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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 5TH DECEMBER, 2022

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS AND VIA MICROSOFT TEAMS on MONDAY, 5 DECEMBER, 2022 at 10.00 AM

All attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days.

J. J. WILKINSON,
Clerk to the Council,

26 November 2022

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 8) Consider Minute of the Meeting held on 3 October 2022 for signature and approval by the Chair. (Copy attached.)
5.	Applications. Consider the following application for planning permissions:
	(a) Teviot Wind Farm Land East of Priestthaugh Hawick - 22/01309/FUL (Pages 9 - 16) Installation of two temporary meteorological masts up to 120 metres in height. (Copy attached.)
	(b) Garden Ground, Paddock and Incorporating Balgownie Newtown St Boswells - 20/01070/PPP (Pages 17 - 30) Demolition of dwellinghouse, erection of thirteen dwellinghouses and associated works. (Copy attached.)
6.	Appeals and Reviews. (Pages 31 - 38) Consider briefing note by Chief Planning and Housing Officer. (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 S. Mountford (Chair), J. Cox, M. Douglas, D. Moffat, A. Orr, N. Richards, S. Scott, E. Small and V. Thomson

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

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council HQ, Newtown St. Boswells and via Microsoft Teams on Monday, 7 November, 2022 at 10.00 am

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

Apologies:- Councillor D. Moffat

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

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 3 October 2022.

DECISION

AGREED to approve the Minute for signature by the Chair.

2. **APPLICATION**

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 application 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) **There remained two appeals previously reported on which a decision was still awaited when this report was prepared on 28 October 2022 which related to a site at:**

• Land South West of West Lodge, Minto	• Land South West of Yethouse Farmhouse, Newcastleton
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- (b) **Review requests had been received in respect of:**

- (i) **Erection of 3no holiday pods and associated parking, Land West of Burnmouth Church, Stonefalls, Burnmouth, Eyemouth;**
- (ii) **Erection of residential holiday let with associated facilities, Townfoot Hill, Land North West of Cunzieron House, Oxnam, Jedburgh;**

- (iii) Erection of holiday let accommodation, Land North East of Runningburn Farm, Stichill;
 - (iv) Erection of 2no dwellinghouses, Land at Silo Bins Edington Mill Chirnside, Edington Mill Road, Chirnside;
 - (v) Installation of soil vent pipe to front elevation, Hillside, Duns Road, Swinton, Duns;
 - (vi) Installation of photo voltaic array to the south facing roof, Mansefield, 91 High Street, Coldstream,;
- (c) The following reviews had been determined as shown:
- (i) Change of use from Industrial (Class 4,5,6) to Fitness Studio (Class 11) (retrospective), Unit C, Whinstone Mill, Netherdale Industrial Estate, Galashiels – Decision of Appointed Officer Overturned (Subject to Conditions);
 - (ii) Erection of dwellinghouse, Woodland Strip, North of Springhall Farm, Kelso – Decision of Appointed Officer Upheld;
- (d) There remained nine reviews previously reported on which decisions were still awaited when the report was prepared on 28 October 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	

- (e) There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 28 October 2022 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.

The meeting concluded at 10.34 am.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/01129/PPP	Erection of dwellinghouse	Garden ground of The Croft, Chamber's Terrace, Peebles

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

1. The development hereby permitted shall be begun before the expiry 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.

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 expiry of three years from the date of this permission or;

(b) the expiry 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 precise details of: the layout, siting, design and external appearance of the building; the means of access thereto; two off-street parking spaces (excluding garages); refuse and recycling bin storage and the landscaping and boundary treatments of the site, have first been submitted to and approved in writing by the planning authority. The development shall be completed in accordance with the approved details unless otherwise agreed in writing with 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.

4. 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 take place only 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.

5. The layout details required by condition 1 shall include an arboricultural impact assessment. The assessment shall identify all existing trees within and adjacent to the

site and their root protection areas. The assessment shall also identify those trees to be retained and those proposed to be removed. The assessment shall also identify a suitable tree protection plan, demonstrating that these can be safeguarded by the design of the development and protected during construction works in accordance with BS5837:12 "Trees in relation to design, demolition and construction". The development shall be implemented in accordance with the approved assessment and protection plan and only those trees approved for removal shall be so removed, the remainder of trees within the site shall be retained, unless otherwise agreed in writing with the planning authority.

Reason: To enable the sympathetic assimilation of the development into its wider surroundings and to ensure that existing trees, including protected and unprotected trees that represent an important visual feature are retained and given adequate protection during construction.

6. No development shall commence until precise details of water supply and of both surface water and foul water drainage have been submitted to and approved in writing by the planning authority and thereafter, no development shall take place except in strict accordance with the approved scheme. All surface water drainage shall comply with the SUDS manual (C753) and maintain existing pre-development run off levels.

Reason: To ensure that there are no unacceptable impacts upon the amenity of any neighbouring properties and that surface water is managed in a sustainable manner that does not increase off-site run-off.

7. A design statement shall be submitted with the first approval of matters specified in conditions application for this site. The design statement shall outline the rationale in terms of the siting, design, scale, size, proportions and materials of the proposed dwellinghouse, boundary treatments and landscaping. The statement shall also demonstrate how the development relates to the context of the surrounding area and the setting of the adjacent house.

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.

8. The finished floor levels of the dwellinghouse 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 the site for approval in writing by the Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site 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.

9. No development, vegetation removal or tree felling shall 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.

10. Detailed plans for the vehicular access serving the site shall be submitted with the first application for approval of matters specified in conditions. The plans shall include details

showing the vehicular access from Chambers Terrace widened to 5.5m over the first 7.5m and the vehicular footway crossing also widened to match the width of the access (5.5m). The approved access arrangements shall be completed prior to the occupation of the dwelling hereby approved.

Reason, In the interests of road safety and to ensure two vehicles can pass in the junction.

Informatives

1. In respect of condition 5, any trees to be felled should be surveyed by a qualified person before felling.

The applicant is advised that, under the Conservation Regulations (Natural Habitats & c.) 1994 (as amended) it is an offence to deliberately or recklessly damage or destroy a breeding site or resting place of bats (whether or not deliberately or recklessly), capture, injure or kill a bat, harass a bat or group of bats, disturb a bat in a roost (any structure or place it uses for shelter or protection), disturb a bat while it is rearing or otherwise caring for its young, obstruct access to a bat roost or otherwise deny an animal use of a roost, disturb a bat in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species, disturb a bat in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young.

