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SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING SERVICES COMMITTEE

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council Headquarters, Newtown St Boswells and via Microsoft Teams on Monday, 5th December, 2022 at 10.00 am

Present:- Councillors S. Mountford (Chair), J. Cox, M. Douglas, D. Moffat, N. Richards, S. Scott, E. Small and V. Thomson

Apologies:- Councillors A. Orr

In Attendance:- Lead Planning Officer (B. Fotheringham), Lead Roads Planning Officer (D. Inglis), Solicitor (F. Rankine), Democratic Services Team Leader, Democratic Services Officer (W. Mohieddeen).

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 7 November 2022.

DECISION

AGREED to approve the Minute for signature by the Chair.

2. **APPLICATIONS.**

There had been circulated copies of a report by the Chief Planning and Housing Officer on an application for planning permission which required consideration by the Committee.

DECISION

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

3. **APPEALS AND REVIEWS.**

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

DECISION

NOTED that:

(a) **An appeal had been received in respect of New quarry for Sand and Gravel Extraction, Land West of Slipperfield House Slipperfield Loch, West Linton;**

(b) **Appeal decisions had been received in respect of:**

(i) **Erection of dwellinghouse, Land South West of West Lodge, Minto – reporter’s decision: sustained;**

(ii) **Siting of static caravan clad in timber and land engineering works undertaken, Land South West of Yethouse Farmhouse, Newcastleton – reporter’s decision: dismissed;**

(c) **Review requests had been received in respect of:**

- (i) **Change of use of land and plot layout to form extension to caravan park, Land West of Pease Bay Holiday Home Park, Cockburnspath;**
 - (ii) **Erection of dwellinghouse, Land South West of Castleside Cottage, Selkirk;**
 - (iii) **Siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation, Land South West of Corstane Farmhouse, Broughton;**
- (d) **There remained 15 reviews previously reported on which decision were still awaited when the report was prepared on 25 November 2022 which related to sites at:**

| | |
|---|--|
| • Land East of 16 Hendersyde Avenue, Kelso | • Plot 1, Land North of Belses Cottage, Jedburgh |
| • Plot 2, Land North of Belses Cottage, Jedburgh | • Garden Ground of Cheviot View, Eden Road, Gordon |
| • Land West of 1 The Wellnage, Station Road, Duns | • Land North and East of Tweed Lodge, Hoebridge East Road, Gattonside |
| • Derelict Agricultural Building North of Ladyurd Farmhouse, West Linton | • Deanfoot Cottage, Deanfoot Road, West Linton |
| • Caddie Cottage, Teapot Street, Morebattle, Kelso | • Land West of Burnmouth Church, Stonefalls, Burnmouth, Eyemouth |
| • Townfoot Hill, Land North West of Cunzierton House, Oxnam, Jedburgh | • Land North East of Runningburn Farm, Stichill |
| • Land at Silo Bins Edington Mill Chirnside, Edington Mill Road, Chirnside | • Hillside, Duns Road, Swinton, Duns |
| • Mansefield, 91 High Street, Coldstream | |

- (e) **There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 25 November 2022 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.**

The meeting concluded at 11.45 pm.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|-------------------------|---|--|
| 22/01309/FUL | Installation of two temporary meteorological masts up to 120 metres in height | Teviot Wind Farm Land East Of Priestthaugh |

DECISION: Approved as per officer recommendation, subject to the following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. Approval is granted for a limited period of five years from the date of this consent (or, if earlier, until works commence on the construction of the Teviot Wind farm, should that be consented by the Scottish Government) and, unless a further planning application is submitted to and approved by the Planning Authority, the development shall be removed from the site at the expiry of this five year period and the ground reinstated to its former condition within two months of the expired period, including, where relevant, replacement of any trees removed to facilitate the development during the first planting season following the removal of Mast A.
Reason: To ensure the satisfactory regulation of a temporary development on the site, in the interests of safeguarding the amenity of the site and surrounding area, and compensating for trees that may have been removed
3. The development shall be implemented in accordance with the construction measures specified in the applicant's supporting letter (Muirhall Energy 15th November 2022), and in accordance with the likely access routes specified on TV/210114/MA Rev 0, unless otherwise agreed in writing with the Planning Authority, and bird diverters shall be installed in accordance with details agreed in writing with the Planning Authority prior to development commencing. The diverters shall be retained until the masts are removed.
Reason: To limit risk to archaeology; ensure no peat removal from the site; and, minimise the risk of bird collisions
4. No development shall commence until documentary evidence has been submitted for the written approval of the Planning Authority that confirms that the UK DVOF & Powerlines at the Defence Geographic Centre has received, and confirmed its acceptance of, notification of the following details:
 - a. Precise location of development;
 - b. Date of commencement of construction;
 - c. Date of completion of construction;
 - d. The height above ground level of the tallest structure;
 - e. The maximum extension height of any construction equipment; and
 - f. Details of any aviation warning lighting fitted to the structure.Reason: In the interests of aviation safety, to allow the records of the Ministry of Defence to be amended and updated for safeguarding purposes.
5. The development shall be completed in accordance with the plans and elevations approved under this consent, and there shall be no deviation from the 'indicative' proposals unless agreed in writing with the Planning Authority, in consultation with the

