and various other Core Paths in the Heriot, Borthwick and Fala areas. Two routes are identified as having moderately significant effects and one route with major significant effects (Core Path 33). Viewpoints from recreational paths are represented by Viewpoint 7(B7007), Viewpoint 12 (Girthgate path on Lauder Common). Viewpoints from hill summits are represented by Viewpoint 1 Broad Law, Viewpoint 3 Blackhope Scar, Viewpoint 14 Pentland Hills and Viewpoint 16 Arthur's Seat.

Given the widespread visibility predicted in the ZTV, especially in the Lothians, it is expected that there will be a number of significant and major adverse impacts experienced by users of the paths and hills. Viewpoints 1, 3 and 7 demonstrate moderate to major impacts and Viewpoint 14 demonstrates an isolated and obtrusive impact, highlighted the careful setback of other wind farms schemes compared to the forward and prominent proposal. Impacts from Lauder Common are described as minor in the SEI but even this demonstrates the breaking of the skyline by the proposed turbines, compared to the lower impact Toddleburn and Carcant turbines, due to their heights below skyline.

In summary, significant visual impacts are experienced from roads and paths despite the revisions incorporated into the SEI. The widespread visibility to the north of the Moorfoot escarpment results in numerous roads and paths experiencing significant and adverse visual effects, especially within the Midlothian area and from stretches of roads and paths within the Scottish Borders, particularly the A7, B7007 and Core Path 33. Other paths and hill summits experience similarly adverse impacts, exacerbated by the detachment and elevated position of the wind farm compared to surrounding groups of turbines. It is concluded that the development will have unacceptable and significant adverse visual impacts from roads, paths and hill summits contrary to LDP Policy ED9, the "Renewable Energy" SG and the Landscape Capacity Study.

Visual Impacts – Residential Amenity

Scottish Planning Policy advocates the identification in Local Development Plans of an area not exceeding 2km around settlements (that have settlement boundaries within Local Development Plans) as a community separation for consideration of visual impacts. This separation distance was not specifically referred to individual properties but it is regularly used as a threshold by Reporters in decisions and it is generally recognised that most overbearing and unacceptable impacts on residential amenity would tend to occur within that distance rather than between 2 and 5km distance. The Council's "Renewable Energy" SG also clarifies that individual properties within 2km should be considered.

Visual impacts on residential amenity, whether from settlements or individual properties, tend to use a type of methodology that has become known as the "Lavender

Test". The "Test" is an assessment approach that has been taken in a number of appeal cases to assess impacts, even though it is not universally applied nor is there any agreement or Scottish Government guidance recommending its usage. The "Lavender Test" not only refers to the impact on houses but also their gardens. It sets quite a severe threshold of whether a wind farm would be so overbearing and dominant on a property that it would make it an unattractive place to live. Much would contribute to that assessment including proximity, elevation, main outlook from windows, interruption by screening or buildings, location of garden ground, approach roads and tracks etc. These matters are considered and advised in the "Renewable Energy" SG.

Whilst all matters must be considered in the overall assessment, the greatest weight simply has to be given to direct and unavoidable impacts from inside dwellinghouses and, in particular, main habitable room windows. There is also evidence that decisions are taken on the number and proportion of properties within an area that may experience such impacts. The fewer the properties impacted, the less weight that would hold in the overall planning balance. This argument was unsuccessfully defended by the Council at the Whitelaw Brae PLI in Tweeddale where the Reporter stated that "...assessment of this issue has had regard to both the number of properties affected and ... the severity of the predicted effects".

Chapter 6.276 of the ES contained assessment of impacts from settlements and residential properties. This consisted of written text only and was not supported by any specific maps, photomontages or wirelines, except where there were coincidental visual information from the edge of settlements such as Bonnyrigg, Tranent, and Gorebridge. The lack of a specific Residential Amenity Assessment was raised with the developer and they submitted this as part of the revised layout within the SEI. This was supported by text, maps and wirelines but no photographs or photomontages. The Assessment is contained as Technical Appendix TA2.1 with maps and wirelines at SEI Figures 2.32 and 2.33.

The Assessment is stated to have been prepared using the Landscape Institute's Guidance Note 2/19 on "Residential Visual Amenity Assessment". Whilst it does follow many of the recommendations in that Guidance Note, it has not followed other recommendations such as carrying out visits within the affected properties (nor even within gardens). It also does not utilise aerial photographs or other photographic aids to demonstrate the findings. It concludes that impacts on individual properties and groups of properties would not exceed the thresholds of overbearing and dominant impacts, despite not demonstrating, by means of recommended visual material, that the main reasons for this related to screening caused by trees, topography and buildings. This could have been demonstrated by way of photographs, aerial images and photomontages. Consequently, assessment of the impacts on residential amenity has had to be based upon the wirelines, text and officer site visits to the closest affected properties.

In terms of settlement impact, Middleton is perceived to experience major impacts from a small part at Wester Middleton Cottages (a distance of 3km), but impacts from other settlements such as Gorebridge, Bonnyrigg and Carrington are considered to be minor or negligible due to distance and the relocation of the turbines further away from them. This assessment is generally accepted as, whilst the development would still be prominent and noticeable in the landscape from these settlements, the impacts would have to be more severe in dominance and overbearing nature to exceed the general threshold of acceptability in relation to residential amenity.

Within the Scottish Borders, Heriot is the nearest settlement with a defined settlement boundary in the LDP. Despite there being some predicted visibility within the ZTV

based upon the original scheme and increased visibility within the SEI, there appears to be no consideration of impacts on Heriot, despite being within 2.5km. There is reference to Heriot Mill and properties on the B709 being outwith the ZTV but no direct consideration of impacts on the defined settlement of Heriot which lies within the ZTV. Figure SEI 2.32 shows the likely visibility from the nearest properties at Shoestanes and, albeit more elevated, they will need to be used as a guide to likely impacts from Heriot.

The SEI identifies five individual properties and groups of properties within and just over a 2km range from the nearest turbine. Heriot Cleugh would be the closest to any turbine but this is now potentially financially involved with the wind farm and has been discounted. Nevertheless, given the significance of the likely impacts to this property and the fact that the developer has stated it would only be purchased by the developer (and taken out of residential use) if the wind farm was being constructed, then had the wind farm been acceptable in other respects, there would be justification for a pre-commencement condition to ensure no development was commenced until evidence of the purchase had been provided.

The remaining identified properties are Whitelaw (to the north), Carcant group (to the south), Falahill group to the north-east and Shoestanes Farm and Cottage group to the east, immediately west of Heriot. Other groups such as Nettlingflat and Brothershiels lie further outwith the 2km range but given their elevation and proximity to the Study area, residents argue they should have been considered. Impacts from Viewpoint 6 at Nettlingflat do indicate unbroken and prominent impacts, although at 2.9km range, it is unlikely they could be considered to create an overbearing and dominant impact to enjoyment of residential amenity. Having visited Nettlingflat in the absence of any wireframe and although some of the houses and conversions do have directly west-facing aspects, the separation and similar elevation with the development dictate that, whilst impacts are major in terms of the ES, they are not overbearing.

Figures 2.32 and 2.33 of the SEI accompany the Residential Amenity Assessment in the SEI. Of the five properties or groups of properties assessed, the greatest impacts are predicted at Shoestanes Farm and Cottage group, with lesser effects at Whitelaw and negligible effects at Falahill and Carcant. Wirelines have been provided for all these properties but, as previously mentioned, there is no other supporting illustrative material nor has there been any apparent visits within any of the affected properties or their curtilages. The conclusions within the Assessment are that even where major effects are predicted, such as at Shoestanes, the intervening distance, screening, orientation of windows etc result in there being no overbearing dominant impacts that exceed the threshold whereby residential amenity impacts would influence the decision on the application.

The affected properties and groups have been visited by Officers, and taking into account the information that has been presented in the Residential Amenity Assessment, the following comments are relevant:

Carcant – these properties are the closest to the nearest turbine that are not financially involved, at 0.69km. There would also appear to be one additional property in addition to the three noted. However, due to the steep incision of the valley and existing screening afforded by the topography and buildings, it is accepted that the impacts from the properties would not be significantly adverse, especially compared to the impacts from the current Carcant wind farm turbines

Shoestanes Farm – the turbines are closer and more prominent to this property than the Carcant turbines. However, whilst the ES states that the property has west facing

windows and is two storey, site visits confirmed that the house was single storey and the outlook from the house was significantly screened by large agricultural buildings. The garden and approach road will have views of the turbines and it is agreed that, where there are views, the impacts from this property at 1.88km will be major. However, particularly in consideration of the lack of direct impact from the house itself, it is accepted there would be no overbearing or dominant impact.