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

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

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

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

2. In respect of condition 9, all wild birds are afforded protection and it is an offence to deliberately or recklessly kill, injure and destroy nests and eggs of wild birds. Additionally for those species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any bird whilst it is nest-building or at or near a nest containing eggs or young, or to disturb any of its dependent young.
3. In respect of Condition 10, all works to the footway must be completed by a contractor on the Council's Approved List.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 DECEMBER 2022

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 22/01309/FUL

OFFICER: Carlos Clarke
WARD: Hawick and Hermitage
PROPOSAL: Installation of two temporary meteorological masts up to 120 metres in height
SITE: Teviot Wind Farm Land East Of Priestthaugh
Hawick
APPLICANT: Teviot WF Limited
AGENT: Muirhall Energy

SITE DESCRIPTION

The development would comprise two met masts, Mast A and Mast B, to be located approximately 11km and 14km south-west of Hawick respectively, with Mast A proposed closest to the A7 to the west, at approximately 2.3km distant. Mast A would be on an area of commercial forestry, and Mast B on an area of open grassland.

PROPOSED DEVELOPMENT

This application seeks full Planning Permission for a temporary period of five years for the erection of the two lattice met masts, supported by guys, indicatively illustrated in submitted elevation drawings at 120 metres in height. No access tracks are proposed.

PLANNING HISTORY

The masts are proposed within the site of the proposed Teviot Wind Farm, which is a proposed development of 62 wind turbines subject to a Section 36 (Electricity Act 1989) application to the Scottish Government's Energy Consents Unit. The application is currently undetermined.

REPRESENTATION SUMMARY

Nine representations have been received in response to the application. All are available to view in full on *Public Access*. A summary of the key issues/objections raised is provided below:

- Lack of need
- They would have a profoundly adverse visual impact, and be totally at odds with their surroundings due to their size and nature, and would impact on viewpoints such as the Riddell Monument, Hizzy Cairn and sites for the Teviothead Dark Sky project
- Impacts on ornithology

- Archaeological impacts
- Noise
- Peat impacts
- Geohydrology impacts
- Lighting would affect dark skies

APPLICANT'S SUPPORTING INFORMATION

During the processing of the application, the applicants were asked by this service to respond to several issues, including those raised by archaeology and ecology consultees, and they responded by letter (15th November), and included ZTV maps for the masts (individual and cumulative impacts); photomontages (from the Hizzy Cairn; the A7; and Penchrise Pen); and, maps showing the likely route for construction traffic to each site.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2 – Quality standards

EP1 – International nature conservation sites and protected species

EP2 – National nature conservation sites and protected species

EP3 – Local biodiversity

EP8 – Archaeology

EP13 – Trees, woodlands and hedgerows

EP15 – Development affecting the water environment

ED9 - Renewable Energy Development

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Trees and Development (2020)

Renewable Energy (2018)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections

Outdoor Access Officer: No reply

Ecology Officer: Initially, the Ecology Officer noted that no information was provided on how the locations for the masts were chosen, and whether collision risk modelling had been carried out. Also, not all of the access route would be via existing tracks. Therefore, concerns were raised regarding potential impacts on the River Tweed Special Area of Conservation (SAC) for which Appropriate Assessment would be required; on ornithology (due to bird collision risks); and, on peat (as Mast B is located on Class 1 peat soil).

In response to further information provided by the applicants in the following regards:

- The access route will be over existing tracks and no new tracks will need to be constructed

- The equipment shall be delivered and installed using a Hagglund (or similar ATV) and a Low Ground Pressure Excavator.
- To anchor the mast, some peat will have to be temporarily removed to fit the anchor sheets but will be replaced afterwards.
- No peat will be removed from the site
- The guy-wires will be fitted with bird diverters to reduce collisions

The Ecology Officer now advises that the development is unlikely to have significant impacts on the SAC, and an Appropriate Assessment is not required.

Archaeology Officer: Originally commented that, for Mast A, routing the access tracks for the installation of this mast will be the best way of avoiding the requirements for any archaeological work. Confirmation of the access track route would, therefore, be required. For Mast B, no archaeological sites are recorded in the area of this mast. However, it is possible even here that archaeological finds and materials might be found during the course of any groundworks associated with the erection of the mast and creation of the access tracks. Again confirmation of the access track routes should be indicated. An Informative Note was recommended to be attached to the consent, if granted.

Following submission of information from the applicants as regards access routes (and that no tracks are required), the Archaeology Officer advises that the route for Mast A mostly uses existing routes. Having read through the applicant's letter, any ground-based impacts would be limited. Where the existing routes pass through the likes of the enclosure earthworks then there shouldn't be any deviation from them to create any fresh breaks in the circuit, but otherwise ground impacts will be limited. For Mast B's access this also follows existing access routes for the most part and where this passes through earthworks then existing breaks should be used. He confirms that his originally recommended Informative Note could cover any undiscovered archaeology that might be found, though it appears only a slight chance there may be anything encountered.

Statutory Consultees

Upper Teviotdale and Borthwick Water Community Council: No reply

Ministry Of Defence: Have no safeguarding objections to the proposals. However, in the interests of air safety, the masts should be fitted with an omni-directional flashing light or equivalent infra-red light at the highest practicable point. A condition is also requested that requires the developer provide notification before work starts in order that aeronautical charts and mapping records are amended.

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development would comply with Policy ED9 of the Local Development Plan 2016 and related policies, principally as regards landscape and visual impacts, and impacts on ecology and archaeology

ASSESSMENT OF APPLICATION:

Principle

The masts are proposed temporarily for the intention of collecting sufficient data on wind conditions at the site, to support the Teviot Wind Farm project. Local Development Plan 2016 Policy ED9 does not refer to meteorological masts, and nor

does Supplementary Guidance. However, both generally support renewables that are environmentally acceptable, and there is no requirement to demonstrate need. Nor does a determination of this application have any material effect on the Government's consideration of the proposed wind farm under Section 36 of the Electricity Act. The key issues here are whether the environmental impacts of the development are acceptable in their own right and, if not, whether other material considerations, including mitigation measures, can override any impacts.

Planning Permission is sought for a period of five years, which can be regulated by planning condition. There will be overlap with the wind farm itself, were it to be consented, and, in that event, the applicants intend to remove these met masts prior to construction of the wind farm. Again, a condition can regulate to that effect.

Landscape and visual impacts

The masts are not proposed within or alongside a designated landscape. ZTV mapping provided by the applicants demonstrate very limited exposure to public roads, including the A7, B6399 and other routes. Albeit the masts would be significant in height and industrial in character, their visual impact on the rolling upland landscape within which they would be located would not be significantly adverse, particularly given they are for a temporary period only. Account has been had for potential impacts on sensitive viewpoints, such as the Hizzy Cairn (for which the applicants have submitted a photomontage), but any such impacts do not suggest the visual harm caused by the masts during their temporary period of installation would be determinatively adverse. It is presumed the masts will be non-reflective, of a basic grey colour, and a condition is imposed to this effect.