Ministry of Defence, and subject to the masts being non-reflective in surface finish and grey in colour, of a RAL/BS or equivalent colour reference which shall be approved in writing by the Planning Authority prior to development commencing

Reason: To ensure an acceptable landscape and visual impact and to account for aviation safeguarding

6. The masts shall each be fitted with a minimum intensity 25 candela omni directional flashing red light or equivalent infra-red light fitted at the highest practicable point of the structure and the lighting shall be retained until each mast is removed from the site.

Reason: Appropriate aviation warning lighting requires to be fitted to the meteorological masts in the interests of aircraft safety

Informatives

1. The Planning Advice Note 2/2011: Planning and Archaeology notes the following:

31. Even following the best pre-planning application research, there may be occasions when the presence of archaeological remains becomes apparent only once development has commenced. In these circumstances, the local authority archaeologist should be informed immediately, and will be able to offer practical advice on the mitigation measures which should be applied by the developer to ensure appropriate excavation, reporting and analysis if preservation in situ cannot be achieved. Failure to report may result in a temporary stop notice being issued by the planning authority.

32. Planning Authorities and developers should be aware of the legal requirement to report the discovery of human remains and archaeological artefacts whether recovered in planned investigation or by chance. Human remains should be reported to the police. Archaeological artefacts should be reported for identification and assessment as possible "Treasure Trove", or as "wreck" if found under water. Human remains and artefacts must if possible be left in situ while the archaeologist is summoned, rather than being lifted and taken off site.

2. Information required under Condition 4 should be submitted to UK DVOF & Powerlines at: dvof@mod.gov.uk or post it to:
D-UKDVOF & Power Lines
Air Information Centre
Defence Geographic Centre
DGIA
Elmwood Avenue
Feltham
Middlesex
TW13 7AH

NOTES

1. Mr. Kenneth Moffat, on behalf of United Borderlands Historic Trust, spoke against the application.
2. VOTE
Councillor Small, seconded by Councillor Moffat, moved that the application be approved as per the officer recommendation.
Councillor Richards, seconded by Councillor Douglas, moved as an amendment that the application be refused on the grounds that the proposal would be contrary to Policy EP8 of the Local Development Plan 2016 in that the proposed masts would have a

significant adverse effect on the setting of nationally important archaeological sites and there are no substantial benefits including those of social or economic value that outweigh the need to protect the archaeological/heritage value of the asset.

On a show of hands, Members voted as follows:

Motion – 5 votes

Amendment – 3 votes

The Motion was accordingly carried and the application approved.

| <u>Reference</u> | <u>Nature of Development</u> | <u>Location</u> |
|------------------|--|--|
| 20/01070/PPP | Demolition of dwellinghouse, erection of thirteen dwellinghouses and associated works. | Garden Ground, Paddock and Incorporating Balgownie Newtown St Boswells |

DECISION: Approved as per officer recommendation subject to a legal agreement addressing contribution towards (education, the Borders railway, play areas and affordable housing), the following conditions and informatives, and subject to minor adjustment to Condition 11.

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - (a) The expiration of three years from the date of this permission, or
 - (b) The expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.
 Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

5. A design statement shall be submitted with the first detailed application or Approval of Matters Specified in Conditions application this site for approval in writing by the Planning Authority. The design statement shall outline the rationale in terms of the siting, size, scale, proportions, design and materials of the proposed dwellinghouses, boundary treatments and landscaping and how the development relates to the context of the surrounding area.

Reason: To ensure an appropriate scale and design of development that is in keeping with the character, and enhances the visual amenities, of the area as the site is in a prominent location.

6. The finished floor levels of the dwellinghouses hereby approved shall be consistent with those indicated on a scheme of details which shall be submitted with the first Approval of Matters Specified in Conditions application for approval in writing by the Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site, including the roads and parking spaces, and shall be measurable from a fixed datum point in a location clearly indicated in the scheme of details so approved.

Reason: To ensure that the proposed development does not have an adverse effect upon the amenity currently enjoyed by adjoining occupiers or on visual amenities.