Shoestanes Cottages – impacts similar as experienced at Shoestanes Farm but slightly further away at 2.2km. Carcant turbines are likely to be slightly less visible with the proposed turbines prominent in the foreground, visible from some rear windows of two of the houses, the access track and gardens. There is little in the form of intervening screening. Only one wireframe has been produced to represent these cottages and Shoestanes Farm. The impact on Shoestanes Cottages is considered to be major but, given the orientation of the houses and the distance, not overbearing or dominant.

Falahill – this group of houses lies 2.16km from the nearest turbine. Whilst the wireframe displays prominence of all eight turbines and hubs on the skyline with little evidence of Carcant behind, the assessment concludes that the screening effects of woodland and farm buildings are such that there are negligible impacts with only oblique views possible from the garden of the main farmhouse, but only through deciduous shelterbelts in the winter. Woodland, agricultural buildings and orientation restrict visibility to the other houses. Impacts are further diluted by the presence of numerous small scale wind turbines in and around the farm. The assessment is agreeable.

Whitelaw – this house lies 1.63km north of the nearest turbine but as a result of the revised turbine locations in the SEI, impacts have been reduced here. Two hubs and six blade tips are potentially visible from the access track but the woodlands surrounding the property would screen views to the turbines. Although there will be significant impacts from the access track, the lack of visibility from the house itself determines that the impacts are not considered to be overbearing.

The SEI concludes that from settlements and from properties and property groups within and around 2km, the visual effects and impacts will vary but will generally be reduced by alignment of houses and intervening topography, buildings and woodland. It concludes that in no case would the level of residential amenity impacts reach the threshold whereby it must be considered in the planning balance. Having considered the submitted information, visited the properties in question and noted the broad level of surveying and lack of visual aids to demonstrate the level of screening mitigation that is claimed to exist, it is considered that whilst there are some major impacts, especially at Shoestanes, residential amenity thresholds are not breached to the degree whereby the impact would influence the final recommendation on the application. This includes assessment from the settlement of Heriot where it was considered that impacts receded due to the distance and lower-lying nature of the majority of the settlement.

Cumulative Landscape and Visual Impacts

Policy ED9 requires all cumulative landscape and visual impacts to be considered and recognises that in some areas the cumulative impact of existing and consented development may limit the capacity for further development. The “Renewable Energy” SG contains advice on cumulative impact as does the Ironside Farrar “Landscape Capacity” Study. Both the Policy and the Guidance advise that there will be a

presumption against development where cumulative impacts are expected to be significant, adverse and unacceptable.

SNH define cumulative impacts in their Guidance Note “Assessing the Cumulative Impact of Onshore Wind Energy Developments” (2012) as “*..the additional changes caused by a proposed development in conjunction with other similar developments*”. Where a particular receptor will be affected by more than one wind farm, there can be a greater incremental effect either directly or in sequential progression. They state that consideration needs to be given to “*...how developments relate to each other in design and relationship to their surroundings, their frequency as one moves through the landscape and their visual separation to allow experience of the character of the landscape inbetween*”. SNH also produced further guidance on cumulative impacts in “Spatial Planning for Onshore Wind Turbine – natural heritage considerations”.

The ES (at Chapter 6.325, Appendix 6.1 and Figures 6.10-6.15) and the SEI (at Chapter 2.89) contain cumulative assessments and the magnitude of impacts expected in terms of visibility and visual effects. The nearest wind farm directly to the south is Carcant, the development being most closely related to this wind farm. Within the 15km buffer, Bowbeat lies to the south-west and several larger groups of turbines lie to the north-east including Dun Law, Dun Law Extension, Toddleburn and Pogbie. Outwith the 15km but within the 25km buffer also lie Long Park and Fallago Rig.

The cumulative assessment also takes into account wind farms that had been consented at the time of assessment, but not constructed. Notably, this included Gilston which consists of 7 turbines to 126.5m tip height. As Members may be aware, this wind farm had been consented on appeal but, through successful challenge in the Court of Session, the wind farm is back at appeal stage and is still being considered. Nevertheless, given the 7.5km proximity to the application site and the fact that it raises similar issues over prominence and cumulative impact, the ES correctly takes it into account in assessing the impacts. Other changes in status since the ES was prepared relate to Keith Hill now being operational and both Pogbie Extension and Huntershall under construction. The assessment does not take into account schemes at Scoping stage or earlier.

The Landscape Capacity Study identifies the requirement for separation from wind farm groups to be 10km minimum, suggesting that there would be an area of underlying landscape capacity some distance south of the application site, where the separation distance could mostly be preserved from the nearest wind farm which is Carcant. Clearly, this separation distance is not achieved with Carcant as proposed and, from a number of the viewpoints, the difference between set-back and sensitively sited turbines at Carcant, compared to the more elevated and prominent Wull Muir turbines, is very evident. Whilst it is recognised that the revised layout in the SEI has improved this relationship from some viewpoints, it has not improved it sufficiently to avoid contextual and cumulative adverse impacts through comparison with the two schemes. Even if the 10km separation buffer is dismissed and Carcant argued to appear as an extension of Wull Muir, the prominence and height of the eight proposed turbines compare unfavourably with the more concealed and lower-lying Carcant turbines that sit within a shallow bowl of land dissected by the Heckle Burn.

In the Committee Report on the Gilston application, similar issues were raised through its comparison and relationship with the Dun Law group, stating:

“A wider discordant appearance would be liable to result in wider views as a consequence of the introduction of larger turbines into a medium scale upland fringe landscape below smaller scale turbines occupying the higher, large scale upland

plateau landscape. Where these two different situations were visible alongside or in superimposition with one another the proposal would be liable to appear out-of-perspective relative to the existing schemes. This would be visually confusing; distorting viewers' perception of scale contrary to established principles for the relationship between turbine typology and landscape scale. Views from the north would be particularly unsympathetic due to the potential perception that large scale wind farms were no longer confined to the large scale upland landscape of the Soutra plateau, but were descending into the upland fringe to the lowlands in the foreground."

The SEI identifies several improvements to the layout in terms of cumulative impacts and does not believe that the development creates a step change into a wind farm landscape but, rather, a landscape with occasional wind turbines, with Carcant, Bowbeat and Dun Law groupings all contributing to that impression. However, as previously stated, the more prominent and elevated turbines at Wull Muir provide a significantly greater impact, especially from the north, appearing more in the foreground of many views and with greater vertical scale and incongruity when compared to the more distant and set-back existing schemes.

The original Carcant wind farm scheme was reduced by half, the Committee Report at the time stating:

"Three of the most northerly turbines were visible over a wide area when viewed from the north of the site from within Midlothian. As such it was considered that the original layout failed to satisfy certain of the criteria of Policy D4 in the Finalised Local Plan, specifically non-interference with a prominent skylineThe applicants agreed to reconsider their proposal and to modify the layout to mitigate as far as possible these adverse impacts, whilst at the same time produce a layout that would result in a viable wind farm development. The amended scheme for three turbines was submitted, removing the three most northerly turbines from the layout. This has resulted in significantly reducing the visual effects on the prominent Moorfoots skyline when viewed from within Midlothian....."

The improvement to that scheme has contributed to concerns that the turbines at Wull Muir have not followed such mitigation, despite being moved south and east within the SEI submission. SNH believe the scheme could "*undo the good design principles*" that are exhibited by the current wind farms in the area. From a number of the viewpoints (including 4, 6, 9 And 15) the relationship and comparison with Carcant is not integrated, the proposed turbines appearing higher, more prominent on the plateau and poorly related.