Lighting required by the Ministry of Defence would not have any notable visual impact, and the applicant has advised of their intention to install the infra-red option which they contend would not be visible to the human eye.

Residential amenity

The nearest residential properties would be approximately 1.5km from Mast A and 2.4km from Mast B. Their visual impact, for the temporary period proposed, would not have significantly adverse consequences. Nor (in response to an issue raised by an objector) would they have noise implications.

Ecology, hydrology and peat

New commercial trees may need removed for Mast A, though they can be replanted after removal of the mast, and this can be required by condition.

The sites are not within or adjacent an ecological designation. As noted above, the Ecology Officer is now content that, based on there being no access tracks proposed and on the likely routes and method of construction, the proposals would not impact on the River Tweed Special Area of Conservation which is over 2km away. The works are also not within 50m of watercourses, and the applicant has confirmed the nearest private water supply is over 1.3km distant.

As regards collision risk to birds, the Ecology Officer has accepted that bird diverters on the guy-wires will be sufficient to mitigate.

In terms of peat impacts, the applicants advise that soil/peat removed for anchor points will be returned by backfilling on top of the installation. Any peat that cannot be

backfilled will be transplanted to areas of eroding peat, and none shall be removed from site.

Archaeology

The sites are not within or adjacent a formal designation in this regard, nor close enough to one to pose an unacceptable risk to their setting. As noted above, the Archaeology Officer has considered the additional information provided by the applicants as regards likely access routes, and raises no concerns that require mitigation. A condition can regulate the development on the basis of the likely routes proposed, and an Informative Note can be applied as recommended by the Archaeology Officer.

Aviation safeguarding

Conditions can be imposed to reflect the Ministry of Defence's requirements for warning lighting and notification for the purposes of updating their aeronautical charts.

Road and pedestrian safety

As noted above, the Roads Planning Service raise no concerns in this regard, and no public access routes would be directly affected,

CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved 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 omnidirectional 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: dvofo@mod.gov.uk or post it to:
- D-UKDVOF & Power Lines
 - Air Information Centre
 - Defence Geographic Centre
 - DGIA
 - Elmwood Avenue
 - Feltham
 - Middlesex
 - TW13 7AH

DRAWING NUMBERS

- Location Plan TV/220608/TM REV 0
- Indicative Met Mast Elevation LO/210624/MM REV 0
- Met Mast A Layout TV/220608/TM REV 0
- Met Mast B Layout TV/220608/TM REV 0
- Indicative Mast Access Routes TV/210114/MA REV 0
- Letter – Muirhall Energy 15th November 2022

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.

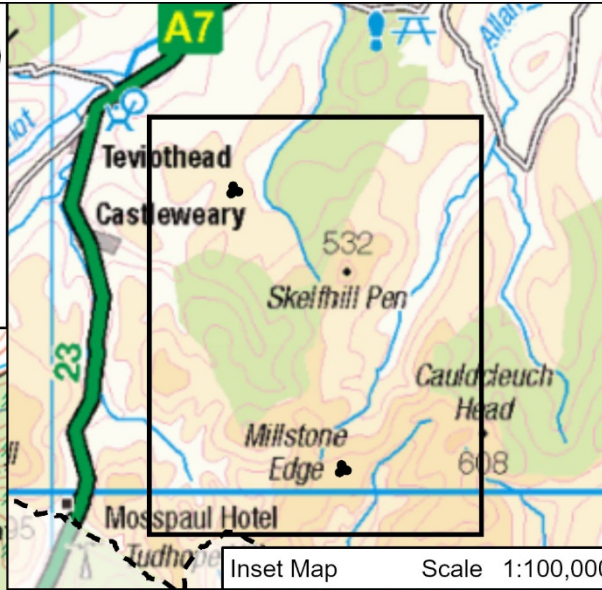
Author(s)