7. A detailed tree and hedge survey (including accurate drawings) shall be submitted with the first detailed application or Approval of Matters Specified in Conditions application for approval in writing by the Planning Authority. The survey shall include the position, species and root protection area of the trees and hedges within the site and overhanging the site, the position of the proposed dwellinghouses, access, parking, turning and the route of all services, those trees to be felled and tree and hedge protection measures for the construction phase (all in accordance with BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations) for the trees and hedgerows to be retained. The tree and hedge protection measures to be implemented before the development commences and retained until completion of the development. Only those trees and hedgerows that have approval to be removed can be felled.

Reason: As the trees and hedgerows are worthy of retention and contribute to the visual amenities of the area.

8. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include (as appropriate):
 - i. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
 - ii. Location of new trees, shrubs, hedges and grassed areas;
 - iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - iv. Programme for completion and subsequent maintenance.

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

9. Details of all proposed means of enclosure around the site and for individual plots (walls, fences and gates including the position, extent, height, appearance, materials, colour/finish) to be submitted with the first detailed application or Approval of Matters Specified in Conditions application for the site for approval in writing by the Planning Authority. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved details.

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

10. The means of water supply and of both surface water and foul water drainage to be submitted with the first detailed application or Approval of Matters Specified in Conditions application for this site for approval in writing by the Planning Authority. The dwellinghouses shall not be occupied until the water supply and drainage arrangements have been installed in accordance with the approved details and are operational. Surface water shall be treated by means of sustainable urban drainage techniques. Surface water run-off levels shall not exceed pre-development levels.

Reason: To ensure that the site is adequately serviced.

11. Parking for a minimum of two vehicles must be provided within the curtilage of each plot prior to the occupation of the dwellinghouses and thereafter be retained in perpetuity. The parking spaces shall be a minimum of 5.5m x 3m in size.
Reason: To ensure the development hereby approved is served by adequate off-street parking.
12. No demolition, vegetation or tree removal or development to commence until either of the following has been submitted to and approved in writing by the Planning Authority:
 - a) A copy of the relevant European Protected Species licence,
 - b) A copy of a statement in writing from NatureScot (licensing authority) stating that such a licence is not necessary for the specified developmentReason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.
13. No demolition, vegetation or tree removal or development to commence until a comprehensive Species Protection Plan for bats has been submitted to and approved in writing by the Planning Authority. Thereafter, no development shall take place except in strict accordance with the approved Species Protection Plan for bats.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.
14. No demolition, vegetation or tree removal or development to commence during the breeding bird season (March-August inclusive) unless in strict compliance with a Species Protection Plan for breeding birds, that shall be submitted to and approved in writing by the Planning Authority, and that shall include provision for a pre-development checking survey and mitigation.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

Informatives

1. In respect of condition 1, revisions are required to ensure the proposed dwelling houses front onto and are well related to the roads that serve them, rather than being set too far back into the plot. The layout should also be altered to retain many of the trees as is possible. Replacement tree planting is required by condition 8.
2. In respect of Condition 1, the Roads Planning Service advises:
 - Consideration should be given to the provision of a possible connection through in to land to the west of the site.
 - All prospective public roads will require construction consent (RCC) and the associated drainage, lighting, layout and construction details that entails.
 - The easterly junction which also serves Milestone Garden Centre is excessive in size. This should be rationalised taking other previously approved and proposed developments into consideration.
 - Confirmation will be required that service vehicles, particularly refuse collection vehicles, can access and exit the site accordingly.
 - Confirmation via swept path analysis will be required for the section of road serving plots 1 to 4 to confirm service vehicles can access the area if this section of road is to be considered for adoption.
 - Details of drainage will be required, as will confirmation of what will vest with Scottish Water upon completion.
 - Construction details of the road will be required as part of any RCC.

3. The Council's Refuse Collection Service advises that collection vehicles must be able to drive in and out without the need for reversing, otherwise there must be a dedicated turning area large enough for a refuse collection vehicle. If this is not possible, a communal collection point would need to be located where there is a safe guaranteed turning area, kept clear.
4. In respect of condition 10, the Flood Protection Officer advises that:
 - The Micro Drainage model for the site must be submitted for testing.
 - Details of the proposed SUDS provision and drainage layout is required.
 - Details of the proposed boundary drainage (due to the topography of the site) is required.

NOTES

1. Mr Ruairaidh Thompson of Ferguson Planning spoke in support of the application on behalf of the applicant.
2. VOTE
Councillor Small, seconded by Councillor Richards, moved that the application be approved as per the officer recommendation.
Councillor Thomson, seconded by Councillor Cox, moved as an amendment that the application be refused on the grounds that the proposal would be contrary to Policy IS2 of the Local Development Plan 2016.

On a show of hands, Members voted as follows:

Motion – 5 votes

Amendment – 2 votes

There was 1 abstention

The Motion was accordingly carried and the application approved.

3. Members agreed that a claw back clause should be added to the Legal Agreement to ensure higher levels of development contribution are paid where the market value of the proposed houses exceeds the figures used in the DV site appraisal.

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