Given their more prominent and noticeable nature compared to existing wind farms, especially from the north, the Landscape Architect is concerned that there will be a perception of the introduction of a wind farm into this part of the Moorfoots, partly as a result of the success and receded visibility of Carcant, Bowbeat and the Dun Law groupings set back from the upland fringe edge. The Landscape Architect also considers that this section of the Moorfoots only includes three turbines at Carcant and there would be creation of a "wind farm landscape" extending from the Lammernmuirs across the A68 and A7 into the Moorfoots. This western extension of wind farms into an area previously free of larger scale development has also been raised by consultees and objectors, including Midlothian Council and Heriot and Stow Community Councils.

There is also concern that should the Gilston scheme receive approval upon appeal, then this would exhibit many similar prominence and visibility impacts when compared to existing developments which are set-back from the northern escarpment and upland fringe areas. It would contribute, with Wull Muir, to the greatest impact on receptors

within the Lothians as they would both breach the skyline of the Lammermuir/Moorfoot escarpment and undermine the original intent of Dun Law and Carcant to keep them set back from the escarpment edge. From a number of the viewpoints, such as at Tranent and Bonnyrigg, these two schemes would have much greater impact across the horizon and skyline, existing schemes behind being much less noticeable.

It is concluded that in terms of cumulative impacts, the revised layout at Wull Muir, when viewed in combination with existing and proposed wind farms, would have unacceptable significant and adverse landscape and visual effects, introducing a wind farm into an area largely free of wind farm development and, through height and prominence, spreading the impacts of wind farm development westwards along the Lammermuir/Moorfoot Escarpment and creating the impression of a wind farm landscape when viewed from the north. This would be contrary to LDP Policy ED9, the "Renewable Energy" SG and the Landscape Capacity Study.

Visual Impact – Construction

The associated works would include crane hardstandings, turbine bases, a substation/switchgear building, battery storage, access tracks, temporary construction compounds, borrow pits and underground cabling. The sensitivity of the site is considered to be low in terms of land use change and any visual effects of construction are predicted to be of moderate significance for the duration of the construction period. The ES evaluates the construction impacts on the moorland as well as forestry, landscape character and viewpoints. Access tracks utilise the existing Carcant site access from the B7007, where new tracks and structures are required, no key landscape features will be removed and land take will be relatively small. There will be some impacts from the control building and battery storage containers but, overall, the relative visual impacts will be minor and ancillary to the main impacts from the turbines and can be mitigated to acceptable levels through careful design and siting.

It is the intention that the majority of the associated infrastructure is to be removed either at the end of the construction period or the operational life of the wind farm which is generally consented for 25 years. The ES basically states that the decommissioning will reverse the landscape to its pre-development state. Whilst it is not clear whether tracks and bases will remain (and tracks are often sought to be retained by the Access Officer), there is no reason to oppose the scheme on the basis of the level of restoration of the landscape.

Turbine Micro-siting

The ES states that a micro-siting allowance of 100m is sought, with safeguards in place to protect various constraints as identified. As with all wind farms, the principle of micro-siting is generally accepted and a standard 50m distance is nominally included in the Government recommended conditions. Whilst a degree of flexibility is suitable to allow for further investigation into ground conditions, all other potential impacts of micro-siting need to be considered, including visual and other environmental effects.

Given the concerns expressed in relation to peat, protected species, hydrology etc there are particular reasons why micro-siting would have to be controlled, or even prevented, in relation to certain turbines. Similarly, any benefits and advantages that may have arisen as a result of the revision to the initially submitted scheme, could be reduced with any micro-siting of up to 100m. Such micro-siting could also extend the linear spread of the development or even reduce the distances between turbines resulting in design conflicts and potential clutter.

As with similar requests on other wind farms in the Scottish Borders, it is not considered that there is any reasonable justification for a micro-siting allowance of 100m and, should the scheme be accepted, a suggested condition should limit the distance to 50m, subject to no micro-siting nearer residential properties not financially involved with the scheme, to areas of deep peat, access paths or to watercourses, private water supplies or Groundwater Dependent Terrestrial Ecosystem (GWDTes). Any increase in ground level height Above Ordnance Datum would require the applicant to undertake wireframe analysis to illustrate that each turbine's revised position can be tolerated in the landscape without increased adverse visual impacts.

Forestry

Impacts of a wind farm development on existing forestry are taken into account under the general considerations of landscape, ecological and visual impacts under Policy ED9 and the "Renewable Energy" SG. The original scheme placed the most westerly turbine within a triangular coniferous plantation resulting in the clear felling of 9HA of the woodland. This led to an objection by both the Ecology Officer and Forestry Commission Scotland as there was insufficient evidence that woodland removal and compensatory planting complied with Government Policy. The latter suggested further liaison to agree mitigation and provides model conditions for compensatory planting.

Following submission of the revised layout within the SEI, the turbines were moved east and south from their original positions, resulting in there no longer being a requirement to clear fell any plantations on the site. The turbine positions and access tracks avoid any of the scattered areas of woodland on the edges of the site. Loss of woodland is, therefore, no longer an issue with the development and it is considered that this revision has met the aforementioned objections, subject to the requested condition from SEPA that avoids the re-use of any woody debris should there be any small scale felling.

Residential Amenity

Policy ED9 requires the impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker to be considered. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Members will note that visual impacts have been considered earlier in the report.

Noise

The "Renewable Energy" SG states that noise assessments should be carried out within 2km of the site and should follow The Assessment and Rating of Noise from Wind farms (ETSU-R-97) in conjunction with the Institute of Acoustics Good Practice Guide 2013 (IOA GPG). Environmental Health have been consulted to provide advice on whether noise generated by the proposed development, either individually, or cumulatively in association with noise from other schemes, will have an unacceptable impact on residential receptors.

A noise assessment was carried out by the applicant and is contained within the ES at Chapter 10. This is partially derived from the background noise survey carried out for the Carcant wind farm scheme and partly from new surveys. Whilst this methodology has been queried by Heriot Community Council who believe the Council should be seeking the raw data, the methodology has been accepted by Environmental Health who consider the assessment has been undertaken in accordance with the aforementioned regulation and good practice guide.

Noise levels arising from the development have been calculated and a table of noise limits has been produced, giving a maximum level for each identified receptor at each integer wind speed. Separate tables have been produced for day time and night time. At the stage of the original assessment, there were no financially involved properties identified. The Assessment has also undertaken a cumulative impact study including noise from schemes further away.

Environmental Health has confirmed that the modelling and assessment work undertaken in connection with this application has demonstrated that there will be no unacceptable noise impacts on local receptors from the operation of the wind farm. There was one property, Heriot Cleugh, where a risk of exceeding of noise thresholds during the daytime had been identified at wind speeds of 6 and 7m/s by the levels of 0.7 and 1.4dB as a result of the development along with Carcant wind farm. Although the applicant had argued this was acceptable, Environmental Health sought a condition ensuring the levels were not exceeded.

This is standard practice, adopting conditions, as also used by the Scottish Government, to limit and control noise levels from the development. If planning permission is granted it would then be the responsibility of the developer/operator to comply with these noise limits. The condition sets out a requirement on the operators of the development to provide detailed information on the turbines to be used and to provide further noise assessment should turbines differ from the ones detailed in the ES.

As a result of the SEI procedure and the revised layout of turbines, a new noise assessment was carried out, contained within Chapter 7 and Appendix 7.1. This reveals, in Table 12, that most of the properties experience a slight increase in noise, with the exception of Whitelaw which experiences a slight reduction. With one exception, all of the noise predictions still comply with standard noise limits. The exception is Heriot Cleugh where there is a greater increase in noise experienced not only over a greater range of wind speeds during the day but also over a range during the night. This would normally be of significant concern but the SEI states that Heriot Cleugh would be purchased by the developer in the event that the wind farm proceeds and would be taken out of residential use. Consequently, there is a greater noise level threshold applied to financially involved properties and the SEI considers that the predicted impacts are acceptable. At the time of writing this report, there is no revised response from Environmental Health but Members will be updated of any response at the meeting. It is not envisaged, however, that operational noise will be at any level unmanageable and could be controlled by appropriate conditions. This would include a pre-commencement condition to ensure no development was commenced until evidence of the purchase of Heriot Cleugh had been provided.