Name	Designation
Carlos Clarke	Team Leader

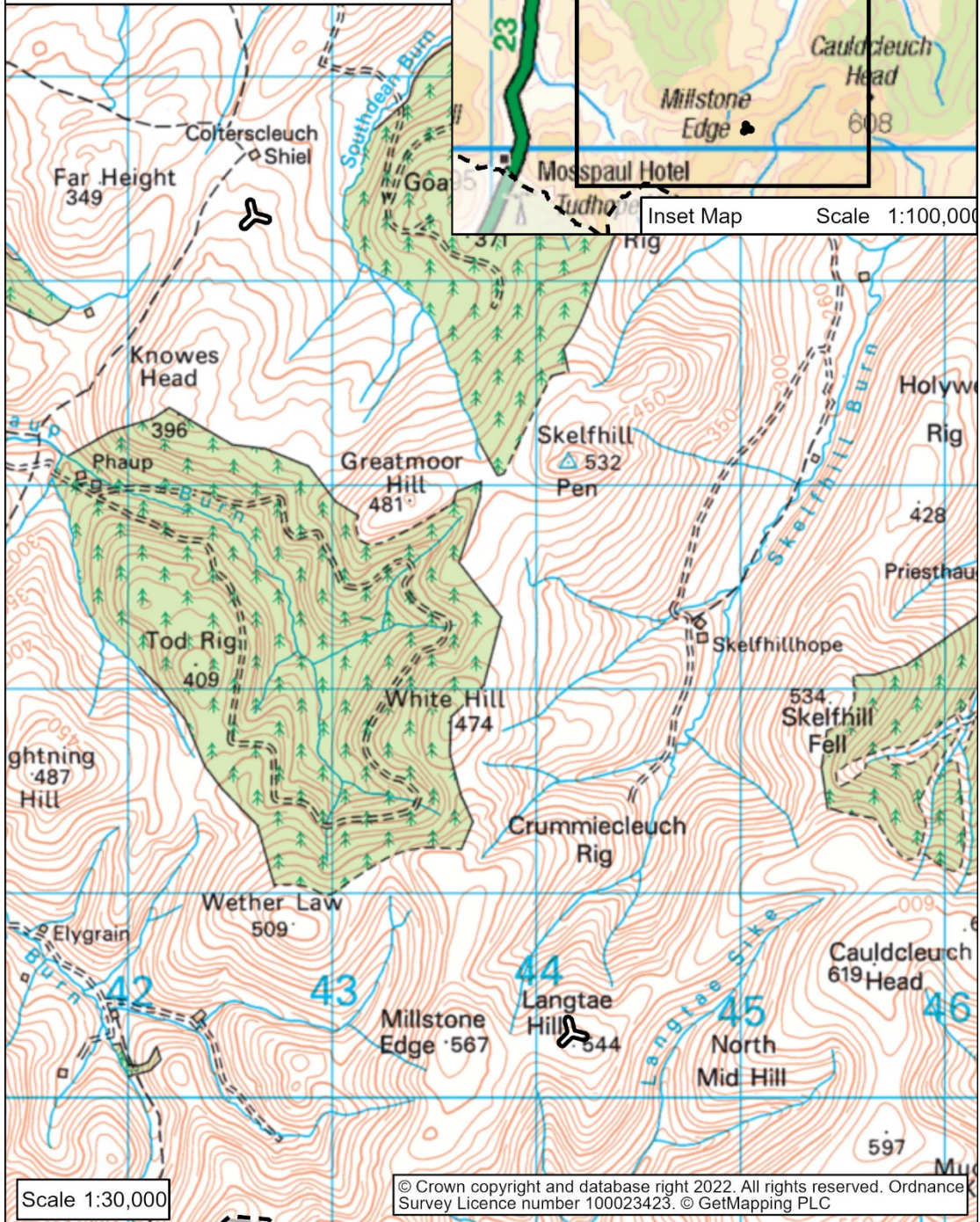


22/01309/FUL

Teviot Wind Farm Land
East Of Priestthaugh
Hawick



Inset Map Scale 1:100,000



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 DECEMBER 2022

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 20/01070/PPP

OFFICER: Julie Hayward
WARD: Selkirkshire
PROPOSAL: Demolition of dwellinghouse, erection of thirteen dwellinghouses and associated works
SITE: Garden Ground, Paddock and Incorporating Balgownie Newtown St Boswells
APPLICANT: L. Stevenson, L. Johnston and Executors of Margaret Loudon
AGENT: Ferguson Planning

PLANNING PROCESSING AGREEMENT:

A Planning Processing Agreement is in place until 5th December 2022

SITE DESCRIPTION:

The application site is situated at the southern end of Newtown St Boswells. It comprises of Balgownie, a one-and-a-half storey dwellinghouse with rendered walls and a slate roof located centrally within the site, a large area of mature garden to the north west, and paddocks to the south east and south west of the property. The site rises up from south to north.

Hawkslee Park, a modern development of 20 houses, is located to the north east, on the opposite side of the B6398 through the village. Newtown Church is to the north, Travis Perkins, Borders College and Milestone Garden Centre are located to the south and two dwellinghouses, Viewfield and St Ronan's, are to the north west.

There is a mature hedge to the paddock on the north east boundary with the B6398, the main road through the village, and a post and wire fence along the access road from the B6398 on the southern boundary, which serves Borders College, Travis Perkins and Viewfield. The garden ground is enclosed by a timber fence on the main road boundary and there are a number of trees within the garden ground.

PROPOSED DEVELOPMENT:

This is a Planning Permission in Principle application for the erection of thirteen detached dwellings. The application includes the demolition the existing dwellinghouse and garage and the removal a number of trees and fences. Thirteen detached dwellinghouses are proposed.

The indicative site plan originally submitted with the application showed plots 1 to 4 on the north western part of the site served by an access road from the B6398; plots 5 – 11 in the centre of the site would be served by an access road from the private road

on the southern boundary and plots 12 and 13 in the south eastern corner would be served by a second access from the private road.

The indicative site plan shows a mix of 4 – 5 bedroom and 3 bedroom houses, all two storey. No indicative elevations have been provided.

Each plot would have two parking spaces and there would be 2 visitor spaces. The pumping station and attenuation storage would be located in the south eastern corner of the site. The private access road would be widened at the junction onto the B6398.

The indicative layout has been amended through the processing of the application and now shows a more organic layout with connectivity through the site, linking the B6398 with the private road to the south.

PLANNING HISTORY:

01/01656/OUT: Erection of two dwellinghouses. Garden Ground of Balgownie Newtown St Boswells. Approved 2nd April 2002. Lapsed.

05/01971/OUT: Residential development. Garden Ground and Paddock Balgownie Newtown St Boswells. Approved 29th October 2006. Lapsed. A condition restricted the development to four dwellinghouses.

REPRESENTATION SUMMARY

Two representations were received. These can be viewed in full on Public Access and raise the following issues:

- The private driveway is the only vehicular access to Viewfield, who has irredeemable servitude rights over this driveway, and other businesses. The construction works for this development, including new sewage connections, would directly impact the access during construction works.
- Assurance are required from the developers and Scottish Water that Balgownie's current sewage disposal pipeline is removed and/or permanently obstructed due to ongoing blockages from Balgownie that result in raw sewage flooding into Viewfield. There are currently ongoing sewage issues for all the businesses in this area, which the proposed new sewage network will connect to.
- Overlooking of Viewfield.
- Loss of greenspace.
- Fossil fuels to heat the proposed houses should be avoided and sustainable technologies such as heat pumps or solar panels considered.

APPLICANTS' SUPPORTING INFORMATION:

- Planning Statement
- Transport Statement
- Drainage Strategy
- Visualisations
- Preliminary Ecological Assessment
- Bat Survey and Assessment
- Tree Survey and Arboricultural Impact Assessment
- Reports and Valuations (confidential)

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill 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
EP4: National Scenic Areas
EP13: Trees, Woodland and Hedgerows
IS2: Developer Contributions
IS3: Developer Contributions Related to the Borders Railway
IS6: Road Adoption Standards
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Placemaking and Design 2010
Householder Development (Privacy and Sunlight) 2006
Trees and Development updated 2020
Landscape and Development 2008
Affordable Housing 2015
Development Contributions updated April 2022
Sustainable Urban Drainage Systems 2020
Waste Management December 2015
Newtown St Boswells Development Framework February 2012

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: The site is not currently allocated in the Council's LDP however it is within the development boundary for Newtown St. Boswells.

RPS raises no objections to the principle and welcomes the widening of the access road. The following issues were raised:

- Possible connection through into land to west of the site.
- The roads will require construction consent (RCC) and the associated drainage, lighting, layout and construction details.
- There are no level details for the prospective public road.
- The junction width for the westerly 4 plots is excessive.
- The easterly junction which also serves Milestone Garden Centre is also excessive in size. This should be rationalised taking other previously approved developments into consideration.
- Improved pedestrian connectivity.
- Confirmation will be required that service vehicles, particularly refuse collection vehicles, can access and egress the site accordingly. Looped layouts are preferred but if this cannot be achieved, turning areas of appropriate size must be provided.

- There is no drainage indicated for the main access road. Details of this will be required as will confirmation of what Scottish Water will vest upon completion.
- Construction details of the road will be required as part of any RCC.

Re-consultation: The revised drawings have taken on board the majority of the comments previously raised. That said, the following matters will have to be addressed through any detailed application:

- 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.
- There are no level details for the prospective public road, the applicant must satisfy themselves that appropriate gradients can be achieved.
- 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.
- There is no drainage indicated. Details of this 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.
- In-curtilage parking spaces must be a minimum of 5.5m x 3m in size. A minimum of two spaces, excluding any garages must be provided prior to occupation and be retained thereafter in perpetuity.