In terms of construction noise, the ES has undertaken assessment in line with BS5228. The applicant has assessed all noise arising from construction of the scheme, including traffic movements within the site and along local roads. This concludes that no major noise impacts are predicted although it is intended to control noise impacts by condition via a final Construction Method Statement and Environmental Management Plan. This will involve liaison with Environmental Health, Roads Planning and Midlothian Council

In summary and subject to final response from Environmental Health, there are no noise-related reasons to consider that the scheme could not be in compliance with LDP Policies and Supplementary Guidance.

Shadow Flicker

Policy ED9 and the “Renewable Energy” SG require assessment of residential amenity to include the impacts caused by shadow flicker. The ES includes the relevant assessment at Chapter 13 and displayed within Figure 13-1. The Study Area used was 1.17km which equated to ten rotor diameters and 130 degrees either side of north. This is less than the 2km suggestion within the SG, following on from a 2015 research paper which extended the effects zone from 10 rotor diameters to 2km. Only Heriot Cleugh (at 1.17km from the nearest turbine) was demonstrated to experience any effects.

In terms of established maximum shadow flicker effects that are considered to be acceptable, there are no statutory UK figures although best practice suggests a worst case scenario of 30 hours per year or 30 minutes on the most affected day. The results demonstrate that there is no significant shadow flicker effect. The greatest impact would be expected at Heriot Cleugh where in the worst case scenario, 0.50 hours on the most affected day and 24 hours per annum would be within the best practice thresholds.

Following the revision to the scheme where all turbines were moved east and south, only Heriot Cleugh remains within the aforementioned catchment study area for shadow flicker although additional properties at Carcant, Shoestanes Farm and Whitelaw now lie within a 2km distance. An updated assessment was carried out in the SEI at Chapter 8 and demonstrated in Figure 8.1. The movement of the turbines still only indicated any discernible flicker at Heriot Cleugh, albeit this was worsened to 45 minutes on the most affected day and 66 hours in the year. This would not normally be an acceptable level of impact on the property but, as the SEI now points out, this property has become financially involved with the development and, consequently, the impacts are agreed not to be sufficiently significant to be contrary to this element of Policy ED9 and the SG.

There has been third party opposition to potential shadow flicker from properties at Nettlingflat and Falahill. Whilst it is appreciated that these properties (as well as Shoestanes and Carcant) are either within the 2km nominal Study Area suggested in the SG, or just outside it, the predicted effects of shadow flicker shown in the SEI and demonstrated at Figure 8.1 do not suggest that there would be any effects. Given this and the limiting factors listed at para 13.54 of the ES which limit the true impacts of shadow flicker, it is considered there is no evidence to oppose the development of the wind farm on this issue.

Cultural Heritage Impacts

The application has to be assessed against Policy ED9 in respect of impacts on the historic environment and principally Policies EP7 and EP8 which seeks to protect the appearance, fabric or setting of Listed Buildings and Scheduled Monuments or other national, regional or local assets. Development proposals that adversely affect such assets would only be permitted if it is demonstrated that the benefits of the proposal clearly outweigh the heritage value of the asset and there are no reasonable alternative means of meeting the development need. The supporting text of Policy EP8 establishes the aim of the policy is to give Scheduled Ancient Monuments and any other archaeological or historic asset or landscapes strong protection from any potentially damaging development.

The Council’s “Renewable Energy” SG contains advice on assessing the impacts of wind energy developments on the historic environment, both direct and indirect

impacts. It augments the aforementioned Policies and also provides information on how setting of historic structures and places are assessed, including the use of guidance from Historic Environment Scotland – “Managing Change in the Historic Environment: Setting”.

In terms of direct impacts on archaeology, 19 assets were identified in the Environmental Statement. The Council Archaeology Officer notes there has been little survey of the site in the past but still identifies a further four assets of interest within the site, including circular enclosures and old tracks. Whilst he feels most are of agricultural origin, some may point towards the possibility of settlement. Nevertheless, he is content that prior recording of certain features and a Watching Brief can be controlled by an appropriate planning condition.

In terms of indirect impacts on the setting of cultural heritage assets, the Environmental Statement clarifies that there are 48 heritage assets of national importance and high sensitivity within 10km from which there may be theoretical visibility of the wind farm. These comprise 35 scheduled monuments and two Gardens and Designed Landscapes. Within 5km, there are three scheduled monuments. Following assessment, the Environmental Statement concludes that impacts on any of the assets would be no more than of moderate significance, even after consideration of the proposal with Gilston Wind Farm. This is supported by a series of wireframes and photomontages demonstrating predicted impacts on some of the assets, including Crichton Castle (Scheduled Monument), Arniston House (Category A Listed) and various hill forts (Scheduled Monuments) to the south.

Neither the Council Archaeology Officer nor Historic Environment Scotland object to the proposals in terms of impacts on the aforementioned assets. The Archaeology Officer agrees with the findings of the Environmental Statement that there will be no moderate to major significant effects. Whilst Historic Environment Scotland are of the opinion that some of these effects have been underestimated in the Environmental Statement with regard to the impacts on the scheduled monument of Crichton Castle and some scheduled hill forts to the south, they do not consider that the development, as revised, will “*fundamentally disrupt our ability to understand, appreciate and experience the monument in its setting and will not raise issues of national interest*”. They take this view after a full assessment of the views to and from the Castle, including the approach road.

Subject to conditions controlling direct impacts on known and unknown archaeology, it is considered that the development would be generally in compliance with LDP Policy ED9 and the “Renewable Energy” SG.

Other Cultural Heritage Impacts

Policy EP7 seeks to safeguard the character, integrity and setting of listed buildings. Policy EP9 has similar aims for Conservation Areas and EP10 for Gardens and Designed Landscapes. Policy ED9 also requires wind energy development to consider the effects on these cultural heritage assets and this is augmented in the “Renewable Energy” SG.

There are no such cultural heritage assets within the site nor within 1km. Within the 1-5km range, there is one Category A listed building, 22 Category B and C listed buildings and two Conservation Areas. Overall within the 10km study distance, there are 87 listed buildings (11 Category A), and 12 Conservation Areas. Predicted effects from these assets are no more than moderate in the Environmental Statement and there have been no objections from the Archaeology Officer, Historic Environment

Scotland or Midlothian Council in terms of impacts on such regional and locally important assets.

Whilst Historic Environment Scotland had made comment on the setting of Category A Listed Arniston House and potential impacts, they noted that the revised turbine positions resulted in fewer turbines being visible and are content to agree with the Environmental Statement findings, that impacts would not be significant and would not raise national issues.

The findings of the Environmental Statement are, therefore, accepted in relation to impacts on cultural heritage assets other than archaeological sites and it is considered that the proposal complies with LDP Policies ED9, EP7, EP9 and EP10 together with the "Renewable Energy" SG

Ecology, Ornithology and Hydrology Impacts

The proposal has to be assessed against policies EP1, EP2 and EP3, which seek to protect international and national nature conservation sites, protected species and habitats from development. Policy ED9 requires consideration of the impacts on natural heritage, hydrology and the water environment, augmented by the "Renewable Energy" SG. The ES contains an assessment of the likely impacts on ecology, ornithology and hydrology and proposes mitigation measures through a series of reports.

There are no nature conservation designations within the site although the Moorfoot Hills SAC/SSSI and River Tweed SAC/SSSI lie within 2km. SNH noted that the Carcant Burn and Gala Water, which are tributaries of the Tweed, connect with the SAC and is likely to have a significant effect resulting in the need for the Council to undertake an Appropriate Assessment, albeit this could be addressed through planning conditions achieving a Construction Method Statement (CMS) and Environmental Management Plan (EMP), in liaison with the Council and SEPA. The Ecology Officer has noted this and has carried out the Assessment, concluding there will be no significant effect with the aforementioned conditions being applied. SEPA also consider there needs to be further details on tracks and drainage, although this could be addressed by planning condition relating to the aforementioned CMS and EMP.

The site largely occupies a habitat of wet modified bog, heathland, unimproved and semi-improved grassland and some coniferous and mixed woodland. The Ecology Officer notes habitat loss could be more clearly presented but also accepts that monitoring, management and improvement are detailed in an Outline Habitat Management Plan. Full habitat loss compensation should be detailed in the Habitat Management Plan which should be addressed by planning condition.

SNH note that some tracks cross areas of deep peat and that floating tracks are intended where peat exceeds 0.5m. They require this to be mitigated and detailed through submission of a Peat Management Plan by planning condition.