Education and Lifelong Learning: No response.

Housing: No response.

Landscape Architect: No response.

Ecology Officer: Notes the Planning Statement states that a Preliminary Ecological Appraisal is to be submitted. The PEA/ Ecological Impact Assessment (EclA) should include a preliminary roost assessment of the existing built structures and any further bats surveys as required. A number of trees are to be removed and they should be assessed for bat roost potential. Protected species that may be affected by the proposal include bats, badger and breeding birds and should be included in the ecological impact assessment.

Re-consultation: No response.

Neighbourhood Services: No objections.

Waste Management: As long as collection vehicles can drive in and out without the need for reversing or there is a dedicated turning area large enough for refuse collection vehicle, there are no concerns. A communal collection point would need to be provided where turning is not available.

Flood Protection Officer: It is noted that the site layout and number of units has not been decided yet. If this is the case then the site drainage could be covered with a

condition. As there is no fluvial or pluvial flooding (up to 1:200 years, 0.5% annual probability), in principle, we would not object to a residential development on the site. If detailed planning permission is sought for this site we would require the applicant to provide the following:

- Micro Drainage model for the site;
- Details of proposed SuDS provision and drainage layout;
- Details of proposed boundary drainage (due to the topography of the site).

Statutory Consultees

Community Council: No response.

Transport Scotland: No comments or objections.

Scottish Water: No response.

Other Consultees

None

KEY PLANNING ISSUES:

The key planning issues are:

- Whether the principle of development would comply with policy PMD5 the Local Development Plan 2016;
- Landscape and visual effects;
- Impacts on trees and hedgerows;
- Impacts on neighbouring amenity;
- Road safety impacts;
- Whether the development would be adequately serviced;
- Developer Contributions.

ASSESSMENT OF APPLICATION:

Planning Policy

The site is within the development boundary for Newtown St Boswells and so must be assessed against policy PMD5 of the Local Development Plan. Within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met. These criteria will be assessed within this report.

One criterion is that the proposal should not conflict with the established land use of the area. This part of Newtown St Boswells is a mixed use area, with residential, commercial, retail and educational uses. Part of the site is currently in residential use and there is a modern housing development on the opposite side of the main road. In addition, planning permission has been granted in the past for residential development on the area of land currently used as paddocks. The proposed residential use would therefore be in keeping with the general character and established land use of the surrounding area.

Siting, Layout and Design

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

Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The proposal includes the demolition of the existing dwellinghouse. This may once have been a traditional cottage but has been altered and extended in the past. It is considered that the dwelling is not of significant historic or architectural merit and there are no objections to its demolition and replacement with modern, energy efficient houses.

The Planning Statement advises that the layout is designed to allow the development to take place as one development or as self-build individual plots.

The indicative layout as originally submitted showed three unconnected cul-de-sacs. None of the houses related well to the public realm or formed streets with a sense of place within the site. There was no connectivity for pedestrians or vehicles through the site or to the village centre. The site is located at the entrance to the village but the indicative layout did not relate positively to this entrance or enhance arrival into the village (the area of hard surfacing and position of the pumping station were concerns). There was no meaningful public open space (other than left over areas of ground) that was central to the site to enhance the character of the development, provide social areas and aid navigation through the site, and little thought of boundary treatments to frame the development. The layout did not take into account views through the site or into/out of the site. The indicative layout failed to take on board advice within the Supplementary Planning Guidance on Placemaking and Design or Designing Streets. The central section (plots 5 – 11) appeared as over-development for an edge of settlement site, emphasised by the close relationships of plots 6 and 7 and 10 and 11 and potential overshadowing and loss of privacy.

Positive revisions have however taken place throughout the processing of the application. The latest indicative site plan has a central link between the B6398 and private road to the south, which will serve all but two houses (plots 12 and 13 in the south eastern corner are served by a separate access from the private road). The houses still require a degree of re-siting and re-orientation to strengthen the relationship with the road through the site, but most now front onto the road.

Each detached house would have sufficient garden ground and two on-site parking spaces within curtilages. The indicative layout is now considered to be a significant improvement on that originally submitted and sufficient to allow the application to move to determination.

As this is a Planning Permission in Principle application, no floor plans or elevation drawings have been provided, though a visualisation suggests two storey, detached houses.

A condition would secure the submission of a design brief for the site with the first detailed application, should each plot be developed individually, to ensure compatibility in terms of scale, massing, design and external materials.

Impact on Visual Amenities

The site is in a prominent location at the southern entrance to the village and any development on this site is likely to be prominent when viewed from the south looking north. The ground level rises up to the north further increasing the prominence of any development on this site. There is currently a degree of screening from trees when travelling south on the B6398. The National Scenic Area is situated to the east of the A68 but the site is outwith any designated landscape.

The exact scale, design and materials of the proposed dwellings can be agreed at the detailed application stage and it will be possible to ensure that any development on this site enhances the entrance to the village and does not harm the visual amenities of the area. Conditions will secure details of external materials, boundary treatments and planting for the site to ensure a high quality development that integrates into the street scene and creates an attractive entrance to village.

Impact on Residential Amenities

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

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

It would need to be demonstrated through the submission of detailed applications that the proposed dwellings will not result in unacceptable adverse impacts on the residential amenity (overlooking/loss of privacy) of neighbouring properties as well as new housing with the application site. Given the distances between the existing houses and the site, and between houses shown on the indicative layout, it is unlikely that there would be any overshadowing or loss of light, but this can be assessed through the detailed application stage.

Access and Parking

Policies PMD2 and PMD5 requires that adequate access and servicing can be achieved. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The Roads Planning Service raised a number of issues in respect of the original layout, however the indicative layout has addressed these matters and RPS has no objections in principle to the proposed development. Further matters raised in re-consultation will be covered through the detailed application stage and will be secured by appropriately worded conditions and related informatives.

Trees and Hedges

Policy EP13 seeks to protect trees and woodlands from development. There are a number of trees within the garden ground of Balgownie (none within the south eastern paddock) and a mature hedgerow along the boundary of the site with the main road.

A tree survey and Arboricultural Impact Assessment has been provided in support of the application, although this was submitted towards the end of the application process, rather than the beginning, when it could have been used to inform the indicative layout.

The indicative layout does however allow for the retention of trees along the northern and south western boundaries of the site and there are a number of smaller trees within the site that can be retained within the curtilages of plots 3 and 6. However, 36 trees are proposed to be felled (all category B and Cs: moderate to low quality) throughout the site. Whilst this is regrettable, it is considered that their loss will not have an unacceptable adverse impact on the surrounding woodland resource or with character and appearance of the village. Additional trees however, over and above those identified for removal, can be retained with slight revisions to the proposed layout. This can be managed through the detailed application stage where tree and hedge retention and protection will be secured by condition.

A condition to secure a detailed landscape scheme, which would include replacement tree planting, can also be covered by condition. Subject to an appropriate layout for the site, it is considered that the loss of trees can be minimised and opportunities will exist for existing trees to be retained and for additional trees to be planted.

Ecology

Policy EP3 states that development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development outweigh the value of the habitat for biodiversity conservation.

A Preliminary Ecological Assessment has been submitted with the application and concludes that the hedgerows and grassland provide opportunities for breeding birds. It also identifies a swallow's nest on the existing house. The report contains a number of recommendations for breeding birds, including a Species Protection Plan. This can be covered by condition.

A Bat Survey and Assessment has also been provided. Evidence of bats was found in the existing garage. The report concludes that the garage is a summer/autumn roost for a small number of common bat species and the overall nature conservation value is judged as low. A bat licence would be required from NatureScot and conditions will secure a Species Protection Plan for Bats as well as the need for a bat licence.

Water and Drainage

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

Foul drainage would be to the public sewer. An underground cellular storage system for surface water is proposed in the lower, south eastern corner of the site, discharging to a watercourse. The water supply would be from the Scottish Water

mains supply. Conditions are recommended to secure precise details of water supply and of foul and surface water drainage.

Development Contributions

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies. This is set out in policies IS2 and IS3 of the LDP.

Financial contributions are required in respect of education (Newtown St Boswells Primary School: £8,647 per unit and Earlston High School: £4,088 per unit), the Borders railway (£2,246 per unit), play areas (£500 per unit) and affordable housing (£4,250 for 11 of the units, as the first unit is exempt and there is currently a dwellinghouse on the site, which is to be demolished). The total development contribution required by this development would be £232,522.

Where appropriate, the Council will consider the economic viability of a proposed development. The Supplementary Planning Guidance on Developer Contributions updated in 2022 states that the Council takes a proactive approach towards the facilitation of new development. Depending upon the prevailing economic climate, housing markets and the availability of development finance, commercial project viability can be significantly affected. Consequently, and where appropriately demonstrated, the level of contribution can be negotiated to assist with facilitating the building out of proposed projects. If an applicant can satisfactorily demonstrate to the Council on a confidential “open book” basis that the strict application of policy would render an otherwise commercially viable project commercially unviable, then contribution requests may, where appropriate, be negotiated and varied.

In this case, the applicant’s agent advised that the requirement for full development contributions, which are particularly high in Newtown St Boswells, would render an otherwise viable project economically unviable. A development appraisal was submitted demonstrating the impact that the development contributions would have on the viability of the development; and this concluded that the development would only be viable if the developer contributions were reduced to a total of £32,500.

As part of this process, it is normal practice for the Planning Authority to seek impartial and independent advice on the acceptability, or otherwise, of the proposed project viability. In this case, the District Valuer was consulted and concluded that development contributions of £6,000 per unit (£78,000 in total) would be reasonable. The agent has confirmed in writing that his clients are agreeable to the suggested level of development contribution. It is therefore recommended that the lower contributions (as suggested by the District Valuer) are accepted to enable the proposed development to progress.

There are however, implications for the Council, both and in terms of cost and policy integrity, should a reduced level of contributions be approved in respect of this application. The reduction in development contributions would contribute to a deficit in the funding necessary to deliver required infrastructure that has been identified as necessary to support the development proposal – such as education facilities.

Consideration must also be given to the precedent that might be set in deviating from established policy requirements. However, Members should be aware that the principle of reducing development contributions, where a fully evidenced case has

been presented, has previously been established by the Planning and Building Standards Committee in respect of other residential development proposals, not just in Newtown St Boswells but in the Borders more generally. This risk has already been tested and considered by this Committee, but Members will still need to be satisfied that the circumstances of this case are sufficient to follow that approach here, given the consequences for infrastructure provision in the village and more widely.

CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject a legal agreement addressing contribution towards (education, the Borders railway, play areas and affordable housing), and the following conditions:

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

Reason: 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.

DRAWING NUMBERS

Plan Ref 9381.1.00 9381.1.01	Plan Type Location Plan Existing Site Plan with Downtakings
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Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