In relation to ornithology, the Fala Flow SPA lies within 10km, principally designated for golden plover and pink footed geese. The Ecology Officer notes the surveys carried out for the latter which suggest a low collision risk, albeit resulting only from surveys over one winter 2017/18. He was concerned that data recorded for the following year had been collected but not presented and objected to the application until this was presented and he could be assured that the qualifying interests of the Fala Flow SPA were maintained. Within the SEI, the additional surveys were subsequently provided and the Ecology Officer now accepts that impacts would not be significant.

Golden plover will also be affected by the wind turbines, being a notified feature of the Moorfoot Hills SSSI. Collision predictions suggest a significant number of birds will be lost over the operating life of the wind farm but, given the numbers of breeding pairs known, neither SNH nor the RSPB raise objections over this effect. The latter also expresses concern over the impacts on the dwindling curlew population and recommends on-site management, by condition, utilising the Council's Biodiversity Offset Initiative. The Council Ecology Officer also had serious concerns over the potential impact on curlew but noted the RSPB lack of objection, subject to mitigation using the aforementioned Offset Initiative. Furthermore, the Ecology Officer noted potential impact on hen harriers and would request a monitoring programme by planning condition.

Impacts on black grouse are also of concern. The Environmental Statement recorded two leks within and near to the site. These accommodated up to 17 males and are considered of regional significance, given the Borders Hill Natural Heritage Zone population was 89 males in mid-2019. Nevertheless, the Ecology Officer would not object provided full mitigation and compensation measures are proposed in the Habitat Management Plan, including any off-site measures as appropriate. SNH and the RSPB support this using the latest mitigation from the black grouse conservation plan.

In terms of protected species and mammals, no bat roosts were found within 200m of the proposed turbines and most activity was associated with the edge of coniferous plantations and watercourse. The turbines appeared to comply with the recommended stand-off ensuring at least 50m between blade tip and the bat habitat feature although it would be important to ensure micro-siting did not allow movement nearer the habitat features, controlled by condition. The relocation of the turbines moved nearer to one bat habitat but still outwith the buffer space required. In terms of other protected species and mammals, there were no issues that could not be adequately addressed by condition within Species Protection Plans. SNH also recommend pre-commencement surveys for legally protected species.

The Ecology Officer recommends further conditions to cover an Ecological Clerk of Works, a Construction Environmental Management Plan including a Peat Protection Plan (CEMP) and an Ecological Monitoring Programme. There would also be a significant ecology involvement in the details of the Decommissioning and Aftercare Plan that would be required. SEPA have confirmed their requirements for pollution prevention measures in the CEMP and Construction Method Statement. They also require a Peat protection Plan condition.

In terms of hydrology and impact on the water environment, SEPA initially objected to the application on grounds of lack of information on flood risk, regulated operations and ecology. They had concerns that Turbine 6 was within 50m of the Whitelaw Cleugh Burn, that watercourse crossing information was inconsistent, drainage information was lacking from the haulage route and there was insufficient information on borrow pits, forestry removal, pollution control, air and waste protection provision. There were also groundwater dependant terrestrial ecosystem (GWDTE) impacts and peat crossings to clarify.

Following the submission of the revised scheme within the SEI and additional information, SEPA noted that Turbine 6 and track were now an acceptable distance from the watercourse, albeit the buffer distance of 50m from watercourses would still need to be maintained in any micro-siting condition. In terms of impacts of the revised scheme on GWDTEs, SEPA continue to dispute that there are none within the site but, nevertheless, would be content with pre-commencement planning conditions

detailing drainage, location of GWDTEs, track composition etc. They also seek a condition regarding reinstatement of any borrow pits.

In terms of flood risk, SEPA have now withdrawn their objection on this issue, based upon the revised scheme within the SEI relocating turbines a sufficient distance away from watercourses. Any watercourse crossings should still adhere to established good practice. Overall, there is minimal flood risk to the site and the Council's Flood Protection Officer has no objections to the proposal, provided greenfield run-off rates are maintained, silt traps used to minimise the amount of sediment entering the watercourse and a buffer of at least 25m provided between turbines and watercourses, a constraint that would need to be applied to micrositing.

In terms of private water supplies, the revised SEI scheme identified ten potentially affected supplies but concluded that only the supply serving Heriot Cleugh was hydrologically connected and could be impacted. The SEI lists a series of safeguards and precautions that would be taken including following good practice, SEPA controls and mitigation in the CEMP overseen by the Ecological Clerk of Works. In their consultation reply on the original layout, Environmental Health had requested a condition on planning consent requiring a scheme of mitigation to protect the private water supplies pre-commencement. Although the scheme has moved turbines, fewer properties are now affected as the catchment to the north-west of the ridge at Whitelaw Cleugh. There is no reason to believe that private water supplies could not be adequately protected through planning conditions and schemes of mitigation.

Scottish Water have confirmed no public water supply catchments would be affected by the development. However, they have identified infrastructure within and adjoining the site that could be affected and would seek direct contact from the applicants, should the scheme proceed.

Subject to the aforementioned conditions, the impacts of the development on ecology, habitats and hydrology are considered to be acceptable and in compliance with LDP Policy ED9 and the approved "Renewable Energy" SG.

Traffic and Road Safety

Policy ED9 of the LDP requires impacts of the construction on wind farms on public and trunk roads to be considered, the approved "Renewable Energy" SG also requiring full consideration of the impacts including the structural and physical ability of the network to accommodate the traffic and impacts on local communities.

The Environmental Statement states that construction traffic is likely to approach the site access from the north via the A7 and B7007. Abnormal loads are also likely to approach from the north, originating in Rosyth then using the A985, A90, M9, M8 and A720 before reaching the A7. It is, therefore, noted that the greatest impacts on road users would be likely to be outwith the Scottish Borders Council administrative area.

The findings of the Environmental Statement are that only the B7007 would experience a percentage increase in HGV traffic that would warrant further assessment, it being above 30%. After this assessment was carried out, it concludes that there will be negligible impacts on road users on the B7007. This will be augmented by a Construction Traffic Management Plan that will detail staff travel, parking, HGV routing and deliveries to further reduce the potential effects on the surrounding network.

The Roads Planning Service has no objections to the principle of a wind farm in this location, noting that the route and access point were used for the construction of the

Carcant wind farm with some accommodation works still in place. They recommend conditions, however, detailing the precise access works at the junction with the B7007 and also swept path analysis plans for the turbine delivery, including any necessary accommodation works. They also seek grid connection details by condition, in order to control the impacts on public roads and users.

The use of, and impacts on, the existing road system are likely to be greater within the Midlothian Council area. They have not objected to this aspect of the application although they would wish to be involved in agreeing the details of the Construction Traffic Management Plan and also may require a legal agreement to remediate any excessive damage to the road system arising from construction works. They also raise an issue over noise and vibration impacts on local communities on the A7 to the site and would require planning conditions to ensure HGV movements are restricted to daytime six days per week, excepting perhaps police escorted abnormal loads.

Neither Roads Planning nor Midlothian Council have raised any issues with the Environmental Statement methodology or findings with regard to impacts on the road system and appear to be content with the development in this respect, subject to appropriate conditions, agreements and safeguards as identified above. It is concluded that there are no transport grounds to reject the application against Policy ED9 or the approved "Renewable Energy" SG.

Public Access and Footpaths

Policy ED9 requires impact on public access to be considered and the "Renewable Energy" SG seeks proof that any turbines within 2km of a core path or other significant access route would not have a significant impact on the path or route. Core Path 33 adjoins the site to the immediate east, passing from Heriot Mill in the south to the B7007 to the north. There is also a Right of Way BE5 passing within the application site and other Core Paths identified to the south and east of the site linking Heriot Mill, Heriot, Borthwick Hall and Fala.

Although the Environmental Statement identified that the nearest Right of Way was the Cross Borders Drove Road 15km to the south-west of the development, the SEI now reflects the advice given by Scotways that Right of Way BE5 passes through part of the site and requires to be maintained obstruction-free. The SEI states that a set-back distance of the height of the turbine plus 10% would be maintained from the nearest turbine to the right of way. Scotways consider that this statement has not been demonstrated on the layout but, had the development been supported, then this buffer would be used as a constraint with regard to the micrositing allowance. The SEI advises that managing access during and after construction will follow SNH guidelines and will be detailed in the Construction Environmental Management Plan (CEMP).