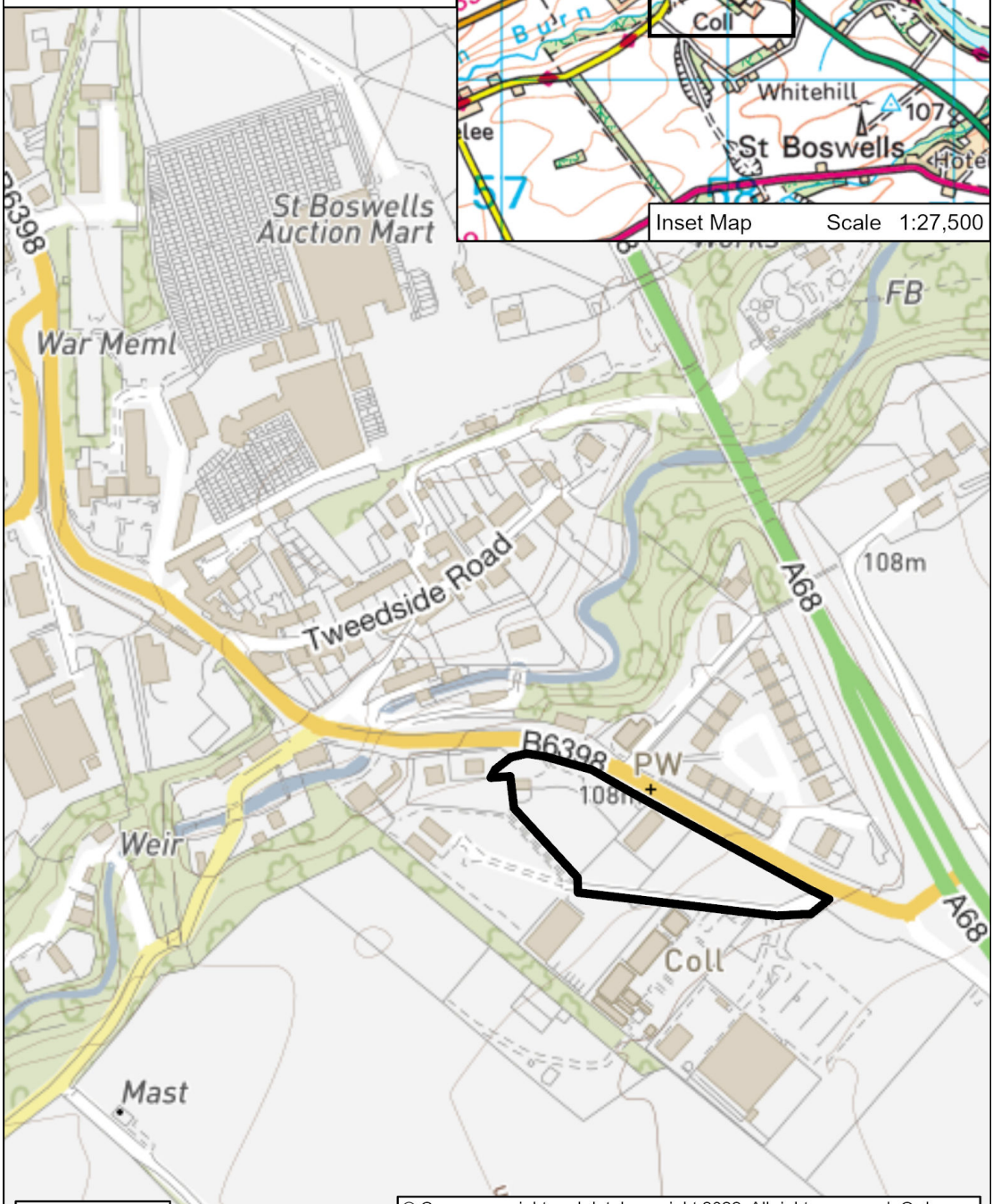
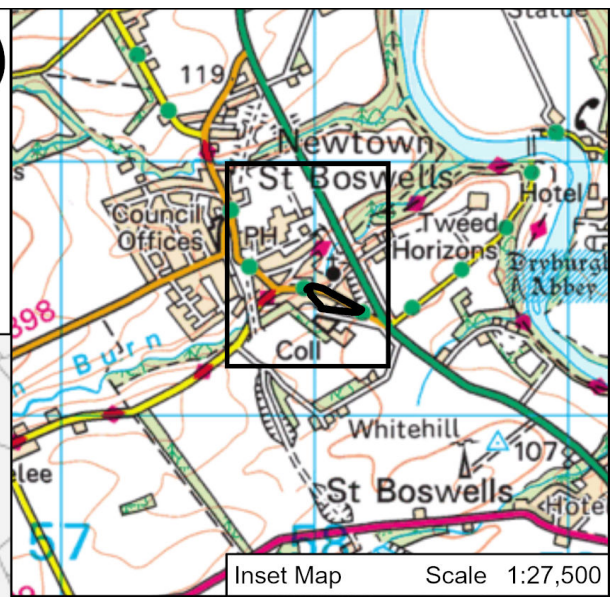
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Julie Hayward	Team Leader Development Management



20/01070/PPP
Garden Ground, Paddock And
Incorporating Balgownie
Newtown St Boswells



PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

5th December 2022

1 PURPOSE

- 1.1 The purpose of this briefing note is to give details of **Appeals** and **Local Reviews** which have been received and determined during the last month.

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 21/00152/FUL
Proposal: New quarry for Sand and Gravel Extraction
Site: Land West of Slipperfield House Slipperfield Loch,
West Linton
Appellant: Mr Hayden Thomas

Reasons for Refusal: 1. The proposal is contrary to Policies PMD2, ED12 and EP5 of the Scottish Borders Local Development Plan 2016 in that the development lies outwith an Area of Search, within an Area of Moderate Constraint and would cause significant adverse landscape and visual amenity impacts both to the detriment of important local landscape character and the Pentland Hills Special Landscape Area. The local landscape character and topography are recognised to be a fine example of "kettle and drum" glacial geomorphology, the proposals removing the intimate topographical relief pattern and creating a large concave landform out of character with the existing landform. The site also includes part of the expanded Pentland Hills Special Landscape Area, comprising farmland foreground as part of the integral setting of the hills, the proposals interrupting that setting and view of the hills by introducing an industrial and incongruous development, detrimentally impacting on the wildness character of the hills and recreational path usage around the site, in contravention of the role and purpose of the farmland inclusion in the designation. These impacts have neither been sufficiently mitigated nor outweighed by a clearly demonstrated need for the quarry and public benefit. 2. The proposal is contrary to Policy 4 of SESPlan 2013 in that the site lies outwith an area of search and within an Area of Moderate Constraint where no existing extraction sites exist. The proposals are not considered to be small scale and the applicants have failed to demonstrate the particular operational, community or environmental benefits of the proposed development. 3. The proposal is contrary to Policies ED12 and EP8 of the Scottish Borders Local Development Plan 2016 in that the

development will cause significant adverse impacts on, and unacceptable disturbance to, appreciation of the setting of the Roman Road which passes the north-west boundary of the site either on or adjoining the line of the current Core Path. The proposal will cause unacceptable conflict between appreciation of the heritage route and a working quarry immediately alongside it, with associated visual discordance, noise and dust. The impacts have neither been sufficiently mitigated nor outweighed by a clearly demonstrated need for the quarry and public benefit.

Reasons for Appeal: The evidence shows that the Proposed Development is in accordance with the Development Plan, either because the impacts are not unacceptable; or, if the impacts are initially deemed unacceptable, there are "public interest" (Policy ED12) or "social or economic benefits of national or local importance" (Policy EP5) to justify a grant of planning permission. The existing and emerging Scottish Government policies, as well as other material considerations, also support a grant of planning permission. The Proposed Development is in the public interest and delivers social or economic benefits of national or local importance. SPP and the draft NPF4 refer to the "important" and "essential" contribution minerals make to the economy. The Proposed Development would address a substantial deficit in the minerals landbank in the market area. The mineral deposit within the Proposed Development area is a good quality sand and gravel. There is an established market demand for these products within the Scottish Borders and adjoining regions. The Proposed Development will support continued employment at the Appellant's existing business at Broxburn. The Proposed Development will support local supply, which avoids unsustainable imports by minimising the distance of travel from source to point of consumption. The Council's reasons for refusal are not based on the correct interpretation of the development plan policies and are not supported by the evidence.
[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations

2.2 Enforcements

Nil

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 21/01302/FUL
Proposal: Erection of dwellinghouse
Site: Land South West of West Lodge, Minto
Appellant: David Anderson And Prof. Sally Haw

Reason for Refusal: The dwellinghouse would be contrary to Policy PMD5 of the Local Development Plan 2016 in that it would detract from the character and amenity of the surrounding area and would not respect the scale, form, design and density of the surrounding area. The erection of a

house on this site would have an unacceptable adverse impact on the setting of the settlement on a prominent approach to the village.

Reasons for Appeal: The design principles are set out in the Design Statement. The appellant took on board the Planning Officers suggestions when producing the final design proposal. The case officer's report committee concludes that the application conforms with the Scottish Borders Local Plan. The new Committee did not seem to understand the criteria by which to judge the proposal and ignored the recommendation of the Head of Planning, the advice of the officers and over-arching national planning policies. The zero carbon home proposed will help fight climate change and contribute to the local economy.