The requirement in the SG for 2km separation from Core Paths or other significant access routes is unlikely to be able to be achieved, at least for BE5 and Core Path 33, albeit the buffer is qualified by the significance of the impact within 2km needing to be considered. Given neither Scotways or the Access Officer have objected and both suggest buffer distances well within 2km, it is not considered that there is reason to oppose the development in relation to direct impacts on paths and access. Buffer distances of either the 143m suggested by the developer or up to four times the height of the turbine as suggested by the Access Officer could have been investigated, via positional adjustment and micrositing restriction, had the development been supported. There are other Core Paths and Rights of Way but these are at greater distances from the development.

Although there was no objection from the Access Officer, consideration was given to conditions covering agreement of a Path Planning Study, no obstruction to the Core Path and the availability of new tracks to the public once the development is complete. These matters could have been addressed in conditions.

The Access Officer also recommends that developer contributions should be sought for the promotion, maintenance and management of the wider path network in the local area. However, this is not considered to be appropriate as this would affect land outwith the applicant's control and is not a direct requirement of the development. This is a similar stance to that taken on other wind farm developments where the request has also been made.

Subject to the aforementioned conditions, it is considered that the impacts on the path network are in compliance with Policy ED9 of the Local Development Plan and the requirements of the "Renewable Energy" SG.

Ministry of Defence/Aviation

Policy ED9 of the Local Development Plan advises that proposals will be assessed against "*..aviation and defence interests and seismological recording*". This is augmented in the "Renewable Energy" SG by a statement that schemes will be supported unless there would be significantly detrimental effects on such interests.

The applicant has addressed aviation and defence in Chapter 13 of the Environmental Statement and Table 12.1 of the SEI. This states that the development is a minimum of 28km from Edinburgh Airport and 64km from Deadwater Fell Radar at RAF Spadeadam, albeit the latter distance has now reduced to 62.8km for three of the relocated turbines within the SEI scheme. Although not having previously objected, the movement south of the turbines has now led to an MOD objection. They state that the three turbines (1, 6 and 7) are now detectable by the ATC Radar at Deadwater Fell and will cause unacceptable interference to it.

The reasons for their objection are set out in their response dated 22 November 2018, presenting unwanted aircraft returns to the Radar caused by the turbines and also potentially resulting in real aircraft returns being masked or missed. The full impacts are listed in points a) to n) of the MOD response. They invite the applicant to "*consider investigating suitable mitigation options*". Whilst dialogue with the MOD on this matter has occurred on other wind farms with similar issues, there is no evidence that the applicant has yet engaged with the MOD on this wind farm. The objection has been raised with the applicant but they wish the application to be determined without any delay that could have allowed them time to discuss matters with the MOD. Should there be any update on this matter, Members will be informed at the Committee meeting.

Whilst there have been other cases within the Scottish Borders where the MOD have withdrawn their objections, subject to an appropriately worded suspensive condition, these have been cases where there has been evidence of dialogue over solutions to the issue and have been clearly set out by the MOD in their responses. Nevertheless, given the current objection from the MOD on interference with the ATC Radar, it must be concluded that the application does not comply with LDP Policy ED9 or the "Renewable Energy" SG in relation to aviation and defence interests.

Had there been no issues with the ATC Radar, then any aviation lighting could have been addressed through infra-red lighting, resolving any visual impact concerns that have been expressed by SNH. In addition, there appear to be no aviation or radar

issues affecting civilian aircraft as no objections have been received from Edinburgh Airport or NERL. There been also been no issues raised by the MOD with regard to low-flying or the Eskdalemuir Seismological Array noise budget.

Economic and Socio-Economic Benefits

Wind energy developments can make an important contribution to the UK economy. Net economic impact is a material planning consideration and local and community socio-economic benefits include employment, associated business and supply chain opportunities.

SPP states that where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit. The Scottish Government's Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments advises that where local benefits are proposed through a shared ownership opportunity and there is an intention to secure a partner organisation, this may be taken into account in determining a planning application.

The ES outlines the socio-economic benefits of the development and these include:

- 42 staff employed during the main construction phase with an associated £5.7 million local spend.
- operation of the turbines would create 7 local jobs with a GVA of £378,053 per annum.
- Community Benefit Fund for community projects (estimated at £168,000 per annum) and/or
- Shared Ownership Scheme allowing the community to invest in the project and receive an annual return.

It is accepted that some jobs would be created during construction if the developer uses local firms and businesses and there is the potential for employees to use local facilities and services, such as accommodation and shops. Following the construction phase a relatively low level of employment would be generated, though this would rise again during decommissioning. It is also noted that a number of objectors query the benefits of the construction of the wind farm to the local economy, stating that experience of other development resulted in little local employment. They also significantly question why the developer has not provided net economic gain forecast, taking into account the constraint payments that are claimed to be increasing due to National Grid limitations.

One issue of significance investigated in the Environmental Statement is the impact of the wind farm development on tourism, especially given the visibility of the wind farm at the entrance to the Scottish Borders along a major tourist route (A7) and from the Borders Railway. Tourism is a well-established and valuable contributor to the Borders economy based on the scenery and the natural and cultural environment. Policy ED9 and the approved "Renewable Energy" SG seek an impact statement on tourism and recreation to be submitted with any application. The Environmental Statement draws on previous research into tourist attitudes towards wind farms and concludes that there will be minor to negligible adverse effects.

Whether the wind farm would deter visitors from this area is difficult to quantify. There is no firm evidence that the proposal would have significantly adverse effects on tourism in the Borders. The ES relies on a series of Customer Surveys by the

Government and, in particular, the Biggar Economics Report from 2016. The conclusions are that wind farms would not detrimentally impact on tourism. This is contested in submissions by objectors who claim there would be increased detrimental economic impacts, including the impact of constraint payments.

The socio-economic benefits of the proposed wind farm development can be taken into account as a material consideration in assessing the application, although the potential for Community Benefit cannot. It is clear that there are arguments on economic impact from both sides. It is possible that there may be some economic gain but the objectors believe this would not be the case. The potential for such benefits in the consideration of energy proposals, however, must be balanced against any potential adverse environmental impacts that are likely to occur. In this case, it is considered that there are unacceptable significant adverse impacts on landscape and visual amenity, combined with aviation problems that outweigh the claimed socio-economic benefits within the overall planning balance.

Renewable Energy benefits

The national background to renewable energy progress and targets is set out in the Planning Statement accompanying the Environmental Statement. NPF3 is clear that the planning system must facilitate the transition to a low carbon economy and facilitate the development of technologies that will help to reduce greenhouse gas emissions from the energy sector. The efficient supply of low carbon and low cost heat and electricity from renewable energy sources are vital in reducing greenhouse gas emissions and can create significant opportunities for communities. This has been augmented by more recent publications, including the Climate Change Plan, Onshore Wind Policy Statement and Scottish Energy Strategy. These are all summarised in the “Planning Statement” submitted with the Environmental Statement. LDP Policy ED9, therefore, requires consideration of the scale of contribution to renewable energy generation targets and the effect of greenhouse emissions.

SPP supports the development of a diverse range of electricity generation from renewable energy technologies, presuming in favour of any development that contributes to sustainability. It contains the following targets:

- 30% of overall energy demand from renewable sources by 2020;
- The equivalent of 100% of electricity demand from renewable sources by 2020.

The 2017 Scottish Energy Strategy updated the contribution percentages to 50% of overall energy demand by 2030 from renewable resources and an increase in production of energy use by 30% across the Scottish economy. The 2019 Climate Change Bill also set a target of 75% emission reduction by 2030. The “Planning Statement” lists the Government aims for increasing the deployment of installed capacity in order to reach the targets for energy from renewable sources.

The applicant, in their “Planning Statement”, reiterates Government advice that the contribution made by renewable energy development towards the Government aims should be a material factor in any planning balance, given that the latest Government renewable energy guidance reiterates that targets are not caps and that weight should continue to be attached to the contribution of every scheme, even if those targets have then been met. The applicant quotes figures from 2016 that demonstrate only 54% of Scotland’s electricity demand was being met by renewables and that there is still much progress to be made in order to reach Government targets.