[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Tammy Swift-Adams, states that the design of the proposed house is satisfactory and would accord with criterion (d) of Policy PMD5, the relevant provisions of Policy PMD2 of the Local Development Plan (LDP) and the guidance on placemaking and design. The proposed development would not have a detrimental impact on the character and amenity of the area, the residential amenity of adjacent homes on the setting of the village. The reporter found the proposed development satisfactory in relation to criteria (b) and (f) of Policy PMD5, as well as Policy HD3 of the LDP. The reporter concluded that the proposed development accords overall with the relevant provisions of the LDP and that there are no material considerations which would still justify refusing to grant planning permission and therefore grant planning permission subject to conditionals and a Section 75 legal agreement.

[Please see the DPEA Website for the full Appeal Decision Notice](#)

3.2 Enforcements

- 3.2.1 Reference: 21/00005/UNDEV
Proposal: Siting of static caravan clad in timber and land engineering works undertaken
Site: Land South West of Yethouse Farmhouse, Newcastleton
Appellant: A Hale

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last 4 years. A static caravan which has been clad in timber has been sited on the land and remains so without the benefit of planning permission. An amount of land engineering works have also been undertaken within the land shown edge in red on the attached plan.

Grounds of Appeal: The static caravan is used as welfare facilities for The Holding, has no foundations, sewerage or other plumbing or grid electricity supply and the Appellant therefore believes it is permitted. The Appellant was not aware that cladding the caravan represented a contravention of any regulations. A static caravan has been on the land for at least ten years and therefore falls outside of any enforcement powers. In recent times the circular earthworks located centrally within

The Holding were created by the previous owner. These were to provide a horse exercise facility. The Appellant is undertaking to reinstate the field and erect a livestock fence through that location, to restore the land to agricultural production. The polythene tunnel is small, being 3.6m long x 2.4m wide and 2.4m at the ridge. It is sited 2.4m from the boundary with a primary function to provide shelter for new-born lambs. The Appellant does not consider that this requires planning permission. Outside of lambing time the tunnel is used to produce vegetables for personal consumption.

[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Tammy Swift-Adams, states that in relation to the caravan, it is apparent from the appellant's evidence that the caravan is used for residential purposes which are unrelated to the lawful use of the land. During the site investigation the reporter found the caravan, and the part of the land on which it is sited, to be more residential in appearance than agricultural. The reporter concluded that there has been a material change in the use of the land from agriculture. The reporter is not satisfied, on the balance of probabilities, that the static caravan on the land for over 10 years continuously, was used for residential purposes before the appellant began use of it, during the pandemic. The reporter noted that the polytunnel was erected on site and appeared solid in nature, therefore under the 1997 Act this is a building. Primarily used for agricultural purposes, with the growing of vegetables in between lambing season as an ancillary use. Agricultural permitted development rights would not apply in this instance as the polytunnel is situated less than 25 metres from a road and must be applied for prior to erection. In relation to the earthworks the reporter states the evidence suggests the previous landowner created this earthwork to provide a surface for exercising horses. The appellant states that the earthworks are being removed and the reporter noted that the site did appear less prominent than the aerial photos dated 2020 and 2021. The reporter stated the earthwork is operational development that was undertaken without the requisite planning permission. The matter did therefore constitute a breach of planning control when the enforcement notice was issued. The reporter therefore concluded that the siting of the caravan, the erection of the polytunnel and the engineering earthwork did constitute breaches of planning control. The appeal is therefore dismissed and the enforcement notice upheld.

[Please see the DPEA Website for the full Appeal Decision Notice](#)

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained no appeals previously reported on which decisions were still awaited when this report was prepared on 25th November 2022.

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 21/01081/FUL
Proposal: Change of use of land and plot layout to form extension to caravan park
Site: Land West of Pease Bay Holiday Home Park, Cockburnspath
Appellant: Mr Graham Hodgson

Reason for Refusal: The proposals are contrary to Local Development Plan policies PMD2 (Quality Standards), ED8 (Caravan and Camping Sites), EP5 (Special Landscape Areas), and EP14 (Coastline). The siting and design of the proposed development would have a significant adverse landscape and visual impact on the landscape quality of the Berwickshire Coast Special Landscape Area. The benefits of the development, including economic benefits, would not outweigh this harm. This conflict with the Local Development Plan is not overridden by any other material considerations.

- 5.2 Reference: 21/01618/FUL
Proposal: Erection of dwellinghouse
Site: Land South West of Castleside Cottage, Selkirk
Appellant: Mr P J Lewis

Reason for Refusal: The proposed development would, due to its design and materials, be unsympathetic to, and adversely impact on, the character of the existing building group, contrary to Policies PMD2 and HD2 of the Local Development Plan 2016, and contrary to Placemaking and Design Supplementary Planning Guidance 2010 and New Housing in the Borders Countryside Supplementary Planning Guidance 2008. Other material considerations do not override these policy conflicts and the harm that would arise as a result of the development.

- 5.3 Reference: 22/00959/FUL
Proposal: Siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation
Site: Land South West of Corstane Farmhouse, Broughton
Appellant: Firm of Corstane

Reasons for Refusal: 1. The development would be contrary to policy ED7 of the Local Development Plan 2016 in that insufficient information has been submitted to demonstrate that the proposal is capable of being developed and operated as a viable holiday accommodation business in this location, potentially resulting in unsustainable development in a rural location. The need to site the development in this particular location has not been adequately justified. The proposed development would be isolated and physically segregated from the operation of Corstane Farm and would break into a previously undeveloped field. As a result, the proposed development would represent a sporadic and unjustified form of development in the countryside. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations. 2. The proposal would be contrary to policy PMD2 of the Local Development Plan 2016 in that: The development would not respect the character of the surrounding area and the neighbouring built form, particularly the cabin. It would be an incongruous development, extending into an undeveloped field, that would not create a sense of place based on a clear understanding of the

context and the cabin has not been designed in sympathy with the design and character of the existing buildings. Furthermore, the development would not relate sympathetically to the landscape setting of the NSA, conflicting with the terms of policy EP4. These deficiencies could not be addressed by means of landscaping or other mitigation. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

6 REVIEWS DETERMINED

Nil

7 REVIEWS OUTSTANDING

7.1 There remained 15 reviews previously reported on which decisions were still awaited when this report was prepared on 25th November 2022. This relates 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	•

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 one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 25th November 2022. This relates to a site at:

<ul style="list-style-type: none">Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick	<ul style="list-style-type: none">
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Approved by

Ian Aikman
Chief Planning & Housing Officer

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

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