This proposed development would have a total installed capacity of 33.6MW, producing electricity to serve up to 24,000 homes and saving 41,159 tonnes of carbon emissions each year. The weight to be attached to this contribution is questioned by objectors who submit information to suggest that ample consented and operational capacity exists to comfortably meet targets and that constraint payments also indicate that the grid infrastructure cannot presently keep pace with the continued implementation of wind farm schemes. They quote that schemes operational or in planning are more than sufficient to reach targets and should allow less weight to be attached to the proposed scheme. They cast doubt on the figures relating to operational capacity by 2030 (which is cited as 17GW), the latest figures suggesting installed capacity and schemes under construction reduce and eliminate the shortfall when consented schemes are also considered.

However, in the decision on the appeal at Whitelaw Brae, the Reporters concluded that “...it would be inappropriate to give any significant weight to the pool of consented but not constructed wind energy schemes”. It was identified that Government support for further onshore wind energy development was undiminished and that a positive weight must still be given to the capacity contribution of a particular scheme.

Local Development Plan Policy ED9 does state that there should be consideration in any proposed renewable energy development of both greenhouse emissions and the scale of contribution to renewable energy targets. In the case of this scheme, the contribution would be relatively modest compared to larger developments and the amount of weight to be attached in the overall planning balance, albeit still positive, potentially reduces as a result of the scale of the scheme and as progress towards renewable energy targets continues. The Reporter took this view when rejecting the first appeal at Barrel Law, north of Robertson. The applicant will view the contribution as valuable, believing the shortfall is still significant. However, given the degree of significant and unacceptable adverse effects on the environment and aviation, the renewable energy contribution of this scheme, whilst positive, is not considered sufficient to outweigh those effects. This is the test of planning balance that is outlined in Government advice such as SPP – that renewable energy contribution must not be used to outweigh unacceptable impacts on the environment.

The same should be considered for the contribution towards carbon reduction, the scheme claiming 41,159 tonnes of CO₂ per annum. The applicant points out the increased targets in the latest Climate Change Bill of 75% reduction by 2030. Given there is no specific evidence to disprove the level of carbon reduction claimed, the scheme’s contribution to lowering CO₂ should be considered positive in the overall planning balance, albeit weighted in accordance with the modest scale of the scheme and not sufficient to outweigh the adverse environmental and aviation impacts identified.

CONCLUSION

The Council remains supportive of wind energy development, as reflected in its policies and guidance. This application must be fully considered against current Policies and Guidance, including new Government publications, the Council’s approved “Renewable Energy” SG and the Ironside Farrar Landscape Capacity Guidance. As required by policy considerations, the advantages of energy production and the disadvantages of environmental impacts must be carefully weighed against one another.

In terms of environmental impacts, the site is not well contained in the wider landscape and this contributes to the identified landscape and visual impacts which are

considered unacceptable, significant and adverse. Despite turbine relocation, the revised scheme remains highly prominent and visible on the Moorfoot Hills escarpment, especially from the north, and will have unacceptable and significant adverse impacts on landscape character, contrary to LDP Policy ED9, the “Renewable Energy” SG and the Landscape Capacity Study. The latter identifies that there is no capacity for large turbines within the application site, once its constraints are considered.

The widespread and uninterrupted visibility to the north of the Moorfoot Hills escarpment also results in numerous roads and paths experiencing significant and adverse visual effects, especially within the Midlothian area and from stretches of roads and paths within the Scottish Borders, particularly the A7, B7007 and Core Path 33. Other paths and hill summits experience similar adverse impacts, exacerbated by the detachment and elevated position of the wind farm compared to surrounding groups of turbines.

In terms of cumulative impacts, the revised layout at Wull Muir when viewed in combination with existing and proposed wind farms, would have unacceptable significant and adverse cumulative landscape and visual effects, introducing a wind farm into an area largely free of wind farm development and, through inappropriate height and prominence, spreading the impacts of wind farm development westwards along the Lammermuir/Moorfoot Escarpment and creating the impression of a wind farm landscape when viewed from the north.

In terms of aviation, the movement south of the turbines has now led to an MOD objection. They state that the three turbines (1, 6 and 7) are now detectable by the ATC Radar at Deadwater Fell and will cause unacceptable interference to it. There is no apparent mitigation agreed between the MOD and the applicant. As there is an outstanding objection from the MOD, it must be concluded that the application does not comply with LDP Policy ED9 or the “Renewable Energy” SG in relation to aviation and defence interests.

Given the degree of significant and unacceptable adverse effects on the environment and aviation, the socio-economic impacts and renewable energy contribution of this scheme, whilst positive, are not considered sufficient to outweigh those effects.

Other aspects of the development could be mitigated and controlled through conditions and various reports and mitigation strategies required. This will include cultural heritage, ecology, noise, road and traffic impacts.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend that the application is refused for the following reason:

The proposal is contrary to Scottish Borders Council Local Development Plan 2016 Policy ED9, the “Renewable Energy” Supplementary Guidance and the Landscape Capacity and Cumulative Impact Study, in that it would have unacceptable significant adverse impacts on the landscape and aviation that cannot be satisfactorily mitigated and are not outweighed by the wider socio-economic and renewable energy benefits that could otherwise be derived from the development. In particular:

- the scale, form and location of the development would represent a significant, detrimental change to the existing landscape character of the area, impacting adversely on the scale, appreciation and character of not only the Landscape Character Area containing the site, but also upland fringe and lowland

Landscape Character Areas that lie close to, and interact with the site including a number of Special Landscape Areas

- the scale, form and location of the development is poorly contained within the wider landscape, especially from the north, resulting in significant adverse visual impacts from a variety of sensitive receptors in the area, including settlements, roads, paths and hill summits
- the development would result in unacceptable cumulative landscape and visual impacts, through greater prominence and perceived height and proximity when viewed with surrounding wind farm schemes, creating a windfarm landscape along the Lammermuir/Moorfoot Escarpment by extending such development westwards into an area currently with little development,
- the development would have unacceptable impacts on defence and aviation safety as it would potentially disrupt Air Traffic Control Radar operated from Deadwater Fell at RAF Spadeadam.

DRAWING NUMBERS

SEI Figure	1.2a	Location Plan
SEI Figure	1.3a	Turbine Layout
SEI Figure	1.4a	Comparative Layout
Figure 3.2		Typical Turbine Elevation
Figure 3.3		Typical Turbine Foundations
Figure 3.4		Typical Track Cross Sections
Figure 3.5		Typical Watercourse Crossing
Figure 3.6		Typical Construction Compound
Figure 3.7		Typical Crane Hardstanding
Figure 3.8		Typical Cable Trench Design
Figure 3.9		Typical Substation Elevations
Figure 3.10		Typical Substation Floor and Roof Plans
Figure 3.11		Energy Storage Compound Plan
Figure 3.12		Energy Storage Compound Elevation

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

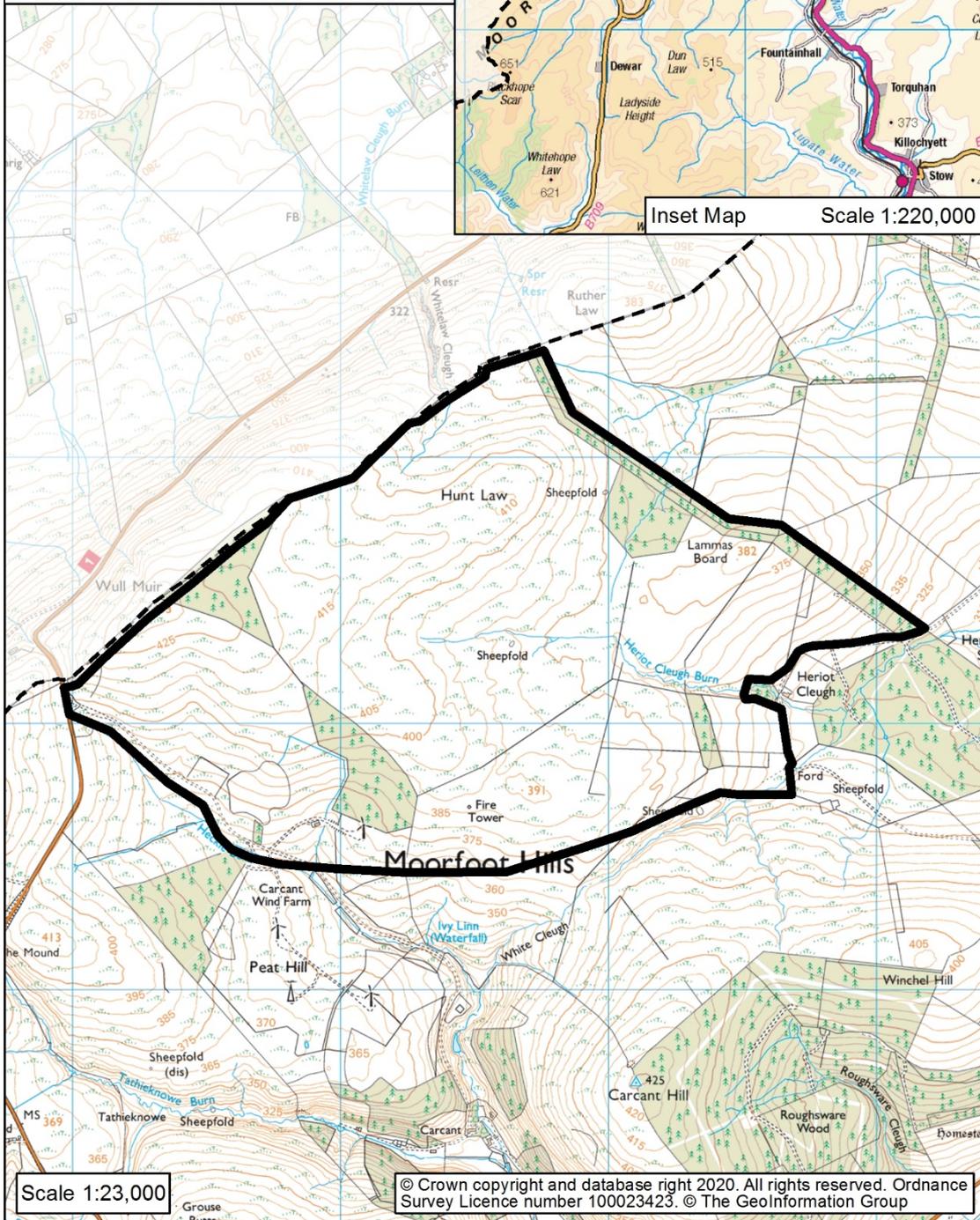
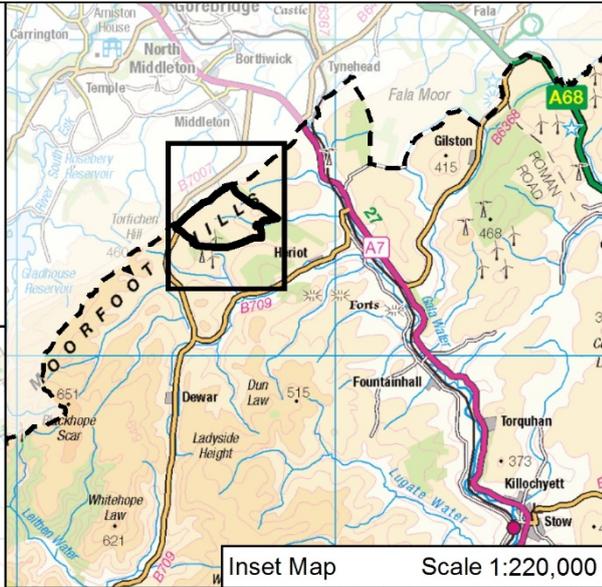
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Name	Designation
Craig Miller	Principal Planning Officer



19/00191/FUL

Land North Of Carcant Lodge
Wull Muir Wind Farm
Heriot



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd February 2020

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

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

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

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

Method of Appeal: Written Representations, Site Visits & Hearing

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Elspeth Cook, acknowledged that there is a broad Scottish Government and development plan support for renewable energy development. She stated that in many respects this proposed wind farm development would be able to comply with the development plan and national guidance. However, she did not find that the positive outcomes and the potential economic benefits arising from this development were sufficient to set aside the adverse environmental effects specifically relating to cumulative and separate visual and landscape effects and residential visual amenity effects at this location. The Reporter therefore concluded that the proposed development would not accord overall with the development plan. She found that there were no overriding material considerations which would still justify granting planning permission. She considered all the other matters raised, but there were none which led her to alter her conclusions.

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

- 4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 22nd January 2020. This relates to sites at:

- | | |
|---|--|
| • Land North West of Gilston Farm, Heriot | • Silver Grange, Old Greenlaw Farm, Greenlaw, Duns |
|---|--|

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 19/01000/PPP
Proposal: Erection of dwellinghouse and garage
Site: Land East of Auburn Cottage, Ashkirk
Appellant: Mr & Mrs C W Davies

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Development Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010) in that it is not in keeping with the character, sense of place and setting of the building group, or with the landscape and amenity of the surrounding area, principally through the unsympathetic extension of the building group beyond its defined sense of place, which would also constitute and promote a 'ribbon' form of development, extending along the public road, northeastwards, into the open countryside, with no immediate or obvious containment of development in this direction. The provision of a tree belt, as proposed, will not provide acceptable mitigation against the landscape and visual impact of the development.

- 5.2 Reference: 19/01358/PPP
Proposal: Erection of dwellinghouse
Site: Land South of Dodlands, Hawick
Appellant: Mr C Lyle

Reason for Refusal: The development would be contrary to Policies PMD2 and HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would be unrelated to a building group that meets current policy definitions and an economic case has not been substantiated. Furthermore, the proposed means of access would be unsatisfactory since the development would potentially increase the road safety risk at the nearby junction with the A6088.

6 REVIEWS DETERMINED

- 6.1 Reference: 18/01766/PPP
Proposal: Erection of dwellinghouse
Site: Land North West of Poultry Farm, Stow Road, Lauder
Appellant: Dr John Crombie Smith

Reason for Refusal: The proposal is contrary to policies PMD4 and HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside (December 2008) in that the application site is located outwith the Development Boundary for

Lauder, is not associated with any recognised building group of 3 or more houses and the need for a house at this particular location has not been adequately demonstrated as being a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside. The erection of a house on this site would lead to an unjustified and sporadic expansion of residential development into the open countryside.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 19/00590/FUL
Proposal: Erection of dwellinghouse and agricultural building
Site: Land North East of Hoprigshiel Farmhouse,
Cockburnspath
Appellant: Mr & Mrs S Phaup

Reason for Refusal: The proposed development would be contrary to Policy HD2 of the Local Development Plan 2016 and the New Housing in the Borders Countryside Guidance 2008 in that the proposed dwellinghouse and agricultural storage building would not have a visually sympathetic relationship with either the existing farm steading or the nearby building group; would result in sporadic rural development that would not relate sympathetically to the character of the surrounding landscape; and insufficient justification has been submitted demonstrating that a site more sympathetically related to the steading or building group is not available.

Method of Review: Review of Papers & Site Visit

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions, Informatives and a Legal Agreement)

6.3 Reference: 19/01358/PPP
Proposal: Erection of dwellinghouse
Site: Land South of Dodlands, Hawick
Appellant: Mr C Lyle

Reason for Refusal: The development would be contrary to Policies PMD2 and HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would be unrelated to a building group that meets current policy definitions and an economic case has not been substantiated. Furthermore, the proposed means of access would be unsatisfactory since the development would potentially increase the road safety risk at the nearby junction with the A6088.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 22nd January 2020. This relates to sites at:

<ul style="list-style-type: none">• Garden Ground of 7 Heriot House, Heriot	<ul style="list-style-type: none">• Land South West of Carlenrig Farm, Teviothead, Hawick
<ul style="list-style-type: none">• Land South East of Bungalow, Denholm Mill, Denholm	<ul style="list-style-type: none">•

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 22nd January 2020. This relates to sites at:

<ul style="list-style-type: none">• Fallago Rig 1, Longformacus	<ul style="list-style-type: none">• Fallago Rig 2, Longformacus
<ul style="list-style-type: none">• Crystal Rigg Wind Farm, Cranshaws, Duns	<ul style="list-style-type: none">•

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.

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